

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

37TH MEETING

La Jolla, California (USA)

19 October 2004

Presider: Lic. Luis Fueyo Macdonald (Mexico)

AGENDA

	Documents
1. Opening of the meeting	
2. Election of the Presider	
3. Adoption of the agenda	
4. Approval of minutes of 36 th meeting	
5. Review of Dolphin Mortality Limits (DMLs) for 2004	IRP-37-05
6. Review of vessels qualified to receive DMLs for 2005	
7. Review of <i>AIDCP List of Qualified Captains</i>	IRP-37-07
8. Guidelines for transit waivers	IRP-37-08
9. Comparison of observer programs	IRP-37-09
10. Amendment of Annex VIII of the AIDCP:	IRP-37-10
a. floodlight specifications	
b. use of jet skis	
11. Review of ortza release data	IRP-37-11
12. Review of observer data	
13. Review of actions by Parties on possible infractions reported by the IRP:	
a. Actions taken since report at 36 th IRP meeting	IRP-37-13a
b. Status review of special cases	IRP-37-13b
14. Report on implementation of Resolution on a pattern of infractions (A-02-03)	IRP-37-14
15. Report of the Permanent Working Group on Tuna Tracking	
16. Report of the Working Group to Promote and Publicize the AIDCP Dolphin Safe Tuna Certification System	
17. Recommendations for the Meeting of the Parties	
18. Other business	
19. Place and date of next meeting	
20. Adjournment	

APPENDICES

1. List of attendees
2. Recommendations to the Meeting of the Parties:
 - a. DMLs for 2005
 - b. Guidelines for transit waivers
 - c. Amendment to Annex VIII of the AIDCP: Operational requirements for vessels
3. Chair's report, 17th Meeting of the Permanent Working Group on Tuna Tracking

The 37th Meeting of the International Review Panel (IRP) was held in La Jolla, California (USA), on 19 October 2004. The attendees are listed in Appendix 1.

1. Opening of the meeting

The meeting was opened by Dr. Robin Allen, Director of the IATTC, which serves as the Secretariat for the AIDCP.

2. Election of the President

Lic. Luis Fueyo, of Mexico, was elected President of the meeting.

3. Adoption of the agenda

The provisional agenda was approved as presented.

4. Approval of minutes of the 36th meeting

The minutes of the 36th meeting of the IRP, prepared by the Secretariat, were approved as presented.

5. Review of Dolphin Mortality Limits (DMLs) for 2004

The Secretariat reviewed the status of the assignments, reallocations, and utilization of DMLs in 2004, summarized in Document [IRP-37-05](#).

6. Review of vessels qualified to receive DMLs for 2005

The Secretariat presented information on the number of DMLs requested, by flag, for 2005, along with the number of statements of qualification received and the number of assessments paid in full.

The presentation of this information led to a long discussion on how DMLs should be assigned to five vessels whose flags are in dispute between Bolivia and Colombia. In the end, the IRP decided to keep DMLs in reserve for four of the five vessels pending resolution of the dispute, and that any DMLs kept in reserve for a vessel whose flag is still in dispute after 9 December 2004 would be redistributed pursuant to Annex IV, Section III, of the AIDCP. This decision was recorded in a written statement (Appendix 2a).

Another issue that arose during the discussion of 2005 DMLs related to the matter of the payment of vessel fees. Mexico reiterated its view that Resolution A-03-01, regarding vessel assessments, does not apply to 2005.

The European Union, the United States, Ecuador and Nicaragua expressed their view that the resolution does apply to 2005, and expressed concern that, if Mexico did not pay according to the resolution, the result would be that some vessels would be paying more than others, which was unfair. Furthermore, their view was that observers should not be assigned to the vessels which did not make payments in full, in accordance with Annex II of the AIDCP.

7. Review of AIDCP List of Qualified Captains

The Secretariat presented an update of the situation regarding the List of Qualified Captains, summarized in Document [IRP-37-07](#).

8. Guidelines for transit waivers

Dr. Allen reviewed Document [IRP-37-08](#), reminding the meeting that the 11th Meeting of the Parties, held in June 2004, instructed the Secretariat to prepare, in consultation with interested delegations, guidelines governing when vessels that are transiting between ports could be exempted from the requirement of carrying an observer on board.

The essence of the paper was a proposal that a vessel must meet at least one of four conditions before it can be issued a waiver exempting it from carrying an observer during a transit. The proposed guidelines were discussed extensively, with the most significant modification agreed being a proposal by the Ocean

Conservancy to require inspections by government officials to ensure that the conditions are met. The Panel agreed on guidelines for transit waivers for recommendation to the Meeting of the Parties (Appendix 2b).

9. Comparison of observer programs

The Document IRP-37-09 presents comparisons between the IATTC observer program, by country, and the national programs of Ecuador, Mexico and Venezuela for their respective fleets. The European Union program, begun in 2003, was not included due to insufficient data.

The analysis by the Secretariat did not reveal any significant statistical differences among the different observer programs. It was agreed to continue with this analysis on an annual basis.

Colombia announced its intention to establish a national observer program in the near future.

Dr. Allen noted that the Secretariat has started using advanced statistical analysis techniques to analyze IATTC observer data to identify any instances of unusual patterns of reporting by individual observers. He noted that, if the analysis proved useful, it could be extended to the national programs.

10. Amendment of Annex VIII of the AIDCP:

Dr. Allen presented Document [IRP-37-10](#), proposing amendments to Annex VIII of the AIDCP regarding operational requirements for vessels. He reminded the Panel that, at its 36th meeting, held in June 2004, it had discussed paragraphs (c) and (e) of the dolphin safety gear and equipment requirements for vessels with DMLs in Annex VIII.2 of the Agreement, which require “an operable raft suitable for the observation and rescue of dolphins” and “an operable long-range floodlight with a minimum output of 140,000 lumens”, respectively, and asked the Secretariat to draft amendments to both items for review at this meeting.

After discussion, the meeting agreed to propose to the Parties an amendment of Annex VIII.2.e regarding floodlight specifications (Appendix 2c), but did not agree to the amendment regarding the utilization of a personal watercraft for facilitating the release of dolphins during and after backdown. The Panel recognized the advantages of these craft, and had no objection to their use.

11. Review of ortza release data

At its previous meeting, the Panel asked the Secretariat to review the data on ortza releases collected and present a report, so the Panel could decide whether to recommend releasing the ortza as an acceptable procedure for releasing dolphins in place of backdown. The Secretariat therefore presented Document [IRP-37-11](#), which reviews how cases of ortza release are dealt with by the Secretariat and IRP, and analyzes whether dolphin mortality in sets with ortza release is higher than the average mortality per set in all sets in which dolphins are captured.

The Panel concluded that, with the data collected during 1993-2003, there are too few sets with ortza releases to determine whether the practice should be accepted as an alternative to backdown as a means of avoiding dolphin mortality.

12. Review of observer data

The Secretariat presented the data reported by observers of the On-Board Observer Program relating to possible infractions received and processed by the Secretariat 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.

The Panel decided that three of the cases reviewed should be added to the list of “special cases”, and would be identified as cases 37-01, 37-02, and 37-03.

13. Review of actions by Parties on possible infraction reported by the IRP

a. Actions taken since report at 36th meeting

The Secretariat presented Document IRP-37-13a, detailing the responses received from the Parties in cases of six categories of possible infractions identified by the previous three meetings of the IRP.

b. Status review of special cases

The Secretariat presented Document [IRP-37-13b](#), which reviews the status of the various cases classified by the Panel as special cases.

With respect to vessels ‘C’ and ‘F’, there is no further information to date.

In the case of vessel “G”, there was no updated information, but the Secretariat reported that since the last meeting of the IRP, this vessel, which does not have a DML for 2004, made 50 sets on dolphins.

In the case of vessel “H”, there was no update from the flag government. The Secretariat reported that it had recently completed a fishing trip with a captain from the AIDCP List of Qualified Captains.

In the case of captain “A”, the Secretariat reported that he has not been placed on any vessel since the last meeting of the IRP.

Venezuela and the Ocean Conservancy suggested that any case that involved bribery or a threat of bodily harm to the observer be automatically considered as a special case, and the meeting agreed to this suggestion.

Several delegations expressed concern at the lack of updates on several cases, and asked the Secretariat to urge the appropriate governments to respond by the next meeting of the Panel.

14. Report on the implementation of the [Resolution on a pattern of infractions \(A-02-03\)](#)

The annual review of the effectiveness of Resolution [A-02-03](#) on a pattern of infractions was carried out, pursuant to paragraph 6 of that resolution. To this end, the Secretariat presented Document [IRP-37-14](#), which reports on the frequency of major set and trip infractions before and after the effective date of the Resolution, and includes a list of the vessels at risk of falling into a pattern of infractions as defined by the Resolution.

The document indicated a significant reduction in the number of possible major infractions identified since the entry into force of the Resolution, suggesting that it has been effective.

On the basis of the information in the document, it was established that the vessel indicated as vessel “A” in the document is the same as vessel “G” in the special cases presented to the Panel. The Panel considered that the record of this vessel has been so bad that it should not receive a DML for 2005, and decided to so recommend to the Meeting of the Parties to the AIDCP. The Panel wished to make it clear, however, that this action should not be considered as an amendment to the definition of a pattern of infractions.

15. Report of the Permanent Working Group on Tuna Tracking

The Chair of this working group, Ms. Pat Donley of the United States, presented her report of its 17th meeting (Appendix 3), which was accepted by the Panel.

16. Report of the Working Group to Promote and Publicize the AIDCP Dolphin Safe Tuna Certification System

The Chair of the working group, Dr. Guillermo Compeán, of Mexico, reported to the Panel on the results of the meeting.

The European Union asked that the minutes reflect that its view on the conditions and criteria relative to promotional trips in Europe, as elaborated in the minutes of the 33rd meeting of the IRP, is still applicable.

17. Recommendations for the Meeting of the Parties

The Panel made four recommendations to the Meeting of the Parties to the AIDCP, on handling DMLs for the vessels in dispute between Bolivia and Colombia (Appendix 2a), on transit waiver guidelines (Appendix 2b), and on the amendment to Annex VIII of the AIDCP (Appendix 2c), plus the recommendation to deny a DML for 2005 to the vessel referred to in item 14 of these minutes.

18. Other business

No other business was discussed.

19. Place and date of next meeting

The next meeting of the IRP will be held during the week of February 14-18, 2005 in La Jolla, California.

20. Adjournment

The meeting was adjourned on 19 October 2004.

Appendix 1.

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

**INTERNATIONAL REVIEW PANEL
PANEL INTERNACIONAL DE REVISION**

37th MEETING - 37^a REUNION

19 OCT 2004

La Jolla, California (USA)

ATTENDEES – ASISTENTES

BOLIVIA

HANS BELLOTA
Dirección General de Intereses Marítimos

COLOMBIA

JAIME E. RIVAS
LUIS R. PAREDES
Ministerio de Agricultura y Desarrollo Rural
ARTURO VEGA
INCODER
YESID CASTRO
Ministerio de Relaciones Exteriores

ARMANDO HERNÁNDEZ
ALVARO BUSTAMANTE
ALVARO F. BUSTAMANTE JR.
DIEGO CANELOS
GUILLERMO DAW

COSTA RICA

ASDRÚBAL VÁSQUEZ
GEORGE HEIGOLD
INCOPECA

ECUADOR

HUMBERTO MOYA
LUIS TORRES
Ministerio de Comercio Exterior, Industrialización,
Pesca y Competitividad

BRUNO LEONE
FRANCISCO LEONE
ABEL PALADINES
RAFAEL TRUJILLO

EL SALVADOR

SONIA SALAVERRÍA
Ministerio de Agricultura y Ganadería

MANUEL CALVO

EUROPEAN UNION - UNION EUROPEA

ROBERTO CESARI
European Commission
CARLOS ALDEREGUÍA
Secretaría General de Pesca

JAVIER ARÍZ TELLERÍA
Instituto Español de Oceanografía
AMOR SOLÁ
Embajada de España en Washington D.C.

GUATEMALA

NICOLÁS ACEVEDO
ERIK VILLAGRÁN
Ministerio de Agricultura, Ganadería y Alimentación

MEXICO

RICARDO BELMONTES
CONAPESCA
GUILLERMO COMPEÁN
MICHEL DREYFUS
HUMBERTO ROBLES
PEDRO ULLOA
Instituto Nacional de la Pesca

LUIS FUEYO
SEMARNAT/PROFEPA

NICARAGUA

MIGUEL A. MARENCO
ADPESCA

EDWARD WEISSMAN

JORGE MAYORGA
Ministerio de Industria, Fomento y Comercio

PANAMA

GEORGE NOVEY
Autoridad Marítima de Panamá

ARNULFO FRANCO
MARÍA PATRICIA DÍAZ

UNITED STATES OF AMERICA - ESTADOS UNIDOS DE AMERICA

DAVID HOGAN
JAMES STORY
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MARCELA CAMPA

PAT DONLEY
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JESSICA KONDEL
OTHA EASLEY
MICHELLE ZETWO
National Marine Fisheries Service

VENEZUELA

ALVIN DELGADO
Programa Nacional de Observadores de Venezuela

VANUATU

HUGO ALSINA
Office of the Deputy Commissioner of Maritime Affairs
Vanuatu

NON GOVERNMENTAL ORGANIZATIONS - ORGANIZACIONES NO GUBERNAMENTALES

HÉCTOR LÓPEZ
FUNDATUN
KITTY BLOCK
Humane Society

NINA YOUNG
The Ocean Conservancy
MOISÉS MUG
World Wildlife Fund

TUNA INDUSTRY – INDUSTRIA ATUNERA

ERNESTO ESCOBAR
PAUL KRAMPE

RAMÓN MONTAÑO

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ROBIN ALLEN, Director
ERNESTO ALTAMIRANO
DAVID BRATTEN
ALEJANDRA FERREIRA
MÓNICA GALVÁN

JOSHUE GROSS
BRIAN HALLMAN
NORA ROA-WADE
ENRIQUE UREÑA
NICHOLAS WEBB

Appendix 2a.

DMLs FOR 2005

The IRP is providing to the Meeting of the Parties a list of 94 vessels eligible for DMLs for 2005. In addition, the equivalent of four full-year DMLs will be kept in reserve for four of the five vessels whose flag is disputed by Bolivia and Colombia, pending resolution of the dispute. Any DML kept in reserve for a vessel whose flag is still in dispute after 9 December 2004 will be redistributed pursuant to Annex IV, Section III, of the AIDCP.

Appendix 2b.

RECOMMENDATION IRP-37-08

GUIDELINES FOR TRANSIT WAIVERS

The IRP recommends that the Meeting of the Parties adopt the following guidelines for transit waivers.

1. DEFINITIONS

For the purposes of these guidelines:

- a. "fishing" means:
 - i. the actual or attempted searching for, catching, or harvesting of the fish stocks covered by this Convention;
 - ii. engaging in any activity which can reasonably be expected to result in the locating, catching, harvesting of these stocks;
 - iii. placing, searching for or recovering any fish-aggregating device or associated equipment, including radio beacons;
 - iv. any operation at sea in support of, or in preparation for, any activity described in items (i), (ii) and (iii) above, except for any operation in emergencies involving the health and safety of crew members or the safety of a vessel;
 - v. the use of any other vehicle, air- or sea-borne, in relation to any activity described in this definition except for emergencies involving the health or safety of crew members or the safety of a vessel;
- b. a "transit" is a single journey by a vessel between two ports, made entirely or partially in the Agreement Area, during which no fishing takes place;
- c. a "waiver" is a document, issued by a vessel's flag government, exempting a vessel otherwise required to carry an observer from the AIDCP On-Board Observer Program from complying with this requirement during a specific transit.

2. CONDITIONS

A vessel must meet **at least one** of the following three conditions before it can be issued a waiver, and these conditions must be verified by an inspection by a official of the flag state, upon departure and upon arrival, or by the competent maritime or fisheries authority, as appropriate, of the port state of departure and of arrival, to ensure that no fishing occurred during the transit.

- a. The vessel must not have a purse-seine net aboard during the transit;
- b. The number of crew aboard must be reduced during the transit, to a level which satisfies the government that fishing will not be feasible, in accordance with relevant national requirements;
- c. The vessel's fish wells must be kept sealed during the transit;

3. PROCEDURES:

1. The waiver should:
 - a. specify the vessel's name;
 - b. refer to a single transit, specifying the ports of departure and arrival and dates of departure and arrival that provide sufficient time for a direct transit only;
 - c. state the reason for the transit (to unload catch, for repairs, for fuel, *etc.*);
 - d. specify the reason why the vessel is exempt from carrying an observer during the specified transit.
2. The vessel granted the waiver shall notify its flag government of both its departure and its arrival within 24 hours.
3. The government issuing the waiver shall provide a copy to the Secretariat prior to the vessel's departure, and shall notify all port states involved of the conditions of the waiver.

Appendix 2c.

RECOMMENDATION IRP-37-10

**AMENDMENT TO ANNEX VIII OF THE AIDCP: OPERATIONAL
REQUIREMENTS FOR VESSELS**

The IRP recommends to the Meeting of the Parties that Annex VIII.2.e of the Agreement be amended to:

“Have an operable long-range, high-intensity floodlight with a sodium lamp of at least 1000 watts or a multivapour lamp of at least 1500 watts.”

Appendix 3.

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

PERMANENT WORKING GROUP ON TUNA TRACKING

17TH MEETING

LA JOLLA, CALIFORNIA (USA)

18 OCTOBER 2004

CHAIR'S REPORT

The 17th Meeting of the Permanent Working Group on Tuna Tracking was held in La Jolla, California (USA), on October 18, 2004.

1. Opening of the meeting

The meeting was opened at 9:30 a.m. by the Chair, Ms. Pat Donley of the United States, the Chair of the Working Group. Present were representatives of Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, European Union, Mexico, Nicaragua, Panama, United States, Vanuatu, Venezuela, FUNDATUN, Humane Society, Ocean Conservancy, and the tuna industry.

2. Adoption of the agenda

A proposal entitled *Assignment of whole tuna used in the production of tuna loins and canned tuna exported and certified as AIDCP Dolphin Safe Tuna* was submitted by Costa Rica for consideration at this meeting. The proposal was translated, assigned Document Number TT-17-05a, and inserted in the agenda at Number 6a.

3. Approval of the minutes of the 16th Meeting of the Working Group

The minutes of the 16th Meeting of the Working Group were approved as presented.

4. Review of the implementation of the dolphin safe certification system (Document TT-17-04a)

Dr. Allen presented the report. The European Union and the United States questioned why it might be taking so long to hear from Parties that have been notified that the amount of certified tuna exceeds the amount of tuna that can be accounted for on dolphin safe TTFs by more than 10 percent. Parties were encouraged to reply to these notifications as soon as possible.

The European Union reported that comments on some TTFs described a disagreement between the vessel captain and the observer regarding the species composition of the catch, and wondered if others had noticed similar disagreements. No other such cases were brought out; however, it was noted that observers are required to consult with the vessel engineer when recording the sets, and to record any discrepancies noted.

The Chair noted the increased number of original TTFs received by the Secretariat in a timely manner as an indicator that the program is working well.

5. Review of trigger for follow-up of discrepancies of weight (Document TT-17-05)

After consideration, the Working Group decided to continue using the 10-percent trigger for investigation of dolphin safe certificates on which the amount of dolphin-safe tuna exceeds that recorded on TTFs.

6. Modification of the AIDCP Dolphin Safe Certification system (Document TT-17-06)

El Salvador described the proposal. Several participants thanked El Salvador for preparing and revising their proposal; however, they also indicated that they could not support a non-dolphin safe certificate.

Colombia inquired as to the purpose of a non-dolphin safe certificate. El Salvador explained the necessity, in their view, of accounting for all the tuna from each trip. Vanuatu commented that number 2.d.ii should be clarified. The United States concurred with Vanuatu's suggestion, and added that 2.d.ii might be clarified by adding the words "and that do not fish for tunas associated with dolphins" after the words, "...did not have a DML assigned" in the third line of that section. In addition, the United States noted that paragraph 2.1 of the existing procedures, or a similar paragraph describing the voluntary nature of the certification system, must be included in the document in order for the United States to be able to support it. El Salvador agreed to continue its revisions to the proposal, and bring it back to the next meeting of the Working Group.

6a. Proposal by Costa Rica (Document TT-17-05a)

Costa Rica presented the reasons for this proposal, and explained how the conversion factors in the proposal were computed. Mexico thanked Costa Rica for this work and noted that the proposal has merit and should be carefully evaluated. Mexico noted that each Party should have time to evaluate the proposal and consult with representatives of its national tuna industry. Colombia also thanked Costa Rica and discussed the fact that yields can vary due to numerous factors, such as, species, size composition, processes used, *etc.* The Working Group agreed that the next step is for each Party to study the proposal in consultation with its tuna industry, and arrive at their own computations of conversion factors. The Parties will report their findings to the Secretariat well before the next meeting of the Working Group. The Chair will investigate what factors other international organizations might be using for like purposes and report to the Secretariat. The Secretariat will use the information gathered from the Parties to prepare a report and recommendation for the next meeting of the Working Group concerning factors that might be used to convert the weight of tuna loins and canned tuna to round weight.

7. Recommendations to the IRP

None.

8. Other business

None.

9. Place and date of next meeting.

The next meeting of the working group will take place immediately preceding the next IRP meeting.

10. Adjournment

The meeting was adjourned at 12:30 p.m.