

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

36TH MEETING

LIMA (PERU)
8 JUNE 2004

DOCUMENT IRP-36-08

TRANSIT AND OTHER WAIVERS

The Secretariat has received copies of waivers, issued by two Parties, that exempt a vessel from complying with certain AIDCP requirements. There are three types of waiver: two of these, issued by one Party, exempt a vessel from carrying an observer while making a transit through, or within, the Agreement Area and between specific ports. The third type, issued by another Party, exempts a vessel with a DML from the requirement of having a dolphin safety panel in its net during a specific time period when it fishes exclusively for bluefin tuna. The Secretariat is referring this matter to the IRP for comment, both on the waivers themselves and the Secretariat's responses to them.

1. WAIVERS GRANTED TO DATE

1.1. Transit waiver "A"

There have been 16 waivers granted of this type and they are subject to certain terms and conditions. All specified 1) that the vessel is only to transit, 2) the approximate date that the transit is to begin, and 3) that the authorities must be notified upon the vessel's arrival to port. All but one specified that the authorities must also be notified upon the vessel's departure from port. Eleven waivers stipulated that the vessel will not fish, and nine stipulated that the vessel will carry a reduced crew.

The Secretariat's view is that, in all these cases, reasonable steps were taken to ensure that the vessel did not fish, and that Annex II (2) of the AIDCP, which requires an observer during each fishing trip, does not apply to non-fishing transit trips and thus an observer was not required in these cases. These trips were not reported by the Secretariat to the IRP as possible infractions. If a waiver were to be granted with conditions that, in the Secretariat's view, are not sufficient to ensure that the vessel could not fish, the waiver would be queried, in the first instance with the Party concerned.

On occasions AIDCP vessels transit between ports within the Agreement Area with no intention to fish, but with the capability to do so. In March 2004 the Secretariat instructed the staff of its field offices to attempt to place an observer on any AIDCP vessel that is about to transit from one port to another and is capable of fishing, unless the staff knows that the flag government has issued an observer exemption for the transit.

1.2. Transit waiver "B"

There has been one waiver granted of this type; it is similar to "A" in that some of the same conditions apply, but the purpose of the vessel's transit trip, as stated in the waiver, was to deploy fish-aggregating devices (FADs). The Secretariat's view, which was expressed to the Party that issued the waiver, is that the deployment of FADs constitutes fishing activity and Annex II (2) does apply. Accordingly, the vessel did carry an observer on the trip.

1.3. Dolphin safety gear (DSP) waiver

There has been one waiver granted of this type; it exempts a vessel with a 2004 DML from having a dolphin safety panel (DSP) in its net while it fishes for bluefin tuna during a four-month period starting in June 2004. The dolphin safety gear and equipment requirements in Annex VIII (2) of the AIDCP apply to all trips by vessels with DMLs. The Secretariat has not responded to the Party with regard to this waiver, but believes it would be appropriate not to refer a possible dolphin safety gear infraction to the

Panel in the case of a vessel with a DML which has a waiver to fish without a DSP when it is dedicated to fishing bluefin tuna for part of the year.

2. PROPOSAL

The Secretariat proposes that the IRP adopt guidelines for granting waivers to allow vessels covered by the AIDCP to transit within the Agreement Area without an observer, provided they do not fish. Such guidelines should ensure that fishing would be impractical or impossible. If the Secretariat determines that a vessel did not meet all of the conditions of a waiver, the case would be forwarded to the IRP for review as a possible infraction.

A related question that the Panel may wish to consider is whether vessels granted waivers may be exempted from the requirement of having an AIDCP qualified captain aboard during the trip or period covered by the waiver.