



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

Press Release

REQUEST FOR PROVISIONAL MEASURES SUBMITTED TO THE TRIBUNAL BY THE ITALIAN REPUBLIC AGAINST THE REPUBLIC OF INDIA

On 21 July, the Italian Republic submitted a request to the Tribunal for the prescription of provisional measures under article 290, paragraph 5, of the United Nations Convention on the Law of the Sea (“the Convention”) in a dispute with the Republic of India over the incident involving the *MV Enrica Lexie*, an oil tanker flying the Italian flag.

According to the statement of claim of Italy, on 15 February 2012 when the *MV Enrica Lexie* “was transiting approximately 20.5 nautical miles off the coast of Kerala, India en route from Sri Lanka to Djibouti ...[a]n unidentified craft was detected on radar approximately 2.8 nautical miles away and was observed heading rapidly towards the *MV Enrica Lexie*. As the craft drew closer, Chief Master Sergeant Massimiliano Latorre and Sergeant Salvatore Girone [two of the members of the Italian Marines deployed on board to protect the vessel against piracy during its voyage from Sri Lanka to Djibouti] assessed that it was on collision course with the *Enrica Lexie* and that this *modus operandi* was consistent with a pirate attack ... The craft continued to head towards the *Enrica Lexie* despite sustained visual and auditory warnings from the *Enrica Lexie* and the firing of warning shots into the water... Eventually, after apparent attempts to approach the *Enrica Lexie*, the craft turned away and headed towards the open sea.”

Italy states that “the Indian authorities received information that two fishermen had been killed on a fishing boat, the *St Anthony*, and decided that the *Enrica Lexie* had been involved in the incident.” Italy alleges that the Indian authorities “instructed the *Enrica Lexie* to sail to Kochi” [an Indian port] where it was boarded by “over 30 Indian personnel” on 16 February 2012. Italy further states that “[o]n 19 February 2012, Sergeant Latorre and Sergeant Girone were ... arrested by the Kerala police and placed in custody” and that “[t]hey have been formally subject to the custody of the Indian courts to this day.”

On 26 June 2015, by a notification addressed to the Government of India, the Government of Italy submitted the dispute to the arbitral procedure provided for in Annex VII of the Convention.

Pursuant to article 290, paragraph 5, of the Convention, pending the constitution of an arbitral tribunal any party to the dispute may request the International Tribunal for the Law of the Sea to prescribe provisional measures to preserve the respective rights of the parties to the dispute or to prevent serious harm

to the marine environment. The Tribunal may prescribe provisional measures if it considers that, prima facie, the arbitral tribunal to be constituted would have jurisdiction and that the urgency of the situation so requires.

On 21 July 2015, Italy submitted a Request for provisional measures to the Tribunal in which it “requests that the Tribunal prescribe the following provisional measures:

- (a) India shall refrain from taking or enforcing any judicial or administrative measures against Sergeant Massimiliano Latorre and Sergeant Salvatore Girone in connection with the Enrica Lexie Incident, and from exercising any other form of jurisdiction over the Enrica Lexie Incident; and
- (b) India shall take all measures necessary to ensure that restrictions on the liberty, security and movement of the Marines be immediately lifted to enable Sergeant Girone to travel to and remain in Italy and Sergeant Latorre to remain in Italy throughout the duration of the proceedings before the Annex VII Tribunal.”

Article 90, paragraph 2, of the Rules of the Tribunal provides that the Tribunal, or the President if the Tribunal is not sitting, shall fix the earliest possible date for the hearing. The date will be announced in a further press release in the coming days.

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 Ms Julia Ritter at: Am Internationalen Seegerichtshof 1, 22609 Hamburg, Germany, Tel.: +49 (40) 35607-227; Fax: +49 (40) 35607-245; E-mail: press@itlos.org