



## THE QUOTA CASE

### CONFIDENTIAL INSTRUCTIONS FOR THE DEPUTY ASSISTANT SECRETARY FOR OCEANS AND FISHERIES, U.S. DEPARTMENT OF COMMERCE

You serve as a Deputy Assistant Secretary in the U.S. Department of Commerce. Your responsibilities focus primarily on helping to develop and oversee policies which protect U.S. fisheries and other ocean-related industries. You recently received the following from your boss, the Assistant Secretary of Commerce:

"Managing Zapata's request for an increased fishing quota off the Georges Bank has taken on a new dimension. The Defense Department (DoD), fearing a delay of the base agreement, has pressured the State Department to re-open the quota question. As a result, we seem to have been taken off the case and the State Department has asked Zapata for a meeting in Washington. The State Department did not even consult us on whether to re-open the issue and I fear that the DoD may further pressure them into giving in completely (however, it is normal procedure for State to handle the negotiations). In preparation for the upcoming State Department meeting with Zapata, I want you to work with the State Department and the DoD to develop a common approach to the negotiations and to see that our interests are adequately represented in the upcoming meeting. I am concerned that the State Department may give in to DoD's position if we are not present at the negotiations or are not guaranteed that we will be consulted before any agreement is reached with the Zapatans. At a minimum, you must make sure that the negotiating instructions given to the State Department representative adequately reflect our interests."

"Once again, the DoD has clearly over-stepped its bounds by interfering in an issue that has nothing to do with national security. We have long had a policy of refusing requests for unilateral quota increases dispensed randomly because they are inconsistent with the Magnuson Act, upset our domestic fishing industry, and set an untenable precedent which other countries will want to exploit. The DoD is vigorously pursuing this base agreement because it may fear its funding, and more importantly its influence within the government, are at stake."

"By stirring up anti-American sentiment as an excuse to delay the base negotiations, Zapata is executing a well known negotiating ploy of divide and conquer: hoping to pit the Defense Department against us in order to get a concession on the quota issue. According to the State Department's report, the last meeting with Zapata broke off with an angry exchange with the Zapatan Vice-Minister for Trade and Industry. When we tried to explain that an arbitrary quota increase was against U.S. policy and inconsistent with the Magnuson Act, the Vice-Minister accused the U.S. of protectionism. When we offered to meet the Zapatan needs for more squid through "over-the-side" sales from U.S. fishing vessels, the Vice-Minister rejected the idea saying that Zapata had "no use for the over-priced, inferior quality fish" produced by our fleet."

"Shortly after this exchange, the anti-American attacks appeared in the Zapatan press. One editorial in *La Nación* exclaimed that, "Each passing day, Zapata's relationship with the U.S. is proving to be more and more one-sided, in favor of the U.S.! Whether it's fisheries or military bases, Zapata is giving and the Americans are taking." Several opposition political groups have picked up on this issue and are using it for their own political advantage against the Zapatan Prime Minister."

"The Prime Minister says that he is now reluctant to finalize the base agreement with the current high level of anti-American opinion in Zapata. The move may actually be aimed at increasing pressure for a deal on the quota increase. A Zapatan delegate to the base negotiations is reported to have said they are hoping something will happen to improve the current situation, such as "perhaps some progress on the fisheries issue."

"In order to counter this tactic and resist yielding to intimidation, the State Department negotiator should be instructed not to discuss the base question during the talks with Zapata. Military bases have nothing to do with squid, and the base negotiations are being conducted in a separate forum."

"The State Department should also be instructed to reiterate our previous offer to increase "over-the-side" sales of squid from U.S. vessels to meet Zapata's increased need. If this is not satisfactory to the Zapatans, then the State Department should stress that the limits of the Magnuson Act prevent us from making an arbitrary increase in a country's quota. The U.S. must remain firm on this point. The Act clearly requires that in considering setting or increasing quotas we should give foremost attention to the potential impact on our domestic fishing industry."

"As you know, our domestic fishing industry is very sensitive about moves which appear to give foreign fishing fleets a greater advantage than that which they already enjoy over the U.S. fleet (in fact, the domestic fishing concerns would like to have all foreign fishing phased out over the next 5 to 10 years). The technology used by our domestic fishing industry is way behind that of the Europeans and Japanese, who use more modern techniques, nets and processing ships. This is especially true in the area of Loligo Squid. We have had trouble competing with foreign producers of squid in either quality or price. Unfortunately, the foreign countries fishing off the Georges Bank have refused past attempts to set up joint ventures or agreements to buy fish directly from U.S. fishing vessels."

"The importance of the upcoming negotiation with Zapata goes beyond just the domestic fishing industry. On my last trip to Capital Hill, I met with Members of Congress to gain support for a series of free trade agreements. We are hoping to convince the Congress to agree in advance to ratify the free trade agreements without making amendments (so-called "fast track" authorization). Many Members are reluctant to ratify future free trade agreements without amendments because they are skeptical of the Administration's ability to protect the interests of domestic industries in the free trade talks. If State bows to pressure from the Defense Department in the Zapata case and agrees to something that upsets our domestic fishing industry, it may make it impossible to get the upcoming free trade agreements ratified by Congress

without amendments."

"If we are not able to reach a mutually acceptable outcome on how to approach the negotiations with Zapata, then the issue will likely be pushed up to the White House for a decision. If it went up to the White House, we would be at a disadvantage vis-a-vis the Department of Defense which has a much closer relationship with the President. To compensate, we may have to get Members of Congress to make the case that giving in to the Zapatans will hurt the free trade effort, and will make the President more vulnerable to attacks that she cares more for foreign policy than she does for the domestic economy. This is a point on which the President is vulnerable according to the recent public opinion polls."

"Even if the State Department agrees to a quota request, we still have the ability, under the Magnuson Act, to deny any quota increase. However, it is not clear how easy it would be to block the increase at that point. We are likely to face a great deal of pressure from both the State Department and the DoD, and to fight it out in the Congress and with the President will likely be a messy battle. We would do well to avoid that situation, and it is in our interest that the negotiators be instructed not to promise to "keep talking" about the quota increase just to buy time."

"Thus, our preferred course of action is to get Zapata to issue a statement that they have agreed to drop the issue of a quota increase. We need to take a firm stand on this issue because there is likely to be great pressure from the Department of Defense to simply give in to the Zapatan request. The DoD either does not see or does not care about the negative implications of such a move, and they are used to getting what they want. The Defense Department has not yet come to terms with its new role now that the Cold War has ended. It is important that we come up with a victory on this issue in order to establish a new trend."