



215 Pennsylvania Avenue, SE • Washington, D.C. 20003 • 202/546-4996 • www.citizen.org

For Immediate Release:
Oct. 26, 2017

Contact: Ufuoma Otu, (202) 454-5108, uotu@citizen.org
Matthew Groch, (202) 454-5111, mgroch@citizen.org

In Epic WTO v. Flipper Case, Trade Organization Ruling in Favor of U.S. Dolphin-Safe Tuna Labeling Program May Reflect Concerns About Trump Criticisms of WTO

U.S. Gutted Ban on Dolphin-Deadly Tuna After 1991 Trade Case; Today's Ruling Means U.S. Dodges \$163 Million in Sanctions for Voluntary Labels That Replaced Ban – But Mexico Can Appeal Decision

WASHINGTON, D.C. – After two decades of successful trade attacks that led to the gutting of a U.S. ban on tuna caught in a manner that harms dolphins, today's World Trade Organization (WTO) [ruling](#) was a welcome if unexpected shift that may reflect the institution's response to intensive pressure by the Office of the U.S. Trade Representative to reform the WTO's dispute resolution process and President Donald Trump's threats to withdraw from the body, Public Citizen said.

At issue in today's ruling are voluntary labels that provide consumers with information to enable them to choose dolphin-safe tuna. The labels were put in place after the U.S. eliminated its ban on dolphin-deadly tuna after losing previous WTO cases. Millions in American taxpayer funds have been spent defending attack after attack on dolphin protections at the WTO.

“The WTO is a political institution, so this ruling may be motivated by a sense of self-preservation, given that the administration has spotlighted how WTO tribunals order countries to gut domestic policies based on unaccountable tribunals making up new obligations to which countries never agreed,” said Lori Wallach, director of Public Citizen's Global Trade Watch. “At another politically fraught moment for the WTO shortly after the 1999 Seattle WTO protests, when a ruling against Europe's ban on asbestos was seen as substantiating protestors' claims about the body, a surprise reversal also was issued.”

Today's ruling is subject to appeal by Mexico. Public Citizen called on the Trump administration and the Mexican government to include language in North American Free Trade Agreement (NAFTA) renegotiations explicitly affirming the current U.S. labeling program so as to shut down any future disputes after 25 years of trade-pact attacks on U.S. dolphin-safe labeling policies. The initial 1991 tuna-dolphin case, dubbed GATTzilla v. Flipper, instigated environmental and consumer group engagement on “trade” agreements.

Today's ruling focused on whether a 2016 strengthening of the enforcement provisions of the U.S. dolphin-safe tuna labeling regulations with respect to countries other than Mexico made the policy compliant with WTO rules. The WTO repeatedly had declared that the policy discriminated against

Mexico, and that rules that limited exceptions for policies aimed at conserving natural resources or protecting animal life or health did not apply. Most recently, an April 2017 WTO decision authorized Mexico to impose an annual \$163 million in trade sanctions against the United States, concluding that 2013 changes to the policy still did not meet WTO rules. The April ruling set the amount of sanctions Mexico could impose after the WTO ruled against the U.S. labeling program in 2011, upheld that ruling on appeal in 2012, ruled in 2015 that the initial U.S. changes to the policy did meet WTO rules and upheld that decision on appeal.

Today's decision means that the United States will not immediately face the previously authorized \$163 million in annual trade sanctions.

The decision is the latest development in an ongoing trade impasse between the U.S. and Mexico on dolphin-safe tuna that started in 1991. The current round of attacks started in 2008 with the WTO repeatedly ruling against the U.S. dolphin-safe tuna labeling program even though it is strictly voluntary and accessible to Mexican fishing fleets should they opt to use dolphin-safe tuna-fishing methods just as U.S., Ecuadorean and other nations' fleets do. Tuna that does not meet the dolphin-safe standard still can be sold in the United States without that label.

"To make sure that the attack on dolphin-safe tuna ends once and for all, a formal and final settlement of the case safeguarding the policy must be part of NAFTA renegotiations," Wallach said.

[Short overview and background of the case: 1991-2017](#)

###