

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

MINUTES OF THE 31ST MEETING

**La Jolla, California (USA)
8-9 October 2002**

Presider: Jim Lecky (United States)

AGENDA

1. Opening of the meeting
2. Election of the Presider
3. Adoption of the agenda
4. Approval of the minutes of 30th Meeting
5. NGO representatives: – replacement due to failure to participate
6. Review of Dolphin Mortality Limits (DMLs) for 2002
7. Review of vessels qualified to receive DMLs for 2003
8. Review of List of Qualified Captains
9. Analysis of budget for AIDCP
10. Determination of a pattern of violations (Annex IV (I) 7)
11. System to measure DML utilization to deter frivolous requests (Annex IV (II) 2)
12. Comparison of observer programs
13. Classification of vessels:
 - a. Analysis of impact of modifying vessel capacity/observer requirement
 - b. Proposed amendment of the AIDCP regarding vessel capacity/observer requirement
14. Alternative measure of performance in reducing dolphin mortalities
15. Review of the identification of the use of explosives in sets on dolphins
16. Separation of dolphin cows and calves while setting on parts of large dolphin herds
17. Review of observer data
18. Review of actions by Parties on possible infractions reported by the IRP:
 - a. Actions taken since report at 30th IRP meeting
 - b. Status review of special cases
19. Report of the Permanent Working Group on Tuna Tracking
20. Report of the Working Group on Vessel Assessments
21. Recommendations for the Meeting of the Parties
22. Other business
23. Place and date of next meeting
24. Adjournment

APPENDICES

1. List of attendees
2. Actions by Parties on possible infractions reported by the IRP
3. Summary of pending cases of vessels smaller than 363 metric tons
4. Chair's Report, 11th meeting of the Permanent Working Group on Tuna Tracking

DOCUMENTS

- IRP-31-09 Analysis of budget for AIDCP
- IRP-31-12 Comparison of observer programs
- IRP-31-13a Impacts of changing the minimum size of vessels required to carry observers
- IRP-31-13b Amending the AIDCP from carrying capacity to well volume
- IRP-31-16 Preventing separation of cow-calf pairs during purse-seine sets

The 31st Meeting of the International Review Panel (IRP) was held in La Jolla, California (USA) on October 8-9, 2002. The attendees are listed in Appendix 1.

1. Opening of the meeting

Dr. Robin Allen, Director of the IATTC, which serves as the Secretariat for the AIDCP, declared the meeting open.

2. Election of the President

Mr. Jim Lecky of the United States was elected President of the meeting.

3. Adoption of the agenda

The Panel approved Mexico's request that Item 10 of the agenda, *Determination of a pattern of violations*, be addressed at a later point, in order to allow internal consultations among certain delegations on this item.

The rest of the provisional agenda was approved as presented.

4. Approval of the minutes of 30th meeting

At the request of certain delegations, the Panel agreed some changes and adjustments to items 16, 18a and 19 of the minutes of the 30th meeting of the IRP.

5. NGO representatives: – replacement due to failure to participate

Dr. Allen explained the situation regarding the attendance record of the NGO representatives and the rule established in the AIDCP that any representative who misses three consecutive meetings should be replaced. The alternate NGO environmental representative, Mr. Alejandro Robles, has missed three consecutive meetings, so it was agreed that he should be replaced by the candidate with the fifth most votes, Ms. Kitty Block of the Humane Society.

The United States indicated that it would draft, for consideration at the next IRP meeting, an amendment to item 4 (d) of Annex VII of the AIDCP to change the word "may" to "shall".

6. Review of Dolphin Mortality Limits (DMLs) for 2002

The Secretariat informed the Panel that, of the 90 full-year Dolphin Mortality Limits (DMLs) issued for 2002, 76 had been utilized to date. The average DML assigned to each vessel was 53.8 dolphins, and the average mortality per vessel was 13.5 dolphins. One vessel was issued a DML of 17 dolphins, equivalent to a second-semester DML, from the Director's Reserve for the Allocation of DMLs.

Twelve vessels were granted *force majeure* exemptions.

The Panel discussed the case of a vessel that was assigned a second-semester DML and subsequently granted a *force majeure* exemption. The Secretariat was later informed that the vessel would not fish for the rest of the year, and the question for the Panel was whether this non-utilization of a DML would count against the vessel with respect to the provision in Annex IV (II)1 that any vessel that loses its DML on two consecutive occasions shall not be eligible to receive a DML for the following year. The Panel decided that in such cases the provision would apply.

7. Review of vessels qualified to receive DMLs for 2003

The Secretariat presented information, by flag, on how many vessels had requested DMLs for 2003, how many had paid the required fee, and how many were qualified to receive DMLs pursuant to the terms of the AIDCP.

It was agreed that, in accordance with the Agreement, all applicant vessels had until November 1 to become qualified. A long and difficult discussion ensued regarding whether vessels which had not submitted the required fees by October 1 should be eligible to receive DMLs. Some delegations believed that any vessel which had not submitted fees by this date should not receive a DML for 2003, while others argued that the Agreement did not require this payment to be made until the time the vessel requested an observer, and that the requirement for providing a list of vessels by October 1 applied to vessels without DMLs as well as to those requesting DMLs. No agreement could be reached on these differing interpretations of the Agreement, and it was decided that these questions should be addressed by the Meeting of the Parties.

In the end, it was agreed that vessels applying for 2003 DMLs would have until November 1, 2002, to pay their fees. With this stipulation, along with the November 1 date for qualifying, the Panel forwarded the list of 96 vessels eligible for DMLs to the Meeting of the Parties.

8. Review of List of Qualified Captains

The Secretariat presented information on the List of Qualified Captains showing that, since the last meeting of the IRP, six captains had been removed from the list, ten had been suspended, and one had been added.

The Secretariat reported on the case of a captain who had been removed permanently from the List but was now fishing on a vessel of a different Party with a DML. In response to a question, the Secretariat reported that the Party was aware of the situation and was looking into it. The Secretariat was requested to update the Panel on this case at its next meeting.

9. Analysis of budget for AIDCP

In accordance with the request of the 30th meeting of the IRP, the Secretariat prepared Document IRP-31-09, which includes an analysis of the costs and revenue for the IDCP forecast for 2002-2004 and suggestions for reducing the projected deficit. These suggestions included, *inter alia*, charges for net alignments and trial sets, training of fishing captains, and issuing *dolphin safe* certificates, support of field offices by governments, support by processing plants, and possible charges for the use of the *AIDCP dolphin safe* label.

Dr. Allen explained that, even with the projected revenue, there is an expected deficit of US\$229,000 in 2003 and US\$266,000 in 2004, as well as the deficit of US\$342,000 for 2002 to be recovered.

In response to a question, Dr. Allen noted that the vessel fee in 1992 was US\$11 per metric ton, and that over a period of 10 years it had risen to its current level of US\$12.552 per m³ (an increase of 33%). He further noted that the problem would be resolved if the fees were increased to US\$13.91 per m³ at this time, and that this would represent an approximate annual increase of US\$1,590 for a 1,000-ton vessel.

The Panel engaged in an extensive discussion of the IDCP budget problem. Colombia suggested that, rather than increase the vessel fees, it was preferable to close IATTC offices and reduce other services from their current level. Other delegations asked for a breakdown of the amount of time spent on various AIDCP matters by the Secretariat. The Secretariat prepared some information overnight on this, and Dr. Allen presented it to the meeting on October 9.

Following further discussions of the budget on October 9, the Panel agreed to recommend to the meeting of the Parties a resolution on financing the IDCP. The Panel also requested that the Secretariat prepare for its next meeting detailed information on all income and costs, including the allotment of staff time, associated with the operation of the AIDCP.

10. Determination of a pattern of violations (Annex IV (I) 7)

The Panel agreed to move the discussion of this issue to the October 10 Meeting of the Parties.

11. System to measure DML utilization to deter frivolous requests (Annex IV (II) 2)

The Panel agreed to postpone the discussion of this issue until the next meeting of the IRP.

12. Comparison of observer programs

The Secretariat presented Document IRP-31-12, which compares data from the various components of the On-Board Observer Program. The tables in the document compare, among others, the spatial distribution and percentage of sets by type, the average duration of trips, the percentage of tuna catch by species, the average daily catch, the percentage of intentional sets on dolphins with no mortality, the average mortality per set, the average rate of possible infractions of observer interference and the average rate of possible procedural infractions.

Dr. Allen explained that the comparison showed some statistical differences among programs, but none that would lead to any general conclusions. It was agreed that this kind of full analysis should be done on an annual basis.

13. Classification of vessels:

a. Analysis of impact of modifying vessel capacity/observer requirement

The Secretariat presented Document IRP-31-13a, prepared as a result of recent sightings of vessels of less than 363 metric tons carrying capacity, and thus not covered by the AIDCP, fishing on dolphins and the capture of a vessel in that situation. The document includes a table detailing the recent fishing activities by purse-seine vessels of well volume between 300 and 490 m³.

The Panel discussed the issue of smaller vessels setting on dolphins, and what could be done to avoid this problem from occurring in the future, including amending the AIDCP to require observers to be placed on such vessels. No decision was reached on this matter, but in light of the evident ability or practice of some vessels not currently covered by the AIDCP of setting on dolphins, and the threat that this represents to both the objectives of the Agreement and the credibility and effectiveness of the IDCP, the Panel recommended that the Parties immediately require those purse-seine vessels of less than 363 metric tons carrying capacity that have been identified by the IRP to have committed a possible infraction by intentionally setting on dolphins, to carry observers. A resolution to this effect was recommended to the Meeting of the Parties.

b. Proposed amendment of the AIDCP regarding vessel capacity/observer requirement

Dr. Allen presented Document IRP-31-13b, a proposal prepared by the Secretariat for amending the Annexes to the AIDCP if the definition of vessel capacity in the Agreement were expressed in well volume in cubic meters instead of carrying capacity in metric tons.

The Panel agreed to these technical amendments in principle, but left aside the question of the specific well volume that should be spelled out in the various places in the Agreement elaborated in Document IRP-31-13b. The Panel agreed that the issue of the number would be further discussed, and hopefully agreed, at its next meeting.

14. Alternative measure of performance in reducing dolphin mortalities

Mexico had requested the inclusion of this item in the agenda because of its uncertainty over the method used by the Secretariat to measure the performance of vessels in reducing dolphin mortalities. However, Mexico explained at the meeting that, after consulting with the Secretariat, it was satisfied that the method being used is suitable.

15. Review of the identification of the use of explosives in sets on dolphins

The Panel agreed to postpone the discussion of this issue until its next meeting.

16. Separation of dolphin cows and calves while setting on parts of large dolphin herds

Dr. Allen presented Document IRP-31-16, prepared in response to a request by the 30th meeting of the IRP. During the discussion of the technical guidelines for avoiding high mortality in sets on large herds of dolphins, the Secretariat was asked to investigate whether useful guidelines could be recommended for avoiding separating dolphin calves from their mothers during the fishing operation.

The document noted that, while some scientists have described potential scenarios during which unobserved calf mortality could occur caused by separation from their mothers during the chase phase of the fishing operation, no evidence has been presented to support this contention, and there was evidence to refute this possibility.

Dr. Allen noted that, given the lack of any evidence of such separation, it is difficult to propose useful measures on how to prevent it, and that it was the Secretariat's view that there is little point in pursuing this further at this time.

The U.S. delegation and The Ocean Conservancy stated their view that cow-calf separation does occur during fishing operations and stressed the importance of further research on the issue.

The Panel concluded that there was insufficient information at this time to be able to develop guidelines, and asked the Secretariat to develop, for the next meeting of the Panel, research options to examine the question of cow-calf separation during chase, along with a cost analysis.

17. Review of observer data

The Secretariat presented the data reported by observers of the On-Board Observer Program relating to possible infractions that had occurred since the Panel's previous meeting. Each case was discussed, and the Panel decided to forward those that indicated possible infractions of the AIDCP to the responsible government for investigation and possible sanction.

18. Review of actions by Parties on possible infractions reported by the IRP:

a. Actions taken since report at 30th IRP meeting

The Secretariat presented tables (Appendix 2) detailing the responses received from the Parties in cases of possible infractions identified by the previous three meetings of the IRP.

The Ocean Conservancy expressed its preference for seeing each of the major infractions identified by a separate sub-heading rather than having them all grouped into one category, and asked that at future meetings the Secretariat present tables summarizing the responses to all major possible infractions identified by the Panel since the AIDCP was implemented on January 1, 2000. The report should identify each possible infraction by type and by the government responsible for the investigation, and should include information on the nature of any sanctions imposed by the government.

b. Status review of special cases

Regarding special cases, the Secretariat presented a summary of the status of four pending cases of vessels of less than 363 metric tons carrying capacity which may have set on dolphins, in contravention of the AIDCP.

Ecuador reported on the status of one of the cases described in the document presented by the Secretariat (Appendix 3), that of the Colombian-flag vessel *El Dorado*, which had been discussed at the previous meeting of the IRP. Colombia stated its view that, since the vessel committed its transgressions in waters

under the jurisdiction of another country, under international law Colombia has no legal responsibility for the vessel's actions and is not legally able to pursue the case. The United States strongly disagreed with this interpretation of international law.

19. Report of the Permanent Working Group on Tuna Tracking

The Chair of the 11th meeting of the Permanent Working Group on Tuna Tracking presented her report on the meeting (Appendix 4).

20. Report of the Working Group on Vessel Assessments

The Chair of the meeting of the Working Group on Vessel Assessments presented an oral report on the meeting to the Panel.

21. Recommendations for the Meeting of the Parties

The Panel agreed to recommend to the Meeting of the Parties approval of resolutions on financing the IDCP, defining a pattern of infractions, measuring vessel capacity, and requiring observers on certain vessels of less than 363 metric tons of carrying capacity.

The Panel also agreed to forward to the Meeting of the Parties a list of vessels which the Panel had determined are qualified to receive DMLs for 2003.

22. Other business

No other business was discussed.

23. Place and date of next meeting

The next meeting of the IRP will be held during February 2003 in La Jolla, California (USA).

24. Adjournment

The meeting was adjourned on 9 October 2002.

Appendix 1.

**INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
PROGRAMA INTERNACIONAL PARA LA CONSERVACIÓN DE LOS DELFINES**

**INTERNATIONAL REVIEW PANEL
PANEL INTERNACIONAL DE REVISION**

31st MEETING – 31^a REUNION

**October 8-9, 2002
La Jolla, California**

ATTENDEES - ASISTENTES

BOLIVIA

YERKO GARAFULIC
Ministerio de Agricultura

COLOMBIA

ARMANDO HERNÁNDEZ
JAIME JIMENEZ
Ministerio de Agricultura y Desarrollo Rural

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
European Commission
JAVIER ARÍZ TELLERIA
Instituto Español de Oceanografía

IGNACIO ESCOBAR
JUAN I. ARRIBAS
Secretaria General de Pesca de España

MEXICO

RICARDO BELMONTES
MARIO AGUILAR
PEDRO ULLOA
LUIS FLEISCHER
SAGARPA
MICHEL DREYFUS
HUMBERTO ROBLES
PNAAPD

LUIS FUEYO MACDONALD
SEMARNAT/PROFEPA
RAUL VALDES RAMIREZ
Secretaría de Economía
ERNESTO ESCOBAR
MARK ROBERTSON

NICARAGUA

MIGUEL A. MARENCO
ADPESCA

PANAMA

ARNULFO FRANCO
Autoridad Marítima

PERU

LEONCIO ALVAREZ
ALBERTO HART
PATRICIA DURAN
ADRIANA GIUDICE
Ministerio de Relaciones Exteriores

UNITED STATES OF AMERICA - ESTADOS UNIDOS DE AMERICA

DAVID HOGAN
Department of State

JAMES LECKY
REBECCA LENT
PAT DONLEY
ALLISON ROUTH
NICOLE LEBOEUF
BRETT SCHNEIDER
DEBORAH BEN-DAVID
MICHELE ZETWO
National Marine Fisheries Service
RANDI THOMAS

VANUATU

EDWARD WEISSMAN
HUGO ALSINA LAGOS
Office of Deputy Commissioner of Maritime Affairs

VENEZUELA

DANIEL NOVOA
FRANCISCO ORTISI, JR.
INAPESCA

ORGANIZACIONES NO GUBERNAMENTALES--NON-GOVERNMENTAL ORGANIZATIONS

NINA YOUNG
The Ocean Conservancy
HECTOR LOPEZ
FUNDATUN

KITTY BLOCK
The Humane Society

INDUSTRIA ATUNERA -TUNA INDUSTRY

GABRIEL SARRÓ
OPAGAC

SECRETARIA – SECRETARIAT

ROBIN ALLEN, Director
ERNESTO ALTAMIRANO
DAVID BRATTEN
ALEJANDRA FERREIRA
JOSHUE GROSS
MARTIN HALL
BRIAN HALLMAN

BERTA JUÁREZ
NORA ROA-WADE
MICHAEL SCOTT
ENRIQUE UREÑAN
NICK VOGEL
NICHOLAS WEBB

Appendix 2.

RESPUESTAS A SEIS TIPOS DE INFRACCIONES IDENTIFICADAS DURANTE LAS REUNIONES 28, 29 Y 30 DEL PIR
RESPONSES FOR SIX TYPES OF POSSIBLE INFRACTIONS IDENTIFIED AT THE 28TH, 29TH AND 30TH MEETINGS OF THE IRP

| | No. de casos | Sin respuesta | Respuestas | | | | | | | | | | Total | |
|---|--------------|----------------|---------------------|-----------------|--------------------|----------|-------------------------|----------|---------------------|-----------------|-----------------------------------|----------------|------------------|---|
| | | | Bajo investigación | | No hubo infracción | | Infracción: sin sanción | | Infracción: aviso | | Infracción: sanción ¹ | | | |
| | No. of cases | No response | Responses | | | | | | | | | | Total | |
| | | | Under investigation | | No infraction | | Infraction: no sanction | | Infraction: warning | | Infraction: sanction ¹ | | | |
| OBSINT: HOSTIGAMIENTO AL OBSERVADOR – OBSERVER HARASSMENT | | | | | | | | | | | | | | |
| BLZ ² | 1 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | |
| BOL | 1 | 1 (100%) | 0 | - | 0 | - | 0 | - | 0 | - | 0 | - | 0 | - |
| COL | 3 | 3 (100%) | 0 | - | 0 | - | 0 | - | 0 | - | 0 | - | 0 | - |
| SLV | 1 | 0 | - | 1 (100%) | 0 | - | 0 | - | 0 | - | 0 | - | 1 (100%) | |
| PAN | 1 | 1 (100%) | - | - | 0 | - | 0 | - | 0 | - | 0 | - | 0 (100%) | |
| Total³: | 6 | 5 (83%) | 1 (17%) | 0 | 0 | - | 0 | - | 0 | - | 0 | - | 1 (17%) | |
| EXPL: USO DE EXPLOSIVOS – USE OF EXPLOSIVES | | | | | | | | | | | | | | |
| COL | 2 | 0 | - | 0 | - | 0 | - | 2 (100%) | 0 | - | 0 | - | 2 (100%) | |
| MEX | 1 | 0 | - | 1 (100%) | 0 | - | 0 | - | 0 | - | 0 | - | 1 (100%) | |
| VEN | 54 | 0 | - | 8 (15%) | 0 | - | 31 (57%) | 0 | - | 15 (28%) | - | - | 54 (100%) | |
| Total: | 57 | 0 | - | 9 (16%) | 0 | - | 33 (58%) | 0 | - | 15 (26%) | - | - | 57 (100%) | |
| NIGHT: LANCES NOCTURNOS – NIGHT SETS | | | | | | | | | | | | | | |
| COL | 1 | 0 | - | 0 | - | 0 | - | 1 (100%) | 0 | - | 0 | - | 1 (100%) | |
| MEX | 11 | 0 | - | 4 (36%) | 7 (64%) | 0 | - | 0 | - | 0 | - | 0 | 11 (100%) | |
| PAN | 2 | 1 (50%) | 0 | - | 0 | - | 1 (50%) | 0 | - | 0 | - | 0 | 1 (50%) | |
| VEN | 58 | 0 | - | 32 (55%) | 0 | - | 26 (45%) | 0 | - | 0 | - | 0 | 58 (100%) | |
| Total | 72 | 1 (1%) | - | 36 (50%) | 7 (10%) | - | 28 (39%) | 0 | - | 0 | - | 0 | 71 (99%) | |
| NOOBS: PESCAR SIN OBSERVADOR – FISHING WITHOUT AN OBSERVER | | | | | | | | | | | | | | |
| UNK ² | 3 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | |
| BOL | 2 | 1 (50%) | 0 | - | 0 | - | 1 (50%) | 0 | - | 0 | - | 0 | 1 (50%) | |
| Total | 2 | 1 (50%) | 0 | - | 0 | - | 1 (50%) | 0 | - | 0 | - | 0 | 1 (50%) | |
| AFTERDML: LANCES SOBRE DELFINES DESPUES DE ALCANZAR EL LMD – SETS ON DOLPHINS AFTER REACHING DML | | | | | | | | | | | | | | |
| COL | 57 | 0 | - | 0 | - | 49 (86%) | 0 | - | 0 | - | 8 (14%) | - | 57 (100%) | |
| VEN | 9 | 0 | - | 9 (100%) | 0 | - | 0 | - | 0 | - | 0 | - | 9 (100%) | |
| Total | 66 | 0 | - | 9 (14%) | 49 (74%) | 0 | - | 0 | - | 0 | - | 8 (12%) | 66 (100%) | |
| NODML: PESCAR SOBRE DELFINES SIN LMD – FISHING ON DOLPHINS WITHOUT A DML | | | | | | | | | | | | | | |
| BOL | 9 | 3 (33%) | 0 | - | 0 | - | 6 (67%) | 0 | - | 0 | - | 0 | 6 (67%) | |
| ECU | 1 | 0 | - | 0 | - | 0 | - | 1 (100%) | 0 | - | 0 | - | 1 (100%) | |
| PAN | 1 | 1 (100%) | 0 | - | 0 | - | 0 | - | 0 | - | 0 | - | 0 | |
| Total | 11 | 4 (36%) | 0 | - | 0 | - | 7 (64%) | 0 | - | 0 | - | 0 | 7 (64%) | |

¹ Una sanción fue o será aplicada – Sanction was or will be applied

² Se notifica a las no Partes, pero no se solicita respuesta – Non-Parties are advised, but no response is requested

³ Los totales no incluyen casos de no Partes, si procede – Totals do not include cases involving non-Parties, if applicable

Appendix 3.

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

31ST MEETING

LA JOLLA, CALIFORNIA (USA)

8-9 OCTOBER 2002

SUMMARY OF PENDING CASES OF VESSELS SMALLER THAN 363 METRIC TONS

1. VESSEL 'A' - Carrying capacity 329 mt; well volume 382 m³

This is a foreign-flag vessel that was apprehended in Ecuadorian waters near the Galapagos Islands with dolphins in its net. This case was first brought to the attention of the IRP at its 30th meeting in June 2002. Under the La Jolla Agreement, this vessel was allocated a second-semester DML in 1995, and a full-year DML in 1996 and 1997.

Information collected by the IATTC in October 2001 indicates that the vessel at that time was equipped with 3 speedboats and a dolphin safety panel of unknown dimensions constructed of 1-1/4 inch mesh webbing.

2. VESSEL 'B' - Carrying capacity 350 mt; well volume 410 m³

This vessel was sighted chasing dolphins with speedboats by an IDCP observer assigned to a vessel of the same flag. The Party was notified of the incident by the Secretariat in October 2001, and the case was first brought to the attention of the IRP later that month at its 28th meeting. In March 2002 the Secretariat asked the Party if there was any progress on the case; to date, the Party has not responded.

Information collected by the IATTC in July 2001 indicates that at that time the vessel was equipped with 3 speedboats and a dolphin safety panel 120 fathoms long, 2 net strips deep, and constructed of 1-1/4 inch mesh webbing.

3. VESSEL 'C' - Carrying capacity 145 mt; well volume 170 m³

This vessel was sighted with dolphins inside its net by a national program observer assigned to a vessel of another flag. The observer identified the dolphins as "*delfin negro*", a common name of a species not commonly involved in the fishery. This case was first brought to the attention of the IRP at its 26th meeting in January 2001. The Party of the sighted vessel was notified of the incident in February 2001; in June 2002 it notified the Secretariat that it was forced to close the case because it was not able to interview the observer concerned. At its 30th meeting in June 2002, the Panel instructed the Secretariat to send a letter to the Party of the national observer program exhorting it to cooperate in the investigation, and accordingly a letter was sent on August 23, 2002.

The Secretariat has no information regarding the presence or absence of dolphin safety gear aboard the vessel.

4. VESSEL 'D' - Carrying capacity 150 mt; well volume 180 m³

This vessel was sighted "chasing and setting on dolphins" by an observer on a vessel of the same flag in March 2002. The government of the sighted vessel received a copy of the IRP form documenting the sighting shortly after the trip ended; the Secretariat did not send a letter to the government regarding the case until September 23, after it was presented to the IRP at its meeting in June.. No response has yet been received.

Appendix 4.

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM PROGRAMA INTERNACIONAL PARA LA CONSERVACION DE LOS DELFINES

PERMANENT WORKING GROUP ON TUNA TRACKING

11TH MEETING

LA JOLLA, CALIFORNIA (USA)
OCTOBER 7, 2002

CHAIR'S REPORT

1. Opening of the meeting

The meeting was called to order with the following members present: Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, European Union, Mexico, Panama, Peru, United States, and Vanuatu, and industry and environmental representatives.

2. Adoption of the agenda

The agenda was adopted with the following additions:

- a) The European Union requested that Dr. Robin Allen provide a report of the visit to Europe in July 2002 under Agenda Item 6.
- b) The United States requested that a discussion of AIDCP confidentiality policy take place under Agenda Item 9.
- c) Costa Rica requested a discussion of the confidentiality of documents take place under Agenda Item 9. This item was later moved up and discussed under Agenda Item 3.

3. National Tuna Tracking Plans

Dr. Allen reported that the Secretariat has received an amendment to El Salvador's tuna tracking plan. Tuna tracking plans have now been received from Colombia, Costa Rica, El Salvador, Guatemala, Mexico, Panama, Peru, Spain, United States, Vanuatu and Venezuela. Tuna tracking plans have not been received from Bolivia, the European Union, Honduras, and Nicaragua.

While it was suggested that the Parties review the tuna tracking plans that have been submitted, the Secretariat was asked to review the plans for consistency with Annex IX of the Agreement and report back at the next meeting.

Luis Torres presented a detailed and informative report on Ecuador's Tuna Tracking Program, and printed copies were made available to the Parties. Costa Rica volunteered to present its tuna tracking program at the next meeting.

Costa Rica and Vanuatu opened the discussion of document confidentiality and the distribution of Tuna Tracking Forms. When a vessel makes port at the end of a trip, the observer leaves the vessel and takes the TTFs with him. If the tuna is not unloaded at that port, the vessel has no way to inform the processing plant or government representative regarding the dolphin safe status of the catch when the vessel eventually arrives at the port where the tuna is to be unloaded and/or processed. After extensive discussion of possible ways that this situation might be resolved, it was decided the following procedure would be tested and a report on the number of occurrences and any problems encountered will be delivered by the Secretariat at the meeting of the Working Group to be held in January 2003.

“When the vessel arrives in a port where the tuna will not be unloaded, and the observer leaves the vessel, a copy of the TTFs will be made and signed by the observer. The copy will be placed in a sealed envelope and left with the vessel owner or his representative, and the

observer will take the originals with him.”

It was noted that in accordance with the Agreement and the laws and regulations of each Party, the confidentiality of documents, including TTFs, becomes the responsibility of the national authority of the processing Party once the tuna has been unloaded from the fishing vessel.

4. Review of the implementation of the dolphin safe certification system

The Secretariat presented a report which showed that 92% of originals and copies of TTFs were received by the Secretariat in the period since the last report. It was noted that the report should reflect how many originals and how many copies of TTFs were received, since the goal is to have 100% of original TTFs delivered to the Secretariat. One member also noted that reporting in percentages might make some Parties appear to have a poorer record of submissions than they actually do. Nonetheless, the Parties agreed that good progress is being made towards the goal.

5. Possible technical modifications to the dolphin safe certification system

Dr. Allen presented Document TT-11-05 and explained the modifications that are being suggested to the certificate form. Some minor modifications to the form were approved by the Parties, including the addition of the initials “AIDCP” in the form’s title; in the chapeau after the words “and may bear the...”; and in Section 4 after the words “to utilize the” Costa Rica noted that restricting the Certificate to one trip may not be possible. Further investigation is required, so consideration of these modifications will be held over until the next meeting of the Working Group in January.

6. Promotion of dolphin safe tuna

As requested, Dr. Allen reported on last summer’s trip to Europe, and also mentioned that two memos on the subject had been sent to the Parties, and no replies were received. The first noted the upcoming trip, and the second of September 9, 2002, was a report of the visit and some recommendations regarding possible next steps, to include: (1) a series of scientific seminars by an IATTC scientist; (2) a marketing campaign aimed at industry associations, supermarket chains and processors; and (3) costs to be borne by participants. Dr. Allen noted that about US\$3,000 has already been spent. The EU noted that it had voiced some concerns regarding the trip in a memo to the Parties dated July 30. One concern was that some of the materials used appeared to favor one method of fishing over another. The EU also questioned the usefulness of scientific seminars and reminded the group that no agreed decision had been taken in Manzanillo on this issue by the Meeting of the Parties. There followed a discussion of the cost of the marketing campaign, but no agreement was reached on how such a campaign should be financed. The U.S. suggested that the members who wish to participate in a marketing campaign should prepare a plan and a budget.

7. Guidelines and procedures for using the dolphin safe label

Dr. Allen presented Document TT-11-07 and explained the suggested modifications to the procedures for dolphin safe tuna certification. The Ocean Conservancy reminded the meeting that a modification approved by the last Meeting of the Parties should be included in Section 3.6, and several other minor modifications were acceptable to the members. However, due to the difference of opinion regarding how many trips might be listed on a single certificate, this item was referred back to the Secretariat for additional investigation and presentation at the next meeting of the Working Group.

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

None.

9. Other business

The U.S. discussed the issue of AIDCP/Secretariat confidentiality policy, and particularly whether Parties should be able to request that the Secretariat release information to other Parties that would not be released to any outside entities. The members were asked to consider whether the level of confidentiality afforded to tuna tracking information in the keeping of the Secretariat should be different when applied to

Parties than the level of confidentiality applied to those outside the Agreement. A short discussion ensued; however, no definitive conclusion was reached.

10. Date and place of next meeting

The next meeting of the Working Group will be scheduled to coincide with the next meeting of the IRP.

11. Adjournment

The meeting was adjourned.

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

31ST MEETING

LA JOLLA, CALIFORNIA (USA)

8-9 OCTOBER 2002

DOCUMENT IRP-31-09

ANALYSIS OF BUDGET FOR AIDCP

At the 27th meeting of the IRP in June 2001, the Secretariat indicated that the current level of vessel assessments will not be enough to cover the costs related to the AIDCP for 2002, and proposed an increase in these assessments to US\$13.60 per cubic meter of well volume. The IRP did not support the proposed increase.

At its 5th meeting, held in August 2001, the IATTC Working Group on Finance addressed the shortfall in the IATTC general budget and was advised of the expected deficit related to the IDCP. The Working Group agreed that the IATTC should pay no more than 30% of the costs associated with the AIDCP On-Board Observer Program for vessels of member states.

At the Meeting of the Parties to the AIDCP in October 2001, it was decided that the information relating to costs be broken down into finer detail for discussion at the next meeting of the IRP.

At its 29th and 30th meetings the IRP considered Documents IRP-29-13, *Proposals for reducing the costs of the IDCP*, and IRP-30-06, *Estimated budget deficit for 2002*. The Panel asked the Secretariat to prepare a further paper, including an analysis of the costs of the program incorporating, among other elements, charges for the services of net alignment and trial sets, training fishing captains, issuing *dolphin safe* certificates, support from governments for the IATTC field offices, support provided by processing plants, and possible charges for the use of the AIDCP *dolphin safe* label. The analysis should bear in mind the importance of not undermining the effectiveness and efficiency of the IDCP.

Table 1 shows the estimated costs and revenue for the IDCP forecast for 2002-2004. The estimates assume that inflation will increase general costs and salaries by 2%, and the total expenses exclude the IATTC's portion of the costs and funding.

The revenue for 2003 and 2004 include charges to cover the estimated costs of net alignments (trial sets) and training courses for captains and crew. It is proposed that the charges for net alignments include a fixed portion to cover travel costs and a variable portion depending on the number of days of staff time required, and that a fixed charge per person be levied to attend training courses.

If governments paid the rental costs for field offices, or provided office space, the overall cost and deficit in 2002 would be reduced by approximately US\$9,000.

Estimating the cost of supporting the AIDCP *dolphin safe* certification system is difficult as it involves small amounts of time from several staff members, and it is not clear which work should be considered as support for this certification. Further, much of the cost involved is for developing the system. It is proposed that governments pay a fixed fee of US\$50 for the issue of each blank *dolphin safe* certificate. On the basis of certificates issued by governments during 2002, the revenue in future years would be about US\$4,000.

With the revenue described above, there is still an expected deficit of US\$229,000 and US\$266,000 in 2003 and 2004, respectively, as well as the deficit of US\$342,000 for 2002 to be recovered. It is proposed that shortfall be recovered during 2003 and 2004, requiring additional income of US\$440,000 in each of the two years. If this were done by charges to governments or processing plants, the charge might be allocated to Parties in proportion to the amount of tuna landed in their ports.

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

31ST MEETING

LA JOLLA, CALIFORNIA (USA)

8-9 OCTOBER 2002

Table 2 shows the line item detail supporting the summary of IDCP expenses for 2002 presented in Table 1.

The Secretariat proposes that the Panel recommend to the Meeting of the Parties that:

1. The Secretariat initiate charges to recover costs of training courses for captains and crew and net alignments.
2. Governments pay a fee of US\$50 for each blank *dolphin safe* certificate.
3. Parties pay a total of US\$440,000 in each of 2003 and 2004, distributed in proportion to the amount of tuna landed in their ports during the previous year.

TABLE 1. IDCP: Allocation of costs, 2002-2004.

TABLA 1. PICD: Distribución de costos, 2002-2004.

| (US\$) | 2002 | | 2003 | 2004 |
|---|-----------------------------|----------------------------|-------------------------|--------------------|
| | (projected— proyectados) | See Table 2 Ver Tabla 2 | (projected—proyectados) | |
| COSTS-COSTOS: | | | | |
| Covered at 70% or -Cubiertos al 70% | | | | |
| Gross costs-Costos brutos: | | | | |
| Observers (wages, travel, equipment, training) Observadores (sueldos, viajes, equipo, entrenamiento) | \$1,223,945 | A | \$1,248,423 | \$1,273,391 |
| IATTC headquarters staff (part) Personal de sede de la CIAT (porción) | 611,958 | B | 624,197 | 636,680 |
| IATTC field office staff and facilities (part) Personal e instalaciones de las oficinas regionales de la CIAT (porción) | 183,306 | C | 186,972 | 190,711 |
| Contract services for data entry Servicios por contrato para captura de datos | 18,015 | D | 18,376 | 18,743 |
| Subtotal | \$2,037,224 | | \$2,077,968 | \$2,119,525 |
| 70% of/del subtotal | 1,426,056 | | 1,454,577 | 1,483,667 |
| Covered at 100%-Cubiertos al 100% | | | | |
| Net alignments Alineamientos de la red | 11,100 | E | 11,322 | 11,548 |
| Training courses for captains and crew Cursos de entrenamiento para capitanes y tripulantes | 3,000 | F | 3,060 | 3,121 |
| IATTC administration (part) Administración CIAT (porción) | 286,115 | G | 291,837 | 297,673 |
| IDCP travel (field office staff) Viajes PICD (personal de oficinas regionales) | 15,737 | H | 16,052 | 16,372 |
| Meetings of Parties and IRP Reuniones de las Partes y del PIR | 63,065 | I | 64,326 | 65,613 |
| Dolphin-safe certification Certificación <i>dolphin safe</i> | 9,000 | J | 7,000 | 7,000 |
| TOTAL | \$1,814,073 | | \$1,848,174 | \$1,884,994 |
| REVENUE-INGRESOS: | | | | |
| Total vessel assessments paid Total de cuotas de buques pagadas | 1,472,493 | | 1,600,655 | 1,600,655 |
| Net alignments Alineamientos de la red | | | 11,322 | 11,548 |
| Dolphin safe certificates Certificados <i>dolphin safe</i> | | | 4,000 | 4,000 |
| Training courses Cursos de entrenamiento | | | 3,060 | 3,121 |
| Surplus (deficit) – Superávit (déficit) | (341,580) | | (229,137) | (265,670) |

TABLE 2. IDCP: Detailed expenses, 2002 (US\$).

TABLA 2. PICD: Detalle de gastos, 2002 (US\$).

| | | | | |
|---|--|---------------------|---|---|
| A | Observers Observadores | 1,223,945 | Travel—Viajes Salaries and benefits—Sueldos y prestaciones Equipment, forms, misc—Equipo, formularios, misc Training—Entrenamiento | 89,456 1,098,440 10,027 26,021 |
| C | IATTC field office staff and facilities (part) Personal e instalaciones de las oficinas regionales de la CIAT (porción) | 183,306 | Rent & storage (exc. utilities)—Alquiler y almacenamiento (exc. servicios públicos) Telephone—Teléfono Internet services—Servicio de internet Utilities—Servicios públicos Materials & supplies—Materiales y pertrechos Furniture & equipment—Muebles y equipo Equipment repair & maintenance—Reparación y mantenimiento de equipo Postage—Franqueo Printing & reproduction—Imprenta y copiado Meals & entertainment—Sustento y entretenimiento Vehicle (use and maintenance)—Vehículos (uso y mantenimiento). Contract labor—Mano de obra por contrato Contract labor (taxes)—Mano de obra por contrato (impuestos) Legal & professional fees—Honorarios legales y profesionales Property insurance—Seguros de propiedad Vehicle insurance—Seguros de vehículos Tax, license, fees & permits—Impuestos, licencias, cuotas y permisos | 8,969 12,551 848 2,360 10,336 733 4,820 9,137 1,391 185 8,116 74,446 43,098 3,582 667 2,058 8 |
| B | IATTC headquarters staff (part) Personal de sede de la CIAT (porción) | 611,958 | | |
| D | Contract services for data entry Servicios por contrato para captura de datos | 18,015 | | |
| G | IATTC administration (part) Administración CIAT (porción) | 286,115 | | |
| | Subtotal | 916, 088 | Gross wages—Sueldos brutos FICA taxes—Impuestos de seguro social Retirement plan—Plan de retiro Group insurance—Seguro colectivo Group medical insurance—Seguro colectivo de salud | 761,347 58,932 62,302 18,800 14,707 |
| E | Net alignments Alineamientos de la red | 11,100 | | |
| F | Training courses for captains and crew Cursos de entrenamiento para capitanes y tripulantes | 3,000 | | |
| H | IDCP travel (field office staff) Viajes PICD (personal de oficinas regionales) | 15,737 | | |
| I | Meetings of Parties and other AIDCP meetings Reuniones de las Partes y otras del APICD | 63,065 | | |
| J | Dolphin-safe certification Certificación <i>dolphin safe</i> | 9,000 | | |
| | Total | \$ 2,425,241 | | |

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

31ST MEETING

LA JOLLA, CALIFORNIA (USA)

8-9 OCTOBER 2002

DOCUMENT IRP-31-13a

IMPACTS OF CHANGING THE MINIMUM SIZE OF VESSELS REQUIRED TO CARRY OBSERVERS

For many years, following the procedures established originally by the US National Marine Fisheries Service to sample the national fleet, as required by US legislation, observers have been placed only on purse-seiners of more than 363 metric tons (400 short tons) carrying capacity. This limit was chosen mainly because vessels of lesser capacity rarely or never set on dolphins, and the cost of placing observers on such vessels would not be justified by the small amount of data obtained. One of the logistic limitations was that smaller vessels did not have the space to carry the number of speedboats that were thought necessary to encircle herds of dolphins. This number was known to vary: in areas new to the fishery on dolphins, a single speedboat may be sufficient, whereas in areas with a long history of this fishery a large number of speedboats is needed. Prior to the fishery on dolphins being restricted, there was no reason for smaller vessels not to record sets on dolphins, but these historical logbook data showed that these vessels made very few such sets.

In view of recent reported sightings of smaller vessels fishing on dolphins, and the capture of such a vessel, the IRP requested an assessment of the potential impacts of assigning observers to these vessels.

The table shows fishing activity in the EPO by purse-seiners of 300 to 490 m³ of well volume between January 1, 2000, and June 30, 2002. The volume equivalent to 363 metric tons of carrying capacity is 425 m³. However, the carrying capacities, in metric tons, of some small vessels appear to be unusually low, so the current division between vessels required to carry observers and those not required to carry observers is 491 m³.

| Capacity (m ³) | Vessels | Trips | Days at sea | Trips/ year | Days/ year | Average trip (days) | Cumulative totals | |
|-------------------------------|---------|-------|----------------|----------------|---------------|------------------------|-------------------|-------|
| | | | | | | | Trips | Days |
| 300-319 | 3 | 93 | 1865 | 37 | 746 | 20 | 93 | 1,865 |
| 320-379 | 4 | 78 | 2021 | 31 | 808 | 26 | 171 | 3,886 |
| 380-439 | 3 | 56 | 1656 | 22 | 662 | 30 | 227 | 5,542 |
| 440-490 | 5 | 62 | 2002 | 25 | 801 | 32 | 289 | 7,544 |

The average trip length for vessels currently carrying observers is 43.1 days, compared with 24.4 days for the smaller vessels.

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
PROGRAMA INTERNACIONAL PARA LA CONSERVACION DE LOS DELFINES

INTERNATIONAL REVIEW PANEL

31ST MEETING

LA JOLLA, CALIFORNIA (USA)
8-9 OCTOBER 2002

DOCUMENT IRP-31-13b

AMENDING THE AIDCP FROM CARRYING CAPACITY TO WELL VOLUME

If the basis for the requirements of the AIDCP regarding vessels carrying observers, DMLs, and related matters were altered from carrying capacity, in metric tons, to well volume, in cubic meters, the text of the annexes to the Agreement would need to be amended in the following places:

| | | |
|---|--|---|
| Annex II, On-Board Observer Program | | |
| Paragraph 2, first sentence | Requirement to carry an observer | Each Party shall require its vessels with a well volume greater than ___ cubic meters and that operate in the Agreement Area, to carry an observer during each fishing trip in the Agreement Area. |
| Annex IV, Dolphin Mortality Limits (DMLs) | | |
| Section I, paragraph 1, first sentence | DML requests | Each Party shall provide to the Meeting of the Parties, through the Director, prior to October 1 of each year, a list of vessels under its jurisdiction of well volume greater than ___ cubic meters that have requested a full-year DML for the following year, |
| Section I, paragraph 2, subparagraph c | Requirements for vessels to qualify for DMLs | c. it is over ___ cubic meters in well volume ; |
| Annex VIII, Operational Requirements for Vessels | | |
| Paragraph 2, chapeau | Dolphin safety gear and equipment requirements | A vessel with a well volume of more than ___ cubic meters operating in the Agreement Area shall: |
| Paragraph 3, chapeau | Dolphin protection and release requirements and prohibitions | A vessel with a well volume of more than ___ cubic meters operating in the Agreement Area shall: |
| Paragraph 6 | Prohibition for smaller vessels from setting on dolphins | 6. Vessels under ___ cubic meters No vessel with a well volume of ___ cubic meters or less may intentionally set on dolphins. |

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
PROGRAMA INTERNACIONAL PARA LA CONSERVACION DE LOS DELFINES

INTERNATIONAL REVIEW PANEL

31ST MEETING

LA JOLLA, CALIFORNIA (USA)
8-9 OCTOBER 2002

DOCUMENT IRP-31-16

**PREVENTING SEPARATION OF COW-CALF PAIRS DURING PURSE-
SEINE SETS**

At the 30th meeting of the IRP, during the discussion of the technical guidelines for avoiding high mortality in sets on large herds of dolphins, the Secretariat was asked to investigate whether useful guidelines could be recommended for avoiding separating dolphin calves from their mothers during the fishing operation.

Scientists of the U.S. National Marine Fisheries Service (NMFS) (Archer *et al.* 2001) have described potential scenarios during which unobserved calf mortality could occur caused by separation from their mothers during the chase phase of the fishing operation. No evidence is presented to support this contention. For mammals, however, much evidence is available that demonstrates the extreme lengths to which mothers will go to stay with and protect their young, even when being chased by predators (*e.g.*, Kevles, 1986). For cetaceans, whalers used the protective behavior of cows toward their calves to increase their catches (Caldwell and Caldwell, 1966) and adult dolphins have been observed defending young calves against sharks, despite the risk to themselves (Springer, 1967). During a 30-year study of bottlenose dolphins in Florida, often involving short chases and encirclement, no cases of permanent separation of cows and calves have been recorded; even when one of the pair was encircled and the other was not, the free-swimming animal typically remained just outside the net until the captured animal was released. For spotted dolphins associated with the purse-seine fishery, dolphins have been observed waiting outside purse-seine nets until the rest of the herd was released, suggesting that separations that may occur are only temporary. Capture-recapture studies of three female spotted dolphins with calves showed that the cow-calf bond remained intact, even after up to seven sets over seven days.

Given the lack of any evidence that mother-calf separation has occurred, it is difficult to propose useful measures on how to prevent it. The Secretariat's view is that there is little point in pursuing this further at this time. However, if the Parties wish to investigate, the first step would be to interview captains to see if they have any experience in either calves being in particular parts of the herd during a chase or of seeing cow-calf separations.