

INTERNATIONAL REVIEW PANEL

MINUTES OF THE 11TH MEETING

January 25-26, 1996

Ensenada, Mexico

Presider: Lic. Carlos Camacho Gaos

The eleventh meeting of the International Review Panel (IRP) was held at the Hotel San Nicolás in Ensenada, Mexico, on January 25-26, 1996. The attendees are listed in Appendix 1.

Agenda Items 1 & 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 10:15 a.m. on January 25, 1996. He asked for nominations for Presider of the meeting, and Lic. Carlos Camacho Gaos of Mexico was elected.

Agenda Item 3. Approval of the Agenda

The draft agenda was approved (Appendix 2). The delegation from Costa Rica indicated that it wished to make a presentation under Item 6.

Agenda Item 4. Approval of minutes of the 10th Meeting of the IRP

Dr. Joseph noted that the decision reported under Item 4(b) of the IRP's 10th meeting applied only to observers from non-governmental organizations (NGOs). The minutes were amended by adding the words "from NGOs" after "observers" in the first and second sentences.

Agenda Item 5: A description and illustration of the new sack-up procedure

The Secretariat presented a video illustrating two sack-up procedures, the traditional one using the skiff and a newer one which uses a boom on the seiner to lift the catch. It was noted that about half the fleet, and all the new vessels, use the latter technique.

Agenda Item 6: Information about rescue alternatives which might be used prior to backdown

a) Ortza release

The Secretariat noted that since the last meeting there had been three sets in which the bow ortza was released, but that there were still not enough data to allow conclusions about the effectiveness of this technique for releasing dolphins.

b) Use of divers

The Secretariat presented data for 1994 and 1995 showing the number of sets that used divers, the mortalities per set, and the numbers of dolphins rescued before and after backdown (Appendix 3). It was noted that the presentation was preliminary, and that a more detailed analysis is needed. In response to a

question, the Secretariat said that information on injuries to divers is not recorded. Mr. Charat noted that the data showed that more dolphins were released during backdown in sets in which divers were used than in those without, and that this, plus the fact that the mortalities per set with and without divers were almost the same, suggested that there was something different about sets in which skippers chose to use divers. Dr. Joseph agreed and, said that the IATTC staff intended to carry out a more detailed examination of the data.

c) Backdown procedure requirement

The Secretariat circulated a proposed definition of the circumstances in which backdown is required (Appendix 4), and it was suggested that a similar definition should be incorporated in a new agreement anticipated by the Declaration of Panama. A list of species of the family Delphinidae and of other small whales in the eastern Pacific Ocean (Appendix 5), requested at the last meeting, was also circulated. The ensuing discussion centered on which species the program should address, and when backdown should be required. Additional information concerning the numbers of species involved in the fishery was sought, and the Panel agreed to discuss these issues again at the next meeting.

d) Costa Rican presentation

The Costa Rican delegation described a modification to the purse-seine net involving the use of a *Línea Humana* ("Humane Line") to sink a portion of the corkline, and offered to contribute to the cost of testing this modification (Appendix 6). Dr. Joseph welcomed this generous offer, and said that the proposal had been looked at during the last year, but that testing could not proceed until the equipment was developed and a suitable vessel was made available.

e) PNAAPD presentation

Dr. Compeán introduced Captain Rogelio Duarte, who described a net modification involving flexible panels installed in the webbing of the backdown channel. Captain Duarte said that the system allows for a more controlled backdown to be made at lower power, resulting in the channel being kept open and constant sinking of the corks. Eight Mexican vessels use this modification, and three more will do so shortly.

The Panel noted that efforts by everyone involved are necessary to reduce dolphin mortality, and approved a resolution recognizing the efforts made in Costa Rica and Mexico (Appendix 7a).

Agenda Item 7: Review of observer data

In addition to the standard notification of infractions to governments, two issues arose during the review of the observer data presented by the Secretariat.

First, an industry delegate expressed the concerns of boatowners who saw DMLs being reduced to levels which curtailed fishing, without bringing about an equivalent reduction in overall dolphin mortality. The fishermen had reduced the annual mortality to about 3,500 dolphins, and feared that reductions below that could not be achieved without restraining fishing unreasonably. The IRP resolved to create a subgroup to study the issue (Appendix 7b).

Second, it was noted that a number of vessels of countries party to the Agreement for the Conservation of Dolphins were still fishing in the eastern Pacific without dolphin safety panels, in contravention of the Agreement. Dr. Joseph noted that the Agreement does not provide a means of enforcing compliance. The IRP

asked that a strongly-worded letter be sent to the various countries, reminding them of the requirements of the Agreement, particularly those which vessels must fulfil before their flag nations can submit their applications for a DML.

For comparative purposes, the U.S. delegation asked the Secretariat to prepare a cumulative table for each meeting, showing the numbers and proportions of cases of each type of potential infraction which the IRP had decided to report to the governments.

Agenda Item 8: Proposed procedures for dealing with special problem sets

[Deferred]

Agenda Item 9: Action taken to improve living conditions of observers aboard vessels

[Deferred]

Agenda Item 10: Analyses of mortality rates in sets on large herds of dolphins

[Deferred]

Agenda Item 11: Follow-up of infractions relating to interference with observers previously presented to the IRP

A list of potential infractions reported to member governments, and the governments' responses to the Secretariat, was distributed (Appendix 8). Each delegation reported on recent developments, including new legislation or regulations, in its respective country.

Agenda Item 12: Dolphin Mortality Limits (DMLs)

a) Review of 1995 DMLs

The Secretariat staff presented preliminary estimates of the numbers of dolphins killed in 1995 by vessels with DMLs for the entire year and by vessels with second-semester DMLs (Appendices 9a and 9b); the average mortality was 52.4 dolphins for the first group and 14.9 for the second. Three vessels had exceeded their DMLs, two of which continued to set on dolphins after reaching their limits. The data for those two trips were reviewed by the IRP under agenda item 7, and all intentional dolphin sets made after the DML had been reached were identified as possible serious major infractions.

The IRP noted that of the 81 vessels which requested DMLs at the beginning of 1995, 18 did not fish on dolphins during the first semester of the year.

b) DMLs for 1996

81
13

68

The Secretariat reported that DMLs for 1996 had been assigned to 93 vessels. The current distribution by flag was Belize 1, Colombia 8, Ecuador 6, Mexico 36, Panama 3, United States 5, Vanuatu 14, and Venezuela 20. Ninety vessels had been allocated the full DML of 96 dolphins, and the three which had exceeded their DMLs during 1995 were given reduced DMLs. Of the overall mortality limit for 1996 of 9,000 dolphins, 129

had not been assigned as DMLs. In addition Dr. Joseph noted that one vessel which had been assigned a DML had indicated that it would not use it.

The Mexican delegation advised the Panel that two additional Mexican-flag vessels which had been unable to fish in 1995 because they were undergoing extensive repairs were seeking DMLs for 1996. Dr. Joseph advised the meeting that the Ecuadorean government had also requested a 1996 DML for a vessel which had applied within the timetable, but which had not received it because of an error.

The IRP discussed the situation of a vessel which had been fishing under the flag of a country party to the Agreement when it was assigned a DML but had since changed flag to Belize. The Panel agreed that the vessel's DML became forfeit upon the change of flag, and the Presider directed that the Secretariat advise the vessel of this on its return to port.

The IRP decided to assign full DMLs of 96 to the two Mexican vessels and the Ecuadorean vessel discussed previously. It also agreed to offer the remaining 33 (minus any mortalities incurred prior to receiving a DML) to the Belize vessel as a provisional DML for 1996 if either Belize became a party to the Agreement prior to the vessel's next departure, or the vessel changed its flag to that of a country party to the Agreement. In either event, the vessel would have priority on any available allocations for second-semester DMLs.

Agenda Item 13: Status of employment conditions of observers

[Deferred]

Agenda item 14: Place and date of next meeting

It was agreed that a decision on the time and place for the next meeting, which normally would be held in June, should be held in abeyance pending the outcome of the U.S. Congress' deliberation of a bill to implement the Declaration of Panama.

Agenda Item 15: Other business

a) Presentation by the Procuraduría Federal de Protección al Ambiente of Mexico

The presentation explained the work of this enforcement agency, and in particular described the recovery of a purse-seine net lost by a tuna vessel which might have caused a serious environmental problem. The IRP welcomed the presentation which, it noted, was the first presentation of work intended to promote compliance.

b) U.S. legislation to implement the Declaration of Panama

Dr. Joseph circulated a letter he had received from Senators Stevens and Breaux (Appendix 10), which explained the progress of U.S. legislation to implement the Declaration of Panama. The delegations from Colombia, Costa Rica, and Mexico expressed their disappointment that the legislation had not been enacted within the timetable envisaged by the Declaration, and urged the United States to resolve the matter speedily. The U.S. delegation noted that the budget problems had caused an unprecedented turmoil in the Government, but that nevertheless progress was being made, and circulated copies of two bills designed to implement all or parts of the Declaration which have been introduced in the House of Representatives.

c) Tuna tracking

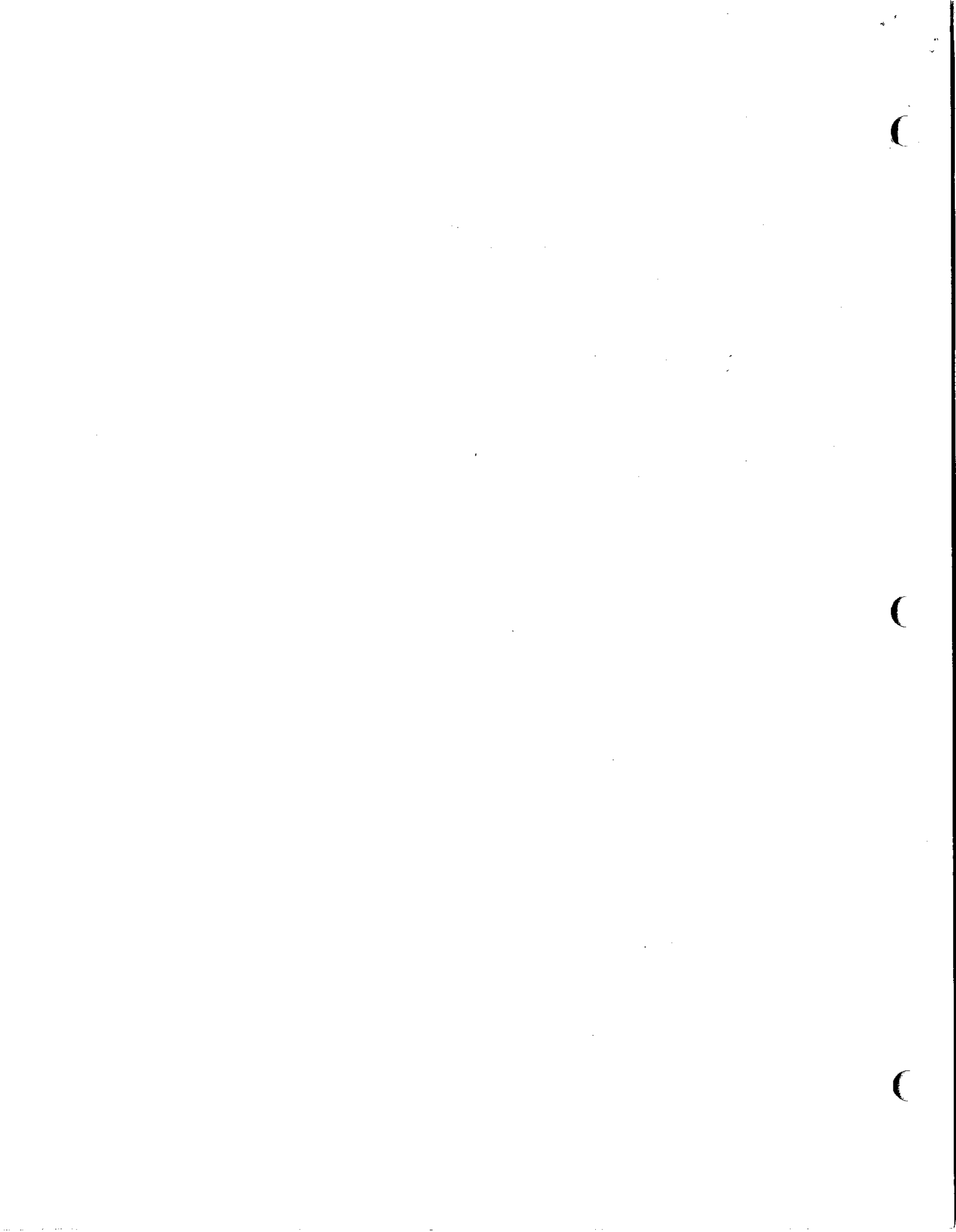
The U.S. delegation circulated a draft paper describing a system for tracking tuna defined as "dolphin-safe" under the proposed U.S. legislation, and asked for comments on the document by the end of February.

d) Jurisdiction over vessels in the program

Dr. Joseph circulated a document prepared by the Secretariat (Appendix 11) on determining which countries have jurisdiction over vessels participating in the program. He expressed a wish to have this issue discussed at the next meeting.

Agenda Item 16: Adjournment

The meeting was adjourned at 4:30 p.m. on January 26, 1996.



INTERNATIONAL REVIEW PANEL
 PANEL INTERNACIONAL DE REVISION

11th MEETING -11* REUNION
 Ensenada, B.C., Mexico
 January 25-26, 1996 --- 25-26 de enero de 1996

ATTENDEES -- ASISTENTES

COLOMBIA

ALEJANDRO LONDOÑO GARCIA
 FERNANDO REY
 Instituto Nacional de Pesca y Acuicultura

COSTA RICA

JAIME BASADRE OREAMUNO
 ALVARO MORENO GOMEZ
 Instituto Costarricense de Pesca y Acuicultura

MEXICO

CARLOS CAMACHO GAOS
 MARA MURILLO CORREA
 JERONIMO RAMOS SAENZ
 GUILLERMO COMPEAN JIMENEZ
 RICARDO BELMONTES
 JOSE L. GUERRA RAYA
 Secretaría de Medio Ambiente, Recursos
 Naturales y Pesca (SEMARNAP)
 ANTONIO J. DIAZ DE LEON
 PABLO ARENAS FUENTES
 PEDRO A. ULLOA RAMIREZ
 Instituto Nacional de Pesca
 RICARDO GLUYAS MILLAN
 ALEJANDRO TONATIUH LOPEZ
 Procuraduría Federal de Protección
 al Ambiente (PROFEPA)

Ma. TERESA BANDALA MEDINA
 Secretaría de Relaciones Exteriores

SERGIO GOMEZ LORA
 LUIS E. GONZALEZ ROJAS
 Secretaría de Comercio y Fomento
 Industrial (SECOFI)

VANUATU

ANTHONY TILLET
 Special Agent for the Commissioner
 of Maritime Affairs

UNITED STATES

HILDA DIAZ-SOLTERO
 DANA WILKES
 National Marine Fisheries Service

MARTIN HOCHMAN
 TED BEUTLER
 National Oceanic and Atmospheric Administration

WILLIAM GIBBONS-FLY
 Office of Environment, Science, and Technology,
 U.S. Embassy, Mexico

VENEZUELA

CARLOS GIMENEZ
 Servicio Autónomo de los Servicios Pesqueros y
 Acuícolas (SARPA)

MIRIAM R. de DE VENANZI
 Ministerio de Comercio Exterior

TUNA INDUSTRY - INDUSTRIA ATUNERA

DAVID BURNEY
 U.S. Tuna Foundation

FELIPE CHARAT
 ALFONSO ROSIÑOL LLITERAS
 CANAINPES

INTERGOVERNMENTAL ORGANIZATIONS - ORGANIZACIONES INTERGUBERNAMENTALES

CARLOS MAZAL
 OLDEPESCA

ENVIRONMENTAL ORGANIZATIONS--ORGANIZACIONES AMBIENTALISTAS

TRACI ROMINE
 Greenpeace International

INTERNATIONAL REVIEW PANEL

11th MEETING

January 25-26, 1996
Ensenada, B.C., Mexico

AGENDA

1. Opening of the meeting
2. Election of Presider
3. Approval of agenda
4. Approval of minutes of the 10th Meeting of the IRP
5. A description and illustration of the new sack-up procedure
6. Information about rescue alternatives which might be used prior to backdown
7. Review of observer data
8. Proposed procedures for dealing with special problem sets
9. Action taken to improve living accommodations of observers aboard vessels
10. Analyses of mortality rates in sets on large herds of dolphins
11. Follow-up of infractions relating to interference with observers previously presented to the IRP
12. Dolphin Mortality Limits (DMLs):
 - a) Review of 1995 DMLs
 - b) DMLs for 1996
13. Status of employment conditions of observers
14. Place and date of next meeting
15. Other business
16. Adjournment

Use of divers and dolphin mortality in sets with rescue, 1994-1995

	Number of sets	Mortality per set	Release per set
All sets with rescue:			
No diver	5358	.50	
Diver	4089	.51	
Without diver:			
During backdown	5358	.50	10.5
After backdown	275	1.38	3.9
With diver:			
During backdown	4070	.49	13.6
After backdown	108	1.41	4.7

Number of dolphins alive in net after backdown:

	<u>Without diver</u>		<u>With diver</u>	
	1994	1995	1994	1995
Total for year	1056	313	497	326
Average per set	.34	.14	.27	.14

Percentage of vessels carrying diving gear: 1994 - 67%; 1995 - 68%

SECRETARIAT'S PROPOSAL FOR REQUIREMENTS FOR BACKDOWN PROCEDURE

The backdown procedure is required if live dolphins (delphinids) are in the net when the regular corkline tie-down point reaches the port side rail during net roll, but only if the net has been pursed (rings-up) and has not sustained any damage that would endanger dolphins during the procedure.

Animals in the Family Delphinidae that could be involved in the tuna purse-seine fishery in the eastern Pacific Ocean:

Melon-headed whale	<i>Peponocephala electra</i>
Pygmy killer whale	<i>Feresa attenuata</i>
False killer whale	<i>Pseudorca crassidens</i>
Killer whale	<i>Orcinus orca</i>
Short-finned pilot whale	<i>Globicephala macrorhynchus</i>
Rough-toothed dolphin	<i>Steno bredanensis</i>
Pacific white-sided dolphin	<i>Lagenorhynchus obliquidens</i>
Fraser's dolphin	<i>Lagenodelphis hosei</i>
Short-snouted common dolphin	<i>Delphinus delphis</i>
Long-snouted common dolphin	<i>Delphinus bairdii</i>
Bottlenose dolphin	<i>Tursiops truncatus</i>
Risso's dolphin	<i>Grampus griseus</i>
Spotted dolphin	<i>Stenella attenuata</i>
Striped dolphin	<i>Stenella coeruleoalba</i>
Spinner dolphin	<i>Stenella longirostris</i>

Other cetaceans that could be involved that would require a release procedure if captured:

Pygmy sperm whale	<i>Kogia breviceps</i>
Dwarf sperm whale	<i>Kogia simus</i>
Beaked whales	Family Ziphiidae

(Translation)

COSTA RICAN FISHERIES AND AQUACULTURE INSTITUTE

San José, January 22, 1996

Dr. James Joseph
Director
IATTC

Dear Sir:

On several occasions, at meetings of this and other organizations, I expressed to you our interest in sponsoring the invention known as the "Humane Line".

We think that the work of Captain Hernán Umaña could be a very important contribution to reducing even further the mortality of dolphins in the tuna fishery.

I take this opportunity to reiterate our offer of contributing some financial aid toward carrying out tests of this idea.

Yours, etc.

(signed)

Luis París Chaverri
Executive President

RESOLUTIONS

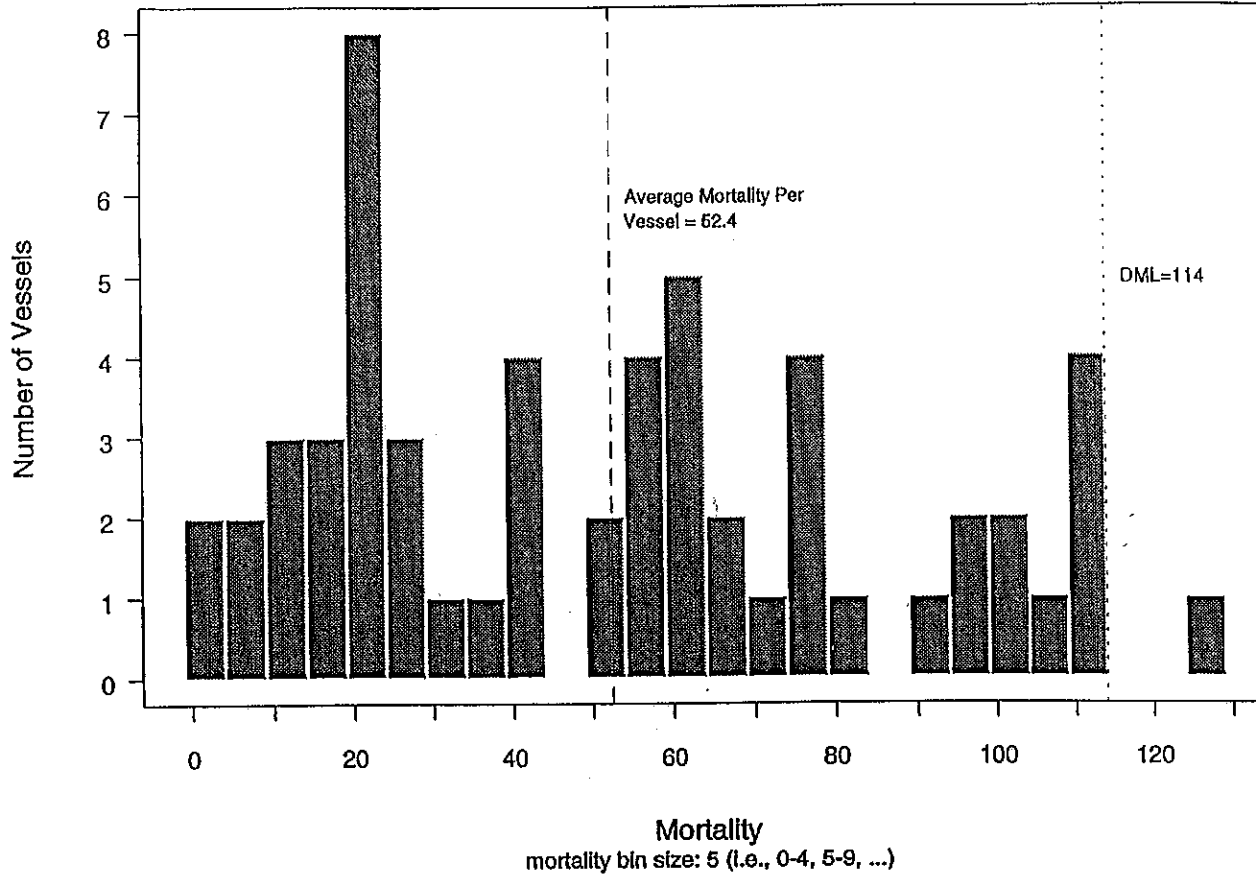
- a) The International Review Panel (IRP) recognizes the significant efforts of fishermen, fishing companies of Costa Rica and Mexico, and of the Instituto Costarricense de la Pesca y Acuicultura (INCOPECA) and Programa Nacional de Aprovechamiento del Atún y de Protección de Delfines (PNAAPD) in developing new and creative techniques to release dolphins.
- b) The IRP agreed it should establish a subgroup composed of members of the staff and IRP to study the extent to which DMLs can effectively be reduced given present technology.

Possible Harrassment / Interference of observers identified by the IRP through October 1995.
 Posibles infracciones de interferencia / hostigamiento de observadores identificados por el PIR hasta octubre de 1995.

IRP IATIC REVIEW		LAST REPORTED ACTION TO DATE		
FLAG	PRIM CRNO DATE	INCIDENT		
BAND.	PIR CR.NO. FECHA	INCIDENTE	ACCIONES REPORTADAS HASTA LA FECHA	
	CIAT REV.			
1	COL 93340 1866	9401	Denied access to radio <i>Negarón acceso al radio</i>	None. <i>Ninguna.</i>
2	COL 93404 1901	9406	Verbal hostility. Denied position information <i>Hostigamiento verbal. Se le negó información de la posición</i>	Issued fine and license suspension warning if repeated. <i>Se advirtió de multa y suspensión de licencia por reincidencia.</i>
3	COL 94267 2128	9410	Verbal hostility by fishing captain <i>Hostigamiento verbal por parte del capitán de pesca</i>	The government is investigating the case. <i>El gobierno está investigando el caso.</i>
4	ECU 93238 1803	9310	Verbal hostility by fishing captain <i>Hostigamiento verbal por parte del capitán de pesca</i>	None. <i>Ninguna.</i>
5	MEX 93022 1611	9305	Verbal hostility by fishing captain <i>Hostigamiento verbal por parte del capitán de pesca</i>	Third order sanctions will be applied. <i>Se aplicarán sanciones de tercer orden.</i>
6	MEX 93117 130	9305	Verbal hostility by fishing captain <i>Hostigamiento verbal por parte del capitán de pesca</i>	Third order sanctions will be applied. <i>Se aplicarán sanciones de tercer orden.</i>
7	MEX 93082 118	9310	? (PNAAPD trip) <i>? (Viaje del PNAAPD)</i>	Third order sanctions will be applied. <i>Se aplicarán sanciones de tercer orden.</i>
8	MEX 94212 2095	9410	? (PNAAPD trip) <i>? (Viaje del PNAAPD)</i>	Third order sanctions will be applied. <i>Se aplicarán sanciones de tercer orden.</i>
9	MEX 94268 2123	9410	Bribe attempt <i>Intento de soborno</i>	The government is investigating the case. <i>El gobierno está investigando el caso.</i>
10	MEX 94360 2193	9501	Verbal hostility by fishing captain <i>Hostigamiento verbal por parte del capitán de pesca</i>	The government is investigating the case. <i>El gobierno está investigando el caso.</i>
11	MEX 94451 2265	9501	Captain dumped sack with dead dolphins <i>El capitán de pesca desechó el saco con delfines muertos</i>	The government determined that no infraction occurred. <i>El gobierno determinó que no existía infracción.</i>
12	MEX 95076 2338	9506	Bribe attempt <i>Intento de soborno</i>	The case was turned over to SEMARNAP. <i>El caso se tornó a SEMARNAP.</i>
13	MEX 95076 2338	9506	Bribe attempt <i>Intento de soborno</i>	The government is investigating the case. <i>El gobierno está investigando el caso.</i>
14	MEX 95082 2350	9506	Bribe attempt <i>Intento de soborno</i>	The government is investigating the case. <i>El gobierno está investigando el caso.</i>
15	MEX 95170 2412	9506	Bribe attempt <i>Intento de soborno</i>	The case was passed to PROFEPA for processing. <i>El caso se tornó a PROFEPA para ser procesado.</i>
16	VAN 93276 1810	9310	Bribe attempt <i>Intento de soborno</i>	The case was passed to PROFEPA for processing. <i>El caso se tornó a PROFEPA para ser procesado.</i>
17	VEN 95240 2458	9510	Bribe attempt <i>Intento de soborno</i>	Fishing captain's license was suspended for 1 year. <i>Se suspendió la licencia del capitán de pesca por 1 año.</i>
				None. <i>Ninguna.</i>

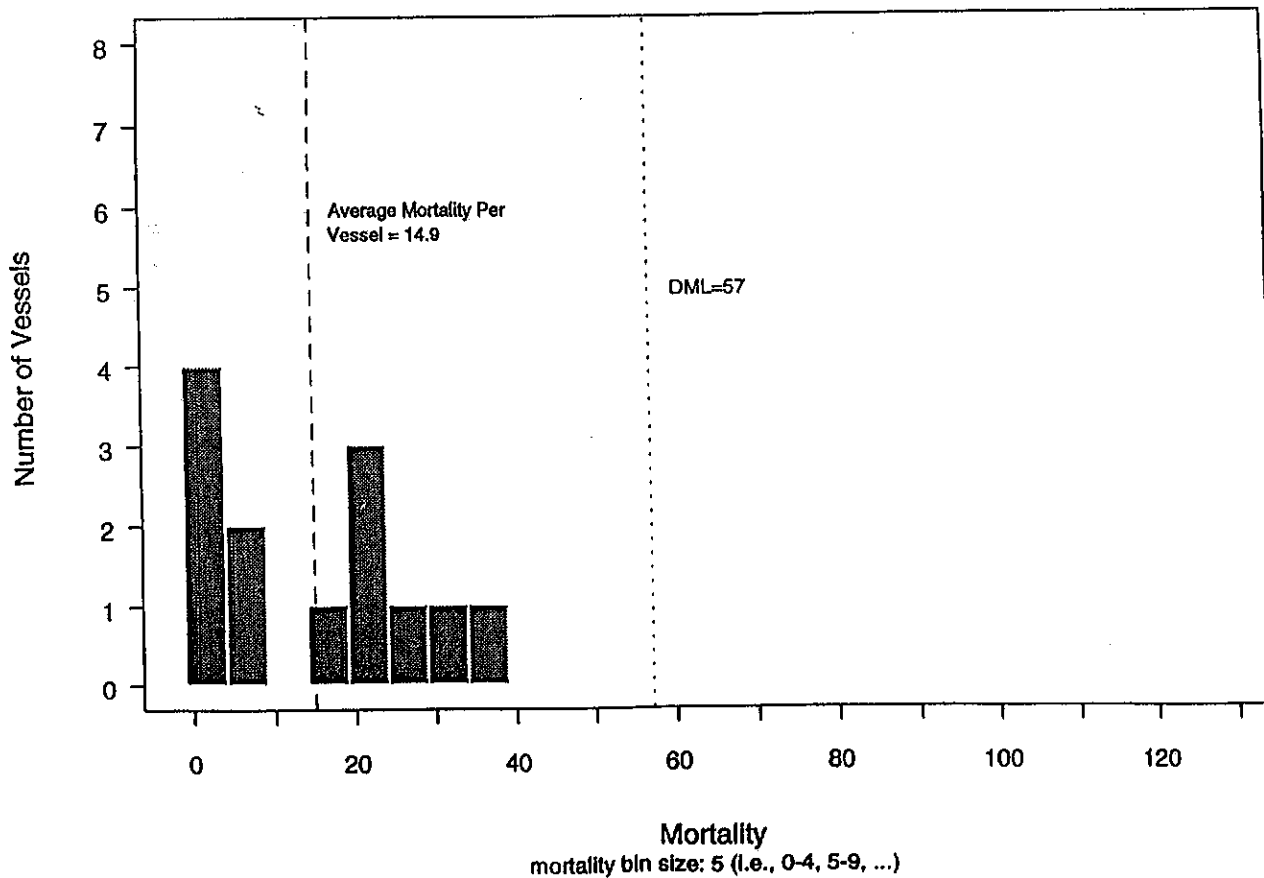
MORTALITY CAUSED BY DML VESSELS - 1995

(number of intentional dolphin sets ≥ 1 ; experimental set mortality excluded)
 (* preliminary - 23.01.96)



MORTALITY CAUSED BY SEC. SEM. DML VESSELS - 1995*

(number of intentional dolphin sets ≥ 1 ; experimental set mortality excluded)
 (* preliminary - 23.01.96)



LARRY PRESSLER, SOUTH DAKOTA, CHAIRMAN
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 BLADE GORTON, WASHINGTON
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 JOHN B. BREAUX, LOUISIANA
 RICHARD H. BRYAN, NEVADA
 BYRON L. DORGAN, NORTH DAKOTA

PATRIC G. LINK, CHIEF OF STAFF
 KEVIN G. CURTIN, DEMOCRATIC CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
 AND TRANSPORTATION

WASHINGTON, DC 20510-6125

January 23, 1996

Dr. James Joseph, Director
 Inter-American Tropical Tuna Commission
 Scripps Institution of Oceanography
 8604 La Jolla Shores Drive
 La Jolla, CA 92037-1508

Dear Dr. Joseph:


We are writing to inform the members of the Inter-American Tropical Tuna Commission (Commission), and other countries that participate in the Dolphin Conservation Program administered by the Commission, of plans for further consideration of S.1420, our bill to implement the Panama Declaration and strengthen the conservation of tuna, dolphins, and other marine resources in the eastern tropical Pacific Ocean. As you know, a companion bill was introduced on December 21, 1995 in the House of Representatives (H.R.2823) with 27 cosponsors. We have been advised that the House Resources Committee has tentatively scheduled a hearing on H.R.2823 in February.

Unfortunately, the debate over balancing the budget may prevent the Congress from enacting S.1420 in the time-frame envisioned in the Panama Declaration. The bill has bipartisan support, however, and is supported by the Clinton Administration, five major environmental groups, tuna vessel owners, and others. As members of the Senate Subcommittee on Oceans and Fisheries, we intend to request that an oversight hearing be held early this spring to review the legislation. We will do everything possible to ensure expeditious passage by the Congress of S.1420.

We understand that the Commission meeting previously scheduled for the end of this month has been postponed until the summer. We hope that all countries interested in this issue appreciate that we are committed to passing the bill and ask that they remain patient while our legislative process continues. The Panama Declaration offers our best hope for resolving the tuna/dolphin controversy, protecting dolphins, and for improving the cooperative management of world fisheries. We remain committed to making the necessary legislative changes to effect its purposes and goals.

Sincerely,


 JOHN BREAUX
 United States Senator


 TED STEVENS
 United States Senator

SECRETARIAT PAPER REGARDING JURISDICTION

The Secretariat has in the past had some difficulty in determining which country had jurisdiction over some of the vessels participating in the International Dolphin Conservation Program (IDCP). This determination is needed in order to report possible infractions of the Agreement identified by the International Review Panel. For the purposes of the IDCP the Secretariat considers a country to have jurisdiction if:

- 1) the vessel is registered in that country and jurisdiction for matters related to the IDCP has not been transferred to another country, or
- 2) jurisdiction over matters related to the IDCP has been officially transferred to that country by the actual country of registry of the vessel.

The Secretariat requests that, with respect to countries party to the Agreement, when a vessel leaves the registry of one country and enters that of another country, each country advise the Secretariat, in a timely manner, of the official dates of entry to, or exit from, its registry and furnish the Secretariat with copies of supporting documentation. In cases where jurisdiction (competence) for matters related to the IDCP is transferred to another country, but registry is not, each country party to the transfer of such jurisdiction (competence) should immediately notify the Secretariat of the official dates of change and, if possible, furnish copies of supporting documentation.