

INTER-AMERICAN TROPICAL TUNA COMMISSION
PERMANENT WORKING GROUP ON FLEET CAPACITY
12TH MEETING
Del Mar, California (USA)
23-24 October 2011

MINUTES OF THE MEETING

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The 12th meeting of the Permanent Working Group on Fleet Capacity was held in Del Mar, California (USA), on 23-24 October 2011. The attendees are listed in Appendix 1.

1. Opening of the meeting

The meeting was opened by the Chairman of the Working Group, Mr. Luis Dobles, of Costa Rica.

2. Adoption of the agenda

The provisional agenda was approved with the clarification that the proposals by the European Union and Japan would be handled under item 9 of the agenda, and that the order of items 5 and 6 would be reversed. The cases of the vessels *Sajambre* and *Monteneme*, would be dealt with under item 6, *Review of pending capacity requests*.

It was also noted that Ecuador had made a request, supported by various delegations, to make use of the meeting to convene an extraordinary meeting of the Commission to address the matter of the overlap area with the Western and Central Pacific Fisheries Commission (WCPFC). It was decided to hold it at the margin of the Working Group as an informal meeting of the Members of the IATTC present, since, *inter alia*, the quorum necessary for an extraordinary meeting could not be reached.

3. Brief summary of pending issues for the Working Group

The Chairman summarized the pending issues for the Working Group, highlighting those listed below and noting that they were reflected in the agenda.

- a. Discuss the new capacity requests presented by Korea, El Salvador, and Nicaragua.
- b. Continue the analysis of the conformation of the *ad hoc* group of experts on the review of cases of disputes regarding capacity.
- c. Confirm the application of the procedures for the implementation of Resolution [C-02-03](#) (Document [CAP-12-07](#)), or modify them.
- d. Review those parts of Resolution [C-02-03](#) that are obsolete or that require clarification (Document [CAP-12-07b](#)).
- e. Review the procedures for capacity loans and chartering of vessels with temporary transfer of capacity (Document CAP-12-08).
- f. With regard to the Commission's [Plan for the regional management of fishing capacity in the eastern Pacific Ocean \(EPO\)](#), define a strategy for reaching the target capacity limit for the fleet of 158,000 cubic meters (m³).

4. Scenarios of the impact on the tuna resources in the EPO of various increases in fleet capacity

Dr. Guillermo Compeán, Director of the IATTC, presented Document [CAP-12-04](#), explaining that it did not constitute an interpretation of Resolution [C-02-03](#), nor did it seek to prejudge the rights of countries regarding capacity, but presented possible scenarios that would result from accepting the requests for capacity and/or the inclusion of vessels in the Regional Register that were noted at the previous meeting of the Working Group in April 2011.

The European Union recalled that this document had been presented to the Scientific Advisory Committee, and was extensively discussed during the meeting of the Commission in July. He stressed the need to focus on the problem of overcapacity as a whole and seek innovative solutions rather than consider of these types of scenarios. Instead of considering the possible effects of an increase in capacity and measures for responding to this increase, it is necessary to concentrate on how to reduce capacity.

The United States expressed its disagreement with the way in which scenario 8 of the document referred to its capacity, noting that other countries that could also activate their available capacity are not mentioned in the scenarios. The capacity corresponding to the United States should be indicated as part of the total existing inactive capacity, or be removed from the document. Dr. Compeán answered that the scenarios presented attempted to reflect what was discussed at the previous meeting of the Working Group, since on that occasion the possibility that the United States would add that amount of capacity to the list of active vessels on the Regional Register was specifically mentioned. However, an update of the document would be prepared that would take into account the concerns expressed.

Costa Rica noted that its request for 5,000 m³ of capacity was not included in the calculation of the scenarios. On its part, Colombia clarified that its request for 2,024 m³ of capacity was not in those calculations because it was for two vessels, *Marta Lucía R* and *Dominador I*, which are already operating in the eastern Pacific Ocean (EPO) and are therefore already part of the operative capacity.

Mexico stressed that the document is what was asked of the Secretariat, although there is the possibility of updating it and adding other scenarios, and that it is informational and does not prejudice any rights. Japan acknowledged the usefulness of the document, since it allows the effects of capacity increases to be seen, as well as the need for the Members of the IATTC to take stricter measures, in particular with respect to increasing the number of days of closure.

5. Progress on the formation of the special ad hoc working group to review capacity dispute cases

Dr. Compeán reported that letters were sent to FAO and to the [International Tribunal for the Law of the Sea](#) (ITLS) requesting their support through the nomination of experts for the special *ad hoc* Group for the review of capacity disputes. A preliminary reply received from the ITLS indicated that it would send information soon.

Guatemala stated that the proposed mechanism would change the nature of the provisions of the Antigua Convention, and that it could not support it if its conclusions or recommendations were binding. Venezuela commented that it was necessary to know the costs that resorting to this mechanism would imply, since that would make it easier to take a decision on its feasibility. Colombia asked about the steps that should be taken to continue this process.

Mexico explained that this was not about creating a permanent body, but a panel for each specific case, different to the panel contemplated in Article XXV of the Antigua Convention, and that the terms of reference could vary according to the particular case.

Dr. Compeán noted that, in order to advance with the formation of the special *ad hoc* Group, it would be necessary to receive requests from Members for resolving cases in dispute. A response is expected from the ITLS or FAO regarding the possible participation of experts, and on the costs that it would imply.

The United States indicated that one way of minimizing costs would be for the Group to be made up of representatives of Members of the Commission, stating that various practical and logistical aspects should be considered, and asked the Secretariat to prepare a document on this matter. The European Union recalled that some of those aspects had already been discussed and agreed during the meeting of the Commission in July 2011, as evidenced by the draft minutes of that meeting. He also noted that it was true that the conclusions and recommendations of the Group were not binding, but there could be an agreement between the parties involved that such conclusions and recommendations would be accepted.

After an extensive discussion about whether the conclusions and recommendations of the special *ad hoc* Group should be binding or not, the Working Group concluded that, in accordance with the provisions of the Antigua Convention, they should not be so, and should be presented to the Commission, so that the corresponding decisions could be taken in that framework.

6. Review of the pending capacity requests presented at the 11th meeting of the Working Group in April 2011

The following delegations informed the Working Group of their aspirations with respect to capacity:

- a. Colombia reiterated its request for an additional 2,024 m³ of capacity to regularize the situation of the vessels *Marta Lucía R* and *Dominador I*.
- b. Costa Rica indicated that the footnote to Resolution [C-02-03](#) refers to 16,422 m³ of capacity, while paragraph 10.1 indicates 9,364 m³, a difference of 7,058 m³. Nevertheless, it was requesting only an additional 5,000 m³ to those established in paragraph 10.1.
- c. El Salvador reiterated its request of 1,861 m³ to add a new vessel to the Regional Register.

- d. Guatemala recalled its request for the return of 3,762 m³, reflected in Document [CAP-12-04](#).
- e. Nicaragua made a request for 5,000 m³, 800 m³ greater than the request presented at the previous meeting of the Working Group in April 2011.

The European Union stated that he was reluctant to consider requests for additional capacity, since what needed to be done is reduce existing capacity, but he understood the special situation of developing countries. At the previous meeting there was no consensus regarding the request by Costa Rica, since what are reflected in the footnote to Resolution [C-02-03](#) are only aspirations, and not capacity granted. Regarding the request by Colombia, a report was awaited on progress regarding sanctions applied to, and control of, the vessels for which the capacity is requested.

Japan recognized the legitimate aspirations to capacity of developing countries, but expressed his concern about the overfishing that would result from agreeing to the capacity requests. He noted that it must be ensured that any increase in capacity be offset by stronger conservation measures, and this was the condition for considering any new request.

In view of all the above, the Working Group acknowledged that it was impossible for it to take decisions at this time on the requests for capacity presented.

Dr. Compeán reported on the cases of the Ecuadorean-flag vessels *Sajambre* and *Monteneme*. Ecuador had requested that the *Sajambre* be included in the Regional Register, since in Ecuador's opinion it was omitted by mistake from the original list of vessels associated with Resolution [C-02-03](#). The Secretariat considers that only the Commission can decide on this case. The *Monteneme* is on the Regional Register, but its inclusion was conditional on the commitment that a corresponding capacity would be withdrawn, but this was not done. In total, the two cases involve a capacity of 1,602 m³.

Ecuador reiterated that the *Sajambre* was a case of omission, and as regards the *Monteneme*, stated that it was in the process of evaluating ways of resolving the issue.

The Working Group took note of these two cases.

7. Review of procedures related to the implementation of Resolution C-02-03 on purse-seine fleet capacity

Mr. Ricardo Belmontes, of the Commission staff, presented Document [CAP-12-07](#) on the procedures followed by the Secretariat in the implementation of Resolution [C-02-03](#), which needed to be confirmed.

He also noted that some parts of Resolution [C-02-03](#) were obsolete or required clarification. Particularly, paragraphs 5 and 9 of the Resolution are contradictory, since paragraph 5 establishes that the vessels authorized to fish in the EPO are those included in the Regional Register in June 2002 (with its subsequent modifications), without distinguishing between active and inactive vessels, while paragraph 9 does distinguish between the two: inactive vessels can change to active only at the beginning of the year, and only if the change does not result in the total active capacity of the vessels of that flag exceeding their capacity on the Register in June 2002.

The European Union stated that it would not support any change to paragraph 9 of the Resolution, and in the end no modification of Resolution [C-02-03](#) was agreed. Furthermore, there were no comments or suggestions for modifying the implementation procedures of the Resolution [C-02-03](#) described in Document [CAP-12-07](#).

8. Vessel chartering and capacity loans

Dr. Compeán presented Document [CAP-12-08](#) on the procedures for capacity loans and for vessel charters that include loans of capacity from one country to another. He indicated that it was advisable to clarify and formalize these procedures, to avoid potential problems.

Panama commented that charters are generally bareboat charters, so vessels do not renounce the flag of

the chartering country but assumes temporarily the flag of the charterer country. In such a case the procedures cannot demand documentation of a change of flag even when it is clear that, throughout the entire charter, the State responsible for the vessel is the one under whose flag it operates.

The European Union stated that it was necessary to ensure that none of these changes results in an increase of the total capacity of the fleet. Likewise, an appropriate level of transparency must be ensured, as must the ability to identify at any time who is responsible for controlling a vessel.

Japan expressed its concern about the possibility that capacity loans, unlike temporary transfers by chartering, may result in an increase of fishing effort, as a consequence of the transfer of unutilized capacity to be used by another country, which leads to an increase of the total active capacity. Several delegations noted that this is not contrary to Resolution [C-02-03](#), and that it is the right of the Members of the IATTC to utilize the capacity that they have available in accordance with the Resolution.

The Working Group then discussed and reviewed the rules of procedure proposed by the Secretariat in Document [CAP-12-08](#), applicable to loans or concessions of capacity and chartering of vessels with temporary transfer of capacity. It agreed a text for approval by the 83rd meeting of the Commission (Appendix 2).

9. Pending issues related to the Plan for Regional Management of Fishing Capacity in the EPO

Dr. Compeán presented Document [CAP-11-04](#), from the previous meeting of the Working Group, which contains a summary of actions for the implementation of the [Plan for Regional Management of Fishing Capacity in the EPO](#). Most of those actions, in particular those related to the first two stages of the plan, had already been taken. With regard to the third stage, corresponding to the reduction of current capacity to the recommended level of 158,000 m³ by establishing incentives, he indicated that Japan and the European Union had presented proposals on this matter.

In answer to a question about capacity limits for longline vessels, Dr. Compeán stated that information about this had been presented in Document [CAP-11-05](#), *Target fleet capacity*.

Japan noted that, although there is no overcapacity in the longline fishery, and the fleet has diminished in recent years, it is important to avoid that possibility in the future and consider how to limit the capacity of that fleet, including all longline vessels over 20 meters length overall.

Several delegations stated that limiting fishing capacity in the EPO should include all fishing gears, including longline vessels.

An intensive discussion took place regarding the advisability of including in this exercise the issue of reducing or eliminating subsidies that contribute to increasing capacity. It was agreed that it would be best not to go beyond a general recommendation on the issue, given that this matter has been discussed in the World Trade Organization for years, and has not yet been resolved.

The European Union then presented its [proposal](#) (Appendix 3) for the management of capacity, in which the following actions are proposed:

- a) Adopt definitions of concepts related to the implementation of Resolution C-02-03, principally with regard to “authorized” and “active” vessels, and define explicitly the procedures and conditions for a vessel to change from one category to another, in particular from active to inactive, and vice versa.
- b) Freeze the capacity of purse seine vessels actively fishing in the EPO.
- c) Have a document that details the criteria and definitions used since the establishment of the Regional Register, and adopt clear procedures for transferring, loaning, chartering, or scrapping capacity, as well as for other matters related to the Regional Register.
- d) Update regularly the target capacity for the fleet (both purse-seine and longline) based on the sta-

tus of the stocks.

- e) Resolve current disputes by means of an independent ad hoc panel, and establish mechanisms for resolving possible future disputes.
- f) Take into account the longline fleet in the review of overcapacity.
- g) For both gears, freeze capacity at the level of the fleet currently fishing in the EPO.
- h) For the purse-seine fleet, establish a program for the gradual reduction of capacity, through a linear reduction for each Member and/or the creation of a fund for buybacks, administered by the Secretariat, that would create an incentive for owners to scrap their vessels by means of a system of auctions.

Similarly, Japan presented its [proposal](#) (Appendix 4), which states as follows for the purse-seine fleet:

- a) That the Commission establish a program for freezing and reducing the capacity of the fleet, in order to ensure the sustainable use of the tuna stocks in the EPO.
- b) The program would aim to freeze the capacity of registered purse-seine vessels at a certain level and reduce the total capacity (active and inactive) of those vessels a 158.000 m³ in the medium to long term.
- c) As a first step, the total capacity of active purse-seine vessels would not be increased beyond a certain level in 2012.
- d) As a second step, the capacity of the purse-seine fleet would be reduced by auctions and purchases of capacity, after establishing a fund and through the replacement of active vessels.
- e) The program would conclude when the total capacity (active and inactive) was reduced to 158.000 m³.

There was an intensive debate about these proposals. Among the matters mentioned in the various interventions, the following stood out:

- a) The need to adopt measures for freezing the capacity of the fleet at the level of the current active fleet in order to ensure the success of the proposed buyback program. Some delegations expressed concern that this would limit the rights of coastal countries established in paragraph 10 of Resolution C-02-03.
- b) Determining whether those proposals and the freezing and reduction of active or authorized capacity should apply to the purse-seine fleet only or include also the longline fleet, not mentioned in the Japanese proposal.
- c) The sources and mechanisms for the capitalization of the fund that is needed for buybacks: whether the financial resources should be from the industry or from other entities such as the World Bank, the Global Environmental Facility, etc.
- d) The concern of some participants that an auction process might lead to a monopoly on the capacity that is auctioned, without a mechanism for preventing this type of situation.
- e) The difficulties that arise because capacity belongs to the State in some countries, and to the industry in others.
- f) The advisability of learning about the experiences of other bodies and countries in the implementation of buyback mechanisms, and of holding a workshop on the subject in order to analyze it further.
- g) The most suitable procedures for allow proposals to be reviewed between meetings, through bilateral consultations or through the establishment of a working subgroup.

10. Recommendations to the Commission

The Working Group's recommendations to the Commission were subjected to a careful review by the participants, on the basis of a draft text presented by the Chairman and the Secretariat, and were approved in their final form (Appendix 5).

11. Other business

No other business was discussed.

12. Adjournment

The meeting was adjourned at 8:45 p.m. on 24 October 2011.

Appendix 1.

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Appendix 2.

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

12TH MEETING

DEL MAR, CALIFORNIA (USA)
23-24 OCTOBER 2011

**DRAFT RULES OF PROCEDURE REGARDING CAPACITY LOANS OR
CONCESSIONS AND CHARTERING OF VESSELS WITH TEMPORARY
TRANSFERS OF CAPACITY¹**

1. CAPACITY LOANS OR CONCESSIONS

1. A vessel that uses loaned or conceded capacity may be added to the Regional Register, using a specified amount of capacity, expressed in cubic meters of well volume, that the loaning or conceding Member or Cooperating non-Member (CPC) has available. The vessel must fly the flag of the receiving CPC.
2. Both CPCs involved shall agree that the vessel may be removed from the Regional Register at any time at the request of either one of them, by means of a written communication to the Director. If the vessel is removed from the Regional Register, the capacity that it utilizes shall revert to the loaning or conceding CPC, and may be used again by that CPC only, unless the loaning CPC notifies the Director otherwise. The receiving CPC shall have no right to the capacity utilized by the vessel if it is removed from the Regional Register.
3. If the vessel changes flag during the period of the loan or concession, it shall be automatically removed from the Regional Register, and the capacity shall revert to the loaning or conceding CPC. If there is agreement on a change of flag for the vessel to a third CPC, the loaning CPC and the third CPC shall follow the process of changing flag in accordance with the established procedures .
4. The receiving CPC, as the flag government of the vessel, shall be legally responsible for all the activities of the vessel associated with compliance with the rules, recommendations, and resolutions of the AIDCP and the IATTC.
5. The arrangement for the loan or concession of capacity, in order to be valid and effective, shall be notified in writing to the Director by the competent authorities of both CPCs, jointly or consecutively. The Director shall report this arrangement in the monthly capacity reports, and it shall be noted in the Regional Register as part of the information associated with the vessel.
6. Both CPCs involved shall provide the Director with a copy of the documentation for the capacity loan or concession, which he shall keep confidential, unless both CPCs decide otherwise.

2. VESSEL CHARTERS WITH TEMPORARY CAPACITY TRANSFERS

1. In the case of vessel charters with temporary transfers of capacity, and in order for the corresponding flag change to be reflected in the Regional Register, the Director must receive a copy of the agreement for the temporary transfer of capacity, together with documentation showing that the CPC granting the charter (“chartering CPC”) has suspended the vessel’s flag or

¹These draft rules of procedure were produced by the Working Group at its 12th meeting and will be submitted to the Commission at its annual meeting in 2012.

authorized the registration of the vessel under another flag, and that the receiving CPC (“charterer CPC”) has granted the vessel its flag. Once this information is received, the corresponding change will be made in the Regional Register.

2. All this documentation shall be kept confidential by the Director, unless both CPCs decide otherwise.
3. The charterer CPC as the vessel’s flag government, shall be legally responsible for all matters related to the activities of the vessel associated with compliance with the rules, recommendations and resolutions of the IATTC and the AIDCP, from the time when the flag changes from the chartering CPC to the charterer CPC.
4. The Director must receive confirmation from both CPCs that, if the vessel is removed from the Regional Register, its capacity shall revert to the chartering CPC and may be used only by that CPC, unless both CPCs notify the Director otherwise. The charterer CPC shall not have any rights regarding the capacity of the vessel if it is removed from the Regional Register.
5. When the charter agreement terminates, the vessel with temporary transfer of capacity shall return to the chartering CPC, unless the chartering CPC informs the Director otherwise.

Appendix 3.

INTER-AMERICAN TROPICAL TUNA COMMISSION
PERMANENT WORKING GROUP ON FLEET CAPACITY
12TH MEETING
DEL MAR, CALIFORNIA (USA)
23 - 24 OCTOBER 2011

DOCUMENT CAP-12 PROP B-1

WORKING PAPER BY THE EUROPEAN UNION

TOWARDS A NEW CAPACITY MANAGEMENT PLAN IN THE EASTERN PACIFIC OCEAN

1. INTRODUCTION

This document intends to steer the debate on the adoption of a new management plan so to help the Working Group to elaborate concrete proposals to be forwarded to the Commission for further discussion and, possibly, endorsement and implementation.

Sustainable exploitation of fish stocks requires that the capacity of fleets is commensurate to the available resources and that it constantly adjusts to their fluctuations. However, in the latest years management of vessels capacity has proved to be one of the major challenges that RFMOs face. IATTC is no exception to this. The Organisation has tried for some years, and to a certain extent managed, to limit the increase of capacity allowed to fish in the Eastern Pacific Ocean (EPO). However, what has proved impossible to achieve until now is to reduce the existing fleet to sustainable levels.

In the EPO, the main two gears used for fishing activities are purse seiners (PS) and longliners (LL). In the current debate, considerations on fleet management do not apply to the two segments in the same way: whereas PS capacity has not declined and has remained above the reference level of sustainable capacity², the LL capacity has progressively and spontaneously decreased over time and has remained to what is considered as being a sustainable level³. However, some lack of data for the LL fishery (in particular small-scale LL), do mitigate this positive assessment and need to be explored further.

2. BACKGROUND

At the end of '90s, IATTC began adopting some measures in order to manage the capacity of the fleet operating in the EPO. In 2000 it established a regional vessel register for PS⁴ with the understanding that no PS vessel could fish in the EPO without being on the register. In 2003, IATTC adopted a similar measure for LL⁵.

At that stage, these measures did not aim at restricting access to EPO but only at establishing a census of the vessels in the Region. However, these Resolutions did not require that in order to remain in the register vessels had actually fished. Therefore, some vessels were, and sometimes still are, on the register without having fished in the Region for a very long time.

² Document CAP-11-05 "Target Capacity for the Tuna Fleet in the EPO";

³ idem

⁴ Resolution C-00-06 on a Regional Vessel Register, then amended in 2011 (C-11-06)

⁵ Resolution C-03-07 Resolution on the Establishment of a List of Longline Fishing Vessels Over 24 Meters (LSTLFVS) Authorized to Operate in the Eastern Pacific Ocean, then amended in 2011 (C-11-05)

In 2002, IATTC made an attempt to establish a freezing of PS Capacity by limiting the total authorised capacity to the one present in the Register on 28 June 2002⁶ (around 273.000 m³); whilst establishing a target capacity of 158.000 m³.

Further to that, in 2005 IATTC adopted in Lanzarote a Capacity Management Plan based on the FAO International Plan of Action for the Management of Fishing Capacity. The plan had the merit to adopt for the first time a holistic approach to fleet management and to identify which actions were needed in order to achieve the target capacity. It applied both to PS and LL and established a step-by-step approach for the reduction of excessive capacity.

However, one major deficiency of the plan was that it left the adoption of implementing measures for most of the priorities identified to later action.

As a result, the reduction of fleet capacity remained, and still remains, an outstanding issue for PS and could still become one for LL. It is up to IATTC Members to seize the challenge and adopt new actions to address these issues.

3. OUTSTANDING ISSUES

2.1. Purse Seine fleet

A first weakness of the resolutions establishing the fleet register and the one limiting PS capacity is that they do not introduce clear and explicit definitions for the different categories of capacity. Therefore, IATTC finds itself dealing with "*active*", "*available*", "*inactive*", "*potential*", "*operative*", "*extra cubic meters*" capacity without a clear common understanding of what these terms mean, what kind of status they confer to the vessels or how, and if, capacity can change from one status to the other. For example, active capacity should include only those vessels having fished in the EPO during a given period of time (e.g. 1 or two years) immediately preceding the year of reference.

- ➔ Action 1: clear and commonly agreed definitions should be adopted and should apply also to the LL fleet. As a priority, at least the definitions of "authorised" and "active" should be agreed.
- ➔ Action 2: the Director should draft a document detailing the criteria and definitions used since the establishment of the vessel registry, so to allow the Commission to have a clear overview on the management of capacity so far.
- ➔ Action 3: procedures and conditions to move from one category to the other should be explicitly defined.

A. A merit which should be recognised to Resolution C-02-03 is having frozen to a certain extent the uncontrolled growth of the PS fleet. Since its adoption, total capacity has remained within a stable range of 275.000 and 290.000 m³ and, within this total capacity, the so-called 'active' capacity within an ever smaller range of 218.000 m³ - 221.000 m³. However, there are recent worrying signs that this might not be the case anymore for the forthcoming future and therefore appropriate actions are needed, even more than before.

Considering that the most updated target capacity is 158.000 m³, and taking into account the precautionary principle and the overarching obligation to ensure the sustainable exploitation of stocks, IATTC members should find an agreement to limit the total authorised capacity to the active capacity (current or that of a given date) so to make sure that no further increases to the number of vessels currently fishing in the EPO occur.

- ➔ Action 4: freeze PS capacity to current levels of vessels effectively fishing in the EPO so to remain as close as possible to the current target capacity.

As already mentioned, resolution C-02-03 establishes a target capacity limit of 158.000 m³ and it calls for

⁶ Resolution C-02-03 on the Capacity of the Tuna Fleet Operating in the Eastern Pacific Ocean

a recurrent update of this target in order to adjust it to the current state of the stocks in the EPO. It is therefore intended that this target is a changing value and that fleets operating in the EPO shall adjust to it. However, in a recent document⁷, the Secretariat has updated this target according to the conservation measures that IATTC has adopted⁸. However, target capacity should be based on scientific advice, namely on the current state of fish stocks and on MSY, rather than on the existing conservation measures.

➔ Action 5: IATTC should give to its scientific staff and to the Scientific Advisory Committee a standing mandate to regularly update the capacity target (both for PS and LL) based on the state of the stocks.

A. At the time of the adoption of Resolution C-02-03, a number of requests for capacity coming from Members or Cooperating Non-members could not be attended and were recorded as 'wishes' in a footnote to the Resolution. During the Working Group on Fleet Capacity held in Costa Rica in April 2011, discussions on how to solve these issues have started and are ongoing.

➔ Action 6: pending requests should be treated and solved, by 2012 if possible.

B. Furthermore, the same Resolution does not foresee procedures for the transfer, lending, chartering or scrapping of capacity. Over time, this has created a grey zone for interpretation which has resulted in some disputes over the ownership of capacity.

➔ Action 7: current disputes shall be solved by an *ad-hoc* independent panel (already ongoing) and mechanisms for the solution of possible future disputes should be established.

➔ Action 8: clear procedures for the transfer, lending, chartering or scrapping of capacity as well as for any issue linked to the management of the vessel registry shall be adopted.

2.2. Longline fleet

The evolution of the longline fleet fishing in the EPO has been different from that of PS. The latest trend⁹ shows that LL fleet is experiencing a spontaneous decline since 2003, to the point that the total capacity is estimated as being lower than the maximum target capacity. This finding is encouraging however it should not divert the focus from some main points:

- The fact that overcapacity of LL is not a problem at this stage, it does not mean that it will never become one in the future if Members of IATTC do not take preventive actions to stabilise the situation;
- Although in the EPO there are two main different fishing gears (PS and LL), each stock is a single one and receives pressure from fishing activities regardless of the gear. Therefore excess of pressure on fish stocks derives from the sum of capacities of both gears. Overcapacity is an issue which jointly concerns PS and LL.
- The knowledge on the composition of the LL fleet, as well as on their fishing patterns and catch levels are currently incomplete (especially for longliners under 24 m length overall)

Taking the above into consideration, once MSY is established for each stock, Members of IATTC shall decide how to share this MSY between the two gears. If LL capacity has decreased below historical levels, it might not have to undergo further reductions in the framework of a new capacity plan. However, this should not confer a permanent right to increase its capacity whereas other gears need to undertake substantive reductions.

⁷ Document CAP-11-05 "Target Capacity for the Tuna Fleet in the EPO"

⁸ IATTC 78-06b and IATTC-81-06b

⁹ Document CAP-11-05 "Target Capacity for the Tuna Fleet in the EPO"

4. WAY FORWARD

IATTC has already tried in the past to address the difficult issue of overcapacity and has managed to a certain extent to limit an uncontrolled increase of capacity. Despite having adopted a comprehensive plan in 2005, the Organisation has not been able to put in practice most of the priorities which had been identified at that time. Also considering the recent entry into force of the IATTC Convention, which gives increased competences to IATTC for the conservation of stocks in the EPO, it is now time that Members take responsibility and adopt a new Capacity Reduction and Management Plan which:

- (1) Addresses the outstanding issues outlined above;
- (2) for both gears: introduces a freeze of the capacity to the level of vessels currently fishing in the EPO (so-called freezing of active capacity);
- (3) for the PS fleet: establishes a scheme for progressive reduction of capacity. This can be done through a linear reduction for each Member and, or, through the creation of a buy-out fund managed by the Secretariat which would create the incentive for shipowners to scrap their vessels through a system of auctions. Nevertheless, since these, or other, measures would take some time to be agreed and then completely implemented, and taking into account the precautionary approach and the obligation to immediately release the excess of pressure on fish stocks, these measures could be accompanied by temporary and immediate alternatives such as, for instance, an increased period of fishing closure or other additional management measures.

Appendix 4.

INTER-AMERICAN TROPICAL TUNA COMMISSION
PERMANENT WORKING GROUP ON FLEET CAPACITY
12TH MEETING
DEL MAR, CALIFORNIA (USA)
23-24 OCTOBER 2011

PROPOSAL CAP-12 A-1

PRESENTED BY JAPAN

**DRAFT RESOLUTION ON FREEZE AND REDUCTION OF PURSE SEINE
CAPACITY**

The Inter-American Tropical Tuna Commission (IATTC);

Noting that the stock status of yellowfin and bigeye in the Eastern Pacific Ocean (EPO) is in the yellow zone of Kobe Chart;

Also noting that the target capacity of purse seiners stipulated in Resolution C-02-03 is 158,000 cubic meters, whereas the current active capacity of purse seiners is about 220,000 cubic meters;

Concerned about the possibility of increasing another about 70,000 cubic meters of additional capacity, which likely causes further negative impacts on the tuna stocks in the EPO;

Recognizing that the current over-capacity of purse seine fishing vessels should be reduced urgently to ensure sustainable use of tuna stocks in the EPO, while giving due consideration to development of purse seine fisheries by coastal developing countries;

Resolves as follows:

1. The Commission shall establish a scheme to freeze and reduce the capacity of purse seine fishing vessels in order to ensure sustainable use of tuna stocks in the EPO
2. The scheme is aimed at freezing the capacity of purse seine fishing vessels registered in Members and Cooperating non-Members of IATTC (hereinafter referred to as "CPCs") at a certain level and reducing the total capacity (active and non-active) of purse seine fishing vessels to 158,000 cubic meters in the medium- to long-term, while giving due consideration to development of purse seine fisheries by coastal developing CPCs.
3. As an initial step, each CPC shall not increase the total capacity of its active purse seine fishing vessels from the level as of xxxx, 2012.
4. As the second step, the capacity of purse seine fishing vessels shall be reduced through auction and capacity trade after the establishment of a fund and replacing active purse seine vessels described in Annex.
5. The scheme shall be terminated when the total capacity (active and non-active) is reduced down to 158,000 cubic meters. The validity of 158,000 cubic meters shall be reviewed from time to time based on advice from the Scientific Advisory Committee.

Annex

1. Establishment of a fund for the capacity reduction

Owners of active purse seine fishing vessels shall pay 50 dollars per 1 cubic meter of the fish hold capacity to the Capacity Reduction Fund to be established by the Commission and administered by the Director (hereinafter referred to as "Fund"). The Commission shall decide details of the Fund operation, including how to deal with cases of change of owners and cases of retirement of owners from fishing, etc.

2. Reducing the capacity through auction using the Fund

- (1) During each annual meeting, the Director shall hold an auction to buy out active capacity, using the Fund.
- (2) A flag CPC authority or owner who offered the lowest price per 1 cubic meter of the fish hold capacity shall win the auction and receive the amount (the price multiplied by the capacity amount for the buy-out)¹⁰. In return, the capacity for the buy-out shall be relinquished. The vessel subject to the buy-out shall be scrapped under the supervision of the Director. The cost for scrapping vessel shall be covered by the Fund.
- (3) In case that owners of the purse seine vessels participate in auctions, they shall obtain permission from the flag CPC authority in advance that their vessels are to be subject to the auction. Any successful bid without such permission shall be revoked.
- (4) The Director shall hold a second auction if there remains enough money in the Fund after the first auction.

3. Capacity trade through internet capacity auction

- (1) The Director shall establish an internet capacity auction site in order to facilitate capacity trade. The Director shall collect 3% of the traded price from both the buyer and seller and put it into the Fund. Participants in auction shall obtain prior authorization of the flag CPC authority.
- (2) Capacity may be traded for purposes of buying new vessels or additional capacity as described in 4. (2) below. However, owners from developed CPCs except for those from French Polynesia may buy capacity only for the purpose in 4. (2) below.
- (3) The Director shall not hold auction when detecting a violation against any rules and restrictions contained in this document. If a violation is found after auction, such auction shall be revoked. Auction shall also be revoked if 3% of the traded price is not paid.

4. Reducing the capacity through replacing active purse seine vessels

- (1) When an active purse seine vessel is replaced with a second-hand vessel, only 90% of the existing vessel's capacity may be used. Only 70% of the existing vessel's capacity may be used in the case that the vessel replacing the existing one is a newly built vessel.
- (2) If more capacity is necessary, such additional capacity shall be obtained (if the capacity of the vessel replacing the existing one is found later to be bigger than the originally thought, i.e., 70 or 90%, the owner shall obtain such additional capacity, too). Under any circumstance, the capacity of the vessel replacing the existing one shall not exceed 100% of the existing vessel's capacity even after obtainment of additional capacity.

¹⁰ The upper limit of the amount shall be 80% of the money accumulated in the Fund at the time of the auction. The Director shall decide the total amount of capacity available for buy-out and the starting price, taking into consideration the amount of remaining money and the reasonable bid price.

5. Consideration to development of purse seine fisheries by coastal developing CPCs

- (1) Any capacity which becomes available as a result of actions in 2. and 4. above shall go to a reserve capacity to be established by the Commission and administered by the Director (hereinafter referred to as "Reserve Capacity").
- (2) The Director shall announce the availability of capacity in the Reserve Capacity when it exceeds 3,000 cubic meters. The Director shall establish a period during which a request for utilizing such capacity can be submitted. Only owners having a concrete utilization plan may submit such request. Owners shall obtain permission of the flag CPC before submitting such request.
- (3) When there are more than two capacity requests and the total requested amount of capacity is more than the available capacity, the following order shall be applied:
 - 1st priority: utilization of the capacity authorized under paragraph 10 of Resolution C-02-03
 - 2nd priority: utilization of capacity authorized by the Commission as necessary for fishery development of coastal developing CPCs (other than 1st)
 - 3rd priority: utilization of non-active capacity (other than 1st and 2nd)
- (4) If the owner whose request was accepted does not use the obtained capacity within 6 months (in case of a second-hand vessel) or within 1 year (in case of a newly built vessel), the obtained capacity shall be returned to the Reserve Capacity unless the Commission decides otherwise.
- (5) When the amount of all the non-active capacities becomes zero, the utilization of Reserve Capacity shall be suspended.

6. Cost of the scheme

The cost for establishment and management of the scheme (excluding the personnel cost) shall be covered by the Fund. Up to 50,000 US dollars per year shall be expended from the Fund for management of the scheme, holding auctions and observing scrapping.

Appendix 5.

INTER-AMERICAN TROPICAL TUNA COMMISSION
PERMANENT WORKING GROUP ON FLEET CAPACITY
12TH MEETING
DEL MAR, CALIFORNIA (USA)
23 - 24 OCTOBER 2011

RECOMMENDATIONS

The Permanent Working Group on Fleet Capacity:

Taking into account that the Plan for Regional Management of Fishing Capacity adopted in 2005 still needs further actions to be fully implemented;

Considering the importance that the issue of capacity development represents for the coastal and developing States of the Eastern Pacific Ocean (EPO);

Given the need to establish in the most expeditious way a new comprehensive plan based on an holistic approach to capacity management in the IATTC Convention Area;

Considering the importance of fishing for highly migratory fish stocks as a source of food, employment and economic benefits for the populations of the Members, and that conservation and management measures must address those needs and take into account economic and social impacts;

Keeping in mind the recommendations adopted at its 11th meeting in April 2011, which were endorsed by the Commission;

Agrees and recommends:

1. To ask the Commission staff, in coordination with the Scientific Advisory Committee, to provide to the next meeting of the Commission in 2012, in order of priority, on the basis of the status of the tuna stocks:
 - (a) an update of its analysis of the target capacity the target capacity of the purse-seine fleets;
 - (b) an analysis of the target capacity for the longline fleets; and
 - (c) as far as possible, an analysis of the target capacity of any other fishing fleet
2. To reiterate to the Commission that it is necessary that concrete measures be adopted that include a comprehensive vision, in order to prevent negative effects caused by increases of the active fishing capacity in the EPO, of the causes and effects of overexploitation of the tuna stocks, including all types of fishing gears, taking into account the effects of each fishing gear on the tuna stocks;
3. That the Commission consider and approve, during its next meeting in 2012, the draft rules of procedure regarding capacity loans or concessions and for chartering of vessels with temporary transfer of capacity, which are contained in the document produced at this meeting of the Working Group;
4. That the Commission convene a two-day meeting of the Working Group prior to the meeting of the Commission in 2012, and consider, if necessary, establishing an *ad hoc* working group;
5. To convene, before the next meeting of the Commission in 2012, a regional workshop on vessel buy-backs;
6. In coordination with the Director and with his support, to finalize during the intersessional period the terms of reference and other instruments necessary for the establishment of the non-binding *ad hoc*

groups of experts for the settlement of the current disputes regarding capacity, so as to allow such disputes to be resolved definitively in a reasonable and peremptory period;

7. To resolve, by the next meeting of the Commission in 2012 at the latest, the pending requests for capacity that were submitted during the 11th meeting of the Working Group in April 2011;
8. That the special needs of developing and coastal States regarding the development of their own fisheries be attended to and given priority.