

*Mexican tuna exports have been embargoed several times by the U. S. on the basis of excessive dolphin deaths publicized by ecology groups, with important economic, political and social repercussions.*

# Another tuna embargo?

*Eva Ríos Servín\**

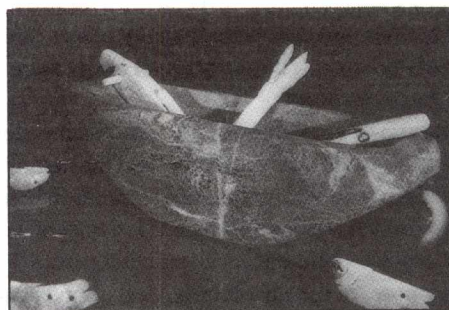
**O**n October 17, 1990, the Mexican press reported a new U. S. embargo on tuna, in effect since October 10th. The Department of Fisheries was notified by Judge William W. Fox, of the Northern California District Court decision to revoke their ruling that "The Mexican Marine Mammal Plan is similar to the United States Plan". This followed a United States government decree that Panama alone should be embargoed for not meeting the law's provisions.

To the Mexican government this meant that about 10,000 tons of yellowfin tuna, valued at 8.0 million dollars, would not be exported to the U. S., in spite of efforts made by the tuna fishing fleet to avoid accidental dolphin capture.

The tuna embargo was defined by the Mexican government as a unilateral U. S. act which could have negative economic, political and social effects for Mexico. According to Department of Fisheries statistics, dolphin deaths had been reduced 64 percent between 1986 and 1990. Mexico's trade with the United States, therefore, suffered another heavy blow, due to the embargo on Mexican tuna imports because Mexico's fishing methods killed too many dolphins and other marine mammals.

## History

The most notorious tuna embargo occurred in the 1960's when Mexico established limits on its territorial waters, hindering the U. S. fishing fleet which routinely sailed unchecked in areas rich in marine life.



Fernando Robles/INAH-SEP.

In July 1980, U. S. fishing boats were detained by Mexican officials for fishing in the Mexican Exclusive Economic Zone without permission. The U. S. government response was swift: On July 14 an embargo was declared on all tuna species, causing serious repercussions in Mexico. Tuna processing facilities on shore were soon filled to capacity, and fishing boats had to remain in port for long periods to unload their catch. Other serious problems were finding domestic outlets for the product and diversifying international markets.

The Mexican tuna industry was not alone in facing serious difficulties. U. S. processors had trouble satisfying domestic demand due to insufficient supply of tuna following the government's decision to impose the embargo. The canning industry had to buy fish from other countries at higher prices, which were passed on to consumers.

The United States tuna embargo of 1980 is generally considered a struggle between U. S. tuna fishermen attempting to exploit a natural resource, and the countries in whose waters that resource was found. Mexico was not the only country under the embargo; Senegal, the Congo, Costa Rica and Ecuador were also included.

While the rest of the countries were faced with an embargo on all of their tuna products, Senegal and the Congo were only restricted in yellowfin tuna. Thus the Mexican tuna fleet had to endure strong competition from a

\* Of the Institute for Bibliographic Research, UNAM.

U. S. fleet that was technically much more advanced and had a far greater hold capacity.

### Tuna, an international affair

Fishing incidents like the tuna embargo have also produced positive results in the field of international law, promoting awareness of offshore marine resources in maritime states, to the benefit of their inhabitants.

However, planning and coordinating tuna reserves is required on a world-wide basis. Tuna are a highly migratory species and can move to many places during the several yearly seasons. Thus they travel easily from one fishing region to another.

An analysis of available volumes and their rational use is possible from catch statistics, provided the countries involved supply reliable figures, and forestall fishermen's qualms that these statistics will be used to impose new limitations, such as banning specific fishing areas.

Furthermore, in the tuna family, yellowfin is one of the most favored marine species in developed countries and most highly valued by U. S. fishermen, but it happens to be found most often inside the 200 mile limit. Maritime states retain sovereign rights in this zone to explore, utilize, conserve and manage their renewable and non-renewable resources.

Yellowfin tuna is one of the most sought after species for the quality of its meat, bringing the highest prices in the tuna family. It is also found almost all over the world in deep warm waters where temperatures vary from 16 to 27 degrees celsius, and the species is easily located in large schools close inshore. Rapid growth is another characteristic: four-year-old fish weighing 63 kilograms or more are common.

Traditional characteristics of the international tuna market are a heavy concentration of fishing fleets, catch

size, established processing capacity and consumption in a few countries. Most important are the United States and Japan, followed by Italy, Spain, France and Portugal.

### The 1990-1991 embargo

The U. S. Secretary of Commerce announced on October 10, 1990, that the government would neither import nor export fish products of countries that, in their judgment, violated U. S. environmental laws or used inappropriate fishing methods.

“In spite of a 64 percent reduction in dolphin deaths, Mexican tuna was embargoed in October, 1990”

Thus, once again Mexico was faced with a tuna embargo, ordered by Federal Judge Thelton Henderson whose grounds were the dolphins killed in tuna fishing. It should be noted that U. S. ecologists who want dolphin deaths completely prevented ask the impossible since, for some still unknown reason, dolphin and tuna always swim together in the Pacific.

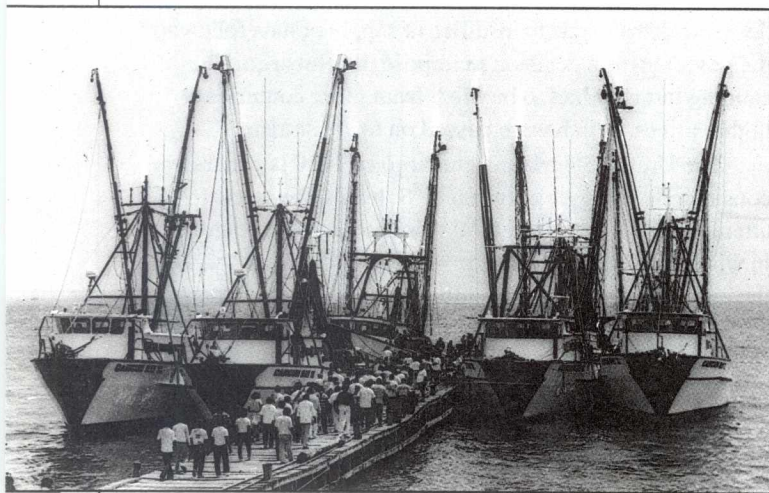
In spite of Mexican tuna fleet efforts to lower the number of dolphin deaths, U. S. ecology groups formally requested on November 1, 1990 that France, Spain, Italy and the rest of the European Community join the embargo against Mexico on environmental grounds.

The measure was not very successful, since on November 15, 1990 the Mexican embargo was temporarily lifted until January 30, 1991, when the U. S. Commerce Department would make its decision public.

The embargo's temporary suspension was due to a ruling by the Northern California IX Circuit Court of Appeals.

When the new deadline passed months later, and still lacking the necessary evidence, the U. S. authorized the extension of tuna import permits until May 31, 1991. On February 21, 1991, however, the San Francisco Court ruled to reinstate the tuna embargo. That same day the Mexican Department of Foreign Affairs declared that “no country is empowered to impose its own criteria on others, let alone to apply sanctions”, and accused the U. S. of ignoring Mexican progress in protecting dolphins.

It might be thought that the measure was intended to pressure Mexico, since dolphin deaths caused by tuna fishing dropped 64 percent from 1986 to 1990. Furthermore, months before the tuna embargo U. S. trade



Tuna fishermen.

officials unleashed a chain of restrictions on bilateral trade with Mexico, such as barring cement –one of Mexico's most important exports– from U. S. markets, creating a protectionist bill limiting the growth of textile imports, and even restricting the entry of brooms.

### The U. S. view

Ecology groups like the Earth Island Institute, founded in San Francisco, California, in 1985, and Greenpeace, an international environmental organization founded in 1983, have been interested in accidental dolphin killings in the eastern Pacific.

Earth Island has been the leader of the tuna-dolphin issue since 1987, bringing suit against the U. S. Commerce Department for neglecting to enforce the Marine Mammal Protection Law. That same year they publicized and helped biologist Sam LaBudde who, disguised as a sailor, signed on a Panamanian tuna ship to film a documentary on massive accidental dolphin deaths in the eastern Pacific.

This operation produced an eleven-minute film that was shown on U. S. network television. As a result, H. J.

Heinz, owners of Starkist Seafood Co, adopted measures to stop buying, processing or selling tuna caught by deliberate net fishing over dolphins. Thus, ecological concerns were mixed with economics, and since 1989 Earth Island has concentrated on promoting the tuna embargo by singling out Mexico as the main culprit in eastern Pacific dolphin killings.

As mentioned above, on October 10, 1990, Judge Thelton Henderson of the Northern California District Court ruled that the Commerce Department should embargo Mexican yellowfin tuna, overturning the U. S. executive decision of September 7. The Commerce Department had ruled that Mexico's Marine Mammal Program was comparable to the U. S. program.

U. S. measures in the Mexican tuna embargo can be summed up as follows: In April 1990, three U. S. canners; Starkist, Van Camp Seafood and Bumble Bee Seafood Inc. decided to stop buying Mexican tuna on the grounds of protecting marine mammals, dolphins in particular, trapped in tuna fishing nets. At the same time, Greenpeace mounted a campaign aimed at U. S. consumers insisting

## The tuna embargo: an international problem

**O**n January 31, San Francisco Federal District Judge Thelton Henderson, handed down a decision banning imports of yellowfin tuna from Mexico and Venezuela. This time the ban included 27 tuna processing countries that ship Mexican and Venezuelan tuna to the US, in retaliation for what the judge called "tuna laundering" operations.

The US Department of Commerce immediately sought a stay of the decision, but in the face of Judge Henderson's refusal, was forced to interpose an appeal in the 9th Circuit Court of Appeals. Nonetheless, on February 13, the Appeals Court upheld the decision to impound tuna imports from the affected countries as of midnight January 27. The nations most affected by the secondary embargo are: Japan, Italy, France, Spain, Colombia, Panama and Costa Rica.

Pedro Noyola, Undersecretary for Foreign Trade of Mexico's Department of Commerce and Industrial Development (SECOFI), declared that Mexico would seek redress through GATT. He pointed out the measure is protectionist and unfounded, in view of the fact that the rate of dolphin deaths in Mexican waters is very low.

GATT declared against the embargo on February 11, in a 46 page report published in Geneva that called the embargo protectionist and stipulated that the United States had no right to dictate environmental policy to other nations. Arthur Daniel, GATT Director General, warned against the risk of using the environment as a pretext for encouraging protectionist trade policies. Representatives of 17 nations, not including Mexico and the US, called for approval of the report. The matter will be debated again at the next meeting of GATT on March 18. However, it is expected that the US will prevent further discussion of the report by coming to an agreement with Mexico. Venezuela, on the other hand, maintains the option of bringing suit against the US under GATT, if the US does not lift the embargo in a "reasonable length of time."

Representatives for Mexico and Latin America of such environmental organizations as Greenpeace and the Cousteau Society have also declared in favor of suspending the embargo, calling it an ecological disguise to hide economic intentions of a protectionist nature.

they stop buying tuna as a protest against unintentional dolphin killings.

Three months later, the U. S. government opposed a dolphin protection law which regulated tuna fishing and sales. Michael Tillman, Assistant Director for Fisheries in the Commerce Department pointed out that proposals made by some members of the Senate and House were counterproductive to the government's position in the GATT and to negotiations in progress with Mexico for the Free Trade Agreement.

California House member Barbara Boxer and Senator Joseph Biden of Delaware sponsored bills that would require U. S. canners to include the words "dolphin safe" on tuna cans, and also proposed that U. S. observers verify if foreign fleets caught dolphins in the eastern Pacific.

Faced by this situation, Roger Wallace, U. S. Under Secretary for International Trade announced that the country's executive branch would appeal for a suspension of the October 10 embargo against Mexico. One month later the U. S. government certified for the second time that Mexican fishermen respected natural resources.

A document presented to Judge T. Henderson, signed by Secretary of Commerce Robert Mosbacher, Ambassador to Mexico John Dimitri Negroponte, Undersecretary of State for Oceans and Fisheries, David Coldson and National Fisheries Chairman, William Fox, pointed out that Mexico had substantially reduced unintentional dolphin deaths in tuna fishing. Thus, on the 15th of November 1990, the Northern California Court of Appeals agreed to lift the embargo until February 1991.

Later, on January 30, 1991, the Commerce Department authorized Mexican yellowfin tuna imports until May 31st, when they would certify the Mexican tuna industry methods, releasing a new decision on unintentional dolphin capture by the Mexican fishing fleet.

Disregarding U. S. Commerce Department endorsement of Mexican tuna fishing procedures, the San Francisco Court ruled to reinstate the tuna embargo on February 21, 1991.

### Mexican repercussions

One of the main problems caused by the embargo was that Mexico had to seek new markets for tuna not exported to the U. S. To cope with what amounted to 67% of total exports, part was shipped to Italy and the rest was placed on the domestic market.

Mexico, with the second largest tuna fleet in the world, has suffered seriously from tuna prices falling approximately 52% since 1981, while imports have increased 400 percent.

Constantly decreasing international tuna prices have meant that while exports earned 1,727 dollars per ton in 1983, the price had dropped to 812 dollars by 1989. At the same time, every ton of imported tuna cost 2,656 dollars.

Mexico exported a total of 189,864 tons of fish in 1989, approximately 70 percent of which went to the U. S.<sup>1</sup> The rest went to Italy, Costa Rica, France, Korea, Japan, Hong Kong, Canada and Brazil.

Another problem the Mexican tuna industry will encounter when faced with demands to lower accidental dolphin deaths faster than the necessary technical changes can be made is that it will probably concentrate on catching young tuna. In the long run this will cause a decline in the tuna population. The real danger of the tuna embargo is that if the Mexican fleet stops fishing for lack of markets, according to international laws Mexico must authorize entry of other countries into her Exclusive Economic Zone because tuna is a renewable resource **M**



### Bibliography

Ríos Servín, Eva. *La industria pesquera en México: Una fuente de alimentos y generadora de divisas para el país*. México, UNAM-FCPyS, 1987 (Thesis).

Somex, S. A. *Problemas y Perspectivas de la Industria Atunera*. México, Desarrollo Dirigido Somex, S. A., 1984.

#### Newspapers:

*Excelsior* October-December, 1990 and January-February, 1991.

*Universal* October-December, 1990 and January-February, 1991.

*Uno más Uno* October-December, 1990 and January-February, 1991.

*La Jornada* April-June, 1991.

#### Magazines:

*Revista Técnica Pesquera*. No. 151, August, 1980.

*Revista Técnica Pesquera*. No. 162, July, 1981.

<sup>1</sup> The U. S., as principal world buyer, imported 250,000 tons of tuna in 1989. Latin-American countries supplied 25 percent; Venezuela 30,409 tons, Mexico 16,409 tons, Ecuador 13,364 tons and Panama 6,659 tons.