

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

42ND MEETING

Del Mar, California (USA)

25 October 2006

Presider: Mr. Arnulfo Franco (Panama)

AGENDA

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1. Opening of the meeting	
2. Election of the Presider	
3. Adoption of the agenda	
4. Approval of the minutes of the 41 st meeting	
5. Review of Dolphin Mortality Limits (DMLs) for 2006	IRP-42-05
6. Review of vessels qualified to receive DMLs for 2007	IRP-42-06
7. Review of <i>AIDCP List of Qualified Captains</i>	IRP-42-07
8. Review of observer data	
9. Review of actions by Parties on possible infractions reported by the IRP:	
a. Actions taken since report at 41 st IRP meeting	IRP-42-09a
b. Status review of special cases	IRP-42-09b
10. Comparison of observer programs	IRP-42-10
11. Effect of Resolution on a pattern of infractions (A-02-03)	IRP-42-11
12. Resolving a vessel's possible infractions before a change of flag	
13. Extension of deadline for requests for <i>force majeure</i> exemptions to 1 June	IRP-42-13
14. Report of the Permanent Working Group on Tuna Tracking	
15. Report of the Working Group to Promote and Publicize the AIDCP Dolphin Safe Tuna Certification System	
16. Recommendations for the Meeting of the Parties	
17. Other business	
18. Place and date of next meeting	
19. Adjournment	

APPENDICES

1. List of attendees
2. Vessels qualified for DMLs in 2007
3. Proposal regarding the Procedures related to the AIDCP List of Qualified Captains

1. Opening of the meeting

The 42nd meeting of the IRP was held in Del Mar, California (USA), on 25 October 2006. The attendees are listed in Appendix 1.

2. Election of the Presider

Mr. Arnulfo Franco of Panama was elected Presider of the meeting.

3. Adoption of the agenda

The provisional agenda was approved as presented.

4. Approval of the minutes of the 41st meeting

The minutes of the 41st meeting of the IRP were approved as presented.

5. Review of Dolphin Mortality Limits (DMLs) for 2006

The Secretariat reviewed the status of the assignments, reallocations, and utilization of DMLs in 2006, as summarized in Document IRP-42-05.

6. Review of vessels qualified to receive DMLs for 2007

The Panel reviewed the requests for DMLs for 2007, and approved 104 requests (Appendix 2), including one provisionally for a vessel whose assessment fee remained to be determined. One of the two requests for *force majeure* exemptions from the provisions of Annex IV.I.9 was approved; regarding the second, the Panel agreed that the vessel could request a second-semester DML for 2007.

7. Review of AIDCP List of Qualified Captains

The Secretariat presented an update of the situation regarding the List of Qualified Captains, summarized in Document IRP 42-07. The Secretariat raised the issues of two captains who had fished on vessels with DMLs while not on the List, one as a result of a problem of notification of whether he was on the List, and the second because of uncertainty about whether he had complied with the sanction imposed by another Party. The Panel considered a proposal for a resolution to resolve these kinds of problems (Appendix 2), but did not reach agreement on this, and decided to review it again at its next meeting in June 2007.

8. 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.

The Panel noted with satisfaction that the number of cases being reviewed continued to decline.

9. Review of actions by Parties on possible infractions reported by the IRP

a. Actions taken since report at 41st meeting

The Secretariat presented Document IRP-42-09a, detailing the responses received from the Parties in cases of six categories of possible infractions identified by the previous three meetings of the IRP.

b. Status review of special cases

The Secretariat presented Document IRP-42-09b, which reviews the status of the various cases classified as *Special cases*. There was no new information presented on any of the cases and none were removed from the list of special cases.

Venezuela, supported by the United States, expressed concern about the lack of effective action by governments in cases of observer harassment, and urged Parties to conclude their investigations of such cases rapidly.

Mexico asked for information on the number of observer harassment cases and their disposition since the beginning of the program.

The Secretariat was asked to remind Parties 45 days before a meeting of the Panel of the need to respond to special cases.

10. Comparison of observer programs

The Panel reviewed Document IRP-42-10, and concluded that there may have been some differences among programs in the early years, but in recent years there have not been any such differences that are noteworthy.

Dr. Allen noted that, whether or not there are differences among programs, individual observers in any program could be reporting unreliable data, and a lack of differences between programs does not guarantee data reliability.

To address this, the Secretariat has started a program of analysis of IATTC observer data to look for instances of unusual patterns of reporting by observers. Advanced statistical analyses are being developed to detect observers whose data exhibit patterns of unusual set types given other data related to the set, unusually low dolphin mortality in circumstances in which higher mortality would be expected, and unusual patterns of tuna catches and dolphin mortality.

Mexico commented that this new statistical effort should go forward, but that it did not wish to abandon the Commission's practice of looking at differences between programs. Mexico also suggested that, with regard to the elements of the statistical comparisons dealing with possible infractions, in future the data used should be possible infractions as reported by the IRP, instead of possible infractions reported by observers.

The United States pointed out that the possible infractions as reported by observers was still valid information and useful to know. The Panel agreed to that both data sets on this matter should be included in the next program comparison in October 2007.

11. Effect of Resolution on a pattern of infractions (A-02-03)

Dr. Allen presented Document IRP-42-11 on this subject, noting that Paragraph 6 of [Resolution A-02-03](#) on the definition of a pattern of infractions states that the IRP shall review annually its effectiveness in enhancing compliance with the Agreement. Enhanced compliance with the AIDCP would be reflected by a reduction in the frequency of major infractions after the entry into force of the resolution on 11 October 2002.

The frequency of possible major set infractions (other than use of explosives) has decreased by 80%, from 0.5% to 0.1% of sets, and the frequency of trips with possible major trip infractions has decreased by 66%, from 9.5% to 3.2% of trips. Of the possible major trip infractions that have occurred since the resolution came into force, 62% occurred on trips by vessels with DMLs with an unqualified fishing captain, and the majority of those occurred prior to the Parties' decision on October 11, 2003, to not place observers on such vessels.

The magnitude of the reduction in possible major infractions since the entry into force of the resolution suggests that it has been effective.

12. Resolving a vessel's possible infractions before a change of flag

The European Union and the United States expressed their intention of providing a document on this matter for the next meeting of the Panel.

13. Extension of deadline for requests for *force majeure* exemptions to 1 June

Dr. Allen presented Document IRP-42-13, noting that at the 15th Meeting of the Parties to the AIDCP in June 2006, during the discussion of the *force majeure* exemptions provided for in the Agreement, one delegation raised the possibility of changing the April 1 deadline in the Agreement to June 1. The Secretariat was asked to prepare a paper for the next meeting of the IRP on the implications of such a change.

At the conclusion of the document, the Secretariat notes that a change from April 1 to June 1 could be made relatively easily by amending Annex IV. The benefit for the fishing fleet is that vessels would have two extra months to set on dolphins before needing to submit a *force majeure* exemption request. On the negative side, the re-assignment of unused DMLs to the fleet would be two months later than is currently the case. Most importantly, the document noted that, up until the present time, all *force majeure* requests have been accepted by the Parties, including late requests, so there has not been a problem with the Agreement regarding vessels being denied the opportunity to set on dolphins after April 1.

Venezuela advised the meeting that this analysis was done at its request, but that it did not wish to pursue the matter further, since there did not really appear to be a problem with *force majeure* requests at this time. Mexico suggested that the issue be kept under review, since it might be useful if the Parties were to consider a new way to handle the frivolous request/*force majeure* issue, in light of the fact that frivolous requests were no longer a problem that needed to be addressed.

14. Report of the Permanent Working Group on Tuna Tracking

The Chair of this Working Group presented a report of its 22nd meeting.

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

The Chair of this Working Group presented a report of its 8th meeting.

16. Other business

The Secretariat advised the Panel that the term of the current NGO members would expire in June 2007, and that elections for new members would be conducted before that time.

17. Recommendations for the Meeting of the Parties

The IRP had no recommendations for the Meeting of the Parties.

18. Place and date of next meeting

The next meeting of the IRP will be held on 19 June 2007, at a venue to be determined.

19. Adjournment

The meeting was adjourned on 25 October 2006.

Appendix 1.

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Appendix 2.

VESSELS QUALIFIED FOR DMLs IN 2007

COL	11
ECU	3
GTM	1
MEX	42
NIC	7
PAN	15
SLV	4
VEN	21
TOTAL	104

Appendix 3.

PROP A1

PROCEDURES RELATED TO THE AIDCP LIST OF QUALIFIED CAPTAINS

Under the present arrangements for maintaining and distributing the AIDCP List of Qualified Captains, difficulties have arisen for governments, observer programs, fishing companies, and captains in establishing which captains are on the List at a given time. The most practical solution would be to publish the List on the IATTC website, thus providing a single authoritative, updated, and easily accessible source of this information. However, before this could be done, each captain should agree to have his name made public in this way. If this idea is approved in principle, the governments and the Secretariat should make every effort to contact each captain to (a) establish whether he agrees to have his name published on the website, (b) verify that the information (name, contact information, etc), it has for him is correct, and (c) obtain a legal domicile to which any written communications regarding his status on the List can be sent. A corollary of this is that, if a captain does object to his name being published, he would effectively be removed from the List. The Secretariat currently does not maintain addresses or other information about captains, and in practice it may be difficult to contact them all.

A related issue is that a captain may sometimes have difficulty in determining whether sanctions have been imposed on him by a Party for infractions of the Agreement, what those sanctions are, and whether he has complied with those sanctions and has therefore been reinstated to the List. It should be the responsibility of each Party to keep the Secretariat and the captains informed of these matters; however, if the Secretariat has been given this information, it may be useful for a captain to be able to obtain information on his particular situation directly from the Secretariat.

Publishing the List would require amendment of the current *Procedures for Maintaining the AIDCP List of Qualified Captains* and the AIDCP Rules of Confidentiality, which could be achieved by adopting the following draft resolution:

The Parties to the Agreement on the International Dolphin Conservation Program agree as follows:

1. To delete paragraph 1.f of the AIDCP Rules of Confidentiality, and make concomitant changes in the *Procedures for Maintaining the AIDCP List of Qualified Captains*.
2. To require any captain on the List to have a legal residence recorded by the Secretariat at which he can receive communications, and also furnish a telephone and/or fax number, and/or e-mail

address, at which he can be contacted.

3. To promptly advise captains of any sanctions imposed on them.
4. To advise the Secretariat promptly of any sanctions applied to captains or vessels, the dates the sanctions were imposed, the nature of those sanctions, and the dates when the sanctions have been complied with.
5. The Secretariat may provide any captain with any information at its disposal regarding his status with regard to the List.