

**INTERNATIONAL DOLPHIN
CONSERVATION PROGRAM**

**INTER-AMERICAN TROPICAL
TUNA COMMISSION**

JOINT WORKING GROUP ON FISHING BY NON-PARTIES

MINUTES OF THE 1ST MEETING

**Manzanillo (Mexico)
June 21, 2002**

AGENDA

1. Opening of the meeting
2. Election of chair
3. Adoption of the agenda
4. Terms of reference for the Working Group
5. List of non-cooperating non-party vessels
6. FAO International Plan of Action on Illegal, Unreported and Unregulated Fishing
7. Measures to deter fishing by non-cooperating non-party vessels
8. Recommendations for the IATTC and the Meeting of the Parties
9. Other business
10. Adjournment

APPENDICES

1. List of attendees
2. Draft terms of reference

DOCUMENTS

- JWG-1-04 Draft terms of reference
JWG-1-05 List of non-cooperating vessels

1. Opening of the meeting

Dr. Robin Allen, Director of the IATTC, opened the 1st meeting of the Joint Working Group on Fishing by non-Parties, on 21 June 2002. The attendees are listed in Appendix 1.

2. Election of Chairman

Mr. Mario Aguilar, of Mexico, was elected Chairman of the meeting.

3. Adoption of the agenda

The provisional agenda was adopted as proposed.

4. Terms of reference for the Working Group

The Working Group discussed extensively the proposed terms of reference for the Working Group prepared by the Secretariat (Document JWG-1-04). It became clear that this is a very complex matter that

will require further consideration by the group. A preliminary revised draft of terms of reference (Appendix 2), based on the discussion which did take place, was subsequently prepared. It was agreed that the Working Group would consider this revised draft at its next meeting, and the Chair called upon the Parties to provide comments to the Secretariat prior to that time in order to facilitate the work at that meeting.

5. List of non-cooperating non-party vessels

The Secretariat presented Document JWG-1-05, which contained a preliminary list of non-cooperating vessels, as required by parallel resolutions adopted in June 2001 by the IATTC and the Parties to the AIDCP. Dr. Allen explained how the document was prepared by the Secretariat and the reasons for which the vessels in the list were included, noting that the list only included vessels not cooperating with the IATTC, and that no vessels were being proposed for the AIDCP list at this time. He noted in particular that the list was preliminary, and was prepared by the Secretariat without guidance regarding the criteria for including vessels on the list.

Several delegations expressed concern that vessels under their jurisdiction were included on the list, in light of the fact that no criteria had been agreed for determining which vessels should be included. The meeting decided that since there were no agreed criteria for determining whether or not a vessel or a non-member is cooperating with the IATTC, the preliminary list of non-cooperating vessels should be withdrawn.

The Working Group recognized that at its next meeting it would need to address the question of criteria for defining cooperation with the IATTC and AIDCP, and, concomitantly, for identifying vessels and countries as non-cooperating. In the meantime, it was suggested by several delegations that the Secretariat, in an effort to fulfill, to the best of its ability, the June 2001 resolutions on fishing by non-parties, should communicate with those nations fishing in the region to inquire if their flag vessels are authorized to so fish and, if so, whether the government is willing to cooperate with the Commission's conservation program.

6. FAO International Plan of Action on Illegal, Unreported and Unregulated Fishing

Dr. Allen presented information on the responsibilities of regional fisheries management organizations in the implementation of the FAO International Plan of Action on Illegal, Unreported and Unregulated (IUU) Fishing. The Working Group did not discuss whether to pursue further any additional actions based on the FAO IUU plan.

7. Measures to deter fishing by non-cooperating non-party vessels

The Working Group did not consider any specific measures to deter fishing by non-cooperating non-party vessels.

8. Recommendations for the IATTC and the Meeting of the Parties

The Working Group did not have any recommendations for the IATTC or the Meeting of the Parties to the AIDCP.

9. Other business

The Working Group had no other business.

10. Adjournment

The session was adjourned on 21 June 2002. It was agreed that the Working Group would meet again at the time of the 70th IATTC meeting in June 2003.

Appendix 1.

**COMISION INTERAMERICANA DEL ATUN TROPICAL
INTER-AMERICAN TROPICAL TUNA COMMISSION
INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
PROGRAMA INTERNACIONAL PARA LA CONSERVACIÓN DE LOS DELFINES**

**JOINT WORKING GROUP ON FISHING BY NON-PARTIES
GRUPO DE TRABAJO CONJUNTO SOBRE LA PESCA POR NO PARTES**

1st MEETING – 1^a REUNION

**June 21, 2002
Manzanillo, Mexico**

ATTENDEES - ASISTENTES

COLOMBIA

JAIME JIMENEZ
Ministerio de Comercio Exterior

ARMANDO HERNÁNDEZ
Cámara de la Industria Pesquera

COSTA RICA

**GEORGE HEIGOLD
ASDRÚBAL VÁSQUEZ**
INCOPECA

ECUADOR

**RAFAEL TRUJILLO BEJARANO
LUIS TORRES NAVARRETE**
Ministerio de Comercio Exterior, Industrialización y Pesca

EL SALVADOR

SONIA SALAVERRIA
Ministerio de Agricultura y Ganadería

EUROPEAN UNION – UNION EUROPEA

**ROBERTO CESARI
ALAN GRAY**
European Union
ESTEBAN DE SALAS
Secretaría General de Pesca Marítima

JAVIER ARÍZ TELLERIA
Instituto Español de Oceanografía
GABRIEL SARRO
OPAGAC

JAPON-JAPAN

**DAISHIRO NAGAHATA
FUKUDA TAKUMI
SHINGO FUKUI**
Ministry of Agriculture, Forestry and Fisheries

MAKOTO MIYAKE
Federation of Japan Tuna Fisheries Cooperative
Associations

MEXICO

**RUBEN OCAÑA SOLER
RICARDO BELMONTES
DAMIAN HERNANDEZ
MARTHA ESTRADA
MARIO AGUILAR**
Comisión Nacional de Acuicultura y Pesca
**GUILLERMO COMPEAN
LUIS FLEISCHER**
Instituto Nacional de la Pesca

**MICHEL DREYFUS
HUMBERTO ROBLES**
PNAAPD
**LUIS FUEYO MACDONALD
JOSE MIGUEL DAVILA**
SEMARNAT/PROFEPA
RAUL VALDES RAMIREZ
Secretaría de Economía

CARLOS ABASCAL ANDRADE
Secretaría de Marina

ERNESTO ESCOBAR
JORGE GONZALEZ

PANAMA

ARNULFO FRANCO
Autoridad Marítima

PERU

GLADYS ROCHA
Ministerio de Pesquería

UNITED STATES OF AMERICA - ESTADOS UNIDOS DE AMERICA

DAVID HOGAN
Department of State

JAMES LECKY
PAT DONLEY
NICOLE LEBOEUF
BRETT SCHNEIDER
MICHELLE ZETWO
National Marine Fisheries Service
RANDI THOMAS

VANUATU

ANTHONY TILLET
HUGO ALSINA LAGOS
Office of Deputy Commissioner of Maritime Affairs

ORGANIZACIONES NO GUBERNAMENTALES--NON-GOVERNMENTAL ORGANIZATIONS

NINA YOUNG
The Ocean Conservancy

HECTOR LOPEZ
FUNDATUN

SECRETARIA – SECRETARIAT

ROBIN ALLEN, Director
ERNESTO ALTAMIRANO
DAVID BRATTEN
ALEJANDRA FERREIRA
JOSHUE GROSS

MARTÍN HALL
BRIAN HALLMAN
BERTA JUÁREZ
NICHOLAS WEBB

Appendix 2.

IATTC-AIDCP JOINT WORKING GROUP ON FISHING BY NON-PARTIES DRAFT TERMS OF REFERENCE

The overall purpose of the Joint IATTC-AIDCP Working Group on Fishing by Non-Parties (“the Working Group”) is to address, in a cooperative manner, the matter of fishing in the region by vessels under the jurisdiction of non-Parties to either the AIDCP or the IATTC Convention.

1. DEFINITIONS

For the purposes of this Working Group:

- a. “Party” means a contracting party to the convention establishing the IATTC, or a State or regional economic integration organization which has consented to be bound by the AIDCP and for which the AIDCP is in force.
- b. “non-party” means a state, entity, or regional economic integration organization that does not meet the definition of Party in (a) above.
- c. “cooperating non-party” means any non-party that cooperates, as determined by the Parties, with both the IATTC and AIDCP programs.
- d. “non-cooperating non-party” means any non-party, with vessels under its jurisdiction fishing in the region, that does not cooperate, as determined by the Parties, with both the IATTC and IDCP programs.

2. FUNCTIONS

The functions of the Working Group shall be:

- a. to review and monitor compliance by non-parties with the management programs of both the IATTC and the AIDCP;
- b. to identify non-parties with vessels fishing in the region, and to identify the individual vessels of non-parties;
- c. to determine cooperating non-parties and non-cooperating non-parties;
- d. to recommend, to the IATTC and the Meeting of the Parties to the AIDCP, measures to improve compliance by non-parties with the management programs of both the IATTC and the AIDCP.
- e. To identify individual vessels believed to be engaged in IUU fishing activities.

[MEXICO:

- a. Identify the requirements for interested parties to obtain the status of “Collaborating Party, entity or fishing entity.”
- b. Analyze the mechanism by which the status of “Collaborating Party, entity or fishing entity” shall be requested and granted.
- c. Establish the procedure for evaluating the status of “Collaborating Party, entity or fishing entity” and define the reasons for revoking such status.
- d. Review and monitor the observance given by Collaborating Parties, entities or fishing entities to the measures of the IATTC and the AIDCP;
- e. Examine the reports of the Secretariat of the AIDCP and the Administration of the IATTC on non-cooperating non-Parties, entities or fishing entities and vessels fishing in the region;

- f. Recommend to the IATTC and the Meeting of the Parties to the AIDCP, such actions as may be required to obtain, request, grant and maintain the status of “Collaborating Party, entity or fishing entity”; as well as those that are considered necessary to promote and improve compliance with the conservation and management measures of the IATTC and/or the AIDCP.]

3. ORGANIZATION

- a. The Working Group shall be composed of representatives of each of the Parties.
- b. The following may participate as observers: pertinent intergovernmental organizations, non-governmental organizations with wide representation or ample experience in matters pertaining to the activities of this Working Group, owners or associations of owners of tuna vessels fishing in the eastern Pacific Ocean under the jurisdiction of any of the Parties.
- c. All participants in the Working Group shall have speaking rights, but only the Parties shall participate in decisions.
- d. The Working Group shall hold at least one meeting every year.
- e. The Working Group may propose its own rules of procedure and of confidentiality if necessary for the performance of its duties, subject to the approval of the IATTC and the Meeting of the Parties to the AIDCP.
- f. The Chair of the Working Group shall be elected for a term of two years, and may be reelected to the position for one additional term. At the end of the last meeting of the two year period, the Working Group shall elect a Chair for the next two year term.

4. RECOMMENDATIONS AND REPORTS

- a. All recommendations and reports of the Working Group shall be directed to the IATTC and the Meeting of the Parties to the AIDCP, as appropriate. The Working Group shall strive to approve its recommendations and reports by consensus. In the event a consensus is not possible, the Parties to the IATTC Convention may, by consensus among themselves, direct recommendations to the IATTC on matters within its purview, and the Parties to the AIDCP may, by consensus among themselves, direct recommendations to the Meeting of the Parties to the AIDCP on matters within its purview.
- b. The Working Group may approve its recommendations and reports by correspondence, pursuant to a procedure organized by the Director of the IATTC and approved by the Parties.
- c. All recommendations and reports emanating from the Working Group shall take into consideration the fact that the provisions and objectives of the IATTC Convention and the AIDCP are not the same.

5. ADMINISTRATION

The staff of the IATTC shall:

- a. collect and maintain the information necessary for the work of the Working Group;
- b. provide to the Working Group such analyses as the Working Group deems necessary for carrying out its functions;
- c. prepare the reports of the Working Group;
- d. distribute all pertinent information to the members of the Working Group in a timely manner.

JOINT WORKING GROUP ON FISHING BY NON-PARTIES

1ST MEETING

**Manzanillo (Mexico)
June 21, 2002**

DOCUMENT JWG-1-04

TERMS OF REFERENCE

In June 2001 the 68th Meeting of the IATTC and the 5th Meeting of the Parties to the AIDCP agreed to establish a Joint IATTC-AIDCP Working Group on Fishing by Non-Parties, and to seek agreement on the terms of reference for this working group. Following are some proposed terms of reference for consideration by the Parties.

IATTC-AIDCP JOINT WORKING GROUP ON FISHING BY NON-PARTIES

TERMS OF REFERENCE

The overall purpose of the Joint IATTC-AIDCP Working Group on Fishing by Non-Parties (“the Working Group”) is to address, in a cooperative manner, the matter of fishing in the region by vessels under the jurisdiction of non-Parties to either the AIDCP or the IATTC Convention.

1. DEFINITIONS

For the purposes of this Working Group:

- a. “Party” means a contracting party to the convention establishing the IATTC, to the AIDCP, or a state or regional economic integration organization that is provisionally applying the AIDCP.
- b. “non-party” means a state, entity, or regional economic integration organization that does not meet the definition of Party in (a) above.
- c. “cooperating non-party” means any non-party that cooperates, as determined by the Parties, with both the IATTC and AIDCP programs.
- d. “non-cooperating non-party” means any non-party, with vessels under its jurisdiction fishing in the region, that does not cooperate, as determined by the Parties, with both the IATTC and IDCP programs.

2. FUNCTIONS

The functions of the Working Group shall be:

- a. to review and monitor compliance by non-parties with the management programs of both the IATTC and the AIDCP;
- b. to identify non-parties with vessels fishing in the region, and to identify the individual vessels of non-parties;
- c. to determine cooperating non-parties and non-cooperating non-parties;
- d. to recommend, to the IATTC and the Meeting of the Parties, measures to improve compliance by non-parties with the management programs of both the IATTC and the AIDCP.

3. ORGANIZATION

- a. The Working Group shall be composed of representatives of each of the Parties.
- b. Representatives of non-parties, pertinent intergovernmental organizations, non-governmental environmental organizations with recognized experience in matters pertaining to this Working Group, and owners of tuna vessels fishing in the eastern Pacific Ocean) under the jurisdiction of any of the Parties, may participate in the Working Group as observers.
- c. All participants in the Working Group shall have speaking rights, but only the Parties shall have voting rights.
- d. The Working Group shall hold at least one meeting every year.
- e. The Working Group may adopt its own rules of procedure and of confidentiality if necessary for the performance of its duties.
- f. The Chair of the Working Group shall be elected for a term of two years, and may be reelected to the position by the Working Group. At the end of the last meeting of the two year period, the Working Group shall elect a Chair for the next two year term.

4. DECISION MAKING

- a. All recommendations and reports of the Working Group shall be directed to both the IATTC and the Meeting of the Parties. The Working Group shall strive to make joint decisions on all matters, by consensus. In the event a consensus is not possible, the Parties to the IATTC Convention may, by consensus among themselves, direct recommendations to the IATTC on matters within its purview, and the Parties to the AIDCP may, by consensus among themselves, direct recommendations to the Meeting of the Parties on matters within its purview.
- b. The Working Group may take decisions by correspondence, through a vote of the Parties, pursuant to a procedure organized by the Director of the IATTC and approved by the Parties.
- c. All recommendations emanating from the Working Group shall take into consideration the fact that the provisions and objectives of the IATTC Convention and the AIDCP are not the same.

5. ADMINISTRATION

The staff of the IATTC shall:

- a. collect and maintain the information necessary for the work of the Working Group;
- b. provide to the Working Group such analyses as the Working Group deems necessary for carrying out its functions;
- c. prepare the reports of the Working Group;
- d. distribute all pertinent information to the members of the Working Group.

JOINT WORKING GROUP ON FISHING BY NON-PARTIES

1ST MEETING

**Manzanillo (Mexico)
June 21, 2002**

DOCUMENT JWG-1-05

LIST OF NON-COOPERATING VESSELS

1. INTRODUCTION

The IATTC, at its 68th meeting, and the Parties to the AIDCP, at their 5th meeting, both held in June 2001 in San Salvador, El Salvador, adopted parallel resolutions on fishing by vessels of non-parties (Appendices A and B), which essentially call for the same procedure to be implemented, as a first step, for addressing the problem of fishing in the eastern Pacific Ocean (EPO) by vessels of non-parties to either the IATTC Convention or the AIDCP. The principal practical purpose of these resolutions is to request the Secretariat (which for purposes of this paper will mean the Director of the IATTC and the Secretariat of the AIDCP, which are in essence one and the same) to compile, based on observer reports and other available information, a list of vessels of non-cooperating non-parties. Because the two resolutions are not identical, it will be necessary to compile two different lists, one for the IATTC and one for the AIDCP.

The IATTC list will consist of vessels identified as fishing in the EPO that do not meet one of the following criteria: 1) the vessel is operating under the jurisdiction of a member to the Commission; or 2) the vessel is operating under the jurisdiction of a non-member that is cooperating with the IATTC by applying the IATTC's conservation and management measures.

The AIDCP list will consist of purse-seine vessels identified as fishing in the Agreement Area that do not meet one of the following criteria: 1) the vessel is operating under the jurisdiction of a Party to the Agreement; or 2) the vessel is operating under the jurisdiction of a non-Party that is cooperating with the Parties to the Agreement by carrying on board an observer from the On-Board Observer Program and applying the relevant provisions of the Agreement.

The obvious difference between the two lists is that the IATTC list will include all types of vessels required to abide by the Commission's conservation and management measures, while the AIDCP list will include only purse-seine vessels required to carry an observer on board. However, because of the likely overlap in the fishing activities of some of the non-party vessels, the overlap of the Parties to the two agreements, and the nature and scope of the Joint Working Group, it would seem appropriate and more efficient for the two lists to be considered together.

2. PROCEDURES

The first step that the governments need to consider in the establishment of the two lists is to develop a procedure for creating the lists. The two resolutions offer some guidance in this regard. First, the Secretariat is requested to compile what might be called preliminary lists. There is some flexibility in obtaining information on vessels fishing in the region, in that it can be based upon observer reports and other available information.

There is less flexibility in the criteria for adding a vessel to these lists. It must be under the jurisdiction of a non-party, but the additional criteria for adding it to a list are somewhat less clear. For the AIDCP list, the vessel must either not have an observer on board or not be abiding by the relevant provisions of the

AIDCP. However, the provisions of the AIDCP apply only to vessels with DMLs, but vessels of non-Parties are not eligible for DMLs. Thus, if a non-Party vessel (with or without an observer) sets on dolphins, it obviously would be a candidate for the list, but there would appear to be little else to qualify it for the list.

For the IATTC list there is more ambiguity in determining which vessels should be on the list, because the Resolution states that the vessel must not be abiding by the IATTC's conservation and management measures. For purse seiners this could include violating any of a number of requirements, such as fishing during a closed season, not releasing sea turtles, *etc*, but the question of the scope and frequency of any transgressions is not addressed; for example, would a vessel qualify for the list if it did not release a sea turtle one time or discarded fish in a manner contrary to the Commission's rules? It would appear that decisions regarding which vessels should be on the list will ultimately have to be made on a case-by-case basis, at least for purse-seine vessels.

For longliners, the determination of which vessels should be on the list would appear to be more straightforward, in that they are not cooperating with the Commission's management program if they do not provide catch data. Under current circumstances, this would apply on a national fleet-wide basis, since the Commission receives longline catch information from governments and not from individual vessels.

Once a vessel has been identified for possible inclusion in the list, the next step is for the Secretariat to send a letter to the national authority of the appropriate flag state and request information regarding the status of the vessel. As required by the Resolutions, this letter should request that the flag state provide information regarding whether the vessel is authorized to fish in the EPO and, if so, whether the flag state is prepared and able to ensure that the relevant measures will be followed by the vessel.

The final step in the procedures for creating the lists is for the Parties, on the basis of the preliminary lists and the correspondence with governments, to determine whether a vessel should be placed on the final list.

3. DETERMINATION OF PRELIMINARY LIST

Although the process described above, which is essentially what is called for in the Resolutions, requires the Secretariat to compile the first list, the Secretariat believes that, to the extent practicable, it would be best to seek the guidance of the Parties in deciding the preliminary list, particularly at the initial stage of this new process. Accordingly, the Secretariat presents for consideration and discussion by the Parties its initial list (Appendix 3) of non-cooperating vessels for purposes of the IATTC Resolution on Fishing by Vessels of Non-Parties.

The Secretariat has information that longline vessels operating under the jurisdiction of the Republic of Korea fish in the EPO. The Secretariat does not receive catch data from Korea, so these vessels should be included in the list, but the Secretariat has no information on their names.

If it is agreed that these vessels should be considered, on a preliminary basis, to be non-cooperating vessels under the IATTC resolution, then the Secretariat will send letters to the appropriate competent national authorities requesting information on the status of the vessels, in accordance with the terms of the Resolution. The responses received will be provided to the Parties for a determination as to whether the vessels should be placed on the IATTC list of non-cooperating vessels.

There are no vessels proposed for the AIDCP list at this time.

Appendix A.

**Inter-American Tropical Tuna Commission
RESOLUTION ON FISHING BY VESSELS OF NON-PARTIES**

June 2001

The Inter-American Tropical Tuna Commission (IATTC), at its 68th Meeting, held June 19-21, 2001, in San Salvador, El Salvador,

Hereby agrees as follows:

1. That the Director shall compile, based on observer reports and other available information, a list of vessels identified as fishing in the eastern Pacific Ocean that do not meet one of the following criteria: 1) the vessel is operating under the jurisdiction of a member to the Commission; or 2) the vessel is operating under the jurisdiction of a non-member that is cooperating with the IATTC by applying the IATTC's conservation and management measures.
2. For each vessel identified pursuant to paragraph 1, that the Director send a letter to the competent national authority of the flag state and request information regarding the status of the vessel. In particular, such communication should request that the flag state provide information regarding whether the vessel is authorized by the flag state to engage in fishing activities in the eastern Pacific Ocean and, if so, whether the flag state is prepared and able to apply the relevant conservation and management measures of the IATTC with respect to the operation of the vessel in question.
3. That the Director shall present an annual report to the Commission, which should include a list of vessels identified pursuant to paragraph 1 and the responses to all inquiries sent pursuant to paragraph 2.
4. If, on the basis of this report, the IATTC determines that the vessel in question is not meeting the criteria of paragraph 2, or that the flag state is not prepared and able to apply the IATTC's conservation and management measures in respect of the vessel in question, the vessel shall be placed on the list of non-cooperating vessels. In such case, the vessel shall not be included in the Regional Vessel Register.

Appendix B.

**AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
RESOLUTION ON FISHING BY VESSELS OF NON-PARTIES**

20 JUNE 2001

The Parties to the Agreement on the International Dolphin Conservation Program (AIDCP), at the 5th Meeting of the Parties, held June 15, 2001, in San Salvador, El Salvador,

Hereby agree as follows:

1. The Parties request that the Secretariat compile, based on observer reports and other available information, a list of purse-seine vessels identified as fishing in the Agreement Area that do not meet one of the following criteria: 1) the vessel is operating under the jurisdiction of a Party to the Agreement; or 2) the vessel is operating under the jurisdiction of a non-Party that is cooperating with the Parties to the Agreement by carrying on board an observer from the On-Board Observer Program and applying the relevant provisions of the Agreement.
2. For each vessel identified pursuant to paragraph 1, the Parties request that the Secretariat send a letter to the competent national authority of the flag state and request information regarding the status of the vessel. In particular, such communication should request that the flag state provide information regarding whether the vessel is authorized by the flag state to engage in fishing activities in the Agreement Area and, if so, whether the flag state is prepared and able to apply the relevant provisions of the Agreement with respect to the operation of the vessel in question, including the placement of an observer from the On-Board Observer Program.
3. If, from the response to such inquiry, the Meeting of the Parties determines that the vessel in question is not meeting the criteria of paragraph 2, or that the flag state is not prepared and able to apply the Agreement in respect of the vessel in question, the vessel shall be placed on the list of non-cooperating vessels. In such case, the Parties shall request that the IATTC not include such vessel on its Regional Vessel Register.
4. The Parties request that the Director present an annual report to the Meeting of the Parties. This report should include a list of vessels identified pursuant to paragraph 1 and the responses to all inquiries sent pursuant to paragraph 2.