

FINAL DRAFT
INTERNATIONAL REVIEW PANEL
MINUTES OF THE 6TH MEETING

June 4-6, 1994
Cumaná, Venezuela

Presider: Ambassador Jean-François Pulvenis

The sixth meeting of the International Review Panel (IRP) was held at the Hotel Los Bordones in Cumaná, Edo. Sucre, Venezuela, on June 4-6, 1994. The attendees are listed in Appendix I.

Agenda Items 1 and 2: Opening of the Meeting and Election of Presider

The meeting was called to order by the Secretariat at 10:10 a.m. on June 4, 1994. Ambassador Pulvenis of Venezuela was elected Presider of the meeting, and was also elected Chairman of the IRP for 1995.

Agenda Item 3: Approval of agenda

The Secretariat advised the members of the Irp that the agenda previously mailed to them had been modified. The modified agenda was then approved, and is attached as Appendix II.

Agenda Item 4: Approval of minutes of January 1994 meeting

Mexico requested that the minutes of the fifth meeting reflect the organizational support provided by the staff of Mexico's Programa Nacional del Aprovechamiento del Atún y Protección de los Delfines (PNAAPD). This request was approved, as was the rest of the minutes.

Agenda Item 5: Dolphin Mortality Limits (DMLs)

a) Allocation of individual-vessel DMLs for the second semester of 1994

The Secretariat informed the IRP that two requests had been received for DMLs for the second half of 1994, one for a Vanuatu-flag vessel and the other for a St. Vincent and the Grenadines-flag vessel. St. Vincent is not a party to the Agreement for the Conservation of Dolphins, and has shown no intention of becoming one, and the owner of the vessel has indicated that he may change the vessel's flag to Vanuatu if this situation does not change. Mexico expressed concern over the jurisdiction of the vessel if it committed infractions. It was agreed to issue a second-semester DML of 63 dolphins (half of the full-year DML of 127) to the Vanuatu vessel and a similar provisional DML to the St. Vincent vessel, pending communication between the Secretariat and the Government of Vanuatu concerning the status of the vessel's change of flag.

b) Review of criteria for issuing DMLs

The Secretariat explained that the current system of assessing each vessel US\$ 10 per ton of carrying capacity to offset the costs of the observer program has led to problems, because some vessel owners disagreed with the method of determining capacity. He suggested adopting a flat-fee system, since there is no significant difference in the number of days at sea among vessels of different capacities, and thus the cost

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of placing observers does not vary with vessel size. He proposed a fee of US\$ 10,000 per vessel, based on the fact that the average carrying capacity of participating vessels is 1,050 short tons.

Mexico considered that the assessment should be based on registered capacity, since smaller vessels are less productive, but the United States supported a flat-fee system, and stated that any change in the assessment method would have to be recommended by the IRP to the IATTC. Colombia suggested that vessels be assigned to two size classes for purposes of assessing fees. Mexico agreed, and proposed that vessels with capacities greater than 750 short tons be assessed US\$ 12,000, and those with capacities less than that US\$ 7,000. The Secretariat said that the IATTC staff would try to determine whether there is a correlation between a vessel's carrying capacity and productivity, and report the results at the next IRP meeting. Mexico offered to provide data for this analysis, and the Secretariat said that he would seek information from the governments.

There followed a discussion of the difficulties the IATTC has had in collecting the fees from vessels of certain participating nations. The Secretariat described the systems used by Mexico and Venezuela: Mexico collects the fees from its fleet and issues a single check to the IATTC, whereas Venezuela collects the fee from each vessel owner and forwards all the checks to the IATTC. It was agreed that the matter be referred to the Plenary in order to establish a uniform fee-collection method.

The Secretariat pointed out that there are a number of vessels that will lose their DMLs after June 1 due to non-utilization, as provided for in the Agreement. He reminded the IRP that a similar situation occurred in 1993 and that the Plenary had passed a resolution exempting vessels from losing their DMLs for this reason.

The IRP agreed not to recommend a change in the Agreement concerning the forfeiture of DMLs as a result of non-utilization, but agreed to recommend that the Plenary review requests for exemptions to this provision on a case-by-case basis. The IRP had no objection to exemptions being granted for legitimate requests, but recommended that the Plenary ensure that the sum of individual-vessel DMLs does not exceed the overall DML for that year when considering requests for second-semester DMLs.

Agenda Item 6: Review of Compliance with the International Dolphin Conservation Program

a) 1993 annual report to governments

The Secretariat presented a brief review of the draft of the IRP Annual Report for 1993, to which the IRP made various modifications. The United States suggested that future amendments to the Rules of Procedure be annotated with footnotes in order to keep track of what changes were made and when, and this suggestion was approved.

A lengthy discussion followed concerning the apparent lack of action taken by certain governments to possible infractions reported to them by the IRP. A draft covering letter for the IRP Annual Report was presented by the Secretariat for consideration; after much discussion, a final version of this letter was agreed upon and attached to the Annual Report (Appendix III).

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b) Infractions and sanctions

There was a discussion of some countries' inability to adopt the recommended list of standardized infractions and sanctions because the Agreement is not a formal international treaty. It was agreed that the IRP is responsible for ensuring compliance, and should establish an intergovernmental working group to develop a mechanism for formalizing the Agreement. The Secretariat drafted a statement on this matter for submission to the Plenary (Appendix IV). Mexico commented that it is not the IRP's responsibility to make recommendations to the IATTC Plenary. The Presider stated that the IRP had taken note of the matter and that the Secretariat's statement would be tabled for future consideration.

c) Report on status of Working Group

At the fifth meeting of the IRP it was agreed that a working group of experts would meet to draft the terms of reference for options on actions against nations not in compliance with the Agreement. The report (Appendix V) was presented, discussed, and approved for submission to the Plenary.

d) Definition of a fishing trip in regard to gear infractions

At the fifth meeting of the IRP the Secretariat was asked to prepare a summary of the definitions of a fishing trip used by the IATTC and the two national observer programs, and of the options for standardizing these definitions. During the discussion of this document, attached as Appendix VI, Mexico stated that its national program could adopt the IATTC's definitions, but the United States said it would have to confer with its staff to determine if such a change could be made in its program. It was agreed that, if common definitions could be used, the staffs of the three programs would work together to ensure that they be applied to all fishing activity in 1995.

Agenda Item 7: Options for improving performance by the fishermen

At the fifth meeting of the IRP the Secretariat was also asked to prepare a summary of alternatives for improving the performance of vessels and fishing captains (Appendix VII). It was agreed that the IATTC would carry out alternative 1.1 in conjunction with dolphin mortality reduction workshops and, at Mexico's suggestion, that the program concerned issue a certificate of performance to fishing captains after each fishing trip.

The Presider recessed the meeting at 8:00 p.m. on June 4.

Agenda Item 8: Review of observer data

The meeting was reconvened at 9:15 a.m. on June 5, 1994. The question of whether the IRP should report gear infractions was discussed. One point of view was that all participating governments have minimum requirements for dolphin safety gear and that it is their responsibility to apply sanctions for gear infractions; the other point of view was that the IRP should continue to monitor and report gear infractions because some governments have not taken timely action. It was agreed that this subject would be addressed at the next IRP meeting.

The IATTC staff presented a review of data collected by all three programs from completed fishing trips. During the review it was agreed that in the future the IATTC would provide to the IRP:

- a) Trip history information for any observer who reports being harassed or interfered with;

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- b) Trip history information for any vessel that has excessive gear malfunctions during a trip.

Agenda Item 9: Research fishing

The Secretariat explained that, according to the owner and fishing captain of a Mexican vessel, an experiment conducted aboard the vessel by the Mexican national program during a recent trip had caused dolphin mortality, and thus Mexico was asking that that mortality not be deducted from the vessel's DML. This request was agreed to, but it was decided that the mortality would be applied toward the overall DML for 1994.

There followed a general discussion on the need for and desirability of setting aside a dolphin mortality quota within the overall DML for use by scientific operations aboard commercial fishing vessels or research vessels. It was agreed that the Plenary would set such a research quota for 1995 and each year thereafter, as appropriate. The size of the quota would be based on the advice of the Secretariat, in consultation with the Scientific Advisory Board (SAB), and the amount of the quota would be deducted from the overall DML for that year prior to dividing the remainder into DMLs for individual vessels. The research quota would be managed by the Secretariat who would, in consultation with the SAB, assign portions of the quota to scientific groups which presented suitable and reasonable research proposals. The estimates of total dolphin mortality in the eastern Pacific tuna fishery would include both the mortality caused by commercial fishing vessels under their corresponding DMLs and the mortality resulting from scientific research.

Agenda Item 10: Review of non-governmental membership to the Panel

The Secretariat reviewed the current situation regarding the membership of non-governmental organizations (NGOs). According to the Rules of Procedure, new NGO members should have been elected prior to the present meeting, but this requirement had not been met. Nominations had been sought, but to date there had been few responses. It was proposed that the Rules of Procedure be changed to allow the terms of service of NGO members to be staggered, so as to maintain an adequate level of experience in matters dealt with by the IRP. It was agreed that such a change in the Rules of Procedure would be initiated after new NGO members had been elected.

It was pointed out that Ecuador is an important participant in the tuna fishery of the eastern Pacific Ocean, and that therefore ways of encouraging that nation's participation in the IRP's work should be discussed. It was agreed that the Plenary would be informed of the need for Ecuador's membership of the IRP.

Agenda Item 11: Place and date of next meeting

It was agreed that the next meeting would take place in La Jolla, California, USA, in mid-October, 1994. The Secretariat was asked to notify members of the Irp of the exact dates.

Agenda Item 12: Other business

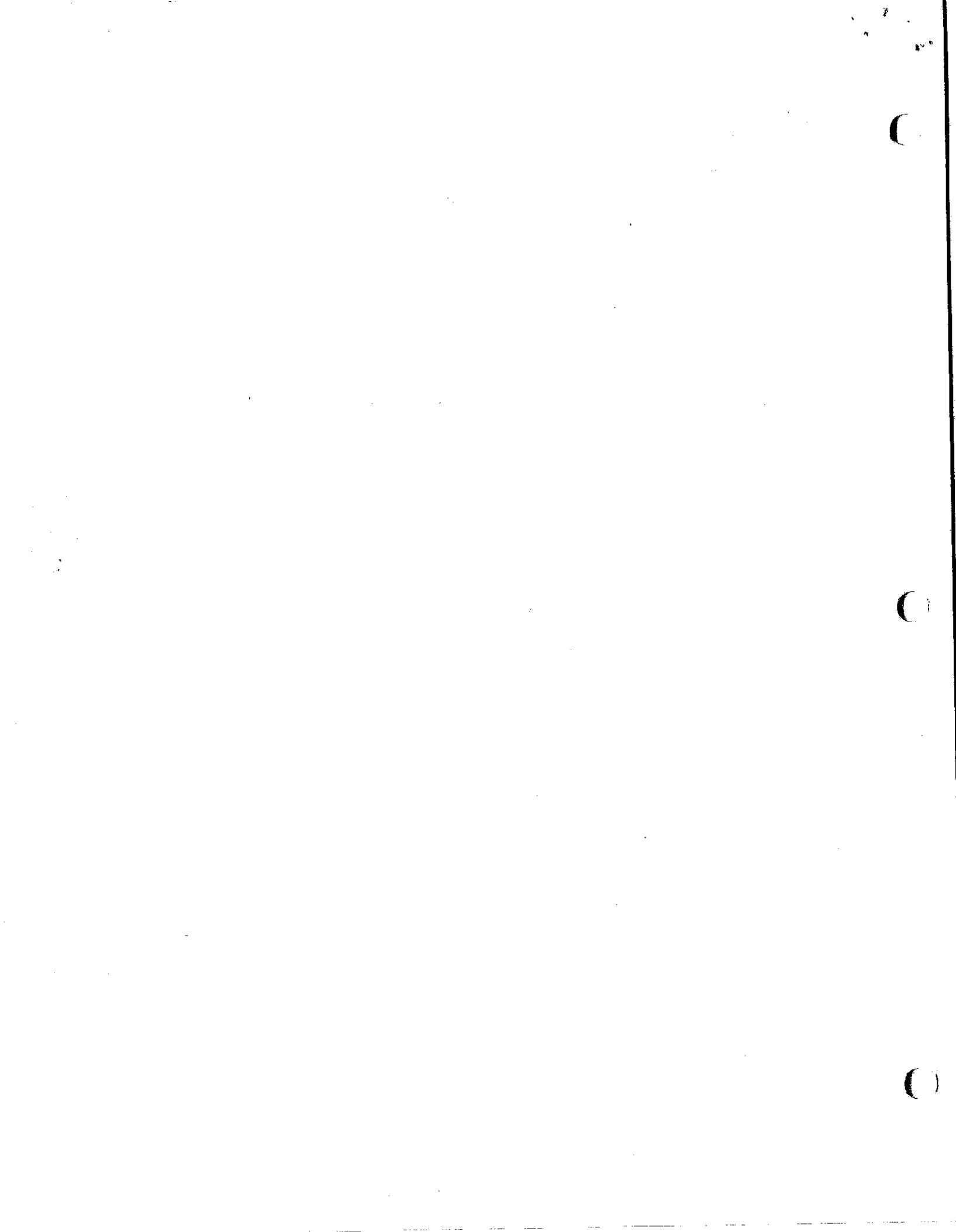
Greenpeace International submitted a draft proposal for a certification system for fishing captains. After considerable discussion and revision, a final version (Appendix VIII) was approved for forwarding to the Plenary for consideration.

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The meeting was recessed at 6:30 p.m.

Agenda Item 13: Adjournment

The meeting was reconvened at 6:35 p.m. on June 6, 1994, for further discussion of the topics presented above, and was finally adjourned at 7:30 p.m. that same day.



Appendix I.

**INTERNATIONAL REVIEW PANEL
PANEL INTERNACIONAL DE REVISION**

**6th MEETING - 6ª REUNION
Cumaná, Venezuela
June 4-6, 1994 - 4-6 de junio, 1994**

ATTENDEES -- ASISTENTES

COLOMBIA

**ALEJANDRO LONDOÑO
ALBERTO VILLANEDA JIMÉNEZ
ADOLFO RINCON PRIETO
Instituto Nacional de Pesca y Acuicultura**

MEXICO

**MARTHA LARA
Secretaría de Comercio**

**RICARDO BELMONTES ACOSTA
GUILLERMO COMPEAN JIMENEZ
Secretaría de Pesca**

PANAMA

**JUAN DE OBARRIO
Ministerio de Industria y Comercio**

UNITED STATES

**BRIAN HALLMAN
Department of State**

**HENRY BEASLEY
GARY MATLOCK
PAUL NIEMEYER
National Marine Fisheries Service**

**MARTIN HOCHMAN
National Oceanic and Atmospheric Administration**

VENEZUELA

**JEAN-FRANCOIS PULVENIS
SANTOS VALERO
Ministerio de Relaciones Exteriores**

**HUGO ALSINA
SARPA, Ministerio de Agricultura y Cría**

**ALFREDO ZULOAGA
Instituto de Comercio Exterior**

TUNA INDUSTRY--INDUSTRIA ATUNERA

**ALFONSO ROSIÑOL LLITERAS
CANAINPES**

ENVIRONMENTAL ORGANIZATIONS--ORGANIZACIONES AMBIENTALISTAS

**HECTOR LOPEZ ROJAS
Fundación para la Defensa de la Naturaleza**

**TRACI ROMINE
Greenpeace International**

**ALEJANDRO VILLAMAR
Red Mexicana de Acción Frente al Libre Comercio**

Appendix II.

INTERNATIONAL REVIEW PANEL (IRP) MEETING

June 4-6, 1994

Cumaná, Venezuela

PROVISIONAL AGENDA

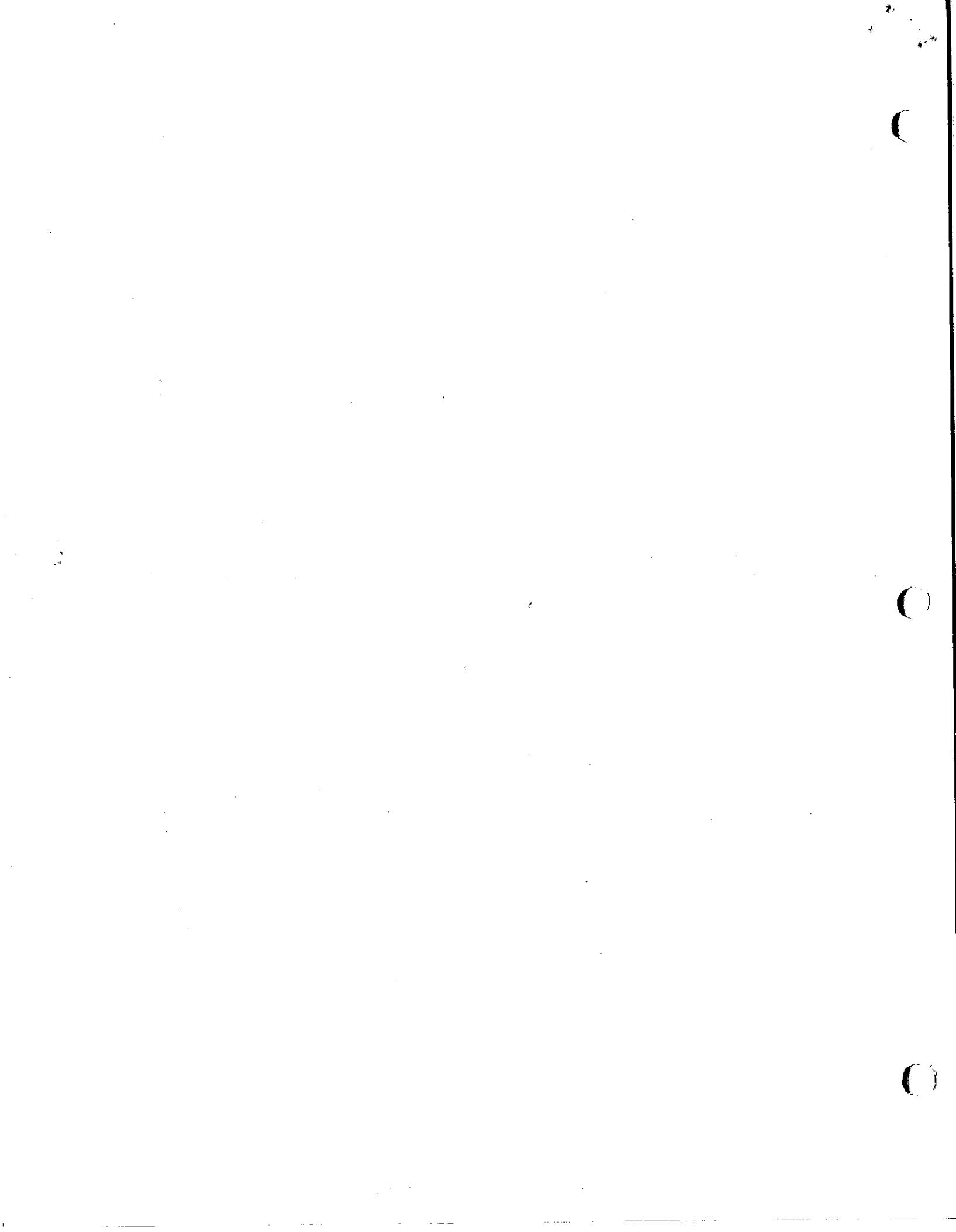
1. Opening of the meeting
2. Election of Presider
3. Approval of agenda
4. Approval of minutes of January 1994 meeting
5. Dolphin Mortality Limits (DMLs)
 - a) Allocation of individual-vessel DMLs for the second semester of 1994
 - b) Review of criteria for issuing DMLs
6. Review of compliance with International Dolphin Conservation Program (IDCP)
 - a) 1993 annual report to governments
 - b) Infractions and sanctions
 - c) Report on status of Working Group
 - d) Definition of a fishing trip in regard to gear infractions
7. Options for improving performance by the fishermen
8. Review of observer data
9. Research fishing
10. Review of non-governmental membership to the Panel
11. Place and date of next meeting
12. Other business
13. Adjournment

June 1994

Appendix III.

INTERNATIONAL REVIEW PANEL

ANNUAL REPORT 1993



INTER-AMERICAN TROPICAL TUNA COMMISSION COMISION INTERAMERICANA DEL ATUN TROPICAL

COSTA RICA - FRANCE - JAPAN - NICARAGUA - PANAMA - UNITED STATES OF AMERICA - VANUATU - VENEZUELA

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June 5, 1994

To: Governments attending the 27th Intergovernmental Meeting
From: International Review Panel
Subject: Annual Report for 1993

The 1992 Agreement for the Conservation of Dolphins calls on the International Review Panel to prepare an Annual Report of its activities, to include a summary of all identified infractions committed by vessels fishing for tunas in the eastern Pacific Ocean and of the sanctions applied by the respective governments.

Attached is the IRP's Annual Report for 1993. Your attention is drawn to Appendix VI, which lists all infractions, by trip identification number and vessel flag, which were identified by the IRP between May 1993 and January 1994. These same infractions are summarized, by major and minor categories, for each of the IRP meetings in which observer records were reviewed. These summaries are contained in Appendices VII, VIII, and IX. In 6,075 sets reviewed, only 24 major infractions were identified.

Within two weeks of the identification by the IRP of the infractions listed in the respective summaries, a detailed report was sent to each government, listing the infractions committed by each vessel under its flag and requesting the government to report back to the IRP on action taken with respect to sanctions for such infractions. Appendix VI includes a summary of all such actions.

The IRP wishes to draw the Plenary's attention to the fact that some of the governments party to the Agreement have not yet supplied the required information, and the reports of other governments show that actions on infractions are either less than recommended in the list of approved sanctions or are not yet completed. Some of these infractions were reported to the governments over a year ago.

In view of the above, and stressing that the program's success depends on the individual behavior and commitment of governments, the IRP recommends the following to the governments party to the Agreement:

1. That they take action to ensure that the appropriate sanctions are applied for infractions committed, and that reports of such actions are transmitted to the IRP in a timely fashion, and in the format presented in Appendix VI of the attached Annual Report.
2. That the Secretariat, when notifying governments of infractions committed by their vessels, set a deadline of two months for responses and, failing a response by the deadline, follow up the case by mail, fax, and/or telephone, as appropriate. A government which does not comply with this requirement shall explain the reasons for its failure to comply at the next meeting of the IRP.
3. That mechanisms be sought to encourage compliance with the provisions of the Agreement in accordance with international law.

The IDCP is an innovative and precedent-setting program. It is helping to set a standard for the conservation and management of living marine resources into the next century, and has attracted a great deal of attention and interest in a number of international fora dealing with management and conservation issues. The program's success is a result of the dedicated efforts of the governments, the fishermen, and the observers involved in its implementation. To ensure continued success of the program, and enhance its effectiveness, the IRP invites all governments party to the Agreement to accept the above recommendations.

