

[Translation by the Registry]

[Letterhead of the Sub-Regional Fisheries Commission]

Dakar, 27 March 2013

No. 437 CSRP/SP

From the Permanent Secretary  
to

His Excellency,  
Judge Shunji Yanai  
President  
International Tribunal for the Law of the Sea  
Am Internationalen Seegerichtshof 1  
22609 Hamburg  
Germany

**Re: Request for advisory opinion**

Excellency,

I have the honour to inform you that, at its Fourteenth Extraordinary Session, held from 25 to 29 March 2013 in Dakar, Republic of Senegal, the Conference of Ministers of the Sub-Regional Fisheries Commission (SRFC) authorized the Permanent Secretary of the SRFC to submit a request for advisory opinion to the International Tribunal for the Law of the Sea.

Under article [21]<sup>\*</sup> of the Statute of the Tribunal, “[t]he jurisdiction of the Tribunal comprises all disputes and all applications submitted to it in accordance with this Convention and all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal”.

In addition, pursuant to article 138 of the Rules of the Tribunal, the Tribunal may give an advisory opinion “on a legal question if an international agreement related to the purposes of the Convention specifically provides for the submission to the Tribunal of a request for such an opinion”. It is further provided that such a request for an advisory opinion “shall be transmitted to the Tribunal by whatever body is authorized by or in accordance with the agreement to make the request to the Tribunal”.

On these bases, and in accordance with article 33 of the *Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the Maritime Areas under Jurisdiction of the Member States of the SRFC (MCA Convention)*, stating that “[t]he Conference of Ministers of the SRFC

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<sup>\*</sup> The original of the letter referred to article 20 of the Statute. By letter dated 9 April 2013 from the Permanent Secretary of the SRFC, this was corrected to read as a reference to article 21 of the Statute.

may authorize the Permanent Secretary of the SRFC to bring a given legal matter before the International Tribunal for the Law of the Sea for advisory opinion", the Nineteenth Session of the Conference of Ministers of the SRFC has instructed the Permanent Secretary to refer the following questions to the Tribunal for an advisory opinion:

1. What are the obligations of the flag State in cases where illegal, unreported and unregulated (IUU) fishing activities are conducted within the Exclusive Economic Zones of third party States?
2. To what extent shall the flag State be held liable for IUU fishing activities conducted by vessels sailing under its flag?
3. Where a fishing license is issued to a vessel within the framework of an international agreement with the flag State or with an international agency, shall the State or international agency be held liable for the violation of the fisheries legislation of the coastal State by the vessel in question?
4. What are the rights and obligations of the coastal State in ensuring the sustainable management of shared stocks and stocks of common interest, especially the small pelagic species and tuna?

I further have the honour to inform you that, in accordance with article 131 of the Rules of the Tribunal, the following documents are enclosed herewith: (i) the Resolution as adopted by the Ministers, (ii) the MCA Convention, (iii) the 1985 Convention, as amended in 1993, establishing the SRFC. The Technical Note on the drafting and adoption of the MCA Convention will be sent to you shortly.

I have appointed Ms Diénaba Bèye Traoré, Head of the *Département Harmonisation des Politiques et des Législations des Pêches* (DHLP) [Department for the Harmonization of Fisheries Policies and Legislation] of the Permanent Secretariat of the SRFC, as my representative in the further proceedings.

Accept, Excellency, the assurances of my highest consideration.

[signature and seal]  
The Permanent Secretary  
Ciré Amadou Kane  
Fisheries Engineer

Exemplified copy:

H.E. Moussa Conde, Minister of Fisheries and Aquaculture, Guinea  
Chairman in office of the Conference of Ministers of the SRFC



COMMISSION SOUS-RÉGIONALE DES PÊCHES  
SUB-REGIONAL FISHERIES COMMISSION

PERMANENT SECRETARIAT

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14<sup>TH</sup> SESSION OF THE CONFERENCE OF THE MINISTERS  
27<sup>TH</sup> TO 28<sup>TH</sup> MARCH 2013, DAKAR, SENEGAL

**Resolution of the Conference of Ministers of the Sub-Regional Fisheries Commission (SRFC) on authorizing the Permanent Secretary to seek Advisory opinion pursuant to Article 33 of the *Convention on the definition of the minimum access conditions and exploitation of fisheries resources within the maritime zones under the jurisdiction of SRFC Member States (MAC Convention)***

*The Conference of Ministers of the Sub-Regional Fisheries Commission,*

*Considering* the United Nations Convention on the Law of the Sea signed at Montego Bay on 10 December 1982;

*Reaffirming* their commitment to supporting the principles and standards stipulated in the Code of Conduct for Responsible Fisheries of the United Nations Food and Agriculture Organization (FAO);

*Recalling* their resolve to implement the International Plan of Action for preventing, opposing and eliminating illegal, unreported and unregulated fishing adopted in 2001 by the FAO Conference;

*Considering* the Convention of 29 March 1985 on the establishment of the SRFC, and as amended in 1993 especially with respect to its articles on enhancing cooperation between its member States for the wellbeing of their respective populations;

*Considering* that the Convention of 14 July 1993 on the Definition of the Conditions of Access and Exploitation of Fisheries Resources off the Coastal zones of SRFC member States (MAC Convention), plays an essential role in the harmonization of fisheries policies and legislations of the States in the sub-region;

*Desirous* to aligning the Convention of 14 July 1993 to the technical and legal changes which have occurred since its adoption, in particular with respect to the definition of the conditions for responsible fishing, the use of the eco-systemic approach for a sustainable management of fisheries resources and the fight against illegal, unreported and unregulated fishing, in accordance with international law;

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Considering the Convention of 8 June 2012 relating to the definition of the minimum conditions of access and exploitation of fisheries resources within the maritime zones under the jurisdiction of SRFC member States (CMAC) on the review of the MAC Convention, which entered into force on 16 September 2012;

Considering the provisions of Article 33 (Seizure of the International Tribunal for the Law of the Sea for advisory opinion) of the CMAC of 8 June 2012, which stipulates as follows: « *The Conference of Ministers of the SRFC shall authorize the Permanent Secretary of the SRFC to seize the International Tribunal for the Law of the Sea on a specific legal matter for its advisory opinion* »;

Considering Article 20 of the Statute of the Tribunal and Article 138 of its Rules of Procedure;

**Decides**, in accordance with Article 33 of the CMAC, to authorize the Permanent Secretary of the Sub-Regional Fisheries Commission to seize the International Tribunal for the Law of the Sea, pursuant to Article 138 of the Rules of the said Tribunal, in order to obtain its advisory opinion on the following matters:

1. What are the obligations of the flag State in cases where illegal, unreported and unregulated (IUU) fishing activities are conducted within the Exclusive Economic Zones of third party States?
2. To what extent shall the flag State be held liable for IUU fishing activities conducted by vessels sailing under its flag?
3. Where a fishing license is issued to a vessel within the framework of an international agreement with the flag State or with an international agency, shall the State or international agency be held liable for the violation of the fisheries legislation of the coastal State by the vessel in question?
4. What are the rights and obligations of the coastal State in ensuring the sustainable management of shared stocks and stocks of common interest, especially the small pelagic species and tuna?

**His Excellency. Moussa CONDE,**   
Minister of Fisheries and Aquaculture, Republic of Guinea  
And Chairman in office of the Conference of Ministers of the SRFC

**His Excellency. Adalberto VIEIRA,**  
Secretary of State of Marine Resources, Republic of Cape verde

**His Excellency Axi GYE,**   
Minister of Fisheries, Water Resources and National Assembly, Republic of The Gambia

**His Excellency. Jose BIAI,**   
Minister of Economy and Regional Integration, Republic of Guinea Bissau

**His Excellency Aghdhefna Ould EYIH,**   
Minister of Fisheries, and Marine Economy, Islamic Republic of Mauritania

**His Excellency Papa DIOUF,**  
Minister of Fisheries and Marine Affairs, Republic of Senegal



**His Excellency Charles ROGERS, Vice-**  
Minister of Fisheries and Marine Resources, Republic of Sierra Leone

