

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

MINUTES OF THE FOURTH MEETING OF THE PARTIES

La Jolla, California (USA)

October 28-30, 2000

AGENDA

1. Opening of meeting
2. Election of Chairman
3. Adoption of agenda
4. Report of the International Review Panel
5. Withholding initial DML assignments
6. Assigning the withheld portion of the initial DML allocation after May 1st
7. Possible amendment to Annex IV of the AIDCP (Procedures for reallocation of DMLs)
8. Guidelines for granting vessels the exemption of *force majeure* or extraordinary circumstances (Annex IV (III) of the AIDCP)
9. Guidelines for experimental gear or techniques
10. Surrender of DMLs
11. Report of the Working Group on per-stock per-year dolphin mortality caps
12. Consultations with the tuna industry regarding the real-time reporting system
13. Review of vessels qualified to receive DMLs for 2001
14. Proposed Rules of Confidentiality for the AIDCP
15. Non-cooperating State
16. Other business
17. Place and date of next meeting
18. Adjournment

APPENDICES

1. List of attendees
2. Presider's Report, 25th Meeting of the International Review Panel
3. Report of the Working Group on Tuna Tracking to the 25th Meeting of the IRP
4. Proposed amendment to Annex IV(I) 9 – DMLs held in reserve
5. Amendment to Annex IV(III) 2 regarding deadlines for adjusting DMLs
6. Proposed guidelines for granting vessels the exemption of *force majeure* or extraordinary circumstances
7. Guidelines for DMLs for experimental fishing
8. Rules of confidentiality
9. Fishing by non-cooperating non-Parties

1. Opening of the meeting

The meeting was called to order by Dr. Robin Allen, Director of the Inter-American Tropical Tuna Commission (IATTC), on October 28, at 2:30 p.m. The attendees are listed in Appendix 1.

2. Election of Chairman

Mr. William Gibbons-Fly, of the United States, was elected to chair the meeting.

3. Adoption of the agenda

The provisional agenda was adopted as presented.

4. Report of the International Review Panel

The Presider of the 25th meeting of the IRP, Mr. Jim Lecky, presented the report of that meeting (Appendix 2).

The Working Group on Tuna Tracking had recommended two modifications of the Tuna Tracking System (Appendix 3). The first would establish that observers shall collect information for the entirety of a fishing trip, including those trips that operate both inside and outside the Agreement Area, and the second would define the procedure for handling the Tuna Tracking Forms in the event of a vessel making several partial unloadings. The Parties approved these recommendations, and asked the Secretariat to submit draft modifications for approval to the first Meeting of the Parties in 2001.

5. Withholding initial DML assignments

In an information paper prepared for the 3rd Meeting of the Parties, the Secretariat expressed the opinion that the AIDCP does not prohibit a Party from withholding a portion of its initial DML allocation in order to establish a reserve for its fleet, but that any such reserve must be allocated to vessels before May 1 (AIDCP, Annex VI(III)(3)). The Party could continue to hold any DML not allocated by May 1 as a reserve, but could not allocate it to an individual vessel after that date. The Parties discussed the issue at that meeting, and agreed to continue the discussion at the 4th Meeting of the Parties and give their views on the Secretariat's interpretation of these provisions of the AIDCP.

Some delegations expressed concern that holding DMLs in such a reserve and not allocating them to vessels could reduce the number of DMLs not utilized and therefore available for redistribution, and that this might in turn increase the number of frivolous DML requests. Mexico suggested that a clear definition of DML utilization should be adopted before agreeing on withholding of initial DML assignments.

As a result, the following interpretation of the Agreement was made by the Secretariat and will be submitted to the Parties by correspondence for their consideration, as agreed by the Meeting of the Parties:

1. A Party may withhold a percentage of its initial DML allocation to establish a reserve for its fleet.
2. Any allocation of DMLs from that reserve to individual vessels must occur before May 1.
3. If a vessel of a Party that has established such a reserve forfeits its DML, the DML returned for redistribution for each such vessel shall, to the extent possible and taking into account the size of the reserve, equal the average DML (ADML).

6. Assigning the withheld portion of the initial DML allocation after May 1

Dr. Allen explained that a Party had asked to withhold a portion of the initial DML allocation for possible distribution after May 1, and the Secretariat had given the opinion that such an action would require an

amendment of Annex IV of the AIDCP. The Parties agreed with this interpretation, and requested that the Secretariat draft an amendment to allow DMLs held in reserve to be allocated to vessels at any time during the course of the year.

The Parties discussed an amendment drafted by the Secretariat (Appendix 4) but did not reach agreement, and it was decided that the issue would be discussed by correspondence and addressed at the next Meeting of the Parties in 2001.

7. Possible amendment to Annex IV of the AIDCP (Procedures for reallocation of DMLs).

During their 3rd Meeting the Parties agreed in principle that the date in Annex IV (III)2 of the AIDCP should be changed from April 1 to April 15, and the associated deadline in paragraph (III)3 from May 1 to May 5. The 4th Meeting of the Parties approved a draft amendment prepared by the Secretariat (Appendix 5); thus, pursuant to Article XXX.3 of the AIDCP, the Annex is amended accordingly as of October 30, 2000.

The Parties also discussed and agreed to another amendment to the AIDCP, which had been recommended by the IRP. The suggestion was to amend Annex VIII(2)b of the AIDCP to read "Have at least three operable speedboats equipped with operable towing bridles or posts, and tow lines." The 4th Meeting of the Parties approved this proposed amendment; thus, pursuant to Article XXX.3 of the AIDCP, the Annex is amended accordingly as of October 30, 2000.

8. Guidelines for granting vessels the exemption of *force majeure* or extraordinary circumstances (Annex IV (III) of the AIDCP)

During its 24th meeting the IRP discussed the issue of granting vessels the exemption of *force majeure* or extraordinary circumstances to avoid losing their DMLs if they do not utilize them by April 1, and asked the Secretariat to prepare guidelines on this issue for consideration by the 4th Meeting of the Parties.

The Parties discussed the proposals (Appendix 6), but postponed a decision until their next meeting, when they could take into account any comments by governments and the results of the next fishing season.

9. Guidelines for experimental gear or techniques

During the discussion of the issue of DMLs for experimental fishing at the 3rd Meeting of the Parties, the Secretariat was asked to prepare guidelines establishing procedures for experimental fishing which, *inter alia*, reflect the general rule that, while each case might be reviewed separately, any DML required should come from the DMLs allocated to the corresponding Party. The Parties discussed the Secretariat's proposals, and adopted them with some modifications (Appendix 7).

The United States commented on a fishing experiment that the National Marine Fisheries Service will undertake involving the chase and recapture of dolphins. The Parties agreed that the DML for the experiment would come from the RDA assigned to the Director.

10. Surrender of DMLs

Dr. Allen explained that the Secretariat had been notified by three Parties that vessels under their jurisdiction intend to surrender their assigned DMLs. The AIDCP contains no explicit provision for allowing vessels to surrender DMLs.

The Parties agreed not to allow the surrender of DMLs, and that those vessels that asked to surrender their DMLs would continue to be bound by the operational requirements of the AIDCP.

11. Report of the Working Group on per-stock per-year dolphin mortality caps

Mr. Gibbons-Fly, in his capacity as Chairman of the Working Group, reported that the Working Group

considered a proposal to modify the global system for allocating stock mortality limits (SMLs) to national allocations, but was not able to agree on it. The Chairman asked the Secretariat to explain the consequence of this. Dr. Allen said that the Secretariat would monitor the mortality and, if the estimate of mortality for any stock approached the level of $0.1 N_{min}$, would notify the Parties. Mexico expressed a reservation to the use of the level of $0.1 N_{min}$ and the global system.

12. Consultations with tuna industry regarding the real-time reporting system

The 3rd Meeting of the Parties asked the Secretariat to consult with the tuna industry regarding the system for monitoring dolphin mortality in real time by means of weekly reports transmitted by observers by radio, and ways of improving it. In its report, the Secretariat said that the system is functioning well below the expected level, and proposed that transmitting the reports by fax or e-mail as well as by radio might improve the current low reporting rate.

Many delegations expressed concern over the low level of reporting, and discussed the possibility of amending the appropriate Annex of the AIDCP to make it a requirement that all vessels have the equipment necessary to transmit these reports. Eventually the Parties decided to wait and see if reporting improves as a result of the Secretariat's proposal, and that the IRP should consider the issue again at its next meeting.

13. Review of vessels qualified to receive DMLs for 2001

The Chairman noted that the IRP had approved full-year DMLs for 2001 for 82 vessels and second-semester DMLs for 4 vessels. Dr. Allen noted that the Meeting of the Parties does not need to approve these DMLs.

14. Proposed Rules of Confidentiality for the AIDCP

Dr. Allen presented the proposed Rules of Confidentiality for the AIDCP that the Secretariat was asked to draft for consideration by the Parties. The proposal was approved with some modifications (Appendix 8).

15. Non-cooperating State

Dr. Allen explained that the Secretariat had recently been informed by one of the Parties that some vessels operating under its jurisdiction had transferred their registry to Bolivia, and that the Meeting of the Parties has no guidelines regarding how to address the problem of a non-cooperating State with vessels fishing for tunas in the Agreement Area.

The Parties expressed concern over the activities of these vessels, particularly those that had, according to observer reports, made sets on dolphins. Dr. Allen noted that, in this particular case, the Parties needed to decide if Bolivia should be invited to join the AIDCP and, if not, how to deal with this situation.

The Parties agreed to send a letter to the Government of Bolivia requesting its cooperation and making clear that no IATTC observers will be placed on Bolivian-flag vessels until the situation regarding Bolivia's cooperation and participation is clarified.

Two representatives of the managements of these vessels asked to address the Meeting of the Parties. They both expressed the companies' desire to continue to cooperate with the IATTC and to fish in accordance with the AIDCP and the IATTC's conservation program, and their hope that a solution could be reached.

Dr. Allen reviewed a paper prepared by the Secretariat on how to address, in general terms, the issue of fishing by vessels of non-cooperating non-Parties (Appendix 9). The Parties discussed the question extensively, with some supporting strong actions outlined as options in the paper to be seriously considered, and others expressing reservations about pursuing certain measures such as trade and landing restrictions.

The Chairman suggested that the issue of fishing by vessels of non-Parties be included in the agenda for the next Meeting of the Parties.

16. Other business

No other business was discussed.

17. Place and date of next meeting

The Parties agreed that their next meeting should take place in June 2001 in El Salvador.

18. Adjournment

The meeting was adjourned at 6:00 p.m. on October 30, 2000.

Appendix 1.

ACUERDO SOBRE EL PROGRAMA INTERNACIONAL PARA LA CONSERVACION DE LOS DELFINES AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

4^a REUNIÓN DE LAS PARTES – 4TH MEETING OF THE PARTIES

28-30 de octubre de 2000– October 28-30, 2000
La Jolla, California, USA

ASISTENTES - ATTENDEES

PARTES—PARTIES

COLOMBIA

CLARA GAVIRIA AGUDELO
Ministerio de Comercio Exterior
ARMANDO HERNANDEZ RODRIGUEZ
Cámara de Pesca – ANDI
LUIS RICARDO PAREDES
Seatch International, Inc.

GABRIEL E. CABRALES PAFFEN
Servicios Atuneros Sal para Atún (SALTUN)
DIEGO CANELOS
ATUNAMAR, LTDA.

COSTA RICA

HERBERT NANNE ECHANDI
GEORGE HEIGOLD
INCOPECA

ECUADOR

RAFAEL TRUJILLO BEJARANO
LUIS TORRES NAVARRETE
Ministerio de Comercio, Industria y Pesca

EL SALVADOR

MARIO GONZALEZ RECINOS
Centro de Desarrollo Pesquero (CENDEPESCA)
MARGARITA S. DE JURADO
Sistema de Integración Centroamericana (SICA)

ABDON ENRIQUE AGUILLON
Ministerio de Economía

EUROPEAN COMMUNITY– COMUNIDAD EUROPEA

ALAN GRAY
European Commission

J. IGNACIO ARRIBAS
JAVIER ARIZ

MEXICO

MARA MURILLO CORREA
GUILLERMO COMPEAN JIMENEZ
Secretaría de Recursos Naturales y Medio Ambiente
JOSE JUAN VELAZQUEZ CARDENAS
JOSE JUAN VELAZQUEZ MACOSHAY
Supremos del Golfo y del Pacifico, S.A. de C.V.

ALFONSO ROSIÑOL
CANAINPESCA
JOSE CARRANZA
ERNESTO ESCOBAR
Pesca Azteca, S.A. de C.V.
GERARDO LOJERO
COMEXTUN

NICARAGUA

MIGUEL ANGEL MARENCO
ADPESCA/MEDEPESCA

PANAMA

HUGO ALSINA LAGOS
Overseas Tuna Pacific, S.A.

PERU

GLADYS CARDENAS
Ministerio de Pesquería

UNITED STATES OF AMERICA - ESTADOS UNIDOS DE AMERICA

WILLIAM GIBBONS-FLY

DAVID HOGAN

Department of State

REBECCA LENT

JAMES LECKY

SVEIN FOUIGNER

ALLISON ROUTT

PATRICIA DONLEY

STEVE REILLY

NICOLE LEBOEUF

National Marine Fisheries Service

PAUL KRAMPE

United Tuna Cooperative

EDWARD GANN

ARNOLD FREITAS

Caribbean Marine Service, Co. Inc.

GARRY DAY

Ocean Ventures

GEORGE SOUSA

JIM SOUSA

G.S. Fisheries

MARY MARKUS

VANUATU

EDWARD WEISSMAN

Jorge Fishing, Inc.

VENEZUELA

LUIS MARRERO

Ministerio de la Producción y el Comercio

ALVIN DELGADO

FUNDATUN

FRANCISCO ORTISI, JR.

AVENCASA

OBSERVADORES – OBSERVERS

GUATEMALA

MARIA OLGA MENENDEZ

AGEXPRONT

NON-GOVERNMENTAL ORGANIZATIONS - ORGANIZACIONES NO GUBERNAMENTALES

CRISTOBEL BLOCK

Humane Society of the United States

KATHLEEN O'CONNELL

Whale & Dolphin Conservation Society

ANDY OLIVER

World Wildlife Fund

MARK PALMER

Earth Island Institute

IATTC - CIAT

ROBIN ALLEN, Director

ERNESTO ALTAMIRANO

PABLO ARENAS

DAVE BRATTEN

MARCELA CAMPA

BRIAN HALLMAN

BERTA JUAREZ

MICHAEL SCOTT

NICK WEBB

Appendix 2.

**INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
INTERNATIONAL REVIEW PANEL**

25TH MEETING

**La Jolla, California (USA)
October 27, 2000**

PRESIDER'S REPORT

At its 25th meeting, held on October 27, 2000, the IRP addressed the following issues:

Agenda item 4, Approval of minutes of the 24th Meeting of the IRP: The draft minutes of the 24th meeting of the IRP were approved with some amendments.

Agenda item 5, Review of the proposed mechanism for adding captains to the list of qualified captains: the IRP approved the proposal presented by the Secretariat, with the last paragraph modified as follows:

“If a Party wants to add a captain to the List between meetings, it should notify the Secretariat of the name of the captain, along with confirmation that he meets the requirements and any other pertinent information. The Secretariat would then circulate all this information to the other IRP members. The captain’s name would be added to the List automatically unless another Party had information indicating that the captain was not qualified. This information should be relayed to the Secretariat, which would forward it to the Party making the request.”

It was agreed that the Secretariat should forward any information on captains who appear to no longer meet the requirements for inclusion on the List of Qualified Captains to the relevant Party for a decision. If a captain is removed from the List, the Secretariat will notify all Parties of this.

Agenda item 6, Review of list of qualified captains: it was noted that in 2000 there have been 22 captains who are fishing on DML vessels who were not on the list. The Secretariat will inform the relevant Party of this, and a revised list taking this information into account will be presented to the IRP at its next meeting.

Agenda item 7, Review of Dolphin Mortality Limits: the Secretariat reported that as of 26 October 2000, the situation with DMLs for 2000 was as follows:

2000 DML Utilization					
Full-year DMLs		<i>Force majeure</i> exemptions		2 nd semester DMLs	
Issued	Utilized	Issued	Utilized	Issued	Utilized
109	89	13	4	7	0
Surrender requests:			Surrender requests:		
2			1		

Two vessels made one trip each without an observer, and one vessel exceeded its DML.

Agenda item 8, Review of vessels qualified to receive DMLs for 2001: The Panel recommended forwarding the following list of vessels to the Meeting of the Parties for approval:

	Full-year DMLs	Second-semester DMLs
Colombia	5	
El Salvador	1	
México	44	2
Panamá	2	
Perú		1
USA – EEUU	1	1
Vanuatu	5	
Venezuela	24	
Total	82	4

Peru requested a second-semester DML for one vessel for 2001, and the IRP agreed that, although the request did not meet the October 1 deadline specified in the AIDCP, the request should be granted provided Peru confirmed that the vessel met the criteria for obtaining a DML.

Agenda item 9, Review of guidelines for determining possible infractions: the IRP agreed to use the Secretariat's proposed definition for determining an infraction of "sacking up" dolphins for the present, but that the Secretariat should analyze its application, and particularly the 15-minute time limit and, if necessary, report back to the IRP at its next meeting.

Agenda item 10, Review of observer data: the IRP decided to form a technical working group to develop criteria for determining when releasing the ortza could be considered an acceptable alternative to the backdown maneuver as a means of releasing captured dolphins from the net.

Agenda item 12, Review of database of sanctions: To date only three Parties had supplied the Secretariat with the necessary information on the sanctions they applied for infractions of the AIDCP, and the Panel stressed the need for the Parties to supply this information to the Secretariat as soon as possible. Once the Secretariat had all the information, it would be circulated to all the Parties.

Agenda item 13, Report of the Working Group on Tuna Tracking: The Panel agreed to forward the report of the Working Group to the Meeting of the Parties for consideration.

Agenda item 14, Other business: Ecuador announced that it was establishing a national observer program, which would start covering 25% of trips by Ecuadorian vessels in 2001.

Agenda item 15, Place and date of next meeting: The Panel agreed that its 26th meeting would be held in La Jolla on January 29-30, 2001.

Appendix 3.

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM MEETING OF THE PERMANENT WORKING GROUP ON TUNA TRACKING

**La Jolla, California, U.S.A.
October 27, 2000**

CHAIR'S REPORT TO THE INTERNATIONAL REVIEW PANEL

The meeting was attended by representatives of Colombia, Costa Rica, Ecuador, El Salvador, European Union, Japan, Mexico, Peru, United States of America, Vanuatu and Venezuela, Humane Society, Whale and Dolphin Conservation Society, and the tuna industry. The agenda is attached (Appendix A).

Ecuador reported a modification to its national plan that was adopted to deal with situations that arise when no representative of the national authority is available to meet a vessel. Under this procedure, the IATTC observer obtains the vessel captain's signature on the Tuna Tracking Forms (TTFs) and provides the captain with a copy of the forms. The observer does not sign the form at this time, but instead takes the original to the office of the national authority or, if that is not possible, to the IATTC office, where the form is signed by the observer and a copy is made for the IATTC. The original, signed copy is then forwarded to the national authority. Ecuador has provided this modification in writing to the Secretariat.

The Working Group discussed the issue of the difficulty of submitting TTFs to national authorities when the vessels are not met at the end of trips, particularly since the information on the forms is considered confidential. It was agreed that national tuna-tracking plans should contain the necessary mechanisms to protect the confidentiality of the TTFs while providing necessary dolphin safe documentation to those who require it.

The collection of data by observers of the On-Board Observer Program outside the Agreement Area was discussed. Some delegations considered that, if a vessel made a trip in which it operated both inside and outside the Agreement Area, the observer should collect information for the entire trip, and also include in the TTFs all applicable information on catches. Although there is no obligation to comply with the provisions of the Agreement in fishing operations which take place outside the Agreement Area, in order to ensure transparency, the collection of all information on such fishing trips should be permitted. Pending approval by the IRP, the Working Group asked the Secretariat to draft this modification to the Tuna Tracking System, to be submitted for approval to the first Meeting of the Parties in 2001.

The Working Group discussed the problem of vessels that make several unloadings during a single trip. Pending approval by the IRP, the Working Group asked the Secretariat to prepare a modification to the Tuna Tracking System to delineate how copies of the TTFs may be made and provided to Parties in the event of several partial unloadings. This modification will also be submitted for approval to the first Meeting of the Parties in 2001.

The Secretariat presented a progress report on the Tuna Tracking System (Appendix B), and several countries reported progress towards the preparation, adoption and/or implementation of national tuna tracking plans. The Working Group agreed that it would review these plans at its next meeting, and that to this end all Parties should forward their plans to the Secretariat before the end of 2000 for circulation to all Parties. At present the Secretariat has received the plans of Ecuador, Mexico, Panama, the United States, and Venezuela.

Noting that several Parties were not sending copies of the completed TTFs to the Secretariat, the Working Group stressed the importance of complying with the requirement of the Tuna Tracking System that these copies be sent to the Secretariat within ten days of receiving the forms. It was agreed that those Parties that had not provided these copies for past trips would do so as soon as possible.

The next meeting of the Working Group will be held in conjunction with the 26th meeting of the IRP in January 2001.

Appendix 4.

**AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
4TH MEETING OF THE PARTIES**

**La Jolla, California (USA)
October 2000**

**PROPOSED AMENDMENT TO ANNEX IV(1) 9 – DMLs HELD IN RESERVE
(not approved)**

The following paragraph is inserted after paragraph I(9) of Annex IV of the AIDCP :

"10. Any Party shall be able to assign 10% of its initial DML allocation to a reserve, any part of which it may assign to its vessels at any point during the year for which that DML is assigned. This reserve shall not be subject to the May 1 deadline established in paragraph III(3) of this Annex, but all the other provisions of the Annex, including the limitations on the reallocation of forfeited or unutilized DMLs, shall apply to any DML assigned from this reserve. No allocation from this reserve shall take effect until seven days after the Director has been notified of its assignment."

The current paragraph 10 of Section I of the annex is now paragraph 11.

Appendix 5.

**AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
4TH MEETING OF THE PARTIES**

**La Jolla, California (USA)
October 2000**

The Parties agree to change the date in paragraph 2, Section III, Annex IV of the AIDCP from April 1 to April 15, and the associated deadline in paragraph 3 for notifying the Director of any adjustments to DMLs from May 1 to May 5.

Annex IV (III) of the AIDCP is amended as follows:

Paragraph 2:

"No later than April 15 of each year, the full-year DMLs assigned to those vessels that have not utilized them...shall be redistributed among the Parties by the Director..."

Paragraph 3:

"... A Party making such an adjustment shall so notify the Director no later than May 5, and no such adjustment shall take effect until the Director has been notified."

Appendix 6.

**AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
4TH MEETING OF THE PARTIES**

**La Jolla, California (USA)
October 2000**

PROPOSED GUIDELINES FOR GRANTING VESSELS THE EXEMPTION OF *FORCE MAJEURE* OR EXTRAORDINARY CIRCUMSTANCES

(not approved)

Section II, Annex IV of the Agreement on the International Dolphin Conservation Program (AIDCP) states that any vessel that does not utilize its DML by making an intentional set on tunas associated with dolphins prior to April 1 shall lose the DML and may not fish on dolphins for the remainder of that year. The DMLs which have been forfeited pursuant to this provision are then reallocated to the Parties in accordance with the Agreement. However, any vessel which does not set on dolphins prior to April 1 as a result of *force majeure* or extraordinary circumstances, as agreed by the International Review Panel (IRP), does **not** lose its DML.

During the 24th Meeting of the IRP, held in San Jose, Costa Rica, June 7-8, 2000, this matter was discussed by the Parties. The Secretariat presented information on the exemptions requested by governments for 2000. All the requests which met the April 1 deadline had been approved by the IRP by correspondence, but some delegations commented that the letters from governments requesting exemptions contained little or no evidence supporting the requests, and proposed that clear supporting evidence should accompany any requests submitted. The Secretariat was asked to draft guidelines for granting exemptions for consideration by the Parties. Accordingly, the Secretariat has prepared the following guidelines:

1. Parties should make every effort to forward any request for an exemption pursuant to Section II, Annex IV of the AIDCP to the Secretariat by March 15. The Secretariat shall promptly transmit the request to the other Parties for their consideration. All requests shall be considered on a case-by-case basis, and the IRP voting rules shall apply.
2. Parties should forward as much supporting evidence as possible along with any request for an exemption, and the Secretariat shall include all such evidence in its transmission to the other Parties.
3. Favorable consideration should be given to a request on behalf of a vessel unable to fish because it is in a shipyard for repairs or similar work, so long as the vessel is unable to fish for at least 50 days during the January 1-April 1 period of any given year.
4. Favorable consideration should generally **not** be given to a request on behalf of a vessel unable to fish for reasons **other** than repairs or similar work, *e.g.* financial problems, crew problems, etc.

Appendix 7.

**AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
4TH MEETING OF THE PARTIES**

**La Jolla, California (USA)
October 2000**

**GUIDELINES FOR DMLs FOR EXPERIMENTAL FISHING AIMED AT REDUCING
DOLPHIN MORTALITY**

1. When a Party or the Secretariat staff wishes to conduct research or technological development aimed at reducing the incidental mortality of dolphins with equipment, technology, or methods different than those contemplated in the AIDCP, the proposed experiment, including the research protocol, shall be sent to the Secretariat.
2. Once it has received the proposal, the Secretariat shall circulate it to all the Parties and to the members of the Scientific Advisory Board (SAB) for consideration.
3. If the SAB recommends implementation of the project, including with any modifications, the proposal as adopted by the SAB, shall be presented to the Meeting of the Parties for consideration and, as applicable, approval.
4. If the project is approved by the Parties, any DML required for the experiment shall be taken from the DML allocated to the Party.
5. At the request of the relevant Party or of the Secretariat, the Meeting of the Parties may decide that the DML required for a particular experiment may be taken from the Reserve DML Allocation (RDA).

Appendix 8.

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

RULES OF CONFIDENTIALITY

October 2000

1. The following information associated with the responsibilities and activities of the On-Board Observer Program 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 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.

Appendix 9.

AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAM 4TH MEETING OF THE PARTIES

**La Jolla, California (USA)
October 2000**

FISHING BY NON-COOPERATING NON-PARTIES

The issue of fishing by vessels of nations that do not participate in or cooperate with regional fisheries management arrangements is the subject of increasing attention in all oceans, as for example the proposed FAO International Plan of Action on Illegal, Unregulated and Unreported (IUU) Fishing. Recently a situation of this sort has arisen in the AIDCP Agreement Area: specifically, there are now three purse-seine vessels fishing for tunas in the Agreement Area under the flag of Bolivia, which is not a Party to the AIDCP nor the IATTC. One of these vessels has fished without an observer and is clearly not complying with the requirements of the AIDCP, which also limits the Secretariat's ability to monitor compliance with IATTC conservation and management programs. Unless the Parties to the AIDCP and the IATTC address this problem effectively, the issue of non-cooperation by vessels of non-Party states is likely to worsen.

The situation is complicated somewhat by the fact that there are vessels of non-Parties fishing for tunas in the Agreement Area which clearly are complying with the requirements of both the AIDCP and the IATTC program, and other vessels which may or may not be cooperating as fully. For all vessels, cooperating in the IATTC program means providing the Commission with the required fisheries data and abiding by the Commission's conservation and management measures. The AIDCP requires that all vessels that fish for tunas in the Agreement Area carry an observer from the On-Board Observer Program; for vessels that do not fish on dolphins, that is the only requirement, but for those that do fish on dolphins the requirements are substantially broader. A fundamental requirement is that all vessels that fish on dolphins in the Agreement Area have a Dolphin Mortality Limit and, since these limits are issued only to governments Party to the AIDCP, a vessel of a non-Party state that fishes on dolphins is automatically in violation of the Agreement.

The resolution of the 66th IATTC meeting (June 2000) on fishing by vessels of non-Parties requires that action be undertaken with respect to certain activities of vessels of non-Parties without defining precisely what states might come under the scope of the resolution. The resolution refers to activities of "fishing vessels of states . . . not members of the IATTC which undermine the conservation and management measures agreed by the IATTC" without defining or further elaborating on what is meant by "undermining" IATTC measures. The Secretariat will need more guidance on this in the future, but proposes that at this stage the Parties consider mechanisms to address possible responses to states which are not Parties and are clearly not cooperating with the IDCP and/or the IATTC. Identifying such non-cooperating non-Parties is considered a separate exercise.

In the following, "Party" means a Party to the AIDCP or to the IATTC Convention; "member" means a member of the IATTC; "participating government" means any government that cooperates in the IDCP and IATTC program, including Parties and members; "non-cooperating non-Party" means any government, state or entity whose vessels fish in the Agreement Area and is not a participating government.

Although the Meeting of the Parties can take action only with respect to activities related to the AIDCP, the issue is very closely linked to matters under the purview of the IATTC, and the possible options for action outlined below include both.

A. Diplomatic Actions

1. The first option to be considered is whether the non-cooperating non-Party should be invited or encouraged to become a party to the AIDCP and/or the IATTC. In the case of the AIDCP, only coastal states of the region or IATTC members are eligible to become Parties, and the Agreement requires the Parties to encourage any such States “to become Parties to the Agreement or to adopt laws and regulations consistent with it.” States that do not meet either of those criteria must be invited by the Parties to accede to the Agreement. However, any State may decide to provisionally apply the AIDCP simply by notifying the Depositary in writing.

In the case of the IATTC, any State whose nationals participate in the fisheries may apply for membership, and the unanimous consent of the IATTC members is required for accession. Unlike the AIDCP, no invitation to join is necessary for a State to become an IATTC member, but the members could nonetheless make such an invitation or otherwise encourage the non-cooperating non-Party to become a member.

2. Each participating government, acting individually or in concert with other governments, could undertake a diplomatic demarche to the non-cooperating non-Party. This action could result from a recommendation from the Parties or members or from initiatives by individual participating governments.

B. Public Opinion Actions

Participating governments could undertake to disseminate information regarding the non-cooperating non-Party to the public through appropriate media.

C. Operational Restrictions

1. Denial of access to the Exclusive Economic Zones of participating governments for fishing operations by tuna vessels of a non-cooperating non-Party.
2. Restriction of access to ports and port servicing facilities for tuna vessels of a non-cooperating non-Party, including the landing of tuna caught or transported by such vessels.
3. Refusal of logistical support and/or supplies to tuna vessels of a non-cooperating non-Party. This is closely related to item 2 above, but would encompass logistical support and/or service which did not take place in the port of a participating government.
4. Prohibiting nationals from assisting in any way vessels of non-cooperating non-Parties operating in the fishery.

These four actions could result from the individual initiative of a participating government or from a recommendation from the Parties or members, but would not have to be implemented by a Party or member that was not in agreement with the recommendation or could not implement it for legal reasons. Operational restrictions should not restrict freedom of navigation or other rights of vessels under international law, and would not apply to vessels in distress.

D. Economic Restrictions

1. Participating governments could take steps, consistent with international law, to prevent fish caught by vessels of a non-cooperating non-Party being imported into their territories or being traded by persons under their jurisdiction. Such action should be taken as a result of a recommendation by the Parties, but would not have to be implemented by a Party that was not in agreement with the recommendation or could not implement it for legal reasons. Any trade-related measures should be consistent with the principles, rights and obligations established in the WTO Agreement and implemented in a fair, transparent and non-discriminatory manner.
2. Participating governments could urge their fishers to voluntarily forego doing business with importers, transshippers, equipment suppliers, bankers, insurers and other service suppliers identified as doing business with vessels of a non-cooperating non-Party.