

**Minutes of the Meeting
International Review Panel
October 28-29, 1993
La Jolla, California, U.S.A.
Presider: Dr. Francisco Herrera Terán**

1. Opening of the meeting

The fourth meeting of the International Review Panel (IRP) was called to order by Dr. Francisco Herrera Terán of Venezuela at 9:45 a.m. on October 28, 1993. In attendance were representatives of Colombia, Mexico, Panama, the United States of America, Vanuatu, Venezuela, the tuna fishing industry, and the environmental community. The attendees are listed in Appendix 1.

2. Election of the Presider

Mexico proposed that Dr. Herrera, Presider of the previous meeting of the IRP, continue in that post. Colombia seconded the motion, and it was unanimously approved.

3. Approval of the Agenda

The Presider proposed that Items 6 and 7 of the provisional agenda be transposed. After a brief exchange of opinions, the modified agenda was approved unanimously.

4. Approval of the minutes of the June 1993 meeting

The minutes of the third meeting of the IRP, held in La Jolla, California, U.S.A., on May 31-June 2, 1993, were approved without changes.

5. Dolphin Mortality Limits

The Presider asked the Secretariat to present this agenda item. He started by reminding the meeting that the IRP's mandate was to review the qualifications of vessels requesting Dolphin Mortality Limit (DMLs) for 1994 and to determine how to distribute the overall limit of 9,300 dolphins for 1994, agreed at the previous day's intergovernmental meeting, among the 87 vessels that had to date applied for DMLs for that year. He remarked that one of the vessels was registered in Belize, a country which was not a party to the Agreement but which had expressed its interest in affiliation and its desire to comply with its provisions. The other vessels were divided among Colombia (2), Mexico (50), Panama (1), the United States (3), Vanuatu (8), and Venezuela (22). The participants were referred to the criteria for issuing DMLs for 1994 agreed on at the third meeting of the IRP (IGM Minutes, June 1993, Appendix VII). CANAINPES asked whether a vessel requesting a DML had to have all the equipment stipulated by those criteria before applying for a DML or upon entering the eastern Pacific to fish. The Secretariat replied that possession of the equipment would be required before a DML is assigned, as stipulated in the Intergovernmental Resolution on Issues Associated with the International Review Panel adopted at the Vanuatu meeting of June 1993.

Mexico proposed dealing with the question of Belize first, and suggested that a DML be assigned to the Belize vessel for the second half of 1994 only. This would give the government of Belize time to complete the formalities necessary to affiliate itself to the Agreement. It was noted that if the vessel started to fish before the second half of the year without a DML, a number of problems might result. The Presider added that Belize would be subject to embargo by the United States, and Venezuela then proposed that the vessel be assigned a provisional DML for the whole year, pending confirmation of Belize's intention to affiliate. CANAINPES commented that this proposal went beyond the criteria approved by the Plenary, and expressed doubts about the justice of the arrangement. He thought that rules should be applied consistently, and that it would be difficult for the vessels to comply with elastic regulations. The Presider proposed postponing the matter, but the United States wanted to know if Belize had expressed any interest in becoming a member of the IATTC and also whether the Agreement laid down a procedure for affiliation. The Secretariat answered no to both, and was asked to send a letter

to the government of Belize explaining the situation. The United States asked if it was possible to assign the 1994 DMLs before resolving the question of Belize, and the Presider proposed including it for the time being, so that if it were not used it would act as a cushion for the second semester. The Secretariat pointed out that a difference of one vessel in the fleet would reduce the individual DMLs only slightly, from 107 to 106.

Passing to Item 5(b) of the Agenda, the Secretariat noted that it was the governments' responsibility to satisfy themselves that vessels complied with all the requirements before applying for a DML. They also had to ensure the collection of the sum of US\$ 10 per ton of carrying capacity from each of their vessels, to offset some of the costs of increasing observer coverage to 100%, and forward that amount to the IATTC. The Secretariat added that not all the contributions from national fleets had been received, and noted the special situation regarding the United States and Mexico with respect to the payment of these contributions, since those nations have their own observer programs, and no final decision had been taken on how these funds should be divided. The United States asked whether all vessels would pay the fee, which would then be divided up, or whether they would pay only enough to offset the increase in coverage. The Secretariat replied that all vessels would pay the full rate, but that perhaps some of it might be reimbursed, and that these matters should be dealt with during the meeting.

Venezuela noted that the legal status of some aspects of the Agreement was questionable, since there was no national legislation that covered issues such as the payment of bonds and contributions to the IATTC, and that governments lacked the authority to make private parties pay money to third parties. This situation would be resolved if the Agreement were converted into a formal Convention. The United States noted that it took the regulations seriously, and that one result of this was that the number of U.S. tuna vessels requesting DMLs would fall from 14 in 1993 to 3 in 1994. However, if there were flexibility in the criteria, this situation might change, and it was necessary to dispel the confusion regarding the rigidity and applicability of the criteria. The Presider commented that the criteria had been formulated to prevent frivolous applications, and that it was important to avoid sending mixed signals. The United States said that the most important thing was to maintain order and continuity in the fishery and the tuna trade, since only in that way could the success of the International Dolphin Conservation Program (IDCP) be assured. One possibility would be provisional DMLs, which would be flexible enough to accommodate everyone, and that the assignment of DMLs could be made dependent on the payment of the US\$ 10 per ton.

Mexico repeated that the principal problem was collecting and transferring funds. The system of payment by the vessels created an awkward situation for the IATTC, acting as a debt collector, and should perhaps be changed. The Secretariat indicated that he saw no technical problems with a system of provisional DMLs, since DMLs did not have to be assigned until January 1, 1994. The United States suggested that each country inform its fleet that there was flexibility in the regulations, and supported the Secretariat's comment that this did not change the essence of the criteria, but rather introduced flexibility into the timetable. The Presider remarked that the IRP could not alter the Agreement, but that it should keep the Plenary informed of everything that happened, and repeated that this new flexibility was not considered a change in the Agreement.

The Secretariat pointed out that the decision about the DMLs could not be postponed for too long, since the managers of the fleet needed to know about these in advance. The number of vessels that would apply for DMLs was more or less fixed, so it was unlikely that the DMLs would change much before 1994. Another factor which might affect the level of the DMLs would be that vessels which committed themselves to fish in the eastern Pacific under the Agreement but later backed out before paying their fees.

The Presider summarized the discussion, and stated that the concept of flexibility in the criteria for issuing DMLs for 1994 appeared to be decided, but that the details were missing. On the basis of 87 vessels in 1994, a DML of 106 dolphins would be assigned to each vessel. Vessels that did not yet meet the criteria of the Agreement would have to be in compliance before January 1, 1994, and if they did not pay their fees before December 15, 1993, they would lose their DMLs for 1994. The United States expressed its approval, but noted that perhaps more U.S. vessels might wish to reenter the fishery during the course of the year, in which case they would pay their fees and request DMLs. He agreed with the

idea of excluding those which did not pay, but those which did should be allowed to fish. He also suggested fixing a date by which the criteria must be met.

Panama proposed that the DMLs be based on more vessels, 90 or 93, in order to have a reserve in case of unexpected developments. This would mean a difference of only about six dolphins per vessel. CANAINPES pointed out that the idea of such a reserve had been discussed before, in order to cover circumstances such as sets which resulted in high dolphin mortality for reasons beyond a captain's control, but no final decision had been reached. He also pointed out that a reduction of six dolphins was significant out of a DML of 100, and could mean not catching a great deal of tuna. Panama responded that the DMLs were based on an overall limit of 9,300 dolphins, or more than double the projected mortality in 1993, and thus should not be a difficult target. CANAINPES agreed, but reminded the meeting that some vessels were doing better than others, and that chance could play a part; circumstances could lead to very different results, as had happened apparently in 1986, and that since the schedule was based on a constantly-decreasing overall DML, reducing the limits too rapidly could put the fleet at risk. Panama replied that the reserve would solve that problem.

The Presider recommended adoption of the U.S. proposal that DMLs be assigned provisionally until December 15, after which they would become final. After some discussion agreement was reached on the earlier date of December 1; all members also agreed that the provisional DML for individual vessels would be 106 dolphins for 1994, and that governments would have some flexibility within the Agreement in distributing these limits. The Secretariat referred the attendees to paragraph 3 of the Agreement, covering the timing of assignment of DMLs.

6. Review of compliance with the International Dolphin Conservation Program

The Presider asked the Secretariat to introduce this agenda item. Noting that the review of the observers' data would take considerable time, the Secretariat suggested discussing Item 6(b) first. He said that reports on the infractions identified at the third meeting of the IRP had been submitted to the pertinent governments. Two replies had been received to date, from Spain and the United States. The former stated that Spain had no vessels fishing for tunas associated with dolphins in the eastern Pacific, a practice which was in any case prohibited by the laws of the European Economic Community (EEC). The Presider noted that Venezuela had received its report, and that he had with him copies of the letters sent to boatowners, in which they were given their first and last warning. The Venezuelan tunaboat owners' association and one boatowner had replied, and parts of these letters were read to the meeting. Mexico stated that minor infractions had been identified in 11 vessels, some of which were not fishing on dolphins, and that these had been discussed at a meeting on October 11, 1993, with another one due in early November. It had been determined at the meeting that all the infractions were covered by Mexican law. Mexico was interested in synchronizing the meetings of the IRP and its national review committee, which he then described. He invited any Panel members interested in observing how the committee worked to attend one of its meetings, and stated that within the month a letter would be sent to the IRP detailing the measures to be taken, and that a final report would be issued after the next meeting of the IRP and the Mexican review committee. Colombia declared that they had not received news of any infractions, and Vanuatu noted that their report had arrived shortly before the present meeting.

The Secretariat expressed concern about delays or possible losses in the mail, and a discussion of the best way to send these reports ensued. Fax transmission, express mail, and diplomatic channels were proposed; the last was discarded, and the Secretariat agreed to use whichever of the other two methods worked better. The Presider asked about the U.S. report, and the Secretariat read out parts of a letter received from the U.S. National Marine Fisheries Service, dealing with the lack of towing bridles on speedboats, the infraction identified by the IRP. The Secretariat noted that inconsistencies in the data reported by the observer sometimes made it difficult to establish whether an infraction had taken place, but that no action had been taken since the infraction was minor and the vessel had not fished on dolphins. It was pointed out that towing bridles were easy to attach and remove, and that observers should obtain this information when the vessel was ready to fish, when the bridles should be fitted.

The Secretariat referred back to the question of Spanish vessels, and pointed out that since such vessels were prohibited from fishing on dolphins, no action should be taken on requests for DMLs by or

on behalf of Spanish vessels. CANAINPES asked whether vessels not intending to fish on dolphins needed to meet the requirements of the Agreement, and how this affected the Spanish vessels. The Secretariat replied that all vessels needed to comply with the gear requirements, since they could catch dolphins accidentally. The Presider suggested that Spain be informed of this. Mexico pointed out a contradiction in the Agreement in this respect, since vessels were required to carry speedboats equipped for towing the net but vessels which did not intend to fish on dolphins commonly carried no speedboats, since these are needed only in sets on dolphins. The Secretariat stated that any speedboats carried should be equipped to tow the net, and that sets on dolphins without speedboats were possible. Under the laws of some nations, a vessel not carrying speedboats was automatically considered not to be fishing on dolphins. FUDENA stressed that the objective of the program was to save dolphins, and that all the equipment should be carried in case it was needed; this meant that Spain was effectively in violation of the Agreement. The United States asked about the frequency of accidental sets on dolphins, and pointed out that the Agreement covered only deliberate setting on dolphins and that it required the IRP to "recommend ... minimum standards for fishing gear," without spelling out the exact requirements. The Secretariat noted that it was necessary for all vessels to be in compliance since they could switch from not fishing on dolphins to fishing on them, but that perhaps the confusion arose from the list of infractions drawn up by the IRP; some of these would apply to all vessels and others only to those which chose to fish on dolphins. To this the United States countered that the presence of an observer on every vessel made it unnecessary to carry all the equipment, and that thus only vessels intending to fish on dolphins should be obliged to carry all the required equipment; others should be given the benefit of the doubt. The Presider agreed that the infractions would apply only to vessels on trips with dolphin sets; the Secretariat agreed in principle, but pointed out that infractions could also occur during trips without dolphin sets, and that the infractions were applicable only to vessels with DMLs. The United States then asked how the Spanish vessels had obtained their DMLs, and the Presider explained that they had been leased to Venezuelan companies in a joint venture and had used part of their DMLs before the EEC had passed its ban on dolphin fishing; they had then stopped fishing on dolphins, and thus lost their DMLs. He stated that in the future Venezuela would not request DMLs for these vessels, but that when the infraction had been recorded the vessel in question had been fishing on dolphins. The United States suggested that, since the situation would not reoccur, the matter should be left as it is. The Presider pointed out that the Spanish vessels were in a difficult position, since they were under contract to Venezuela and thus under Venezuelan law, so their infractions were reported to the Venezuelan government, but the EEC had objected to their fishing on dolphins and Venezuela had agreed.

CANAINPES reminded the meeting that the issue was whether to impose sanctions on vessels which did not fish on dolphins for gear infractions, and asked what would be done in the case of a vessel with a DML that chose not to fish on dolphins during a particular trip. The Secretariat mentioned that the incidence of accidental sets on dolphins was very low, about 1% of all sets not directed at dolphins, and that it was not always easy to establish whether a set was truly accidental. In any case, any mortality would be subtracted from the vessel's DML. Mexico said that perhaps the payment of a bond would eliminate cases of vessels requesting a DML but then not fishing on dolphins, and pointed out that the definition of the term "dolphin-safe," usually taken to refer to fish caught or trips made without setting on dolphins, was commercial and not legal; the standard had been set by the tuna processors. The United States declared that the commercial world relied on the observers' certification to determine whether a trip was "dolphin-safe," and expressed the opinion that those vessels which applied for DMLs should be in compliance with the Agreement, whereas those that did not should be allowed to do as they saw fit.

Mexico suggested postponing the discussion of Item 6(a) of the agenda until the end of the meeting, to which everyone agreed. FUDENA pointed out that the main purpose of the meeting was to review the observers' data, and that a timetable should be established to ensure that there was enough time to examine them. The Presider suggested starting the review as soon as the meeting started the following day and dedicating the whole day to it; everyone agreed to do this.

7. Infractions and sanctions

The Secretariat presented this item, saying that much time had been devoted to the matter at the third meeting of the IRP, as recorded under Item 5 in the minutes of the Intergovernmental Meeting (IGM) that had taken place in Vanuatu in June 1993. The Plenary had accepted the four general

guidelines proposed by the working group (IGM Minutes, June 1993, Appendix IV), and these are now policy for the IDCP. The options put forward by the working group for action to ensure compliance with the Agreement had been sent back to the IRP by the Plenary for further action, and no decision had been taken. It had been suggested that a permanent working group of experts be formed to finalize these proposals, and that a decision on this proposal needed to be taken. Of the ten matters discussed by the IRP on previous occasions and forwarded to the Plenary, five had been declared outside the scope of the IRP's authority, especially that of a supplementary instrument to the Agreement. He then described the five points turned over to the IRP by the Plenary.

Passing to Item 7(b), the Presider asked for updates from the various delegations regarding the harmonization of efforts to ensure compliance. He said that in Venezuela the legislation had been approved by the Senate, which had returned the bill to the lower chamber, and that final approval was expected within six months. Colombia stated that the 1990 fisheries law, which came into force in 1991, and the National Fisheries Institute's regulations were compatible with the aims of the Agreement. Mexico announced that some changes in the legislation had been published in the Federal Register, and that final versions of technical fishing standards were about to be issued, among them those for tuna. Vanuatu said that its legislation remained under review. The United States stated that the majority of the infractions were included in its regulations and that sanctions had been imposed, and suggested that the IRP's recommendations be taken into account when evaluating a vessel's equipment and performance. He also announced that the U.S. Marine Mammal Protection Act, due for renewal in September 1993, had been reauthorized in its current form for a further six months, in order to study further the interaction of commercial fisheries with marine mammals. Panama said that his country's law had not changed since his previous report in Vanuatu.

The Secretariat informed the meeting that he had been asked to obtain from the governments summaries of their legislation in order to permit an accurate comparison. To date Nicaragua had responded by saying that it currently had no tuna vessels, and the United States and Venezuela had sent the summaries requested. Once all the information was collected, a working group composed of representatives of Mexico, the United States, and the IATTC would convene, as proposed by the United States, in order to carry out the comparative study. Mexico informed the meeting that he had with him a summary of Mexico's legislation which compared it to those of other nations.

Passing to Item 7(c), the Presider asked the Venezuelan legal counsel to summarize the proposals put forward by the working group formed in January 1993. She summarized the four options presented to the IGM in Vanuatu (IGM Minutes, June 1993, Appendix V) for action against nations which failed to comply with the provisions of the Agreement, namely diplomatic actions, actions undertaken through the news media, restrictions on operations in the fishery, and economic sanctions. Economic sanctions were regarded as a last resort, and even then would need to be applied with great care. The provisions for party and non-party nations were somewhat different, and reflected legal considerations, especially with regard to the application of the latter two options to non-party nations. The Presider noted that some of the nations party to the Agreement were reluctant to take operational and economic actions, and that other options should be investigated for consideration.

Mexico agreed that the operational and economic restrictions were difficult, and recommended using only the diplomatic and public-opinion options. The United States agreed, noting that any actions must be compatible with national and international law, and proposed that the matter be left with the working group. The Presider supported this proposal, pointing out that the group had done a great deal of work, including drafting the supplementary instrument, and should be kept together. Colombia agreed with Mexico and the United States, reiterating that the matter was delicate and best left to specialists; Venezuela also agreed, and noted that the Food and Agriculture Organization of the United Nations and the Convention on International Trade in Endangered Species were considering similar issues. The Presider proposed scheduling a meeting of the working group prior to the next meeting of the IRP in January 1994, and the Secretariat commented that terms of reference should be established for the group. He also pointed out that the group should be composed of legal and technical experts, and that the expertise and time necessary for dealing with these matters would not be available at IRP meetings, and therefore proposed forming an independent working group which would meet when and where it saw fit and take the time required to carry out its obligations. Mexico advised caution

concerning this matter, pointing out that the same issues were being discussed elsewhere, for instance in the Uruguay Round of the General Agreement on Trade and Tariffs (GATT), due to end in December, and the United Nations Conference on Highly-Migratory Species scheduled for April 1994, and that the sanctions being discussed should perhaps await the outcome of these meetings; he proposed postponing the meeting of the working group until the results of these other discussions were available. The Presider agreed that there was no immediate hurry, noting that the group would meet more to discuss the issues than to make final decisions, but said he wanted to combine the group's next meeting with the IRP meeting in January, since in any case the group would need to meet more than once. Mexico said that the results of the Uruguay Round would provide a framework for further work, and the Presider proposed that people familiar with the Uruguay Round should be invited to take part in the group's discussions. He then sought agreement on a date for the group's meeting; Mexico suggested March, and the United States agreed, commenting that this would allow time to clarify the results of the Uruguay Round but was close enough that the matter would not lose its urgency. Venezuela pointed out that the favored sanctions were the diplomatic and public opinion options, and that these would not be affected by the GATT. The United States said that the GATT was less important than the U.N. Conference, and that the tuna markets might well wait to see what the international community intended before taking any decisions. Venezuela replied that the Panel should carry on its work and not plan it around that of others; it should contribute to the international discussion and lead rather than follow. The legal and economic sanctions were defined, but no further progress could be made without some new ideas. He proposed that a meeting of the working group should be scheduled to coincide with the U.N. Conference, thus allowing for informal meetings and consultations with other attendees and perhaps an *ad hoc* IGM. This proposal was approved by all the delegates, and the Secretariat was instructed, once the exact date of the U.N. Conference was known, to circulate a letter to all governments asking them to designate experts for the working group. The United States was asked whether it wanted to organize the meeting, to which he responded that this would be decided at the January meeting, when more information would be available. The starting point for the group's discussions would be the proposals outlined in Appendix V of the minutes of the third meeting of the IRP.

8. Possible expansion of the IRP and its Rules of Procedure

The Presider stated that the IGM had decided that the membership of the IRP should be expanded in accordance with Possibility 1 described in the memorandum dated September 27, 1993, sent by the Director of the IATTC to the governments party to the Agreement (Appendix 2). At the Presider's request, the Secretariat outlined the two possibilities set out in the memorandum.

The Presider asked for comments on the Secretariat's presentation. Venezuela proposed a change in the wording of the amendment to the Agreement, replacing "become a member" with "designate a representative to the Panel" or "participate in the Panel," since governments as such could not become members of the Panel, and also suggested that the rules should spell out in detail the requirements for new members, the conditions they needed to meet, and the like. The United States suggested changing "may become a member" to "shall become a member," which would effectively define the membership of the IRP, to which the Secretariat objected that it left countries no option. The United States then proposed "shall be entitled to become a member." CANAINPES noted that the "five or more government members" were not defined, and asked who elected them, to which the United States responded that they were nominated by the IATTC, with the IGM's approval. The Presider explained that each country-nominated members to the Panel, thus enabling countries which are not members of the IATTC to belong to the IRP. CANAINPES agreed with the United States that "shall become a member" would define the membership, and pointed out that since the IRP could not take such decisions the matter should be referred to the Plenary, which would instruct the IRP on what to do.

The Presider commented that the terms of the original five government members of the IRP expired in 1994. As no mention was made of time limits in the proposed changes, it was suggested that the rules be changed to eliminate the two-year terms of service originally envisaged. The Presider noted that the IGM had approved Possibility 1, and that the Rules of Procedure would now have to be changed to conform with the amended Agreement. He instructed the Secretariat to draw up new rules which would encompass the comments made at the meeting and circulate them to governments for comments or approval.

9. Labelling

The Presider introduced this item by stressing the need for a label for canned tuna which would acknowledge the efforts made by the IDCP. He suggested that Venezuela organize a meeting to draft standards for this purpose. The United States asked whether the question of labelling was within the IRP's mandate, to which the Presider answered that the IGM had not instructed the IRP to deal with the matter, but that it had been included in the agenda. Mexico pointed out that the IRP's job was to inform governments of what the fleet was doing, and that all other matters should be dealt with by working groups outside the main forum of the IRP. The Presider proposed that Venezuela convene such a group to discuss labelling, and the proposal was approved.

10. Place and date of next meeting

The Presider asked for suggestions, noting that meetings must be held in La Jolla or Ensenada because the data are processed and kept in those two locations. He suggested January 26-28, 1994, and Mexico proposed holding the meeting in Ensenada. These two proposals were approved by the members.

11. Other business

Colombia informed the meeting that he had just received the IATTC's report on infractions by Colombian vessels, sent on August 25, and that only minor infractions were listed.

The Presider recessed the meeting at 5:05 p.m.

6(a). Review of observer data

The meeting reconvened at 9:20 a.m. on October 29, and the Presider gave the floor to members of the IATTC staff to present the observers' data regarding possible infractions. Those present who had not attended previous meetings of the IRP were required to sign statements that the data would be treated as confidential and would not be divulged outside the meeting. The IRP summary data forms were handed out, and it was explained that the data to be considered covered vessels with and without DMLs during the period from the last meeting of the IRP until about a week prior to the present meeting, or about one-third of the annual total. It was decided to examine both major and minor infractions.

In a discussion prompted by the case of an observer who had been reprimanded by the vessel captain for using the vessel's navigation equipment without permission, the Panel agreed that representatives of the observer programs of Mexico, the United States, and the IATTC should draw up guidelines regarding which equipment the observers needed to have access to in order to perform their duties, and the Panel would subsequently inform governments of these guidelines.

During the data review, a discussion arose about the practice of dropping the *ortza* at the bow end of the net to release dolphins from the net, and whether this obviated the need for the backdown maneuver stipulated in the Agreement. It was eventually agreed that such cases would be reported to governments as infractions, but with a note explaining that the acceptability of alternatives to backing down as dolphin release methods was being evaluated. The Secretariat was instructed to gather data on this subject, and to find out whether dropping the *ortza* was a safe method of releasing dolphins.

The Panel also discussed the question of which infractions to report to governments. Mexico proposed reporting all possible infractions and letting the individual governments decide which ones merited action; if the governments required assistance, the IRP could look at individual cases more closely. It was suggested that the IRP examine only questionable cases and report all others directly. Mexico proposed defining the rules used by the IATTC to determine whether an infraction had taken place, and Venezuela asked whether the IATTC staff could determine in advance which were the serious infractions and present only those at meetings. The Secretariat replied that he was not prepared for that at the time, and Mexico proposed that a parallel technical working group be formed to examine the possible infractions and forward to the IRP only those cases which were in doubt for a decision on

whether to report them. The Secretariat noted that after a few meetings every possible type of infraction would have been examined and it would be easier to decide which ones were serious, and added that some minor technical infractions were also often borderline cases and needed a decision. The staff agreed to look at the data and select only major infractions and the doubtful minor infractions for presentation at the afternoon session.

Among the points discussed was the relative quality of the observers, and how this was reflected in the data. The staff explained the methods used to select and evaluate observers, and noted that observers who did not meet certain quality standards were not used again. During the review of a set in which a major malfunction occurred, the Secretariat made the point that a vessel could lose its DML for up to several years due to such a chance happening, and the Presider proposed that all nations be informed of this with a view to perhaps taking such cases into account when fixing DMLs. Also, the Secretariat was requested to examine the data base for data on the incidence of pilot whales in incidental captures of marine mammals and the effectiveness of the backdown maneuver for releasing them.

There arose again the question of whether the backdown maneuver was necessary in all cases, and specifically in sets in which dolphins were captured accidentally. The United States suggested forming a working group to develop terms of reference for defining these and similar cases, and Mexico proposed that this matter should be addressed as the first item on the agenda for the next meeting, in order to allow time to resolve it. It was also proposed that the wording of the requirement of bridles on speedboats be changed to "any speedboat deployed in the water must be equipped with a towing bridle."

Two cases involving apparent attempted bribery of observers to falsify data were discussed. It was reported in both cases that the government responsible had initiated an internal investigation.

12. Adjournment

The Panel concluded its review of the data at 6:45 p.m., and the Presider adjourned the meeting.

APPENDIX 1

MEETING OF THE INTERNATIONAL REVIEW PANEL REUNION DEL PANEL INTERNACIONAL DE REVISION October 26-27, 1993--26 y 27 de octubre de 1993 La Jolla, California

ATTENDEES--ASISTENTES

GOVERNMENTS--GOBIERNOS

Colombia

Alejandro Londoño
Guerly Avila de Tabarés

Instituto Nacional de Pesca y Acuicultura
Instituto Nacional de Pesca y Acuicultura

Mexico

Dámaso Luna
Carlos Camacho Gaos
Jerónimo Ramos
Guillermo Compeán

Secretaría de Relaciones Exteriores
Secretaría de Pesca
Secretaría de Pesca
Programa Atún-Delfín

Panama

Juan Antonio Varela

Ministerio de Comercio e Industria

United States of America--Estados Unidos de America

Brian Hallman
Robert C. Brownell, Jr.
Martin Hochman
Paul Niemeier
Steve Thompson
Michael Tillman

Department of State
National Marine Fisheries Service
National Marine Fisheries Service
National Marine Fisheries Service
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Vanuatu

Doresthy Kenneth

Ministry of Fisheries

Venezuela

Francisco Herrera Terán
Jean-François Pulvenis
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Servicio Autónomo de los Recursos Pesqueros y Acuícolas
Ministerio de Relaciones Exteriores
Ministerio de Relaciones Exteriores
Arnold & Porter

ENVIRONMENTAL ORGANIZATION--ORGANIZACION AMBIENTALISTA

Fundación para la Defensa de la Naturaleza

Héctor López Rojas

TUNA-FISHING INDUSTRY--INDUSTRIA ATUNERA

Cámara Nacional de la Industria Pesquera

Felipe Charat

U. S. Tuna Foundation

David Burney

APPENDIX 2

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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September 27, 1993
Ref: 0716-430

TO: Governments party to the 1992 Agreement for the Conservation of Dolphins
FROM: Director
SUBJECT: Membership of the International Review Panel

During the Intergovernmental Meeting (IGM) held in Port Vila, Vanuatu, on June 9-10, 1993, the possibility of broadening participation in the activities of the International Review Panel (IRP) was discussed, and two proposals were put forward. The first called for expanding the number of government members, currently five, to include representatives of other governments with special interests in the IRP's activities. The second called for maintenance of the current number of government members, but provided for representatives of certain other governments to participate in all activities of the IRP except voting.

The Secretariat of the IRP was instructed by the IGM to prepare draft modifications to the 1992 Agreement for the Conservation of Dolphins and the Rules of Procedure of the IRP which would reflect the intentions of these two proposals. With this in mind, the following two possibilities are presented for your evaluation and for action at the IGM scheduled for October 26 and 27, 1993, in La Jolla.

Possibility 1

Membership of the IRP would be open to any government party to the Agreement for the Conservation of Dolphins that has at least one vessel of carrying capacity greater than 400 short tons fishing for tunas under its flag in the eastern Pacific Ocean.

Appendix II, Section III, of the Agreement for the Conservation of Dolphins would be amended to read:

"The Review Panel shall be composed of five or more representatives of governments and four representatives of non-governmental organizations. Of the latter, two shall be representatives of environmental organizations and two shall be representatives of the tuna-fishing industry. Any government that is party to the 1992 Agreement for the Conservation of Dolphins and that has at least one vessel of carrying capacity greater than 400 short tons fishing under its flag in the eastern Pacific Ocean may become a member of the Panel. The government representatives shall be voting members, and the non-governmental representatives shall be non-voting members. The IATTC will provide a non-voting Secretariat for the Panel."

Rule I. a) of the Rules of Procedure of the IRP would be amended to read:

"The Review Panel ("the Panel") shall be composed of representatives of governments party to the Agreement approved in La Jolla on 18 June 1992 which have at least one vessel of carrying capacity greater than 400 short tons participating in the fishery under their flag

("government members"). There shall be four additional members of the Panel ("non-government members"), two representatives of environmental organizations and two representatives of the tuna-fishing industry, to be appointed by the government members in accordance with these rules."

Rule V. a) of the Rules of Procedure would be amended to read:

"The Panel shall strive to reach a consensus on all matters. In the event that this is not possible, all decisions, resolutions, recommendations, and other official actions of the Panel shall be taken by a majority of at least two thirds of the voting members. Voting at meetings of the Panel shall be by show of hands, or by roll call, as in the opinion of the Presider (see Rule X.c) appears more suitable."

Possibility 2

The number of voting members of the IRP would not change, but any government party to the 1992 Agreement for the Conservation of Dolphins that has at least one vessel of carrying capacity greater than 400 short tons fishing for tunas under its flag in the eastern Pacific Ocean and that is not currently a member of the IRP may send a representative to participate in the meetings of the IRP as a non-voting member.

Appendix II, Section III, of the Agreement for the Conservation of Dolphins would be amended to read as follows:

"The Review Panel will be composed of nine or more members, five of whom shall be representatives of resolving governments with vessels participating in the fishery. Two members of the Panel shall be representatives of environmental organizations and two shall be representatives of the tuna-fishing industry. These four members shall be selected by the government representatives on the Panel. The five government representatives shall be voting members; the four non-governmental representatives shall be non-voting members. The IATTC will provide a non-voting Secretariat for the Panel.

In addition, any government party to the Agreement for the Conservation of Dolphins that has at least one vessel of carrying capacity greater than 400 short tons fishing for tunas under its flag in the eastern Pacific Ocean and that does not have a representative on the Panel shall, upon expressing its interest in participating to the Secretariat of the Panel, be invited to attend the meetings of the Panel as a non-voting member."

In addition, numerous changes, most of them minor, would be required for the Rules of Procedure.

These two possibilities, along with others that may be introduced by government representatives, will be discussed at the forthcoming IGM in October.

