

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM
WORKING GROUP TO PROMOTE AND PUBLICIZE THE AIDCP
DOLPHIN SAFE TUNA CERTIFICATION SYSTEM

MINUTES OF THE 9TH MEETING

Cancún (Mexico)
18 June 2007

AGENDA

1. Opening of the meeting
2. Adoption of the agenda
3. Approval of the minutes of the 8th meeting
4. Information on the resolution of the litigation on the dolphin safe label and on the verdict of the appeal brought before the Ninth Circuit in San Francisco, USA
5. Actions to promote AIDCP dolphin safe tuna
6. Other business
7. Date and place of next meeting
8. Adjournment

1. Opening of the Meeting:

Dr. Luis Fleischer of Mexico was elected to chair the meeting

2. Adoption of the Agenda:

The Agenda was approved adding a new item 4, *Information on the resolution of the litigation on the dolphin safe label and on the verdict of the appeal brought before the Ninth Circuit in San Francisco, USA.*”

3. Approval of the minutes of the 8th meeting:

The minutes of the 8th meeting of the group were approved without amendment.

4. Information on the resolution of the litigation on the *dolphin safe* label and on the verdict of the appeal brought before the Ninth Circuit in San Francisco, USA:

The United States indicated that the Secretariat had circulated to all the Parties a letter from the United States with information regarding that court’s decision, and that the options currently being studied by his government are to appeal the decision, to the Supreme Court and to propose an amendment to US law. As a result of the decision, the definition of *dolphin safe* cannot be changed, from that existing in the U.S., before the AIDCP entered into force, which is the only definition for labeling tuna that can be used in the United States. No tuna will be prohibited from entering the United States as a result of the court decision, but it cannot be labeled as dolphin safe unless it conforms with the US definition. The US reiterated its commitment to keep the Parties duly informed about any relevant information regarding this matter.

Mexico noted that since 2001, when the first legal problem occurred, the United States has not complied with everything stipulated in the Declaration of Panama. Annex 1 of the Declaration establishes that the objective of the AIDCP is not only the conservation of dolphins, in which an exemplary performance has been achieved, , but also free access to markets. He asked how he could help in the review process for the possible appeal or legislative change, which additional elements would have to be contributed to achieve full compliance with the Agreement, and whether the letters sent by ministers of the Parties to the US government had had any effect.

The United States explained that the letters received had been useful, and that the support necessary for the new actions would consist fundamentally of continuing the efforts in scientific research on dolphins.

Venezuela expressed disappointment with the explanation by the US. He was concerned that the United States government backs another label, and suggested that it should take the lead to promote the AIDCP label in its country. The United States should also give clear answers and signals in response to the activities of Earth Island Institute (EII).

El Salvador supported Mexico and Venezuela, and stressed that it was necessary that something specific be done, and that that the US proposal of continuing research, without openly recognizing what had already been done for many years, was not the best option, since there were no incentives for the fleets.

Colombia stated that failure to comply with any commitments of the Agreement affects and undermines its results. Much had been achieved regarding conservation, but without an opening to trade, the Agreement did not have any practical value.

Ecuador supported the preceding delegations, and stressed that the effort made for so many years merited a clear incentive. The diagnosis of the problem was clear, and should be discussed jointly to resolve it in order to strengthen the AIDCP.

Mexico asked that, before taking a decision on the course it would take, the US consult with the Parties to the AIDCP. The scientific research could be continued, in the framework of the IATTC, but there should be clear indications of real solutions. Mexico would be ready to contribute with specific measures, such as supporting the promotion of the label within the United States.

The United States responded that at the moment there is no concrete decision; consultations are being held at different levels, and the Parties would be informed about this in due course.

El Salvador, asked whether there were laws in the United States that prohibit defaming the AIDCP, and if so, whether the AIDCP could take legal action in the United States, since EII's action affected not only the AIDCP, but also the companies of member countries.

Ocean Conservancy stated that, apart from EII, there are other environmental voices that do want to help and that recognize the great efforts made by the AIDCP.

Mexico indicated that, in US law on labels, section 1385 defines any label different to that defined by the US government as an alternative label, and that it must have similar or comparable systems for monitoring and verification. This could be an additional legal instrument to help the AIDCP. The AIDCP had the legal status to confront EII and bring suit, but bringing a civil suit would perhaps not be the best option. It might be better for the AIDCP to request that the United States conduct an appropriate review of its laws, based on section 1385.

The European Union (EU) noted that such a legal procedure would imply a financial burden that the AIDCP must address. Mexico noted that Article 15 of the AIDCP states that all members shall contribute to the achievement of the objectives, and that this includes financial aspects.

Venezuela suggested that a working group be formed to determine whether legal action should be taken, and stressed that this work should be done jointly by all the members of the AIDCP and not by the Parties separately.

Colombia supported this proposal, and stressed the need to establish clear deadlines for the actions that were decided.

The EU said that it did not object to the formation of the working group, but it should be made up by the interested Parties only, and its terms of reference and its specific mission should be clearly defined. EU added that it would not participate.

Bolivia, El Salvador, and Mexico supported the Venezuelan proposal, and stressed the importance of participation by all Parties, particularly the United States.

Bolivia also suggested drafting a a joint statement against the US court's decision. This was supported

by various Parties, but the United States stated that it could not be party to any such statement.

The Chair suggested that the matter of possible legal action against EII be considered by the Working Group in the future, since there was not a clear agreement about forming a working group. The United States supported this proposal.

5. Actions to promote AIDCP dolphin safe tuna

The Working Group discussed a possible promotion event to be held in the United States. Mexico had understood that the US government would be involved in this event, but the US delegation stated that, although informal consultations had been held with all sectors involved, no decision had been taken about this. Mexico expressed its disappointment, and stated that this attitude weakened the AIDCP and made access to markets more difficult. El Salvador expressed its opinion that the United States, as a party to the AIDCP, should exhibit a more positive attitude and take the lead in promoting the AIDCP label in its territory.

The United States pointed out that, while it can publicize and support the AIDCP in a promotional event, it is not possible for it to promote a label that is contrary to its national legislation.

6. Other business:

There was no other business.

7. Date and place of next meeting:

The next meeting of the working group will be in La Jolla in October 2007.

8. Adjournment:

The meeting was adjourned.

Appendix 1.

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