

INTERNATIONAL REVIEW PANEL
MINUTES OF THE 13TH MEETING

October 19 and 21, 1996
La Jolla, California, U.S.A.

Presider: Hilda Díaz-Soltero

The 13th meeting of the International Review Panel (IRP) was held at the Southwest Fisheries Science Center in La Jolla, California, USA, on October 19 and 21, 1996. The attendees are listed in Appendix 1.

Agenda Items 1 and 2. Opening of the meeting and Election of Presider

The meeting was called to order by Dr. James Joseph, Director of the Inter-American Tropical Tuna Commission (IATTC), at 9:20 a.m. on October 19, 1996. He asked for nominations for Presider of the meeting, and Ms. Hilda Díaz-Soltero of the United States was elected.

Agenda Item 3. Approval of agenda

The Panel approved the provisional agenda (Appendix 2), but decided to postpone the discussion of Agenda Item 4 until later in the meeting, in order to allow more time to study the minutes of the previous meeting.

Agenda Item 4. Approval of minutes of the 12th Meeting of the IRP

The Panel approved the minutes of its 12th meeting, with minor modifications.

Agenda Item 5. Dolphin Mortality Limits (DMLs)

a. Review of 1996 DMLs

The Secretariat explained that 94 vessels had been assigned DMLs of 96 dolphins for 1996. Thirty-four of those vessels had forfeited their DMLs by not using them prior to June 1, 1996; 23 of those, plus 1 additional vessel, had applied for and been granted second-semester DMLs of 48 dolphins. The Panel had approved, by mail vote, using the same mechanism for allocating second-semester DMLs in 1996 as was used in 1995 (Appendix 3). To date no vessel had exceeded its DML (Appendix 4), and the projected total mortality for the year was 2,600 to 3,000 dolphins.

b. DMLs for 1997

A decision on how to apportion the overall DML for 1997 among individual vessels could not be taken at the present meeting because the IRP had agreed by postal ballot to postpone the deadline for applications for DMLs for 1997 until December 1.

The representative of CANAINPES stated that the Mexican tuna fleet would observe only Mexican law and would not recognize DMLs, as it had been doing for some months. It would continue with 100% observer coverage, preferably with observers from the Mexican national program only, and with a mortality limit of an

average of 1.5 dolphins per set per semester; if the government sought to impose DMLs, the industry would resort to legal action to block such a move. In the absence of the Mexican government delegation, the Panel decided to postpone the discussion of the subject until later in the meeting.

The Panel then discussed the case of a vessel with a DML which had changed flag to Honduras, a nation not party to the La Jolla Agreement. In previous cases it had been agreed that a vessel making such a change forfeited its DML, and the Panel agreed that this procedure would apply in this case also. It was noted that Honduras had not shown interest in joining the International Dolphin Conservation Program (IDCP), and it was suggested that Belize and Honduras should be approached by the member governments through diplomatic channels in order to encourage them to join.

Members of the Panel expressed concern about the possibility of larger numbers of vessels entering the fishery and the effect this would have on DMLs. The question of access to the fishery was discussed at length. The Panel agreed that the intergovernmental plenary should be asked to establish a working group to look into options for limiting access, and to provide the IATTC with the funds necessary for the activities of this group. The Secretariat noted that the situation had parallels to the 1974-77 period, when no agreement could be reached on apportioning access to the fishery, although tunas, not dolphins, were the bone of contention. CANAINPES proposed postponing the consideration of the issue until later in the meeting, and suggested that the working group should investigate mechanisms other than quotas, since any sort of quota would always lead to the same difficulties. The Panel agreed to postpone the discussion.

The Panel discussed how the overall DML for 1997 could be divided among vessels if Mexico and Panama, neither of which was represented at the meeting, chose not to participate in the IDCP. The options were to either ignore the fleets of those nations when assigning DMLs, or attempt to estimate the mortality they might cause and subtract this from the overall DML before dividing the remainder among the other nations. The technical and practical difficulties of both options were discussed at length, and it was agreed that no decision could be taken before December 1, the deadline for applications for DMLs for 1997, but that in no case should the individual DML for any year be greater than that of the previous year.

Agenda Item 6. Review of observer data

The Secretariat presented and commented on the observer data regarding possible infractions reported since the Panel's previous meeting. Most of the infractions were night sets, and there were two cases of interference with observers by vessel personnel. The Panel agreed that observers should be warned that such situations could arise and told to respond firmly and clearly to any untoward approaches or threats, and asked the Secretariat to ensure that this was done. The government concerned in one of the cases of interference said that the case had been investigated, that the infraction had been confirmed and fines imposed. The Panel asked the Secretariat to write a letter to that government informing it of the violation, but recognizing that action had already been taken.

The Panel discussed the questions of the use of explosives during dolphin sets and of vessels fishing without dolphin safety panels, required for all vessels covered by the IDCP. The difficulty of enforcing a ban on carrying explosives aboard vessels was discussed, as was the question of whether the explosives used were bombs or flares, and the contention that, if used correctly to herd dolphins, such devices contributed to reducing dolphin mortality by keeping the animals away from potential problem areas. The Secretariat noted that there was no evidence of immediate mortality caused by the use of explosives, but that the potential later or lasting effects were unknown, so explosives had been banned as a precautionary measure. It was noted

that in the public mind the continued use of explosives was not easy to reconcile with the IDCP's stated aims, and that continued efforts should be made by governments and the industry to resolve the problem.

The status of the observers aboard fishing vessels was discussed. Venezuela, after announcing that it would impose fines in all the cases reported to it by the IRP, and had notified vessel owners and captains of its concern regarding gear infractions, said that it was considering making Venezuelan observers honorary public employees, which would clarify their position and give the government clear jurisdiction in cases of possible interference with observers.

Costa Rica noted that its national laws were in compliance with the provisions of the La Jolla Agreement, but that enforcement was hindered by the government's inability to obtain information about possible infractions committed by foreign vessels fishing in Costa Rican waters with a permit.

It was suggested that if a vessel fished "dolphin-safe," but had no dolphin safety panel, this infraction should be recorded on the "Dolphin-Safe" certificate issued for that trip, thus giving the owner an economic incentive to add a safety panel. It was also proposed that the question of vessels fishing without a safety panel should be added to the agenda for the next meeting.

Agenda Item 7. Procedures for dealing with special problem sets

The Secretariat reviewed the procedure followed in previous years, and noted that the three options open to the Panel were (a) do nothing, (b) use the same mechanism as in previous years, and (c) establish a permanent system. In view of the uncertainty surrounding the DMLs for 1997, the Panel decided to postpone a decision until its next meeting.

Agenda Item 8. Mortality rates in sets with few dolphins captured and no backdown

The Secretariat presented data (Appendix 5) showing that the average mortality in sets in which small numbers of dolphins were captured, whether accidentally or deliberately, was 87% lower when the backdown maneuver was performed than when it was not. He cautioned that the information was based on a small sample, but that the disparity between the two groups appeared significant.

Agenda Item 9. Proper techniques for releasing the bow *ortza* in lieu of backdown

The Secretariat also reported on its investigations of releasing the bow *ortza* as an alternative to backdown for releasing dolphins, and relayed to the Panel some of the comments made by various experienced captains. It was agreed that in the future the subject would be raised at all IATTC dolphin mortality reduction workshops, in order to obtain further information.

Agenda Item 10. Place and date of next meeting

The Panel agreed to hold its next meeting in Santa Marta, Colombia, during the second half of January, 1997, the exact dates to be agreed upon by consultation between the Secretariat and the Colombian government.

Agenda Item 11. Other business

The Panel approved the text of the cover letter (Appendix 6) for its Annual Report for 1995, and agreed that the U.S. delegation should present the report to the Plenary.

The Panel agreed to ask the Plenary to form a technical working group to study the question of access to the fishery and the potential consequences of changes in U.S. legislation and the implementation of the Declaration of Panama. A letter from President Clinton to President Zedillo, expressing support for the Declaration, was distributed by the U.S. delegation (Appendix 7). The consensus among the members of the Panel was that the program was successful and worthwhile, and should continue even if some participants chose to withdraw. The Panel also decided to ask the Plenary to seek funds for the IATTC to enable it to set up and administer the working group mentioned under Agenda Item 5.

Agenda Item 12. Adjournment

The meeting was adjourned at 4 p.m., on Monday, October 21, 1996.

Appendix 1.

**INTERNATIONAL REVIEW PANEL
PANEL INTERNACIONAL DE REVISION**

13th MEETING -13ª REUNION
La Jolla, California
October 19 and 21, 1996 — 19 y 21 de octubre de 1996

ATTENDEES -- ASISTENTES

COLOMBIA

OSVALDO RAFAEL PEREZ MOLINA
FOCION ESCORCIA SIERRA
Instituto Nacional de Pesca y Acuicultura

ARMANDO HERNANDEZ RODRIGUEZ
Cámara de la Pesca (ANDI)

COSTA RICA

TANIA LOPEZ LEE
Ministerio de Comercio Exterior

JAIME BASADRE OREAMUNO
Instituto Costarricense de Pesca y Acuicultura

JAIME BASADRE ANDRACA
Asesor

ECUADOR

LUIS TORRES NAVARRETTE
Ministerio de Industrias, Comercio, Integración y Pesca

JORGE VELEZ MENDEZ
Instituto Nacional de Pesca

UNITED STATES

HILDA DIAZ-SOLTERO
WANDA CAIN
JAMES LECKY
TIMOTHY PRICE
National Marine Fisheries Service

MARTIN HOCHMAN
National Oceanic and Atmospheric Administration

VANUATU

ANTHONY TILLET
Special Agent for the Commissioner of Maritime Affairs

VENEZUELA

HUGO ALSINA LAGOS
Servicio Autónomo de los Recursos Pesqueros y
Acuícolas (SARPA)

SANTOS VALERO
Ministerio de Relaciones Exteriores

EDUARDO PORCARELLI OSTOS
Instituto de Comercio Exterior

TUNA INDUSTRY - INDUSTRIA ATUNERA

FELIPE CHARAT
ALFONSO ROSIÑOL LLITERAS
CANAINPES

ENVIRONMENTAL ORGANIZATIONS--ORGANIZACIONES AMBIENTALISTAS

HECTOR LOPEZ
Fundación para la Defensa de la Naturaleza

TRACI ROMINE
Greenpeace International

ALEJANDRO VILLAMAR
Red Mexicana de Acción Frente al Libre Comercio

INTER-AMERICAN TROPICAL TUNA COMMISSION
COMISION INTERAMERICANA DEL ATUN TROPICAL

INTERNATIONAL REVIEW PANEL

13th MEETING

October 19 and 21, 1996 – La Jolla, California

AGENDA

1. Opening of meeting
2. Election of Presider
3. Approval of agenda
4. Approval of minutes of the 12th Meeting of the IRP
5. Dolphin Mortality Limits (DMLs):
 - a. Review of 1996 DMLs
 - b. DMLs for 1997
6. Review of observer data
7. Procedures for dealing with special problem sets
8. Mortality rates in sets with few dolphins captured and no backdown
9. Proper techniques for releasing the bow ortza in lieu of backdown
10. Place and date of next meeting
11. Other business
12. Adjournment

INTERNATIONAL REVIEW PANEL

**PROPOSED MECHANISM FOR ISSUING DOLPHIN MORTALITY LIMITS
FOR THE SECOND SEMESTER OF 1996**

The following agreement shall be applied to vessels which were issued a Dolphin Mortality Limit (DML) for 1996 and which did not utilize their DMLs by June 1 of that year:

1. These vessels shall lose all their original DML issued at the beginning of 1996.
2. If they wish to fish on dolphins in the second semester of 1996, they should request this in writing to the respective government, with copy to the IATTC, before June 14, 1996.
3. These vessels shall be assigned 50% of the original DML for 1996.
4. All boats which are issued a DML for the second semester of 1996 and which do not utilize it by December 1 of that year shall not be entitled to request a full-year DML for 1996, regardless of circumstances, but may request a DML for the second semester of 1996.

Vessels which were not issued a full-year DML for 1996 may request a DML for the second semester of 1996, subject to the following conditions, as established in the La Jolla Agreement and subsequent decisions:

- a. Request in writing before April 1.
- b. Payment of US\$ 12 per ton of carrying capacity.

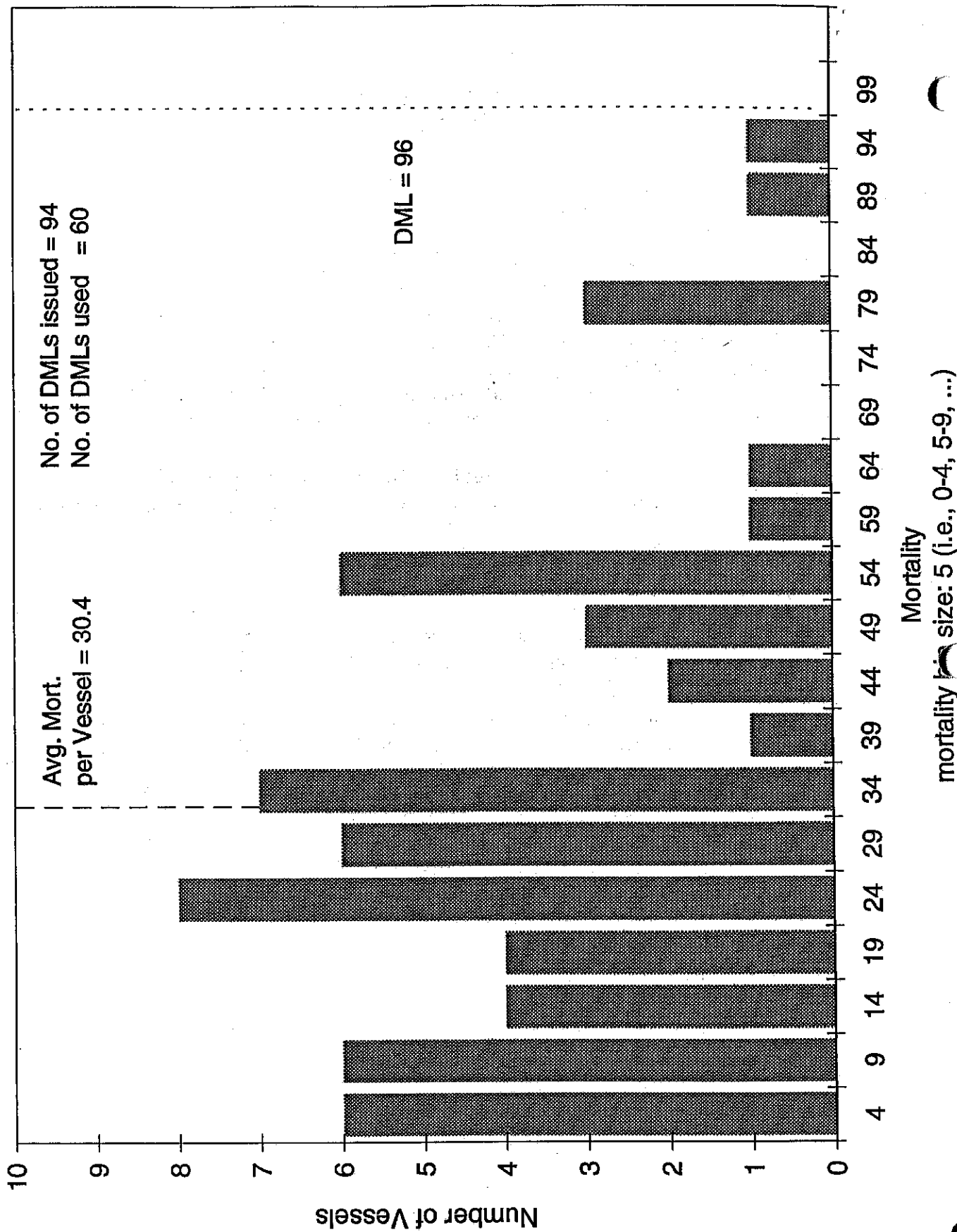
Provided there are DMLs available, these vessels shall be issued DMLs for the second semester of 1996 which shall not exceed 50% of the original DML for 1996.

In the working group established by the IRP, the examination of bonds and other financial instruments to ensure that DMLs are requested responsibly is a high priority.

MORTALITY CAUSED BY DML VESSELS - 1996 (AS OF OCT. 13)

(DML use = 1 or more intentional sets on dolphins; experimental set mortality excluded)

Appendix 4.



**Mortality in Intentional Dolphin Sets
With Capture of 1-5 Animals**

Sets with backdown

Year	No. of sets	Mortality	MPS
93	67	7	0.10
94	47	1	0.02
95	35	3	0.09
Totals	149	11	0.07

Sets without backdown

Year	No. of sets	Mortality	MPS
93	11	5	0.45
94	3	0	0.00
95	4	1	0.25
Totals	18	6	0.33

**Mortality in Intentional Dolphin Sets and Accidental Sets
With Capture of 1-5 Animals**

Sets with backdown

Year	No. of sets	Mortality	MPS
93	68	7	0.10
94	52	2	0.04
95	35	3	0.09
Totals	155	12	0.08

Sets without backdown

Year	No. of sets	Mortality	MPS
93	12	5	0.42
94	10	6	0.60
95	7	7	1.00
Totals	29	18	0.62

Appendix 6.

To: Members of the International Dolphin Conservation Program

From: Martin B. Hochman, Southwest Regional Counsel, NOAA, USA on behalf of the President of the 13th Meeting of the International Review Panel, Hilda Diaz- Soltero, Regional Administrator Southwest Region, National Marine Fisheries Service, USA

Subject: 1995 Annual Report of the International Review Panel

On behalf of the members of the International Review Panel of the International Dolphin Conservation Program, I am pleased to present the 1995 Annual Report which reviews the third year of operation of the IDCP, summarizes all possible infractions concerning dolphin mortality identified by the IRP, and the actions it took during its ninth, tenth, and eleventh meetings. Actions and resolutions of the participating nations (Plenary) during two intergovernmental meetings held in 1995 which affect the operation of the IRP and the IDCP are also summarized, as are the dolphin mortality levels in the fishery during 1995 and business that was pending before the IRP at the end of this reporting period.

In addition, on behalf of all of the members of the Panel I want to commend the staff of the IATTC for its continuing outstanding work in support of the Panel's meetings and activities. The staff's efforts are the essential basis for the productive work of the Panel.

THE WHITE HOUSE

WASHINGTON

October 7, 1996

Dear Mr. President:

As you know, our governments have been working diligently for several years to protect dolphins and other marine life in the Eastern Tropical Pacific. The adoption of the Panama Declaration last year brought with it the promise of further international cooperation in these efforts.

This year, the United States Congress considered legislation to implement the Panama Declaration. The House of Representatives passed such legislation by a large majority. However, despite the considerable efforts of my Administration and many others in our country who support the Panama Declaration, we were unable to secure final passage of the legislation.

I wanted to express my deep disappointment with the failure to enact legislation to implement the Panama Declaration this year. Let me assure you that passing such legislation is a top priority for my Administration and for me personally. We will work with members of the bipartisan coalition supporting the Panama Declaration to introduce implementing legislation in the first 30 days of the new Congress and to pass such legislation as soon as possible thereafter.

I believe it is important for us to continue to work together on this issue.

Sincerely,



His Excellency
Ernesto Zedillo Ponce de Leon
President of the United Mexican States
Mexico, D.F.

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