

Northwest Atlantic



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Delcaration by the Spanish Observer Delegation on Items 16 and 17 of the Fisheries Commission Agenda (Management Measures for Fish Stocks in the Regulatory Area and of Fish Stocks Overlapping National Fishing Limits)

Mr. Chairman, Members of Delegations:

The Delegation of Spain takes note of the decisions adopted by this Fisheries Commission of not allocating a special reserve for Spain for the next year.

In this sense I would like to take this opportunity to emphasize the meaning of the allocation of quotas in the present context of International Law. It is obvious that the concept of quota implies a restraint in fishing captures. Therefore, in the case of Spain, not being a member of NAFO, accepting quotas not only represents an attitude of international cooperation but also implies an important self-limitation of its rights to fish in the high seas deriving from the principle of the freedom of the seas, only curtailed by the obligation of adopting unilaterally or by cooperation with other States, the appropriate conservation measures.

My Delegation Mr. Chairman, would also like to recall the principles of the Law of the Sea related to management and conservation of the living resources in the high seas. According to the Geneva Convention of 1958 and the projected Convention of the Law of the Sea (A/CONF 62/WP 10/Rev 3): "All States have the right for their nationals to fish in the high seas" respecting inter alia, their conventional obligations (art.116).

This right is balanced by the obligation of all States to adopt unilaterally or to cooperate with other States in the adoption of the measures that could be necessary to the conservation of the living resources of the high seas (art.117).

These measures of conservation can also be exercised, although not necessarily, through regional fisheries organizations.

Precisely all Fisheries organizations that allocate quotas to Contracting Parties have established the practice of allocating a general quota under "others" as a guarantee of the right of all States of the International Community to have their nationals fish in the high seas.

In this particular occasion the allocation for "others" is clearly insufficient for the minimum needs of the Spanish cod and squid fishing fleet which has traditionally been the most important in number of units operating in the Northwest Atlantic.

It is our view that this insufficient allocation ignores the obligation established in article 119, paragraph 3, of the Project Convention of the Law of the Sea which reflects the customary International Law.

The above mentioned article reads: "The interested States will guarantee that the conservation measures and their enforcement will not imply any legal or "de facto" discrimination against the fishermen of any State".

In view of all this and as for 1982 this Fisheries Commission has adopted the unfortunate decision of not giving allocations to a country like Spain whose traditional presence in these waters is well known to the international community, my Government, only in case of not having been able to adhere to the NAFO Convention, is forced to reserve itself the right to impose unilaterally on the fishing vessels under its flag the appropriate conservation measures according to the most reliable scientific data. We will also enforce these measures by a control system that could be considered pertinent, taking into account the rules of international cooperation between states fishing in the high seas beyond the economic zone of the Coastal States.