

(Translation)

## **Answers to questions put by the Tribunal**

### **FRANCE**

#### **Answer to question No.1**

The position adopted by France with respect to jurisdiction and admissibility, if accepted by the Tribunal, would result in further clarifying the conditions under which recourse could be had to the procedure of Article 292 of the Convention. The object and purpose of that provision would be in no way affected thereby. Indeed, although the purpose and the object of Article 292 are certainly to bring about a prompt lifting of the detention of the vessel, the action the Tribunal can take in response to a request for release is always dependent upon:

- (a) its appreciation of the justification of the allegation of a breach of the Convention;
- (b) its appreciation of the reasonable nature of the bond when that allegation appears well founded.

#### **Answer to question No.2**

In no case can the Appeal Court decide on the release of the vessel once a bond has been paid. The impounding of the vessel is in fact of a provisional nature and takes effect only once a decision has been handed down on the substance.

Conversely, the Appeal Court that re-examines the case as did the Criminal Court, could decide that the confiscation of the vessel would be out of place and restore it to its owner.

#### **Answer to question No.3**

France is unaware of who was the actual owner of the "Grand Prince" at the time it was boarded.

It cannot but regret that the Experts cited by the Petitioner provided no information on the subject.

It can only note the following facts:

The "Paik Commercial Corp.", given as the owner of the vessel, was founded in Belize on 1 January 2000. On 21 March 2000, that company purchased the ship from the "Reardon Commercial Corp." which itself had been founded in Belize on 14 May 1999. Both of these companies have their registered offices at the same address – 35 A Regent Street, Belize-City.

**Answer to question No.4**

Confiscation is the appropriation of an object by the State.

Article 131.21 of the Penal Code states that " the thing confiscated reverts automatically to the State, save where a special provision exists requiring that it be destroyed or allocated".

**Answer to question No.8**

The purpose of provisional execution is to make a court decision enforceable despite the exercise of a right of appeal.

In criminal matters, the principle is that the appeal suspends the application of the penalty handed down by the Criminal Court.

It is different from when the Law provides that the Court can qualify its decision by ordering provisional enforcement. That is the case with confiscation of the item that served to commit the offence which may, under Article 471 of the Code of Criminal Procedure, be declared enforceable as a provisional judgement.

**Answer to question No.9**

The French Authorities have not changed their practice. They have simply taken account of the peculiarities of the case. When the police questioned the Captain of the "Grand Prince" on 9 January, he said that he had set sail from Durban on 2 or 3 December 2000 and that he had been in the French Economic Zone "by a common agreement with the Fishing Master for the following reason: that is a place where there are fish ..." (Interrogation *Procès-Verbal*, enclosed).

There was thus no reason to wait any longer before submitting the facts admitted by the Captain to the Criminal Court.

It is likely that if further investigations had had to be conducted, it would have been decided to open an investigation. That was not so in this case.

Made in Hamburg on 6 April 2001

(Signed)  
F. ALABRUNE  
Agent of the Government  
of the French Republic