



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

## **Press Release**

**ORDER ADOPTED IN *THE M/V "VIRGINIA G" CASE (PANAMA/GUINEA-BISSAU)***

**TRIBUNAL FINDS GUINEA-BISSAU'S COUNTER CLAIM ADMISSIBLE AND  
FIXES TIME-LIMIT FOR THE FILING OF AN ADDITIONAL PLEADING BY  
PANAMA**

Hamburg, 6 November, 2012. On 2 November 2012, the Tribunal adopted an Order on the admissibility of a counter-claim submitted by Guinea-Bissau in its Counter-Memorial in *the M/V "Virginia G" Case (Panama/Guinea-Bissau)*.

By that Order, the Tribunal, by 18 votes to 4, "[f]inds that the counter-claim presented by Guinea-Bissau satisfies the conditions set forth in article 98, paragraph 1, of the Rules of the Tribunal," and by 18 votes to 4, "[f]inds that, in the light of the foregoing, the counter-claim presented by Guinea-Bissau is admissible under article 98, paragraph 1, of the Rules of the Tribunal." By the same Order, the Tribunal unanimously "[a]uthorizes the submission by Panama of an additional pleading related solely to the counter-claim submitted by Guinea-Bissau and fixes 21 December 2012 as the time-limit for the filing of this pleading." The subsequent procedure has been unanimously reserved for further decision.

The dispute relates to the Panamanian flagged oil tanker *Virginia G*, which, according to the Statement of Claim of Panama, was arrested by the authorities of the Republic of Guinea-Bissau on 21 August 2009 in the Exclusive Economic Zone of Guinea-Bissau, whilst carrying out refuelling activities.

In its Statement of Claim, Panama claimed that "Guinea-Bissau breached its international obligations set out in the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which breach lead to a prejudice being caused to the Panamanian flag and to severe damages and losses being incurred by the vessel and other interested persons and entities because of the detention and the length of the period of detention."

In its Counter-Memorial, Guinea-Bissau presented a counter-claim stating that "Panama violated art. 91 of the Convention by granting its nationality to a ship without any genuine link to Panama, which facilitated the practice of illegal actions of bunkering without permission in the EEZ of Guinea-Bissau" and that "Guinea-Bissau

is entitled to claim from Panama all damages and costs caused by the VIRGINIA G to Guinea-Bissau, which are a result of the granting of the flag of convenience to the ship by Panama.”

Pursuant to article 98, paragraph 1, of the Rules of the Tribunal, “a party may present a counter-claim provided that it is directly connected with the subject-matter of the claim of the other party and that it comes within the jurisdiction of the Tribunal.”

On the issue of jurisdiction, the Tribunal noted that “the agreement concluded between the Parties refers to ‘the dispute between them concerning the VIRGINIA G’ and states that the proceedings before the Tribunal shall deal ‘with all aspects of the merits (including damages and costs)’ and that the Tribunal ‘shall address all claims for damages and costs’”. It therefore found that “[t]he counter-claim presented by Guinea-Bissau meets the requirement of jurisdiction set out in article 98, paragraph 1, of the Rules”.

On the condition of the direct connection of Guinea-Bissau’s counter-claim with the subject-matter of Panama’s claim, the Tribunal found that the counter-claim “[r]elates to an alleged breach of the Convention by Panama in the granting of its nationality to the vessel *Virginia G*” and is therefore “[d]irectly connected with the subject-matter of the claims of Panama.”

The Tribunal then examined Panama’s request to be authorized to file an additional pleading in response to the part of Guinea-Bissau’s Rejoinder concerning the counter-claim. The Tribunal considered that, “[i]n order to ensure equality between the Parties, Panama should be given an opportunity to file an additional pleading confined to the counter-claim as presented by Guinea-Bissau.”

Judges Cot and Kulyk appended a joint declaration to the Order of the Tribunal; Judge Türk appended a declaration to the Order of the Tribunal; Judge *ad hoc* Treves appended a dissenting opinion to the Order of the Tribunal.

The text of the Order is available on the website of the Tribunal.

Note: The press releases of the Tribunal do not constitute official documents and are issued for information purposes only.

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 the Press Office at: Am Internationalen Seegerichtshof 1, 22609 Hamburg, Germany, Tel.: +49 (40) 35607-227; Fax: +49 (40) 35607-245; E-mail: [press@itlos.org](mailto:press@itlos.org)