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**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

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JEFFREY DUNCAN  
DEMOCRATIC STAFF DIRECTOR

May 31, 2012

The Honorable Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, DC 20510

Dear President Obama:

As supporters of the highly successful U.S. dolphin conservation efforts, we are troubled by the recent misguided decision from the World Trade Organization (WTO) against dolphin-safe tuna labels. We urge your administration to make clear to our trading partners that the U.S. intends to maintain the strong dolphin-safe standards, and not to water them down.

For reasons that are not fully understood, dolphins and tuna swim together in the Eastern Tropical Pacific, but not elsewhere. Beginning in the 1950s, tuna fishing fleets began to profit from this association by tracking down and chasing dolphin herds, and then encircling them with purse seine nets, in order to capture the tuna underneath. The result was an enormous increase in dolphin deaths: the National Marine Fisheries Service (NMFS) estimates 7 million or more dolphins have died in tuna nets since the practice of encircling dolphins began.

In the 1980s and 1990s, Congress addressed this problem in several ways. First, we instituted a ban on dolphin-unsafe tuna, which received two adverse GATT rulings and was subsequently repealed. Second, we authorized U.S. membership in regional tuna associations to craft multilateral solutions to the problem. These efforts have been beset by problems, and do not currently resolve the dolphin-unsafe tuna fishing practices. The final plank in Congress' approach was the dolphin-safe labeling regime, which was challenged and upheld in U.S. courts on multiple occasions. The latest scientific research by NMFS has shown that chasing and netting dolphins adversely harms those populations, a point the Mexican government unfortunately refuses to acknowledge.

Congress has repeatedly looked in depth at the question of the use of dolphin-safe tuna labels. Thanks to this program, dolphin deaths in the tuna industry have been reduced by a remarkable

98% since 1990. The Mexican government was consulted repeatedly and participated in congressional hearings, review of NMFS scientific studies, and extensive litigation on this issue.

We cannot stress enough that the Mexican government has been given every courtesy, yet that government continues to refuse to compromise or find a resolution that protects U.S. consumers and dolphins, based on the best available scientific information. It really is time to close the books on this dispute and move on. U.S., Ecuadorean and other nations' fleets have adapted and now make use of the dolphin-safe label. Mexico is an outlier for its failure to adapt to more dolphin-safe methods, and for its aggressive use of WTO rules to challenge the non-discriminatory dolphin-safe label.

It is important to note that this is a voluntary labeling scheme, and Mexican canned tuna can be and is sold in the U.S. without the label. Furthermore, Mexican tuna could qualify for the dolphin-safe label if Mexico agreed to follow the standards for dolphin-safe tuna that other countries, including the U.S. industry, follow. However, for tuna that is caught in the Eastern Tropical Pacific to qualify for the label, there is additional regulatory scrutiny. This is a logical use of scarce regulatory resources, since the strong tuna-dolphin association is only found in that region. The WTO decision, in contrast, would require the U.S., in order to avoid alleged unfairness to Mexico, to enforce requirements in other tuna fisheries outside the Eastern Tropical Pacific that are not needed, since dolphins practically never associate with tuna schools in these other areas. This absurd requirement would push other tuna fishing nations to object in the WTO against the U.S. that this regulation is more trade restrictive regulation than is warranted.

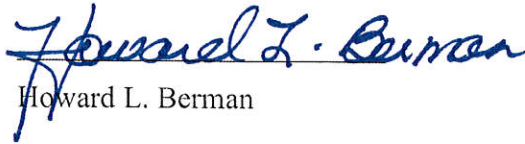
When Congress approved the Uruguay Round Implementation Act, we never intended to allow non-discriminatory, voluntary labeling regimes like the dolphin-safe labels to be a subject of this type of trade dispute. The voluntary labels represent the good faith effort of the U.S. to use less trade restrictive regulatory approaches. Indeed, even the WTO recognized that the protection of dolphins in the tuna fishery was a legitimate management goal. The implication of the recent WTO ruling, in contrast, is that the U.S. should expend significant regulatory resources around the globe in an untargeted fashion, or alternatively, that imports from Mexico could utilize dolphin-safe labels without having to meet the same requirements as tuna caught by U.S. or other nations' fleets. Neither result is acceptable, and "complying" in either way simply invites further costly WTO litigation from other nations, not to mention serious disruption of the canned tuna market in the US and loss of consumer confidence in environmental laws and labels.

We urge your administration to make clear that the U.S. will not water down or eliminate the very successful dolphin-safe labeling regime. Any hardship that the Mexican government claims to be experiencing from its inability to comply with perfectly reasonable dolphin-safe requirements is certainly offset by the \$33 million in development assistance Mexico is receiving from the U.S. in FY2012, and dwarfed by the nearly \$200 million it has received since 1999. If the Mexican government continues to pursue WTO action in this case, we ask that your administration reconsider the level of economic assistance Mexico receives from U.S. taxpayers. Moreover, we urge you to advocate for a means of clarifying that WTO rules are not meant to allow this type of dispute settlement case related to non-discriminatory voluntary labeling regimes.

Sincerely,



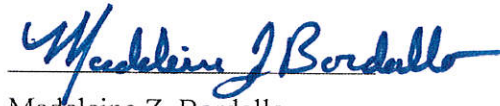
Edward J. Markey  
Ranking Member  
Committee on Natural Resources



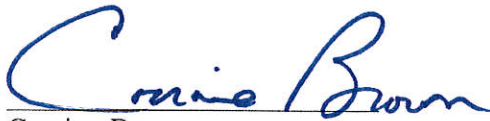
Howard L. Berman



Earl Blumenauer



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Corrine Brown



Judy Chu



Peter A. DeFazio



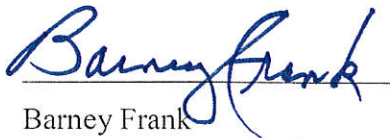
Theodore E. Deutch



Lloyd Doggett



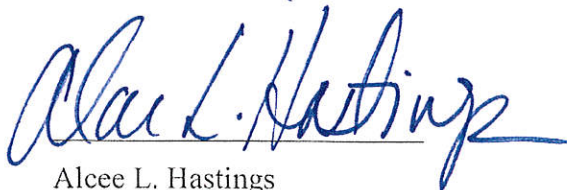
Eri F. H. Faleomavaega



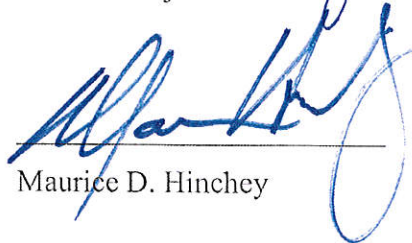
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Pedro R. Pierluisi

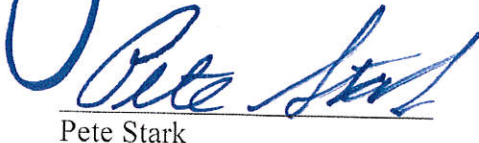
Pedro R. Pierluisi

  
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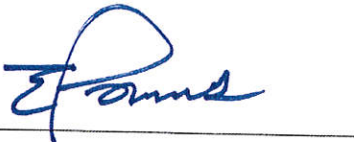
  
Linda T. Sánchez

  
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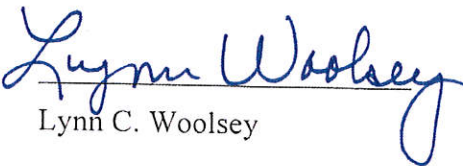
  
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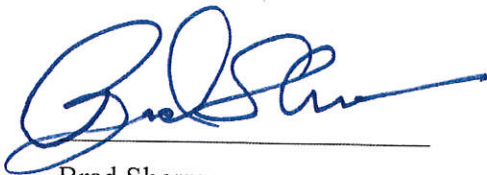
  
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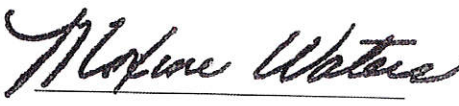
  
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Lynn C. Woolsey

  
Mike Quigley

  
Brad Sherman

  
Maxine Waters

  
Chellie Pingree