

# AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

## 12<sup>TH</sup> MEETING OF THE PARTIES

LA JOLLA, CALIFORNIA (USA)  
20 OCTOBER 2004

### DOCUMENT MOP-12-08

#### DRAFT RESOLUTION TO ESTABLISH A LIST OF VESSELS PRESUMED TO HAVE CARRIED OUT ILLEGAL, UNREPORTED AND UNREGULATED FISHING ACTIVITIES IN THE AGREEMENT AREA

At its meeting in June 2004, the Inter-American Tropical Tuna Commission (IATTC) adopted Resolution C-04-04 to establish a list of vessels presumed to have carried out illegal, unreported and unregulated fishing activities in the eastern Pacific Ocean. The text of that resolution has been amended by the Secretariat, in consultation with the Chairman of the Working Group, to suit the purposes of the AIDCP, and is presented to this Meeting of the Parties for discussion and eventual adoption. Your attention is drawn to Paragraph 1.a, which may not be appropriate for the AIDCP resolution. Also, paragraphs 1.d, and 1.e. of the IATTC Resolution were not included. Paragraph 1.c is modified to reflect the October 2003 amendment of the *Procedures for AIDCP Dolphin Safe Tuna Certification*, and the new paragraph 1.d. addresses any AIDCP conservation and management measures.

*The Parties to the Agreement on the International Dolphin Conservation Program (AIDCP):*

*Recalling* that the FAO Council adopted on 23 June 2001 an International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing (IPOA-IUU). This plan stipulates that the identification of the vessels carrying out illegal, unreported and unregulated (IUU) fishing activities should follow agreed procedures and be applied in an equitable, transparent and non-discriminatory way.

*Concerned* that IUU fishing activities in the Agreement Area undermine the effectiveness of the AIDCP conservation and management measures.

*Further concerned* that there is a possibility that vessel owners engaged in such fishing activities may have re-flagged their vessels to avoid compliance with AIDCP management and conservation measures.

*Determined* to address the challenge of an increase in IUU fishing activities by way of counter-measures to be applied in respect to vessels, without prejudice to further measures adopted in respect of flag States under the relevant AIDCP instruments.

*Considering* the action undertaken in other regional tuna fisheries organizations to address this issue;

*Conscious* of the need to address, as a matter of priority, the issue of vessels larger than 24 meters in length overall (hereinafter referred to as "large-scale fishing vessels") conducting IUU fishing activities; and

*Noting* that the situation must be addressed in the light of all relevant international fisheries instruments and in accordance with the relevant rights and obligations established in the World Trade Organization (WTO) Agreement;

*Resolve as follows:*

1. For the purposes of this resolution, purse-seine fishing vessels flying the flag of a non-party are presumed to have carried out IUU fishing activities in the Agreement Area, *inter alia*, when an AIDCP Party, cooperating non-Party, fishing entity or regional economic integration organization (collectively "CPCs") presents evidence that such vessels:
  - a. Harvest tuna in the Agreement Area and are not on the IATTC Regional Vessel Register, or
  - b. Do not record or report their catches made in the Agreement Area, or make false reports, or

- c. Fish in contravention of IATTC conservation and management measures, such as time and area closures, or other specific measures identified by the Parties, or
  - d. Engage in fishing activities contrary to any AIDCP conservation and management measures, or
  - e. Transship with vessels included in the AIDCP IUU Vessel List, established by this resolution, or
  - f. Are without nationality and harvest tuna in the Agreement Area, or
  - g. Are under the control of the owner of any vessel on the AIDCP IUU Vessel List.
2. Each CPC shall transmit to the Secretariat, before 1 February of every year, a list of any purse-seine vessels flying the flag of a non-party presumed to have carried out IUU fishing activities in the Agreement Area during the current and previous years, accompanied by the evidence supporting the presumption of IUU fishing activity.

The AIDCP IUU Vessel List shall be based on information collected by CPCs and from any other relevant sources. Information from CPCs should be provided in a format to be developed by the Secretariat and approved by the Parties.

3. On the basis of the information received pursuant to paragraph 2, the Secretariat shall draw up a draft AIDCP IUU Vessel List and shall transmit it, together with all the supporting evidence provided, to all CPCs, as well as to non-parties with vessels on the List, before 1 March of each year. CPCs and non-parties shall, before 15 April, transmit their comments to the Secretariat, as appropriate, including evidence showing that the vessels neither have fished in contravention of AIDCP conservation and management measures nor had the possibility of fishing for tuna in the Agreement Area.

Upon receipt of the draft AIDCP IUU Vessel List, CPCs shall closely monitor the vessels included in the draft List in order to determine their activities and possible changes of name, flag and/or registered owner.

4. On the basis of the information received pursuant to paragraph 3, the Secretariat shall draw up a provisional AIDCP IUU Vessel List, and transmit it, two weeks in advance of the Annual Meeting of the Parties, to the CPCs and the non-parties concerned, together with all the evidence provided.
5. CPCs may at any time submit to the Secretariat any additional information which might be relevant for the establishment of the AIDCP IUU Vessel List. The Secretariat shall circulate the information, together with all the evidence provided, to the CPCs and to the non-parties concerned, at least two weeks before the Annual Meeting of the Parties.
6. The IATTC-AIDCP Joint Working Group on Fishing by Non-Parties (Joint Working Group) shall each year examine the provisional AIDCP IUU Vessel List, as well as the information referred to in paragraphs 3 and 5.

The Joint Working Group shall remove a vessel from the provisional AIDCP IUU Vessel List if the vessel's flag State demonstrates that:

- a. The vessel did not engage in any of the IUU fishing activities described in paragraph 1, or
  - b. Effective action has been taken in response to the IUU fishing activities in question, including, *inter alia*, prosecution, and imposition of sanctions of adequate severity.
7. Following the examination referred to in paragraph 6, the Joint Working Group shall recommend that the Parties approve the provisional AIDCP IUU Vessel List, as amended by the Joint Working Group.
8. Once the provisional AIDCP IUU Vessel List is adopted by the Parties, the Parties shall ask non-parties with vessels on the AIDCP IUU Vessel List to take all the necessary measures to eliminate

these IUU fishing activities, including, if necessary, the withdrawal of the registration or the fishing licenses of these vessels, and to inform the Parties of the measures taken in this respect.

9. CPCs shall take all necessary measures, under their applicable legislation and pursuant to paragraphs 56 and 66 of the IPOA-IUU, to:
  - a. ensure that vessels flying their flag do not transship with vessels on the AIDCP IUU Vessel List;
  - b. ensure that vessels on the AIDCP IUU Vessel List that enter ports voluntarily are not authorized to land or transship therein;
  - c. prohibit the chartering of a vessel on the AIDCP IUU Vessel List;
  - d. refuse to grant their flag to vessels on the AIDCP IUU Vessel List, unless the vessel has changed owner, and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel or, having taken into account all relevant facts, the flag CPC determines that granting the vessel its flag will not result in IUU fishing;
  - e. prohibit commercial transactions, imports, landings and/or transshipment of tuna taken in the Agreement Area from vessels on the AIDCP IUU Vessel List;
  - f. encourage traders, importers, transporters and others involved, to refrain from transactions in, and transshipment of, tuna taken in the Agreement Area caught by vessels on the AIDCP IUU Vessel List;
  - g. collect, and exchange with other CPCs, any appropriate information with the aim of searching for, controlling and preventing false import/export certificates for tuna taken in the Agreement Area from vessels on the AIDCP IUU Vessel List.
10. The Secretariat shall take any measure necessary to ensure publicity of the AIDCP IUU Vessel List, in a manner consistent with any applicable confidentiality requirements, including placing it on the IATTC website. Furthermore, the Secretariat shall transmit the AIDCP IUU Vessel List to other regional fisheries organizations for the purposes of enhancing co-operation between the AIDCP and these organizations aimed at preventing, deterring and eliminating IUU fishing.
11. This resolution shall apply initially to purse-seine vessels with a carrying capacity greater than 363 metric tons flying the flag of non-parties. The Parties shall, at their Annual Meeting in 2005, review and, as appropriate, revise this resolution with a view to extending it to other IUU fishing activities by vessels of non-parties and CPCs.
12. Without prejudice to the rights of CPCs and coastal states to take proper action, consistent with international law, the CPCs shall not take any unilateral trade measures or other sanctions against vessels on the draft or provisional AIDCP IUU Vessel Lists, pursuant to paragraphs 3 or 4, or that have been removed from the AIDCP IUU Vessel List, pursuant to paragraph 6, on the grounds that such vessels are involved in IUU fishing activities.