

INTER-AMERICAN TROPICAL TUNA COMMISSION

83RD MEETING

La Jolla, California (USA)

25-29 June 2012

PROPOSAL IATTC-83 C-1

SUBMITTED BY THE EUROPEAN UNION

**IATTC RESOLUTION FOR AN IATTC SCHEME FOR
MINIMUM STANDARDS FOR INSPECTION IN PORT**

EXPLANATORY MEMORANDUM

Goal: this Resolution is intended to contribute to the long-term conservation and sustainable use of living marine resources, and in particular of highly migratory stocks, in the IATTC Convention Area through strengthened, harmonized and transparent minimum standards for inspections in port to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing.

New elements: as compared with the proposal submitted in 2010 and 2011 this simplified proposal abandons the fully-fledge FAO Port State Measures approach. Instead it focuses on the most essential elements of port inspections: designated ports, prior notifications, inspections and infringements. It is therefore more in line with the requests from developing coastal CPCs as it also includes a number of simplified provisions in order to facilitate consensus at the IATTC.

Rationale: in coherence with the role of port States in the adoption of effective measures to promote the sustainable use and the long term conservation of living marine resources, this resolution foresees the establishment by CPCs of a list of minimum standards for port inspections including designated ports to which vessels may request entry, a system of prior notification, the verification of landings and transshipments, port inspections, and inspection and infringement procedures.

In addition to that, it will be the first ever port inspection measure adopted by IATTC. Therefore it will ensure consistency with management measures taken in other RFMOs and improve the results of the measures aimed towards conservation of tuna and tuna-like species in the Eastern Pacific Ocean. This will contribute to more responsible management of the stocks under the IATTC's mandate.

IATTC RESOLUTION FOR AN IATTC SCHEME FOR MINIMUM STANDARDS FOR INSPECTION IN PORT

Deeply concerned about the continuation of illegal, unreported and unregulated fishing in the IATTC Area and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers in particular in Developing States,

Conscious of the role of the port State in the adoption of effective measures to promote the sustainable use and the long-term conservation of living marine resources,

Recognizing that measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States and use all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing,

Recognizing that port State measures provide a powerful and cost-effective means of preventing, deterring and eliminating illegal, unreported and unregulated fishing,

Aware of the need for increasing coordination at the regional and interregional levels to combat illegal, unreported and unregulated fishing through port State measures,

Bearing in mind that, in the exercise of their sovereignty over ports located in their territory, CPCs may adopt more stringent measures, in accordance with international law,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, hereinafter referred to as the Convention,

Recalling the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 and the 1995 FAO Code of Conduct for Responsible Fisheries,

THE INTER-AMERICAN TROPICAL TUNA COMMISSION (IATTC)

Having regard to Article XX and XXI of the IATTC Convention,

Agrees to adopt the following Resolution in conformity of Article IX of the IATTC Convention:

Scope

1. In the exercise of their sovereignty over ports located in their territory, CPCs may adopt more stringent measures, in accordance with international law.
2. With a view to monitor compliance with IATTC Resolutions, each CPC, in its capacity as a port State, shall apply this Resolution for an effective scheme of port inspections in respect of foreign fishing vessels carrying IATTC-managed species and/or fish products originating from such species that have not been previously landed or transhipped at port, hereinafter referred to as "foreign fishing vessels".
3. Without prejudice to specifically applicable provisions of other IATTC Resolutions, this Resolution shall apply to foreign fishing vessels equal to or greater than 20 meters in length overall.
4. Each CPC shall subject foreign fishing vessels below 20 meters length overall and fishing vessels entitled to fly its flag to a comparable port inspection programme to be designed and implemented by that CPC.
5. CPCs shall take necessary action to inform fishing vessels' entitled to fly their flag of this and other relevant IATTC Resolutions.

Competent authority

6. Each CPC shall designate a competent authority to serve as a contact point for the purposes of receiving notifications, and issuing authorizations pursuant to this Resolution. It shall transmit the name and contact information for its competent authority to the IATTC Director no later than 30 days following the entry into force of this Resolution. Any subsequent changes shall be notified to the IATTC Director at least 14 days before such changes take effect. The IATTC Director shall promptly notify CPCs of any such change.
7. The IATTC Director shall establish and maintain a register of competent authorities based on the lists submitted by the CPCs. The register and any subsequent changes shall be published promptly on the IATTC website.

Designated ports

8. Each CPC shall designate its ports to which foreign fishing vessels may request entry pursuant to this Resolution.
9. Each CPC shall, to the greatest extent possible, ensure that every designated port has sufficient capacity to conduct inspections pursuant to this Resolution.
10. Each CPC shall provide to the IATTC Director within 30 days from the date of entry into force of this Resolution list of designated ports. Any subsequent changes to this list shall be notified to the IATTC Director at least 14 days before the change takes effect.
11. The IATTC Director shall establish and maintain a register of designated ports based on the lists submitted by the port State CPCs. The register and any subsequent change shall be published promptly on the IATTC website.

Prior notification

12. Each flag CPC shall take necessary action to ensure that fishing vessels entitled to fly its flag or their representatives notify the competent authority of the port CPC whose designated port they wish to use for the purpose of landing and/or transshipment, at least 72 hours before the estimated time of arrival at the port, of the following information:
 - a) Vessel identification (External identification, Name, IMO No, if any, and IRCS);
 - b) Name of the designated port, as referred to in the IATTC register, to which it seeks entry and the purpose of the port call (landing and/or transshipment);
 - c) Fishing authorization or, where appropriate, any other authorization held by the vessel to support fishing operations on IATTC species and/or fish products originating from such species, or to transship related fishery products;
 - d) Estimated date and time of arrival in port;
 - e) The estimated quantities in kilograms live weight of each IATTC species and/or fish products originating from such species held on board, with associated catch areas. If no IATTC species and/or fish products originating from such species are held on board, a 'nil' report shall be transmitted;
 - f) The estimated quantities for each IATTC species and/or fish products originating from such species in kilograms live weight to be landed or transshipped, with associated catch areas. The port CPC may also request other information as it may require to determine whether the vessel has engaged in IUU fishing, or related activities.
13. The port State CPC may prescribe a longer or shorter notification period than specified in paragraph 12, taking into account, inter alia, the type of fishery product, the distance between the fishing grounds and its ports. In such a case, the port CPC shall inform the IATTC Director, who shall publish the information promptly on the IATTC website.

Use of port by foreign fishing vessels as authorized by the port CPC

14. Landing or transshipment operations shall be subject to verification by the competent authority of the port CPC to determine the completeness of the information submitted as prescribed in paragraph 12 and to carry out an inspection in accordance with paragraph 20 below, if required.

15. Notwithstanding paragraph 14, the port CPC may authorize all or part of a landing or trans-shipment in cases where the information set out in paragraph 12 is incomplete or verification is pending. In such cases, the fishery products concerned shall be kept in storage. The fishery products shall only be released once the information set out in paragraph 12 and the verification have been completed. If this information is not complied with within 14 days of the commencement of the landing or trans-shipment, the port CPC may seize and dispose of the fishery products in accordance with its domestic laws. The cost of storage shall be borne by the operators, [or supported] in accordance with the domestic laws of the port CPC.

Port inspections

16. Inspections shall be carried out by the competent authority of the port CPC.
17. Each year CPCs shall inspect at least 5 % of landing and transshipment operations in their designated ports as are made by foreign fishing vessels.
18. In determining which foreign fishing vessel to inspect, the port CPC shall give priority to:
 - a) requests from other CPCs or relevant regional fisheries management organizations that particular vessel be inspected, particularly where such requests are supported by evidence of IUU fishing, by the vessel in question, and
 - b) other vessels for which there are clear grounds for suspecting that they have engaged in IUU fishing.
 - c) vessels included on the IATTC list of IUU vessels, as specified in Resolution C-05-07

Inspection procedure

19. Each inspector shall carry a document of identity issued by the port CPC. In accordance with domestic laws, port CPC inspectors may examine all relevant areas, decks and rooms of the fishing vessel, catches processed or otherwise, nets or other fishing gears, equipment both technical and electronic, records of transmissions and any relevant documents, including fishing logbooks, Cargo Manifests and Mates Receipts and landing declarations in case of transshipment, which they deem necessary to ensure compliance with the IATTC Resolutions. They may take copies of any documents considered relevant, and they may also question the Master and any other person on the vessel being inspected.
20. Inspections shall involve the monitoring of the landing or transshipment and include a cross-check between the quantities by species notified in the prior notification message in paragraph 12 above and held on board. Inspections shall be carried out in such a way that the fishing vessel suffers the minimum interference and inconvenience, and that degradation of the quality of the catch is avoided.
21. On completion of the inspection, the port CPC inspector shall provide the Master of the foreign fishing vessel with the inspection report containing the findings of the inspection, including possible subsequent measures that could be taken by the port State competent authority. The Master shall be given the opportunity to add any comments or objection to the report and to contact the competent authority of the flag State. The inspector and the Master shall sign the report and a copy of the report shall be provided to the Master. The Master's signature shall serve only as acknowledgement of the receipt of a copy of the report.
22. The port CPC shall transmit a copy of the inspection report to the IATTC Director no later than 14 days following the date of completion of the inspection.
23. CPCs shall take necessary action to ensure that Masters facilitate safe access to the fishing vessel, cooperate with the competent authority of the port CPC, facilitate the inspection and communication and not obstruct, intimidate or interfere, or cause other persons to obstruct, intimidate or interfere with port CPC inspectors in the execution of their duties.

Procedure in the event of infringements

24. If the information collected during the inspection provides evidence that a foreign fishing vessel

has committed an infringement of the IATTC Resolutions, the inspector shall:

- a) record the infringement in the inspection report;
 - b) transmit the inspection report to the port CPC competent authority, which shall promptly forward a copy to the IATTC Director and, if the vessel fly the flag of another CPC, to the competent authority of the flag CPC;
 - c) if possible, take all necessary action to ensure safekeeping of the evidence pertaining to such alleged infringement.
25. If the infringement falls within the legal jurisdiction of the port CPC, the port CPC may take action in accordance with its domestic laws. The port CPC shall promptly notify the action taken to the competent authority of the flag CPC and to the IATTC Director, which shall promptly publish this information in a secured part of the IATTC website.
26. Other infringements shall be referred to the flag CPC. Upon receiving the copy of the inspection report, the flag CPC shall promptly investigate the alleged infringement and notify the IATTC Director of the status of the investigation and of any enforcement action that may have been taken within 6 months of such receipt. The IATTC Director shall promptly publish this information in a secured part of the IATTC website. CPCs shall include in their Compliance questionnaire information regarding the status of such investigations.
27. Should the inspection provide evidence that the inspected vessel has engaged in IUU activities as referred to in Resolution C-05-07, the port CPC shall promptly report the case to the flag State and notify as soon as possible the IATTC Director, along with its supporting evidence, for the purpose of inclusion of the vessel in the draft IUU list.

General provisions

28. CPCs are encouraged to enter into bilateral agreements/arrangements that allow for an inspector exchange program designed to promote cooperation, share information, and educate each party's inspectors on inspection strategies and methodologies which promote compliance with IATTC Resolutions. A description of such programs should be provided to the IATTC Director which should publish it on the IATTC website.
29. Without prejudice to domestic laws of the port CPC, the flag CPC may send its own officials to accompany the inspectors of the port CPC and observe the inspection of its vessel, having previously received an invitation from the competent authority of the port CPC. Officials from the flag CPC shall not exercise any enforcement powers in the port CPC.
30. Flag CPCs shall consider and act on reports of infringements from inspectors of a port CPC on a similar basis as the reports from their own inspectors, in accordance with their domestic laws. CPCs shall collaborate, in accordance with their domestic laws, in order to facilitate judicial or other proceedings arising from inspection reports as set out in this Resolution.