

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT)

Communication from Brazil

The delegation of Brazil has requested that the following statement, which it made at the Information Session with Secretariats of Multilateral Environmental Agreements on 23 July 1998, be circulated to Members of the Committee on Trade and Environment.

1. Let me seize this opportunity, Mr. Chairman, to congratulate the representative of ICCAT for his very clear and objective presentation. I would also like to extend my congratulations to the Secretariat of ICCAT for the paper provided to us in advance. It is concise and straight to the point, while being very informative.
2. As many of us here know, the 15th plenary meeting of ICCAT, last November, approved a recommendation regarding the compliance with the established quotas for albacore catch in the South Atlantic. This recommendation extends to the South Atlantic the same trade restrictive measures applied to North Atlantic countries that do not observe the quota limits for the catching of tuna and albacore.
3. In the understanding of Brazil, this recommendation has discriminatory elements, for it does not take into account specific economic, social and commercial considerations, nor environmental concerns and fishing practices in the South Atlantic, which are obviously different from those of the North Atlantic.
4. In the South Atlantic region, fleets from developing coastal countries have to compete for the same fish stocks with fleets from the North Atlantic, which are much better equipped and technologically more advanced.
5. Besides the technological edge, the fleets from developed countries are more numerous and cover a larger geographic area, including the vicinities of the exclusive economic zones of the South Atlantic nations.
6. In addition, the catches of North Atlantic countries in the southern waters are for national consumption, whereas the South Atlantic coastal countries depend highly on foreign markets to export nearly all their production. The South Atlantic fishery industry is, therefore, much more vulnerable to the same trade restrictive measure.
7. During the discussions that led up to the adoption of this recommendation, Brazil, supported by some southern countries, presented to ICCAT members the preceding arguments with a view to postpone a decision on the matter and have a more thorough analysis of the consequences of such a

recommendation. Regardless of the efforts conducted by Brazil - and some like-minded countries - the recommendation was approved.

8. Brazil also pointed out that the exclusive utilization of historic catch criterion to allocate shares of the total quota for albacore fishing has only favoured countries well established in the fishery sector, which employ the most advanced technology in their fishing operations.

9. This situation has strongly worked against the interests of coastal states in the south - whose fishery industry is still being developed - by imposing constraints on their legitimate aspirations to further develop this industry. This situation also condemns some economies, which strongly rely on coastal and fishery activities to stagnation or deterioration.

10. In light of these circumstances, Brazil was left with little alternative but to present to ICCAT - according to paragraph 3, Article 8, of the ICCAT Convention – a formal objection to the recently approved recommendation. In doing so, Brazil also reiterated its expectation that, in its future work, ICCAT incorporates criteria that take into account the specific interests of the coastal states, whose sovereignty rights regarding the use, management and conservation of the natural resources within their exclusive economic zones are ensured by the United Nations Convention on the Law of the Sea.

11. On a constructive approach to this matter, Brazil has been defending the review of the historic criterion. In its proposal, Brazil envisages alternative scenarios and methods for the catch quota allocation in the South Atlantic, which could encompass elements such as: (i) distribution of stock biomass; (ii) economic dependency on the fishing activities; and (iii) participation of adult fish in the catches. These are criteria that take into account environmental concerns, but do not neglect legitimate economic and social considerations. As we like to say it here in the CTE: a good example of a “win-win” situation.

12. Having said that, I would like to ask the representative of the ICCAT Secretariat the following questions:

- Should a recommendation that aims at restricting trade for the purposes of compliance with quotas that are based only on historic data and do not account for specific economic, social and commercial considerations, be considered **a least restrictive trade measure** capable of addressing environmental issues?
 - When examining this case, did ICCAT consider other possible criteria besides the historic catch?
 - The United Nations Convention on the Law of the Sea provides for preferential treatment to be given to coastal states in relation to the exploitation of fishery resources. Has this element been taken into account when considering the recommendation?
 - Has ICCAT ever used criterion other than “historic catch” to determine quota allocation?
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