



INTERNATIONAL COURT OF JUSTICE

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Case concerning Fisheries Jurisdiction **(Spain v. Canada)**

Conclusion of the hearings on the issue of the jurisdiction of the Court

The Court ready to consider its Judgment

THE HAGUE, 17 June 1998. The public hearings in the current phase of the case concerning Fisheries Jurisdiction between Spain and Canada at the International Court of Justice (ICJ), which started on 9 June 1998, were concluded today, enabling the Judges to start their deliberations. The Court has to decide whether it has jurisdiction to deal with the merits of the case. Canada challenged that jurisdiction.

The Judgment concerning the preliminary objection to the jurisdiction of the Court raised by Canada will be delivered in the autumn. It will be read during a public sitting at a date which will be announced in a forthcoming press release.

During the hearings, the delegation of Spain was led by Mr. José Antonio Pastor Ridruejo, Director of the International Legal Service of the Ministry of Foreign Affairs, Agent, and the delegation of Canada by Mr. Philippe Kirsch, Legal Adviser of the Ministry of Foreign Affairs, Agent.

History of the dispute

On 28 March 1995 Spain filed an application instituting proceedings against Canada with respect to a dispute relating to the Canadian Coastal Fisheries Protection Act (as amended on 12 May 1994), to the implementing regulations of that Act and to certain measures taken on the basis of that legislation. The dispute deals in particular with the boarding on the high seas, on 9 March 1995, of a fishing boat, the Estai, flying the Spanish flag and with a Spanish crew, by a Canadian patrol boat.

In its Application, Spain maintained that by this action Canada had violated the principles of international law which proclaim freedom of navigation and freedom of fishing on the high seas, as well as the exclusive jurisdiction of the flag State over its ships on the high seas. As a basis of the Court's jurisdiction, Spain relied upon the declarations of both States by which they accept that jurisdiction as compulsory (Article 36, paragraph 2, of the Statute of the Court).

On 21 April 1995, Canada informed the Court that it lacked jurisdiction to deal with the case because of a reservation made in its Declaration recognizing the compulsory jurisdiction of the Court of 10 May 1994. In this Declaration, Canada said the Court had a compulsory jurisdiction "over all disputes . . . other than . . . disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area . . . and the enforcement of such measures".

During a meeting held on 27 April 1995 between the then President of the Court, Judge Mohammed Bedjaoui, and the representatives of the Parties, it had been agreed that the question of the jurisdiction of the Court should be separately determined before any proceedings on the merits. The President fixed, by an Order of 2 May 1995, time-limits for the filing of written pleadings on that question: a Memorial by Spain and a Counter-Memorial by Canada. These were duly filed. The hearings concluded today complete the pleadings on jurisdiction.

Internal Judicial Practice of the Court with respect to deliberations

As outlined in the Internal Judicial Practice of the Court with respect to deliberations, the Judges will soon hold a preliminary discussion at which the President will outline the issues which require discussion and a decision by the Court.

After initial consideration, a full deliberation will be held during which, on the basis of the views expressed, a Drafting Committee will be chosen by secret ballot. That Committee will consist of two Judges holding the majority view and the President if he shares that view.

The draft text will go through two readings. Meanwhile, Judges who wish to do so may prepare a separate or dissenting opinion.

The final vote will be taken after adoption of the final text in the second reading.

NOTE FOR THE PRESS

The full transcripts of the hearings of 9-17 June 1998 can be found on the Website of the Court at the following address: <http://www.icj-cij.org>

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