

INTER-AMERICAN TROPICAL TUNA COMMISSION

75TH MEETING

CANCUN (MEXICO)
25-29 JUNE 2007

PROPOSAL A1

SUBMITTED BY SPAIN

RESOLUTION TO ESTABLISH A LIST OF VESSELS INVOLVED IN ILLEGAL, UNREPORTED AND UNREGULATED FISHING ACTIVITIES IN THE EASTERN PACIFIC OCEAN

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The Inter-American Tropical Tuna Commission (IATTC):

Recalling that the FAO Council adopted on 23 June 2001 an International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing (IPOA-IUU). This plan stipulates that the identification of the vessels carrying out illegal, unreported and unregulated (IUU) fishing activities should follow agreed procedures and be applied in an equitable, transparent and non-discriminatory way.

Aware that IUU fishing activities in the Eastern Pacific Ocean (hereinafter the EPO), defined as the area bounded by the coastline of the Americas, the 40°N parallel, the 150°W meridian, and the 40°S parallel, undermine the effectiveness of the IATTC conservation and management measures.

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Concerned that there is a possibility that vessel owners engaged in such fishing activities may have re-flagged their vessels to avoid compliance with IATTC conservation and management measures.

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Determined to address the challenge of an increase in IUU fishing activities by way of counter-measures to be applied in respect to vessels, without prejudice to further measures adopted in respect of flag States under the relevant IATTC instruments.

Considering the action undertaken in other regional fisheries management bodies to address this issue;

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Conscious of the need to address, as a matter of priority, the issue of vessels conducting IUU fishing activities;

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Noting that the situation must be addressed in the light of all relevant international fisheries instruments and in accordance with the relevant rights and obligations established in the World Trade Organization (WTO) Agreement; and

Guaranteeing due process due participation to the Parties involved and the efficient adoption of regulatory measures;

Resolves as follows:

Identification of IUU fishing activities

1. At each Annual Meeting, the Commission, in compliance with the procedure laid down in this Resolution, will identify those vessels which have engaged in fishing activities for species covered by the IATTC Convention in a manner which has undermined the effectiveness of IATTC conservation and management measures in force, and shall establish a list of such vessels (the IUU Vessel List).

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2. This identification shall be based on clear, precise and consistent evidence, *inter alia,* reports from an IATTC Party, cooperating non-Party, fishing entity or regional economic integration organization

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(collectively "CPCs") relating to IATTC conservation and management measures in force, trade information obtained from relevant trade statistics such as Food and Agriculture Organization of the United Nations (FAO) data and other verifiable national or international statistics, as well as any other information obtained from Port States and/or gathered from the fishing grounds which is suitably documented. Information from CPCs shall be provided in the format approved by the Parties.

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3. For the purposes of this resolution, vessels fishing for species covered by the IATTC Convention are presumed to have carried out IUU fishing activities in the EPO, when CPCs present evidence that such vessels, *inter alia*:

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a. Harvest species covered by the IATTC Convention in the EPO, and are not on the IATTC Regional Vessel Register, or

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b. Harvest species covered by the IATTC Convention, when its flag state is without catch limits or has exceeded such limits, or effort limit, provided by IATTC conservation and management measures, or

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c. Do not record or report their catches made in the EPO, as required by Resolutions in force, in a repeated and negligent manner, or make false reports or statements in a fraudulent manner, or

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d. Take or land undersized fish in contravention of IATTC conservation and management measures, or

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e. Fish during closures in contravention of IATTC conservation and management measures, or

f. Use prohibited fishing gear or fishing methods in contravention of IATTC conservation and management measures, or

g. Do not have a valid Certificate of Registry or authorization to fish granted by the respective flag state allowing to harvest species covered by the IATTC Convention in the EPO, or

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h. Transship with, participate in joint fishing operations with, support or re-supply vessels on the IUU Vessel List, or

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i. Are without nationality and harvest species covered by the IATTC Convention in the EPO, or

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j. Engage in fishing activities contrary to any other IATTC conservation and management measures, or

k. Are under the control of the owner of any vessel on the IUU Vessel List.

Information on alleged IUU fishing activities

4. CPCs may, every year, and at least 120 days before the Annual Meeting of the Commission, in accordance with the format referred to in paragraph 2 above, transmit to the Director information on any vessels presumed to have carried out IUU activities in the EPO, during the current and previous years, accompanied by the supporting evidence concerning the presumption of this IUU activity.

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Notification of Draft IUU Vessel List

5. On the basis of the information received pursuant to paragraph 4 and any other information at his disposal, the Director shall draw up a draft IUU Vessel List and shall transmit it, together with all the supporting evidence provided, to all CPCs, as well as to non-parties with vessels on that List, at least 90 days before the Annual Meeting of the Commission. The Director shall within the same time period notify the CPCs and the non parties with vessels included in this Draft IUU vessel list so that they may exercise their right to defense. CPCs and the non parties with vessels included in this Draft IUU vessel list shall, from the date of that communication, be advised of its obligation to participate in the process and attend without any need of a summons or warning, to defend themselves during

the sessions of IATTC where the review of the case will take place. The absence of the affected party at any stage of the process shall be the responsibility of the absentee and shall not impede the final resolution of the matter.

6. Each flag State with vessels included in the draft IUU list referred to in paragraph 5 shall communicate, in accordance with its jurisdiction, to the owners of the vessels of their inclusion in that list, and the consequences of the of the confirmation of their inclusion in the IUU vessel list.

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7. CPCs and non-Parties with vessels included in the Draft IUU list shall transmit, at least 30 days before the annual Meeting of the Commission, their comments to the Director, as appropriate, including verifiable evidence and other supporting information in defense of the infractions which they are charged, showing that the vessels neither have fished in contravention of IATTC conservation and management measures nor had the possibility of fishing for species covered by the IATTC Convention.

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8. CPCs shall, upon receipt of the Draft IUU list, closely monitor the vessels included in the draft IUU Vessel List in order to determine their activities and possible changes of name, flag or registered owner.

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Provisional IUU Vessel List

9. The Director shall transmit the draft list together comments received pursuant to Paragraph 6 of this Resolution, two weeks in advance of the Annual Meeting of the Commission, to the CPCs and the non-parties concerned, together with all the evidence provided.

10. CPCs may at any time submit to the Director any additional information which might be relevant for the establishment of the IUU Vessel List. The Director shall circulate the information, together with all the evidence provided, to the CPCs and to the non-parties concerned, at least two weeks before the Annual Meeting of the Commission.

11. CPCs shall in relation to these matters act in a manner consistent with the confidentiality requirements established by the Commission.

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12. The IATTC-AIDCP Joint Working Group on Fishing by Non-Parties (Joint Working Group) shall, at its annual meeting:

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- a. following consideration of the draft IUU Vessel List and information and evidence circulated under paragraph 10, adopt a provisional IUU Vessel List and submit it to the Commission for approval;
- b. following consideration of the previously established IUU Vessel List and the relevant information and evidence pursuant to this resolution, recommend to the Commission which vessels should be removed from the current IUU Vessel List.
- c. A vessel shall be included in the provisional IUU Vessel List only if one or more of the criteria in paragraph 3 have been satisfied.

13. The results of this examination may, if necessary, be referred to the Permanent Working Group on Compliance.

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14. The Joint Working Group shall remove a vessel from the provisional IUU Vessel List if the vessel's flag State demonstrates that:

- a. The vessel did not engage in any of the IUU fishing activities described in paragraph 3, or
- b. Effective action has been taken in response to the IUU fishing activities in question, including, *inter alia*, prosecution, and imposition of sanctions of adequate severity.

15. Following the examination referred to in paragraph 12, the Joint Working Group shall recommend that the Commission approve the provisional IUU Vessel List. If there is no consensus in the joint Working Group, all information considered shall be submitted to the Commission which shall have the full competence to establish the IUU Vessel list.

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16. The draft IUU Vessel List, provisional IUU Vessel List and the IUU Vessel List shall contain, if available, the following details for each vessel:

- a. name and previous names, if any;
- b. flag and previous flags, if any;
- c. owner and previous owners, including beneficial owners, if any;
- d. operator and previous operators, if any;
- e. call sign and previous call signs, if any;
- f. Lloyds/IMO number;
- g. photographs, where available;
- h. date first included on the IUU Vessel List;
- i. summary of activities which justify the inclusion of the vessel on the List, together with references to all relevant documents informing of and evidencing those activities.

IUU Vessel List

17. Once the Commission adopts the IUU Vessel List, it shall request non-parties with vessels on that List to:

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- a. notify the owners of the vessels of their inclusion on the List and of the consequences of being included in the List, and
- b. take all the necessary measures to eliminate these IUU fishing activities, including, if necessary, the withdrawal of the registration or the fishing licenses of these vessels, and to inform the Commission of the measures taken in this respect.

18. CPCs shall take all necessary measures, under their applicable legislation and consistent with paragraphs 56 and 66 of the IPOA-IUU of the Food and Agriculture Organization of the United Nations (FAO), to:

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- a. ensure that fishing vessels, support vessels, mother ships or cargo vessels flying their flag do not participate in any transshipment or joint fishing operations with vessels on the IUU list, nor support or re-supply them;
- b. ensure that vessels on the IATTC IUU Vessel List that enter port voluntarily are not authorized to land, transship, refuel or re-supply therein, but are inspected upon entry;
- c. prohibit the chartering of a vessel that are on the IUU Vessel List;
- d. refuse to grant their flag to vessels that are on the IUU Vessel List, unless the vessel has changed owner, and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel or, having taken into account all relevant facts, the flag CPC determines that granting the vessel its flag will not result in IUU fishing;
- e. prohibit commercial transactions, imports, landings and/or transshipment of species covered by the IATTC Convention from the vessels that are on the IUU Vessel List;
- f. encourage traders, importers, transporters and others involved, to refrain from transactions in,

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and transshipment of, species covered by the IATTC Convention caught by vessels that are on the IUU Vessel List;

- g. collect, and exchange with other CPCs, any appropriate information with the aim of searching for, controlling and preventing false import/export certificates for species covered by the IATTC Convention from vessels that are on the IUU Vessel List.

19. The Director shall take any measures necessary to ensure publicity of the IUU Vessel List, in accordance with, any applicable confidentiality requirements, including placing it on the IATTC website. Furthermore, the Director shall transmit the IUU Vessel List to the FAO and to other regional fisheries organizations for the purposes of enhancing co-operation between the IATTC and these organizations aimed at preventing, deterring and eliminating IUU fishing.

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20. Without prejudice to the rights of CPCs and coastal states to take proper action, consistent with international law, the CPCs shall not take any unilateral trade measures or other sanctions against vessels on the draft or provisional IUU Vessel Lists, provided by the Resolution or that have been removed from the IUU Vessel List, pursuant to this Resolution, on the grounds that such vessels are involved in IUU fishing activities.

Procedures for the deletion of vessels from the IUU Vessel List

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21. A CPC or a non-party with a vessel on the IUU Vessel List may request the removal of the vessel from the List during the intersessional period by providing information demonstrating that:

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- a. it has adopted measures that will ensure that the vessel complies with all relevant IATTC measures; or
- b. it will be able to assume effectively its responsibilities as regards the monitoring and control of the vessel's fishing activities in the EPO; or
- c. it has taken effective action in response to the IUU fishing activities that resulted in the vessel's inclusion on the List, including prosecution and imposition of sanctions of adequate severity; or
- d. the vessel has changed ownership and that the new owner can establish that the previous owner no longer has any legal, beneficial or financial interests in the vessel and does not exercises control over it, and that the new owner has not participated in IUU fishing activities.

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Intersessional removals, of vessels from the IUU Vessel List

22. A CPC or a non-party shall send its request for the removal of a vessel from the IUU Vessel List to the Director, accompanied by the supporting information for removing the vessel as referred to in paragraph 21.

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23. The Director will transmit the removal request, with all the supporting information submitted by the requestor, to the CPCs within 15 days following the receipt of the notification of the request.

24. Each CPC shall examine the removal request, and notify the Director in writing of its decision regarding the removal of the vessel from the IUU Vessel List within 30 days following the notification by the Director referred to in paragraph 22.

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25. If no Party objects to the removal of the vessel from the IUU Vessel List within the period stipulated in paragraph 24, the Director will inform all CPCs and whomever, which made the removal request, the FAO and other regional fisheries management organizations, and remove the vessel from the IUU Vessel List, as published on the IATTC website.

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26. If a Party objects to a request for the removal of a vessel from the IUU Vessel List, the vessel will be maintained on the List, and the Director will inform all CPCs and whomever, which made the removal request of the result.

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Final provisions

- | 27. This resolution shall apply to any fishing vessel with a history of fishing in waters outside of its flag state's national jurisdiction or which is greater than [20} meters length overall.
- | 28. This resolution replaces Resolution C-05-08

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