

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

MINUTES OF THE 39TH MEETING

Lanzarote, Spain

14 June 2005

Presider: Lic. Luís Fueyo Macdonald (Mexico)

AGENDA

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2. Election of the Presider	
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7. Review of Dolphin Mortality Limits (DMLs) for 2005	IRP-39-07
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8. a. Review of <i>AIDCP List of Qualified Captains</i>	IRP-39-08a
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13. Report of the Working Group on Vessel Assessments and Financing	
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APPENDICES

1. List of attendees
2. Report of the Permanent Working Group on Tuna Tracking

The 39th Meeting of the International Review Panel (IRP) was held in Lanzarote, Spain, on 14 June 2005. The attendees are listed in Appendix 1.

1. Opening of the meeting

Dr. Robin Allen, Director of the Inter-American Tropical Tuna Commission (IATTC), which provides the Secretariat for the AIDCP, declared the meeting open.

2. Election of the President

Mr. Luis Fueyo, of Mexico, was elected President of the meeting.

3. Election of non-governmental members of the Panel

Dr. Allen introduced this point, recalling the results of the election of the non-governmental Panel members, which had previously been reported to the Parties. He noted that the voting resulted in a tie for the alternate member representing the tuna industry. A special election was thus held at the beginning of the meeting to determine a winner, and Mr. Rafael Trujillo, from Ecuador, was duly elected.

The non-governmental members of the Panel for the next two years are:

	<u>Tuna industry</u>	<u>Environmental organizations</u>
Members	Manuel Calvo García Benavides Carlos Hussong Francisco Ortisi P.	Héctor López Nina Young Miguel A. Cisneros
Alternate	Rafael Trujillo Bejarano	Marcial L. Lizárraga

4. Adoption of the agenda

Dr. Allen noted two matters that had arisen since the provisional agenda had been prepared. One is the question of whether a vessel that is assigned a DML from the Reserve DML Allocation (RDA) may also receive a second-semester DML; the second was a proposal from El Salvador linking the issuance of a DML with the existence of a national tuna tracking and verification system.

The European Union (EU) expressed its interest in discussing the procedures for addressing *force majeure* requests with respect to DMLs.

It was agreed to discuss these three matters under agenda item 7.

With these changes, the agenda was approved.

5. Approval of minutes of the 38th meeting

Colombia, the European Union, and Mexico suggested revisions to the minutes of the 38th meeting of the IRP. These were made, and the minutes were adopted.

6. Review of Dolphin Mortality Limits (DMLs) for 2004

The Secretariat reviewed the status of the assignments, reallocations, and utilization of DMLs in 2004, summarized in Document IRP-39-06. The members of the Panel requested that future documents on this subject include information on the total number of sets on dolphins and other pertinent data such as the mortality per set.

7. Review of Dolphin Mortality Limits (DMLs) for 2005

The Secretariat presented the situation regarding the allocation of DMLs for 2005, summarized in Document IRP-39-07.

a. Modification to Annex IV.7 of the AIDCP

Dr. Allen introduced this matter and, after a brief discussion, it was decided that a vessel assigned a DML from the RDA should not be eligible for a second-semester DML during the same year in which it

obtained a DML from the RDA. It was agreed that the Secretariat should prepare a draft modification of Annex IV.7 of the AIDCP to reflect this decision, to be reviewed at the next meeting of the Panel.

b. Link between DMLs and national tuna tracking and verification systems

El Salvador proposed that a Party should have a tuna tracking and verification system in place, as required by the Agreement, before its vessels could be assigned DMLs. The meeting agreed, and requested the Secretariat to draft an amendment to the Agreement along these lines, to be presented to the next meeting of the Panel, for application to requests for 2007 DMLs.

c. Procedures for granting *force majeure* exemptions

The EU noted that, on occasion, requests that vessels be exempted from losing their DMLs due to non-utilization by April 1 for reasons of *force majeure* lack enough substantial information to allow the other Parties to take an informed decision on granting such requests. The United States agreed, and commented that, on at least one occasion, it had initially objected to a *force majeure* request for this reason. Dr Allen noted that the IRP had adopted [guidelines](#) for this purpose. It was agreed that this problem might be ameliorated if governments requesting *force majeure* exemptions gave as full an explanation as possible, and that if the problem continues, consideration could be given to amending the guidelines.

8. Review of AIDCP List of Qualified Captains

a. Update of List

The Secretariat presented an update of the situation regarding the List of Qualified Captains, summarized in Document IRP-39-08a.

b. Modification of procedures for measuring the performance of vessels and captains

Dr. Allen presented the information contained in Document IRP-39-08b that proposes modifying the method used to compute captain performance, as required by sections I(10) and III(3) of Annex IV of the Agreement. Mexico noted that there could be significant implications to this change and that more information was needed before approving it. The Presider suggested that this issue could first be reviewed by the Scientific Advisory Board before it is again considered by the Panel.

9. Review of observer data

The Secretariat presented the data reported by observers of the On-Board Observer Program relating to possible infractions received and processed by the Secretariat since the Panel's previous meeting. The Panel discussed those cases that were not automatically referred to the pertinent Parties, and forwarded those that indicated possible infractions of the AIDCP to the responsible government for investigation and possible sanction.

Mexico raised the issue of whether backdown is always the best method for releasing captured dolphins in sets in which very few dolphins are encircled, noting that releasing the dolphins from the net by hand may be better in such a situation. Venezuela agreed, since there was some danger of entangling dolphins during backdown. The Secretariat was asked to analyze this matter and provide some advice the Panel.

10. Review of actions by Parties on possible infraction reported by the IRP

a. Actions taken since report at 38th meeting

The Secretariat presented Document IRP-39-10a, detailing the responses received from the Parties in cases of six categories of possible infractions identified by the previous three meetings of the IRP.

Several countries made statements regarding the status of cases. Venezuela explained that recently a fire at its fisheries department had destroyed many documents, and that it was in the process of obtaining copies from the Secretariat.

Ecuador indicated that the abrupt changes in its fisheries administration had reduced its capacity for

responding, but that with the new administration in place, it would proceed to investigate all possible infractions in a timely manner. Panama asked that the record show that it had responded to all investigation requests.

There was a long discussion on the matter of the investigation by Colombia of possible infractions by vessel "G". The flag of this vessel had been in dispute between Bolivia and Colombia during the period when several possible infractions occurred. In the end, it was agreed that Colombia could investigate these possible infractions, as well as those of other vessels whose flags were also disputed, and report the results of the investigations to the IRP, but that this would be without prejudice to the issue of the date of the change of flag for any disputed vessels.

b. Status review of special cases

The Secretariat presented Document IRP-39-10b, which reviews the status of the various cases classified by the Panel as special cases.

Case 26-01 (Vessel C): The Party involved advised the Secretariat that, after further investigation, it has been established that there are insufficient facts to establish a violation in this case, and that therefore the investigation into this case is now concluded.

Case 31-01 (Fishing captain A): The captain involved has asked the IRP to reconsider its decision to ban him for life from being on the List of Qualified Captains. Noting the draconian penalty, Colombia proposed that, for humanitarian reasons, this case should be reopened. However, the Panel decided not to review this case at this time, although it did agree that the Panel should be open to receiving any additional information on the situation from the captain or any Party, and that the case could be discussed again at the request of any Party.

Case 32-01 (Vessel F): The Secretariat reported that it had received, just before the meeting, a communication from the flag Party updating the situation with respect to this case, but that this update had not been included in Document IRP-39-10b.

Case 36-01 (Vessel G): There was a long discussion of this case. The Colombian delegation stated that the vessel's record was not really bad, and that the violation which led to the decision to deny the vessel a DML for 2005 was due to an administrative error by the flag Party at the time, and that the DML should be issued. Other participants disagreed about the vessel's record and stood by the decision regarding the DML, and in the end the Panel decided to refer the case to the Meeting of the Parties.

Case 37-01: The Secretariat reported that it had no additional information on this case.

Case 37-02: The Secretariat stated that it had not received any updated information from the flag Party regarding the investigation of this case. As [Resolution A-02-01](#) does not stipulate how long the vessel is to carry an observer, the Panel agreed that the vessel should continue to do so until the Party had concluded its investigation.

Case 37-03: The Secretariat informed the flag Party of the possible infractions identified by the IRP for trip 2004-469 and that the IRP had identified this as a special case. The Ocean Conservancy expressed its concern that the vessel changed flags to avoid being sanctioned. Venezuela noted that if a vessel changes flags and ownership before the government can launch an investigation, it would be difficult for the new flag Party to open an investigation. It was agreed that both governments involved should investigate this case to the maximum extent possible according to their laws.

Case 38-01: The Secretariat reported that it had no additional information on this case.

c. Identification of flags of vessels considered special cases

Dr. Allen reviewed Document IRP-39-10c, which addressed the possibility of identifying the flags of vessels identified as special cases, with the aim of encouraging more timely responses from governments

regarding the status of such cases and stronger efforts to resolve them, and listed several options available to the Parties regarding how to proceed on this matter.

The United States and The Ocean Conservancy favored option (e), where the names of the governments would be released only after a period of time had passed, but do so at IRP meetings only, with a confidentiality agreement. The European Union agreed with this general approach, but preferred that the names be released after three IRP meetings. Mexico did not disagree in principle, but did not want to change the [AIDCP Rules of Confidentiality](#), which prohibit the release of the flags of vessels associated with possible sanctions.

The Presider, citing rule 4 of the AIDCP Rules of Confidentiality, which allows for the release of confidential information at meetings when the Parties so decide, with a confidentiality agreement, proposed that the Panel recommend to the Meeting of the Parties that in the future, the flag of any vessel identified as a “special case” shall be revealed if the case is still unresolved two years from the date of the identification of that vessel as a special case. No one expressed disagreement with this course of action.

11. Review of guidelines for transit waivers

Dr. Allen noted that the Secretariat had been asked to place this matter on the agenda because of problems encountered in meeting all of the conditions of the guidelines. The United States noted that the requirement for inspections presented serious practical and logistical problems, and suggested that it be deleted from the guidelines. Other delegations agreed that this condition was difficult to implement.

Other provisions of the guidelines were discussed as well, and in the end the Presider asked the Secretariat to modify the guidelines based on the discussion and propose modified guidelines for consideration at the next meeting of the Panel.

12. Report of the ad hoc well volume review group

Sr. Carlos Aldereguía, Chairman of the *ad hoc* group which met in April in La Jolla, presented his report, and the Panel endorsed the recommendations in the minutes of that meeting.

13. Report of the Working Group on Vessel Assessments and Financing

Dr. Allen presented the report of the meeting of this Working Group, held in La Jolla on 16-18 February 2005. The Panel approved an addition to the minutes of that meeting, requested by the EU.

14. Report of the Permanent Working Group on Tuna Tracking

The Chair of this Working Group presented her report to the Panel (Appendix 2).

15. Report of the Working Group to Promote and Publicize the AIDCP Dolphin Safe Tuna Certification System

The Chair of this Working Group presented his report to the Panel.

16. Recommendations for the Meeting of the Parties

The Panel had three recommendations for the Meeting of the Parties to the AIDCP:

- a. that the Parties review the case of vessel “G”,
- b. that the Parties endorse the procedure agreed by the Panel for identifying the flags of vessel that are special cases and include this endorsement in its minutes, and
- c. that the Parties address the issue of publicizing the numbers of TTFs associated with vessels fishing contrary to the IATTC conservation and management program, which could not be agreed in the Permanent Working Group on Tuna Tracking.

17. Other business

The EU mentioned that it had come to its attention that there had been breaches of confidentiality, in that copies of TTFs had been made available to unauthorized third parties. The Presider reminded the meeting of the importance of handling all confidential documents carefully and of providing any information regarding breaches of confidentiality.

18. Place and date of next meeting

The Panel agreed to hold its next meeting in October in La Jolla, California.

19. Adjournment

The meeting was adjourned on 14 June 2005.

Appendix 1.

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM PROGRAMA INTERNACIONAL PARA LA CONSERVACIÓN DE LOS DELFINES

INTERNATIONAL REVIEW PANEL PANEL INTERNACIONAL DE REVISIÓN

39th MEETING - 39^a REUNIÓN

14 JUN 2005

Lanzarote (España)

ATTENDEES - ASISTENTES

COLOMBIA

ALEJANDRO LONDOÑO

Ministerio de Agricultura y Desarrollo Rural

YESID CASTRO

Ministerio de Relaciones Exteriores

HAROLD EDER

Embajada de Colombia en Washington

ARMANDO HERNÁNDEZ

Programa Nacional de Observadores

DIEGO CANELOS

LUIS R. PAREDES

COSTA RICA

ASDRÚBAL VÁSQUEZ

INCOPECA

ECUADOR

LUIS TORRES

Ministerio de Comercio Exterior, Industrialización,

Pesca y Competitividad

RAMÓN MONTAÑO

EL SALVADOR

SONIA SALAVERRÍA

Ministerio de Agricultura y Ganadería

EUROPEAN UNION - UNIÓN EUROPEA

ROBERTO CESARI

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European Commission

CARLOS ALDEREGUÍA

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DAVID HOGAN
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National Marine Fisheries Service

PAUL KRAMPE

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OSWALDO VARGAS
INAPESCA

ALVIN DELGADO
Programa Nacional de Observadores de Venezuela

NON-GOVERNMENTAL ORGANIZATIONS - ORGANIZACIONES NO GUBERNAMENTALES

NINA YOUNG
The Ocean Conservancy

TUNA INDUSTRY – INDUSTRIA ATUNERA

MANUEL CALVO
FRANCISCO ORTISI

RAFAEL TRUJILLO

SECRETARIAT - SECRETARÍA

ROBIN ALLEN, Director
ERNESTO ALTAMIRANO
DAVID BRATTEN
ALEJANDRA FERREIRA

MÓNICA GALVÁN
BRIAN HALLMAN
NORA ROA-WADE
NICHOLAS WEBB

Appendix 2.

PERMANENT WORKING GROUP ON TUNA TRACKING 19TH MEETING

CHAIR'S REPORT

The 19th Meeting of the Permanent Working Group on Tuna Tracking was held in Lanzarote, Spain, on June 13, 2005.

1. The Chair opened the meeting at 9:45 a.m. Members present were Colombia, Costa Rica, El Salvador, European Union, Mexico, United States, Venezuela, and a representative of the tuna industry. Sra. Rosa Sanchidrian welcomed the group to Spain.

2. The agenda was adopted with the addition of one item under *Other business*. Venezuela requested that the Working Group discuss the acquisition of ISO 9000 certification by Earth Island Institute.

3. The minutes of the 18th meeting were approved as presented.

4. (Document TT-19-04a). Dr. Allen led the review of the implementation of the dolphin safe certification system. There followed a general discussion of the increasing success of the program and possible ways it could be improved. Several members commented on the difficulty of arriving at usable conversion factors to convert processed products from frozen tuna recorded on the TTFs. The Secretariat was asked to gather information on the yield of processed products from raw tuna by circulating a questionnaire to Party countries and to report back at the next meeting of the Working Group.

(Document TT-19-04b). In the absence of Nicaragua, Dr. Allen introduced the request for approval of the Nicaraguan tuna tracking plan. Since the Secretariat reviewed the plan and found it consistent with the AIDCP System, the Working Group accepted the plan without any questions. Nicaragua will be invited to make a presentation of its plan at the next meeting of the Working Group. Later in the meeting, the representative of Nicaragua joined the meeting and accepted the invitation.

5. (Document TT-19-05). Several delegations expressed their approval of the protocol elaborated in the document for publicizing the TTF numbers for tuna caught in contravention of IATTC resolutions. The EU suggested that paragraph 3 of the proposal be replaced with the following:

“The name of the flag state of the vessel and the numbers of the TTFs for fishing trips conducted in contravention of an IATTC conservation and management resolution shall be made publicly available.”

The delegation of Colombia announced that it could not support this protocol, as Colombia is not yet a member of the IATTC. Subsequent to further discussion, it was decided to pass this subject to the IRP with a request that it be discussed further by the Meeting of the Parties.

6. Recommendations for the IRP: None

7. Venezuela began the discussion of the ISO 9000 certification obtained by Earth Island Institute and asked if the Working Group should respond or what it might do in response. One suggestion was that the AIDCP Certification System could also obtain ISO certification. Delegations spoke for and against the idea, and some indicated that it would be better to simply strengthen the certification system. It was explained that the type of ISO certification obtained by EII was not very meaningful in any event. Since it was felt that this issue is mainly one of image and promotion, it was decided to continue the discussion at the upcoming meeting of the Working Group on Promotion.

8. The next meeting of the Working Group will be held prior to the next IRP meeting in October in La Jolla.