

AGREEMENT THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

MINUTES OF THE FIFTH MEETING OF THE PARTIES

San Salvador (El Salvador)

June 15-20, 2001

AGENDA

1. Opening of meeting
2. Election of Chairman
3. Adoption of agenda
4. Proposal of Colombia to modify the Tuna Tracking System
5. Report of the International Review Panel
6. Assigning the withheld portion of the initial DML allocation after May 1st – proposed amendment to Annex IV of the AIDCP
7. Guidelines for granting vessels the exemption of *force majeure* or extraordinary circumstances (Annex IV (III) of the AIDCP)
8. Transit of vessels to and from the western Pacific Ocean
9. Fishing by vessels of non-Parties
10. Per-stock per-year dolphin mortality caps
11. Other business
12. Place and date of next meeting
13. Adjournment

DOCUMENTS

- MOP-5-06 Assigning the withheld portion of the initial DML allocation after May 1st - proposed amendment to Annex IV of the AIDCP
- MOP-5-08 Transit of vessels between the EPO and the western and central Pacific
- MOP-5-09 Fishing by vessels of non-Parties

APPENDICES

1. List of attendees
2. Resolution to adopt the modified Tuna Tracking System
3. Modified Tuna Tracking System
4. Resolution to establish procedures for *AIDCP Dolphin Safe* Tuna Certification
5. Resolution on amending the rules for qualified captains pursuant to the AIDCP
6. Resolution to promote compliance with the AIDCP
7. Resolution on amending the Rules of Confidentiality of the AIDCP
8. Press release regarding *AIDCP Dolphin Safe* Tuna Certification
9. General guidelines for allowing the exemption of *force majeure* or extraordinary circumstances
10. Resolution on fishing by vessels of non-Parties

1. Opening of the meeting

The meeting was opened on June 15, 2001, by Dr. Robin Allen, Director of the Inter-American Tropical Tuna Commission (IATTC), which serves as the Secretariat to the Agreement on the International Dolphin Conservation Program. The attendees are listed in Appendix 1.

2. Election of Chairman

Ing. Roberto Interiano, of El Salvador, was elected Chairman. He was assisted in this task by Lic. Mario González, also of El Salvador.

3. Adoption of the agenda

The provisional agenda was adopted without modification.

4. Proposal of Colombia to modify the Tuna Tracking System

The discussion of this agenda item was postponed to allow the consultations and negotiations of the Permanent Working Group on Tuna Tracking to be completed. On June 20, the Presider of the IRP reported that the IRP had not received a report from the Working Group since the negotiations on this issue had not produced a final agreement. The delegate from the United States, reporting on behalf of the Chair of the Working Group, reported that all the members of the Working Group except the European Union (EU) had agreed on a number of draft resolutions addressing the adoption of the modified Tuna Tracking System, establishing procedures for AIDCP Dolphin Safe Tuna Certification, amending the rules for qualified captains, promoting compliance with the AIDCP, and amending the rules of confidentiality of the AIDCP. The EU explained its concerns regarding the proposed dolphin safe certification system, and proposed an alternative system with two categories of dolphin safe tuna. These concerns were then thoroughly discussed by the Meeting, and some of them were accommodated, but no other Party was prepared to accept the dual-category classification system, and the EU withdrew its proposal.

The Meeting of the Parties was thus able to agree on five resolutions (Appendices 2-7). The United States delegation noted that its approval of the new certification procedures should be considered *ad referendum* until the procedures are formally approved by the U.S. government.

The Parties approved a press release (Appendix 8) to make public the adoption of the *Resolution to Establish Procedures for Certification of AIDCP Dolphin Safe Tuna* (the “San Salvador Resolution”).

5. Report of the International Review Panel

The Presider of the 26th meeting of the IRP, Lic. Mara Murillo, presented an oral report of that meeting. None of the issues discussed required immediate action by the Meeting of the Parties. The Panel also submitted its draft Annual Report for 2000, noting that a final version would be available after July 5, by which date all Parties had undertaken to submit information on action taken regarding outstanding possible infractions.

6. Assigning the withheld portion of the initial DML allocation after May 1st – proposed amendment to Annex IV of the AIDCP

The Parties decided not to pursue this draft amendment.

7. Guidelines for granting vessels the exemption of *force majeure* or extraordinary circumstances (Annex IV (III) of the AIDCP)

The Secretariat explained the background of this issue, noting that it had prepared a paper for the fourth Meeting of the Parties on the matter of guidelines for granting vessels the exemption of *force majeure* or

extraordinary circumstances, as allowed by Annex IV (III) of the AIDCP.

Ecuador expressed concern about the possible abuse of the *force majeure* exemption and the importance of having some common understanding of the circumstances under which the exemption could be applied and accepted. Other delegations agreed, and a small working group was established to draft general guidelines for this issue. The resulting document (Appendix 9) was approved by all the Parties.

The Secretariat noted that the efficient application of these guidelines would require the amendment of Annex IV (III) (2) of the AIDCP, which currently requires the Director to reallocate unutilized DMLs by April 15. Since the guidelines anticipate possibly two rounds of communications with the Parties after April 1, this deadline should be changed to May 1 to allow sufficient time for the necessary communications with governments and for the subsequent calculations. It was generally agreed by the Parties that the AIDCP should be so amended, and the Secretariat was asked to draft the necessary amendment for the next Meeting of the Parties.

Several delegations expressed their view that, with the adoption of these general guidelines, the Agreement should also be amended to clarify that decisions by the IRP on requests for an exemption for *force majeure* or extraordinary circumstances do not have to be unanimous.

8. Transit of vessels to and from the western Pacific Ocean

The Secretariat presented Document MOP-5-08, addressing the question of payment of the costs of on-board observers for vessels which operate in both the eastern and western Pacific Oceans during a single fishing trip. The Parties approved the Secretariat's recommendations that:

- i. Vessels of Parties and participating non-Parties be required to pay any travel, food, and lodging costs related to transporting an observer of the On-Board Observer Program between a western Pacific port and the observer's assigned office, and
- ii. Vessels of non-Parties that fish outside of the Agreement Area should be requested to carry an IATTC observer during any transit to an EPO port, and should reimburse the IATTC for all costs incurred for the observer placement, including the observer's total wages paid to him during the trip assignment.

9. Fishing by vessels of non-Parties

The Secretariat presented Document MOP-5-09, noting that, although the Meeting of the Parties can take action only with respect to activities related to the AIDCP, the issue is very closely linked to matters under the purview of the IATTC, and the possible options for action apply equally to both fora. The Secretariat noted that the issue is on the agenda for the meeting of the IATTC Permanent Working Group on Compliance scheduled for June 18, 2001.

There followed a lengthy discussion on the issue of fishing by non-cooperating non-Parties and the various options available to governments and regional organizations for dealing with such fishing. In this regard, it was noted by several delegations that the recently approved FAO International Plan of Action (IPOA) on Illegal, Unreported, and Unregulated Fishing could be of assistance in guiding the Parties' actions on this problem and should be analyzed in that light in the future.

The Parties agreed that they should take the important step now of identifying vessels that are not operating under the jurisdiction of a Party or cooperating with the Parties by applying the relevant provisions of the Agreement. It was decided that any vessel so identified should be placed on a list of non-cooperating vessels and that the IATTC should be requested not to include any such vessel on its Regional Vessel Register. The process for accomplishing these actions was elaborated in the *Resolution on Fishing by Vessels of Non-Parties* (Appendix 10) approved by the Meeting.

Bolivia was given the opportunity to address the meeting. The Bolivian delegate expressed his government's desire to cooperate with both the IATTC and the AIDCP, the regional agreements

governing the tuna fisheries in the eastern Pacific Ocean, and noted its decision to apply for membership in the IATTC and to provisionally apply the AIDCP by depositing the appropriate instrument as soon as possible. This statement was well received by the Meeting, although it was noted that certain conditions associated with becoming a Party to the AIDCP should be clearly understood by all the governments involved. Following informal consultations, it was later announced that Bolivia and the Parties understood that (1) Bolivia could have on-board observers placed on its vessels during 2001 once the appropriate payments were made, (2) Bolivia would be eligible to receive DMLs for its vessels for 2002 if it were to deposit, prior to October 1, 2001, its instrument of provisional application of the AIDCP, and (3) upon deposit of such instrument, Bolivia would comply with all the requirements of the AIDCP.

10. Per-stock per-year dolphin mortality caps

The Secretariat observed that the Parties needed to consider how to address the requirement of the AIDCP to implement per-stock, per-year limits on dolphin mortality in future. Following a brief discussion, the Parties asked the Secretariat to prepare an analysis, including a proposal, of how to address this question in a manner different from the current approach based on a global per-stock mortality.

11. Other business

The United States introduced the matter of the observer program of the South Pacific Forum Fisheries Agency (FFA), recalling that the AIDCP provides for the use of observers from other international programs if the vessel in question does not fish for tunas associated with dolphins and if the program is approved by the Parties. A letter was sent to the FFA in June 2000 requesting confirmation that the FFA would be willing to have its observers fulfill this role should they be aboard vessels operating in the eastern Pacific Ocean, and, if so, suggesting how to proceed with respect to training these observers.

The representatives from the FFA and the Forum Fisheries Committee attending the meeting stated that the FFA member governments had approved the harmonization, as appropriate, of the duties of FFA observers on board vessels in the eastern Pacific with AIDCP requirements, and that the FFA was prepared to carry out the necessary training. This statement was well received by the Meeting, and it was decided that, with the appropriate training, the FFA program would be an acceptable alternative international program for the purposes of the AIDCP.

Vanuatu expressed its concern regarding the increases in vessel fees proposed by the Secretariat at the meeting of the IRP, but at the same time acknowledged that the IATTC should not be paying for the commitments and obligations of the AIDCP. Vanuatu noted that this is a problem which will need to be addressed in the future.

The Parties asked the Secretariat to draft a response to the message criticizing the IDCP which had been circulated to tuna buyers by the Earth Island Institute.

Colombia raised the issue of the interpretation of Annex IV (III) (4) of the AIDCP regarding when a Party will be “deemed to have provided concurrence” with a possible infraction, arguing that a statement by a Party that a case is under investigation should be considered an “objection” for the purposes of that section of the Agreement. No delegation disagreed with this interpretation; however, in previous discussions on this matter, it had been noted that an amendment to the AIDCP might be appropriate in order to avoid any possible ambiguity. The Secretariat will prepare a possible amendment for consideration by the next Meeting of the Parties.

12. Place and date of next meeting

The Parties agreed to hold their next meeting in Cartagena (Colombia) in October 2001.

13. Adjournment

The meeting was adjourned on June 20, 2001.

Appendix 1.

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM ACUERDO SOBRE EL PROGRAMA INTERNACIONAL PARA LA CONSERVACIÓN DE LOS DELFINES

5^a REUNION DE LAS PARTES 5TH MEETING OF THE PARTIES

15 de junio de 2001– June 15, 2001
San Salvador (El Salvador)

ASISTENTES - ATTENDEES

COLOMBIA

SANTIAGO ROJAS
CLARA GAVIRIA
MARIA EUGENIA LLOREDA
Ministerio de Comercio Exterior
GONZALO JIMENEZ BERMUDEZ
Ministerio de Relaciones Exteriores

JORGE MICAN BAQUERO
Ministerio de Agricultura y Desarrollo Rural
FABIO AVILA ARAUJO
IVAN DARIO ESCOBAR
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ARMANDO HERNANDEZ
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COSTA RICA

HERBERT NANNE ECHANDI
INCOPECA

ASDRÚBAL VASQUEZ

ECUADOR

RAFAEL TRUJILLO BEJARANO
LUIS TORRES NAVARRETE
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EL SALVADOR

ROBERTO INTERIANO
SONIA SALAVERRIA
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MARIO GONZALEZ RECIOS
CENDEPESCA – SICA/OSPESCA
VERONICA NAVASCUEZ
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ELSY SORTO
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MARGARITA SALAZAR DE JURADO
Comité Científico Nacional
BEATRIZ CLARÁ GUERRERO
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ABDÓN AGUILLON
Ministerio de Economía

EUROPEAN UNION – UNION EUROPEA

JOHN SPENCER
ALAN GRAY
CHRISTOPHE LE VILLAIN
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RICARDO BELMONTES
MARIO AGUILAR
MICHEL DREYFUS
FRANCISCO QUIROGA
Secretaría de Agricultura, Ganadería, Desarrollo Rural,
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ERNESTO ESCOBAR
VICTOR LEDON
MARK ROBERTSON
JOSE VELAZQUEZ M.
JOSE VELAZQUEZ C.
PETER WADSWORTH

NICARAGUA

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REBECCA LENT

JAMES LECKY

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National Marine Fisheries Service

RANDI THOMAS

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HUGO ALSINA LAGOS

Office of Deputy Commissioner of Maritime Affairs

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JEAN FRANCOIS PULVENIS

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ALVIN DELGADO

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OBSERVADORES -OBSERVERS

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DAISHIRO NAGAHATA

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Fisheries Agency of Japan

CHIYO KIKUO

Federation of Japan Tuna Fisheries Co-operative Associations

NORUEGA-NORWAY

HALVARD P. JOHANSEN

Norwegian Embassy, Washington, D.C.

ORGANIZACIONES INTERNACIONALES —INTERNATIONAL ORGANIZATIONS

JOEL OPNAI

Forum Fisheries Agency

BERNARD THOULAG

Forum Fisheries Committee

STEVE REILLY

International Whaling Commission

ORGANIZACIONES NO GUBERNAMENTALES --NON-GOVERNMENTAL ORGANIZATIONS

NINA YOUNG

Center for Marine Conservation

KATHLEEN O'CONNELL

Whale & Dolphin Conservation Society

JORGE MIGUEL

World Wildlife Fund

SECRETARIADO - SECRETARIAT

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ERNESTO ALTAMIRANO

PABLO ARENAS

DAVID BRATTEN

MARTHA GOMEZ

JOSHUE GROSS

MARTIN HALL

BRIAN HALLMAN

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NICHOLAS WEBB

Appendix 2.

**AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
RESOLUTION
TO ADOPT THE MODIFIED SYSTEM FOR TRACKING AND VERIFICATION OF
TUNA
20 JUNE 2001**

The Parties to the Agreement on the International Dolphin Conservation Program (AIDCP), at the 5th Meeting of the Parties, held June 15, 2001, in San Salvador, El Salvador,

Hereby agree to adopt the modified System for Tracking and Verification of Tuna developed by the Permanent Working Group on Tuna Tracking and recommended by the International Review Panel. The modified System shall take effect thirty days after the date of adoption of this resolution.

Appendix 3.

**INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
REVISED SYSTEM FOR TRACKING AND VERIFYING TUNA
JUNE 2001**

1. DEFINITIONS

The terms used in this document are defined as follows:

- a. *Dolphin safe* tuna is tuna captured in sets in which there is no mortality or serious injury of dolphins;
- b. *Non-dolphin safe* tuna is tuna captured in sets in which mortality or serious injury of dolphins occurs;
- c. *Agreement Area* is the area covered by the AIDCP;
- d. *AIDCP* is the Agreement on the International Dolphin Conservation Program;
- e. *Party* or *Parties* are the Parties to the AIDCP ;
- f. *State* is a sovereign state or a regional economic integration organization to which its member States have transferred competence over matters covered by the AIDCP;
- g. *National authority* is the department of government or other entity designated by each Party as responsible for implementing and operating the tuna tracking and verification program described in this document;
- h. *IATTC* is the Inter-American Tropical Tuna Commission;
- i. *Secretariat* is the staff of the IATTC;
- j. *Captain* is the person aboard the vessel who has legal responsibility for the vessel while at sea and in port;
- k. *Engineer* is the person aboard the vessel responsible for preparation of wells and the loading of the catch into the prepared wells;
- l. *Observer* is the person assigned to the vessel by the IATTC or the Party's national observer program to record the vessel's fishing activities;
- m. *Vessel* includes any vessel which catches, stores, or transports tuna covered by this tracking and verification program;
- n. *Well* is any compartment on a purse-seine vessel in which tuna is stored in a freezing brine solution;
- o. *Set* is the act of deploying and retrieving the purse seine in order to catch tuna;

- p. *Bin* is any container used to store tuna after unloading, during cold storage, or for transport to processing.
- q. A fishing trip *terminates* when a vessel unloads two-thirds or more of its catch, during a single unloading or during a series of partial unloadings.

2. GENERAL

This document describes a system for tracking tuna caught in the Agreement Area by vessels fishing under the AIDCP. The sole purpose of this system is to enable dolphin safe tuna to be distinguished from non-dolphin safe tuna from the time it is caught to the time it is ready for retail sale. This system is based on the premise that dolphin safe tuna shall, from the time of capture, during unloading, storage, transfer, and processing, be kept separate from non-dolphin safe tuna. To this end the system shall be based on a Tuna Tracking Form (TTF) and additional verification procedures described in this document or developed by individual Parties for use within their respective territories.

The national authority of the Party under whose jurisdiction a fishing vessel operates shall be responsible for tracking the tuna caught, transported, or unloaded by that vessel, but may, by mutual consent, delegate the observation of unloadings and transfers to the national authority of the Party in which the unloading or transfer takes place. The national authority of the Party in which the tuna is processed becomes responsible for the tracking and verification of the dolphin-safe status of all such tuna when it enters a processing plant located in the jurisdiction of that Party, regardless of the flag of the catcher vessel, and for communicating the information to the Secretariat.

It shall be the responsibility of each national authority to establish and maintain the systems, databases, and regulations necessary to implement the system in areas under its jurisdiction. Each Party shall provide to the Secretariat a report detailing the tracking and verification program established by that Party under its national laws and regulations.

Each Party shall provide to the Secretariat, and update as necessary, the name, mailing address, telephone and fax numbers, and e-mail address of a designated contact person at its national authority who shall be responsible for all matters pertaining to the program described in this document, and the Secretariat shall circulate a list of all such contact persons to all national authorities.

3. TUNA TRACKING FORM (TTF)

The Secretariat shall be responsible for producing the TTFs, which shall be in both English and Spanish, in sufficient quantity to be used throughout the Agreement Area by all the Parties; for distributing the forms to the national authorities; for training a representative of each national authority in the proper use and handling of the form; and for maintaining physical control of all completed TTFs, once they are returned to the Secretariat by the national authority in accordance with its national laws and regulations.

1. TTFs utilized during a trip shall be identified by a unique number, which shall be the IATTC cruise number to which it corresponds, and shall have provision for recording and endorsing information concerning each set made during a fishing trip which would enable the contents of any of the vessel's wells to be identified as dolphin safe or non-dolphin safe.
2. Dolphin safe and non-dolphin safe tuna caught in the course of a trip shall be recorded on separate TTFs.
3. The Secretariat shall issue the TTFs to observers, except that in cases where the Party with jurisdiction over the vessel has a national observer program in operation, the pertinent national authority shall issue the TTFs to observers of its national observer program. The cruise number shall be recorded on the TTF at the beginning of each trip, and all tuna caught during that trip shall be recorded on the relevant TTF.
4. After a trip, the original TTF(s), with total confirmed quantities of tuna unloaded or transferred from

that trip, shall be retained by the competent national authority, as follows:

- a. If the tuna is to be processed within the territory of the Party under whose jurisdiction the fishing vessel operates, the original TTF(s) shall be submitted to the national authority of that Party;
 - b. If the tuna is to be processed within the jurisdiction of a Party other than the Party under whose jurisdiction the fishing vessel operates, at the completion of unloading the tuna the responsibility for tracking passes to the national authority of the Party in whose territory the tuna is to be processed. In such a case, the original TTF(s) is (are) submitted to the national authority of the Party under whose jurisdiction the tuna is to be processed, and a copy of the TTF(s) is (are) provided to the national authority of the Party under whose jurisdiction the vessel operates.
5. Within ten days of receipt of a TTF, the competent national authority shall transmit the TTF to the Secretariat.
 6. TTFs shall be treated by the competent national authority as confidential official documents of the IDCP, consistent with Article XVIII of the AIDCP, and the AIDCP Rules of Confidentiality.

4. FISHING OPERATIONS

1. At sack-up during each set, and prior to brailing or loading of tuna aboard the vessel and into wells, the observer determines whether or not dolphin mortality or serious injury has occurred in the set and notifies the captain immediately of his determination.
2. On the basis of the observer's determination, the tuna is designated either dolphin safe or non-dolphin safe. The tuna is brailed and loaded into a prepared well or wells which already contain either dolphin safe tuna or non-dolphin safe tuna, as applicable, or into a prepared but empty well or wells which shall then be designated dolphin safe or non-dolphin safe, as applicable.
3. At the completion of brailing, when there is no further question as to whether the tuna is dolphin safe or not, the observer, in consultation with the engineer, shall record on the appropriate TTF the species and estimated quantity of tuna loaded into each well used in that set. Both the observer and the engineer shall initial the entry for each set.
4. Within a reasonable period after the completion of loading of non-dolphin safe tuna, the observer may confirm the number(s) of the well(s) receiving the tuna by noting the subsequent change in temperature in the well(s).
5. Transfers of tuna from the net of one fishing vessel to another fishing vessel at sea in the course of a trip shall be documented on the TTF(s), specifying the quantity, species, and dolphin safe status of the tuna being transferred. The transfer shall be documented on the TTF(s) of both the transferring and receiving vessels.
6. At the end of each fishing trip, when no more sets are to be made, the observer and the captain shall review the TTF(s), make any additional notes, and both will sign the form.

5. UNLOADING

1. The captain, managing owner, or agent of a vessel returning to port to unload part or all of its catch shall provide sufficient notice of the vessel's intended place and schedule of unloading to the competent national authority to allow for preparations to be made for monitoring the unloading of that tuna.
2. If a trip terminates when a vessel enters port to unload part of its catch, new TTF(s) shall be assigned to the new trip, and the information concerning any tuna retained on the vessel shall be recorded as the first entry on the TTF(s) for the new trip. If the trip is not terminated following a partial unloading, the vessel shall retain the original TTF(s) and shall submit a copy of that TTF(s), with original signatures, to the national authority of the Party where the tuna was unloaded. In either case,

the species, dolphin safe status, and amount of tuna unloaded shall be noted on the respective original TTF(s).

3. If tuna is unloaded from a fishing vessel in port and subsequently loaded aboard a carrier vessel for transport to a processing location, the Party under whose jurisdiction the fishing vessel operates shall be responsible for obtaining the TTF(s), retaining documentation of the unloading, including recording of the total confirmed scale weight if the tuna is weighed at that time, verifying that the dolphin safe tuna is kept separated from the non-dolphin safe tuna during the carrier loading and transporting process, and transmitting all relevant documentation to the Secretariat. Dolphin safe tuna and non-dolphin safe tuna may be stored in the same hold on a carrier vessel provided that the two are kept physically separate, using netting or similar material, and the non-dolphin safe tuna is clearly identified as such.
4. If the tuna is unloaded directly to a processing facility, the national authority of the Party in whose area of jurisdiction the tuna is to be processed shall be responsible for retaining documentation of the unloading of the tuna and recording of the separate confirmed scale weight for dolphin safe and non-dolphin safe tuna. The competent national authority shall be responsible for returning the original TTF to the Secretariat for entry of the information into a database and for continued tracking of that tuna, and a copy of the TTF(s) shall be forwarded to the national authority of the Party under whose jurisdiction the fishing vessel operates if different from the State where the tuna is processed.
5. If the tuna is unloaded within the jurisdiction of a State not party to the Agreement, the national authority of the Party under whose jurisdiction the vessel operates shall make arrangements with the State in whose jurisdiction unloading occurs to certify the dolphin safe status of the tuna being unloaded and to ensure that the TTF(s) are transferred to the Secretariat.
6. Dolphin safe and non-dolphin safe tuna shall be unloaded from fishing or carrier vessels into separate bins. Each bin shall be identified with the corresponding TTF number, the dolphin safe status of the tuna, and confirmed scale weight for the tuna in that bin.
7. Each sale of a portion of the catch shall reference the corresponding TTF number, which will accompany the tuna through every step of processing. In the event of transfers of ownership after the national authority has transferred to the Secretariat possession of the TTF(s), the national authority of the transferring Party shall be responsible for reporting any such transfers of ownership to the Secretariat, specifying the TTF number(s), the species and quantity (scale weight) of tuna being transferred, and the recipient.
8. The Parties shall determine means by which to document, within this system, tuna unloaded by purse-seine vessels operating in the Agreement Area but not covered by the AIDCP. Tracking shall include confirmation of unloaded weight and, at the discretion of each Party, review of the vessel logbook.

6. STORAGE, PROCESSING, AND MARKETING

The Parties may establish tracking and verification procedures for storage, processing, and marketing of tuna and tuna products that best fit the business practices within their own territories, as long as those procedures include the following requirements:

- a. Any change in ownership of any unprocessed tuna covered by a TTF number shall be handled in accordance with Section 5, paragraphs 3, 4 and 7, and shall be reported to the Secretariat by the competent national authority.
- b. During processing, dolphin safe and non-dolphin safe tuna shall not be processed on the same lines at the same time.
- c. Processors shall maintain records complete enough to allow the lot numbers of processed tuna to be traced back to the corresponding TTF number.

- d. Processed dolphin safe tuna destined for export shall be accompanied by a certification of its “dolphin safe” status issued by the competent national authority, including reference to the corresponding TTF number, provided that such documentation shall not reference details of fishing operations, except as relates to identification of types of fishing gear.

Any Party may utilize a certification concerning the “dolphin safe” status of tuna in accordance with the AIDCP, the System for Tracking and Verification of Tuna, and the procedures for Certification and Labeling of Dolphin Safe Tuna.

7. PERIODIC AUDITS AND SPOT CHECKS

Consistent with the principles and objectives of the AIDCP concerning multilateral cooperation in the management and implementation of this program, the national programs established by the Parties, to track and verify tuna harvested by vessels in the Agreement Area, along with the data management and certification program described within Sections 2, 3, 5 and 6 above, shall include periodic audits and spot checks for caught, landed and processed tuna products, mechanisms for communication and cooperation between and among national authorities, and timely access by the Secretariat to relevant data.

The Parties commit, while reserving their national sovereignty prerogatives, to work cooperatively towards the development of an international program to facilitate general reviews and spot checks of national tracking and verification programs. Consistent with this commitment, the Parties shall make available, or request the Secretariat to make available, to the International Review Panel (IRP) such reports and documentation on the tracking and verification program, including TTFs, as might be requested by that Panel, provided that the presentation of such documentation shall be subject to normal IRP procedures under the AIDCP Rules of Confidentiality.

The Parties, at any time, may request that the Secretariat verify the dolphin safe status of tuna by reference to the *AIDCP Dolphin Safe Certificate* number or TTF number. The Secretariat shall respond to such a request with confirmation of the status of that tuna on the basis of tracking information contained within the data and documentation transmitted to the Secretariat, provided that such report by the Secretariat shall be consistent with the Agreement Rules of Confidentiality adopted in October 2000 and as they may be amended.

The Secretariat shall respond, consistent with the AIDCP Rules of Confidentiality, to inquiries from States not party to the Agreement requesting confirmation of the dolphin safe status of tuna entering or seeking entry to their territory. The Secretariat shall periodically provide a report of such requests to the Parties.

Appendix 4.

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM RESOLUTION

TO ESTABLISH PROCEDURES FOR *AIDCP DOLPHIN SAFE TUNA* CERTIFICATION

20 JUNE 2001

The Parties to the Agreement on the International Dolphin Conservation Program (AIDCP), at the 5th Meeting of the Parties, held June 15, 2001, in San Salvador, El Salvador,

Hereby agree to adopt the following Procedures for AIDCP Dolphin-Safe Tuna Certification. The Procedures shall take effect thirty days after the date of adoption of this resolution.

PROCEDURES FOR *AIDCP DOLPHIN SAFE TUNA* CERTIFICATION

1. DEFINITIONS

The terms used in this document are as defined in the AIDCP System for Tracking and Verification of Tuna, and as follows:

Agreement or AIDCP: the 1998 Agreement on the International Dolphin Conservation Program.

AIDCP Dolphin Safe Tuna Certificate: Document issued by the competent national authority, evidence of the dolphin-safe status of tuna and tuna products, in accordance with the definition of the AIDCP System for Tracking and Verification of Tuna.

AIDCP Dolphin Safe Tuna Label: Graphic representation which distinguishes *dolphin safe* tuna and tuna products, as defined in the System for Tracking and Verifying Tuna, which can be used on the packaging of tuna certified under this resolution.

Competent national authority: The department of government or other entity designated by each Party which is responsible for implementing and operating the procedures for the Certification of *AIDCP Dolphin Safe* tuna.

2. CERTIFICATION OF *AIDCP DOLPHIN SAFE TUNA* AND TUNA PRODUCTS

1. Application of the procedures for the use of the *AIDCP Dolphin Safe Tuna Certificate* shall be voluntary for each Party, especially in the event that they may be inconsistent with the national laws of a Party.
2. Notwithstanding paragraph 1 above, any Party that chooses to issue the *AIDCP Dolphin Safe Tuna Certificate* shall do so only in accordance with the following procedures:
 - a. The Party within whose jurisdiction the tuna is unloaded or, as appropriate, the flag state of the vessel, shall be responsible for issuing the *AIDCP Dolphin Safe Tuna Certificate* in accordance with the System for Tracking and Verification of Tuna.
 - b. The *AIDCP Dolphin Safe Tuna Certificate* forms shall be produced in a fixed format created by the Secretariat, on security paper and numbered consecutively.
 - c. The *AIDCP Dolphin Safe Tuna Certificate* forms shall be provided by the Secretariat to the Parties that are using the *AIDCP Dolphin Safe Tuna Certificate* and are implementing the System for Tracking and Verification of Tuna.
 - d. The *AIDCP Dolphin Safe Tuna Certificate* shall include the date; the corresponding Tuna

Tracking Form (TTF) number; the weight of the tuna by species; if processed, type of processing and processor lot number; and the signature of the competent national authority, deposited with the Secretariat.

- e. The competent national authority shall be responsible for submitting to the Secretariat, within the first five (5) days of the month, all copies of the *AIDCP Dolphin Safe* Tuna Certificate, issued within the previous month.
 - f. For vessels with DMLs, only tuna caught by vessels with captains on the List of Qualified Captains maintained by the Secretariat shall be eligible to receive the *AIDCP Dolphin Safe* Certificate. This provision shall not apply to those vessels authorized to fish in the Agreement Area that do not have a DML and that do not fish for tunas associated with dolphins.
3. At the end of one year, the Meeting of the Parties shall review the effectiveness of these procedures. Based, *inter alia*, on this review, the Meeting of the Parties may consider such conditions, modifications or additions to the procedures as may be necessary.
 4. The Parties shall apply these procedures in a manner consistent with the AIDCP, and taking into account other resolutions adopted by the Parties for the purpose of promoting the objectives of the Agreement.

3. VERIFICATION

Subject to the AIDCP Rules of Confidentiality:

- a. Parties shall submit their Tuna Tracking and Verification Programs to the IRP, through the Secretariat, in order to analyze their consistency with the AIDCP Tuna Tracking and Verification System and the provisions of Annex IX of the AIDCP.
- b. Each competent national authority shall be responsible for issuing the *AIDCP Dolphin Safe* Certification and, while reserving its national sovereign rights, shall cooperate with the Secretariat to design and carry out a program of general reviews and spot checks of the implementation of its national tracking and verification program, in accordance with guidelines developed by the Parties. The competent national authority will offer all necessary administrative support in the design and implementation of such a program.
- c. The Parties, through the IRP, will conduct a review of the *AIDCP Dolphin Safe* Tuna Certification procedures, at least annually, based on, *inter alia*, a comparison by the Secretariat of the data contained in the TTFs with that contained in the Certification forms submitted to the Secretariat. The IRP shall submit any comment or recommendation to the Meeting of the Parties for its consideration.
- d. The Parties, through the IRP, shall analyze possible situations that could undermine the implementation of the procedures for certification, and may recommend to the Meeting of the Parties relevant measures for their consideration consistent with the AIDCP and relevant provisions of international law.

4. ADOPTION OF THE AIDCP DOLPHIN SAFE CERTIFICATE AND LABEL

The Meeting of the Parties approves the general format of *AIDCP Dolphin Safe* Tuna Certificate and the *AIDCP Dolphin Safe* Tuna Label, appended hereto.

5. PUBLIC EDUCATION

- a. Each Party, as appropriate, and the Secretariat shall give due publicity to the new *AIDCP Dolphin Safe* Certificate and *AIDCP Dolphin Safe* Label through relevant communications to interested governmental and non-governmental entities .

- b. The Parties agree to disseminate objective information to, *inter alia*, importers, fishermen's organizations, and non-governmental organizations, using their own capabilities within their national and international markets, to support an accurate public perception of the AIDCP, in order to increase the broad understanding of the AIDCP and its objectives.
- c. The Parties, through the Secretariat, may support the design and implementation of an international public education campaign to accomplish the objectives set forth within this section.

6. TRANSITORY PROVISION

Within thirty days following the adoption of this resolution, the Secretariat shall provide the *AIDCP Dolphin Safe* Certificate forms described in paragraph 2(2)(b) to the Parties, who can begin issuing the respective certificates.

Appendix 5.

**AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
RESOLUTION
ON AMENDING THE RULES FOR QUALIFIED CAPTAIN PURSUANT TO THE
AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
20 JUNE 2001**

The Parties to the Agreement on the International Dolphin Conservation Program (AIDCP), at the 5th Meeting of the Parties, held June 15, 2001, in San Salvador, El Salvador,

Hereby agree as follows:

1. To amend the requirements for qualified captains to remove any captain with an infraction for the use of explosives with which the relevant Party concurs, in accordance with Annex IV, section III, paragraph 4, from the List of Qualified Captains maintained by the AIDCP Secretariat for a period of 3 months.
2. For a captain at sea on the date on which such removal from the list would otherwise occur, the action taken pursuant to paragraph 1 shall not take effect until the date that fishing trip ends.
3. The IRP shall recommend to the Meeting of the Parties such additional procedures as may be necessary to implement the provisions of this resolution.
4. This resolution shall enter into force thirty days from the date of its adoption.

Appendix 6.

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

RESOLUTION

**TO PROMOTE COMPLIANCE WITH THE AGREEMENT ON THE
INTERNATIONAL DOLPHIN CONSERVATION PROGRAM**

20 JUNE 2001

The Parties to the Agreement on the International Dolphin Conservation (AIDCP), at the 5th Meeting of the Parties, held June 15, 2001, in San Salvador, El Salvador:

Reiterating their commitment to further the goals and objectives of the AIDCP, through its effective implementation,

Desiring to promote the implementation of the procedures of the AIDCP Dolphin Safe Tuna Certification,

Have agreed to:

1. Take action, through the mechanisms of the AIDCP and through their respective competent national authorities, to promote full compliance with the obligations of the AIDCP and, in particular, achieve the elimination of infractions of the AIDCP, especially the use of explosives in sets where dolphins are present.
2. Provide the International Review Panel (IRP), no later than August 31, 2001, with information on the sanctions applicable for infractions of the obligations established by the AIDCP and ensure that such sanctions are consistent with the provisions of Article XVI, paragraph 2, of the AIDCP.
3. Conduct an annual review of the level of all major and other infractions and to take further action, collectively as well as through their respective competent national authorities, to reduce the level of infractions to the lowest possible levels.
4. Revise the List of Infractions to elevate the “use of explosives when fishing on dolphins” and “the fishing captain assigned to a DML vessel is not on the AIDCP list of qualified fishing captains” from “other” to “major” infractions.
5. In the event that the level of infractions in general, or of any particular infraction, by vessels operating under the jurisdiction of a Party rises to a level that the Parties, through the IRP, determine undermines the effectiveness of the provisions of the AIDCP, the IRP may recommend that the Parties, working cooperatively and in respect of national sovereignty, seek ways to promote and encourage efforts by that Party to reduce the level of infractions and improve compliance with the AIDCP.
6. This resolution shall enter into force thirty days from the date of its adoption.

Appendix 7.

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

RESOLUTION

**ON AMENDING THE RULES OF CONFIDENTIALITY OF THE AGREEMENT ON
THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM**

20 JUNE 2001

The Parties to the Agreement on the International Dolphin Conservation Program (AIDCP), at the 5th Meeting of the Parties, held June 15, 2001, in San Salvador, El Salvador,

Hereby agree to amend the Rules of Confidentiality of the AIDCP, adopted in October 2000, as follows:

1. Change Paragraph 1 to: “The following information associated with the responsibilities and activities of the On-Board Observer Program, and with the activities of the Secretariat in connection with the *AIDCP Dolphin Safe* Certification procedures, shall be treated as confidential:”
2. Change Paragraph 2 to: “All information collected by the On-Board Observer Program, or by the Secretariat in connection with the *AIDCP Dolphin Safe* Certification procedures, shall be made available to the government under whose jurisdiction the vessel operates.”

Appendix 8.



FOR IMMEDIATE RELEASE

21 June 2001

San Salvador, El Salvador - The countries and regional economic integration organizations participating in the Agreement on the International Dolphin Conservation Program (AIDCP), meeting here for the 5th Meeting of the Parties to the AIDCP, today announced the creation of a unique and far-reaching program to certify and label tuna caught in the eastern Pacific Ocean consistent with the AIDCP and without mortality or serious injury to dolphins.

The new *AIDCP Dolphin Safe* Tuna Certification is the only one in the world supported by a comprehensive and transparent multilateral tracking and verification system administered by member governments and the treaty organization that will ensure full consumer confidence in the *AIDCP Dolphin Safe* label and the certification behind it.

In a joint statement released by the Parties to the AIDCP, they said, “For the first time, consumers will be able to purchase ‘Dolphin Safe’ tuna with absolute confidence in what the label means and that it means what it says. Consumers will know that the *AIDCP Dolphin Safe* tuna they are buying has been tracked and verified from the moment it comes out of the sea to the moment the label goes on the can.”

The *AIDCP Dolphin Safe* Tuna Certification program was originally proposed last year by Colombia as a means by which to inform consumers about the full scope of the International Dolphin Conservation Program (IDCP) in the eastern Pacific Ocean tuna fishery. In their joint statement, the Parties to the AIDCP recognized the need to institute a comprehensive national and international education effort to improve public understanding of the objectives and successes of the IDCP, and to correct misinformation about the program that has been or may be propagated by others.

In addition to approving the new government administered tracking, verification, certification and labelling regimes, the Parties took additional substantive actions to further support consumer confidence in the *AIDCP Dolphin Safe* Tuna Certification, including continuous enhancements to the tracking and verification system and the adoption of clear measures to promote compliance with all aspects of the IDCP program generally.

In the joint statement, the Parties said, “We are all understandably proud of the recognized success of the International Dolphin Conservation Program, a program unparalleled in the world. We have taken the initiative to create this certification program as a means by which to herald our program to the world and to support our industries and the responsible NGOs that have helped to build this program into what it is today. After all, none of the successes of the program would have been possible without the tremendous dedication and commitment of the tuna industries operating in the eastern Pacific Ocean, and the cooperative support of such prominent conservation organizations as The Ocean Conservancy, World Wildlife Fund, National Wildlife Federation, Greenpeace and the Environmental Defense Fund, among others.”

Countries and regional economic integration organizations participating in the AIDCP include Colombia, Costa Rica, Ecuador, El Salvador, the European Union, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, the United States, Vanuatu and Venezuela

Appendix 9.

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM GENERAL GUIDELINES FOR ALLOWING THE EXEMPTION OF FORCE MAJEURE OR EXTRAORDINARY CIRCUMSTANCES

1. All requests for exemption contemplated under Section II of Annex IV of the AIDCP shall be sent to the Secretariat by April 1.
2. The Parties shall send the evidence necessary to demonstrate that the facts on which the request for exemption is based are unforeseeable or beyond the vessel owner's control.
3. The Secretariat shall immediately send the request to the other Parties for their consideration, duly coded in order to maintain the anonymity of the name, flag and owner of the vessel.
4. The request shall be considered accepted, unless a Party objects to it formally and with cause, in which case the Secretariat shall notify all Parties of the objection. The objection shall be considered accepted if it is supported by a majority of the government members of the International Review Panel.

Appendix 10.

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM RESOLUTION ON FISHING BY VESSELS OF NON-PARTIES

20 JUNE 2001

The Parties to the Agreement on the International Dolphin Conservation Program (AIDCP), at the 5th Meeting of the Parties, held June 15, 2001, in San Salvador, El Salvador,

Hereby agree as follows:

1. The Parties request that the Secretariat compile, based on observer reports and other available information, a list of purse-seine vessels identified as fishing in the Agreement Area that do not meet one of the following criteria: 1) the vessel is operating under the jurisdiction of a Party to the Agreement; or 2) the vessel is operating under the jurisdiction of a non-Party that is cooperating with the Parties to the Agreement by carrying on board an observer from the On-Board Observer Program and applying the relevant provisions of the Agreement.
2. For each vessel identified pursuant to paragraph 1, the Parties request that the Secretariat send a letter to the competent national authority of the flag state and request information regarding the status of the vessel. In particular, such communication should request that the flag state provide information regarding whether the vessel is authorized by the flag state to engage in fishing activities in the Agreement Area and, if so, whether the flag state is prepared and able to apply the relevant provisions of the Agreement with respect to the operation of the vessel in question, including the placement of an observer from the On-Board Observer Program.
3. If, from the response to such inquiry, the Meeting of the Parties determines that the vessel in question is not meeting the criteria of paragraph 2, or that the flag state is not prepared and able to apply the Agreement in respect of the vessel in question, the vessel shall be placed on the list of non-cooperating vessels. In such case, the Parties shall request that the IATTC not include such vessel on its Regional Vessel Register.
4. The Parties request that the Director present an annual report to the Meeting of the Parties. This report should include a list of vessels identified pursuant to paragraph 1 and the responses to all inquiries sent pursuant to paragraph 2.