

## THE QUOTA CASE

### GENERAL INSTRUCTIONS

#### **The Georges Bank**

The Georges Bank is a rich fishing area off the North Atlantic seaboard of North America. The Bank falls within the coastal "Exclusive Economic Zone" of the United States and thus fishing off the Bank is subject to U.S. regulation. Historically, the Bank has been fished by vessels from a number of nations. Quotas were established to restrict the amount of fishing by foreign enterprises off the bank.

#### **The Quota System**

In order to protect the Bank from over-fishing the United States instituted a "quota system" which sets the maximum amount of each species of fish a country is allowed to take per year. Each year, the U.S. Government sets a quota for each foreign country by: (1) estimating the "maximum yield" or the amount of fish that can be taken without damaging that particular species, (2) subtracting from the maximum yield the amount allocated for the U.S. fishing fleet, and (3) dividing up the remaining amount between other countries wishing to fish off the Georges Bank. The "quota" is the amount of fish a foreign country can harvest in that year and is determined according to criteria set out in Section 210 of the Magnuson Act (see attached). Many countries argue that the U.S. underestimates the maximum yield of particular species and greatly overestimates the amount of fish its domestic industry will harvest. Thus, they argue, there is room for increasing the quota and they see the quota as a form of trade barrier to hinder foreign competition with the American fishing industry.

Under the Magnuson Act the Department of Commerce makes the final quota determinations after input from the Department of State. The State Department's recommendations are given high weight and are usually followed.

#### **Zapata**

Zapata is a developing European country bordering the Atlantic Ocean. It is a country which suffered for decades under the economic stagnation and oppression of the dictatorial Marco regime. Zapata became a democracy nearly seven years ago. Progressive economic policies and a stable democratic government have helped rejuvenate the country and they are expecting to join the European Union within two years. While generally in economic need, the country's fishing industry remains a technological leader and a competitive producer of high quality fish products.

#### **Background on the Current Dispute**

In an attempt to bolster their domestic fishing industry, Zapata has officially requested a 800-1000 mt increase in their annual fishing quota for Loligo squid off the Georges Bank, an increase

of nearly 67% over their current quota. The increase would take effect in the next calendar year. The United States however, has consistently refused to even discuss the quota increase, explaining that unilateral and arbitrary exceptions to the quota system are non-negotiable. Nevertheless, the Zapatan Vice-Minister of Industry and Trade has made three formal requests and a number of informal attempts to discuss the issue, and each time was refused.

The United States and Zapata are allies and share a number of cultural, political, military and economic links. The primary issue in relations between the U.S. and Zapata is the on-going negotiations to renew two U.S. military bases in Zapata. The bases are the result of a deal made by the former Marco regime some 25 years ago. The bases are the source of much anti-American sentiment in Zapata as they are a symbol of past American dominance over Zapata.

### **The Current Situation**

Recently, a brief meeting was held at the Ministry of Industry and Trade in Zapata between the U.S. Embassy's Counsellor for Economic Affairs and the Zapatan Vice-Minister of Industry and Trade. The meeting ended after a heated exchange on the quota issue. At about the same time, anti-American sentiment has been fueled by press attacks on U.S. relations with Zapata. The Zapatan opposition parties have used the increased anti-American sentiment to put pressure on the Prime Minister. Accusations are flying that the Prime Minister has fallen prey to American control over Zapata's internal affairs. The base negotiations are practically completed and the opposition parties are trying to upset the process. Some radical politicians from the Zapatan province of Pescadilla, which is heavily dependent on the fishing industry, have linked the quota issue to the base negotiations in the hope of putting pressure on both the U.S. and the Prime Minister. Others in the opposition parties and the press picked up on the fisheries issue as another example of Zapata's one-sided relationship with the U.S.

Uncomfortable about the possibility of the quota issue interfering with the swift conclusion of the base negotiations, the U.S. has requested a meeting in Washington to discuss the fisheries issue. A meeting will take place between negotiating teams from the Zapatan Ministry of Foreign Affairs and the U.S. State Department. Currently, each side is conducting internal consultations in preparation for the meeting.

In preparation for the meeting with the U.S., Zapatan officials from the Ministry of Foreign Affairs, the Ministry of Industry and Trade, and the Ministry of Defense will be meeting to jointly produce **negotiating instructions** for the Zapatan negotiators. While only the Ministry of Foreign Affairs is likely to be at the negotiating table with U.S., the current Zapatan political situation makes it unlikely that anything would be approved and implemented without the support of each ministry. Similarly, officials from the U.S. Departments of Commerce, State, and Defense are meeting to prepare for the upcoming meeting with the Zapatan representative, and they will be jointly producing **negotiating instructions** for the U.S. negotiator from the State Department.

## **Attachment A**

### **MAGNUSON ACT, Section 201(e)(1)(E) (abridged)**

The criteria for the allocation of quotas for foreign countries fishing in U.S. waters shall include:

- (1) Whether, and to what extent, such nation imposes tariff or non-tariff barriers or other trade restrictions on the importation of U.S. fish or fish products (especially in the area in which the nation has requested a quota or quota increase);
- (2) Whether, and to what extent, such nation is cooperating with the U.S. to advance opportunities for U.S. fish exports including the sales of fish and fish products (especially in the area in which the nation has requested a quota or quota increase);
- (4) whether, and to what extent, such nation requires the fish harvested for its domestic consumption;
- (5) whether, and to what extent, such nation otherwise contributes or fosters the growth of a sound and economically viable U.S. fishing industry, including the transfer of harvesting or processing technology which will benefit the U.S. fishing industry.
- (6) such other matters as the Secretary of State deems appropriate.

## Attachment B

### FISHING INDUSTRY DATA FOR LAST 5 YEARS

#### Harvest of Loligo Squid (all figures in metric tons)

<u>Year</u>	<u>Estimated Maximum Yield</u>	<u>Actual Total Catch</u>	<u>U.S. Catch</u>	<u>Zapatan Catch</u>
4	22,000	17,320	4,252	1,350*
3	27,500	23,746	3,996	2,000*
2	26,000	22,528	2,316	1,900*
1	25,000	21,269	5,464	1,600*
Current Year	24,500	—	9,000 Allocated	1,500 Allocated

The difference between the Estimated Maximum Yield and the Actual Total Catch is primarily due to the U.S. not harvesting the maximum amount they are allowed to catch.

The Actual Total Catch consists of the total of the U.S. catch, the Zapatan catch, and the total catch of other foreign fishing vessels.

For the years shown, the U.S. catch has been an average of approximately 65% of its allocated amount of squid.

\*The Zapatan catch figure also represents the full quota amount allocated to Zapata for that year.