

IN THE INTERNATIONAL COURT OF JUSTICE

FISHERIES JURISDICTION

THE KINGDOM OF SPAIN

V.

CANADA

MEMORIAL OF CANADA

COMES NOW Canada for their Memorial to the Court states the following:

STATEMENT OF LAW:

1. Canada recognizes The Northwest Atlantic Fisheries Organization (NAFO) regulatory area, which extends beyond the 200 mile exclusive economic zones of coastal States jurisdiction, recognized by the United Nation Convention on the Law of the Sea (UNCLOS)
2. The 1994 Declaration in the Canadian Coastal Fisheries Protection Act excludes from international jurisdiction disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area, as defined in the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures.
3. Canadian law states that no foreign vessels in Canadian waters shall
 - Fish or prepare to fish
 - Unload, land or tranship any fish
 - Purchase or obtain bait or any supplies or outfits
 - Take or prepare to take marine plants

STATEMENT OF FACT:

On March 9, 1995, a Spanish fishing vessel by the name of Estai was intercepted by Canadian government vessels approximately 245 miles from the Canadian coast. The ship was taken control by the Canadian Government and the ship's proprietor was arrested on the grounds of violating the Coastal Fisheries Protections Act. One such violation the illegal fishing of Greenland halibut. Because of this, part of the ship's catch was confiscated. Spain then filed a grievance concerning the alleged violation of the international law, because such acts happened outside of the 200 mile zone. However, the Canadian Coastal Fisheries Protection Act was amended the year prior on May 12, 1994. This amendment to the act prohibits the fishing in the Regulatory Area of the North-West Atlantic Fisheries Organization, also referred to as the "high seas" outside of Canada's exclusive economic zone. This amendment also expressly permits the

use of force against foreign fishing vessels in such zones that constitute the high seas deemed by the act itself.

STATEMENT OF JURISDICTION

1. In 1970 and 1994 Canada made exceptions to its acceptance of the International Court of Justice jurisdiction which allowed Canada to take measures to preserve and protect the conservation and management of the NAFO regulatory area, as defined in the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries in 1978.
2. Such measures were enacted to prevent pollution and protect the marine environment on Canada's Northeastern coastlines up to the Arctic. As a result of these exceptions, Canada prioritizes the NAFO regulatory area, which serves as the reasoning behind seizing the Spanish vessel Estai as well as the crew.

ARGUMENTS

1. Canada is an advocate for environment protection and heavily relies on wildlife to stimulate Canadian economy and wellbeing of citizens. The overfishing of such Canadian seas is a direct threat to Canadian sovereignty
2. According to Canadian law, the fishing equipment used by the fishing crew aboard the Estai violates Canadian fishing law, as the mesh fishing nets were smaller than what is regulated by Canadian law.
3. Prior to the Atlantic Halibut, the Northwest Atlantic Cod was primarily fished. The overfishing of this Northwest Atlantic Cod resulted in a crash in the fishing industry in both Canada and the United States. Canada seeks to take strenuous precautions to ensure the conservation of the Atlantic Halibut, therefore keeping the fishing industry stabilized.
4. Due to the fact that the jurisdiction of the International Court of Justice is consensual, Canada reserves the right of exemption from the Court's jurisdiction in this matter. We recognize the primacy of NAFO in this situation, in lieu of the third United Nations Convention on the Law of the Sea.

SUMMARY AND REQUESTS

Reiterating the fact that the amendment of the Coastal Fisheries Protection Act strictly prohibits the fishing in the High Seas outside of the exclusive economic zone of Canada, Canada prays the court to adjudge and declare that Spain is in violation of Canada's Fisheries law under the Canadian Fisheries Protection Act.