

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



2024

Public sitting

held on Friday, 12 July 2024, at 4:30 p.m.,
at the International Tribunal for the Law of the Sea, Hamburg,

President Tomas Heidar presiding

The “Zheng He” Case

(Request for provisional measures)

(Luxembourg v. Mexico)

Verbatim Record

<i>Present:</i>	President	Tomas Heidar
	Vice-President	Neeru Chadha
	Judges	José Luís Jesus
		Boualem Bouguetaia
		David Joseph Attard
		Markiyán Z. Kulyk
		Óscar Cabello Sarubbi
		Kriangsak Kittichaisaree
		Roman Kolodkin
		Liesbeth Lijnzaad
		María Teresa Infante Caffi
		Jielong Duan
		Kathy-Ann Brown
		Ida Caracciolo
		Maurice K. Kamga
		Frida María Armas Pfirter
		Hidehisa Horinouchi
		Thembile Elphus Joyini
		Zha Hyoung Rhee
		Osman Keh Kamara
		Konrad Marciniak
	Judges <i>ad hoc</i>	Alberto Székely y Sánchez
		Marcelo Gustavo Kohen
	Registrar	Ximena Hinrichs Oyarce

Luxembourg is represented by:

Ms Annabel Rossi, Head of Legal Affairs, Legislation and Approvals, Maritime Administration, Ministry of the Economy,

as Agent;

and

Ms Mathilde Frappier, Professor of Law, Professor of Public International Law, University of Lorraine, France,

Mr Olivier Cachard, Professor of Law, Professor of Private International Law, University of Lorraine, France, member of the Board of Directors, French Association of Maritime Law (founding association of the International Maritime Committee),

Mr Alain Germeaux, Director of Legal Affairs, Ministry of Foreign and European Affairs, Defence, Cooperation and Foreign Trade,

Ms Elisabeth Relave-Svendsen, Deputy Director of Legal Affairs, Maritime Administration, Ministry of the Economy,

Mr Tobias Schell, Legal Adviser, Ministry of Foreign and European Affairs, Defence, Cooperation and Foreign Trade,

as Counsel and Advocates;

Mr André Hansen, Government Commissioner for Maritime Affairs,

Mr Marc Siuda, Deputy Government Commissioner for Maritime Affairs,

Ms Elma Bakovic, Policy Officer, Ministry of Foreign and European Affairs, Defence, Cooperation and Foreign Trade,

as members of the delegation.

Mexico is represented by:

Mr Alfonso Ascencio Herrera, Minister and Deputy Chief of Mission, Embassy of Mexico to the Kingdom of the Netherlands, The Hague, The Netherlands,

as Co-Agent;

and

Mr Carlos Antonio Cruz Carrillo, PhD Researcher, University of Basel, Switzerland,

as Counsel and Advocate.

1 **THE PRESIDENT:** The Tribunal will continue the hearing in the “*Zheng He*” Case.

2
3 We will now hear the second round of oral arguments presented by Mexico. I invite
4 the Co-Agent of Mexico, Mr Alfonso Ascencio Herrera, to begin his statement.

5
6 **MR ASCENCIO HERRERA:** Thank you, Mr President.

7
8 Mr President, members of the Tribunal, during this second round, Mexico would like
9 to state at the outset that it will focus on some points raised by Luxembourg in the
10 course of yesterday’s and today’s hearings, which we consider most relevant for the
11 purpose of this round. However, this selection does not prejudice our position with
12 respect to other points raised by Luxembourg, and which we do not agree with.

13
14 Mexico will address six points to address the question posed by the Tribunal and
15 also certain comments made by Luxembourg yesterday and this morning related to
16 the facts and the necessary legal requirements to prescribe provisional measures.

17
18 We will proceed as follows. Mr Cruz Carrillo will refer to first: the claim raised by the
19 applicant regarding alleged discriminatory treatment of Luxembourg’s vessel, the
20 “*Zheng He*”; second, we will then provide some remarks on Luxembourg’s reference
21 to internal waters and innocent passage; third, we will tackle the issues raised by
22 Luxembourg related to security in Tampico; fourth, we will address the well-being of
23 the captain and its crew.

24
25 Afterwards, I will continue Mexico’s presentation by addressing as the fifth point: the
26 internal document prepared by Luxembourg detailing a meeting with the Mexican
27 Ambassador accredited to Luxembourg; and sixth, I will move on to address once
28 more the question raised by the Tribunal to the Parties. Finally, I will present
29 Mexico’s final submissions.

30
31 Mr President, I now kindly ask you to call Mr Cruz.

32
33 **THE PRESIDENT:** Thank you, Mr Ascencio Herrera. I now give the floor to Mr Cruz
34 Carrillo to make his statement.

35
36 **MR CRUZ CARRILLO:** Mr President, Madam Vice-President, members of the
37 Tribunal, good afternoon. I will start with the first point of the presentations of Mexico
38 in the second round concerning the alleged discriminatory treatment to Luxembourg
39 regarding the vessel “*Zheng He*”.

40
41 Luxembourg unsuccessfully attempted to demonstrate that Mexico’s implementation
42 of its tax procedures was carried out in an abusive and discriminatory manner
43 against the “*Zheng He*”. Your Excellencies, these claims are far from reality. Mexico,
44 in exercising its sovereign powers it enjoys as part of its law enforcement jurisdiction
45 in internal waters, merely applied its procedures as it would in any other case where
46 a vessel fails to comply with its tax obligations.

47
48 Particularly, Luxembourg stated: “The treatment accorded to the “*Zheng He*” is
49 unprecedented in Mexican practice: never before has a foreign-flagged vessel been

1 subjected to confiscation and, cumulatively, an exorbitant fine on the pretext of illegal
2 importation.”

3
4 Members of the Tribunal, this is a misleading assertion in an attempt to demonstrate
5 the plausibility of Luxembourg’s rights. As you can see in annex 51 submitted to the
6 Tribunal, since 2012 to date, Mexican tax and customs authorities have conducted
7 77 administrative procedures in customs matters against vessels flagged in at least
8 10 different countries. Details on this, as I mentioned, are found in annex 51.

9
10 These procedures have a common factor: the vessels failed to comply with the
11 temporary import process. This is precisely what happened in the instant case with
12 the company operating the “*Zheng He*”.

13
14 Of these 77 procedures I mentioned, 26 have culminated in the imposition of a tax
15 credit and the confiscation of the vessels. This, of course, does not include the
16 “*Zheng He*”, as Mexico has mentioned in its statements, since the legal status of the
17 vessel is still *sub judice* before the judicial authorities and it continues to fly
18 Luxembourg’s flag. Contrary to Luxembourg’s assertion, the effective link between
19 the ship and the flag State is not being progressively eroded. We insist: Luxembourg
20 remains the flag State.

21
22 The allegations of discriminatory and abusive treatment made by Luxembourg have
23 no legal or factual basis in this case, as Mexico has applied its customs and tax
24 legislation objectively in all these cases, and only when shipping companies fail to
25 fulfil their tax and customs obligations upon entering Mexico, it is when they are
26 subject to sanctions.

27
28 Mr President, Mexico finds these statements perplexing, as demonstrated in
29 annex 21 of the Statement in Response, the last time the “*Zheng He*” entered
30 Mexico to perform dredging activities, and it had no issues completing its temporary
31 import process. The errors committed by the shipping agent contracted by the owner
32 of the “*Zheng He*” in failing to present the documentation proving the legal presence
33 of the vessel in the Port of Tampico cannot be attributed to Mexico.

34
35 Moreover, Luxembourg has tried to present to this Tribunal that Mexico has a high-
36 level plan to seize dredgers from other countries to become self-sufficient in that
37 industry. This is why Mexico wishes to clarify that, among the confiscated vessels,
38 no dredgers are to be found. Rather, they have been vessels such as ship suppliers,
39 consoles, motorboats, tugboats, sailboats and yachts.

40
41 With this explanation, Mexico hopes to have clarified to this Tribunal this matter in
42 view of the misinformation presented by Luxembourg in this regard.

43
44 In addition, Luxembourg’s assertions have not provided a factual and legal analysis
45 of the alleged discriminatory treatment in the case of the “*Zheng He*”. Therefore,
46 Mexico maintains that Luxembourg has not proven the plausibility of its rights based
47 upon article 131 of the Convention and requests the dismissal of its request for
48 provisional measures.

1 On this point, this morning we heard from counsel from Luxembourg that the *Duzgit*
2 *Integrity Arbitration* was irrelevant for the purposes of assessing unequal treatment,
3 simply because the Parties were not landlocked States. Indeed, article 131 was not
4 applied in that case, but, as we argued yesterday, this case outlines the contours of
5 the test of what unequal treatment is. Therefore, it remains useful for the purposes of
6 interpreting article 131.

7
8 Lastly, this morning, counsel to Luxembourg insisted that the third measure
9 requested, within the third cluster of Luxembourg-requested measures, will not be
10 creating a special privilege from being exempted from Mexican legislation.
11 Nonetheless, we reiterate what we mentioned yesterday, that the prescription of this
12 measure will inevitably “create a more favourable treatment for vessels related to
13 EDC and flying the flag of Luxembourg, in detriment of other foreign vessels, which
14 will constitute a real discriminatory context.”

15
16 Mr President, members of the Tribunal, let me continue with the second point of
17 Mexico’s presentation concerning Luxembourg’s arguments concerning internal
18 waters and innocent passage.

19
20 Luxembourg stated that Mexican customs authorities refused to accept the purely
21 nautical nature of the temporary call at port, despite the absence of any formal
22 temporary import procedure. It is also asserted that the “*Zheng He*” never claimed to
23 be doing anything other than making a technical call at port.

24
25 In this respect, Mr President, members of the Tribunal, we would like to make three
26 points:

27
28 First, contrary to what Luxembourg’s statement this morning, all the central facts of
29 this case are linked to events which occurred exclusively in internal waters and not
30 territorial waters.

31
32 Second, Luxembourg claims that Mexico is misreading the Convention. It argues that
33 Mexico is saying that the Convention does not apply to internal waters. With all due
34 respect, what Mexico told is that the Convention does not mention anything related
35 to tax and custom issues in internal waters.

36
37 Third, Luxembourg attempted to cast doubt to the Tribunal about the character of the
38 Pánuco River as internal waters by trying to create categories of internal waters.
39 Rivers are classic illustrations of internal waters. The chemical composition of the
40 waters or the presence of seawater in a river which flows to the sea is irrelevant to
41 determine whether they are internal waters or not. Article 8 of the Convention doesn’t
42 say anything about it. Neither article 9 to the Convention, concerning mouths of the
43 rivers. In trying to establish a parallel, being in Hamburg reminds us that this is one
44 of the most important ports in Europe. The Hamburg port sits in the banks of the
45 Elbe River, which flows to the North Sea. Presumably, the government authorities of
46 the host country will not agree with the idea that they cannot prescribe and enforce
47 tax and custom measures because the water of the Elbe contains a portion of
48 seawater and is connected to the North Sea.

1 Mr President, allow me to reiterate elementary factual considerations. First, Mexico
2 has full sovereignty over its internal waters, which includes prescriptive jurisdiction. It
3 means that Mexico decides how to regulate access to internal waters and usually
4 foreign ships comply with the fixed conditions under national law. In this regard,
5 under Mexican Customs Law, the temporary importation of the vessel has a special
6 treatment.

7
8 Second, as it is clear from annex 3 of our Statement in Response, JVV Logistics sent
9 a notice to the Mexican customs authorities to inform them that the vessel would
10 enter a fiscal dock for temporary import procedures with the Tampico Maritime
11 Customs. It even made available the vessel to the authority if any inspection was
12 required.

13
14 The Applicant tries to disregard all these circumstances. Yesterday, Counsel for
15 Luxembourg acknowledged that the “*Zheng He*” failed to comply with the formalities
16 for the temporary import procedure, and this is despite the expressly stated intention
17 to engage in such activity. This, your Excellencies, is the reason that led national
18 authorities to proceed in conformity with the national legislation.

19
20 Now, I must address the untrue allegations made by Luxembourg’s representation
21 regarding the Mexican judicial system. Yesterday, Counsel to Luxembourg stated
22 that Mexico was in a race to use national tribunals to expropriate the “*Zheng He*”.
23 This, honourable members of the Tribunal, is an unwarranted assertion, a baseless
24 one. The Mexican judicial system works under a strict legal framework, free from the
25 biases that Luxembourg advances.

26
27 Counsel to Luxembourg even alleged that Mexican authorities refused to release the
28 vessel, contrary to what was ordered in the judgment of 22 March. In this connection,
29 Counsel to Luxembourg stated that the request for the Mexican Supreme Court to
30 adjudicate the case is a “sudden acceleration of internal procedures”. This statement
31 could not be farther from the truth. The Applicant fails to consider that lower courts’
32 decisions are, as in various legal systems, susceptible to appeal before a higher
33 court.

34
35 Considering this, you can be certain that both parties in the domestic proceedings
36 have been treated on an equal footing. The process that has been followed, and the
37 array of judicial remedies available in the case of the “*Zheng He*”, are the same
38 process and same remedies available in all situations, as explained in Mexico’s
39 Statement in Response, chapter 2. The outcome of the proceedings is not
40 foreseeable at this point. It could be favourable to either party. A clear example is in
41 annex 22, where the European Dredging Company obtained a favourable decision
42 from a lower court.

43
44 All these considerations should also be relevant to the other conspiracy theories
45 advanced by the Luxembourg representatives. Indeed, yesterday, counsel for
46 Luxembourg even went so far as to claim that Mexico is carrying out a plan to obtain
47 dredging vessels through confiscation procedures.

48
49 The claims presented by Luxembourg are baseless. Luxembourg is attempting to
50 distort Mexico’s genuine objective of achieving self-sufficiency in dredging

1 operations. This goal is intended for the benefit of Mexico and is not designed to
2 cause harm to any other State. Mexico is committed to maintaining friendly and
3 cooperative relations with other nations.

4
5 Furthermore, Luxembourg's narrative is disconnected from the real activities of the
6 Secretariat of the Navy and the General Administration of Foreign Trade Audit
7 (AGACE), which work independently. The former's functions entail maritime security
8 of Mexico; meanwhile, the latter's functions are auditing and oversight of foreign
9 trade operations.

10
11 As you can see in annex 52 of our Statement in Response, the Secretariat of the
12 Navy clarifies that the purpose is to be self-sufficient in dredging operations, without
13 specifically confiscating vessels such as the "*Zheng He*".

14
15 Therefore, there is no such risk as Applicant is trying to argue. Mexico will not take
16 unprecedented actions to change the "*Zheng He*" ownership. Rather, all the
17 domestic procedures follow national legislation.

18
19 Mr President, members of the Tribunal, I will then continue with my third point
20 concerning the issues raised by Luxembourg related to security in Mexico.

21
22 In its oral pleadings, Luxembourg acknowledged that "the seafarers have not
23 suffered detention, any measure of deprivation of liberty, or criminal imprisonment."
24 Despite this, Luxembourg alleged issues concerning the security conditions in
25 Mexican ports to prove a situation of real and imminent risk.

26
27 The vessel "*Zheng He*" has been anchored in the Port of Tampico for approximately
28 eight months and has not encountered any risk. The Rules of Operation of the Port
29 of Tampico, which Luxembourg relied on to advance its claim, clearly establish the
30 comprehensive surveillance, protection, and security services provided within the
31 port, as explained in annex 53.

32
33 These rules are in strict compliance with the International Ship and Port Facility
34 Security Code which entered into force under the SOLAS Convention, ensuring that
35 all terminals adhere to international security standards. As explained in annex 54 of
36 Mexico's Statement in Response, the Port of Tampico is certified for compliance with
37 the ISPS Code. This certification reaffirms Mexico's commitment to maintaining the
38 highest standards of safety and security.

39
40 In light of these robust security measures and the absence of any incidents involving
41 the "*Zheng He*", it is evident that the claims of real and imminent risk lacks
42 substantiation. Mexico remains dedicated to upholding the security and safety of our
43 ports as per international regulations.

44
45 Members of the Tribunal, I will now continue with my fourth point concerning the
46 psychological integrity of the captain.

47
48 Mexico, as a first point, is fully aware and committed to its international obligations
49 under international human rights law. However, this morning Luxembourg noted that
50 both the ICCPR and the ICESCR were applicable to the present case. In fact, it

1 seems to confuse and conflate the applicable law to a dispute under article 293 with
2 humanitarian concerns connected to urgency in the assessment of a request for
3 provisional measures. For instance, in the “*San Padre Pio*” case, the Tribunal
4 considered the existence of humanitarian concerns in the context of urgency by
5 having regard to the threats to the safety and security of the crew, whereas in the
6 merits stage of the *Arctic Sunrise Arbitration*, international human rights law was
7 used as applicable law to the dispute. In sum, the critical test for jurisdiction is that it
8 has to relate to a dispute on application and interpretation of the Convention alone.

9
10 Yesterday, counsel to Luxembourg declared that the mental health of the seafarers
11 has been sorely tested by the detention of the vessel.

12
13 On this point, he mentioned that the captain of the vessel, Gerrit de Voos, was
14 particularly affected and he thought he would be able to leave port freely, and, yet,
15 especially when the internal judicial decision was nullified. Additionally, counsel to
16 Luxembourg mentioned that the main threats to the seafarers are: a general fatigue
17 because of the long period of time on board on a vessel which is deteriorating;
18 increasing tension, because Luxembourg contests the fact that the Mexican and
19 local authorities’ practices are valid; and media reports in Mexico, which make the
20 seafarers vulnerable.

21
22 I want to take this opportunity to recall paragraph 32 of our Statement in Response,
23 which addresses the issues raised by Luxembourg. Also, I want to direct your
24 attention to annex 32 in which we provided this Tribunal with a list of entry and exit
25 from the vessel. In that list, it is registered that Mr de Voos exited the vessel a day
26 after the psychological assessment was carried out, which proves that Mexico has
27 provided arrangements to facilitate the captain to leave the vessel at any time and to
28 take care of his mental health.

29
30 For all the above mentioned, there is no evidence of a causal link between the
31 alleged actions of Mexican authorities and the alleged psychological damage of
32 members of the crew.

33
34 Mr President, this concludes my intervention. I thank you for your attention in these
35 two days of hearings and I would ask you to call Mr Ascencio to continue with
36 Mexico’s presentation.

37
38 **THE PRESIDENT:** Thank you, Mr Cruz Carrillo. I now give the floor to Mr Ascencio
39 Herrera.

40
41 **MR ASCENCIO HERRERA:** Mr President, members of the Tribunal, as announced,
42 I will now provide some remarks on the meeting with the Mexican Ambassador
43 accredited to Luxembourg and then continue by answering the question posed by
44 the Tribunal to the Parties.

45
46 Mr President, Luxembourg, in an unfruitful manner, has been trying to make much of
47 an internal document, which in reality is a one-sided alleged record of a meeting
48 between the authorities of Luxembourg and the Mexican Ambassador, Rogelio
49 Granguillhome, accredited to the Grand Duchy, which took place on February 2024.

1 There are various factual inaccuracies in the argument advanced by Luxembourg.
2 Allow me to flag two of them.

3
4 First, the internal minute is a one-sided version of that meeting. This was made clear
5 by Luxembourg's Counsel by accepting that the document has a limited evidential
6 value.

7
8 Second, Ambassador Granguillhome's recollection of the meeting is completely
9 different, and it stands at odds with what was told by Luxembourg. As can be seen in
10 annex 44 of our Statement in Response, Ambassador Granguillhome clarified the
11 following:

12
13 He first conveyed to Luxembourg's authorities that unfortunately, he did not have a
14 comprehensive and precise information that would allow him to have a complete
15 assessment of the situation. He also pointed out that he does not maintain
16 communication with the involved authorities of the Secretariat of the Navy or with
17 federal or state customs authorities.

18
19 He then stated that Luxembourg's authorities argued that the vessel's movements
20 were made under the exercise of "innocent passage". Regarding that assertion, he
21 indicated in that meeting that the Legal Advisers Office in Mexico City had sent a
22 communication to the Secretariat of the Navy requesting an evaluation of whether
23 the vessel was indeed exercising innocent passage. Contrary to what Luxembourg
24 has stated, Ambassador Granguillhome did not dwell on the vessel's right to
25 innocent passage, but simply asserted that a request for clarification had been made
26 to the corresponding authority.

27
28 This can be verified at annex 45 of the Mexico's Statement in Response, concerning
29 a communication addressed by the Legal Adviser of the Mexican Ministry of Foreign
30 Affairs to the Admiral of the Navy Secretariat, requesting an assessment to
31 determine if the "*Zheng He*" was indeed exercising its right of innocent passage.

32
33 Mexico's Ambassador also clarified that, based on the account of events the
34 authorities of Luxemburg shared in the meeting, he expressed that the incident could
35 have stemmed from human error and that, if so, the parties should assess who and
36 why the error occurred. Lastly, he pointed out that the information he had regarding
37 the events prevented him from assessing the customs procedure that may have
38 been carried out. As such, Ambassador Granguillhome never accepted the
39 assertions made by Luxembourg related to the situation of the "*Zheng He*" in
40 Mexico's jurisdictional waters during the aforementioned meeting.

41
42 In sum, Mr President, the argument advanced by Luxembourg based on this purely
43 internal document describing the meeting with the Mexican Ambassador, is irrelevant
44 and does not prove in any way that a Mexican authority acknowledged that the
45 "*Zheng He*" was exercising the right of innocent passage in internal waters or that
46 the whole situation was due to an error by the competent customs and tax authorities
47 of Mexico. It simply cannot stand as evidence of the conduct of Mexico
48 acknowledging or accepting any view of Luxembourg regarding the situation of the
49 "*Zheng He*".

1 Mr President and members of the Tribunal, as to the question formulated by the
2 Tribunal to the Parties, we would like firstly to thank you for raising this question.

3
4 In Mexico's intervention of 11 July 2024, the Mexican delegation had the opportunity
5 to provide detailed information on the first part of the question formulated by the
6 Tribunal. However, for completeness, Mexico provides the following information.

7
8 In addressing the question, Mexico would like to underscore two points.

9
10 First, yesterday morning, we heard Luxembourg insisting that the vessel's arrival at
11 dock 3 constituted a call into port. However, the available evidence indicates a very
12 different story.

13
14 As stated by JVV Logistics in the Notice of Vessel Arrival of 9 October 2023, the
15 "*Zheng He*" announced its intention to enter the Port of Tampico for crew change
16 and provisioning on 11 October. In that notice of arrival, the shipping agent stated
17 that the "*Zheng He*" would enter a fiscal dock for temporary import procedures. This
18 information was later confirmed by JVV Logistics in its request to dock in berth 3, in
19 order to conduct crew changes, provisioning, wastewater removal and other
20 maintenance work. Both the notice and the request confirm the vessel's intention to
21 enter the Port of Tampico voluntarily, rather than due to *force majeure* or distress,
22 contrary to what Luxembourg states.

23
24 There is another element to take into account to demonstrate that the "*Zheng He*"
25 entered the Port of Tampico voluntarily in accordance with its stated intention. In this
26 connection, may I just indicate that if it indeed was an arrival to the Port of Tampico
27 due to *force majeure* or distress, as Luxembourg claims, the "*Zheng He*" was
28 required to meet the requirements provided in the Maritime Navigation and
29 Commerce Act, which include the filing of a report for the incident or accident which
30 led to the unforeseen or forced arrival – something that the captain and
31 representatives of the vessel never did. This conduct further reinforces the argument
32 that the "*Zheng He*" arrived at the Port of Tampico in a voluntary manner, in a
33 deliberate and planned manner, for the stated purposes in the 9 October Notice of
34 Arrival. Further information on these points is found in annexes 48 and 50 of
35 Mexico's Statement in Response.

36
37 Moreover, in arguing in support of the thesis that the "*Zheng He*" was exercising its
38 right of innocent passage in accordance with article 18, paragraph 1(b), of the
39 Convention, it characterized the call of port of the vessel as one purely for technical
40 nautical reasons. In this respect, Mexico asks itself if a stop at the port for several
41 weeks, even if technically complex, before its detention could really constitute one as
42 "incidental to ordinary navigation". Mr President, with all due respect to Luxembourg,
43 this seems to be not consistent with a reasonable interpretation of article 18.

44
45 With respect to the second part of the question, concerning any contractual or work
46 arrangements involving the "*Zheng He*", Mexico would like to share with the Tribunal
47 that it has not yet identified available information on where and when the next
48 dredging work carried out by the "*Zheng He*" was due to take place.

1 However, during the administrative procedure conducted by customs and tax
2 authorities, the shipping agent indicated that the vessel intended to carry out
3 dredging work in Mexico, for which it was awaiting the conclusion of a contract. On
4 this issue, may I refer to annex 19 in Mexico's Statement in Response.

5
6 Mr President, Madam Vice-President, members of the Tribunal, in a nutshell, the
7 heart of this case lies on the issue of the sovereignty of the State over its internal
8 waters. This is what is at stake. The facts do not establish that there is a dispute and
9 plausible rights on the exercise of innocent passage or freedom of navigation,
10 neither a question of risk of discrimination or unequal treatment.

11
12 Mexico has provided the appropriate assurances to reinforce the argument that there
13 is no risk of irreparable harm.

14
15 With this, Mr President, I kindly ask for your permission to read the final submissions.

16
17 **THE PRESIDENT:** This brings us to the last stage of the oral arguments of Mexico.

18
19 Article 75, paragraph 2, of the Rules of the Tribunal, provides that, at the conclusion
20 of the last statement made by a party at the hearing, its agent, without recapitulation
21 of the arguments, shall read that party's final submissions. A copy of the written text
22 of these signed by the Agent shall be communicated to the Tribunal and transmitted
23 to the other party.

24
25 I now invite the Co-Agent of Mexico, Mr Ascencio Herrera, to present the final
26 submissions of Mexico.

27
28 **MR ASCENCIO HERRERA:** Thank you, Mr President.

29
30 For the aforementioned reasons, the United Mexican States respectfully requests the
31 International Tribunal for the Law of the Sea to reject Luxembourg's request for
32 provisional measures.

33
34 Notwithstanding the foregoing, Mexico considers that the rights of the crew are of the
35 utmost importance and their well-being and integrity must be preserved even when
36 internal procedures under Mexican law are pending. Equally, Mexico considers it
37 important to safeguard the integrity of the vessel, thus allowing maintenance work on
38 the "*Zheng He*", as requested by the agency contracted by the owners of the vessel.

39
40 In this regard, and considering that an order for provisional measures should
41 safeguard the rights of both parties and acknowledging that the Tribunal must
42 recognize Mexico's right to exercise jurisdiction over events occurring in internal
43 waters, Mexico wishes to voluntarily offer periodic reports reflecting the treatment
44 provided to both the crew and the vessel, as well as their current status. Of course,
45 these demonstrations of good faith should not, in any way, be construed as an
46 admission of the claims of Luxembourg before this Tribunal.

47
48 Mr President, Vice-President, members of the Tribunal, this brings the end of the
49 presentation of Mexico in these hearings, and I would like, at this moment, on behalf
50 of the Agent, Mr Alejandro Celorio, and our dear colleagues in Mexico who

1 contributed to the preparation of this case, may I conclude by thanking them and
2 also you, Mr President, and distinguished members of the Tribunal, for all your
3 courtesies and hospitality extended to both Parties in the course of these hearings.

4
5 We would also like to express our deep appreciation to the Registrar and her
6 excellent staff for all the outstanding work and arrangements facilitated to both
7 Parties. We also thank the interpreters and translators for their hard work during
8 these hearings.

9
10 We also wish to express our appreciation to the Agent, Counsel and Advocates of
11 the Grand Duchy of Luxembourg, and to wish them safe travels back home.

12
13 Thank you, Mr President.

14
15 **THE PRESIDENT:** Thank you, Mr Ascencio Herrera.

16
17 We have now reached the end of the hearing. On behalf of the Tribunal, I would like
18 to take this opportunity to express our appreciation for the high quality of the
19 presentations of the representatives of both Luxembourg and Mexico. I would also
20 like to take this opportunity to thank both the Agent of Luxembourg, and the Co-
21 Agent of Mexico for their exemplary spirit of cooperation.

22
23 The Registrar will now address questions in relation to documentation.

24
25 **THE REGISTRAR:** Mr President, pursuant to article 86, paragraph 4, of the Rules of
26 the Tribunal the Parties, may under the supervision of the Tribunal, correct the
27 transcripts of speeches and statements made on their behalf, but in no case may
28 such correction affect the meaning and scope thereof. These corrections relate to
29 the transcripts in the official language used by the Party in question.

30
31 The Parties are requested to use for this purpose the verified checked version of the
32 transcripts and not those marked as unchecked. The corrections should be
33 submitted to the Registry as soon as possible and by Tuesday, 16 July 2024 at
34 4:00 p.m. Hamburg time at the latest.

35
36 Mr President.

37
38 **THE PRESIDENT:** Thank you, Madam Registrar. The Tribunal will now withdraw to
39 deliberate. The date for the reading of the order in this case is tentatively set to
40 Saturday, 27 July 2024. The Agents of the Parties will be informed reasonably in
41 advance of any change to this date.

42
43 In accordance with the usual practice, I request the Agents to kindly remain at the
44 disposal of the Tribunal in order to provide any further assistance and information
45 that it may need in its deliberations prior to the delivery of the order.

46
47 The hearing is now closed.