

INTER-AMERICAN TROPICAL TUNA COMMISSION
PERMANENT WORKING GROUP ON FLEET CAPACITY
11TH MEETING

SAN JOSÉ (COSTA RICA)
26-28 APRIL 2011

DOCUMENT CAP-11-06

**REVIEW OF PROCEDURES RELATED TO THE IMPLEMENTATION OF
RESOLUTION C-02-03 ON THE CAPACITY OF THE PURSE-SEINE
FLEET**

This document is an update of Document [CAP-10-03](#), prepared for the 10th Meeting of the Working Group in November 2008. At that meeting procedures were approved for the movements of vessels on the IATTC Regional Vessel Register and the transfer of vessels and their capacity among the participants¹. These procedures have been implemented since that time to the present.

This document does not cover matters related to capacity loans and vessel charters, addressed in Document CAP-11-07.

The Secretariat proposes that the established procedures be ratified, and that the proposed amendments of Resolution C-02-03 presented in Section 6 of this document be implemented.

1. INTRODUCTION

The implementation of [Resolution C-02-03 on fleet capacity](#) (Appendix A), in force for more than eight years, has gone well, especially considering the complexity and delicacy of various elements of the Resolution and its ground-breaking nature.

Nevertheless, it is not always well understood that the capacity management system created by the Resolution does not establish 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 Regional Register. During the negotiation of the resolution, one approach which was extensively considered was a system of national capacity limits. However, it was not possible to reach an agreement based on this concept, and a scheme was adopted that controlled vessel access via the Regional Register. Also, it should be noted that, while the system agreed does limit the number of vessels, it does not limit catches. Therefore, the capacity limits must be complementary to other conservation and management measures that restrict catches.

The Secretariat has made available to each government a document which shows the history of each country's flag vessels with regard to the Regional Register, and how that has affected, historically, the changes in the well volume available to each country since the Resolution entered into force.

It should be recalled that, in June 2005, the Commission adopted a [Plan for Regional Management of Fishing Capacity](#). The principal objective of the Plan is to establish a comprehensive program for managing the capacity of all fishing fleets operating in the eastern Pacific Ocean (EPO), to ensure the long-term sustainability of the fisheries covered by the IATTC. For the purse-seine fishery, this will mean

¹ Defined in Resolution C-02-03 as the "Parties to the IATTC, and States, regional economic integration organizations and fishing entities that have applied for membership of the Commission or that cooperate with the management and conservation measures adopted by the Commission."

a reduction in the current level of fishing capacity. To quote from the section of the Plan setting forth its objectives and principles: “CPCs and all participants in these fisheries should limit the total fleet capacity to the present level and to reduce it, as appropriate, in accordance with an agreed program. After any targets for the fleet capacity have been achieved, CPCs and all participants in these fisheries should exercise caution to avoid growth in fleet capacity.”

2. IMPLEMENTATION TO DATE

Early in the implementation of the Resolution, some problems developed with regard to vessel transfers, mainly because of the lack of clearly defined procedures for when flag changes should be recorded and how to address the status of a vessel on the Regional Register that was in the process of changing flags. For example, a scenario that occurred on several occasions was the following: the Secretariat had official information, in the form of documents from the governmental agency responsible for allowing flag transfers, that a vessel had changed flags legally. On that basis, the Secretariat modified its records. However, the original flag government of the vessel in question subsequently requested that the vessel be removed from the Regional Register – in one case, more than a month after the vessel changed flag – and claimed the right to replace the vessel with another. Of course, at that point, the original flag government no longer had jurisdiction over the vessel. This scenario was the basis for some of the disputes that have occurred over capacity.

It appears that the main reason for these problems was that, in some countries, the government agency responsible for flag transfers is different from that responsible for fisheries matters, and a lack of communication between these agencies resulted in a vessel legally leaving a country’s register without the approval, or in some cases knowledge, of the latter agency. These problems were essentially rectified by the decision of the Commission to not change the status of any vessel on the Regional Register without the explicit approval of both of the flag governments involved in a flag transfer, notwithstanding the fact that a vessel may in fact have changed flags legally.

The active purse-seine capacity on the Regional Register on 4 April 2011 is 213,421 m³. The capacity of inactive or sunk vessels is 12,136 m³, and the capacity available as a result of movements of vessels on the Regional Register is 61,229 m³, for a potential total of 286,786 m³. In June 2002, when the Resolution entered into force, the active capacity was almost the same, 218,482 m³, while the sum total of the active

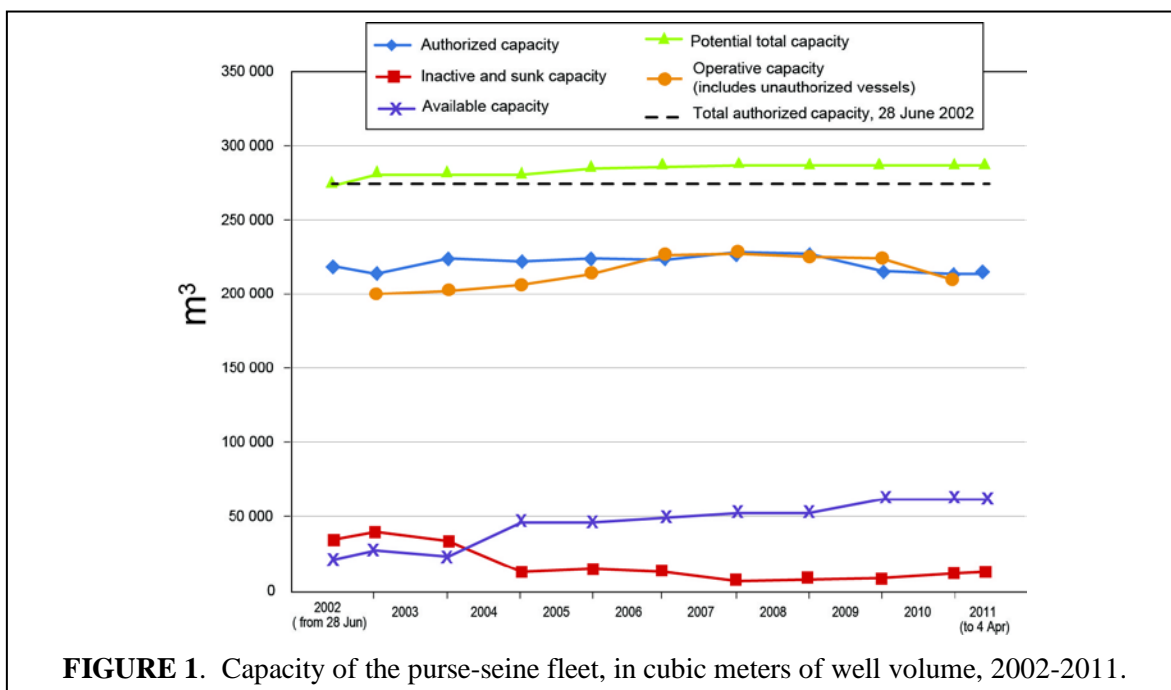


FIGURE 1. Capacity of the purse-seine fleet, in cubic meters of well volume, 2002-2011.

and inactive capacity, plus that included in paragraph 10 of the resolution, was 273,467 m³ (Figure 1). It should be noted that these numbers do not take into account the capacity in the footnote to the resolution, which at least one country has claimed.

The reason for this increase of about 13,319 m³ in the potential capacity is that, while the essential purpose of the Resolution was to freeze capacity, some of its elements allow increases, adding vessels pursuant to paragraph 10, replacing sunk vessels, and changing inactive vessels to active. Also, in the months following the adoption of the Resolution, the Commission agreed to add several vessels to the Regional Register, to account for oversights made by delegations at the meeting at which the resolution was adopted.

In addition, the measurement of vessel capacity has to be taken into account. In 2002, the capacity of the great majority of vessels was estimated; currently, almost all vessels have been measured, with an overall result of greater capacity.

3. CURRENT PROCEDURES

The procedures followed by Commission staff in implementing the Resolution, and in particular in maintaining the official records associated with the Regional Register and other Commission vessel lists, have been improved and formalized since 2002. Following is a summary of the current procedures:

1. In order to be included on the Register, a vessel must provide all of the information required in Resolution C-00-06 on the Regional Vessel Register. The well volumes of purse-seine vessels should be measured; however, this is not a condition for inclusion in the Regional Register. It is necessary, at a minimum, that the flag government of the vessel provide an official well volume, whether measured or otherwise determined by the government. Also, it is useful for the Secretariat to have a breakdown and/or diagram showing the volumes of each of the vessel's wells; again, this is not a requirement for inclusion in the Register.
2. For a new vessel to be included in the Regional Register, the flag government must advise the Secretariat in writing, and must have sufficient capacity available, *i.e.*, equal to or greater than the well volume of the vessel to be added. If the new vessel is replacing another vessel that has been or is being removed from the Register, that vessel must be identified. If the new vessel has recently been granted its flag, documentation showing its new registration must be provided, as well as documentation regarding the deletion of its previous flag.
3. For a vessel on the Regional Register to change flag and remain on the Register, both governments associated with the change must agree, and must confirm this to the Secretariat in writing. At its 73rd meeting in June 2005, the Commission agreed 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". The Secretariat has interpreted this to mean that the approval must come from the government agency responsible for fisheries matters.

It is now very difficult for a vessel on the Regional Register to change flags and remain on the Register, because nearly all governments have made clear their interest in removing their flag vessels from the Register if they want to change flags.

4. A vessel may be removed from the Regional Register if its flag government so requests in writing. In this case, the well volume of the vessel removed will be available to the government for adding vessels in the future. If a vessel with a smaller well volume than the vessel removed is later added, the excess, or residual, is retained by the government, and is so documented in the Commission's records.

It is important to note that these residuals are available to governments as a result of vessels being

removed not only from the list of active vessels, but also from the list of inactive vessels.

If a vessel is removed from the Regional Register, the Secretariat needs to know whether the government is also removing the vessel from its national register.

5. A vessel may change its status from active to inactive, and vice versa. Paragraph 9 of the Resolution addresses the matter of inactive vessels. It has several elements:
 - a. Notification of vessels that will be inactive must be provided to the Secretariat by January 1 of each year;
 - b. A vessel declared inactive must remain in that status for the entire year;
 - c. An active vessel may replace an inactive one during the year, provided that the total active capacity of the vessels of the country receiving the vessel does not then exceed the active capacity of all of its vessels on 28 June 2002.

The Secretariat considers that there are some technical problems with the language on inactive vessels in the Resolution, and that the drafting could be improved, as noted below and in previous documents on this matter. However, in practice, vessels rarely change their status on these lists during the course of a year; if a vessel wishes to do so, its flag government must notify the Secretariat in writing.

6. A government may decide to simply give part or all of its available capacity to another government. This could be done as part of a broader cooperation agreement, or for some other reason, although no reason is required for such an action. This has occurred on a few occasions. Any such action must be notified to the Secretariat in writing. The idea of “lending” capacity has been informally discussed, but has not been implemented. This possibility is discussed in more detail further below.
7. The Commission has discussed establishing a protocol for the sealing of wells, but nothing has been agreed in this regard. Consequently, there are no agreed procedures for the sealing of wells, and some vessels on the Regional Register have thus sealed one or more wells in order to reduce their capacity so that they are in compliance with the Resolution. In such cases, the flag government must provide to the Secretariat information regarding the capacity of the wells to be sealed and an official diagram of the vessel with the dimensions of each of its wells. At their 18th meeting in October 2007, the Parties to the Agreement on the International Dolphin Conservation Program (AIDCP) decided that the assessments paid by vessels to support that program should be based on a vessel’s full capacity, regardless of any sealed wells

4. EXCEPTIONS FOR ADDING VESSELS TO THE REGIONAL REGISTER

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

	Limit (m ³)	
	Provided	Remaining
Costa Rica	9364	7483
El Salvador	861	30
Guatemala	1700	0
Nicaragua	5300	0
Peru	3195	2195
TOTAL	20420	9708

5. VESSELS FISHING WHILE NOT ON THE REGIONAL REGISTER

As has been noted in previous documents and communications by the Secretariat, there are vessels fishing in the EPO that are not on the Regional Register. While this is essentially a compliance issue, it is important to take the capacity of these vessels into account, since it is included in the calculations of capacity operating in the EPO (209,600 m³ in 2010; Figure 1) that is used in the stock assessments of tunas in the EPO. Currently, these vessels are:

Name	Flag	Well volume (m ³)
<i>Dominador I</i>	COL	421
<i>Marta Lucia R</i>	COL	1,603
<i>Ignacio Mar I</i>	ECU	370
<i>Caribbean Star No. 31</i>	UNK	209
<i>Tuna I</i>	ECU	316

Further, according to information available to the Secretariat, the following vessels have increased their capacity contrary to the Resolution. The Secretariat has written to the relevant government regarding these increases, no solution has been reached.

Name	Flag	Well volume on Register (m ³)	Increased well volume (m ³)
<i>Doña Roge</i>	ECU	592	917
<i>Tarqui</i>	ECU	459	634
<i>Ricky A</i>	ECU	818	4 wells

6. TECHNICAL ISSUES

Since the Resolution was adopted, it has been discussed on several occasions at meetings of the Working Group and of the Commission, but no changes to the Resolution have been agreed, including several minor amendments suggested by the Secretariat to clarify technical problems.

For example, 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 and changes.

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.

Furthermore, 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 it will be increased by adding vessels pursuant to paragraph 10 and by adding replacements for sunk vessels.

The technical and editorial issues discussed above were all addressed at the 7th meeting of the Permanent Working Group on Fleet Capacity in February 2004, and some corrections were recommended to the Commission. However, the Commission has not yet taken any action to amend the Resolution.

The following are the proposed changes related to these technical questions, in addition to the one already addressed in document CAP-11-04 on the Plan for the Regional Management of Fishing Capacity.

6.1. Paragraph 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, **except as provided for in this resolution**, 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.

6.2. Paragraph 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.~~ **However, an active vessel may be changed to inactive at any time, by notification of the change by the participant to the Director. An inactive vessel on the Register may, at any time during the year, replace a vessel of the same flag that has changed from active to inactive in accordance with this paragraph and fish in the EPO, provided that the total capacity of the purse-seine vessels that fly the flag of that participant is not increased by the replacement. Any active vessel on the Register that changes, in accordance with this resolution, to the flag of another participant shall continue inactive until it can change to active in pursuant to the provisions of this resolution.**

6.3. New paragraphs

1. The following procedure was adopted informally at the meeting of the Working Group in 2005; however, it would be advisable to record it in the resolution.

***New 13.** “For the purpose of implementing this resolution and maintaining the Register, the following procedures will be applied with regard to vessels that change flag: 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 the competent authorities of both governments involved.”*

2. The third phase of the Plan for Regional Management of Fishing Capacity allows for carrying out a review of the factors, inter alia economic incentives that contribute, directly or indirectly, to increasing fishing capacity, with the aim of reducing or eliminating them. One way of implementing this commitment would be to add a paragraph to Resolution C-02-03 expressing the commitment.

***New 14.** “The Commission shall evaluate the possible effects of all factors, among them the construction of vessels for export and economic incentives, that contribute, directly or indirectly, to increasing fishing capacity in the tuna fishery in the EPO, with a view to reducing and eliminating them.”*

6.4. Footnote to paragraph 13

The following footnote to paragraph 13 is no longer necessary, since those governments are no longer

seeking an alternative, and the Secretariat recommends that it be deleted.

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

Appendix A.

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: ²	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 before bringing a new vessel into the EPO.

* 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.

² 4038 m³ in the original resolution adopted in June; modified by consensus of the Parties, 3 November 2002

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.³
14. To urge all non-Parties to provide the information required by this resolution and comply with its provisions.

³ This paragraph was agreed *ad referendum* pending consultations among Costa Rica, El Salvador, Nicaragua, and Venezuela on a possible alternative.