

Fighting over fish: A look at the 1995 Canada-Spain Turbot War

By Elizabeth Sneyd, B.A. Hons,
Master of Arts Candidate,
Royal Military College of Canada

The behaviour of our fishermen is totally legitimate in accordance with international legality.

Javier Solana, Minister of Foreign Affairs, Spain¹

I think that our policy meets the support of all Canadians and we intend to pursue our efforts until we have the assurance that these fish stocks will be preserved for future generations.

Jean Chrétien, Prime Minister of Canada²

Introduction

On March 9, 1995, one of Canada's Department of Fisheries and Oceans (DFO) vessels, the Cape Roger, fired on and captured the Estai, a Spanish trawler, on the grounds that the Estai had been fishing turbot illegally³. This event captured the world's attention, if only because it seemed so un-Canadian. Spain responded to the capture of the Estai by sending one of its naval vessels to the Grand Banks to protect other fishing vessels. The Turbot War had begun. During the ensuing weeks, Spain and Canada sparred with each other, each firmly believing that they were right and the other country was wrong. It was a period of accusation, rhetoric, name-calling, pacification, and ultimately negotiation. A settlement was reached on April 18, 1995, and the worst part of the Turbot War was over. The legal battle, however, had only begun.

Much has been written about the Turbot War, both from a media and an academic perspective. The literature has focused on a number of issues like environmental sustainability, unilateralism vs. multilateralism and nationalism. There is one question, however, that consistently appears: were Canada's actions legal or did they violate international law? The answer, of course, depends on one's point of view. The government of Canada firmly believed (and still believes) that it had acted legally, but Spain disagreed (and still does). Who is correct? The answers lie buried in international laws and agreements.

In order to better understand the events of the Turbot War, it is absolutely crucial to understand how nations are bound by the laws, conventions and agreements that they sign. To that end, this paper will establish the legal framework within which Canada and Spain operated during 1995. This framework will allow us to address several questions arising from the Turbot War. Firstly, what legal precepts prevented the Turbot War from escalating into an armed conflict? Secondly, how did Canada and Spain each use existing laws and agreements to support their respective arguments? Thirdly, how was each nation constrained by these same laws and agreements, if at all? Finally, what effect, if any, did the events of the Turbot War have on the creation of subsequent international law and agreements?

To create this framework, we must account for Canada and Spain's memberships in the United Nations (UN), the Northwest Atlantic Fishery Organization (NAFO), and the Northwest Atlantic Treaty Organization (NATO). We must also consider Spain's membership within the European Union (EU). It is important, therefore, to study the relevant multilateral treaties and agreements associated with all of these international organizations. It is also important to examine the rhetoric used by both sides during the Turbot War and the subsequent International Court of Justice case, in order to see how these agreements were applied by each nation.

Backgrounder

Historically, the Grand Banks area of the Atlantic Ocean has been an important food source. Some sources indicate that the Basques of northern Spain have fished in the area for over a millennium. Indeed, the Spanish are fond of pointing out that they founded St. John's almost 400 years ago, and have used the area ever since.⁴ The English, too, had a continued presence in the area after Giovanni Caboto's visit in 1497 established the colony of Newfoundland. As expressed in one of Canada's "Heritage Minutes", it was commonly believed that there were "enough fish to last until the end of time".⁵ If the nations who fished in the area had continued to use traditional fishing methods, then perhaps this would have been true.

In the 1950s, however, the ancient art of fishing was revolutionized with new technology, such as refrigerated holds and increasing larger nets. Additionally, many of these vessels were built to withstand winter conditions. Catches at offshore fisheries dramatically increased as a result of the newly lengthened fishing season.⁶ In 1968, for example, the catch was four times greater than had previously been considered normal. These huge hauls were generally gathered at the expense of the local fishing operations, who did not possess the same technology as the distant-waters fishing nations (DWFN), and consequently could not compete.⁷

There were also changes at a political level. As of 1950, fishing in the Grand Banks was regulated by the International Commission for the Northwest Atlantic Fisheries (ICNAF). The Northwest Atlantic was now divided into zones, including Exclusive Economic Zones (EEZ) for the nations in the area (e.g., Canada, the United States, Denmark/Greenland, and Iceland), which meant that some international waters were now domestic, while the rest remained under ICNAF regulation.⁸

The dramatic increase in European fishing technology led to fears of over-fishing.⁹ The size of the cod catch decreased significantly in the 1970s, and the Canadian government felt that action was needed in order to protect both the domestic fishing industry and the fish stock itself. Traditionally, the fisher folk of Newfoundland had adapted their way of life to cope with the reality of fish stock cycles, and were able to survive, so long as the fish came back.¹⁰ But over-fishing would override and possibly destroy the cycle, and this in turn would destroy the fishing industry. The federal government had to ensure that this did not happen. Canada therefore took steps on an international and a domestic scale.

In 1977, as part of fishing conservation measures, Canada extended its Exclusive Economic Zone to 200 miles, which meant that almost all of the Grand Banks fell under Canadian jurisdiction. This also meant that foreign fishing vessels were excluded from

Canadian waters unless given permission by the Canadian government. The extension of the EEZ was a unilateral action, but it was not without precedent. In 1945, the Truman Proclamations gave the United States not only sovereign rights to the resources of the continental shelf, but also the right to protect its high seas fisheries with conservation areas.¹¹ In 1970, Canada enacted the Arctic Waters Pollution Prevention Act, which extended Canadian control of Arctic Waters to a limit of 100 miles. Given that the previous limit had been 3 miles, this legislation caused considerable international consternation. Nevertheless, the Canadian government remained firm in its belief that “international law is developed by state practice, that is, by unilateral measures gradually acquiesced in and followed by other states”.¹² Clearly, this is how the government felt in 1977, and likewise during the Third United Nations Convention on the Law of the Sea (UNCLOS III) negotiations which began shortly after. UNCLOS III, which was finally signed in 1982, replaced the previous Conventions of 1958 and 1960. It called for the creation of a

legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living resources, and the study, protection of the marine environment...¹³

Article 57 of the Convention is of particular interest:

The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.¹⁴

Canada’s unilateral domestic action had paid off. The new EEZ was now acceptable under international law. Nevertheless, UNCLOS III was not perfect, because it failed to reach agreement on specific provisions for the conservation and management of straddling stocks, i.e., stocks that were harvested in more than one jurisdiction.¹⁵ This would lead nations such as Canada to call for further extension of the EEZ. When these calls were ignored, nations would rely on unilateral action.¹⁶

Similarly to UNCLOS I and II, ICNAF had proved unable to keep up with the dramatic changes of the 1960s and 1970s, so it was scrapped.¹⁷ Its replacement, the Northwest Atlantic Fisheries Organization (NAFO), was formed in 1979 by Canada and eight other former ICNAF members, including the European Union and Portugal.¹⁸ Spain acceded in August 1983. Like ICNAF, NAFO was responsible for the high seas areas, but now the Fisheries Commission (NAFO’s regulatory body) had to co-ordinate its work with conservation measures put in place by coastal states. Regulation involved establishing the annual total allowable catch (TAC) and then apportioning the catch amongst NAFO members, either as quotas or percentages.¹⁹

Membership in NAFO was based on voluntary commitment and a majority vote ruled. If a nation disagreed with a decision, then it could invoke Article XII, commonly called the objection procedure. By using this objection procedure, a nation was free to

opt out of NAFO management measures and proceed unilaterally.²⁰ It should be noted that turbot was not one of the 10 stocks initially managed by NAFO, because the species was not yet available in commercial quantities outside the EEZ.²¹ NAFO was still primarily concerned with the cod stock.

Once Canada had extended its EEZ to 200 miles, the federal government relied on bilateral agreements with other NAFO members to ensure cooperation. NAFO nations who agreed with Canada on fisheries management were granted access to surplus stocks, and could even fish within the 200 mile-limit.²² The Long Term Agreement, which existed between Canada and the European Union, granted the EU extended allocations of cod and squid, while Canada was given reduced import tariffs on European fish.²³ This seemed to be an acceptable solution for both parties, until circumstances suddenly changed.

In the mid 1980s, Spain was negotiating to become members of the EU. It was already a member of NATO, having acceded in 1982. Knowing that it would soon gain a powerful DWFN, the EU tried to negotiate with Canada for increased cod allocations and fishing possibilities for its new members. In return, the EU would only fish within the EEZ.²⁴ These suggestions were unacceptable to the Canadian government. It was already recognized that the cod stocks were in sharp decline. Ottawa further felt that moratoria on certain NAFO areas were necessary. The EU disagreed, and began to invoke the objection principle. In 1986, Spain and Portugal acceded to the EU, which meant that their fishing fleets now fell under the EU's NAFO vote. Consequently, the number of EU vessels in the Grand Banks jumped from 10 to 120. Clearly, previous quotas were not acceptable. Rather than following NAFO quotas, the EU began to set its own, much higher, quotas on three species.²⁵ This trend would continue through the end of the decade and into the next.

By the early 1990s, the situation in the Grand Banks had escalated into a serious problem: the collapse of the cod stock. According to Canada, the EU had over-fished the cod stock so much that the species was on the verge of commercial extinction.²⁶ In 1992, the Canadian government declared a moratorium on cod-fishing which meant that 50,000 Canadians were now without jobs.²⁷ According to some within the EU, the decline was not its fault but rather, the result of mismanagement by the Canadian government.²⁸ The EU declined once again to accept NAFO quotas, and established its own, despite ratifying a 1992 agreement to end over-fishing.²⁹ Sadly, because the EU was following official procedure, NAFO was powerless to intervene.³⁰

By 1994, even the EU had to concede that the cod stock was gone and made no objections to NAFO moratoria on cod and other groundfish species.³¹ Instead, the EU turned to the turbot. The turbot had previously been fished exclusively in Canadian waters, but by the 1980s, the stock was being fished by Spanish vessels.³² In 1994, however, a NAFO study suggested that the stock had declined by two-thirds since 1991. By September that year, NAFO had agreed to establish the first total allowable catch (TAC) for the turbot. It was not yet determined how that TAC would be divided.³³

By this point, the Canadian government had already realized the limitations of UNCLOS III with regard to the issue of straddling stocks. The government, along with other coastal states, had lobbied for change since the late 1980s.³⁴ As a result, the issue of straddling stocks was brought up at a number of conferences and meetings: the Conference on the Conservation and Management of High Seas Fisheries (St. John's,

1990), a UN meeting of experts (Santiago, 1991), and the United Nations Conference on Environment and Development (Rio de Janeiro, 1992). By 1992, there was a resolution before the General Assembly calling for the establishment of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks. The first negotiating session was held in 1993, with five more to follow.³⁵

In 1994, however, the Conference on Straddling Stocks was still only a conference, with no binding agreements. The Canadian government felt that it could not sit by and allow the turbot to go the way of the cod. One of the key points of the Liberal Party's 1993 election campaign was that tough measures would be taken to protect Canadian fisheries. After the Liberal victory, Prime Minister Jean Chrétien appointed Brian Tobin of Newfoundland as Minister of Fisheries and Oceans. Tobin had perhaps already realized that unilateral action was necessary to protect the turbot. He was the ideal minister to carry it out.

On May 10, 1994, the House of Commons amended the Coastal Fisheries Protection Act (CFPA) in several areas. The amendments drew attention to an "urgent need for all fishing vessels to comply in both Canadian fisheries waters and the NAFO Regulatory Area with sound conservation and management measures for those stocks" and that "some foreign fishing vessels continue to fish for those stocks in the NAFO Regulatory Area in a manner that undermines the effectiveness of sound conservation and management measures".³⁶ The new amendments were to enable the government to take action to prevent further stock depletion while still seeking international resolution to illegal foreign fishing. To that end, the amended Act declared that

No person, being aboard a foreign fishing vessel of a prescribed class, shall, in the NAFO Regulatory Area, fish or prepare to fish for a straddling stock in contravention of any of the prescribed conservation and management measures.³⁷

Further, the Department of Fisheries and Oceans was entitled to enforce this section of the CFPA through protection officers:

A protection officer may

a) for the purpose of ensuring compliance with this Act and the regulations, board and inspect any fishing vessel found within Canadian fisheries waters or the NAFO Regulatory Area; and

b) with a warrant issued under section 7.1, search any fishing vessel found within Canadian fisheries waters or the NAFO Regulatory Area and its cargo.³⁸

These changes to fisheries policy can be interpreted in two ways. One, the Canadian government took it upon itself to ensure that NAFO regulations were being followed in areas adjacent to Canada's EEZ.³⁹ As previously mentioned, the EU's continued use of the objection principle rendered NAFO impotent to stop over-fishing. Since EU would

do nothing, it was up to Canada to take the moral high ground. The other interpretation is that Canada was once again taking unilateral steps, to NAFO's detriment, in order to extend Canada's control over the entire Grand Banks area. It was an action similar to 1977, when Canada extended its EEZ to the 200 mile-limit. Canada was more interested in extending sovereignty for economic reasons than NAFO regulation and environmental preservation.

Either way, the amendments to the CFPA effectively extended Canadian jurisdiction to include NAFO waters. This change was highly controversial: both the EU and the United States expressed their concern. The EU felt that the CFPA gave too much latitude to the Governor in Council in terms of changing with classes of ships were subject to regulation. The United States expressed its concern about the potential dangers posed to American fishing vessels in NAFO waters.⁴⁰

The same day that the CFPA was passed in Parliament, Canada took another step towards protecting the actions of the DFO. The government deposited an amended declaration of acceptance of the compulsory jurisdiction of the International Court of Justice (ICJ). Like other international institutions, the ICJ was founded on voluntary membership, and nations could make reservations about certain types of disputes they did not want to fall under ICJ jurisdiction. Canada had previously exercised that right in 1985, with regard to disputes that fell strictly within Canada or in the Commonwealth, or could be settled by other means.⁴¹ The new reservation dealt with NAFO:

...the Government of Canada accepts...the jurisdiction of the International Court of Justice...subsequent to this declaration, other than

...d) 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 Co-operation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures.⁴²

From Canada's viewpoint, by filing this reservation with the UN, actions taken by the DFO against illegal fishing could not be prosecuted under international law. As we will see, this tactic played an important role in the aftermath of the Turbot War.

A few months after Canada passed the amended CFPA and placed its notice of acceptance with the Secretary-General, NAFO agreed to establish a TAC for turbot. It was set at 27,000 tons, which Canada welcomed, because it was "a significant reduction from annual catches of more than 60,000 tons in previous years when NAFO had not set a TAC for this stock".⁴³ In the House of Commons, shortly afterwards, Brian Tobin was asked how Canada would ensure that NAFO commitments would be enforced. Tobin replied that thanks to the reduction of the size of the TAC and the work of the Parliament, "Canada will have for the first time the right to board and to inspect the vessels catching turbot and to ensure that the proper rules are being followed to conserve this important

stock”.⁴⁴ It seems that Tobin was referring to both the CFPA and NAFO regulations in this statement, although he did not specifically say where these inspections would take place.

At the end of January 1995, NAFO met and agreed on a sharing arrangement for the year:

Canada	16,300 tons (60.4% of TAC)
The European Union	3,400 tons (12.6%)
Russia	3,200 tons (11.9%)
Japan	2,600 tons (9.6%)
Other NAFO members	1,500 tons (5.5%) ⁴⁵

Like previous TACs, the portions were determined by historical catches. It was quickly discovered that the EU was not satisfied with the allotment. Tobin commented in the House of Commons that “we [the government] have heard reports that the EU may object to the NAFO decision and set unilateral quotas. That is not acceptable to Canada ... Canada will not stand by and see more stocks destroyed”.⁴⁶ The following week, when asked to clarify what response Canada would make if the EU continued to ignore NAFO quotas, Tobin answered

We much prefer to talk. We much prefer to negotiate. We will go to the nth degree to settle our differences by agreement. However we warn all those who are listening that we will not sit and talk while the last fish is being caught.⁴⁷

These were strong words, but they reflected Tobin and the government’s resolve. Spain had already passed the NAFO quota in mid-February, and showed no signs of stopping.⁴⁸ The likelihood of a conflict between Canada and the EU increased with each passing day.

News releases and Statements: A war of words

Although March 9, 1995 is the start date commonly associated with the Turbot War because of the capture of the Estai, the conflict actually began six days earlier. On March 3, both Canada and the EU made moves that intensified the seriousness of the dispute. The EU invoked the objection principle and set a unilateral quota of 18,630 tons, or 69% of the TAC. It should be noted that this was proportionate with their share of turbot from the previous year.⁴⁹

That same day, the Canadian government amended the Coastal Fisheries Protection Regulations, i.e., the Regulations that accompanied the CFPA. The amendments focused on identifying foreign fishing vessels that were prescribed from fishing in Canadian waters. These amendments included adding Spain and Portugal to the list of prescribed nations, and prohibiting them from

...fishing for, or catching and retaining, Greenland halibut in Division 3L, Division 3M, Division 3N or Division 3O

during the period commencing on March 3 and terminating on December 31 in any year.⁵⁰

That day, Prime Minister Chrétien appealed to the EU for a 60-day moratorium on turbot fishing so that both sides could resolve the issue. This proposal was subsequently rejected on March 6.⁵¹ Accordingly, Tobin announced that the Canadian government would enforce a moratorium. Spain threatened to send warships in to protect its fleet, but a large number of EU and other foreign fishing vessels decided to err on the side of caution and left the area.⁵² Some vessels remained, notwithstanding, and continued to work.

On March 9, the Spanish vessel *Estai* was fishing on the Grand Banks. It was intercepted by the DFO vessel *Cape Roger*. Canada and Spain are still divided on what happened next. According to the Canadian government, a boarding party from the *Cape Roger* attempted to board the *Estai* at 12:50pm (EST). The *Estai* responded by cutting its fishing gear and fleeing. Poor weather conditions hampered more boarding attempts, as the *Estai* continued to flee, pursued by the *Cape Roger*, the *Leonard J. Cowley* (DFO), and the *Sir Wilfred Grenfell* (Canadian Coast Guard). Finally, after the *Cape Roger* fired warning shots, the *Estai* halted. A boarding party consisting of DFO officials and an Royal Canadian Mounted Police (RCMP) emergency response team left the *Cape Roger*, seized the *Estai*, and arrested the master of the vessel, Enrique Dávila González, at 4:52pm (EST).⁵³ The *Estai* was then taken to St. John's, where the crew was charged with fishing turbot illegally, and with violations of the CFPA.

According to Captain Dávila, the initial attempt to board the *Estai* was made without any contact from the *Cape Roger*, i.e., without warning. Believing his vessel was soon to be victim of unlawful boarding on the high seas, Captain Dávila ordered the nets cut. The *Cape Roger* followed in hot pursuit, coming dangerously close at times (and at times in dense fog) to the *Estai*. The *Sir Wilfred Grenfell* used its water cannon against the *Estai* at 5:40 pm (NST). Shortly after, the *Cape Roger* fired two blasts on its machine gun. At that point, Captain Dávila stopped his vessel, and was subsequently arrested by an armed boarding party, despite being in international waters. During the voyage to St. John's, the hull of the *Estai* became damaged when it was sailed through Arctic ice. When the *Estai* arrived at St. John's on March 12, Dávila and his crew were forced to walk to the courthouse through a hostile crowd. The crowd spilled into the courtroom, and continued to heckle, jostle, and swear at the Spaniards and the EU diplomats who had arrived to offer their support to the crew. After a short hearing, Dávila was released on bail.⁵⁴

Spain responded immediately to the capture of the *Estai*. On March 9, the Spanish Embassy in Ottawa sent two Notes Verbales to the Department of Foreign Affairs and International Trade (DFAIT), condemning the events of the day, and accusing the Canadian government of violating international law. There appears to have been some confusion on Spain's part, because the second Note Verbale referred to the "pursuit and harassment of a Spanish vessel of the Canadian navy, in flagrant violation of the international law in force..."⁵⁵ when in fact the navy was not yet involved. This confusion spread back to Europe. On March 10, the Spanish Ministry of Foreign Affairs sent a Note Verbale to the Canadian Embassy in Spain, condemning Canada's actions:

The Spanish Government considers that the wrongful act committed by ships of the Canadian navy can in no way be justified by presumed concern to conserve fisheries in the area...⁵⁶

DFAIT responded in kind that the Estai had resisted boarding efforts from Canadian inspectors, and that the arrest of the vessel was necessary to stop over-fishing. By this time, the EU was aware of the situation, and added its support to Spain. Emma Bonino, the European Commissioner of Fisheries, accused Canada of violating several international laws and agreements and demanded the immediate release of the Estai and the crew.

Tension increased between both parties. The Canadian government was also under pressure in the House of Commons from the opposition parties, who demanded to know when Canada and the EU would resume negotiations to settle the dispute. Tobin replied to his critics on March 15 that Canada would not negotiate with the EU while illegal fishing continued, and that a negotiation team was in place in Brussels to begin talks when both sides were ready.⁵⁷

On March 15, the owners of the Estai posted \$500,000 bond for the vessel and it returned to Spain along with the rest of the fishing fleet. This was the condition that the EU had placed on entering negotiations, and now that this had been met, talks could begin.⁵⁸ Negotiations between the three parties were scheduled for the following week at the G-7 Conference. These preliminary talks were unsuccessful. Spain simply refused to yield.⁵⁹ The Spanish fishing fleet returned to the Grand Banks, this time accompanied by a naval patrol vessel. Negotiations ceased on March 25. The following day, Canadian ships cut the nets of the trawler Pescamero Uno.⁶⁰ Incensed, Spain sent another naval patrol vessel to the Grand Banks to join her sister ship. Canadian patrol plane, and Canadian naval vessels in the vicinity carried an authorized order from the Prime Minister to fire if the Spanish vessels uncovered their guns.⁶¹

A number of European officials expressed their displeasure with Canada's most recent behaviour in the Northwest Atlantic. Emma Bonino, the EU Commissioner of Fisheries, accused the Canadian government of endangering the lives of the Spanish crew when the nets were cut. Further, she argued, Canada had demonstrated bad faith in the negotiation process. Ultimately, Bonino held the view that "Canada has acted unilaterally and therefore irresponsibly by seizing the Estai and attempting to enforce its law on the high seas."⁶² Luis Atienza, the Spanish Minister of Agriculture, Fisheries and Food published a "personal view" in the Financial Times on March 28. Atienza compared the boarding of the Estai with piracy, and that "Canada's justification that it is safe-guarding stocks is a fabrication to cover up bad management of its own fishing grounds".⁶³ Atienza then went on to say that Canada had to announce that it would not apply domestic law internationally, that it would return the bond posted for the Estai's release, and that it would compensate the EU for damages. Only then would Spain be satisfied.⁶⁴

In a similar vein, Javier Solana, the Spanish Minister of Foreign Affairs stated "we will not tolerate that any other Spanish trawler be seized by the Canadian authorities".⁶⁵ He hinted that Spain would not hesitate to use force to protect its fleet. Solana also pointed out that as far as Spain was concerned,

Canada's behaviour could not be more provocative, the day before a meeting which will take place within the framework of the United Nations, where all these matters will be dealt with.⁶⁶

The meeting that Solana referred to was the fifth session of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, held in New York City from March 27 to April 12. As in the UNCLOS III meetings in the late 1970s, Canada took a proactive role in the conference, pressing for stronger enforcement measures on the high seas. The situation in the Northwest Atlantic provided the ideal pretext for discussion. Not surprisingly, then, Brian Tobin attended the opening of session accompanied by Clyde Wells, the premier of Newfoundland and Labrador. Tobin and Wells took advantage of the high-profile nature of the Conference to garner international support for Canada's side in the ongoing Turbot War. On March 27, they held a press conference in response to the comments Emma Bonino had made to the media that day. Tobin and Wells refuted the allegations that the crew of the *Pescamero Uno* had been put in danger when the vessel's nets were cut:

There was no risk to the crew. The warps were cut at a depth which ensured that they could not snap back and hurt anyone...There was absolutely no effect on the stability of the vessel.⁶⁷

Tobin and Wells also argued that Bonino did not understand the NAFO system. If she did, then she would have known that the TAC system was an arbitrary limit, with each NAFO member entitled to catch its quota. Exceeding the quota would exceed the TAC, which would defeat the purpose of conservation.⁶⁸ In response to Bonino's accusations that Canada had misused NAFO, Tobin and Wells countered that the EU had constantly objected to NAFO quotas, whereas Canada had never once used the objection principle.⁶⁹ Tobin and Wells finally rejected Bonino's statement that the dispute should be settled in the International Court of Justice, arguing that the solution lay instead with the development of a new legal regime via the UN Conference on Straddling Stocks and Highly Migratory Stocks.⁷⁰

When addressing the conference itself, Tobin argued that the current international law was ineffective, and that Canada's actions were based on a "new ethic of conservation which isn't founded upon loopholes and international trickery"⁷¹ Tobin accused a number of nations, including Spain, of taking advantage of other straddling stocks in the Bering Sea and the Sea of Okhotsk to the point that fish stocks in both areas had collapsed. Canada's actions outside the 200 mile-limit were not illegal, but rather part of "new international law and Canada is on the leading edge".⁷²

Perhaps the most famous part of Tobin's campaign in New York was the international press conference he held on a barge in the harbour, the same day that Luis Atienza published his personal view in the *Financial Times*. On the barge was the evidence that his investigators had collected against the *Estai*. The evidence included a net the size of a football field, with an undersized mesh, and a smaller-mesh lining sewn into it.⁷³ The net provided a visual context for one of Tobin's key points. Not only had

the Spanish been catching turbot illegally, they had been catching undersized turbot, a clear contravention of NAFO regulations. In his hand, Tobin held an immature turbot, and delivered an impassioned appeal:

We're down to the last, lonely, unloved, unattractive turbot,
clinging by its fingernails to the Grand Banks of
Newfoundland, saying 'someone reach out and save me in
this eleventh hour as I'm about to go down to extinction'⁷⁴

Tobin's assorted media appearances had their desired effect. The Conference realized that existing enforcement mechanisms were unsatisfactory, primarily because enforcement on the high seas lay within the responsibility of the flag state, and some flag states were unwilling to take action against their own vessels.⁷⁵ Ultimately, however, consistency of conservation and management measures between EEZs and the high seas needed to be maintained in order to ensure efficiency.⁷⁶ The Conference attempted to "develop international law to create a global right to board and inspect vessels on the high seas in support of conservation and management measures", but this was incomplete by the end of the Conference in April 1995. Nevertheless, Canada's active involvement in the Conference was directly linked to the Estai situation. From the Canadian point of view, the Estai was proof positive of the need for change.⁷⁷

Negotiations in Brussels between Canada and the EU were stumbling. The same day that Brian Tobin held his press conference on the East River, March 28, the EU attempted to issue economic sanctions against Canada. The vote was stonewalled by Britain, who had publicly sided with its former colony.⁷⁸ Lacking complete support from the rest of the EU community, Spain had no choice but to join the negotiation table. On April 5, Canada and the EU reached a tentative deal, but it was rejected by Spain, who demanded a higher quota.⁷⁹ News of Spain's reluctance quickly reached Ottawa, where the Opposition continued to pressure the government about whether the negotiations would succeed. Tobin, who was now back in Parliament, responded that it was not up to Canada to ensure EU members complied with an agreement, but rather the EU itself.⁸⁰

It was not until April 15 that the EU was finally able to force Spain to accept an agreement. Earlier that week, Canada had threatened that if the EU did not get Spanish vessels out of the Grand Banks, then Canada would do so.⁸¹ This was the last straw for the EU negotiators, who finally managed to get Spain to accept an agreement. The agreement hinged on Canada repealing the CFPR that permitted the arrest of Spanish vessels, on reimbursing the \$500,000 bond to the owners of the Estai, and a reduction in Canada's own turbot allocation from NAFO.⁸² The agreement focused on the creation of a new mandatory enforcement regime to govern all Canadian and EU vessels in NAFO-regulated area. This regime would include independent, full-time observers on board vessels at all times, increased surveillance and inspections, and new minimum fish size limits.⁸³ Both sides welcomed the agreement (albeit grudgingly as far as Spain was concerned). André Oullet, Minister of Foreign Affairs and External Trade stated that

We can now put this dispute behind us, secure in the
knowledge that we have a fair, workable and sensible
agreement. We can also be pleased that our strong stand on

conservation will contribute to the formulation of stronger international rules covering the harvesting of endangered fish stocks elsewhere in the world.⁸⁴

Emma Bonino was equally optimistic:

The rule of Law has been restored on the High Sea. European fishermen are again rightly and fully entitled to fish in the Grand Banks off Canada's coast ... Re-establishing security and International Law was our primary aim during all these negotiations. We wanted all arrangements to be multilateral. We have all reasons [sic] to think that we have accomplished these tasks.⁸⁵

The Canadian media declared a Canadian victory in the Turbot War. The Globe and Mail, however, was concerned about the effects Tobin's hard-nosed approach would have on how Canada would be perceived. In an editorial, the Globe cautioned against similar situations in the future,

If this action prefigures more acts of coercion on the high seas, the cost will be integrity, reliability and effectiveness in the councils of the world. Canada ... will be trusted less.⁸⁶

The Ottawa Citizen was also cautious about celebrating victory over Spain. In an article published on April 18, 1995, the Citizen expressed concern about the "un-Canadian methods by which it [the "victory"] was achieved. Threats of warships and seizure of vessels on the high seas don't exactly fit with our image as Mr. Peacekeeper".⁸⁷

That same day, the attorney-general stayed charges against Captain Dávila, and repaid bonds for both Dávila and the Estai. On April 20, a Spanish boat was permitted to come to St. John's and retrieve the fish confiscated by the Department of Fisheries and Oceans. The Turbot War was over, but there were still issues to be settled, particularly how to reconcile the new EU quota with both the TAC and what had already been fished.⁸⁸ Another major issue was a pending court case with the International Court of Justice in the Hague. A brief examination of this case provides us with a better understanding of each antagonist's legal standpoint during the Turbot War itself.

Follow-up: Spain v. Canada

On March 28, 1995, Spain filed an application with the ICJ for proceedings against Canada relating to the May 12, 1994 amendment to the CFPA and to the seizure of the Estai. The application made the following requests of the Court:

...the Kingdom of Spain requests:

- a) that the Court declare that the legislation of Canada, in so far as it claims to exercise a jurisdiction over ships flying a foreign flag on the high seas, outside the exclusive economic zone of Canada, is not opposable to the Kingdom of Spain;
- b) that the Court adjudge and declare that Canada is bound to refrain from any repetition of the acts complained of, and to offer to the Kingdom of Spain the reparation that is due, in the form of an indemnity the amount of which must cover all the damages and injuries occasioned; and
- c) that, consequently, the Court declare also that the boarding on the high seas, on 9 March 1995, of the ship Estai flying the flag of Spain and the measures of coercion and the exercise of jurisdiction over that ship and over its captain constitute a concrete violation of the aforementioned principles.⁸⁹

Upon receiving notice of the Application, the Canadian Government replied that in its opinion, the ICJ lacked jurisdiction in this case because of Canada's Declaration of May 10, 1994. On May 2, 1995, the President of the Court informed both parties that the proceedings would address the issue of jurisdiction before anything else.⁹⁰

On June 15, 1998, Spain presented its oral submission to the court. According to Spain, the dispute could be summed up into several issues. Firstly, in Spain's opinion, Canada lacked the legal authority to "act on the high seas against vessels flying the Spanish flag".⁹¹ Secondly, Canadian fisheries legislation could not be invoked against Spain. Next, Spain felt that Canada owed reparations for the "wrongful acts perpetrated against Spanish vessels".⁹² These issues did not, in Spain's opinion fit into Canada's reservation to the jurisdiction of the Court. Spain then argued that by subordinating its reservation to its national legislation, Canada was denying the ICJ's competence to determine its own jurisdiction.⁹³ Finally, Spain accused Canada of violating its own Charter of Rights and Freedoms by using force against the Estai and harassing other Spanish vessels.

Canada's own submission was simple. On June 17, 1998, the Canadian government asked the Court to

Adjudge and declare that the Court has no jurisdiction to adjudicate upon the Application filed by Spain on 28 March 1995.⁹⁴

This would be Canada's position throughout the case. In the case file, there was an interesting section dealing with each nations' characterization of the nature of the dispute between them. Spain stated that the dispute related entirely to the fact that Canada was not legally entitled to exercise jurisdiction on the high seas, that Canada's fishing legislation could not be applied to Spain, and that Canada had violated Spain's rights under international law, thus entitling Spain to reparation. Canada's view was that the dispute concerned the adoption of measures for conservation and management of

fisheries stocks within the NAFO Regulatory Area, and the enforcement of those measures.⁹⁵

In making its judgement, the ICJ made a number of pertinent observations with regard to each state's behaviour. With regard to Canada's declaration of May 10, 1994, the Court noted that

it is evident from the parliamentary debates and the various statements of the Canadian authorities that the purpose of the new declaration was to prevent the Court from exercising its jurisdiction over matters which might arise with regard to the international legality of the amended legislation and its implementation.⁹⁶

The Court disagreed with Spain's claim that the Estai incident fell outside the reservation made by Canada in its declaration of May 10, 1994. After carefully analyzing the semantics and syntax of the CFPA, the related Regulations, the NAFO convention, and other relevant legal documents, the Court found that

The use of force authorized by the Canadian legislation and regulations falls within the ambit of what is commonly understood as enforcement of conservation and management measures and thus falls under the provisions of paragraph 2 (d) of Canada's declarations. This is so notwithstanding that the reservation does not in terms mention the use of force.⁹⁷

In other words, in the opinion of the Court, Canada's actions were not punishable by the ICJ. On December 4, 1998, therefore, the ICJ ruled that it had no jurisdiction in the matter, and Spain's application for settlement of the dispute was denied. The Turbot War had finally come to a close.

Hindsight & Analysis

We have seen that the dispute between Canada and Spain had escalated to the point that both nations were sending armed vessels to the Grand Banks to protect their respective interests. The Canadian vessels had the authority to fire on the Spanish vessels at any sign of armed aggression. It seemed Canada and Spain were on the brink of war. Yet war never broke out. While this was undoubtedly due to factors such as the success of the diplomatic process, risk of economic sanctions, and international pressure, there is one factor that is generally overlooked. It would have violated certain international laws and agreements that both Canada and Spain were party to. While war may have been an acceptable way for the world to settle international issues up to the 20th century, it was unacceptable in the post-1945 United Nations community. Article 2.3 and 2.4 of the Charter read as follows:

2.3 All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

2.4 All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.⁹⁸

In Chapter VI, the authors of the Charter present acceptable ways of resolving disputes: negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.⁹⁹ The Security Council has the power to call upon disputing parties to use one of these methods. In the case of the Turbot War, there is no indication that the Security Council involved itself in the situation. This may be related to the United States' decision to remain neutral on the issue. Further, neither Canada nor Spain have reputations of violating the Charter, so the chances of them violating it over an issue such as fishing quotas seem very low.

Nor do they have histories of ignoring principles contained in most other international agreements they have signed. An example of this is the North Atlantic Treaty Organization (NATO), of which both nations were already members in 1995. Similarly to the UN Charter, the North Atlantic Treaty encourages its members to settle disputes peacefully:

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security, and justice, are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.¹⁰⁰

The Treaty also obliges its members to come to the defense of a member who has been attacked. This presents an interesting situation, for the Treaty does not discuss what should happen if war breaks out between two NATO members. It would be safe to assume that the resulting paradox would lead to chaos, as other NATO members would be obliged to assist both sides. Going to war would not benefit either nation.

What of the Northwest Atlantic Fisheries Organization? What does it say about dispute resolution? Given that participation is strictly voluntary and the existence of the objection principle allows member nations to express dissent is such a clause necessary? While the NAFO Convention does authorize the imposition of sanctions for violations (Article XVII) and reciprocal rights of boarding and inspection (Article XVIII), it does not address what NAFO should do if two member nations are in direct conflict with each other.¹⁰¹ Scholars have commented on the inability of NAFO to prevent its members from abusing the system, or on its failure to enforce its own regulations.¹⁰² NAFO was also weak in other areas: by allowing the EU only one membership, nations who fell

under the EU vote had to compete for a voice. Another weakness is the fundamental nature of its Convention. By framing it as a Convention on Future Multilateral Co-operation, the document relies on the basic assumption that members wish to co-operate. As we saw in the case of the Turbot War, this is a naïve assumption. As a result, Canada and the EU had to settle the issue together, without much help from NAFO.

Finally, both Canada and Spain had signed UNCLOS III in 1982, and were therefore obliged to follow it. This Convention discusses how conflicts within EEZs are to be resolved

In cases where this Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.¹⁰³

Similarly to the NAFO Convention, UNCLOS III is based on the assumption of international co-operation. War is not a possibility. Rather, peaceful settlement in one form or another is the desired method.

Canada and Spain did not go to war over the turbot dispute for several reasons. Neither country desired an armed conflict, for that would forever tarnish international reputations. We have seen that there was doubt about how Canada's aggressive behaviour (machine-gun fire et al) would affect future international relations or negotiations. We have also seen that any act of war between the two nations would have violated international law.

Canada's justification for its actions was that it was enforcing NAFO regulations, while Spain argued that thanks to the objection clause, it was also acting within NAFO rules. During the Turbot War, then, a situation existed where each nation was manipulating the NAFO system to justify their positions. Perhaps it would have been wiser for Spain not to push the issue by allowing its vessels to fish during negotiations between Canada and the EU. Still, Spain's actions were not strictly illegal.

The legality of Canada's position is more tenuous. While the Coastal Fisheries Protection Act entitled Canada to enforce NAFO regulations, this was a unilateral decision. The NAFO Regulatory Area was and is considered to be the high seas, not Canadian waters. Domestic law is therefore not applicable. Spain's interpretation of Canada's capture of the Estai as illegal is technically correct. It is important to note, however, that Canada had previously used the axiom of "it is easier to ask for forgiveness than it is to ask for permission" when it extended its EEZ to the 200 mile-limit. Canada's actions, while illegal, had a condoned precedent.

Conclusions

The Turbot War provides a fascinating case study of the application of international law and agreements to real situations. In the period leading up to the Turbot War, Canada and Spain took two very different approaches to regulating fishing in the Grand Banks. Beginning in the 1970s, the Canadian government was concerned about the potential environmental and economic impacts that over-fishing would bring. The government therefore took unilateral measures to protect Canadian resources, by extending the EEZ to 200 miles, by closing local fisheries to EU vessels, and by amending the Coastal Fisheries Protection Act. The Canadian government also took a leading role in the development of UNCLOS III and the creation of NAFO.

Neither Spain nor Canada behaved in a manner that was entirely legal. Spain failed to abide by NAFO quotas, which led to Canada's capture of the Estai. Canada's CFPA unilaterally gave Canada jurisdiction over what was otherwise considered international waters.

Both Canada and Spain were bound as members of the United Nations and NATO to settle the dispute in a peaceable manner. Further armed action, or an outbreak of armed conflict, could have resulted in international censure at best, possible Security Council intervention at worst. It was not in either nation's best interests to pursue such an aggressive policy. Nor would it have been in character for either nation to disregard international law in such a blatant manner.

The Turbot War indirectly resulted in the creation of two international agreements. Both the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and the Provisions of the United Nations Convention on the Law of the Sea of December 10, 1982, Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks contain provisions for the establishment of a stricter enforcement regime. In both these documents, a great deal of power is devolved to the regional organizations in order to make enforcement more manageable. The existence of these documents should help reduce the amount of illegal fishing on the high seas, and thus the likelihood of a repeat of the Turbot War.

¹ Javier Solana. "Statements to the Media", March 27, 1995. From <http://www.sispain.org>.

² Jean Chretien. "Response to Stéphane Bergeron, MP during Question Period", March 28, 1995. From "36th Parliament, 1st Session", Edited Hansard. (1994–1995) 53. <http://www.parl.gc.ca/36/1/parlbus/chambus/house/debates>.

³ The turbot is the North American name for the Greenland halibut, a bottom-feeding fish that inhabits the Northwest Atlantic. Given that the name of the dispute is the Turbot War, we will use the same term to refer to the fish in this paper.

⁴ Luis Atienza. "Estai's Boarding Tantamount to Piracy", The Financial Times, March 28, 1995.

⁵ C.f. "John Cabot" at <http://histori.ca/minutes/minute.do?ID=10122>.

⁶ Bonnie J. McCay and Alan Christopher Finlayson. "The Political Ecology of Crisis and Institutional Change: The Case of the Northern Cod". Presented to the Annual Meetings of the American Anthropological Association, Washington D.C., November 15–19 1995, p. 3.

-
- ⁷ Elizabeth R. DeSombre and J. Samuel Barkin. "Turbot and Tempers in the North Atlantic", *Conserving the Peace: Resources, Livelihoods and Security*, p. 332. From: http://www.iisd.org/pdf/2002/envsec_conserving_peace.pdf.
- ⁸ DeSombre and Barkin. "Turbot and Tempers", p. 333.
- ⁹ *Ibid.*, p. 332.
- ¹⁰ McCay and Finlayson. "Political Ecology of Crisis", p. 3.
- ¹¹ Allen L. Springer. "The Canadian Turbot War with Spain: Unilateral State Action in Defense of Environmental Interests", *The Journal of Environment & Development*. (March 1997) 6: 1, p. 30.
- ¹² J. Alan Beesley, former legal advisor to the Department of External Affairs. Quoted in Springer, "Turbot War", p. 30.
- ¹³ United Nations. Third United Nations Convention on the Law of the Sea, signed at Montego Bay, Jamaica, 10 December 1982, from the Preamble. From <http://www.oceanlaw.net/texts/losc.htm>.
- ¹⁴ *Ibid.*, Part V, Article 57.
- ¹⁵ Rosemary Rayfuse. "Canada and Regional Fisheries Organizations: Implementing the UN Fish Stocks Agreement", *Ocean Development & International Law*. (2003) 34, p. 211.
- ¹⁶ *Ibid.*
- ¹⁷ DeSombre and Barkin, "Turbot and Tempers", p. 333.
- ¹⁸ The European Union was considered a single unit member of NAFO, despite its multinational makeup.
- ¹⁹ Springer, "Turbot War", p. 33.
- ²⁰ Stig S. Gezelius. "Limits to externalisation: The EU NAFO policy 1979–1997", *Marine Policy* (1998) 23: 2, p. 150.
- ²¹ Fisheries and Oceans Canada. "Why NAFO members agreed upon a total allowable catch for Greenland halibut", Backgrounder [B–HQ–95–3E], March 1995. From http://www.dfo-mpo.gc.ca/media/backgrou/1995/hq-ac03_e.htm.
- ²² Gezelius. "Limits to externalisation", pp. 149–150.
- ²³ *Ibid.*, p. 150
- ²⁴ *Ibid.*, p. 151.
- ²⁵ Paul C. Missios and Charles Plourde. "The Canada–European Union Turbot War: A Brief Game Theoretic Analysis", *Canadian Public Policy*. (1996) 22: 2, p. 144.
- ²⁶ McCay and Finlayson. "Political Ecology", p. 5.
- ²⁷ Springer, "Turbot War", p. 34. DeSombre and Barkin. "Turbot and Tempers", p. 333.
- ²⁸ Atienza. "Estai's boarding tantamount to piracy".
- ²⁹ Canada did not ratify this agreement because of supposed EU violations in the NAFO areas. Gezelius. "Limits to externalisation", p. 156. Missios and Plourde. "The Canada–EU Turbot War", p. 145.
- ³⁰ DeSombre and Barkin. "Turbot and Tempers", p. 335.
- ³¹ Springer, "Turbot War", p. 34.
- ³² Fisheries and Oceans. "Why NAFO members agreed".
- ³³ *Ibid.*
- ³⁴ Rayfuse. "Canada and Regional Fisheries Organizations", p. 211.
- ³⁵ *Ibid.*, p. 212.

-
- ³⁶ Canada. Coastal Fisheries Protection Act, amended May 1994. Section 5.1, paragraphs (c) and (d). From <http://laws.justice.gc.ca/en/C-33/35158.html>.
- ³⁷ Ibid., section 5.2.
- ³⁸ Ibid., section 7.
- ³⁹ Springer, “Turbot War”, p. 34.
- ⁴⁰ Ibid.
- ⁴¹ Canada to the Secretary-General of the United Nations. “Declaration of acceptance of the compulsory jurisdiction of the International Court of Justice”, 10 May 1994. Paragraphs 2 a) through 2 c). From International Court of Justice. Judgement: Fisheries Jurisdiction Case (Spain v. Canada): Jurisdiction of the Court, December 4, 1998. From: [http://www.icj-cij.org/icjwww/idocket/iec/iecjudgment\(s\)](http://www.icj-cij.org/icjwww/idocket/iec/iecjudgment(s))
- ⁴² Ibid., paragraph 2 d).
- ⁴³ Fisheries and Oceans. “Why NAFO members agreed”.
- ⁴⁴ Brian Tobin. “Response to Francis G. LeBlanc during Question Period”, September 26, 1994. Canada. “36th Parliament, 1st Session”, Edited Hansard. (1994–1995) 53.
- ⁴⁵ Fisheries and Oceans. “Why NAFO members agreed”.
- ⁴⁶ Brian Tobin. “Response to Francis G. LeBlanc during Question Period”, February 14, 1995. Canada. “36th Parliament, 1st Session”, Edited Hansard. (1994–1995) 53.
- ⁴⁷ Brian Tobin. “Response to Ted McWhinney”, February 22, 1995. Canada. “36th Parliament, 1st Session”, Edited Hansard. (1994–1995) 53.
- ⁴⁸ DeSombre and Barkin. “Turbot and Tempers”, p. 335.
- ⁴⁹ Missios and Plourde. “The Canada– EU Turbot War”, p. 145.
- ⁵⁰ Canada. Coastal Fisheries Protection Regulations, section 21:2, paragraph d). Quoted in International Court of Justice. Judgement: Fisheries Jurisdiction Case.
- ⁵¹ Gezelius. “Limits to externalisation”, p. 156.
- ⁵² DeSombre and Barkin. “Turbot and Tempers”, p. 336.
- ⁵³ This paragraph is based on a DFO news release. Fisheries and Oceans Canada. “Canada seizes Spanish trawler”, News Release [NR–HQ–95–29E], March 9, 1995. From http://www.dfo-mpo.gc.ca/media/newrel/1995/hq-ac29_e.htm
- ⁵⁴ This paragraph is based on a statement of claims filed by Dávila and José Pereira e Hijos, S.A. (owner of the Estai) against the Attorney-General of Canada and the Minister of Fisheries and Oceans on July 28, 1995. From <http://www.sispain.org/english/history/fisherie/otherfac.html>.
- ⁵⁵ Note Verbale from Spanish Embassy to the Department of Foreign Affairs and External Trade, March 9, 1995. Quoted in ICJ. Judgement: Fisheries Jurisdiction Case, part 20.
- ⁵⁶ Note Verbale from the Spanish Ministry of Foreign Affairs to the Canadian Embassy in Spain. Ibid.
- ⁵⁷ Brian Tobin. “Response to Lucien Bouchard during Question Period”, March 15, 1995. Canada. “36th Parliament, 1st Session”, Edited Hansard. (1994–1995) 53.
- ⁵⁸ Springer. “Turbot War”, p. 36.
- ⁵⁹ Yvan Champagne. “An Expose of British Noncooperation in the EU”, The Yale Political Quarterly (May 1997 online edition) 18:2, p. 3.
- ⁶⁰ Springer. “Turbot War”, p. 36.

-
- ⁶¹ Raymond B. Blake. "Water Buoys the Nation: Fish and the Re-emergence of Canadian Nationalism", *Ahornblätter: Marburger Beiträge zur Kanada-Forschung* (Maple Sheets: Marburg Contributions to Canadian Research) (1998) 12, p. 11. <http://archiv.ub.uni-marburg.de/sum/90/sum90-6.html>.
- ⁶² Emma Bonino. Quoted in Fisheries and Oceans Canada. "Tobin and Wells respond to misinformation on the Canada-EU Turbot dispute", News Release [NR-HQ-95-34E], March 27 1995.
- ⁶³ Luis Atienza. "Estai's Boarding Tantamount to Piracy", *The Financial Times*, March 28, 1995. From: <http://www.sispain.org/english/history/fisherie/position/documents>.
- ⁶⁴ *Ibid.*
- ⁶⁵ Javier Solana. "Statements to the Media", March 27, 1995. From <http://www.sispain.org/english/history/fisherie/position/documents>.
- ⁶⁶ *Ibid.*
- ⁶⁷ Fisheries and Oceans Canada. "Tobin and Wells Respond to Misinformation on the Canada-EU Turbot Dispute", News Release [NR-HQ-95-34E], March 27, 1995. From http://www.dfo-mpo.gc.ca/media/newrel/1995/hq-ac34_e.htm
- ⁶⁸ *Ibid.*
- ⁶⁹ *Ibid.*
- ⁷⁰ *Ibid.*
- ⁷¹ Brian Tobin. As quoted in Blake. "Water Buoys the Nation", p. 13
- ⁷² *Ibid.*, p. 14.
- ⁷³ *Ibid.*
- ⁷⁴ *Ibid.*
- ⁷⁵ United Nations. "Fisheries Conference agrees on conservation measures", *United Nations Chronicle* (June 1995) 32:2, p. 71.
- ⁷⁶ *Ibid.*
- ⁷⁷ Rayfuse. "Canada and Regional Fisheries Organizations", p. 217.
- ⁷⁸ Champagne. "An Expose of British Noncooperation", p. 3.
- ⁷⁹ *Ibid.*
- ⁸⁰ Brian Tobin. "Response to Lucien Bouchard during Question Period", April 5, 1995. From "36th Parliament, 1st Session", Edited Hansard. (1994-1995) 53.
- ⁸¹ Champagne. "An Expose of British Noncooperation", p. 3.
- ⁸² Springer. "Turbot War", p. 36.
- ⁸³ Fisheries and Oceans Canada. "Canada-EU reach agreement to conserve and protect straddling stocks", News Release [NR-HQ-95-36E], April 15, 1995. From http://www.dfo-mpo.gc.ca/media/newrel/1995/hq-ac34_e.htm
- ⁸⁴ *Ibid.*
- ⁸⁵ Emma Bonino. "Statement on the occasion of the initially of the agreement between the European Union and Canada on fisheries (Greenland halibut)", April 15, 1995. From: <http://http://www.sispain.org/english/history/fisherie/position/documents>.
- ⁸⁶ Editorial. "A dubious victory in the fish war", *The Globe and Mail*, April 18, 1995. Reproduced at <http://www.sispain.org/english/history/fisherie/position/final/both/two.html>.
- ⁸⁷ Author unknown. "Victory at sea", *The Ottawa Citizen*, April 18, 1995. Reproduced at <http://www.sispain.org/english/history/fisherie/position/final/both/three.html>

⁸⁸ Elizabeth D. Wise. “European Union, Canada Sign Pact on Turbot Fishings”, Associated Press, April 21 1995.

<http://www.sispain.org/english/history/fisherie/position/final/pact.html>.

⁸⁹ International Court of Justice. Judgement: Fisheries Jurisdiction Case (Spain v. Canada): Jurisdiction of the Court, December 4, 1998, paragraph 10. From:

[http://www.icj-cij.org/icjwww/idocket/iec/iecjudgment\(s\)](http://www.icj-cij.org/icjwww/idocket/iec/iecjudgment(s)).

⁹⁰ Ibid., paragraph 4.

⁹¹ Ibid., paragraph 12.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid., paragraph 23.

⁹⁶ Ibid., paragraph 60.

⁹⁷ Ibid., paragraph 84.

⁹⁸ United Nations. Charter of the United Nations, signed June 26, 1945. From <http://www.yale.edu/lawweb/avalon/un/unchart.htm>.

⁹⁹ Ibid., Chapter VI, Article 33.

¹⁰⁰ North Atlantic Treaty Organization. “North Atlantic Treaty”, first signed at Washington, April 4, 1949. Article 1. The North Atlantic Treaty Organization. North Atlantic Treaty, signed in Washington, April 4, 1949. From: Documenting Canada: A History of Modern Canada in Documents. Dave De Brou and Bill Waiser, eds. Saskatoon: Fifth House Publishers, 1992, pp. 437–440.

¹⁰¹ Northwest Atlantic Fisheries Organization. Convention on Future Multilateral Co–operation in the Northwest Atlantic Fisheries, signed at Ottawa October 24, 1978.

<http://www.nafo.ca/About/MANDATE/Convention.html>.

¹⁰² DeSombre and Barkin, “Turbot and Tempers”, p. 335.

¹⁰³ UNCLOS III, Article 59.

Primary Sources: Media Reports and News releases

“A dubious victory in the fish war”, The Globe and Mail, April 18, 1995. From: <http://www.sispain.org/english/history/fisherie/position/final/both/two.html>.

“Victory at sea”, The Ottawa Citizen, April 18, 1995. From: <http://www.sispain.org/english/history/fisherie/position/final/both/three.html>.

Luis Atienza. “Estai’s Boarding Tantamount to Piracy”, Financial Times, March 28 1995. From: <http://www.sispain.org/english/history/fisherie/position/documents>.

Emma Bonino. “Statement on the occasion of the initialling of the agreement between the European Union and Canada on fisheries (Greenland halibut)”, April 18, 1995. From: <http://http://www.sispain.org/english/history/fisherie/position/documents>.

Fisheries and Oceans Canada. "Canada seizes Spanish trawler", News Release [NR-HQ-95-29E], March 9, 1995. From http://www.dfo-mpo.gc.ca/media/newrel/1995/hq-ac29_e.htm

Fisheries and Oceans Canada. "Canada-EU reach agreement to conserve and protect straddling stocks.", News Release [NR-HQ-95-36E], April 15, 1995. From http://www.dfo-mpo.gc.ca/media/newrel/1995/hq-ac34_e.htm

Fisheries and Oceans Canada. "Tobin and Wells respond to misinformation on the Canada-EU turbot dispute", News Release [NR-HQ-95-34E], March 27, 1995. From http://www.dfo-mpo.gc.ca/media/newrel/1995/hq-ac34_e.htm

Fisheries and Oceans Canada. "Why NAFO Members agreed upon a total allowable catch for Greenland halibut", Backgrounder [B-HQ-95-3E], March 1995. From http://www.dfo-mpo.gc.ca/media/backgrou/1995/hq-ac03_e.htm

Javier Solana. "Statements to the Media". March 27, 1995. From: <http://www.sispain.org/english/history/fisierie/position/documents>

United Nations. "Fisheries conference agrees on conservation measures", UN Chronicle. (June 1995) 32:2, p. 71.

Elizabeth D. Wise. "European Union, Canada Sign Pact on Turbot Fishings". Associated Press, April 21, 1995. From: <http://www.sispain.org/english/history/fisierie/position/final/pact.html>

Primary Sources: International Agreements and Other Documents

Canada. "36th Parliament, 1st Session", Edited Hansard. (1994-1995) 53.

Canada. Coastal Fisheries Protection Act (C-33). From: <http://laws.justice.gc.ca/en/C-33/35158.html>.

José Pereira e Hijos, S.A. and Enrique Dávila González. "Statement of Claims against the Attorney-General of Canada and the Minister of Fisheries and Oceans". Presented to the Trial Division, Federal Court of Canada, St. John's, Newfoundland on July 28, 1995. <http://www.sispain.org/english/history/fisierie/otherfac.html>

International Court of Justice. "Judgement: Fisheries Jurisdiction Case (Spain vs. Canada): Jurisdiction of the Court". Issued December 4, 1998. From: [http://www.icj-cij.org/icjwww/idocket/iec/iecdjudgement\(s\)...](http://www.icj-cij.org/icjwww/idocket/iec/iecdjudgement(s)...)

The Northwest Atlantic Fisheries Organization. Text of the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries, first signed in Ottawa, October 24, 1978. From: <http://www.nafo.ca/About/MANDATE/Convention.html>.

The North Atlantic Treaty Organization. North Atlantic Treaty, signed in Washington, April 4, 1949. From: Documenting Canada: A History of Modern Canada in Documents. Dave De Brou and Bill Waiser, eds. Saskatoon: Fifth House Publishers, 1992, pp. 437–440.

United Nations. Charter of the United Nations, first signed in San Francisco, June 26, 1945. From: <http://www.yale.edu/lawweb/avalon/un/unchart.htm>.

United Nations. Third United Nations Convention on the Law of the Sea, signed at Montego Bay, Jamaica, 10 December 1982. From <http://www.oceanlaw.net/texts/losc.htm>.

Secondary Sources: Articles

Raymond B. Blake. “Water Buoy the Nation: Fish and the Re-emergence of Canadian Nationalism”, *Ahornblätter: Marburger Beiträge zur Kanada-Forschung (Maple Sheets: Marburg Contributions to Canadian Research)* (1998) 12, pp. 1–19. From: <http://archiv.ub.uni-marburg.de/sum/90/sum90-6.html>.

Yvan Champagne. “An expose of British Noncooperation in the EU”, *The Yale Political Quarterly*. (May 1997) 18:2. From: <http://www.yale.edu/ypq/articles/may97/may97b.html>.

Elizabeth R. DeSombre and J. Samuel Barkin. “Turbot and Tempers in the North Atlantic”, *Conserving the Peace: Resources, Livelihoods and Security*. pp. 325–349. From: http://www.iisd.org/pdf/2002/envsec_conserving_peace.pdf.

Stig S. Gezelius. “Limits to externalisation: The EU NAFO policy 1979–1997”, *Marine Policy* (1998) 23:2, pp. 147–159.

Bonnie J. McCay and Alan Christopher Finlayson. “The Political Ecology of Crisis and Institutional Change: The Case of the Northern Cod”, presented to the Annual Meetings of the American Anthropological Association, Washington, November 15–19 1995. From: <http://articcircle.uconn.edu/NatResources/cod/mckay.html>.

Paul C. Missios and Charles Plourde. “The Canada–European Union Turbot War: A Brief Game Theoretic Analysis”, *Canadian Public Policy* (1996) 22:2, pp. 144–150.

Rosemary Rayfuse. “Canada and Regional Fisheries Organizations: Implementing the UN Fish Stocks Agreement”, *Ocean Development & International Law*. (2003) 34, pp.209–228.

Allen L. Springer. "The Canadian Turbot War with Spain: Unilateral State Action in Defense of Environmental Interests", *The Journal of Environment & Development*. (March 1997) 6:1, pp. 26–60.