

5-3-2017

World Trade Organization Supports Mexico in Latest Ruling on Tuna Dispute

Carlos Navarro

Follow this and additional works at: <https://digitalrepository.unm.edu/sourcemex>

Recommended Citation

Navarro, Carlos. "World Trade Organization Supports Mexico in Latest Ruling on Tuna Dispute." (2017).
<https://digitalrepository.unm.edu/sourcemex/6343>

This Article is brought to you for free and open access by the Latin America Digital Beat (LADB) at UNM Digital Repository. It has been accepted for inclusion in SourceMex by an authorized administrator of UNM Digital Repository. For more information, please contact amywinter@unm.edu.

World Trade Organization Supports Mexico in Latest Ruling on Tuna Dispute

by Carlos Navarro

Category/Department: Mexico

Published: 2017-05-03

Mexico scored a significant victory in the ongoing trade dispute with the US over tuna. In a decision announced in late April, the Geneva-based World Trade Organization (WTO) ruled that Mexico was within its rights to impose sanctions against the US in compensation for US restrictions that prevented imports of Mexican tuna.

At issue is whether Mexico has done enough to protect dolphins during the tuna catch and whether US norms to protect dolphins during the catch are overly restrictive and discriminatory. The WTO, which has considered both questions during deliberations on the tuna dispute over the last two decades, sided with the Mexican government in its latest decision, announced on April 25. The WTO gave the Mexican government the right to impose sanctions on US products worth about US\$163.23 million a year as compensation for losses due to the US restrictions. However, the amount is only about one-third of the US\$472.3 million that Mexico had requested.

There was talk that Mexican officials were planning to use its new authority to impose tariffs on imports of high-fructose corn syrup (HFCS). However, any restrictions on HFCS would take away one of the negotiating cards available to Mexico if and when discussions with the US and Canada on reforms to the North American Free Trade Agreement (NAFTA) take place. US President Donald Trump's administration has already stated its intention to pursue a reform of NAFTA this year ([SourceMex, Feb. 1, 2017](#), [March 8, 2017](#), [April 26, 2017](#)).

Mexico seeks full access to US market

Rather than discuss sanctions, officials at the Economy Ministry (Secretaría de Economía, SE) hinted that Mexico would settle for an easing of the US restrictions. "We are going to consider this matter very carefully," Juan Carlos Baker, deputy economy minister for international trade, said in a television interview. "What we want is for the US to open access to Mexican tuna."

There is also uncertainty on whether the WTO decision is final. A WTO panel is scheduled to make a separate ruling on evidence presented by US authorities that the US has stopped discriminating against imports of Mexican tuna. If the panel rules in favor of the US, then the move to allow the retaliatory trade actions could be nullified.

The rift between Mexico and the US over tuna dates to 1980, when Mexico caught two US vessels taking tuna illegally in Mexican waters. The Mexican government then banned US vessels from catching tuna in Mexico. In retaliation, the US banned all imports of Mexican tuna for the next six years.

However, the dispute over the "dolphin safe" label emerged in the 1990s, when a US federal judge, at the behest of Earth Island Institute and other environmental groups, determined that Mexican fishing boats were surpassing the limits of incidental deaths of dolphins during the tuna catch. It was then that the US government began to apply the label to imports of Mexican tuna.

“This second embargo halted the development of the Mexican tuna industry,” said the daily newspaper Milenio. “We lost 40,000 jobs and 40% of our commercial tuna fishing fleet.”

In 1996, the US House of Representatives voted to end the embargo. The measure, which contained strict monitoring and enforcement mechanisms to prevent dolphin deaths, received support from important environmental organizations and then-US President Bill Clinton. A key Senate subcommittee also approved the proposal, but the full Senate delayed a vote, prompting protests from the Mexican government ([SourceMex, Oct. 9, 1996](#)).

The Senate inaction meant that the measure was not approved, and the US did not open its market to tuna for several more years. The long delay prompted the Mexican government to bring the matter to the WTO in 2000 ([SourceMex, Aug. 16, 2000](#)).

After a series of deliberations, a WTO panel determined in 2011 that the practices of Mexican tuna fishing fleets did not endanger dolphins and that the US should allow them to export their product north of the border without having to adhere to the conditions imposed through the US “dolphin safe” label ([SourceMex, Sept. 21, 2011](#)). The US appealed the decision, but the WTO ruled that the US was required to apply the “dolphin safe” label to Mexican tuna imports, since the Mexican government was complying with the catch practices prescribed by the US for Mexican fleets.

In 2013, the US modified its regulations to make it even easier for Mexican fleets to obtain the “dolphin safe” label, but the WTO determined that the US was still engaging in discrimination against Mexican tuna imports.

In 2015, a WTO panel ruled that the US government was employing discriminatory practices when forcing Mexican and other foreign fleets to adhere to its definition of “dolphin safe,” suggesting that scrutiny and compliance levels for Mexican vessels was greater than for US vessels. ([SourceMex, April 22, 2015](#)).

In 2016, the Mexican government asked the WTO for the right to impose sanctions against US products because the US was not fully opening its tuna market. The WTO responded by issuing its April 2017 ruling.

US government, environmentalists denounce decision

The US Trade Representative’s Office (USTR) reacted to the WTO ruling by suggesting that the WTO had not taken into account the changes that the US had enacted on the “dolphin safe” label, which ease restrictions on Mexico. Furthermore, the USTR said the WTO overstated the actual financial loss to Mexican tuna producers, even though Mexico received only one-third of the amount it had requested.

“We are disappointed in the WTO arbitrator’s decision regarding U.S. dolphin-safe labeling standards,” a USTR spokesperson said. “Regrettably, the WTO arbitrator’s decision does not take into account the United States’ most recent dolphin-safe labeling updates and dramatically overstates the actual level of trade effects on sales of Mexican tuna caught by intentionally chasing and capturing dolphins in nets,” a USTR statement added.

The WTO ruling also came under criticism from environmental groups. The International Marine Mammal Project (IMMP), which is affiliated with the Earth Island Institute, described the ruling as “a ploy to undermine the highly successful and popular dolphin-safe labeling program.” The

organization, which was the primary group responsible for promoting the “dolphin safe” label, said the WTO consistently puts “trade considerations above environmental protections, working to overturn national laws around the world that are perceived to have any adverse impacts on trade.”

IMMP director David Phillips said, “Shame on the WTO and shame on Mexico for trying to force dolphin-deadly tuna back onto US supermarket shelves. Mexican fishermen should comply with the same ‘dolphin safe’ label requirements that every other tuna fishing country uses. Chasing, netting, and killing dolphins is not dolphin safe, and it never will be.”

Phillips added, “The Mexican tuna fishing industry is the world’s worst killer of dolphins. They try to hide behind rulings by trade bureaucrats, but consumers are smarter than that and won’t buy their tuna stained by the blood of dead dolphins.”

According to Maureen Nandini Mitra, editor of the Earth Island Institute’s *Earth Island Journal*, the “dolphin safe” label has helped save countless dolphins in the Eastern Tropical Pacific Ocean (ETPO), a region extending south from Southern California to Peru and west almost to Hawaii. “Mexico and several other countries allow their tuna industry to deliberately target, chase, and surround the dolphins with nets in order to get to the tuna,” Mitra wrote.

In her article, Mitra described how fishing fleets catch tuna by targeting dolphins, which often accompany the fish. “Dolphin pods are herded for miles by tuna speedboats, resulting in baby dolphins being left behind to starve or be eaten by predators,” Mitra wrote. “Mile-long purse seine nets are then used to surround the exhausted dolphins and the tuna that swim beneath. Many dolphins die from injuries, physiological stress, and drowning. And the pod of dolphins can be chased and netted again and again during the year-round tuna fishery. More than 7 million dolphins have died after being trapped in nets since this fishing method was introduced in 1957.”

The Sierra Club said the WTO ruling could have an impact on the proposed NAFTA negotiations. “Today’s WTO decision threatens to punish US families for the crime of having a label on tuna cans that saves dolphins’ lives,” said Ben Beachy, senior policy adviser for the Sierra Club’s Responsible Trade Program. “With renegotiation of NAFTA on the horizon, today’s decision serves as yet another warning that we need a complete replacement of these decades-old trade deals that prioritize corporate profits over good jobs, healthy communities, clean air and water, and protection for wildlife.”

He urged the US government not to cave to pressure from the WTO by weakening the dolphin-saving label.

-- End --