

INTER-AMERICAN TROPICAL TUNA COMMISSION
88TH MEETING (EXTRAORDINARY)
16TH MEETING OF THE PERMANENT WORKING GROUP ON
FLEET CAPACITY

La Jolla, California (USA)
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PROPOSAL IATTC-88 A-1

SUBMITTED BY VANUATU

PROPOSED WAY FORWARD TO RESOLVE CAPACITY DISPUTES

Executive Summary:

For the IATTC, resolving all capacity disputes introduced by Bolivia, Ecuador, Guatemala, Vanuatu and Venezuela resulting from capacity transfers and/or differences in the implementation of Resolution C-02-03 since its entry into force constitutes nothing but an act of correct management which differ them from new increases in capacity for EPO coastal countries.

Proposed concrete solution:

Reinstating the fishing rights of these 5 CPCs with the current closures in force would mean that the active capacity at MSY would be increased by roughly 7%. Vanuatu suggests mitigating such increase via the implementation of additional closures days for the vessels concerned only as well as applying a 5 to 10% reduction to the reinstated capacity in order to reduce the capacity.

I. INTRODUCTION

1. Vanuatu notes and shares the concern that is generally held in the IATTC about the sustainability of the tuna resources in the EPO and has observed that the technical dynamics of administration of the resources at some times and by some members is directed towards a restrictive position as regards matters of carrying capacity, considering even that it is indispensable to fulfil the aspiration of reducing capacity.
2. This situation understood as a target position, cannot be used as an instrument to harm acquired rights or legally consolidated situations.
3. For the IATTC, resolving all capacity disputes introduced by Bolivia, Ecuador, Guatemala, Vanuatu and Venezuela resulting from capacity transfers and/or differences in the implementation of Resolution C-02-03 since its entry into force constitutes nothing but an act of correct management which differ them from new increases in capacity for EPO coastal countries.

II. CAPACITY CLAIMS ARISING FROM DISPUTES AND/OR DIFFERENCES IN THE IMPLEMENTATION OF RESOLUTION C-02-03 SINCE ITS ENTRY INTO FORCE

A/ The cases concerned

4. Several capacity disputes have been submitted to the 15th Permanent Working Group on Fleet Capacity, namely:
 - Bolivia 5830 m³

- Ecuador 3603 m³ (*María Del Mar* case to be added) + some vessels capacity adjustments
 - Guatemala 3762 m³
 - Vanuatu 1358 m³
 - Venezuela 5473 m³
5. All these capacity disputes cases are totaling a capacity of roughly 15 000 m³
6. Out of these cases, some have already been reviewed and approved (and shall therefore not be reviewed at this session) by the 15th session of the Permanent Working Group on fleet capacity, namely:
- Guatemala for *Albacora Doce* and *Albacora Catorce* - 3762 m³
 - Ecuador for *Roberto M* – 1161 m³
 - Vanuatu for *Esmeralda C* – 1358 m³
 - Venezuela for *Napoléon* – 1668 m³ (out of 5473 m³)
7. On the other hand, they are still some pending capacity disputes or readjustments that have not been reviewed by the Permanent Working Group that should be given due attention, namely:
- Ecuador for the following cases: *Monteneme*, *María del Mar*, *Isabel IV*, *Eli*, *Ljubica*, *Antonio H*, *Victoria A*, *Doña Roge*
 - Venezuela for the remaining disputed capacity of 3805 m³

B/ Their legitimacy

8. These five CPCs have acted ethically and in accordance with International Law, asking the Members of the Commission for restitution of their rights, without taking any actual measures that could be detrimental to the fisheries resources administered by the Commission.
9. Vanuatu firmly believes that these cases should not be repeated and should be considered special cases in which justice is sought since these CPCs were the victims of acts by third parties or differences in the implementation of Resolution C.02.03, affecting their patrimony.
10. With every day that passes, the sovereign rights of these CPCs are usurped depriving them of what justly belong to them, losing income, opportunities for development, sources of employment, among others, thus causing millions in losses.

C/ Their specificities

a. Acquired rights

11. It is a fact that these capacity disputes refer to acquired rights.

b. Lack of good practices

12. It is a fact that these 5 CPCs were deprived from their rights due to the lack of good practices in the management of the Regional Vessel Register until adequate standards were adopted by the Commission¹ following the recommendations made by the 8th session of the Permanent Working Group on fleet capacity in 2005.

c. CPCs deprived from their acquired rights

¹ In June 2005 during the 83rd session of the Commission, it was decided that “A change of flag by a vessel from one CPC to another, and the vessel’s status on the Regional Register, shall not be considered effective until the Director has received official notification of the change from both governments involved”.

13. It is a fact that the differences in the implementation of Resolution C.02.03 and the lack of good practices in the management of the Regional Vessel Register led these 5 CPCs to be deprived from their rights which if such good practices had been put into place at the time of the establishment of the Regional Vessel Register, would have not been deprived of.

d. CPCs suffered economic losses

14. It is a fact that these 5 CPCs suffered economic losses such as but not limited to income losses, opportunities for development, sources of employment, etc.

D/ Why solving these capacity disputes should not be conditioned to the adoption of global mitigation measures including a global capacity reduction plan?

a. Fair treatment

15. These capacity disputes are all referring to rights that these CPCs acquired in the past and would still be granted if adequate standards in managing the Regional Vessel Register had been adopted at the time of its establishment.
16. Conditioning the restoring of these CPCs rights to the adoption of mitigation measures including the adoption of a global reduction plan would not only alter their then existing rights but would also establish unfair treatments vis-à-vis the other CPCs who have not suffered similar issues in the management of the Regional Vessel Register.

b. Timing

17. The adoption of mitigation measures including a global capacity reduction plan will take some time altering even further these CPCs acquired rights which they were deprived from some 10 years ago.

c. Reinstating their acquired rights would have a small impact on the active capacity at MSY.

18. Document CAP-WS-04A (Target Capacity for the Tuna Fleet in the EPO) indicates that “*the current purse-seine closures in C-13-01 are estimated to have resulted in effective capacity in 2014 of about 176,963 m³, which is close to the estimate of active capacity at MSY*”.
19. Reinstating the fishing rights of these 5 CPCs with the current closures in force would mean that the active capacity at MSY would be increased by roughly 7%².

E/ How to mitigate the increase of the active capacity induced by the reinstatement of these 5 CPCs' rights³?

a. Temporary application of specific extended closures to vessels using the reinstated capacity

20. Vanuatu suggests that the implementation of additional closures days for the vessels operating under reinstated capacity could mitigate the increase of the active capacity reducing the increase to a lesser figure than 7%.
21. As an example the fishing vessels concerned could observe an additional 15 days closure.
22. Such specific extended closures period would not affect other vessels operating in the EPO but would be limited in time until a global reduction plan is adopted.

² The current capacity of the purse seine fleet is estimated at nearly 215 000 m³ in 2014 brought down to 176 963 m³ with the application of closures. It is understood that the closures reduce the active capacity by 17.8%. It is assumed that the increase of the active capacity by 15 000 m³ would be reduced to 12 300 m³ with the current closures in place.

³ Such mitigations measures should not be applicable to capacity readjustment cases submitted by Ecuador.

b. Temporary reduction of the reinstated capacity

23. Vanuatu suggests that the reinstated capacity could be reduced by 5 to 10% until a global reduction plan is adopted.
24. As an example, the Vanuatu reinstated capacity of 1358 m³ could be temporarily brought down to 1290 or 1222 m³.

III. . CONCLUSION

25. Approving all capacity dispute cases at this session with adoption of specific mitigation measures such as extended closures periods and reinstated capacity reduction would help the Commission in solving expeditiously an agenda item that has remained unsolved since 2005, year on which the management of the Regional Vessel Register was improved by the adoption of adequate standards.