

MINISTERIAL AGREEMENT No. 174

UNDERSECRETARY OF RESOURCES PESQUEROS

CONSIDERING:

That, the article 14 of the Constitution of the Republic of Ecuador declares of public interest the preservation of the environment and the conservation of the ecosystems; and that for effects of the investigation, exploitation, conservation and protection of the resources bioacuáticos will be to the established in the Fishing Law and Fishing Development, in the international agreements of which was part the Ecuador and in the principles of international cooperation.

That, the Republic of Ecuador is Part of the Inter-American Commission of the Tropical Tuna (CIAT), and of the Agreement on the International Program for the Conservation of Dolphins (APICD), organisations that have as a fundamental objective the conservation and management that ensure the sustainability on a long-term basis of the populations of tuna and other marine resources associated with the tuna fishing in the Oriental Pacific Ocean (OPO).

That, within in the CIAT in concordance with his objectives have agreed measures of legislation and conservation for the tuna fishing in the Oriental Pacific Ocean.

That, it is necessary that Ecuador keeps the regional leadership and his recognized vocation in the exercise of the responsible fishing practiced permanently in relation to the resources bioacuáticos in general and in particular to the tuna vessels.

That, the article 396 of the Constitution of the Republic, receives the principle precatory and stipulates that the State will adopt the politics and timely measures that avoid the negative environmental impacts, when it exist certitude of damage. In case of doubt on the environmental impact of some action or omission although it do not exist scientific evidence of the damage, the State will adopt effective protective measures and timely.

That, the Fishing Law and Fishing Development, in his article 33 determines that the foreign vessels that operate in association or lease must complies the relative norms of the national vessels, during the time of length of the respective agreements.

That, it is necessary to establish measures of fishing management, that ensure the sustainability of the fish stocks, and contribute to improve the quality of life of the fishermen and the alimentary security of the villages, particularly of those that have the fishing like fundamental activity.

That, the Tuna activity in the phases of extraction, processing and commercialization of the fishing resources, between these the Tuna, constitutes one of supports of the national economy, being also source of work and feeding for the Ecuadorian village.

That, it is necessary to generate investigation, criteria develop and transparent procedures to adopt measures of administration and management of applicable practices to the tuna fishing by part of our country and that these are, as it corresponds, emulated by other Parts in the OPO.

That, the National Council of Fishing Development in Resolution N^{or} CNDP-001-2000 publishes in the Official Register N^{or} 22 of 22 February of the 2000 authorized to the Undersecretary of Fishing Resources so that of the most timely way, when the cases deserve it, implement the Resolutions of the CIAT, and of the norms contained in the APICD, through ministerial agreements and/or instructive, without need a previous opinion of that Council.

That, of compliance with what establishes the article 19 of the valid Fishing Law and Fishing Development, the activities of the fishing in any one of his phases may be able banned, limited or conditioned through agreement issued by the Ministry when the national interests demand it.

That, through Ministerial Agreement N^o 105 of 11 March 2013, in his article 3 reformed the numeral 2.3.1.2. MANAGEMENT OF THE FISHING RESOURCES PESQUEROS of the Ministerial Agreement 281 of 29 July of the 2011, with which adds the letter z with the following text: “exert all the attributions and competition of regulation and control related to the Fishing activities, established in the Fishing Law and Fishing Development, his Regulation and other applicable rules”;

That, through Personnel action N^{or} 0412390 of 27 September 2013, issued in favor of the Ing. Gladys Cedeño Marcillo, the subrogation of the charge of Undersecretary of Fishing Resources until 07 October 2013.

Into use of his legal faculties, and other secondary rule;

It AGREES:

Art. 1.- All the tuna vessels with purse seine that operate under jurisdiction of Ecuador in the Oriental Pacific Ocean, that carry an Fishing observer on board, will have to transmit to the Secretary of the Inter-American Commission of the Tropical Tuna (CIAT) a weekly report by fax, email, radio or another media.

The report transmitted according to the previous paragraph will be prepared by the observer, using the format giving by the CIAT, and will include the tuna capture estimated, by species and type of set, and the mortality of dolphins by stock.

If the Observer, performing warns of facts that could constitute a fishing infringement, will have to detail in the field of observations of the format of report, in concrete and explicit form, the facts that motivate it. Likewise the Observers have to allow to the Captains of Fishing the

review of the data collected in the cruise. This report will have to be put in knowledge of the national fishing authority when it arrive the ship to port.

Without prejudice to the expressed in the previous paragraph, the observer will remit copy of all the information generated in the cruises to the National Fishing Authority, the same that it will be treated of compliance with the Rules of Confidentiality of the Commission.

Art. 2.- The tuna vessels with purse seine operating under jurisdiction of Ecuador will have to retain on board and land in port all tuna Big Eye, Skipjack and yellow fin captured. It is exempted of the present disposal the following cases:

- a. Fish no apt for human consumption
- b. When there is not sufficient available space in cellar to load all tuna captured in the last set.

Art. 3.- It is prohibit to the tuna vessels operating under jurisdiction of Ecuador and that fish species protected by the Convention of the CIAT, discard salt bags and all type of plastic rubbish in the mar.

Art. 4.- The tuna vessels with purse seine operating under jurisdiction of Ecuador will owe:

4.1 Effect the release, in case to be feasible, of the marine turtle's entangled in FAD's and other fishing arts.

4.2 When it observe a marine turtle in purse seine art, do all reasonable effort to rescue it before that entangled in the net, included, in necessary case, doing use of a boat.

4.3 If there is a turtle entangled, will have to cease to go up the net in what the turtle go out of the water, and will not have to restart until it have untangled and freed the turtle.

4.4 If a turtle is gone up on board of the vessel, do all appropriate effort that contribute to the recovery of the same before it was given back to the water.

Art. 5.- The tuna vessels of purse seine operating under jurisdiction of Ecuador, in the case of incidental capture of sharks; they will have to comply with the established in the valid national and international legislation.

Art. 6.- It is prohibit to realize fishing operations during the closure in the zone of the high sea, which includes capture, research through placing or retreat of FAD's.

Art. 7.- The tuna vessels of purse seine operating under jurisdiction of Ecuador will not be able to interact with buoys of oceanographic data in the Area of the Convention of Ancient, in consequence it is prohibit :

- 7.1 Hover the buoy with the fishing art
- 7.2 Tie up or attach to the vessel, fishing art or any part or portion of the vessel to a buoy
- 7.3 Cut the wire of anchor of the buoy.
- 7.4 Soak through his fishing arts to less than a nautical mile of a buoy of data anchored.
- 7.5 Total or partial Subtraction of the buoy of data.

Art. 8.- The tuna vessels operating under jurisdiction of Ecuador in the Oriental Pacific Ocean, comprised inside the classes 1 to the 6, must have a monitory satellite device for the vessels (DMS), testing of adjust unauthorized, entirely automatic regarding position data, able to work at all times, independently of the environmental conditions

The information collected through the monitory satellite device for the vessels (DMS) for each vessel will include the identification of the same, through his position (latitude and length) with an error of less than 500 meters in a level of confidence of 99%, and the date and hour.

Art. 9.- The ship-owners and the captains of the tuna vessels of siege, operating under jurisdiction of Ecuador, will owe:

- 9.1 Provide to the observant accommodation, including room, food and sanitary installations, similar to the proportionate to the crewmen.
- 9.2 Provide to the observant suitable space in the bridge or in the timonera for his work of cabinet, through space in the cover to carry out his duties of observer.
- 9.3 Allow that the crew facilitate or contribute information when the observer like it requires.
- 9.4 Allow that the observer has access to the following:
 - a) To the gears of the vessel
 - b) To the navigation equipment by satellite;
 - c) To the screens of radar, when they are into use;
 - d) To binoculars of high power, still during the hunting and running the closing of dolphins to facilitate his identification, except when they are using them the personnel of the vessel;
 - e) To the electronic equipment of communication.
 - f) To the vessels cover of work during the collected of the net and the load of the fish, such as any specimen, alive or dead, that was gone up on board of

the vessel during a set, to take biological samples, of compliance with the Program of Observers on board or according when it is require it by the competent national authority.

Art. 10.- The tuna vessels of purse seine operating under the jurisdiction of Ecuador, with carrying capacity upper to the 363 metric tons that wish to fish tuna in association with dolphins, will owe:

10.1 Before 1º October of every year request through the Undersecretary of Fishing Resources a Limit of Mortality of Dolphins (LMD) of complete year for the following year, or, before 1º April of every year for the second semester of this same year.

10.2 A vessel that requests the Limit of Mortality of Dolphins (LMD) of complete year or of second semester will have to fulfil with the following requirements:

- a. Have all the gears and equipment's for the protection of dolphins (protective cloth of dolphins, at least 4 fast sets, reflector of high intensity and raft of rescue)
- b. Show that his captain and crew have received training approved in technicians of release and rescue of dolphins
- c. Have a fishing captain constant registered in the list of captains in the CIAT-APICD.

10.3 The vessel that received a LMD will lose it if:

- a. It did not make a set on dolphins before 1º April of this year, for the case of LMD of complete year.
- b. It did not make a set on dolphins before 1º October of this year, for the case of LMD of second semester.
- c. Will be able to renounce to the LMD conceded by means of notification made through the Undersecretary of Fishing Resources, before 1º April of any year or before 1º October of any year, for the cases of LMD of complete year or of second semester respectively.

Art. 11.- It is prohibit the increase of the capacity of the tuna purse seine operating under the jurisdiction of Ecuador, unless a tuna vessel or vessels with purse seine is registered constant in the Regional Register of the CIAT – APICD, of equal or higher capacity authorized to fish in the OPO, was (n) deleted (s) of the Register.

Art. 12.- It is prohibit the entry of new vessels, defined like those no included in the Regional Register of Vessels of the CIAT, except to replace vessels to delete of the Register, and whenever the total capacity of the vessel or vessels to enter do not surpass the one of the vessel or vesselss replaced (s).

Art. 13.- The disposals contained in the articles 12 and 13 precedents not be against neither will lessen the legitimate sovereign rights of the Ecuador.

Art. 14.- It is prohibit the entry of lands, commercial transactions, transships and all import of fishing captured by vessels that are recorded in the officials' list of Illegal fishing, No Declared and No Regulated, as well as of those declared illegal no regulated no registered by the Inter-American Commission of the Tropical Tuna – CIAT.

Art. 15.- Those who infringe the disposals contained in the present Agreement will be sanctioned according to the encoded Fishing Law and Fishing Development and his Regulation, for this the national fishing authority will have to establish the respective administrative processes to determine responsible and impose the corresponding sanctions.

Art. 16.- Of the execution and fulfillment of the present Agreement commission take charge the Direction of Control of Fishing Resources and National Direction of the Aquatic Spaces (DIRNEA).

Art. 17.- The present Agreement will go in in force from his expedition without prejudice to his publication in the Official Register.

Given in Manta, 07 OCT 2013

Ing. Gladys Cedeño Marcillo
SUBSECRETARITA OF RESOURCES PESQUEROS (SUBROGANTE)