

February 13, 2012

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

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

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

Dear President Obama and Vice President Biden:

Our organizations would like to thank you for the action taken by the Office of the U.S. Trade Representative (USTR) to appeal the World Trade Organization (WTO) dispute concerning the Dolphin Safe tuna label (DS381, "*United States — Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products*"). This appeal is very important as some of the findings of the WTO dispute panel were confusing, factually incorrect, and contradictory, and if allowed to stand, could potentially undermine U.S. regulations to protect public health and the environment. We appreciate the Administration's continued support for the dolphins and the Dolphin Safe label.

In a related matter, we would like to take this opportunity to again 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, while the 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 to delay progression of that dispute.

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

We understand that Mexico and the U.S. are in the process of discussing the potential for Mexico to join the Trans Pacific Partnership (TPP) free trade agreement negotiations. We believe the U.S. should raise the issue of Mexico's non-compliance under NAFTA during these talks. We strongly believe that before Mexico is considered for membership in a new trade agreement with the U.S., it should live up to its existing commitments under NAFTA, including those relating to the Dolphin Safe tuna label.

Thank you again for determining to appeal the flawed WTO decision. We urge you to take similarly strong action at the highest level to ensure Mexico fulfills its obligations under the provisions of NAFTA.

Sincerely,

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Earth Island Institute

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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