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# **The Global Economy and Democracy: the Tuna-Dolphin Controversy Revisited**

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## **Introduction**

The dolphin-tuna controversy emerged as one of the most important battles fought and won by the environmental movement. Its implications at the social, economic and political levels touched a large variety of subjects and institutions world wide. Indeed, it was its global dimension which differentiated this case from other contemporary instances of environmental struggles (e.g., Bonanno and Constance 1996). The last few years have been characterized by renewed activities concerning the fishing of tuna by setting on dolphins. This very profitable and highly productive technique is called purse-seine fishing and involves visual contact with groups of dolphins

which swim together with schools of tuna. Once located, the dolphins and the tuna are encircled with nets and captured. In this process a large number of tunas are caught, but also many dolphins die suffocated in the nets. This environmentally dangerous practice became illegal in the United States after the adoption of the Marine Mammal Protection Act (MMPA) of 1972. In the last twenty five years, this act has been modified a number of times to establish very stringent requirements for the tuna fishing industry. Indeed, the victory of the environmental movement consisted of the fact that in the United State in order to sell tuna commercially, it must be caught with techniques other than the purse-seine encirclement. Only in this case tuna could gain the commercially required label of "dolphin-safe".

Opposition to the MMPA led to the signing of the *Panama Declaration*, a twelve nation international agreement which allows the use of the purse-seine technique and redefines the concept of "dolphin-safe" tuna. In this case, only tuna which is caught while dolphins are actually killed is

banned from commercial use. Observers on board fishing vessels are in charge of determining which catch is condemned. The *Panama Declaration* mandates that the United States changes its domestic legislation (e.g., the MMPA) to accommodate these new requirements.

The paper explores the context and implications of the signing of *Panama Declaration* and the actions of the major actors involved in the case. It is argued that the *Declaration* represents a pro-transnational corporations (TNCs) action as it favors the strategies and interests of this segment of the tuna industry. It also indicates that TNCs were able to enlist the support of the U.S. Government in this project. The Clinton Administration has been very supportive of the reform of MMPA. In this respect, the case can be viewed as an example of the vitality of the nation-State in the global economy but also of its subordination to the class project of TNCs.

Support of pro-TNC stands also comes from segments of the environmental movement and labor. In the paper we argue that these two

movements view the *Panama Declaration* as a compromise and possible solution to the long standing dispute between environmentalists and workers in the tuna industry. The latter considered the banning of the purse-seine technique as the primary cause for the crises which affected tuna boats and canneries in the U.S. and Latin America after the implementation of MMPA. Labor charged the environmentalists with disrupting their livelihood for the exaggerate protection of dolphins.

The paper is also concerned with the implications that the signing of the *Panama Declaration* has for democracy. According to significant segments of the literature on globalization (e.g., Danley 1994; Harvey 1990; Reich 1991; Spybey 1996), democratization processes have been hampered by the ability of TNCs to by-pass nationally based legislation. This phenomenon, it is contended, devalues decision-making processes which involve subordinate segments of society. Because of this redefinition of democratic free spaces in society, the restructuring of the global order requires attention and moni-

toring. The paper illustrates that the environmental movement is split into two groups and that only one of these two fractions retains the original anti-purse-seine posture. This change has been interpreted as the subordination of the environmental movement to the hegemonic project of TNCs. The dominance of pro-TNC discourses is interpreted to indicate that under globalization the contested terrain is redefined in terms that restrict democratic free spaces. Simultaneously, it is argued that TNCs' actions are not free of contradictions. The requirement of capital realization and that of broader forms of coordination can limit the power of TNCs and open possibilities for resistance by subordinate groups. In this respect we conclude that despite the growing power of TNCs and the limiting of democratic spaces, conditions for resistance still exist.

### **Globalization and Democracy**

The globalization of the economy and society is arguably one of the most debated topics in today's social sciences. The impetus with which it

has been studied is reflected in various and contradictory interpretations characterizing relevant literature. Some authors underscore the homogenizing character of the new global order. In many instances, emphasis is placed on emerging common cultural characteristics forged by the advancements in technology, cybernetics and the diffusion of media delivered messages (e.g., Featherstone 1990; Giddens 1994; Robertson 1992). In other views, globalization is understood in terms of the rupture of institutional structures which allowed the fragmentation of life and politics and the recomposition of links and solidarities which transcends established national and/or cultural enclaves (e.g., Beck 1995; Lash and Urry 1994). In this context, democracy becomes highly problematized. The exhaustion of traditional structures eliminates established channels for the development of democratic discourses and creates the condition for a *struggle for democracy* (Beck 1995). Simultaneously, new avenues for democratic discourses emerge outside the

sclerotized paths of traditional politics. This “*subpolitics*” contains the elements for the establishment of democracy from below through the revitalization of participatory and inclusionary strategies (Giddens 1994). Though centered on local efforts for the satisfaction of local needs, it entails global links as the interconnection of today’s social phenomena does allow the provincialization of politics. As Anthony Giddens points out, there are “...shared values that come from a situation of global interdependence, organized via the cosmopolitan acceptance of difference. A world with no others in one where — as a matter of principle — we all share common interests, just as we face common risks” (Giddens 1994:253). To be sure, these theorists are interested in substantive democracy. This is the system through which substantive participation in decision-making processes is established for broader segments of society and in which these groups can address their social, political and economic needs (Beck 1995).

Emphasizing economic dimensions, other accounts point to the renewed possibilities of growth that globalization entails. They speak of globalization in terms of the elimination of barriers to the circulation of commodities and capital and the reduced willingness of nation-States to impose restrictions to this free flow of resources (e.g., Fukuyama 1992; Kindleberger 1986). In these views, globalization often assumes a positive connotation as it is opposed to state regulated economic policies centered on obsolete Keynesian economic strategies. Echoing calls of neo-liberal theorists (Friedman 1982), these accounts present conservative views in which the unrestricted global market is considered the force able to produce new energies to overcome the exhaustion of post World War II growth models. Primary agents of this process of economic revitalization are TNCs (e.g., Rubner 1990). TNCs have been able to fuse economic efficiency with a vision for growth and markets expansion. Because of their scope and organizational capabilities, they do not require governmental support which, in turn, frees corporate and

individual resources which are no longer drained away from the economic circles (Kindleberger 1986).

Progressive accounts also produce positive views of globalization. According to these works, the dissolution of post World War Two socio-economic models has been replaced with new and much more *flexible* forms of accumulation (e.g., Piore and Sable 1984; Hirst and Zeitlan 1991). Flexibility indicates the ability of capital and labor to maneuver with renewed freedom in production and distribution spheres. New arrangements emerged whose positive effects are felt at various levels; for example, the alienated character of earlier forms of capitalism is now replaced by a system with much more inclusive capacities. Democracy, therefore, is enhanced as participatory and decentralizing mechanisms allow the involvement of broader varieties of actors in the production of social life.

Despite these views, works generated with the progressive camp have been overtly suspicious of assumed democratization processes triggered by globalization (e.g., Harvey

1990; Reich 1991). For the majority of them, globalization represents the synthesis of attempts of corporate groups and their allies to respond to inroads made by subordinate groups. In this context, globalization, above all, indicates the flexibility of TNCs to bypass situations (rigidities) which favor social groups such as labor and minorities, as well as alternative views such as those supported by the environmental movement. In these accounts, the enhancement of global arrangements produces renewed economic opportunities for the upper classes in a context in which economic polarization, the shrinking of the middle class, and attacks on the welfare state characterize the reorganization of the world order (Mishel and Bernstein 1993; Strobel 1993). Despite some accounts which describe TNCs as endowed with unchallengeable powers (e.g., McMichael 1996), the globalization of the economy and society is generally viewed as a contested terrain in which TNCs are dominant actors, yet their actions encounter resistance for a variety of groups (e.g., Bonanno et al. 1994; Lash and Urry 1994). The

struggle for democracy, in these views, is a central concern. Sharing the same disconcert of writers who underscore that the crisis of established institutions left traditional forms of democracy questionable, these authors document the manners in which TNCs and their opponents attempt to shape social, economic and political institutions.

In the area of Sociology of Agriculture and Food, the concern over the crisis of democracy in the global context has taken a variety of forms. For example, some authors focused on the limits that the expansion of global arrangements brings to democracy within institutions such as science, technology and research and instruction centers (e.g., Busch 1994; Busch et al. 1991). Others pointed out the existence of the de-democratization patterns associated with the various aspects of food production. The centralization of decision-making processes and control of resources as well as the seduction generated by the expansion of market options, it is claimed, eliminate free spaces (e.g., Friedland 1994; 1995; Friedmann and

McMichael 1989; Heffernan and Constance 1994; Rieff 1993). Another group of authors explored the issue of democracy in terms of the North-South relationship. Here attention is paid to the consequences that the creation of global circuits has for the enhancement of processes of democratization and socio-economic growth in developing nations (e.g., Llambí 1994, Llambí and Gouveia 1994; Marsden et. al 1996). Finally, a variety of authors focused on the relationship between democracy and social movements in the global context (e.g., Buttel 1992; Marsden 1994; Bonanno and Constance 1996). Resistance to global powers and attempts to democratize social relations are the foci of these works. Simultaneously, they offer analyses of instances in which corporate actors' flexibility and hyper-mobility limit democratic spaces.

The case study presented in the following pages contains insights which can be employed to address some of the issues dealt with in these debates. It is the continuation of a struggle for the maintenance of democratic spaces which directly

pertains to the issues of the protection of the environment and economic development. In many fundamental ways, it represents a test of the ability of new social movements to lead the struggle for democracy. But it also is an indication of the type of opposition that these efforts encounter in the global economy and society.

### **The Case**

The case proceeds in three parts. First some background on the tuna-dolphin controversy is presented to provide a historical context to interpret the implications of the new developments to this case. Next, the specifics of the *Panama Declaration* are presented. Then, the main body of the case delineates the competing discourses regarding the necessity and implications of the *Panama Declaration*. First the view from Latin America is presented. Then the views from the U.S. in support of, and in opposition to, the *Panama Declaration* are presented. The competing discourses from the U.S. focus on two arenas: the political and the environmental.

### **Historical Background**

In the Eastern Tropical Pacific (ETP), a stretch of ocean that reaches from California to Chile and extends about 700 miles west into the Pacific, dolphins swim above schools of tuna. In the 1950s this natural habit was capitalized on by tuna fishermen as they began using immense purse-seine nets that encircled the dolphin herd and then pulled tight like an enormous draw-string purse. Huge catches of valuable yellowfin tuna generated enormous profits for the tuna fishermen and tuna processing firms. At this time, fishing crews did not work to help dolphins, turtles, and other marine life to escape from these nets. Accordingly, since 1959, about 6-7 million dolphins (depending on whose numbers are used) drowned in the nets.

In the late 1960s and early 1970s, public outrage over the slaughter of dolphins to harvest tuna brought about the passage of the Marine Mammal Protection Act of 1972 (MMPA) which mandated that dolphin deaths associated with tuna fishing be brought down to "insignifi-

cant levels approaching 0". For the next 20 years the environmentalist coalition that secured the passage of MMPA used their allies in the legislative and judicial branches of the U.S. Government to try to enforce the intent of the law and the tuna industry used their allies in the executive branch to stall its implementation (see Bonanno and Constance 1996).

In the 1970s and 1980s many Latin American countries rapidly expanded their tuna fishing fleets and processing capacities to take advantage of the new lucrative purse-seine technology and thereby service the U.S. market, the largest in the world. Indeed, as a result of MMPA, much of the U.S. tuna fleet reflagged under Latin American and other flags to avoid the restrictions associated with MMPA. These restrictions included the adoption of new technologies such as the "backdown procedure" and the "medina panel" as well as the requirement for U.S. tuna vessels to have an onboard observer to document the number of dolphin deaths associated with the tuna fishing. By the mid-1980s the number of

dolphins killed by U.S. tuna fishermen had been greatly reduced, but still in 1986 over 100,000 dolphins still died in the purse-seine nets, almost all of them accounted for by tuna boats under foreign flags.

In the late 1960s and 1970s tuna processing companies vertically integrated through the development of long term contracts with tuna fishermen or by owning their own boats to guarantee product for their processing plants. Because of MMPA and the increasing necessity for U.S. based tuna firms to source "dolphin-safe" tuna, the firms reversed this trend towards vertical integration, sold their tuna boats, discontinued their long-term contracts, and sourced their product on the international spot market. Also, because of MMPA, almost all of the remaining U.S. fleet moved their operations to the Western Pacific where tuna and dolphin do not associate with each other as regularly. At the same time, two of the three largest U. S. based firms sold their tuna operations to Asian firms. In 1988, Ralston Purina sold its Van Camps "Chicken of Sea" operations to Mantrust of Indonesia

and in 1989 Pillsbury sold its "Bumble Bee" brand to Unicord of Thailand. Heinz's "Star Kist" brand, the world's largest tuna company, remained U.S.-owned.

During the 1970s the Inter-American Tropical Tuna Commission (IATTC) became increasingly involved in trying to resolve the tuna-dolphin controversy. The IATTC is a non-governmental organization made up of the tuna fishing countries that fish the ETP. In 1988 the IATTC began to staff observers on the foreign tuna boats to document the dolphin kills. This was necessary because the 1984 and 1988 amendments to MMPA required that for foreign countries to import tuna into the U.S., they had to prove that their dolphin kill rates were no more than 1.25 times that of the U.S. fleet. The adoption of the backdown procedure and medina panels were also suggested as part of this voluntary program sponsored by the IATTC.

In 1990 four events took place that set the stage for the later signing of the *Panama Declaration*. First, beginning with Heinz, and quickly followed by Unicord's Bumble Bee

and Mantrust's Chicken of the Sea, the BIG 3 tuna processors announced that they would only accept "dolphin-safe" tuna for processing. Second, with the help of a supportive judge, the environmentalist coalition obtained an embargo on all tuna that was not proven to be "dolphin-safe". This embargo affected the nations of Mexico, Venezuela, Ecuador, and Vanuatu. Third, these four countries filed a complaint with the General Agreements on Tariffs and Trade (GATT now WTO or World Trade Organization) that the U.S. law was unfair "environmental" (or green) trade protectionism and should be overruled. And fourth, through the work of Senator Barbara Boxer (D.-Calif.) and others, the *Dolphin Protection Consumer Information Act of 1990* was passed which defined "dolphin-safe" as being tuna that was not caught through the technique of encircling dolphins with purse-seine nets and legislated that only such tuna could bear the label "dolphin-safe" and only "dolphin-safe" labeled tuna could be sold in the U.S.

In 1991, the Bush Administration tried to utilize bilateral negotia-

tions to resolve the ongoing controversy. Because the North American Free Trade Agreement (NAFTA) was being negotiated, the Bush Administration did not want negative publicity regarding environmental issues such as the tuna-dolphin controversy. Indeed, the administration did not want to be seen as committing "environmental backsliding" and the implications of a WTO ruling in favor of Mexico would reveal that the NAFTA economic treaty threatened democratically instituted laws such as MMPA in the U.S. In 1991 the WTO ruled in favor of Mexico and stated that a product could not be embargoed because of the way it was produced. Because of the NAFTA negotiations, the U.S. requested that Mexico not press for the enforcement of the WTO ruling but again promised to try to resolve the disagreements by getting the U.S. laws changed which would then allow those countries to import their tuna. The Bush Administration was not successful in bringing about this agenda.

In 1992 the environmentalist coalition, again through the help of a

supportive judge, secured a second embargo to stop "tuna laundering" through third party countries. The second embargo initially affected many countries in Latin America, Europe, and Asia. Several European countries along with Thailand again appealed to the WTO arguing that the embargo was unfair trade protectionism. In 1994 the WTO again ruled in their favor. The WTO also stated that the controversy should be resolved via an international forum if possible. Once again, bilateral and multi-lateral agreements between the U.S. and the petitioning countries were attempted but failed. One such attempt was the IATTC sponsored *La Jolla Agreement of 1992* which formalized the voluntary program of on-board observers and dolphin protection techniques on foreign tuna vessels. Environmentalists groups welcomed the IATTC efforts but did not accept them as an adequate guarantee of continued dolphin protection. Also, the *International Dolphin Conservation Act of 1992* which would have placed a 5-year moratorium on purse-seine tuna fishing and included severe trade sanctions on violating nations

was passed in the U.S. but never signed by the governments of Mexico and Venezuela.

### ***The Panama Declaration***

On October 4, 1995 the *Panama Declaration* was signed by the governments of Belize, Columbia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, USA, Vanuatu, and Venezuela. The 12 governments promised to formalize by January 31, 1996 this binding legal instrument that would incorporate numerous changes to the resolutions adopted by the IATTC concerning the regulation of the tuna/dolphin fishery since 1992. To accomplish this task, U.S. law in the form of the MMPA of 1972 and 1988 needed to be changed as follows (Felando 1995):

1) the existing primary and secondary embargoes be lifted for tuna caught in compliance with the *La Jolla Agreement* as modified by the *Panama Declaration*.

2) the access to the U.S. market be opened to tuna from states who are members of the IATTC and from

states who have initiated steps to become members.

3) that a change in the labeling of canned tuna as "dolphin-safe" be made to mean that such term may not be used for any tuna caught in the eastern Pacific Ocean by a purse-seine vessel in a set in which a dolphin mortality occurred as documented by observers.

Written support for these legislative changes to accommodate the *Panama Declaration* was provided by five mainstream environmental organization: the Center for Marine Conservation, the Environmental Defense Fund, Greenpeace, the National Wildlife Federation, and the World Wildlife Fund. The Clinton Administration and prominent conservative members of Congress also supported the *Declaration*. These environmental groups pledged to work with the foreign governments and the U.S. Congress to bring about the final ratification of the *Panama Declaration* but they noted that it was a significant challenge to obtain the legislative changes in U.S. law before the proposed January 31, 1996 deadline (Blum 1995; Felando 1995;

Fiore 1995). This concern was based on the fact that just before the signing of the *Declaration* in Panama on October 4, on October 2 four members of the U.S. Congress, two Congressmen and two Senators, wrote a strong objection to the *Declaration* to President Clinton. Although this objection did not influence President Clinton to change his stance away from support of the *Declaration*, it did presage a new chapter in the ongoing tuna-dolphin controversy.

The *Panama Declaration* is a modified version of the *La Jolla Agreement* of 1992 adopted by the IATTC which instituted a seven-year program of declining annual limits on dolphin mortality starting in 1993. The agreed mortality limit in the *La Jolla Agreement* was set at 9,000 for 1996 and then declined to 5,000 for 1999. To implement this program, individual-vessel-dolphin-mortality limits were established on an annual basis. For instance, for the second half of 1995 the dolphin-mortality limit for each vessel was 57 animals (Felando 1995).

The *Panama Declaration* substantially modified this program to include a total annual mortality that does not exceed 5,000 dolphins that is to be used to determine the mechanism for issuing mortality limits. Further modifications include promises by participating governments to establish a new per-stock, per-year cap that would be adjusted down in future years. The participating governments also agreed to establish a per-vessel, maximum-annual-dolphin-mortality limit that is consistent with the established per-year mortality caps (Felando 1995).

Besides these modifications of the *La Jolla Agreement*, the 12 governments promised to bring about significant changes in other areas that include a series of options designed to ensure compliance. Additionally, the *Declaration* contains promises to establish a system that provides incentives to vessel captains to continue to reduce, and eventually eliminate, dolphin mortality. Finally, in recognition of the need for qualified advice for achieving the objectives of the *Declaration*, the parties promised to establish or strengthen *National*

*Scientific Advisory Committees* which would include "qualified scientists from the public and private sector and non-government organizations" who would base their decisions "on the best scientific evidence... designed to maintain or restore the biomass levels" of harvested and associated stocks at or above levels capable of producing maximum sustainable yield (Felando 1995). Regarding the issue of changing the meaning of the term "dolphin-safe", the existing U.S. law states that for tuna harvested in the ETP by a purse-seine vessel, such tuna is only "dolphin-safe" if an observer certifies in writing that the purse-seine net was not intentionally deployed during the entire fishing trip on, or encircling, dolphins. This current law makes encirclement of a mixed school of tuna and dolphin the test and not whether the fishermen were successful in releasing the dolphins from the net without mortality. The *Declaration* changes "dolphin-safe" to include tuna harvested when the net is used on or to encircle dolphins if no dolphin mortality is noted by an observer. According to proponents of the

*Declaration*, this change in the definition of "dolphin-safe" is designed to recognize that currently in the ETP tuna fishery most of the purse-seine nets set on a mixed school of tuna and dolphin result in zero dolphin mortality. Fishermen have complained that the current U.S. law is unfair because it does not recognize the common existence of zero-dolphin-mortality fishing sets. Advocates of the *Declaration* argue that the existing "dolphin-safe" rule condemns an entire load of tuna even though zero mortality occurs during the entire fishing trip. Just one set of the net on a mixed school of tuna and dolphin during the entire fishing trip, whether mortality occurs or not, is sufficient to declare the entire load not suitable for "dolphin-safe" labeling. This proposed new labeling definition is designed to give incentives to fishermen to seek zero dolphin mortality for every fishing set (Felando 1995).

The adoption of the *Panama Declaration* would end the unilateral U.S. embargo on yellowfin tuna imposed at present on Columbia, Costa Rica, Italy, Japan, Mexico,

Panama, Vanuatu, and Venezuela which allow their fishing fleets to "set on dolphins" or buy tuna from fleets that "set on dolphins". More controversially, it would change the legal definition of "dolphin-safe" for tuna can labels from the present one (encirclement was not used to harvest the tuna) to a new one (no dolphins were seen by accredited observers aboard the tuna fishing vessels to die in the harvest). The other signers of the *Declaration* are now waiting for the U.S. to ratify the agreement, action already long past the January 31, 1996 deadline. These other signers insist on the required change in U.S. "dolphin-safe" definition, and some threaten to bolt from the *La Jolla Agreement* if the United States fails to act. Opponents of the bill argue that encirclement amounts to harassment of dolphins that can eventually kill them out of the sight of observers (Felando 1995).

### ***The Discourse from Latin America***

Imports from Latin American countries that use the purse-seine method in the ETP have been blocked

since the 1988 amendments to MMPA. Mexico and other Latin American countries came under an embargo in 1990. Across Mexico, the tuna industry estimates that due to the U.S. embargo, about 15,000 jobs directly and indirectly tied to tuna fishing are gone - about half of them in the town of Ensenada on the Baja California. Mexico argues that it has greatly reduced the dolphin kills associated with its tuna fishing operations and that the embargo is a "disguise to keep high quality Mexican yellow-fin tuna off the American market" (Frazier 1996). The fact that the U.S. ignored the WTO ruling stating that the embargo is illegal is presented as evidence of such green protectionism. "Dolphin-safe" fishing, Mexican fishermen contend, has environmental baggage far heavier than the threat to dolphins, virtually all of which are freed from the nets unharmed by technology developed in recent years (Frazier 1996).

There are three ways to fish for tuna. One involves following the dolphins which associate with mature yellowfin tuna and using purse-seine

nets to catch the tuna, but also often catch the dolphins which sometimes drown in the nets. Another involves setting nets around floating objects such as logs where tuna tend to gather. The third is simply the visual sighting of schools of tuna. Only tuna fishing using the last two methods can be labeled "dolphin-safe". But these two methods produce a heavy bycatch of other species, especially infant or juvenile tuna which have not yet reproduced, have no commercial value, and are returned to the sea, often dead. While the ETP tuna fishery is among the most healthy in the world, industry spokesmen say the wide demand for "dolphin-safe" tuna could endanger that. According to Carlos de Alba, a scientist with the Mexican Chamber of Fishing Industries, "Fishing dolphin-safe is the only way we can export. But if we keep fishing this way, or increase the dolphin-safe catch, the tuna population in the Eastern Pacific will drop by half in three years because of the bycatch of immature tuna"(Frazier 1996). He said that detailed reports kept by observers on Mexican tuna seiners show that more than 99

percent of the dolphins now encircled by the tuna nets are freed unharmed. "To have a dolphin-safe trip you have to fish without a single set on dolphins. Even if you don't kill any dolphins, that catch cannot be sold as dolphin-safe. We are fighting to change that to no mortality. If you set on dolphins and there is no mortality, that tuna can be dolphin-safe", said de Alba (Frazier 1996).

As part of the *La Jolla Agreement of 1992*, observers certified by the IATTC are on board all tuna boats with capacities of 40,000 tons or more — which is most of the Mexican fleet — to verify "dolphin-safe" catches. "You don't see that in other areas, like in Africa, or France or Spain, where the captains of the boats make the certification," said Jose Velasquez, owner of the 205-foot Quijote. "We had a trip where we made 52 sets on dolphins and didn't kill a single one" Velasquez complained. "But that tuna was not dolphin-safe because we fished on dolphins" (Frazier 1996). He said the American fleet, much of which is based in the Western Pacific at American Samoa, often sets on

dolphins at night, increasing the risk of dolphin kills. "We haven't done that for years", said Velasquez (Frazier 1996).

Dr. James Joseph of the IATTC said there are dolphin kills in other fisheries such as the Atlantic, around Sri Lanka south of India, and around the Phillippines, but that there are no good statistics on how many deaths because those boats don't carry observers. Authorities stated that the dolphin-kill by Mexico and other ETP countries dropped from about 140,000 a year in the mid-1980s to about 3,500 in 1995. In 1986 ETP tuna fishermen were killing about 15 dolphins with each set. By 1991, when the embargo took place, the number averaged 3.1, and it was less than 1.0 per two sets by 1995. Between the backdown procedure and the finely-meshed medina panels the number of dolphin deaths has been greatly reduced (Frazier 1996).

Mexico has replaced its U.S. markets with exports to Europe and Japan, but because of environmental pressures, most of that tuna must also be "dolphin-safe". It exports about 50,000 tons a year, much of it

in frozen form to Japan. Mexico has increased domestic consumption of tuna by tenfold in the past decade although most of it is canned not in Ensenada, but in Mazatlan, Manzanillo, or other ports closer to domestic markets. When Pesca de Pacifico was operating it turned out 88,000 cases of canned tuna a month, a lot of it for American firms who put their own label on it. The plant also suffered when the Mexican government privatized it under the administration of former President Carlos Salinas de Gortari. Its top selling brand, Dolores, was sold separately, leaving the new owners with no familiar brand. They introduced a new brand that has not caught on yet. "Some of our workers went to other canneries, some left the area, some are selling tacos," said plant manager Jose Luis Gonzalez. "This town (El Sauzal, a northern suburb of Ensenada) used to be a fishing village. Just about every family had someone who worked here" (Frazier 1996).

"Those boats that are gone aren't coming back," said Alfonso Rosinol, vice president of Mexico's fisheries

chamber who has sold one of his three boats. "The boats were sold to Korea, to the United States, two to Iran. They are fishing many places" (Frazier 1996). With the fleet aging and decimated, processing tuna for foreign boats may be what's in store for Ensenada, if the embargo is lifted. "They can bring the American boats here to unload and we can ship if precooked, frozen if they want, to the United States and they can put their own brand on it," Rosinol said. Uncanned Mexican tuna enters the U.S. duty-free. "We are efficient, we have low labor costs," Rosinol said. "This could happen for Ensenada" (Frazier 1996). But Rosinol, who spends a lot of his time in Washington pushing for the removal of the embargo, knows many factors are at work. "The Flipper movies are back in the theaters again," he said. "Now I hear they have one about a pig named Babe. Pigs are supposed to be smarter than dolphins, so the pork industry better be careful. It could be next" (Frazier 1996).

## **The Political and Environmental Discourses from the United States**

### ***Discourses in Support of the Panama Declaration***

The *Panama Declaration* became the basis for a bill introduced in the 104th. U. S. Congress by Senator Ted Stevens (R-Alaska) Chairman of the Senate Subcommittee on Oceans and Fisheries. The Clinton Administration sided with Senator Stevens as did the five mainstream environmental organizations: Environmental Defense Fund, World Wildlife Fund, Center for Marine Conservation, Greenpeace, and the National Wildlife Federation. The proponents argued that the *Declaration* would protect dolphins and other sea life in the ETP. More specifically, they argued that the alternatives to "setting on dolphins" have proven destructive to both tuna populations through the increased bycatch of juvenile tuna that do not then have the chance to breed as well as others species such as turtles, sharks, billfish, and other important marine life. They also argued that unless the Latin American nations

were rewarded for their efforts to reduce dolphin mortality, they would revert back to their old methods which often kill dolphins. Similar legislation introduced by Reps. Randy "Duke" Cunningham, R-Calif. and Wayne Gilcrest, R-Md. cleared the house in May of 1996 (Linden 1996; Odessey 1996). This bill would implement the *Panama Declaration* and provide for U.S. participation in the *International Dolphin Conservation Program* by modifying U.S. law to end the existing tuna import embargo and to permit tuna caught with purse-seine nets to be labeled "dolphin-safe" as long as no dolphins were killed when the tuna was caught (Linden 1996).

Jerry Leape of Greenpeace said that he hoped the Senate got a strong message from the House vote. "I think there will be discussions over the August recess and an effort to get this issue addressed in September," he said. "We're not cocky about our chances" (Odessey 1996). He further stated that the 100 or so Democrats in the House that voted for the bill should encourage some Democrats in the Senate to vote for it as well. He

also indicated gratitude for the overwhelming Republican support in the House. "While many think that environment is just a Democratic issue," Leape said. "I think this shows that it can and should enjoy bipartisan support" (Odessey 1996). Although the Clinton Administration and other supporters worked to get a companion bill passed in the Senate after Congress returned from its summer recess in September, they were unsuccessful due to opponents' threat of a filibuster (Linden 1996).

In presenting the *International Dolphin Conservation Program Act* (S1420) to the U.S. Senate for approval, Senator Stevens (R-Alaska) stated (Congressional Record, 1996):

Our legislation is supported by: (1) U.S. tuna boat owners; (2) the mainstream environmental community including Greenpeace, the Center for Marine Conservation, the Environmental Defense Fund, the National Wildlife Federation, and the World Wildlife Fund; (3) the American Sportfishing Association; (4) U.S. Labor, including the National Fisherman's Union, Seafarers International, and the United

Industrial Workers; (5) the 12 nations who signed the Panama Declaration (Belize, Colombia, Costa Rica, Ecuador, France, Honduras, Mexico, Panama, Spain, Vanuatu, and Venezuela); and (6) the Administration. I ask for unanimous consent that the letter I received from Vice President Gore in support of S1420 be printed in the Record.

The degree of cooperation between the Clinton Administration and the republican backers of the bill is exemplified by the following letter regarding the *International Dolphin Conservation Program Act* sent by Vice President Al Gore to Senator Stevens, Chairman of the Subcommittee on Oceans and Fisheries (Congressional Record, 1996).

The Vice President, Washington, June 3, 1996. Hon. Ted Stevens, Chairman, Subcommittee on Oceans and Fisheries, U.S. Senate, Hart Senate Office Building, Washington, DC. Dear Ted, I am writing to thank you for your leadership on the International Dolphin Conservation Program Act, S1420. As you know, the Administration strongly supports this legislation, which is essential to

the protection of Dolphins and other marine life in the Eastern Tropical Pacific. In recent years, we have reduced dolphin mortality in the Eastern Tropical Pacific tuna fishery far below historic levels. Your legislation will codify and international agreement to lock these gains in place, further reduce dolphin mortality, and protect other marine life in the region. This agreement was signed last year by the United States and 11 other nations, but will not effect unless your legislation is enacted into law. Sincerely, Al Gore.

The Center for Marine Conservation, World Wildlife Fund, Environmental Defense Fund and Greenpeace International, led by its offices in Mexico, Brazil, Guatemala, and Argentina, helped draft the *Declaration*. According to Nina Young, marine mammal specialist at the Center for Marine Conservation, "The issue really has gotten more complex than it used to be" (Greene 1996). From a similar perspective, National Wildlife Fund biologist Rodrigo Prudencio explained that the *Panama Declaration* would be permanent and replace current voluntary and difficult

to enforce "dolphin-safe" agreements such as the *La Jolla Agreement*. According to Prudencio, "Levels of protection provided by the agreement are based on population estimates of each species of dolphin. Some mortality is permitted but only if populations are not affected" (Prudencio 1997). Instead of lumping all dolphin species into one category, countries will be obligated to keep careful track of the status of specific species of dolphins. Furthermore, the program provides accurate information on bycatch numbers as well as dolphin deaths (Prudencio 1997). From the viewpoint of these groups, the *Declaration* will improve the overall ecological health of the ETP and strengthen program which actually ensure that the tuna caught in the ETP is indeed "dolphin-safe".

These supporters of the *Declaration* also want to change the definition of the "dolphin-safe" label to mean no dolphins died to catch that tuna. The current "dolphin-safe" label does not guarantee that no dolphins died in the harvesting of the tuna, it only means no dolphins were encircled by fishing nets. According to the

Environmental Defense Fund (EDF 1996):

Ironically, the sales ban still prevents tuna caught this way — without killing a single dolphin — from being labeled dolphin-safe or sold in the U.S. By contrast, tuna caught by setting nets on floating logs and schools of tuna can get the dolphin-safe label, even when these methods kill dolphins and other marine life. Foreign fleets that have reduced their dolphin deaths — but still can't sell their tuna in the U.S. — have threatened to leave the voluntary program.

Rather than banning a fishing technique, they believe that orienting the label towards the desired result of dolphin protection will give consumers the best information possible, and fishing fleets the best incentive to reduce dolphin deaths. Beyond the issue of the label, these organizations want to protect dolphins in non-ETP waters which requires U.S. leadership and international cooperation. The current version of the law means that U.S. consumers now buy tuna harvested from other oceans which do not require on-board observers and

therefore cannot guarantee the safety of dolphins during tuna fishing outside the ETP. Meanwhile, dolphins continue to be encircled by nets in the ETP regardless of the U.S. embargo and regardless of the current "dolphin-safe" label. This tuna is being sold in growing non-U.S. markets (Prudencio 1997).

To resolve this escalating dilemma, these environmental organizations worked together with 12 participating countries that fish in the ETP to secure strong, binding protection for dolphins and other marine life. The *Panama Declaration* and associated U.S. legislation would replace the "intentional set" rule — a technology based standard that inadvertently increases deaths of other marine life — with a performance-based approach ensuring that no dolphins are killed to catch "dolphin-safe" tuna. While some groups continue to oppose the *Panama Declaration* fearing that setting nets stresses dolphins and causes hidden mortality, "there is insufficient evidence to determine whether setting nets effects individual dolphins" (EDF 1996). The legislation

does require research on this question and if such evidence would be produced, then the legislation requires that U.S. vessels stop setting nets. Said EDF international counsel Annie Petsonk, "We are urging Congress to lock in the strengthened dolphin and ecosystem protections provided in the Panama Declaration" (EDF 1996).

### ***Discourses in Opposition to the Panama Declaration***

At that time Senator Stevens introduced his bill, Barbara Boxer (D-Calif.) introduced a competing bill that would also lift the sanctions on Latin American nations but maintain them on individual vessels that catch tuna by encirclement of dolphins; Boxer's bill was defeated. The letter sent to President Clinton in opposition to U.S. support for the *Panama Declaration* by Senators Barbara Boxer (D-Calif), Joseph Biden (D-Del) and Representatives George Miller (D-Calif) and Gerry E. Studds (D-Mass) expressed grave concerns over the measure charging that the "delegation in Panama sold out the dolphins to

free trade" (Linden 1996:57). Furthermore, they asserted that the *Declaration* would let foreign companies use a "dolphin-safe" label even if their practices continued to endanger dolphin populations and said that it "is nothing short of consumer fraud" as it would deceive conscientious consumers (Enviro-News Service 1995). For Anthony O'Reilly, chairman of H.J. Heinz Co. which owns Star Kist, the world's largest processor of tuna, this creates problems associated with the possible misinterpretation of these events by "dolphin-loving consumers". O'Reilly said, "I believe the definition should not be changed in the absence of consensus of scientists and public opinion" (Linden 1996:57).

Environmental organizations and individuals that backed the Boxer position were Earth Island Institute (EII), Humane Society of the United States, EARTHTRUST, Cetacean Society International, Sierra Club, Public Citizen, Friends of the Earth, Defenders of Wildlife, ASPCA, Sea Shepherd, Human Dolphin Foundation, Jean-Michel Cousteau, Jacques Cousteau, and several others (EII

1977). Boxer's proponents argued that complicated enforcement procedures and the potential for corruption under the Stevens bill meant that dolphin deaths would rise again. They stated that the proposed change would allow tuna fishermen to chase, herd, and encircle dolphins which is cruel and stressful, separates dolphin mothers from their calves, and keeps populations from thriving (Linden 1996).

"The whole thing is a scam being put over on us by the Mexican government and Venezuelan government that want access back into the U.S. market for tuna that is not dolphin-safe," said David Phillips, executive director of the Earth Island Institute (EII), a San Francisco-based environmental group fighting the *Declaration*. Phillips calls the bycatch argument "completely spurious". "If you look at the amount of the bycatch since the dolphin-safe issue came up, it has gone down, and the reason it has gone down is because the fishing effort in the eastern tropical Pacific has gone down" said Phillips. "The fishery is in excellent shape. The size of the fish is up, the reproductive

potential is up. If there were some indication that the level of the juvenile catch is causing problems for the fishery, you would have seen it long ago" (Linden 1996:57). According to Phillips, the bycatch argument is "just an excuse. What they really want is to bring dolphin-unsafe tuna caught by killing dolphins back to the lucrative U.S. market" (Linden 1996:57).

According to Cockburn (1996), "One of the great triumphs of grass-roots environmentalism in this country was the battle of the late 1980s to ban the sale of 'dolphin unsafe' tuna, meaning fish caught by purse-seine nets that would also ensnare dolphins". Over the fifteen years using this method more than 7 million dolphins died. In the summer of 1995 Mexican government informed Mickey Kantor, the U.S. Government's Trade Representative, that under the terms of NAFTA and WTO it should be permitted to sell its canned tuna in U.S. markets. Kantor and Al Gore told President Zedillo that Clinton didn't want embarrassing public demonstrations of how U.S. laws could be overturned by WTO and

that they would seek a legislative fix in Congress (Cockburn 1996). Cockburn (1996) states:

It will be recalled that at a crucial moment in the NAFTA battle in late 1993, the Clinton Administration was able to brandish a statement of support for the free-trade agreement from seven major environmental organizations. Among them the Environmental Defense Fund, the National Wildlife Federation, Greenpeace, The World Wildlife Fund and the Center for Marine Conservation. Staffers at the Environmental Defense Fund and National Wildlife Federation drafted the language of the dolphin-death bill, with the help of Bud Walsh, an attorney who has labored for the Wise Use Movement. The House bill fronted by the big green group guts the current dolphin protection law and will permit unlimited sale of dolphin-lethal tuna in the United States.

The mainstream green groups call it a victory for the environment. Cockburn disagrees. Sounding very much like a fully fledged free-market environmentalist, Greenpeace president Barbara Dudley says her

organization supports the bill because "it tears down unfair trade barriers" for Latin American countries such as Mexico, Colombia, and Chile (Cockburn 1996).

Greenpeace's support of the *Panama Declaration* has also been heavily criticized by animal rights and marine mammal rights groups. On September 27, 1996, the whales rights group known as the Dolphin Within Society, arranged a demonstration outside the Greenpeace offices in Sydney, Australia and "entered the office in masses". They claimed that Greenpeace' support for the *Panama Declaration* would result in a weakening of the U.S. "dolphin-safe" tuna legislation, allowing tuna from "dolphin-dangerous" fishing fleets to enter the U.S. market (High North News 1996).

Opposition to the *Declaration* was also advanced by marine mammal scientists. Two prominent marine mammal scientists, Dr. Albert Myrick Jr. and Dr. John Hall, spoke out against misleading and discredited testimony made by proponents of bills in support of the *Panama Declaration*. According to these

scientists, such legislation would in fact harm dolphins and does nothing to protect other species in the fishery, such as sea turtles and immature tuna. These two scientists were joined by a third scientist, Dr. Roger Payne of the National Academy of Scientists tuna/dolphin panel, in denouncing the proposed legislation. Drs. Myrick, Hall, and Payne contended that the scientific statements of supporters of the *Declaration* were couched in dubious science and therefore make serious errors (Eli 1996).

## Discussion

The case study can inform contemporary debates on at least three aspects of global capitalism. The first concerns the role and forms of the State. The second deals with the actions of social movements. In this case, this situation refers to the positions of the environmental and labor movements. Finally, the case study sheds light on the actions of TNCs.

## ***The Role of the State in Global Capitalism***

Contemporary works on the role of the State in global capitalism increasingly question the ability of nation-States to mediate opposing classes' actions while fostering capital accumulation (e.g., Giddens 1994; Harvey 1990; Hirst and Thompson 1996). These accounts view fundamental aspects of the globalization of the economy and society as limiting the State's capacity to assert its relative autonomy. Global capitalism, they maintain, diminishes the State's ability to control social actors and processes within its jurisdiction. Extreme accounts contend that the State is withering away as transnational corporations can by-pass State established and enforced requirements and laws (e.g., Ross and Tratche 1990). Other accounts point to the increasing control that transnational economic elites exercise over the State. In essence, according to these views, the State is increasingly turning into an instrument of global economic elites and their allies (e.g., McMichael and Myhre 1991).

It has also been argued that the role of the State in society cannot be eliminated without creating insurmountable negative consequences to a variety of actors (e.g., Danley 1994; Spybey 1996). These views point out the difference between the concept of the State and that of the nation-State. The nation-State, it is maintained, is simply one historical form of the State and therefore it is not the only possible form of the State. The crisis of the nation-State signals, according to this position, the crisis of the historical forms of the State which emerged in the early phase of capitalist development. Simultaneously, the emergence of new State forms, and in particular the emergence of the embryonic transnational State form, indicates the emergence of new patterns of capitalist development associated with globalization (e.g., Bonanno and Constance 1996; Danley 1994; Spybey 1996).

The case study speaks directly to these debates. It indicates that though the State is still able to perform its historical roles, the evolution of global social relations has important repercussions on State

actions and forms. As far as the ability of the U.S. State to perform its historical roles is concerned, the case indicates that the Clinton Administration<sup>1</sup> acted to increase capital accumulation. Simultaneously, it legitimized this action by addressing concerns voiced by segments of the labor movement and by enlisting the support of environmental groups. The latter refers to main stream environmental groups' endorsement of changes in the MMPA. These historical roles of the State, however, were performed in a context in which its national form is in crisis and transnational (hemispheric) solutions are sought to overcome this impasse.

State actions in favor of capital accumulation are exemplified by two issues characterizing the Clinton Administration's proposed legislation. The first refers to the rehabilitation of the purse-seine technology. The second deals with its justification arguing that the feared negative environmental consequences associated with dolphin mortality are vastly exaggerated and/or simply not existent. As far as the ban of the purse-seine technology is concerned,

it has been documented that the use of this technology was at the core of the battle surrounding the implementation of the MMPA (Bonanno and Constance 1996). In that case, a radical pro-environmental position prevailed as it viewed the consequences of the use of this technology as incompatible with a sound management of marine resources. The succeeding view was that the negative consequences of purse-seine use could not be controlled by human surveillance nor could they be resolved by technical adjustments. Accordingly, the most effective solution to the problem of dolphin mortality was the elimination of the use of encircling technology in tuna fishing. In effect, this position gained momentum and eventually prevailed partially due to the fact that the U.S. administration allowed grave violations of the original 1972 MMPA. For instance, while the law mandated zero dolphin mortality, its actual implementation allowed the killing as many as 20,000 dolphins per year. Perhaps the most important reason for the U.S. Administration early tolerance of this limited interpretation

of the MMPA rests on the positive impact that the purse-seine technology had on productivity and on the expansion of the tuna industry as a whole. Tuna TNCs as well as tuna fishing and processing based communities viewed the benefits of the expansion of the industry as outnumbering its assumed negative environmental consequences. In essence, the amendments to MMPA which banned purse-seines reflected the victory of a pro-environmental discourse over a pro-accumulation pro-TNC discourse.

The reintroduction of the use of the technology reverts this position by giving primacy to a pro-accumulation and pro-TNC discourse. This discourse contains at least two significant elements which favor TNCs' interests. The first refers to the subordination of environmental concerns to economic concerns. Departing from the content of the MMPA, under the proposed legislation market mechanisms take primacy over ethical issues regarding the safeguard of the environment. Here, the focus is shifted from the ethical question of the long term ability of

society to maintain a safe environment to the narrower position of short term economic gains<sup>2</sup>. To be sure, this posture is similar to arguments proposed by a variety of international organization in recent years. WTO, for instance, ruled that the primary focus of this type of international relations is the free circulation of commodities. The manners in which these commodities are produced, it is argued, should not affect their presence on the market. The *Panama Declaration* maintains the same position. Indeed, as indicated in the narration of the case, the government of Mexico has insisted on reminding the U.S. Administration that according to WTO rulings, that country's tuna producers are allowed to sell tuna regardless of the way in which it is produced. Obviously, the elimination of ethical concerns from the realm of trade provides TNCs with significant economic advantages. It would not only reduce costs of production, but it would allow corporations to free themselves from constraints which hamper their flexibility to operate in the market in the past.

The second pro-TNC element is represented by the expansion of markets that the redefinition of the "dolphin-safe" label would generate. It is probable that the proposed legislation would fragment the now homogenous market into at least two parts. The first would be characterized by tuna caught following the current "dolphin-safe" requirements. The second would be made up by those catches generated by less stringent rules. It is safe to assume that the first market segment would be characterized by more expensive products which would appeal to more affluent and environmentally concerned fractions of consumers. This group would be largely composed of members of the upper and middle classes. These people have historically been better able to respond to environmental concerns even in the case that this preference translated into higher food prices. The second segment of the market will consist of cheaper products which would appeal to lower segments of the spectrum of consumers. In this case, it can be argued that support for the existence of this type of commodity will come

largely from members of the working class. As indicated by literature on the topic (e.g., Harvey 1990; Jameson 1994; Rieff 1993), market fragmentation is an often employed corporate strategy aimed at increasing consumption in the global economy. One of its characteristics is that it reaches previously untapped market segments with specialized products. In this instance, the introduction of a new kind of "dolphin-safe" tuna would perform the role of a "specialized" commodity for the working class. This situation could also result in working class support of TNCs' actions as the former would view favorably the availability of a less expensive food commodity.

U.S. State attempts to foster accumulation processes are not confined to the enhancements of production and productivity and widening of markets. They are also indicated by the redefinition of environmental protectionism assumed by the new discourse. In this case, environmental protectionism is redefined in much more relaxed terms. The new legislation supports the idea that it is environmentally

acceptable to kill a number of dolphins as long as this practice does not exceed mortality limits within each of the various dolphin species. These are thresholds which indicate the minimum number of individuals necessary to maintain adequate dolphin population levels. In the event that killings remain within mortality limits, there is no actual danger to dolphins. In effect, this discourse implies that dolphin killings are beneficial to the entire eco-system as they function as instruments of population control. Additionally, the notion of harm to dolphins and other marine species is redefined in much narrower terms. Indeed, under the proposed legislation, the only sphere of concern remains the observed killing of dolphins in the immediate process of tuna fishing. Simultaneously, concerns about the accuracy of observes and limits of their capacity to carry out tasks are also cast aside. In previous instances, crew members often harassed observers through intimidation and overt physical violence to the point of severely hampering their ability to report law

violations (Bonanno and Constance 1996).

As far as the legitimization role performed by the State is concerned, the case indicates that the Clinton Administration justified its pro-accumulation, pro-TNC attempts to reform the MMPA by addressing some of the concerns expressed by organized labor in the U. S. and Latin America. The State, in other words, was able to enlist the support of labor for the project of reforming the MMPA. It achieved this result by supporting changes in some of the components of the law which have been indicated as hampering employment and growth in the tuna industry.

To illustrate this point it is important to recall that over the years, the implementation of the MMPA and the counter actions of TNCs led to significant negative consequences for labor both in the United States and abroad. TNCs' attempts to bypass MMPA led to the crisis of the tuna fishing sectors along with crises in the processing sectors in California, Puerto Rico and subsequently in Latin American countries such as

Venezuela, Mexico, Colombia and Ecuador. A related result was that in these regions labor opposed the environmental movement's actions in favor of MMPA (Bonanno and Constance 1996). In essence, the implementation of MMPA was a victory for the environmental movement which generated grave consequences for labor. It follows that the lessening of the requirements for the "dolphin-safe" label has been viewed as a measure which could revitalize the tuna industry in its entirety. Simultaneously, similar hopes exist in Latin America where the closing of canneries and the crisis of the tuna fishing sector have been particularly severe. In effect, the opening of the U.S. market to the new "dolphin-safe" tuna would signify renewed economic opportunities for Latin American residents.

The case indicates also that the U.S. State was able to legitimize its actions by drawing support from segments of the environmental movement. Main stream environmental groups, such as Greenpeace, the World Wildlife Fund, the Environmental Defense Fund, the

National Wildlife Federation and the Center for Marine Conservation, backed the Clinton Administration sponsored legislation. More radical environmental groups, however, strongly opposed the initiative. In effect, the State was able to reorganize the composition of the opposing camps whose interaction generated the original MMPA. In that case, the environmental movement was unified and provided successful opposition to the designs of TNCs and the Bush Administration. Today, significant segments of the environmental movement agree with TNCs in supporting the new legislative measure. More importantly, environmental groups have also accepted discourses which share the neo-liberal tone characteristic of corporate postures. As indicated above, for instance, the president of Greenpeace defined the MMPA in terms of "green protectionism" evoking the free market rhetoric used by corporate entities to allow internationally produced tuna into the United States.

The State fostering of accumulation and pro-TNC positions and its ability to legitimate these actions to

segments of opposing groups not only indicate the vitality of the U.S. State but stress its class character. The current version of the MMPA forced the State to face the contradiction between demands stemming from the environmental agenda and those required to further capital accumulation. The former hampered the latter. The course of action selected by the State resolved this contradiction by redefining discourses and reshaping alliances which ultimately strengthened the interests of corporate actors. The class character of this action, then, rests on the State's inability to promote pro-environmental discourse in the face of pressure to revitalize accumulation strategies. The events of the case demonstrate that confronted with the historical possibility to fortify alternative positions, the State remained anchored with its support of capital accumulation strategies.

Contradictions for the State remain, however. The events of the case support the argument that the nation-State does not have the instruments to fully regulate the actions of actors whose scope

transcends the State national jurisdiction. Three items deserve to be briefly mentioned. First, the discourse within which the new legislation develops stresses transnational concepts such as "*hemispheric interests*" and "*global concerns*." The latter indicate the broader than national dimension necessary to regulate capital accumulation and social legitimation. Second, the *Panama Declaration* mandates changes in the U.S. legislation. That is, it is the transnational arena which contextualizes the actions of individual nation-States. This is important because, as in the cases of WTO and NAFTA, the ability of the State to address internal issues (in this case the dispute between environmentalists and TNCs) is framed by decisions which are made outside the State sphere of action. Finally, because the nation-State alone is not able to provide sufficient support to the various groups involved in the case, we see the emergence of transnational forms of the State. In this case, the regulation of the flow of actions and resources is increasingly delegated to the "hemispheric" level<sup>3</sup>.

## ***The Positions of the Environmental and Labor Movements***

Debates on social movements and change underscored the importance of new social movements as agents of emancipatory actions (e.g., Habermas 1987; Mayer 1991; Melucci 1989; Touraine 1981). In particular, it has been argued that in the postmodern post-Fordist phase of capitalism, traditional movements, such as labor, have exhausted their emancipatory charge as struggles shifted away from the economic area into the social arena (e.g., Gorz 1982; Lash and Urry 1994; Melucci 1989). The environmental movement emerged along with the feminist and civil rights movements - as perhaps the most powerful counter to the rise of global capital. In the view of many (e.g.; Buttel 1994; Gorz 1992; Melucci 1989) this movement is capable of generating the necessary charge for the establishment of new and more democratic arrangements in society. The events of the case study address the role of the environmental movement and its assumed ability to be the catalyst of emancipatory struggles.

These events indicate that the environmental movement is divided and encounters significant problems in organizing anti TNC actions. Two elements emerging from the events of case study should be stressed here. The first refers to the unifying and hegemonic<sup>4</sup> powers of the environmental movement. The second concerns its anti-TNC posture.

As far as the unifying and hegemonic powers of the environmental movement are concerned, the events of case study point out that the environmental movement went from a situation of unity to one of division into two camps. This split is based on serious philosophical disagreements on the issues of dolphin safety and understanding of the impact that purse-seine technology has on the environment. The environmental organizations which joined the pro *Panama Declaration* camp regard current "dolphin-safe" standards to be too stringent and, in effect, detrimental to the sound reproduction of the tuna and other marine species populations. The other camp is determined to maintain "dolphin-safe" procedures as estab-

lished by the MMPA. Give the situation illustrated above, it can be argued that the conditions and means for a process of reunification of the movement are dormant at best. The different visions held by the two environmental camps speak also to the ability of the movement to forge alliances with, and direct the actions of other subordinate groups. Large and more established fractions of the movement were able to occupy a position which is supported by labor. However, they also find themselves aligned with corporate positions. Smaller and more radical fractions of the movement strongly oppose TNCs' positions but have not been able to draw support from labor. The current situation, then, sees a much more fragmented environmental movement which has not been able to address the strategic challenges left unresolved after the implementation of MMPA. That is, it is a movement which doesn't have the instruments to generate emancipatory strategies while aggregating alternative forces around its project.

The environmental movement being split into two camps is also

telling of the extent of its anti-TNC strategy. Main stream organizations' acceptance of the tuna industry's position of the use of the purse-seine technology indicates the willingness to compromise between environmental protection and tuna industry's needs for capital accumulation. Simultaneously, it points to the acceptance of a view in which TNCs are no longer identified as the primary opponents in this matter. This is significant as it signals the subordination of main stream environmental movements to the rationale of TNCs. The situation of smaller and more radical fractions of the environmental movement is different. In this case, the pro-purse-seine proposal of the tuna industry is rejected. However, this position is not accompanied by proposals which could address the needs of the industry. In particular, the needs of the workers in the sectors are left unaddressed.

The labor movement's position is also contradictory. On the one hand, labor organizations both in the U.S., but above all, in Latin America, have been strongly critical of environmen-

talists' attempts to implement MMPA. On the other hand, labor organizations positioned themselves, along with TNCs, in favor of the liberalization of fishing techniques and trade. In essence, various segments of the labor movement selected a course of action which ties their demands to the growth of the industry as a whole and to the rejection of measures which ban encircling technology. Support of the tuna industry as a whole has been justified in terms of the establishment of projects which could revitalize national economic sectors through the expansion of production and trade. Expansion of production is deemed possible through the reintroduction of the purse-seine technology while increases in trade are linked to the elimination of tuna embargos. Like in the case of mainstream environmental movements, labor downplays the concerns of more radical environmentalists and charge them with placing animal and ecosystem concerns over those of the well-being of human beings. In so doing, limited attention is paid to the potentially negative consequences of TNCs'

expansion. In particular, this situation refers to the effects of TNCs' hyper-mobility and their decentralization strategies. In the case of hyper-mobility, the tuna-dolphin controversy demonstrated that TNCs can rapidly relocate their investments with serious consequences to communities which depended on TNCs' investments for socio-economic growth. In the instance of decentralization, TNCs have been able to delegate production risks to weaker segments of the industry exposing the latter to potential crises.

### ***The Strategy of TNCs***

One of the most significant aspects of global capitalism is the emergence of TNCs. Differing from their multinational predecessors, these corporations increasingly severed their activities from linkages and loyalties to countries and/or regions of origin (Antonio and Bonanno 1996; Harvey 1990; Spybey 1996). Under global capitalism, TNCs have been viewed as extremely powerful entities whose actions can be hardly opposed by counter

movements and groups (e.g., Heffernan and Constance 1994; McMichael and Myhre 1991; Ross and Trachte 1990). Simultaneously, they have also been described as enterprises whose global scope allows the flourishing of new initiatives and the unleashing of new resources which revitalize stagnant economic situations (e.g., Kindleberger 1986; Strange 1996). Other interpretations picture TNCs in terms of their strengths but also vulnerabilities (e.g., Hirst and Thompson 1996). The early phase of the tuna-dolphin controversy has been interpreted in terms of this latter view. Referring to that case, it has been maintained that environmentalists were able to force TNCs to adopt the "dolphin-safe" label despite the fact that it involved abandoning the use of the lucrative purse-seine technology. However, it has also been indicated that TNCs were able to continue the use of the technology by decentralizing and moving fishing and processing operation outside the jurisdiction of the United States. *The case indicates that the current status of affairs is favorable to TNCs. They enjoy the support of the State,*

important segments of the environmental movement and labor, and the existence of a dominant discourse which redefines environmental protection in terms amenable to capital accumulation.

Perhaps the most interesting aspect of the strategy adopted by tuna TNCs in the continuation of the tuna-dolphin controversy is their limited involvement in the events of the case. In the early phase (1972-1992), TNCs were the subjects of direct attacks from environmentalists and consumers (boycotts) and the State (court rulings against them and legislative actions). In the contemporary phase, the controversy finds environmental groups, labor and various nation-States occupying center stage. More importantly, the relative absence of TNCs from the dispute is replaced by a situation in which contenders are former members of the anti-TNC front. Key in the development of this situation is the decentralization process initiated by TNCs as a response to the action of the environmental movement. Resistance to the use of purse-seine technology prompted TNCs to dissolve

previously established processes of vertical integration. Indeed, from a system in which TNCs directly owned and controlled the various phases of the production process, new decentralization projects were initiated. Fishing boats, for instance, were left in the hands of captains and their crews who were charged with bringing catches to the open market. There, catches were purchased by canneries which then were contracted by TNCs to produce tuna on their behalf. In essence, maneuvers of cost reduction were accomplished by delegating production and leaving market uncertainties to weaker segments of the production structure.

TNCs' hyper-mobility allowed them to shift operation from regions in which conflict was higher to areas where a much more enhanced pro-business climate existed. However, TNCs' maneuvering away from contested regions did not eliminate their presence on the market. In fact, their new scope of action allowed them to source globally for factors of production yet to maintain their presence in primary markets such as the U. S. In other words, TNCs were

able to decouple production and consumption sites which translated into crises for the local tuna related labor forces but also generated advantaged for environmentally conscious U.S. consumers. What was left then was a situation in which labor opposed environmental movement actions and various nation-States were left to resolve the contradiction between the emergence of negative economic consequences (the crisis of the local tuna industries) and legitimation of demands stemming from environmentally conscious segments of the population.

The result of TNCs' "disappearance" was that the situation was framed in terms of a dispute between labor and the environmentalists. As indicated above, this conditions emerged also because the weaknesses of the environmental and labor movements. Yet, the TNCs' hegemonic project was clear and working. By decentralizing production and splitting resistance, TNCs put lower segments of the society against environmentally conscious members of the middle and upper classes and enlisted labor and environmentalists

to support the reintroduction of purse-seine technology and the redefinition of the concept of "dolphin-safe". In the end the tuna-dolphin controversy was "colonized" by a view which supported capital accumulation and a much more limited definition of environmental protection.

## Conclusions

As far as democracy in the global economy is concerned, the events illustrated above have a number of implications. Following optimistic readings of globalization, it can be argued that the establishment of a dominant discourse — which redefines the concept of "dolphin-safe" and allows the enhancement of capital accumulation — not only favors TNCs, but also a variety of other groups. The position of labor, for instance, is explained by the expectation that the overturning of key components of the MMPA could generate employment opportunities. This is a position expressed by labor groups in the U.S., but it is also a long standing position of Latin

American labor organizations and governments. Mexico, Venezuela, Colombia and Ecuador have been explicit about the negative consequences that MMPA caused among fishing and canning communities in these countries. They view the redefinition of the "dolphin-safe" label as a vehicle to re-launch the local industry and exports to the affluent U.S. market. From this perspective, then, the amelioration of the conditions of subordinate segments of society can be interpreted as an inclusionary measure which testifies to the opening of free spaces that globalization entails.

Related considerations can be made for the case of the environmental movement. Segments of the environmental movement recognized the efforts made by the tuna industry to comply with environmental safety. This action established grounds for cooperation between these two groups which did not exist in earlier phases of the case. Simultaneously, and as supported by a series of expert opinions, the changes in the MMPA can be viewed as an improvement of the conditions of a variety of marine

species including dolphins. In these accounts, population control and the maintenance of conditions of equilibrium within ecosystems are considered more desirable than the current status of affairs.

One of the problematic dimensions of the above position rests in the fact that claims about the establishment of democratic spaces are maintained without challenging the hierarchies of the global system. This consideration is relevant because it legitimizes TNCs' powers over processes which directly touch a variety of social actors, and because it limits the sphere of democratic solutions to the context established by TNCs' hegemonic project. Furthermore, this position does not address the concerns raised by broader segments of the literature. According to these works on globalization, one of the most characterizing actions of TNCs has been their ability to bypass nation-State-based rules and regulations. More specifically, it is maintained that TNCs have been able to disengage from democratic rules by avoiding restrictions imposed by participatory decision-making

processes. This condition is viewed as one of the most important indicators of the erosion of democratic spaces in global capitalism.

The case, however, indicates a worsening of this scenario. It shows that TNCs not only exercised their ability to bypass national decision-making processes, but that through this action they have been able to colonize areas of resistance within national contexts. Indeed, the case points out that a pro-TNC position is now characterizing new legislation in the United States and in a number of other countries. This situation represents a double victory for TNCs as they furthered their dominant position both at the local and global levels. In light of the latter, it is obvious that claims about the strength of local resistance and the historical possibility of establishing democratizing processes based on the local must be scrutinized with additional care (see also Swyngedouw 1997).

Despite the apparent overwhelming advantage gained by TNCs, the events illustrated above also can be interpreted to indicate the fact that

the global society and economy are still contested terrains in which struggles, alliances and solidarities are created, dissolved and renewed. More importantly, basic contradictions pertaining to the requirements of capital accumulation have not been resolved by the enhanced scope of TNCs' actions. The latter can give subordinate groups ammunition for challenging the hierarchies of the global order and creating opportunities for establishment of democratizing processes.

It is obvious that the creation of new markets, the proliferation of commodities, the hyper-mobility of capital and other significant characteristics of the global economy and society have weakened traditional forms of resistance (e.g., Spybey 1996; Lash and Urry 1994). Labor, for instance, has been often used as an example of this situation. Despite claims that capital mobility is not as great as previously hypothesized and that locality has significant restrictive impacts on processes of accumulation (e.g., Gertler 1997), the hypermobility of capital allows TNCs to pit distant and unrelated labor markets one

against the other thereby weakening traditional forms of labor struggle and subordinating processes of socio-economic growth to TNCs' decisions to invest in these markets. This situation, in turn, is a precondition of global sourcing for the most desirable forms of labor use (Harvey 1990; Heffernan and Constance 1994). Indeed, it is not a coincidence that the recent and most effective forms of resistance to TNCs' power developed outside traditional patterns of mobilization and counter action.

However, it is also obvious that the characteristics of the global economy and society have not altered the requirements of the commodification of production (Marx 1977: 188-198; 210-247). In other words, processes of capital accumulation are still based on two fundamental conditions. **First**, TNCs must realize capital (see Sweezy 1942), that is, they must transform commodities into money. This requirement makes TNCs vulnerable as they become exposed to counter actions which can affect their ability to realize capital. Lash and Urry (1994:1-5) partially address this issue in their discussion

of the significance of the circulation of capital in the postmodern era. The element that is implicit in their argument and that emerges from the case study is that "consumers" can be the subjects of these counter actions. In principle, at least, the vulnerability of TNCs rests on their inability to find receptive markets for their products. While following Marx, it can be argued that globalization has accelerated processes of exploitation at the production level (global sourcing), contradictions remain both at the production and realization levels. But unlike the case of labor, contradictions are historically much more mature in the case of the realization level. This acceleration of the circulation of commodities in global circuits transformed realization, but it is also opened up spaces for the "politicization" of commodities (Lash and Urry 1994). The creation of "dolphin-safe" tuna is an example of this process of politicization which, albeit in a temporary form, forced TNCs to come to terms with the designs of alternative groups.

The issue of the organization of consumers as subjects of resistance

is beyond the scope of the paper. In the past, the environmental movement has been able to mobilize consumers against TNCs. However, it was not able to develop solidarities and alliances with other groups. This situation prevented them from creating a unified front which could mobilize resources to address unwanted consequences of their actions. The environmental movement, in other words, was not able to create a political front which could address the labor problems associated with the boycott of dolphin unsafe tuna. The most recent events of the case indicate that attempts to generate broader solidarities have been carried out, but they have been contextualized outside an anti-TNC project. However, and despite the evolution of the tuna-dolphin controversy, the contradictions of global capitalism provide subordinate groups with the possibility of carrying out emancipatory projects.

**Second**, TNCs need forms of organization and coordination of their activities which transcend their own organizational capacities (Bonanno and Constance 1996). The fragmen-

tation of production and markets and the global scope of their actions require forms of coordination which have been historically performed by the nation-States. This situation makes TNCs still dependent on the State which, however, remains also open to influences from subordinate groups. In this respect, the evolution of the State, from its national form into its supranational form, has been viewed as a new contested terrain for the establishment of freer social relations (Bonanno and Constance, 1996; Danley 1994). The dependence of TNCs on State forms of coordination, therefore, is a potential contradiction which can be exploited by alternative groups. The events of the case indicate, however, that emerging supranational forms of the State have been characterized by the hegemonic project of TNCs. While the contradictions opened up by the transformation of State forms still remain, their historical evolution has been increasingly controlled by pro-TNC discourses.

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## NOTES

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<sup>1</sup> In this case the Clinton Administration is equated with the concept of the U.S. State. Though the concept of the State involves a broader group of agents and agencies, in this instance we employ the action of the U.S. Administration to illustrate State actions. It is also

important to note that opposition to the Clinton Administration actions within the State apparatus exists. As indicated in the text, a number of members of Congress oppose the end of the bad on purse-seine. However, it is also important to note that fragmentation within the State apparatus is far from being as pronounced as it was during the early phase of the tuna-dolphin controversy (Bonanno and Constance 1996). In that instance both the legislative and judiciary branch of the State stood in sharp contrast with its executive branch.

<sup>2</sup> To be sure, proponents of the *Panama Declaration* argue that the reintroduction of the purse-seine technology is environmentally sound. The core of their thesis rests, however, only on scientific evidence that shows that dolphin populations have been stable and therefore it is possible to tolerate a certain degree of mortality. Additionally claims that alternative forms of fishing hamper tuna reproductive capacities by killing young fish are only anecdotally supported.

<sup>3</sup> It could be argued at this point that the *Panama Declaration* is simply an international agreement among independent nations. Therefore, it is not the indication of the emergence of transnational forms of the State. This objection, however, runs counter to the fact that the *Panama Declaration* is an overall effort to place the regulation of domestic affairs in a transnational context. More specifically,

the *Panama Declaration* realigns domestic legislation with the frameworks of transnational bodies such as WTO and NAFTA. This is a situation which cannot be ignored.

<sup>4</sup> Here the concept of hegemony is employed in its classical meaning. As illustrated by Antonio Gramsci (1971), hegemony refers to the ability of social groups to develop political strategies which are supported by other segments of the social sphere. The latter identify and share the project of the hegemonic group and on these bases together they constitute a movement which is able to conquer or control power in society.