

DRAFT LEGISLATIVE FRAMEWORK

GLOSSARY

It will be essential for national legislation to contain identical or at least harmonized definitions of a wide range of key terms in order to achieve common understanding and harmonized implementation and enforcement. A glossary is provided for use as a reference that provides a Best Practices basis for reviewing and as appropriate amending the use of terms in national laws.¹

Some of the terms/interpretation are only applicable in the context of national laws, and others may be used at regional level and possibly form the basis for a glossary to be developed by IOTC for use in future CMMs.

There is an overlap in the definitions of “fishing vessel” and “vessel”; these terms are sometimes used interchangeably. Many Resolutions refer to “fishing vessel”, while Resolution 10/11 on Port State Measures uses and defines “vessel” as including a boat, ship etc. used for fishing or related activities. Many countries also refer to “fishing vessel” as a vessel used for fishing or related activities, as it captures requirements to hold authorizations for transshipments and other related activities.

“aircraft” means any craft capable of self-sustained movement through the atmosphere, and includes helicopters and unmanned or remotely operated airborne devices.

“authorised fishing vessel”, or AFV, is a fishing vessel on the IOTC Record of Fishing Vessels (defined below) that is:

- (a) larger than 24 metres in length overall; or
- (b) in case of vessels less than 24m, those operating in waters outside the economic exclusive zone of the flag state,² and authorised to fish for tuna and tuna-like species in the IOTC Area. For the purposes of the establishing Resolution 14/04, vessels that are not entered into the record are deemed not to be authorised to fish for, retain on board, tranship or land tuna and tuna-like species.

“conservation and management measures” means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law, including the 1982 United Nations Convention on the Law of the Sea and the 1995 United Nations Fish Stocks Agreement;³

“[Country] fishing vessel” means any fishing vessel that is registered, entitled to be registered or required to be registered in [country] pursuant to the [relevant law of country], and that does not hold a registration from or fly the flag of another State unless expressly permitted under the laws of the [country];⁴

¹ Note the approach towards use of definitions may differ among English, French and Portuguese speaking countries. The glossary will be used to provide guidance as appropriate where, after reviewing the use of these terms in national laws, inconsistencies or gaps are identified.

² This is the official definition, but as noted above it could be problematic because “operating in waters outside the eez of the flag State” would include the territorial waters of the flag State.

³ From the UN Fish Stocks Agreement, this by implication refers to RFMO/As. See also “IOTC conservation and management measure”.

⁴ See explanation in section 1.7, above.

“electronic logbook system” means a computerised record of information and data relating to fishing or related activities and in such template as may be required, including pursuant to any international conservation and management measure(s),⁵ transmitted by the operator of a fishing vessel to the [required authorities];

“fish” means any water-dwelling aquatic or marine animal or plant, alive or not, and includes their eggs, spawn, spat and juvenile stages, and any of their parts, and includes all organisms belonging to sedentary species;

“fish aggregating device” means an object or group of objects of any size, whether drifting, anchored or deployed or not, that is natural, manufactured or a combination of both and includes inter alia buoys, floats, netting, webbing, plastics, metals, bamboo, logs and objects with electronic devices affixed floating or designed to float on or near the surface of the water with which fish may associate, and any natural floating object on which a device has been placed to facilitate its location;

“Fisheries Waters” means all waters over which [country] exercises sovereignty, jurisdiction and/or sovereign rights as declared in [relevant national laws- cite laws declaring maritime zones] or as are consistent with international law;

“fishery” or “fisheries” means:

- (a) one or more stocks of fish, or parts thereof, which can be treated as a unit for the purposes of conservation and management, taking into account geographical, scientific, technical, customary, recreational, economic and other relevant characteristics; or
- (b) any fishing for such stocks;

“fishing” means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish, and includes the deployment, monitoring and retrieving of (drifting) Fish Aggregating Devices;

“fishing vessel” means any vessel used for, equipped to be used for, or of a type that is normally used for, fishing or related activities;

“gear” in relation to fishing means any equipment, implement or other item that can be used in the act of fishing, including any net, rope, line, float, trap, hook, fish aggregating device, winch, boat, or craft or aircraft carried on board a vessel, or aircraft or vehicle used in association with the act of fishing;

“IOTC” means the Indian Ocean Tuna Commission established in 1993 at the 105th Session of the Council of the Food and Agriculture Organization of the United Nations (FAO) under Article XIV of the FAO Constitution;

“IOTC area of competence” means the area designated in Article III and Annex A of the IOTC Agreement, based on FAO statistical areas 51 and 57 and including the Indian Ocean and adjacent seas, north of the Antarctic Convergence, insofar as it is necessary to cover such seas for the purpose of conserving and managing stocks that migrate into or out of the Indian Ocean.⁶

⁵ See Resolution 13/03 paragraph 4.

⁶ Note: The Commission, at its 4th Session in 1999 agreed to modify the western boundary of the IOTC area of competence from 30oE to 20oE, thus eliminating the gap between the areas covered by IOTC and ICCAT.

“IOTC Conservation and Management Measure” means any measure adopted in accordance with Article IX of the IOTC Agreement;

“IOTC Record of Fishing Vessels” means the IOTC record of vessels authorised to operate in the IOTC area established under Resolution 14/04 Concerning the establishment of an IOTC Record of Fishing Vessels;

“large scale tuna vessels”, or “LSTVs”, has the meaning given by IOTC from time to time, and unless otherwise amended shall mean fishing vessels 24 metres in length overall or above and which are engaged in or equipped to engage in fishing or related activities in relation to tuna and tuna-like species and sharks caught in association with tuna and tuna-like fisheries [in the IOTC area of competence];⁷

“law” includes the national principal statute, law, act or other instrument in a country’s legislative system;

“legislation” includes laws, regulations, orders, notices and other instruments having the force of law in a country or regional economic integration organization;

"master", in relation to a vessel, aircraft or vehicle, means the person in command or charge, or for the time being in charge, or apparently in command or in charge of the vessel, aircraft or vehicle, but does not include a pilot on board a vessel solely for the purpose of navigation;

“mobile transceiver unit” or “MTU” means a device approved by the [senior operational fisheries officer], which is installed on board a fishing vessel and is designed to automatically transmit, whether independently or in conjunction with another device or devices, information or data concerning position, fishing, catch and such other activities as may be required, and allows detection and identification of the fishing vessel at all times;

“national fishing logbook”, or “fishing logbook” means a any permanently bound I logbook issued by the flag State of a vessel and required for any purpose relating to fishing or related activities, with irremovable pages, each of which is consecutively numbered and printed with an applicable serial number;

"operator" means any person who is in charge of, responsible for the operations of, directs or controls a vessel, including the owner, charterer, master and the beneficiary of the economic or financial benefit of the vessel’s operations;

“related activities”, in relation to fishing, or “fishing related activities” includes any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;

“vessel" means any boat, ship, hovercraft or other watergoing craft, and includes fishing vessels.

⁷ As appropriate, these two definitions may be introduced within the framework of specific provisions rather than in the interpretation section of national legislation. If these terms are used only in one place in the legislation (e.g. transshipment), it would be preferable to include definitions in the text rather than in the part on definitions. However if they are used in two or more places (e.g. licensing, MCS) the definition should appear in the interpretation section.

PART II -DRAFT LEGISLATIVE FRAMEWORK

Section 1 – Fisheries conservation and management measures

RESOLUTION 14/02 FOR THE CONSERVATION AND MANAGEMENT OF TROPICAL TUNA STOCKS IN THE IOTC AREA OF COMPETENCE

Proposed Legislative Framework

CONSERVATION AND MANAGEMENT MEASURES

- 1) In giving effect to its responsibilities for fisheries conservation and management pursuant to this [legislation], the [official authority] shall develop, recommend to the [Minister], implement, monitor and enforce conservation and management measures necessary to ensure the long-term sustainable use of fisheries resources.
- 2) The [Minister] shall determine the conservation and management measures taking into account the recommendations of the [competent authority]. Such measures may include the total allowable catch and/or total applied effort to be allocated in any year to any fisheries sub-sector and the means of implementation of such measures.
- 3) Without prejudice to the jurisdiction and sovereign rights of the [country] over resources in the Fisheries Waters, conservation and management measures shall:
 - a. implement conservation and management measures adopted by a sub-regional or regional organization or arrangement to which the [country] is party or cooperating non-party as applicable in respect of its Fisheries Waters and vessels entitled to fly its flag; and
 - b. to the extent possible, implement action plans of such sub-regional or regional organizations or arrangements [including relevant recommendations of a subsidiary scientific body].
- 4) Conservation and management measures shall be developed, to the extent possible, taking into account consultations with stakeholders, and may be implemented *inter alia* through Fisheries Management Plans, regulations, public notice, as a condition of licence, in writing, or otherwise as provided in this Law.

RESOLUTION 13/04 ON THE CONSERVATION OF CETACEANS

Proposed Legislative Framework

This Resolution is almost identical to Resolution 13/05 on the Conservation of Whale Sharks, shown below. A combined provision for the Legislative Framework is shown after Resolution 13/05.

RESOLUTION 13/05 ON THE CONSERVATION OF WHALE SHARKS

Proposed Legislative Framework

CONSERVATION OF CETACEANS AND WHALE SHARKS (*Rhincodon typus*)

- 1) The operator of a [country] fishing vessel [that is included on the IOTC Record of Fishing Vessels, or is authorized to fish tuna and tuna-like species on the high seas managed by the IOTC], except any [country] fishing vessel that is exclusively engaged in artisanal fisheries in the Fisheries Waters, shall not intentionally cause or allow a purse seine net to be set around any cetacean or whale shark [in the IOTC area of competence] if it is sighted prior to the commencement of the set.
- 2) Where any cetacean or whale shark is unintentionally encircled in a purse seine net, the operator referred to in subsection (1) shall:
 - a. take all reasonable steps to ensure the safe release of any cetacean or whale shark, while taking into consideration the safety of the crew, in accordance with best practice guidelines for the safe release and handling of cetaceans or whale shark developed by the IOTC Scientific Committee;
 - b. report the incident to the [relevant authority of the flag State] with the following information:
 - i. in respect of a cetacean, the species (if known);
 - ii. the number of individuals;
 - iii. a short description of the interaction, including details of how and why the interaction occurred, if possible;
 - iv. the location of the encirclement;
 - v. the steps taken to ensure safe release; and
 - vi. an assessment of the life status of the animal on release, including whether the cetacean or whale shark was released alive but subsequently died.
- 3) The operator of [country] fishing vessels using gear types other than purse seiners for fishing tuna and tuna-like species associated with cetaceans or whale shark shall report all interactions with cetaceans and whale sharks to the [relevant authority of the flag State] and include all the information required pursuant to subsection 2(b)(i-vi).

FISH AGGREGATING DEVICES

Legislation should require Fish Aggregating Devices to be licensed, and as appropriate require that licenses are only issued to those devices that are designed to reduce the incidence of entanglement, in accordance with Annex III of Resolution 13/08 (or any subsequent revision).

RESOLUTION 13/06 ON A SCIENTIFIC AND MANAGEMENT FRAMEWORK ON THE CONSERVATION OF SHARK SPECIES CAUGHT IN ASSOCIATION WITH IOTC MANAGED FISHERIES

Proposed Legislative Framework

REQUIREMENTS RELATING TO OCEANIC WHITETIP SHARKS (*Carcharhinus longimanus*)

- 1) The operator of a [country] fishing vessel [that is included on the IOTC Record of Fishing Vessels, or is authorized to fish tuna and tuna-like species on the high seas managed by the IOTC], shall:
 - a. not engage in or allow fishing for oceanic whitetip sharks;
 - b. not allow or cause to be retained onboard, tranship, land or store any part or whole carcass of oceanic whitetip sharks with the exception of subsection (2);

- c. promptly release unharmed, to the extent practicable, oceanic whitetip sharks when brought alongside the fishing vessel for the purpose of taking onboard, including where they are identified on the line before bringing them onboard;
 - d. keep in the fishing logbook of the relevant vessel, full, complete and accurate records of all catches, incidental catches and live releases of oceanic whitetip sharks;⁸
 - e. allow and assist an observer to collect biological samples (vertebrae, tissues, reproductive tracts, stomachs, skin samples, spiral valves, jaws, whole and skeletonised specimens for taxonomic works and museum collections) from oceanic whitetip sharks [taken in the IOTC area of competence] that are dead when the fishing gear is hauled back to the vessel, and to take such other actions as may be identified in a research program of a sub-regional or regional organization or arrangement to which the [country] is party or cooperating non-party.
- 2) Subsection 1 does not apply to operators of a [country] fishing vessel operating exclusively in artisanal fisheries in the Fisheries Waters for the purpose of local consumption.

RESOLUTION 13/08 PROCEDURES ON A FISH AGGREGATING DEVICES (FADS) MANAGEMENT PLAN, INCLUDING MORE DETAILED SPECIFICATIONS OF CATCH REPORTING FROM FAD SETS, AND THE DEVELOPMENT OF IMPROVED FAD DESIGNS TO REDUCE THE INCIDENCE OF ENTANGLEMENT OF NON-TARGET SPECIES

Proposed Legislative Framework

- 1) The operator of a [country] fishing vessel equipped with purse seine gear or used as a bait boat that use Fish Aggregating Devices (FADs) for the purpose of aggregating tuna target species [in the IOTC area of competence] shall:
- a. maintain and keep current on board the fishing vessel at all times a FAD logbook which includes information on all activities relating to the FADs;
 - b. record fishing activities in association with FADs using the specific data elements found in IOTC Resolution 13/08 Annex I (DFAD) and II (AFAD) in the section of the “FAD-logbook”.
 - c. mark all artificial FADs deployed or modified by their vessels [in the IOTC area of competence] to be marked in accordance with such detailed marking scheme as may be required by the [fisheries authority/legal instrument such as Notice, Gazette etc].

⁸ This could be linked to the requirement to keep a logbook and keep it up to date “as required in section...” [see Resolution 14/04, paragraph16 and proposed draft section 7 below]

7.a. ... keep a bound fishing national logbook with consecutively numbered pages, including an applicable serial number, on board the fishing vessel and continuously up to date, and keep the original recordings contained in the fishing logbooks on board for a period of at least 12 months.

RESOLUTION 13/11 ON A BAN ON DISCARDS OF BIGEYE TUNA, SKIPJACK TUNA, YELLOWFIN TUNA, AND A RECOMMENDATION FOR NON-TARGETED SPECIES CAUGHT BY PURSE SEINE VESSELS IN THE IOTC AREA OF COMPETENCE

Proposed Legislative Framework

RETENTION ON BOARD OF BIGEYE TUNA, SKIPJACK TUNA AND YELLOWFIN TUNA

- 1) For the purposes of this section, “tuna” refers to bigeye tuna, skipjack tuna and yellowfin tuna.
- 2) The operator of a [country] fishing vessel equipped with purse seine gear shall retain on board and then land all tuna caught, except fish considered unfit for human consumption.
- 3) No tuna caught by purse seine vessels may be discarded after the point in the set when the net is fully pursed and more than one half of the net has been retrieved. If equipment malfunctions affect the process of pursing and retrieving the net in such a way that this rule cannot be complied with, the master must ensure that the crew makes efforts to release the tuna as soon as possible.
- 4) The requirements of subsection (2) do not apply where:
 - a. the master of the vessel determines that tuna caught are unfit for human consumption, including where the tuna are:
 - i. meshed or crushed in the purse seine;
 - ii. damaged due to depredation;
 - iii. dead and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch, and efforts to release the fish alive, but not where the tuna are:
 - iv. considered undesirable in terms of size, marketability, or species composition; or
 - v. spoiled contaminated as the result of an act or omission of the crew of the fishing vessel; or
 - b. the master of a vessel determines that tuna was caught during the final set of a trip and there is insufficient well space to accommodate all tuna caught in that set. This fish may only be discarded if:
 - i. the captain and crew attempt to release the tuna alive as soon as possible; and
 - ii. no further fishing is undertaken after the discard until the tuna on board the vessel has been landed or transhipped.

RESOLUTION 12/04 ON THE CONSERVATION OF MARINE TURTLES

Proposed Legislative Framework

CONSERVATION OF MARINE TURTLES

- 1) The operator of any fishing vessel in the Fisheries Waters, or of any [country] fishing vessel fishing [within the IOTC area of competence][beyond areas of national jurisdiction]shall:
 - a. ensure that any captured marine turtle that is comatose or inactive is brought aboard, if practicable, as soon as possible and foster its recovery, including aiding in its resuscitation, before safely returning it to the water.

- b. where such fishing vessel is equipped with gillnet gear, record or caused to be recorded all incidents involving marine turtles during fishing operations in their logbooks and report such incidents to [the appropriate authorities of the country];
- c. where such fishing vessel is equipped with longline gear:
 - i. carry line cutters and de-hookers on board the fishing vessel in order to facilitate the appropriate handling and prompt release of marine turtles caught or entangled, which shall be done in accordance with any Guidelines that may be provided by the [country];
 - ii. where appropriate, encourage the use of whole finfish bait;
 - iii. record all incidents involving marine turtles during fishing operations in their logbooks, including the species of the marine turtle(s), and report such incidents to [the appropriate authorities of the country].
- d. where such fishing vessel is equipped with purse seine gear:
 - i. to the extent practicable, avoid encirclement of marine turtles, and if a marine turtle is encircled or entangled, take practicable measures to safely release the turtle in accordance with such guidelines as may be provided by [country];
 - ii. To the extent practicable, release all marine turtles observed entangled in fish aggregating devices or other fishing gear;
 - iii. If a marine turtle is entangled in the net, stop net roll as soon as the turtle comes out of the water, disentangle the turtle without injuring it before resuming the net roll and, to the extent practicable, assist the recovery of the turtle before returning it to the water;
 - iv. carry and employ dip nets, when appropriate, to handle marine turtles;
 - v. record all incidents involving marine turtles during fishing operations in their logbooks and report such incidents to [the appropriate authorities of the country].

FISH AGGREGATING DEVICES

Legislation should require Fish Aggregating Devices to be licensed, and as appropriate require that licenses are only issued to those devices that are designed to reduce the incidence of entanglement of marine turtles according to international standards.

RESOLUTION 12/06 ON REDUCING THE INCIDENTAL BYCATCH OF SEABIRDS IN LONGLINE FISHERIES

Proposed Legislative Framework

INCIDENTAL BYCATCH OF SEABIRDS IN LONGLINE FISHERIES

- 1) The operator of any fishing vessel in the Fisheries Waters, or of any [country] fishing vessel fishing [within the IOTC area of competence][beyond areas of national jurisdiction] shall make such reports of incidental bycatch of seabirds as may be required by the [appropriate fisheries authority – e.g. Director, Minister].
- 2) The operator of any [fishing vessel in the Fisheries Waters, where such Fisheries Waters occur in the area south of 25 degrees South latitude - e.g. South Africa, Madagascar - or] [country]

fishing vessel in the area south of 25 degrees South latitude shall use at least two of the three mitigation measures and shall comply with technical standards in Table 1 in relation to the incidental by-catch of seabirds.

Table 1
Mitigation methods and technical standards

Mitigation	Description	Specification: Technical standards
Night setting with minimum deck lighting	No setting between nautical dawn and before nautical dusk. Deck lighting to be kept to a minimum.	Nautical dusk and nautical dawn are defined as set out in the Nautical Almanac tables for relevant latitude, local time and date. Minimum deck lighting should not breach minimum standards for safety and navigation.
Bird-scaring lines (Tori lines)	Bird-scaring lines shall be deployed during the entire longline setting to deter birds from approaching the branch line.	For vessels greater than or equal to 35 m: <ul style="list-style-type: none"> • Deploy at least 1 bird-scaring line. Where practical, vessels are encouraged to use a second tori pole and bird scaring line at times of high bird abundance or activity; both tori lines should be deployed simultaneously, one on each side of the line being set. • Aerial extent of bird-scaring lines must be greater than or equal to 100 m. • Long streamers of sufficient length to reach the sea surface in calm conditions must be used. • Long streamers must be at intervals of no more than 5m. For vessels less than 35 m: <ul style="list-style-type: none"> • Deploy at least 1 bird-scaring line. • Aerial extent must be greater than or equal to 75 m. • Long and/or short (but greater than 1 m in length) streamers must be used and placed at intervals as follows: <ul style="list-style-type: none"> • Short: intervals of no more than 2 m. • Long: intervals of no more than 5 m for the first 55 m of bird scaring line.
Line weighting	Line weights to be deployed on the snood prior to setting.	Greater than a total of 45 g attached within 1 m of the hook; Greater than a total of 60 g attached within 3.5 m of the hook; or Greater than a total of 98 g weight attached within 4 m of the hook.

RESOLUTION 12/09 ON THE CONSERVATION OF THRESHER SHARKS (FAMILY ALOPIIDAE) CAUGHT IN ASSOCIATION WITH FISHERIES IN THE IOTC AREA OF COMPETENCE

Proposed Legislative Framework

CONSERVATION OF THRESHER SHARKS (*Family Alopiidae*)

- 1) This section applies to all thresher sharks of all the species of the family *Alopiidae*.
- 2) The operator of any fishing vessel in the Fisheries Waters or any [country] fishing vessel that is included on the IOTC Record of Fishing Vessels shall:
 - a. not [engage in targeted fishing for,]⁹ retain on board, tranship, land, store, sell or offer for sale any part or carcass of any thresher shark, with the exception of the collection of biological samples described in subsection (4); and
 - b. release or cause to be released unharmed, to the extent practicable, all thresher sharks when brought alongside the vessel for taking on board.
- 3) Any person engaged in recreational or sport fishing shall:
 - a. release alive all thresher sharks caught during fishing;
 - b. under no circumstances retain on board, tranship, land, store, sell or offer for sale any part or carcass of thresher shark; and
 - c. carry on board such instruments suitable for releasing the sharks alive as the [senior fisheries authority] may direct.
- 4) The operator of any vessel and any person involved in fishing that results in the taking of thresher sharks shall allow and assist an observer to collect biological samples (including vertebrae, tissues, reproductive tracts, stomachs, skin samples, spiral valves, jaws, whole and skeletonised specimens for taxonomic works and museum collections) from thresher sharks that are dead when the fishing gear is hauled back to the vessel, and to take such other actions as may be identified in a research program of a sub-regional or regional organization or arrangement to which the [country] is party or cooperating non-party.

RESOLUTION 12/11 ON THE IMPLEMENTATION OF A LIMITATION OF FISHING CAPACITY OF CONTRACTING PARTIES AND COOPERATING NON-CONTRACTING PARTIES

There is divided opinion with regard to the status of this Resolution. Differing views have been expressed at IOTC. For some, the entire resolution is obsolete and for others the provisions on Fleet Development Plans (FDPs) are not time bound.

Technically, it can clearly be argued that the Resolution has expired. However, limitation of fishing capacity within the IOTC area is still an objective of the Commission and so it does make sense that IOTC wishes to continue to apply provisions on FDPs (notably with respect to new members).

There is agreement that due to the uncertainty about the validity of this Resolution, no further work would be required at national level, unless requested by the individual country, if there is already something to that effect in their existing law.

Otherwise, Implementation of the FDP, as required in paragraph 6, in each country could be reviewed under Phase III.

⁹ The Resolution does not prohibit fishing for thresher sharks, and recognizes that they are caught as bycatch. It's a good idea to prohibit targeted fishing, but note that it goes beyond the language of the Resolution.

RESOLUTION 12/12 TO PROHIBIT THE USE OF LARGE-SCALE DRIFTNETS ON THE HIGH SEAS IN THE IOTC AREA

Proposed Legislative Framework

USE OF LARGE-SCALE DRIFTNETS PROHIBITED

- 1) For the purposes of this section:
 - a. “Large-scale driftnets” are defined as gillnets or other nets or a combination of nets that are more than 2.5 kilometers in length whose purpose is to enmesh, entrap, or entangle fish by drifting on the surface of, or in, the water column.
 - b. “Configured” to use large-scale drift-nets means having on board assembled gear that collectively would allow the vessel to deploy and retrieve large-scale driftnets.
- 2) The operator of any fishing vessel in the Fisheries Waters, or of any [country] fishing vessel [within the IOTC area of competence][beyond areas of national jurisdiction] shall not use large-scale driftnets.
- 3) A fishing vessel shall be presumed to have used large-scale driftnets on the high seas in the IOTC area of competence if it is found operating on the high seas in the IOTC area of competence and is configured to use large-scale driftnets unless:
 - a. it holds a valid and applicable authorization from its flag State to use large-scale driftnets in its EEZ; and
 - b. the operator of a fishing vessel configured to use large-scale driftnets shall ensure that such driftnets and related fishing equipment are stowed or secured in such a manner that they are not readily available to be used for fishing.

RESOLUTION 11/02 ON THE PROHIBITION OF FISHING ON DATA BUOYS

Proposed Legislative Framework

PROHIBITION OF FISHING ON DATA BUOYS

- 1) For the purposes of this section, “data buoys” mean floating devices, either drifting or anchored, that are deployed by governmental or recognised scientific organisations or entities for the purpose of electronically collecting and measuring environmental data, and not for the purpose of fishing activities.
- 2) The operator of any fishing vessel in the Fisheries Waters, or of any [country] fishing vessel [within the IOTC area of competence][beyond areas of national jurisdiction] shall not[intentionally] cause or allow fishing within one nautical mile of or interacting with a data buoy, which includes, *inter alia*:
 - a. encircling the buoy with fishing gear;
 - b. tying up to or attaching the vessel, or any fishing gear, part or portion of the vessel, to a data buoy or its mooring; or
 - c. cutting a data buoy anchor line.

- 3) Notwithstanding subsection 2, vessels operating under scientific research programs notified to the Commission may operate fishing vessels within one nautical mile of a data buoy on the condition that they do not fish or interact with those data buoys as prohibited in subsection 2.
- 4) The operator of any fishing vessel in the Fisheries Waters, or of any [country] fishing vessel [within the IOTC area of competence][beyond areas of national jurisdiction] shall:
 - a. not cause or allow to be taken on board a data buoy while engaged in fishing for tuna and tuna-like species in the IOTC area of competence, unless specifically authorised or requested to do so by the [country] or owner responsible for that buoy;
 - b. keep watch keep watch for moored data buoys at sea and take all reasonable measures to avoid fishing gear entanglement or directly interacting in any way with those data buoys; and
 - c. where the fishing vessels becomes entangled with a data buoy, remove the entangled fishing gear with as little damage to the data buoy as possible.

RESOLUTION 05/01 ON CONSERVATION AND MANAGEMENT MEASURES FOR BIGEYE TUNA

Proposed Legislative Framework

Language along the following lines may be included in fisheries legislation as part of the general authority for fisheries management:

The (senior fisheries authority), in setting management measures, shall implement as a minimum standard catch levels and measures reported by sub-regional or regional organizations or arrangements to which [country] is a party or cooperating non-member.

RESOLUTION 05/05 CONCERNING THE CONSERVATION OF SHARKS CAUGHT IN ASSOCIATION WITH FISHERIES MANAGED BY IOTC

Proposed Legislative Framework

- 1) For the purposes of this section, “full utilisation” is defined as retention by the fishing vessel of all parts of the shark excepting head, guts and skins, to the point of first landing.
- 2) The operator of any fishing vessel in the Fisheries Waters, or of any [country] fishing vessel [within the IOTC area of competence][beyond areas of national jurisdiction] shall:
 - a. ensure that the entire catches of sharks by the vessels are fully utilised;
 - b. not cause or allow at any time on board the fishing vessel shark fins that total more than 5 % of the weight of sharks on board, up to the first point of landing.
 - c. ensure compliance with any requirement by the [senior operational fisheries authority, e.g. Director] to verify compliance with subsection (b) through certification, monitoring by an observer or other measures;
 - d. not cause or allow any shark fins harvested in contravention of this section to be retained on board, transhipped or landed;
 - e. in fisheries that are not directed at sharks, cause the release of live sharks, especially juveniles and pregnant sharks, to the extent possible, that are caught incidentally and are not used for food and/or subsistence.

- 3) This section applies without prejudice to artisanal fisheries which traditionally do not discard carcasses.

RESOLUTION 03/01 ON THE LIMITATION OF FISHING CAPACITY OF CONTRACTING PARTIES AND COOPERATING NON-CONTRACTING PARTIES

Proposed Legislative Framework

Language along the following lines may be included in fisheries legislation as part of the general authority for fisheries management:

The (senior fisheries authority), in setting management measures, shall implement as a minimum standard vessel limitations agreed from time to time by a sub-regional or regional organizations or arrangements to which [country] is a party or cooperating non-member.

Section 2 – Monitoring, control and surveillance conservation and management measures

RESOLUTION 14/04 CONCERNING THE IOTC RECORD OF VESSELS AUTHORIZED TO OPERATE IN THE IOTC AREA OF COMPETENCE

Proposed Legislative Framework

REQUIREMENTS OF THE IOTC RECORD OF FISHING VESSELS

- 1) This section applies to fishing vessels that are 24 metres in length overall or above and, in case of vessels less than 24 meters, those operating in areas beyond national jurisdiction.
- 2) The operator of a [country] fishing vessel shall:
 - a. not cause or allow the fishing vessel to engage in fishing or related activities in the [Fisheries Waters or areas beyond national jurisdiction] [IOTC Area of Competence] without a valid and applicable authorisation issued by the [relevant national authority];
 - b. comply with all relevant IOTC Conservation and Management measures;
 - c. keep on board at all times valid certificates of valid and applicable vessel registration, licence, and authorisation to fish and/or tranship;
 - d. not engage in or associate with fishing [and related] activities in the IOTC area of competence conducted by vessels not included at the relevant time in the IOTC Record of Fishing Vessels;
 - e. not, being the operator of a vessel that is not included in the IOTC Record of Fishing Vessels, retain on board, tranship or land of tuna or tuna-like species;
 - f. ensure all information required under this [legislation] is submitted promptly or when required and is true, complete and correct.
- 3) The following information, as a minimum, shall be submitted by the operator of a [country] fishing vessel to [relevant national licensing authority] to support its application for an authorization for fishing or related activities in [the IOTC area of competence] [the Fisheries Waters and/or areas beyond national jurisdiction]:
 - a. proof that the fishing vessel owner(s) is/are citizens or legal entities within the [country] for purposes of effective discharge of legal and administrative action by [country];
 - b. name of vessel(s) and register number(s);
 - c. IMO number (if eligible);¹⁰
 - d. previous name(s) (if any);
 - e. previous flag(s) (if any);

¹⁰ To allow the necessary time for CPCs to obtain an IMO number for eligible vessels that do not already have one, paragraph 2.b on IMO number is effective as of 1 January 2016. As of this date, CPCs shall ensure that all their fishing vessels that are registered on the IOTC Record of fishing vessels have IMO numbers issued to them. Paragraph 2.b on IMO number does not apply to vessels which are not eligible to receive IMO numbers.

- f. previous details of deletion from other registries (if any);
 - g. international radio call sign(s) (if any);
 - h. port of Registration;
 - i. type of vessel(s), length and gross tonnage (GT);
 - j. name and address of owner(s) and operator(s); and
 - k. gear(s) used.¹¹
- 4) The operator of any fishing vessel that is included on the IOTC Record of Fishing Vessels shall, when importing into [country] any species covered by IOTC Statistical Document Programs which has been caught by any authorised fishing vessel in the IOTC area of competence, provide statistical documents validated for the authorized fishing vessel.
- 5) The operator of each [country] fishing vessel shall carry on board at all times documentation issued and certified by [country] including the following information, and submit such information to [operational fisheries official) for certification whenever such information is modified and for verification at least annually and at such other times as the [official] may direct:
- a. license, permit or authorisation to fish and terms and conditions attached to the licence, permit of authorisation;
 - b. vessel name;
 - c. port in which registered and the number(s) under which registered;
 - d. international call sign;
 - e. names and addresses of owner(s) and where relevant, the charterer;
 - f. overall length;
 - g. engine power, in KW/horsepower, where appropriate.
- 6) The operator of a [country] fishing vessel authorized to fish in [the IOTC area of competence][the Fisheries Waters and/or areas beyond national jurisdiction] shall ensure that:
- a. the fishing vessel is marked in such a way that it can be readily identified with generally accepted standards such as the FAO Standard Specification for the Marking and Identification of Fishing vessels;¹²
 - b. all gear used by the fishing vessel is marked appropriately, including by fitting the ends of nets, lines and gear in the sea with flag or radar reflector buoys by day and light buoys by night sufficient to indicate their position and extent;
 - c. marker buoys and similar objects floating and on the surface, and intended to indicate the location of fixed fishing gear, are clearly marked at all time with the letter(s) and/or number(s) of the vessel to which they belong; and
 - d. fish aggregating devices are clearly marked at all time with the letter(s) and/or number(s) of the fishing vessel.
- 7) The operator of a [country] fishing vessel authorized to fish in [the IOTC area of competence][the Fisheries Waters and/or areas beyond national jurisdiction] shall keep:

¹¹ See subsection (1) under the Legislative Framework for Resolution 14/05.

¹² It would be preferable to have a separate provision requiring vessel marking for all licensed or authorized vessels, including exact specifications as shown in the FAO standards. A similar approach could be taken for subsections (b), (c) and (d).

- a. in addition to any electronic logbook system that may be required,¹³ a permanently bound national fishing logbook with irremovable pages, each of which is consecutively numbered and printed with an applicable serial number, on board the fishing vessel and continuously up to date; and
- b. the original recordings contained in the national fishing logbooks on board for a period of at least 12 months.

RESOLUTION 14/05 CONCERNING A RECORD OF LICENSED FOREIGN VESSELS FISHING FOR IOTC SPECIES IN THE IOTC AREA OF COMPETENCE AND ACCESS AGREEMENT INFORMATION

Proposed Legislative Framework

- 1) The following information, as a minimum standard, shall be submitted by the operator of a foreign fishing vessel to [relevant national licensing authority] to support its application for a license or authorisation for engaging in fishing or related activities [in relation to tuna or tuna-like species in the Fisheries Waters]:
 - a. proof that the fishing vessel owner(s) is/are citizens or legal entities within the [country] for purposes of effective discharge of legal and administrative action by [country];*
 - b. name of vessel(s) and register number(s);
 - c. IMO number (if eligible);¹⁴
 - d. previous name(s) (if any);*
 - e. flag;
 - f. previous flag(s) (if any);*
 - g. previous details of deletion from other registries (if any);*
 - h. international radio call sign(s) (if any);
 - i. port of Registration;*
 - j. type of vessel(s), length and gross tonnage (GT);
 - k. name and address of [owner, and/or charterer and/or operator] [owner(s) and operator(s)];¹⁵
 - l. main target species;
 - m. gear(s) used;
 - n. the flag at the time of licence issuance.

[* denotes information required under Resolution 14/04 and addressed in subsection 3 under the relevant Legislative Framework, but not this Resolution]

¹³ This accommodates Resolution 13/03 Paragraph 3: All vessels shall keep a bound paper or electronic logbook to record data that includes, as a minimum requirement, the information and data in the logbook set forth in Annex I, II and III.

¹⁴ To allow the necessary time for CPCs to obtain an IMO number for eligible vessels that do not already have one, paragraph 2.b on IMO number is effective as of 1 January 2016. As of this date, CPCs shall ensure that all their fishing vessels that are registered on the IOTC Record of fishing vessels have IMO numbers issued to them. Paragraph 2.b on IMO number does not apply to vessels which are not eligible to receive IMO numbers.

¹⁵ The former option is used in this Resolution, the latter in Resolution 14/04].

RESOLUTION 14/06 ON ESTABLISHING A PROGRAMME FOR TRANSHIPMENT BY LARGE-SCALE FISHING VESSELS

Proposed Legislative Framework

TRANSHIPMENT IN THE IOTC AREA OF COMPETENCE BY LARGE-SCALE TUNA VESSELS AND CARRIER VESSELS

- 1) This section applies to:
 - a. in respect of at-sea transshipments, all [country] fishing vessels that are:¹⁶
 - i. large-scale tuna longline fishing vessels (“LSTLVs”); and
 - ii. carrier vessels [authorised to] [that] receive transshipments from these vessels at sea; and
 - b. in respect of in-port transshipments, as appropriate:
 - i. all [country] fishing vessels that are large scale tuna vessels (“LSTVs”) or carrier vessels, in any port within or beyond the jurisdiction of [country] where the fish were caught within the IOTC area of competence;
 - ii. all fishing vessels, including carrier vessels in relation to transshipment in a port of [country].
- 2) The operator of a fishing vessel other than an LSTLV shall not conduct or be authorized to conduct at-sea transshipment of tuna and tuna-like species and sharks caught in association with tuna and tuna-like fisheries in the IOTC area of competence (for purposes of this section, “tuna and tuna-like species and sharks”).
- 3) Where the transshipment takes place in a port of [country], the operator of a fishing vessel shall:
 - a. at least 48 hours prior to transshipping in a port in [country], notify the following information to [senior operational fisheries authority]:
 - i. the name of the fishing vessel and its number in the IOTC record of fishing vessels;
 - ii. the name of the carrier vessel, and the product to be transhipped;
 - iii. the tonnage by product to be transhipped;
 - iv. the date and location of transshipment; and
 - v. the major fishing grounds of the tuna and tuna-like species and sharks catches.
 - b. where the vessel is a receiving carrier vessel involved in the transshipment in a port in [country], not later than 24 hours before the beginning and at the end of the transshipment:
 - i. inform the [senior operational fisheries authority] of the quantities of tuna and tuna-like species and sharks transhipped to such vessel; and
 - ii. complete and transmit the transshipment declaration required by IOTC to [competent authorities] within 24 hours.

¹⁶Although the IOTC Resolution applies the requirements to the specified class of vessels, note that a country (in its flag State capacity) may opt to prohibit transshipment at-sea by all its flag vessels in or beyond areas under national jurisdiction.

- c. where the vessel is a receiving carrier vessel landing a transshipment at a port in [country], 48 hours before landing, complete and transmit an IOTC transshipment declaration required by IOTC to [competent authorities].
- 4) Where transshipment takes place at a port beyond national jurisdiction, the operator of a [country] fishing vessel shall:
- a. at the time of the transshipment, inform [senior operational fisheries authority] of the following:
 - i. the products and quantities involved;
 - ii. the date and place of the transshipment;
 - iii. the name, registration number and flag of the receiving carrier vessel; and
 - iv. the geographic location of the tuna and tuna-like species and sharks catches.
 - b. complete and transmit to [country] the IOTC transshipment declaration, along with its number in the IOTC Record of Fishing Vessels, in accordance with the format set out in [below, should be in an Annex] not later than 15 days after the transshipment.

IOTC Transshipment declaration											
Carrier Vessel						Fishing Vessel					
Name of the Vessel and Radio Call Sign: Flag: Flag State license number: National Register Number, if available: IOTC Register Number, if available:						Name of the Vessel and Radio Call Sign: Flag: Flag State license number: National Register Number, if available: IOTC Register Number, if available:					
LSTV: Day __ __ Month __ __ Hour __ __ Year 2_ 0_ _ _						Agent's name: _____ Master's name of Carrier: _____					
Departure __ __ __ __ __ __ from _____											
Return __ __ __ __ __ __ to _____						Signature: _____			Signature: _____		
Transshipment __ __ __ __ __ __ _____											
Indicate the weight in kilograms or the unit used (e.g. box, basket) and the landed weight in kilograms of this unit: _____ kilograms											
LOCATION OF TRANSHIPMENT											
Species	Port		Sea	Type of product							
				Whole	Gutted	Headed	Filletted				

If transshipment effected at sea, IOTC Observer Name and Signature:

- 5) The operator of a [country] LSTLV fishing vessel shall not conduct at-sea transshipments of tuna and tuna-like species and sharks in the IOTC area of competence:
- a. except in accordance with a valid and applicable authorisation issued by [country] for at-sea transshipment in the Fisheries Waters and by a relevant coastal State for at-sea transshipments in waters under its national jurisdiction;
 - b. unless the relevant carrier vessel is entered on the IOTC Record of Carrier Vessels and authorised to receive tuna and tuna-like species and sharks at sea in the IOTC area of competence;
 - c. except in accordance with the requirements of this [legislation] and relevant requirements in Resolutions of the IOTC;
 - d. unless a vessel monitoring system is installed on the vessel and is fully operational and in compliance with relevant legislation of [country] and any relevant coastal State; and
 - e. unless an IOTC observer on board the carrier vessel, in accordance with the IOTC Regional Observer Programme in Annex III of Resolution 14/06 (as amended or superseded), except in cases of “force majeure” notified to the IOTC Secretariat and where the observer is allowed to board the LSTLV the operator shall grant the observer access to personnel and areas of the vessel necessary to carry out his/her duties, in accordance with the duties of the operator of the carrier vessel in subsection 12.
- 6) For the purposes of this [legislation], carrier vessels not entered on the IOTC Record of Carrier Vessels are deemed not to be authorised to receive tuna and tuna-like species and sharks in at-sea transshipment operations.
- 7) A carrier vessel that is entered on the IOTC Record of Carrier Vessels and designated to receive at-sea transshipments from the [country] LSTLVs in the IOTC area of competence shall provide the following information to the [senior operational fisheries authority] prior to an authorization being granted:
- a. flag State;
 - b. name of vessel, register number;
 - c. previous name (if any);
 - d. previous flag (if any);
 - e. previous details of deletion from other registries (if any);
 - f. international radio call sign;
 - g. type of vessels, length, gross tonnage (GT) and carrying capacity; and
 - h. name and address of owner(s) and operator(s).

- 8) The operator of an LSTLV shall request an authorization to tranship at sea from [senior operational fisheries official], together with the following information, at least 24 for hours in advance of an intended transhipment:
- a. name of the LSTLV, its number in the IOTC Record of Vessels, and its IMO number, if issued;
 - b. name of the carrier vessel, its number in the IOTC Record of Carrier Vessels authorised to receive transhipments in the IOTC area of competence, and its IMO number, and the product to be transhipped;
 - c. tonnage by product to be transhipped;
 - d. date and location of transhipment; and
 - e. geographic location of the catches.
- 9) The operator of an LSTLV shall, not later than 15 days after each transhipment at sea, complete and transmit to [senior operational fisheries officer], the IOTC transhipment declaration, along with its number in the IOTC Record of Fishing Vessels, in accordance with the format set out in [a designated Annex as referenced in subsection 4(b), above, or Annex II of Resolution 14/04].
- 10) The operator of a receiving carrier vessel shall, prior to the commencement of any transhipment at sea:
- a. confirm that the LSTLV concerned is participating in the IOTC programme to monitor transhipment at sea, including payment of any required fee as determined under any IOTC Resolution, [specifically IOTC Resolution 14/06, paragraph 13 of Annex III, (as amended or superseded)] and has obtained the prior authorisation from its flag State;
 - b. not commence such transhipment without such confirmation;
 - c. not commence such transhipment without an IOTC observer on board, in accordance with the IOTC Regional Observer Programme in Annex III of Resolution 14/06 (as amended or superseded); and
 - d. ensure that the IOTC observer observes the compliance of the transhipment with this [legislation], including that the transhipped quantities are consistent with the reported catch in the IOTC transhipment declaration.
- 11) The operator of a receiving carrier vessel shall, after transhipment at sea:
- a. within 24 hours of completion of transhipment, complete and transmit the IOTC transhipment declaration [in a designated Annex as referenced in subsection 4(b), above, or Annex II of Resolution 14/04], along with its number in the IOTC Record of Carrier Vessels authorised to receive transhipment in the IOTC area of competence, to the IOTC Secretariat and the flag State of the LSTLV;
 - b. 48 hours before landing, transmit an IOTC transhipment declaration [in a designated Annex as referenced in subsection 4(b), above, or Annex II of Resolution 14/04], along with its number in the IOTC Record of Carrier Vessels authorised to receive transhipment in the IOTC area of competence, to the competent authorities of the State where the landing takes place.¹⁷

¹⁷ Note that these paragraphs are relevant primarily to the flag States of the receiving carrier vessels, which are not necessarily CPCs.

- 12) The operator of a [receiving carrier][fishing] vessel shall not commence transshipment without an IOTC observer on board, in accordance with the IOTC Regional Observer Programme in Annex III of Resolution 14/06 (as amended or superseded), except in cases of “force majeure” notified to the IOTC Secretariat, and shall:
- a. allow observers access to the vessel personnel, gear and equipment;
 - b. upon request, allow observers access to the following equipment, if present on the vessels to which they are assigned, in order to facilitate the carrying out of their duties:
 - i. Satellite navigation equipment;
 - ii. Radar display viewing screens when in use;
 - iii. Electronic means of communication.
 - c. provide observers accommodation, including lodging, food and adequate sanitary facilities, equal to those of officers;
 - d. provide observers with adequate space on the bridge or pilot house for clerical work, as well as space on deck adequate for carrying out observer duties; and
 - e. allow the observer to visit the fishing vessel, if weather conditions permit it.
- 13) No person, including any operator and crew member, shall obstruct, intimidate, interfere with, influence, bribe or attempt to bribe an observer in the performance of his/her duties.
- 14) No operator of a fishing vessel, including a carrier vessel, or other person shall land or import tuna and tuna-like species and sharks, either unprocessed or after having been processed on board and which are transhipped, until the first sale has taken place, unless it is accompanied by the IOTC transshipment declaration.

OBSERVERS¹⁸

- 1) An observer appointed to perform duties in relation to the IOTC Observer programme shall:
- a. in relation to a fishing vessel intending to tranship to the carrier vessel and before any transshipment takes place:
 - i. check the validity of the fishing vessel’s authorisation or licence to fish tuna and tuna-like species and sharks in the IOTC area of competence;
 - ii. check and note the total quantity of catch on board, and the quantity to be transferred to the carrier vessel;
 - iii. to the extent possible, check that the VMS is functioning;
 - iv. examine the logbook;
 - v. verify whether any of the catch on board resulted from transfers from other vessels, and check documentation on such transfers;
 - vi. in the case of an indication that there are any violations involving the fishing vessel, immediately report the violations to the carrier vessel’s master; and

¹⁸ This should be in a separate section on observers.

- vii. report the results of these duties on the fishing vessel in the observers report.
- b. in relation to any carrier vessel receiving the transshipment, monitor the carrier vessel's compliance with the relevant Conservation and Management Measures adopted by the IOTC, and in particular:
 - i. record and report upon the transshipment activities carried out;
 - ii. verify the position of the vessel when engaged in transshipping;
 - iii. observe and estimate products transhipped;
 - iv. verify and record the name of the LSTLV concerned and its IOTC number;
 - v. verify the data contained in the transshipment declaration;
 - vi. certify the data contained in the transshipment declaration;
 - vii. countersign the transshipment declaration;
 - viii. issue a daily report of the carrier vessels transshipping activities;
 - ix. establish general reports compiling the information collected in accordance with this paragraph and provide the captain the opportunity to include therein any relevant information;
 - x. submit to the IOTC Secretariat the aforementioned general report within 20 days from the end of the period of observation; and
 - xi. exercise any other functions as defined by the Commission.
- c. treat as confidential all information with respect to the fishing operations of the LSTLVs and of the LSTLVs owners and accept this requirement in writing as a condition of appointment as an observer.
- d. comply with requirements established in the laws and regulations of the flag State which exercises jurisdiction over the vessel to which the observer is assigned.
- e. respect the hierarchy and general rules of behaviour which apply to all vessel personnel, provided such rules do not interfere with the duties of the observer under this program, and with the obligations of vessel personnel described in subsection 2, below.

2) No person, including any operator and crew member, shall obstruct, intimidate, interfere with, influence, bribe or attempt to bribe an observer in the performance of his/her duties.

RESOLUTION 11/03 ON ESTABLISHING A LIST OF VESSELS PRESUMED TO HAVE CARRIED ILLEGAL, UNREPORTED AND UNREGULATED FISHING IN THE IOTC AREA OF COMPETENCE

Proposed Legislative Framework

**MEASURES TO IMPLEMENT THE IOTC
LIST OF ILLEGAL, UNREPORTED AND UNREGULATED FISHING VESSELS (IUU VESSELS LIST)**

- 1) The [national fisheries authority/Minister/senior operational fisheries official] shall discharge its obligations to cooperate with IOTC in preventing, deterring and eliminating illegal, unreported and unregulated (IUU) fishing activities in the IOTC area of competence, *inter alia*, by providing information and evidence to the IOTC Secretariat that any fishing vessel has engaged in an activity that is presumed to involve IUU fishing, [including that such fishing vessels:
 - a. harvest tuna or tuna-like species in the IOTC area of competence and are not registered on the IOTC Record of Vessels authorised to fish for tuna and tuna-like species in the IOTC area of competence, nor recorded in the Active list of Vessels of IOTC;
 - b. harvest tuna or tuna-like species in the IOTC area of competence, when their flag State is without sufficient quotas, catch limit or effort allocation under IOTC applicable Conservation and Management Measures;
 - c. do not record or report their catches made in the IOTC area of competence in accordance with IOTC reporting requirements, or make false reports;
 - d. take or land undersized fish in contravention of IOTC Conservation and Management Measures;
 - e. fish during closed fishing periods or in closed areas in contravention of IOTC Conservation and Management Measures;
 - f. use prohibited fishing gear in contravention of IOTC Conservation and Management Measures;
 - g. tranship with, or participate in joint operations such as re-supplying or re-fuelling, vessels included in the IUU Vessels List;
 - h. harvest tuna or tuna-like species in the waters under the national jurisdiction of a coastal State in the IOTC area of competence without authorisation and/or infringe the coastal State's laws and regulations, without prejudice to the sovereign rights of coastal States to take measures against such vessels;
 - i. are without nationality and harvest tuna or tuna-like species in the IOTC area of competence; or
 - j. engage in fishing or related activities, including transshipping, re-supplying or re-fuelling, in contravention of any other IOTC Conservation and Management Measures.]
- 2) The operators of any [country] fishing vessels, cargo vessels and other ships shall not, in relation to vessels that are entered in an IUU Vessels List of a subregional or regional organisation or arrangement participate in any transshipment activities with such vessels.
- 3) The following shall be prohibited in respect of vessels entered in an IUU Vessels List of a subregional or regional organisation or arrangement List:

- a. when in port, landing, transshipment, refuelling, re-supplying, or engaging in other commercial transactions;
 - b. chartering;
 - c. granting the flag, except if the vessel has changed owner and the new owner has provided sufficient evidence demonstrating the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel; or having taken into account all relevant facts, the [Minister/other authority] determines that granting the vessel its flag will not result in IUU fishing; and
 - d. importing, landing or transshipment of tuna and tuna-like species.
- 4) The [senior operational fisheries official] shall collect and exchange with other IOTC Contracting Parties or Cooperating Non-Contracting Parties any appropriate information with the aim of detecting, controlling and preventing false import/export certificates for tunas and tuna-like species from vessels included in the IOTC IUU Vessels List.

RESOLUTION 11/04 ON A REGIONAL OBSERVER SCHEME

Proposed Legislative Framework

IOTC OBSERVER SCHEME

- 1) This section applies to activities under the IOTC observer scheme and the collection of verified catch data and other scientific data related to the fisheries for tuna and tuna-like species in the IOTC area of competence.
- 2) For purposes of this section, “observer” refers to a person whose duties are on board fishing vessels and “field sampler” refers to a person who collects information on land during the unloading of fishing vessels, including landings of artisanal vessels.
- 3) An observer assigned to a purse seiner shall monitor the catches at unloading¹⁹ to identify the composition of bigeye tuna catches. [Unless the country already has a sampling scheme with at least the coverage set out in paragraph 2 of the Resolution.²⁰ If so, this provision should not be included.]
- 4) An observer shall, *inter alia*:
 - a. record and report fishing activities, verify positions of the vessel;
 - b. observe and estimate catches as far as possible with a view to identifying catch composition and monitoring discards, by-catches and size frequency;

¹⁹ This should be read with the previous paragraph – the observer’s duties are “on board” fishing vessels – and the next paragraph. So, from the fishing vessel, he/she monitors catches at unloading. The field sampler works from land and can collect information where the unloading is in port. Both can work at the same time.

²⁰ At least 5 % of the number of operations/sets for each gear type by the fleet of each CPC while fishing in the IOTC area of competence, for vessels of 24 meters overall length and over, and for vessels under 24 meters if they fish outside their Exclusive Economic Zone (EEZ) shall be covered by this observer scheme. For vessels under 24 meters if they fish outside their EEZ, the above mentioned coverage should be achieved progressively by January 2013.

- c. record the gear type, mesh size and attachments employed by the master;
 - d. collect information to enable the cross-checking of entries made to the logbooks (species composition and quantities, live and processed weight and location, where available); and
 - e. carry out such other scientific work as requested by the IOTC Scientific Committee.
- 5) Field samplers shall monitor catches at the landing place with a view to estimating catch-at-size by type of boat, gear and species, or carry out such scientific work as requested by the IOTC Scientific Committee.
- 6) The IOTC confidentiality rules set out in the Resolution 98/02 [superseded by Resolution 12/02] Data confidentiality policy and procedures for fine-scale data shall apply.

RESOLUTION 10/08 CONCERNING A RECORD OF ACTIVE VESSELS FISHING FOR TUNAS AND SWORDFISH IN THE IOTC AREA

Proposed Legislative Framework

None needed, this is administrative/operational/reporting.

RESOLUTION 10/10 CONCERNING MARKET RELATED MEASURES

Proposed Legislative Framework

None needed, this is administrative/operational/reporting.

RESOLUTION 10/11 ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING

Proposed Legislative Framework

PORT STATE MEASURES

Interpretation

- 1) For the purposes of this section:
- a. [“fish”, in addition to any other definition given in this [legislation] means all species of living marine resources, whether processed or not, [and for purposes of application to the IOTC area of competence, means all species of highly migratory fish stocks covered by the IOTC Agreement];]
 - b. “fishing” means searching for, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish;
 - c. “fishing related activities” means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, transshipping or transporting of fish that have not been previously landed at a port, as well as the provisioning of personnel, fuel, gear and other supplies at sea;

- d. “illegal, unreported and unregulated fishing” includes the activities described in an applicable international agreement or conservation and management measure [including paragraph 1 of IOTC Resolution 09/03, superseded by Resolution 11/03];
- e. “port” includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying;
- f. “use of port” means use for landing, transshipping, packaging, or processing of fish or for other port services including, inter alia, refuelling and resupplying, maintenance and dry docking; and
- g. “vessel” means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.

Objective

- 2) The objective of this section is to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures and thereby to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems.

Application

- 3) This section applies to:
 - a. vessels not entitled to fly the flag of [country] that are seeking entry to a port or are in a port of [country], except for:
 - i. vessels of a neighbouring State that are engaged in artisanal fishing for subsistence, provided that there is cooperation between [country] and such neighbouring State to ensure that such vessels do not engage in IUU fishing or fishing related activities in support of such fishing ; and
 - ii. container vessels that are not carrying fish or, if carrying fish, only fish that have been previously landed, provided that there are no clear grounds for suspecting that such vessels have engaged in fishing related activities in support of IUU fishing.
 - b. persons, vessels, vehicles, aircraft, export facilities or other craft or place engaged in or otherwise connected with any activity falling within the scope of this legislation;
 - c. All fishing and fishing related activities in support of such fishing:
 - i. in areas over which [country] exercises jurisdiction or sovereign rights;
 - ii. in areas beyond national jurisdiction:
 - 1. by [country] nationals, including vessels and persons and all persons on board such vessels or dealing with them or having any relevant relationship to them or to persons on them, to the extent that it does not conflict with the jurisdiction of another State;

2. as required pursuant to this [legislation], international agreement or conservation and management measures;
 3. otherwise in relation to illegal, unreported and unregulated fishing and fishing related activities in support of such fishing consistent with international law.
- 4) This section shall be applied in a fair, transparent and non-discriminatory manner, consistent with international law.

Designation of ports

- 5) The [Minister] shall:
 - a. designate and publicise the port or ports to which vessels may request entry; and
 - b. provide a list of each port designated pursuant to paragraph (a) to FAO and to any RFMO pursuant to an applicable conservation and management measure.

Prerequisites for entry or use of port

- 6) The operator of a vessel shall not enter or use a port in [country] unless:
 - a. where ports have been designated and publicised in accordance with subsection (5), such port has been so designated and publicised;
 - b. the operator has requested entry into port and provided the information in [Annex ** of the legislation, which should incorporate Annex 1 of the Resolution]:
 - i. at least 24 hours before entering into port; or
 - ii. immediately after the end of the fishing operations, if the time distance to the port is less than 24 hours [and the time of submission is provided to, the [official] [at least [XX] hours before entering into port]; and
 - c. the [senior operational fisheries official] has authorized entry of such vessel into port and communicated such authorization to the master of the vessel and any lawful representative of the vessel in [country]; and
 - d. Upon the vessel's arrival at port, the master of the vessel or the vessel's representative has presented the authorization for entry into the port to [official].

Denial of entry into port and use of port

- 7) The [official], where there is sufficient proof that a vessel seeking entry into a port of [country] has engaged in IUU fishing or fishing related activities in support of such fishing, in particular where it is an IUU listed vessel:
 - a. shall not authorise such vessel to enter port, and shall deny entry to such vessel; or
 - b. notwithstanding paragraph (a), may allow such vessel to enter a port exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing,

detering and eliminating IUU fishing and fishing related activities in support of such fishing; and

- c. shall communicate any decision taken pursuant to paragraphs (a) or (b) to the vessel or its representative.
- 8) Where a vessel has been allowed entry pursuant to subsection (7)(b), it shall not use, or be authorized to use the port.
- 9) The [official] may deny entry into and use of a port to any vessel that the [official] has reasonable grounds to believe has violated this [legislation].
- 10) Where entry is denied under subsection (7)(a), (8) or (9), the [official] shall notify the decision to the flag State of the vessel and, as appropriate, to each relevant coastal State, RFMO and other international organization.

Force majeure or distress

- 11) Nothing in this [legislation] affects the entry of a vessel to port in accordance with the laws of [country] for reasons of *force majeure* or distress, providing:
 - a. a claim of *force majeure* or distress shall not apply where:
 - i. it is contrived, untrue or otherwise intentionally created; or
 - ii. its objective is to avoid liability,and any person who makes an inapplicable claim commits an offence;
 - b. the burden of proof that a claim of *force majeure* or distress is valid and does not fall within prohibitions in paragraph (a) shall be on the vessel operator;
 - c. an [official – e.g. authorized officer] may board and inspect the vessel at any time for the purpose of verifying the claim of *force majeure* or distress; and
 - d. a vessel that claims *force majeure* or distress shall be subject to the direction of [official].
- 12) The [relevant official, and if not a fisheries official then in consultation with a designated fisheries official] may grant a vessel that falls within the scope of this [legislation] entry into port for reasons of *force majeure* or distress, provided that:
 - a. the vessel may enter port under its claim of *force majeure* or distress for such period of time necessary to remedy such claim; and
 - b. the vessel is permitted entry exclusively for the purpose of rendering assistance to persons or vessels in danger or distress.

Denial of use of port after entry

- 13) Where a vessel that has been authorized to enter port pursuant to subsection 6(c) has entered a port, the [official] shall deny such vessel the use of port if:

- a. the vessel does not have a valid and applicable authorisation to engage in fishing or fishing related activities required by:
 - i. its flag State; or
 - ii. a coastal State in respect of areas under its national jurisdiction;
- b. there is clear evidence that the fish on board was taken in contravention of applicable requirements of a coastal State in respect of areas under the national jurisdiction of that State;
- c. the flag State does not confirm within a reasonable period of time, on the request of the [senior operational fisheries official], that the fish on board was taken in accordance with applicable requirements of a relevant regional fisheries management organization; or
- d. there are reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing or fishing related activities in support of IUU fishing unless the operator or charterer of the vessel can establish:
 - i. that it was acting in a manner consistent with relevant conservation and management measures, including IOTC conservation and management measures; or
 - ii. in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel that had engaged in IUU fishing as described in subsection (6).

14) Notwithstanding subsection (13), the [official] shall:

- a. not deny a vessel the use of port services:
 - i. where such services are essential to the safety and health of the crew or the safety of the vessel, provided these needs are duly proven; or
 - ii. as appropriate, for the scrapping of the vessel; and
- b. where the use of port has been denied, notify the decision to the flag State of the vessel and, as appropriate, to each relevant coastal State, RFMO and other international organization.

15) Where the use of port has been denied pursuant to subsection (13), such denial may be withdrawn [by – identify consultative process as appropriate, e.g. [official] on the advice of Attorney General) shall:

- a. withdraw such denial in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply; and

- b. promptly notify the withdrawal to each person that was notified pursuant to subsection 14(b).

Conduct of inspections of vessels in port

- 16) The [official(s) responsible for the lead agency/agencies that will be conducting inspections] shall conduct vessel inspections as necessary for the purposes of this [legislation].
- 17) The [official] shall prioritize vessel inspections based on:
 - a. vessels that have been denied entry or use of a port in accordance with the Agreement and/or an applicable conservation and management measure;
 - b. a request from another State or RFMO to inspect a certain vessel, particularly where the request is supported by evidence of IUU fishing or fishing-related activities in support of IUU fishing by the vessel in question; and
 - c. whether there are clear grounds for suspecting that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing.
- 18) The [official] shall, to the extent possible, ensure inspection of a level of vessels as may be required by an applicable conservation and management measure.
- 19) During inspections of a vessel in port, inspectors shall carry out inspection in conformity with such procedures as may be determined, and complete a written report of the inspection in the form provided in [Annex ** of the legislation, or otherwise refer to the requirements of Annex III of the Resolution] and submit it to [official].
- 20) The master of the vessel shall, in relation to inspection of the vessel, give inspectors all necessary assistance and information, and present relevant material and documents as may be required, or certified copies thereof.
- 21) The [official] shall transmit the results of an inspection under this [legislation] to:
 - a. the flag State of the inspected vessel;
 - b. as appropriate, [relevant Party to the Agreement];
 - c. relevant coastal State and the State of which the vessel master is a national;
 - d. relevant RFMO(s); and
 - e. FAO and other relevant international organizations.

Denial of use of port after inspection

- 22) Where, following an inspection, there are clear grounds for believing that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing, the [official] shall:
 - a. promptly notify the flag State and, as appropriate, relevant coastal States, regional fisheries management organizations and other international organizations, and the State of which the vessel's master is a national of the findings; and
 - b. deny the vessel the use of its port, if these actions have not already been taken in respect of the vessel.

23) Notwithstanding paragraph 22(b), the [official] shall not deny a vessel the use of port services, where such services are essential to the safety and health of the crew or the safety of the vessel, provided these needs are duly proven.

Prohibited to use or assist, etc in the use of port in absence of authorization or after denial

24) Where a vessel:

- a. is in port in contravention of:
 - i. the requirements in subsection 6;
 - ii. an applicable denial of authorization to enter port pursuant to subsection 7(a);
- b. has been permitted to enter port exclusively for the purpose of:
 - i. inspection pursuant to subsection 7(b);
 - ii. rendering assistance to persons or vessels in danger or distress pursuant to subsection 11; ** or
- c. has been denied the use of port pursuant to subsection 13 or 22(b);

no person, including the operator or crew member of such vessel or any person that is acting directly or indirectly in relation to the vessel, shall:

- d. engage in the use of such port or cause such port to be used; or
- e. allow or assist, directly or indirectly, the use of port by such vessel,

unless the [official] permits in writing services to be used for the safety or health of the crew or the safety of the vessel in accordance with this [legislation] and port is used exclusively for such purposes.

Requirements for [country] vessels

25) The operator of each [country] vessel shall:

- a. cooperate fully with inspections carried out in the ports of other States in accordance with their laws and procedures; and
- b. not land, transship, package and process fish, and use other port services, in a port State identified by a relevant RFMO as not acting in accordance with, or in a manner consistent with, applicable international or regional instruments relating to port State measures.

26) Where there are clear grounds to believe that a [country] vessel has engaged in IUU fishing or fishing related activities in support of such fishing and is seeking entry to or is in the port of another State, [official] shall, as appropriate request such State to inspect the vessel or take other measures consistent with applicable international or regional instruments.

- 27) Where, following port State inspection, there are clear grounds to believe that a [country] vessel has engaged in IUU fishing or fishing related activities in support of such fishing, [official] shall cause the matter to be immediately and fully investigated and, upon sufficient evidence enforcement action to be taken without delay in accordance with [legislation].

RESOLUTION 06/03 ON ESTABLISHING A VESSEL MONITORING SYSTEM PROGRAMME

Proposed Legislative Framework

VESSEL MONITORING SYSTEM

- 1) This section applies to [country] fishing vessels greater than [15 meters] in length overall registered on the IOTC Record of Vessels which operate in the IOTC area of competence and which fish on the high seas for species covered by the IOTC Agreement [and to any vessel greater than 15 meters in length overall licensed to fish in the Fisheries Waters].
- 2) A land-based national Fisheries Monitoring Center shall be established to receive information transmitted through a vessel monitoring system as required in this section, in accordance with requirements of a sub-regional or regional organization or arrangement to which [country] is party or cooperating non-contracting party.
- 3) The operator of each fishing vessel shall:
 - a. install and maintain a [mobile transceiver unit] [satellite tracking device] on board the fishing vessel and ensure it is fully operational at all times;
 - b. ensure that the [mobile transceiver unit] [vessel monitoring device(s)] on board its vessels is tamper resistant, that is, of a type and configuration that prevent the input or output of false positions, and not capable of being over-ridden, whether manually, electronically or otherwise, and is:
 - i. located within a sealed unit; and
 - ii. protected by official seals (or mechanisms) of a type that will indicate whether the unit has been accessed or tampered with.
 - c. transmit the following information to the [Fisheries Monitoring Center] at least once every four hours:
 - i. the vessel identification;
 - ii. the current geographical position of the vessel (longitude, latitude) with a position error which shall be less than 500 metres, at a confidence level of 99%; and
 - iii. the date and time (expressed in UTC) of the fixing of the said position of the vessel.
- 4) The responsibilities concerning the [mobile transceiver unit] [satellite-tracking devices] and requirements in case of technical failure or non-functioning of the satellite-tracking devices are in Annex [**].

ANNEX **

RESPONSIBILITIES CONCERNING THE [MOBILE TRANSCEIVER UNITS] [SATELLITE-TRACKING DEVICES] AND REQUIREMENTS IN CASE OF THEIR TECHNICAL FAILURE OR NON-FUNCTIONING²¹

- 1) In the event that [senior operational fisheries officer] has information to suspect that an on-board [mobile transceiver unit] [vessel monitoring device(s)] does not meet the requirements of subsection 2, or have been tampered with, he/she shall immediately notify the [relevant regional fisheries management organization or arrangement] [IOTC Executive Secretary] and the vessel's Flag State.
- 2) Operators, including masters and owners/licensees of fishing vessels subject to VMS shall ensure that the [mobile transceiver unit] [vessel monitoring device(s)] on board their vessels [within the IOTC area of competence] is at all times fully operational and shall, in particular, ensure that:
 - a. VMS reports and messages are not altered in any way;
 - b. the antennae connected to the satellite monitoring device(s) are not obstructed in any way;
 - c. the power supply of the satellite monitoring device(s) is not interrupted in any way; and
 - d. the [mobile transceiver unit] [vessel monitoring device(s)] is not removed from the fishing vessel.
- 3) A [mobile transceiver unit] [vessel monitoring device] shall be active at all times [, including within the IOTC area of competence]. It may, however, be switched off when the fishing vessel is in port for a period of more than one week, subject to prior notification to, and approval of, the [senior operational fisheries officer], and as he/she may direct [, also to the IOTC Secretariat,] provided that the first position report generated following the re-powering (activating) shows that the fishing vessel has not changed position compared to the last report.
- 4) In the event of a technical failure or non-operation of the [mobile transceiver unit] [satellite tracking device] fitted on board a fishing vessel, the device shall be repaired or replaced within one month. After this period, the master of a fishing vessel is not authorised to commence a fishing trip with a defective [mobile transceiver unit] [satellite tracking device]. Furthermore, when a device stops functioning or has a technical failure during a fishing trip lasting more than one month, the repair or the replacement shall take place as soon as the vessel enters a port; the fishing vessel shall not be authorised to commence a fishing trip without the [mobile transceiver unit] [satellite tracking device] having been repaired or replaced.
- 5) In the event of a technical failure or non-functioning of the [mobile transceiver unit] [vessel monitoring device] on board the fishing vessel, the operator, including the master or the owner of the vessel, or their representative, shall communicate immediately to the FMC of [country], [and as directed by the [senior operational fisheries officer] also to the IOTC Secretariat,] stating the time that the failure or the non-functioning was detected or notified in accordance with

²¹ It is proposed to incorporate this in an annex of Regulations. Although it is an IOTC requirement, countries may prefer that the requirements be universally applicable, using this as a minimum standard. To cater to the latter, references to IOTC are placed in square brackets. Alternatively, subsection 4 could refer specifically to this Annex as fulfilling IOTC requirements and other provisions could be drafted to apply globally.

paragraph 6 of this Annex. In the event of a technical failure or non-functioning of the vessel monitoring device on board the fishing vessel, the master or the owner of the vessel, or their representative, shall also communicate to the FMC of [country] the information required in paragraph 3 of IOTC Resolution 06/03, as may be amended, at least every four hours by email, [facsimile, telex,] or telephone message[or radio].

- 6) When the [Fisheries Monitoring Center, where it has legal status and authority under legislation, otherwise a designated fisheries official] has not received for 12 hours data transmissions referred to in subparagraph 3(c) of the [legislation] and paragraph 5 of this Annex, or has reasons to doubt the correctness of such data transmissions, he/she shall as soon as possible notify the master or the owner or the representative thereof. If this situation occurs more than two times within a period of one year in respect of a particular vessel, the [senior operational fisheries officer] shall investigate the matter, including having an authorised official check the device in question, in order to establish whether the equipment has been tampered with. [The outcome of this investigation shall be forwarded to the IOTC Secretariat within 30 days of its completion.]
- 7) [Where there has been a technical failure or non-functioning of the [mobile transceiver unit] [vessel monitoring device], the [senior operational fisheries officer] shall, as soon as possible but no later than two working days following detection or notification of technical failure or non-functioning of the vessel monitoring device on board the fishing vessel, forward the geographical positions of the vessel to the IOTC Secretariat, or shall ensure that these positions are forwarded to the IOTC Secretariat by the master or the owner of the vessel, or their representative.]

RESOLUTION 05/03 RELATING TO THE ESTABLISHMENT OF AN IOTC PROGRAMME OF INSPECTION IN PORT

Proposed Legislative Framework

Legislative Framework not required.

RESOLUTION 03/03 CONCERNING THE AMENDMENT OF THE FORMS OF THE IOTC STATISTICAL DOCUMENTS

Proposed Legislative Framework

DOCUMENTATION FOR BIGEYE IMPORT AND EXPORT OR RE-EXPORT

- 1) IOTC Statistical documentation requirements for Bigeye Tuna do not apply to such species caught by fishing vessels equipped with purse seine or pole and line (bait) gear and equipment and are destined principally for the canneries in the IOTC area of competence.
- 2) Any person who imports, causes to import or intends to import bigeye tuna into [country] shall submit with the shipment a complete and valid Bigeye Tuna Statistical Document as required under Annex ** (Annex 1 of Resolution).
- 3) The Bigeye Tuna Statistical Document shall be validated by a government official or other authorised individual or institution of the flag State of the vessel that harvested the tuna, or, if the vessel is operating under a charter arrangement, by a government official or other authorised individual of the exporting state.

- 4) The IOTC Bigeye Tuna Re-export Certificate shall be validated by a government official or other authorised individual or institution of the State that re-exported the tuna.
- 5) The statistical documents for bigeye tuna caught by fishing vessels flying the flag of a Member State of the European Community may be validated by the competent authorities of the Member State whose flag the vessel flies or by those of a different Member State where the products are landed, provided the corresponding quantities of bigeye tuna are exported outside the Community from the territory of the Member State of landing
- 6) Any shipment of bigeye tuna shall be considered illegitimate and in contravention of subsection (2), where it is:
 - a. not accompanied by the Document referred to in subsection (2); and
 - b. improperly documented, including where it is either missing from the shipment, incomplete, invalid or falsified.
- 7) The entry into [country] of any illegitimate shipment of bigeye tuna shall be:
 - a. suspended pending receipt of a properly completed document; and/or
 - b. subject to administrative of other sanctions, as may be determined by the [relevant authority/official].
- 8) A person who exports, causes to export or intends to export or re-export bigeye tuna from [country] shall:
 - a. submit a complete and valid Bigeye Tuna Re-Export Certificate in relation to the shipment as required under Annex ** [Annex II of Resolution. Note: This is the essentially same document as shown in Annex I, except that the term “re-export certificate” is substituted for “statistical document” and paragraphs 4 and 6 are added];
 - b. submit such other documents that may be required by [the competent authority], including as appropriate written sales contracts;
 - c. not export or re-export bigeye tuna unless the [competent authority] validates the Re-Export Certificate in accordance with any applicable procedures agreed by a sub-regional or regional organisation or arrangement to which [country] is party or cooperating non-party.

RESOLUTION 01/03 ESTABLISHING A SCHEME TO PROMOTE COMPLIANCE BY NON-CONTRACTING PARTY VESSELS WITH RESOLUTIONS ESTABLISHED BY IOTC

Proposed Legislative Framework

FISHING VESSELS PRESUMED TO BE UNDERMINING IOTC CONSERVATION AND MANAGEMENT MEASURES

- 1) This section applies to fishing vessels:
 - a. that do not fly the flag of a Contracting Party of IOTC;
 - b. that have been observed by a Contracting Party vessel or aircraft in the IOTC area of competence; and
 - c. there are grounds for believing that these vessels are fishing contrary to IOTC Conservation or Management Measures; and
 - d. where:

- i. the observing vessel or aircraft reports the circumstances immediately to the appropriate authorities of its the flag State;
 - ii. the flag State of the observing vessel or aircraft immediately notifies the appropriate authorities of the flag-State of the fishing vessel;
 - iii. the flag State of the fishing vessel immediately notifies the IOTC Secretariat; and
 - iv. the IOTC Secretariat notifies other Contracting Parties.
- 2) A fishing vessel referred to in subsection (1) shall be presumed to be undermining IOTC Conservation and Management measures.
- 3) Notwithstanding section [the section implementing Resolution 10/11 on port State measures] a fishing vessel referred to in subsection (1), upon entry into a port of [country], shall be:
 - a. inspected by [authorized inspectors knowledgeable of IOTC measures], including the vessel's documents, logbooks, fishing gear, catch on board and any other matter relating to the vessel's activities in the IOTC area of competence;
 - b. prohibited from landing or transshipping any fish:
 - i. until such inspection has taken place; and
 - ii. where the inspection reveals that the vessel has onboard species subject to IOTC Conservation or Management Measures, unless the vessel establishes that the fish were caught outside the IOTC area of competence or in compliance with the relevant IOTC Conservation and Management Measures and requirements under the Agreement.

RESOLUTION 01/06 CONCERNING THE IOTC BIGEYE TUNA STATISTICAL DOCUMENT PROGRAMME

Proposed Legislative Framework

- 1) IOTC Statistical documentation requirements for Bigeye Tuna do not apply to such species caught by fishing vessels equipped with purse seine or pole and line (bait) gear and equipment and are destined principally for the canneries in the IOTC area of competence.
- 2) The IOTC Bigeye Tuna Statistical Document shall be validated by a government official or other authorised individual or institution of the flag State of the vessel that harvested the tuna, or, if the vessel is operating under a charter arrangement, by a government official or other authorised individual of the exporting state.
- 3) The IOTC Bigeye Tuna Re-export Certificate must be validated by a government official or other authorised individual or institution of the state that re-exported the tuna.
- 4) The statistical documents for bigeye tuna caught by fishing vessels flying the flag of a Member State of the European Community may be validated by the competent authorities of the Member State whose flag the vessel flies or by those of a different Member State where the products are landed, provided the corresponding quantities of bigeye tuna are exported outside the Community from the territory of the Member State of landing.

RESOLUTION 99/02 CALLING FOR ACTIONS AGAINST FISHING ACTIVITIES BY LARGE SCALE FLAG OF CONVENIENCE LONGLINE VESSELS

Proposed Legislative Framework

No legislative framework required.

Section 3 - Statistical Conservation and Management Measures

RESOLUTION 13/03 ON THE RECORDING OF CATCH AND EFFORT DATA BY FISHING VESSELS IN THE IOTC AREA

Proposed Legislative Framework

DATA RECORDING SYSTEM

- 1) This section applies to all [country] fishing vessels:
 - a. equipped with purse seine, longline, gillnet, pole and line, handline and trolling gear and equipment; and
 - b. over 24 metres length overall; or
 - c. less than 24 metres if they fish outside areas of national jurisdiction of [country] within the IOTC area of competence.
- 2) The operator of each fishing vessel shall keep a national fishing logbook or electronic logbook to record data that includes, as a minimum requirement, the information and data in the logbook required in Annex I, II and III.
- 3) The master of the fishing vessel shall complete the logbook required pursuant to subsection (2) and submit:
 - a. the logbook to the flag State administration;
 - b. that part of the logbook corresponding to the activity carried out in a coastal State's [EEZ] [areas under national jurisdiction] where the vessel has fished.

ANNEX I, II AND III

ANNEX I Record once per trip (unless gear configuration changes)

1.1 REPORT INFORMATION

1. Date of the submission of logbook
2. Name of reporting person

1.2 VESSEL INFORMATION

1. Vessel name and/or registration number
2. IMO number, where available
3. IOTC number
4. Call sign: if call sign is not available, other unique identifying code such as fishing licence number should be used
5. Vessel size: gross tonnage and overall length (meters)

1.3 CRUISE INFORMATION

For multiday fishing operations record the:

1. Departure date (at your location) and port
2. Arrival date (at your location) and port

1.4 OTHER REQUIRED INFORMATION

Longline (Gear Configuration):

1. Average branch line length (meters): straight length in meters between snap and hook (Figure 1)
2. Average float line length (meters): straight length in meters from the float to the snap
3. Average length between branch (meters): straight length of main line in meters between successive branch lines
4. Main line material classified into four categories:
 - a) Thick rope (Cremona rope)
 - b) Thin rope (Polyethylene or other materials)
 - c) Nylon braided
 - d) Nylon monofilament
5. Branch line material classified into two categories:
 - a) Nylon
 - b) Other (such as wire)

Purse Seine:

(Gear configuration):

1. Length of the purse seine net
2. Height of the purse seine net
3. Total number of FADs deployed per trip: refer to the Resolution 13/08 Procedures on a fish aggregating devices (FADs) management plan, including more detailed specification of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species

(Search information):

1. Days searched

2. Spotter plane used (Yes/No)
3. Supply vessel used (Yes/No), if yes what is the name and registration number of the supply vessel

Gillnet (Gear Configuration):

1. Overall length of net (metres): record the total overall length of the net onboard
2. Mesh size of net (millimetres): record the size of the mesh size used during the trip
3. Depth of assembled net (meters): height of assembled net in meters
4. Netting material: e.g. nylon braid, nylon monofilament, etc

Pole and line (Gear Configuration):

1. Number of fishermen

ANNEX II Record once per set/shot/operation

Note: for all gears in this annex use the follow format for date and time

For date: when recording date of the set/shot/operation: record the YYYY/MM/DD

For time: record 24hr time as either the local time, GMT or national time and clearly specify which time has been used.

2.1 OPERATION

For longline:

1. Date of set
2. Position in latitude and longitude: either position at noon or position of start of gear or area code of operation (e.g. Seychelles EEZ, High seas, etc) may be optionally used
3. Time of starting setting the gear
4. Number of hooks between floats: if there are different hooks counts between floats in a single set then record the most representative (average) number
5. Total number of hooks used in the set
6. Number of light-sticks used in the set
7. Type of bait used in the set: e.g. fish, squid, etc
8. Optionally, sea surface temperature at noon with one decimal point (XX.XoC)

For purse seine:

1. Date of set
2. Type of event: fishing set or deployment of a new FAD
3. Position in latitude and longitude and time of event, or if no event during the day, at noon
4. If fishing set: specify if the set was successful, nil, well; type of school (free swimming school or FAD associated. If FAD associated, specify the type (e.g. log or other natural object, drifting FAD, anchored FAD, etc.). Refer to the Resolution 13/08 Procedures on a fish aggregating devices (FADs) management plan, including more detailed specification of catch reporting from FAD sets, and the development of improved FAD designs to reduce the incidence of entanglement of non-target species
5. Optionally, sea surface temperature at noon with one decimal point (XX.XoC)

For gillnet:

1. Date of set: record the date for each set of day at sea (for days without sets)
2. Total length of net (meters): length floatline used for each set in meters
3. Start fishing time: record the time when starting each set
4. Start and end position in latitude and longitude: record start and end latitude and longitude that represent the area that your gear is set between or, if no set, record the latitude and longitude at noon for days without sets
5. Depth at which net is set (meters): approximate depth at which the gillnet is set

For Pole and Line:

1. Date of operation: record the day
2. Position in latitude and longitude at noon
3. Number of fishing poles used during that day
4. Start fishing time (record the time immediately after bait fishing is complete and the vessel heads to the ocean for fishing. For multiple days, the time at which search starts should be recorded) and end fishing time (record the time immediately after fishing is complete from the last school). On multiple days this is the time fishing stopped from the last school
5. Type of school: FAD associated and/or free school

2.2 CATCH

1. Catch weight (kg) or number by species per set/shot/fishing event for each of the species and form of processing in section 2.3:

- a) For longline by number and weight
- b) For purse seine by weight
- c) For gillnet by weight
- d) For pole and line by weight or number

2.3 SPECIES

For Longline:

Primary Species	FAO code	Other Species	FAO code
Southern bluefin tuna (<i>Thunnus maccoyii</i>)	SBF	Shortbill spearfish (<i>Tetrapturus angustirostris</i>)	SSP
Albacore (<i>Thunnus alalunga</i>)	ALB	Blue shark (<i>Prionace glauca</i>)	BSH
Bigeye tuna (<i>Thunnus obesus</i>)	BET	Mako sharks (<i>Isurus</i> spp.)	MAK
Yellowfin tuna (<i>Thunnus albacares</i>)	YFT	Porbeagle shark (<i>Lamna nasus</i>)	POR
Skipjack tuna (<i>Katsuwonus pelamis</i>)	SKJ	Hammerhead sharks (<i>Sphyrna</i> spp.)	SPN
Swordfish (<i>Xiphius gladius</i>)	SWO	Other bony fishes	

Striped marlin (<i>Tetrapturus audax</i>)	MLS	Other sharks	SKH
Blue marlin (<i>Makaira nigricans</i>)	BUM	Seabirds (in number)	
Black marlin (<i>Makaira indica</i>)	BLM	Marine Mammals (in number)	
Indo-Pacific sailfish (<i>Istiophorus platypterus</i>)	SFA	Marine turtles (in number)	
		Thresher sharks (<i>Alopias</i> spp.)	THR
		Oceanic whitetip shark (<i>Carcharhinus longimanus</i>)	OCS
		Optional species to be recorded	
		Tiger shark (<i>Galeocerdo cuvier</i>)	TIG
		Crocodile shark (<i>Pseudocarcharias kamoharai</i>)	PSK
		Great white shark (<i>Carcharodon carcharias</i>)	WSH
		Mantas and devil rays (<i>Mobulidae</i>)	MAN
		Pelagic stingray (<i>Pteroplatytrygon violacea</i>)	PSL
		Other rays	

For purse seine:

Primary Species	FAO code	Other species	FAO code
Albacore (<i>Thunnus alalunga</i>)	ALB	Marine turtles (in number)	
Bigeye tuna (<i>Thunnus obesus</i>)	BET	Marine mammals (in number)	
Yellowfin tuna (<i>Thunnus albacares</i>)	YFT	Whale sharks (<i>Rhincodon typus</i>) (in number)	RHN
Skipjack tuna (<i>Katsuwonus pelamis</i>)		Thresher sharks (<i>Alopias</i> spp.)	THR
Other IOTC species		Oceanic whitetip shark (<i>Carcharhinus longimanus</i>)	OCS

SKJ	Optional species to be recorded	FAO code
	Silky sharks (<i>Carcharhinus falciformis</i>)	FAL
	Mantas and devil rays (<i>Mobulidae</i>)	MAN
	Other sharks	SKH
	Other rays	
	Other bony fish	

For gillnet:

Primary Species	FAO code	Other Species	FAO code
Albacore (<i>Thunnus alalunga</i>)	ALB	Shortbill spearfish (<i>Tetrapturus angustirostris</i>)	SSP
Bigeye tuna (<i>Thunnus obesus</i>)	BET	Blue shark (<i>Prionace glauca</i>)	BSH
Yellowfin tuna (<i>Thunnus albacares</i>)	YFT	Mako sharks (<i>Isurus</i> spp.)	MAK
Skipjack tuna (<i>Katsuwonus pelamis</i>)	SKJ	Porbeagle shark (<i>Lamna nasus</i>)	POR
Longtail tuna (<i>Thunnus tonggol</i>)	LOT	Hammerhead sharks (<i>Sphyrna</i> spp.)	SPN
Frigate tuna (<i>Auxis thazard</i>)	FRI	Other sharks	SKH
Bullet tuna (<i>Auxis rochei</i>)	BLT	Other bony fish	
Kawakawa (<i>Euthynnus affinis</i>)	KAW	Marine turtles (in number)	
Narrow barred Spanish mackerel (<i>Scomberomorus commerson</i>)	COM	Marine mammals (in number)	
Indo-Pacific king mackerel (<i>Scomberomorus guttatus</i>)	GUT	Whale sharks (<i>Rhincodon typus</i>) (in number)	RHN
Swordfish (<i>Xiphias gladius</i>)	SWO	Seabirds (in number)	
Indo-Pacific sailfish (<i>Istiophorus platypterus</i>)	SFA	Thresher sharks (<i>Alopias</i> spp.)	THR

Marlins (Tetrapturus spp, Makaira spp.)	BIL	Oceanic whitetip shark (Carcharhinus longimanus)	OCS
Southern bluefin tuna (Thunnus maccoyii)	SBF	Optional species to be recorded	
		Tiger shark (Galeocerdo cuvier)	TIG
		Crocodile shark (Pseudocarcharias kamoharai)	PSK
		Mantas and devil rays (Mobulidae)	MAN
		Pelagic stingray (Pteroplatytrygon violacea)	PSL
		Other rays	

When a CPC is fully implementing the observer program the provision of seabird data is optional

For pole-and-line:

Primary Species	FAO code	Other Species	FAO code
Albacore (Thunnus alalunga)	ALB	Other bony fish	
Bigeye tuna (Thunnus obesus)	BET	Sharks	
Yellowfin tuna (Thunnus albacares)	YFT	Rays	
Skipjack tuna (Katsuwonus pelamis)	SKJ	Marine turtles (in number)	
Frigate and bullet tuna (Auxis spp.)	FRZ		
Kawakawa (Euthynnus affinis)	KAW		
Longtail tuna (Thunnus tonggol)	LOT		
Narrow barred Spanish mackerel (Scomberomorus commerson)	COM		
Other IOTC species			

2.4 REMARKS

1. Discard of tuna, tuna-like fish and sharks to be recorded by species in weight (kg) or number for all gears should be recorded in the remarks
2. Any interactions with whale sharks (*Rhincodon typus*), marine mammals, and seabirds should be recorded in the remarks
3. Other information is also written in the remarks

Note: The species included in the logbooks are regarded as minimum requirement. Optionally other frequently caught shark and/or fish species should be added as required across different areas and fisheries.

Figure 1. Longline (Gear Configuration): Average branch line length (meters): straight length in meters between snap and hook.

ANNEX III Specifications for handline and trolling

Note: for all gears in this annex use the follow format for date and time

For date: when recording date of the set/shot/operation: record the YYYY/MM/DD

For time: record 24hr time as either the local time, GMT or national time and clearly specify which time has been used.

I - HANDLINE

All logbook information shall be recorded by day; where more than one fishing event is recorded for the same day, it is advisable to record each fishing event separately

Record once in one cruise, or month where daily operation

1.1 REPORT INFORMATION

1. Fishing day (or Date of submission of the logbook, where multiple fishing days)
2. Name of reporting person

1.2 VESSEL INFORMATION

1. Vessel name and registration number and IMO number, where available
2. IOTC number, where available
3. Fishing License number
4. Vessel size: Gross tonnage and/or length overall (in metres)

1.3 CRUISE INFORMATION

1. Departure date and port
2. Arrival date and port

2.1 OPERATION

1. Date of fishing

Record the date of fishing. Each fishing day should be recorded separately

2. Number of fishermen

Record the number of fishermen on the boat by fishing day

3. Number of Fishing Gear

Record the number of fishing lines used during the fishing day. If the exact number is not available a range may be used i) 5 or less lines; ii) 6–10 lines; iii) 11 or more lines

4. Number and type of school (Anchored or drifting FAD, marine mammal, free, other) fished

Record the number and type of school fished (i.e. anchored FAD, drifting FAD, marine mammal associated or free) fished during the day

5. Position of the catch

Position in latitude and longitude: either position at noon or position of start of gear or area code of operation (e.g. Seychelles EEZ, High seas, etc) may be optionally used. Record the latitude and longitude at noon for non-fishing days, where not in port

Where information is recorded by day, record the 1° x 1° area(s) where fishing took place

6. Bait

Record the type of bait used (e.g. fish, squid), where applicable

2.2 CATCH

Catch in number and/or weight (kg) by species

1. Catch number and/or Weight

For each species shown in section 2.3 caught and retained, record the number and estimated live weight (kg), per fishing day

2. Discard number and/or Weight

For each species shown in section 2.3 caught and not retained record the number and estimated live weight (kg) discarded, per fishing day

2.3 SPECIES

Primary Species	FAO code
Yellowfin tuna (<i>Thunnus albacares</i>)	YFT
Bigeye tuna (<i>Thunnus obesus</i>)	BET
Skipjack tuna (<i>Katsuwonus pelamis</i>)	SKJ
Indo-Pacific sailfish (<i>Istiophorus platypterus</i>)	SFA
Black marlin (<i>Makaira indica</i>)	BLM
Other billfish	
Longtail tuna (<i>Thunnus tonggol</i>)	LOT
Kawakawa (<i>Euthynnus affinis</i>)	KAW
Frigate tuna/Bullet tuna (<i>Auxis</i> spp.)	FRZ

Narrow barred Spanish mackerel (*Scomberomorus commerson*)

COM

Indo-Pacific king mackerel (*Scomberomorus guttatus*)

GUT

Sharks

Other fishes

Rays

Marine turtles (by number)

2.4 REMARKS

1. Other relevant information is also written in the remarks

Note: These species included in the logbook are regarded as minimum requirement. Optionally other species should be added as species may differ depending on the area fished and type of fishery

II - TROLLING VESSELS

All logbook information shall be recorded by day; where more than one fishing event is recorded for the same day, it is advisable to record each fishing event separately

Record once in one cruise

1.1 REPORT INFORMATION

1. Fishing day (or Date of submission of the logbook, where multiple fishing days)

2. Name of reporting person

1.2 VESSEL INFORMATION

1. Vessel name and registration number and IMO number, where available

2. IOTC number, where available

3. Fishing License number

4. Vessel size: Gross tonnage and/or length overall (in metres)

1.3 CRUISE INFORMATION

1. Departure date and port

2. Arrival date and port

2.1 OPERATION

1. Date of fishing

Record the date of fishing. Each fishing day should be recorded separately

2. Number of fishermen

Record the number of fishermen on the vessel by fishing day

3. Number of Fishing Gear

Record the number of lines used during the fishing day. If the exact number is not available a range may be used i) 3 or less lines, ii) more than 3 lines

4. Number and type of school (Anchored or drifting FAD, marine mammal, free, other) fished

Record the number and type of school fished (i.e. anchored FAD, drifting FAD, marine mammal associated or free) fished during the day

5. Position of the catch

Position in latitude and longitude: either position at noon or position of start of gear or area code of operation (e.g. Seychelles EEZ, High seas, etc) may be optionally used. Record the latitude and longitude at noon for non-fishing days, where not in port

Where information is recorded by day, record the 1° x 1° area(s) where fishing took place

6. Bait

Record the type of bait or indicate if lures are used

2.2 CATCH

Catch in number and/or weight (kg) by species

1. Number and/or Weight of fish retained

For each species shown in section 2–3 caught and retained, record the number or estimated live weight (kg), per fishing day

2. Discard number and/or Weight

For each species shown in section 2–3 caught and not retained record the number and estimated live weight (kg) discarded, per fishing day

2.3 SPECIES

Primary Species	FAO code
Yellowfin tuna (<i>Thunnus albacares</i>)	YFT
Bigeye tuna (<i>Thunnus obesus</i>)	BET
Skipjack tuna (<i>Katsuwonus pelamis</i>)	SKJ
Albacore (<i>Thunnus alalunga</i>)	ALB
Swordfish (<i>Xiphias gladius</i>)	SWO
Blue marlin (<i>Makaira nigricans</i>)	BUM
Black marlin (<i>Makaira indica</i>)	BLM
Striped marlin (<i>Tetrapturus audax</i>)	MLS
Indo-Pacific sailfish (<i>Istiophorus platypterus</i>)	SFA

Other billfish

Longtail tuna (*Thunnus tonggol*)

LOT

Kawakawa (*Euthynnus affinis*)

KAW

Frigate tuna/Bullet tuna (*Auxis* spp.)

FRZ

Narrow barred Spanish mackerel (*Scomberomorus commerson*)

COM

Indo-Pacific king mackerel (*Scomberomorus guttatus*)

GUT

Sharks

Other fishes

Rays

Marine turtles



RESOLUTION 10/02 MANDATORY STATISTICAL REQUIREMENTS FOR IOTC MEMBERS AND COOPERATING NON-CONTRACTING PARTIES (CPCS)

Proposed Legislative Framework

IOTC STATISTICAL REQUIREMENTS

- 1) In this section, nominal catch data shall mean the estimates of the total annual catch by species and gear for all species under the mandate of the Indian Ocean Tuna Commission.
- 2) The [official] shall provide the following information and data to the Secretariat of the Indian Ocean Tuna Commission at such time or times as may be agreed by the Commission:
 - a. Catch and effort data shall be submitted:
 - i. for surface fisheries, catch weight by species and fishing effort by 1° grid area and month strata;
 - ii. for purse seine fisheries, stratified data by the fishing mode (e.g. free swimming schools or schools in association with floating objects), extrapolated to the total national monthly catches for each gear, including a description of extrapolation procedures including raising factors corresponding to the logbook coverage;
 - iii. for longline fisheries, catch by species, in numbers or weight, and effort by the number of hooks deployed in a 5° grid area and month strata, including a description of extrapolation procedures including raising factors corresponding to the logbook coverage, except for purposes of relevant IOTC working parties longline data should be of a resolution of 1° grid area and month or finer; and
 - iv. for coastal fisheries for tuna and tuna-like species, the most commonly caught shark species and, where possible, to the less common shark species and bycatch, the available catch by species, fishing gear and fishing effort, which may be provided using an alternative geographical area if it better represents the fishery concerned.
 - b. Size data shall be provided for all gears and for all species covered by the IOTC mandate according to the guidelines set out by the IOTC Scientific Committee, and the [official] shall ensure that size sampling:
 - i. shall be run under strict and well described random sampling schemes which are necessary to provide unbiased figures of the sizes taken;
 - ii. shall be based on coverage that shall be set to at least one fish measured by ton caught, by species and type of fishery;
 - iii. shall be representative of all the periods and areas fished;

- iv. may, for longline fleets, alternatively be based on size data provided as part of the IOTC Regional Observer Scheme where such fleets have at least 5% observer coverage of all fishing operations;
 - v. shall include length data by species, including the total number of fish measured, which shall be submitted by a 5° grid area by month, by gear and fishing mode (e.g. free swimming schools or schools in association with floating objects for the purse seiners); and
 - vi. shall, where documents cover sampling and raising procedures, be provided, by species and type of fishery.
- c. The [official] shall ensure that the following information and data is submitted on the purse seine fleet to the IOTC Secretariat at such times as may be required by the Commission:
- i. the number and characteristics of supply vessels that have been present in the IOTC Area:
 - 1. operating under their flag;
 - 2. assisting purse seine vessels operating under their flag; or
 - 3. licensed to operate in their exclusive economic zones;
 - ii. the number of days at sea by supply vessels by 1° grid area and month to be reported by the flag state of the supply vessel; and
 - iii. the total number and type of FADs set by the supply vessel and purse seine fleet per quarter.²²

²² The following requirements are in the Resolution, but may not need to be in national law: Types of FADs are defined as 1) drifting log or debris, 2) drifting raft or fad with a net, 3) drifting raft or fad without a net, 4) other (e.g. Payao, dead animal etc). All types monitored by a tracking system.