Russian Federation v. Australia  
(The “Volga” Case)  

International Tribunal for the Law of the Sea  
Case No. 11 (2002)  

Facts  
a. Filed with the International Tribunal for the Law of the Sea (ITLOS) by the Russian Federation for alleged wrongdoing by the government of Australia in the detainment of the fishing ship Volga and her crew.  
b. In February 2002, the Volga, a fishing vessel flagged and licensed by the Russian Federation, was boarded by an Australian military helicopter outside the Australian Exclusive Economic Zone, under suspicion of previously illegally fishing within the Australian EEZ.  
c. The Volga and members of her crew were detained in Australia pending criminal hearings.  
d. In March 2002, members of the crew were charged with violating the Australian Fisheries Management Act of 1991.  
e. After posting bail of AU$75,000 for each of the three crew members awaiting trial, the Australian court system increased the bail to AU$275,000 each. The Russian Federation is claiming that this amount is exorbitant and in violation of the United Nations Convention for the Law of the Sea (UNCLOS) and its provisions regarding the timely release of persons and vessels (Article 73 and 292).  
f. The Volga is being held by Australian authorities pending a bond of AU$3,332,500.  
g. The Australian government also maintains that once the Volga is released after this bond is paid, it must carry a Vessel Monitoring System (VMS) until the case is decided, to ensure that the Volga is not able to continue to illegally fish in Australian waters.  

Questions  
a. Does the Tribunal have jurisdiction to hear the case?  
b. Has Australia complied with the Convention in providing for a way for this vessel and crew to be released promptly?  
c. Is the bond set for the crewmen exorbitant?  
d. Is the bond set for the Volga exorbitant?  
e. Does Australia have the right to require non-monetary stipulations of the Volga (the VMS) to facilitate its release?  

Decisions  
a. The Tribunal ruled that it did have jurisdiction. Both parties are signatories of the Convention, and Australia has not denied the right of the Tribunal to hear the case.
b. The Tribunal found that the Australian government has violated the Convention by requiring excessive payments.

c. The Tribunal did rule that the Australian government's handling of the matter was not in compliance with the Convention's requirement for the providing of a “prompt release,” but as the crewmen had later been allowed to leave after appealing their increased bonds, the Tribunal had no need for judgment.

d. The Tribunal ruled that the bond fee for the release of the Volga was exorbitant, and that it should be limited to the assessed value of the vessel, AU$1,920,000, and not include the other fees that the Australian government had imposed.

e. Finally, the Tribunal ruled that the government of Australia did not have the right to impose measures beyond the paying of a bond. That is, the requirement that the Volga carry a VMS is in violation of the Convention.

**Principles**

a. This ruling is primarily concerned with **subject matter jurisdiction**.

b. This case shows the extent to which **international court systems (in this case, a tribunal)** are able to rule on the local proceedings of cases between a government and foreign nationals.

c. This case was originally about the rights to fish outside the territorial waters of a coastal state. However, this matter is left up to the Australian courts, and the focus of the case in front of the Tribunal is limited to the details concerning the release of the crew members and the Volga.

**Conclusion**

This case is interesting because it relates to how signing onto an international convention (the UNCLOS) can impact a state's sovereignty. The ITLOS found against Australia in a matter that had little to do with anything that occurred in international waters, and everything to do with what the Australian courts were demanding of the Volga's owner and crew members while the trial was pending. This finding can provide some insight as to why the United States has not yet ratified the UNCLOS. While the Tribunal provided some justification for its findings against Australia, it is possibly worrying to some American politicians that this Tribunal can order a roadmap to a quick release of both the people and vessel accused of a fairly serious violation of law.

**Bibliography**


**Submitted**

Timothy A White, November 5, 2009.