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PROPOSALS BY LEGISLATORS

BY SENATORS LUÍS ALBERTO COPPOLA JOFFROY, HUMBERTO ANDRADE QUEZADA, JAIME RAFAEL DÍAZ OCHOA, LUIS FERNANDO RODRÍGUEZ LOMELÍ AND EMMA LUCÍA LARIOS GAXIOLA, OF THE PARLIAMENTARY GROUP OF PARTIDO ACCIÓN NACIONAL, CONTAINING THE POINT OF AGREEMENT TO EXHORT THE FEDERAL GOVERNMENT AND THE HOUSE TO SERIOUSLY ANALYZE AND REJECT ANY ATTEMPT TO INCLUDE “MAHI MAHI” IN COMMERCIAL FISHERIES, WHICH WOULD CAUSE SERIOUS HARM TO THE COUNTRY’S SPORT FISHING AND TOURISM SECTOR, IN PARTICULAR OF THE STATE OF BAJA CALIFORNIA SUR.



Sen. Humberto Andrade Quezada

LUÍS ALBERTO COPPOLA JOFFROY and HUMBERTO ANDRADE QUEZADA, Senators of the Republic of the LX Legislature and members of the Parliamentary Group of Partido Acción Nacional, based on the provisions of Article 58 of the Regulations for Internal Governance of the General Congress of Mexico, submit to the consideration of this Sovereign Authority the following Point of Agreement to exhort the federal government and the house to seriously analyze and reject any attempt to include “**mahi mahi**” in commercial fisheries, which would cause serious harm to the country’s sports fishing and tourism sector, in particular of the state of Baja California Sur. The above pursuant to the following:

PRESENTATION OF MOTIVES

For a long time, sport-recreational fishing has been a sustainable economic and social activity, respectful of the marine environment and biodiversity, of the utmost importance for many of the Mexican States and, therefore, for the country. This activity fosters the creation of jobs and generates income for a large portion of Mexican coastal communities. As the basis for development and financial gain, in many cases it is the sole source of income in remote and marginal communities lacking other productive activities that create jobs.

A good example of this in Mexico can be found in Baja California Sur, where sport fishing has been duly cared for, enjoyed and promoted, thus contributing to its exponential growth and development. It has positioned the Los Cabos region as a world class attraction for this recreational sport that has substantially developed the area and the region and is now featured among competitive destinations in the specialized market as one of the preferred sites for national, American and other international tourists.

These benefits were shown by the figures resulting from a socio-economic impact study of the activity carried out in 2007 and 2008 by Mexican professionals in the field under the auspices of The Billfish Foundation in collaboration with marketing specialists. According to the results obtained, it can be concluded that sport fishing is the main contributor to the economic health of Los Cabos, which notably impacts not only the state but also the national economy.

In 2007, an estimated 354,013 people, most all of them international visitors, fished in Los Cabos; these visitors spent approximately \$ 633.6 for lodging, charter boats, food, transportation, tackle, fuel, and much more, resulting in new income for Los Cabos.

Regarding employment, 24,426 new jobs were created that would have not existed otherwise.

It is estimated that visitors who fish in Los Cabos contribute 24.1% of the total dollars injected into the Los Cabos economy by tourism and that if everybody who fished in Los Cabos did not visit in 2007, the regional economy would have been \$1.125 billion smaller, with 24,426 fewer jobs, which would have affected thousands of families who depend on this important activity.

These indicators clearly show the dimension of the importance of recreational sport fishing in the region, which could easily be extrapolated on a similar scale, based on past experiences, to Baja California, Sonora, Sinaloa, Jalisco, Guerrero and Oaxaca, where this activity is ever more preponderant and has a promising future, if resources such as mahi-mahi are protected and preserved at levels that enable optimum, competitive and sustainable use by coastal communities, reserving them for recreational-sport fishing, thus contributing to the social and economic benefit of the communities as a whole.

Since 1972, in a sovereign decision by our country, the species of marlin, sailfish, tarpon, roosterfish and mahi-mahi were designated by law as exclusively reserved for sport fishing, and commercial catches were prohibited that same year within a 30-mile radius of the main tourist ports of the Mexican Pacific, as a first protection, conservation and management measure for these important resources

Later, the 1983, 1987 and 1992 Fisheries Laws literally established the exclusive reserve for sport-recreational fishing for the species: marlin, sailfish, tarpon, roosterfish and mahi-mahi, within an area of 50 miles along the baseline of where territorial waters are measured. This ratified and stipulated the conditions for using these species in a reserve for the exclusive use of this activity, while securing thousands of direct and indirect jobs that depended on it.

With the enactment on 22 October 2007 of the current Sustainable Fisheries and Aquaculture General Law (LGPAS, Ley General de Pesca y Acuacultura Sustentables), Article 68 specifically provides that the species of marlin, sailfish, tarpon, roosterfish and mahi-mahi, in all their biological varieties, are exclusively destined for sport-recreational fishing within an area of fifty nautical miles, along the baseline of where territorial waters are measured. In addition, it establishes that no fishing activities other than research can occur on the species destined for sport-recreational fishing in reproduction areas designated by the responsible entity through regulations.

For decades, these management measures have afforded legal certainty to sport fishing, tourism and any other involved in this activity, providing protection, conservation and management to the marine species destined exclusively for sport fishing and have guaranteed optimal, competitive and sustainable use of the natural environment and these fishing resources.

However, regardless of the entry into force of these regulations, it has been detected and proven that coastal and medium-range commercial vessels targeting other species of fin fish and sharks, continue to illegally capture these species in areas within the 50 nautical mile zone. This has increased and become worse with the entry into force on 15 May 2007 of NORMA-029-PESC-2006, the law for responsible fishing of sharks and rays and specifications for their exploitation.

The above because commercial fishers targeting these resources, under the coverage of other permits, are engaging in commercial fishing and masquerading the capture of sport-recreational fishing species under the label of “bycatch”. These species have been and continue to be captured and sold to the detriment of the country’s sport fishing sector, mainly in the states of Baja California Sur, Baja California, Sonora, Sinaloa, Nayarit, Jalisco, Guerrero and Oaxaca. Even the state of Chiapas could offer world-class fresh water sport-recreational fishing in Playas de Catazaja and successfully exploit mahi-mahi and sailfish in its coastal waters as Guatemala has done.

To this effect, it should be noted that Baja California Sur was the state that most strongly opposed and has continued to state its disagreement with the “vicious” provisions of the norm, which negatively affects the sportfishing stocks, causing irreversible damage to these resources and negatively impacting the sector as well as protected species such as sea turtles and thereby tourism, a fundamental activity for the state and the northwestern region of the country.

At various fora and events and before different authorities and levels of the state and national fisheries sector, representatives of Baja California Sur have expressed the rejection of our productive sectors that have been affected by the application of this regulation, that, although attempting to protect sharks and rays, it has been shown these continue to be exploited, even at higher levels, affecting other species due to the high levels of bycatch that include the species reserved by Law for sportfishing.

Moreover, the citizens of our State, who are aware of the importance of this activity for Mexico, have repeatedly and by different means expressed their total rejection to the application of regulations such as this Norm 029, which affect the species exclusively destined for sportfishing, in defense of the interests of our tourism and sport fishing sector that thousands of families currently depend upon and which represents a promising future for the rest of the coastal communities.

This is a result of the provisions of the Norm that include reducing the range of operations of shark fishing fleets to 50 nautical miles, causing catches of high percentages of billfish and other reserved species such as mahi-mahi.

This Norm has been questioned because it has become a primary threat of indiscriminate and illegal capture of these resources.

The damage this regulation has caused and continues to cause was evident since the entry into force of the Norm, as commercial shark, fin fish and shrimp vessels adapted for shark fishing have been detected, identified and intercepted by sportfishing boats and Mexican Navy vessels, carrying tons of sport fishing species in different areas of the Mexican Pacific, negatively impacting not only these species but marine mammals and sea turtles as well.

There is well-documented and valid evidence, even on film, of high volumes of mahi-mahi, marlin and sailfish, supposedly destined only for sportfishing, being sold within the country and exported to other countries, mainly the United States.

In addition, a part of the commercial fisheries sector and some legislators have tried, on several occasions, to

modify the articles that for years have dictated the exclusivity of marlin, sailfish, swordfish, tarpon, roosterfish and mahi-mahi for sport fishing, for the purpose of extracting mahi-mahi for commercial sale.

It is for this reason that personally and on behalf of Senator Humberto Andrade Quezada, on 4 December 2008, we presented to the plenary of the Senate an initiative for a draft decree to modify Article 68 of the General Sustainable Fisheries and Aquaculture Law to read as follows:

Single Article.- The first paragraph of Article 68 of the General Sustainable Fisheries and Aquaculture Law is amended to read as follows:

ARTICLE 68.- The species denominated marlin, sailfish, swordfish, tarpon, roosterfish and mahi-mahi, in all their biological varieties, are exclusively destined for sport-recreational fishing within an area of fifty nautical miles, along the baseline of where territorial waters are measured, *prohibiting their sale, even is captured as by-catch.*

No fishing activities other than research can occur on the species destined for sport-recreational fishing in reproduction areas designated by the responsible entity through regulations.

This for the purpose of providing greater legal certainty to the sport-recreational fishing sector and tourism, in an attempt to care for and protect the species exclusively destined for this type of fisheries given the above-mentioned issues and to enable sustainable use by all practitioners. This initiative is awaiting decision.

It should be noted that on 26 March of this year, PRD Congressman Carlos Orsoe Morales Vázquez, House Fisheries Commission Chair, presented to the plenary a Draft Decree initiative to reform and amend Article 68 of the current General Sustainable Fisheries and Aquaculture Law as follows:

Decree to Reform Amend Article 68 of the General Sustainable Fisheries and Aquaculture Law.

Article 68. The species denominated marlin, sailfish, swordfish, tarpon, roosterfish and mahi-mahi, in all their biological varieties, are exclusively destined for sport-recreational fishing within an area of fifty nautical miles, along the baseline of where territorial waters are measured.

In the case of the fish denominated mahi-mahi, it may also be captured in commercial fisheries. Except for any exceptions determined by the National Fisheries and Aquaculture Commission, said species shall be reserved for sport-recreational fishing, taking into consideration the technical reports issued by the National Fisheries Institute, as well as any considerations it may issue regarding regions where sportfishing is a preponderant economic activity.

Said initiative notably works against the mahi-mahi species, which would cause serious harm to the stocks of this highly migratory species that is very vulnerable to massive commercial exploitation with the resulting negative effect not only to the health of the stock leading to its deterioration, in addition to the serious damage this would cause to the sportfishing sector and regional and national tourism, closing the above mentioned benefits to the development of the region. A first reading was made to the House plenary and the Project is again in the Fisheries Commission.

To this effect, on 2 April 2009 PRD Congressman Adolfo González Agúndez presented to the H. Congress of the State of Baja California Sur of the XII Legislature, a Point of Agreement urging the Senate of the Republic to decide, as soon as possible, on the initiative to reform Article 68 of the General Sustainable Fisheries and Aquaculture Law, presented by PAN National Senators Luis Alberto Coppola Joffroy and Humberto Andrade Quezada.

On that same day, 2 April 2009, the H. Congress of Baja California Sur of the XII Legislature, unanimously approved the Point of Agreement, wherein the operative clauses urge the Senate of the Republic to vote, as soon as possible, the Decree Initiative to modify Article 68 of the current General Sustainable Fisheries and Aquaculture Law, presented by PAN National Senators Luis Alberto Coppola Joffroy and Humberto Andrade Quezada on 4 December 2008. The National Senate was requested to urge the Commission on Environment, Natural Resources and Fisheries to approve said initiative.

In addition to this, on 7 April 2009, PRD Congressmen introduced to the H. Congress of Baja California Sur of the XII Legislature, a Point of Agreement urging the House not to approve the Initiative to reform Article 68 of the General Sustainable Fisheries and Aquaculture Law, presented by Congressman Carlos Orsoe Morales Vázquez.

On 7 April 2009, the document was presented containing the request by the H. Congress of Baja California Sur of the XII Legislature to the Fisheries Commission of the H. House to reject any attempt to expose mahi-mahi and other species reserved for sport-recreational fishing, as they represent important benefits for the economy of that state.

In addition, Federación Nacional de Pesca Deportiva, A.C. from Sinaloa, published on 21 April 2009, an article in a national circulation newspaper (REFORMA), wherein it expresses its total disagreement with the reform to Article 68 of the General Sustainable Fisheries and Aquaculture Law, attempting to separate the mahi-mahi species to destine it for commercial fishing. In addition, it requests that this initiative not be included in the agenda of the day it is to be voted by the House plenary.

That same day, a Point of Economic Agreement was again presented by PRD Congressman Dip. Luis Andrés Córdova Urrutia, to urge the Fisheries Commission of the House, to incorporate expert opinions from the various states or entities interested in participating in the decision of the initiative to modify Article 68 of the General Sustainable Fisheries and Aquaculture Law presented on 26 March of this year by Federal Congressman Carlos Orsoe Morales to free mahi-mahi for commercial fisheries, as well as to urge the Chair of the Political Coordination Board of the same House to install a consultation board that will allow contributions from the scientific community to assess the impact of said initiative.

On 20 April 2009, the Constitutional Governor of the State of Baja California Sur, Narciso Agúndez Montaña, sent a letter to Congressman Javier González Garza, Chair of the Political Coordination Board of the LX Legislature, of the H. House, requesting the opportunity to present to this legislative body the technical arguments serving as foundation for the unviable possibility of modifying Article 68 of the General Sustainable Fisheries and Aquaculture Law, as the States and the sectors were never consulted regarding the socio-economic and environmental impacts said modification would have; in addition to informing him of the existence of scientific evidence of strong illegal catches of the species reserved for sport fishing and that these are at critical abundance levels.

On 21 April of this year, Congressman Adolfo González Agúndez, of Partido Acción Nacional again introduced a Point of Agreement in the H. Congress of Baja California Sur, to designate in the Joint Work Commissions of Tourism and Fisheries a Commission of Congressmen to travel urgently on 22 April 2009 to Mexico City and attend a working meeting with the Steering Committee of the Fisheries Commission of the House, in order to present the position for disagreeing with the Initiative to reform Article 68 of the General Sustainable Fisheries and Aquaculture Law. And, furthermore, to request Congressman Córdova to stop involving Federal Congressman Carlos Orsoe as the material author of said initiative and not Secretary Alberto Cárdenas Jiménez and Ramón Corral.

All of these actions and arrangement coincided with the resounding rejection by the federal legislators, the Baja California Sur Congress, the sport fishing and tourism sector of the initiative to modify Article 68 for the extraction of mahi-mahi by commercial fisheries which, as was mentioned, would cause serious harm to the species and to the economy of the places and the States where sportfishing is carried out.

It should be mentioned that the initiative presented by Congressman Carlos Orsoe Morales Vázquez lacks technical-scientific foundations to justify its request, an aspect that is fundamental under the Law for any type of administrative or regulatory decision regarding our fishing resources, in addition to the fact that the National Fisheries Institute, the technical-scientific advisor to the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food, as well as other prestigious research institutions in the country, do not endorse the technical and scientific decision to currently support the initiative presented by Congressman Diputado Carlos Orsoe.

This is the case for the National Fisheries Charter (CNP, Carta Nacional Pesquera) for species such as sailfish and marlin, as well as mahi-mahi, as it establishes it is necessary to determine the magnitude of bycatch from other fisheries in order to determine the percentage of bycatch and assess its impact on availability for sport-recreational fishing, in addition, to establish a minimum length for capture to favor reproduction and to guarantee recruitment, in addition to determining reproduction areas and seasons for these resources.

Another important aspect to consider is that, based on indicators from the fisheries in the Gulf of California, the status of sailfish indicates it is being exploited over the maximum sustainable yield, mahi-mahi is close to maximum sustainable yield with a marginal potential for development and marlin is at maximum sustainable yield.

Studies show the main reason for this is that these species are directly exposed to bycatch by other fisheries that frequently impact young individuals and pregnant females of the stock, substantially reducing the number of animals, affecting the possibilities for reproduction and growth, which has contributed to these resources being near the maximum sustainable yield.

It should also be noted that Mexico belongs to several international organizations and has signed various international agreements and conventions for the sustainable use of resources, including the United Nations Convention on the Law of the Sea (UNCLOS, 1982), considered one of the most important multilateral treaties in history, as it is called the Constitution of Oceans and to which Mexico is a Party, and it recognizes and provides that nations should promote the sustainable use of seas and oceans with an equitable and efficient utilization of all its resources, as well as the study, protection and preservation of the marine environment and the conservation of living resources.

To this effect, it was agreed that coastal States and other states with nationals fishing for highly migratory species in the region shall cooperate directly or through appropriate international organizations, in order to ensure conservation and promote the objective of optimum utilization of these species throughout the region, inside and outside economic exclusive zones; said species were listed in “Annex I – Highly Migratory Species”, among them marlin, swordfish and mahi-mahi in their different biological varieties.

The Agreement signed refers to the application of the provisions of the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and thus recognizes that the Agreement shall provide highly important elements for the conservation and management of fishing resources in the high seas, and all participating nations shall consider, apply and assist in compliance of the objective.

In this regard, initiatives and points of agreement have been presented at various times to urge the competent national fisheries resource management entities to carry out the necessary actions for adequate management of sustainable use of these resources. In addition, other initiatives have tried to lend greater legal certainty and

foster better and precise application, prohibiting the illegal sale of these species which, as has been stated repeatedly, are for the exclusive use of sport-recreational fishing, even if they were captured as bycatch.

Fellow Legislators, it is necessary for us to continue caring for and protecting our marine resources, which belong to all Mexicans, today more than ever, when we certainly know, based on solid scientific studies, that many of the stocks are overexploited or deteriorated; we should not let those that are destined to this important recreational activity be affected to the detriment of such an important sector for the states we represent and for the country as a whole.

For these reasons and in order to support the tourism and sport-recreational fishing sector of our country, I hereby submit the following Point of Agreement to seek an urgent and obvious decision.

POINT OF AGREEMENT

FIRST.- The Permanent Commission of the Congress of the Union respectfully urges the Federal Government to analyze, evaluate and discard any attempt to exclude Article 68 of the current General Sustainable Fisheries and Aquaculture Law, any of the species reserved by Presidential Decree for sport fishing activities since 1972, as this endangers the socio-economic development of the regions where sustainable tourism has been developed, as well as to prevent harm to the sport fishing sector and to its exclusive species including “mahi-mahi”.

SECOND.- The Permanent Commission of the Congress of the Union respectfully urges the House of Congress to carefully and seriously analyze and discard any initiative aimed at modifying any articles that may affect the species exclusively destined for sport fishing, to the detriment of the sport fishing and tourism sector of the country, as this is a preponderant activity for the promotion and image of our country abroad.

THIRD.- The Permanent Commission of the Congress of the Union respectfully urges the Federal government to allocate the necessary budget resources for the National Fisheries Institute to carry out research studies to determine the current status of “mahi-mahi” stocks and to establish management plans for the marine sport fishing species.

FOURTH.- The Permanent Commission of the Congress of the Union respectfully urges the Commission of Fisheries and Tourism of the LXI Legislature of the Congress of the Union, within the scope of its competencies, to analyze, discuss and, should it be the case, approve the necessary budget resources for the National Fisheries Institute to carry out definitive research studies to determine the current status of “mahi-mahi” stocks and to establish management plans for the marine sport fishing species contemplated in Article 68 of the current General Sustainable Fisheries and Aquaculture Law.

FIFTH.- The Permanent Commission of the Congress of the Union respectfully urges the Local Congresses of the federative entities near the Gulf of California or Sea of Cortés and the Pacific Ocean to work in parliamentary conference with the Congress of the Union on sustainable fisheries and aquaculture issues.

Sincerely,

Sen. Luis Alberto Coppola Joffroy

Sen. Humberto Andrade Quezada

Sen. Jaime Rafael Díaz Ochoa

Sen. Luis Fernando Rodríguez Lómeli

Sen. Ema Lucia Larios Gaxiola

Session Room of the H. Chamber of Senators on 20 May 2009.