

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
PROCEDURES FOR DEALING WITH SPECIAL PROBLEM SETS
June 2002

1. DEFINITION

A special problem set is a set in which:

- a. the dolphin mortality exceeds 50% of the ADML for the year of the event and causes the vessel to exceed its DML;
- b. the fishing captain was on the AIDCP List of Qualified Captains when the set occurred;
- c. the dolphin mortality is not caused by or contributed to by:
- d. an infraction of the AIDCP, or
- e. a gear failure or malfunction resulting from a lack of proper maintenance of the vessel and its gear;
- f. taking account of all the circumstances, the fishing captain acted with the degree of skill and care that would be expected of a qualified fishing captain, and did not take unreasonable risks; and
- g. every reasonable effort was made, in the course of the set, to reduce or eliminate the mortality.

2. DETERMINATION

- a. In the course of its regular review of sets, the IRP shall be solely responsible for determining whether any set qualifies as a special problem set and making the appropriate recommendations to the Meeting of the Parties.
- b. The IRP may, as appropriate, obtain and hear expert evidence, to be given by qualified fishing captains, gear technicians, and such other qualified persons as deemed necessary. A captains' panel, which shall be subject to the IRP Rules of Confidentiality, may be convened for this purpose.
- c. The flag Party or the Party responsible for the vessel's fishing operations shall be given an opportunity to carry out its own investigation and to make, either directly or through the Secretariat, such representations to the IRP as it wishes.
- d. For the purposes of making its determination, the IRP shall consider the past performance of the fishing captain.
- e. Notwithstanding (d) above, the IRP may take into account sets made during the same trip for the purpose of determining whether the fishing captain continued fishing after having experienced similar environmental conditions or gear malfunctions which should have made him aware of the risks.
- f. A determination of whether a set qualifies as a special problem set shall normally be made at a meeting of the IRP. However, such a determination may also be made through correspondence, pursuant to Annex VII, paragraph 11, of the AIDCP.

3. ACTION TO BE TAKEN

- a. When a set is determined to be a special problem set, Annex IV (III) 6 of the AIDCP will apply to the future DMLs of the vessel involved, in accordance with the following schedule:
- b. The vessel's next DML after the event will be the ADML for that year reduced by the lesser of (a) 40% of that ADML or (b) the difference between the total mortality caused by the vessel and its DML in the year of the event. If that difference is not fully covered in that year, the vessel's

subsequent DML will be the lesser of (a) 80% of the ADML for the subsequent year or (b) the remaining difference. As an incentive, if the total dolphin mortality of the vessel in the year of its first DML after the event is 50% or less of the ADML for that year, the vessel will be exempted from any further reductions in its next DML.

- c. A vessel involved in a special problem set will not be eligible for a reallocated DML until it has met the requirements of paragraph 3(a).
- d. If the total DML distributed to any Party is reached or exceeded due to a special problem set, the IRP shall decide whether adjustments may be made to the DML assigned to that Party.