

INTER-AMERICAN TROPICAL TUNA COMMISSION
COMISIÓN INTERAMERICANA DEL ATÚN TROPICAL

70TH MEETING

ANTIGUA (GUATEMALA)
24-27 JUNE 2003

DOCUMENT IATTC-70-10a

**PROPOSALS TO STRENGTHEN THE JUNE 2002 RESOLUTION ON
FLEET CAPACITY**

1. IMPLEMENTATION TO DATE

The implementation of the June 2002 Resolution on Fleet Capacity (Appendix A.) has generally gone quite well, especially considering the complexity and delicacy of various elements of the resolution, and the ground-breaking nature of the agreement to limit purse-seine capacity, following more than four years of difficult negotiations. The Secretariat is not aware of any other regional fisheries management organization which has an agreement on limiting fishing capacity.

An important element of the implementation, the *Draft Plan for Regional Management of Fishing Capacity*, is now ready for consideration by the Commission. Also, as part of the process required to implement the Resolution, since August 2002, the Secretariat has sent periodically to the participating governments an *Active Purse-Seine Capacity List* and an *Inactive and Sunk Purse Seine Capacity List*. These Lists contain the names, flags, and capacities of the purse-seine vessels authorized to fish in the EPO included at that date in the Regional Vessel Register. The covering memoranda transmitting the Lists include details of changes made or pending.

The Secretariat also sent three memoranda regarding requests to extend the 31 January 2003 deadline, agreed at the June 2002 meeting, for several vessels to fish in the EPO in order to remain on the Register. On 27 January a memorandum was sent transmitting requests on behalf of two vessels, one from Ecuador and one from Vanuatu, for a 90-day extension of the January 31 deadline, until April 30, 2003. On March 5 the Secretariat notified the governments that, having received no objection to these requests, it would proceed on the basis that the extensions had been agreed. Subsequently, one government expressed a reservation about the extensions and asked that the matter be discussed during the Commission meeting in June. The last of the 3 memoranda, dated May 1, 2003, transmitted a communication from Ecuador stating that, for reasons of *force majeure*, one of the two Ecuadorean vessels had been unable to begin fishing, and asking for a 90-day extension of the April 30 deadline. The Secretariat suggested that this question should also be discussed at the June meeting.

The current situation regarding the utilization of the capacity limits provided to certain countries pursuant to the Resolution is:

	Limit (m ³)	
	Provided	Utilized
Costa Rica	9364	-
El Salvador	861	664
Guatemala ¹	1700	-
Nicaragua	5300	-
Peru	3195	2199

¹ Must utilize by June 2004

2. PROPOSALS TO STRENGTHEN THE RESOLUTION

2.1.Vessel transfers

The most important issue, in the view of the Secretariat, to be addressed in the implementation of the Resolution relates to the question of vessel transfers. The Secretariat's understanding of how the Resolution was intended to work with respect to transfers was to allow vessels on the Register to simply transfer flag from one participant to another. The participant the vessel was transferring from would not be able to replace the vessel, and there would be no restrictions on any participant being able to receive the transferring vessel.

However, the resolution does not contemplate the time lag often involved in such transfers. Often a vessel intending to change flag will receive a provisional registration from a new flag, but until it is removed from the registry of the old flag, the latter has legal responsibility for the vessel. The problem arises when a vessel is removed from a national registry before it has completed all the required procedures for being officially part of another registry. When a vessel is removed from a national registry and the Commission's Register, it is not able to simply transfer flag and automatically obtain a new national registry, according to the Resolution. Further, when a government removes a vessel from the Register it is able to replace it, according to the Resolution. Thus, there is an incentive for a participant to remove a vessel intending to transfer flag from the Register, as contemplated in paragraph 5, in order to be able to replace it.

If the Secretariat is correct regarding the intention of the Resolution with respect to transfers, it could be amended, as follows, in order to fix the problem:

NEW PARAGRAPH 7:

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 which have not transferred flag to another participant and have not been re-instated to the Register within three months from the date of their removal from the Register. The total capacity of any replacement vessel or vessels shall not exceed that of the vessel or vessels replaced.
- 7bis. Any vessel removed from the Register may be reinstated to the Register if any participant advises the Secretariat within three months of the removal that the vessel has been incorporated into its national registry, either on a provisional or permanent basis, and that the participant will be legally responsible for the vessel with respect to the participant's obligations pursuant to any resolutions or other agreements adopted by the Commission. Otherwise, any such vessel may only be reinstated to the Register if added pursuant to paragraph 10.

2.2.Inactive Vessels

Paragraph 9 of the Resolution addresses the matter of inactive vessels. It has several important elements:

- a. Notification of inactive vessels must be provided by January 1 of each year;
- b. An inactive vessel must remain in that status for the entire year;
- c. An active vessel may replace an inactive one during the year, but only if the total active capacity of the vessels of the participant receiving the vessel would not then exceed the active capacity of all of its vessels on 28 June 2002.

Point c. above should perhaps be modified in a new resolution to say not then exceed the active capacity of all of its vessels on 28 June, as modified by any changes to the active capacity made by transfers in

accordance with the Resolution.

Governments have not been diligent in providing notification by January 1, and at least one request has been received to move a vessel from inactive to active status during the course of the year. The question for the governments to address is whether to modify the Resolution to provide more flexibility on the handling of inactive vessels. The options are (1) to allow vessels to change status anytime during the course of the year, or (2) construct a system whereby a vessel could be inactive for only half of the year, rather than the full year now required.

There are two other issues related to inactive vessels, specifically:

1. If the Director is not notified by January 1 as to which vessels are inactive, should he proceed on the basis that vessels that were inactive status during the preceding year will remain inactive for the next year? The Secretariat recommends adopting this procedure.
2. If an inactive vessel transfers to another flag during the course of the year, must it remain inactive for the remainder of the year, or should it be able to change to active status immediately?

Finally, based on the Secretariat's consultations with interested governments, it would appear that the footnote to paragraph 13 of the Resolution can now be removed.

Appendix A.

INTER-AMERICAN TROPICAL TUNA COMMISSION RESOLUTION C-02-03, JUNE 2002

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	5300m 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

* 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

to find a suitable vessel from the Register for at least four months following such notification before bringing a new vessel into the EPO.

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.