



RESOLUTION 16/05

ON VESSELS WITHOUT NATIONALITY

Keywords: Vessels without nationality; stateless vessels; IUU fishing; enforcement; transshipment; port access.

The Indian Ocean Tuna Commission (IOTC),

RECOGNISING that vessels without nationality operate without governance and oversight;

CONCERNED that fishing in the IOTC area of competence by vessels without nationality undermines the objective of the IOTC Agreement and the work of the Commission;

NOTING Articles 92 and 94 of the United Nations Convention on the Law of the Sea (UNCLOS) relating to the status of ships and the duties of flag States;

RECALLING that the FAO Council has adopted an International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated fishing (IUU fishing) and has recommended that States adopt measures consistent with international law in relation to fishing vessels without nationality involved in IUU fishing on the high seas;

REAFFIRMING IOTC Resolution 11/03 paragraph 1(i), which states that fishing vessels without nationality harvesting tuna or tuna-like species in the IOTC area of competence are presumed to have carried out IUU fishing;

ADOPTS, in accordance with paragraph 1 of Article IX of the IOTC Agreement, the following:

1. A vessel without nationality is a vessel that, under international law, is not entitled to fly the flag of any State or, as referred to in Article 92 of UNCLOS, sails under the flag of two or more States, using them according to convenience.
2. Vessels without nationality that are fishing in the IOTC area of competence undermine the IOTC Agreement and the Conservation and Management Measures adopted by the Commission and are engaged in IUU fishing.
3. Contracting Parties (Members) and Cooperating Non-Contracting Parties (CNCs) are encouraged to take effective action in accordance with international law, including, where appropriate, enforcement action, against vessels without nationality that are engaging, or have engaged, in fishing or fishing related activities in the IOTC area of competence, and to prohibit the landing and transshipment of fish and fish products, and access to port services, by such vessels, except where such access is essential to the safety or health of the crew or the safety of the vessel.
4. Members and CNCs are encouraged to adopt necessary measures, including, where relevant, domestic legislation, to allow them to take the effective action referred to in paragraph 3 to prevent and deter vessels without nationality from engaging in fishing or fishing related activities in the IOTC area of competence.
5. Members and CNCs are encouraged to share information about vessels suspected to be without nationality to assist in clarifying the status of such vessels, and about the activities of vessels without nationality to inform decisions about action to prevent and deter such vessels from engaging in fishing or fishing related activities in the IOTC area of competence. Any sightings of fishing vessels that are suspected of, or confirmed as being, without nationality that may be fishing in the high seas of the IOTC area of competence shall be reported to the IOTC Secretariat as soon as possible by the appropriate authorities of the Member or CNC whose vessel or aircraft made the sighting. The IOTC Secretariat will circulate such information to all Members and CNCs as soon as practicable, and will provide a report to the Annual Session of the Compliance Committee of all such information provided.
6. Members and CNCs are encouraged to cooperate with all flag States to strengthen their legal, operational and institutional capacity to take action against their flagged vessels that have engaged in fishing or fishing related activities in the IOTC area of competence, including the imposition of adequate sanctions, as an alternative to de-flagging such vessels, thereby rendering such vessels without nationality.