



INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
TRIBUNAL INTERNATIONAL DU DROIT DE LA MER

Press Release

(Issued by the Registry)

SAINT VINCENT AND THE GRENADINES REQUESTS PROVISIONAL MEASURES IN RESPECT OF THE M/V "SAIGA"

HAMBURG, 13 January. Today, the International Tribunal for the Law of the Sea received its second case with the filing by Saint Vincent and the Grenadines of a request for the prescription of provisional measures in respect of the M/V "SAIGA" with the Registrar of the Tribunal. The Request is for an injunction against Guinea not to interfere with the freedom of navigation and related rights of Saint Vincent and the Grenadines. It further requests that Guinea immediately comply with the Judgment of the Tribunal of 4 December 1997 in what was titled the M/V "SAIGA" case.

Saint Vincent and the Grenadines had, on 13 November 1997, submitted the case to the Tribunal for the prompt release by Guinea of the oil tanker M/V "SAIGA" and its crew. The vessel and its crew had been arrested and held by Guinea since 28 October 1997. The Tribunal ordered the immediate release of the vessel on the deposit by Saint Vincent and the Grenadines of United States Dollars 400,000 as a security in addition to the United States Dollars 1 million value cargo of gasoil that had been discharged from the vessel by the Guinean authorities.

The Request now submitted for provisional measures states that subsequently, Saint Vincent and the Grenadines posted a United States Dollars 400,000 Bank Guarantee with the Agent of Guinea, but that Guinea did not accept the terms of the Bank Guarantee and requested changes to be made to them. The changes in the terms requested by Guinea were considered "unreasonable and either irrelevant or unacceptable" by Saint Vincent and the Grenadines.

Also according to the Request, Guinea in the meantime has proceeded to file criminal charges against the Master of the M/V "SAIGA" resulting in a Guinean court imposing a fine of approximately United States Dollars 15 million while making Saint Vincent and the Grenadines civilly liable for the fine imposed upon the Master of the vessel.

The Government of Saint Vincent and the Grenadines decided to submit its dispute with Guinea to an arbitration proceeding under Annex VII of the United Nations Convention on the Law of the Sea. In view of the delay in setting up an arbitral tribunal, the Government of Saint Vincent and the Grenadines requested the Tribunal to prescribe provisional measures, pending the constitution of the arbitral tribunal.

(more)

For information media -- not an official record

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Guinea has been notified by the Tribunal of the filing of the Request in order for it to file a Response. The Tribunal is expected to convene on 16 February 1998 to start considering the case. The dates of the hearings in this case will be announced in a further Press Release of the Tribunal.

The United Nations Convention on the Law of the Sea to which Saint Vincent and the Grenadines and Guinea are parties, requires States to settle their disputes arising under the Convention by peaceful means. For this purpose, they can choose the International Tribunal for the Law of the Sea, the International Court of Justice, or arbitration. This choice may be exercised in a declaration when signing, ratifying or acceding to the Convention or at any time thereafter, even on an *ad hoc* basis for a particular case.

Provided that both parties have accepted the same forum by declaration or special agreement, a dispute may be submitted to that forum. Neither Saint Vincent and the Grenadines nor Guinea have filed such declarations or special agreement. In the absence of agreement, the dispute can be submitted only to arbitration under Annex VII of the Convention. The parties to the dispute can still agree to submit the dispute to a standing court: the International Tribunal for the Law of the Sea or the International Court of Justice.

Provisional Measures

Article 290 of the United Nations Convention on the Law of the Sea provides that provisional measures may be prescribed by a court or a tribunal when it “considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment”.

In view of the possible delay in setting up an arbitral tribunal, this article specifies that pending the constitution of an arbitral tribunal, the International Tribunal for the Law of the Sea may prescribe provisional measures if it considers that certain requirements have been met, namely that *prima facie* the tribunal which is to be constituted would have jurisdiction and the urgency of the situation so requires.

History of the Dispute

- On 28 October 1997, the M/V “SAIGA” flying the flag of Saint Vincent and the Grenadines was arrested by Guinean patrol boats. Two members of the crew were seriously injured during the arrest.
- On 13 November 1997, Saint Vincent and the Grenadines filed an Application for the prompt release of the vessel and its crew with the Registrar of the Tribunal. Eight days later the Tribunal convened to hear the case.
- On 27 and 28 November the hearings in the case were continued.

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- On 4 December 1997, six days after the closure of the hearings, and only three weeks after the institution of the proceedings, the Tribunal delivered its Judgment in the M/V "SAIGA" case.
- On 10 December 1997, Credit Suisse, at the request of Saint Vincent and the Grenadines, issued a Bank Guarantee in the amount of United States Dollars 400,000 which was posted with the Agent of Guinea, the Applicant reports.
- On 10 December 1997, criminal proceedings are started before a Guinean court against the Master of the M/V "Saiga", with Saint Vincent and the Grenadines being joined in the proceedings as being civilly liable, the Applicant reports.
- On 13 December 1997, the Agent of Guinea requests changes to the terms of the Bank Guarantee, which Saint Vincent and the Grenadines considers "unreasonable and either irrelevant or unacceptable", the Applicant reports.
- On 17 December 1997, a Guinean court imposed a fine of approximately United States Dollars 15 million while making Saint Vincent and the Grenadines civilly liable for the fine imposed upon the Master of the vessel, the Applicant reports.
- On 22 December 1997, the Government of Saint Vincent and the Grenadines notified Guinea that it was submitting the dispute in respect of the M/V "SAIGA" to arbitration, the Applicant reports.
- On 13 January 1998, the Government of Saint Vincent and the Grenadines duly files a Request for the prescription of provisional measures pending the constitution of an arbitral tribunal with the Registrar of the Tribunal.

The Rules of the Tribunal, the Resolution on the Internal Judicial Practice, the Guidelines concerning the Preparation and Presentation of Cases, case records and previous Press Releases, setting out the background and the composition of the Tribunal are available on the United Nations website: <http://www.un.org/Depts/los/> and from the Registrar of the Tribunal. Requests may be addressed by telephone, facsimile or E-mail: Tel: (49) (40) 35607-227/228, Fax: (49) (40) 35607-245/275, E-mail: itlos@itlos.hamburg.de

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