

INTER-AMERICAN TROPICAL TUNA COMMISSION  
COMISIÓN INTERAMERICANA DEL ATÚN TROPICAL

**PERMANENT WORKING GROUP ON COMPLIANCE**

**5<sup>TH</sup> MEETING**

LIMA (PERU)  
11 JUNE 2004

**DOCUMENT COM-5-06**

**CRITERIA AND PROCEDURES TO ADOPT TRADE MEASURES TO  
PROMOTE COMPLIANCE**

The *Resolution on the Conservation of Tuna in the Eastern Pacific Ocean* ([C-03-12](#)), adopted in October 2003, calls upon the Commission to “develop transparent and non-discriminatory criteria and procedures to adopt trade restrictive measures consistent with international law and the provisions of the World Trade Organization to promote compliance in the EPO.”

Recent circumstances in the fishery add a particular urgency to developing and applying a plan as soon as possible. In the last several years, longline catches of bigeye tuna have increased to a level which adds to the concern over the conservation of that stock. In addition, there are numerous vessels of non-parties (Belize, Georgia, Indonesia, St. Vincent) fishing in the EPO which do not report their activities. The vessels of two major non-parties involved in the purse-seine fishery, Bolivia and Colombia, did not stop fishing during the purse-seine closures in December 2002 and 2003, and in 2002 Colombia in fact advised the Commission that it did not intend to cooperate by observing the closure. Colombia has also indicated its intention to ignore the 2002 *Resolution on fleet capacity*, by adding a new purse-seine vessel to its fleet. Furthermore, as discussed in Document COM-5-04, the limited approach for trade restrictions adopted in the Resolution C-03-12 is not likely to be effective.

An example of how other organizations have approached this problem is in the Atlantic, where ICCAT resolutions established action plans for individual species that provided for the imposition of agreed trade sanctions after specified procedures were followed. At its 2003 meeting, ICCAT adopted a resolution replacing these action plans with general criteria and procedures to adopt trade restrictions when appropriate and necessary.

The elements of this process are to identify parties or non-parties whose vessels fish in such a way as to undermine the effectiveness of ICCAT conservation and management measures, to request them to rectify their activities, to review the responses to those requests, and finally, where necessary, to take non-discriminatory and transparent trade measures, consistent with international obligations, including those pursuant to the World Trade Organization.

IATTC members need to decide how they wish to proceed on this important issue. The Commission staff has not been asked to develop draft criteria and procedures for trade measures pursuant to the resolution, and it could be that some of the member governments will have proposals to make at this 72<sup>nd</sup> Commission meeting.

In considering how to approach this question, the matter of timing may need some special consideration. Certainly fair notice needs to be given to any country with vessels undermining the Commission’s conservation measures, but if a full year is allotted for an identified country to rectify its activities, and given the time necessary for internal processes, a vessel that was undermining the program in 2003, for example, might not have any restrictions placed on its illegal catches until 2006, effectively. With that kind of time lag, a flag of convenience vessel could simply change flags, thus starting the process all over again and escaping any meaningful restrictions on its activities.

Another approach to this issue, which focuses on individual vessels rather than on countries and fleets, was adopted by the Commission in its [Resolution C-03-07](#) on the establishment of a list of longline vessels over 24 meters (LSTLFVs) authorized to operate in the EPO. To be on this “positive” list, vessels must be authorized to fish in the EPO by their flag governments, which in turn are obligated to ensure that the vessels comply with all relevant IATTC conservation and management measures. A very important provision of this resolution, and most relevant to this paper, is that participating governments are obligated to take measures to prohibit landing or transshipping tuna caught by vessels not on the list.

It would appear that the positive list will be an extremely effective tool in combating illegal fishing through the use of trade restrictions on individual vessels. It would also appear to be relatively easy to utilize this approach for purse-seine vessels as well. The principle is the same, and the list would be easier to manage if it would involve far fewer vessels.

One matter to be considered is the language regarding trade restrictions in Resolution C-03-07. Specifically, paragraph 6.a. establishes that IATTC Parties, cooperating non-Parties, entities, fishing entities or regional economic integration organizations “shall take measures, under their applicable legislation, to prohibit fishing for, retaining on board, transshipment and landing of tuna and tuna-like species by LSTLFVs not included in the LSTLFV List.”

The language does not include a prohibition on imports. Perhaps this omission was simply an oversight, or perhaps “landing” in the context of that paragraph is meant to include imports. In any case, it would obviously strengthen the trade aspect of the positive list, whether applicable to longliners or purse seiners, if the language included a clear reference to imports.