

INTER-AMERICAN TROPICAL TUNA COMMISSION

82ND MEETING

LA JOLLA, CALIFORNIA (USA)
4-8 JULY 2011

PROPOSAL IATTC-82-N-1

SUBMITTED BY THE UNITED STATES

This proposal was originally presented at the 80th meeting of the Commission in June 2009. It seeks to include all the important points raised by the various members during previous discussions. The original proposal on which this document is based is available as Appendix 3.d of the [minutes of the 80th Meeting](#) of the IATTC.

**RESOLUTION ON THE ADOPTION OF TRADE MEASURES TO
PROMOTE COMPLIANCE**

The Inter-American Tropical Tuna Commission (IATTC), meeting in La Jolla, California, on the occasion of its 82nd Meeting;

Noting that the objective of the IATTC is to maintain the populations of species covered by the IATTC Convention in the eastern Pacific Ocean (EPO) at the level which will permit maximum sustainable catches;

Considering the need for action to ensure the effectiveness of the measures to achieve the objectives of the IATTC;

Considering the importance, for the achievement of those objectives, that all members and non-members take action to respect IATTC conservation and management measures;

Further considering the importance of having all members and cooperating non-members (collectively “CPCs”), and non-CPCs cooperate with the IATTC, in particular by taking measures or exercising effective control to ensure that their vessels do not engage in any activity that diminishes the effectiveness of IATTC conservation and management measures;

Recognizing that positive incentives constitute an important factor for promoting compliance with fisheries conservation and management measures, and further recognizing the importance of market access, consistent with national legislation, for fish and fish products caught in conformity with the conservation and management measures of the IATTC;

Aware of the need for sustained efforts by CPCs to ensure the enforcement of IATTC’s conservation and management measures, and the need to encourage non-CPCs to abide by these measures;

Noting that trade restrictive measures should be implemented only as a last resort, where other measures have proven unsuccessful to prevent, deter, and eliminate any act or omission that diminishes the effectiveness of IATTC conservation and management measures;

Noting that trade restrictive measures should be implemented in accordance with the FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing (IPOA-IUU);

Also noting that trade restrictive measures must be adopted and implemented in accordance with international law, including the World Trade Organization (WTO) Agreement, and, to this end, must be

implemented in a fair, transparent and non-discriminatory manner;

Resolves as follows:

1. CPCs that import products of species covered by the IATTC Convention, or in whose ports those products are landed, should collect and examine as much import or landing data and associated information as possible on such products, and submit the following information to the Commission, where available, each year:
 - a. names and flags of the vessels that caught and produced such products;
 - b. species of the products;
 - c. areas of catch (inside or outside the EPO);
 - d. product weight by product type;
 - e. points of export;
 - f. names and addresses of owners of the vessels; and
 - g. vessel registration number.
 2. a. The Commission, through the Committee for the Implementation of Measures Adopted by the Commission (Implementation Committee) shall identify each year:
 - i. CPCs that have failed to fulfill their obligations under the IATTC Convention in respect of IATTC conservation and management measures, in particular, by not taking measures or exercising effective control to ensure compliance with IATTC conservation and management measures by vessels flying their flags; and/or
 - ii. Non-CPCs that have failed to take measures or exercise effective control to ensure that vessels flying their respective flags do not engage in any activity that diminishes the effectiveness of IATTC conservation and management measures.
 - b. These identifications shall be based on a review of all information provided in accordance with paragraph 1 and any other relevant information, where available, such as: the catch data compiled by the Commission; trade information on these species obtained from national statistics; any IATTC statistical document program; the IATTC IUU Vessel List; as well as any other information obtained in ports and on fishing grounds.
 - c. In deciding whether to make such an identification, the Implementation Committee should consider all relevant matters, including the history, nature, circumstances, extent, and gravity of the act or omission that may have diminished the effectiveness of IATTC conservation and management measures.
3. The Commission shall ask the CPCs and non-CPCs identified under paragraph 2 to rectify the act or omission that led to their identification, and shall notify them of the following:
 - a. the reason(s) for the identification, with all available supporting evidence;
 - b. the opportunity to respond to the Commission in writing, at least 30 days prior to the next Annual Meeting of the Commission with regard to the identification decision and other relevant information, for example, evidence refuting the identification or, where appropriate, a plan of action for improvement and the steps they have taken to rectify the situation; and
 - c. in the case of a non-CPC, invite it to participate as an observer at the Annual Meeting where the issue will be considered and, as appropriate, invite it to consider becoming a cooperating non-member.

4. CPCs are encouraged, jointly and individually, to ask the CPCs or non-CPCs identified pursuant to paragraph 2 to rectify the act or omission that led to their identification under paragraph 2 so as not to diminish the effectiveness of IATTC conservation and management measures.
5. The Commission, through the Director, shall, by more than one means of communication, transmit the Commission's request and notification to the identified CPC or non-CPC, and seek to obtain confirmation from the CPC or the non-CPC that it received the notification.
6. The Implementation Committee shall evaluate the response of each CPC or non-CPC, together with any new information, and recommend that the Commission decide on one of the following actions to be applied to each CPC and non-CPC:
 - a. revoke its identification made pursuant to paragraph 2;
 - b. continue its identification made pursuant to paragraph 2; or
 - c. adopt non-discriminatory trade restrictive measures.

Notwithstanding the consultation requirement, the absence of a response from CPCs or non-CPCs within the time limit set forth in paragraph 3 shall not prevent action by the Commission.

Trade-restrictive measures shall be considered by the Committee for Implementation of Measures Adopted by the Commission only after efforts have been made to consult, pursuant to paragraphs 3, 4 and 5 above, and only when other actions to promote compliance that are reasonably available to the Commission have proven unsuccessful.

7. The Commission shall notify the CPCs and non-CPCs concerned of the decision made pursuant to paragraph 6 and the underlying reasons for such a decision, in accordance with the notification procedures specified in paragraph 5.
8. If the Commission decides on the action described in paragraph 6.c, it shall recommend to the CPCs, pursuant to Articles I.2 and II.5 of the IATTC Convention, to take specific non-discriminatory trade restrictive measures, consistent with their respective international obligations, including those contained in the WTO Agreement.
9. CPCs shall notify the Commission of any measures that they have taken for the implementation of the non-discriminatory trade restrictive measures adopted in accordance with paragraph 8.
10. In order for the Commission to recommend discontinuing an identification, or the lifting of trade restrictive measures, the Implementation Committee shall review each year all trade restrictive measures adopted in accordance with paragraphs 6 and 8 and provide, as appropriate, opportunities for participation in the review by any affected CPC or non-CPC. Should this review show that the situation has been rectified, the Implementation Committee shall recommend to the Commission discontinuing the identification or the lifting of the non-discriminatory trade restrictive measures, as appropriate. Such decisions should also take into consideration whether the CPCs and/or non-CPCs concerned have taken concrete measures capable of achieving a lasting improvement of the situation.
11. Where exceptional circumstances so warrant, or where the available information clearly shows that, despite the lifting of trade restrictive measures, a CPC or non-CPC continues to diminish the effectiveness of IATTC conservation and management measures, the Commission may recommend immediate action regarding that CPC or non-CPC, including, as appropriate, recommending the re-imposition of trade restrictive measures in accordance with paragraph 8. Before making such a decision, the Commission shall ask the CPC or non-CPC concerned to immediately rectify the act or omission which the Commission has determined requires immediate action and shall provide the CPC or non-CPC with a reasonable opportunity to respond.
12. The Commission shall establish annually a list of CPCs and non-CPCs that are subject to a trade

restrictive measure pursuant to paragraph 8.

13. The Commission recognizes the importance of market access, consistent with national legislation, for fish and fish products caught in conformity with the conservation and management measures of the IATTC, to promote compliance with such measures.