



HOW TO GET BETTER INFORMATION ABOUT HIGH SEAS FISHING VESSELS

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Lack of access to transparent and unbiased information about the ownership and control of fishing vessels makes control of IUU fishing much more difficult for national enforcement authorities and RFMOs. We propose a global information system on high seas fishing vessels. We see this as a core proposal that cuts across and reinforces all other key HSTF recommendations. This paper explains the proposal in more detail and describes the way in which such an initiative could operate to expose and deter IUU fishing and provide a critical link to better enforcement.

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A. INTRODUCTION

1. One of the defining characteristics of IUU fishing is that those controlling the fishing operation frequently take advantage of opportunities legitimately open to them to legally flag their vessels in States where the conditions for registration are flexible and the extent of participation in international arrangements is minimal. This enables them to operate in conditions of relative anonymity (a typical example is a one-vessel holding company with nominee shareholders) and virtually no supervision or control.

2. It must be said at the outset that there is nothing inherently unusual about the situation in which the owner of a ship may be located in a country other than the State whose flag the ship flies. Many international ship registries operate on this basis. However, problems arise where lack of transparency in the system of registration means that the commercial entities behind the fishing operation can quite easily avoid exposure and liability, even when a vessel is apprehended in the conduct of IUU fishing activities. Further difficulties arise where flag States do not meet their international obligations. Fishing vessels operating under such arrangements are effectively beyond the reach of the members of regional fisheries arrangements, especially where the flag State is unable or simply unwilling to take responsibility for the vessel.¹

3. Because the vessels used for IUU fishing are often older, less valuable, vessels, converted from other uses, the confiscation of an IUU vessel, when it strays into an EEZ, is regarded as an acceptable business risk. The flexibility inherent in ship registration systems also means that IUU operators can relatively easily change the characteristics of IUU vessels by changing names, physical characteristics or flags in order to avoid detection or to evade suspicion. This makes surveillance and enforcement much more difficult. The case of the *Camouco* (a.k.a. *Arvisa I* or *Eternal*) provides a good illustration (see Box 1). The consequence is that an IUU operation can be carried out with little financial risk to its ultimate beneficiaries.

4. There are obvious benefits in knowing at any given time what fishing vessels are on the high seas, where they are authorized to fish and who directs their operations. Surprisingly, there is **no single and complete database or register of high seas fishing vessels in the world**, even though most management, surveillance and enforcement authorities recognize the benefits of being able to identify definitively the vessels authorized to participate in a particular high seas fishery, down to the level of individual vessels and their characteristics, especially their ownership and control.²

5. There have been a number of attempts at global and regional levels to establish registers of fishing vessels authorized to operate on the high seas. Some of these are described in the annex to this paper. In recent years there has also been increased recognition by IMO and other competent international organizations, as well as by the OECD's Maritime Transport Committee, of the need for greater transparency in the ownership and control of shipping in general.³ The most important global fisheries-related initiative is the Compliance Agreement adopted in 1993 through FAO for which FAO maintains a High Seas Vessel Authorization Record (HSVAR). Some RFMOs have also decided to introduce *white lists* of vessels authorized to fish and *black lists* of vessels believed to have engaged in IUU activities.⁴ However, none of the current registers provides a comprehensive, publicly available, and definitive source of information about a particular vessel and its beneficial owners. Many of the registers hold different pieces of incompatible or inconsistent data and it is not possible easily to make comparisons between vessels and to establish linkages between movements of vessels

from one register to another or from one region to another. This not only significantly reduces the benefits of national and regional vessel registration, but also hampers surveillance and contributes to conditions under which IUU operations can thrive. A critical weakness of all existing efforts (with the possible exception of the CCAMLR IUU vessel list) is that they are flag State-based, i.e. they mainly rely on the authenticity of information provided by or through the flag State of the vessel concerned.

6. A centralized database of all high seas fishing vessels could provide a powerful tool for law enforcement. In theory at least, the existence of such a database, when combined with enhanced monitoring, control and surveillance (including, for example, mandatory port State inspections combined with a requirement to provide VMS data or participate in a centralized VMS), could operate as a powerful disincentive to the renaming and reflagging of IUU vessels because the true characteristics of the vessel and the commercial entity behind it would be made easier to trace.

Box 1: The case of *Camouco* aka *Arvisa I* aka *Eternal*

This 42 metre longline fishing vessel was built in 1986 by Asashi Zosen KK in Sumoto, Japan. She has been known as *Rita* (1992), *Rita 12* (1995), *Merced* (1998), *Camouco* (1998), *Saint Jean* (1999) and *Camouco* (2000). As *Camouco*, flagged to Panama and owned by Panamanian company, Merce-Pesca SA, she was arrested in French waters around the Crozet Islands in 1999. She was subsequently convicted and fined, but not before the flag State, Panama, made an application to the International Tribunal for the Law of the Sea for prompt release on the posting of a bond of 8,000,000 FF (ITLOS Case No. 5, *Panama v. France*, 7 February 2000). As *Camouco*, the vessel unloaded 200 tonnes of toothfish in Mauritius in June 2000. Following her conviction by the court in Reunion for the earlier infraction, the vessel was renamed *Arvisa 1* and reflagged to Uruguay, still owned by Merce-Pesca SA but now bareboat chartered to Navalmar SA. The latter is a Uruguayan company which shares a registered office in Montevideo with another company, Alcimar SA, owner of the convicted illegal fishing vessel *Maya V*. Both Navalmar and Alcimar have links to the so-called Galician syndicate of illegal toothfish operators based in Spain, which also includes companies such as Viarsa Catera SA and Viarsa Fishing Co., based in Mauritius, a group of Panamanian companies, Pac Fish Inc. and Ocean King, based in Seattle, USA, that are responsible for export operations, and Thalasa SA, another Uruguayan company based in Mauritius. *Arvisa I* returned to Mauritius to unload toothfish in August 2000, and again in February, April, July, September and December of 2001. She landed toothfish in Maputo, Mozambique in March 2002 and in May 2002 the vessel unloaded a further 217 tonnes of toothfish in Mauritius. In January 2002, the vessel was sighted well within the CCAMLR Convention Area by the Australian research vessel, *Aurora Australis* with no identification visible. She claimed to be the *Kambott*, flying the Mauritian flag, but later proved to be the *Arvisa I*, flagged to Uruguay. In July 2003, the same vessel was apprehended by the French Navy in Kerguelen waters but by this time she had temporarily reflagged to the Netherlands Antilles and was renamed the *Eternal* – possibly because in June 2003 Pac Fish Inc. had entered into a consent decree with the US National Oceanic and Atmospheric Administration (NOAA) in Boston, U.S.A. relating to the importation of 33 tonnes of illegally-caught toothfish from the *Arvisa I*. Following the conviction and confiscation of *Eternal*, the vessel was renamed *Osiris* and is now used by the French Navy as a patrol vessel.

Sources: COLTO website, www.colto.org and ITLOS Judgment (*Panama v. France*)

B. A GLOBAL INFORMATION SYSTEM

7. We propose the establishment of a publicly-available international database of information relating to the global high seas fishing fleet. We are convinced that to enable committed countries to effectively tackle IUU fishing on the high seas, a coordinated effort is required to collate and make available objective and impartial information on the characteristics, current and previous ownership and operations of high seas fishing vessels.

8. In order to be fully effective, it is essential that information contained in such a database is verifiable. It cannot be exclusively dependent upon information being provided by the flag State of the vessel. The database would need to have the capacity to issue unique, traceable identifiers to individual vessels and provide verifiable information from a range of independent sources on each and every high seas fishing vessel, and the nature and extent of its fishing authorizations.

9. The objective therefore is to develop a global information system by compiling existing fisheries-related information on high seas fishing vessels and making it available on the Internet. This would require compilation and verification of data from existing registers and other, both public and private, sources as well as voluntary submission of data from willing countries and data providers where possible.

10. The existence of such a database would help to expose and deter IUU fishing. By using the best features of existing databases and drawing on best practices in the merchant shipping industry we could ensure that national agencies, port administrations and RFMOs have access to more information about fishing vessels and their operators than that traditionally contained in shipping registers and fishing vessel registers. Some of the benefits that might be achieved include the following.

- The broad availability of information on the registration history and ownership profile of fishing vessels would make it more difficult for IUU operators to do business. For example, information on RFMO blacklisting and deregistration could be made available to shipbrokers and prospective purchasers of vessels, which could be coupled with prohibitions on purchase or registration of such vessels by individual States.⁵
- Information relating to previous port inspections could alert port States and enforcement authorities to the need to exercise particular vigilance with respect to specific ships or flags. Vessels whose beneficial ownership is obscure could be targeted for intensive scrutiny or port access could be restricted altogether.
- A global information system would support efforts by RFMOs to establish reliable lists of authorized fishing vessels and to prevent IUU fishing vessels from operating in their areas of competence. RFMOs would be both data providers and data users and the global information system would support efforts to harmonize regional registers.
- Open public access to the global information system would remove some of the limitations on current registers. It would enable the naming and shaming of IUU operators as well as the making of informed decisions about access to particular fisheries.

11. It is important to emphasize that we do not intend to duplicate existing measures aimed against IUU fishing, including the HSVAR maintained by FAO and the records maintained by the various RFMOs. Nor do we propose to load substantial additional responsibilities on flag States. The proposed database would serve different purposes and a wider range of potential clients than the HSVAR and RFMO registers.

12. In addition to the obvious benefits of open access to unbiased and transparent information on fishing vessels, a global information system has the potential to evolve into a powerful management and compliance tool. In the longer term, and if there is broader support for a global database, it is conceivable that entry in good standing upon the global register should become a mandatory requirement for any vessel fishing on the high seas. The status of a vessel on the database could itself provide a strong basis for unilateral or regionally coordinated action (e.g. prohibition on import of product caught by a non-registered vessel, denial of port access).

13. Ultimately, applying the precedent of articles 21 and 22 of the UNFSA, if there is a watertight system of global registration for fishing vessels, it could be argued that lack of registration creates a *prima facie* right for other States to take action against an unregistered vessel on the high seas.

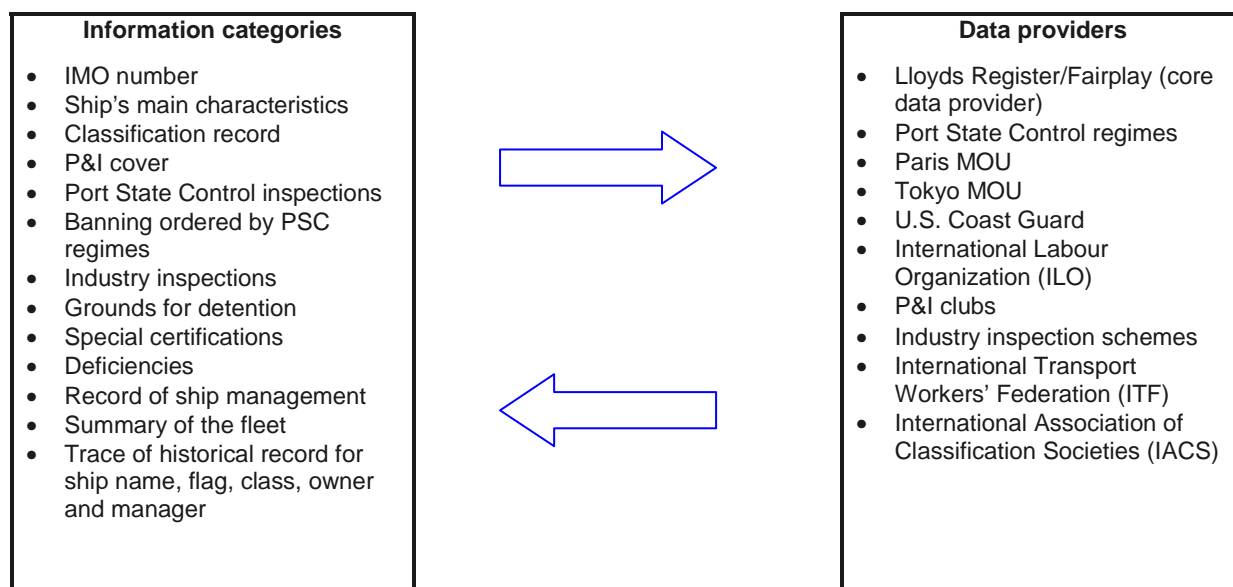
C. DEVELOPING THE MODEL

I. The *Equasis* model

14. We believe that a potential model for the sort of global information system we envisage already exists in the form of *Equasis* (www.equasis.org). *Equasis* was established in 2000 by a small group of major maritime administrations to assist in the fight against sub-standard shipping by providing an objective, independent and impartial source of information on the world merchant fleet. This enables all sectors of the industry – insurers, charterers, cargo owners, banks, port administrations – to make informed decisions about whether to conduct business with particular ships or shipowners. It has the capacity to expose sub-standard shipping and promote positive discrimination in favour of quality vessels. It is not an enforcement agency and the information it provides is factual: it does not attempt to rate ships or evaluate the quality of the data provided to it.

15. Information is available on *Equasis* on a ship by ship basis on merchant vessels of over 100 GT. Data is obtained from over 36 public and private data providers, including the Paris and Tokyo Memoranda on Port State Control, the U.S. Coast Guard, and the major classification societies, P&I Clubs and Lloyds Register. These data are updated regularly by the providers. The secretariat will liaise between data providers to resolve inconsistencies and conflicts in the data. The sort of information contained in the *Equasis* database is shown in the table below.

Table 1: *Equasis* information categories and data providers



16. To date *Equasis* contains information on some 70,000 ships. It is administered by a small secretariat, at a cost of approximately € 700,000 per annum, which reports to an editorial board on technical matters and a supervisory board, comprising representatives of the participating administrations, on management and policy matters. The success of *Equasis* can be estimated by the fact that it receives more than 400,000 hits per month.

17. Data on *Equasis* is presently available on a ship by ship basis. There is no fundamental technical reason however why detailed data could not be made available by flag State or by vessel

owner or manager. As we have seen from cases such as the *Camouco*, the availability of such data would fill one of the major loopholes in existing systems of registration and enable the compilation of IUU company lists or IUU fisher lists.

18. We feel that the *Equasis* model could be applied with relative ease and reasonably quickly by HSTF members to high seas fishing vessels. In addition to information of the type held by Equasis on merchant vessels, additional data to be collected might well include, for example:

- Details of flag State authorizations to fish
- Details of entry and status on RFMO registers
- Details of previous blacklistings by RFMOs
- Records of port State inspections, detentions and arrests
- Records of national inspections, convictions and fines
- Records of boardings and inspections within RFMO regulatory areas
- Details of captain and fishing master
- Details of VMS hardware and data depository
- Colour photographs of the vessel
- Details of beneficial as well as direct ownership

II. Problems and critical issues

19. If the HSTF is attracted to this proposal, a more detailed proposal could be developed in order to provide a basis for implementation. This would address such critical issues as who should maintain the database, how it would be funded and managed, what are the key data elements to be included, what are the potential sources of data, what arrangements need to be put in place for the exchange of data on vessels, owners, vessel authorizations etc. There are also a number of specific technical problems that will need to be tackled. The most important of these are to find a unique vessel identifier to ensure consistency between the new database and existing registers and lists and how to incorporate details of vessel ownership and management into the database.

The need for a unique vessel identifier

20. As with any database, *Equasis* relies on a unique identifier for each vessel entered on the database. For this purpose *Equasis* uses the IMO ship identification number. The IMO ship identification number scheme was adopted in 1987⁶ and is made of the three letters 'IMO' in front of the Lloyd's Register number. This is a unique seven digit number that is assigned to the hull of propelled, sea-going merchant ships of 100 GT and above upon keel laying. The IMO number is never reassigned to another vessel and is shown on the ship's certificates.

21. Unfortunately, vessels solely engaged in fishing are not presently required by IMO rules to have an IMO ship identification number, although all ships entered in the Lloyd's Register (including fishing vessels) are automatically assigned an IMO number. Approximately 24,900 vessels currently entered on Lloyd's Register are classified as fishing vessels and therefore do have an IMO ship identification number, but it is not possible to determine how many fishing vessels are in existence but are not on Lloyd's Register.

22. Whilst the proposed HSTF information system should aim to capture all fishing vessels capable of fishing on the high seas, the need to establish a common system of unique identifiers for all vessels is likely to pose a technical problem which will need to be overcome. This is a non-trivial technical problem that has already been raised between FAO and the tuna RFMOs (ICCAT, IATTC, CCSBT, IOTC, and WCPFC). These bodies are presently considering how it might be possible to establish common identifiers for vessels that appear on each of their various registers with a view to greater harmonization.⁷ Further technical work needs to be done to overcome this problem. Consideration might also need to be given to whether, for practical reasons, a size limit should be

applied (which should be lower than the 24 metre limit currently applied in the FAO Compliance Agreement).

Ownership and the document of compliance

23. One advantage of *Equasis* is that it will shortly have the capability of providing a direct link to the entity that has assumed responsibility for the operation of the ship. This capability will be provided as a result of the forthcoming codification of the document of compliance system under the ISM Code.⁸

24. The ISM Code establishes an international standard for the safe management and operation of merchant shipping. It requires a safety management system to be established by the person or entity that has assumed responsibility for the operation of the ship, which may be the shipowner, the manager of the ship or a bareboat charterer. The ISM code requires that this person or entity is issued with a document of compliance (DOC) to show that it complies with the requirements of the code. The DOC, which is issued by the maritime administration of the flag State (or a relevant classification society), must be carried on board the ship at all times.

25. It is now intended to introduce a system for codifying the details of owners and managers that have been issued with a DOC under the ISM code through the issue of a unique identifier, to be administered by Lloyd's Register. This will enable the *Equasis* database to be searched by reference to the entities legally responsible for the safe operation of vessels.

26. The ISM code relates specifically to safety management and is not applicable to fishing vessels, but the system offers two key features that we consider could be usefully investigated in the context of high seas fishing vessels:

- (a) Liability for non-compliance is placed on a specific entity or individual (which may be the vessel owner, manager or charterer)
- (b) The details of the responsible entity are recorded and may be verified.

27. We will investigate the issue of liability of fishing vessel owners, managers and charterers for compliance with regional conservation and management measures further under the heading of "measures relating to nationals." Although this is a difficult and complex area, we consider that there is no fundamental reason why, as a condition of access to a particular high seas fishery, RFMOs should not introduce requirements for documents of compliance similar to those contained in the ISM code and at the same time demand more transparency on such matters as beneficial ownership, corporate structures, vessel history, etc. Placing this information in the global database would ensure that RFMOs (as well as port and coastal States) have access to more information about fishing vessels and their operators than that traditionally contained in shipping registers and regional fishing vessel registers.

D. LINKAGES TO OTHER HSTF PROPOSALS

28. The proposal to establish a global information system is inextricably linked to all other measures proposed by the HSTF. It is a fundamental tool for better sharing of information on high seas fishing vessels. As such, it is a core proposal from which all other proposals flow and which reinforces the proposals to establish a high seas MCS unit, promote more effective port State controls, demand better flag State performance and strengthen regional and global governance.

29. National enforcement agencies, port States and RFMOs will each benefit as providers and users of data contained in the system. Information relating to previous port inspections, for example,

could alert port States and enforcement authorities to the need to exercise particular vigilance with respect to specific ships or flags. A global database would support current efforts by RFMOs to establish reliable lists of authorized high seas fishing vessels and would offer significant future prospects for enhanced cooperation between RFMOs and consolidation of existing measures to an appropriate international standard.

E. QUESTIONS FOR HSTF MEMBERS

30. In developing this proposal we have sought to show how the proposal would fit into the overall objective of the HSTF in exposing IUU fishing activity, deterring it and improving enforcement against those responsible. The existence of a reliable global information system would add to our existing enforcement capability. It does not require multilateral agreement and is a measure that HSTF members could implement effectively, at relatively low cost.

31. In order to establish the global information system HSTF members will need to commit financial resources to the project and will need to actively collaborate in the establishment of the system. A crucial aspect of the proposal is the independence of the proposed system. One of the first matters that will need to be considered is whether the system should be hosted by one of the current international agencies, one of the HSTF members, or whether it should be one of the core activities of the proposed dedicated high seas MCS network. For the same reasons that *Equasis* was established as a stand-alone entity – namely operational flexibility – we do not consider that it would be feasible or advisable to place the database within an existing international organization.

32. Assuming that HSTF members consider the proposal worthy of consideration, it is suggested that the next step would be to formulate a more detailed proposal which would address such matters as:

- Technical requirements of the system
- Costs
- Management and control of the system
- Relationship between the system managers and potential data providers and users
- Possibilities for harmonization with existing registers and databases

At this stage, guidance is sought on the following broad questions:

- Is the proposal to create a global information system on the *Equasis* model worthy of further investigation?
- Are HSTF members willing, in principal, to commit money to this?
- What elements of the proposal would HSTF members wish to see developed further for inclusion in the final report and recommendations?

¹ A few flag States actively encourage such registrations as a source of income, implicitly promoting their non-compliance as an incentive to rogue operators. These can be relatively easily identified as IUU. More complex is the situation where vessels are reflagged to flag States that are members of RFMOs but lack the resources or will to exercise flag State responsibility. By cooperating with the RFMOs (at least at the political level) these flag States often escape the IUU label, even though there is actually no real linkage between the flag State and the vessel operator and the no exercise of flag State responsibility.

² One of the findings of the OECD Fisheries Committee in its work on IUU fishing is that “building an effective register that can be used in combating IUU is ... an important avenue to be explored.” OECD Doc. AGR/FI(2005)1.

³ See further discussion of this in our paper *How well are flag States performing?*.

⁴ For instance, NEAFC. Annual report available at <http://www.neafc.org>

⁵ The experience in Norway, where vessels with a history of IUU fishing are denied fishing opportunities in domestic waters, has been that owners of such vessels have seen the second-hand value of their vessels decrease dramatically as the market for IUU vessels in the North Atlantic almost disappeared. Ship brokers who are aware of the vessel history advise potential buyers to avoid such vessels. However, even amongst OECD countries, which generally have very strict vessel registration requirements, only Australia, New Zealand and Norway presently take into account the previous IUU history of the vessel seeking registration.

⁶ IMO Resolution A.600(15), 19 November 1987. The ship identification number is also a requirement under SOLAS XI.

⁷ See, for example, High Seas Vessel Authorization Record (HSVAR) Proposals for Standardization, FAO, 2002 (not for circulation).

⁸ International Code for the Safe Operation of Ships and for Pollution Prevention (mandatory since 1 July 2002 under the International Convention on Safety of Life at Sea (SOLAS) for all vessels over 500 gt).

ANNEX

NATIONAL AND REGIONAL RECORDS OF FISHING VESSELS AND THE AUTHORIZATION TO FISH ON THE HIGH SEAS

As a matter of general international law, no specific authorization is required to allow a ship to fish on the high seas. The only essential prerequisite to operating a ship on the high seas is for that ship to acquire the flag of a State, usually through an act of registration. The United Nations Convention on the Law of the Sea (LOSC) confirms the right of every State to sail ships flying its flag on the high seas (article 90). In doing so it underscores the primacy of the flag State as the conduit through which the enforcement of compliance with the customary and conventional rules that make up the public order of the oceans must pass. In the absence of territorial jurisdiction, the international law of the sea determines that jurisdiction is primarily exercised on the basis of the nationality principle.

The inadequacy of the current system of flag State responsibility is well-documented. The difficulties of changing the fundamental nature of the relationship between flag State and vessel, for example by defining the “genuine link”, are also widely recognized. We discuss these aspects in more detail in our paper entitled *How well are flag States performing?* (HSTF/07). Because of these limitations, attempts to control IUU fishing on the high seas have so far concentrated on adding further layers of regulation and control rather than abrogating from the general principle that the flag State has primary responsibility under international law for controlling the fishing activities of its vessels.

The UNFSA, for example, requires flag States to:

- (a) Prohibit fishing on the high seas by vessels which are not duly licensed or authorized to fish;
- (b) Attach conditions to high seas fishing authorizations sufficient to fulfil its subregional, regional or global obligations;
- (c) Refrain from issuing authorizations to high seas fishing vessels unless the flag State is able to exercise effectively its responsibilities in respect of such vessels; and
- (d) Maintain a national record of fishing vessels authorized to fish on the high seas and enable access to the information contained in that record by directly interested States.

These are important and substantial provisions, which are echoed in both the FAO Code of Conduct and the IPOA-IUU.¹ The obvious and overwhelming limitation to their effectiveness is that they are only binding on parties to UNFSA, although the provisions should, in principle at least, be reflected in RFMOs. Another important limitation on the effectiveness of the UNFSA provisions is that, in many jurisdictions, the links between the maritime administrations (which register ships and issue flags) and the fisheries administration (which issues the authorization to fish) are inadequate or simply non-existent.²

The IPOA-IUU and accompanying Guidelines issued by FAO usefully elaborate on the type of information that should be collected by flag States in the process of registering fishing vessels and for entry on the national record of fishing vessels. We consider that the IPOA-IUU accurately reflects the current status of flag State obligations under international law as they relate to the process of sending a vessel to fish on the high seas and we endorse it. But we also note that even the IPOA-IUU itself implicitly recognizes the problem that not all flag States fulfil these responsibilities.

Regional Registers

Since the UNFSA, most of the regional fishery management organizations (RFMOs) with high seas coverage have established regional registers of fishing vessels authorized to fish in their respective areas of competence. These registers take a number of different forms. ICCAT, for example, maintains a positive list of vessels authorized to fish for ICCAT species in the Convention Area and a negative list of vessels of non-contracting parties presumed to have carried out IUU fishing activities. CCAMLR, on the other hand, has taken the approach of establishing a blacklist of vessels considered to have engaged in IUU fishing.³ Vessels placed on the IUU Vessel List will, among other things, be denied fishing licences by CCAMLR members. At its annual meeting in 2004, CCAMLR also established what is effectively a positive list, which will be placed on the CCAMLR website. In a similar vein, the regional register maintained by the South Pacific Forum Fisheries Agency (FFA) works on the basis that FFA member countries agree that they will only issue licences to vessels that are listed in good standing on the regional register.

Table 2: Examples of positive and negative vessel lists

	Positive list	Negative list
CCAMLR	List of authorized vessels	IUU Vessel list ⁴
FFA	Entry on regional register (good standing)	Blacklisting procedure
IATTC	Regional vessel register (authorized vessels)	IUU Vessel list ⁵
ICCAT	Vessels over 24 m authorized by Contracting Parties	Vessels presumed to have carried out IUU fishing activities ⁶
NEAFC	List of authorized vessels ⁷	IUU Vessel list (non-Contracting Parties) ⁸
WCPFC	Record of authorized vessels of members of the Commission ⁹	Presumed IUU if not entered on record

What these arrangements have in common is that, to a greater or lesser extent, the positive lists all rely on the authenticity of the information provided by the flag State, while the negative lists usually rely on information provided by Contracting Parties about the vessels of non-Contracting Parties. In many cases, the lists are subject to ‘approval’ by the Parties. Few, if any, of the RFMOs seek to go beyond and independently verify or add to information provided by the flag State of the vessel. This is a critical weakness in existing arrangements. Furthermore, the information contained in the registers is not broadly accessible. For example, the CCAMLR IUU Vessel List has, until now, been accessible only to members through a secure website. As pointed out by Stokke, lists compiled within one cooperative framework are not necessarily available even to other management regimes.¹⁰ This is exacerbated by the fact that many of the registers hold different or inconsistent pieces of information in incompatible data formats so that, even were data accessible, it would not necessarily be easy to make comparisons between vessels and to establish linkages between movements of vessels from one register to another (for example, by reflagging) or from one region to another. This is demonstrated by the difficulties that the tuna RFMOs have encountered in trying to coordinate their individual vessel lists.

The FAO Compliance Agreement

The only truly global attempt to establish a high seas vessel register is the FAO Compliance Agreement of 1993. This important agreement was the first global treaty to attempt to spell out explicitly the responsibilities of flag States with respect to high seas fishing.

Under article III of the Agreement, States are not supposed to authorize fishing vessels to fly their flags “unless the Party is satisfied that it is able ... to exercise effectively its responsibilities under this Agreement in respect of [those vessels].” A key feature of the Agreement, which supplements and reinforces the similar obligation in article 18 of the UNFSA, is the obligation on States Parties to maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing on the

high seas. This information is then to be transmitted to FAO which, as the responsible global organization, is to maintain a High Seas Vessel Authorization Record (HSVAR). The HSVAR has been duly established by FAO and is functioning, although it does not appear to be regularly updated.

Unfortunately, by 2004, more than 10 years after its adoption, only 28 States had ratified the FAO Compliance Agreement. Whilst this (just) exceeds the 25 acceptances required to bring the Agreement into force, it is hardly enough to make the Agreement broadly effective. As of December 2002, only four countries (Canada, Japan, Norway and the United States) and the EU had forwarded national records of fishing vessels to FAO. The HSVAR suffers from four major impediments. First, like the regional registers maintained by RFMOs, it is entirely dependent upon the quality of information provided by flag States. Second, information on the database is accessible only by other parties to the Compliance Agreement. Third, like the majority of RFMO registers, the essential purpose of the HSVAR is to passively record the existence of authorizations to fish, not critical vessel, ownership and operational details relating to individual vessels. Fourth, the Compliance Agreement is limited to fishing vessels over 24 metres in length.

Other forms of registers

Other, less formal, initiatives aimed at “naming and shaming” IUU fishers have been partially successful in influencing the approach of international management bodies. The best examples of these are the “Rogue’s Gallery” maintained by COLTO (www.colto.org) and the less mellifluously named International Southern Oceans Longline Fisheries Information Clearing House (ISOFISH). Both initiatives aim to compile and make available to the general public information about the corporate structures and activities of illegal fishers. Whether IUU operators are vulnerable to this kind of pressure is difficult to quantify. Anecdotal evidence exists to suggest that a number of Norwegian vessel owners disengaged from IUU activities in the Southern Ocean as a result of ISOFISH publicity.¹¹ On the other hand, one of the biggest operators targeted by COLTO and even implicated by the International Tribunal for the Law of the Sea in illegal fishing activities, Pacific Andes, has been recently reported as expanding its operations in China.¹²

One of the biggest problems with this sort of initiative is that incriminating information about illegal activities can be very difficult to substantiate. Publishers of such information run the risk of liability for defamation or negligence. Notwithstanding, initiatives such as ISOFISH, COLTO and the activities of international NGOs demonstrate the inadequacies of some of the more formal vessel registers and are a powerful indication of why it is necessary to find a way to obtain and publicise information on the corporate structures and activities of illegal fishers as well as the vessels that they use. In this regard, it would be useful for the HSTF Secretariat to systematically compile illustrative examples of the movement of vessels from flag to flag with details of the associated social, economic and ecological impacts.

¹ FAO Code of Conduct for Responsible Fisheries (1995), International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (2001).

² Inadequate, even in relatively well-developed administrations. Non-existent, e.g. in countries like Vanuatu where the management of the international shipping register is contracted out to a privately-held company based in New York City. <http://www.state.gov/r/pa/ei/bgn/2815.htm> (Last visited 12 January 2005).

³ CCAMLR Conservation Measure 10-06 (2004) and 10-07 (2003).

⁴ CCAMLR Conservation measures 10-06 and 10-07. CCAMLR IUU vessel list available at <http://www.ccamlr.org/pu/E/sc/fish-monit/IUUlst.pdf>.

⁵ IATTC Resolution A-04-07 (2004), established under the Agreement on the International Dolphin Conservation Program (AIDCP) and relates to purse seine vessels of non-Contracting Parties.

⁶ Recommendation Concerning the Establishment of an ICCAT Record of Vessels over 24 m Authorized to Operate in the Convention Area (2002), Recommendation to Establish a List of Vessels Presumed to Have Carried out Illegal, Unreported and Unregulated Fishing Activities in the ICCAT Convention Area (2002).

⁷ NEAFC Scheme of Control and Enforcement (1999).

⁸ NEAFC Non-Contracting Party Scheme (2003). The IUU vessel list is to be published on the NEAFC website. However, as at February 2005, no such list appeared.

⁹ WCPFC/Comm.1/8 (December 2004). [NB: Record not yet active].

¹⁰ Stokke and Vidas, “*Regulating IUU fishing or combating IUU operations*”, in *Fish Piracy: Combating IUU Fishing*, OECD, 2004, p. 19.

¹¹ Stokke and Vidas, *op. cit.*

¹² “Pacific Andes starts work on China’s biggest fish factory”, Fishing News International, January 2005.