



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

Press Release

TRIBUNAL DELIVERS ORDER IN *THE M/V "LOUISA" CASE (SAINT VINCENT AND THE GRENADINES V. SPAIN)*

TRIBUNAL FINDS THAT "THE CIRCUMSTANCES, AS THEY NOW PRESENT THEMSELVES TO THE TRIBUNAL, ARE NOT SUCH AS TO REQUIRE THE EXERCISE OF ITS POWERS TO PRESCRIBE PROVISIONAL MEASURES"

Hamburg, 23 December 2010. The Order in *The M/V "Louisa" Case (Saint Vincent and the Grenadines v. Spain)*, *provisional measures* was delivered today at a public sitting in the main courtroom.

THE DISPUTE

Saint Vincent and the Grenadines instituted proceedings against Spain on 24 November 2010, regarding the *MV Louisa*, a vessel flying the flag of Saint Vincent and the Grenadines, which was arrested on 1 February 2006 by the Spanish authorities. The Application instituting proceedings before the Tribunal included a request for provisional measures under article 290, paragraph 1, of the Convention, in which the Tribunal was requested, *inter alia*, to order the Respondent to release the *MV Louisa* and return the property seized.

Pursuant to article 290, paragraph 1, of the Convention, the Tribunal may, if it finds that *prima facie* it has jurisdiction over the dispute, prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending the final decision.

THE ORDER OF 23 DECEMBER 2010

In its Order of 23 December 2010, the Tribunal finds, by 17 votes to 4, that "the circumstances, as they now present themselves to the Tribunal, are not such as to require the exercise of its powers to prescribe provisional measures under article 290, paragraph 1, of the Convention."

Finding that it has *prima facie* jurisdiction over the dispute, the Tribunal considers that, at this stage of the proceedings, it does not need to establish definitively the existence of the rights claimed by Saint Vincent and the Grenadines. In this context, the Tribunal refers to its earlier jurisprudence in the *M/V "SAIGA" (No. 2)* case, in which

it had stated that “before prescribing provisional measures the Tribunal need not finally satisfy itself that it has jurisdiction on the merits of the case and yet it may not prescribe such measures unless the provisions invoked by the Applicant appear *prima facie* to afford a basis on which the jurisdiction of the Tribunal might be founded.”

In the circumstances of the case, the Tribunal does not find that there is a real and imminent risk that irreparable prejudice may be caused to the rights of the parties in dispute before the Tribunal so as to warrant the prescription of the provisional measures requested by Saint Vincent and the Grenadines.

Furthermore, the Tribunal notes that the Applicant contended that “there is a definite threat to the environment by leaving this ship docked in El Puerto de Santa María for any significant additional time.” In this respect, the Tribunal places on record the assurances given by Spain that “the Port authorities are continuously monitoring the situation, paying special attention to the fuel still loaded in the vessel and the oil spread in the different conducts and pipes on board” and that “[t]he *Capitanía Marítima* of Cadiz has an updated protocol for reacting against threats of any kind of environmental accident within the port of El Puerto de Santa María and the Bay of Cadiz.”

The Tribunal also notes that the present Order in no way prejudices the question of the jurisdiction of the Tribunal to deal with the merits of the case or any questions relating to the admissibility of the Application, or relating to the merits themselves, and leaves unaffected the rights of Saint Vincent and the Grenadines and Spain to submit arguments in respect of those questions.

Finally, the Tribunal reserves for consideration in its final decision the submissions made by both parties for costs in the present proceedings.

Judge Paik appended a separate opinion to the Order. Judges Wolfrum, Treves, Cot and Golitsyn appended dissenting opinions to the Order.

A recorded webcast of the public sitting is available under [Webcast Archives](#).

The text of the Order is available on the [website](#) of the Tribunal.

The press releases of the Tribunal, documents and other information are available on the Tribunal's websites: <http://www.itlos.org> and <http://www.tidm.org> and from the Registry of the Tribunal. Please contact Ms Julia Ritter or Ms Johanna van Kisfeld at: Am Internationalen Seegerichtshof 1, 22609 Hamburg, Germany, Tel.: +49 (40) 35607-227; Fax: +49 (40) 35607-245; E-mail: press@itlos.org