

## **Annex 1**

### **Provisions of International Fisheries Agreements Relating to Vessel Registration**

#### **Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR)**

##### ***CCAMLR System of Inspection***

As adopted at CCAMLR-VII (paragraph 124) and amended at CCAMLR-XII (paragraphs 6.4 and 6.8), CCAMLR-XIII (paragraph 5.26), CCAMLR-XIV (paragraphs 7.22, 7.26 and 7.28), CCAMLR-XV (paragraph 7.24) and CCAMLR-XVI (paragraph 8.14) and CCAMLR-XVIII (paragraph 8.25)

IV. Each Contracting Party shall provide to the Secretariat:

- (a) One month before the commencement of the research cruise and in accordance with Conservation Measure 64/XII 'The Application of Conservation Measures to Scientific Research', the names of all vessels intending to conduct fishing for research purposes.
- (b) Within seven days of the issuance of each permit or licence in accordance with Conservation Measure 119/XVII 'Licensing and Inspection Obligations of Contracting Parties with regard to their Flag Vessels Operating in the Convention Area, the following information about licences or permits issued by its authorities to its flag vessels authorising them to fish in the Convention Area:
  - name of the vessel;
  - time periods authorised for fishing (start and end dates);
  - area(s) of fishing;
  - species targeted; and
  - gear used.
- (c) By 31 August, an annual report of steps it has taken to implement the inspection, investigation and sanction provisions of Conservation Measure 119/XVII 'Licensing and Inspection Obligations of Contracting Parties with regard to their Flag Vessels Operating in the Convention Area'.

##### ***CCAMLR Conservation Measure 119/XVII, Licensing and Inspection Obligations of Contracting Parties with regard to their Flag Vessels Operating in the Convention Area***

1. Each Contracting Party shall prohibit fishing by its flag vessels in the Convention Area except pursuant to a licence that the Contracting Party has issued setting forth the specific areas, species and time periods for which such fishing is authorised and all other specific conditions to which the fishing is subject to give effect to CCAMLR Conservation Measures and requirements under the Convention.

2. A Contracting Party may only issue such a licence to fish in the Convention Area to vessels flying its

flag, if it is satisfied of its ability to exercise its responsibilities under the Convention and its Conservation Measures, by requiring from each vessel, inter alia, the following:

- (i) timely notification by the vessel to its Flag State of exit from and entry into any port;
- (ii) notification by the vessel to its Flag State of entry into the Convention Area and movement between areas, subareas/divisions;
- (iii) reporting by the vessel of catch data in accordance with CCAMLR requirements; and
- (iv) operation of a VMS system on board the vessel in accordance with Conservation Measure 148/XVII.

3. The licence or an authorised copy of the licence must be carried by the fishing vessel and must be available for inspection at any time by a designated CCAMLR inspector in the Convention Area.

4. Each Contracting Party shall verify, through inspections of all of its fishing vessels at the Party's departure and arrival ports, and where appropriate, in its Exclusive Economic Zone, their compliance with the conditions of the licence as described in paragraph 1 and with the CCAMLR Conservation Measures. In the event that there is evidence that the vessel has not fished in accordance with the conditions of its licence, the Contracting Party shall investigate the infringement and, if necessary, apply appropriate sanctions in accordance with its national legislation.

#### ***CCAMLR Conservation Measure 146/XVII, Marking of Fishing Vessels and Fishing Gear***

1. All Contracting Parties shall ensure that their fishing vessels licensed in accordance with Conservation Measure 119/XVII to operate in the Convention Area are marked in such a way that they can be readily identified in accordance with internationally recognised standards, such as the FAO Standard Specifications and Guidelines for the Marking and Identification of Fishing Vessels.

2. Marker buoys and similar objects floating on the surface and intended to indicate the location of fixed or set fishing gear shall be clearly marked at all times with the letter(s) and/or numbers of the vessels to which they belong.

### **Convention to Establish an Inter-American Tropical Tuna Convention (IATTC)**

#### ***Resolution on a Regional Vessel Register (June 2000)***

The Inter-American Tropical Tuna Commission (IATTC) [...] recommends to the High Contracting Parties that:

1. They request the Director to establish and maintain a record of vessels that have been authorized to fish in the Convention Area for species under the purview of the Commission, on the basis of the information detailed in paragraph 2 below.

2. Each Party supply the Director the following information with respect to each vessel under its jurisdiction to be included in the record established pursuant to paragraph 1:

- a. name of vessel, registration number, previous names (if known), and port of registry;
- b. a photograph of the vessel showing its registration number;

- c. previous flag (if known and if any);
- d. International Radio Call Sign (if any);
- e. name and address of registered owner or owners;
- f. where and when built;
- g. length, beam, and moulded depth;
- h. fish hold capacity in cubic meters, and carrying capacity in metric tons;
- i. name and address of operator (manager) or operators (if any);
- j. type of fishing method or methods;
- k. gross tonnage;
- l. power of main engine or engines.

3. Each Party promptly notify the staff of any modifications to the information listed in paragraph 2.
4. Each Party also promptly notify the staff of any additions to or deletions from the record of vessels authorized to fish.
5. Each Party promptly notify the staff of any fishing vessel that is no longer entitled to fly its flag.
6. They request non-member governments with vessels fishing in the EPO under their jurisdiction to provide to the Director the information detailed in paragraph 2 and to otherwise follow the terms of this Resolution.

***Resolution on Fishing by Vessels of Non-Parties, June 2000***

*The Inter-American Tropical Tuna Commission (IATTC):\* \* \**

*Therefore recommends to the High Contracting Parties that:*

1. They gather information, either directly or through the Director, with respect to fishing vessels of states or fishing entities not members of the IATTC which undermine the conservation and management measures agreed by the IATTC.
2. They exchange information among themselves, either directly or through the Director, with respect to the activities of such vessels;
3. They request the Director to communicate with the governments whose fishing vessels are referred to in paragraph 1 for the purpose of urging them to comply with the measures agreed by the IATTC member governments and to remind them of their obligation, in accordance with international law, to cooperate in the implementation of agreed regional conservation and management measures, as well as to monitor compliance with such measures and to take the actions necessary to ensure such compliance;
4. They request the Director to report the results of his communications pursuant to paragraph 3 to the member governments of the IATTC, in order that they may, in accordance with international law, take measures necessary to ensure that fishing vessels under the jurisdiction of non-Parties do not engage in activities that undermine the effectiveness of the conservation and management measures established by the Commission.

## **Agreement on International Dolphin Conservation Program (AIDCP)**

### **ANNEX IV DOLPHIN MORTALITY LIMITS (DMLs)**

#### **I. Assignment of DMLs**

1. Each Party shall provide to the Meeting of the Parties, through the Director, prior to October 1 of each year, a list of vessels under its jurisdiction of carrying capacity greater than 363 metric tons (400 short tons) that have requested a full-year DML for the following year, indicating those other vessels that are likely to be operating in the Agreement Area in the following year, and vessels that have requested a second-semester DML for the following year.
2. The IRP [International Review Panel] shall, by November 1 of each year, or later if agreed by the IRP, provide to the Meeting of the Parties a list of qualified applicant vessels eligible to receive a DML. For purposes of this Agreement, a vessel shall be considered qualified if:
  - a. it has been certified by the relevant national authorities to be in possession of all of the dolphin safety gear and equipment required in Annex VIII;
  - b. its captain and crew have received approved training in dolphin release and rescue techniques comparable to a standard established by the Meeting of the Parties;
  - c. it is over 363 metric tons (400 short tons) carrying capacity in size;
  - d. it has a captain considered qualified due to his or her prior record of performance; and
  - e. the vessel is not deemed to be disqualified under Section II of this Annex.
3. A vessel shall not be considered qualified under paragraph 2 if, on the date of the request pursuant to paragraph 1 of this Annex, the vessel is operating under the jurisdiction of a Party whose applicable laws and regulations prohibit vessels under its jurisdiction from fishing for tuna in association with dolphins; nor shall DMLs be assigned to any Party in order to provide permits for fishing in the Agreement Area to vessels flying the flag of another State whose applicable laws and regulations prohibit vessels under its jurisdiction from fishing for tuna in association with dolphins.
7. No DML shall be assigned to a vessel which has been determined by the Parties to have engaged in a pattern of violations, as confirmed through enforcement actions taken against such vessel by the Party under whose jurisdiction it operates, which diminish the effectiveness of the International Dolphin Conservation Program.

## **International Convention for the Conservation of Atlantic Tunas (ICCAT)**

***ICCAT Recommendation 98-8 on Limitation of Fishing Capacity on Northern Albacore, entered into force June 21, 1999***

CONSIDERING that, in order to prevent a further increase in fishing mortality it is necessary to limit fishing capacity at the level of recent years;

The International Commission for the Conservation of Atlantic Tunas (ICCAT) Recommends that:

1. Contracting Parties, non-contracting parties, entities or fishing entities fishing for northern albacore shall limit the fishing capacity of their vessels, exclusive of recreational vessels, for this stock from 1999

onwards, through a limitation of the number vessels to the average number in the period 1993-1995.

2. In order to control the compliance with this recommendation, Contracting Parties, and non-contracting parties, entities or fishing entities shall submit, by 1 June 1999, a list of the vessels, exclusive of recreational vessels, participating in a directed fishery for northern albacore in the years referred to in paragraph 1 and, by 1 June and every year thereafter, the list of vessels which will participate in a directed fishery for this stock.

***ICCAT Recommendation 98-2 on Registration and Exchange of Information on BET Vessels, entered into force June 21, 1999***

The International Commission for the Conservation of Atlantic Tunas (ICCAT) Recommends that:

1. All contracting Parties and Cooperating non-Contracting parties, entities or fishing entities fishing for bigeye tuna in the Convention Area shall submit to the ICCAT Executive Secretary, by August 31<sup>st</sup> each year, the list of their respective vessels larger than 24 meters length overall (LOA) with the exclusion of recreational fishing boats, that fish for bigeye tuna in the Convention Area. This list of vessels shall include the following information:

- \* Name of vessels, register number
- \* Previous flag (if any)
- \* International radio call sign (if any)
- \* Type of vessel, length and gross registered tonnage (GRT)
- \* Name and address of owner (s)

***ICCAT Resolution 94-8 Regarding the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, officially transmitted to the Parties January 23, 1995***

\* \* \* The International Commission for the Conservation of Atlantic Tunas (ICCAT) Resolves:

That ICCAT Contracting Parties should take the necessary measures as soon as possible to maintain a register of all high seas fishing vessels of more than 24 meters in length, authorized to fly their flag in the Convention Area of the International Convention for the Conservation of Atlantic Tunas. Contracting Parties should provide ICCAT with the names of vessels entered on this register and annual of any changes thereto.

Once the length of vessels to which the FAO Agreement is applicable in the Mediterranean is established, relevant Contracting Parties should include such information in their registers.

ICCAT shall encourage non-Contracting Parties to provide the same information as requested above.

# **Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (NAFO)**

## ***Conservation and Enforcement Measures, NAFO/FC Doc. 00/1***

### **PART III – VESSEL REQUIREMENTS**

#### **C. Notification of Research Vessels \* \* \***

3. A Contracting Party, before the commencement of a fishery research period, shall provide the Executive Secretary with the following information for distribution to requesting Parties:
  - (a) name of vessel owner and address;
  - (b) type and name of vessel;
  - (c) length, beam and draft of vessel;
  - (d) port of registration, registration number, and radio call sign;
  - (e) a note whether the vessel is a permanent research vessel or the period for which the vessel will be employed as a research vessel; and
  - (f) for vessels which are temporarily employed in research only, purpose and area of research and plan of research program.

#### **D. Notification of Fishing and Processing Vessels**

1. Each Flag Contracting Party shall notify the Executive Secretary of all vessels of more than 50 gross tons engaged in fishing or in processing fish in the Regulatory Area:
  - (a) prior to 1 January of each year, if possible; or
  - (b) in a timely manner following departure of the vessel from its home port; or in the case of bare boat charters, one month prior to the departure of the vessel from its home port.
  - (c) by message within 30 days of any changes in the terms of notification.
2. Vessels registered in a Contracting Party:

Such notification shall include for each vessel:

  - (a) name of vessel in both native and Latin alphabet;
  - (b) official numbers;
  - (c) home port and nationality;
  - (d) owner and charterer, if any;
  - (e) certification that its master has been provided with the extant Commission's measures;
  - (f) principle target species while engaged in fishing in the Regulatory Area.

3. Vessels temporarily flying the flag of a Contracting Party (bare boat charter)

Such notification shall include for each vessel:

- (a) date as from which the vessel has been authorized to fly its flag
  - (b) date as from which the vessel has been authorized by the Contracting Party to engage fishing in the NAFO Regulatory Area
  - (c) the name of the State where the vessel is registered or was previously registered and the date as from which it ceased flying the flag of that State;
  - (d) name of vessel in both native and Latin alphabet;
  - (e) official numbers;
  - (f) home port and nationality after the transfer;
  - (g) owner and charterer, if any;
  - (h) certification that its master has been provided with the extant Commission's measures;
  - (i) principle target species while engaged in fishing in the Regulatory Area.
4. The Executive Secretary shall provide all Contracting Parties with a listing of all vessels which he has been notified for fishing in the Regulatory Area.

## **South Pacific Forum Fisheries Agency Convention (FFA)**

### ***The South Pacific Forum Fisheries Agency Regional Register of Foreign Fishing Vessels, The Harmonised Minimum Terms and Conditions for Foreign Fishing Vessel Access***

#### **11. Vessel Monitoring System**

- (a) The vessel monitoring system shall be implemented by the operation of a VMS Register of Foreign Fishing Vessels as set out in ANNEX 4
- (b) The operator of a foreign fishing vessel shall apply for registration of the ALC [Automatic Location Communicator] on the prescribed form (ANNEXES 6 and 7) for each year and pay the prescribed fee; install and operate a registered ALC on board the vessel; and maintain the ALC in good working order.

#### **Annex 4**

- 2.4. Registration shall be an annual requirement and shall expire on 31 August of each year. Applicants wishing to maintain their registration shall, where there has been no material change in the information provided in the original application, and unless otherwise required by the Director, submit an application for renewal in the form prescribed in ANNEX 7 before 1 September each year. In all other cases, including where the application for renewal is received later than 1 September, applications for renewal shall be dealt with for all purposes as applications for first registration under paragraph 2.1.
- 3.1. Member countries shall not license a foreign fishing vessel or a support vessel unless that fishing vessel or support vessel is registered on the VMS Register.
- 5.1. Registration may be suspended if:  
the vessel operator violates terms and conditions of access, including but not limited to:

\* failure to activate the ALC upon entry into zones;

- \* failure to provide manual reports when so directed by the delegated member country authority while in a zone in the event of an ALC breakdown;
- \* failure to stow fishing gear and leave the zone in the event that manual reports cannot be provided;
- \* failure to take the vessel to a nominated port for ALC repair when so directed by the delegated member country authority;
- \* interfering with, tampering with, altering, damaging, or disabling the ALC.
- there is no access agreement in force relating to the vessel in question between the member country concerned and the vessel operator, the flag State of the vessel or a fishermen's association of which the vessel or the operator is a member and evidence exists that gives reasonable cause to believe that the operator has committed a serious offence against the fisheries laws or regulations of the member country and it has not been possible to bring the operator to trial.

## **Agreement Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**

Annex I of the Agreement: Standard Requirements for Collection and Sharing of Data

### **Article 4 Vessel data and information**

1. States should collect the following types of vessel-related data for standardizing fleet composition and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:

- (a) vessel identification, flag and port of registry;
- (b) vessel type;
- (c) vessel specifications (e.g. material of construction, date built, registered length, gross registered tonnage, power of main engines, hold capacity and catch storage methods); and
- (d) fishing gear description (e.g. types, gear specifications and quantity).

The flag State will collect the following information:

- (a) navigation and position fixing aids;
- (b) communication equipment and international radio call sign; and
- (c) crew size.

### **Article 18 Duties of the Flag State**

3. Measures to be taken by a State in respect of vessels flying its flag shall include:

- (c) establishment of a national record of fishing vessels authorized to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account any national laws of the flag State regarding the release of such information; \* \* \*

# **Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (MHLCT)**

## Article 23

2. Each member of the Commission shall: \* \* \*

(b) provide to the Commission in the manner and at such intervals as may be required by the Commission, information concerning its fishing activities in the Convention Area, including fishing areas and fishing vessels in order to facilitate the compilation of reliable catch and effort statistics \* \* \*

## Article 24

4. Each member of the Commission shall, for the purposes of effective implementation of this Convention, maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing in the Convention Area beyond its area of national jurisdiction, and shall ensure that all such fishing vessels are entered in that record.

5. Each member of the Commission shall provide annually to the Commission, in accordance with such procedures as may be agreed by the Commission, the information set out in Annex IV to this Convention with respect to each fishing vessel entered in the record required to be maintained under paragraph 4 and shall promptly notify the Commission of any modifications to such information.

## ANNEX IV. INFORMATION REQUIREMENTS

The following information shall be provided to the Commission in respect of each fishing vessel entered in the record required to be maintained under article 24, paragraph 4, of this Convention:

1. Name of fishing vessel, registration number, previous names (if known), and port of registry;
2. Name and address of owner or owners;
3. Name and nationality of master;
4. Previous flag (if any);
5. International Radio Call Sign;
6. Vessel communication types and numbers ( INMARSAT A, B and C numbers and satellite telephone number);
7. Colour photograph of vessel;
8. Where and when built;
9. Type of vessel;
10. Normal crew complement;
11. Type of fishing method or methods;
12. Length;
13. Moulded depth;
14. Beam;
15. Gross register tonnage;
16. Power of main engine or engines;
17. The nature of the authorization to fish granted by the flag State;
18. Carrying capacity, including freezer type, capacity and number and fish hold capacity.

## **FAO Compliance Agreement**

### **Article IV: Records of Fishing Vessels**

Each Party shall, for the purposes of this Agreement, maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing on the high seas, and shall take such measures as may be necessary to ensure that all such fishing vessels are entered in that record.

### **Article VI: Exchange of Information**

1. Each Party shall make readily available to FAO the following information with respect to each fishing vessel entered in the record required to be maintained under Article IV:

- (a) name of fishing vessel, registration number, previous names (if known), and port of registry;
- (b) previous flag (if any);
- (c) International Radio Call Sign (if any);
- (d) name and address of owner or owners;
- (e) where and when built;
- (f) type of vessel;
- (g) length.

2. Each Party shall, to the extent practicable, make available to FAO the following additional information with respect to each fishing vessel entered in the record required to be maintained under Article IV:

- (a) name and address of operator (manager) or operators (managers) (if any);
- (b) type of fishing method or methods;
- (c) moulded depth;
- (d) beam;
- (e) gross register tonnage;
- (f) power of main engine or engines.

## **Annex 2**

### **Provisions of International Fisheries Agreements Relating to Vessel Monitoring Systems (VMSs)**

#### **Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR)**

##### ***CCAMLR Conservation Measure 119/XVII, Licensing and Inspection Obligations of Contracting Parties with regard to their Flag Vessels Operating in the Convention Area***

1. Each Contracting Party shall prohibit fishing by its flag vessels in the Convention Area except pursuant to a licence that the Contracting Party has issued setting forth the specific areas, species and time periods for which such fishing is authorised and all other specific conditions to which the fishing is subject to give effect to CCAMLR Conservation Measures and requirements under the Convention.
2. A Contracting Party may only issue such a licence to fish in the Convention Area to vessels flying its flag, if it is satisfied of its ability to exercise its responsibilities under the Convention and its Conservation Measures, by requiring from each vessel, inter alia, the following:
  - (i) timely notification by the vessel to its Flag State of exit from and entry into any port;
  - (ii) notification by the vessel to its Flag State of entry into the Convention Area and movement between areas, subareas/divisions;
  - (iii) reporting by the vessel of catch data in accordance with CCAMLR requirements; and
  - (iv) operation of a VMS system on board the vessel in accordance with Conservation Measure 148/XVII.

##### ***CCAMLR Conservation Measure 148/XVII, Automated Satellite-Linked Vessel Monitoring Systems (VMS)***

1. Each Contracting Party shall, no later than 1 March 1999, establish an automated Vessel Monitoring System (VMS) to monitor the position of its fishing vessels, which are licensed<sup>1</sup> in accordance with Conservation Measure 119/XVII, to harvest marine living resources in the Convention Area, and for which catch limits, fishing seasons or area restrictions have been set by Conservation Measures adopted by the Commission.
2. Any Contracting Party unable to establish VMS in accordance with paragraph 1 shall inform the CCAMLR Secretariat within 90 days following the notification of this Conservation Measure, and communicate its intended timetable for implementation of VMS. However, the Contracting Party shall establish VMS at the earliest possible date, and in any event, no later than 31 December 2000.
3. The implementation of VMS on vessels while participating only in a krill fishery is not currently required.
4. For the purpose of this Measure, VMS means a system where, inter alia:
  - (i) through the installation of satellite-tracking devices on board its fishing vessels, the Flag State

receives automatic transmission of certain information. This information includes the fishing vessel identification, location, date and time, and is collected by the Flag State at least every four hours to enable it to monitor effectively its flag vessels;

(ii) performance standards provide, as a minimum, that the VMS:

- (a) is tamper proof;
- (b) is fully automatic and operational at all times regardless of environmental conditions;
- (c) provides real time data;
- (d) provides the geographical position of the vessel, with a position error of less than 500 m with a confidence interval of 99%, the format being determined by the Flag State; and
- (e) in addition to regular messages, provides special messages when the vessel enters or leaves the Convention Area and when it moves between one CCAMLR area, subarea or division within the Convention Area.

5. In the event of technical failure or other non-function of the VMS, the master or the owner of the fishing vessel, as a minimum:

- (i) shall communicate at least once every 24 hours, starting from the time that this event was detected, the data referred in paragraph 4(i) by telex, by fax, by telephone message or by radio to the Flag State; and
- (ii) shall take immediate steps to have the device repaired or replaced as soon as possible, and, in any event, within two months. If during that period the vessel returns to port it shall not be allowed to commence a further fishing trip without having the defective device repaired or replaced.

6. In the event that the VMS ceases to operate, the Contracting Party as soon as possible shall advise the Executive Secretary of the name of the vessel, the date, time and the location of the vessel when the VMS failed. The Party shall also inform the Executive Secretary when the VMS becomes operational again. The Executive Secretary shall make such information available to Contracting Parties upon request.

7. Contracting Parties shall report to the Secretariat before the start of the annual meeting of the Commission in 1999, on the VMS which has been introduced in accordance with paragraphs 1 and 2, including its technical details, and each year thereafter, on:

- (i) any change in the VMS;
- (ii) in accordance with paragraph XI of the CCAMLR System of Inspection, all cases where they have determined, with the assistance of the VMS that vessels of their flag had fished in the Convention Area in possible contravention of CCAMLR Conservation Measures.

## **International Convention for the Conservation of Atlantic Tunas (ICCAT)**

### ***ICCAT Resolution 95-3 on Vessel Monitoring, December 21, 1995***

Recognizing that satellite tracking and catch reporting systems are practically useful to collect data and vessel position on a real time basis;

The International Commission for the Conservation of Atlantic Tunas (ICATT) resolves:

1. That satellite tracking and catch reporting systems under the responsibility of flag states should be encouraged.
2. That the Executive Secretary of ICCAT should inform all the non-Contracting Parties whose vessels are fishing tuna and tuna-like fishes in the Convention area of this Resolution and request their cooperation to adopt a similar system.
3. That the Commission's Permanent Working Group for the Improvement of ICCAT Statistics and Management Measures shall review developments in this field by Contracting and non-Contracting Parties during the 1996 meeting and annually thereafter.

### ***ICCAT Recommendation 97-12 Concerning a Vessel Monitoring System Pilot Program, entered into force June 13, 1998***

Recognizing the developments in satellite-based vessel monitoring systems (VMS), and the possible utility within ICCAT:

The International Commission for the Conservation of Atlantic Tunas (ICCAT) recommends that:

1. Each Contracting Party with vessels greater than 24 meters in overall length (or greater than 20 meters between perpendiculars) and fishing for ICCAT species on the high seas outside the fisheries jurisdiction of any coastal state shall adopt a pilot program for a satellite-based vessel monitoring system (VMS) for ten percent of such vessels, or ten vessels, whichever is greater. The pilot program is a flag-state based program.
2. Each Contracting Party shall implement a three-year pilot program effective 1 January, 1999; except the three-year pilot program for vessels fishing in the Mediterranean, which shall be effective 1 January, 2000, Contracting Parties are encouraged to implement the pilot program earlier, if possible.
3. The pilot program shall not apply to vessels that never spend more than 24 hours at sea, counted from the time of departure from port to the time of return to port.
4. Information collected shall include the vessel identifier, location, date and time, which shall be collected with the required frequency to ensure that the Contracting Party can effectively monitor the vessel.
5. Performance standards shall at a minimum include a system that:
  - is tamper proof;
  - is fully automatic and operational at all times regardless of environmental

conditions;

-- provides real-time data; and

-- provides latitude and longitude with a position accuracy of 500 m or better with the format to be determined by the flag state.

6. At its meeting in the year 2000, the Commission shall establish procedures on the submission of aggregate information and how the information is shared between Contracting Parties. These procedures shall ensure that appropriate measures are in place to ensure confidentiality.
7. By 1 June 1998, each Contracting Party shall submit to the Secretariat a report on anticipated implementation of its pilot program. Beginning in 1999, each Contracting Party shall report annually on the progress and implementation of its pilot VMS program. These reports shall be included in the annual national report.
8. The Commission shall evaluate the pilot program at its meeting in 2002.

## **Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (NAFO)**

### ***Northwest Atlantic Fisheries Organization Conservation and Enforcement Measures Part VI – Program for Observers and Satellite Tracking, NAFO/FC Doc. 00/1***

In order to improve and maintain compliance with the Conservation and Enforcement Measures for their vessels fishing in the Regulatory Area. Contracting Parties agree to a program of 100 percent observer coverage and to require all vessels fishing in the Regulatory Area to be equipped with satellite tracking devices as soon as possible and not later than January 1, 2001. The elements of this program are subject to review and revision, as appropriate, for applications in 2001 and subsequent years. \* \* \*

#### **B. Satellite Tracking**

1. Each Contracting Party whose vessels fish, or plan to fish, in the Regulatory Area, shall:
  - a) require as soon as possible and not later than January 1, 2001 of its vessels fishing in the Regulatory Area to be equipped with an autonomous system able to transmit automatically satellite signals to a land-based receiving station permitting a continuous tracking of the position of the vessel by the Contracting Party of the vessel;
  - b) install at least one receiving station associated with their satellite tracking system;
  - c) transmit to the Executive Secretary, on a real time basis, messages of movement between NAFO divisions (as per the requirements of the Hail System outlines in Part III. E of these Measures) for its vessels equipped with satellite devices and, on specific request, information related to the identification of a vessel.
2. Subject to any other arrangements between Contracting Parties, each Contracting Party shall pay all costs associated with the satellite tracking system.

## South Pacific Forum Fisheries Agency Convention (FFA)

### *The South Pacific Forum Fisheries Agency Regional Register of Foreign Fishing Vessels, The Harmonised Minimum Terms and Conditions for Foreign Fishing Vessel Access, as amended by FFC34 (24-28 November 1997)*

1. These Definitions shall apply to these Harmonised Minimum Terms and Conditions and to the South Pacific Forum Fisheries Agency Regional Register of Foreign Fishing Vessels and are recommended to member countries for implementation in national legislation.
  - (a) “Automatic Location Communicator”(ALC) means a Forum Fisheries Agency (FFA) approved device placed on a fishing vessel that transmits either in conjunction with another device or devices or independently information concerning the position, fishing and such other activities of the vessel as may be required.
  - (b) “Vessel Monitoring System” means the systems employed by FFA member countries and coordinated by the FFA to monitor the position and activities of foreign fishing vessels for the purpose of effective management of fisheries. \* \* \*
11. Vessel Monitoring System
  - (a) The vessel monitoring system shall be implemented by the operation of a VMS Register of Foreign Fishing Vessels as set out in ANNEX 4
  - (b) The operator of a foreign fishing vessel shall apply for registration of the ALC on the prescribed form (ANNEXES 6 and 7) for each year and pay the prescribed fee; install and operate a registered ALC on board the vessel; and maintain the ALC in good working order.
  - (c) The operator of a foreign fishing vessel shall not interfere with, tamper with, alter, damage or disable the ALC; move or remove the ALC from the agreed installed position without the prior permission of the licensing country; or impede the operation of the ALC.
  - (d) At least [*to be determined by the licensing country*] hours prior to entry into the exclusive economic zone of [*insert name of the licensing country*] the operator of a foreign fishing vessel shall ensure that the ALC is switched on and is operating properly at all times when the vessel is in the exclusive economic zone of [*insert name of licensing country*].
  - (e) The operator of a foreign fishing vessel or his or her authorized agent, upon notification by the [*insert name of licensing country, appropriate authority*] that the vessel’s ALC has failed to transmit, shall ensure that position reports are communicated to [*insert name of authority delegated by the licensing country/appropriate authority*] in the manner set out in ANNEX 1.
  - (f) If it is not possible to make position reports, or if the [*insert name of authority delegated by licensing country/appropriate authority*] directs, the master of the vessel must immediately stow the fishing gear and take the vessel directly to a port as set out in ANNEX 1.

## Annex 1

### Summary of Selected Licence Terms and Conditions

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8. The operator of a foreign fishing vessel shall install, maintain and operate a registered ALC at all times and in accordance with the manufacturer's specifications and operating instructions and FFA standards.

9. The operator of a foreign fishing vessel shall ensure that no person tampers or interferes with the ALC and that the ALC is not altered, damaged or disabled.

10. The operator of a foreign fishing vessel shall ensure that the ALC is not moved from the agreed installed position or removed without the prior permission of the licensing authority.

11. The operator of a foreign fishing vessel shall ensure that the ALC is switched on and is operational at all times when the vessel is within the EEZ of the licensing country.

12. The operator of a foreign fishing vessel or his or her authorised agent, upon notification by the licensing country/ appropriate authority that the vessel's ALC has failed to report, shall ensure that reports containing the vessel's name, call sign, position (expressed in Latitude and Longitude to minutes of arc), and date and time of the report, are communicated to *[insert delegated authority]* at intervals of 8 hours or such shorter period as specified by the delegated authority, commencing from the time of notification of the failure of the ALC. Such reports must continue until such time the ALC is confirmed operational by the licensing country/ appropriate authority.

13. If it is not possible to make any one or more of the further position reports as above, or when the delegated authority so directs, the master of the vessel must immediately stow the fishing gear and take the vessel directly to a port identified by the licensing country/appropriate authority, and as soon as possible, report to the delegated authority that the vessel is being, or has been, taken to port with gear stowed .

FAILURE TO COMPLY WITH THESE AND OTHER TERMS AND CONDITIONS OF THE LICENCE, NATIONAL LAWS AND REGULATIONS MAY, IN ADDITION TO ANY JUDICIAL PENALTIES THAT MAY BE INCURRED, RESULT IN THE SUSPENSION OR LOSS OF THE LICENCE, EITHER TEMPORARILY OR PERMANENTLY.

## Annex 4

### Registration Requirements

- 2.1. All applications for ALC registration shall contain the information required on the approved application form, attached as ANNEX 6.
- 2.2. An application for registration and notification of variation in the information provided in the application, shall be delivered to the Director by the applicant.
- 2.3. Any information required to be recorded, or to be notified, communicated or reported shall be true, complete and correct. Any change in circumstances which has the effect of rendering any such information false, incomplete or misleading shall be notified to the Director in writing

immediately.

- 2.4. Registration shall be an annual requirement and shall expire on 31 August of each year. Applicants wishing to maintain their registration shall, where there has been no material change in the information provided in the original application, and unless otherwise required by the Director, submit an application for renewal in the form prescribed in ANNEX 7 before 1 September each year. In all other cases, including where the application for renewal is received later than 1 September, applications for renewal shall be dealt with for all purposes as applications for first registration under paragraph 2.1.

Applications for first registration may be made at any time, but in no case shall the period of validity of that registration extend beyond 31 August following the date on which the application was made.

### 3. Implementation of Registration Requirement

- 3.1. Member countries shall not license a foreign fishing vessel or a support vessel unless that fishing vessel or support vessel is registered on the VMS Register.

Each member country shall notify the governments, associations and independent operators responsible for the operation of foreign fishing vessels which have or might be expected to fish within their EEZs of the of the VMS Register requirements, the requirement of registration on the VMS Register as a condition of licensing, and that any fees which may be required hereunder are the administration costs and have no bearing on licence or access fee.

## **Agreement Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**

Article 18: Duties of the Flag State:

3. Measures to be taken by a State in respect of vessels flying its flag shall include \* \* \*
  - (e) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data \* \* \*
  - (g) monitoring, control and surveillance of such vessels, their fishing operations and related activities, by, inter alia (iii) the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programmes and those which have been subregionally, regionally or globally agreed among the States concerned.
4. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

Annex I: Standard Requirements for Collection and Sharing of Data

Article 6(a), Data Verification:

States or, as appropriate, subregional or regional fisheries management organizations or arrangements should establish mechanisms for verifying fisheries data, such as: (a) position verification through vessel monitoring systems

## **Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (MHLC)**

### **Article 10: Functions of the Commission:**

1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing highly migratory fish stocks within areas under national jurisdiction, the functions of the Commission shall be to (i) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement, including a vessel monitoring system

### **Article 24: Flag State Duties:**

8. Each Member of the Commission shall require its fishing vessels that fish for highly migratory fish stocks on the high seas in the Convention Area to use near real-time satellite position-fixing transmitters while in such areas. The standards, specifications and procedures for the use of such transmitters shall be established by the Commission, which shall operate a vessel monitoring system for all vessels that fish for highly migratory fish stocks on the high seas in the Convention Area. The Commission, directly, or through the flag State where the flag State so requires, or through such other organization designated by the Commission, shall receive information from the vessel monitoring system in accordance with the procedures determined by the Commission. Any member of the Commission may request that waters under its national jurisdiction be included within the area covered by such vessel monitoring system.
9. Each member of the Commission shall require its vessels that fish in the Convention Area in areas under the national jurisdiction of another member to operate near real-time satellite position-fixing transmitters in accordance with the standards, specifications and procedures to be determined by the coastal State.
10. The members of the Commission shall cooperate to ensure compatibility between national and high seas vessel monitoring systems.

## **FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (FAO Compliance Agreement)**

*FAO Technical Guidelines for Responsible Fisheries, Vol. 4: Fishing Management, Section 2.1.4, at 29 (1997).*

### **2.1.4 Timely distribution**

(i) The prompt provision of data in time for appropriate decisions and action to be taken is essential for effective fisheries management. Regular and frequent, typically annual, assessments of fisheries and resources, and a review of appropriate management options in response to changes are essential, and these can only be effective if they incorporate reliable and up-to-date data and information. With due regard for confidentiality requirements (see Section 2.1.5), management authorities should participate in and encourage sharing of information and data amongst different agencies and interest groups with genuine needs for these (7.4.6; 7.4.7).

(ii) Collection of appropriate and high quality data can be complex and costly but, in view of the above, fisheries management authorities must ensure, through the provision of adequate support, that the necessary data collection and analysis systems exist and function effectively.

(iii) Particularly where distances between sampling points are great as, for example, with highly migratory or straddling stocks, the potential role of data transmission by radio, fax, Email and satellites or transponders installed on commercial fishing vessels should be considered.

*Essential Role of Monitoring, Control, and Surveillance in Fisheries Management, Section 6, UNFAO Committee on Fisheries, 22nd Sess., COFI/97/Inf.6, at para. 6 (Mar. 17-20, 1997), COFI/97/Inf.6 <http://www.fao.org/docrep/meeting/w3861e.htm>*

6. For industrial fleets it is possible to monitor vessels efficiently and inexpensively through the use of vessel monitoring systems (VMS)[FN3]. This technology can provide immediate access to vessel location and the details of its activities as well as facilitating near real-time transmission of important catch and related information necessary for fisheries management (e.g. status of quotas). In order to participate in some fisheries, the installation of transponders on vessels is a requirement, and it is likely that management authorities for all major industrial fisheries will require the installation of this technology on vessels within the next five years.

FN 3: It should also be recognized that not only does an effective and well planned MCS programme (of which electronic vessel monitoring is an integral component) enhance fisheries management, but it also leads to improved safety for vessels and crews and permits the real-time transfer of market information, which can give important revenue gains where alternative port delivery decision or catch can be made at sea. This latter consideration has proved to be a significant consideration for fishermen in some industrial fisheries (e.g. east coast of the USA).

## **Annex 3**

### **Provisions of International Fisheries Agreements Relating to Observer Programs**

#### **Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR)**

*CCAMLR Scheme of International Scientific Observation as adopted at CCAMLR-XI (paragraph 6.11) and amended at CCAMLR-XVI (paragraph 8.21)*

- A. Each Member of the Commission may designate observers referred to in Article XXIV of the Convention.
- (a) Activities of scientific observers on board vessels will be specified by the Commission. These activities are laid down in Annex I and may be modified taking into account advice from the Scientific Committee.
  - (b) Scientific observers shall be nationals of the Member who designates them and shall conduct themselves in accordance with the customs and order existing on the vessel on which they are operating.
  - (c) Members shall designate scientific observers who shall be familiar with the harvesting and scientific research activities to be observed, the provisions of the Convention and the measures adopted under it and who are adequately trained to carry out competently the duties of scientific observers as required by the Commission.
  - (d) Scientific observers shall be able to communicate in the language of the Flag State of the vessels on which they carry out their activities.
  - (e) Scientific observers shall each carry a document issued by the designating Member in a form approved by the Commission identifying them as CCAMLR scientific observers.
  - (f) Scientific Observers shall submit to the Commission through the designating Member, not later than one month after the completion of the observer cruise or after the return of the observer to his/her home country, a report of each observation assignment undertaken, using the observation formats approved by the Scientific Committee. A copy shall be sent to the Member whose vessel was involved. \* \* \*
- B. In order to promote the objectives of the Convention, Members agree to take on board their vessels engaged in scientific research or harvesting of marine living resources designated scientific observers, who shall operate in accordance with bilateral arrangements concluded.

In such a bilateral arrangement, the Member wishing to place scientific observers on board a vessel of another Member shall be referred to as the 'Designating Member' whilst the Member who accepts on board its vessel shall be referred to as the 'Receiving Member'.

Such a bilateral arrangement shall include the following principles:

- (a) The scientific observers shall be given the status of ship's officers. Accommodation and meals for scientific observers on board shall be of a standard commensurate with this status.
  - (b) Receiving Members shall ensure that their vessel operators cooperate fully with the scientific observers to enable them to carry out the tasks assigned to them by the Commission. This will include access to data and to those operations of the vessel necessary to fulfil the duties of a scientific observer as required by the Commission.
  - (c) Receiving Members shall take appropriate action on board their vessels to ensure the security and welfare of scientific observers in the performance of their duties, provide them with medical care and safeguard their freedom and dignity.
  - (d) Arrangements shall be made for messages to be sent and received on behalf of scientific observers using the vessel's communications equipment and operator. Reasonable costs of such communications shall normally be borne by the Designating Member.
  - (e) Arrangements involving the transportation and boarding of scientific observers shall be organised so as to minimise interference with harvesting and research operations.
  - (f) Scientific observers shall provide to the relevant masters copies of such records, prepared by the scientific observers, as the masters may wish to retain.
  - (g) Designating Members shall ensure that their scientific observers carry insurance satisfactory to the Parties concerned.
  - (h) Transportation of scientific observers to and from boarding points shall be the responsibility of the Designating Member.
  - (i) Unless otherwise agreed the equipment, clothing and salary and any related allowances of a scientific observer shall normally be borne by the Designating Member. The vessel of the Receiving Member shall bear the cost of on board accommodation and meals of the scientific observer.
- C. The Designating Members shall provide details of observation programs to the Commission at the earliest possible opportunity and no later than upon the conclusion of each bilateral arrangement. For each observer deployed, the following details shall be supplied:
- (a) date of signing the arrangement;
  - (b) name and flag of the vessel receiving the observer;
  - (c) Member designating the observer;
  - (d) area of fishing (CCAMLR statistical area, subarea, division);
  - (e) type of data to be collected by the observer and submitted to the Secretariat (e.g. by-catch, target species, biological data);
  - (f) expected dates of the start and end of the observation program; and
  - (g) expected date of returning the observer to his/her home country.
- D. Members who have designated scientific observers will take the initiative in implementing

assignments identified by the Commission.

- E. The scope of functions and tasks described in Annex I should not be interpreted to suggest in any way the number of required observers which will be accepted on board a vessel.

#### ANNEX I: FUNCTIONS AND TASKS OF INTERNATIONAL SCIENTIFIC OBSERVERS ON BOARD VESSELS ENGAGED IN SCIENTIFIC RESEARCH OR HARVESTING OF MARINE LIVING RESOURCES

1. The function of scientific observers on board vessels engaged in scientific research or harvesting of marine living resources is to observe and report on the operation of fishing activities in the Convention Area with the objectives and principles of the Convention for the Conservation of Antarctic Marine Living Resources in mind.
2. In fulfilling this function, scientific observers will undertake the following tasks, using the observation formats approved by the Scientific Committee:
  - (i) record details of the vessel's operation (e.g. partition of time between searching, fishing, transit etc., and details of hauls);
  - (ii) take samples of catches to determine biological characteristics;
  - (iii) record biological data by species caught;
  - (iv) record by-catches, their quantity and other biological data;
  - (v) record entanglement and incidental mortality of birds and mammals;
  - (vi) record the procedure by which declared catch weight is measured and collect data relating to the conversion factor between green weight and final product in the event that catch is recorded on the basis of weight of processed product;
  - (vii) prepare reports of their observations using the observation formats approved by the Scientific Committee and submit them to CCAMLR through their respective authorities;
  - (viii) submit copies of reports to captains of vessels;
  - (ix) assist, if requested, the captain of the vessel in the catch recording and reporting procedures;
  - (x) undertake other tasks as may be decided by mutual agreement of the parties involved;
  - (xi)<sup>1</sup> collect and report factual data on sightings of fishing vessels in the Convention Area, including vessel type identification, position and activity; and
  - (xii)<sup>2</sup> collect information on fishing gear loss and garbage disposal by fishing vessels at sea.

<sup>1</sup> Added in accordance with CCAMLR-XVII (paragraph 8.16). The Commission decided to review the effectiveness and the need to continue this activity after a two-year trial period (CCAMLR-XVII, paragraph 8.17).

<sup>2</sup> Added in accordance with CCAMLR-XVIII (paragraph 8.21).

#### ***Conservation Measure 176/XVIII, Fishery for *Dissostichus eleginoides* [toothfish] in Statistical Division 58.5.2 for the 1999/2000 Season***

EDITOR'S NOTE: Many CCAMLR fisheries, including non-toothfish as well as exploratory fisheries, require 100% observer coverage. Conservation Measure 176/XVII is provided here as one example. See, e.g., Conservation Measure 177/XVIII, Fishery for *Champsocephalus gunnari* in Statistical Division 58.5.2 in the 1999/2000 Season; Conservation Measure 203/XIX Exploratory Trawl Fishery for *Dissostichus* spp. on BANZARE Bank in the 2000/01 Season, para. 7;

\* \* \*

5. Each vessel participating in the fishery for *Dissostichus eleginoides* in Statistical Division 58.5.2 shall have at least one scientific observer, and include, if available, one appointed in accordance with the CCAMLR Scheme of International Scientific Observation, on board throughout all fishing activities. \* \* \*

8. A fine-scale effort and biological data reporting system shall be implemented:

- (i) the scientific observer(s) aboard each vessel shall collect the data required to complete the CCAMLR fine-scale catch and effort data form C1, latest version. These data shall be submitted to the CCAMLR Secretariat not later than one month after the vessel returns to port;
- (ii) the catch of *Dissostichus eleginoides* and all by-catch species must be reported;

## **Convention to Establish an Inter-American Tropical Tuna Convention (IATTC)/Agreement on International Dolphin Conservation Program (AIDCP)**

### ***AIDCP, Annex II: On-Board Observer Program***

1. The Parties shall maintain an On-Board Observer Program in accordance with the provisions of this Annex. As a component of this Program, each Party may also maintain its own national observer program, in accordance with the provisions of this Annex.

2. Each Party shall require its vessels with a carrying capacity greater than 363 metric tons (400 short tons) and that operate in the Agreement Area, to carry an observer during each fishing trip in the Agreement Area. At least 50 percent of the observers on the vessels of each Party shall be IATTC observers; the remainder may be from the Party's national observer program, based on criteria set forth in this Annex as well as any other criteria established by the Meeting of the Parties.

3. All observers must:

- a. have completed the technical training required by the guidelines that the Parties establish;
- b. be a national of one of the Parties or a member of the scientific staff of the IATTC;
- c. be capable of performing the duties set forth in paragraph 4 of this Annex; and
- d. be included in a list of observers maintained by the IATTC or, if part of a national observer program, by the Party maintaining such program.

4. The duties of the observers shall be, inter alia:

- a. to gather all pertinent information on the fishing operations of the vessel to which the observer is assigned as is necessary for implementation of this Agreement;
- b. to make available to the captain of the vessel to which the observer is assigned all measures established by the Parties pursuant to this Agreement;
- c. to make available to the captain of the vessel to which the observer is assigned the record of dolphin mortality of that vessel;
- d. to prepare reports on information gathered in accordance with this paragraph, and provide the vessel captain with the opportunity to include in such reports any information the captain might deem to be relevant;

- e. to provide such reports to the Director or the pertinent national program, to be used in accordance with Annex VII, paragraph 1, of this Agreement; and
- f. to perform such other functions as agreed by the Parties.

5. The observers shall:

- a. except to the extent required under paragraphs 4(d) and 4(e) of this Annex, treat as confidential all information with respect to the fishing operations of the vessels and of the vessel owners, and accept this requirement in writing as a condition of appointment as an observer;
- b. comply with requirements established in the laws and regulations of the Party which exercises jurisdiction over the vessel to which the observer is assigned, insofar as such requirements are not incompatible with the provisions of this Annex;
- c. refrain from issuing or endorsing any certificate or other documentation relating to the fishing operations of the vessel, except as may be approved by the Parties; and
- d. respect the hierarchy and general rules of behavior which apply to all vessel personnel, provided such rules do not interfere with the duties of the observers described in this Annex and with the obligations of vessel personnel set forth in paragraph 6 of this Annex.

6. The responsibilities of the Parties and vessel captains regarding observers shall include the following, inter alia:

- a. Observers shall be allowed access to vessel personnel and to the gear and equipment specified in Annex VIII;
- b. Upon request, observers shall also be allowed access to the following equipment, if present on the vessel to which they are assigned, in order to facilitate the carrying out of their duties set forth in paragraph 4:
  - i. satellite navigation equipment;
  - ii. radar display viewing screens when in use;
  - iii. high-powered binoculars including during the chase and encirclement of dolphins to facilitate identification, except when in use by vessel personnel; and
  - iv. electronic means of communication;
- c. Observers shall have access to the vessel working deck during net and fish retrieval and to any specimen, alive or dead, that is brought aboard the vessel during a set in order to collect biological samples in accordance with the On-Board Observer Program or as otherwise required by competent national authorities as part of a national observer program;
- d. Observers shall be provided accommodations, including lodging, food, and adequate sanitary facilities equal to those of the crew;
- e. Observers shall be provided with adequate space on the bridge or pilothouse for clerical work, as well as space on deck adequate for carrying out observer duties; and
- f. The Parties shall ensure that captains, crew, and vessel owners do not obstruct, intimidate, interfere with, influence, bribe, or attempt to bribe an observer in the performance of his or her duties.

7. The Parties shall:

- a. ensure that any observers from their respective national programs collect information in

- b. the same manner as is required for IATTC observers; and provide to the Director copies of all raw data collected by observers from their respective national programs in a timely manner upon the conclusion of the trip during which the data were collected, along with summaries and reports comparable to those provided by IATTC observers.
- 8. In a timely manner after each trip observed by an IATTC observer, the Director, in a manner consistent with any applicable confidentiality requirements, is requested to provide to the Party under whose jurisdiction the vessel fished, copies of all raw data, summaries, and reports pertaining to the trip.
- 9. Notwithstanding other provisions of this Annex, if the Director determines that the placement of an observer from the On-Board Observer Program is not practical, a vessel subject to the jurisdiction of a Party that fishes in the Agreement Area without setting on dolphins may use a trained observer from another international program, provided such program is approved by the Parties, to collect pertinent information for the On-Board Observer Program, and to confirm to the Director that such vessel does not set on dolphins.
- 10. Observers from the On-Board Observer Program may be assigned to vessels of non-Parties at the discretion of the Director, provided the vessel and the vessel captain comply with all the requirements of this Annex, and all other applicable requirements of this Agreement. The Director is requested to inform the Parties of any such assignment in a timely manner.
- 11. Fees
  - a. The Parties shall establish the amount of the annual vessel fees to cover the costs of the On-Board Observer Program. The fees shall be calculated on the basis of the carrying capacity of each vessel or any other standard specified by the Parties.
  - b. At the time a Party submits to the Director the list of vessels under Annex IV to this Agreement, it shall also submit payment, in U.S. dollars, for the fees established under paragraph 11(a) of this Annex, specifying which vessels the payment covers.
  - c. No observer shall be assigned to a vessel for which the fees, as required under paragraph 11(b) of this Annex, have not been paid.

## **International Convention for the Conservation of Atlantic Tunas (ICCAT)**

### ***Recommendation 96-1 on bigeye Tuna and Yellowfin Tunas, entered into force: August 4, 1997***

*\* \* \* Deploring* the inadequacy of scientific knowledge relative to bigeye tuna and to the effects of the fishing techniques with fish aggregating devices (FADs) on the multi-species fisheries of tropical tunas;

*Convinced* of the urgent need to improve knowledge and the scientific basis for these subjects,

*Aware* of the danger that the large increase in bigeye tuna catches and juvenile catches observed, could present to the stock of Atlantic bigeye tuna.

*Determined* to do everything possible to improve, as quickly as possible, this scientific basis, indispensable for better knowledge and good management of this stock which is of the greatest economic importance, particularly for longline fleets as concerns bigeye tuna,

*Equally determined* to adopt adequate, viable and efficient management measures which will be proposed by the SCRS on the basis of improved scientific information.

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THE CONTRACTING PARTIES CONCERNED:

FIRST: That in order to contribute to the rapid acquisition of information, a national observer program for longliners, purse seiners and baitboats be established according to the provisions to be decided by an ad hoc working group of the SCRS:

a) on 25% of vessels fishing with fish aggregating devices (FADs), mainly in order to determine in which time/area strata juvenile tunas could be most associated with FADs.

b) on 5% of vessels fishing using other methods in order to obtain data on the composition of the catches, particularly those of spawners, relative to the fishing areas and seasons.

SECOND: To supplement the study carried out by the observer program with a survey of the vessels that use FADs.

THIRD: Based on the results of these investigations and in order to assure the taking of precautionary measures:

a) to present, during the Commission Meeting in November, 1997, the results of studies undertaken in accordance with the FIRST paragraph and on this basis, consider during that meeting, the necessary measures to assure maintaining the stock of tropical tunas, mainly as concerns the regulation of the use of FADs;

b) to respect the SCRS recommendations relative, on the one hand, to the bigeye tuna catches in reference to MSY and to the catches of juveniles, and on the other hand, with the yellowfin catches, in reference to fishing mortality.

***Recommendation 99-1 by ICCAT on the Establishment of a Closed Area/Season for the Use of Fish-Aggregation Devices (FADs)***

*RECALLING* that in 1998 ICCAT adopted a *Recommendation Concerning the Establishment of a Closed Area/Season for the Use of Fish Aggregation Devices (FADs)* between 1 November 1999 and 31 January 2000;

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:

6. Contracting Parties, Non-Contracting Parties, Entities and Fishing Entities shall ensure that all surface fleets concerned by this measure have an observer on board, during the whole duration of the period, who shall observe the respect of the prohibition referred to in paragraphs 1 to 4. The biological data collected on the fleet as a whole by these observers should be provided to the SCRS for the purpose of carrying out analyses identified in paragraph 5. \* \* \*

8. The observers should possess the following skills in order to discharge their duties:

-- Sufficient experience to identify species and gear

- Navigational skills
- A satisfactory knowledge of the ICCAT conservation measures
- The ability to carry out elementary scientific tasks e.g collecting samples, as requested and observe and record accurately,
- A satisfactory knowledge of the language of the flag of the vessel observed.

## **Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (NAFO)**

### ***NAFO Conservation and Enforcement Measures, Part VI – Program for Observers and Satellite Tracking, Section A – Observers***

1. Each contracting party shall require all its vessels fishing in the Regulatory Area to accept observers on the basis of the following:
  - a) each Contracting Party shall have the primary responsibility to obtain, for placement on its vessels, independent and impartial observers;
  - b) in cases where a Contracting Party has not placed an observer on a vessel, any other Contracting Party may, subject to the consent of the Contracting Party of the vessel, place an observer on board until that Contracting Party provides a replacement in accordance with paragraph a);
  - c) no vessel shall be required to carry more than one observer pursuant to this Program at any time.
2. Each Contracting Party shall provide to the Executive Secretary a list of the observers they will be placing on vessels in the Regulatory Area.
3. Observers shall:
  - a) monitor a vessel's compliance with the relevant Conservation and Enforcement Measures. In particular they shall:
    - i) record and report upon the fishing activities of the vessel and verify the position of the vessel when engaged in fishing;
    - ii) observe and estimate catches with a view to identifying catch composition and monitoring discards, by-catches and the taking of undersized fish;
    - iii) record the gear type, mesh size and attachments employed by the master;
    - iv) verify entries made to the logbooks (species composition and quantities, round and processed weight and hail report).
  - b) collect catch and effort data on a set-by-set basis. This data shall include location (latitude/longitude), depth, time of net on the bottom, catch composition and discards; in particular the observer shall collect the data on discards and retained undersized fish as outlined in the protocol developed by the Scientific Council.

- c) carry out such scientific work (for example, collecting samples) as requested by the Fisheries Commission based on the advice of the Scientific Council;
  - d) within 30 days following completion of an assignment on a vessel, provide a report to the Contracting Party of the vessel and to the Executive Secretary, who shall make the report, available to any Contracting Party that requests it. Copies of reports sent to other Contracting Parties shall not include location of catch in latitude and longitude as required under 3 b), but will include daily totals of catch by species and division.
4. The observer shall monitor the functioning of, and report upon any interference with, the satellite system. In order to better distinguish fishing operations from steaming and to continue to an *a posteriori* calibration of the signals registered by the receiving station, the observer shall maintain detailed reports of the daily activity of the vessel.
  5. When an apparent infringement of the Conservation and Enforcement Measures is identified by an observer, the observer shall, within 24 hours, report it to a NAFO inspection vessel using an established code, which shall report it to the Executive Secretary.
  6. Contracting Parties shall take all necessary measures to ensure that observers are able to carry out their duties. Subject to any other arrangements between the relevant Contracting Parties, the salary of an observer shall be covered by the sending Contracting Party.
  7. The vessel on which an observer is placed shall provide suitable food and lodging during the observer's deployment. Vessel masters shall ensure that all necessary cooperation is extended to observers in order for them to carry out their duties including providing access, as required, to the retained catch, and catch which is intended to be discarded.

#### **South Pacific Forum Fisheries Agency Convention (FFA)**

***Treaty on Fisheries Between the Government of Certain Pacific Island States and the Government of the United States of America, Apr. 2, 1987, T.I.A.S. 11100.***

#### **Annex 6, Part 6**

18. The operator and each member of the crew of the vessel shall allow and assist any person identified as an observer by the Pacific Island parties to:

- (a) board the vessel for scientific, compliance, monitoring and other functions at the point and time notified by the Pacific Island parties to the Government of the United States;
- (b) have full access to and the use of facilities and equipment on board the vessel which the observer may determine is necessary to carry out his or her duties; have full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish; remove samples; have full access to the vessel's records, including its log and documentation for the purpose of inspection and copying; and gather any other information relating to fisheries in the Licensing Area; without interfering unduly with the lawful operation of the vessel;
- (c) disembark at the point and time notified by the Pacific Island parties to the Government of the United States; and

- (d) carry out his or her duties safely;

and no operator or crew member of the vessel shall assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with an observer in the performance of his or her duties.

19. The operator shall provide the observer, while on board the vessel, at no expense to the Pacific Island parties, with food, accommodation and medical facilities of such reasonable standard as may be acceptable to the Pacific Island party whose representative is serving as the observer.

20. Any operator of the vessel from which any fish taken in the Licensing Area is unloaded shall allow, or arrange for, and assist any person authorised for this purpose by the Pacific Island parties to have full access to any place where such fish is unloaded, to remove samples and to gather any other information relating to fisheries in the Licensing Area.

21. An observer programme shall be conducted in accordance with this Treaty and provisions that may be agreed from time to time.

## **Agreement Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**

### **Article 18: Duties of the Flag State**

3. Measures to be taken by a State in respect of vessels flying its flag shall include: \* \* \*
- (f) requirements for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;
  - (g) monitoring, control and surveillance of such vessels, their fishing operations and related activities by, inter alia: \* \* \*
  - (ii) the implementation of national observer programmes and subregional and regional observer programmes in which the flag State is a participant, including requirements for such vessels to permit access by observers from other States to carry out the functions agreed under the programmes; and

### **Annex I, Article 1 – General Principles**

2. Assistance, including training as well as financial and technical assistance, shall be provided to developing States in order to build capacity in the field of conservation and management of living marine resources. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and research projects supporting stock assessments. The fullest possible involvement of developing State scientists and managers in conservation and management of straddling fish stocks and highly migratory fish stocks should be promoted.

## Annex I, Article 6 – Data Verification

States or, as appropriate, subregional or regional fisheries management organizations or arrangements should establish mechanisms for verifying fishery data, such as:

- (a) position verification through vessel monitoring systems;
- (b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations;
- (c) vessel trip, landing and transshipment reports; and
- (d) port sampling.

## **Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (MHLCT)**

### Article 28: Regional Observer Programme

1. The Commission shall develop a regional observer programme to collect verified catch data, other scientific data and additional information related to the fishery from the Convention Area and to monitor the implementation of the conservation and management measures adopted by the Commission.
2. The observer programme shall be coordinated by the Secretariat of the Commission, and shall be organized in a flexible manner which takes into account the nature of the fishery and other relevant factors. In this regard, the Commission may enter into contracts for the provision of the regional observer programme.
3. The regional observer programme shall consist of independent and impartial observers authorized by the Secretariat of the Commission. The programme should be coordinated, to the maximum extent possible, with other regional, subregional and national observer programmes.
4. Each member of the Commission shall ensure that fishing vessels flying its flag in the Convention Area, except for vessels that operate exclusively within waters under the national jurisdiction of the flag State, are prepared to accept an observer from the regional observer programme, if required by the Commission.
5. The provisions of paragraph 4 shall apply to vessels fishing exclusively on the high seas in the Convention Area, vessels fishing on the high seas and in waters under the jurisdiction of one or more coastal States, and vessels fishing in waters under the jurisdiction of two or more coastal States. When a vessel is operating on the same fishing trip both in waters under the national jurisdiction of its flag State and in the adjacent high seas, an observer placed under the regional observer programme shall not undertake any of the activities specified in paragraph 6 (e) when the vessel is in waters under the national jurisdiction of its flag State, unless the flag State of the vessel agrees otherwise.
6. The regional observer programme shall operate in accordance with the following guidelines and under the conditions set out in article 3 of Annex III of this Convention:
  - (a) the programme shall provide a sufficient level of coverage to ensure that the Commission receives appropriate data and information on catch levels and related matters within the

Convention Area, taking into account the characteristics of the fisheries

- (b) each member of the Commission shall be entitled to have its nationals included in the programme as observers
  - (c) observers shall be trained and certified in accordance with uniform procedures to be approved by the Commission
  - (d) observers shall not unduly interfere with the lawful operations of the vessel and, in carrying out their functions, they shall give due consideration to the operational requirements of the vessel and shall communicate regularly with the captain or master for this purpose
  - (e) the activities of observers shall include collecting catch data and other scientific data, monitoring the implementation of conservation and management measures adopted by the Commission and reporting of their findings in accordance with procedures to be developed by the Commission
  - (f) the programme shall be cost effective, shall avoid duplication with existing regional, subregional and national observer programmes, and shall, to the extent practicable, seek to minimize disruption to the operations of vessels fishing in the Convention Area
  - (g) a reasonable period of notice of the placement of an observer shall be given.
7. The Commission shall develop further procedures and guidelines for the operation of the regional observer programme, including:
- (a) to ensure the security of non-aggregated data and other information which the Commission deems to be of a confidential nature
  - (b) for the dissemination of data and information collected by observers to the members of the Commission
  - (c) for boarding of observers which clearly define the rights and responsibilities of the captain or master of the vessel and the crew when an observer is on board a vessel, as well as the rights and responsibilities of observers in the performance of their duties.
8. The Commission shall determine the manner in which the costs of the observer programme would be defrayed.

#### Annex II, Article 3 – Observers

1. The operator and each member of the crew shall allow and assist any person identified as an observer under the regional observer programme to:
- (a) embark at a place and time agreed to;
  - (b) have full access to and use of all facilities and equipment on board which the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish on board, and areas which may be used to hold, process, weigh and store fish, and full access to the vessel's records including its logs and documentation for the

- purpose of records inspection and copying, reasonable access to navigational equipment, charts and radios, and reasonable access to other information relating to fishing;
  - (c) remove samples;
  - (d) disembark at an agreed place and time; and
  - (e) carry out all duties safely.
- 2. The operator or any crew member shall not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with observers in the performance of their duties.
- 3. The operator shall provide the observer, while on board the vessel, at no expense to the observer or the observer's government, with food, accommodation and medical facilities of a reasonable standard equivalent to those normally available to an officer on board the vessel.

## **Food and Agriculture Organization**

***FAO Technical Guidelines for Responsible Fisheries, Vol. 4: Fishing Management, Section 2.3.2, at 36 (1997).***

### **2.3.2 Fishery characteristics \* \* \***

(iii) Systems for sampling landings need to be designed to ensure that the weight of landings and the biological characteristics of the catch, as well as effort, are accurately determined for each fleet. Where there is reason to suspect that discarding of unwanted portions of the catch occurs before landings are recorded, the quantity, species composition and biological characteristics of the discarded portion should be estimated. Observers during fishing operations, or simulated commercial fishing with chartered commercial vessels, are generally the most reliable means of obtaining these estimates.

## **Annex 4**

### **Provisions of International Fisheries Agreements Relating to Catch Documentation Schemes**

#### **Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR)**

##### *Conservation Measure 170/XVIII, Catch Documentation Scheme for Dissostichus spp.*

1. Each Contracting Party shall take steps to identify the origin of *Dissostichus* spp. imported into or exported from its territories and to determine whether *Dissostichus* spp. harvested in the Convention Area that is imported into or exported from its territories was caught in a manner consistent with CCAMLR conservation measures.
2. Each Contracting Party shall require that each of its flag vessels authorised to engage in harvesting of *Dissostichus eleginoides* and/or *Dissostichus mawsoni* complete a *Dissostichus* catch document for the catch landed or transhipped on each occasion that it lands or tranships *Dissostichus* spp.
3. Each Contracting Party shall require that each landing of *Dissostichus* spp. at its ports and each transhipment of *Dissostichus* spp. to its vessels be accompanied by a completed *Dissostichus* catch document.
4. Each Contracting Party shall provide *Dissostichus* catch document forms to each of its flag vessels authorised to harvest *Dissostichus* spp. and only to those vessels.
5. A non-Contracting Party seeking to cooperate with CCAMLR by participating in this Scheme may issue *Dissostichus* catch document forms to any of its flag vessels that intend to harvest *Dissostichus* spp.
6. The *Dissostichus* catch document shall include the following information:
  - (i) the name, address, telephone and fax numbers of the issuing authority;
  - (ii) the name, home port, national registry number, and call sign of the vessel and, if applicable, its Lloyd's registration number;
  - (iii) the number of the licence or permit issued to the vessel, as applicable;
  - (iv) the weight of each *Dissostichus* species landed or transhipped by product type, and
    - (a) by CCAMLR statistical subarea or division if caught in the Convention Area; and/or
    - (b) by FAO statistical area, subarea or division if caught outside the Convention Area;
  - (v) the dates within which the catch was taken;
  - (vi) the date and the port at which the catch was landed or the date and the vessel, its flag and national registry number, to which the catch was transhipped; and
  - (vii) the name, address, telephone and fax numbers of the receiver or receivers of the catch and the amount of each species and product type received.

7. Procedures for completing Dissostichus catch documents in respect of vessels are set forth in paragraphs A1 to A10 of Annex 170/A to this measure. A sample catch document is attached to the annex.

8. Each Contracting Party shall require that each shipment of Dissostichus spp. imported into its territory be accompanied by the export-validated Dissostichus catch document or documents that account for all the Dissostichus spp. contained in the shipment.

9. An export-validated Dissostichus catch document issued in respect of a vessel is one that:

- (a) includes all relevant information and signatures provided in accordance with paragraphs A1 to A11 of Annex 170/A to this measure; and
- (b) includes a signed and stamped certification by a responsible official of the exporting State of the accuracy of the information contained in the document.

10. Each Contracting Party shall ensure that its customs authorities or other appropriate officials request and examine the import documentation of each shipment of Dissostichus spp. imported into its territory to verify that it includes the export-validated Dissostichus catch document or documents that account for all the Dissostichus spp. contained in the shipment. These officials may also examine the content of any shipment to verify the information contained in the catch document or documents.

11. If, as a result of an examination referred to in paragraph 10 above, a question arises regarding the information contained in a Dissostichus catch document, the exporting State whose national authority validated the document and, as appropriate, the Flag State whose vessel completed the document are called on to cooperate with the importing State with a view to resolving such question.

12. Each Contracting Party shall provide copies quarterly to the CCAMLR Secretariat of all export-validated Dissostichus catch documents that it issued from and received into its territory and shall report annually to the Secretariat data, drawn from Dissostichus catch documents, on the origin and amount of Dissostichus spp. exported from and imported into its territory.

13. Each Contracting Party, and any non-Contracting Party that issues Dissostichus catch documents in respect of its flag vessels in accordance with paragraph 5, shall inform the CCAMLR Secretariat of the national authority or authorities (including names, addresses, fax numbers and email addresses) responsible for issuing and validating Dissostichus catch documents.

14. Notwithstanding the above, any Contracting Party may require additional verification of catch documents, including inter alia the use of VMS, in respect of catches by its flag vessels outside the Convention Area, when landed at and exported from its territory.

#### Annex 170/A

A1. Each Flag State shall ensure that each Dissostichus catch document form that it issues includes a specific identification number consisting of:

- (i) a four-digit number, consisting of the two-digit International Standards Organization (ISO) country code plus the last two digits of the year for which the form is issued; and

- (ii) a three-digit sequence number (beginning with 001) to denote the order in which catch document forms are issued.

It shall also enter on each Dissostichus catch document form the number as appropriate of the licence or permit issued to the vessel.

A2. The master of a vessel which has been issued a Dissostichus catch document form or forms shall adhere to the following procedures prior to each landing or transshipment of Dissostichus spp.:

- (i) the master shall ensure that the information specified in paragraph 6 of this conservation measure is accurately recorded on the Dissostichus catch document form;
- (ii) if a landing or transshipment includes catch of both Dissostichus spp., the master shall record on the Dissostichus catch document form the total amount of the catch landed or transhipped by weight of each species;
- (iii) if a landing or transshipment includes catch of Dissostichus spp. taken from different statistical subareas and/or divisions, the master shall record on the Dissostichus catch document form the amount of the catch by weight of each species taken from each statistical subarea and/or division;
- (iv) the master shall convey to the Flag State of the vessel by the most rapid electronic means available, the Dissostichus catch document number, the trip start date, the species, processing type or types, the net landed weight and the area or areas of the catch, the date of landing or transshipment and the port and country of landing or vessel of transshipment and shall request from the Flag State, a Flag State confirmation number;

A3. If the Flag State determines that the catch landed or transhipped as reported by the vessel is consistent with its authorisation to fish, it shall convey a unique Flag State confirmation number to the master by the most rapid electronic means available.

A4. The master shall enter the Flag State confirmation number on the Dissostichus catch document form.

A5. The master of a vessel that has been issued a Dissostichus catch document form or forms shall adhere to the following procedures immediately after each landing or transshipment of Dissostichus spp.:

- (i) in the case of a transshipment, the master shall confirm the transshipment by obtaining the signature on the Dissostichus catch document of the master of the vessel to which the catch is transferred;
- (ii) in the case of a landing, the master shall confirm the landing by obtaining the signature on the Dissostichus catch document of a responsible official at the port of landing;
- (iii) in the case of a landing, the master shall also obtain the signature on the Dissostichus catch document of the individual that receives the catch at the port of landing; and
- (iv) in the event that the catch is divided upon landing, the master shall present a copy of the Dissostichus catch document to each individual that receives a part of the catch at the port of landing, record on that copy of the catch document the amount and origin of the catch received by that individual and obtain the signature of that individual.

A6. In respect of each landing or transshipment, the master shall sign and convey by the most rapid electronic means available a copy, or, if the catch landed was divided, copies, of the signed Dissostichus catch document to the Flag State of the vessel and shall provide a copy of the relevant document to each recipient of the catch.

A7. The Flag State of the vessel shall immediately convey by the most rapid electronic means available a copy or, if the catch was divided, copies, of the signed Dissostichus catch document to the CCAMLR Secretariat to be made available by the next working day to all Contracting Parties.

A8. The master shall retain the original copies of the signed Dissostichus catch document or documents and return them to the Flag State no later than one month after the end of the fishing season.

A9. The master of a vessel to which catch has been transhipped (receiving vessel) shall adhere to the following procedures immediately after landing of such catch in order to complete each Dissostichus catch document received from transshipping vessels:

- (i) the master of the receiving vessel shall confirm the landing by obtaining the signature on the Dissostichus catch document of a responsible official at the port of landing;
- (ii) the master of the receiving vessel shall also obtain the signature on the Dissostichus catch document of the individual that receives the catch at the port of landing; and
- (iii) in the event that the catch is divided upon landing, the master of the receiving vessel shall present a copy of the Dissostichus catch document to each individual that receives a part of the catch at the port of landing, record on that copy of the catch document the amount and origin of the catch received by that individual and obtain the signature of that individual.

A10. In respect of each landing of transhipped catch, the master of the receiving vessel shall sign and convey by the most rapid electronic means available a copy of all the Dissostichus catch documents, or if the catch was divided, copies, of all the Dissostichus catch documents, to the Flag State(s) that issued the Dissostichus catch document, and shall provide a copy of the relevant document to each recipient of the catch. The Flag State of the vessel shall immediately convey by the most rapid electronic means available a copy of the document to the CCAMLR Secretariat to be made available by the next working day to all Contracting Parties.

A11. For each shipment of Dissostichus spp. to be exported from the country of landing, the exporter shall adhere to the following procedures to obtain the necessary export validation of the Dissostichus catch document or documents that account for all the Dissostichus spp. contained in the shipment:

- (i) the exporter shall enter on each Dissostichus catch document the amount of each Dissostichus spp. reported on the document that is contained in the shipment;
- (ii) the exporter shall enter on each Dissostichus catch document the name and address of the importer of the shipment and the point of import;
- (iii) the exporter shall enter on each Dissostichus catch document the exporter's name and address, and shall sign the document; and

- (iv) the exporter shall obtain validation of Dissostichus catch document by the responsible authority of the exporting State.

A12. In the case of re-export, the re-exporter shall adhere to the following procedures to obtain the necessary re-export validation of the Dissostichus catch document or documents that account for all the Dissostichus spp. contained in the shipment:

- (i) the re-exporter shall supply details of the net weight of product of all species to be re-exported, together with the Dissostichus catch document number to which each species and product relates;
- (ii) the re-exporter shall supply the name and address of the importer of the shipment, the point of import and the name and address of the exporter;
- (iii) the re-exporter shall obtain validation of the above details by the responsible authority of the exporting State.

An example form for re-export is attached to this annex.

## **Convention to Establish an Inter-American Tropical Tuna Convention (IATTC)/Agreement on International Dolphin Conservation Program (AIDCP)**

### ***International Dolphin Conservation Program, System for Tracking and Verifying Tuna***

#### **1. DEFINITIONS**

The terms used in this document are defined as follows:

- (a) *Dolphin safe* tuna is tuna captured in sets in which there is no mortality or serious injury of dolphins;
- (b) *Non-dolphin safe* tuna is tuna captured in sets in which mortality or serious injury of dolphins occurs"
- (c) *Agreement Area* is the area covered by the AIDCP;
- (d) *AIDCP* is the Agreement on the International Dolphin Conservation Program;
- (e) *Party* or *Parties* are the Parties to the AIDCP;
- (f) *State* is a sovereign state or a regional economic integration organization to which its member States have transferred competence over matters covered by the AIDCP;
- (g) *National authority* is the department of government or other entity designated by each Party as responsible for implementing and operating the tuna tracking and verification program described in this document;
- (h) *IATTC* is the Inter-American Tropical Tuna Commission
- (i) *Secretariat* is the staff of the IATTC;
- (j) *Captain* is the person aboard the vessel who has legal responsibility for the vessel while at sea and in port;
- (k) *Engineer* is the person aboard the vessel responsible for preparation of wells and the loading of the catch into the prepared wells;
- (l) *Observer* is the person assigned to the vessel by the IATTC or the Party's national observer

- program to record the vessel's fishing activities;
- (m) *Vessel* includes any vessel which catches, stores, or transports tuna covered by this tracking and verification program;
- (n) *Well* is any compartment on a purse-seine vessel in which tuna is stored in a freezing brine solution;
- (o) *Set* is the act of deploying and retrieving the purse seine in order to catch tuna;
- (p) *Bin* is any container used to store tuna after unloading, during cold storage, or for transport to processing.

## 2. GENERAL

This document describes a system for tracking tuna caught in the Agreement Area by vessels fishing under the AIDCP. The sole purpose of this system is to enable dolphin safe tuna to be distinguished from non-dolphin safe tuna from the time it is caught to the time it is ready for retail sale. This system is based on the premise that dolphin safe tuna shall, from the time of capture, during unloading, storage, transfer, and processing, be kept separate from non-dolphin safe tuna. To this end the system shall be based on a Tuna Tracking Form (TTF) and additional verification procedures described in this document or developed by individual Parties for use within their respective territories.

The national authority of the Party under whose jurisdiction a fishing vessel operates shall be responsible for tracking the tuna caught, transported, or unloaded by that vessel, but may, by mutual consent, delegate the observation of unloadings and transfers to the national authority of the state in which the unloading or transfer takes place. The national authority of the state in which the tuna is processed becomes responsible for the tracking and verification of the dolphin-safe status of all such tuna when it enters a processing plant located in that state, regardless of the flag of the catcher vessel.

It shall be the responsibility of each national authority to establish and maintain the systems, databases, and regulations necessary to implement the system in areas under its Jurisdiction. By February 15, 2000, each Party, and all states which apply the program provisionally, shall provide to the Secretariat a report detailing the tracking and verification program established by that Party under its national laws and regulations. The progress of this program will be reviewed at the meeting of the International Review Panel preceding the Meeting of the Parties in 2000.

Each Party shall provide to the Secretariat, and update as necessary, the name, mailing address, telephone and fax numbers, and e-mail address of a designated contact person at its national authority who shall be responsible for all matters pertaining to the program described in this document, and the Secretariat shall circulate a list of all such contact persons to all national authorities.

## 3. TUNA TRACKING FORM (TTF)

The Secretariat shall be responsible for producing the TTFs, which shall be in both English and Spanish, in sufficient quantity to be used throughout the Agreement Area by all the Parties; for distributing the forms to the national authorities; and for training a representative of each national authority in the proper use and handling of the form. Each national authority shall distribute TTFs to the fishing vessels under its jurisdiction.

1. TTFs utilized during a trip shall be identified by a unique number, which shall be the IATTC cruise number to which it corresponds, and shall have provision for recording and endorsing information concerning each set made during a fishing trip which would enable the contents of any of the vessel's wells to be identified as dolphin safe or non-dolphin safe.

2. Dolphin safe and non-dolphin safe tuna caught in the course of a trip shall be recorded on separate TTFs.
3. The national authority shall issue the TTFs to the observer assigned to the fishing vessel, and the cruise number shall be recorded on the TTF at the beginning of each trip. All tuna caught during that trip shall be recorded on the relevant TTF.
4. After a trip, the original TTF(s), with total confirmed quantities of tuna unloaded or transferred from that trip, shall be retained by the competent national authority, as follows:
  - (a) If the tuna is to be processed within the territory of the state under whose jurisdiction the fishing vessel operates, the original TTF(s) shall be submitted to the national authority of that state;
  - (b) If the tuna is to be processed within the territory of a state other than that under whose jurisdiction the fishing vessel operates, at the completion of unloading the tuna the responsibility for tracking passes to the national authority of the state in whose territory the tuna is to be processed. In such a case, the original TTF(s) is (are) submitted to the national authority under whose jurisdiction the tuna is to be processed, and a copy of the TTF(s) is (are) provided to the national authority of the Party under whose jurisdiction the vessel operates.
5. Within ten days of receipt of a TTF, the competent national authority shall transmit a copy of the document to the Secretariat.
6. TTFs shall be treated by the competent national authority as confidential official documents of the IDCP, consistent with Article XVIII of the AIDCP.

#### **4. FISHING OPERATIONS**

1. At sack-up during each set, and prior to brailing or loading of tuna aboard the vessel and into wells, the observer determines whether or not dolphin mortality or serious injury has occurred in the set and notifies the captain immediately of his determination.
2. On the basis of the observer's determination, the tuna is designated either dolphin safe or nondolphin safe. The tuna is brailed and loaded into a prepared well or wells which already contain either dolphin safe tuna or non-dolphin safe tuna, as applicable, or into a prepared but empty well or wells which shall then be designated dolphin safe or non-dolphin safe, as applicable.
3. At the completion of brailing, when there is no further question as to whether the tuna is dolphin safe or not, the observer, in consultation with the engineer, shall record on the appropriate TTF the species and estimated quantity of tuna loaded into each well used in that set. Both the observer and the engineer shall initial the entry for each set.
4. Within a reasonable period after the completion of loading of non-dolphin safe tuna, the observer may confirm the number(s) of the well(s) receiving the tuna by noting the subsequent change in temperature in the well(s).

5. Transfers of tuna from the net of one fishing vessel to another fishing vessel at sea in the course of a trip shall be documented on the TTF(s), specifying the quantity, species, and dolphin safe status of the tuna being transferred. The transfer shall be documented on the TTF(s) of both the transferring and receiving vessels.

6. At the end of each fishing trip, when no more sets are to be made, the observer and the captain shall review the TTF(s), make any additional notes, and both will sign the form.

## **5. UNLOADING**

1. The captain, managing owner, or agent of a vessel returning to port to unload part or all of its catch shall provide sufficient notice of the vessel's intended place and schedule of unloading to the competent national authority to allow for preparations to be made for monitoring the unloading of that tuna.

2. If a trip terminates when a vessel enters port to unload part of its catch, a new TTF(s) shall be assigned to the new trip, and the information concerning any tuna retained on the vessel shall be recorded as the first entry on the TTF(s) for the new trip. If the trip is not terminated following a partial unloading, the vessel shall retain the original TTF(s) and shall submit a copy of that TTF(s), with original signatures, to the national authority of the state where the tuna was unloaded. In either case, the species, dolphin safe status, and amount of tuna unloaded shall be noted on the respective original TTF(s).

3. If tuna is unloaded from a fishing vessel in port and subsequently loaded aboard a carrier vessel for transport to a processing location, the state under whose jurisdiction the fishing vessel operates shall be responsible for obtaining the TTF(s), retaining documentation of the unloading, including recording of the total confirmed scale weight if the tuna is weighed at that time, and verifying that the dolphin safe tuna is kept separated from the non-dolphin safe tuna during the carrier loading and transporting process. Dolphin safe tuna and non-dolphin safe tuna may be stored in the same hold on a carrier vessel provided that the two are kept physically separate, using netting or similar material, and the non-dolphin safe tuna is clearly labeled as such.

4. If the tuna is unloaded directly to a processing facility, the national authority in whose area of Jurisdiction the tuna is to be processed shall be responsible for retaining documentation of the unloading of the tuna and recording of the separate confirmed scale weight for dolphin safe and non-dolphin safe tuna. The competent national authority shall take possession of the original TTF for entry of the information into a database and for continued tracking of that tuna, and a copy of the TTF(s) shall be forwarded to the national authority of the state under whose Jurisdiction the fishing vessel operates if different from the state where the tuna is processed.

5. Dolphin safe and non-dolphin safe tuna shall be unloaded from fishing or carrier vessels into separate bins. Each bin shall be identified with the corresponding TTF number, the dolphin safe status of the tuna, and confirmed scale weight for the tuna in that bin.

6. Each sale of a portion of the catch shall reference the corresponding TTF number, which will accompany the tuna through every step of processing. In the event of transfers after the national authority has taken possession of the TTF(s), the transferring party shall be responsible for reporting any such transfer to the competent national authority, specifying the TTF number(s), the species and quantity (scale weight) of tuna being transferred, and the recipient.

7. The Parties shall determine means by which to document, within this system, tuna unloaded by purse-

seine vessels operating in the Agreement Area but not covered by the AIDCP. Tracking shall include confirmation of unloaded weight and, at the discretion of each Party, review of the vessel logbook.

## **6. STORAGE, PROCESSING, AND MARKETING**

The Parties may establish tracking and verification procedures for storage, processing, and marketing of tuna and tuna products that best fit the business practices within their own territories, as long as those procedures include the following requirements:

- (a) Any change in ownership of any unprocessed tuna covered by a TTF number shall be handled in accordance with Section 5, paragraphs 3 and 4, and shall be reported to the competent national authority.
- (b) During processing, dolphin safe and non-dolphin safe tuna shall not be processed on the same lines at the same time.
- (c) Processors shall maintain records complete enough to allow the lot numbers of processed tuna to be traced back to the corresponding TTF number.
- (d) Processed dolphin safe tuna destined for export shall be accompanied by appropriate certification of such status issued by the competent national authority, including reference to the corresponding TTF number, provided that such documentation shall not reference details of fishing operations, except as relates to identification of types of fishing gear.

## **7. PERIODIC AUDITS AND SPOT CHECKS**

Consistent with the principles and objectives of the AIDCP concerning multilateral cooperation in the management and implementation of this program, the national programs established by the Parties to track and verify tuna harvested by vessels in the Agreement Area shall include periodic audits and spot checks for caught, landed and processed tuna products, mechanisms for communication and cooperation between and among national authorities, and timely access to relevant data.

The Parties commit, while reserving their national sovereignty prerogatives, to work cooperatively towards the development of an international program to facilitate general reviews and spot checks of national tracking and verification programs. Consistent with this commitment, the Parties shall make available, or request the Secretariat to make available, to the International Review Panel (IRP) such reports and documentation on the tracking and verification program, including TTFs, as might be requested by that Panel, provided that the presentation of such documentation shall be subject to normal IRP confidentiality measures.

## **International Convention for the Conservation of Atlantic Tunas (ICCAT)**

### ***Recommendation 92-1 by ICCAT Concerning the ICCAT Bluefin Tuna Statistical Document Program, entered into force July 25, 1993***

*RECOGNIZING* the special situation of the west Atlantic bluefin tuna stock and the bluefin tuna market;  
\* \* \*

*RECOGNIZING* that in this context it is essential to improve the reliability of statistical information on catches of Atlantic bluefin tuna; \* \* \*

*TAKING INTO ACCOUNT* the strenuous efforts which have been undertaken by Contracting Parties to address the problems created by catches of Atlantic bluefin tuna by non-ICCAT member nations;

*CONSIDERING* that some of the non-ICCAT member nations have great difficulty in providing information on the catches of their flag vessels;

*ALSO BEING AWARE* that this Program may be adapted to the specific regulations established in ICCAT Contracting Parties, as well as in the framework of regional economic organizations;

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT):

*RECOMMENDS* that Contracting Parties, no later than September 1, 1993, require that all bluefin tuna, when imported into the territory of a Contracting Party or at the first entry into a regional economic organization, be accompanied by an ICCAT Bluefin Tuna Statistical Document which meets the requirements described in the Appendix to this Recommendation.

#### *Appendix to the Recommendation Concerning the ICCAT Bluefin Tuna Statistical Document Program*

1. The ICCAT Bluefin Tuna Document must contain the following information:

- a. the name of the country issuing the document
- b. the name of the exporter and the importer
- c. the area of harvest of the fish in the shipment (i.e., for the Atlantic Ocean the areas would be the east, west, or Mediterranean Sea).
- d. the gear utilized to catch the fish
- e. the type of product and total weight
- f. the point of export; and must be validated by a government official of the flag state of the vessel that harvested the tuna.

However, such a validation may be waived when the following criteria are met by the flag state for the vessel that harvested the tuna:

- a. all bluefin tuna available for sale are tagged or included in an ICCAT-accepted logbook or ICCAT-accepted information retrieval system;
- b. all information relating to the tag, the ICCAT-accepted logbook or the ICCAT-accepted information retrieval system is compiled by that government;
- c. the compiled information is provided in a timely fashion to ICCAT;
- d. the compiled information includes that outlined as the above.

ICCAT accepts that an equivalent statistical document program, that ensures the same objectives and provides the same information as the above may be applied. Countries or regional economic organizations will inform the ICCAT Executive Secretary, for appropriate circulation, six months in advance of application, of equivalent statistical document program.

2. Customs or other appropriate government officials will request and inspect all import documentation including the ICCAT Bluefin Tuna Statistical Document for all bluefin tuna in the shipment. Those officials may also inspect the content of each shipment to verify the information on the document.

3. At the initial stage of the program, the document will be required for frozen bluefin products. Prior to implementing this Program for fresh products, several practical problems need to be solved, such as guidelines to ensure procedures to handle fresh products at customs.

4. Implementation of this Program shall be in conformity with relevant international obligations.

5. The effectiveness and practical aspects of the implementation of this Program will be considered by the Commission.

***Recommendation 93-3 by ICCAT Concerning the Implementation of the ICCAT Bluefin Tuna Statistical Document Program on Fresh Products, entered into force May 31, 1994***

*RECALLING* the Recommendation concerning the ICCAT Bluefin Tuna Statistical Document Program adopted at the Eighth Special Meeting of the Commission (Madrid, November, 1992);

*NOTING* that at the initial stage of the Program, the document has been required for frozen bluefin tuna products;

*RECOGNIZING* that the inclusion of fresh bluefin tuna products in implementing the Program is essential to collect all bluefin trade data by this Program; \* \* \*

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:

1. The Contracting Parties, no later than June 1, 1994, require all fresh bluefin tuna, when imported into the territory of a Contracting Party or at the first entry into a regional economic organization, be accompanied by an ICCAT Bluefin Tuna Statistical Document, which meets the requirements described in the "Recommendation by ICCAT Concerning the ICCAT Bluefin Tuna Statistical Document Program", and supplemented by the "ICCAT Resolution Concerning Validation by a Government Official of the Bluefin Tuna Statistical Document". If, whenever required, a government official is unable to validate the Document, the Document may be accepted if properly prepared by the exporter;

2. The special provision for exception of government validation of the Statistical Document, as provided in paragraph 1 above, shall terminate on December 1, 1994.

3. Notwithstanding the provisions of Article VIII, paragraph 2 of the ICCAT Convention, the Executive Secretary shall immediately transmit the above to those non-Contracting Parties who have a recent record of export of fresh bluefin tuna to the Contracting Parties, and urge them to make the necessary arrangements so that government validation is provided to the Document or make the necessary arrangements to obtain ICCAT acceptance of an ICCAT-accepted logbook or ICCAT-accepted

information retrieval system according to the Criteria that are appended to the "ICCAT Resolution Concerning Validation by a Government Official of the Bluefin Tuna Statistical Document".

***ICCAT Resolution 94-4: Interpretation and Application of the ICCAT Bluefin Statistical Document Program, officially transmitted to Contracting Parties January 23, 1995***

\* NOTE: Addendum attached to this Resolution replaces that which was attached to the Resolution adopted by ICCAT in 1993 concerning the "Validation by a Government Official of the ICCAT Statistical Document". \* \* \*

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) RESOLVES THAT:

1. The Recommendation Concerning the ICCAT Bluefin tuna Statistical Document Program adopted at the Eighth Special Meeting of the Commission (Madrid 1992) shall apply to all bluefin tuna (*Thunnus thynnus*).

2. Upon importation into the territory of a Contracting Party or first entry into a regional economic organization, all bluefin tuna shall be accompanied by an ICCAT Bluefin Tuna Statistical Document. There is no waiver of this requirement.

3. Each Bluefin Tuna Statistical Document shall be validated by a government official unless all bluefin tuna available for sale:

- a) are tagged by the exporting state or entity;
- b) are recorded in an ICCAT-accepted logbook; or
- c) are recorded in an ICCAT-accepted information retrieval system.

In the case of (b) and (c), validation by an institution accredited by the government is required.

4. Summary of catch statistics of bluefin tuna other than Atlantic bluefin tuna need not be provided to ICCAT in order to receive an acceptance of logbook or information retrieval systems.

5. The Permanent Working Group for the Improvement of ICCAT Statistics and Conservation Measures (PWG) is authorized by the Commission to grant acceptance of the logbook or information retrieval system of non-Contracting Parties. The criteria for acceptance of these logbooks and information retrieval systems are set out in the Appendix to this Resolution. No interim waivers will be granted.

6. The Commission hereby adopts the criteria for acceptance of logbook and information retrieval systems as set out in the Appendix to this Resolution.

**Addendum on the Criteria for ICCAT Acceptance of Logbooks and Information Retrieval Systems**

*PURPOSE:* Provide a mechanism for ICCAT to determine if a flag state has a logbook system or statistical information retrieval system that is consistent with the needs of the Commission.

*CRITERIA:* Any flag state applying for acceptance of its logbook or statistical information retrieval system must provide to ICCAT the following information for all fish harvested by vessels flying its flag. All of the following criteria must be met before ICCAT can accept either system.

*A. Information Retrieval System* – The following must be provided:

I. Copies of all pertinent government regulations requiring routine provision to the competent government

authority of accurate information related to all bluefin tuna harvests. At a minimum this information must include the weight of fish harvested, the date of harvesting, the area of harvest, the gear and the name of vessel or trap. Such regulations are essential to a statistical information retrieval system.

II. Copies of all pertinent regulations respecting penalties for non-compliance with the regulations referred to in Paragraph A.I. Penalties should be sufficient to deter non-compliance.

III. Copies of all policies and procedures respecting enforcement of the regulations referred to in paragraph A.I and examples of sales slips or other similar tracking documents.

IV. Penalties that have been imposed in cases of non-compliance.

V. An outline of means the flag state would use to provide evidence of the origin of exported fish if requested to do so by authorities at the final point of import.

VI. The name, address and fax number of each accredited institution plus a copy of the official imprint of stamps and seals.

*B. Logbooks* – The following must be provided:

I. Copies of all pertinent government regulations requiring all fishermen to complete and submit logbooks. Such regulations are essential to a logbook system which must include requirements to provide the weight of fish harvested, the data of harvesting, the area of harvest, the gear and the name of vessel or trap.

II. Copies of all pertinent regulations respecting penalties of sufficient gravity to deter non-compliance with the regulations referred to in Paragraph B.I.

III. Copies of all policies and procedures respecting enforcement of the regulations referred to in Paragraph B.I and samples of logbooks and any other relevant documentation.

IV. Penalties that have been levied in cases of non-compliance.

V. An outline of how the flag state would use the logbook system to determine the origin of exported fish if requested to do so by authorities at the final point of import.

VI. The name, address and fax number of each accredited institution plus a copy of the official imprint of stamps and seals.

*PROCEDURES:* Requests for acceptance of a statistical information retrieval system or logbook system should be directed to the Executive Secretary. The Executive Secretary will review the documentation submitted in support of the request and, if satisfied that the documentation is complete, will send the documentation as soon as possible to the Contracting Parties for review by the PWG.. The members of the Permanent Working Group will review the application and communicate to the Executive Secretary whether to grant acceptance.

Five members of the Permanent Working Group shall constitute a quorum. The decision will be taken by simple majority. A mail vote may be taken. Acceptance granted by ICCAT will become effective on the 60th day following the date that the ICCAT Executive Secretary mails the letter notifying of such acceptance. The Executive Secretary shall circulate copies of the letter to all the Contracting Parties.

The PWG shall from time to time review the acceptance any may rescind any such acceptance if it determines that the relevant state or entity failed to maintain ICCAT accepted logbook or information retrieval systems.

***Recommendation 97-4 by ICCAT Concerning the Implementation of the ICCAT Bluefin Tuna Statistical Document Program on Re-export, entered into force June 13, 1998.***

*RECOGNIZING* that the ICCAT Bluefin Tuna Statistical Document Program has been working quite effectively to collect statistical information on catches of Atlantic bluefin tuna by non-contracting parties, entities or fishing entities;

*RECOGNIZING* that the need for establishing a re-export system within the ICCAT Bluefin Tuna Statistical Document Program is increasing in Contracting Parties;

*ALSO RECOGNIZING* that it is necessary to establish a re-export system within the ICCAT Bluefin Tuna Statistical Document Program in order to ensure the smooth international trade of bluefin tuna products without diminishing the effectiveness of the Program, which aims to collect statistical information on catches of Atlantic bluefin tuna through international trade:

*BEARING IN MIND* that paragraph (d) of the 1994 Resolution by ICCAT Concerning the Effective Implementation of the ICCAT Bluefin Tuna Statistical Document Program requests non-contracting parties, entities or fishing entities which are major importers of bluefin tuna to cooperate with the implementation of the Program and to provide the Commission with data obtained from such implementation:

**THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:**

1. A Contracting Party shall be free to validate ICCAT Bluefin Tuna Re-export Certificates (a sample is attached as Attachment 1) for bluefin tuna imported by that Contracting Party, to which ICCAT Bluefin Tuna Statistical Documents or ICCAT Bluefin Tuna Re-export Certificates are attached. ICCAT Bluefin Tuna Re-export Certificates shall be validated by government organizations or by recognized institutions which are accredited by a Contracting Party's government to validate the ICCAT Bluefin Tuna Statistical Document. A copy of the original Bluefin Tuna Statistical Document accompanying the imported bluefin tuna must be attached to an ICCAT Bluefin Tuna Re-export Certificate.

The copy of the original Bluefin Tuna Statistical Document so attached must be verified by that government organization or by that recognized institution accredited by a government which validated the ICCAT Bluefin Tuna Statistical Document. When re-exported bluefin tuna is again re-exported, all copies of documents, including a verified copy of a Statistical Document and Re-export Certificate which accompanied that bluefin tuna upon importation, must be attached to a new Re-export Certificate to be validated by a re-exporting Contracting Party. All copies of the Documents to be attached to that new Re-export Certificate must be also be verified by a government organization or a recognized institution accredited by a government which validated the ICCAT Bluefin Tuna Statistical Document.

2. ICCAT Contracting Parties which import bluefin tuna shall accept Re-export Certificates validated in accordance with the procedure set forth in paragraph 1 with attachments of all verified copies as required in paragraph 1.

3. ICCAT Contracting Parties that validate Re-export Certificates in accordance with the procedure set forth in paragraph 1 shall require from the re-exporting bluefin dealer necessary documents (e.g. written sales contracts) which are to certify that the bluefin tuna to be re-exported corresponds to the imported bluefin tuna. Contracting Parties which validate Re-export Certificates shall provide flag states and importing states with evidence of this correspondence upon their request.

4. Contracting Parties which import re-exported bluefin tuna shall report import data obtained from Re-export Certificates to the Executive Secretary each year by April 1 for the period of July 1 - December 31 of the preceding year and by October 1 for the period of January 1 - June 30 of the current year, which shall be circulated to all Contracting Parties by the ICCAT Executive Secretary. The format of this report shall be that as described in Attachment 2.

5. Contracting Parties shall be free to accept Re-export Certificates validated by a non-contracting [party, entity, or fishing entity] which has established an import scheme of the ICCAT Bluefin Tuna Statistical Document Program and implements it in accordance with this recommendation and paragraph (d) of the 1994 Resolution by ICCAT Concerning the Effective Implementation of the ICCAT Bluefin Tuna Statistical Document Program.

#### ***Attachment to 97-4***

#### **ICCAT BLUEFIN TUNA RE-EXPORT CERTIFICATE INSTRUCTION SHEET**

Under the framework of the ICCAT Bluefin Tuna Statistical document Program, a request for the establishment of a system enabling re-export was growing recently. In 1997, a Recommendation was adopted to implement the ICCAT Bluefin Tuna Statistical Document Program for Re-export. Pursuant to this Recommendation, bluefin tuna dealers who import re-exported\*1 bluefin tuna to Japan will be required to submit an ICCAT Bluefin tuna Re-export Certificate\*2 to be validated by a government official of the intermediate country or area\*3, or by a recognized institution, such as a Chamber of Commerce and Industry, accredited by the government of the intermediate country or area. A copy of the original Bluefin Tuna Statistical Document (BTSD) accompanying the bluefin tuna at the time of importation must be attached to the Re-export Certificate. The copy of the original BTSD so attached must be verified by a government official of the intermediate country or area, or by a recognized institution, such as a Chamber of Commerce and Industry, accredited the government of the intermediate country or area. When re-exported bluefin tuna are again re-exported\*4, all copies of documents, including a verified copy of a BTSD and Re-export Certificate which accompanied that bluefin tuna must be attached to a new Re-export Certificate to be validated by a government official of the last intermediate country or area, or by a recognized institution, such as a Chamber of Commerce and Industry, accredited by the government of the last intermediate country or area. Only bluefin tuna accompanied by a complete and valid Re-export Certificate will be allowed to enter Japan. Shipments of re-exported bluefin tuna accompanied by an improperly documented\*5 Re-export Certificate will be considered illegitimate shipments of re-exported bluefin that are contrary to ICCAT conservation efforts, and their entry into Japan will be suspended pending receipt of a properly documented Re-export Certificate.

#### **NOTE:**

\*1 "Re-export" means that bluefin tuna passes through a country or an area (tax-exempted areas are excluded) after being exported from the flagship country or the area (tax-exempted areas are excluded) of the fishing vessel which has caught that bluefin tuna.

\*2 Hereinafter called "Re-export Certificate".

\*3 "An intermediate country or area" means a country or an area through which bluefin tuna pass after

being exported from the flagship country or the area (tax-exempted areas are excluded) of the fishing vessel which has caught that bluefin tuna.

\*4 Re-export of bluefin tuna from one Member State of the European Union to another is exempted.

\*5 “Improperly documented” means that the Re-export Certificate is either missing from the shipment, incomplete, invalid, or falsified.

Please use this instruction sheet as a guideline to complete that section of the Bluefin Tuna Re-export Certificate that applies to Exporters, Importers, and Government Validation. If a language other English is used in completing the form, please add the English translation on the Certificate.

NOTE: IF A BLUEFIN TUNA PRODUCT IS RE-EXPORTED DIRECTLY TO JAPAN, WITHOUT FIRST GOING THROUGH AN INTERMEDIATE COUNTRY/ENTITY/FISHING ENTITY, ALL FISH CAN BE IDENTIFIED ON ONE CERTIFICATE. HOWEVER, IF THE BLUEFIN TUNA PRODUCT IS RE-EXPORTED THROUGH AN INTERMEDIATE COUNTRY/ENTITY/FISHING ENTITY (i.e. A COUNTRY/ENTITY/FISHING ENTITY OTHER THAN THE COUNTRY/ENTITY/FISHING ENTITY WHICH IS THE FINAL DESTINATION OF THE PRODUCT), A SEPARATE CERTIFICATE MUST BE PREPARED FOR DIFFERENT FINAL DESTINATIONS OR EACH FISH MAY BE ACCOMPANIED BY A SEPARATE CERTIFICATE TO IDENTIFY ANY POSSIBLE SEPARATION OF SHIPMENTS BY AN INTERMEDIATE COUNTRY/ENTITY/FISHING ENTITY. THE IMPORT OF FISH PARTS OTHER THAN THE MEAT, i.e. HEADS, EYES, ROE, GUTS, TAILS MAY BE ALLOWED WITHOUT THE CERTIFICATE.

## INSTRUCTIONS

DOCUMENT NUMBER: Block for the issuing Country/Entity/Fishing Entity to designate a Country/Entity/Fishing Entity coded document number.

### (1) RE-EXPORTING COUNTRY/ENTITY/FISHING ENTITY

Fill in the name of the Country/Entity/Fishing Entity which re-exports the bluefin tuna in the shipment and issued this Certificate. According to the ICCAT Recommendation, only the re-exporting Country/Entity/Fishing Entity can issue this Certificate.

### (2) POINT OF RE-EXPORT

Identify the City/State Province and Country/Entity/Fishing Entity from which the bluefin tuna was re-exported.

### (3) DESCRIPTION OF IMPORTED FISH

The exporter must provide, to the highest degree of accuracy, the following information: NOTE: One row should describe one product type. (1) Product type: Identify the type of product being shipped as either FRESH or FROZEN, and in ROUND, GILLED AND GUTTED, DRESSED, FILLET or OTHER form. For OTHER, describe the type of products in the shipment. (2) Net weight: Net product weight in kilograms. (3) Flag Country/Entity/Fishing Entity: the name of the Country/Entity/Fishing Entity of the vessel that harvested the bluefin tuna in the shipment. (4) Date of import: Imported date.

### (4) DESCRIPTION OF RE-EXPORTED FISH

The exporter must provide, to the highest degree of accuracy, the following information: NOTE: One row should describe one product type. (1) Product type: Identify the type of product being shipped as either FRESH or FROZEN, and in ROUND, GILLED AND GUTTED, DRESSED FILLET or OTHER form. For OTHER, describe the type of products in the shipment. (2) Net weight: Net product weight in kilograms.

#### (5) RE-EXPORTED CERTIFICATION

The person or company re-exporting the bluefin tuna shipment must provide his/her name, address, signature, date the shipment was re-exported, and re-exporter's license number (if applicable).

#### (6) GOVERNMENT VALIDATION

Fill in the name and full title of the official signing the Certificate. The official must be in the employment of the competent government authority of the re-exporting Country/Entity/Fishing Entity appearing on the Certificate. This requirement may be waived according to the ICCAT

RESOLUTION CONCERNING VALIDATION BY A GOVERNMENT OFFICIAL OF THE BLUEFIN STATISTICAL DOCUMENT.

#### (7) IMPORTER CERTIFICATION

The person or company that imports bluefin tuna must provide his/her name, address, signature, date the bluefin tuna was imported, license number (if applicable) and re-exported final point of import. This includes imports into intermediate Countries/Entities/Fishing Entities. For fresh and chilled products, the signature of the importer may be substituted by a person of a customs clearance company when the authority for signature is properly accredited to it by the importer.

RETURN A COPY OF THE COMPLETED CERTIFICATE TO: (the name of the office of the competent authority of the re-exporting Country/Entity/Fishing Entity).

***ICCAT Resolution 98-18 Concerning the Unregulated and Unreported Catches of Tuna by Large-Scale Longline Vessels in the Convention Area, adopted November 1998***

\* \* \*

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) RESOLVES THAT:

1 The Commission shall request the Contracting Parties, Cooperating non-contracting parties, entities or fishing entities which import frozen tunas and tuna-like fish products or in which those products are landed to collect and examine as much import or landing data and associated information as possible and submit the following information to the Commission each year:

- a. Names of the longline vessels which caught and produced such frozen tuna products,
- b. Flag states of those vessels,
- c. Species of tuna and tuna like species of the products,
- d. Areas of catch (Atlantic Ocean, Mediterranean Sea, or other area),
- e. Product weight by product type,
- f. Points of export,
- g. Names and addresses of owners of the vessels,

#### h. Registration

2. The Compliance Committee and the Permanent Working Group for the Improvement of ICCAT Statistics and Conservation Measures (PWG) shall review annually the information submitted to the Commission pursuant to paragraph 1 above and identify those Contracting Parties and non-contracting parties/entities or fishing entities whose large-scale longline vessels have been fishing tuna and tuna-like species in a manner which diminishes the effectiveness of the ICCAT conservation and management measures, based upon the above information, the information obtained through national statistics and the Bluefin Tuna Statistical Document Program, as well as other relevant information obtained in ports and at the fishing grounds.
3. The Commission shall request those Contracting and non-contracting parties/entities or fishing entities identified in paragraph 2 above to take all necessary measures so as not to diminish the effectiveness of the ICCAT conservation and management measures including, if appropriate, the revocation of vessel registration or fishing licenses of the large-scale longline vessels concerned.
4. The Compliance Committee and the PWG shall review annually the actions taken by those Contracting Parties and non-contracting parties/entities or fishing entities referred to in paragraphs 2 and 3 above in order to identify those Contracting Parties and non-contracting parties/entities or fishing entities which have not taken appropriate actions as requested.
5. The Commission will recommend effective measures, if necessary including non-discriminatory trade restrictive measures on the subject species, consistent with their international obligations, to prevent those longline vessels of those Contracting Parties and non-contracting parties/entities or fishing entities identified in paragraph 4 above from continuing the fishing operations for tunas and tuna-like species in a manner which diminishes the effectiveness of the ICCAT conservation measures.

### **Convention for the Conservation of Southern Bluefin Tuna (CCSBT)**

#### ***Southern Bluefin Tuna Statistical Document Program***

##### 1. Principle/General

1.1 For importation into the territory of a Member, all southern bluefin tuna shall be accompanied by a CCSBT Southern Bluefin Tuna Statistical Document. There is no waiver of this requirement. \* \* \*

##### 2. Information Required

2.1 A standard CCSBT Southern Bluefin Tuna Statistical Document form along with its Instruction Sheet is at Annex 1. Countries/Fishing Entities are requested to use this form. While minimal modifications such as addition of translations may be made, the standard form should be adopted as far as possible and no information item may be omitted from the standard form. \* \* \*

##### 3. Validation

3.1 The CCSBT Southern Bluefin Tuna Statistical Document shall be validated, in principle, by an official of the flag country/fishing entity of the vessel that harvested the tuna.

3.2 The requirement for validation of the Southern Bluefin Tuna Statistical Document by an official under 3.1 with respect to any member of the Commission may be met by an entity duly delegated by the

authority of the flag country/fishing entity. The Member which utilizes a delegated entity should submit a certified copy of such delegation to the Executive Secretary.

## 6. Re-export

6.1 A Member may validate CCSBT Southern Bluefin Tuna Re-export Certificate (a standard form is attached as Annex 3) for southern bluefin tuna imported by that Member, to which CCSBT Southern Bluefin Tuna Statistical Document or CCSBT Southern Bluefin Tuna Re-export Certificate is attached. CCSBT Southern Bluefin Tuna Re-export Certificate shall be validated by an official or by an entity duly delegated by the authority of a Member to validate the CCSBT Southern Bluefin Tuna Statistical Document under 3.2. A copy of the original Southern Bluefin Tuna Statistical Document accompanying the imported southern bluefin tuna must be attached to CCSBT Southern Bluefin Tuna Re-export Certificate. The copy of original Southern Bluefin Tuna Statistical Document so attached must be verified by that official or by that entity duly delegated by the authority of a Member which validate the CCSBT Southern Bluefin Tuna Statistical Document. When re-exported southern bluefin tuna is again re-exported, all copies of documents, including verified copy of a Statistical Document and Re-export Certificate which accompanied that southern bluefin tuna upon importation, must be attached to a new Re-export Certificate to be validated by a re-exporting Member. All copies of the Documents to be attached to that new Re-export Certificate must also be verified by an official or an entity duly delegated by the authority of a Member which validated the CCSBT Southern Bluefin Tuna Statistical Document.

6.2 Members which import southern bluefin tuna shall accept the Re-export Certificate set forth in 6.1 with attachments of all verified copies as required in 6.1.

6.3 Members that validate a Re-export Certificate in accordance with the procedure set forth in 6.1 shall require from the re-exporting southern bluefin tuna dealer necessary documents (e.g. written sales contracts) which are to certify that the southern bluefin tuna to be re-exported corresponds to the imported southern bluefin tuna. Members which validate a Re-export Certificate shall provide the flag country/fishing entity and importing country with evidence of this correspondence upon their request. \* \*

6.5 Members may accept a Re-export Certificate validated by a non-Member which has established a scheme substantially identical to the CCSBT Southern Bluefin Tuna Statistical Document Program and implements it in accordance with the requirements of the Program.

### **Annex 1 to Attachment M, Southern Bluefin Tuna Statistical Document Instruction Sheet and Form**

If a language other than English is used in completing the form, please add the English translation on the Document.

Document Number

Fill in the document number allocated by the exporting country/fishing entity.

Title

Tick the appropriate box.

Export Section

### 1. Flag Country/Fishing Entity of Capture Vessel

Fill in the name of the country/fishing entity of the registration of the vessel that harvested the southern bluefin tuna in the shipment. This should be the same country/fishing entity as issued this Document. *In case of farmed fish, the name of exporting country/fishing entity should be filled in instead of the name of the country/fishing entity of the vessel.*

### 2. Name of Vessel and Registration Number (when available)

Fill in the name and registration number of the vessel that harvested the southern bluefin tuna in the shipment. *In case of farmed fish, the name of tuna farm should be filled in instead of the name and registration number of the vessel.*

### 3. Information of Other Forms of Capture (e.g. Trap)

If the southern bluefin tuna in the shipment was caught by means other than the vessel (e.g. Trap), fill in the means.

### 4. Processing Establishment

Fill in the name and address of the processing establishment which processed the southern bluefin tuna in the shipment (if applicable). If it is the same as the exporter, write "same as exporter".

### 5. Point of Export (City, State or Province and Country/Fishing Entity)

Identify the City, State or Province and Country/Fishing Entity from which the southern bluefin tuna was exported.

### 6. Description of Fish

The exporter must provide, to the highest degree of accuracy, the following information. NOTE: One row should describe one product type.

(1) product: Identify the type of product being shipped as either FRESH (F) or FROZEN (FR),

(2) type: Identify the type of product being shipped as either ROUND (RD), GILLED AND GUTTED (GG), DRESSED (DR), FILLET (FL) or OTHER form (OT); for OTHER, describe the type of products in the shipment,

(3) time of harvest: Fill in the time of harvest (in month and year) of the southern bluefin tuna in the shipment; *in case of farmed fish, it is not necessary to fill in this column,*

(4) gear code: Identify the gear type which was used to harvest the southern bluefin tuna using the list below; for OTHER TYPE, describe the type of gear; *in case of farmed fish, write "Farmed",*

#### GEAR CODE GEAR TYPE

BB Baitboat  
GILL Gillnet  
HAND Handline

HARP Harpoon  
LL Longline  
MWT Mid-water Trawl  
PS Purse Seine  
RR Rod and Reel  
SPHL Sport Handline  
SPOR Sport Fisheries Unclassified  
SURF Surface Fisheries Unclassified  
TL Tended Line  
TRAP Trap  
TROL Troll  
UNCL Unspecified Method  
OT Other Type

(5) area of catch: Identify the area in which the southern bluefin tuna was harvested using numbers from 1 to 13 (SBT statistical areas, map not attached); *in case of farmed fish, it is not necessary to fill in this column,*

(6) net weight: Net product weight in kilograms; in case of farmed fish, fill in the raised product's weight,

(7) no. of fish: If type is RD, GG or DR, fill in the number of fish.

#### 7. Exporter Certification

The person or company exporting the southern bluefin tuna shipment must provide his/her/its name, address, signature, date the shipment was exported, and dealer licence number (if applicable).

#### 8. Validation by Authority

Fill in the name and full title of the official signing the Document. The official must be in the employment of the competent authority of the flag state/fishing entity of the vessel that harvested the southern bluefin tuna appearing on the Document. This requirement with respect to any Member of the Commission may be met by an entity duly delegated by the authority of the flag country/fishing entity. The Member which utilizes a delegated entity should submit a certified copy of such delegation to the Executive Secretary.

#### Import Section

The person or company that imports southern bluefin tuna must provide his/her/its name, address, signature, date on which the southern bluefin tuna was imported, licence number (if applicable) and final point of import. This includes imports into intermediate country (if applicable). For fresh and chilled product, the signature of the importer may be substituted by a person of a customs clearance company when the authority for signature is properly accredited to it by the importer.

Note: Instructions relating to farmed fish are written in italic letters.

## **Annex 5**

### **Provisions of International Fisheries Agreements Relating to Inspection**

#### **Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR)**

##### ***CCAMLR System of Inspection***

I. Each Member of the Commission may designate Inspectors referred to in Article XXIV of the Convention.

- (a) Designated Inspectors shall be familiar with the fishing and scientific research activities to be inspected, the provisions of the Convention and measures adopted under it.
- (b) Members shall certify the qualifications of each Inspector they designate.
- (c) Inspectors shall be nationals of the Contracting Party which designates them and, while carrying out inspection activities, shall be subject solely to the jurisdiction of that Contracting Party.
- (d) Inspectors shall be able to communicate in the language of the Flag State of the vessels on which they carry out their activities.
- (e) Inspectors shall be accorded the status of ship's officer while on board such vessels.
- (f) Names of Inspectors shall be communicated to the Secretariat within fourteen days of designation.

II. The Commission shall maintain a register of certified Inspectors designated by Members.

- (a) The Commission shall communicate, each year, the register of Inspectors to each Contracting Party within a month of the last day of the Commission meeting.

III. In order to verify compliance with conservation measures adopted under the Convention, Inspectors designated by Members shall be entitled to board a fishing or fisheries research vessel in the area to which the Convention applies to determine whether the vessel is, or has been, engaged in scientific research, or harvesting, of marine living resources (2).

- (a) Inspection may be carried out by designated Inspectors from vessels of the designating states.
- (b) Ships carrying Inspectors shall carry a special flag or pennant approved by the Commission to indicate that the Inspectors on board are carrying out inspection duties in accordance with this system.

- (c) Such Inspectors may also be placed on board vessels, with the schedule of embarkation and disembarkation of Inspectors subject to arrangements to be concluded between the designating State and the Flag State.

(2) The Commission stated its understanding that they System of Inspection applied to flag vessels of all Members of the Commission and where appropriate, Acceding States (CCAMLR-XIV, paragraph 7.25).

IV. Each Contracting Party shall provide to the Secretariat:

- (a) One month before the commencement of the research cruise and in accordance with Conservation Measure 64/XII 'The Application of Conservation Measures to Scientific Research', the names of all vessels intending to conduct fishing for research purposes.
- (b) Within seven days of the issuance of each permit or licence in accordance with Conservation Measure 119/XVII 'Licensing and Inspection Obligations of Contracting Parties with regard to their Flag Vessels Operating in the Convention Area, the following information about licences or permits issued by its authorities to its flag vessels authorising them to fish in the Convention Area:
  - name of the vessel;
  - time periods authorised for fishing (start and end dates);
  - area(s) of fishing;
  - species targeted; and
  - gear used.

- V.
- (a) Any vessel present in the Convention Area for the purpose of harvesting or conducting scientific research on marine living resources shall, when given the appropriate signal in the International Code of Signals by a ship carrying an Inspector (as signified by flying the flag or pennant referred to above), stop or take other such actions as necessary to facilitate the safe and prompt transfer of the Inspector to the vessel, unless the vessel is actively engaged in harvesting operations, in which case it shall do so as soon as practicable.
  - (b) The Master of the vessel shall permit the Inspector, who may be accompanied by appropriate assistants, to board the vessel.

VI. Inspectors shall have the authority to inspect catch, nets and other fishing gear as well as harvesting and scientific research activities, and shall have access to records and reports of catch and location data insofar as necessary to carry out their functions.

- (a) Each Inspector shall carry an identity document issued by the designating State in a form approved or provided by the Commission stating that the Inspector has been designated to carry out inspection in accordance with this system.
- (b) On boarding a vessel, an Inspector shall present the document described in paragraph vi(a), above.
- (c) The inspection shall be carried out so that the vessel is subject to the minimum interference and inconvenience. Inquiries shall be limited to the ascertainment of facts in

relation to compliance with the Commission measures in effect for the Flag State concerned.

- (d) Inspectors may take photographs and/or video footage as necessary to document any alleged violation of Commission measures in force.
- (e) Inspectors shall affix an identification mark approved by the Commission to any net or other fishing gear which appears to have been used in contravention to conservation measures in effect and shall record this fact in the reports and notification referenced in paragraph viii, below.
- (f) Inspectors shall be provided appropriate assistance by the Master of the vessel in carrying out their duties, including access as necessary to communications equipment.

VII. If a vessel refuses to stop or otherwise facilitate transfer of an Inspector, or if the Master or crew of a vessel interferes with the authorised activities of an Inspector, the Inspector involved shall prepare a detailed report, including a full description of all the circumstances and provide the report to the designating State to be transmitted in accordance with the relevant provisions of paragraph ix.

- (a) Interference with an Inspector or failure to comply with reasonable requests made by an Inspector in the performance of his duties shall be treated by the Flag State as if the Inspector were an Inspector of that State.
- (b) The Flag State shall report on actions taken under this paragraph in accordance with paragraph XI, below.

VIII. Inspectors shall complete the approved CCAMLR inspection report form.

- (a) The Inspector shall provide a written explanation, on the inspection report form, of any alleged violation of Commission measures in force. The Inspector shall allow the Master of the vessel being inspected to comment, on the inspection report form, about any aspect of the inspection.
- (b) The Inspector shall sign the inspection report form. The Master of the inspected vessel shall be invited to sign the inspection report form to acknowledge receipt of the report.
- (c) Before leaving the vessel that has been inspected, the Inspector shall give the Master of that vessel a copy of the completed inspection form.
- (d) The Inspector shall provide a copy of the completed inspection form along with photographs and video footage to the designating Member not later than 15 days of his/her arrival to port.
- (e) The designating Member shall forward a copy of the inspection form not later than 15 days from its reception along with two copies of photographs and video footage to the CCAMLR Executive Secretary who shall forward one copy of this material to the Flag State of the inspected vessel not later than seven days from receipt.
- (f) Fifteen days after the transmission of the completed inspection form to the Flag State, the CCAMLR Executive Secretary shall transmit that form to Members together with

comments or observations, if any, received from the Flag State.

IX. Any supplementary reports or information, or any report prepared in accordance with Paragraph VII, shall be provided by the designating Member to the CCAMLR Executive Secretary. The latter shall provide such reports or information to the Flag State, which shall be then afforded the opportunity to comment. The CCAMLR Executive Secretary shall transmit the reports or information to Members within 15 days following their receipt from the designating Member, and the observations or comments, if any, received from the Flag State.

X. A fishing vessel present in the area of application of the Convention shall be presumed to have been engaged in scientific research, or harvesting, of marine living resources (or to have been commencing such operations) if one or more of the following four indicators have been reported by an inspector, and there is no information to the contrary:

- (a) fishing gear was in use, had recently been in use or was ready to be used, e.g.:
  - nets, lines or pots were in the water;
  - trawl nets and doors rigged;
  - baited hooks, baited pots or traps or thawed bait were ready for use;
  - log indicated recent fishing or fishing commencing.
- (b) fish which occur in the Convention Area were being processed or had recently been processed, e.g.:
  - fresh fish or fish waste were on board;
  - fish were being frozen;
  - from operational or product information;
- (c) fishing gear from the vessel was in the water, e.g.:
  - fishing gear bore the vessel's markings;
  - fishing gear matched that on the vessel;
  - log indicated gear in the water;
- (d) fish (or their products) which occur in the Convention Area were stowed on board.

XI. If, as a result of inspection activities carried out in accordance with these provisions, there is evidence of violation of measures adopted under the Convention, the Flag State shall take steps to prosecute and, if necessary, impose sanctions.

XII. The Flag State shall, within fourteen days of the laying of charges or the initiation of proceedings relating to a prosecution, inform the Secretariat of this information, and shall continue thereafter to inform the Secretariat as the prosecution develops or is concluded. In addition, the Flag State shall at least once a year report to the Commission, in writing, about the results of such prosecutions and sanctions imposed. If a prosecution has not been completed, a progress report shall be made. When a prosecution has not been launched, or has been unsuccessful, the report shall contain an explanation.

XIII. Sanctions applied by Flag States in respect to infringements of CCAMLR provisions shall be sufficiently severe as to effectively ensure compliance with CCAMLR conservation measures and to discourage infringements and shall seek to deprive offenders of any economic benefit accruing from their

illegal activities.

XIV. The Flag State shall ensure that any of its vessels which have been found to have contravened a CCAMLR conservation measure do not carry out fishing operations within the Convention Area until they have complied with the sanctions imposed.

***CCAMLR Conservation Measure 118/XVII, Scheme to Promote Compliance by Non-Contracting Party Vessels with CCAMLR Conservation Measures***

1. A non-Contracting Party vessel which has been sighted engaging in fishing activities in the Convention Area is presumed to be undermining the effectiveness of CCAMLR Conservation Measures. In the case of any transshipment activities involving a sighted non-Contracting Party vessel inside or outside the Convention Area, the presumption of undermining the effectiveness of CCAMLR Conservation Measures applies to any other non-Contracting Party vessel which has engaged in such activities with that vessel. \*

\* \*

4. When a non-Contracting Party vessel referred to in paragraph 1 enters a port of any Contracting Party, it shall be inspected by authorised Contracting Party officials knowledgeable of CCAMLR Conservation Measures and shall not be allowed to land or tranship any fish until this inspection has taken place. Such inspections shall include the vessel's documents, logbooks, fishing gear, catch on board and any other matter, which may include information from a VMS1, relating to the vessel's activities in the Convention Area.

5. Landing and transshipments of all fish from a non-Contracting Party vessel, which has been inspected pursuant to paragraph 4, shall be prohibited in all Contracting Party ports if such inspection reveals that the vessel has on board species subject to CCAMLR Conservation Measures, unless the vessel establishes that the fish were caught outside the Convention Area or in compliance with all relevant CCAMLR Conservation Measures and requirements under the Convention.

6. Contracting Parties shall ensure that their vessels do not receive transshipments of fish from a non-Contracting Party vessel which has been sighted and reported as having engaged in fishing activities in the Convention Area and therefore presumed as having undermined the effectiveness of CCAMLR Conservation Measures.

***CCAMLR Conservation Measure 147/XVIII, Provisions to ensure Compliance with CCAMLR Conservation Measures by Vessels, including Cooperation between Contracting Parties***

1. Contracting Parties shall undertake inspections of those fishing vessels that intend to land or tranship *Dissostichus* spp. at their ports. The inspection shall be for the purpose of determining that the catch to be unloaded or transhipped is accompanied by the *Dissostichus* catch document required by Conservation Measure 170/XVIII, that the catch agrees with the information recorded on the document and, if the vessel carried out harvesting activities in the Convention Area, that these activities were carried out in accordance with CCAMLR conservation measures.

2. To facilitate these inspections, Contracting Parties shall require vessels to provide advance notice of their entry into port. The inspection shall be conducted within 48 hours of port entry and shall be carried out in an expeditious fashion. It shall impose no undue burdens on the vessel or its crew, and shall be guided by the relevant provisions of the CCAMLR System of Inspection.

3. In the event that there is evidence that the vessel has fished in contravention of the CCAMLR

conservation measures, the catch shall not be landed or transhipped. The Contracting Party will inform the Flag State of the vessel of its inspection findings and will cooperate with the Flag State in taking such appropriate action as is required to investigate the alleged infringement, and, if necessary, apply appropriate sanctions in accordance with national legislation.

## **International Convention for the Conservation of Atlantic Tunas (ICCAT)**

*ICCAT Recommendation 97-10 on Port Inspections, entered into force June 13, 1998.*

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:

1. Inspection shall be carried out by the appropriate authorities of the Contracting Parties, who will monitor compliance with the Commission's conservation measures for all ICCAT species, at their own ports, without discrimination. Inspectors shall produce identification as provided by the national government.
2. In the case of an apparent violation by a foreign fishing vessel, the inspector shall draw up a report of the inspection on a form standardized by the Commission, or on a form produced by the national government which collects the same quality of information. The inspector must sign the report in the presence of the master of the vessel, who shall be entitled to add or have added to the report any observations, and to add his own signature. The inspector should note in the vessel's logbook that an inspection was made. Copies of the form must be sent to the flag state of the vessel and to the ICCAT Secretariat within 10 days. In the case of a violation by a domestic vessel, domestic procedures will be followed for documentation, which must also provide the same quality of information as the standard ICCAT form.
3. An inspector may examine the fish, fishing gear, fish samples, and all relevant documents, including fishing logbooks and cargo manifest (in the case of a mother ship or carrier vessel), to verify compliance with ICCAT measures. The master of the vessel is required to cooperate with the inspector. Inspections shall be carried out so that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.
4. Parties shall consider and act on reports of apparent violations by foreign inspectors on a similar basis as the reports of national inspectors in accordance with their national legislation. Contracting Parties shall collaborate, in accordance with their legislation, in order to facilitate judicial or other proceedings arising from reports of inspectors acting under these arrangements.
5. For cases in which an apparent violation has occurred, the vessel's flag state shall notify ICCAT of actions taken to address the violation.
6. All parties shall inform their vessel masters who are fishing on ICCAT species of the regulations. The masters shall also be instructed to cooperate with the inspectors in national as well as foreign ports.
7. Parties whose vessels enter, land, or tranship their catches in ports other than their own, can send their own inspectors to inspect their own vessels with respect to the observance of the Commission's regulations, having previously obtained an invitation from the port state in which the inspection shall be executed. In addition, parties are encouraged to enter into bilateral agreements/arrangements that allow for an inspector exchange program designed to promote cooperation, share information, and educate each party's inspectors on strategies and operations that promote compliance with ICCAT's management

measures. The countries' national report should include a description of such programs.

NB: The Commission agreed that most ICCAT recommendations can only be enforced during off-loading, and therefore this is the most fundamental and effective tool for monitoring and inspection. This recommendation would modify the existing ICCAT port inspection scheme to require national port inspection schemes and to provide minimum standards in conducting port inspection of foreign and domestic vessels during off-loading and transshipment operations of all ICCAT species. The purpose of the port inspection scheme is to ensure individual vessel compliance as well as to facilitate overall monitoring of each party's fisheries for ICCAT species. ICCAT hopes that the parties will actually exceed these minimum standards in order to effect timely and accurate monitoring of landings and transshipments, check compliance with ICCAT management measures, ensure quotas are not exceeded, and collect data and other information on landings and transshipments.

***Recommendation 98-11 Concerning the Ban on Landings and Transshipments of Vessels from Non-Contracting Parties Identified as Having Committed a Serious Infraction, entered into force June 21, 1999***

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:

1. A vessel flying the flag of a non-contracting party, entity or fishing entity, which has been sighted in the ICCAT Convention Area, in conformity with the conditions of paragraph 4 of the Recommendation by ICCAT on Transshipments and Vessel Sightings, adopted in November 1997, is presumed to be undermining ICCAT conservation measures.
2. When a vessel of a non-contracting party, entity or fishing entity referred to in paragraph 1 enters voluntarily a port of any Contracting Party, it shall be inspected by authorized Contracting Party officials knowledgeable of ICCAT measures and shall not be allowed to land or tranship any fish until this inspection has taken place. Such inspections shall include the vessel's documents, logbooks, fishing gear, catch on board and any other matter relating to the vessel's activities in the Convention Area.
3. Landings and transshipments of all fish from vessels of a non-contracting party, entity or fishing entity which have been inspected pursuant to paragraph 2, shall be prohibited in all Contracting Party ports if such inspection reveals that the vessel has onboard species subject to ICCAT conservation measures, unless the vessel establishes that the fish were caught outside the Convention Area or in compliance with the relevant ICCAT conservation measures and requirements under the Convention.
4. Information on the results of all inspections of vessels of non-contracting parties, entities or fishing entities, conducted in the ports of Contracting Parties, and any subsequent action, shall be transmitted immediately to the Commission. The Secretariat shall transmit this information to all Contracting Parties and to the relevant flag State(s).

**Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (NAFO)**

**Article XVIII**

The Contracting Parties agree to maintain in force and to implement within the Regulatory Area a scheme of joint international enforcement as applicable pursuant to Article XXIII or as modified by measures

referred to in paragraph 5 of Article XI. This scheme shall include provision for reciprocal rights of boarding and inspection by the Contracting Parties and for flag State prosecution and sanctions on the basis of evidence resulting from such boardings and inspections. A report of such prosecutions and sanctions imposed shall be included in the annual statement referred to in Article XVII.

*NAFO Conservation and Enforcement Measures, NAFO/FC Doc. 00/1*

**Part IV - Scheme of Joint International Inspection and Surveillance**

1. (i) Control and surveillance shall be carried out by inspectors of the fishery control services of the Contracting Parties following their assignment to the Scheme of Joint International Inspection and surveillance, hereinafter referred to as "the scheme".
- (ii) The appropriate authorities of the Contracting Parties shall notify the Executive Secretary by November 1 each year of the names of the inspectors, NAFO inspection trainees and special inspection vessels (which term includes fishing vessels carrying inspectors) and the type and call sign of the helicopters or other aircraft which they are assigning to the scheme in accordance with paragraph 13 of the scheme.

Modifications by Contracting Parties to such notifications shall be communicated to the Executive Secretary with two months notice whenever possible.

- (iii) Following notification to the Executive Secretary, and in the case of mutual agreement between the respective Contracting Parties, inspectors assigned by one Party may be placed on board the special inspection vessels or aircraft of another Party assigned to the scheme.
  - (iv) On receipt of the notification of assignment to the scheme from the Contracting Party, the Executive Secretary shall issue a document of identity, as shown in Annex I, to the respective authority for each inspector or NAFO inspection trainee of that Party. This document shall be numbered. Each inspector shall carry and produce this document of identity upon boarding a vessel. \* \* \*
2. (i) In its inspections a Contracting Party shall aim at ensuring equal treatment between all Contracting Parties with vessels operating in the Regulatory Area through an **equitable distribution of inspections**.
  - (ii) To ensure objectivity in the realization and distribution of inspections between the Contracting Parties, the number of inspections carried out by the vessels of a Contracting Party on vessels of any other Contracting Party shall, as far as possible, reflect the ratio of the inspected Party's fishing activity to the total fishing activity in the Regulatory Area, per quarter, measured on the basis of, inter alia, the level of catches and vessel days on ground and shall also take into account compliance records.
  - (iii) The Executive Secretary shall draw up an annual report on the objectivity in the realization and distribution of inspections between the Contracting Parties.
3. Appropriate authorities of Contracting Parties shall notify the Executive Secretary of the names of **the authorities designated** to receive immediate notice of apparent infringements and the means by which they may receive and respond to communications.

Where, at any time, more than 15 vessels of any one Contracting Party are engaged in fishing operations or in the processing or transferring of fish in the Regulatory Area, that Contracting Party shall, during that time, have an **inspector or other designated authority present in the Regulatory Area**, or other designated authority present in a country of a Contracting Party adjacent to the Convention Area, to receive and respond, without delay, to notice of apparent infringements.

4. (i) Any vessel or helicopter assigned to the scheme and carrying an inspector shall display the following signals to indicate that the inspector is carrying out inspection under the scheme:
    - (a) during daylight hours, in conditions of normal visibility two inspection pennants as shown in Annex 11, flown in a vertical line one above the other with distance between the two not exceeding one metre;
    - (b) the boarding craft shall display one inspection pennant which is identical as shown in Annex 11 but which may be half-scale.
  - (ii) Surveillance Aircraft assigned to the scheme shall have their international radio call sign clearly displayed.
  - (iii) No boarding shall be conducted without prior notice by radio being sent to (whether or not received by) the vessel, including the identity of the inspection platform.
  - (iv) Each Contracting Party shall ensure that its inspection platforms are kept at a safe distance from fishing vessels and that its inspectors assigned to the Scheme respect the provisions thereof as well as any other applicable rules of international law.
5. (i) Inspection and control under the scheme applies in the Regulatory Area to the following vessels:
    - (a) fishing vessels which are or have been engaged in fishing operations in the Regulatory Area;
    - (b) vessels, equipped for processing fish on board, which are or have been engaged in fish transferring operations in the Regulatory Area; and,
    - (c) transport vessels which are actually engaged in fish transferring operations. \* \* \*
  - (iv) **An inspection party shall consist of at maximum, two inspectors** assigned to the scheme. Occasionally, vessel conditions permitting, a NAFO inspection trainee may accompany the inspection party for training purposes only. In such circumstances the inspection party shall, upon arrival on board identify the trainee to the Master of the vessel being inspected. This trainee shall simply observe the inspection operation conducted by the duly authorized inspectors and shall in no way interfere with the activities of the fishing vessel and with the inspection. The use of arms in relation to the inspections is **prohibited** and, in particular, the inspectors shall not carry arms. Notwithstanding the provisions of this section, the principle of not carrying or using arms shall not be deemed to limit the performance of inspections by a Contracting Party of vessels flying its own flag.
  - (v) The vessel in charge of a **pair of trawling** operations shall be required to identify itself by flying a pennant or flag on the approach of an inspector.

6. (i) Without limiting the capability of inspectors to carry out their mandate, inspections shall be made so that the vessel, its activities and catch suffer the minimum interference and inconvenience. The duration of an inspection shall not exceed three hours, or until the net is hauled in and the net and catch are inspected, whichever is longer, but this time limitation shall not apply in the case of an apparent infringement.

When carrying out their inspection duties in conformity with Part IV of these Measures, NAFO inspectors shall take all appropriate precautions to avoid causing damage to packaging, wrapping, cartons or other containers and to the contents of same in order to ensure, to the extent practicable, that the quality of the catch on board is maintained. \* \* \*

An **inspector shall limit** his inquiries to the ascertainment of the facts in relation to the observance of those Commission's measures to which the Contracting Party for the inspected vessel has not objected in accordance with Article XII of the Convention. The inspection shall be carried out using the **report of inspection** prescribed in Annex V.

As regards Section 15 of Annex V, notwithstanding any objection of quotas made pursuant to Article XII of the Convention, inspectors shall summarize from logbook records, for the current voyage, the vessel's catch in the Regulatory Area by species and by division and shall record this summary on the inspection form. The current voyage shall be defined for this purpose as beginning when the vessel enters the Regulatory Area, and ending when the vessel leaves the Convention Area (which includes the ports bordering the Convention Area) for a **period greater than 20 consecutive days**. The current voyage shall not be considered to have ended as long as the vessel has catch on board from the Regulatory Area.

In the case of a language difficulty, the inspector or the master shall use, in the appropriate language, the appropriate part of the **questionnaire shown in Annex V1**

Contracting Parties may exercise, by letter to the Executive Secretary, the option to have inspectors summarize from logbook records for the quota period, instead of the current voyage, their vessel's catch in the Regulatory Area by species and by division and record this summary in Section 15 of the inspection form.

In making his examination, the inspector may ask the master for any required assistance. **The master shall facilitate the work of the inspector.** The report of the inspection may be commented upon and shall be signed by all the persons that the form requires. A copy of the report shall be given to the master of the vessel.

The Contracting Party inspecting a vessel will communicate in writing the details of an apparent infringement to the designated authorities of the Contracting Party for the inspected vessel within the working day following the inspection whenever possible.

The Contracting Parties inspecting vessels will provide notification of a **list of vessels inspected on a calendar monthly basis** to the designated authorities of the Contracting Parties of the vessels inspected, via the office of the Executive Secretary.

In the case of an apparent infringement or a difference between recorded catches and the inspector's estimates of the catches on board, a copy of the inspection report with supporting documentation, including second photographs taken, shall be transmitted within 10 days to the

responsible authorities of the Contracting Party for the inspected vessel, after the inspection vessel returns to port. In the case of other inspection reports, the original shall be transmitted within 30 days whenever possible, to a designated authority of the Contracting Party for the inspected vessel. A copy of every inspection report shall also be forwarded to the Executive Secretary.

Notwithstanding the notification of the inspection report, the duly assigned NAFO inspectors conducting the inspection shall prepare and transmit within 24 hours to the Contracting Party of the vessel a statement which shall constitute **advance notification of the apparent infringement**. A copy of this statement shall be transmitted to the NAFO Executive Secretary.

This statement shall quote the information entered under points 16 and 18 of the inspection report, cite the relevant NAFO Measures and describe in detail the basis for issuing the citation for an apparent infringement and the evidence to support the said citation.

In the case where, in the course of an inspection, NAFO Inspectors make comments and observations in the inspection report, in particular under point 20 thereof, the said inspectors shall promptly prepare a written statement citing the relevant NAFO Measures, and describing the practices observed and substantiating the grounds for their suspicions. This **statement shall be sent within 24 hours**.

- a) to the Contracting Party of the inspected vessel,
- b) to the NAFO Executive Secretary.

The NAFO Executive Secretary and the designated authorities shall treat this information with the **confidentiality** required for the protection of individual data.

(ii) Notwithstanding any objection to quotas made pursuant to Article XII of the Convention:

- (a) inspectors shall have authority to inspect and measure all fishing gear on or near the working deck and readily available for use and to inspect and record estimates of the catch on and below decks in so far as such inspection and measurement are necessary to establish whether the vessel is complying with the Commission's measures;
- (b) fishing gear shall be inspected in accordance with the Commission's measures;
- (c) with regard to catches, correspondence between the logbook entries for the Regulatory Area and estimates of catches by species on board relating to these entries may be ascertained and differences between recorded catches and the inspector's estimate of the catches on board with percentages shall be recorded under Section 18 of the inspection report (Comments Section); and
- (d) inspectors shall be given **access to production logbooks or stowage** plans in accordance with the NAFO Conservation and Enforcement Measures, Part I.C.2 (a) and (c) and in the latter case shall be given such assistance as is possible and reasonable and necessary to ascertain that the stowage conforms to the stowage plan, no interference being allowed in the stowage of product or in the technological process on the vessel.
- (e) inspectors shall convert production weight, as recorded in production logbooks, into live weight so that the latter can be verified against the logbook entries which are made in live weight. Inspectors shall be guided by conversion factors established by **the master of the**

**vessel.**

- (f) inspectors may also ascertain that records for the duration of the quota period to the date of the inspection are aboard the vessel in accordance with the NAFO Conservation and Enforcement Measures Part I C (2) (b) (iii).
- (iii) An inspector has the authority to examine catch, nets or other gear, and any relevant documents which the inspector deems necessary to verify the observance of the Commission's measures.

[Editor's Note: The actions resulting from infractions are discussed in Annex 6 of this paper, regarding compliance measures.]

## **South Pacific Forum Fisheries Agency Convention (FFA)**

### ***Niue Treaty On Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region***

#### **Article VI Cooperation in fisheries surveillance and law enforcement**

1. A Party may, by way of provisions in a Subsidiary Agreement or otherwise, permit another Party to extend its fisheries surveillance and law enforcement activities to the territorial sea and archipelagic waters of that Party. In such circumstances, the conditions and method of stopping, inspecting, detaining, directing to port and seizing vessels shall be governed by the national laws and regulations applicable in the State in whose territorial sea or archipelagic waters the fisheries surveillance or law enforcement activity was carried out.
2. Vessels seized by another Party pursuant to an agreement under paragraph 1 of this Article in the territorial sea or archipelagic waters of a Party shall, together with the persons on board, be handed over as soon as possible to the authorities of that Party.
3. Any two or more Parties may enter into a Subsidiary Agreement under which they would cooperate in the provision of personnel and the use of vessels, aircraft or other items of equipment for fisheries surveillance and law enforcement purposes. Vessels and aircraft shall be identified as set out in Annex 1.
4. Any Party wishing to authorize its officers to perform fisheries surveillance and law enforcement functions on its behalf while on board a vessel or aircraft of another Party shall by instrument in writing designate the officers accordingly and such officers shall be identified as set out in Annex 2.
5. Any Party wishing to authorize the officers of another Party to perform fisheries surveillance and law enforcement functions on its behalf while on board a vessel of that other Party shall by instrument in writing designate such officers accordingly. Officers carrying out enforcement functions shall be identified by a card in the form set out in Annex 2 with such variations as may be agreed to in a Subsidiary Agreement or otherwise.

# **Agreement Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**

## **Article 21**

1. In any high seas area covered by a subregional or regional fisheries management organization or arrangement, a State Party which is a member of such organization or a participant in such arrangement may, through its duly authorized inspectors, board and inspect, in accordance with paragraph 2, fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of the organization or a participant in the arrangement, for the purpose of ensuring compliance with conservation and management measures for straddling fish stocks and highly migratory fish stocks established by that organization or arrangement.

2. States shall establish, through subregional or regional fisheries management organizations or arrangements, procedures for boarding and inspection pursuant to paragraph 1, as well as procedures to implement other provisions of this article. Such procedures shall be consistent with this article and the basic procedures set out in article 22 and shall not discriminate against non-members of the organization or non-participants in the arrangement. Boarding and inspection as well as any subsequent enforcement action shall be conducted in accordance with such procedures. States shall give due publicity to procedures established pursuant to this paragraph.

3. If, within two years of the adoption of this Agreement, any organization or arrangement has not established such procedures, boarding and inspection pursuant to paragraph 1, as well as any subsequent enforcement action, shall, pending the establishment of such procedures, be conducted in accordance with this article and the basic procedures set out in article 22.

4. Prior to taking action under this article, inspecting States shall, either directly or through the relevant subregional or regional fisheries management organization or arrangement, inform all States whose vessels fish on the high seas in the subregion or region of the form of identification issued to their duly authorized inspectors. The vessels used for boarding and inspection shall be clearly marked and identifiable as being on government service. At the time of becoming a Party to this Agreement, a State shall designate an appropriate authority to receive notifications pursuant to this article and shall give due publicity of such designation through the relevant subregional or regional fisheries management organization or arrangement.

5. Where, following boarding and inspection, there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures referred to in paragraph 1, the inspecting State shall, where appropriate, secure evidence and shall promptly notify the flag State of the alleged violation. \* \* \*

8. Where, following boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation, and the flag State has either failed to respond or failed to take action as required under paragraphs 6 or 7, the inspectors may remain on board and secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port, or to such other port as may be specified in procedures established in accordance with paragraph 2. The inspecting State shall immediately inform the flag State of the name of the port to which the vessel is to proceed. The inspecting State and the flag State and, as appropriate, the port State shall take all necessary steps to ensure the well-being of the crew regardless of their nationality.

9. The inspecting State shall inform the flag State and the relevant organization or the participants in the relevant arrangement of the results of any further investigation.

10. The inspecting State shall require its inspectors to observe generally accepted international regulations, procedures and practices relating to the safety of the vessel and the crew, minimize interference with fishing operations and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board. The inspecting State shall ensure that boarding and inspection is not conducted in a manner that would constitute harassment of any fishing vessel. \* \* \*

14. This article applies mutatis mutandis to boarding and inspection by a State Party which is a member of a subregional or regional fisheries management organization or a participant in a subregional or regional fisheries management arrangement and which has clear grounds for believing that a fishing vessel flying the flag of another State Party has engaged in any activity contrary to relevant conservation and management measures referred to in paragraph 1 in the high seas area covered by such organization or arrangement, and such vessel has subsequently, during the same fishing trip, entered into an area under the national jurisdiction of the inspecting State. \* \* \*

17. Where there are reasonable grounds for suspecting that a fishing vessel on the high seas is without nationality, a State may board and inspect the vessel. Where evidence so warrants, the State may take such action as may be appropriate in accordance with international law.

## Article 22

1. The inspecting State shall ensure that its duly authorized inspectors:

- (a) present credentials to the master of the vessel and produce a copy of the text of the relevant conservation and management measures or rules and regulations in force in the high seas area in question pursuant to those measures;
- (b) initiate notice to the flag State at the time of the boarding and inspection;
- (c) do not interfere with the master's ability to communicate with the authorities of the flag State during the boarding and inspection;
- (d) provide a copy of a report on the boarding and inspection to the master and to the authorities of the flag State, noting therein any objection or statement which the master wishes to have included in the report;
- (e) promptly leave the vessel following completion of the inspection if they find no evidence of a serious violation; and
- (f) avoid the use of force except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

2. The duly authorized inspectors of an inspecting State shall have the authority to inspect the vessel, its licence, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the relevant conservation and management measures.

3. The flag State shall ensure that vessel masters:

- (a) accept and facilitate prompt and safe boarding by the inspectors;
- (b) cooperate with and assist in the inspection of the vessel conducted pursuant to these procedures;
- (c) do not obstruct, intimidate or interfere with the inspectors in the performance of their duties;
- (d) allow the inspectors to communicate with the authorities of the flag State and the inspecting State during the boarding and inspection;
- (e) provide reasonable facilities, including, where appropriate, food and accommodation, to the inspectors; and
- (f) facilitate safe disembarkation by the inspectors.

4. In the event that the master of a vessel refuses to accept boarding and inspection in accordance with this article and article 21, the flag State shall, except in circumstances where, in accordance with generally accepted international regulations, procedures and practices relating to safety at sea, it is necessary to delay the boarding and inspection, direct the master of the vessel to submit immediately to boarding and inspection and, if the master does not comply with such direction, shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. The flag State shall advise the inspecting State of the action it has taken when the circumstances referred to in this paragraph arise.

## **Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (MHLCT)**

### **Article 26 Boarding and inspection**

1. For the purposes of ensuring compliance with conservation and management measures, the Commission shall establish procedures for boarding and inspection of fishing vessels on the high seas in the Convention Area. All vessels used for boarding and inspection of fishing vessels on the high seas in the Convention Area shall be clearly marked and identifiable as being on government service and authorized to undertake high seas boarding and inspection in accordance with this Convention.

2. If, within two years of the entry into force of this Convention, the Commission is not able to agree on such procedures, or on an alternative mechanism which effectively discharges the obligations of the members of the Commission under the Agreement and this Convention to ensure compliance with the conservation and management measures established by the Commission, articles 21 and 22 of the Agreement shall be applied, subject to paragraph 3, as if they were part of this Convention and boarding and inspection of fishing vessels in the Convention Area, as well as any subsequent enforcement action, shall be conducted in accordance with the procedures set out therein and such additional practical procedures as the Commission may decide are necessary for the implementation of articles 21 and 22 of the Agreement.

3. Each member of the Commission shall ensure that fishing vessels flying its flag accept boarding by duly authorized inspectors in accordance with such procedures. Such duly authorized inspectors shall comply with the procedures for boarding and inspection.

### **Article 27 Measures taken by a port State**

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the fishing vessels of any State.
2. Whenever a fishing vessel of a member of the Commission voluntarily enters a port or offshore terminal of another member, the port State may, inter alia, inspect documents, fishing gear and catch on board such fishing vessel.
3. Members of the Commission may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of conservation and management measures adopted by the Commission.
4. Nothing in this article affects the exercise by Contracting Parties of their sovereignty over ports in their territory in accordance with international law.

## **Annex 6**

### **Provisions of International Fisheries Agreements Relating to Compliance**

#### **Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR)**

##### **Article X**

1. The Commission shall draw the attention of any State which is not a Party to this Convention to any activity undertaken by its nationals or vessels which, in the opinion of the Commission, affects the implementation of the objective of this Convention.

##### **Article XX**

2. The Members of the Commission shall provide, in the manner and at such intervals as may be prescribed, information about their harvesting activities, including fishing areas and vessels, so as to enable reliable catch and effort statistics to be compiled.

3. The Members of the Commission shall provide to the Commission at such intervals as may be prescribed information on steps taken to implement the conservation measures adopted by the Commission.

##### **Article XXI**

1. Each Contracting Party shall take appropriate measures within its competence to ensure compliance with the provisions of this Convention and with conservation measures adopted by the Commission to which the Party is bound in accordance with Article IX of this Convention.

2. Each Contracting Party shall transmit to the Commission information on measures taken pursuant to paragraph 1 above, including the imposition of sanctions for any violation.

##### **Article XXII**

1. Each Contracting Party undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity contrary to the objective of this Convention.

##### **Article XXIV**

2. The system of observation and inspection shall be elaborated by the Commission on the basis of the following principles:

- (a) Contracting Parties shall co-operate with each other to ensure the effective implementation of the system of observation and inspection, taking account of the existing international practice.

This system shall include, inter alia, procedures for boarding and inspection by observers and inspectors designated by the Members of the Commission and procedures for flag state prosecution and sanctions on the basis of evidence resulting from such boarding and inspections. A report of such prosecutions and sanctions imposed shall be included in the information referred to in Article XXI of this Convention

***CCAMLR Conservation Measure 118/XVII, Scheme to Promote Compliance by Non-Contracting Party Vessels with CCAMLR Conservation Measures***

1. A non-Contracting Party vessel which has been sighted engaging in fishing activities in the Convention Area is presumed to be undermining the effectiveness of CCAMLR Conservation Measures. In the case of any transshipment activities involving a sighted non-Contracting Party vessel inside or outside the Convention Area, the presumption of undermining the effectiveness of CCAMLR Conservation Measures applies to any other non-Contracting Party vessel which has engaged in such activities with that vessel.
2. Information regarding such sightings shall be transmitted immediately to the Commission in accordance with Article XXII of the Convention. The Secretariat shall transmit this information to all Contracting Parties within one business day of receiving this information, and to the Flag State of the sighted vessel as soon as possible.
3. The Contracting Party which sights the non-Contracting Party vessel shall attempt to inform the vessel that it has been sighted engaging in fishing activities in the Convention Area and is accordingly presumed to be undermining the objective of the Convention and that this information will be distributed to all Contracting Parties to the Convention and to the Flag State of the vessel.
4. When a non-Contracting Party vessel referred to in paragraph 1 enters a port of any Contracting Party, it shall be inspected by authorised Contracting Party officials knowledgeable of CCAMLR Conservation Measures and shall not be allowed to land or tranship any fish until this inspection has taken place. Such inspections shall include the vessel's documents, logbooks, fishing gear, catch on board and any other matter, which may include information from a VMS1, relating to the vessel's activities in the Convention Area.
5. Landing and transshipments of all fish from a non-Contracting Party vessel, which has been inspected pursuant to paragraph 4, shall be prohibited in all Contracting Party ports if such inspection reveals that the vessel has on board species subject to CCAMLR Conservation Measures, unless the vessel establishes that the fish were caught outside the Convention Area or in compliance with all relevant CCAMLR Conservation Measures and requirements under the Convention.
6. Contracting Parties shall ensure that their vessels do not receive transshipments of fish from a non-Contracting Party vessel which has been sighted and reported as having engaged in fishing activities in the Convention Area and therefore presumed as having undermined the effectiveness of CCAMLR Conservation Measures. \* \* \*

***CCAMLR Conservation Measure 147/XVIII, Provisions to ensure Compliance with CCAMLR Conservation Measures by Vessels, including Cooperation between Contracting Parties***

1. Contracting Parties shall undertake inspections of those fishing vessels that intend to land or tranship *Dissostichus* spp. at their ports. The inspection shall be for the purpose of determining that the catch to be unloaded or transhipped is accompanied by the *Dissostichus* catch document required by Conservation Measure 170/XVIII, that the catch agrees with the information recorded on the document and, if the vessel carried out harvesting activities in the Convention Area, that these activities were carried out in accordance with CCAMLR conservation measures.
2. To facilitate these inspections, Contracting Parties shall require vessels to provide advance notice of their entry into port. The inspection shall be conducted within 48 hours of port entry and shall be carried out in an expeditious fashion. It shall impose no undue burdens on the vessel or its crew, and shall be guided by the relevant provisions of the CCAMLR System of Inspection.
3. In the event that there is evidence that the vessel has fished in contravention of the CCAMLR conservation measures, the catch shall not be landed or transhipped. The Contracting Party will inform the Flag State of the vessel of its inspection findings and will cooperate with the Flag State in taking such appropriate action as is required to investigate the alleged infringement, and, if necessary, apply appropriate sanctions in accordance with national legislation.

***CCAMLR System of Inspection***

- XI. If, as a result of inspection activities carried out in accordance with these provisions, there is evidence of violation of measures adopted under the Convention, the Flag State shall take steps to prosecute and, if necessary, impose sanctions.
- XII. The Flag State shall, within fourteen days of the laying of charges or the initiation of proceedings relating to a prosecution, inform the Secretariat of this information, and shall continue thereafter to inform the Secretariat as the prosecution develops or is concluded. In addition, the Flag State shall at least once a year report to the Commission, in writing, about the results of such prosecutions and sanctions imposed. If a prosecution has not been completed, a progress report shall be made. When a prosecution has not been launched, or has been unsuccessful, the report shall contain an explanation.
- XIII. Sanctions applied by Flag States in respect to infringements of CCAMLR provisions shall be sufficiently severe as to effectively ensure compliance with CCAMLR conservation measures and to discourage infringements and shall seek to deprive offenders of any economic benefit accruing from their illegal activities.
- XIV. The Flag State shall ensure that any of its vessels which have been found to have contravened a CCAMLR conservation measure do not carry out fishing operations within the Convention Area until they have complied with the sanctions imposed.

## **Agreement on International Dolphin Conservation Program (AIDCP)**

### **Article II. Objectives**

The objectives of this Agreement are:

1. To progressively reduce incidental dolphin mortalities in the tuna purse-seine fishery in the Agreement Area to levels approaching zero, through the setting of annual limits; \* \* \*

### **Article V. International Dolphin Conservation Program**

Pursuant to the International Dolphin Conservation Program and in consideration of the objective of this Agreement, the Parties shall, inter alia:

1. Limit total incidental dolphin mortality in the purse-seine tuna fishery in the Agreement Area to no more than 5,000 annually, through the adoption and implementation of relevant measures, which shall include:
  - a. The establishment of a system that provides incentives to vessel captains to continue to reduce incidental dolphin mortality, with the goal of eliminating dolphin mortality in this fishery;

### **Article VII. Implementation at the National Level**

Each Party shall adopt, in accordance with its laws and procedures, the necessary measures to ensure the implementation of and compliance with this Agreement including, as appropriate, the adoption of relevant laws and regulations.

### **Article XVI. Compliance**

2. In respect of violations, each Party, taking into consideration the recommendations of the IRP, shall apply, consistent with its national laws, sanctions of sufficient gravity as to be effective in securing compliance with the provisions of this Agreement and of measures adopted pursuant thereto and to deprive offenders of the benefits accruing from their illegal activities. Such sanctions shall, for serious offenses, include refusal, suspension or withdrawal of the authorization to fish.
3. The Parties shall establish incentives for the captains and crews of vessels, with the view to enhancing compliance with this Agreement and its objectives.

### **Annex IV      Dolphin Mortality Limits (DMLs)**

#### **I.      Assignment of DMLs**

2. Each Party shall provide to the Meeting of the Parties, through the Director, prior to October 1 of each year, a list of vessels under its jurisdiction of carrying capacity greater than 363 metric tons (400 short tons) that have requested a full-year DML for the following year, indicating those other vessels that are likely to be operating in the Agreement Area in the following year, and vessels that have requested a second-semester DML for the following year.
3. The IRP shall, by November 1 of each year, or later if agreed by the IRP, provide to the Meeting of the Parties a list of qualified applicant vessels eligible to receive a DML. For purposes of this

Agreement, a vessel shall be considered qualified if:

- a. it has been certified by the relevant national authorities to be in possession of all of the dolphin safety gear and equipment required in Annex VIII;
  - b. its captain and crew have received approved training in dolphin release and rescue techniques comparable to a standard established by the Meeting of the Parties;
  - c. it is over 363 metric tons (400 short tons) carrying capacity in size;
  - d. it has a captain considered qualified due to his or her prior record of performance; and
  - e. the vessel is not deemed to be disqualified under Section II of this Annex.
3. A vessel shall not be considered qualified under paragraph 2 if, on the date of the request pursuant to paragraph 1 of this Annex, the vessel is operating under the jurisdiction of a Party whose applicable laws and regulations prohibit vessels under its jurisdiction from fishing for tuna in association with dolphins; nor shall DMLs be assigned to any Party in order to provide permits for fishing in the Agreement Area to vessels flying the flag of another State whose applicable laws and regulations prohibit vessels under its jurisdiction from fishing for tuna in association with dolphins.
7. No DML shall be assigned to a vessel which has been determined by the Parties to have engaged in a pattern of violations, as confirmed through enforcement actions taken against such vessel by the Party under whose jurisdiction it operates, which diminish the effectiveness of the International Dolphin Conservation Program.
8. The individual Parties with qualified vessels that will be fishing for tuna in association with dolphins shall manage their DMLs in a responsible manner, provided that no individual vessel shall receive a total annual DML in excess of the DML established for 1997 by the IRP, and reported in the Minutes of the 14th Meeting of the IRP, held on February 19-20, 1997, under the La Jolla Agreement. No Party shall allocate to the total of its qualified vessels a greater number of DMLs than those that such Party has been allocated under Sections I and III of this Annex. No initial assignment of DMLs may result in any vessel receiving a DML in excess of the ADML unless its performance in reducing dolphin mortalities, as measured by the IRP based upon the previous two years' data, is better than the average performance of the international fleet as a whole. No initial assignment of DMLs may result in any vessel receiving a DML in excess of the ADML if, during the previous year, it has committed any of the infractions identified in Section III, paragraph 4 of this Annex, subject to the conditions established pursuant to that paragraph.
9. Should the total mortalities of the fleet of any Party meet or exceed the total amount of DML distributed to it pursuant to this Annex, fishing for tuna in association with dolphins shall cease for all vessels operating under the jurisdiction of that Party.
10. Each Party shall, no later than February 1 of each year, notify the Director of the initial allocation of its distributed DML among its fleet. No vessel may begin fishing for tunas associated with dolphins until the Director receives such notification.
- II. Utilization of DMLs
  1. Any vessel which is assigned a full-year DML and does not set on dolphins prior to April 1 of that year, or which is assigned a second-semester DML and does not set on dolphins by December 31 of that year, or which is assigned a per-trip DML from the RDA and does not set on

dolphins during that trip, unless as a result of force majeure or extraordinary circumstances, as agreed by the IRP, shall lose its DML and may not set on dolphins for the remainder of that year. Any such vessel that loses its DML on two consecutive occasions shall not be eligible to receive a DML for the following year. \* \* \*

### III. Use of forfeited or unutilized DMLs

4. No vessel may have its initial DML adjusted upward by any Party if the IRP had determined, and the Party with jurisdiction over the vessel concurs, that during that year or the previous year:
  - a. the vessel fished without an observer;
  - b. the vessel set on dolphins without a DML;
  - c. the vessel set on dolphins after reaching its DML;
  - d. the vessel knowingly set on a banned dolphin stock;
  - e. the captain, crew, or the vessel owner committed any of the actions described in Annex II, Paragraph 6(f) of this Agreement; ...
  - f. the vessel made a sanctionable night set; or
  - g. the vessel used explosives during any phase of a fishing operation involving dolphins.

For infractions described in (a), (b), (c), (d), (f), and (g), a Party will be deemed to have provided such concurrence if it does not object to the IRP within six months of a referral of a possible violation from the IRP. For the infraction described in (e), a Party will be deemed to have provided such concurrence if it does not object to the IRP within 12 months of such referral. \* \* \*

6. For any vessel exceeding its DML, as it may be adjusted pursuant to this Annex, during a given year, the amount of such excess, plus an additional 50 percent of that amount, unless the IRP recommends otherwise, shall be deducted from DMLs assigned to that vessel by a Party under whose jurisdiction the vessel operates over subsequent years in a manner prescribed by the IRP.
7. If at any time a vessel meets or exceeds its DML, as it may be adjusted pursuant to this Annex, that vessel shall immediately cease all fishing for tuna in association with dolphins. \* \* \*

### Annex VII International Review Panel

1. In compliance with Article XII of this Agreement, the International Review Panel (IRP) shall have the following functions:

- a. Each year compile a list of the vessels that qualify for DMLs as agreed in Annex IV;
- b. Analyze the reports submitted to the IRP, regarding all tuna-fishing trips made by vessels covered by the Agreement;
- c. Identify possible infractions, based on the list of possible infractions approved by the Meeting of the Parties;
- d. Inform each Party, through the Director, of possible infractions committed by vessels flying its flag or operating under its jurisdiction, and receive from that Party information on the actions taken;
- e. Maintain an updated report on the actions taken by the Parties to provide adequate training for fishing captains, and maintain a list of those fishing captains determined to be complying with established performance requirements, based on the information provided by each of the Parties;
- f. Recommend to the Meeting of the Parties pertinent measures for achieving the objectives

of this Agreement, in particular those related to the use of gear, equipment and fishing techniques, considering improvements in technologies, as well as the adoption of appropriate incentives for captains and crews to meet the objectives of this Agreement; \*  
\* \*

2. The IRP shall be made up of representatives of the Parties ("governmental members"), three representatives of non-governmental environmental organizations with recognized experience in matters pertaining to this Agreement and with offices in the territory of a Party, and three representatives from the tuna industry that operates under the jurisdiction of any of the Parties in the Agreement Area ("non-governmental members"). \* \* \*

12. The Director will carry out the functions of the Secretary, which shall include:

- d. Providing to each Party, for its consideration, recommendations and information concerning possible infractions identified by the IRP for vessels under its jurisdiction;

## **Convention to Establish an Inter-American Tropical Tuna Convention (IATTC)**

### **Article III**

The High Contracting Parties agree to enact such legislation as may be necessary to carry out the purposes of this Convention.

### ***Resolution on Fishing Vessels of Non-Parties (June 2000)***

\* \* \* The Inter-American Tropical Tuna Commission ... recommends to the High Contracting Parties that:

1. They gather information, either directly or through the Director, with respect to fishing vessels of states or fishing entities not members of the IATTC which undermine the conservation and management measures agreed by the IATTC.
2. They exchange information among themselves, either directly or through the Director, with respect to the activities of such vessels;
3. They request the Director to communicate with the governments whose fishing vessels are referred to in paragraph 1 for the purpose of urging them to comply with the measures agreed by the IATTC member governments and to remind them of their obligation, in accordance with international law, to cooperate in the implementation of agreed regional conservation and management measures, as well as to monitor compliance with such measures and to take the actions necessary to ensure such compliance;
4. They request the Director to report the results of his communications pursuant to paragraph 3 to the member governments of the IATTC, in order that they may, in accordance with international law, take measures necessary to ensure that fishing vessels under the jurisdiction of non-Parties do not engage in activities that undermine the effectiveness of the conservation and management measures established by the Commission.

# **International Convention for the Conservation of Atlantic Tunas (ICCAT)**

## **Article IX**

1. The Contracting Parties agree to take all action necessary to ensure the enforcement of this Convention. Each Contracting Party shall transmit to the Commission, biennially or at such other times as may be required by the Commission, a statement of the action taken by it for these purposes. \* \* \*

3. The Contracting Parties undertake to collaborate with each other with a view to the adoption of suitable effective measures to ensure the application of the provisions of this Convention and in particular to set up a system of international enforcement to be applied to the Convention area except the territorial sea and other waters, if any, in which a state is entitled under international law to exercise jurisdiction over fisheries.

### ***ICCAT Recommendation 98-8 on Limitation of Fishing Capacity on Northern Albacore, entered into force June 21, 1999***

\* \* \* CONSIDERING that, in order to prevent a further increase in fishing mortality it is necessary to limit fishing capacity at the level of recent years;

The International Commission for the Conservation of Atlantic Tunas (ICCAT) recommends that:

1. Contracting Parties, non-contracting parties, entities or fishing entities fishing for northern albacore shall limit the fishing capacity of their vessels, exclusive of recreational vessels, for this stock from 1999 onwards, through a limitation of the number vessels to the average number in the period 1993-1995.

2. In order to control the compliance with this recommendation, Contracting Parties, and non-contracting parties, entities or fishing entities shall submit, by 1 June 1999, a list of the vessels, exclusive of recreational vessels, participating in a directed fishery for northern albacore in the years referred to in paragraph 1 and, by 1 June and every year thereafter, the list of vessels which will participate in a directed fishery for this stock.

### ***ICCAT Recommendation 98-3 on Fishing Vessels > 24 m LOA, entered into force June 21, 1999***

\* \* \* The International Commission for the Conservation of Atlantic Tunas (ICCAT) recommends that:

1. Each Contracting Party or Cooperating non-Contracting Party, entity or fishing entity, shall, in 1999 and thereafter, limit the number of their fishing vessels larger than 24 meters length overall (LOA), with the exclusion of recreational vessels, which will fish for bigeye tuna in the Convention area to the average number of its fishing vessels actually having fished for bigeye tuna in the Convention area for two years of 1991 and 1992. Such limitation of the vessel number shall be associated with a limitation of Gross Registered Tonnage (GRT) so as not to increase the total fishing capacity. \* \* \*

### ***ICCAT Recommendation 96-14 Regarding Compliance in the Bluefin and North Atlantic Swordfish Fisheries, entered into force August 4, 1997.***

(Recommendation 97-8 Regarding Compliance in the South Atlantic Swordfish Fishery, entered into force Sep. 28, 1998 applies this recommendation to South Atlantic Swordfish).

Considering that the 1996 SCRS has identified Atlantic bluefin tuna and north Atlantic swordfish stocks

as over-exploited;

*Given* that statistics indicate that some Contracting Parties have exceeded their catch limits; and,

*Recognizing* that compliance with catch limits is essential to conservation of Atlantic bluefin tuna and north Atlantic swordfish.

*Therefore*, with respect to the harvest of bluefin tuna in the western Atlantic, the eastern Atlantic, and the Mediterranean Sea, and swordfish in the north Atlantic,

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS  
RECOMMENDS THAT:

1. At the 1997 Commission Meeting, and each year thereafter, each Contracting Party whose landings, as provided in the Task I data, exceeded its catch limit for that species in the previous fishing year will explain to the Compliance Committee how the over-harvest occurred, and the actions already taken, or to be taken to prevent further over-harvest;

2. If, in the applicable management period, beginning in 1997, and each subsequent management period, any Contracting Party exceeds its catch limit, its catch limit will be reduced in the next subsequent management period by 100% of the amount in excess of such catch limit; and ICCAT may authorize other appropriate actions; and

3. Notwithstanding paragraph (2), if any Contracting Party exceeds its catch limit during any two consecutive management periods, the Commission will recommend appropriate measures, which may include, but are not limited to, reduction in the catch limit equal to a minimum of 125% of the excess harvest, and, if necessary, trade restrictive measures. Any trade measures under this paragraph will be import restrictions on the subject species and consistent with each Party's international obligations. The trade measures will be of such duration and under such conditions as the Commission may determine.

Treatment of Contracting Party under-harvest may be addressed as part of the Recommendation regarding total catch limits in the following management period.

## **Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (NAFO)**

### **Article XI**

5. The Commission may also adopt proposals for international measures of control and enforcement within the Regulatory Area for the purpose of ensuring within that Area the application of this Convention and the measures in force thereunder.

### **Article XVIII**

The Contracting Parties agree to maintain in force and to implement within the Regulatory Area a scheme of joint international enforcement as applicable pursuant to Article XXIII or as modified by measures referred to in paragraph 5 of Article XI. This scheme shall include provision for reciprocal rights of boarding and inspection by the Contracting Parties and for flag State prosecution and sanctions on the basis of evidence resulting from such boardings and inspections. A report of such prosecutions and sanctions imposed shall be included in the annual statement referred to in Article XVII.

#### ***Scheme to Promote Compliance by Non-Contracting Party Vessels with the Conservation and Enforcement Measures Established by NAFO, NAFO/GC Doc. 97/6***

5. A Non-Contracting Party vessel which has been sighted engaging in fishing activities in the NAFO Regulatory Area is presumed to be undermining the effectiveness of NAFO Conservation and Enforcement Measures. In the case of any transshipment activities involving a sighted Non-Contracting Party vessel, inside or outside the NAFO Regulatory Area, the presumption of undermining NAFO Conservation and Enforcement Measures applies to any other Non-Contracting Party vessel which has engaged in such activities with that vessel.

6. Information regarding such sightings shall be transmitted to the NAFO Secretariat. The NAFO Secretariat will then transmit this information to all NAFO Contracting Parties within one business day of receiving this information, and to the flag-State of the sighted vessel as soon as possible. \* \* \*

10. Landings and transshipments of all fish from a Non-Contracting Party vessel, which has been inspected pursuant to paragraph 9, shall be prohibited in all Contracting Party ports, if such inspection reveals that the vessel has onboard:

- (i) species listed in Annex A, unless the vessel establishes that the fish were caught outside the NAFO Regulatory Area; or
- (ii) other species listed in Annex B, unless the vessel establishes that it has applied the NAFO Conservation and Enforcement Measures.

11. Contracting Parties shall ensure that their vessels do not receive transshipments of fish from a Non-Contracting Party vessel which has been sighted and reported as having engaged in fishing activities in the NAFO Regulatory Area.

*NAFO Conservation and Enforcement Measures, NAFO/FC Doc. 00/1*

Part I – Management

C. Quota Adjustments

- 2.(a) When the Commission finds that vessels of a Contracting Party have taken more than the quota allocated to that Contracting Party, the Commission may adjust the corresponding quota for that Contracting Party in a succeeding quota period.
- (b) When the Commission finds that a Contracting Party failed to report an intention to fish under an allocation to "Others" and subsequently took catches thereunder, or failed to report, in accordance with the Commission's measures, catches taken under an allocation to "Others", or continued a directed fishery under an allocation to "Others" after this fishing had been prohibited in accordance with the Commission's measures, the Commission may propose measures to compensate for damage to the stocks caused by the excessive catch. Such measures might include adjustments to quotas or the establishment of new quotas for that Contracting Party as might be appropriate.

J. Other Measures – No Transshipment of Fish from Non-Contracting Party Vessels

Contracting Parties shall ensure that their fishing vessels do not receive transshipments of fish from a Non-Contracting Party vessel which has been sighted and reported, as having engaged in fishing activities in the NAFO Regulatory Area.

Part IV – Scheme of Joint International Inspection and Surveillance

- (iv) Where an inspector finds an **apparent infringement** of measures prohibiting:
  - (a) fishing in a closed area or with gear prohibited in a specific area;
  - (b) fishing for stocks or species after the date on which the Contracting Party for the inspected vessel has notified the Executive Secretary that vessels of that party will cease a directed fishery for those stocks or species; and
  - (c) fishing on an "Others" quota without prior notification to the Executive Secretary, or more than seven working days after the Contracting Party for the inspected vessel has been notified by the Executive Secretary that fishing under an "Others" quota for that stock or species should cease;

The inspector, to facilitate a Contracting Party action on the apparent infringement, shall **immediately attempt to communicate with an inspector of the Contracting Party** for the inspected vessel, known to be in the vicinity, or the authority designated in accordance with paragraph 3 above. The master of the inspected vessel shall provide the use of the vessel's radio equipment and operator for messages to be sent out and received for this purpose.

At the request of the inspector, a master shall cease all fishing which appears to the inspector to contravene the measures referred to in (a) to (c) above. During this time, the inspector shall complete the inspection and, if unable within a reasonable period of time to communicate with an

inspector or designated authority of the Contracting Party for the inspected vessel, he shall leave the inspected vessel and communicate as soon as possible with one of them. However, if he succeeds in establishing communications while on board the inspected vessel, and provided that the inspector or designated authority of the Contracting Party for the inspected vessel agrees, the inspector may remain aboard. As long as the inspector remains aboard, the master may not resume fishing until the inspector is reasonably satisfied, as a result of either the action taken by the vessel's master or the inspector's communication with an inspector or designated authority of the Contracting Party for the inspected vessel, that the apparent infringement will not be repeated.

- (v) The inspector in charge may request that the master remove any part of the fishing gear which appears to the inspector to contravene the Commission's measures. An identification mark (NAFO inspection seal-Annex VII) shall be affixed securely to any part of the fishing gear which appears to the inspector to have been in contravention, and the inspector shall record the fact on his report. The gear shall be preserved with the mark attached until examined by an inspector or designated authority of the Contracting Party for the inspected vessel who shall determine the subsequent disposition of the gear.
  - (vi) An inspector may **photograph the fishing gear** in such a way that the identification mark and measurements of the fishing gear are visible and subjects photographed should be listed in the report. A second photograph shall be given to the master of the vessel.
7. An appropriate authority of a Contracting Party notified of **an apparent infringement** committed by a vessel of that **Party shall take prompt action** to conduct the investigations necessary to obtain the evidence required and, whenever possible, board the vessel involved. The authority shall take immediate judicial or administrative action as would be the case when dealing with apparent infringements of fisheries regulations in national waters. An appropriate authority of the Contracting Party for the vessel concerned shall cooperate fully with the appropriate authority of the Contracting Party that designated the inspector to ensure that the evidence of the apparent infringement is prepared and preserved in a form which facilitates judicial action. The appropriate authorities in the flag state of the vessels concerned shall take prompt action as necessary to receive and consider the evidence and shall conduct any further investigation necessary for disposition of the apparent infringement.

The appropriate authority of a Contracting Party notified of differences between the recorded catches and the estimates of the inspector, shall whenever possible board the vessel involved and, in any event, cooperate with the NAFO inspectors to ensure that the evidence is prepared and preserved in a form which would facilitate any judicial action, and shall conduct any further investigation necessary to allow it to determine appropriate follow-up action.

9. The **following apparent infringements** shall be subject to paragraph 10:
- i) misreporting of catches;
  - ii) mesh size violations;
  - iii) hail system violations;
  - iv) interference with the satellite tracking system;
  - v) preventing an inspector or an observer from carrying out his or her duties;
  - vi) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited.
10. Notwithstanding paragraphs 7 and 8 above:

- i) If a NAFO inspector cites a vessel for having committed, to a serious extent, an apparent infringement as listed in paragraph 9 above, the Contracting Party of the vessel shall ensure that the **vessel concerned is inspected within 72 hours** by an inspector duly authorized by that Contracting Party. In order to preserve the evidence, the NAFO inspector shall take all necessary measures to ensure security and continuity of the evidence, and may remain on board the vessel, for the period necessary to provide information to the duly authorized inspector concerning the apparent infringement.
  - (ii) Where justified, the competent authority of the Contracting Party or the inspector authorized by the competent authority of the Contracting Party of the vessel concerned shall, where duly authorized to do so, require the vessel to proceed immediately to a nearby port, chosen by the Master, which should be either St. John's, Halifax, the home port of the vessel or a port designated by the Flag State, for a thorough inspection under the authority of the Flag State and in the presence of a NAFO inspector from any other Contracting Party that wishes to participate. If the vessel is not called to port, the Contracting Party must provide due justification in a timely manner to the Executive Secretary who shall make it available on request to any Contracting Party.
  - iii) Where a NAFO inspector cites a vessel for having committed an apparent infringement as listed in paragraph 9 above, the inspector shall immediately report this to the Executive Secretary, who shall in turn immediately report, for information purposes, to the other Contracting Parties with an inspection vessel in the Convention Area;
  - iv) Where a vessel is required to proceed to port for a thorough inspection pursuant to paragraph ii) above, a NAFO inspector from another Contracting Party may, subject to the consent of the Contracting Party of the vessel, board the vessel as it is proceeding to port, may remain on board the vessel as it proceeds to port and may be present during the inspection of the vessel in port;
  - v) If an apparent infringement of the Conservation and Enforcement Measures has been detected which in the view of the duly authorized inspector is sufficiently serious, the inspector shall take all necessary measures to ensure security and continuity of the evidence including, as appropriate, sealing the vessel's hold for eventual dockside inspection.
12. Resistance to an inspector or failure to comply with his directions shall be treated by the Flag State of the vessel as if the inspector were an inspector of that State. \* \* \*
17. a) Appropriate authorities of each Contracting Party shall report to the Executive Secretary by February I (for the period July I -December 31 of the previous year) and **September I** (for the period January I -June 30 of the current year) each year:
- (i) **the disposition of apparent infringements** notified to it by a Contracting Party. The apparent infringements shall continue to be listed on each subsequent report until the action is concluded under the laws of the Flag State;
  - (ii) **differences that they consider significant** between records of catches in the logbooks of vessels flying the flag of the Contracting Party and inspectors' estimates of catches on board the vessels.

- b) The report required in (a) above shall indicate the current status of the case (i.e. case pending, under appeal, still under investigation, etc.) and any penalties imposed shall be described in specific terms (i.e. level of fines, value of forfeited fish and/or gear, written warning given, etc.) and shall include an explanation if no action has been taken.

#### Part VI – Program for Observers and Satellite Tracking

5. When an apparent infringement of the Conservation and Enforcement Measures is identified by an observer, the observer shall, within 24 hours, report it to a NAFO inspection vessel using an established code, which shall report it to the Executive Secretary.

### **South Pacific Forum Fisheries Agency Convention (FFA)**

#### Article III: Recognition of Coastal States' Rights

The Parties to this Convention recognise that the coastal state has sovereign rights, for the purpose of exploring and exploiting, conserving and managing the living marine resources, including highly migratory species, within its exclusive economic zone or fishing zone which may extend 200 nautical miles from the baseline from which the breadth of its territorial sea is measured.

#### Article V: Functions of the Committee

2. In particular, the Committee shall promote intr-regional co-ordination and co-operation in the following fields: . . . (c) co-operation in surveillance and enforcement; \* \* \*

### **Agreement Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**

#### Article 8: Cooperation for conservation and management

1. Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory-fish stocks either directly or through appropriate subregional or regional fisheries management organizations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure effective conservation and management of such stocks. \* \* \*

#### Article 10: Functions of subregional and regional fisheries management organizations and arrangements

In fulfilling their obligation to cooperate through subregional or regional fisheries management organizations or arrangements, States shall: . . . (h) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;

#### Article 17: Non-members of organizations and non-participants in arrangements

4. States which are members of such organizations or participants in such arrangements shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither

members of the organization nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

#### Article 18: Duties of the Flag State

1. A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

\* \* \*

3. Measures to be taken by a State in respect of vessels flying its flag shall include: \* \* \*

(b) establishment of regulations to: . . . (ii) prohibit fishing on the high seas by vessels which are not duly licensed or authorized to fish, or fishing on the high seas by vessels otherwise than in accordance with the terms and conditions of a licence, authorization or permit; \* \* \*

#### Article 19 – Compliance and enforcement by the flag State

1. A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. To this end, that State shall:

- (a) enforce such measures irrespective of where violations occur;
  - (b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessels concerned, and report promptly to the State alleging the violation and the relevant subregional or regional organization or arrangement on the progress and outcome of the investigation;
  - (c) require any vessel flying its flag to give information to the investigating authority regarding vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation;
  - (d) if satisfied that sufficient evidence is available in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned; and
  - (e) ensure that, where it has been established, in accordance with its laws, that a vessel has been involved in the commission of a serious violation of such measures, the vessel does not engage in fishing operations on the high seas until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with.
2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include

provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels.

#### Article 20 – International cooperation in enforcement

1. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements, to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks.
2. A flag State conducting an investigation of an alleged violation of conservation and management measures for straddling fish stocks or highly migratory fish stocks may request the assistance of any other State whose cooperation may be useful in the conduct of that investigation. All States shall endeavour to meet reasonable requests made by a flag State in connection with such investigations.
3. A flag State may undertake such investigations directly, in cooperation with other interested States or through the relevant subregional or regional fisheries management organization or arrangement. Information on the progress and outcome of the investigations shall be provided to all States having an interest in, or affected by, the alleged violation.
4. States shall assist each other in identifying vessels reported to have engaged in activities undermining the effectiveness of subregional, regional or global conservation and management measures.
5. States shall, to the extent permitted by national laws and regulations, establish arrangements for making available to prosecuting authorities in other States evidence relating to alleged violations of such measures.
6. Where there are reasonable grounds for believing that a vessel on the high seas has been engaged in unauthorized fishing within an area under the jurisdiction of a coastal State, the flag State of that vessel, at the request of the coastal State concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the coastal State in taking appropriate enforcement action in such cases and may authorize the relevant authorities of the coastal State to board and inspect the vessel on the high seas. This paragraph is without prejudice to article III of the Convention.
7. States Parties which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement may take action in accordance with international law, including through recourse to subregional or regional procedures established for this purpose, to deter vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organization or arrangement from fishing on the high seas in the subregion or region until such time as appropriate action is taken by the flag State.

#### Article 21 – Subregional and regional cooperation in enforcement

1. In any high seas area covered by a subregional or regional fisheries management organization or arrangement, a State Party which is a member of, or a participant in, such organization or arrangement may, through its duly authorized inspectors, board and inspect, in accordance with paragraph 2, fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of, or a participant in, the organization or arrangement, for the purpose of ensuring compliance with conservation and management measures for straddling fish stocks and highly migratory fish stocks established by that organization or arrangement. \* \* \*

8. Where, following a boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation, and the flag State has either failed to respond or failed to take action as required under paragraphs 6 or 7, the inspectors may remain on board and secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port, or to such other port as may be specified in procedures established in accordance with paragraph 2. The inspecting State shall immediately inform the flag State of the name of the port to which the vessel is to proceed. The inspecting State and the flag State and, as appropriate, the port State shall take all necessary steps to ensure the well-being of the crew regardless of their nationality. \* \* \*

11. For the purposes of this article, a serious violation means:

- (a) fishing without a valid license, authorization or permit issued by the flag State in accordance with article 18, paragraph 3(a);
- (b) failing to maintain accurate records of catch and catch-related data, as required by the relevant subregional or regional fisheries management organization or arrangement, or serious misreporting of catch, contrary to the catch reporting requirements of such organization or arrangement;
- (c) fishing in a closed area, fishing during a closed season or fishing without, or after attainment of, a quota established by the relevant subregional or regional fisheries management organization or arrangement;
- (d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;
- (e) using prohibited fishing gear;
- (f) falsifying or concealing the markings, identity or registration of a fishing vessel;
- (g) concealing, tampering with or disposing of evidence relating to an investigation;
- (h) multiple violations which together constitute a serious disregard of conservation and management measures; or
- (i) such other violations as may be specified in procedures established by the relevant subregional or regional fisheries management organization or arrangement.

12. Notwithstanding the other provisions of this article, the flag State may, at any time, take action to fulfil its obligations under article 19 with respect to an alleged violation. Where the vessel is under the direction of the inspecting State, the inspecting State shall, at the request of the flag State, release the vessel to the flag State along with full information on the progress and outcome of its investigation. \* \* \*

16. Action taken by States other than the flag State in respect of vessels having engaged in activities contrary to subregional or regional conservation and management measures shall be proportional to the seriousness of the violation.

Article 22 – Basic procedures for boarding and inspection pursuant to article 21

4. In the event that the master of a vessel refuses to accept boarding and inspection in accordance with this article and article 21, the flag State shall, except in circumstances where, in accordance with generally accepted international regulations, procedures and practices relating to safety at sea, it is necessary to delay the boarding and inspection, direct the master of the vessel to submit immediately to boarding and inspection and, if the master does not comply with such direction, shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. The flag State shall advise the inspecting State of the action it has taken when the circumstances referred to in this paragraph arise.

#### Article 23 – Measures taken by a port State

3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.

## **Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (MHLCT)**

#### Article 8: Compatibility of Conservation and Management Measures

1. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of highly migratory fish stocks in their entirety. To this end, the members of the Commission have a duty to cooperate for the purpose of achieving compatible measures in respect of such stocks. \* \* \*

#### Article 10: Functions of the Commission

3. In developing criteria for allocation of the total allowable catch or the total level of fishing effort the Commission shall take into account, inter alia: \* \* \*

- (f) the record of compliance by the participants with conservation and management measures;

#### Article 23: Obligations of Member of the Commission

1. Each member of the Commission shall promptly implement the provisions of this Convention and any conservation, management and other measures or matters which may be agreed pursuant to this Convention from time to time and shall cooperate in furthering the objective of this Convention.

2. Each member of the Commission shall: \* \* \*

- (b) provide to the Commission in the manner and at such intervals as may be required by the Commission, information concerning its fishing activities in the Convention Area, including fishing areas and fishing vessels in order to facilitate the compilation of reliable catch and effort statistics

3. The members of the Commission shall keep the Commission informed of the measures they have

adopted for the conservation and management of highly migratory fish stocks in areas within the Convention Area under their national jurisdiction. The Commission shall circulate periodically such information to all members.

4. Each member of the Commission shall keep the Commission informed of the measures it has adopted for regulating the activities of fishing vessels flying its flag which fish in the Convention Area. The Commission shall circulate periodically such information to all members.

5. Each member of the Commission shall, to the greatest extent possible, take measures to ensure that its nationals, and fishing vessels owned or controlled by its nationals fishing in the Convention Area, comply with the provisions of this Convention. To this end, members of the Commission may enter into agreements with States whose flags such vessels are flying to facilitate such enforcement. Each member of the Commission shall, to the greatest extent possible, at the request of any other member, and when provided with the relevant information, investigate any alleged violation by its nationals, or fishing vessels owned or controlled by its nationals, of the provisions of this Convention or any conservation and management measure adopted by the Commission. A report on the progress of the investigation, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to the member making the request and to the Commission as soon as practicable and in any case within two months of such request and a report on the outcome of the investigation shall be provided when the investigation is completed.

#### Article 24: Flag State Duties

1. Each member of the Commission shall take such measures as may be necessary to ensure that:

- (a) fishing vessels flying its flag comply with the provisions of this Convention and the conservation and management measures adopted pursuant hereto and that such vessels do not engage in any activity which undermine the effectiveness of such measures; \* \* \*
- (c) fishing vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of any Contracting Party.

2. No member of the Commission shall allow any fishing vessel entitled to fly its flag to be used for fishing for highly migratory fish stocks in the Convention Area beyond areas of national jurisdiction unless it has been authorized to do so by the appropriate authority or authorities of that member. A member of the Commission shall authorize the use of vessels flying its flag for fishing in the Convention Area beyond areas of national jurisdiction only where it is able to exercise effectively its responsibilities in respect of such vessels under the 1982 Convention, the Agreement and this Convention. \* \* \*

#### Article 25: Compliance and Enforcement

2. Each member of the Commission shall, at the request of any other member, and when provided with the relevant information, investigate fully any alleged violation by fishing vessels flying its flag of the provisions of this Convention or any conservation and management measure adopted by the Commission. A report on the progress of the investigation, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to the member making the request and to the Commission as soon as practicable and in any case within two months of such request and a report on the outcome of the investigation shall be provided when the investigation is completed.

3. Each member of the Commission shall, if satisfied that sufficient evidence is available in respect of an

alleged violation by a fishing vessel flying its flag, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned.

4. Each member of the Commission shall ensure that, where it has been established, in accordance with its laws, that a fishing vessel flying its flag has been involved in the commission of a serious violation of the provisions of this Convention or of any conservation and management measures adopted by the Commission, the vessel concerned ceases fishing activities and does not engage in such activities in the Convention Area until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with. Where the vessel concerned has conducted unauthorized fishing within areas under the national jurisdiction of any coastal State Party to this Convention, the flag State shall, in accordance with its laws, ensure that the vessel complies promptly with any sanctions which may be imposed by such coastal State in accordance with its national laws and regulations or shall impose appropriate sanctions in accordance with paragraph 7. For the purposes of this article, a serious violation shall include any of the violations specified in article 21, paragraphs 11 (a) to (h) of the Agreement and such other violations as may be determined by the Commission. \* \* \*

7. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels. \* \* \*

11. The members of the Commission may take action in accordance with the Agreement and international law, including through procedures adopted by the Commission for this purpose, to deter fishing vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures adopted by the Commission from fishing in the Convention Area until such time as appropriate action is taken by the flag State.

12. The Commission, when necessary, shall develop procedures which allow for non-discriminatory trade measures to be taken, consistent with the international obligations of the members of the Commission, on any species regulated by the Commission, against any State or entity whose fishing vessels fish in a manner which undermines the effectiveness of the conservation and management measures adopted by the Commission.

#### Article 27: Measures Taken by a Port States

2. Whenever a fishing vessel of a member of the Commission voluntarily enters a port or offshore terminal of another member, the port State may, inter alia, inspect documents, fishing gear and catch on board such fishing vessel.

3. Members of the Commission may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of conservation and management measures adopted by the Commission.

#### Article 32: Non-Parties to this Convention

1. Each member of the Commission shall take measures consistent with this Convention, the Agreement

and international law to deter the activities of vessels flying the flags of non-parties to this Convention which undermine the effectiveness of conservation and management measures adopted by the Commission. \* \* \*

4. The members of the Commission shall, individually or jointly, request non-parties to this Convention whose vessels fish in the Convention Area to cooperate fully in the implementation of conservation and management measures adopted by the Commission with a view to ensuring that such measures are applied to all fishing activities in the Convention Area. Such cooperating non-parties to this Convention shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with, and their record of compliance with, conservation and management measures in respect of the relevant stocks.

## **Convention for the Conservation of Southern Bluefin Tuna (CCSBT)**

### **Article 5**

1. Each Party shall take all action necessary to ensure the enforcement of this Convention and compliance with measures which become binding under paragraph 7 of Article 8.
2. The Parties shall expeditiously provide to the Commission for the Conservation of Southern Bluefin Tuna scientific information, fishing catch and effort statistics and other data relevant to the conservation of southern bluefin tuna and, as appropriate, ecologically related species.
4. The Parties shall cooperate in the exchange of information regarding any fishing for southern bluefin tuna by nationals, residents and vessels of any State or entity not party to this Convention.

### **Article 8**

9. The Commission shall develop, at the earliest possible time and consistent with international law, systems to monitor all fishing activities related to southern bluefin tuna in order to enhance scientific knowledge necessary for conservation and management of southern bluefin tuna and in order to achieve effective implementation of this Convention and measures adopted pursuant to it.

### **Article 15**

2. Each Party shall encourage its nationals not to associate with the southern bluefin tuna fishery of any State or entity not party to this Convention, where such association could affect adversely the attainment of the objective of this Convention.
3. Each Party shall take appropriate measures aimed at preventing vessels registered under its laws and regulations from transferring their registration for the purpose of avoiding compliance with the provisions of this Convention or measures adopted pursuant to it.
4. The Parties shall cooperate in taking appropriate action, consistent with international law and their respective domestic laws, to deter fishing activities for southern bluefin tuna by nationals, residents or vessels of any State or entity not party to this Convention where such activity could affect adversely the attainment of the objective of this Convention.

***Draft Resolution Concerning an Action Plan to Ensure Effectiveness of the Conservation Measures***

### ***for Southern Bluefin Tuna***

- a. The Commission shall request that non-Contracting Parties fishing SBT cooperate fully with the Commission in implementing the CCSBT measures for conservation, management and optimum utilization of SBT (hereinafter referred to as "the conservation and management measures"). The Commission shall also request those non-Contracting Parties to advise the Commission of actions taken in that regard.
- b. The Commission shall identify, at the Resumed 6th Annual Meeting to be held in early year 2000 and annually thereafter, those non-Contracting Parties whose vessels have been fishing for SBT in a manner which diminishes the effectiveness of the CCSBT conservation and management measures, based on the catch data compiled by the Commission, the trade information and other relevant information obtained in parts and at the fishing ground.
- c. The Commission shall request those Parties identified in paragraph (b) to rectify their fishing activities so as not to diminish the effectiveness of CCSBT conservation and management measures and to advise the Commission of actions taken in that regard.
- d. The Contracting Parties shall jointly and individually request that non-Contracting Parties fishing SBT cooperate fully with the Commission in implementing the CCSBT SBT conservation and management measures.
- e. The Commission shall review, at appropriate timing, the actions taken by those Parties identified and requested in paragraphs (b), (c) and (d), and identify the Parties which have not rectified their fishing activities.
- f. To ensure the effectiveness of the CCSBT conservation and management measures, the Commission will recommend the Contracting Parties to take non-discriminatory trade restrictive measure, consistent with their international obligations, on SBT products in any form, from the Parties identified in paragraph (e).

## **FAO Compliance Agreement**

### **Preamble**

\* \* \*Recalling that Agenda 21, adopted by the United Nations Conference on Environment and Development, calls upon States to take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing activities on the high seas,

Conscious of duties of every State to exercise effectively its jurisdiction and control over vessels flying its flag, including fishing vessels and vessels engaged in the transshipment of fish,

Mindful that the practice of flagging or reflagging fishing vessels as a means of avoiding compliance with international conservation and management measures for living marine resources, and the failure of flag States to fulfill their responsibilities with respect to fishing vessels entitled to fly their flag, are among the factors that seriously undermine the effectiveness of such measures,

Realizing that the objective of this Agreement can be achieved through specifying flag States'

responsibility in respect of fishing vessels entitled to fly their flags and operating on the high seas, including the authorization by the flag State of such operations, as well as through strengthened international cooperation and increased transparency through the exchange of information on high seas fishing,

Noting that this Agreement will form an integral part of the International Code of Conduct for Responsible Fishing called for in the Declaration of Cancun,

### Article III: Flag State Responsibility

- 1(a) Each Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures.
- 5(a) No Party shall authorize any fishing vessel previously registered in the territory of another Party that has undermined the effectiveness of international conservation and management measures to be used for fishing on the high seas, unless it is satisfied that
  - (i) any period of suspension by another Party of an authorization for such fishing vessel to be used for fishing on the high seas has expired; and
  - (ii) no authorization for such fishing vessel to be used for fishing on the high seas has been withdrawn by another Party within the last three years.
- (b) The provisions of subparagraph (a) above shall also apply in respect of fishing vessels previously registered in the territory of a State which is not a Party to this Agreement, provided that sufficient information is available to the Party concerned on the circumstances in which the authorization to fish was suspended or withdrawn.
- (c) The provisions of subparagraphs (a) and (b) shall not apply where the ownership of the fishing vessel has subsequently changed, 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 fishing vessel.
- (d) Notwithstanding the provisions of subparagraphs (a) and (b) above, a Party may authorize a fishing vessel, to which those subparagraphs would otherwise apply, to be used for fishing on the high seas, where the Party concerned, after having taken into account all relevant facts, including the circumstances in which the fishing authorization has been withdrawn by the other Party or State, has determined that to grant an authorization to use the vessel for fishing on the high seas would not undermine the object and purpose of this Agreement.

8. Each Party shall take enforcement measures in respect of fishing vessels entitled to fly its flag which act in contravention of the provisions of this Agreement, including, where appropriate, making the contravention of such provisions an offence under national legislation. Sanctions applicable in respect of such contraventions shall be of sufficient gravity as to be effective in securing compliance with the requirements of this Agreement and to deprive offenders of the benefits accruing from their illegal activities. Such sanctions shall, for serious offences, include refusal, suspension or withdrawal of the authorization to fish on the high seas.

### Article V: International Cooperation

1. The Parties shall cooperate as appropriate in the implementation of this Agreement, and shall, in particular, exchange information, including evidentiary material, relating to activities of fishing vessels in order to assist the flag State in identifying those fishing vessels flying its flag reported to have engaged in activities undermining international conservation and management measures, so as to fulfill its obligations under Article III.

2. When a fishing vessel is voluntarily in the port of a Party other than its flag State, that Party, where it has reasonable grounds for believing that the fishing vessel has been used for an activity that undermines the effectiveness of international conservation and management measures, shall promptly notify the flag State accordingly. Parties may make arrangements regarding the undertaking by port States of such investigatory measures as may be considered necessary to establish whether the fishing vessel has indeed been used contrary to the provisions of this Agreement.

#### Article VIII: Non-Parties

3. The Parties shall exchange information amongst themselves, either directly or through FAO, with respect to activities of fishing vessels flying the flags of non-Parties that undermine the effectiveness of international conservation and management measures.