

JUDGMENT OF THE COURT
OF 14 OCTOBER 1980 ¹

Attorney General
v Juan C. Burgoa
(preliminary ruling requested by the
Circuit Court of the County of Cork)

“Fisheries: Rights of non-member countries”

Case 812/79

1. *International agreements — Agreements of Member States — Agreements prior to EEC Treaty — Art. 234 of Treaty — Sphere of application*
(EEC Treaty, Art. 234)
2. *International agreements — Agreements of Member States — Agreements prior to EEC Treaty — Rights of non-member countries and duties of Member States — Duties of Community institutions — Scope and limits*
(EEC Treaty, Art. 234)
3. *International agreements — Agreements of Member States — Agreements prior to EEC Treaty — Art. 234 of Treaty — Effects — Modification of rights which individuals may derive from prior agreements — None*
(EEC Treaty, Art. 234, first para.)
4. *Fisheries — Conservation of resources of sea — Community rules applicable to Spanish vessels — Interim régime within framework of relations between Community and Spain — Substitution for previous régime*
(Council Regulations Nos 341/78 and 1376/78)
5. *Fisheries — Conservation of resources of sea — Community rules applicable to Spanish vessels — National legislation prescribing penalties for contravention of such rules — Compatibility with Community law*
(Council Regulation No 1376/78)

¹ — Language of the Case: English.

1. Article 234 of the EEC Treaty is of general scope and applies to any international agreement, irrespective of subject-matter, which is capable of affecting the application of the Treaty.

upon such an agreement rights which the national courts of the Member States must uphold. Nor does it adversely affect the rights which individuals may derive from such an agreement.

2. The purpose of Article 234 is to lay down, in accordance with the principles of international law, that the application of the Treaty does not affect the duty of the Member State concerned to respect the rights of non-member countries under an agreement concluded prior to the entry into force of the Treaty or, as the case may be, the accession of the Member State concerned, and to perform its obligations thereunder.

It would not achieve its purpose if it did not imply a duty on the part of the institutions of the Community not to impede the performance of the obligations of Member States which stem from a prior agreement. However, that duty of the Community institutions is directed only to permitting the Member State concerned to perform its obligations under the prior agreement and does not bind the Community as regards the non-member country in question.

3. The first paragraph of Article 234 cannot have the effect of altering the nature of the rights which may flow from agreements previously concluded with non-member countries. From that it follows that that provision does not have the effect of conferring upon individuals who rely

4. The interim régime brought into force by Regulations Nos 341/78 and 1376/78, which the Community set up under its own rules, falls within the framework of the relations established between the Community and Spain in order to resolve the problems inherent in conservation measures and the management of fishery resources and the extension of exclusive fishery limits and in order to ensure reciprocal access by fishermen to the waters subject to such measures. Those relations were superimposed on the régime which previously applied in those zones in order to take account of the general development of international law in the field of fishing on the high seas.

5. Legislation of a Member State which prescribes penalties for a contravention of the prohibition against fishing without authorization in its fishery limits, which is imposed on Spanish-registered fishing vessels by Council Regulation No 1376/78 of 21 June 1978 extending certain interim measures for the conservation and management of fishery resources applicable to vessels flying the flag of Spain to 31 July 1978, is not incompatible with Community law.