

INTER-AMERICAN TROPICAL TUNA COMMISSION

89TH MEETING

**Guayaquil, Ecuador
29 June-3 July 2015**

DOCUMENT IATTC-89 INF-B

SUBMITTED BY PERU

**REQUEST BY THE PERUVIAN STATE FOR THE
RECOGNITION OF THE PENDING CARRYING CAPACITY
EQUIVALENT TO 5851 CUBIC METERS, IN THE
FRAMEWORK OF RESOLUTION C-02-03**

Mr. Guillermo Compeán
Director
Inter-American Tropical Tuna Commission
8901 La Jolla Shores Drive
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RE: Request by the Peruvian State
Reference: a) Resolution C-02-03
b) Resolution C-11-12, amended by Resolution C-14-05

Attached: Request by the Peruvian State for recognition of the pending carrying capacity equivalent to 5,851 cubic meters, in the framework of Resolution C-02-03

I have the pleasure of writing to you to inform you that Peru, as a member of the IATTC, ratifies the necessity to request recognition of the pending carrying capacity to be attributed to its tuna fleet in the Eastern Pacific Ocean (EPO), equivalent to 5851 cubic meters; to this end, attached to this letter is the corresponding request.

It should be noted that our request is based mainly on the provisions of Resolution C-02-03 on "Capacity of the tuna fleet operating in the Eastern Pacific Ocean (revised)", which recognises that Peru maintains a reserve of a long-term carrying capacity of up to 14,046 m3, which was accepted to safeguard its expectative right to the future consolidation of a national tuna fleet, this being our legitimate aspiration derived from the express commitment assumed and which is reflected in the above-mentioned Resolution of the year 2002.

Therefore, I would be grateful if you would circulate this request to the members of the Commission, so that it may be duly addressed during the 89th Meeting of the IATTC, to be held in Guayaquil, Ecuador.

With no other particular, I seize this occasion to express the sentiments of my consideration and esteem.

Sincerely.

(signed)
JUAN CARLOS REQUEJO ALEMAN
Vice-Minister of Fisheries

Request by the Peruvian State for the recognition of the pending carrying capacity equivalent to 5851 cubic meters, in the framework of Resolution C-02-03

Peru, as part of its fisheries policy, promotes the development of the tuna fishery through the consolidation of its tuna fleet in the Eastern Pacific Ocean to ensure supply for a growing national tuna industry, as well as the conservation of tunas that the Inter-American Tropical Tuna Commission (IATTC) promotes.

At the 69th Meeting of the Inter-American Tropical Tuna Commission held in 2002, Resolution C-02-03 on the "Capacity of the tuna fleet operating in the Eastern Pacific Ocean" was approved, in which it is recognised that Peru maintains a long-term reserve of carrying capacity of up to 14,046, as an expectative right to the future consolidation of the national tuna fleet.

It is for this reason, that given the fulfilment of the long-term condition now that about 13 years have passed since the issuing of the above-mentioned Resolution, Peru requests recognition of the pending 5851 cubic meters of carrying capacity, in order to continue implementing its policy of developing the industry and consolidating a national tuna fleet, to which it has a greater right as a coastal State and member State of the IATTC, by being respectful of the agreements adopted by this Organisation and having followed fully the conservation, management and other measures relevant to the fishery for tunas and the Agreement on the International Dolphin Conservation Program.

From the biological point of view, one of the principal bases that protect and support the requests for recognition of the total carrying capacity for Peru, is provided by the wide distribution and concentration of tunas in Peruvian jurisdictional waters¹ and in the adjacent sea, as has been evidenced for some years in the reports published by the IATTC on the "Tuna Fishery in the Eastern Pacific Ocean". It must be highlighted that in periods of warm environmental conditions, like El Niño, such as have occurred in recent years, they favor a greater availability of tunas in our sea.

The main target species of the Peruvian tuna fleet in jurisdictional waters and neighbouring areas would be skipjack tuna. In this regard, the results of the assessments presented by IATTC scientists indicate that the skipjack population has not yet shown signs of deterioration (Document SAC-05-09a). As regards yellowfin tuna, a species that is captured in lesser proportion, it is near the maximum sustainable yield; thus these results indicate that the Peruvian request would not put the sustainability of these fisheries at risk.

It is for these reasons, that the Peruvian State, through the recognition of the balance of the above-mentioned reserve of carrying capacity (5851 cubic meters), seeks to create an incentive of interest in investing in our fellow nationals which will allow the consolidation of a national tuna fleet with the consequent development of the industry as a source of food, jobs and income, ensuring the responsible utilisation of hydro-biological resources, in harmony with the preservation of the environment and the conservation of biodiversity.

Additionally, Peru, in the framework of the food security policy aimed at guaranteeing that the population has physical, social and economic access to food that is sufficient, harmless and nutritive to satisfy their daily energy needs and food preferences in order to lead an active and healthy life, has been promoting the development of national productive capacity. With this purpose, a State strategy has been designed and is being implemented which involves the optimal utilisation of hydro-biological resources, among them, tunas, for the supply of food to the population, on the basis of ensuring compliance with the commitments adopted in the Commission.

¹ *The abundance and availability of tunas in Peruvian waters and in the adjacent high seas area is significant and proven in all the fishing trips made by tuna vessels. This is evidenced by the approximately 40,000 tons caught annually during the 1950s by Peruvian-flag vessels and the almost 60,000 tons that have been caught annually between the years 2003 and 2010 by foreign-flag vessels.*

Peru as sovereign of its national waters, has the right to establish its own mechanisms for the sustainable utilisation of hydro-biological resources, respecting the principles of responsible fishing contained in FAO: so our request falls within the principle of equality and fairness established for the member states of this Commission, understood not only as the same rules of play for all the parties, but also as an offer of fair opportunities for the socio-economic development of their populations, given the special needs of the developing countries of the region.

We understand and share the prudent sense and scope of the application of measures to limit the capacity of the fleet at the level of the Eastern Pacific Ocean, but they cannot alter and much less modify the rights of a coastal country such as ours for the consolidation of its own fleet with the resulting development of the tuna industry to the benefit of feeding our population, more so when Peru is internationally recognised as an example in the taking of decisions regarding conservation measures and the preservation of marine biodiversity.

Finally, we reiterate that Peru's interpretation of the indicated Resolution C-02-03, consists of affirming that the requirement of a long term has been complied with, since thirteen (13) years have passed since the adoption of this measure, and it is now appropriate to exercise those rights in a manner consistent with the applicable rules of International Law, a situation that foresees the total use of the 14,046 cubic meters to which it has a right, using to this end, national vessels and owners and subject to complying with the Regulations for Managing Tuna Fisheries of Peru, which establish conservation and management measures following the principles, guidelines and criteria for responsible fishing adopted at the international level and, therefore, is consistent with the management measures of the IATTC and the AIDCP. Likewise, we reaffirm the exercise of our right as a coastal country to develop and maintain a tuna-fishing industry, without this, in any case, implying an increase in fishing mortality and helping to guarantee the conservation of the tuna resource, in concordance with the firm application of the principle of sustainability that underlies our State policy regarding fisheries development.

**TECHNICAL BASIS FOR THE REQUEST BY THE PERUVIAN STATE FOR THE RECOGNITION OF
THE PENDING CARRYING CAPACITY EQUIVALENT TO 5851 m³, IN THE FRAMEWORK OF
RESOLUTION C-02-03**

1. BACKGROUND

- 1.1 At the 69th Meeting of the Inter-American Tropical Tuna Commission (IATTC) held in Manzanillo, Mexico, in June 2002, Resolution C-02-03, "On the capacity of the tuna fleet operating in the Eastern Pacific Ocean (EPO)" was approved, with which Peru was allocated 3,195 m³ of carrying capacity to operate in the EPO and this was done with a reserve in Peru's favor, according to which long-term requests of up to 14,046 m³ are maintained.
- 1.2 Under that legal context, the Peruvian State approved the Fisheries Management Regulation, whose aim is the rational and sustained utilization of the stocks of tunas and tuna-like species both in Peruvian jurisdictional waters and on the high seas, as well as the promotion and development of the tuna fishery through the establishment and progressive growth of a specialized national tuna fleet in conformity with the measures recommended by IATTC and following the principles, guidelines and criteria for responsible fishing adopted at the international level.
- 1.3 At the 82nd meeting of the IATTC, in July 2011, the Commission issued Resolution C-11-12, in which it approved the allocation to Peru of a carrying capacity of 5000 cubic meters, to be utilized by Peruvian-flag vessels that would operate only in marine areas under the jurisdiction of Peru. Furthermore, it stated that this capacity could not be transferred to other flags, nor used to charter vessels of other flags.
- 1.4 At the 87th meeting of the IATTC, in July 2014, the Commission considered the request presented by the Government of Peru that the restrictions established in Resolution C-11-12 be lifted and the amended Resolution C-14-05 was issued in which Peru was allowed to carry out extractive activities in the EPO, transfer its carrying capacity to vessels of other flags and carry out charters.
- 1.5 At the 88th Extraordinary Meeting of the Inter-American Tropical Tuna Commission (IATTC), held in La Jolla, California in 2014, Peru requested the allocation of the remaining carrying capacity, equivalent to 5851 cubic meters, for this the above-mentioned Commission decided that our request together with that of Costa Rica, Nicaragua, El Salvador and Honduras would be addressed at the 89th Meeting of the IATTC, as reflected in the Minutes of the meeting.

2. REQUEST BY THE PERUVIAN STATE

- 2.1 Peru, as part of its fisheries policy, promotes the development of the tuna fishery through the consolidation of its tuna fleet in the Eastern Pacific Ocean to ensure supply for a growing national tuna industry, as well as the conservation of tunas that the Inter-American Tropical Tuna Commission (IATTC) promotes.
- 2.2 At the 69th Meeting of the Inter-American Tropical Tuna Commission held in 2002, Resolution C-02-03 on the "Capacity of the tuna fleet operating in the Eastern Pacific Ocean" was approved, in which it is recognized that Peru maintains a long-term reserve of carrying capacity of up to 14,046, as an expectative right to the future consolidation of the national tuna fleet

It is for this reason, that given the fulfilment of the long-term condition now that about 13 years have passed since the issuing of the above-mentioned Resolution, Peru demands that the utilization of the remaining carrying capacity, equivalent to 5851 cubic meters, be implemented in order to continue implementing its policy of developing the industry and consolidating a national tuna fleet, to which it has a greater right as a coastal State and member State of the IATTC, by being respectful of the agreements adopted by this Organization and having followed fully the conservation, management and other measures relevant to the fishery for tunas and the Agreement on the International Dolphin Conservation Program.
- 2.3 This document summarizes the main arguments that support the request presented by the Peruvian State to the Inter-American Tropical Tuna Commission (IATTC) in order to implement the utilization of the remaining carrying capacity equivalent to 5851 cubic meters; an aspiration that is fully legitimate under International Law.

3. TECHNICAL LEGAL ARGUMENTS

3.1 Utilization of the Carrying Capacity allocated to Peru

- Peru has an allocation of a total of 8,195 m3 of carrying capacity granted by two IATTC resolutions (C-02-03 and C-11-12 amended C-14-05), both without restrictions on its fishing operations.
- Its utilization is detailed in the following table:

TABLE No. 1

Allocated rights to IATTC carrying capacities

IATTC allocating resolution	VESSEL	LICENSE	WELL CAPACITY m3	ADMINISTRATIVE STATUS IN PERU	STATUS ON IATTC REGISTER
C-02-03, C-11-12 amended by C-14-05 8,195 m3	DORICA	CO-10200-PM	300	FISHING LICENSE ²	ACTIVE
	FLOR	CO-11677-PM	300	FISHING LICENSE	ACTIVE
	ALESHKA	CO-13919-PM	400	FISHING LICENSE	RESERVED*
	DON LUCHO II	CE-15791-PM	732.38	FISHING LICENSE	ACTIVE
	MARÍA JOSÉ	CO-19579-PM	449.16	FISHING LICENSE	ACTIVE
	CARACOL	CO-15313-PM	350	FISHING LICENSE	ACTIVE
	COSTA DEL SOL	CO-15311-PM	350	FISHING LICENSE	ACTIVE
	BAMAR VIII	CO-19867-PM	650	FISHING LICENSE	ACTIVE
	ISABELITA	CE-28791-PM	487.01	FISHING LICENSE	ACTIVE
Total registered			4,018.55		
Summary of allocations – Peru.					
Detail			Carrying capacity m3	% progress	
Well capacity recorded at the IATTC			4,018.55	49%	
Carrying capacity to be recorded by the IATTC			1,497.75	18%	
Carrying capacity pending allocation to the Peruvian fleet			2,678.70	33%	
Total allocated by the IATTC			8,195.00	100%	

*Vessel in the process of being substituted

3.2 As can be seen in the preceding table, Peru has utilized a total of 5,516.3 m3 of the 8,195 m3 of carrying capacity allocated by this Commission, equivalent to 14 vessels; this number represents 67% relative to the total allocated.

3.3 Of the 5,516 m³ of carrying capacity, the 3,618.55 m3 are classified as “Active Capacity” in the IATTC Vessel Register, the equivalent difference (1,897.75 m3) is a capacity that is in the process of implementation with approved projects; once implemented, they will obtain the corresponding fishing license and the IATTC Director will be informed for their corresponding inclusion in the above-mentioned Register.

3.4 The 2,678.70 m3 , whose allocation from the 8,195 m3 is pending, will be utilized in the near future taking into account the modalities contemplated in national legislation.

4. PRINCIPLE OF FAIRNESS

4.1 Peru as sovereign of its national waters, has the right to establish its own mechanisms for the sustainable utilization of hydro-biological resources, respecting the principles of responsible fishing: so our request falls within the principle of equality and fairness established for the member states of this Commission, understood not only as the same rules of play for all the parties, but also as an offer of fair opportunities for the socio-economic development of their populations, given the special needs of the developing countries of the region.

² The Peruvian legislation in force applicable to the tuna fishery, establishes that for access to extractive activity for tuna, an authorization for fleet increase and a fishing license are necessary.

The authorization for fleet increase is a Right that is granted to the owner of a fishing vessel subject to his commitment to implement a project of structural modification, of acquisition or construction of a vessel in a maximum 18 months, without prejudice to the four (04) months of searching that Resolution C-02-03 establishes in its paragraph 11.

After the implementation of the fleet increase authorization, the fishing permit is granted, which is an administrative right that allows the owner of the fishing vessel to initiate extractive activities on the authorized hydro-biological resources. Once this right is granted, the administration informs the IATTC Secretariat the inclusion of the vessel to the Regional Vessel Register in accordance with the measures established by the Commission.

- 4.2 Peru as a developing country, seeks through this recognition of carrying capacity, the opportunity to create an incentive of interest in investing in our fellow nationals that will allow the consolidation of a national tuna fleet with the consequent development of the industry as a source of food, jobs and income, ensuring the responsible utilization of hydro-biological resources, in harmony with the preservation of the environment and conservation of biodiversity.
- 4.3 We understand and share the sense and prudent scope of the application of limiting measures on the capacity of the fleet at the level of the Eastern Pacific Ocean, but they cannot alter and much less modify the rights of a coastal state such as ours for the consolidation of its own fleet with the consequent development of the tuna industry to the benefit of feeding our population, more so since Peru is internationally recognized as an example in the taking of decisions regarding the conservation and preservation of marine biodiversity.
- 4.4 Peru as a coastal State has a sovereign right for the purposes of exploration and exploitation, conservation and administration of the living marine resources in areas under its national jurisdiction, as well as the right that all States have for their nationals to dedicate themselves to fishing on the high seas as established in customary international law.
- 4.5 In this regard, we must point out that IATTC Resolution C-02-03 on EPO Fleet Capacity establishes that: *"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"*, whose application is mandatory for the purposes of evaluating this request.
- 4.6 The purpose of a Regional Fisheries Management Organization is to encourage and promote that the coastal Member States, develop and consolidate their tuna fishery responsibly, with sustainable management measures, without that meaning at the same time an obstacle for the development of this fishery; for this reason, Peru as a State Party to the IATTC is committed to the objective of contributing to scientific research in order to ensure the long-term conservation and sustainable use of the species covered by the IATTC, in accordance with the relevant rules of international law. It should be stated that Peru, since it joined the IATTC, has been contributing to providing scientific information to the Commission.

5. SCIENTIFIC SUPPORT

- 5.1 The great availability of tunas in waters under the jurisdiction of Peru, evidenced by the historical landings of tunas on the Peruvian coast, which show that our Country was the leader in the tuna fishery in Latin America in the 1950s, with a maximum catch of approximately 40,000 tons in 1959 and because of the catches of tunas in the Peruvian maritime domain by foreign-flag tuna fleet, whose average catch in the 2003-2010 period was about 60,000 tons, with a record figure of 105,000 tons in 2005 with the main species caught being skipjack (*Katsuwonus pelamis*) with 68% approximately, followed by yellowfin tuna (*Thunnus albacares*) with 30% approximately. The IATTC reports on "The Fishery for Tunas in the Eastern Pacific Ocean" confirm the great availability of tunas both in Peruvian waters and in the adjacent sea.
- 5.2 As evidenced above, the main target species of the Peruvian tuna fleet in jurisdictional waters and neighboring areas would be skipjack tuna (*Katsuwonus pelamis*). In this regard, the results of the assessments presented by the scientists of the IATTC indicated that the skipjack stock has not yet shown any signs of population deterioration (Document SAC-05-09a). Regarding yellowfin tuna, a species caught in lesser proportions, it is near the maximum sustainable yield.
- 5.3 The 5,851 m3 of carrying capacity, constitutes only 2.5 % of the total carrying capacity authorized by the IATTC (225,000 m3 in 2014), in this regard, the recognition of the remaining carrying capacity (5,851 m3) would not generate a significant impact on its population and would not put at risk the sustainability of these fisheries. Figure 1

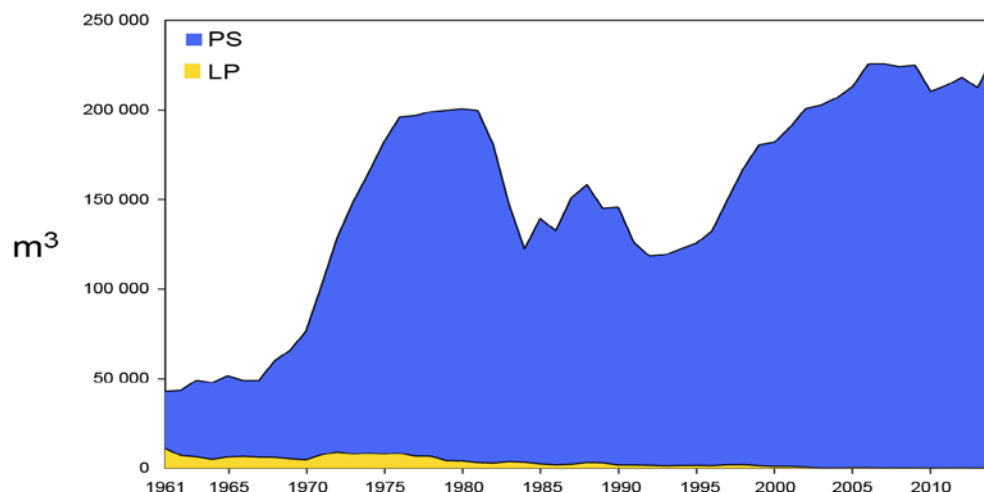


Figure 1. Carrying capacity in m³ of well volume, of the purse-seine and pole-and-line fleets in the EPO, 1961- 2014.
Source: SAC-06-03. The fishery in the EPO in 2014- IATTC.

- 5.4 One of the main bases that protect and support the request for the recognition of the total carrying capacity for Peru, is given by the high availability of tunas in the Peruvian jurisdictional waters and the adjacent sea, as has been shown for several years in the reports published by the IATTC on the “Fishery for Tuna in the Eastern Pacific Ocean”.
- 5.5 Off the coasts of Peru, both in the waters under national jurisdiction and in the adjacent sea on the high seas, important concentrations of tunas are found, among them skipjack tuna and yellowfin tuna, as is indicated in the recent IATTC document - SAC- 06-03 of 2014. Fig.2, to which Peru, as a coastal State, has every right to access, in accordance with international instruments, for the well-being of its peoples in the framework of the conservation and management that the IATTC promotes, in which Peru participates as a Party State.

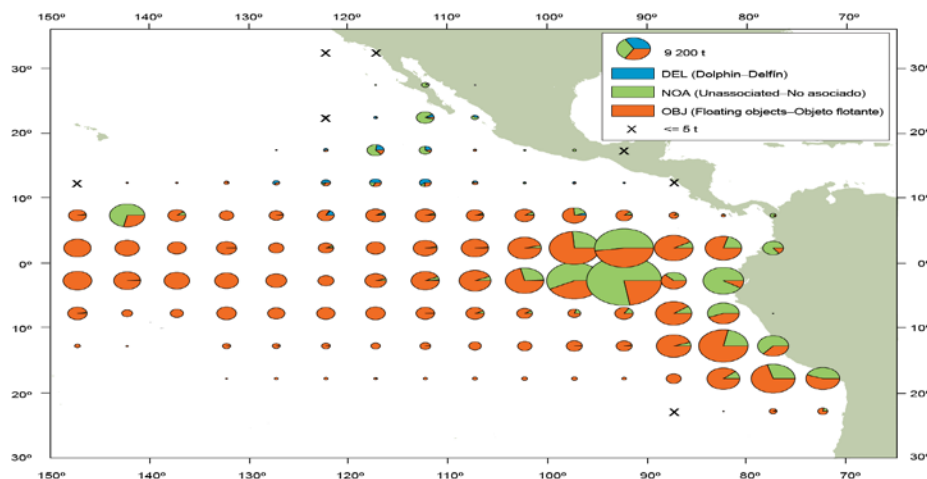


Figure 2. Average annual distribution of catches of skipjack tuna. Source: Doc. SAC- 06-03- IATTC, 2014

- 5.6 The abundance and availability of tunas in Peruvian waters and in the adjacent high seas zone is significant and proven in all the fishing trips made by tuna vessels. This is shown by the approximately 40,000 annual tons caught during the 1950s by Peruvian-flag vessels and the nearly 60,000 tons that were captured annually between the years 2003 and 2010 by foreign-flag vessels, based on the reports on the fishery and assessments of tunas that the IATTC develops and publishes annually.
- 5.7 Fishing activities are carried out in an area extending from 03° N to 17° S and between 10 and about 630 nautical miles from the coast, with the main species caught being skipjack (*Katsuwonus*

pelamis) with about 76,9%, yellowfin tuna (*Thunnus albacares*) about 3,8% and bigeye tuna (*Thunnus obesus*) with about 0,1%.

- 5.8 Document SAC-05-04 indicates that in the region off Peru yellowfin and skipjack tunas predominate whose size is, large compared to those in other areas; which shows that the referenced species are not being put at risk of recruitment overfishing.

6. COMPLEMENTARY ASPECTS

- 6.1 Peru has incorporated the provisions of the code of responsible conduct within its laws that regulate access to the extraction of hydro-biological resources within the scope of its jurisdiction. The General Fisheries Law and its Regulations in force, approved by means of Legislative Decree N° 25977 and Supreme Decree N° 012-2001-PE, respectively, are intended to regulate fishing activities with the objective of promoting their sustained development as a source of food, jobs and income and of ensuring the responsible utilization of hydro-biological resources, optimizing the economic benefits, in harmony with the preservation of the environment and the conservation of biodiversity.
- 6.2 Given the above statement, the type of fisheries, fisheries management systems, allowable catch quotas, fishing seasons and areas, regulation of fishing effort, fishing methods, minimum catch sizes and other rules that are required for the preservation and rational exploitation of hydro-biological resources are established on the basis of available scientific evidence and of socio-economic factors.
- 6.3 Based on the above-cited principle, the Regulations for Managing Tuna Fisheries were established and approved by means of Supreme Decree N° 032-2003-PRODUCE and its modifications, with which the regulatory framework is established for access to the extraction of the cited resource, strictly in consideration of the carrying capacity granted by the IATTC, as well as the relevant conservation measures, including those adopted by the Commission that allow the tuna stocks and other species associated with them, to be kept healthy within the zone of the Eastern Pacific Ocean.
- 6.4 In this way, the Peruvian normative framework guarantees compliance with the commitments adopted within the framework of the IATTC and the Agreement on the International Dolphin Conversation Program, establishing conservation measures for the resource on the basis of the guidelines and criteria for responsible fishing adopted at the international level
- 6.5 Peru considers that the recognition of the pending 5,851 m3 of carrying capacity, do not imply harm to the sustainability of tunas given that the fishery would be focusing mainly on the extraction of skipjack, a resource whose population is in a healthy state; without prejudice to that, we believe that the application of the system of individual catch quotas proposed by the Scientific Advisory Committee, would be a scheme that would guarantee the sustainability of the resources, and which could be complemented with measures of associativity and naming of vessels. It should be mentioned that Peru has successful experience in the application of this methodology in its principal fisheries such as those for anchovy and hake, it is for this reason that we offer our support for consolidating this proposal for a measure, and with which the pending carrying capacities for developing countries could be recognized, with their implementation subject to the implementation of the quota scheme that the member countries might adopt.

Lima, 18 June 2015