

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



2001

Public sitting

held on Friday, 20 April 2001, at 3.00 p.m.,
at the International Tribunal for the Law of the Sea, Hamburg,
President P. Chandrasekhara Rao presiding

The “Grand Prince” Case
(Application for prompt release)

(Belize v. France)

Verbatim Record

<i>Present:</i>	President	P. Chandrasekhara Rao
	Vice-President	L. Dolliver M. Nelson
	Judges	Hugo Caminos
		Vicente Marotta Rangel
		Alexander Yankov
		Soji Yamamoto
		Anatoli Lazarevich Kolodkin
		Choon-Ho Park
		Paul Bamela Engo
		Joseph Akl
		David Anderson
		Budislav Vukas
		Rüdiger Wolfrum
		Edward Arthur Laing
		Tullio Treves
		Mohamed Mouldi Marsit
		Gudmundur Eiriksson
		Tafsir Malick Ndiaye
		José Luis Jesus
	Judge <i>ad hoc</i>	Jean-Pierre Cot
	Registrar	Gritakumar E. Chitty

Belize represented by:

Mr. Alberto Penelas, *Avocat*, Bar of Vigo, Spain,

as Agent,

and

Mrs. Beatriz Golcochea Fábregas, *Avocat*, Bar of Vigo, Spain,

as Counsel,

France represented by:

Mr. Michel Trinquier, Deputy Director for the Law of the Sea, Fisheries and the Antarctic, Office of Legal Affairs of the Ministry of Foreign Affairs,

as Counsel.

1 **CLERK OF THE TRIBUNAL:** All rise, veuillez vous lever.

2

3 **PRESIDENT:** Please be seated

4

5 **CLERK OF THE TRIBUNAL:** The International Tribunal for the Law of the Sea is
6 now in session.

7

8 **REGISTRAR:** The Tribunal will today deliver its Judgment in the "*Grand Prince*"
9 Case, Application for Prompt Release, Case No. 8 on the List of cases, Belize,
10 Applicant and France, Respondent. The Tribunal heard oral arguments from the
11 parties at three public sittings on 5 and 6 April 2001.

12

13 The hearings concluded with the final submissions of both parties which read as
14 follows:

15

16 On behalf of Belize:

17

18 -I quote-

19

20 1. "To declare that the Tribunal has jurisdiction under article 292 of the United
21 Nations Convention on the Law of the Sea to hear the present application.

22

23 2. To declare the present application admissible.

24

25 3. To declare that France failed to comply with article 73, paragraph 2, of the
26 Convention, as the guarantee fixed for release of Grand Prince is not reasonable
27 as to its amount, nature or form.

28

29 4. To declare that France failed to comply with article 73, paragraph 2, of the
30 Convention by having evaded the requirement of prompt release under this
31 article by not allowing the release of the vessel upon the posting of a reasonable,
32 or any kind of, guarantee alleging that the vessel is confiscated and that the
33 decision of confiscation has been provisionally executed.

34

35 5. To decide that France shall promptly release the Grand Prince upon the
36 posting of a bond or other security to be determined by the Tribunal.

37

38 6. To determine that the bond or other security shall consist of an amount of two
39 hundred and six thousand one hundred and forty nine (206,149) Euros or its
40 equivalent in French Francs.

41

42 7. To determine that the monetary equivalent to (a) 18 tonnes of fish on board
43 the Grand Prince held by the French authorities, and valued on 123,848 Euros
44 (b) the fishing gear, valued on 24,393 Euros (c) the fishing materials valued on
45 5,610 Euros, totalling 153,851 Euros, shall be considered as security to be held
46 or, as the case may be, returned by France to this party.

47

48 8. To determine that the bond shall be in the form of a bank guarantee.

49

1 9. To determine that the wording of the bank guarantee shall, among other
2 things, state the following:
3

4 A. In case France returns to the shipowner the items referred to under point 7
5 (of the present submissions):
6

7 "The bank guarantee it is issued in consideration of France releasing the
8 Grand Prince, in relation to the incidents dealt with in the Order of
9 12 January 2001 of the Court of First Instance of Saint-Paul and that the
10 issuer undertakes and guarantees to pay to France such sums, up to
11 206,149 Euros, as may be determined by a final and firm judgement or
12 decision of the appropriate domestic forum in France or by agreement of
13 the parties. Payment under the guarantee would be due promptly after
14 receipt by the issuer of a written demand by the competent authority of
15 France accompanied by a certified copy of the final and firm judgement or
16 decision or agreement."
17

18 B. In case France does not return to the shipowner the items referred to
19 under point 7 (of the present submissions):
20

21 "The bank guarantee is issued in consideration of France releasing the
22 Grand Prince, in relation to the incidents dealt with in the Order of
23 12 January 2001 of the Court of First Instance of Saint-Paul and that the
24 issuer undertakes and guarantees to pay to France such sums, up to
25 52,298 Euros, as may be determined by a final and firm judgement or
26 decision of the appropriate domestic forum in France or by agreement of
27 the parties. Payment under the guarantee would be due promptly after
28 receipt by the issuer of a written demand by the competent authority of
29 France accompanied by a certified copy of the final and firm judgement or
30 decision or agreement."
31

32 10. To determine that the bank guarantee shall be invoked only if the monetary
33 equivalent of the security held by France is not sufficient to pay the sums as may
34 be determined by a final and firm judgement or decision of the appropriate
35 domestic forum in France."
36

37 -end of quote-

38
39 On behalf of France:

40
41 -I quote-

42
43 "The Government of the French Republic requests the Tribunal, rejecting all
44 submissions to the contrary made on behalf of the State of Belize,
45

46 1. First, to note that the Application for prompt release filed on
47 21 March 2001 on behalf of Belize is not admissible, that, in any case, the
48 Tribunal has no jurisdiction to entertain the Application and that it must,
49 therefore, be rejected.
50

1 2. Alternatively, to adjudge and declare that the conditions normally
2 governing the adoption by the Tribunal of a decision concerning prompt
3 release upon the posting of a reasonable bond have not been fulfilled under
4 the circumstances of this case, and that, therefore, the Application by the
5 Applicant should be denied.”

6
7 -end of quote-

8
9 Mr. President.

10
11 **PRESIDENT:** Judge Thomas Mensah is not able to attend today’s reading of the
12 judgment, but asked that he be allowed to record his final vote from Iran. I will ask
13 the Registrar to read the decision of the Tribunal on this matter.

14
15 Mr. Registrar.

16
17 **REGISTRAR:** The decision of the Tribunal adopted on 12 April 2001 reads as
18 follows:

19
20 -I quote-

21
22 “Judge Thomas A Mensah has informed the Tribunal that he will be absent from
23 Hamburg with effect from 14 April 2001, since he is required to visit Iran as
24 Chairman of the ‘F4’ Panel of the United Nations Compensation Commission
25 (UNCC) to inspect certain archeological sites in respect of which the
26 Government of Iran has submitted claims for compensation to the ‘F4’ Panel
27 pursuant to Security Council resolution 687/1991. He has informed the Tribunal
28 that the Government of Iran has made the necessary arrangements for the visit.

29
30 Judge Mensah has sought the permission of the Tribunal to record his vote in
31 writing in the “*Grand Prince*” Case although he will be absent when the formal
32 vote is taken.

33
34 Judge Mensah was present at the public sittings held in this case on 5 and
35 6 April 2001. He also participated in the deliberations of the Tribunal up to a
36 point at which it had reached the substance of its decision.

37
38 The Tribunal decides that, in the special circumstances mentioned by Judge
39 Mensah, he should be allowed to record his final vote from Iran by facsimile.”

40
41 -end of quote-

42
43 Judge Mensah recorded his final vote in accordance with the decision of the
44 Tribunal.

45
46 Mr. President.

47

1 **PRESIDENT:** I now call on the Agent of the Applicant to note the representation of
2 Belize.
3
4 **MR. PENELAS:** [*Introduces himself and Beatriz Golcoechea Fábregas, Counsel*]
5
6 **PRESIDENT:** Thank you. I now call on the Agent of the Respondent to note the
7 representation of France.
8
9 **MR. TRINQUIER:** [*introduces himself*]
10
11 **THE PRESIDENT:** Thank you. I will now read relevant extracts from the Judgment
12 in the "*Grand Prince*" Case.
13
14 [*The President reads the extracts.*]
15
16 The sitting is now closed.
17
18 **CLERK OF THE TRIBUNAL:** All rise, veuillez vous lever
19