

President Barack Obama
The White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

November 4, 2011

Vice President Joe Biden
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20501

RE: *Government of Mexico's Failure to Fulfill NAFTA Obligations for Dolphin-Safe Tuna Label Dispute*

Dear President Obama and Vice President Biden:

The undersigned organizations, representing millions of our members dedicated to protecting wildlife, including marine mammals and their habitats, urge you to take diplomatic steps with the Government of Mexico to ensure it meets its responsibilities under the North American Free Trade Agreement (NAFTA) with respect to the U.S. Dolphin Safe tuna label dispute.

As you know, Mexico challenged the U.S. Dolphin Safe tuna label before the World Trade Organization (WTO). While the Office of the U.S. Trade Representative (USTR) has actively complied with its responsibilities under the WTO, USTR also took steps in September of 2010 to transfer the case to NAFTA under Article 2005(4) of Chapter 20, which requires that NAFTA be the sole forum to hear the dispute when certain conditions are met.

For more than a year, however, the Government of Mexico has refused to either take any steps to appoint a dispute panel in the NAFTA dispute or agree to transfer the WTO case to NAFTA. If Mexico disagrees about the applicability of Article 2005(4), it should allow for a NAFTA dispute panel to decide the case on its merits rather than continuing delaying progression of that dispute.

The resolution of this case is important in ensuring the integrity of the NAFTA choice-of-forum provisions and to preventing a dangerous precedent being set for future cooperation with the Government of Mexico in trade disputes.

Vice President Joe Biden and Senator Barbara Boxer were the authors of the original Dolphin Protection Consumer Information Act of 1990 that established the U.S. Dolphin Safe tuna label. Failure to reach a timely resolution of this dispute under NAFTA threatens the integrity of the U.S. Dolphin Safe label and the rights of U.S. consumers to unbiased information about the safety of dolphins. It also puts at risk one of the most successful environmental consumer education programs in history, which has helped to reduce dolphin deaths in tuna nets from an estimated 80,000 to 100,000

dolphins annually in the late 1980's to fewer than 2,000 last year. This is especially significant as the WTO Tuna-Dolphin dispute continues to progress, with a recent dispute panel report finding that the U.S. Dolphin Safe label is inconsistent with certain WTO obligations.

We understand that the North American Leader's Summit will be held in Hawaii on November 13, 2011. We believe this could be an ideal time to discuss this matter with President Calderon and urge Mexico to adhere to the plain language of NAFTA and transfer the WTO case to NAFTA for resolution, or, at a minimum, immediately undertake panel selection so the dispute over forum can be resolved.

Thank you in advance for your consideration of our request. We are looking forward to following up on this important matter.

Sincerely,

Susan Millward
Executive Director
Animal Welfare Institute

William Snape
Senior Counsel
Center for Biological Diversity

David Phillips
Executive Director
Earth Island Institute

Jeffrey Flocken
Washington D.C. Office
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International Fund for
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Kitty Block
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Cc The Honorable Ron Kirk, U.S. Trade Representative
The Honorable Hillary Clinton, U.S. Secretary of State
The Honorable Barbara Boxer, U.S. Senator from California