

**JOINT WORKING GROUP ON FISHING BY NON-PARTIES**

**2<sup>ND</sup> MEETING**

ANTIGUA (GUATEMALA)  
20 JUNE 2003

**DOCUMENT JWG-2-07**

**MEASURES TO DETER FISHING BY NON-COOPERATING NON-PARTY  
VESSELS**

**1. BACKGROUND**

The participating governments have addressed the issue of how to deal with fishing by non-cooperating non-party vessels for several years, and while some success has been achieved, it has proven difficult to make significant progress on this matter. There are several good reasons for this, including the complexity of dealing with two different agreements composed of different parties, as well as the fact that there are non-parties with purse-seine vessels and others with longline vessels, and the different policy and political elements associated with these two fisheries. However, the problem of fishing by non-parties is likely to become more troublesome. For example, in September-October 2002 a number of purse-seine vessels from non-party flags fished for several weeks in the EPO, and longliners of non-parties may find the EPO increasingly attractive as they are forced out of other areas by aggressive actions taken by other organizations, such as ICCAT. Thus, it is increasingly imperative that meaningful actions be taken by the participating governments to deal with non-party fishing..

In previous documents for this Working Group, the IATTC Permanent Working Group on Compliance, and the AIDCP Parties, various measures have been identified which might be useful to help deter fishing by non-cooperating non-party vessels. At previous meetings the following actions have been considered as matters that could be addressed in more detail or be the subject of resolutions:

1. Compilation of a list of non-cooperating vessels, defined as vessels not authorized to fish or fishing in a manner that undermines the effectiveness of the Commission's conservation and management measures.
2. Enhanced diplomatic actions to invite or encourage non-Parties to become Parties to the IATTC.
3. Restriction of access to ports and port-servicing facilities, and/or refusal of logistical support to tuna vessels of non-cooperating nations.
4. Denial of access to the Exclusive Economic Zones of participating governments for fishing operations by vessels of non-cooperating nations.
5. Trade measures, to the extent consistent with the rules of the World Trade Organization, relating to fish caught by vessels identified in (1) above.

At last year's JWG meeting, only the first one of these matters was discussed, and progress could not be made on establishing a list of non-cooperating vessels because no criteria had been established for defining or determining what constitutes a non-cooperating vessel or non-party.

**2. IMMEDIATE ACTIONS**

While it might be useful to discuss a broad range of possible measures to deter fishing by non-parties, a more practical approach at this stage might be to establish the criteria for determining a cooperating non-

party and formally decide which non-parties are considered to be cooperating, and perhaps establish a positive list of cooperating vessels.

## **2.1. Cooperating non-parties**

As requested, the Secretariat has communicated with non-party governments with vessels fishing for tunas and tuna-like species in the eastern Pacific to inquire if (1) their flag vessels are authorized to so fish and (2), if they are, whether the government is willing to cooperate with the IATTC conservation program. We have been informed by Belize, the People's Republic of China, the Republic of Korea, and Taiwan/Chinese Taipei that they intend to fully cooperate with the Commission and that their vessels will fish in a manner consistent with the Commission's management program. We have not received any response to that request from Bolivia, Colombia, Honduras, Indonesia, or St. Vincent and the Grenadines. The Secretariat did not communicate with the European Union (EU) on this matter, assuming that, based on previous communications and practice, the EU was prepared to cooperate.

Another consideration in determining who is a cooperating party is whether or not the government has made a good-faith application for membership of the Commission, in cases where that is possible. If a government can achieve the status of a cooperating non-party, and thereby enjoy essentially the same benefits as members, there is no incentive for that government to join the Commission and assume the financial and other responsibilities that membership implies.

The Secretariat recommends that, at this initial stage, based on the responses received and the lack of evidence to the contrary, the participating governments provisionally consider Belize, China, the EU, Korea, and Taiwan/Chinese Taipei to be cooperating non-parties or fishing entities. It should be noted that this action would be with respect to the IATTC only. The governments need to decide if this determination should be reviewed periodically, and if application for membership should be a criterion for future determinations.

In considering general criteria for determining who is a cooperating non-party, it is important to distinguish between the IATTC and the AIDCP, and between longline, purse-seine, and other vessels.

The situation with the AIDCP is relatively simple, since it covers only purse-seine vessels; with the IATTC the situation is more complex, since its mandate is broader. For longline vessels, the IATTC's only requirement at this time is that they report relevant catch and fishery information, so the Secretariat recommends that non-parties with authorized vessels fishing in the eastern Pacific that provide the required information be considered as cooperating. For purse-seine vessels the question is more complicated, since IATTC requirements have been more extensive. The IATTC governments would need to decide, on a case-by-case basis, if the level of compliance by a non-party with purse-seine vessels justifies a determination that it is cooperating.

If the governments agree with these recommendations for determining specific cooperating non-parties and general criteria for such determinations, they could be recorded in a resolution.

## **2.2. Positive list of cooperating vessels**

Another action which could be taken at this meeting is the establishment of a list of cooperating vessels. This is a corollary to the June 2001 IATTC [\*Resolution on fishing by vessels of non-parties\*](#), which requires the Commission to establish a list of non-cooperating vessels. However, it may in practice be easier initially to establish a positive list of vessels that are cooperating, rather than the "black list" of non-cooperating vessels contemplated in the resolution. If the governments wish to proceed on this matter, the Secretariat recommends that they do so, at this stage, on the basis of three separate positive lists, for longline vessels, purse-seine vessels, and other vessels.

A positive list for longline vessels should be relatively easy to establish, and Japan has proposed a draft resolution to this effect. Both ICCAT and the IOTC have established such schemes. The IATTC has already taken an important step towards creating a positive list with the establishment of the Regional

Vessel Register. However, in its current form the Register includes all vessels authorized to fish in the eastern Pacific, including those of non-parties, regardless of whether they are cooperating with the IATTC, perhaps because there are no criteria for determining whether they are cooperating. The IATTC governments could consider allowing only vessels of cooperating non-parties or fishing entities to be included on the Register; this would be a useful step towards the establishment of a positive list. In the Japanese draft resolution, governments must meet several criteria in order for their longline vessels to be on such a list, such as accepting responsibility for the actions of their flag vessels and ensuring that the vessels have no history of illegal, unreported, and unregulated (IUU) fishing activities.

If a positive list is established, the governments could consider appropriate measures to deal with vessels not included on the list, such as refusing to allow the landing, transshipment, or purchase of fish caught by such vessels.

A positive list for purse-seine vessels could be established using similar criteria, but, as noted above, determining that a vessel or party is cooperating could be more complicated. Nonetheless, the same principles should be applicable in general, and it might be possible to agree on the establishment of a list without deciding at this stage which vessels would be on it.