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Intervention of Spanish Delegation on Item 7
of Fisheries Commission Agenda
(Report of the 3rd Special Meeting)

Mr. Chairman, Members of Delegations,

The Spanish Delegation has been instructed to present before this Commission the firm protest of its Government for the Resolution 1/81 approved at the extraordinary meeting of this Commission that took place the 25th and 26th June 1981.

First of all, that Resolution which accuses Spain of not abiding to the rules for the allocation of quotas for 1981, was adopted against the most elementary rules of procedure established in the NAFO Convention.

When the enforcement of the rules of a Convention is sought the resolutions have to be based on the established legal procedure. The following are the breaches of procedure as appreciated by us:

The Government of Spain did not receive prior to the Meeting of June either official notice of the Commission about alleged infractions committed by trawlers under Spanish flag fishing in zones 3M and 3NO, or copies of the inspection reports.

At that time we had only received through the Executive Secretary of NAFO an accusatory letter that was sent to him by the Government of Canada to be circulated among the member countries of the Convention. Our Embassy in Ottawa also took delivery of a verbal note from the Government of Canada on the same subject.

The Government of Spain considers that this is not the right procedure established by the Convention to notify alleged infractions incurred by vessels under flags of a state with fishing rights in the high seas beyond the fishing jurisdiction of a coastal state.

The Resolution accuses the Spanish fishing trawlers of not abiding to the conservation measures and rules adopted by NAFO. This assumption has not been duly checked in accordance to the Convention.

In that respect, may I recall that in accordance with the Scheme of Joint International Enforcement of the Fishery Regulations in the Regulatory Area, adopted by the Commission the 9th of June 1979, the NAFO inspectors designated by one Contracting Party have the obligation of contacting inspectors of the nationality of the inspected trawler or the authority designated according to the first paragraph of the above mentioned Scheme of Joint International Enforcement. On the other hand paragraph five establishes which countries and authorities should receive the copy of the inspector's report. Under no circumstances the Contracting Party that has designated the inspector appears as a recipient of the said copies. Therefore, the Government of Spain believes that the rules of the Scheme of Joint International Enforcement have been ignored not only by Canada but also by the Commission which has failed to notify the infractions.

The Government of Spain following the NAFO Convention does not recognize the competence of the Government of Canada to notify the infractions and therefore has not yet initiated any action to correct or sanction the alleged infractions of the trawlers under Spanish flag.

The Resolution 1/81 accuses also Spain of not having observed the NAFO Scientific Observer Scheme. This accusation implies also ignorance of the rules approved by the Commission because the adoption of such Program of Scientific Observers should be made through bilateral agreements.

On previous occasions, the Government of Spain had agreed with the Government of Canada the implementation of the above mentioned Program as a part of the annual agreements signed between both Governments. This present year, unfortunately, it has been impossible to this date, to reach a global agreement that could include also this subject.

Nevertheless, the Government of Spain wishes to express its will to reach agreements on bilateral basis with other states with fishing rights in the zone beyond the 200 mile limit in view to implement the referred Program of Scientific Observers on a reciprocity basis.

Secondly, referring to the recommendation of the Commission urging the Government of Spain to put an immediate stop to the activities of Spanish fishing trawlers in Divisions 3M and 3NO, I have to declare that my Government does not accept as valid the accusation put forward by Canadian inspectors of insufficient and inaccurate catch reports because this allegation has been based in appreciative estimates with no objective base and ignoring the procedure established by the Convention.

Consequently I wish to inform the Commission that the Spanish fisheries administration will keep issuing the pertinent orders for the Spanish vessels to halt their fishing activities as soon as it is considered that they have reached the appropriate levels.

In this respect the Spanish authorities notified the Executive Secretary on the 20th of July that the fleet had already been instructed to cease all activities in subdivision 3M considering that it was no longer advisable to carry on fishing in that zone.

Later on certain informal accusations by a coastal state put in doubt the effectiveness of the order issued by the Spanish administration. Following that notice it is true that we have been able to ascertain that some skippers did not comply immediately with the instructions received. I am in a position to assure you that today not a single Spanish vessel is, to my knowledge, fishing in Division 3M. It goes without saying that action will be taken against those who did not comply with the order in due time.

With respect to Divisions 3NO the accusation was totally unfounded since the captures at the time were around 5,000 tons, that is well below the quota of 9,000 tons, as was duly notified to the Secretary in due time.

Before ending my intervention I would like, Mr. Chairman, to state that the Spanish Delegation following clear instructions from my Government is bound to reject, at this moment of accusation and condemnation, the invitation contained in the last paragraph of Resolution 1/81 that refers to our adherence to NAFO.

The reasons by which Spain did not sign the Convention of NAFO are well known to all the Delegations present here today. I refer you to Document NAFO/GC Doc 80/III/1 where these reasons are clearly stated.

Also, Mr. Chairman, the Spanish Delegation has been steadily maintaining in previous sessions that the International Law of the Sea does not require to materialize the international cooperation with other states through an International Fisheries Organization.

This thesis has been recently used by the Government of Canada itself as the legal central argument for its withdrawal from I.W.C.

For all what I have said the Government of Spain would greatly appreciate the Commission to agree on having Resolution 1/81 not adopted and accordingly to withdraw the document from the Commission and eliminate all reference to the same in any official document of NAFO.

This measure, Mr. Chairman, would enormously help in clarifying the present situation in order to find the adequate solutions to it. Solutions that the Spanish Government genuinely wishes to achieve.