

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

57th MEETING

Guayaquil, Ecuador

22 June 2015

DOCUMENT IRP-57-10

**CONSIDERATION OF ADDITIONAL GUIDELINES TO GOVERN INTERNAL
REASSIGNMENTS OF DMLs BY PARTIES**

1. BACKGROUND

At the 56th Meeting of the IRP in October 2014, the the Secretariat reported a case where a newly-constructed vessel received a DML, after a consultation by correspondence, and with no objection being made, the Party in question reassigned a portion of a full-year DML allocated to another vessel for 2014 in order to grant a DML to the new vessel. The Party took this action because construction of the vessel had not been completed in time to allow for a request for a second-semester DML, and by the time construction was complete the Reserve DML Allocation (RDA) had already been exhausted due to the assignment of late-season DMLs to four other new vessels. One Party raised concerns that such a procedure might not be contemplated by or consistent with Annex IV of the Agreement, and suggested that additional guidelines would need to be formulated by the Parties in order to deal with similar situations in the future.

2. SCOPE OF THE ISSUE

2.1. Options currently available in Annex IV

Before examining possible solutions, it is important to first understand the scope of the problem. Annex IV provides two options for vessels that, for whatever reason, do not receive a full-year DML and yet intend to fish on dolphins in the current year. Vessels that can anticipate their needs prior to April 1 can ask their government to request a second-semester DML; those that do not request a second-semester DML can request, through their government, a DML from the RDA, consistent with the provisions of Annex IV, Section I, Paragraph 8. In fact, as will be explained below, in most years these provisions have been fully adequate to accommodate the DML needs of otherwise qualified vessels.

However, Annex IV, Section IV, Paragraph 2 anticipates the possibility of extraordinary circumstances unforeseen in the Agreement, and contemplates that other procedures or actions can be used to implement the DML system, provided that the Parties approve them following a recommendation from the IRP.

2.2. Past instances of DML reassignment

Since the Agreement came into force, there have been only 7 instances of partial-year DML assignments outside of the second-semester and RDA assignment processes.

First, in 2006, one Party had two vessels that lost their DMLs for failing to make a set on dolphins prior to April 1. Subsequently, at the Meeting of the Parties in June of that year, the Party requested that it be allowed to reduce the DMLs assigned to the other vessels in its fleet in order to then reassign those remainders to provide these two vessels with DMLs of 17 dolphins each, and the Parties approved the request.

Similarly, in 2007, the same Party requested approval to subtract portions of the DMLs assigned to four of its vessels in order to reassign a DML of 15 dolphins to another of its vessels that had failed to make a

set on dolphins prior to April 1. The Parties approved that action at their meeting in June of that year.

In 2008, the Parties again approved a similar action for two different Parties. One Party was granted approval to reassign DMLs internally in order to provide a DML for a vessel that had renounced its DML earlier in the year. The other Party was allowed to reassign DMLs to a vessel that had forfeited its DML for failure to set on dolphins prior to April 1.

In 2012, a Party requested approval to subtract a portion of the DML assigned to one of its vessels in order to reassign a DML of 19 dolphins to another of its vessels that had failed to make a set on dolphins prior to April 1. The Parties approved that action their meeting in June of that year.

The seventh and final instance occurred in 2014, and prompted the preparation of this document. The Party internally reassigned part of a DML already assigned to other vessel flying its flag after finding that a newly-constructed vessel could not receive a DML through the RDA process because the RDA had been exhausted. This situation was extraordinary because this was the first time that the RDA had not been adequate to accommodate all new vessels and other special circumstances in a given year. The procedure followed by the Party was similar to what had been done before with the other 6 vessels mentioned above except that the vessel receiving the reassigned DML had not previously received a DML for the same year; after consultation with the Parties and in the absence of any objection, the request was considered approved.

3. POSSIBLE SOLUTIONS

In view of the limited scope and infrequent nature of the previous cases of DML reassignment, the Parties could conclude that no new guidelines or procedures are necessary. The instances of Parties seeking to assign or reassign DMLs to vessels outside of the procedures already contemplated in Annex IV are rare. Additionally, the provisions of Annex IV, Section IV, Paragraph 2 appear to contain adequate flexibility to allow the Parties to deal with the great majority of extraordinary cases that have been brought forward to date. The exhaustion of the RDA and subsequent action by a Party to reassign DMLs internally to a new, qualified vessel is unique and has a very low probability of occurring again.

However, if the Parties desire to create new guidelines to anticipate and accommodate similar circumstances in the future, the Secretariat recommends that this be done through amendments to Annex IV, so as to maintain all of the applicable DML guidelines in a single document. The Parties could amend the guidelines to allow the internal reassignment of DMLs to new, qualified vessels, without prior approval by the Parties in limited circumstances where it is not possible for a vessel to make a request for a second-semester DML and the RDA has been exhausted. Such reassignments should only be allowed after a finding by the Director that the vessel would otherwise be qualified for a DML from the RDA according to the provisions of Section I, Paragraph 8, of Annex 4. Additionally, the amount of the reassigned DML should not in any case be larger than the amount of a second-semester DML and should be adjusted taking into account the portion of the year remaining at the time of the request. Any such reassignments of DMLs should only occur among vessels of the same flag, as has been the past practice, and no vessel that has pending debts to the IDCP program should receive a DML through reassignment.