

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

59<sup>TH</sup> MEETING

La Jolla, California (USA)

20-21 June 2016

REPORT OF THE MEETING

AGENDA

	Documents
1. Opening of the meeting	
2. Election of the Presider	
3. Adoption of the agenda	
4. Approval of the minutes of the 58 <sup>th</sup> meeting	
5. Review of Dolphin Mortality Limits for 2015 and 2016	IRP-59-05
6. Review of AIDCP <i>List of Qualified Captains</i>	IRP-59-06
7. Review of observer data	
8. Review of actions by Parties on possible infractions reported by the IRP:	
a. Actions taken since report at the 58 <sup>th</sup> meeting	IRP-59-08a
b. Status review of special cases	IRP-59-08b
9. Report of the Permanent Working Group on Tuna Tracking	
10. Other business	
11. Recommendations for the Meeting of the Parties	
12. Place and date of next meeting	
13. Adjournment	

APPENDIX

1. List of attendees

The 59th meeting of the International Review Panel was held in La Jolla, California (USA) on 20-21 June 2016.

**1. Opening of the meeting**

Dr. Guillermo Compeán, Director of the Inter-American Tropical Tuna Commission (IATTC), which provides the Secretariat for the Agreement on the International Dolphin Conservation Program (AIDCP), opened the meeting.

**2. Election of the Presider**

Mr. William Jacobson, of the United States, was elected to chair the meeting.

### 3. Adoption of the agenda

The provisional agenda was adopted with one minor typographic change.

### 4. Approval of the minutes of the 58<sup>th</sup> meeting

The minutes of the 58<sup>th</sup> meeting of the Panel were approved without changes.

### 5. a) Review of Dolphin Mortality Limits for 2015 and 2016

The Secretariat summarized the situation regarding the allocation, reallocation, and utilization of Dolphin Mortality Limits (DMLs) in 2015, described in document IRP-59-05, noting that no vessel had exceeded its allocated DML for that year. The total mortality in 2015 was 765 dolphins which is the lowest historically and occurred in 11,020 sets on dolphins, resulting in an average mortality per set of 0.07 dolphins; in 2016, the mortality to date was 246 dolphins in 4,356 sets, resulting in an average mortality per set of 0.06 dolphins.

#### b) DMLs for 2016

The Secretariat presented document IRP-59-05 on DMLs requested for 2016. Ninety-eight DMLs were approved for 2016, 90 of which were utilized by 1 April; of the remaining eight, two were granted *force majeure* exemptions, and two were forfeited. The Panel focused discussion on four cases of vessels that requested *force majeure* exemptions after the 1 April deadline. This engendered considerable discussion as to whether requests submitted beyond the established deadline should be circulated to the other Parties for consideration, and if circulated, whether an untimely request must still be objected to by a majority of the Parties and then otherwise deemed accepted. Ultimately, the Panel agreed to grant these four exemptions on an exceptional basis, with the understanding that, in the future, untimely *force majeure* requests or requests that did not meet the requirements established in Annex IV, were not eligible for consideration and approval. Such requests can be circulated by the Secretariat to the Parties, but for their information only.

### 6. Review of the AIDCP List of Qualified Captains

The Secretariat presented document IRP-59-06, *Changes to the AIDCP List of Qualified Captains*, which updates the changes that occurred between 24 September 2015 and 17 May 2016, during which time nine captains were added, one reinstated and one removed.

### 7. Review of observer data

The Secretariat presented the data reported by observers of the On-Board Observer Program relating to possible infractions received and processed by the Secretariat since the Panel's previous meeting. The Panel discussed those cases that were not automatically referred to the pertinent Parties, in order to determine which of them should be considered possible infractions and forwarded to the responsible government for investigation. The IRP discussed seven such cases, and agreed to forward three of them as possible infractions.

The Panel discussed the following cases:

**Trip 2015-744.** Sacking-up marine mammals. Occurred during an accidental set by a vessel without a DML, in which the marine mammals were not sighted before the set was made. Five pilot whales were caught; they were released from the sack. No tuna was caught during the set. The Panel decided there was no infraction because the encirclement of marine mammals was unintentional and the vessel was not capable of performing backdown.

**Trip 2015-805.** Interference with the observer's duties. The observer reported that the food he was served throughout the trip was not in good condition. The captain responded that the observer ate the same food as the crew, and that it was in good condition. The Panel decided that the case should not be considered a possible infraction.

**Trip 2015-829.** Captain not on the List of Qualified Captains. During the trip, the vessel entered port and the original captain was replaced by a different captain, who was not on the List. The vessel subsequently made 12 sets on dolphins during the rest of the trip. The Panel decided that the case should be referred to the Party as a possible infraction.

**Trip 2015-842.** Interference with the observer's duties. The captain asked the observer to inform him whenever the observer saw crew members throwing trash overboard. The observer responded that it was not part of his duties to inform the captain of such actions by the crew. Subsequently, the observer reported that he was subjected to constant verbal harassment by the captain throughout the rest of the trip. The Panel decided that the case should be referred to the Party as a possible infraction.

**Trip 2016-064.** No backdown. A set was made on a herd of approximately 150 dolphins, almost all of which escaped during the encirclement. Only six dolphins were left in the net, and they were released by hand by crew members in the water. Multiple Parties noted that sometimes, when only a few dolphins are present in the net, backdown is not as effective and that putting swimmers in the waters is a better, more successful option. Others expressed a preference for a more strict interpretation of the rules, rather than create an exception that is not reflected in the current requirements. The Panel decided against referring the case as a possible infraction.

**Trip 2016-189.** Interference with the observer's duties. The observer was not allowed to sample a turtle bought on deck alive before it was returned to the water. The Panel discussed the balance that needed to be struck between obtaining data on turtles and returning live specimens to the water as soon as possible. It was decided that this case should not be forwarded as a possible infraction, but that a letter should be sent to the Party highlighting the importance of allowing observers to take samples or measurements of bycatches, while taking into account the observer's safety during fishing operations.

**Trip 2016-300.** Captain not on the List of Qualified Captains during a trip by a vessel with a DML. The Panel decided that the case should be referred to the Party as a possible infraction.

The Panel discussed the two additional cases below, and postponed decisions on both until the next meeting, in order to allow more information to be gathered.

**Catch not recorded on TTF.** A vessel with a DML transferred 10t of tuna to another fishing vessel without a DML. Neither of the observers aboard the vessels recorded the transfer of fish in their notes or on the TTFs. The Panel agreed that the respective observer program should investigate why the transfer of fish was not recorded and report back to the IRP, but both of the observers were currently at sea, and no more information could be obtained at the moment.

**Vessel fishing without an observer.** An observer sighted another Class-6 vessel fishing in the area where the AIDCP Agreement Area overlaps with the WCPFC Convention Area. The Secretariat has no record of an observer aboard the second vessel, which was flying the flag of an AIDCP Party, and the vessel is not on the IATTC Regional Vessel Register. It is not known, whether the second vessel had an observer from the WCPFC program aboard, or whether it was operating in accordance with WCPFC measures.

## **8. Review of actions by the Parties on possible infractions reported by the IRP:**

### **a. Actions taken since the report at the 58th meeting**

The Secretariat presented Document IRP-59-08a, *Responses to six types of possible infractions identified during the 58th meeting of the Panel.*

Colombia explained that the two cases of explosive use by one of its flag vessels had been resolved and that a sanction was imposed. The Secretariat informed the Parties that the captains involved in these cases had been temporarily removed from the List of Qualified Captains and so the cases were concluded.

Mexico reported that its case of explosive use is in the final stages of investigation, and would be

concluded before the next meeting of the Panel.

#### **b. Status review of special cases**

The Secretariat presented Document IRP-59-08b, *Summary of pending special cases monitored by the IRP*. There were two related cases (Trips 2014-004 and 2014-145), originally addressed by the Panel at its 55<sup>th</sup> meeting in June 2014, and at each subsequent meeting, involving an observer who apparently was substituted by an unknown person during the two trips.

At its previous meeting, the Panel had agreed that additional measures or guidelines should be adopted to avoid a re-occurrence of this type of situation, and had asked the Secretariat to circulate a communication with draft measures for consideration and possible adoption. However, the Secretariat had not done so because no such proposals were received from the Parties. The European Union clarified that the Secretariat should have developed the proposals on its own without waiting for input from the Parties, and that if the Secretariat considered that they did not have enough information to proceed, they should have solicited additional input from the Parties.

Various delegations suggested that representatives of the national observer programs, present at the current meetings, should get together to exchange and develop ideas for best practices to prevent the above situation from repeating and to report to the Parties a summary of their meeting.

#### **9. Report of the Permanent Working Group on Tuna Tracking**

Mr. Luis Torres, of Ecuador, Chair of this Working Group, presented his report (Appendix 2). The group made the following recommendations:

- 1) Pressure should be put on governments to provide final responses regarding unresolved cases that have been pending for an extended time and provide an explanation as to why the investigations have taken so long; and that the IRP consider developing a mechanism to deal with such unresolved cases.
- 2) The case of a transfer of fish that was not recorded on TTFs should be reviewed by the Panel, noting that this case will also be considered by the IATTC Compliance Committee.

The United States suggested that the Parties should consider whether transfer of fish from vessels with DMLs to vessels without DMLs should be prohibited, or if transfer of fish on the final set should be prohibited generally, and that it would perhaps submit a proposal to that effect in the future. Other Parties believed it was important to maintain flexibility in vessel operations.

The Panel agreed to consider the issue more thoroughly at its next meeting.

#### **10. Other business**

No other business was discussed.

#### **11. Recommendations for the Meeting of the Parties**

The Panel agreed on the following recommendations for the Meeting of the Parties:

1. The four requests for *force majeure* exemptions for 2016 should be granted on an exceptional basis, but in the future no such exemptions would be granted for any requests that did not meet the requirements established in Annex IV of the AIDCP, notably those related to the deadlines. Any future requests for such exemptions that did not meet these requirements, particularly those submitted after the established deadlines, would be circulated to the Parties, at the request of the interested Party for their information only, but would not be eligible for consideration and approval.
2. Pressure should be put on governments with unresolved cases that have been pending for a long time to provide final responses, and a mechanism should be developed to deal with such unresolved cases.

## **12. Date and place of next meeting**

The 60th meeting of the Panel will be held in conjunction with the next meetings of the AIDCP.

## **13. Adjournment**

The meeting was adjourned at 10:35 AM on 21 June 2016.

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## Appendix 1.

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