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STATEMENT BY THE AGRICULTURE SECRETARY
OF THE DELEGATION OF THE COMMISSION OF
THE EUROPEAN COMMUNITIES, AT THE HEARING
ON AUGUST 5, 1981 HELD AT THE U.S.
DEPARTMENT OF COMMERCE ON :

FOREIGN FISHING FEES FOR 1982

In accordance with my German and Italian colleagues who are present to express their Government's concern, I appreciate the fact that the Commerce Department is holding a hearing on the important issue of Foreign Fishing Fees for 1982. This issue is not only important to foreign fishermen, but also to fishermen and consumers in the United States.

Any discouragement of Foreign Fishing in U.S. waters which will result from the present proposed fee schedule, will result in less joint ventures for American fishermen, less research contribution from foreign countries, higher prices for U.S. consumers and less market access for U.S. products to third country markets. I already elaborated on these aspects during last year's hearing on the fee schedule for 1981 and I therefore do not intend to repeat these arguments in detail.

In addition, you set a bad example for other nations with the present proposals. You should know that at present, U.S. fishermen enjoy rather advantageous conditions for fishing shrimp in the waters of French Guyana. If the U.S. Administration goes ahead with such unreasonable fishing fees as presently proposed, there would be good reason for the E.C. to charge these fishermen similar fees in a spirit of reciprocity. Such fees could include among others, some of the administrative costs of the Commission Services in Brussels (including travel expenditure to international conventions in the South Pacific), some of the administrative costs in the fishing services of some of our Member State administrations, costs for

surveillance activities of some Member State Navies regardless of whether it was for surveillance in the North Sea and the English Channel, and rescue costs. Furthermore, we would have to create a gear damage compensation fund and charge U.S. fishermen a surcharge fee for gear damages occurring in European waters. Finally, we would apply full observer coverage with Foreign Fishing Vessel Transmit Terminals on the shrimp fishing boats, satellite connection for transmission of data to Brussels, and naturally also a receiver terminal in Brussels. The owner of the shrimp fishing boats would have to make constructional changes on his boat for the Transmit Terminal and ^{to} accommodate the observers' needs. You would certainly consider this complete nonsense, and I can imagine the terms of a demarche your government would make to the Commission of the European Communities. However, this would be just the kind of consideration on which the provisions in the Magnuson Act seem to be based, and which you are apparently trying to execute by the present proposals.

I think your Administration should not fail to realize the shortcomings of the Magnuson Act under U.S. economic aspects (to which I referred earlier), as well as under international law and understanding aspects. As I said last year, the US/ES Fishery Agreement stipulates that only "reasonable" fees should be charged and the understandings reached up till now in the framework of the Law of the Sea conference require permission of optimal utilization of

fish resources. Such optimal utilization is not possible if foreign fishermen are forced out of U.S. waters by unreasonable fees. It is therefore your obligation to make the best out of an unsatisfactory Bill and try to eliminate the negative consequences of that Bill by a most flexible and where necessary, restrictive interpretation of the terms of this Bill.

Let me add another general consideration.

Your new government's declared policy, to my understanding, is to reduce government involvement dramatically and to cut government expenditure wherever possible. I think this principle should apply not only to U.S. citizens but also to foreign fishermen who, under international law, have the right to fish in the United States Fishery Conservation Zone. This does not mean that I am suggesting less conservation efforts. What I am requesting is equal treatment for foreign fishermen compared with the rules and practices applied to U.S. fishermen. I wonder, for example, whether your Administration also intends full observer coverage for U.S. fishing vessels and recreational catch boats, and whether you intend to put vessel transmit terminals on each of your domestic boats. I do not think there is any proof that foreign fishermen are less honest in their operations than U.S. fishermen and captains on recreational catch boats.

Now we come to a real question of principle. Should foreign fishermen really pay for any invention the U.S. Administration may make to come to a full 100 percent reporting system of what is

going on, or should we not expect from your Administration, an approach more comparable with practices applied in other sectors of the Administration? For example, what should we say if your Administration considers it appropriate to have a helicopter on every fishing vessel, and, since there cannot be landing space on every vessel, to have a U.S. helicopter landing boat alongside each vessel? As you can see, there are limits to what you can reasonably request from foreign fishermen. I have the feeling that your proposals may not have taken these aspects into consideration.

You may now say that the question of the fishing vessel and gear damage compensation fund and the question of full observer coverage, etc., should not be the subject of this hearing, but they have to be.

These programs have direct repercussions on the profitability of foreign fishing and cannot be ignored when we are talking about fishing fees.

In addition, the question of principle, which administrative costs can reasonably be related to foreign fishing and which administrative activities, if related to foreign fishing, are justified also have to take these programs and particularly the observer program into consideration. I will come back to this aspect when I speak about Coast Guard costs.

Now I would like to come to the specific points of your advance notice.

The time between publication of the notice and the hearing was so short that my comments cannot cover all aspects involved, but further written comments may be submitted.

Secondly, the proposed fee schedule is in fact a "major rule" under any criterion you may apply. If the proposed fees are implemented, the economic damage for U.S. fishermen and consumers will, as indicated earlier, be far more than 100 million dollars, not to speak of violation of U.S. fishery agreements with other nations and U.S. commitments in international fora.

Thirdly, there may in fact be need for an Environmental Impact Statement (EIS) because one of the options proposed could favour rigorous fishing practices which are not applied by European fishermen who, on the contrary, try to obtain their allowed catches with the smallest amount possible of undesired by-catches and the least damage to the seabed symbiosis.

Regarding the three options proposed, the European Community as well as the Governments of Germany and Italy, believe that the system applied presently is the only acceptable one. It is important to maintain a relation between the value of the species caught and the imposed fees because it is the only way in which your fees can be kept in reasonable proportion with the result of the fishing.

In addition to this, there remain some other aspects to which I would like to react. In very general terms, I already responded to them in my introductory remarks.

A major question concerns the differentiation between domestic and foreign fishery.

In my view, it is rather arbitrary to use a tonnage comparison to distribute the costs of administration, etc. between domestic and foreign fishery.

Your public notice made it very clear that the higher the fish value, the greater the necessity for surveillance. Also, it is absolutely clear that U.S. fishermen catch the higher value species. It would therefore be appropriate to apply value rather than quantity criteria for the split between domestic and foreign costs.

However, even taking the present basis to determine the catch ratio, I wonder whether all U.S. territorial waters were included and how Canadian catches may have been taken into consideration.

Coming to the administrative costs, I have to say that this is a particularly burdensome problem to comment on. First, none of us is an expert on this, and second, the little information we obtained is not very enlightening.

However, I have the impression that there are positions included which have little to do with foreign fishing or even with domestic fishing; marine mammals for example. Then there are costs for regions included where foreign fishing is only a marginal event to my knowledge. I also doubt if it is reasonable to include the cost for recreational fisheries at all. Other costs shown relate to activities which under a full observer program, should no longer be relevant, such as costs indicated for enforcement. It would therefore be necessary, and I believe it would still be in conformity with the Magnuson Act, to look into all these figures under the following criteria :

- Are there costs which are not related at all to either domestic or foreign fishery? If so, they should be excluded.
- Are there costs which are clearly related either to domestic or to foreign fishery (costs easily be apportioned to one or the other fisherman)? If so, the domestic or foreign fishery should bear the costs.
- Are there costs which cannot be clearly attributed to one or the other side? If so, then charge the foreign fishermen with the ratio of the value of their catches.

If you apply these criteria in addition to your government's austere principles, you will, I am convinced, end up with much lower figures for NMFS and NOAA, and you will entirely exclude the Coast Guard costs. It is already very doubtful if the imposition of these costs is entirely justified. The Coast Guard operates in waters which in part, have never seen a foreign fishing vessel.

Furthermore, a good part of its operations has nothing to do with fishing at all but with illegal immigration, drug traffic, national security and among others, with people in distress at sea. Once we have the observer coverage you intend to put in place, there is no longer any need for coast guard activities to survey foreign fishing, and I repeat, the Coast Guard costs presently taken into consideration are already highly unjust.

Regarding the other additional costs, you know from my earlier comments that I strongly oppose the unjust surcharge for the fishing vessel and gear damage compensation fund.

Also, with respect to the observer program, I would suggest you ask yourselves for a moment if you would impose the same program costs on your domestic fishermen (under the same fishing conditions) as you intend to impose on foreign fishermen, leaving aside the question of the transmission terminals. I know from the agricultural sector for example, that your Administration has developed or is developing a rather simple computerized record regarding the aspect of compliance of imported meat with U.S. health standards. On the basis of this information, the computer provides an examination schedule for imported meat from various sources. Those countries that have a good record are subject to little examination at the port of entry and those with a bad record are checked nearly every time.

I think the same could be done within the observer program. Those countries that have shown good fishing and reporting practices need less observer coverage than others who have given reason for concern. I believe it would be worthwhile to consider this point because in the end, we are speaking about the question of the amount of fees foreign fishermen can bear without being obliged to leave U.S. waters; and I believe you wish to maintain in your waters, those nations who respect your fishing rules the best.

Let me come to the amount of fishing fees as proposed under option 1) which is the only option we can accept as a reasonable one.

These fees are about 250% the amount of fees applied in 1981 and you may think that this is a difficult but acceptable proposal for foreign fishermen. I can tell you that for our German and Italian fishermen who barely maintained their presence in your waters when other members dropped out, these fees are absolutely unacceptable already in dollar terms but even more in European currency. The re-evaluation of the dollar by about 40% in the last 12 months means for Europeans, that your fees will not increase by 250% but by 350%. In addition, fuel prices and some other costs are internationally fixed in dollars. This means that European ships in U.S. waters also pay 40% more for their fuel, etc. At the same time, we see a major economic crisis in Europe characterized by high inflation,

increasing unemployment and stagnant incomes.

At the same time, Italy for example, continues to face cheap imports of Illex and Loligo which put Italian fishermen in a no-win position. The Italian Government also clearly indicated to the Commission of the E.C. that the presently proposed fee schedule will increase Italian fishermen's financial burden in such a way that they may be pushed out of business without the possibility to return.

It is therefore in the interest of fishermen and consumers on both sides of the Atlantic that you find an equitable solution to this fee question. As I indicated in the beginning, U.S. fishermen and consumers could only lose if foreign fishermen were to be forced out of U.S. waters.