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

2001

Public sitting

held on Friday, 6 April 2001, at 1440,

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

Uncorrected
Non-corrigé

Present:	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
		Thomas A. Mensah
		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 *ad hoc*	Jean-Pierre Cot
	Registrar	Gritakumar E. Chitty

Belize represented by:

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

as Agent;

and

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

as Counsel,

France represented by:

Mr. François Alabrune, Deputy Director of Legal Affairs of the Ministry of Foreign Affairs,

as Agent;

and

Mr. Jean-Pierre Qeneudec, Professor of International Law at the University of Paris I, Paris, France,

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,

Mr. Jacques Belot, *Avocat*, Bar of Saint-Denis, Réunion, France,

as Counsel,

THE PRESIDENT: I now invite the Agent of France to make his statement.

MR ALABRUNE (Interpretation): Mr President, judges, before starting this declaration, I would like to draw your attention to documents that the French party has transmitted to the Tribunal. These concern, first, a note-verbale of the Belize Ministry of Foreign Affairs, dated 4 January 2001; secondly, a letter from IMMARBE, dated 26 March 2001; and, thirdly, a procès-verbal of a person in custody, dated 10 January 2001, which has also been sent to you. I thought that this document had been handed to you. We submitted it today so that you would have your own copy of it.

THE PRESIDENT: I now give the floor to the Agent of the Applicant to indicate whether he has any objection to the submission of these documents by France.

MR PENELAS ALVAREZ: No, Mr President. However, I would like to make a brief comment on these documents.

THE PRESIDENT: You are given the opportunity. I give the floor to the Agent of the Applicant to offer his comments on these documents.

MR PENELAS ALVAREZ: Mr President, Members of the Tribunal, I have no objection to these documents. However, I should like to make reference to a letter from IMMARBE of Belize, which issued the two letters that have just been handed to the court. I refer to the letter dated 30 March 2001, following the ones submitted by the French party, which clarify the contents of the same. Let me very briefly make reference to this letter. I must say that the objective of these documents is to create confusion regarding the current registration status of the ship.

Let me read to you a paragraph of the letter, which is already on the file. It states that the undersigned director and senior deputy registrar of the International Merchant Marine Registry of Belize, duly empowered by the Merchant Ships Act, hereby certify that the vessel *Grand Prince* is registered under the flag of Belize, holding registration number …; and the number is then quoted. This letter clarifies the documents that France have submitted today.

THE PRESIDENT: Thank you. The Agent of France may resume his statement.

MR ALABRUNE: Mr President, judges, the Application of Belize, according to us, should be dismissed by the Tribunal for the reasons that we outlined in yesterday's hearing.

However, the Tribunal having wished to hear the arguments of the other party on the merits of the Application, we would like to respond to these and to show that the request for prompt release is not justified. In order to be able to appreciate the justification for the request, the Tribunal, of course, has to base its judgement on an analysis of the main elements which were expressed at the beginning of these proceedings. The main elements are simple. There are five of them.

First, there is the fact that a serious offence was committed by the vessel *Grand Prince*. Secondly, there is the circumstance that the proceeding initiated in order to

sanction this offence was conducted with diligence. Thirdly, there is the question of the bond which was fixed so that the seizure of the vessel could be terminated. Fourthly, there is the fundamental fact of the confiscation of the vessel which was handed down as a penalty. There is also the element that this penalty was handed down with immediate enforcement. I would like to take up successively each one of these five elements.

The first point to be considered is the fact that a serious offence was committed. The opposing party was very discreet on this point, but did not in its Application contest the fact that two contraventions were committed, that is, first, that the *Grand Prince* omitted signalling its entry into the French exclusive economic zone and omitted declaring the tonnage of fish on board at the moment that it entered the exclusive economic zone, and, secondly, that it practised fishing in the exclusive economic zone without authorization.

Furthermore – and this is a very important element – the Captain of the vessel formally admitted having committed this two-fold offence. In view of that fact, we were surprised to hear the opposing party contend this morning that the *Grand Prince* had crossed the zone in the direction of Brazil without fishing there. How can the opposing party contend that there was no illegal fishing in the zone of the Kerguelen Islands, when the Captain himself had admitted that there was illegal fishing?

How can the opposing party contend, as they did this morning, that the vessel had entered the zone on the very day of its arrest, 26 December, when the vessel had in no way signalled its entry into the zone when it entered the zone? How can the opposing party contend that the *Grand Prince* was crossing the zone in the direction of Brazil when the Captain of the *Grand Prince* himself declared to the gendarmes in the procès-verbal that he came from Durban and was going into the exclusive economic zone of the Kerguelen Islands in order to fish there?

It is also important to note that the *Grand Prince* – and we are still not clear about who this vessel belonged to at the time – was not a peaceful and innocent vessel, as has been depicted to us. Contrary to the affirmation by the opposing party, it is not the first time that the *Grand Prince* has committed an offence. In fact, after the French authorities communicated to the flag state the arrest of the vessel, the authorities of Belize made it known in a note-verbale of the Ministry of Foreign of Affairs of Belize dated 4 January 2001, which you have, that they were going to deregister the *Grand Prince* from their shipping register because it was the second time that an offence had been committed by this vessel.

From a letter dated 26 March 2001 written by IMMARBE, the organization that holds the maritime register of Belize, we later learned that the procedure of deregistering this vessel had been suspended for the time being in order to allow the proceedings before your Tribunal. The owner obtained this suspension by claiming that he hoped to be able to prove his innocence before the International Tribunal for the Law of the Sea. This, however, does not change anything indicated in the note-verbale of 4 January. The vessel *Grand Prince* had already committed an infraction, and the authorities of Belize were aware of this.

I now come to the second point, that is, the brevity of the proceedings. Very little time elapsed between the drawing up of the procès-verbal of appearance and the holding of the hearing. It was not, as the opposing party has tried to convince you, to circumvent the provisions of the Convention on prompt release of the vessel and of the crew. On the contrary, it was to meet these provisions. The facts of the case were simple and were not contested. We should recall that the Captain had admitted to having fished in the exclusive economic zone of the Kerguelen, and there is sufficient evidence to corroborate this statement – evidence which is presented in the procès-verbal annexed to the Application.

Therefore, there was reason to submit the case as quickly as possible to a court, so that sanctions could be decided and so that the judiciary control which forced the Captain to stay in La Réunion could cease. It is for that reason that the prosecutor, according to the applicable law, summoned the Captain to the criminal hearings as soon as possible. There was no reason to continue to glean any more information or to proceed with any other procedural acts before these hearings. We wanted to put an end to this intermediate situation.

Therefore, there has been no real change in practice by the judges, but an improvement of the proceedings in view of the facts at hand. This has enabled us to shorten the time in which the Captain and the owner were waiting, but leaving them sufficient time to organise their defence. The Captain was therefore not deprived of any right. When you read the judgement of the criminal court, you will see that it does not appear that the Captain or his lawyer had complained about the celerity of the proceedings, whereas they would have been able to lodge a protest before the criminal court on 23 January. In addition, if they had thought that the whole procedure was taking place too quickly, they could have asked for a postponement of the hearing to a later date in order to prepare their defence; they did not do this. There was no contest on 23 January by the Captain about the fact that the hearing was going to take place the very same day. He did not contest this in any way, because he had admitted the facts.

I now come to the third point, which concerns the bond. According to the Applicant, the celerity of the French court prevented the provision of the bond which would lead to a prompt release, and he is today contesting the size of the bond. In fact, the owner, an experienced business person - demonstrated by the speed with which the *Grand Prince* was sold from one company to another - would have had quite sufficient time to pay a bond or to offer a sufficient bank guarantee, if he had so wished. He must have been aware that he would have been asked to pay a bond. Already by 26 December 2000, the date of the arrest of the vessel, he could have started making plans in order to establish a guarantee and he would have been able to guess at the sum.

On the subject of the amount of the bond, the Tribunal will note that the bond fixed by the district judge of FF 11,400,000 is between the level fixed by your Tribunal for the *Camouco* at FF 8 million and that fixed also by your Tribunal for the *Monte Confurco* at FF 18 million.

We must also note that on 19 February, that is after the intervention of the judgment of the criminal court, the owner submitted a petition to the district judge. You have

the evidence in your files on the subject of the bond, but you will note that he does not contest the amount of the bond. This shows that on 19 February he did not consider the amount to be unreasonable and that this could still be correlated with the value of the *Grand Prince*. Today they are trying to make us believe that this amount is less. Therefore, we most strongly contest the estimates which have been put forward this morning by the experts of the other parties with regard to the value of the vessel.

This brings me now to the form of the bond. The district judge ordered the payment of the bond to the Deposits and Consignments Office. It is true that if the owner had asked the district judge at a useful point in time, that is before the criminal court had passed judgement, to accept that the bond should be settled in the form of a bank guarantee, that could have been complied with, as was the case in the *Camouco* and *Monte Confurco* where, after the decision taken by the Tribunal, the judges allowed for the possibility of presenting the bond in the form of a bank guarantee. There was no such request before 23 January, and there was no appeal against the decision of the district judge.

We must also remember that before the intervention of the judgement on the merits, the owner did not try to settle the bond, or make any proposal to do so. He preferred to wait for the outcome of the criminal proceedings, hoping that he would avoid confiscation. He was not surprised by the date of the criminal proceedings because this was fixed by the Procurator of the French Republic on 11 January. It was almost a month after the judgement on the merits, that is in February, that he submitted a petition to the district judge to modify the form of the bond, and this was done at a time when he well knew that the district judge had no jurisdiction because the criminal court had made its decision on 23 January. The petition submitted by the owner on 19 February shows that this was presented to create a certain conflict, which would enable him to invoke violation of Article 292 of the Convention.

This brings me to the fourth point, which came up in the questions posed to the French party concerning the confiscation of the vessel. You know that on 23 January the criminal court, in view of the loyalty shown by the Master of the vessel in not denying committing the offence, established a moderate fine against the Master of FF 200,000 and also allocated FF 20,000 to each of the civil parties and announced the confiscation of the vessel.

Confiscation of the vessel used in commiting the offence is, as we submitted in writing, provided for in French law by Article 131.6 of the French Penal Code. When an offence is punishable by imprisonment, this is a measure frequently taken to suppress certain defences. The French Penal Code, in addition to the classic penalties of fines or imprisonment, also has a series of complementary alternative penalties to adapt or suppress behaviour in tort and to prevent repetition of events. In the case of the *Grand Prince* the criminal court took care to indicate its reasons in announcing confiscation and stated that in this type of offence large amounts of expensive material are required to prevent recurrence of the offence and to prevent the guilty party profiting from its actions in tort.

We must point out to the Tribunal that if fishing violations are punished under French law by penalties of imprisonment, that penalty is only applicable to French nationals

and not applicable to nationals of states which are parties to the Convention of the United Nations Law of the Sea. This Convention and the superiority of the Treaty under French law are respected under Article 55 of the French Constitution, to which moreover the other party has also drawn our attention.

I would like to add that France, as Professor Quéneudec mentioned yesterday, is not the only country to provide for confiscation of vessels which have been caught engaging in illegal fishing. This is also the case in states such as: Fiji, Grenada, Jamaica, New Zealand, Norway, Portugal, Russia and many others. Taking the example of the first state I quoted, Fiji, the Marine Space Act of 1977 provides in section 18 that, on conviction of the owner, master or licensee of an offence under section 16, the court may also order the forfeiture to the Crown of the fishing vessel and any fish, fishing gear, apparatus, cargo and stores found therein or thereon.

This brings me to the fifth point that the Tribunal considered concerning the execution, notwithstanding the appeal of the penalties handed down by the criminal court. A penalty such as confiscation would make no sense unless it is possible to apply it immediately. For this reason, Article 471 of the Code of Penal Procedure in its final section announced penal sanctions under Articles 131.6 to 131.11 of the Penal Code which may be declared able to be executed, notwithstanding appeal. We have seen that confiscation is part of the penalties, which come under Article 131.6.

In applying this text, it emerges that the execution of the judgement of confiscation cannot be deferred, even if an appeal is launched against it. Contrary to what the other party has erroneously stated in this regard, the decision of the criminal judge to enforce the confiscation of the vessel immediately did not have as its objective to prevent the state from instigating prompt release proceedings before the International Tribunal of the Law of the Sea. The objective was to prevent the guilty party from profiting from its actions in tort and to enable the penalty to become effective.

We must also comment that, in dealing with confiscation of a certain object used to commit an offence, for reasons which you will easily understand, confiscation is almost always accompanied by immediate execution. That is the case in dealing with money laundering, forgery, drug trafficking, perjury, blackmail and offences such as abuse of justice; it is also the case in punishing crimes against humanity. I am not trying to equate illegal fishing with a criminal activity at all because in French law that is qualified as an action in tort. Nevertheless, several environmental organizations and others would consider people fishing illegally as pirates. So the immediate execution of the confiscation is nothing extraordinary.

To add to what I have said, we should say that the *Grand Prince* was confiscated with immediate effect. As Professor Queneudec explained yesterday, the ownership of the vessel was transferred to the French State. However, this transfer of property to the French State is not yet definitive and can be appealed against. We know that the case of the *Grand Prince* was submitted to the Court of Appeal in La Réunion and Saint Denis. The Court of Appeal has to consider the case. That court may confirm the judgement and maintain the confiscation but, if it judges necessary, it can also modify, change or rescind the judgement made by the district court. That

amendment could go in certain directions. It could increase or reduce the amount of the fine imposed upon the Master. It could maintain the confiscation or, on the contrary, it could order that the vessel be returned to its former owner. Those are the powers of the Court of Appeal. Whatever decision the court may take, it can no longer request a bond or order prompt release because it has no standing at this stage in the proceedings.

Mr President, honourable Judges, those are the main elements which the Tribunal should consider when looking into the question of prompt release. Altogether, this evidence leads us to conclude that the allegation put forward of the violation of the Convention by France is not founded and is neither plausible nor sustainable. Under those conditions, the Tribunal should take this occasion to state that the procedure of Article 292 is not the path of recourse automatically open to any owner of a fishing vessel whose vessels engage in large-scale illegal fishing activities.

As we emphasised yesterday, your decision will therefore be very important because it is a question of principle. Your decision is awaited by the parties. It is also awaited by the international legal community. Perhaps I may add, with your permission, Mr President, that your decision is awaited on the island of La Réunion by all those working in the fishery sector who are worried by the pillage of their fishing resources in the waters under French jurisdiction in this region.

The Tribunal should know, for example, that the *Camouco*, the arrest of which was suspended after your decision, is continuing its illegal fishing activities under another name: *Arvisa Primero*. Your decision is awaited by the coastguards who are working day and night under extremely difficult conditions to surprise and arrest those who are engaging in illegal fishing. Your decision is awaited by the judges on the Island of Réunion who have scrupulously applied the rules of international law and French law, and whose honour today is being called into question. They are being accused of fraudulent evasion of statutory provisions. Your decision is awaited by organisations on the international level who are trying to conserve an ecological balance and awaken world opinion against misdeeds committed by sea pirates. Your decision is also awaited by a number of states in the southern hemisphere; those coastal states whose waters are often pillaged by sea pirates. Many states do not have sufficient material resources to organise supervision of their waters and to suppress illegal fishing.

Thank you, Mr President and honourable Judges.

THE PRESIDENT: Would the Agent of the Applicant like to add anything to what he said earlier?

MR PENELAS ALVAREZ: Thank you. Mr President, Members of the Tribunal, we have heard again how we can avoid prompt release by invoking domestic regulations. Perhaps I may make reference to what happened with *Monte Confurco*, a previous case of this Tribunal, after the Tribunal pronounced its judgement. The Tribunal decided that *Monte Confurco* should be released by France upon a posting of a reasonable bond fixed by this Tribunal. While the shipowner was trying to pay the bond, the week after the judgement was pronounced, the Correctional Court of Saint Denis carried out a prompt confiscation proceeding, as in this case. It decided

to provisionally execute the confiscation. In practical terms, the *Monte Confurco* is still detained in La Réunion. That is the reality.

It is difficult for me to say this, but that judgement is now wet paper. The vessel is detained in La Réunion. That is how the authorities in La Réunion are acting and how they regard the Convention and the decisions of this Tribunal.

Perhaps I may briefly comment on what the French representative mentioned in the context of illegal fishing in French waters. France has many fewer fishing incidents than most of the coastal states while France, as a powerful country, has many more means to control its waters. I shall give an example. Ireland has many fishing incidents with German, French and Spanish vessels. Ireland arrests ships and carries out judicial proceedings but always awaits the prompt release of the ships against a reasonable bond. In Spain we also have many problems with the French vessels in the Gulf of Vizcaya. The French use illegal fishing gear. They are arrested; proceedings are followed but they are always permitted to be released upon a bond. That happens with Argentina, Angola and Ghana, and with most other countries involved. The only country which is trying to deal with these matters in a different way, disregarding Article 73.2 of the Convention, is France. The other countries fight this unacceptable practice because illegal fishing cannot be justified.

THE PRESIDENT: We do not have the facts of those cases. You have not submitted documents in support of what you say. It would be appreciated if you would avoid reference to other matters which are not before us.

MR PENELAS ALVAREZ: Yes, Mr President. The representatives of France were also making reference to other countries where confiscation was permitted.

THE PRESIDENT: It is not a question of facts; it is a question of law. If you want to refer to the laws of any country, you are at liberty to do so.

MR PENELAS ALVAREZ: Thank you. In any event, it cannot be alleged that several fishing incidents are faced in order to avoid the means provided by the Convention for fighting such incidents. The request for prompt release cannot be avoided.

As I mentioned yesterday, these proceedings are independent of those carried out by the domestic courts. Both run in parallel. As we also indicated, if the theory sustained by France prevails, every state could avoid prompt release of vessels and crews just by carrying out speedy proceedings for prompt confiscation or prompt imprisonment, as the case may be, and deciding the provisional execution of the decision. By invoking domestic laws the requirement stated under Article 73.2 of the Convention would be evaded. That would affect not only vessels but crews.

It is obvious that the Court of Appeal in La Réunion or the Supreme Court in Paris could overturn the decision of the Court of First Instance. There are arguments in defence of confiscation not being a proportional sanction to the offence committed. Evidence of that is the amount of the fine imposed upon the Captain: FF200,000.

However, the most important factor is that even if the said decision is overturned by the Court of Appeal or the Supreme Court, that court will not pronounce anything regarding release upon a bond or other security as it is not the subject matter of the appeal. We would still have to wait until the Supreme Court pronounced a final and firm decision.

As the French delegation explained yesterday, it is obvious that confiscation supposes in principle the attachment of the goods by the confiscating state. If Article 73.2 of the Convention did not exist, the immediate effect would be the detention of the vessel and its appropriation by the detaining state. However, as far as Article 73.2 is applicable, which is not under discussion, the vessel must be promptly released against a reasonable bond. That requirement, as held by the Tribunal, cannot be subjected to any domestic laws or regulations, only to the posting of a reasonable bond.

I shall now comment on the ownership of *Grand Prince*. It seems that some confusion has been created concerning the certificates of class of the ship. The current shipowner bought the vessel on 27 March 2000, as is shown by the contract of sale, which was duly notarised and is enclosed as exhibit 2 of our application. Document number 3 of the Application is evidence of the fact that on 16 October 2000 the shipowner of *Grand Prince* was Paik Commercial Corp. That ownership has also been confirmed by the International Merchant Marine Registry of Belize in its letter dated 30 March 2001, which was ordered following indications by the Registrar, and which forms part of the file.

The certificate further states that despite the expiration of the provisional patent of navigation, it is still registered in Belize. Documents relating to the status of the vessel, such as the final patent of navigation and the ship station licence of the vessel, await processing by the registry. The certificate of class seems to create confusion. As you can see, it was issued on 23 June 1999. As stated in the same document, it expires after a term of five years. Therefore, it is evident that the document was issued when the ownership corresponded to a former owner, Noycan, prior to the purchase of the vessel by the current owner, Paik Commercial.

It should also be noted that the only survey, which was due in January 2000, was carried out in November 1999 by the previous owner of the vessel. That is the simple reason why Paik Commercial does not appear in the classification certificate. It has not had the necessity to make any arrangement for the time being regarding the classification certificates. If the Tribunal wishes our party to provide further evidence as regards ownership, we should be happy to do so.

In conclusion, France has breached the Convention by first fixing a totally unreasonable bond and, moreover, by, only one week thereafter, by a prompt confiscation proceeding combined with a provisional execution, impeding any possibility of release.

For all those reasons, I maintain all our submissions, which I shall now repeat:

1. To declare that the Tribunal has jurisdiction under Article 292 of the United Nations Convention on the Law of the Sea to hear the present Application.

2. To declare the present Application admissible.

3. To declare that France failed to comply with Article 73(2) of the Convention, as the guarantee fixed for release of *Grand Prince* is not reasonable as to its amount, nature or form.

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

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

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

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

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

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

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

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

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

"The bank guarantee is issued in consideration of France releasing the *Grand Prince* in relation to the incidents dealt with in the Order of

12 January 2001 of the Court of First Instance of Saint-Paul, and that the issuer undertakes and guarantees to pay to France such sums, up to 52,298 euros, as may be determined by a final and firm decision of the appropriate domestic forum in France or by agreement of the parties. Payment under the guarantee would be due promptly after receipt by the issuer of a written demand by the competent authority of France, accompanied by a certified copy of the final and firm judgement or decision or agreement."

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

Mr President, Members of the Tribunal, thank you very much for your kind attention.

THE PRESIDENT: I presume that those are your final submissions.

MR PENELAS ALVAREZ: Yes, that is right.

THE PRESIDENT: Will you please have them signed and handed over to the Registrar?

MR PENELAS ALVAREZ: Yes.

THE PRESIDENT: Thank you very much. I now give the floor to the Agent of France.

MR ALABRUNE (Interpretation): Mr President, could Professor Queneudec please respond before I present our final submissions?

THE PRESIDENT: Yes.

MR QUENEUDEC (Interpretation)**:** Mr President, Honourable Judges, I have only one brief remark to make. We agree with the opposing party that the proceedings of Article 292 of the Convention are independent of judicial proceedings that take place nationally, and yesterday we said nothing other than that.

However, the national judicial proceedings and their result are elements which the Tribunal cannot overlook, because an Application has been submitted to it for a prompt release under Article 292 of the Convention. The proceedings foreseen in Article 292 of the Convention cannot be regarded as taking place in an abstract area. These proceedings are rooted in concrete facts, namely, the surprise arrest of a vessel involved in illegal fishing, the confirmation of the arrest of the vessel by a judge who states that the seizure can be terminated if a sufficient bond is supplied, and the fact that proceedings can be conducted against the Master of the vessel for having committed certain infractions or violations, which can result in the sentencing of the Captain. From the Tribunal's point of view, those are the facts that form the basis of the implementation of a prompt release.

Of course, a prompt release presupposes the setting of a bond. It also presupposes the payment of the sum of the bond, or the presentation of a guarantee so that a prompt release may take place. If that is not done, there cannot be any release.

The question that arises is whether, in the framework of an active prompt release on the basis of Article 292, it is possible to request the Tribunal to decide, in the framework of the Convention on the Law of the Sea, the legality of the announcement of a judge of the confiscation as a sanction for illegal fishing.

The Tribunal must not overlook the fact that in this particular case the original point of departure, the basis of the case, is a violation of the Convention – a violation of the Convention which was committed by a fishing vessel not respecting the laws of a coastal state which are valid in its exclusive economic zone.

Mr President, that is the remark that I wanted to make. I now request you to be so kind as to give the floor to the Agent of the Government of the French Republic, so that he may present the final submissions of the Government of France in this case.

MR ALABRUNE (Interpretation): Mr President, with your permission, I will read the final submissions of the Government of the French Republic.

The Government of the French Republic requests the Tribunal, rejecting any contrary submissions presented on behalf of the State of Belize, first, and principally, to establish that the request for prompt release raised on 21 March 2001 on behalf of Belize is inadmissible; that in any event the Tribunal does not have jurisdiction to deal with the case; and that this request should therefore be set aside.

Secondly, the Tribunal should state and decide that the conditions normally governing the adoption by the Tribunal of a decision concerning prompt release upon the filing of a reasonable bond have not been fulfilled under the circumstances of the case in point, and to reject the Application of the Applicant.

Mr President, that concludes my final submissions.

THE PRESIDENT: Will you please give a signed copy to the Registrar? I thank the Agent of France.

That brings us to the end of the oral proceedings in the *Grand Prince* case. I would like to take this opportunity to thank the Agents and Counsel of both parties for the presentations that they have made to the Tribunal over the past two days. The Tribunal appreciates the personal courtesies shown by Agents and Counsel on both sides.

The Registrar will now address questions relating to documentation.

THE REGISTRAR: In conformity with Article 86, paragraph 4, of the Rules of the Tribunal, the parties have the right to correct the transcripts of their presentations and statements made by them in the oral proceedings. Any such corrections should be submitted as soon as possible, but in any case not later than the end of Tuesday, 10 April 2001.

In addition, the parties are requested to submit the originals of documents submitted by facsimile or as copies. The parties are also requested to certify that all the documents that have been submitted and which are not originals are true and accurate copies of the originals of those documents. For those purposes, they will be provided with a list of the documents concerned.

In accordance with the Guidelines concerning the preparation and presentation of cases before the Tribunal, they are also requested to furnish the Registry with additional copies of documents that have not been supplied in sufficient numbers.

THE PRESIDENT: The Tribunal will now withdraw to deliberate on the case. The judgement will be read on a date to be notified to the Agents. The Tribunal has tentatively set a date for the delivery of the judgement. That date is 20 April 2001. The Agents will be informed reasonably in advance if there is any change in this schedule.

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

The sitting is now closed.

(The sitting closed at 1542)