



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

Press Release

(Issued by the Registry)

SOUTHERN BLUEFIN TUNA CASES (PROVISIONAL MEASURES)
(Australia and New Zealand v. Japan)

TRIBUNAL PRESCRIBES PROVISIONAL MEASURES

HAMBURG, 27 August. Today, the International Tribunal for the Law of the Sea issued its Order in the Requests for the prescription of provisional measures in the Southern Bluefin Tuna Cases (New Zealand and Australia v. Japan). The Tribunal noted that there is no disagreement between the parties that the stock of Southern Bluefin Tuna is severely depleted. It considered that there is scientific uncertainty regarding measures to be taken to conserve the stock. The Tribunal also considered that in the circumstances the parties should act with prudence and caution to ensure that effective conservation measures are taken to prevent serious harm to the stock of Southern Bluefin Tuna. The Tribunal ordered inter alia that the parties should resume negotiations without delay with a view to reaching agreement on measures for the conservation and management of Southern Bluefin Tuna and that the parties should restrict their catches. The Order was read in open court by the President of the Tribunal, Judge Thomas A. Mensah.

Order available at United Nations website: <http://www.un.org/Depts/los/>

The Order in the Requests for the prescription of provisional measures will be made available by the Division of Ocean Affairs and the Law of the Sea of the United Nations on the United Nations Website shortly after its issuance

The Tribunal prescribed five provisional measures and ordered the parties each to submit an initial report on the steps they have taken, or propose to take, in order to ensure prompt compliance with the measures prescribed. The report is to be submitted not later than 6 October 1999. The Tribunal also decided that the Registrar of the Tribunal should notify all States that are involved in the fishery for Southern Bluefin Tuna that are Parties to the United Nations Convention on the Law of the Sea of the Order.

The Tribunal, after it had found that it had jurisdiction over the disputes, prescribed the following provisional measures:

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Parties to prevent aggravation or extension of the dispute

By 20 votes to 2, the Tribunal decided that Australia, Japan and New Zealand shall each ensure that no action is taken which might aggravate or extend the disputes submitted to the arbitral tribunal.

Parties to prevent prejudice to the decision on the merits

By 20 votes to 2, the Tribunal decided that Australia, Japan and New Zealand shall each ensure that no action is taken which might prejudice the carrying out of any decision on the merits which the arbitral tribunal may render.

Parties to keep catches to levels last agreed

By 18 votes to 4, the Tribunal decided that Australia, Japan and New Zealand shall ensure, unless they agree otherwise, that their annual catches do not exceed the annual national allocations at the levels last agreed by the parties of 5,265 tonnes, 6,065 tonnes and 420 tonnes, respectively; in calculating the annual catches for 1999 and 2000, and without prejudice to any decision of the arbitral tribunal, account shall be taken of the catch during 1999 as part of an experimental fishing programme.

Parties to refrain from conducting an experimental fishing programme

By 20 votes to 2, the Tribunal decided that Australia, Japan and New Zealand shall each refrain from conducting an experimental fishing programme involving the taking of a catch of Southern Bluefin Tuna, except with the agreement of the other parties or unless the experimental catch is counted against its annual national allocation.

Parties to resume negotiations

By 21 votes to 1, the Tribunal decided that Australia, Japan and New Zealand should resume negotiations without delay with a view to reaching agreement on measures for the conservation and management of Southern Bluefin Tuna.

Parties to seek agreement with others engaged in fishing for Southern Bluefin Tuna

By 20 votes to 2, the Tribunal decided that Australia, Japan and New Zealand should make further efforts to reach agreement with other States and fishing entities engaged in fishing for Southern Bluefin Tuna, with a view to ensuring conservation and promoting the objective of optimum utilization of the stock.

The Requests for the prescription of provisional measures were submitted to the full Tribunal composed as follows: President Thomas A. Mensah (Ghana), Vice-President Rüdiger Wolfrum (Germany), Judges Lihai Zhao (China), Hugo Caminos (Argentina), Vicente Marotta Rangel (Brazil), Alexander Yankov (Bulgaria), Soji Yamamoto (Japan),

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Anatoly Lazarevich Kolodkin (Russian Federation), Choon-Ho Park (Republic of Korea), Paul Bamela Engo (Cameroon), L. Dolliver M. Nelson (Grenada), P. Chandrasekhara Rao (India), Joseph Akl (Lebanon), David Anderson (United Kingdom), Budislav Vukas (Croatia), Joseph Sinde Warioba (United Republic of Tanzania), Edward Arthur Laing (Belize), Tullio Treves (Italy), Mohamed Mouldi Marsit (Tunisia), Gudmundur Eiriksson (Iceland), Tafsir Malick Ndiaye (Senegal), and Judge *ad hoc* Shearer (Australia).

Vice-President Wolfrum, Judges Caminos, Marrotta Rangel, Yankov, Anderson and Eiriksson appended a joint declaration to the Order of the Tribunal. Judge Warioba appended a declaration. Judges Laing and Treves appended separate opinions. Judges Yamamoto and Park appended a joint separate opinion. Judge *ad hoc* Shearer appended a separate opinion. Judges Vukas and Eiriksson appended dissenting opinions.

Background information

Australia and New Zealand filed their Requests for provisional measures with the Tribunal on 30 July 1999. The Requests are for the prescription of provisional measures (an interim injunction) by the Tribunal that Japan immediately cease the unilateral experimental fishing of Southern Bluefin Tuna, which commenced at the beginning of June 1999 (See Press Release No. 24). Japan filed its response to the Requests on 9 August 1999. In its response Japan submits that the Tribunal should deny the provisional measures requested by Australia and New Zealand. The response also contains a Counter-Request by Japan for provisional measures (See Press Release No. 25).

The Governments of Australia and New Zealand decided to submit their dispute with Japan to an arbitration procedure under Annex VII of the United Nations Convention on the Law of the Sea. Pending the constitution of such an arbitral tribunal, the Governments of Australia and New Zealand have requested the International Tribunal for the Law of the Sea to prescribe provisional measures (interim injunction), pursuant to paragraph 5 of Article 290 of the Convention. The Tribunal heard oral argument from the parties at five public sittings between 18 and 20 August 1999 (See Press Release No. 27).

The Press Releases of the Tribunal, documents and other information are available on the United Nations website: <http://www.un.org/Depts/los/> and from the Registry of the Tribunal, Wexstrasse 4, 20355 Hamburg, Germany, Tel: (49) (40) 35607-227/228, Fax: (49) (40) 35607-245/275 or United Nations DC-1, suite 1140, New York, NY 10017, Tel: (1) (212) 963-6480, Fax: (1) (212) 963-0908, E-mail: itlos@itlos.hamburg.de

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