

INTER-AMERICAN TROPICAL TUNA COMMISSION
PERMANENT WORKING GROUP ON FLEET CAPACITY
8TH MEETING

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DOCUMENT CAP-8-05

**REVIEW OF IMPLEMENTATION OF THE RESOLUTION ON THE
CAPACITY OF THE TUNA FLEET (C-02-03)**

1. IMPLEMENTATION TO DATE

In the view of the staff, the implementation of the [June 2002 Resolution on Fleet Capacity](#) (C-02-03) (attached) has gone reasonably well, especially considering the complexity and delicacy of various elements of the Resolution, and the ground-breaking nature of the agreement to limit purse-seine capacity, following more than four years of difficult negotiations. Nonetheless, there have been problems associated with the implementation of the Resolution, in particular relating to the transfer of vessels. After three years of experience, it is the staff's view that consideration might be given to adjusting the Resolution, to make its objectives and provisions clearer and its implementation smoother. Since the adoption of the Resolution, it has been discussed twice, at the 7th meeting of the Permanent Working Group on Fleet Capacity in February 2004, and at length during the 72nd meeting of the Commission in June 2004. In the end, neither of these discussions produced any agreed changes to the Resolution.

The capacity management system established by the Resolution does not include the concept of national capacity allocations or limits; instead, fleet limitations are essentially determined by the IATTC Regional Vessel Register. Therefore, the key elements of the Resolution address how vessels may be added to or removed from the Register.

Although the current system is not based on national capacity limits, paragraph (10) of the Resolution allows certain countries the right to add to their fleets "new" vessels that are not on the Register. The current situation regarding the utilization of the capacity limits provided to these countries is:

	Limit (m ³)	
	Provided	Remaining
Costa Rica	9364	9364
El Salvador	861	1112
Guatemala	1700	0
Nicaragua	5300	1703
Peru	3195	3195

2. PROPOSALS TO STRENGTHEN THE RESOLUTION

Although the Resolution has been fairly effective for over three years, the details and implications of its implementation are not always easy to understand. Moreover, the resolution does allow some growth in the size of the fleet in the eastern Pacific Ocean (EPO). In addition to paragraph 10, the ability to replace sunk vessels, and the possibility of inactive vessels becoming active, have an impact on the overall capacity levels. Also, the decision to retain the difference in capacity when a vessel is replaced by a smaller one has eliminated a possible means of reducing capacity,

If the Resolution is modified, the following measures could be considered to improve it and to control the capacity levels more effectively:

1. A vessel on the Register may be replaced only if it is scrapped or will no longer be fishing in the EPO.

2. If a vessel transfers flag, the participant losing the vessel may not replace it.
3. Eliminate the concept of inactive vessels, and the division of vessels into active and inactive. Currently inactive vessels would remain on the Register, and would be subject to the same rules as other vessels.
4. If a vessel is replaced by another of lesser capacity, the difference in capacity would not accrue to the participant for future use.
5. Establish a mechanism to help resolve flag disputes for purposes of the Regional Vessel Register

Proposals 1-4 would simplify and provide substantive changes to the way in which the purse-seine list is being managed. Proposals 1 and 2 clarify the processes of removing vessels from the Register and retaining them when the flag is changed. Proposal 3 would simplify the management of the purse seine list and increase transparency. Proposal 4 would remove the need for the staff to maintain a tally of well volume that each Participant can draw on for replacement vessels and would contribute to limiting overall fleet capacity. This tally, shown in the table below, is a detraction from the transparent operation of the Register.

Participant	m³
Ecuador	283
Spain	157
Vanuatu	338

Accumulated well volumes resulting from withdrawal or replacement of vessels on the Register by vessels with a smaller well volume.

Three vessels are currently shown twice on the Register because of disagreements about their flag or status on the Register. Proposal 5 recognises that there is currently no recognized procedure of resolving these issues either in the Resolution or other instruments of the Commission.

2.1. PROCEDURAL ISSUES

The changes proposed below are to improve the operation and in some cases, accuracy, of the Resolution, and with the exception of 2.1.2, are independent of whether Proposals 1-4 above are accepted or not. Of course if Proposal 2 above is accepted, 2.1.2 below would be moot.

2.1.1. Changes of flag

In the staff’s opinion, the most important issue to be addressed in the implementation of the Resolution is the question of vessels changing flag. The staff’s understanding of how the Resolution was intended to work in this regard was that vessels on the Register could change flag from one participant to another relatively easily: there would be no restrictions on any participant being able to receive a vessel from another participant. On a number of occasions this has worked well, but often governments have been reluctant to allow a vessel to leave without a guarantee that it could be replaced and, in order to create a “vacancy” for another vessel, have removed the vessel wishing to leave from the Regional Register. This makes it difficult for the vessel to change flags to most participants. It can change flags to a participant that has a “space” for it (either under one of the special allowances in paragraph 10 or to replace a vessel that has sunk, been scrapped, or has left the region), but if the vessel is then replaced by the original flag government with a vessel not on the Regional Register, the effect is to increase the overall capacity operating in the region.

Another problem relating to vessel transfers relates to the procedures for ensuring that a transfer of the vessel’s registry has in fact occurred, and thus for finalizing the change on the Regional Register. The staff’s current internal procedures for this are more strict than they were previously, requiring clear documentation from both governments involved in a flag transfer. We believe it would be useful to codify this procedure by adding a paragraph to the resolution along the following lines:

“For purposes of the implementation of this resolution and of the maintenance of the Register, the following procedures shall apply with respect to vessels changing flag:

A change of flag by a vessel from one participant to another shall not be considered effective until the Director has received official notification of the change from both governments involved.”

2.1.2. Inactive vessels

Paragraph 9 of the Resolution addresses the matter of inactive vessels. It has several important elements:

- a. Notification of inactive vessels must be provided by January 1 of each year;
- b. An inactive vessel must remain in that status for the entire year;
- c. An active vessel may replace an inactive one during the year, but only if the total active capacity of the vessels of the participant receiving the vessel would not then exceed the active capacity of all of its vessels on 28 June 2002.

In the view of the Secretariat, the language in the current paragraph 9 regarding substitution of vessels is not clear. Also, the “notwithstanding” clause at the beginning of that paragraph seems unnecessary, and in any case does not appear to refer to the correct paragraphs. The 28 June 2002 benchmark in the last sentence of the paragraph no longer makes sense, because the total active capacity of various participants will inevitably change, as it already has, due to vessel transfers and other legitimate additions.

Also, the Resolution does not address the question of whether an inactive vessel that changes flag during the course of the year must remain inactive for the remainder of that year, or may change to active status immediately. This question should be clarified by the participating governments, and reflected in a modified resolution.

In order to address these matters surrounding inactive vessels, the Secretariat proposes a modification to paragraph 9. The new paragraph 9 would read as follows:

9. “A participant may notify the Director by January 1 of any year that one or more of the purse-seine vessels operating under its jurisdiction and listed on the Register will not operate in the EPO during that year. Any vessel identified pursuant to this paragraph shall remain on the Register as “inactive” and shall not fish in the EPO during that year. However, an active vessel may be changed to inactive at any time by the participant notifying the Director of the change. An inactive vessel on the Register may, at any time during a year, replace a vessel of the same flag whose status has changed from active to inactive pursuant to this paragraph and fish in the EPO, provided that the total active capacity of purse-seine vessels flying the flag of that participant is not increased by the replacement.

Any inactive vessel on the Register that changes, in accordance with this resolution, to the flag of another participant must remain inactive until such time as it may change to active status pursuant to the requirements of this resolution.”

2.1.3. Technical/editorial issues

The technical and editorial issues discussed below were all agreed at the 7th meeting of the Permanent Working Group on Fleet Capacity in February 2004.

- a. The first sentence in paragraph 5 of the Resolution establishes that the definitive list of authorized purse-seine vessels shall be the Regional Vessel Register, as of 28 June 2002, “with any subsequent modifications that do not increase the total capacity of purse-seine vessels established in the Register.” However, it is not correct that subsequent modifications to the Register cannot increase the total capacity, since vessels added pursuant to paragraph 10 of the Resolution will increase it. In order to correct this inconsistency, the Secretariat proposes a modification to this sentence, as follows:

Currently: “To use the Regional Vessel Register (“the Register”) established by the resolution of the 66th Meeting of the Commission, as of 28 June 2002, with any subsequent modifications that do not increase the total capacity of purse-seine vessels established in the Register, as the definitive list of purse-seine vessels authorized by the participants to fish for tunas in the EPO. Any purse-seine vessel fishing for tunas in the EPO that is not on the Register would be considered to be undermining IATTC management measures. The Register shall include only vessels flying the flags of participants. Each participant shall verify the existence and operational status of, and confirm the accuracy of the information on, its vessels, as required by that resolution, including the requirement to promptly notify the Director of the Commission (“the Director”) of any modifications to that information. For purse-seine vessels, the Register shall include only vessels that have fished in the EPO before 28 June 2002. A participant may remove any vessel flying its flag from the Register by notifying the Director.”

Proposal (a): add the following words (in **bold**) to the first sentence: “To use the Regional Vessel Register (“the Register”) established by the resolution of the 66th Meeting of the Commission, as of 28 June 2002, with any subsequent modifications that do not increase the total capacity of purse-seine vessels established in the Register, **except as provided in this resolution**, as the definitive list of purse-seine vessels authorized by the participants to fish for tunas in the EPO.”

Proposal (b): Delete the penultimate sentence (underlined).

- b. The penultimate sentence in paragraph 5 of the Resolution reads: “For purse-seine vessels, the Register shall include only vessels that have fished in the EPO before 28 June 2002.” This statement made sense when the Resolution was adopted in June 2002, but it is no longer accurate or in keeping with the resolution, since new vessels can, and have been, added legitimately to the Register. The Secretariat recommends that this sentence be deleted.
- c. The footnote to paragraph 13 notes that several governments were considering a possible alternative to this paragraph. This footnote is no longer necessary, as these governments are no longer seeking an alternative. The staff recommends that it be deleted.

Attachment

**INTER-AMERICAN TROPICAL TUNA COMMISSION
RESOLUTION C-02-03, JUNE 2002**

**RESOLUTION ON THE CAPACITY OF THE TUNA FLEET OPERATING
IN THE EASTERN PACIFIC OCEAN (REVISED)**

The Parties to the Inter-American Tropical Tuna Commission (IATTC):

Aware that the issue of excess fishing capacity is of concern worldwide and is the subject of an International Plan of Action developed by the United Nations Food and Agriculture Organization;

Understanding that excess fishing capacity in a region makes it more difficult for governments to agree on and implement effective conservation and management measures for the fisheries of that region;

Concerned that purse-seine fishing capacity in the eastern Pacific Ocean (EPO) has been increasing in recent years;

Believing that it is important to limit fishing capacity in the EPO in order to help ensure that the tuna fisheries in the region are conducted at a sustainable level;

Aware of the importance of tuna fishing to the economic development of the Parties;

Committed to giving full effect to the relevant rules of international law, as reflected in the United Nations Law of the Sea Convention;

Recalling the resolutions to limit the capacity of the tuna purse-seine fleet in the EPO approved by the IATTC at its 62nd Meeting in October 1998 and by correspondence on 19 August 2000;

Seeking to address the problem of excess capacity in the tuna purse-seine fleet operating in the EPO by limiting such capacity to a level which, in harmony with other agreed management measures and projected and actual levels of catch, will ensure that tuna fisheries in the region are conducted at a sustainable level:

Have agreed as follows:

1. For the purposes of this Resolution, the EPO is defined as the area bounded by the coastline of the American continents, the 40° North parallel, the 150° West meridian and the 40° South parallel.
2. For the purposes of this Resolution, and without setting any precedent, “participant” means Parties to the IATTC, and States and regional economic integration organizations (REIOs), and fishing entities that have applied for membership of the Commission or that cooperate with the management and conservation measures adopted by the Commission. The Commission shall determine which States, REIOs and fishing entities are considered to be cooperating with such management and conservation measures.
3. To finalize and adopt, as soon as possible, a plan for regional management of fishing capacity, as specified in the resolution on fleet capacity of 19 August 2000. Such a plan shall take into account the right of coastal States and other States with a longstanding and significant interest in the tuna fisheries of the EPO to develop and maintain their own tuna fishing industries.
4. To review on a regular basis, and modify if necessary, the methods for estimating fishing capacity and the target level of 158,000 m³, established in the resolution on fleet capacity of 19 August 2000, for the total capacity of the purse-seine fleet, taking into account the level of the stocks of tuna and other relevant factors.

5. To use the Regional Vessel Register (“the Register”) established by the resolution of the 66th Meeting of the Commission, as of 28 June 2002, with any subsequent modifications that do not increase the total capacity of purse-seine vessels established in the Register, as the definitive list of purse-seine vessels authorized by the participants to fish for tunas in the EPO. Any purse-seine vessel fishing for tunas in the EPO that is not on the Register would be considered to be undermining IATTC management measures. The Register shall include only vessels flying the flags of participants. Each participant shall verify the existence and operational status of, and confirm the accuracy of the information on, its vessels, as required by that resolution, including the requirement to promptly notify the Director of the Commission (“the Director”) of any modifications to that information. For purse-seine vessels, the Register shall include only vessels that have fished in the EPO before 28 June 2002. A participant may remove any vessel flying its flag from the Register by notifying the Director.
6. The well volume of each purse-seine vessel, once confirmed by the relevant participant and verified by an independent survey supervised by the Director, shall be reflected in the Register.
7. To prohibit the entry of new vessels, defined as those not included in the Register, to the EPO purse-seine fleet, except to replace vessels removed from the Register, and provided that the total capacity of any replacement vessel or vessels does not exceed that of the vessel or vessels replaced.
8. To prohibit increasing the capacity of any existing purse-seine vessel unless a purse-seine vessel or vessels of equal or greater capacity is removed from the Register.
9. Notwithstanding paragraphs (7) and (8), above, by January 1 of each year, a participant may notify the Director of any purse-seine vessel operating under its jurisdiction and listed on the Register that will not fish in the EPO in that year. Any vessel identified pursuant to this paragraph shall remain on the Register as “inactive” and shall not fish in the EPO in that year. In such cases, the participant may substitute another purse-seine vessel or vessels on the Register, and those vessels shall be authorized to fish in the EPO provided that the total “active” capacity of purse-seine vessels flying the flag of that participant in any year does not exceed the capacity listed for such vessels on the Register as of 28 June 2002.
10. Subject to the provisions of this resolution:
 - 10.1. Notwithstanding paragraphs (7) and (8), the following participants may add purse-seine vessels to the Register after 28 June 2002, within the following limits*:

Costa Rica:	9364 m ³
El Salvador:	861 m ³
Nicaragua: ¹	5300 m ³
Peru:	3195 m ³
 - 10.2. Guatemala may increase its purse-seine fleet by 1700 m³ and commits to obtaining that capacity within a period of two years.
11. In the implementation of paragraph (10.1) above, a participant wishing to bring a new vessel into the EPO shall (1) so notify the other participants, through the Director, and (2) undertake efforts to find a suitable vessel from the Register for at least four months following such notification

* Costa Rica, Colombia, and Peru maintain long-term capacity requests of up to 16,422 m³, 14,046 m³, and 14,046 m³, respectively. The Parties also acknowledge that France has expressed an interest in developing a tuna purse-seine fleet on behalf of its overseas territories in the EPO.

¹ 4038 m³ in the original resolution adopted in June; modified by consensus of the Parties, 3 November 2002

before bringing a new vessel into the EPO.

12. Notwithstanding paragraphs (7) and (8), a limit of 32 United States vessels authorized and licensed to fish in other areas of the Pacific Ocean under an alternative international fisheries management regime, and that may occasionally fish to the east of 150° West, shall be authorized to fish in the EPO provided that: a) the fishing activity of any such vessels in the EPO is limited to a single trip not to exceed 90 days in one calendar year; b) the vessels do not possess a Dolphin Mortality Limit pursuant to the Agreement on the International Dolphin Conservation Program; and c) the vessels carry an approved observer. A similar exception shall be considered for vessels of other participants with a similar record of participation in the EPO tuna purse-seine fishery and that meet the criteria listed above.
13. Nothing in this resolution shall be interpreted to limit the rights and obligations of any participant to manage and develop the tuna fisheries under its jurisdiction or in which it maintains a longstanding and significant interest.²
14. To urge all non-Parties to provide the information required by this resolution and comply with its provisions.

² This paragraph was agreed *ad referendum* pending consultations among Costa Rica, El Salvador, Nicaragua, and Venezuela on a possible alternative.