

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

REQUEST FOR THE PROMPT RELEASE OF VESSEL CARGO AND CREW  
PURSUANT TO ARTICLE 292  
OF THE 1982 UNITED NATIONS CONVENTION ON THE  
LAW OF THE SEA

by

THE REPUBLIC OF PANAMA

Against

THE REPUBLIC OF YEMEN

In respect of the  
M/V "CHASIRI REEFER 2"

02 July 2001

**AUTHORISATION**

1. In accordance with Article 110 par. 3 and par. 2 lit. b) of the Rules of the Tribunal notice is hereby given to the Tribunal that
  - a) the Government of the Republic of Panama with letter of the Minister for Foreign Affairs of the Republic of Panama Mr. José Miguel Aleman of 22n June 2001, addressed to the Registrar of the Law of the Sea Tribunal

**- ANNEX I -**

has authorized Rechtsanwalt Hartmut von Brevern, partner of the Hamburg law firm Röhreke Boye Remé von Werder, to make this application under article 292 of the Convention on its behalf.

- b) Mr. von Brevern therefore is authorized to act as Agent and as Counsel. His address for service is as follows:

Hartmut von Brevern  
Rechtsanwalt  
Röhreke Boye Remé von Werder  
Ballindamm 26  
20095 Hamburg  
Telephone: 0049-40-32 17 83  
Fax: 0049-40-32 17 78  
e.mail: [h.brevern@roehreke.de](mailto:h.brevern@roehreke.de)

- c) the authorized Mr. von Brevern is the person that submits this Application.

**- ANNEX II -****CERTIFICATION**

2. In accordance with Article 110 par. 3 of the Rules of the Tribunal it is herewith certified that a copy of the Application and all supporting documentation has been delivered to the Republic of Panama as flag state.

**STATEMENT OF FACTS**

3. After having left the port of Salalah/Oman on 29<sup>th</sup> April 2001 at 7.30 hours a.m. and after having arrived Mukalla port in Yemen on April 30<sup>th</sup> 2001 MV "CH AISIRI REEFER 2" from 30 April 2001 on loaded in the port of Mukalla in the Republic of Yemen 185,740 metric tons of frozen cuttlefish as can be seen from the Bill of Lading of S. Overseas Marine Corp.Lines number CRS 2/04 dated 2n May 2001 and of the manifest enclosed

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**- ANNEX III -**

after the vessel had already taken on board before 400 metric tons of frozen mixed fishes on 7<sup>th</sup> of April at Singapore from another vessel, outside the port limits, as can be seen from the Bill of Lading no. CR 2/02 of S. Overseas Marine Corp.Lines dated 7 April 2001 and the enclosed manifest

**- ANNEX IV -,**

and 180 metric tons of frozen mixed fishes in Salalah/Oman on the 27<sup>th</sup> of April 2001 as can be seen from the Bill of Lading of S. Overseas Marine Corp.Lines, no. CR 2/03 dated 27 April 2001 and the enclosed manifest

**- ANNEX V --**

All cargo with a total value of USD 950,332 (in words: ninehundredfiftythousandthreehundredandthirtytwo) as can be seen from the invoice of Yemen Beach Est for USD 334,332,90, of the invoice of Ocean Harvest of 25.05.2001 for USD 400.000,-- and of the invoice of Alhadrami General Trading of 27.04.01for USD 216.000,--

**- ANNEX VI -**

was to be carried to and to be discharged in Thailand.

4. On 3<sup>rd</sup> May 2001 in the morning after MV "CH AISIRI REEFER 2" had received the port clearance she left the port of Mukalla at 08.15 a.m. as is confirmed in the letter of the Yemen ports authority, port of Mukalla, dated 8<sup>th</sup> May 2001

**- ANNEX VII-**

- 5 However, at 08.50 a.m. of the same day, while the vessel was moving out from Mukalla port starting the journey to Thailand which should be the next port of call, MV "CH AISIRI REEFER 2" was intercepted by small grey coloured boats running on 2x 200 HP engines occupied with 10 fully armed people, later known as Coast Guards of the Republic of Yemen.
6. The captain of MV "CH AISIRI REFER 2" was forced to take the vessel at high speed, just 4 miles away from the coast to an unknown place (later known as Sharmah) and put anchor at Longitude 50° 00E and Latitude 14° 49 N, about one mile from the coast at 3.20 p.m. of 3<sup>rd</sup> May 2001 (behind a mountain).
- 7 Also on 03 May 2001 at 03.20 p.m. the Coast Guard forced the captain of the vessel by gun to put stamp and sign in 2 plain papers and an unknown form in local language and finally he was forced to hand over bills of lading, cargo manifest of the cargo and the port clearance and the log book of the vessel.

Annex 1 Authorization of Mr von Brevern from the Minister  
for Foreign Affairs of Panama dated 22 June 2001

(in Spanish) (not reproduced) the ship was ordered to sail back to Mukalla where she dropped anchor on 7<sup>th</sup> May 2001 after getting clearance from the Mukalla port title Documents – Authorizations)

9. From 6 May to 10 May the vessel was at the anchorage position in Mukalla. The questions of the agent and owners representative to the Coast Guard for a written explanation for the detention of MV "CHASIRI REEFER 2" have not been answered at all.
10. On 11 May 11.00 a.m. a group of people came on board of the vessel without any notification to the captain, owner or agent. These people were members of the Ministry of Fisheries of the Republic of Yemen which came later to the knowledge of the captain.
11. After the ship had been ordered by the Governor of Hadhramout on 17<sup>th</sup> May 2001 the first time to come alongside the port to hand over to the port police, however the Coast Guard ignored the order and sent the vessel back to the anchorage area. The vessel on 22<sup>nd</sup> May 2001 again was ordered to go alongside the port of Mukalla for investigation about the cargo on board. Also the Minister for Fisheries of the Republic of Yemen visited the vessel. The crew was urged to show the authorities of Yemen samples of 3 frozen blocks of fish previously loaded in Singapore and 2 other samples loaded in Mukalla port.
12. On 24 May Panama Maritime Authority wrote to the Port Authority of Yemen and to the Governor of Hadhramout asking for explanation regarding the case against MV "CHASIRI REEFER 2". Again there was no response to their queries from the Authorities.
13. On 26 May 2001 the Customs Authority and the Coast Guard of Yemen came at night with container, trucks and workers with the intention to unload the cargo. The captain objected and asked for the Court order for removal of the cargo.
14. On the 27<sup>th</sup> May 2001 the Attorney of Hadhramout forced the captain of the vessel to open the hatches and to start unloading. Upon captains denial they themselves forcefully opened the hatches, resulting in damaging the two doors of the cargo hold number 2 and number 3. A group of armed persons then unloaded the fish on board of the vessel by using carriers into refrigerated and non-refrigerated containers. The unloading operation lasted until 6<sup>th</sup> of June 2001. As part of the cargo has been unloaded in non-refrigerated trucks the quality of that part of the cargo will certainly be damaged.
15. All the 765,74 metric tons of fish have been unloaded. The location and the condition of the cargo is unknown to crew and owners.
16. Applicants have managed to get a copy of the letter of 8<sup>th</sup> May 2001 sent by the Coast Guards to The General Manager, Office of the Fish Wealth, Governorate of Hadhramout stating the following:
  - The vessel loaded 400 mt of fish at sea

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- The fish has been loaded from unlicensed fishing boat
- No authority has any information of the entry of MV "CHASIRI REEFER 2" into the waters of the Republic of Yemen to carry fish from the ships that fish without license being issued by the concerned Ministry .
- The addressee was asked to form a committee to investigate the case.

**- ANNEX VIII -**

17. On the 16<sup>th</sup> of June 2001 the Yemen Court of the Public Assets in its Civil Case No. 4, for the year 1422 H delivered a judgment in favour of Mr. Zaki Abdoh Al-Hadhrami on behalf of the shipowner against the Public Assets Prosecution Department, Governorate of Hadhramout and ordered

- "FIRST: To accept the grievance submitted by Zaki Abdoh Al-Hadhrami  
 SECOND: To Obliging Mr. Zaki Al-Hadhrami to present to the Court the assured commercial guarantee for what the Prosecution implementations resulted into, and what they use it for, and for the rulings issued by the Court in relation to the Public Rights.  
 THIRD: To release the vessel Chaisiri Reeer 2, her crew, and the cargo, immediately.  
 Should anyone have any objection or grievance, he/she may come forth with it to the court and present it in due order according to the law."

**- ANNEX IX -**

18. Mr. Zaki Abdoh Al-Hadhrami has handed over the demanded Commercial Guarantee under the date of June 16<sup>th</sup> 2001 to the Yemen Court of the Public Assets with the following words:

**COMMERCIAL GUARANTEE**

I, Zaki Abdoh Ahmed Al-Hadhrami, a merchant, Holder of Commercial registration No. 960600018, hereby undertake to abide by and guarantee all that may be decided Sharia-wise and legal-wise by the Court of Public Assets, Governorate of Hadhramaut, Shabwa, and Al-Mahrah, which tried the grievance submitted by the marine agent of m/v The Chaisiri Reefer 2 and all the decisions that may be reached by the Court when the (PAPD) Public Assets Prosecution Department raises the case tried by it which is the case of the Thai vessel; Chaisiri Reefer 2, in case of proving any violation. I also undertake to pay any amounts and all that maybe decided by this Court. I, therefore, sign here below in the presence of the Chamber of Commerce and Industry, Hadhramout.

**-ANNEX X-**

19 The Yemen Court of the Public Assets sent the judgment of 16 June 2001 with order of the Court of 18 June 2001 to The Manager, Hadhramout Coast Guard Security Department,

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## - ANNEX XI-

and another order with the same language to The General Manager, Customs Department, Gov. of Hadhramout

## - ANNEX XII -.

20. The Governorate of Hadhramout with letter of June 23 2001

## - ANNEX XIII-

has asked the Governorate Security Department of Hadhramout for the Execution of the decision of the Court of Public Assets

21. The Court orders have not been followed by the addressees. Vessel and crew continue to be held hostage at Mukalla. The life of the 16 crew members is in danger. The ship is still hold by fully-armed Coast Guard. No proper legal proceedings have been instituted. No legal accusation or claims have been given to captain or shipowner or agent.

VESSEL PARTICULARS

23. Relevant informations concerning the vessel as per Ships Certificate of the Republic of Panama valid until December 11<sup>th</sup>, 2002 are as follows:

The vessel:

Name	CH AISIRI REEFER 2
Flag	Panama
Port of Registry	Panama
GRT	1263,00
NRT	514,00
Type of vessel	Reefer vessel
Insured Value	US \$ 5 million
Cargo originally on board	765,74 metric tons frozen fish
Value of the cargo originally on board	approximately US\$ .950,332
Cargo remaining on board	nil

## - ANNEX XIV-

24. Name and Address of

Owner:

S. Overseas Marine Corp. Panama  
c/o Shirley & Asociados  
P.O.Box 5216

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Panama 5  
Republic of Panama

Operator

S.W. Fisheries Co.Ltd.  
1101/7 Wichien Chodok Rd.  
T. Mahachai, A. Muang,  
Samutsakorn 74000/Thailand

CREW

25.

No.	NAME EXPIRY	D.O.B.	NATIONALITY	pp/SEA	POSITION	
01.	MR.MYO LWIN 00	06 JUN 1957	MYANMAR (BURMA)	MASTER	197267	2 SEP 2001
02.	MR.SOMSAK SATIMUN	06.JAN 1959	THAI	C/O	4190-04413	25.SEP.2003
03.	MR. PHAIRA THANOMCHT DEC 2002	2! APR 1961	THAI	2/0	3530-09867	27
04	MR. LUAI SOMRUB 21 DEC 2004	24 FEB 1971	THAI	BOSUN		4233-0047
05.	MR. CHONLAPHAT SULAIPHET	11 AUG 1968	THAI	AB	3490-13866	07 AUG 2001
06.	MR. CHARIN PROMBUT	13 MAR 1968	THAI	AB	4130-00316	01 SEP 2006
07.	MR. BOONSAK PAKAKAEW	05 NOV 1969	THAI	AB	4165-00093	10 MAR 2003
08.	MR. ANUCHIT BUAPHUAN	09 JUN 1963	THAI	C/E	4190-03074	01 MAY 2003
09.	MR. PREECHA PANCHU	-- 1955	THAI	2/E	4190-02177	24 APR 2003
10.	MR. WICAI NUTHONG	05. FEB 1960	THAI	3/E	4190-03158	12 AUG 2003
11.	MR. CHAIWAT THIPPHAYOM	02 JUL 1973	THAI	4/E	4230-00596	16 MAY 2004
12.	MR. SOMBUN THONGPRADAP	01. JAN 1967	THAI	OILER	4233-00359	10 JUN 2004
13.	MR. PRASONG BUIAMRAT	22 JAN 1959	THAI	OILER	4390-13014	02 NOV 2005
14.	MR. SRAWOOT TIPPAYOM JAN 2005	21 JAN 1979	THAI	OILER	4330-01137	27
15.	MR. SUTI KONGTUS	11 MAY 1971	THAI	OILER	4390-11954	13 APR 2005
4	MR PRASOPCHOK TAPSANG	18 OCT 1952	THAI	COOK	4230-01011	10 JUL 2004

- ANNEX XV-

SUMMARY OF FACTSTime and place of detention

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The "CHASIRI REEFER 2" was detained by authorities of the Republic of Yemen on 3<sup>rd</sup> May 2001 just outside the Yemen port of Mukalla.

Present location of vessel and crew.

The present location of vessel and crew is the port of Mukalla/Yemen.

Present location of cargo

The present location of the cargo which has been discharged from "CHASIRI REEFER 2" after the detention of the vessel by the authority of Yemen is unknown.

### JURISDICTION

26. The U.N. Law of the Sea Tribunal has jurisdiction to deal with this Application for the following reasons:

- The "CHASIRI REEFER 2" , crew and cargo has been detained by the Republic of Yemen since more than 6 weeks and has not been released since contrary to many applications of the shipowner and of the flag state for a release of vessel, crew and cargo,
- it is alleged by the shipowner and the flag state that the Republic of Yemen thereby has not complied with the provisions of the Convention for the Prompt Release of vessel, crew and cargo upon the posting of a reasonable bond or other financial security,
- the Republic of Yemen as well as the Republic of Panama each are members of the U.N. Law of the Sea Convention.

### STATEMENT OF LAW

27. The Republic of Yemen has not complied with its obligation under Article 73 par. 2 of the Convention for the following reasons:

- The arrest of "CHASIRI REEFER 2 " and her crew was based on the alleged violation of fishery laws of Yemen and have therefore been taken in the exercise of Yemen's Sovereign Rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone,
- the measure of arrest of vessel and crew and discharge of cargo were not necessary to ensure compliance with the laws and regulations adopted by Yemen in conformity with this Convention,
- vessel and crew and cargo have not been promptly released upon the posting of a reasonable security for and on behalf of the shipowner of "CHASIRI REEFER 2" in the form of a commercial guarantee.

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28. The Republic of Yemen furthermore has not complied with the obligation under Article 73 par. 4 of the Convention because

- the Republic of Yemen after having arrested vessel and crew has not notified the Republic of Panama as flag state of "CHASIRI REEFER2".

29. It is denied that vesselowners or crew members have violated any national law of the Republic of Yemen or any international law. It is denied that vesselowners or crew have ever been involved in smuggling.

30. All letters which have been addressed by shipowners to the Governor of Hadhramout on the 15<sup>th</sup> of May 2001, to the President of the Government of the Republic of Yemen on May 18, 2001 and on the 27<sup>th</sup> May 2001, to the Attorney General of Yemen on 23 May 2001 and finally to the custom Authority in Mukalla, Governorate of Hadhramout of 27 May 2001, of 29 May 2001 and of June 4, 2001 have not received any single reply.

### SUBMISSION

**31. IN VIEW OF THE FOREGOING the Applicant submits that the U.N. Law of the Sea Tribunal should determine that the vessel, her cargo and crew be released immediately without requiring that any further bond be provided.**

### ANNEXES

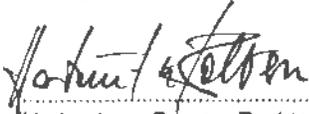
#### DOCUMENTS IN SUPPORT

- I. Authorisation by the Republic of Panama for Rechtsanwalt Hartmut von Brevern, dated 22<sup>nd</sup> June 2001
- II. Documents stating that the authorized Mr. von Brevern has signed the Application
- III. Bill of Lading No. CR 2/04 of S. Overseas Marine Corp. Lines of 6<sup>nd</sup> May 2001 and enclosed manifest
- IV. Bill of Lading no. CR 2/02 of S. Overseas Marine Corp. Lines, dated 7<sup>th</sup> April 2001 and enclosed manifest
- V. Bill of Lading no. CR 2/03 of S. Overseas Marine Corp. Lines of 27<sup>th</sup> April 2001 and enclosed manifest
- VI. Commercial invoice of Ocean Harvest of 25.05.2001 for USD 400.000,- and invoice of Alhadrami General Trading of 27.04.01 for USD 216.000,- and commercial invoice of Yemen Beach Est of 16.04.2001 for USD 334, 332.00
- VII. Letter of the Harbour captain to the Ministry of Transportation of Yemen of May 8, 2001
- VIII. Letter of Coast Guards to the General Manager Office of the Fish Wealth, Governorate of Hadhramout of May 8, 2001
- IX. Order of the Court of the Public Assets of 16 June 2001

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- X. Commercial Guarantee of Mr. Zaki Abdoh Al-Hadhrani of June 16, 2001
- XI. Letter of the Court of the Public Assets to the manager Hadhrani Coast Guard Security Department of June 18, 2001
- XII. Letter of the Court of the Public Assets to the General Manager Customs Department Govern. Gov. of Hadhrani of June 18, 2001
- XIII. Letter of Brigadier General
- XIV. Ship's certificate
- XV. Crew list of "CH AISIRI REEFER 2"

In my capacity as Agent I certify that the translation of the supporting documentation the originals of which are written in the Arab language is accurate.



(Hartmut von Brevern, Rechtsanwalt )