

The Importance of the Verifiability of Certifications in Commercial Fisheries

A Case Study on the legitimacy and future viability of current tuna eco-labeling schemes in the value chain.

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Eco-Labels Must not be Deceptive and Must Meet Basic Credibility Standards

Given their impact on markets, consumers and fishery management, claims associated with seafood eco-labels such as “dolphin safe” must be required to meet basic credibility standards:

- They cannot be deceptive to consumers
- If they are deceptive, they should not be permitted to be trade and market distorting
- They should be monitored by regulators for their unintended adverse consequences for the environment and sustainability of the fishery

Eco-labels must be measured against an accepted set of standards such as those developed by the ISEAL Alliance and those embodied by MSC.

ISEAL Credibility Principle	MSC
Sustainability	✓
Improvement	✓
Relevance	✓
Rigor	✓
Engagement	✓
Impartiality	✓
Transparency	✓
Accessibility	✓
Truthfulness	✓
Efficiency	✓

Eco-Labels, Dolphin Safe and the WTO

The WTO case against the U.S. “dolphin safe” labeling scheme has been ongoing since 2008, and has entered its final phase. The WTO ruled against the United States five consecutive times and earlier this year authorized Mexico to impose \$163.2 million in annual penalties against U.S. imports. A recent lower panel ruling is being challenged by Mexico before the Appellate Body and will be reviewed next year. The penalties authority will remain at least until the outcome of those proceedings and likely much longer unless the Parties agree to a final resolution.

The penalties are based on WTO conclusions that:

- The U.S. “dolphin safe” measure failed to fulfill its stated objectives and could actually mislead, rather than inform consumers, because the absolute assurance given to U.S. consumers that they were buying “dolphin safe” tuna was not confirmed by independent observers, was not traceable through the supply chain, and was likely to be inaccurate.
- Mexican tuna caught in the Eastern Tropical Pacific (ETP) is treated differently than virtually all other tuna coming to the U.S. market, caught in other oceans by other fishing methods but resulting in significantly higher dolphin mortality.
- The Appellate Body has agreed that the U.S. was completely ignoring the high incidence of dolphin mortalities in other oceans supplying more than 95% of tuna to the U.S. market, which undermined its claim to be seeking zero tolerance of dolphin mortality for tuna bearing the dolphin safe label.
- The Appellate Body acknowledged that the multilateral Agreement on International Dolphin Conservation and Protection (AIDCP), to which both Mexico and the United States are parties, had dramatically reduced dolphin mortality in the Eastern Tropical Pacific (ETP) since 1990.

Current Proceedings before the WTO

The main issues to be reviewed by the WTO Appellate Body in the coming months include the facts that:

- There are two distinct sets of rules for labeling and verification. One for the ETP and one for the rest of the world.
- It fails to provide for the reliability of the captain's self-certification of dolphin safe.
- It fails to address the WTO determination that captains do not have the training to make a determination of harm to dolphins. There is no comparison to the exhaustive training required in the ETP for both observers and captains.
- It fails to provide for the veracity of traceability documentation through the supply chain...the U.S. does not have the ability to audit the entire supply chain from catch, segregation on board, offloading, intermediate sales to transshippers, foreign cold storage, and ultimate resale, foreign plant processing and then import , the documentation cannot possibly support the dolphin safe claim to the same level as that required under the AIDCP

Misuse and Abuse of Tuna Eco-labels

- Since its introduction in 1991, the EII “dolphin safe” labeling scheme has aggressively sought to control global tuna trade through its boycott protection racket. It has colluded with major market players to this end and has greatly enriched itself in the process.
- The United States Government, despite statutory mandates to do so, has failed to monitor the deceptive activities and false claims associated with the EII scheme, allowing for the effective closure of the U.S. market to all but those conceding to EII control and allowing for the distortion of global tuna trade.
- EII’s deceptive scheme has pressured fishermen to fish in unsustainable ways with tremendously high levels of bycatch in order to gain access to the label and markets.

What Do Consumers Want and Expect?

National polls of American consumers were conducted in 2003, 2010 and 2016 on their perceptions of dolphin-safe:

Almost two-thirds of adults think the definition of “dolphin safe” should be that no dolphins were injured/killed.

“Thinking more about this...what do you think the definition of ‘dolphin safe’ should be? Is it...”

March 2003

Oct 2010

Sept 2016

25%

22%

21%

There is guaranteed to be no dolphin meat in the can.

13%

10%

12%

Dolphins were not encircled and then released in the capture of the tuna.

53%

59%

63%

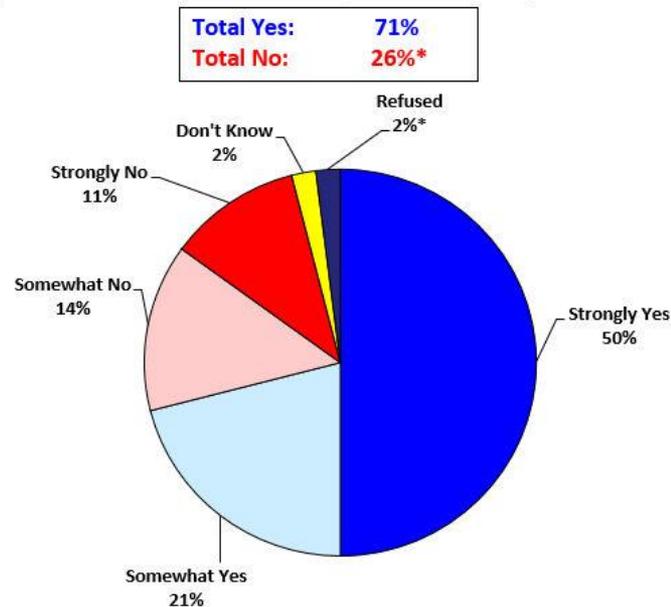
No dolphins were injured or killed in the course of capturing tuna.

What Do Consumers Want and Expect?

71% of those polled felt deceived by the realities of the “dolphin safe” label:

Almost three-quarters of adults say they would feel deceived if they discovered that a dolphin had been injured while capturing tuna.

“If you ate a tuna product with the dolphin-safe label and later discovered that a dolphin had been killed or injured when the tuna was caught, would you feel deceived by the label?”



What Do Consumers Want and Expect?

According to the three polls over a period of 12 years, consumers made it clear:

Adults overwhelmingly prefer “ocean safe” tuna.

“As you may know, all commercial tuna fishing techniques lead to dolphin deaths. Even fishing for tuna that carries the “dolphin safe” label results in dolphin deaths. With that in mind, which would you rather your grocery store carry on its shelves?”

9%

“Dolphin safe” tuna that results in over ninety thousand deaths and hundreds of thousands of shark, ray, and turtle deaths.

79%

“Ocean safe” tuna that results in fewer than one thousand dolphin deaths, with very few shark and ray mortalities, one hundred percent turtle protection, and is better for tuna stocks.

The Time of EI “Dolphin Safe” Has Passed

- It’s claims of zero harm to dolphins are not independently verifiable
- It is fraught with conflicts of interest
- The self-appointed certifier is non-transparent – and no stakeholder engagement
- There is no 3rd party auditing of certifications, governance, monitoring, reporting
- The standard is unevenly applied, undermining its claims
- There is no on-board monitoring or verification to support claims
- It has not been updated in 25 years, does not consider the latest scientific findings in dolphin bycatches outside the ETP, nor in fisheries management or conservation science
- It is not focused on sustainability and, in fact, has widely recognized adverse impacts on sustainability of marine ecosystems

“No accidental killing or serious injury to any dolphins during net sets”

[Earth Island Institute claim on its website]

The Answer is a Different Approach to Ensuring Sustainability

For the past 30 years, Mexico and its tuna industry have committed to multilateral, science-based management of the ETP fishery in a manner that ensures the sustainability of the tuna resource, the dolphins and all other living marine resources.

Mexico has been a leader in the negotiation of the La Jolla Agreement, the Declaration of Panama and the Agreement on the International Dolphin Conservation Program which, together, have resulted in a greater than 99% reduction in dolphin mortalities in the ETP fishery. Interestingly, EII actively opposed and worked against all three Agreements.

A sixty year history

The US Marine Mammal Protection Act is passed. Mandatory on-board observer program begins to gather information on dolphin mortalities from US fishing vessels

1950

IATTC is established to oversee the conservation and management of tuna and other marine resources in the waters of the Eastern Tropical Pacific

1972

Increased data collection and science improves understanding of the impacts of the fishery on dolphin populations

1990s

Catch of yellowfin and skipjack tuna using purse seine nets increases significantly, resulting in public campaigns for dolphin safety

1992

The Governments of Mexico and other countries, with the support of Greenpeace, WWF, National Wildlife Federation, Environmental Defense Fund and Ocean Conservancy, sign the Declaration of Panama, seeking to ensure the long-term sustainability of tuna stocks and marine resources

1995

The US, Mexico and other Latin American countries enact the 1992 Agreement on the Conservation of Dolphins (the La Jolla Agreement)

1995

Efforts to ensure safe release from purse seine nets reduce dolphin mortalities to an all-time low

The US Congress enacts the International Dolphin Conservation Program Act, hailed as a landmark in international fisheries management accords

1997

1999

The Agreement on the International Dolphin Conservation Program (AIDCP), a legally-binding multilateral agreement, established the IDCP. This succeeded the 1992 La Jolla Agreement

Focus turns to ensuring ongoing sustainable catch rates and better understanding the wider impacts of fishing

2000s

2003

Substantial revision of the IATTC constitution to reflect developments in modern international fisheries management

The AIDCP is awarded the Margarita Lizárraga Medal by the United Nations Food and Agriculture Organization calling it an "unqualified success" in ensuring the sustainability of tuna stocks and associated species

2005

2010s

Four leading Mexican tuna companies form an alliance to collaborate on the long-term sustainability of their fishery

PAST enters its fishery for full assessment to the MSC Fisheries Standard

2014

2015

The fishery undergoes 18+ months of scrutiny by independent certifier, SCS Global Services who consult all relevant stakeholders on the sustainability of the fishery

PAST agrees to five year moratorium to fishing Pacific Bluefin, in order to allow stocks to recover

2015

2017

The fishery is certified to the MSC Fisheries Standard. As a condition of certification, the fishery must deliver an ambitious action plan to ensure further improvements where needed

The Answer is a Different Approach to Ensuring Sustainability

Mexico's industry, with the full support of its government, elected five years ago to enter the MSC certification process as a means of committing to the highest level of action towards ensuring the sustainability of the fishery and the marine ecosystem of the ETP.

The MSC Fisheries Standard is widely recognized as the world's most credible and robust standard for sustainable fishing. It is founded on three principles: a healthy fish stock, protection of the surrounding marine ecosystem, and effective fishery management.

These requirements have been developed in consultation with scientists, NGOs and industry experts and take a holistic view of sustainability in order to conserve the entire marine ecosystem. They reflect international scientific consensus and conform to the United Nations Food and Agriculture Organization (FAO) Code of Conduct for Responsible Fishing and the FAO Ecolabelling guidelines.

The Answer is MSC's robust, transparent and scientifically based sustainability certification which is predicated on the continued commitment and performance of the Mexican tuna industry in:

- Applying industry best practices across the production chain;
- Supporting its government in multilateral cooperation in the management of the ETP fishery and marine ecosystem;
- Dedicating itself to ensuring a healthy fish stock, protecting the surrounding marine ecosystem, and complying with all mandates of the Government of Mexico, the IATTC and the AIDCP.

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The Answer is MSC Sustainability Certification, transparent and scientifically-based

On September 7, 2017, the main players in the Mexican tuna industry achieved full Marine Stewardship Council (MSC) certification as a sustainable fishery after a multi-year, in-depth assessment by independent auditors.

The Pacific Alliance for Sustainable Tuna (PAST) – is comprised of four leaders in the Mexican tuna industry Grupomar, Herdez del Fuerte, Pesca Azteca, and Procesa – represents more than 90% of Mexican tuna production.

The assessment, which included detailed stakeholder consultation and independent adjudication, concluded that the fleet of 36 purse seine vessels meets the high bar of sustainability set by the MSC Fisheries Standard.

This is how you address and combat the false, deceptive, unregulated and market distorting claims of EII “dolphin safe”

Thank you

Agreement on the International Dolphin Conservation Program

