

INTERNATIONAL REVIEW PANEL
MINUTES OF THE 7TH MEETING

October 17-19, 1994
La Jolla, California, U.S.A.

Presider: Gary Matlock

The seventh meeting of the International Review Panel (IRP) was held at the Southwest Fisheries Science Center, La Jolla, California, U.S.A., on October 17-19, 1994. The attendees are listed in Appendix I.

Agenda Item 1. Opening of the meeting

The meeting was called to order at 9:45 a.m. by Ambassador Jean-Francois Pulvenis of Venezuela, Presider of the sixth meeting of the IRP.

Venezuela noted the presence of representatives of two non-governmental organizations that were requesting permission to attend this meeting as observers. The Panel agreed to allow them to attend the meeting. Later in the meeting a representative of the Cámara Nacional de la Industria Pesquera of Mexico expressed his objection to the presence of the observers, but they were allowed to remain.

Agenda Item 2. Election of Presider

Venezuela nominated Mr. Gary Matlock, of the United States, as presider of the meeting. The proposal was seconded by Colombia, and approved by the remaining members.

The Secretariat reminded the Panel that the current Chairman of the IRP is Mr. Richard Carpenter of Vanuatu, but that the Presider does most of the work. After a brief discussion of the respective roles of the Chairman and Presider, it was agreed that the current arrangement should remain in force.

Agenda Item 3. Approval of agenda

The Presider asked for comments or modifications to the proposed agenda for the meeting. Greenpeace proposed that rules of procedure regarding observers at IRP meetings should be discussed; this was added as Agenda Item 11, and the last four items of the proposed agenda were renumbered accordingly.

The Secretariat noted that the role of observers had already been defined, and suggested adding two subjects under Agenda Item 5, provisions for vessels that have sunk and "disaster" (high-mortality) sets. The Panel agreed to discuss these questions as Items 5(c) and 5(d), respectively, of the revised agenda, which was approved in this form (Appendix II).

Agenda Item 4. Approval of minutes of the 6th Meeting of the IRP

The Panel approved the minutes of its 6th Meeting, held in Cumaná, Venezuela, in June 1994, without modifications.

Agenda Item 5. Dolphin Mortality Limits (DMLs)

a) Review of mortalities to date

The Secretariat reported that to date two vessels had exceeded their 1994 DMLs, and explained that the total mortality of dolphins in the fishery in 1994 would probably be a little higher than that of 1993, between 3,600 and 4,100 animals, due mainly to one set with very high mortality. The average mortality per set had risen slightly, whereas the number of sets on dolphins and the catch of tunas per set had fallen. Greenpeace asked about catches in other types of sets; the Secretariat said they had increased slightly, and noted that the subject would be covered in detail during the IATTC meeting on October 20.

b) Review of criteria for issuing DMLs

i) Changing from US\$10 per ton of capacity to a fixed fee

The Secretariat commented on the difficulties experienced in collecting the fees for the observer program from some vessels and on disagreements in the way these fees were assessed. The IATTC staff based assessments on its estimates of vessel carrying capacity, and disputes had arisen as to their accuracy. At the 6th meeting of the IRP a two-tier fee system for vessels with capacities less than and greater than 750 tons (about 20% and 80% of the fleet, respectively) had been discussed, and Mexico had proposed annual fees of US\$ 7,500 and US\$ 12,000 for these two classes in place of the current fee of US\$ 10 per short ton of capacity. The Secretariat pointed out that the numbers of days spent at sea were almost identical for these two classes of vessel, but that their catch rates were different. He summarized the three systems discussed: the *status quo*, two fees for two classes of vessel, and a single fee for all vessels.

A lengthy discussion took place on the rating of vessel capacity. It was agreed that since the fees were intended to help offset the costs of the international observer programs, and these programs had fixed costs, it was essential that the amount of money available for a year be known in advance. Therefore, the ideal system, by which vessels would be assessed in accordance with the number of days they spent at sea, was impractical, and that a fixed value, perhaps the vessel's registered tonnage, should be used as the basis for any assessments.

The Secretariat noted that costs had risen by about 15%, and that a corresponding increase in the fee would be necessary. He also raised the question of vessels which requested refunds because they were incapacitated, and it was agreed to discuss this further under Item 5(c). The Panel decided to continue the current system of basing the fees on vessel capacity, but that in the future the fees would be based on shipyard estimates of rated tonnage, as provided by the IATTC, instead of IATTC estimates of carrying capacity, and that the fee would be assessed at US\$ 12 per ton. This topic was included in a series of recommendations to be submitted to the Plenary as discussed below in Item 5(b)(ii) (Appendix III).

ii) Mechanisms for collecting fees

The Secretariat described the various systems used in different countries for collecting the fees from vessels. The system used in Mexico, where the government collected the fees from vessels and sent a single check for the whole amount to the IATTC, was not practicable for all nations, but it was agreed that governments, rather than the IATTC, should be responsible for collecting the money, and that a standardized system was desirable. The Panel decided that both the Mexican system and the Venezuelan system, by which the government collected a check from each vessel and forwarded these checks to the IATTC, were acceptable.

Recommendations to the Plenary for the collection of observer program fees were drafted, which included a recommendation that all vessels be assessed full-year fees. The draft (Appendix III) was modified to include recommendations referring to Agenda Items 5(b)(i) and 5(c).

c) Disposition of DMLs for vessels that sink

The Panel discussed the question of vessels that sank and how fees, bonds, and unused DMLs should be handled. Several vessels had sunk since the program had come into force, and requests for refunds of fees had been made by some vessel owners. Mexico and Colombia both proposed that no refunds should be made, and the Panel agreed to this proposal (included in Appendix III). After a lengthy discussion on the definition of a sunken or lost vessel, it was agreed that the unused DML from a vessel which was lost from the fishery permanently because of some calamity could be transferred to a vessel which replaced it, if the replacement vessel enters the fishery prior to the end of the year for which the DML was issued. It was also agreed that a replacement vessel put into service within two years would be exempted from the requirement of paying a bond. Recommendations on this issue were drafted by the Secretariat, and after much discussion a working group was appointed to modify the draft which was to be submitted for the Plenary's approval (Appendix IV).

d) Disaster sets

The Panel discussed a set in which a very high mortality of dolphins had occurred, as a result of which the vessel would, under current rules, be unable to qualify for a DML for several years. The captain and crew had made all possible efforts to avoid mortalities, but due to adverse environmental conditions had been unable to prevent a net collapse. It was pointed out that such cases occur rarely, perhaps once in 50,000 sets, and could be treated like any other set reviewed by the Panel, except that some provision should be made for waiving some or all of the mortality if the Panel determined that no infraction had taken place. It was agreed that otherwise the fishermen, whose efforts had made the program a success, would be treated harshly for a circumstance for which they were not to blame, and would be obliged to fish on schoolfish and floating objects, either or both of which might have a greater deleterious effect on the ecosystem than the mortality in the "disaster" set. The Secretariat pointed out that at issue here is the perception by the fishermen of fairness in the program. The idea of setting aside a part of the overall DML and keeping it for such sets was discussed, as was a proposal of allowing vessel owners the choice of assigning a portion of their vessel's DML to a pool, which would cover excesses due to disaster sets. The Panel decided that neither of these ideas was satisfactory, and that any waivers for disaster sets should be made at the end of the year from the difference between the permissible total mortality and the actual total mortality, provided the former was never exceeded. The Panel agreed that the current provisions were inadequate, and appointed a working group to develop definitions and guidelines for such situations. The Panel discussed the working group's proposals in depth, and agreed that decisions to classify a set as a "special problem set" (the term adopted by the Panel) should be based on precise definitions and be as objective as possible. The Panel had identified no infractions in the one special problem set which occurred in 1994, and it was thus eligible for consideration under the proposed rules. These rules would be applicable to 1994 only, but could be used as a basis for future years. It was eventually agreed to forward a draft version of the proposal (Appendix V), containing several alternative suggestions made by members of the Panel, to the Plenary, which could then decide on the definitive wording.

e) Research fishing - a review of proposal to set aside and administer a research quota

The working group on disaster sets was also instructed to address the topic of research fishing, and undertook a preliminary exchange of views on this matter. It was generally believed that no portion of the overall DML should be set aside for scientific research, but rather that DMLs requested for such research should be allocated to the individual vessels carrying out such research, and that they should be at the same level as those allocated to commercial vessels. It was also believed that only vessels undertaking research on behalf of scientific institutions, governments, or intergovernmental organizations should qualify for such DMLs. It was understood that a vessel operating for commercial purposes would not receive a DML other than the one allocated to it for its commercial fishing operations, even if it carried out research in the course of these operations. Vessels used exclusively for scientific research would be exempted from the requirement of paying a bond. Finally, it was understood that the concept of "high-mortality" sets would apply also to fishing activities carried for purposes of scientific research. The Panel agreed to consider this item during its next meeting on the basis of concrete proposals to be presented by the working group.

f) DMLs for 1995

The Secretariat reported that 81 vessels had applied for DMLs for 1995, and increase of 8 over the previous year. Of these 81, 42 were registered in Mexico, 19 in Venezuela, 13 in Vanuatu, 6 in Colombia, and 1 in Panama. The Secretariat was instructed to calculate individual-vessel DMLs for 1995 once the Plenary had set the overall limit for that year.

Agenda Item 6. Review of compliance with the International Dolphin Conservation Program (IDCP)

After a brief discussion, it was agreed that, since there were no new developments to report, this item would be included in the agenda for the next meeting of the Panel, scheduled for January 1995, and that at that time the governments' responses to reported infractions would be reviewed in detail.

Agenda Item 7. Options for improving the performance of fishermen

a) Further discussion of paragraph 1-1 of Appendix VII of the Minutes of the 6th Meeting

The Secretariat stated that the IATTC has implemented action 1.1 of Appendix VII by sending quarterly letters of notification to owners of vessels that have exceeded 25% of their DMLs by the end of the first quarter of the year, 50% by the end of the second quarter, or 75% by the end of the third. The IATTC will not implement actions 1.2 or 1.3. The Panel agreed that copies of the letters sent to vessel owners would also be sent to the respective governments. Mexico reported that both its national program and its industry take actions similar to 1.1, 1.2, and 1.3 in monitoring the performance of its captains and its vessels.

Regarding paragraph 3 of Appendix VII, the awarding of prizes to fishermen based on performance, the Panel agreed that the fishermen deserved recognition, and that a certificate of performance would be an incentive to them, but did not reach agreement on an equitable system for rewarding exceptional performance by individuals. It was believed that any such system should recognize all those who complied with the requirements of the program. It was decided to seek suggestions from the industry on a system of recognition at the next meeting.

b) Action regarding the proposal for a Certificate of Captain Performance approved by the IRP and the Plenary in June 1994

The Secretariat reminded the Panel of an earlier comment made by Mexico that a certificate of performance would be an incentive to captains to improve their performance and that such a certificate would be part of the certification system proposed to and adopted by the Plenary at its meeting in Cumana, Venezuela, in June 1994. The IATTC already has summaries of data on the performance of fishing captains that could perhaps be modified to create a certificate. The Secretariat informed the Panel that since the certification system had been adopted at the June meeting, no government had reported any suspensions of fishing captains. The Panel took no further action on this agenda item.

Agenda Item 8. Definition of a fishing captain

The Secretariat noted that currently the captain of a vessel is the person identified by the observer as being in charge of fishing operations, but that this identification might not always be easily determined. After an extensive discussion of possible ways of identifying the fishing captain, and of whether suspended captains could be excluded from working in the fishery in any capacity, it was decided that the current system would continue, but that the question of determining the identity of the fishing captain should be considered at a future meeting, and that in the meantime the Secretariat should inform governments of the need for establishing a standardized certification system for fishing captains.

Agenda Item 9. Possible participation of Ecuador as a member of the IRP

The Secretariat noted that the government of Ecuador had expressed its intention of attending the current meeting, but no representative had as yet arrived. It was agreed that Ecuador, as a party to the 1992 La Jolla Agreement, was entitled to membership of the Panel, and that the Secretariat should contact the government of Ecuador and inform it of the situation.

Agenda Item 10. Review of membership of non-governmental organizations in the IRP

The Panel agreed that this question had been settled since the previous meeting, and that no changes to the Rules of Procedure were necessary.

Agenda Item 11. Rules of procedure regarding observers attending IRP meetings

The Panel discussed the question of observers attending meetings. Some members believed that it would be simplest if no observers were allowed to attend, especially in view of the confidential and sensitive nature of some of the matters considered, but the desirability of maintaining the transparency of the Panel's deliberations and decisions was also mentioned, as was the fact that rules should be drawn up to cover the situation. It was agreed to postpone further discussion of the issue until the following meeting of the Panel, and that no observers will be allowed to attend IRP meetings until the matter is resolved.

Agenda Item 12. Review of observer data

The Panel reviewed possible infractions of the Agreement committed by vessels as identified from observer logs that had become available since the previous meeting's review in June 1994. During the review, Mexico proposed holding a workshop for reviewing the list of infractions, and the Panel instructed the Secretariat not to present for review at future meetings sets in which dolphins were captured but no

backdown was performed because all the dolphins had escaped from the net before backdown could be started. The Panel also asked that the IATTC carry out another analysis of the feasibility of releasing the ortza as a dolphin-rescue method and report its findings at the next meeting.

Agenda Item 13: Place and date of next meeting

Subject to the approval of the incoming Mexican administration, Mexico proposed holding the next meeting of the Panel in Ensenada, Mexico, in mid-January 1995, and this proposal was agreed to by all members.

Agenda Items 14: Other business; and 15: Adjournment

There being no further business, the Presider adjourned the meeting at 6:30 p.m. on Wednesday, October 19, 1994.