

# AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

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

LA JOLLA, CALIFORNIA (USA)  
11 OCTOBER 2003

### DOCUMENT MOP-10-09

#### REVIEW OF RULES OF CONFIDENTIALITY

Section 7.3 of the *Plan of Action to enhance the success of the AIDCP* calls upon the Director to review the AIDCP [\*Rules of confidentiality\*](#) (attached), with a view to making proposals designed to strengthen transparency in the operation of the Program.

The current Rules are not intended to prevent the Secretariat providing individual Parties with any information collected by observers regarding their respective vessels, and thus the operation of the IDCP is entirely transparent to each individual Party. However, it is not clear from the Plan of Action whether the intention is to increase access to information, and thus transparency, for the other Parties, the IRP, or the public. The Parties will need to consider this as they examine the various options available for changing the Rules.

#### 1. TYPES OF CONFIDENTIAL INFORMATION

The information in the following four categories is currently considered confidential, and is provided only to the respective Party.

##### 1.1. Vessels

Records of position, catches, set types, dolphin mortalities, unloadings, trade, TTFs, fishing areas, fishing strategies, and infractions that relate to the operations of individual vessels, are considered confidential, and none of this information for vessels of Parties is released. Some or all of this information could be made available to the other Parties and/or the IRP, on either a confidential or non-confidential basis, or to the public.

##### 1.2. Companies

Records of catches, set types, dolphin mortalities, unloadings, trade, or TTFs, that relate to the operations of individual companies, are considered confidential, and none of this information is released. Some or all of this information could be made available to the other Parties and/or the IRP, on either a confidential or non-confidential basis, or to the public.

##### 1.3. Individuals

The names and addresses of individuals associated with a vessel receiving a DML, and the names of captains on the List of Qualified Captains, are considered confidential. Currently, the only information revealing names of individuals that is released is the List of Qualified Captains, which is sent to the Parties on a confidential basis. Either type of information regarding individuals currently considered confidential could be made available to the Parties on a non-confidential basis, to the IRP on either a confidential or non-confidential basis, or to the public.

##### 1.4. Flag governments

The Rules require that the flags of vessels that receive DMLs, the flags of vessels for which possible infractions have been identified, and flag information related to dolphin mortalities and captain

performance be treated as confidential information. The flags of vessels that receive DMLs are reported confidentially to meetings of the IRP and to the Parties via correspondence, but the flags of vessels for which possible infractions have been identified are published in the IRP Annual Reports, and the Parties may wish to adjust the Rules to reflect this practice. If so desired by the Parties, the flags of vessels that receive DMLs could be made available on a non-confidential basis, and/or flag information related to dolphin mortalities and captain performance could be made available to the other Parties or to the IRP, on either a confidential or non-confidential basis, or to the public.

## **2. OTHER CONFIDENTIALITY ISSUES**

1. One area where the Rules appear to be somewhat contradictory relates to the separation of information by flags. The Rules require individual vessel and company information to be kept confidential; however, paragraph 6 states that “all data presented to meetings by flag shall include information for all flags separately, regardless of the number of vessels operating under that flag.” In order to keep the identities of individual vessels or companies confidential it is sometimes necessary to group information from vessels of more than one flag, and the Secretariat has followed this practice. The Parties may wish to discontinue this, or, alternatively, amend paragraph 6 of the Rules. One alternative would be to present the information with separate flags, but on a confidential basis.
2. Paragraph 4 of the Rules states that “confidential information may be presented at a meeting when the Meeting of the Parties so decides, and in such cases all attendees shall sign a Confidentiality Agreement stating that such information which is identified as confidential will not be revealed to anyone without the consent of the meeting.” Consideration could be given to changing this formulation to “when the Meeting of the Parties or of any subsidiary body so decides”, in order to allow greater flexibility in the application of this provision.

## AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

### RULES OF CONFIDENTIALITY

June 2001 (amended)

1. The following information associated with the responsibilities and activities of the On-Board Observer Program, and with the activities of the Secretariat in connection with the *AIDCP Dolphin Safe* Certification procedures, shall be treated as confidential:
  - a. Records of vessel position, catches, type of set, and incidental dolphin mortality of individual vessels and/or companies.
  - b. Information relating to unloadings or trade which is associated with individual vessels and/or companies, including Tuna Tracking Forms (TTFs) for those vessels.
  - c. Any information revealing the fishing areas and strategies used by individual vessels or groups of vessels, and their catches.
  - d. The names and flags of vessels and the names and addresses of individuals associated with receiving a Dolphin Mortality Limit (DML) or any other information that could allow the determination of whether a vessel has a DML.
  - e. The name and flag of fishing vessels of Parties to the AIDCP for which possible infractions of the AIDCP have been identified.
  - f. The names of captains on the List of Qualified Captains, and thus eligible to direct fishing operations on vessels with DMLs.
  - g. Information identified by country on incidental dolphin mortality or captain performance unless the country in question approves the release of such information.
2. All information collected by the On-Board Observer Program, or by the Secretariat in connection with the *AIDCP Dolphin Safe* Certification procedures, shall be made available to the government under whose jurisdiction the vessel operates.
3. These Confidentiality Rules shall apply to all meetings and working documents of the AIDCP and any subsidiary bodies or working groups associated with the AIDCP, including the International Review Panel.
4. Confidential information may be presented at a meeting when the Meeting of the Parties so decides, and in such cases all attendees shall sign a Confidentiality Agreement stating that such information which is identified as confidential will not be revealed to anyone without the consent of the meeting.
5. The minutes of all meetings shall be made public, but shall not include confidential information.
6. All data presented to meetings by flag shall include information for all flags separately regardless of the number of vessels operating under that flag.
7. These rules do not apply to information about non-Parties.