

IN THE INTERNATIONAL COURT OF JUSTICE

**THE KINGDOM OF SPAIN IN SOUTHWESTERN EUROPE,
APPLICANT**

V.

**CANADA,
RESPONDENT,**

MEMORIAL OF THE KINGDOM OF SPAIN IN SOUTHWESTERN EUROPE

HERE COMES the Kingdom of Spain in Southwestern Europe and for their Memorial to the Court states the following:

STATEMENT OF LAW: List articles

- 1) Under Article 28 of the United Nations Convention of the Law of the Sea:
 - a) “The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.”
 - b) “The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.”
- 2) Under Article 57 of the United Nations Convention of the Law of the Sea:
 - a) “The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.”

STATEMENT OF FACT:

On March 9th 1995, the Estai while sailing under the Spanish flag 50 miles outside of the Canadian Exclusive Economic Zone (EEZ). Canadian authorities wrongfully confiscated the contents of the vessel under a false interpretation of the Canadian Coastal Fisheries Protection Act. In violation of their own Protection Act the Canadian authorities brought the contested species of halibut into their own national waters. The crew of the Estai were wrongfully detained in the port of St. Johns and forced to pay bail for a violation they did not commit. These actions from the Canadian authorities was an excessive use of corporal punishment, prohibited under the principles of general international law, and an insultingly blatant violation of the sovereignty of the Kingdom of Spain.

Since the illegal boarding and seizure of the Estai the Kingdom of Spain has attempted to resolve the situation through peaceful means by appealing to the International Court of Justice. Canadian authorities have continued to harass Spanish vessels fishing outside of the Canadian EEZ by deliberately cutting the fishing nets of the Pescamar 1 on March 26th.

STATEMENT OF JURISDICTION:

- 1) The application is brought under Article 36, Paragraph 1 of the Statute of the court: “The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force”
- 2) Under Article 287 of the United Nations Convention on the Laws of the Sea : “When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention: (b) the International Court of Justice”
- 3) Under Article 288 of the United Nations Convention on the Laws of the Sea: “A court or tribunal referred to in article 287 shall have jurisdiction over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part.”
- 4) Under the Canadian Coastal Fisheries Protection Act : “All courts, justices of the peace and provincial court judges in Canada have the same jurisdiction with respect to offences under this Act”
 - a) The listed offences only apply to offences occurring within Canadian waters, as the seizure of the *Estai* was fifty miles outside of Canadian waters the Canadian courts do not have jurisdiction in this case.

ARGUMENTS:

- 1) Canada has excessively violated their obligations under the United Nations Convention on the Law of the Sea section 3, subsection B, Article 28, as well as Article 57 by seizing the Spanish vessel, the *Estai*, 250 miles off the coast, which is neither in the territorial waters or the economic waters of Canada.
- 2) Because the vessel was in international waters, and this continuation of Article 28, as well as Article 57, prove that the Spanish were not sailing in an area where the Canadian National Patrol would be allowed to arrest their ship, and since the vessel *Estai* was outside an area where Canada has the right to arrest them, they are also area where Canada does has jurisdiction over them. Because the Kingdom of Spain (located in southwestern Europe) was sailing in international waters, international laws take over, as well as international jurisdiction.

SUMMARY AND REQUESTS:

In closing, under Articles 28 and 57 of the United Nations Convention on the Law of the Sea the illegal seizure of the Estai and arrest of her crew were blatant violations of international law, as the Estai was fifty miles outside of Canadian waters. The Canadian Coastal Fisheries Protection Act does not have jurisdiction in this case as it only applies to fishing within their territorial waters and EEZ.

Respectfully, the Kingdom of Spain in Southwestern Europe requests that the Court finds jurisdiction over the case in dispute as established in Article 287 and Article 288 of the United Nations Convention on the Law of the Sea. Furthermore we ask that the Court instruct Canadian authorities to return the Estai to her rightful place in the Spanish fleet and restrict their authority solely to Canadian waters.