

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

24TH MEETING OF THE PARTIES

Del Mar, California (USA)

19 October 2011

MINUTES OF THE MEETING

AGENDA

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|--|---------------------------|
| 1. Opening of meeting | |
| 2. Election of Chairman | |
| 3. Adoption of agenda | |
| 4. Approval of the minutes of the 23 rd Meeting of the Parties | |
| 5. Secretariat's report on the IDCP | MOP-24-05 |
| 6. AIDCP budget | MOP-24-06 |
| 7. Report of the International Review Panel | |
| 8. Characteristics of training seminars for fishing captains, and qualifications necessary for giving them | |
| 9. 'Ecosystem friendly' certification system | MOP-24-07 |
| 10. Other business | |
| 11. Place and date of next meeting | |
| 12. Adjournment | |

APPENDICES

1. List of attendees
2. Report of the Chair of the 50th Meeting of the International Review Panel
3. Report of the meeting of the observer programs
4. Draft resolution on night sets
5. Draft amendment of paragraph 12 of Annex IV of the AIDCP
6. Informational statement on the findings in relation to the AIDCP in the report of the Panel of the World Trade Organization in the dispute on Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products
7. Report of the meeting of the Scientific Advisory Committee

The 24th Meeting of the Parties to the AIDCP was held in Del Mar, California (USA), on 21 October 2011. The attendees are listed in Appendix 1.

1. Opening of the meeting

The meeting was opened by Dr. Guillermo Compeán, Director of the Inter-American Tropical Tuna Commission (IATTC).

2. Election of Chairman

Mr. Alvin Delgado, of Venezuela, was elected Chair of the meeting.

3. Adoption of agenda

The agenda was adopted, with one change: item 7 on *Ecosystem-friendly Certification* was moved to item 9. It was also decided that the proposals on night sets and the modification of paragraph 12 of Appendix IV of the AIDCP would be reviewed as part of the report of the International Review Panel (IRP).

4. Approval of the minutes of the 23rd Meeting of the Parties

The minutes of the 23rd Meeting of the Parties were approved as presented.

5. Secretariat's Report on the IDCP

Mr. Ernesto Altamirano, of the Secretariat, presented Document [MOP-24-05](#), noting that in 2010 100% of trips by purse-seine vessels of more than 363 metric tons carrying capacity, in accordance with the requirements of the AIDCP, and the IATTC program sampled 60% of these. Dolphin Mortality Limits (DMLs) were assigned to 87 vessels that requested them, and no vessel exceeded its DML. The estimate of the incidental mortality of dolphins in the fishery in 2010 was 1,170 animals, a reduction of 5.9% compared to the mortality of 1,239 dolphins recorded in 2009. There were no questions or comments from the delegations.

6. AIDCP budget

Ms. Nora Roa-Wade, of the Secretariat, presented Document [MOP-24-06](#), highlighting the need to increase the vessel fees for the observer program of USD 14.95 to 16.15 per cubic meter of well volume, as has been requested since 2008 in order to address the budget deficit and the increase in costs.

Panama supported the proposed increase. Venezuela acknowledged the Secretariat's efforts to reduce the deficit, and was in favor of an increase of up to 6%. He also suggested that ways of gaining access to other resources that would enable the deficit to be reduced. Mexico stated that it would accept a 6% increase for one year, subject to the consideration of sending a letter to the IATTC to request an increase of its contribution of 30%, taking into account that the IATTC derives ever greater benefits from the work of the observers. He also suggested that the current coverage of 100% should be reviewed

Dr. Compeán indicated that the intention is to avoid suspending the observer service at the end of the year due to lack of resources, but without the requested increase, this could occur in September 2012. Colombia indicated that it was not possible for it to accept at this meeting an increase in the fees.

Finally, a budget of US\$ 1,847,354 was approved, and it was agreed that a meeting of the AIDCP would be held in June 2012 to determine increases in the budget. Various delegations stressed the need to attend that meeting duly prepared to take a decision on the proposed increase in the fees.

7. Report of the International Review Panel

Mr. William Jacobson, Coordinator of the 49th meeting of the IRP, presented his report (Appendix 2), noting that the Panel decided to make the following recommendations to the Meeting of the Parties:

1. Consider the recommendation of the Permanent Working Group on Tuna Tracking that the Panel review the cases of vessels that received AIDCP *dolphin safe* certificates for fish caught during a closure of the purse-seine fishery, and that the IATTC Review Committee also review them.
2. Reiterate the need for the Parties to notify the Secretariat promptly of changes in the list of qualified captains.
3. Review the need to harmonize the procedures of the IATTC and the AIDCP, in order to ensure that they are consistent, compatible, and complementary.

4. Consider the adoption of a proposal, to be presented by Guatemala, on the need for each Party to notify the Secretariat promptly of the allocation of its DML distributed among its fleet, in accordance with Annex IV.I.12 of the AIDCP.
5. Take note of the possible infractions identified by the Panel.

Also, the Panel discussed a proposal on night sets presented by several delegations (Appendix 3). Mexico requested that the report of the Coordinator include a detailed recounting of the discussions about the proposal. He noted that:

- a. extending the limit for considering a set as a night set from the current 30 minutes to 60 minutes after sunset would not increase tuna catches, because the fish would already be in the Net.
- b. The estimated increase in dolphin mortality would be insignificant (0.008%).
- c. The current skill of the crews would contribute to reducing the impact on dolphin mortality if the deadline were extended to 60 minutes.

Venezuela suggested that the proposal be reviewed to make it clear that the only intention of extending the duration of the sets is that they not be penalized as night sets.

Guatemala presented a proposal (Appendix 4) to modify Appendix IV.I.12 of the AIDCP, with regard to the deadlines for the notification by each party to the Secretariat of the distribution of the DML among its fleet. The proposal seeks to avoid that the parties have to report the distribution of DML as a requirement for initiating fleet operations in that year. It seeks to avoid the Parties having to report the distribution of their DML as a requirement for initiating the operation of each fleet during the year. There was no consensus, and the proposal was not approved.

8. Characteristics of training seminars for fishing captains, and qualifications necessary for giving them

The Secretariat explained that this matter was addressed during the meeting of the national and IATTC observer programs held on 20 October. The Chair's report (Appendix 5) presents the recommendations of the meeting, which highlight that the seminars should be given by staff of the observer programs in coordination with the IATTC staff, with at least one instructor with experience in giving five seminars. The team of instructors should be familiar with the resolutions and rules of the AIDCP and the IATTC, be knowledgeable about the development of fisheries statistics, and have experience in the management of observer programs and/or as an observer at sea.

Also, it was reported that during the meeting it was recommended that the IATTC be asked to organise for seminars per year, open to the participation of anyone involved in the fishery, to coincide with the beginning and end of each closure period, and publicize them on the IATTC website with at least five days' notice. Furthermore, it was recommended that captains attend a seminar of this type at least every three years, in order to keep up to date with the rules and resolutions of the AIDCP and the IATTC.

9. 'Ecosystem-friendly' certification system

This item was postponed until the next Meeting of the Parties.

10. Other business

- a) **Questions of compliance with the AIDCP reviewed by the Joint Working Group on Fishing by Non-Parties.** The Chair recalled that the Meeting of the Parties in October 2010 had agreed that the IRP would assume the functions of this Working Group as regards the AIDCP, subject to confirmation by the Meeting of the Parties. The Meeting of the Parties confirmed this decision.
- b) **Number of meetings of the IRP.** The United States asked that the number of meetings of the IRP be regularized, since only one was held in 2011, even though Annex V.5 of the AIDCP provides that at least two be held each year. Consequently, the Parties approved holding two meetings in 2012, one in

June and the other in October.

- c) **Observer coverage by national programs.** Dr. Compeán noted that in the auditors' reports the Secretariat had been asked to explain why sometimes the coverage by observers of the national programs is less than 50%. He explained that this situation is in accordance with Annex II.2 of the AIDCP, which establishes that "at least 50 percent of the observers on the vessels of each Party shall be IATTC observers", which allows for the percentage of observers from the national programs to be less than 50%. Currently, Ecuador is the only Party with an unequal coverage, with 67% of trips covered by the IATTC program.
- d) **Fishing in the overlap area between the IATTC and the Central and Western Pacific Fisheries Commission (WCPFC)**

Ecuador referred to the situation in the overlap area between the IATTC and the WCPFC, noting that, in addition to being under the competence of the IATTC, this area is also part of the AIDCP Agreement Area. He expressed his concern about the WCPFC's demand that the Members of the IATTC and the Parties to the AIDCP comply with the measures adopted by that Commission in the overlap area as a condition for granting them the status of Cooperating non-Parties, even if their vessels already implemented in that area the measures of both the IATTC and the AIDCP.

He stated that both Commissions should agree that a vessel may operate legally in the overlap area, provided it complies with the measures adopted by the Commission of which it is a Member, with no other restriction. He expressed his concern about the WCPFC ignoring the fact that that area has been under the competence of the IATTC since its creation in 1949. He stressed that Ecuadorian vessels would continue to operate in the area in accordance with the law, since it is an area of competence of the IATTC. Colombia, El Salvador, Nicaragua, and Venezuela supported those statements.

Venezuela noted that vessels of members of the WCPFC that do not carry observers aboard when fishing in the overlap area are in violation of the rules of the IATTC. Dr Compeán commented that the Forum Fisheries Agency (FFA) has recognised the presence of IATTC observers aboard vessels operating in the overlap area as well as in other IATTC regulatory areas.

The United States indicated that the AIDCP was not the appropriate forum for considering this matter, which should be considered in the framework of the IATTC

It was agreed that the Parties that are also members of the IATTC should use the opportunity of the meeting of the IATTC Permanent Working Group on fleet capacity in the next days to address this matter in an informal meeting.

e) **Informational statement by Mexico**

Mexico presented an information document (Appendix 6), which contains some of the conclusions and statements in the definitive report of the Panel established in the framework of the World Trade Organization (WTO) to review the differences between Mexico (plaintiff) and the United States (defendant) regarding measures related to importing, marketing and sale of tuna and tuna products. He pointed out a series of positive comments that stand out regarding the functioning and achievements of the AIDCP.

The United States noted that it is necessary to read the entire report in order to understand the context in which the WTO Special Group reached its conclusions.

f) **Report of the meeting of the Scientific Advisory Board**

The Secretariat presented the report of the meeting of the Scientific Advisory Board (Appendix 7), in which the matter of coverage of the tuna fleet by on-board observers and night sets are addressed. Regarding the former, the Board recommended carrying out more extensive simulations to determine whether a reduction in coverage would lead to an increase in dolphin mortality.

Concern about this matter had been expressed within the Board, since one of the objectives of 100% cov-

erage was to obtain information on tunas and other associated species, in addition to dolphins, of great value for the assessment of the tuna stocks. Also, it might not be possible to prevent a vessel from fishing after reaching its DML, since without 100% coverage, determining whether the vessel had reached its DML would have to be based on projections of dolphin mortality, and would thus lack a legal basis.

Regarding the extension of the time limit for a set to be considered a night set, the results of the studies carried out indicate that the proposed increase of 30 minutes would involve an insignificant increase in dolphin mortality. However, there are concerns about whether this is consistent with the aims of the AIDCP and with the safety of crew members.

The report of the meeting of the Scientific Advisory Board was received without any further comments from the delegations.

11. Place and date of next meeting

The next Meeting of the Parties will take place on the dates agreed for the meetings of the AIDCP in 2012.

12. Adjournment

The meeting was adjourned at 6 p.m. on 21 October 2011.

Appendix 1.

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Appendix 2.

INTERNATIONAL REVIEW PANEL

50TH MEETING

PRESIDER'S REPORT

The 50th Meeting of the International Review Panel of the AIDCP was held on October 20, 2011, in Del Mar, California. Mr. Bill Jacobson of the United States was elected to chair the meeting.

The agenda was adopted as presented with the understanding that Item # 12, Report of the Working Group to promote and publicize the AIDCP Dolphin Safe Tuna Certification System, would be postponed until the Meeting of the Parties on October 21st.

The Secretariat announced the results of the election of the NGO representatives to the IRP held in June 2011. They are Lillo Maniscalchi of the Asociación Venezolana de Armadores Atuneros, Carlos Sánchez of CALVO Pesca, Rafael Trujillo of the Cámara Nacional de Pesquería of Ecuador, Cristobel Block of the Humane Society of the United States, and Rebecca Regnery of Humane Society International. These representatives were elected to serve two-year terms.

The minutes of the 49th meeting of the IRP were accepted as written.

Secretariat staff presented the mortality caused by DML vessels in 2010 and 2011 (IRP-50-06A). Document IRP-50-06B, the listing of DMLs requested for 2012, incited much discussion among the delegates, as some expressed concern over the issuance of DMLs to vessels that undermine IATTC conservation measures, including fishing during closures and fishing without being on the Vessel Register.

Presentation of the AIDCP List of Qualified Captains (IRP-50-07) and review of observer data ensued, resulting in two of the recommendations to the Meeting of the Parties listed at the end of this report. It should also be noted that Parties mentioned the possibility of a letter being written to remind Flag States and vessel captains of the need to provide the observer access to gear and equipment, as well as for Parties and captains to check previous observer checklists of required vessel gear, such as a raft, light requirements, *etc.* This would perhaps lessen the number of other infractions that must be reviewed at the IRP and were included for review because an observer failed to confirm with the captain that required gear was, in fact, missing.

Secretariat staff quickly reviewed the status of the Responses for six types of possible infractions identified at the 49th Meeting of the IRP (IRP-50-09a). The delegate of Venezuela, speaking on behalf of the government of Bolivia, reported that Bolivia had suspended the fishing permit for 90 days, fined the vessel, and required both the captain and navigator to attend a Captain's Training course for Bolivia's vessel involvement with fishing on dolphins without a DML.

Secretariat staff reported that all 5 cases presented in IRP-50-09b, Summary of Pending Special Cases Monitored by the IRP, had been resolved in one way or another (*i.e.* unable to confirm an infraction occurred, sanction was imposed, or the case was under investigation).

At the 49th Meeting of the IRP in September 2010, the Secretariat was requested by Mexico to analyze the possible effects of modifying the requirements of the AIDCP regarding night sets (IRP-50-10). Secretariat staff presented an executive summary exploring two scenarios: A) the elimination of the ban on night sets, and B) a change of 30 minutes in the definition of a night set. Analysis of Scenario A showed it could add annually an additional 467 dolphin sets, resulting in 148 additional dolphin mortalities and an additional 5,370 metric tons of tuna caught, while analysis of Scenario B could result in approximately 53% of Scenario A's values. Mexico, Nicaragua, Guatemala, and Venezuela all expressed a desire for the Parties to implement a pilot plan to examine the effects of a change in the definition of a

night set on the fishery. These Parties believe such a change would give DML vessel owners more flexibility in vessel operations. A two-year timeframe was raised as a possible length of the pilot plan.

The Mexican delegation expressed the following views during the discussion:

1. Extending the limit for defining a night set from the current 30 minutes to 60 minutes after sunset would not increase the catch of tuna because the fish would already be in the net.
2. The estimated increase in dolphin mortality is negligible (0.008%).
3. The current expertise of the crews would reduce the impact on mortality of dolphins if the deadline is extended to 60 minutes.

Some delegations announced that they would draft a proposal for the Parties to review on the following day, October 21st. Venezuela suggested that the proposal be revised to make clear that it only seeks to extend the time limit, not permit night sets.

The United States and European Union both expressed willingness to review a proposal from these delegations. However, they would be unable to join consensus at these meetings due to concerns that such a proposal would be counter to the objective of the AIDCP to reduce dolphin mortality to levels approaching zero, and that such a proposal could increase IATTC fishing closure periods. The EU recommended that the IATTC Scientific Advisory Committee needed to be involved, as a possible increase in tuna catch would need to be analyzed.

Dr. Arnulfo Franco gave the report of the 29th meeting of the Permanent Working Group on Tuna Tracking. It was reported there was concern by some Parties that dolphin safe certifications were issued for tuna harvested during a closure of the fishery and for tuna harvested under TTFs not in the Secretariat's records.

There was no other business conducted under agenda item 13.

Recommendations for the Meeting of the Parties are as follows:

1. Consider the recommendation of the Permanent Working Group on Tuna Tracking that the Panel review the cases of vessels that received AIDCP *dolphin safe* certificates for fish caught during a closure of the purse-seine fishery, and that the IATTC Review Committee also review them.
2. Reiterate the need for the Parties to notify the Secretariat promptly of changes in the list of qualified captains.
3. Review the need to harmonize the procedures of the IATTC and the AIDCP, in order to ensure that they are consistent, compatible, and complementary.
4. Consider the adoption of a proposal, to be presented by Guatemala, on the need for each Party to notify the Secretariat promptly of the allocation of its DML distributed among its fleet, in accordance with Annex IV.I.12 of the AIDCP.
5. Take note of the possible infractions identified by the Panel.

The place and date of the next meeting will be determined by the Secretariat at a later time. The meeting was adjourned at 4:30 pm, local time.

Appendix 3.

MEETING OF THE IATTC AND NATIONAL OBSERVER PROGRAMS

3RD MEETING

REPORT OF THE MEETING

AGENDA

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1. Opening of the meeting
 2. Election of Presider
 3. Review of the requirements for inclusion in the AIDCP list of qualified captains
 4. Review of the information presented at the seminars
 5. Other business
 6. Recommendations to the International Review Panel (IRP)
 7. Adjournment
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The third meeting of the national and IATTC observer programs was held in Del Mar, California (USA) on 20 October 2011. The following persons, some representing national programs, were present at the meeting:

Colombia: Armando Hernández and Enrique de la Vega; Ecuador: Luis Torres; Mexico: Michel Dreyfus; Nicaragua: Julio Guevara; Panama: Arnulfo Franco; Venezuela: Alvin Delgado. For the IATTC, Drs. Guillermo Compeán (Director of the Commission) and Martín Hall (head of the bycatch and AIDCP programs), and Messrs. David Bratten and Ernesto Altamirano attended. The IATTC also provides the Secretariat for the AIDCP.

1. Opening of the meeting; and

2. Election of Presider

Dr. Compeán opened the meeting and requested nominations for Presider. Mr. Altamirano, of the AIDCP Secretariat, was elected.

3. Review of the requirements for inclusion in the AIDCP list of qualified captains; and

4. Review of the information presented at the seminars

Dr. Hall presented a summary of the history, motivation, and content of the seminars.

After a brief discussion, the group agreed that there should be guidelines to follow regarding the training seminars. The group's proposals for the IRP appear as Appendix 1.

5. Other business

5.1. Costs of observers awaiting departure of vessels

Mr. Arnulfo Franco introduced the issue of the increase in costs that results from the fact that occasionally vessel owners request observers for vessels that leave port many days after the observer arrives there. Despite a long discussion, there were no specific recommendations for the IRP, but it was considered that the Panel should discuss or promote the following points:

- i. Considering that the assessments for the observer program have not been increased since 2006, while the costs of placing observers have increased, it is necessary to establish a rule for those cases in which the delay in the departure of the vessel is more than five days after the observer arrives at the port of departure. The participants agreed that, after this period, the costs of the

observers' salaries should be paid by the vessel owner.

- ii. For those vessels whose delay is more than 14 days, the respective observer program may reserve the right to assign the observer to another vessel. The cost of substituting the observer should also be covered by the vessel owner.

5.2. Training seminars for crews that do not fish on dolphins

Dr. Hall noted that the IATTC staff is interested in participating in a modified version of the seminars described under item 4 of the agenda that would promote the discussion of the problem of fauna associated with the fishery for tunas associated with fish aggregating devices (FADs). He explained that the IATTC staff has worked with the staff of the International Seafood Sustainability Foundation (ISSF), which promotes these seminars, in the development of training programs for exchanging ideas with fishermen in this type of fishery. The group recommended that, even though there are no requirements for seminars of this type, the participation of crew members in general should be encouraged. Dr Hall indicated that the IATTC's interest in participating is part of the search for solutions to the problem of the fauna associated with these fisheries. The group agreed to ask the IRP that this type of seminar be promoted and, that as far as possible, they be held in parallel to, or in addition to, the seminars related to the fishery on dolphins.

5.3. Summary of the requirements in the fishery

Ing. Luis Torres indicated that Ecuador had recently published a ministerial agreement for a plan of action on fishing on FADs, and that it would take into account this recommendation in order to implement it in the actions to be followed in that plan.

The group debated the need for the IATTC staff to prepare a document which explains, in simple terms, the regulations and resolutions regarding the purse-seine fishery for tunas.

6. Recommendations to the International Review Panel (IRP)

The group's proposals for the IRP appear in Appendix I. See also sections 5.2 and 5.3 of these minutes.

7. Adjournment

The meeting was adjourned.

Appendix I.

The representatives of the AIDCP observer programs, at their third meeting, held in Del Mar, California (USA), on 20 October 2011, recommend to the IRP that the following guidelines be established for the training seminars for incorporation into the AIDCP List of Qualified Captains:

1. The seminars must be given by staff of the observer program in coordination with the IATTC.
2. The presentations used on these seminar should be provided by the IATTC and should be available to the staff of the national programs at the Commission's website
3. The team of instructors should include staff that has the following characteristics:
 - a. At least one of the instructors should have an experience of at least 5 seminars.
 - b. At least one of the instructors should have knowledge on the evolution of the fishing statistics and statistics on mortality of dolphins and the way fishing characteristics (such as night sets, gear malfunctions, etc.) affect the mortality.
 - c. At least one of the instructors should have experience as observe at sea.
 - d. At least one of the instructors should have experience in the management of an observer program.

- e. The instructors must be familiar with all relevant regulations in the IATTC and the AIDCP, including their resolutions.
4. As regards the organization of the seminars, the group recommends the following:
- a. The Secretary should organize at least four seminars per year at the beginning and end of each closure.
 - b. There should be at least five active crewmember participants at those seminars
 - c. Any other seminar planned by a national program should be included in the Commission's website for at least five days. Participation of those seminars should be open to all attendees.
 - d. All seminars should be coordinated with the National Authority of the State where the seminar is given
 - e. That the IRP encourage the participation of all captains to assist to one of these seminars at least once every three years to be updated on the changes of AIDCP and IATTC's regulations and resolutions.

Appendix 4.

DRAFT RESOLUTION SUBMITTED BY COLOMBIA, COSTA RICA, ECUADOR, GUATEMALA, MEXICO, NICARAGUA, PANAMA, AND VENEZUELA

ON THE IMPLEMENTATION OF A PILOT PROGRAM TO INCREASE THE TIME ALLOWED FOR FINISHING THE BACKDOWN MANEUVER AFTER SUNSET

The Parties to the Agreement on the International Dolphin Conservation Agreement (AIDCP):

CONSIDERING that the fishery for tunas associated with dolphins in the eastern Pacific has reached extremely low levels (from 0.0003% to 0.008% of the size of the populations of dolphins involved). Value that corresponds to a mortality close to zero in accordance with the first objective of the AIDCP

TAKING INTO ACCOUNT that the fishing effort is carried out before the fishing maneuver and therefore, by extending the time for the fishing maneuver in those sets that are made close to the time of sunset, the effort is not increased

CONSIDERING that the mortality of dolphins with an increase of 30 minutes of allowable extension for finishing backdown, according to document IRP-50-10 would be 0.008% of the size of the dolphin populations, *i.e.* an insignificant value

Remembering the experience of the review of the letting go the bow ortza as an alternative measure to backdown, which constitutes an experience in which possible improvements of the performance of the fleet was explored, in a controlled and precautionary manner:

NOTING items c) and g) of paragraph 1 of article V of the AIDCP, which refer to the search for improvements of fishing techniques through scientific investigation and complete and timely exchange of the information obtained:

RESOLVE

To implement a pilot program to increase the time allowed for finishing the backdown maneuver after sunset, which shall operate under the following considerations:

- a) Those sets associated with dolphins in which the backdown maneuver finishes up to sixty (60) minutes after sunset shall not be considered possible night set infractions during the term of this program;
- b) This consideration shall be made for a period of 2 years (2012-2013) in which the scientific staff of the IATTC shall compile information from each set and shall evaluate the effects that this modification of the definition of night sets might bring about.
- c) In the case that at the next meeting of the AIDCP (2012) it has been detected that this modification generates a risk for the populations of dolphins by increasing the mortality substantially, this measure shall be suspended.
- d) It shall be valid for two years and may be renewed for the time that the Parties may decide.

Appendix 5.

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

24TH MEETING OF THE PARTIES

LA JOLLA, CALIFORNIA

21 OCTOBER 2011

PROPOSAL A-1

SUBMITTED BY GUATEMALA

PROPOSAL FOR MODIFICATION OF PARAGRAPH 12, SECTION 1 OF
ANNEX IV OF THE AIDCP

The Parties to the Agreement on the International Dolphin Conservation Program (AIDCP) agree to modify paragraph 12 of section 1 of Annex IV, which refers to the notification that each Party must communicate to the Director regarding the initial distribution of full-year Dolphin Mortality Limits (DMLs) among its fleet, before its vessels may start fishing for tunas associated with dolphins in that year.

The current wording is as follows:

“(…)

12. *Each Party shall, no later than February 1 of each year, notify the Director of the initial allocation of its distributed DML among its fleet. No vessel may begin fishing for tunas associated with dolphins until the Director receives such notification.*

(…)”

Every year cases arise of vessels reported for the possible infraction of fishing on dolphins before the Party under whose jurisdiction the vessel operates has notified the Director of the initial allocation of DMLs for that year. The vessel owner is not responsible for this possible infraction, it is the responsibility of the flag State to carry out this administrative action. It is therefore proposed that the general rule be established that full-year DMLs may start to be utilized from 1 January, with the one exception that such notification is required in cases of the initial allocation of full-year DMLs being different from the average DML (ADML). This notification shall be made on the date specified in the current paragraph.

Furthermore, there is a difference between the texts in the two languages. The Spanish says “*notificará ... al Director respecto de la distribución inicial de LMD entre su flota*”, whereas the English reads “notify the Director of the initial allocation of its distributed DML among its fleet”. The English is evidently correct, so it is proposed that the text in Spanish be modified to correct this omission.

The proposal is as follows:

“(…)”

12. **Full-year DMLs may start to be utilized as of 1 January of each year, unless the Party decides on an initial allocation among its fleet of the distributed DML that is different from the ADML. In such cases, the Party concerned shall, no later than February 1 of each year, notify the Director of this. No vessel of that Party may begin fishing for tunas associated with dolphins until the Director receives such notification.**

(…)”

Appendix 6.

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

24TH MEETING OF THE PARTIES

DEL MAR, CALIFORNIA (USA)

21 OCTOBER 2011

DOCUMENT MOP-24 INF A

INFORMATION DOCUMENT BY MEXICO

**FINDINGS OF THE WORLD TRADE ORGANIZATION PANEL
REGARDING THE AIDCP**

The representatives of the Members of the Inter-American Tropical Tuna Commission (IATTC) that are also signatories to the AIDCP may be aware of the dispute between Mexico and the United States in the World Trade Organization regarding U.S. dolphin-safe labeling measures and the restrictions that the United States imposes on imports of Mexican tuna. The panel that dealt with this dispute found in favor of Mexico, and its [final report](#)¹ was published on 15 September 2011.. Mexico is naturally very pleased with the panel's decision.

The panel's findings address many important legal issues relating to international trade which will be the discussed in other fora in the coming months. However, the participants in this meeting will be gratified to know that the panel drew important conclusions about the powerful and positive impact of the AIDCP in fisheries management, bycatch reduction, and transparency.

The report includes a series of conclusions by the panel regarding the AIDCP, and it is considered important that all the Parties to the AIDCP be made aware of these.

The following texts are extracted from the principal paragraphs in the panel's report that comment on the AIDCP:

1. Principal paragraphs from the WTO panel report that comment on the AIDCP:

Paragraph 2.39: "Through a comprehensive program of monitoring, tracking, verification, and certification, featuring the use of independent observers on board tuna fishing vessels, the AIDCP has maintained and reinforced the progress made after the adoption of the La Jolla Agreement and the Panama Declaration, and dramatically reduced observed dolphin mortality in the ETP. The AIDCP is recognized to have made an important contribution to dolphin protection in the ETP."

Paragraph 7.438: "The number of dolphins killed in the ETP before the adoption of the controls established by the AIDCP, and the ensuing degradation of the dolphin stocks in this area, are well documented... The parties to the AIDCP agreed to limit total incidental dolphin mortality in the purse-seine tuna fishery in the ETP to no more than five thousand dolphins annually. These limits have remained the same in recent years... In 2008, dolphin mortality in the ETP amounted to 1,168 dolphins, whereas in 2009 1,239 dolphins were observed killed or seriously injured when set upon to catch tuna in the ETP."

Paragraph 7.506: "We also note, however, that, to the extent that the measures make no distinction between setting on dolphins in general and setting on dolphins under the controlled conditions developed

¹ http://www.wto.org/english/news_e/news11_e/381r_e.htm

in the context of the AIDCP, they would not allow the US consumer to be informed of any of the measures that have been taken in the context of this Programme. We note in this respect that the United States itself acknowledges that the implementation of the AIDCP has made an important contribution to the reduction in numbers of dolphins killings in the ETP.”

Paragraphs 7.518-519: “We note at the outset that, as several of the studies submitted by the parties observed, information is lacking to evaluate the existence and extent of the threats faced by different species of dolphins in different areas around the globe, especially outside the ETP...In contrast, due in particular to the AIDCP On-Board Observers Program and the AIDCP System for Tracking and Verifying Tuna, detailed information is available about the effects on dolphins of tuna fishing activities *in* the ETP.”

Paragraph 7.597 “[I]n practice, fleets wishing to have access to the US dolphin-safe market could be discouraged from setting on dolphins in the ETP under the regulated conditions of the AIDCP and encouraged to relocate instead to other fisheries in which dolphin populations are less closely monitored and where the killing of dolphins is not monitored.”

Paragraph 7.609: “It is undisputed that the application of the AIDCP controls has played a decisive role in the considerable reduction of dolphin mortalities in the ETP in the last decades.. Annual estimate of dolphin mortality in the ETP in 1986 was 132,1169 marine mammals, whereas the estimate in 2008 was 1,169 individuals.”

2. Remarks

The great success of the AIDCP is well known to the nations that have participated in it. Also, many, intergovernmental organizations and non-governmental organizations with expertise in promoting sustainable fishing practices and management, have recognized the AIDCP as a very successful multilateral environmental agreement. It is heartening that this WTO panel, with its responsibility for interpreting the global rules of international trade, has reached the same conclusion, as the FAO did when it awarded the AIDCP the Margarita Lizárraga award for its contribution to responsible fisheries

Appendix 7.

SCIENTIFIC ADVISORY BOARD MINUTES OF THE 8TH MEETING

AGENDA

1. Opening of the meeting
2. Adoption of the agenda
3. Reducing observer coverage
4. Night sets
5. Other business
6. Place and date of next meeting
7. Adjournment

1. Opening of the meeting

Dr. Guillermo Compeán, Director of the IATTC, opened the meeting, which he also chaired. The participants are listed in Appendix 1.

2. Adoption of the agenda

The agenda was adopted with the addition of the topic of changing the definition of a night set to allow sets to be completed 30 minutes later than currently allowed.

3. Reducing observer coverage

At the 23rd Meeting of the Parties in September 2010, the Parties discussed the possibility of reducing the current observer coverage to reduce the costs of the AIDCP, and requested that the Board examine this issue.

Dr. Martin Hall, of the IATTC staff, presented a review of observer coverage by regional fisheries management organizations. He stressed that reducing this coverage would be problematic if monitoring compliance of dolphin mortality limits remains an objective of the AIDCP. It is very important in considering alternate coverage levels that the objective of the observer program must be clearly defined. While lower coverage levels may be valid for estimating dolphin bycatch, the IATTC is responsible for monitoring more species than just dolphins. For example, the level of coverage required to accurately estimate the bycatch of a rarely-caught species would necessarily be higher than that required for a frequently-caught species. To obtain good estimates for all species would require a level of observer coverage that would be determined by the distributions of the rarest species of interest, and observer coverage would necessarily be high.

If observer coverage were to be reduced, statistical procedures would once again be required to estimate dolphin mortalities in the fishery. Prior to full coverage of the international fleet, the sampling coverage by the IATTC and national programs had increased over time, reducing the estimation error. Coverage levels of 10% to 33% have been estimated as adequate to reduce some biases in the estimates, and to provide a reasonable level of precision for some species, based on simulations or on the characteristics of the statistical distributions. One critical assumption, however, is that there is no “observer effect” - that is, all vessels would operate the same and have the same mortality rates regardless of whether an observer is aboard or not.

Mr. Jeremy Rusin noted that less than 100% observer coverage would be problematic for maintaining the AIDCP labeling scheme. Dr. Compeán stated, that any unobserved catches of tuna cannot be labeled as “dolphin-safe.” Mr. Alvin Delgado stated that reducing observer coverage would represent a step

backwards for the AIDCP in terms of monitoring compliance, certifying tuna, and losing information. He stated that the Venezuelan national observer program was not interested in reducing coverage.

Drs. Luis Fleischer and Michel Dreyfus suggested that simulations could be done of different sampling levels, using different data selection criteria (*e.g.*, which years to include), to provide more information on this issue. Dr. Hall noted that such simulations were carried out for dolphins in 1984. Dr. Compeán suggested that this could be a recommendation of the SAB to the Meeting of the Parties.

Dr. Fleischer suggested that economic factors be included in these analyses, to optimize the cost-benefit ratio of the suggested reductions, and emphasized the need to adjust the goals of the AIDCP in view of the financial limitations of the fleets. Dr. Hall noted the considerable legal and practical ramifications of this on implementing the AIDCP, and Dr. Compeán noted the the potential difficulty of negotiating such changes.

Dr. Hall noted that the Parties would have to decide what level of error in the simulations was acceptable. Dr. Compeán suggested that, for the overall fleet DML, the sum of the estimate and the error should not exceed the DML. The issue of individual-vessel DMLs would be more problematic, and he also suggested that the simulations include an analysis of how many vessels would be expected to exceed their individual DMLs. The SAB discussed how to include these DMLs in the simulations.

Dr. Compeán stated that he would report to the Meeting of the Parties that simulations would be done to further examine the effects of decreased observer coverage and the cost-benefits, but that such a change would lose much of what has been gained by the AIDCP..

4. Night sets

Dr. Compeán introduced this topic. A proposal had been made to modify the definition of a night set from a set that is completed more than 30 minutes after sunset to one that is completed more than 60 minutes after sunset, thus adding half an hour to the current procedures.

Dr. Hall commented on the possible consequences of the increased number of night sets that might result if this definition were adopted. Other participants clarified that the intent was not to increase the numbers of sets but to allow more time to complete a set that might be delayed by several factors, such as an equipment malfunction. The SAB also discussed concerns regarding the issues of safety for crews attempting to rescue dolphins in the dark; whether such a change would be consistent with the Agreement's goal of reducing dolphin mortalities to levels approaching zero; how many additional sets might be made; and particularly, reducing the pressure on crews to rush the completion of delayed sets. To gain an idea of the scope of this potential problem, it was suggested that the IRP be asked for information on the number of infractions occurring due to sets being completed after one-half hour after sundown.

5. Other business

Jeremy Rusin noted the difficulties for the United States in continuing the dolphin abundance surveys, and proposed a workshop to discuss multilateral sampling to monitor trends in dolphin populations. The SAB agreed to forward this proposal to the Meeting of the Parties for a decision.

6. Place and date of next meeting

The next meeting of the SAB will take place on the dates agreed for the next meetings of the AIDCP .

7. Adjournment

The meeting was adjourned.