

INTERNATIONAL DOLPHIN CONSERVATION PROGRAM

INTERNATIONAL REVIEW PANEL

44th MEETING

La Jolla, California (USA)

25 October 2007

AGENDA

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1. Opening of the meeting	
2. Election of the Presider	
3. Adoption of the agenda	
4. Election of NGO members	
5. Approval of the minutes of the 43 rd meeting	
6. Review of Dolphin Mortality Limits (DMLs) for 2007	<u>IRP-44-06</u>
7. Review of vessels qualified to receive DMLs for 2008	<u>IRP-44-07</u>
8. Resolving a vessel's possible infractions before a change of flag	
9. Review of AIDCP <i>List of Qualified Captains</i>	<u>IRP-44-09</u>
10. Review of observer data	
11. Review of actions by Parties on possible infractions reported by the IRP:	
a. Actions taken since report at 43 rd meeting	<u>IRP-44-11a</u>
b. Status review of special cases	<u>IRP-44-11b</u>
12. Comparison of observer programs	<u>IRP-44-12</u>
13. Effect of Resolution <u>A-02-03</u> on a pattern of infractions	<u>IRP-44-13</u>
14. Report of the Permanent Working Group on Tuna Tracking	
15. Report of the Working Group to promote and publicize the <i>AIDCP Dolphin Safe Tuna Certification System</i>	
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APPENDICES

1. List of attendees
2. Report of the 24th Meeting of the Permanent Working Group on Tuna Tracking
3. Report of the 10th Meeting of the Working Group to promote and publicize the AIDCP Dolphin Safe Tuna Certification System
4. Guidelines for the technical training of observers

The 44th Meeting of the International Review Panel was held in La Jolla, California (USA) on 26 October 2007. The attendees are listed in Appendix 1.

1. Opening of the meeting

Dr. Guillermo Compeán, Director of the Inter-American Tropical Tuna Commission (IATTC), opened the meeting.

2. Election of the Presider

Mr. Alvin Delgado, of Venezuela, was elected to preside over the meeting.

3. Adoption of the agenda

The provisional agenda was adopted without changes. The United States indicated that Document IRP-44-08 was not ready for distribution.

4. Election of NGO members

Mr. Carlos Hussong was elected as representative of the industry to the IRP, to fill the one vacancy existing in that category.

5. Approval of the minutes of the 43rd meeting

The minutes of the 43rd meeting of the Panel were approved without changes.

6. Review of Dolphin Mortality Limits (DMLs) for 2007

The Secretariat summarized the situation with respect to the allocation, reallocation, and utilization of DMLs in 2006, summarized in Document IRP-44-06, as well as information on the 2007 DMLs as of 31 May.

7. Review of vessels qualified to receive DMLs for 2008

The Secretariat summarized the situation with respect to the requests for DMLs, highlighting eight vessels that requested DMLs but did not pay their assessments on time, and eight other vessels whose requests could be considered frivolous under Appendix IV(1)9 of the AIDCP.

With regard to the frivolous requests, it was noted that at the previous meeting it was agreed to grant DMLs to those vessels, but that this was not recorded in the minutes. The United States indicated that there was no consistency in the way these requests were treated, and that not applying that decision should be considered. Guatemala suggested that the appendix cited be modified.

In the end, it was agreed that the vessels associated with the frivolous request matter be granted DMLs.

As regards the vessels that did not pay, it was noted that the Panel had shown flexibility in the past, but Colombia opined that this should change. The European Union said that the rules should be applied uniformly.

As regards the deadline for the payment of the assessments, a long discussion ensued regarding what the deadline actually is, especially since the AIDCP and the resolution addressing assessments may not be consistent. The meeting agreed that this needed to be clarified in the future.

The meeting agreed that, for this year, a deadline of 15 December would be set. If payments were made by then, DMLs could be granted, and if not, the vessels would not be eligible for DMLs for 2008, and the DMLs provisionally assigned to them at this meeting would be reallocated among all the other applicants.

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

The United States explained that it had prepared the draft of the document on this subject, but it had not yet had the opportunity of discussing it informally with delegations. It was therefore decided to postpone

the discussion of this issue until the next meeting of the Panel.

9. Review of AIDCP List of Qualified Captains

The Secretariat presented Document IRP-44-09, *Changes to the AIDCP List of Qualified Captains*, which updates the changes that have taken place since 7 June 2007. It was observed that three new captains were added, one removed, and none reinstated.

10. 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 discussed the question of access by fishing captains to the reports prepared by observers on which the IRP based its decisions about possible infractions, and decided that in future the captains should be given copies of these reports.

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

a. Actions taken since report at 43rd meeting

The Secretariat presented Document IRP-44-11a, *Responses to six types of possible infractions identified during the 42nd and 43rd meetings*, together with the record of responses since the beginning of the program.

b. Status review of special cases

The Secretariat presented Document IRP-44-11b, *Summary of pending special cases monitored by the IRP*, in which the status of the cases classified as special is updated.

Mexico questioned the need of reviewing this document. Dr. Compeán indicated that it is a way of supporting the work of the observers, and that monitoring these cases is important. Venezuela and the industry supported these comments.

12. Comparison of observer programs

The Secretariat presented Document IRP-44-12, indicating that in general the comparison tests do not indicate significant differences among the programs. Mexico noted that this shows that they are all doing their work adequately, and that it is important to note the transparency of this process, which does not exist in other similar organizations.

13. Effect of Resolution A-02-03 on a pattern of infractions

The Secretariat presented Document IRP-44-13 on the effect of Resolution A-02-03, which defines the pattern of infractions. There were no comments on this, but El Salvador indicated that the industry should be congratulated for reducing not only the number of infractions, but also the number of dolphins killed.

14. Report of the Permanent Working Group on Tuna Tracking

The Chair of this Working Group presented the report of its 24th meeting (Appendix 2).

Mexico noted that the tracking system was intended to open markets and be transparent to consumers, and that it had no effect in terms of science and protection of dolphins. The United States said that the system is important for the transparency of the program, and suggested that the Parties may wish to consider doing an analysis of the cost of the group. The European Union supported an assessment of the benefits of the system.

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 (Appendix 3). The Group recommended developing a plan for a greater promotion and publicizing of the achievements and benefits of the IDCP.

16. Other business

The Secretariat presented the proposal for guidelines for the technical training of observers developed by the meeting of the IATTC and national observer programs (Appendix 4). The Panel agreed to recommend the proposal to the Meeting of the Parties.

17. Recommendations for the Meeting of the Parties

The Panel agreed to make the following recommendations to the Meeting of the Parties:

1. That 2008 DMLs for the 100 vessels that requested them be granted, on the condition that those that had not yet paid their assessments do so by 15 December 2007.
2. That the Parties address whether to amend Annex IV.I.2 of the AIDCP regarding the dates of the payment of assessments.
3. That the proposal by the Working Group to promote and publicize the AIDCP Dolphin Safe Tuna Certification System of developing a plan to achieve greater depth and coverage of the promotion and publicizing of the IDCP be approved.
4. That the guidelines for the technical training of observers developed by the meeting of the IATTC and national observer programs be approved
5. That in future the captains be given copies of the IRP reports prepared by the observers.

18. Place and date of next meeting

The next meeting of the Panel will be held in June 2008 on the occasion of the AIDCP meetings in Panama.

19. Adjournment

The meeting was adjourned.

Appendix 1.

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Appendix 2.

PERMANENT WORKING GROUP ON TUNA TRACKING

24th MEETING

La Jolla, California (USA)
25 October 2007

CHAIR'S REPORT

The 23rd meeting of the Permanent Working Group on Tuna Tracking was held in La Jolla, California, on 25 October 2007.

1. Opening of the meeting

The meeting began with the participation of the representatives of the following Parties: Colombia, Ecuador, El Salvador, European Union, Mexico, Peru, United States, and Venezuela, as well as representatives of the industry and the NGOs.

2. Adoption of the agenda

The provisional agenda was adopted without any observations or modifications.

3. Approval of minutes of the 23rd meeting

The minutes of the 23rd meeting, previously circulated by the Secretariat, were approved without amendments.

4. Review of the implementation of the dolphin safe certification system

Mr. Ernesto Altamirano, of the Secretariat, presented Document TT-24-04, *Matters related to the Tuna Tracking and Dolphin-Safe Certification programs*. He observed that, since January 2007, only 5 certificates had been issued. He also noted that establishing conversion factors for tuna yields is not useful for detecting whether the product is dolphin safe or not, since only 8% of the total catch of all species is not *dolphin safe*. Finally he presented the percentage of TTFs received by the Secretariat, which show a good level of compliance in recent years. El Salvador reported that it had sent the missing TTFs recently, so this percentage would increase.

5. Denial of dolphin-safe certificates for contravention of IATTC conservation and management measures

This matter, which had been postponed during the 23rd Meeting of the Working Group, was taken up again.

The Secretariat noted that the proposal was intended to clarify the procedures or mechanisms for denying

certificates, since it was necessary to clarify which conservation measures were referred to.

Regarding the linking of this provision of the Tuna Tracking and Verification System so that it would be clear that tuna that is in contravention of the conservation and management measures of the IATTC would be classified as non-dolphin safe, Colombia noted that, in its opinion, the international instruments should be independent, especially the IATTC and the AIDCP, and that one should not be subordinated to the other.

The United States noted the validity and importance of this linkage; however, since there was no consensus, it suggested that the discussion of the matter be referred to the Meeting of the Parties, leaving on record the understanding of the Parties regarding the type of conservation and management measures to be used and thus give the Secretariat guidance about when to deny certificates. The European Union observed that there could be a risk in defining this delimitation.

6. Recommendations for the IRP

There were no recommendations for the International Review Panel.

7. Other business

There was no other business.

8. Place and date of next meeting

The next meeting of the Working Group will be held in June 2008, in Panama.

9. Adjournment

The meeting was adjourned at 10.30 a.m. on 25 October 2007.

Appendix 3.

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

10TH MEETING

La Jolla California (USA)

25 October 2007

CHAIR'S REPORT

1. Opening of the meeting

The meeting was declared open at 11:30 a.m..

2. Election of chair

Mexico nominated Dr. William Hogarth, of the United States, to chair the meeting; the US delegation explained that Mr. Hogarth was not present, but that it would communicate the nomination to its government and inform the Working Group of the response before the next meeting. Mr. Bernal Alberto Chavarría Valverde, of Costa Rica, was elected to chair the meeting.

3. Adoption of the agenda

The agenda was approved without modifications.

4. Approval of the minutes of the 9th meeting

The minutes of the ninth meeting of the group were approved, with the following modifications:

- a. Mexico requested the correction and substitution of the final paragraph of the first page of the minutes, in the Spanish version, so that it would read correctly: *“Mexico noted that the United States was in violation of the AIDCP since it has not complied with everything stipulated in the Declaration of Panama. Although in the conservation of dolphins, annex I of the Panama 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 effective access to the US market, as is expressly stated. He asked how Mexico could help in the review procedure for the possible appeal or legislative change, which additional elements would have to be contributed to achieve total compliance with the Agreement, and whether the letters sent by ministers of the Parties to the US government had had any effect”.*
- b. El Salvador requested the correction and complete substitution of the fourth paragraph, page two of the Spanish version, so that it would read correctly: *“El Salvador supported what Mexico and Venezuela said and reiterated that it was necessary that something specific be done while the review continues in the United States on whether to appeal the decision to the Supreme Court or to propose an amendment of the domestic legislation. Especially, the United States should acknowledge publicly what had been done for many years within the AIDCP and its successes and publicize this. Otherwise, there are no incentives for the fleets to continue making efforts to comply with the Agreement.”*

5. Actions to promote AIDCP dolphin safe tuna

Mexico and El Salvador initiated the discussion on the importance of thinking up efficient mechanisms for publicizing the benefits of the AIDCP, from the point of view of separating dolphin safe tuna from non-dolphin safe tuna, on the basis of publicizing the IDCP. Mexico and Venezuela expressed their concern regarding the actions by the United States within its country, to guarantee effective access to that market for AIDCP dolphin safe tuna.

United States reiterated its support for the IDCP and its willingness to work multilaterally with other delegations on publicizing and promoting the AIDCP.

From these premises, the consensus of the parties aimed at drawing up a global Plan, of a multilateral nature and not aimed specifically at a market or country in particular, of information about the achievements of the AIDCP, with the aim of a greater depth and coverage in the relevant information that is provided within and without each Party, in a prudent context that will allow all parties greater promotion and publicizing of the AIDCP.

After an extensive debate on the definition of the strategy for developing a possible plan, the delegations were presented with a basic text on initiating actions to develop – in a concrete strategy – a new plan for greater depth and breadth of coverage about the AIDCP. This proposal addresses the objective that the Chair, in consultation with the parties, prepare the basis for discussion that will be considered at a future meeting of the Working Group, regarding the content of the plan and the manner of carrying it out. The Chair stated that, if the initiative were approved, he would send to the delegations a basic questionnaire that will allow the conceptualization of alternatives and strategies that will make the Plan in question a product that can be acceptable to the Working Group and eventually by the Meeting of the parties. He specified the need to ask the parties three basic questions: what is the current coverage of information in your country about the existence, importance and achievements of the AIDCP?, what are the legal, strategic, economic or other limitations in your country regarding the development of a plan for promoting and publicizing the AIDCP? and which concrete elements do you consider necessary for inclusion in a plan for promoting and publicizing the AIDCP, with the aim of achieving greater clarity and guaranteeing wide coverage of the program? Given the nature of the matter being considered, the parties undertook to work towards creating by consensus the Plan in question and attend the next meeting of the Working Group, provided that that meeting is based on the evaluation of real opportunities of reaching a favorable level of consensus.

At the conclusion of the debate, the Working Group recommended:

Refer to the Meeting of the Parties the recommendation of agreeing to develop, by consensus, upon considering the terms of the prospective draft, a plan and its implementation, aimed at achieving greater depth and coverage of the promotion and publicizing of the International Dolphin Conservation Program.

The Working Group, on the basis of a program that the Chairman will prepare in consultation with the parties, shall review at its next meeting any proposed content. If consensus on a plan is reached, the Working Group will prepare an implementation schedule for the above-mentioned plan for its eventual approval.

Considering the importance of this matter, and provided that consultations between the most interested parties, which they agree to engage in, will show to the Chair that there are real prospects for making progress to develop a plan, convene the Working Group to Promote and Publicize the AIDCP Dolphin Safe Tuna Certification System at an extraordinary meeting to be held on the occasion of the next ordinary or extraordinary meeting of the Inter-American Tropical Tuna Commission.

Venezuela asked that the record show its dissatisfaction with the recommendation approved, it does not address at bottom and in a conclusive manner the problem of access for AIDCP dolphin safe tuna to the US market, although it recognized in the initiative an opportunity to continue working towards the stated task.

6. Other business

No other matters were raised under *Other business*.

7. Date and place of next meeting

The parties agreed to convene the Working Group, in view of the third paragraph of the recommendation approved in item 5 above, that is, to the degree that there are real prospects for making progress to develop a plan, in February 2008, on the occasion of the next ordinary or extraordinary meeting of the Inter-American Tropical Tuna Commission.

8. Adjournment

At 6 p.m. on 25 October the meeting was adjourned.

Appendix 4.

GUIDELINES FOR TECHNICAL TRAINING OF OBSERVERS

A. Selection of candidates

1. Recruit only university graduates with a degree in biology, marine science or a related subject, provided there is no perception that the candidate's professional education might represent a conflict of interest when selecting candidates from disciplines which are closely related to the fishing industry;
2. Interview all candidates, and evaluate their motivation for becoming observers.
3. Use psychometric tests to assess the psychological profile of candidates.
4. Candidates must:
 - a. have completed all credits or curriculum in their field of study, or, at a minimum, be in the final semesters or subjects of their specialty.
 - b. have completed a course on survival at sea accredited by the International Maritime Organization (IMO).
 - c. present a medical report that certifies the candidate's physical capacity for carrying out the demanding work aboard.

B. Training of candidates

These guidelines are not intended as a blueprint for training sessions, but to highlight some essential aspects of observer training. The most important element for the success of training sessions is the selection of competent instructors, who should have several years' experience of working with the program as observers and/or data editors.

Training sessions of the AIDCP On-Board Observer Program should include training on: a) fishing methods and procedures and vessel operations; b) identification of marine species; and c) procedures for completing data forms; plus instructions regarding documentation of non-compliance with IATTC and AIDCP resolutions.

1. Fishing methods and procedures

This part of training should aim to familiarize the trainees with all aspects of purse-seine fishing operations, with special emphasis on the terminology used by fisherman and the standard codes and terminology to be used on the data forms. The trainees should be given the information necessary to identify the critical phases of these procedures; this will enable program personnel and national authorities to verify compliance with regulations.

Training sessions should include audiovisual material illustrating:

- a. purse-seine tuna fishing gear;
- b. purse-seine fishing procedures;
- c. dolphin rescue procedures.

2. Identification of marine species

The instructors should familiarize the trainees with the diagnostic external characteristics necessary for identifying the following taxonomic groups (in order of importance):

- a. tunas;
- b. dolphins associated with tuna fishing;

- c. sea turtles;
- d. billfishes, sharks and rays associated with tuna fishing;
- e. other cetaceans in the fishing area;
- f. other marine fauna associated with tuna fishing;
- g. seabirds.

3. Procedures for completing data forms

This should be the most extensive part of training, and should be based on the procedures in the observer field manual. It should include all forms covered in the manual. The trainees should complete as many simulations as possible of situations that may happen during a trip, thus allowing a more objective evaluation of their learning and performance during the training.

4. IATTC and AIDCP resolutions and regulations

This part of the training session should emphasize that the observer's role is to document the vessel's activities, and not to enforce, interpret or offer advice on any resolutions or regulations. The observer must be aware of these regulations, and inform vessel personnel about them if requested, but must not take them into account when recording data.

In particular, this part of the training should focus on making trainees aware of the possibility of interference (including bribery attempts), intimidation or obstruction by vessel crew during a trip, and preparing them to identify, deal with, and document any such instances, using actual cases as examples. They should be instructed in the importance of addressing such situations in a decisive and professional manner. The trainees should be able to identify such instances, and describe them clearly and in detail without including personal opinions, assumptions or irrelevant comments.

5. Reports of situations

The training courses should include elements that will allow the candidates' writing and narrative skills to be evaluated.

6. Conduct aboard

The courses should include a section in which the most important points regarding conduct and protocol aboard vessels and with vessel crew.