

# INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

## INTERNATIONAL REVIEW PANEL

### MINUTES OF THE 40<sup>TH</sup> MEETING

La Jolla, California (USA)

19 October 2005

**Presider: Mr. Carlos Aldereguía (European Union)**

#### AGENDA

	Documents
1. Opening of the meeting	
2. Election of the Presider	
3. Adoption of the agenda	
4. Approval of the minutes of the 39 <sup>th</sup> meeting	
5. Review of Dolphin Mortality Limits (DMLs) for 2005	<a href="#">IRP-40-05</a>
6. DMLs for 2006:	
a. Review of vessels qualified to receive DMLs for 2006	<a href="#">IRP-40-06a</a>
b. Consideration of recent <i>force majeure</i> requests in the implementation of Annex IV (I) 9 (frivolous requests)	
7. Review of <i>AIDCP List of Qualified Captains</i>	<a href="#">IRP-40-07</a>
8. Review of observer data	
9. Review of actions by Parties on possible infractions reported by the IRP:	
a. Actions taken since report at 39 <sup>th</sup> IRP meeting	<a href="#">IRP-40-09a</a>
b. Status review of special cases	<a href="#">IRP-40-09b</a>
10. Amendment of guidelines for transit waivers	<a href="#">IRP-40-10</a>
11. Amendment of Annex IV regarding DMLs:	
a. RDA and second-semester DMLs	<a href="#">IRP-40-11a</a>
b. Requirement to have a national Tuna Tracking System	<a href="#">IRP-40-11b</a>
12. Comparison of Observer Programs	<a href="#">IRP-40-12</a>
13. Effect of <a href="#">Resolution on a pattern of infractions</a> (A-02-03)	<a href="#">IRP-40-13</a>
14. Use of data screening to evaluate captain and vessel performance	
15. Report of the Permanent Working Group on Tuna Tracking	
16. Report of the Working Group to Promote and Publicize the AIDCP Dolphin Safe Tuna Certification System	
17. Recommendations for the Meeting of the Parties	
18. Other business	
19. Place and date of next meeting	
20. Adjournment	

#### APPENDICES

1. List of attendees
2. Report of the 20<sup>th</sup> meeting of the Permanent Working Group on Tuna Tracking

The 40<sup>th</sup> Meeting of the International Review Panel (IRP) was held in La Jolla, California, on 19 October 2005. The attendees are listed in Appendix 1.

**1. Opening of the meeting**

Dr. Robin Allen, Director of the Inter-American Tropical Tuna Commission (IATTC), which provides the Secretariat for the AIDCP, declared the meeting open.

**2. Election of the Presider**

Mr. Carlos Aldereguía, of the European Union delegation, was elected Presider of the meeting.

**3. Adoption of the agenda**

The agenda was approved without modifications

**4. Approval of minutes of the 39<sup>th</sup> meeting**

The minutes of the 39<sup>th</sup> meeting of the Panel were approved.

**5. Review of Dolphin Mortality Limits (DMLs) for 2005**

The Secretariat reviewed the status of the assignments, reallocations, and utilization of DMLs in 2005, summarized in Document [IRP-40-05](#).

**6. DMLs for 2006**

**a. Review of vessels qualified to receive DMLs for 2006**

The Secretariat presented the situation regarding requests for DMLs for 2006, summarized in Document [IRP-40-06a](#).

Nicaragua advised the meeting that the three Nicaraguan-flag vessels shown in the document as not having paid the required assessments owe very small amounts, and proposed that they be granted DMLs, with the stipulation that no observers would be placed on these vessels until the fees are fully paid. This proposal was agreed by the meeting.

In the presentation of the 2006 DML requests, the Secretariat explained the situation with respect to five vessels which were in the process of changing flag to Panama and for which Panama had requested DMLs for 2006. This matter generated considerable discussion by the Panel, during which it came to light that there were two other Parties in a similar circumstances, *i.e.*, in the process of obtaining vessels, two in each case, and expected to do so before the end of 2005.

In the end, all of the Parties except Colombia reached agreement on how to resolve this matter. Generally, it was agreed that the nine vessels in question could have DMLs allocated to them if, by 1 January 2006, they have clearly changed flag and are included on the IATTC Regional Vessel Register. Because of Colombia's reservation, the meeting decided that it would be necessary to ask the Meeting of the Parties to the AIDCP to address the issue.

Another DML issue which was not resolved was the question of assigning a 2006 DML to vessel "G". The Panel decided to also send this issue to the meeting of the Parties for resolution.

**b. Consideration of recent *force majeure* requests in the implementation of Annex IV (I) 9 (frivolous requests)**

Dr. Allen explained that two vessels did not meet the requirements of Annex IV (I) 9 (formerly 8), which addresses frivolous requests for DMLs, and thus would not be eligible for 2006 DMLs unless *force majeure* exemptions were granted, as provided by the Agreement. These cases were discussed by the meeting and the exemptions were granted.

## **7. Review of AIDCP List of Qualified Captains**

The Secretariat presented an update of the situation regarding the List of Qualified Captains, summarized in Document [IRP-40-07](#).

## **8. Review of observer data**

The Secretariat presented the data reported by observers of the On-Board Observer Program relating to possible infractions received and processed by the Secretariat since the Panel's previous meeting. The Panel discussed those cases that were not automatically referred to the pertinent Parties, and forwarded those that indicated possible infractions of the AIDCP to the responsible government for investigation and possible sanction.

## **9. Review of actions by Parties on possible infraction reported by the IRP**

### **a. Actions taken since report at 39<sup>th</sup> meeting**

The Secretariat presented Document [IRP-40-9a](#), detailing the responses received from the Parties in cases of six categories of possible infractions identified by the previous three meetings of the IRP.

### **b. Status review of special cases**

The Secretariat presented Document [IRP-40-9b](#), which reviews the status of the various cases classified by the Panel as special cases.

**Case 31-01 (Fishing captain A):** the Panel decided to remove this case from the list of special cases.

**Case 32-01 (Vessel F):** the question was not resolved of whether this vessel should not be considered culpable for an infraction (thus triggering a "pattern of infractions") because of the determination of the relevant Party that the captain was responsible, not the vessel. The United States and the European Union expressed their concern that such an approach could have significant implications for the Agreement, which is written in terms of vessel infractions.

**Case 36-01 (Vessel G):** this case was discussed, but no resolution or new information emerged from the discussion.

**Case 37-01:** the Panel decided to remove this case from the list of special cases, as the investigation was completed and a sanction imposed by the Party.

**Case 37-02:** the Panel decided to remove this case from the list of special cases.

**Case 37-03:** the Panel decided to remove this case from the list of special cases, as there was nothing more that could be done since the vessel had changed flags. The Panel asked the Secretariat to examine the options available under the Agreement to address what appears to be a loophole: the possibility of avoiding sanctions for violations of the Agreement by changing flags before an investigation can be initiated or completed. It was decided that this issue should be considered at the next meeting of the Panel.

**Case 38-01:** The Secretariat reported that it had no additional information on this case.

**Case 39-01:** The Secretariat reported that it had heard from the Party just before the Panel meeting that this case is still under investigation.

## **10. Review of guidelines for transit waivers**

Dr. Allen reminded the Panel that, at its 39th meeting, it had asked the Secretariat to modify the guidelines, and he reviewed the new proposed guidelines, contained in Document [IRP-40-10](#). The Panel agreed to the modified guidelines, and requested that they be forwarded to the Meeting of the Parties for approval.

## **11. Amendment of Annex IV regarding DMLs:**

### **a. RDA and second-semester DMLs**

Dr. Allen presented Document [IRP-40-11a](#), to amend Annex IV of the AIDCP regarding the Reserve DML Allocation (RDA) and second-semester DMLs, as requested by the 39<sup>th</sup> meeting of the Panel. The Panel agreed to forward the proposed amendment to the Meeting of the Parties for approval, and also asked the Secretariat to prepare a draft amendment to the Agreement to reflect an additional purpose for the RDA, as discussed in Document IRP-40-11a.

### **b. Requirement to have a national Tuna Tracking System**

Dr. Allen Presented Document [IRP-40-11b](#) to amend Annex IV of the AIDCP to make it a requirement for a Party to have a national tuna tracking system in order for its vessels to be eligible for DMLs, as requested by the 39<sup>th</sup> meeting of the Panel. The Panel agreed to forward the proposed amendment to the Meeting of the Parties for approval.

## **12. Comparison of observer programs**

Dr. Allen presented Document [IRP-40-12](#) regarding a comparison the IATTC observer program, by country, and the national programs of Ecuador, Mexico and Venezuela for their respective fleets. The European Union wanted the record to be clear that all of the data from its program had been provided, and were not included in the document only because there were not enough observed trips to have meaningful data.

The analysis by the Secretariat did not reveal any significant statistical differences among the different observer programs.

Dr. Allen noted that the Secretariat has started using advanced statistical analysis techniques to analyze IATTC observer data to identify any instances of unusual patterns of reporting by individual observers, and commented that it might be useful to consider whether this approach is more useful than the current one, in terms of analyzing the integrity of the On-Board Observer Program.

## **13. Effect of Resolution on a pattern of infractions (A-02-03)**

The Secretariat presented Document [IRP-40-13](#), which analyzes the effect of AIDCP Resolution A-02-03 defining a pattern of infractions. There were no comments from the Panel on this document.

## **14. Use of data screening to evaluate captain and vessel performance**

Dr. Allen reminded the meeting that the IRP had requested the advice of the Scientific Advisory Board (SAB) on this issue. The performance of vessels is reviewed for the assignment of DMLs, and that of captains to recognize the three captains with the best records in minimizing dolphin mortality each year. A screening method was proposed so that unusual observer data would not be included in these two performance evaluations.

Dr. Allen reported that the SAB endorsed the screening technique to the IRP for purposes of evaluating vessel and captain performances.

It was agreed that a recommendation to use this technique be forwarded to the Meeting of the Parties for approval.

## **15. Report of the Permanent Working Group on Tuna Tracking**

The Chair of this Working Group presented her report to the Panel (Appendix 2), noting that there was one recommendation regarding a modification to the *Procedures for AIDCP Dolphin Safe Certification*. The Panel endorsed this recommendation, and agreed to forward it the Meeting of the Parties for approval.

## **16. Report of the Working Group to Promote and Publicize the AIDCP Dolphin Safe Tuna**

## **Certification System**

The Chair of this Working Group presented his report to the Panel.

### **17. Recommendations for the Meeting of the Parties**

The Panel recommended that the meeting of the Parties approve:

1. The modified guidelines for transit waivers (item 10 of these minutes).
2. The amendment of Annex IV regarding DMLs (item 11a).
3. The amendment of Annex IV regarding a national tuna tracking system (item 11b).
4. The use of data screening to evaluate captain and vessel performance (item 14).
5. The modification of the *Procedures for AIDCP Dolphin Safe Certification* recommended by the Working Group on Tuna Tracking (item 15).

### **18. Other business**

No other business was discussed.

### **19. Place and date of next meeting**

The Panel agreed to hold its next meeting in Korea in June 2006, in conjunction with the IATTC annual meeting and the meeting of the Parties to the AIDCP.

### **20. Adjournment**

The meeting was adjourned on 19 October 2005.

## Appendix 1.

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## Appendix 2.

# PERMANENT WORKING GROUP ON TUNA TRACKING

## 20<sup>TH</sup> MEETING

### CHAIR'S REPORT

The 20<sup>th</sup> meeting of the Permanent Working Group on Tuna Tracking was held in La Jolla, California on October 18, 2005. Attending were representatives of Colombia, Costa Rica, Ecuador, El Salvador, European Union, Mexico, Nicaragua, Panama, United States of America and Venezuela.

#### **1. Opening of the Meeting**

The meeting was opened by Ms. Pat Donley of the United States, the Chair of the Working Group.

#### **2. Adoption of the Agenda**

The agenda of adopted without changes.

#### **3. Approval of the minutes of the 19th meeting**

The minutes of the 19<sup>th</sup> meeting of the working group were approved as previously circulated by the Secretariat.

#### **4. Presentation of Nicaraguan Tuna Tracking Plan**

Dr. Manuel Pérez narrated an informative presentation of the tuna tracking plan developed for use in Nicaragua. He agreed to make copies of his presentation available to the members.

#### **5. Review of the implementation of the dolphin safe certification system (TT-20-05)**

Dr. Allen presented the Secretariat's report on the implementation of the dolphin safe certification system. In answer to a question, Dr. Allen affirmed that, in the case of the one discrepancy of more than 10 percent between TTF and Certificate weight, the tuna was whole, not processed. It was noted that certificates must be submitted to the Secretariat within the first five days of the month following the month in which the certificate was issued. Several members believed that this may be too short a time when certificates are issued near the end of the month. The Working Group agreed to request that the IRP approve a modification to the *Procedures for AIDCP dolphin-safe certification* for submission of the certificates within 15 days instead of 5. The Working Group also discussed establishing a deadline for submission of certificates. For example, a certificate received by the Secretariat more than 60 or 90 days after its issuance would not be considered valid. The Working Group did not approve this change.

#### **6. Draft conversion factor questionnaire (TT-20-06)**

Dr. Allen presented a form and instructions prepared by the Secretariat for processors to report yields of raw tuna to final products. Several concerns were voiced, including problems with including tuna species, use of length instead of weight (as used on the form), and the need for several forms to survey yields for many diverse final products. After discussion, the Working Group agreed that the advice of industry is required before we can proceed, and despite some of the weaknesses of the form, it would be a good idea to make a start toward solving the issue of yields. Therefore, the Working Group agreed to request that the Secretariat provide the forms and instructions with a letter to each member government explaining what we are trying to do and requesting that each government survey its processors as to the usefulness of the form, the yields or range of yields for products, their comments on the form and any other pertinent information they may wish to provide. The governments will be asked to return the results of this survey to the Secretariat within 90 days.

#### **7. Implementation of section 7 of the Tuna Tracking and Verification system regarding**

### **international program to review and check national programs (TT-20-07)**

After opening remarks from Dr. Allen, the Working Group discussed the recommendations contained in the document. Several issues surfaced with regard to establishing an international audit and/or spot check program. Among these were: (1) the need to involve an objective third party; (2) expansion of the program to include all facets of the AIDCP; (3) participation in audits and/or spot checks by the Secretariat; (4) logistics, *i.e.*, budget and time and method. After discussion the members agreed that each country will report on their audits and spot checks at the next meeting of the Working Group. The representative of the EU volunteered to prepare a more extensive document on the subject, and the representative of Mexico invited Dr. Allen or some other member of the Secretariat to participate in a spot check or audit to be conducted before the next meeting of the Working Group.

### **8. Recommendations for the IRP**

It is recommended that the *Procedures for AIDCP dolphin-safe certification* be amended to reflect that the deadline for submission of certificates to the Secretariat be changed from five days after the end of the corresponding month to 15 days after.

### **9. Other business**

There was no other business.

### **10. Place and date of next meeting**

The next meeting of the Working Group will be held prior to the next IRP meeting in June 2006.

### **11. Adjournment**

The meeting was adjourned.