



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

# **Press Release**

(Issued by the Registry)

## **SUMMARY OF THE JUDGMENT OF 1 JULY 1999**

On 1 July 1999, the International Tribunal for the Law of the Sea delivered its first Judgment on the merits (See Press Release No. 23). A summary of the Judgment is reproduced below. A summary of the separate and dissenting opinions appended to the Judgment will be made available in a separate addendum.

### ***Review of the proceedings and submissions of the parties (paras. 1-30 of the Judgment)***

The Tribunal begins by recalling that on 13 January 1998, Saint Vincent and the Grenadines filed a Request for the prescription of provisional measures concerning the arrest and detention of the oiltanker Saiga and its crew. The Request was based on article 290, paragraph 5, of the United Nations Convention on the Law of the Sea (prescription of provisional measures pending the constitution of an arbitral tribunal).

By Agreement between the parties dated 20 February 1998 (1998 Agreement), the arbitral proceedings instituted by Saint Vincent and the Grenadines were transferred to the Tribunal. After setting out the text of the Agreement, the Tribunal recites the successive stages of the proceedings including its decision on the request for provisional measures. It further sets out the submissions of the parties.

### ***Background to the case (paras. 31-39)***

The Tribunal recalls the voyage of the Saiga, which left Dakar, Senegal, on 24 October 1997, fully laden with approximately 5,400 metric tons of gas oil. On 27 October 1997, the Saiga supplied gas oil to three fishing vessels at a point approximately 22 nautical miles from Guinea's island of Alcatraz. It later changed course and sailed towards another location beyond the southern border of the exclusive economic zone of Guinea.

At 0900 hours on 28 October 1997, the Saiga, according to its logbook, was at a point south of the southern limit of the exclusive economic zone of Guinea. At about 0900 hours the Saiga was

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attacked by a Guinean patrol boat and arrested. On the same day, the ship and its crew were brought to Conakry, Guinea, where its Master was detained.

The travel documents of the members of the crew and other hands on board were taken from them by the authorities of Guinea and armed guards were placed on board the ship. On 1 November 1997, two injured persons from the Saiga, Mr. Sergey Klyuyev and Mr. Djibril Niasse, were permitted to leave Conakry for Dakar for medical treatment. Between 10 and 12 November 1997, the cargo of gas oil on board the ship, amounting to 4,941.322 metric tons, was discharged on the orders of the Guinean authorities. Seven members of the crew and two painters left Conakry on 17 November 1997, one crew member left on 14 December 1997 and six on 12 January 1998. The Master and six crew members remained in Conakry until the ship was released on 28 February 1998.

Criminal charges were filed against the Master, specified in a schedule of summons, which additionally named the State of Saint Vincent and the Grenadines as civilly responsible to be summoned. Criminal proceedings were subsequently instituted by the Guinean authorities against the Master before the Tribunal of First Instance in Conakry.

On 13 November 1997, Saint Vincent and the Grenadines submitted a Request for the prompt release of the Saiga and its crew under article 292 of the Convention. On 4 December 1997, the Tribunal delivered Judgment on the Request. The Judgment ordered that Guinea promptly release the Saiga and its crew. Saint Vincent and the Grenadines was required to post a bond on seeking for release in an amount of US\$ 400,000. It took account of the fact that the gas oil had been discharged by Guinean authorities from the Saiga.

On 17 December 1997, the Tribunal of First Instance in Conakry found the Master of the Saiga guilty of importing, without declaring it, diesel oil, committing the crimes of contraband, fraud and tax evasion. It imposed on him a fine of 15,354,024,040 Guinean francs and ordered the confiscation of the vessel and its cargo as a guarantee for payment of the penalty. The Master appealed to the Court of Appeal (cour d'appel) in Conakry, which confirmed the judgment of the lower court and imposed a suspended sentence of six months imprisonment on the Master.

On 4 March 1998 the Tribunal was notified, that the Saiga had been released from detention in execution of the Judgment of the Tribunal of 4 December 1997 on 28 February 1998 and had arrived safely in Dakar, Senegal.

On 11 March 1998, the Tribunal delivered the Order prescribing provisional measures ordering that Guinea refrain from taking any enforcement measures against the Saiga. It also recommended that parties should prevent the aggravation or extension of the dispute

***Jurisdiction of the Tribunal (paras. 40-45)***

The Tribunal observes that there is no disagreement between the parties regarding the

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jurisdiction of the Tribunal in the present case. It must, however, satisfy itself that it has jurisdiction to deal with the case.

The Tribunal finds that the basis of its jurisdiction in this case is the 1998 Agreement, which transferred the dispute to the Tribunal, together with articles 286, 287 and 288 of the Convention on the Law of the Sea. It observes that the provision in the 1998 Agreement that the Tribunal may consider the objection raised as to jurisdiction by Guinea based on article 297, paragraph 3, of the Convention, does not affect its jurisdiction to deal with the dispute. It, therefore, concludes that it has jurisdiction over the dispute as submitted.

***Admissibility (paras. 46-109)***

Guinea raises a number of objections to the admissibility of the Saint Vincent's claims.

***Objections to the challenge to admissibility (paras. 46-54)***

Saint Vincent contends that Guinea does not have the right to raise objections to the admissibility of the Saint Vincent's claims. In support of its contentions, Saint Vincent argues that the terms of the 1998 Agreement preclude the raising of any objections apart from the objection as to jurisdiction specifically mentioned in the Agreement. Guinea challenges this interpretation of the 1998 Agreement.

The Tribunal concludes that the 1998 Agreement does not preclude the raising of objections to admissibility by Guinea, because the object and purpose of the 1998 Agreement was to transfer to the Tribunal the same dispute that would have been the subject of the proceedings before the arbitral tribunal. In the present case, the Tribunal finds that Guinea's reservation as to jurisdiction did not deprive it of its general right to raise objections to admissibility, provided it did so in accordance with the Rules and consistently with the agreement between the parties that the proceedings be conducted in a single phase.

Saint Vincent and the Grenadines further argues that Guinea has lost the right to raise objections to admissibility because it failed to meet the time limit for making such objections. Guinea contends that article 97 of the Rules does not affect its objections. The Tribunal finds that the time limit of 90 days specified by article 97 of the Rules does not apply to objections to jurisdiction or admissibility, because they are not requested to be considered before any further proceedings on the merits.

For these reasons, the Tribunal finds that the objections to admissibility raised by Guinea are receivable.

***Registration of the Saiga (paras. 55-74)***

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The first objection raised by Guinea to the admissibility of Saint Vincent's claims is that Saint Vincent does not have legal standing to bring the claims, because the ship was "not validly registered under the flag of Saint Vincent and the Grenadines". Guinea contends that the ship was unregistered between 12 September 1997 and 28 November 1997 because the Provisional Certificate of Registration expired on 12 September 1997 and the Permanent Certificate of Registration was issued on 28 November 1997.

The Tribunal observes that under article 91 of the Convention it is for Saint Vincent and the Grenadines to fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory and for the right to fly its flag. It notes that the nationality of a ship is a question of fact to be determined, like other facts in dispute before it, on the basis of evidence adduced by the parties.

The Tribunal refers to the evidence produced before it by Saint Vincent and the Grenadines to support its assertion that the Saiga was a ship entitled to fly its flag at the time of the incident giving rise to the dispute. In addition to making references to the relevant provisions of the Merchant Shipping Act, Saint Vincent and the Grenadines has drawn attention to several indications of Vincentian nationality on the ship or carried on board.

The Tribunal considers that the evidence adduced by Saint Vincent and the Grenadines has been reinforced by its consistent conduct as the flag State during all stages of the proceedings before the Tribunal.

The Tribunal also states that Guinea cannot successfully challenge the registration and nationality of the Saiga at this stage, because it has failed to challenge or raise any doubts about the registration or nationality of the ship at any time until the submission of its Counter-Memorial in October 1998, and because of its other conduct.

In addition, the Tribunal observes that in the particular circumstances of this case, it would not be consistent with justice if the Tribunal were to decline to deal with the merits of the dispute.

The Tribunal, therefore, rejects Guinea's objection to admissibility on the ground that the Saiga was not registered.

***Genuine link (paras. 75-88)***

The second objection to admissibility raised by Guinea is that there was no genuine link between the Saiga and Saint Vincent and the Grenadines.

The Tribunal notes that two questions need to be addressed in this connection. The first is whether the absence of a genuine link between a flag State and a ship entitles another State to refuse to recognize the nationality of the ship.

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The Tribunal examines the context, object and purpose, and legislative history of article 91 of the Convention, which requires a genuine link between the State and its ship. The conclusion of the Tribunal is that the purpose of the provision of the Convention requiring a genuine link between a ship and its flag State is to secure more effective implementation of the duties of the flag State, and not to establish criteria by reference to which the validity of the registration of ships in a flag State may be challenged by other States.

The second question the Tribunal considers relevant is whether or not a genuine link existed between the Saiga and Saint Vincent and the Grenadines at the time of the incident. In the light of its decision on the first question, the Tribunal does not find it necessary to consider the second question. In any case, the Tribunal finds that the evidence adduced by Guinea is not sufficient to justify its contention that there was no genuine link between the ship and Saint Vincent and the Grenadines at the material time.

For these reasons, the Tribunal rejects the objection to admissibility based on Guinea's contention that there was no genuine link between the Saiga and Saint Vincent and the Grenadines.

***Exhaustion of local remedies (paras. 89-102)***

Guinea's third objection to admissibility concerns its claim that remedies available under Guinean law, such as recourse to the Supreme Court and proceedings before Guinean courts, were not exhausted.

In determining whether the rule that local remedies must be exhausted is applicable in the present case, the Tribunal refers to article 295 of the Convention and international law. It finds guidance in article 22 of the Draft Articles on State Responsibility, which states that the rule that local remedies must be exhausted is applicable when "the conduct of a State has created a situation not in conformity with the result required of it by an international obligation concerning the treatment to be accorded to aliens".

The Tribunal considers that none of the violations of rights claimed by Saint Vincent and the Grenadines can be described as breaches of obligations concerning the treatment to be accorded to aliens. They are all direct violations of the rights of Saint Vincent and the Grenadines and the damages claimed in respect of the persons involved in the operation of the ship arise from those violations. Accordingly, these claims are not subject to the rule that local remedies must be exhausted.

On the question whether or not there was a jurisdictional connection between Guinea and the natural and juridical persons in respect of whom Saint Vincent and the Grenadines made its claims, the Tribunal concludes that no such jurisdictional connection existed in this case.

In the light of its conclusion that the rule that local remedies must be exhausted does not

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apply in this case, the Tribunal does not consider it necessary to deal with the arguments of the parties on the question whether local remedies were available and, if so, whether they were effective.

*Nationality of claims (paras. 103-109)*

In its last objection to admissibility, Guinea argues that certain claims of Saint Vincent and the Grenadines cannot be entertained by the Tribunal because they relate to violations of the rights of persons who are not nationals of Saint Vincent and the Grenadines.

In dealing with this question, the Tribunal finds guidance in articles 94, 106, 110, paragraph 3, and 111, paragraph 8, 217, and 292 of the Convention. It declares that these provisions consider a ship as a unit, as regards the obligations of the flag State with respect to the ship and the right of a flag State to seek reparation for loss or damage caused to the ship by acts of other States and to institute proceedings under article 292 of the Convention. Thus the ship, every thing on it, and every person involved or interested in its operations are treated as an entity linked to the flag State. The nationalities of these persons are not relevant.

The Tribunal also calls attention to two basic characteristics of modern maritime transport: the transient and multinational composition of ships' crews and the multiplicity of interests that may be involved in the cargo on board a single ship. If each person sustaining damage were obliged to look for protection from the State of which such person is a national, undue hardship would ensue.

For these reasons the Tribunal also rejects this objection.

*Arrest of the Saiga (paras. 110-138)*

Saint Vincent and the Grenadines asserts that the arrest of the Saiga and the subsequent actions of Guinea were illegal, because the ship did not violate any laws or regulations of Guinea that were applicable to it. It further maintains that, if the laws cited by Guinea did apply to the activities of the Saiga, those laws, as applied by Guinea, were incompatible with the Convention.

The main charge against the Saiga was that it violated article 1 of Law L/94/007 by importing gas oil into the customs radius (*rayon des douanes*) of Guinea. The customs radius extends to 250 nautical miles from the coast of Guinea and includes Guinea's exclusive economic zone. According to Guinea, the fact that the Saiga violated the laws of Guinea has been authoritatively established by the Court of Appeal. In its view, that decision cannot be questioned in this case because the Tribunal is not competent to consider the question whether the internal legislation of Guinea has been properly applied by the Guinean authorities or its courts.

Referring to article 58, paragraph 3, of the Convention and the Judgment of the Permanent Court of International Justice in the case concerning *Certain German Interests in Polish Upper Silesia*,

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the Tribunal concludes that it is competent to determine the compatibility of Guinea's laws and regulations with the Convention.

The Tribunal notes that except for articles 33, paragraph 1, and 60, paragraph 2, of the Convention, the Convention does not empower a coastal State to apply its customs laws in respect of any other parts of the exclusive economic zone. The Tribunal finds that, by applying its customs laws to a customs radius, which includes parts of the exclusive economic zone, Guinea acted in a manner contrary to the Convention. Accordingly, the arrest and detention of the Saiga, the prosecution and conviction of its Master, the confiscation of the cargo and the seizure of the ship were contrary to the Convention.

Guinea also invoked the principle of "public interest" as a basis for its laws. The Tribunal is of the view that reliance on the principle of public interest in the way claimed by Guinea would curtail the rights of other States in the exclusive economic zone, and thus be incompatible with the provisions of articles 56 and 58 of the Convention.

The Tribunal also considers whether the otherwise wrongful application by Guinea of its customs laws to the exclusive economic zone can be justified under general international law by Guinea's appeal to "state of necessity". Referring to the Judgment of the International Court of Justice in the *Gabcikovo-Nagymaros* case, the Tribunal concludes Guinea could not rely on a state of necessity to justify its actions. The Tribunal finds that, however essential Guinea's interest in maximizing its tax revenue from the sale of gas oil to fishing vessels, it cannot be suggested that the only means of safeguarding that interest was to extend its customs laws to parts of the exclusive economic zone.

***Offshore bunkering (paras. 137-138)***

The Tribunal notes that both parties made submissions on the general question of the rights of coastal States and of other States in connection with offshore bunkering, i.e. the sale of gas oil to vessels at sea. The Tribunal states that the issue that needed to be decided was whether the actions taken by Guinea were consistent with the applicable provisions of the Convention. It notes that it reached a decision on that issue on the basis of the law applicable to the particular circumstances of the case, without having to address the broader question of the rights of coastal States and other States with regard to bunkering in the exclusive economic zone. Consequently, the Tribunal does not make any findings on that question.

***Hot pursuit (paras. 139-152)***

Saint Vincent and the Grenadines contends that, in arresting the Saiga, Guinea did not lawfully exercise the right of hot pursuit under article 111 of the Convention. Guinea denies that the pursuit was vitiated by any irregularity and maintains that it met with all requirements of article 111 of the Convention.

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The Tribunal notes that the conditions for the exercise of the right of hot pursuit under article 111 of the Convention are cumulative. In this case, the Tribunal finds that several of these conditions were not fulfilled.

The Tribunal *inter alia* observes that the alleged pursuit was interrupted and no auditory or visual signals were given prior to its commencement. It also notes that no laws or regulations of Guinea applicable in accordance with the Convention were violated by the Saiga. It follows that there was no legal basis for the exercise of the right of hot pursuit by Guinea in this case.

The Tribunal has based its consideration of the legality of the pursuit on a violation of the laws of Guinea in the exclusive economic zone. It notes that its conclusion would have been the same if Guinea had based its action on an infringement of its customs laws in the contiguous zone.

***Use of force (paras. 153-159)***

Saint Vincent and the Grenadines claims that Guinea used excessive and unreasonable force in stopping and arresting the Saiga.

In considering the force used by Guinea in the arrest of the Saiga, the Tribunal takes into account the circumstances of the arrest in the context of the applicable rules of international law. The Tribunal notes that international law requires that the use of force must be avoided as far as possible and, where force is unavoidable, it must not go beyond what is reasonable and necessary in the circumstances

The Tribunal finds that Guinea used excessive force and endangered human life before and after boarding the Saiga. The Tribunal notes that the Saiga was almost fully laden and was low in the water at the time it was approached by the patrol vessel. Its maximum speed was 10 knots. Therefore it could be boarded without much difficulty by the Guinean officers. The Tribunal observes that whatever the circumstances, there is no excuse for the fact that the officers fired at the ship itself with live ammunition from a fast-moving patrol boat without issuing any of the signals and warnings required by international law and practice.

In addition, the Guinean officers used excessive force on board the Saiga. Having boarded the ship without resistance, and although there is no evidence of the use or threat of force from the crew, they fired indiscriminately while on the deck and used gunfire to stop the engine of the ship. In using firearms in this way, the Guinean officers appeared to have attached little or no importance to the safety of the ship and the persons on board. In the process, considerable damage was done to the ship and to vital equipment in the engine and radio rooms. And, more seriously, the indiscriminate use of gunfire caused severe injuries to two of the persons on board.

***Schedule of summons (paras. 160-162)***

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Saint Vincent and the Grenadines requests the Tribunal to find that Guinea violated its rights under international law by citing Saint Vincent and the Grenadines as “civilly liable” in the schedule of summons issued in connection with the criminal proceedings against the Master of the Saiga before the Tribunal of First Instance of Conakry.

While the Tribunal considers that the naming of Saint Vincent and the Grenadines in connection with the criminal proceedings against the Master of the Saiga was inappropriate, it does not find that this action by itself constitutes a violation of any right of Saint Vincent and the Grenadines under international law.

***Compliance with the judgment on prompt release (paras. 163-166)***

Saint Vincent and the Grenadines requests the Tribunal to find that Guinea violated articles 292, paragraph 4, and 296 of the Convention by failing to release the Saiga immediately after the posting of the security, in the form of a bank guarantee, in compliance with the Judgment of the Tribunal of 4 December 1997.

The Tribunal finds that a number of factors contributed to the delay in releasing the ship and not all of them can be said to be due to the fault of Guinea. Therefore, the Tribunal does not find that, in the circumstances of this case, Guinea failed to comply with the Judgment of 4 December 1997.

***Reparation (paras. 167-177)***

The Tribunal observes that it is a well-established rule of international law that a State which suffers damage as a result of an internationally wrongful act by another State is entitled to obtain reparation for the damage suffered from the State which committed the wrongful act.

In the view of the Tribunal, Saint Vincent and the Grenadines is entitled to reparation for damage suffered directly by it as well as for damage or other loss suffered by the Saiga, including all persons involved or interested in its operation. Damage or other loss suffered by the Saiga and persons involved or interested in its operation comprise injury to persons, unlawful arrest, detention or other forms of ill-treatment, damage to or seizure of property and other economic losses, including loss of profit.

In addition, the Tribunal considers it generally fair and reasonable that interest is paid in respect of monetary losses, property damage and other economic losses. In the present case, the Tribunal applies different rates of interest for different categories of claims.

After a careful scrutiny of invoices and other documents submitted, the Tribunal awards compensation to Saint Vincent and the Grenadines in the total amount of US\$ 2,123,357. This sum covers compensation in respect of damage to the Saiga for: loss with respect to charter hire of the

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Saiga, costs related to the detention of the Saiga in Conakry, value of gas oil discharged in Conakry, detention of Captain Orlov, detention of members of the crew and other persons on board the Saiga, medical expenses, injury, pain and suffering of Second Officer Klyuyev, and medical expenses, injury, pain, suffering, disability and psychological damage of Mr. Djibril Niasse.

With regard to the claims of Saint Vincent and the Grenadines for compensation for violation of its rights in respect of ships flying its flag, the Tribunal considers that the declaration that Guinea acted wrongfully and violated the rights of Saint Vincent and the Grenadines constitutes adequate reparation.

The Tribunal does not accede to the request of Saint Vincent and the Grenadines to award compensation for the loss of registration revenue resulting from the arrest of the Saiga and for the expenses resulting from the time lost by its officials in dealing with the arrest and detention of the ship and its crew.

***Financial security (paras. 178-180)***

The Tribunal notes that Saint Vincent and the Grenadines has requested that Guinea be ordered to return the bank guarantee for the amount of US\$400,000 provided by Saint Vincent and the Grenadines as part of the security for the prompt release of the Saiga further to the Tribunal's Judgment of 4 December 1997.

While emphasizing that the *M/V 'Saiga' (No.2)* case is distinct from the prompt release proceedings, the Tribunal points out that the security is one of the losses for which Saint Vincent seeks reparation. The Tribunal considers that in the light of its decision that Guinea's arrest of the Saiga was unlawful, the bank guarantee is to be treated as no longer effective and should be returned by Guinea forthwith to Saint Vincent and the Grenadines.

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*Costs (paras. 181-182)*

Both parties requested the Tribunal to award legal and other costs. The Tribunal notes that the general rule on costs, as reflected in article 34 of the Statute, is that each party bears its own costs. The Tribunal does not see the need to depart from the general rule in this case. Accordingly, with respect to both phases of the present proceedings, it decides that each party shall bear its own costs.

*Operative provisions (para. 183)*

The Tribunal decided on the different issues as follows:

- (1) Unanimously,

*Finds* that it has jurisdiction over the dispute;

- (2) Unanimously,

*Finds* that Guinea is not debarred from raising objections to the admissibility of the claims of Saint Vincent and the Grenadines;

- (3) By 18 votes to 2,

*Rejects* the objection to the admissibility of the claims of Saint Vincent and the Grenadines based on Guinea's contention that the Saiga was not registered in Saint Vincent and the Grenadines at the time of its arrest;

IN FAVOUR: *President Mensah; Vice-President Wolfrum; Judges Zhao, Caminos, Marotta Rangel, Yankov, Kolodkin, Park, Bamela Engo, Nelson, Chandrasekhara Rao, Akl, Anderson, Vukas, Laing, Treves, Marsit, Eiriksson;*

AGAINST: *Judges Warioba, Ndiaye;*

- (4) By 18 votes to 2,

*Rejects* the objection to the admissibility of the claims of Saint Vincent and the Grenadines based on Guinea's contention that there was no genuine link between Saint Vincent and the Grenadines and the Saiga at the time of its arrest;

IN FAVOUR: *President Mensah; Vice-President Wolfrum; Judges Zhao, Caminos, Marotta Rangel, Yankov, Kolodkin, Park, Bamela Engo, Nelson, Chandrasekhara Rao, Akl, Anderson, Vukas, Laing, Treves, Marsit, Eiriksson;*

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AGAINST: *Judges Warioba, Ndiaye;*

(5) By 18 votes to 2,

*Rejects* the objection to the admissibility of certain of the claims of Saint Vincent and the Grenadines based on Guinea's contention that local remedies were not exhausted;

IN FAVOUR: *President Mensah; Vice-President Wolfrum; Judges Zhao, Caminos, Marotta Rangel, Yankov, Kolodkin, Park, Bamela Engo, Nelson, Chandrasekhara Rao, Akl, Anderson, Vukas, Laing, Treves, Marsit, Eiriksson;*

AGAINST: *Judges Warioba, Ndiaye;*

(6) By 18 votes to 2,

*Rejects* the objection to the admissibility of certain of the claims of Saint Vincent and the Grenadines based on Guinea's contention that the persons in respect of whom Saint Vincent and the Grenadines brought the claims were not its nationals;

IN FAVOUR: *President Mensah; Vice-President Wolfrum; Judges Zhao, Caminos, Marotta Rangel, Yankov, Kolodkin, Park, Bamela Engo, Nelson, Chandrasekhara Rao, Akl, Anderson, Vukas, Laing, Treves, Marsit, Eiriksson;*

AGAINST: *Judges Warioba, Ndiaye;*

(7) By 18 votes to 2,

*Decides* that Guinea violated the rights of Saint Vincent and the Grenadines under the Convention in arresting the Saiga, and in detaining the Saiga and members of its crew, in prosecuting and convicting its Master and in seizing the Saiga and confiscating its cargo;

IN FAVOUR: *President Mensah; Vice-President Wolfrum; Judges Zhao, Caminos, Marotta Rangel, Yankov, Kolodkin, Park, Bamela Engo, Nelson, Chandrasekhara Rao, Akl, Anderson, Vukas, Laing, Treves, Marsit, Eiriksson;*

AGAINST: *Judges Warioba, Ndiaye;*

(8) By 18 votes to 2,

*Decides* that in arresting the Saiga Guinea acted in contravention of the provisions of the Convention on the exercise of the right of hot pursuit and thereby violated the rights of Saint Vincent and the Grenadines;

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IN FAVOUR: *President Mensah; Vice-President Wolfrum; Judges Zhao, Caminos, Marotta Rangel, Yankov, Kolodkin, Park, Bamela Engo, Nelson, Chandrasekhara Rao, Akl, Anderson, Vukas, Laing, Treves, Marsit, Eiriksson;*

AGAINST: *Judges Warioba, Ndiaye;*

(9) By 18 votes to 2,

*Decides* that while stopping and arresting the Saiga Guinea used excessive force contrary to international law and thereby violated the rights of Saint Vincent and the Grenadines;

IN FAVOUR: *President Mensah; Vice-President Wolfrum; Judges Zhao, Caminos, Marotta Rangel, Yankov, Kolodkin, Park, Bamela Engo, Nelson, Chandrasekhara Rao, Akl, Anderson, Vukas, Laing, Treves, Marsit, Eiriksson;*

AGAINST: *Judges Warioba, Ndiaye;*

(10) By 18 votes to 2,

*Rejects* the claim by Saint Vincent and the Grenadines that Guinea violated its rights under international law by naming it as civilly responsible to be summoned in a schedule of summons;

IN FAVOUR: *President Mensah; Vice-President Wolfrum; Judges Zhao, Caminos, Marotta Rangel, Yankov, Kolodkin, Park, Bamela Engo, Nelson, Chandrasekhara Rao, Akl, Anderson, Vukas, Laing, Treves, Marsit, Eiriksson;*

AGAINST: *Judges Warioba, Ndiaye;*

(11) By 17 votes to 3,

*Rejects* the claim by Saint Vincent and the Grenadines that Guinea violated its rights under the Convention by failing to release promptly the Saiga and members of its crew in compliance with the Judgment of the Tribunal of 4 December 1997;

IN FAVOUR: *President Mensah; Vice-President Wolfrum; Judges Zhao, Caminos, Marotta Rangel, Yankov, Kolodkin, Park, Bamela Engo, Nelson, Chandrasekhara Rao, Akl, Anderson, Laing, Treves, Marsit, Eiriksson;*

AGAINST: *Judges Vukas, Warioba, Ndiaye;*

(12) By 18 votes to 2,

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*Decides* that Guinea shall pay compensation to Saint Vincent and the Grenadines in the sum of US\$ 2,123,357 (United States Dollars Two Million One Hundred and Twenty-Three Thousand Three Hundred and Fifty-Seven) with interest, as indicated in paragraph 175;

IN FAVOUR: *President* Mensah; *Vice-President* Wolfrum; *Judges* Zhao, Caminos, Marotta Rangel, Yankov, Kolodkin, Park, Bamela Engo, Nelson, Chandrasekhara Rao, Akl, Anderson, Vukas, Laing, Treves, Marsit, Eiriksson;

AGAINST: *Judges* Warioba, Ndiaye;

(13) By 13 votes to 7,

*Decides* that each party shall bear its own costs.

IN FAVOUR: *President* Mensah; *Vice-President* Wolfrum; *Judges* Zhao, Marotta Rangel, Kolodkin, Park, Bamela Engo, Nelson, Chandrasekhara Rao, Warioba, Laing, Marsit, Ndiaye;

AGAINST: *Judges* Caminos, Yankov, Akl, Anderson, Vukas, Treves, Eiriksson.

The Press Releases of the Tribunal, documents and other information are available on the United Nations website: <http://www.un.org/Depts/los/> and from the Registry of the Tribunal, Wexstrasse 4, 20355 Hamburg, Germany, Tel: (49) (40) 35607-227/228, Fax: (49) (40) 35607-245/275 or United Nations DC-1, suite 1140, New York, NY 10017, Tel: (1) (212) 963-6480, Fax: (1) (212) 963-0908, E-mail: [itlos@itlos.hamburg.de](mailto:itlos@itlos.hamburg.de)

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