

# INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

## INTERNATIONAL REVIEW PANEL

### 48<sup>th</sup> MEETING

La Jolla, California (USA)

29 October 2009

#### AGENDA

|  | Documents  |
|--|------------|
| 1. Opening of the meeting  |            |
| 2. Election of the Presider  |            |
| 3. Adoption of the agenda  |            |
| 4. Approval of the minutes of the 47 <sup>th</sup> meeting   |            |
| 5. Review of Dolphin Mortality Limits (DMLs) for 2009  | IRP-48-05  |
| 6. Review of vessels qualified to receive DMLs for 2010  | IRP-48-06  |
| 7. Resolving a vessel's possible infractions before a change of flag   | IRP-47-07  |
| 8. Review of AIDCP <i>List of Qualified Captains</i>   | IRP-48-08  |
| 9. Review of observer data   |            |
| 10. Review of actions by Parties on possible infractions reported by the IRP:                                    |            |
| a. Actions taken since report at 47 <sup>th</sup> meeting  | IRP-48-10a |
| b. Status review of special cases  | IRP-48-10b |
| 11. Use of rafts in dolphin rescue   | IRP-48-11  |
| 12. Effect of Resolution A-02-03 on a pattern of infractions   | IRP-48-12  |
| 13. Report of the Permanent Working Group on Tuna Tracking   |            |
| 14. Report of the Working Group to promote and publicize the <i>AIDCP Dolphin Safe Tuna Certification System</i> |            |
| 15. Trial sets for vessels with DMLs   | IRP-48-15  |
| 16. Other business   |            |
| 17. Recommendations for the Meeting of the Parties   |            |
| 18. Place and date of next meeting   |            |
| 19. Adjournment  |            |

#### APPENDICES

1. List of attendees
2. Guidelines on rafts for the observation and rescue of dolphins
3. Requirements for trial sets for vessels with DMLs

The 48<sup>th</sup> Meeting of the International Review Panel was held in La Jolla, California (USA) on 29 October 2009. The attendees are listed in Appendix 1.

## **1. Opening of the meeting**

Dr. Guillermo Compeán, Director of the Inter-American Tropical Tuna Commission (IATTC), opened the meeting, and requested nominations for President of the meeting.

## **2. Election of the President**

Mr. Alvin Delgado, of Venezuela, was elected to preside over the meeting.

## **3. Adoption of the agenda**

The provisional agenda was adopted with the addition of a new item 15, *Trial sets for vessels with DMLs*.

## **4. Approval of the minutes of the 47<sup>th</sup> meeting**

The minutes of the 47<sup>th</sup> meeting of the Panel were approved without changes.

## **5. Review of Dolphin Mortality Limits (DMLs) for 2009**

The Secretariat summarized the situation with respect to the allocation, reallocation, and utilization of DMLs in 2009 to date, contained in Document IRP-48-05. It was noted that no vessel had exceeded its DML in 2009.

## **6. Review of vessels qualified to receive DMLs for 2010**

The Secretariat reported that 90 vessels had requested DMLs for 2010, and all were qualified to receive a DML, but only 84 of them had paid the required fee. Therefore, it was agreed that the six remaining vessels would receive DMLs if they made their payments, with the 10% surcharge, by 15 December at the latest, the same treatment as was given to vessels in the same situation the previous year.

Several delegations commented that it was not good practice to handle the matter of late payments by DML vessels in an *ad hoc* manner, as is often done at AIDCP meetings, and that, if necessary, the payment schedule should be adjusted to prevent this from recurring. Following considerable discussion, it was decided to recommend to the Meeting of the Parties that the deadline for payment of vessel fees, for both DML and non-DML vessels, should be December 15. The Panel asked the Secretariat to prepare a proposal for the Meeting of the Parties that would accomplish this.

## **7. Resolving a vessel's possible infractions before a change of flag**

The United States reported that it is working on a draft resolution to address this issue. Due to the need to resolve some pending legal questions, the delegation was not prepared to circulate a draft now, but would do so either by correspondence or at the next meeting of the IRP.

## **8. Review of AIDCP List of Qualified Captains**

The Secretariat presented Document IRP-48-08, *Changes to the AIDCP List of Qualified Captains*, which updates the changes that have taken place between 8 October 2008 and 1 May 2009. It was observed that during that period one captain was removed and nine were added.

Concern was expressed about the long time that sanctioning a captain can take, citing one case that took five years. While the IRP acknowledged that it cannot influence the time taken by an internal legal process in each country for applying sanctions, it stressed the importance of concluding investigations without delay, especially in view of the provisions of Annex IV.III.4 of the AIDCP.

## **9. 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. The Panel discussed those cases that were not automatically referred to the pertinent Parties, and forwarded those that indicated possible infractions of the AIDCP to the responsible government for investigation and possible sanction.

At this meeting, two cases of interference with the observer's work were reviewed. The Panel decided to refer both cases to the corresponding Party for it to carry out the respective investigation.

## **10. Review of actions by Parties on possible infractions reported by the IRP:**

### **a. Actions taken since the report at 47<sup>th</sup> meeting**

The Secretariat presented Document IRP-48-10a, *Responses to six types of possible infractions identified during the 45<sup>th</sup> and 46<sup>th</sup> meetings*, together with the record of responses since the beginning of the program. It was noted that during that period there were two cases of observer harassment, one of which had been sanctioned and the other was under investigation. Also, five cases of night sets were reviewed, which are under investigation.

### **b. Status review of special cases**

The Secretariat presented Document IRP-47-10b, *Summary of pending special cases monitored by the IRP*, in which the status of the cases classified as special is updated. After reviewing the cases, the Panel decided as follows:

1. Cases 39-01, 46-01 and 47-01 would be removed from the list, because the Parties sent communications to the Secretariat reporting that they had taken actions.
2. Regarding case 45-02, it was agreed to send to the Party a letter requesting clarification of the case of attempted bribery, not included in the correspondence received.
3. Regarding cases 38-01 and 43-02, the Parties sent communications indicating that these are under investigation.

The meeting agreed that in reporting on the results of investigations, the Parties should provide more detail if possible, especially regarding information on the nature of any sanctions imposed. The meeting also concurred that it would be good practice for the investigating Party to interview the observer when investigating a case of observer interference. The European Union (EU) offered to draft a resolution on this matter for consideration by the Meeting of the Parties.

## **11. Use of rafts in dolphin rescue**

The Secretariat noted that at the previous meeting it had presented Document IRP-47-11, *Use of rafts in dolphin rescue*, and that there was a discussion on what measures and materials would be appropriate for considering a rescue raft as in suitable condition. It presented a proposal for amending the respective paragraph of the AIDCP, as well as guidelines for regulating the types of rafts. The Panel decided to forward the document to the Meeting of the Parties for its consideration and approval.

## **12. Effect of Resolution A-02-03 on a pattern of infractions**

The Secretariat presented Document IRP-48-12, which describes the effects of the resolution. Venezuela noted that the document shows that the fishermen's performance has improved considerably, as has compliance with the provisions of the APICD. Several delegations commented that this resolution has obviously been successful, and that perhaps it was not necessary to review it annually. The Panel agreed to recommend to the Parties that they consider suspending the annual review of the resolution for the next several years.

## **13. Report of the Permanent Working Group on Tuna Tracking**

The chair of this working group, Ing. Luis Torres, presented his report of its 27<sup>th</sup> meeting. He indicated that it had discussed the possibility of extending the 10-day deadline for providing Tuna Tracking Forms (TTFs) to the Secretariat at the conclusion of a fishing trip, but it was agreed to keep the 10-day deadline. He also noted that the dolphin safe certificates issued during the reporting period complied with established regulations.

#### **14. Report of the Working Group to promote and publicize the AIDCP Dolphin Safe Tuna Certification System**

Dr. Luis Fleischer, Chair of the meeting, presented his report. He noted that the group endorsed the plan prepared by the Secretariat for promoting the dolphin safe label. He also noted that the meeting supported the idea of recommending to the EU that it consider the use of TTFs, amended if necessary, in order to bring them into line with the import documentation requirements of EU regulations promulgated to combat IUU fishing. In this way, the AIDCP certification could provide the basis for exporting to the EU by complying with its new regulations.

#### **15. Trial sets for vessels with DMLs**

The Secretariat presented Document IRP-48-15, which proposes that the costs of these trial sets be borne by vessel owners in future. The Panel decided to send the proposal to the Meeting of the Parties for its consideration and final approval.

#### **16. Other business**

No other business was presented.

#### **17. Recommendations for the Meeting of the Parties**

The Panel made the following recommendations:

1. That the Secretariat prepare a proposal for the Parties on a December 15 deadline for payment of fees by vessels.
2. That the Meeting of the Parties approve the proposals on trial sets and on the requirements for the operation of rafts (Appendices 2 and 3).
3. That Parties be more explicit in their responses about actions taken regarding cases referred to them as possible infractions of the AIDCP, and that they take into account the observers' testimony in their investigations regarding observer harassment.
4. That the Parties consider Document DSP-14-04 on actions for promoting AIDCP dolphin safe tuna.
5. That the EU consider the use of TTFs for meeting the import documentation requirements of EU regulations promulgated to combat IUU fishing.
6. That the annual review of Resolution A-02-03 be suspended for the next several years.

#### **18. Place and date of next meeting**

The next meeting of the Panel will be held in Guatemala in September 2010.

#### **19. Adjournment**

The meeting was adjourned at 5:20 p.m. on 29 October.

## Appendix 1.

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## **Appendix 2.**

### **GUIDELINES ON RAFTS FOR THE OBSERVATION AND RESCUE OF DOLPHINS (APPENDIX VIII.2.C.)**

1. Material: The raft should be made of durable commercial-grade material which can be rigidly inflated, is puncture-resistant, and is capable of withstanding deck and net abrasions.
2. Dimensions and capacity: minimum overall length 2.5m, minimum overall beam 1.30m, payload capacity 300 kg or 3 persons.
3. Vessels should carry the equipment necessary for repairing the raft.

## **Appendix 3.**

### **REQUIREMENTS FOR TRIAL SETS FOR VESSELS WITH DMLs**

#### **1. Conditions for trial sets**

Vessels with DMLs shall conduct a trial set if any of the following conditions apply:

1. The vessel is new.
2. The vessel is not new, but has been allocated a DML for the first time.
3. The vessel did not have a DML during the previous calendar year.
4. The vessel's net is new.
5. The vessel's net has undergone alteration or repair that could require the safety panel to be re-aligned.
6. The safety panel has been completely replaced.
7. IDCP observers reported on two or more consecutive trips that there were frequent net canopies and/or excess corkline in the backdown area.
8. The vessel has never conducted a trial set with the participation of qualified technicians from the IATTC or the national program.

#### **2. Costs and scheduling of trial sets**

The cost of travel and lodging for trial set technicians shall be paid by the vessel owner, either directly, or by reimbursing the corresponding program (IATTC or national) for any such costs.

In order to minimize the expenses of conducting trial sets incurred by the IATTC and national programs, trial sets for several vessels should be scheduled simultaneously over a period of one or more days during a closure of the purse-seine fishery.