

[Translation by the Registry]

SUB-REGIONAL FISHERIES COMMISSION (SRFC)

Hamburg, 5 September 2014

Subject: **Answers to the questions asked individually by Members of the International Tribunal for the Law of the Sea**

Dear Mr Gautier,

With reference to your letter of 2 September 2014, I have the honour to send you herewith the text of the answers to the questions asked by the three Members of the Tribunal.

I remain at your disposal.

Please accept, Mr Registrar, the assurance of my highest consideration.

[signed]

Diénaba Bèye Traoré

AGENT

Sub-Regional Fisheries Commission (SRFC)

Attachments: Answers to the questions asked by three Members of the International Tribunal for the Law of the Sea

cc: Ms Marième Diagne Talla, Acting Permanent Secretary of the SRFC

SUB-REGIONAL FISHERIES COMMISSION (SRFC)

ANSWERS TO THE QUESTIONS ASKED INDIVIDUALLY BY THREE MEMBERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

I – QUESTION FROM JUDGE COT

“The Sub-Regional Fisheries Commission relies on the MCA Convention of 8 June 2012 in submitting to the Tribunal a request for advisory opinion. It has put four questions. Could the Sub-Regional Fisheries Commission cite for us the article or articles of the MCA Convention corresponding to each of the four questions?”

The submission of the request to the Tribunal by the SRFC is based on article 33 of the MCA Convention, which authorizes the Permanent Secretary to bring a given legal matter before the International Tribunal for the Law of the Sea for advisory opinion.

The MCA Convention, which lays down the minimal conditions for access to the marine resources within the maritime areas under jurisdiction of the SRFC member States, is largely based on the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and other relevant international legal instruments mentioned on page 10 of the SRFC’s oral statement. In that statement it is recalled that the MCA Convention is a regional legal instrument for the regulation of fishing activities which, for its purposes, refers to the relevant international legal instruments such as:

- UNCLOS, especially paragraph 4 of its preamble;
- the 1995 United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks;
- the 1993 FAO Compliance Agreement;
- international provisions relating to maritime safety and the protection of the marine environment established by the International Maritime Organization (IMO);
- the principles and standards set out in the FAO Code of Conduct for Responsible Fisheries;
- the International Plan of Action to Prevent, Deter and Eliminate IUU Fishing, adopted by the FAO in 2001.

II – QUESTION FROM JUDGE PAWLAK

“Is the term ‘flag State’ used in the first question intended to encompass all flag States or only those whose fishing vessels are operating in the exclusive economic zones within the framework of the MCA Convention?”

By ‘flag State’ the SRFC means all non-member States of the SRFC whose fishing vessels operate or might operate within the maritime areas under national jurisdiction of the SRFC member States.

It should be stated, however, that under article 30 of the MCA Convention the SRFC member States are required to take all the necessary steps to ensure that vessels flying their flag do not engage in IUU fishing activities in waters under the jurisdiction of third party States or on the high seas.

Cases of vessels flying the flag of a SRFC member State that engage in IUU fishing in waters under the jurisdiction of another member State are regulated by the 1993 SRFC Convention on the Exercise of Maritime Hot Pursuit.

III – QUESTION FROM JUDGE GAO

“Would it be possible for the Sub-Regional Fisheries Commission to provide the Tribunal with additional information and materials upon which the four questions are formulated and put forward for an advisory opinion? This further relevant documentation may include the following categories:

- **International agreements concluded with the flag States and other relevant international agencies;**
- **National reports on IUU fishing activities and damages and losses suffered from these activities;**
- **And last but not least, existing regulatory and enforcement measures against IUU fishing.”**

In answer to the question asked by Judge Gao, the SRFC has the honour to communicate the following documents:

1. Annex II to the written statement of the SRFC version 1: SUMMARY OF RELEVANT PROVISIONS TO FIGHT IUU FISHING IN THE SRFC MEMBER STATES;
2. Annex IV to the written statement of the SRFC version 1: SUMMARY OF JOINT SURVEILLANCE OPERATIONS CONDUCTED FROM 2011-2013;
3. A CD containing the national fisheries laws of the SRFC member States, which also includes regulatory and enforcement measures against IUU fishing;
4. The 2001 Nouakchott Declaration on Illegal, Unreported and Unregulated Fishing;
5. The 2014 Dakar Declaration on Illegal, Unreported and Unregulated Fishing;
6. The MCA Convention, in particular Part IV thereof, which concerns Port State Measures and the fight against IUU fishing;

7. A copy of the Framework Agreements signed by the SRFC member States.

The answers given above for each Judge are without prejudice to the information and data communicated in the written and oral statements of the Sub-Regional Fisheries Commission.