

DECLARATION OF PANAMA

The Governments of Belize, Colombia, Costa Rica, Ecuador, France¹, Honduras, Mexico, Panama, Spain¹, United States of America, Vanuatu and Venezuela, meeting in Panama City, Republic of Panama on October 4, 1995, hereby reaffirm the commitments and objectives of the La Jolla Agreement of (1) progressively reducing dolphin mortality in the eastern Pacific Ocean (EPO) fishery to levels approaching zero through the setting of annual limits and (2) with a goal of eliminating dolphin mortality in this fishery, seeking ecologically sound means of capturing large yellowfin tunas not in association with dolphins.

Recognizing the strong commitments of nations participating in the La Jolla Agreement and the substantial successes realized through multilateral cooperation and supporting national action under that Agreement, the Governments meeting in Panama, including those which are, or have announced their intention to become, members of the Inter-American Tropical Tuna Commission (IATTC), announce their intention to formalize by January 31, 1996, the La Jolla Agreement as a binding legal instrument which shall be open to all nations with coastlines bordering the EPO or with vessels fishing for tuna in this region. This shall be accomplished by adoption of a binding resolution of the IATTC or other legally binding instrument. The adoption of the IATTC resolution or other legally binding instrument, that utilizes to the maximum extent possible the existing structure of the IATTC, is contingent upon the enactment of changes in United States law as envisioned in Annex I to this Declaration. The binding legal instrument shall build upon the strengths and achievements of the La Jolla Agreement, the working groups established under it, and the actions of the Governments participating in that Agreement. This binding legal instrument shall consist of the La Jolla Agreement, its appendices, and the decisions of the governments under that Agreement as modified to achieve the objectives and commitments contained herein.

The Governments meeting in Panama agree that in concluding, adopting, and implementing this binding legal instrument, they will:

Commit to the conservation of ecosystems and the sustainable use of living marine resources related to the tuna fishery within the EPO. Adopt conservation and management measures that ensure the long-term sustainability of tuna stocks and other stocks of living marine resources in the EPO. Such measures shall be based on the best scientific evidence, including that based on a precautionary methodology, and shall be designed to maintain or restore the biomass of harvested stocks at or above levels capable of producing maximum sustainable yield, and with the goal to maintain or restore the biomass of associated stocks at or above levels capable of producing maximum sustainable yield. These measures and methodology should take into consideration, and account for, natural variation, recruitment rate, natural mortality rate, population growth rate, individual growth rate, population parameters K and r, and scientific uncertainty.

¹ Spain and France support the commitments of this Declaration under reservation because of the legislation related to fisheries of the European Union.

Commit, according to their capacities and in coordination with the IATTC, to the assessment of the catch and bycatch of juvenile yellowfin tuna and other stocks of living marine resources related to the tuna fishery in the EPO and the establishment of measures to, inter alia, avoid, reduce and minimize the bycatch of juvenile yellowfin tuna and bycatch of non-target species, in order to ensure the long-term sustainability of all these species, taking into consideration the interrelationships among species in the ecosystem.

Commit in the exercise of their national sovereignty to enact and enforce this instrument through domestic legislation and/or regulation, as appropriate.

Adopt cooperative measures to ensure compliance with this instrument, building upon decision IGM 6/93, Appendix IV, "Guiding Principles Respecting Relationships between States Both Party and Non-Party to the Agreement," taken by the nations participating in the La Jolla Agreement Working Group in Vanuatu in June 1993, and advance the work of the Working Group on Compliance, building upon decision IGM 6/93, Appendix V, "Options for Action Against Nations Not Complying With the Agreement." (Annex II)

Enhance the practice of reviewing and reporting on compliance with this instrument, building upon past practices under the La Jolla Agreement.

Establish a per-stock per-year cap of between 0.2% of the Minimum Estimated Abundance (Nmin) (as calculated by the U.S. National Marine Fisheries Service or equivalent calculation standard) and 0.1% of Nmin, but in no event shall the total annual mortality exceed 5000 consistent with the commitments and objectives stated in the preamble above. In the year 2001, the per-stock, per-year cap shall be 0.1% of Nmin.

Conduct in 1998 a scientific review and assessment of progress toward the year 2001 objective, and consider recommendations as appropriate. Up to the year 2001, in the event that annual mortality of 0.2% of Nmin is exceeded for any stock, all sets on that stock and on any mixed schools containing members of that stock shall cease for that fishing year. Beginning in the year 2001, in the event that annual mortality of 0.1% of Nmin for any stock is exceeded, all sets on that stock and on any mixed schools containing members of that stock shall cease for that fishing year. In the event that annual mortality of 0.1% of Nmin is exceeded for either Eastern Spinner or Northeastern Spotted dolphin stocks, the governments commit to conduct a scientific review and assessment and consider further recommendations.

Establish a per-vessel maximum annual DML consistent with the established per-year mortality caps.

Establish a system that provides incentives to vessel captains to continue to reduce dolphin mortality, with the goal of eliminating dolphin mortality in the EPO.

Establish or strengthen National Scientific Advisory Committees (NATSAC), or the equivalent, of qualified experts, operating in their individual capacities, which shall advise

their respective governments on mechanisms to facilitate research, and on the formulation of recommendations for achieving the objectives and commitments contained herein, or strengthen existing structures in order to conform with the requirements delineated herein. Membership to NATSACs shall include, *inter alia*, qualified scientists from the public and private sector and NGOs. The NATSACs shall:

1. Receive and review data, including data provided to national authorities by the IATTC;
2. Advise and recommend to their governments measures and actions that should be undertaken to conserve and manage the stocks of living marine resources of the EPO;
3. Make recommendations to their governments regarding research needs, including ecosystems; fishing practices; and gear technology research, including the development and use of selective, environmentally safe and cost-effective fishing gear; and the coordination and facilitation of such research;
4. Conduct scientific reviews and assessments by the year 1998 regarding progress toward the year 2001 objective stated above, and make appropriate recommendations to their governments concerning these reviews and assessments, as well as additional assessments in the year 2001 as provided above;
5. Consult other experts as needed;
6. Assure the regular and timely full exchange of data among the parties and the NATSACs on catch of tuna and associated species and bycatch, including dolphin mortality data, for the purposes of developing conservation and management recommendations to their governments as well as recommendations for enforcement and scientific research while not violating the confidentiality of business-confidential data;
7. Establish procedures to, *inter alia*, hold public meetings and maintain the confidentiality of business-confidential data.

Reports of the NATSACs, including of their cooperative meetings, shall be available to the parties and the public.


The NATSACs shall cooperate, through regular and timely meetings, including at a minimum in conjunction with the meetings of the IATTC, in the review of data and the status of stocks, and in the development of advice for achieving the objectives and commitments contained herein.


Promote transparency in their implementation of this Declaration, including through public participation as appropriate.

As soon as possible, the nations of the Intergovernmental Group convened under the auspices of the IATTC will initiate discussions related to formulation of a new, permanent, binding instrument.


FOR THE GOVERNMENT OF BELIZE

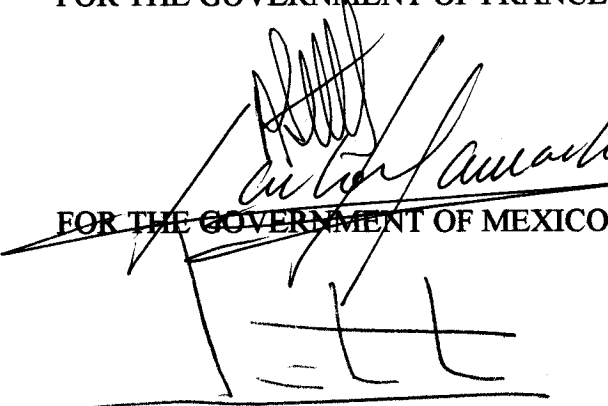

FOR THE GOVERNMENT OF COLOMBIA

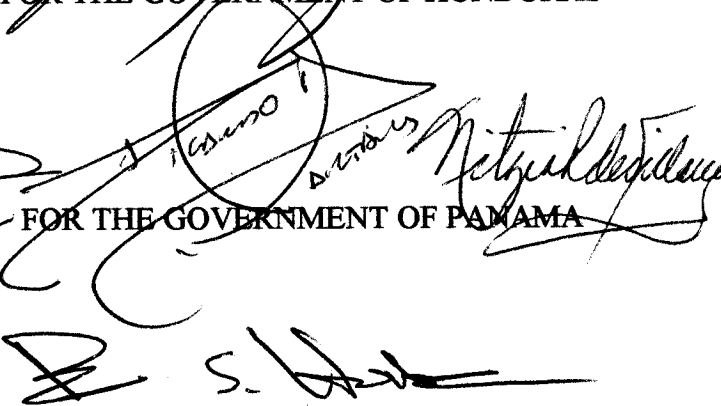

FOR THE GOVERNMENT OF COSTA RICA


FOR THE GOVERNMENT OF ECUADOR

FOR THE GOVERNMENT OF FRANCE

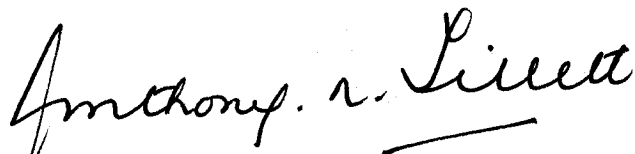

FOR THE GOVERNMENT OF HONDURAS


FOR THE GOVERNMENT OF MEXICO

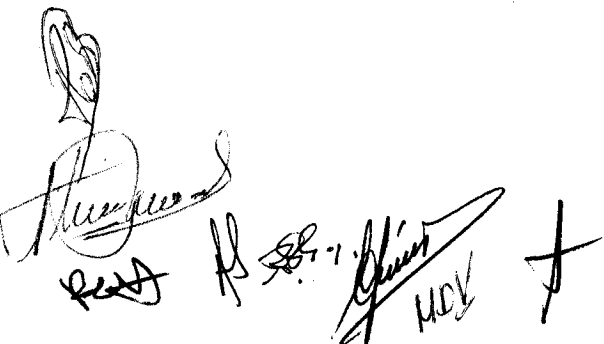

FOR THE GOVERNMENT OF PANAMA


FOR THE GOVERNMENT OF SPAIN


FOR THE GOVERNMENT OF THE UNITED STATES


FOR THE GOVERNMENT OF VANUATU


FOR THE GOVERNMENT OF VENEZUELA



ANNEX I

Envisioned changes in United States law:

1. Primary and Secondary Embargoes. Effectively lifted for tuna caught in compliance with the La Jolla Agreement as formalized and modified through the processes set forth in the Panama Declaration.
2. Market Access². Effectively opened to tuna caught in compliance with the La Jolla Agreement as formalized and modified through the processes set forth in the Panama Declaration with respect to States to include: IATTC Member States and other States that have initiated steps, in accordance with Article 5.3 of the IATTC Convention, to become members of that organization.
3. Labeling. The term "dolphin safe" may not be used for any tuna caught in the EPO by a purse seine vessel in a set in which a dolphin mortality occurred as documented by observers by weight calculation and well location.

² Spain maintains a reservation on point number two of the Annex "Market Access," pending further review.

[Handwritten signatures and scribbles]

Appendix IV.

Guiding Principles respecting relationships between States both Party and Non-Party to the Agreement

The Parties to the Agreement incorporate into the Agreement a guiding principle that no Party shall act in a manner that assists non-parties to avoid compliance with the objectives of the Agreement.

When a coastal state that is a Party issues a license to engage in fishing in its Exclusive Economic Zone portion of the eastern Pacific Ocean (EPO), either directly or through a licensing agreement, to a vessel of a non-party, the license should be subject to the provisions of the Agreement.

The Parties should consider prohibiting persons under their jurisdiction from assisting in any way vessels of non-complying Parties or non-parties operating in the fishery.

Any state whose vessels are conducting purse-seine tuna-fishing operations in the EPO should be invited to join the Agreement. The Parties should draw the attention of any state that is not a party to the Agreement to any activity undertaken by its nationals or vessels which, in the opinion of the Parties, affects the implementation of the objectives of the Agreement.

A. Options for Action With Respect to Nations Party to the Agreement

Diplomatic actions:

- * **Collective representation to the non-complying nation.** This would constitute a communication emanating from plenary meeting of the participating nations after consultation with the non-complying nation.
- * **Diplomatic communication.** Each participating nation, acting individually or in concert with other nations, would undertake a diplomatic demarche to the non-complying nation.

Public opinion actions:

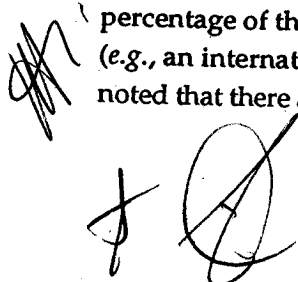
- * **Dissemination of information regarding the non-compliance of the nation to the public through appropriate media, e.g., a press conference.**

Operational restrictions:

- * **Denial of access to the Exclusive Economic Zones of nations party to the agreement for fishing operations by tuna fishing vessels of the non-complying nation.** The scope of this action would have to be determined by the International Review Panel (IRP) by defining what constitutes a tuna-fishing vessel, i.e., vessels covered by the Agreement, or other tuna-fishing vessels as well. This action should not restrict freedom of navigation or other rights of vessels under international law.
- * **Restriction of access to ports and port servicing facilities for tuna fishing vessels of the non-complying nation.** This would not apply to vessels in distress.
- * **Refusal of logistical support and/or supplies to tuna-fishing vessels of the non-complying nation.**
- * **Reduction of Dolphin Mortality Limits (DMLs) to all vessels of the non-complying Party by specified percentages.** DMLs would be restored immediately upon a determination that the nation is in compliance.

Economic sanctions:

- * **Trade measures.** The Working Group discussed at length trade measures against non-complying nations. These might include embargoes or other restrictions on the imports of, for example, tuna, other fish products, other marine products, or other products.
- * **The consideration of such measures was recognized to be an extremely delicate and evolving policy issue for which few guidelines exist in international law.** The Working Group noted ongoing discussions concerning this issue in other international fora. In light of these considerations, the Working Group agreed that trade measures should receive further review by the Parties prior to making any recommendation in this respect.
- * **Fines (monetary penalties).** The Working Group considered that the IRP should identify procedures for imposing fines, including defining the value of the fines (this could be based on a percentage of the amount of the commercial value of the catch), and the destination of the fines (e.g., an international trust fund) as issues that the Parties should discuss. The Working Group noted that there apparently is no precedent for such fines.

Handwritten initials and signatures in the bottom left corner of the page.

B. Options for Action With Respect to Nations Not Party to the Agreement

Diplomatic actions:

- * **Collective representation to the non-party.** This would constitute a communication emanating from a plenary meeting of the participating nations after consultations with the non-party.
- * **Diplomatic communication.** Each participating nation, acting individually or in concert with other nations, would undertake a diplomatic demarche to the non-party.

Public opinion actions:

- * **Dissemination of information regarding the non-compliance of the non-party to the public through appropriate media, e.g., a press conference.**

Operational restrictions:

- * **Restriction of access to ports and port servicing facilities for tuna-fishing vessels of the non-party.** The scope of this action would have to be determined by the IRP by defining what constitutes a tuna-fishing vessel, *i.e.*, solely vessels covered by the Agreement, or other tuna-fishing vessels as well. This action should not restrict freedom of navigation and other rights of vessels under international law, and particularly would not apply to vessels in distress.
- * **Refusal of logistical support and/or supplies to tuna fishing vessels of the non-party nation.**
- * **Prohibiting nationals from assisting in any way vessels of the non-party operating in the fishery.**

Economic sanctions:

- * **The Working Group noted that economic sanctions with respect to non-parties call into consideration all the issues raised above with respect to the imposition of such sanctions on Parties, and noted that the imposition of such sanctions with respect to non-parties involves additional complex legal considerations. The Working Group recommends that the Parties consider whether such sanctions against non-parties are an appropriate means of promoting compliance with the objectives of the Agreement and whether they are consistent with international law.**

**DECLARATION ON STRENGTHENING THE OBJECTIVES AND
OPERATION OF THE CONVENTION ESTABLISHING THE INTER-
AMERICAN TROPICAL TUNA COMMISSION**

The Governments of Belize, Colombia, Costa Rica, Ecuador, United States of America, Honduras, Mexico, Panama, Vanuatu and Venezuela, meeting in the Panama City, Republic of Panama on October 4, 1995 express the need to initiate, as soon as possible, under the auspices of the IATTC, in light of the commitments and objectives of the "Panama Declaration", negotiations for the formulation of a new binding instrument under the following principles, inter alia:

- a) Incorporation of the principles of the Law of the Sea as reflected in the United Nations Convention on the Law of the Sea, 1982, in particular, the rights and obligations related to the conservation and management of living marine resources as recognized in that Convention;
- b) Interpretation and application in a manner consistent with the relevant provisions of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks;
- c) Operation of the tuna fishery of the EPO shall be managed consistent with the concepts of sustainable development and the ecosystem approach; in particular, to adopt measures based on the best scientific evidence available, for the conservation and sustainable use of the tuna species;
- d) Incorporation of measures to ensure the long-term protection of dolphins;
- e) Incorporation of democratic decision-making processes in order to ensure the conservation and sustainable use of the regulated species;
- f) Adoption of a new equitable system of allocating financial contributions;
- g) Development the mechanisms for enhanced public participation and transparency, according to procedures to be adopted for such purpose; and
- h) Promotion of international cooperation in order to foster the development of national research capabilities on ecosystems, fishing practices, and gear technology.