

INTER-AMERICAN TROPICAL TUNA COMMISSION COMISION INTERAMERICANA DEL ATUN TROPICAL

COSTA RICA - FRANCE - JAPAN - NICARAGUA - PANAMA - UNITED STATES OF AMERICA - VANUATU - VENEZUELA

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**Minutes of the Meeting
International Review Panel
January 27-29, 1993
La Jolla, California, U.S.A.
Presider: Héctor López**

The second meeting of the International Review Panel (IRP) was held at IATTC headquarters in La Jolla, California, U.S.A., on January 27-29, 1993. The attendees are listed in Appendix I.

Agenda Items 1 and 2: Opening and Election of a Presider:

The Secretariat called the meeting to order at 9:50 A.M., Wednesday, January 27, 1993. Héctor López, FUDENA, was elected as Presider.

Agenda Item 3: Approval of Agenda

The agenda for the meeting was unanimously approved.

Agenda Item 4: Approval of Minutes of October Meeting

After a brief discussion, the minutes of the meeting of October 15-16, 1992, were unanimously approved.

Agenda Item 5: Dolphin Mortality Limits (DMLs)

a) Review of 1993 assignments

The Secretariat summarized the DMLs assigned for 1993, and raised the issue of the confidentiality of the list of vessels and their DMLs. A lengthy discussion followed concerning two points:

- 1) Disclosure of vessel names and DMLs to the IRP;
- 2) Disclosure of vessel names and DMLs to the public.

On point 1), the IRP agreed that the names of vessels and their DMLs would be available to the IRP during its meetings.

A lengthy discussion of point 2) followed. The following arguments were presented in favor of public disclosure:

Vessels at sea would know which boats have DMLs; this could be an incentive for compliance with the Agreement for the Conservation of Dolphins reached at an intergovernmental meeting held in conjunction

with the IATTC meeting of June 16-18, 1992 (henceforth called the Agreement). The Secretariat said that Rule IX of the IRP's Rules of Procedure states that the IRP would keep activities of vessels and/or companies confidential, but that this rule does not mention vessel names or DMLs. The Secretariat said that he does not consider DMLs to be an activity of the vessel. Greenpeace said that failing to disclose this information could promote undesirable actions against vessels and make the public feel left out of the issue, and that disclosure would give the public a sense of global sharing of natural resources.

Arguing against public disclosure, Venezuela stated that public disclosure could increase the possibility of illegal actions against boats by radical groups, and might open the door to similar actions by other groups. The United States commented that the Agreement states that the proceedings of the IRP are not to be made public and that disclosure of vessels and the status of their DMLs is contradictory to this provision. The United States added that the U.S. Dolphin Conservation Act mandates different mortality levels for the U.S. fleet, and does not impose dolphin kill quotas on vessels.

The question arose as to whether informing the tuna fleet of vessels with DMLs constituted public disclosure, and it was generally agreed that it did. Citing the policy of confidentiality in the Agreement, the IRP agreed to disclose the names of vessels with DMLs to the public, but not the actual DMLs. The Secretariat commented that the subject of confidentiality will be raised in the next IATTC meeting. It was also agreed that the best way for the IRP to be informed of vessel activities in the eastern Pacific Ocean (EPO) would be for observers to record vessel sightings on their IRP forms. This would identify boats not party to the Agreement and would initiate action by the IRP of informing non-participating governments of the Agreement and inviting them to participate in it. The Secretariat stated that the IRP forms will be modified to include vessel sightings.

It was agreed that lists of vessels and their assigned DMLs would be distributed to IRP members after lunch, and that the lists would be returned to the Secretariat at the end of the day.

It was agreed to discuss public disclosure of infractions and sanctions under Agenda item 6.

The meeting was recessed for lunch at 11:55 A.M. and reconvened at 2:25 P.M.

b) Adjustments to 1993 DMLs

The Secretariat reviewed the DMLs assigned, noting that most of the adjusted values were close to 183, but that adjustments cause logistical problems in administering the program. The Secretariat explained that the original rationale for the adjustments was to reflect the difference in the fishing behavior of small and large vessels. The Secretariat raised the possibility of identical DMLs for all vessels, beginning in 1994, and Mexico agreed that this should be considered. The United States noted that the Agreement sets an upper limit of adjustment, but not a lower limit. The Secretariat suggested that legal counsel in the respective governments review the Agreement to determine if their governments have the authority to reduce DMLs. The United States stated that its own national legislation sets an overall dolphin mortality limit of 800 for the U.S. fleet.

c) Standardized criteria to judge whether DMLs will be utilized

An extensive debate took place on this issue, but no decision was reached on standardized criteria. The main points of the debate were as follows:

- i) A bond system for vessels seeking DMLs. This would prevent frivolous requests for DMLs by vessels which were not seriously intending to fish in the EPO. The representative of the Cámara Nacional de la Industria Pesquera (CANAINPES), a Mexican industry group, proposed that vessels which received DMLs in 1993 not be subject to a bond requirement in 1994 and that new entries post a large bond. The Secretariat suggested that vessels with 1993 DMLs could post a lower bond and new entries a higher bond, and that the bonds be returned upon utilization of the DML. The U.S. industry representative from the American Tunaboat Association (ATA) said that a tiered bond structure is discriminatory, and that bonds should be the same for all vessels. Greenpeace commented that a bond system might discourage participation in the Agreement by vessels of non-participating countries.
- ii) Limiting entry to the fishery. CANAINPES proposed that vessels utilizing their 1993 DMLs should automatically receive DMLs in 1994, and suggested that new entries might increase the economic risks for vessels currently fishing in the EPO. The ATA said that the entire U.S. fleet has a history of fishing in the EPO, and that vessels of this fleet should be allowed to return to the EPO under the condition that they be given DMLs for 1993. The ATA stated that the Agreement was established to conserve dolphins, and not for economic reasons. The Secretariat stated that the IRP has no power to limit entry, and that such decisions would have to be made by the governments.
- iii) Allocation of unutilized DMLs. The issue of whether unutilized DMLs should be reallocated only to new entries, as stated in the Agreement, or be made available to participating vessels as well, was discussed, but no agreement was reached as to what should be done.

It was agreed, however, that a group of experts would meet prior to the next IRP meeting to study criteria options and report its findings to the IRP. A working group, composed of Guillermo Compeán, Jane Earley, Doresthy Kenneth, and Jean-François Pulvenis, was assigned the task of drafting the terms of reference for the expert meeting. The group drafted the following terms of reference for a working group on criteria for issuing DMLs:

To review and make recommendations on procedural and substantive issues related to the criteria for issuing DMLs, including, but not limited to, posting of bonds and measures for allowing new entrants.

d) Disposition of DMLs when vessels change status

The Secretariat explained the situation regarding the IRP's allocation of DMLs to three Panamanian vessels for 1993, Panama's apportioning of the DMLs, and one of the vessels' subsequent flag change to Ecuador. It was agreed that when a vessel with a DML changes flag during the year it takes its DML with it, and that neither the country of the original flag nor that of the new flag has to reallocate the DMLs for its fleet. In this particular case, the Secretariat was instructed by the IRP to contact Ecuador and request information as to what it wants to do with the vessel's DML. The Secretariat stressed the importance of the IATTC receiving flag-change information as soon as possible.

The meeting was adjourned for the day at 6:40 P.M.

The meeting was reconvened at 9:10 A.M., Thursday, January 28, 1993.

Agenda Item 6: Infractions and Sanctions

a) Circulation of lists of infractions and sanctions to governments

The Secretariat raised the question of whether the list of infractions and sanctions approved at the last IRP meeting should be distributed to governments and, if so, when. Colombia, Mexico, and Venezuela stated that there are constitutional limits to fines in their countries, and that most of the infractions on the list are already covered in their national laws. Mexico and CANAINPES commented that the sanctions are high, and could cause financial difficulties for vessels. Colombia stressed the need to standardize the sanctions to prevent flag changes. The Secretariat pointed out the need for action in implementing the sanctions because the fishing year is under way, and infractions are likely to occur. The Secretariat also commented that the level of the sanctions should not be a financial problem if there is overall compliance. The United States proposed changing "minor" infractions on the list to "other" infractions. Both Mexico and Venezuela distributed lists of comments from their fishery industry regarding the IRP's list of infractions and sanctions. The Secretariat quickly reviewed these comments, as well as comments made by fishing captains in recent IATTC dolphin mortality reduction workshops. Many fishing captains are concerned about high dolphin mortality in sets with gear malfunctions beyond their control. The possibility of setting aside part of the overall DML for such situations was discussed, but no action was taken.

A major point of discussion was whether the recommended sanctions should be considered as maximum or absolute sanctions. Mexico proposed forming a working group of fishing captains and government representatives to define all of the infractions and to determine their minimum and maximum sanctions. Venezuela suggested the possibility that the governments of Colombia, Mexico, and Venezuela have a meeting with their fishing industries to develop a set of sanctions and fines that are in accordance with international standards. The United States and Greenpeace opposed this suggestion, and the United States proposed sending the list of infractions and sanctions, as is, to the Plenary as soon as possible. Mexico and Greenpeace agreed to this, and Mexico suggested forming a group to analyze any practical problems that may arise from these infractions and sanctions. It was finally agreed to send the list to both the governments party to the Agreement and to the member governments of the IATTC before the next Plenary meeting in June. The United States asked the Secretariat to request that governments provide information at the next Commission meeting on the procedures they are taking to implement the Agreement.

b) Report of the working group on international sanctions

The report of the expert working group on international sanctions was distributed to the IRP. The report is attached as Appendix II. A general discussion of the three mayor parts of the report followed.

Part I: Options for action with respect to nations party to the Agreement:

Several countries suggested that more compliance incentives should be included in Part I. Venezuela suggested the lifting of embargoes as an incentive. The ATA proposed the development of procedures for licensing access to member countries' Exclusive Economic Zones (EEZs). However, the United States and

Mexico said they could not make commitments on such incentives. Venezuela suggested that the cover letter to the Plenary (see below) should suggest that economic incentives be incorporated into Part I.

Part II: Options for action with respect to nations not party to the Agreement:

Mexico expressed concerns about the opinions that might be formed by a poorly-informed public, and suggested that a method of responsible dissemination of information to the public be developed. It was also mentioned that a time frame should be defined that would allow a vessel of a nation not party to the Agreement to respond to charges of non-compliance before any such actions are initiated. There were also concerns that the operational restrictions be in accordance with international laws. During these discussions it was agreed to submit the report, as is, to the Plenary, with a cover letter from the Secretariat that would include the statement, "Specific criteria to implement the recommended actions would require further development by the IRP, should the Plenary adopt any or all of them."

Part III: Other issues:

The United States proposed that the cover letter state that the IRP considers items 1, 2, 4, 5, 6, and 7 to be outside its authority, but within the authority of the Plenary, and that it is unclear whether items 3, 8, 9, and 10 are within the authority of the IRP or the Plenary.

It was agreed that the report of the expert group be distributed to governments, along with the "Recommendations of the Review Panel with Respect to the Report of the Group of Experts," attached as Appendix III.

Agenda Item 7: Means of Monitoring Compliance with the Dolphin Conservation Program

a) Handling of observer data

IATTC staff members described the forms that were developed for use by the IRP, the field data forms (trip logs), and the flow of the data from trip's end to its incorporation into the IATTC dolphin data base. Greenpeace requested that at each meeting the Secretariat provide a summary reports of trips with infractions and without infractions, and that the IRP have access to all trip logs. The United States requested that the Secretariat provide a summary report of trips with dolphin mortalities. A discussion then followed about whether the IRP should have access to non-dolphin data, such as bycatch data.

The meeting was adjourned at 8:00 P.M.

The meeting was reconvened at 9:25 A.M., Friday January 29, 1993. The discussion of Agenda Item 7a) continued. It was decided that a subset of the trip logs, consisting of dolphin set forms only, would be made available to the IRP at each meeting. Access to non-dolphin set data would be arranged at the request of IRP members. Greenpeace explained its interest in non-dolphin data by stating that the intent of the organization is the conservation of natural resources in general.

Mexico commented on the procedure for releasing information to the IRP, and undertook to bring complete trip logs from its dolphin program to each IRP meeting, and to make the logs accessible to IRP members at all other times in Ensenada, Mexico. It was not determined whether the Mexican and IATTC

programs would exchange trip logs. Venezuela suggested that perhaps the Secretariat could prepare a summary report of the IATTC trips on Mexican and U.S. vessels, and that Mexico and the United States could provide summary reports for their trips. There was a general agreement with this proposal.

b) Reporting to governments

The Secretariat summarized its understanding of the way that compliance and non-compliance would be reported to the governments. The governments would receive a summary report of a trip soon after the trip terminated; the IRP would then review the data at its meetings, and after each meeting reports would be sent to governments. The IRP would decide what to include in those reports, for example a data summary, a list of infractions, and a request for information on action taken by the government. The IRP would inform the Plenary of compliance and non-compliance at the intergovernmental meetings held in conjunction with IATTC meetings. There was general agreement with this procedure.

c) Matters of confidentiality

The Secretariat began by summarizing the IATTC policy on confidentiality. The IATTC requires signed releases by both vessel owner and fishing captain in order to release data for the vessel. Mexico commented that it does not need such authorizations to release its data to the IRP.

It was agreed that the minutes of each IRP meeting would be made public, but that the proceedings of the meetings would not be made public and confidential information would not be included in the minutes. The IRP agreed that all its members would be required to sign a confidentiality statement prior to the next meeting. The Secretariat offered to prepare a form and send a draft by mail to each member, and this was agreed to by the IRP.

The IRP discussed the draft of "Policy on Confidentiality of Information" (Appendix IV), prepared by Jane Earley. Concerning Point 3a, it was agreed that the names of vessels assigned DMLs are not confidential, but the assigned DMLs are. Concerning Point 3b, it was agreed that "observer reports and/or observer logbooks" are confidential. Concerning Point 3c, the IRP agreed that infractions by individuals and vessels are confidential, but disagreed as to whether infractions by flag are confidential. It was agreed to discuss this topic further at the next IRP meeting. The IRP decided that the rest of the document should be reviewed by lawyers from IRP member countries. The Secretariat agreed to consult with lawyers on this matter.

Agenda Item 8: Rules of Procedure

It was agreed to operate under the rules of procedure as currently written, with the likelihood of changes and additions to the rules in the future.

Agenda Item 9: Place and Date of Next Meeting

It was agreed that the next meeting of the IRP would take place on May 31-June 2, 1993, in La Jolla, California, U.S.A.

Agenda Item 10: Other Business

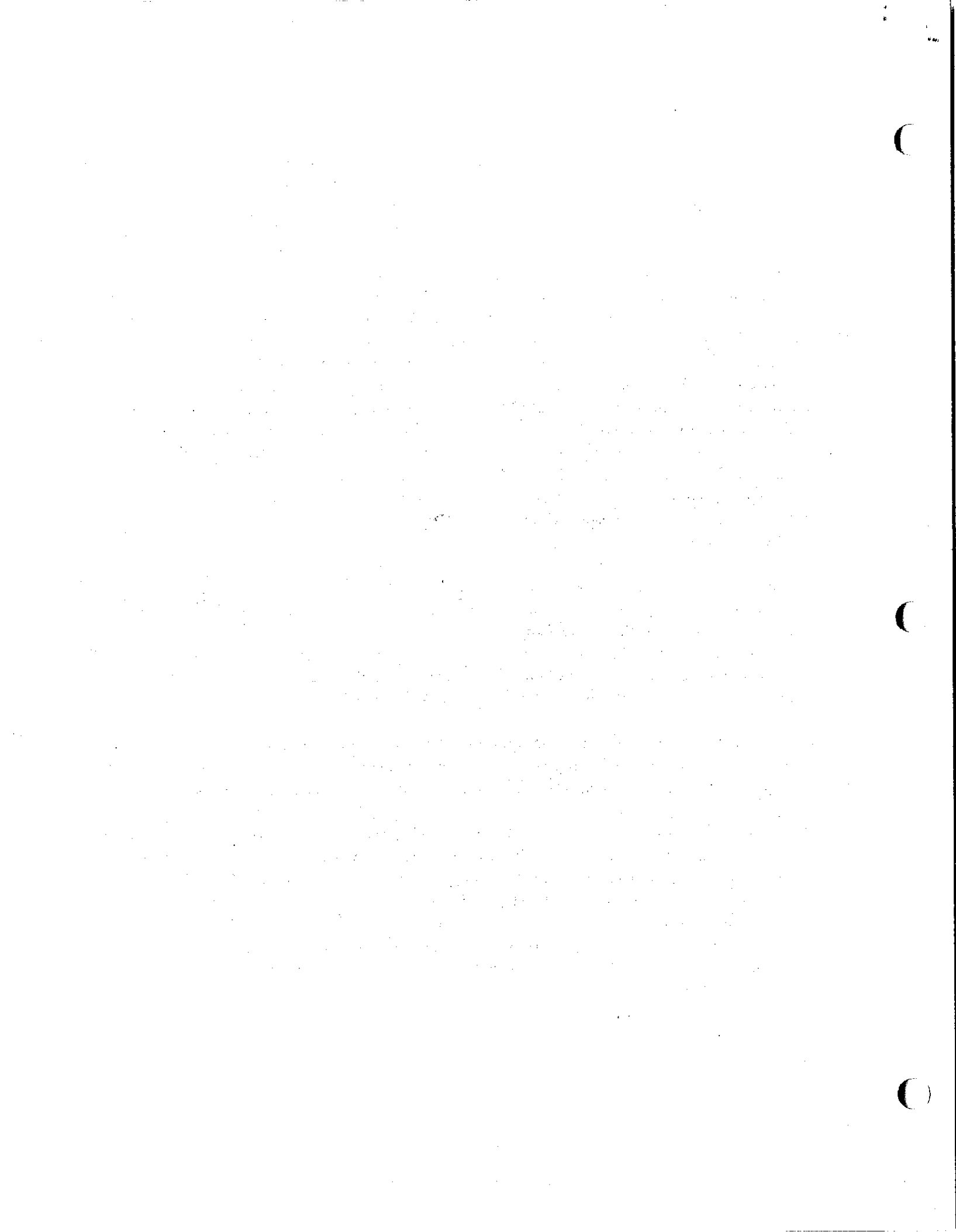
Venezuela expressed concern over the actions by the Asociación para la Defensa de la Naturaleza (ADENA), an environmental group based in Spain. ADENA has created its own "dolphin-safe" program in Europe, and has tried to influence Italian and Spanish canneries to buy only "dolphin-safe" tuna. ADENA does not recognize IATTC "dolphin-safe" certification as valid, and it is trying to force Venezuelan vessels to accept ADENA observers. Venezuela is concerned that, if the European market is closed to its vessels, there may not be sufficient incentives for it to continue participating in the International Dolphin Conservation Program. Mexico added that ADENA has distributed false dolphin mortality statistics in Europe, and does not acknowledge the accomplishments of the international fleet in the reduction of dolphin mortality. Venezuela asked for help from the IRP members from non-governmental organizations (NGOs), and proposed that the IATTC hire a public relations person. Venezuela offered to pay the first-year salary for this position, and suggested that other member countries take turns paying for that position. The Secretariat said that he would have to confer with all IATTC member governments about creating such a position. Venezuela suggested that the IRP instruct the Secretariat to notify governments and the King of Spain (the honorary president of ADENA) of ADENA's actions. Venezuela asked if the Secretariat could accompany a delegation consisting of representatives from Colombia, Mexico, and Venezuela to Europe. The Secretariat said that he could accompany the delegation, but questioned the effectiveness of his participation in such meetings. The United States commented that if the Secretariat goes to Europe with the delegation he should represent the IATTC, not the IRP.

Mexico brought up the need to provide better information to the public, and suggested that the Secretariat prepare a data report that governments could distribute. The Secretariat said that this could be done, but that in the past the media had shown little interest in such reports. Greenpeace suggested that ADENA be invited to the IATTC's 1993 meeting. The Secretariat stated that there is still the question of what constituted non-compliance by a nation, and suggested that the Secretariat draft a document defining non-compliance and mail it to IRP members for review. The IRP agreed to this.

Concerning the working group to define criteria for a vessel to be assigned a DML, it was agreed that the group be comprised of one or two representatives to be nominated by each country and NGO member of the IRP, and that the group would meet on Sunday, May 30, 1993, in La Jolla, California, U.S.A.

The discussion returned to whether the sanctions recommended by the IRP are to be absolute or maximums, and whether more than one sanction can be applied for an infraction. The ATA proposed that this item be put on the agenda for the next IRP meeting. The United States proposed that the Secretariat simply forward the recommended list of infractions and sanctions to the governments with a letter stating that the IRP recommends they be standardized, and leave the decision to the Plenary. Venezuela distributed a handout on tuna labeling (Appendix V) and proposed that the subject of labeling tuna with a logo that identifies tuna harvested in compliance with this International Dolphin Conservation Program be discussed at the next IRP meeting.

The meeting was adjourned at 3:30 P.M.



Appendix I. Attendees

GOVERNMENTS:

Lic. Guerly Avila de Tabares	Colombia
Lic. Alfredo Acero Sánchez	Colombia
Dr. Salvador de Lara Rangel	Mexico
Lic. Francisco Sosa y Avila Sabre	Mexico
Dr. Guillermo Compeán Jiménez	Mexico
Lic. Dámaso Luna Corona	Mexico
Lic. Martha Lara	Mexico
Dr. Gary Matlock	United States
Jane Earley	United States
William Gibbons-Fly	United States
Doresthy Kenneth	Vanuatu
Dr. Francisco Herrera Terán	Venezuela
Emb. Jean-François Pulvenis	Venezuela
Dr. Alfredo Zuloaga	Venezuela
Nancy Perkins	Venezuela

TUNA INDUSTRY:

Richard Atchison	American Tunaboat Association (ATA), U.S.A.
Teresa Platt	American Tunaboat Association (ATA), U.S.A.
Felipe Charat	Cámara Nacional de la Industria Pesquera (CANAINPES), Mexico

ENVIRONMENTAL COMMUNITY:

Héctor López	Fundación para la Defensa de la Naturaleza, Venezuela
Traci Romine	Greenpeace International

Appendix II.

REPORT OF THE EXPERT GROUP

As instructed by the IATTC Dolphin Protection Review Panel (Panel) at its meeting on October 15-16, 1992, a working group composed of legal and economic experts (Working Group), acting in their individual capacities, met on January 25 and 26, 1993, to:

1. Review information and existing international legal instruments and principles relative to the effective implementation of and compliance with the Agreement; and
2. Recommend and report to the Panel ways and means to address the manner in which the objectives of the Agreement can be achieved with respect to parties and non-parties.

The Working Group discussed issues related to the above and wishes to bring them to the attention of the Panel. For some of the issues, the Working Group was able to identify specific options for action. The proposals outlined below are submitted by the Working Group as options for consideration by the Parties and do not reflect the position of any Party or indicate support of any Party for the proposals.

The Working Group stressed the need for the Panel to develop ways and means of ensuring compliance that are consistent with international law. In particular, the Working Group considered that the Panel should take into account the principles of international law expressed in the United Nations Convention on the Law of the Sea, the General Agreement on Tariffs and Trade, and the provisions of Agenda 21. In developing options for action, the Working Group made reference to these and other multilateral instruments in environmental and other matters.

The Working Group considered incentives for compliance and sanctions for non-compliance with the Agreement separately for Parties and non-parties. Such sanctions would be temporary, to be lifted when compliance is achieved. The Working Group also discussed other issues relating to the effective implementation of the Agreement.

PART I. OPTIONS FOR ACTION WITH RESPECT TO NATIONS PARTY TO THE AGREEMENT

The Working Group discussed the options for action listed in Appendix 1. Measures in response to non-compliance might include the following:

Diplomatic actions

- * Collective representation to the non-complying nation. This would take the form of a communication emanating from a plenary meeting of the participating nations after consultations with the non-complying nation.
- * Diplomatic communication. Each participating nation, acting individually or in concert with other nations, would undertake a diplomatic demarché to the non-complying nation.

Public opinion actions

- * Dissemination of information regarding the non-compliance of the nation to the public through appropriate media, e.g., a press conference.

Operational restrictions

- * Denial of access to the Exclusive Economic Zones (EEZs) of nations party to the Agreement for fishing operations by tuna vessels of the non-complying nation. The scope of this action would have to be determined by the Panel by defining what constitutes a tuna vessel, i.e., vessels covered by the Agreement, or other tuna-fishing vessels as well. This action should not restrict freedom of navigation or other rights of vessels under international law.
- * Restriction of access to ports and port servicing facilities for tuna vessels of the non-complying nation. This would not apply to vessels in distress.
- * Refusal of logistical support and/or supplies to tuna vessels of the non-complying nation.
- * Reduction of Dolphin Mortality Limits (DMLs) by specified percentages for all vessels of the non-complying Party. DMLs would be restored immediately upon a determination that the nation is in compliance.

Economic Sanctions

- * Trade Measures. The Working Group discussed at length trade measures against non-complying nations. These might include embargoes or other restrictions on the imports of, for example, tuna, other fish products, other marine products, or other products.
- * The consideration of such measures was recognized to be an extremely delicate and evolving policy issue for which few guidelines exist in international law. The Working Group noted ongoing discussions concerning this issue in other international fora. In light of these considerations, the Working Group agreed that trade measures should receive further review by the Parties prior to making any recommendation in this respect.
- * Fines (Monetary Penalties). The Working Group considered that the Panel should identify procedures for imposing fines, including defining the amount of the fines (possibly a percentage of the commercial value of the catch), and the destination of the fines (e.g., an International Trust Fund) as issues that the Parties should discuss. The Working Group noted that there is apparently no precedent for such fines.

Measures to promote compliance could include the following:

Incentives

- * The Parties should explore mechanisms that would serve as incentives for compliance, such as financial and technical assistance, training of human resources, and use of a label or certificate of participation. Financial assistance could be provided in part by the private sector, including but not limited to transnational corporations, but should not be based on mandatory contributions by the Parties.

PART II. OPTIONS FOR ACTION WITH RESPECT TO NATIONS NOT PARTY TO THE AGREEMENT

The Working Group recommends that:

The Parties to the Agreement incorporate into the Agreement a guiding principle that no Party shall act in a manner that assists non-parties to avoid compliance with the objectives of the Agreement.

When a coastal state that is a Party issues a license to fish in its EEZ within the EPO, either directly or through a licensing agreement, to a vessel of a non-party nation, the license should be subject to the provisions of the Agreement.

The Parties should consider prohibiting persons under their jurisdiction from assisting in any way the vessels of non-complying Parties or non-parties operating in the fishery.

Any state whose vessels are conducting purse-seine tuna-fishing operations in the EPO should be invited to join the Agreement (see Part III, below). The Parties should draw the attention of any state that is not a party to the Agreement to any activity undertaken by its nationals or vessels which, in the opinion of the Parties, affects the implementation of the objectives of the Agreement.

In the event that the non-party does not take corrective action, the following measures could be considered:

Diplomatic actions

- * Collective representation to the non-party. This would take the form of a communication emanating from a plenary meeting of the participating nations after consultations with the non-party.
- * Diplomatic communication. Each participating nation, acting individually or in concert with other nations, would undertake a diplomatic demarche to the non-party.

Public opinion actions

- * Dissemination of information regarding the non-compliance of the non-party to the public through appropriate media, e.g., a press conference.

Operational Restrictions

- * Restriction of access to ports and port servicing facilities for tuna vessels of the non-party. The scope of this action would have to be determined by the Panel by defining what constitutes a tuna vessel, i.e., solely vessels covered by the Agreement, or other tuna-fishing vessels as well. This action should not restrict freedom of navigation and other rights of vessels under international law, and particularly would not apply to vessels in distress.
- * Refusal of logistical support and/or supplies to tuna vessels of the non-party nation.
- * Prohibiting nationals from assisting in any way vessels of the non-party operating in the fishery.

Economic sanctions

- * The Working Group noted that economic sanctions with respect to non-parties call into consideration all the issues raised above with respect to the imposition of such sanctions on Parties, and noted that the imposition of such sanctions with respect to non-parties involves additional complex legal considerations. The Working Group recommends that the Parties consider whether such sanctions against non-parties are an appropriate means of promoting compliance with the objectives of the Agreement and whether they are consistent with international law.

PART III. OTHER ISSUES

The Working Group recommends that the Panel consider action with respect to the following, among others:

1. The nature of the legal instrument that will embody the compliance mechanisms discussed herein;
2. Identification of the composition and functions of the bodies to be established under the Agreement;
3. Development of a dispute resolution mechanism, to include consultations, expert missions, etc;
4. Development of monitoring and periodic reporting mechanisms;
5. Establishment of a financial mechanism, such as an international trust fund;
6. Procedures for the accession of non-parties to the Agreement;
7. Procedures for identifying non-compliance with the Agreement;
8. Development of public education programs;
9. Procedures for prompt termination of sanctions; and
10. Development of a certificate of origin regime for yellowfin tuna and the usefulness of such a regime as a means of monitoring compliance with the objectives of the Agreement by Parties and non-parties.

Appendix III.

RECOMMENDATIONS OF THE REVIEW PANEL WITH RESPECT TO THE REPORT OF THE EXPERT GROUP

In accordance with its mandate to develop standards and criteria for compliance with the La Jolla Dolphin Conservation Agreement and Resolutions of April and June, 1992 (collectively, the "Agreement"), the Review Panel (Panel) established at its meeting on October 15-16, 1992 a working group composed of legal and economic experts (Working Group). The members of the Working Group, acting in their individual capacities, met on January 25 and 26, 1993, and produced a report, which is forwarded with this memorandum.

- I. The Working Group considered the development of means to further the objectives of the Agreement both by promoting compliance by nations party to the Agreement and by encouraging accession and compliance by other nations. Its report includes a list of options for consideration by the Parties, certain specific recommendations to the Panel, and a list of issues for further exploration. The Panel is forwarding the report of the Working Group to the Parties with the following recommendations and comments:
- II. Part II of the report of the Working Group commences with four paragraphs containing specific recommendations. The Panel has endorsed these recommendations and forwards them to the Parties as Panel recommendations. Parts I and II of the Working Group's report outline possible options for action with respect to non-compliance with the objectives of the Agreement by, Parties and non-parties, respectively. The Panel notes that these options are described in a general manner and that agreement by the Parties to act on any of them might require the creation of one or more new legal instruments. The Panel recommends that the Parties consider the options presented, subject to the following qualifications:
 - With respect to "Public Opinion Actions," the Panel recommends that the Parties develop guidelines to ensure that such actions are based on consideration of verified evidence and that all information released to the public is disseminated in a responsible manner.
 - With respect to "Economic Sanctions," the Panel recognizes that the options identified by the Working Group present complex legal considerations. The Panel notes the specific considerations cited by the Working Group and recommends that these and other issues relating to economic sanctions continue to be explored.
- III. Part III of the Working Group's report identifies ten specific issues and recommends that the Panel consider action with respect to each. The Panel has determined that issues 1, 2, 5, and 6 are outside the scope of its authority and recommends that the Parties themselves consider action regarding them. With respect to issues 3, 8, 9, and 10, the Panel believes it is unclear whether action by the Panel would be appropriate, and seeks guidance from the Parties to clarify this point. The Panel considers the remaining issues, 4 and 7, to be within the scope of its mandate, and held extensive discussions on them at its meeting of January 27-29, 1993, which are reflected in the minutes of that meeting.

Appendix IV.

POLICY ON CONFIDENTIALITY OF INFORMATION

1. RATIONALE FOR POLICY

Description of function and dolphin mortality reduction program of Intergovernmental Agreement and data collection and use.

2. DEFINITIONS

- a. Access;
- b. Authorized use;
- c. Confidential data/information;
- d. Person;
- e. Enforcement;
- f. Research;
- g. Contractor.

3. FORMS/KINDS OF INFORMATION

- a. List of vessels qualified for DMLs and assignment of DML to each vessel;
- b. Observer reports and/or observer log books;
- c. List of infractions of Agreement by individuals and by states/summary report of infractions of Agreement;
- d. Responses of governments to reports of infractions;
- e. List of captains who have obtained adequate training and vessels that carry all the equipment needed to reduce dolphin mortality and that have performed the required procedures to maintain the vessel and the gear in good working condition;
- f. Recommendations to governments of actions to be taken to ensure compliance with the Agreement;
- g. Annual reports, including summaries of identified infractions and actions taken, reviews of the operation of the program and recommendations to the governments;
- h. Names of members of Review Panel;
- i. Rules of procedure for Review Panel;
- j. Minutes of meetings of Review Panel;
- k. Materials pertaining to operation of the Scientific Advisory Board.

4. POLICY

- a. Proceedings of the Review Panel will not be public, and its members shall not divulge any information concerning individual vessels and operators derived from review forms or from the proceedings of the Panel. Information concerning compliance with the terms of the Agreement will be made public by means of the Panel's Reports.
- b. No confidential information will be disclosed to Panel members without signed agreements not to disclose such information.

- c. No collection of proprietary data without release signed by owner of such data, or pursuant to agreement with participating nation.
- d. There will be an exception to (c) for enforcement purposes or as otherwise provided for in the text of agreements with participating nations.
- e. The penalty for disclosure of confidential information by Panel members will be expulsion from membership on the Panel. In the case of government representatives, expulsion shall be of members in their personal capacity.

5. AGREEMENTS WITH PARTICIPATING NATIONS

Appendix V.

TUNA LABELLING

All nations complying with this Agreement shall have the right to label tuna (or products thereof) caught by their fishermen with a logo, to be specified by the participating nations, indicating that such tuna (or products thereof) was harvested in compliance with an international dolphin conservation program. Any nation found to be in violation of this agreement shall be prohibited, for as long as non-compliance continues, from using the specified logo or any other logo or label suggesting that tuna (or products thereof) caught by its fishermen was caught in a manner that was "dolphin safe," "dolphin friendly," or in any other way protective of dolphins.

