

INTERNATIONAL REVIEW PANEL
MINUTES OF THE 12TH MEETING

August 28-29, 1996
La Jolla, California, U.S.A.

Presider: Ambassador Jean-François Pulvenis

The 12th meeting of the International Review Panel (IRP) was held at the Southwest Fisheries Science Center in La Jolla, California, U.S.A., on August 28-29, 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 9:35 a.m. on August 28, 1996. He asked for nominations for Presider of the meeting, and Amb. Jean-François Pulvenis of Venezuela was elected.

Agenda Item 3. Approval of agenda

The revised draft agenda (Appendix 2) was approved.

Agenda Item 4. Approval of minutes of the 11th Meeting of the IRP

The draft minutes were modified by deleting the last sentence of the paragraph under Agenda Item 11, and adding the following under Agenda Item 12 a): "Three vessels had exceeded their DMLs [dolphin mortality limits], 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."

Agenda Item 5: Dolphin Mortality Limits (DMLs)

a) Review of 1996 DMLs

The Secretariat first reviewed the catches for the year to date and noted that as at August 19 the reported catches by the surface fleet of both yellowfin and all tunas were slightly greater than the corresponding catches of 1995. DMLs of 96 had been assigned to 93 vessels at the beginning of the year; however, 34 vessels lost their DMLs due to non-utilization. The distribution of number of dolphins killed per vessel generally showed lesser numbers killed per vessel than those at the same time in 1995. Twelve quarterly performance letters had been sent to vessels saying that if their mortality rates for the first three or six months continued they would exceed their DMLs before the end of the year. In response to a question about the effect of the letters, the Secretariat said there was no direct information available, but noted that the number of vessels exceeding their DMLs at the end of 1995 was less than the number which received performance letters during that year.

b) DMLs for the second semester of 1996

Second-semester DMLs of 48 were assigned to 24 vessels, 23 of which had lost their full-year DMLs.

Agenda Item 6: Review of observer data

The Panel was concerned about the number of night sets and cases of the reported use of explosives. In the former situation, however, it was noted by Panel members that sets close to sundown were apparently being completed more quickly. The Panel asked that a letter be sent by the Secretariat to governments bringing to their attention a number of situations, including lack of cooperation with or harassment of observers, setting nets close to sundown, use of explosives, failure to maintain gear in good working order, and non-use of dolphin safety panels, which were matters of concern to the Panel. The Panel asked the Secretariat to report later on the following matters: mortality when backdown is not used when small numbers of dolphins are captured, techniques that should be followed if the bow *ortza* is released to allow dolphins to escape, and a review of the need for small vessels to carry observers.

The Panel reviewed a trip of the third vessel that exceeded its 1995 DML (see Agenda Item 4, above). During the 11th IRP meeting, in January 1996, it was known that the vessel had exceeded its DML, but the observer data were not yet available for review. The vessel made three intentional sets on dolphins after having reached its DML, which the Panel identified as possible major infractions.

Agenda Item 7: Annual Report, 1995

The Secretariat presented a draft of the IRP's Annual Report for 1995 (Appendix 3), which was approved with modifications. The IRP expressed concern about the rate of government responses to reported possible infractions and asked that the report be forwarded to the Plenary with a covering letter expressing their concern.

Each government member in attendance reported on actions being taken on possible infractions identified and reported to it by the IRP to date. The representative of Mexico said that there had been difficulties in processing certain infractions in the past due to the lack of a procedure to report an infraction, as confirmed by a legal representative from either its national program or the IATTC program, to its enforcement branch. However, this problem had recently been resolved. The Vanuatu representative explained that even though all possible infractions have been reviewed, he has lacked authority from the government to apply sanctions until recently. Beginning in 1996, all possible infractions will be addressed. Vanuatu reaffirmed its total commitment to enforcing the Program's policies in its fleet, and of maintaining communication between the government and the vessels and vessel owners. The Venezuelan representative explained the sanctions applied by his nation's fisheries administration in the cases reported and commented on the status of some pending investigations. He reiterated Venezuela's commitment to improving the monitoring mechanisms to ensure compliance with the program. The representative of Colombia reported that preventive measures had been taken and warnings issued to companies in response to the infractions reported. The United States stated that it had investigated the violations reported by the Panel and had determined that they were all gear infractions; these had been corrected, and no additional enforcement action was anticipated.

Agenda Item 8: Information about rescue alternatives which might be used prior to backdown

a) Analyses of mortalities with and without divers

The Secretariat presented statistics on the effectiveness of using divers in the net to rescue captured dolphins during and after backdown, for the 1994-1996 period, with only partial data available for 1996 (Appendix 4). The divers are crewmen who use breathing apparatus connected to hoses that bring them air from compressors on the seiner.

The average mortality per set (MPS) was approximately 20% lower when divers were present than when not present, but it was noted that there was a large annual variability. The average number of dolphins released during backdown was greater when divers were present, but the average numbers of dolphins released after backdown were approximately the same. The average numbers of dolphins left in the net after backdown were lower when divers were present.

In 1994, 58% of the vessels that fished on tunas associated with dolphins utilized divers to release dolphins, and in 1995 that portion increased to 63%. Preliminary data for 1996 indicate that 74% of dolphin-fishing vessels have utilized divers.

b) "Línea Humana"

The representative of Costa Rica introduced Mr. Hernán Umaña, a Costa Rican fisherman. Using a model net, Mr. Umaña presented his idea of modifying the purse seine to allow the release of captured dolphins over a submerged corkline shortly after the net is pursed. His idea is to perform this procedure in lieu of backdown. The Secretariat commented that the Costa Rican government has said it will provide funding for the necessary modifications to a vessel's net, but it was noted that substantial additional funds would probably be needed to secure a vessel for an entire fishing trip to test the proposed gear and release procedure. The representative of Costa Rica said it could explore a means of providing benefits to a participating vessel, such as a fishing license for its territorial waters, and the Vanuatu representative said that one of its vessel owners has expressed interest in trying the Línea Humana. He noted that it would be necessary for the vessel to have a research quota.

The Secretariat reminded the IRP that even though the Scientific Advisory Board (SAB) did not review this particular idea at its meeting, it reviewed a proposal to herd captured dolphins out of the net over an inflatable/deflatable corkline, and had assigned higher priorities to other ideas for reducing dolphin mortality. Dolphin behaviorists at the SAB meeting had expressed doubt that dolphins could be effectively herded out of the net in that manner.

The representative of Red Mexicana de Acción Frente de Libre Comercio (RMALC) suggested that the IRP should encourage fishermen and individual governments to work together in reducing dolphin mortality, since the IRP is limited to supporting research that is recommended by the SAB. It was agreed that since Costa Rica has expressed its desire to support the testing of the Línea Humana, it should move forward with help from interested parties.

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

The Secretariat noted that, as instructed by the Plenary, an IATTC observer will not be placed on a vessel that fails to provide accommodations to the observer that are equivalent to those of regular crewmen. This policy began on July 1, 1996, and there have been no problems to date.

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

The Secretariat presented data for the 1993-1995 period on the effect of dolphin group size on dolphin mortality and tuna catch rates (Appendix 5). Figure 1 of the appendix shows that there is a direct relationship between the number of dolphins captured, the mortality of dolphins, and the catch of tuna. The representative of Mexico asked if the distribution was biased due to the small sample size of sets with a high number of dolphins captured, and the Secretariat agreed that it was. Figure 2 of the appendix shows the percentages of dolphin mortality and tuna catch by dolphin herd size interval. The Secretariat commented that it is difficult for observers to accurately estimate the numbers of dolphins in large herds. Several Panel members commented that this information should be provided to fishermen during the IATTC dolphin mortality workshops. The Secretariat said that it is currently provided at the workshops.

Agenda Item 11: Marine mammal mortality by species

The Secretariat presented data collected during trips by IATTC observers on the mortality and frequency of sets on seven non-target dolphin species during 1993-1995 (Appendix 6). The table does not include trips sampled by the Mexican national program.

Agenda Item 12: Tonnage assessments

The Secretariat explained that numerous vessel owners have disagreed with the program fees assessed on their vessels, which are based on a vessel's shipyard rated fish-carrying capacity. Owners have claimed they use different fish-packing densities or may have reduced the carrying capacity of their vessels. A possible alternative is basing the fee on the official length and beam of a vessel. The Secretariat asked for other suggestions, and said that details of possible options would be presented at the next IRP meeting. It was noted that there was the potential for disagreements with any system, that whatever was adopted should be simple. Some Panel members said that shipyard capacity was the most natural measure and that while operators may decide to carry more or less fish, that should not be accepted as an argument to vary the fee.

During the discussion, the U.S. representative said that there may be limits imposed by the U.S. government on its IATTC budget contribution, and that the IRP may need to look at how to generate funding for the IATTC in the future.

Agenda Item 13: Status of employment conditions of observers

The Secretariat explained that the responsibilities and duties of IATTC observers have been increasing in recent years, but that they do not get much official recognition. There is a need to recognize their role in the international program and their status with the participating governments, which could be partially accomplished by issuing them some type of program identification card. In regard to enforcing sanctions, the role of the observer must be recognized in order to establish accountability and to fit in with the legal processes of the participating countries. Taking such steps would more clearly identify the relationship between the observer, the IATTC, and the International Dolphin Conservation Program.

It was noted further that the legal status of the IATTC varies. In the United States, the IATTC has the status of an international organization, and the status of its employees is defined. This is not the case in other countries. The representative of Mexico requested that the IATTC present written proposals on these subjects to the Plenary at its next meeting.

Agenda Item 14: Tuna tracking

The Secretariat explained that if the United States adopts new legislation that could affect the importing and marketing of tuna in the United States, such tuna would have to be tracked during loading, unloading, transporting, and processing. A working group convened a meeting last year to discuss possible methods to track tuna, and the United States prepared a document on the subject which was distributed at the 11th IRP meeting. Several members of that working group met again during the 12th IRP meeting. While tuna tracking would be a national responsibility, it might be useful for the IRP to provide a coordinating role. The representative of the Fundación para la Defensa de la Naturaleza (FUDENA) commented that the IRP's involvement in tuna tracking may go beyond its mandate.

The U.S. representative said that regulations on all aspects of the pending legislation, including tuna tracking, must be created within 90 days of the law's passage, which means that time is limited if a new international dolphin conservation program is approved. However, the representative was optimistic that a tracking mechanism could be implemented within the existing time frame, and a document (Appendix 7) was distributed to Panel members that summarized how the tracking could be done. The representative asked for comments on the document by September 30, 1996.

Agenda Item 15: Jurisdiction of vessels in the program

The Secretariat reminded the Panel that a document on this subject was distributed at the 11th IRP meeting. The IATTC has had problems in the past in determining the flag with jurisdiction of certain vessels because available information indicated dual registry. This creates a logistical problem in the administration of the program, since notices of possible infractions are sent to the governments with jurisdiction. The IRP agreed that governments should inform the Secretariat of any changes in jurisdiction of vessels participating in the program.

The U.S. representative informed the IRP that it is in the process of placing a tuna embargo on Belize due to non-compliance with U.S. tuna import regulations.

Agenda Item 16: Proposed procedures for dealing with special problem sets

The Secretariat reminded the Panel that there is no mechanism for dealing with special problem sets beyond 1996, and that this subject must be addressed at the next IRP meeting.

Agenda Item 17: Place and date of next meeting

The Panel agreed that the next meeting would be held in La Jolla, California, U.S.A., on October 19-20, 1996.

Agenda Item 18: Other business

The U.S. representative distributed copies of legislation recently passed by the U.S. House of Representatives entitled H.R.2823 International Dolphin Conservation Program Act (Appendix 8).

The Secretariat reviewed dolphin mortality figures for 1995 and compared those levels with two reference values used in U.S. domestic laws: the Potential Biological Removal (PBR) and the Zero Mortality Rate Goal (ZMRG) (Appendix 9). The estimate of total dolphin mortality caused by EPO tuna purse-seining activities in 1995 is 3,274. The mortality estimates for all stocks were far below their PBRs and the estimates for all but two stocks, northeastern spotted dolphin and eastern spinner dolphin, were below their ZMRGs.

The Presider brought up the use of explosives by the fleet during dolphins sets. The Secretariat commented that use of explosives comprises the majority of all identified infractions, but these are committed by a minority of vessels that use explosives repeatedly. The representative of Mexico said that some possible explosive infractions have been dismissed by the government when it concluded that observers have confused explosives with underwater flares, called bengalas. The Secretariat commented that IATTC observers are instructed to record use of explosives only if they can audibly or visually confirm an explosion. The U.S. representative commented that there is scientific evidence of the effects of explosives on dolphins and other marine life, and she would be glad to share that information. The Presider agreed that such information should be provided to Panel members. The IRP then agreed to call on all the governments to enforce their laws on explosives.

The representative of Costa Rica raised the issue of other flag vessels breaking Costa Rica's national laws concerning dolphins while fishing in its territorial waters, and noted that Costa Rica does not get information on infractions in those cases. He suggested that perhaps some mechanism of sharing infraction information among governments could be developed.

A summary of infraction review issues that arose during the meeting (Appendix 10) was distributed. It was noted that the definition of infractions should be a living instrument which should be in keeping with current dolphin mortality issues. A short discussion followed, during which the Vanuatu representative said that a number of fishing captains in its fleet believed that the night set regulation was too restrictive. Representatives of the Cámara Nacional del la Industria Pesquera (CANAINPES) and FUDENA stated that the dolphin safety panel requirement for dolphin-safe vessels participating in the program should continue. The Secretariat suggested that the incidence of dolphin safety gear infractions could be reduced if vessels were not allowed to go fishing if a gear inspection by the observer prior to departure indicated gear deficiencies.

It was agreed that the Secretariat would prepare a report with suggestions on the summary to be discussed at a future meeting.

Agenda Item 19: Adjournment

The meeting was adjourned at 4:10 p.m. on August 29, 1996.

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It was agreed that the Secretariat would prepare a report with suggestions on the summary to be discussed at a future meeting.

Agenda Item 19: Adjournment

The meeting was adjourned at 4:10 p.m. on August 29, 1996.

Appendix 1.

**INTERNATIONAL REVIEW PANEL
PANEL INTERNACIONAL DE REVISION**

12th MEETING -12* REUNION
La Jolla, California
August 28-29, 1996 ---- 28-29 de agosto de 1996

ATTENDEES -- ASISTENTES

COLOMBIA

OSVALDO PEREZ MOLINA
Instituto Nacional de Pesca y Acuicultura

ARMANDO HERNANDEZ RODRIGUEZ
Asociación Nacional de Industriales
Cámara de la Pesca

COSTA RICA

JAIME BASADRE OREAMUNO
Instituto Costarricense de Pesca y Acuicultura

HERNAN UMAÑA
Pescador - Fisherman

MEXICO

CARLOS CAMACHO GAOS
MARA MURILLO CORREA
GUILLERMO COMPEAN JIMENEZ
MARTHA ESTRADA JIMENEZ
MARIO AGUILAR
Secretaría de Medio Ambiente, Recursos Naturales y Pesca

PABLO ARENAS FUENTES
Instituto Nacional de la Pesca

DAMASO LUNA CORONA
Secretaría de Relaciones Exteriores

TUNA INDUSTRY - INDUSTRIA ATUNERA

FELIPE CHARAT
ALFONSO ROSIÑOL LLITERAS
Cámara Nacional de la Industria Pesquera (CANAINPES)

**ENVIRONMENTAL ORGANIZATIONS-
-ORGANIZACIONES AMBIENTALISTAS**

HECTOR LOPEZ
Fundación para la Defensa de la Naturaleza (FUDENA)

ALEJANDRO VILLAMAR
Red Mexicana de Acción Frente de Libre Comercio
(RMALC)

UNITED STATES

HILDA DIAZ-SOLTERO
WANDA CAIN
J. ALLISON ROUTH
DANA WILKES
National Marine Fisheries Service

MARTIN HOCHMAN
National Oceanic and Atmospheric Administration

VANUATU

ANTHONY TILLET
Special Agent for the Commissioner of Maritime Affairs

VENEZUELA

JEAN-FRANÇOIS PULVENIS
SANTOS VALERO
Ministerio de Relaciones Exteriores

HUGO ALSINA LAGOS
Servicio Autónomo de los Servicios Pesqueros y Acuícolas

EDUARDO PORCARELLI OSTOS
Instituto de Comercio Exterior

SECRETARIAT--SECRETARIADO

JAMES JOSEPH
ROBIN ALLEN
MARTIN HALL
DAVID BRATTEN
ERNESTO ALTAMIRANO
NICHOLAS VOGEL
ENRIQUE UREÑA
CESAR MALDONADO

Appendix 2.

INTER-AMERICAN TROPICAL TUNA COMMISSION
COMISION INTERAMERICANA DEL ATUN TROPICAL

INTERNATIONAL REVIEW PANEL

12th MEETING
August 28, 29, 1996 – La Jolla, California

AGENDA

1. Opening of the meeting
2. Election of Presider
3. Approval of agenda
4. Approval of minutes of the 11th Meeting of the IRP
5. Dolphin Mortality Limits (DMLs):
 - a. Review of 1996 DMLs
 - b. DMLs for the second semester of 1996
6. Review of observer data
7. Annual Report, 1995
8. Information about rescue alternatives which might be used prior to backdown
 - a. Analyses of mortalities with and without divers
 - b. "Línea Humana"
9. Action taken to improve living accommodations of observers aboard vessels
10. Analyses of mortality rates in sets on large herds of dolphins
11. Marine mammal mortality by species
12. Tonnage assessments
13. Status of employment conditions of observers
14. Tuna tracking
15. Jurisdiction of vessels in the program
16. Proposed procedures for dealing with special problem sets
17. Place and date of next meeting
18. Other business
19. Adjournment