



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

Press Release

(Issued by the Registry)

SUMMARY OF OPINIONS APPENDED TO 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 available in Press Release No. 23 Add. 1. A summary of the separate and dissenting opinions appended to the Judgment is reproduced below. *Judges* Caminos, Yankov, Akl, Anderson, Vukas, Treves, and Eiriksson have appended a joint declaration. *President* Mensah; *Vice-President* Wolfrum; and *Judges* Zhao, Nelson, Chandrasekhara Rao, Anderson, Vukas and Laing have appended separate opinions to the Judgment. *Judges* Warioba and Ndiaye have appended dissenting opinions.

Joint Declaration by Judges Caminos, Yankov, Akl, Anderson, Vukas, Treves and Eiriksson on the Question of Costs

The Judges who signed the Joint Declaration were unable to support the decision in the case on the question of costs for two reasons. Firstly, because of the clear agreement between the parties that the party found by the Tribunal to have been the "successful party" should be awarded its costs. The Judges observe that it was understood that the terms of the forerunner of article 34 of the Statute of the Tribunal, article 64 of the Statute of the Permanent Court of International Justice, did not exclude the possibility that a division of the costs between the parties could be ordered pursuant to an agreement between them.

Secondly, this case has resulted in the award of compensation, as well as interest, with the aim of wiping out the consequences of acts contrary to the 1982 United Nations Convention on the Law of the Sea ("1982 Convention"). The Judges find that it would have been consistent with the full achievement of that aim to have departed from the general rule and to have awarded costs to Saint Vincent and the Grenadines.

The Judges would have awarded, in the circumstances of this case, reasonable costs in respect of the following: professional fees, travel and subsistence of agents, counsel and advocates; travel and subsistence of witnesses; production of evidence; and other expenses necessarily incurred for the purposes of this phase of the proceedings. They state that such an award, by responding affirmatively

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to the repeated requests of both parties, would have done no more than meet their legitimate expectations.

The declaration further states that the Judges support the decision of the majority that the general rule on costs is applicable to the phase of the proceedings concerning provisional measures, in the absence of a successful party in that phase.

Separate Opinion of President Mensah

President Mensah voted in favour of operative paragraph 3 of the Judgment in spite of serious doubts about the registration status of the Saiga at the time of the incident that gave rise to the dispute.

In his separate opinion, the President states that a correct interpretation of the Merchant Shipping Act of Saint Vincent and the Grenadines, read with the relevant provisions of the 1982 Convention, would appear to support the contention of Guinea that the Saiga was not a ship entitled to fly the flag of Saint Vincent and the Grenadines on 28 October 1997, because its provisional registration had expired and no other registration had been granted to it under the laws of Saint Vincent and the Grenadines.

President Mensah is not able to support the conclusion in the Judgment that Saint Vincent and the Grenadines has "established" that the Saiga was registered in, and had the nationality of, Saint Vincent and the Grenadines at the time it was arrested. He, however, agrees to the decision to reject Guinea's contention that Saint Vincent does not have legal standing to bring the dispute to the Tribunal, because he believes it would not be consistent with justice if the Tribunal were to decline to deal with the merits of the dispute, having regard to the particular circumstances of the case.

He considers that the defect in the registration of the Saiga, though real, was more technical than substantive. Moreover, he notes that accepting the Vincentian nationality of the Saiga does not prejudice Guinea in any way, since the nationality of the ship was not a factor in the decision of the Guinean authorities to arrest and detain the ship.

The President draws attention to the evidence showing a lack of diligence on the part of shipowners in renewing or replacing certificates at the appropriate times and the toleration of such lapses by Saint Vincent and the Grenadines. He considers that such laxity in administration can have undesirable implications for the effective implementation of the provisions of the 1982 Convention, and expresses the hope that the lessons learnt from these proceedings will provide an incentive to the Maritime Administration of Saint Vincent and the Grenadines and other Shipping Registers to improve their legislation and also ensure adequate vigilance on the part of the authorities entrusted with administering Registers of Ships.

Separate Opinion of Vice-President Wolfrum

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Vice-President Wolfrum's separate opinion sets out on which points he disagrees with the Judgment and provides for alternative reasoning for some of the findings concerning evidence, registration, exhaustion of local remedies, the relationship between the 1982 Convention and national law, and costs.

Firstly, he observes that, while it addresses the question of appreciation of evidence in several places, the Judgment does not identify the system adopted concerning this question. In this respect, he notes that in all main legal systems the burden of proof of facts lies on the party who asserts them, but that the Judgment does not follow the principle consistently. He sees no reason for applying a different standard of proof in respect of the registration of the Saiga.

According to the Vice-President, when examining the registration of the Saiga, the Judgment should have proceeded from the Provisional Certificate of Registration. The Certificate was marked provisional and stated that it expired on 12 September 1997. This, and the entry in the Register of Ships of Saint Vincent and the Grenadines, should have led to the conclusion that the Saiga was not registered with Saint Vincent and the Grenadines at the time of its arrest.

The Vice-President, however, agrees that the persistent failure of Guinea to question the assertion of Saint Vincent and the Grenadines that it was the flag State of the Saiga when it had every reasonable opportunity to do so precluded Guinea from challenging the nationality of the Saiga at this stage. He bases himself on the concepts of estoppel and acquiescence.

He further agrees with the statement in the Judgment that in the particular circumstances of the case it would have been unreasonable and unjust to dismiss the claim of Saint Vincent and the Grenadines on the basis of lack of registration, because it would have been highly detrimental for those who suffered most from the arrest, namely the members of the crew and the owner of the cargo, who had no influence on the management of the ship and, in particular, on its proper registration. The Vice-President emphasized that his finding is in the first place based on the failure of Guinea to object to the registration at an earlier time. Finally, the Tribunal should have noted the laxity in the administrative practices of the registering authorities.

Concerning the relationship between the 1982 Convention and national law, the Vice-President observes that the Judgment states that the Tribunal is "competent to determine the compatibility of such laws and regulations with the Convention". The Vice-President asserts that, as a result of the progressive development of international law through the 1982 Convention, the Tribunal's competence is in fact much broader. According to him the Convention mandates States Parties to enact legislation supplementary to the Convention which, together with the Convention, forms the legal regime to be interpreted by the Tribunal. The Tribunal could and should have stated that the law of Guinea does not provide a basis for the arrest of the Saiga.

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Vice-President Wolfrum agrees with the decision not to award costs, because the Tribunal has not established general rules and criteria concerning the assessment of costs and their distribution. If such rules and criteria had been established he would have agreed to award reasonable costs and necessary expenses to the successful party.

Separate Opinion of Judge Zhao

Judge Zhao voted in favour of the Judgment, but has his own opinion concerning what he calls the thorny issue of bunkering and freedom of navigation. He finds that bunkering can hardly be considered a lawful global industry. He points out that bunkering by its nature is evading customs duties of the coastal States. Judge Zhao observes that there is no legitimate status for bunkering in the law of the sea, because there is not a single mention of bunkering or the like in the 1982 Convention. Uses of the sea with regard to which the Convention has not expressly attributed rights or jurisdiction in the exclusive economic zone (“EEZ”) to the coastal State do not automatically fall under the freedom of the high seas. According to Judge Zhao, the view that bunkering is free in the EEZ, because it is free on the high seas, is legally not tenable.

International law should at all times distinguish between navigation and the commercial activities of a shipping business. Bunkering of fishing vessels in the EEZ is not navigation under the Convention.

Bunkering should not be encouraged, let alone without restraint. On the contrary, Judge Zhao considers the following conditions to be generally required for bunkering: (1) for States wishing to undertake bunkering activities in the EEZ to enter into agreement with the coastal State; and (2) for fishing vessels to obtain licences or approval for bunkering from those States. Unless it is conducted in accordance with these two conditions, there is no legitimate status for bunkering in the law of the sea.

Separate Opinion of Judge Nelson

Judge Nelson agrees with the Tribunal that the object and purpose of the 1998 Agreement between the parties was “to transfer to the Tribunal the same dispute that would have been the subject of the proceedings before the arbitral tribunal”. He does not agree, however, that with the dispute the faculty of making objections other than those specified in the Agreement has been transferred.

Judge Nelson agrees with the Tribunal’s findings that Guinea’s objections to admissibility should be dealt with by the Tribunal *inter alia* citing the Judgment of the International Court of Justice in the Appeal relating to the Jurisdiction of the ICAO Council case: “The Court must however always be satisfied that it has jurisdiction, and must if necessary go into that matter *proprio motu*”.

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Judge Nelson observes that in the case of the registration of the Saiga there has been at least some irregularity, that is the failure to extend the provisional registration or to obtain a permanent certificate after the expiry of the provisional registration which may have compromised the validity of the registration. Judge Nelson has some difficulty in accepting the conclusion in paragraph 73(a) of the Judgment. However, he agrees with the conclusions reached in paragraphs 73(b) and (c). He particularly supported the conclusion in paragraph 73(b) that “in the particular circumstances of this case, the consistent conduct of Saint Vincent and the Grenadines provides sufficient support for the conclusion that the Saiga retained the registration and nationality of Saint Vincent and the Grenadines at all time material to the dispute” (emphasis added).

He also observes that to treat ships in the circumstances raised by the Saiga as having no nationality and as a consequence “stateless” could have disturbing repercussions on the maintenance of the legal order of the oceans and possibly also on private maritime law.

Guinea in its oral pleadings proposed that provisions not adopted by the United Nations Conference on the Law of the Sea would not have lost their relevance. Judge Nelson sees this view as containing the seeds of the destruction of the Convention on the Law of the Sea and notes that this would have the startling result that these proposals would somehow still remain like shades waiting to be summoned back to life, if and when required.

Separate Opinion of Judge Chandrasekhara Rao

Judge Chandrasekhara Rao endorses the operative holdings of the Tribunal in the Judgment. He does, however, consider it necessary to comment on the reasoning of the Judgment. On the question of the registration of the Saiga he does not agree with the inferences drawn by the Tribunal from the facts. He is of the opinion that Saint Vincent and the Grenadines was not, at the relevant time, the flag State of the Saiga for purposes of the 1982 Convention.

It is not clear to him how the so-called indications of Vincentian nationality, on which the Judgment bases itself, are capable of keeping the provisional registration alive. Judge Chandrasekhara Rao also questions the Judgment’s reliance on the Merchant Shipping Act. He illuminates the practice in Saint Vincent and the Grenadines by a brochure issued by its Maritime Administration. According to Judge Chandrasekhara Rao, the brochure discloses that the total validity period of a provisional certificate cannot go beyond one year, that a provisional registration certificate is issued for six months and that it requires extension thereafter.

He observes that the Vincentian argument that, when a vessel is registered under its flag, “it remains so registered until deleted from the Registry”, is not supported by any provision of the Merchant Shipping Act or outside authority. Even if the Saiga was shown in the Vincentian Registry Book after the expiry of the Provisional Certificate of Registration, as claimed by Saint Vincent and the Grenadines, it does not follow that the provisional registration was kept alive. Once a provisional registration is allowed to lapse, it can be revived only by obtaining a further certificate.

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However, having failed to challenge the status of Saint Vincent and the Grenadines as the flag State of the Saiga at all material times when it ought to have done so for protecting its rights, it is, according to Judge Chandrasekhara Rao, not open to Guinea now to contend that it discovered a new fact on the issue of registration which was unknown to it prior to the filing of the Memorial. Principles of fairness clearly demand that a State is not allowed to act inconsistently, especially when it causes prejudice to others.

Judge Chandrasekhara Rao's Separate Opinion also deals with the Guinean objection based on the non-exhaustion of local remedies to the admissibility of the Vincentian claims. Saint Vincent and the Grenadines argued that the local remedies rule did not apply in this case, since the Guinean actions amounted to a direct violation of its rights under the 1982 Convention and general international law. He holds, however, that, under the terms of article 111 of the Convention, this is a case of a ship's entitlement to compensation and not that of the flag State. According to him, in such a case the local remedies in Guinea are, in principle, required to be exhausted by the persons affected by the arrest of the Saiga before Saint Vincent and the Grenadines could bring their claims to this Tribunal. However, he agrees with the Judgment that, on the facts of this case, the parties concerned were not obliged to exhaust local remedies.

Separate Opinion of Judge Anderson

With respect to the question of the nationality of the Saiga, Judge Anderson, states that the real issue was whether to uphold or reject Guinea's objection to the *locus standi* of Saint Vincent and the Grenadines. He observes that the scope, both substantively and procedurally, for other States to challenge the regularity and validity of a particular registration is strictly limited. Turning to the present case, he considers that the issue is one of fact to be decided on the evidence. The Tribunal was not called upon to decide a question of Vincentian law.

Saint Vincent was in his view able to establish, on the balance of probabilities and having regard to the predominant role of the registering State in the matter of nationality, that the Saiga possessed Vincentian nationality on the relevant dates. The consistent conduct of Saint Vincent and the Grenadines supported that conclusion. The conduct of Guinea prior to the delivery of its Counter-Memorial was inconsistent with its subsequent objection to Saint Vincent and the Grenadines's standing before the Tribunal. Accordingly, he supports (a), (b) and (c) in paragraph 73 of the Judgment.

Concerning the issue of bunkering vessels at sea, Judge Anderson observes that there are many different factual circumstances. The Tribunal was right to confine its decision to the particular question of the application of customs and fiscal legislation to bunkering in the EEZ that arose in this case and to leave aside the many other possible questions. Bunkering may involve distinct types of recipient vessels, including passenger vessels, warships, cargo ships and fishing vessels. In different circumstances, bunkering can be regarded as an internationally lawful use of the sea related to

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freedom of navigation, or as related to the efficient exploitation of stocks, or even as having a safety or humanitarian dimension.

Judge Anderson notes that the right of hot pursuit is one of the exceptions provided for in the 1982 Convention to the rule of exclusive flag State jurisdiction. He fully shares the finding that the conditions set out in article 111 of the Convention are cumulative. Yet, article 111 contains sufficient flexibility to permit the arrest of suspected smugglers or poachers who attempt to flee when ordered to stop. Subsequently, Judge Anderson examines the details of the pursuit of the Saiga, and concludes that, if in the last resort live rounds are fired, it must be done in such a way as to avoid endangering human life. Law enforcement officers should be trained and supplied with Rules of Engagement if force is to be used.

Separate Opinion of Judge Vukas

According to Judge Vukas, the basic issue in this case is the opposite views of the parties concerning the interpretation and application of articles 56(2) and 58 and related provisions of the 1982 Convention.

He notes that the legal regime of the EEZ is automatically applied once the zone is proclaimed. For this reason, he does not agree with the Judgment's scrutiny of the legality of the arrest of the Saiga being based on the laws and regulations of Guinea. Any inquiry into the issue should have primarily been conducted on the basis of the relevant provisions of the 1982 Convention.

Judge Vukas notes that the dispute only concerns the parties' positions with respect to the bunkering of fishing vessels, since both parties accept as legal the supplying of bunkers to all types of ships in transit through an EEZ other than fishing vessels. Guinea only argued against the legality of the supply of bunkers to fishing vessels in its EEZ by ships flying foreign flags. However, it did not base its opposition to the bunkering of such ships on the regard other States owe to its sovereign rights over the living resources of its EEZ. Its main argumentation relied on the claim that such an activity of foreign ships was contrary to Guinea's public interest.

Judge Vukas notes that Guinea's reliance on "public interest" cannot be advanced as a reason for departing from the rules establishing a regime at sea. "Public interest" is not a notion indicating exceptional, momentary interests of a State, but a constant interest of the entire society of a State. It was exactly on the basis of the public interests of various participants in the Third United Nations Conference on the Law of the Sea that the specific legal regime of the EEZ was established. The provisions on the rights and duties of coastal States, "other States", land-locked States, geographically disadvantaged States, are the result of protracted negotiations and of a balance of interests of all the groups of States, achieved in the regime of the EEZ.

During the drafting of Part V of the 1982 Convention, the majority of States participating in the Conference did not have in mind the protection of other economic activities of coastal States except the resource-related ones.

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Judge Vukas concludes that the drafting history and the content of Part V of the Convention do not provide valid reasons for considering bunkering of any type of ships as an illegal use of the EEZ. In this respect, he also mentions a note circulated at the Conference by its President, which reflects that a strict separation of *ius communicationis* and *ius commercii* was not foreseen.

He states that bunkering is related to the freedom of navigation “and associated with the operation of ships” and that this is not difficult to defend from the point of view of navigation as well as international law. Supply of bunkers is the purpose of the navigation of a tanker, and refuelling is essential for further navigation of the ship to which gasoil has been supplied.

Judge Vukas observes that subsequent State practice or other sources of international law may clarify and/or amend any previous arrangement. However, the practice of States in the twenty years after the acceptance of the regime of the EEZ did not do so.

Separate Opinion of Judge Laing

Judge Laing’s Opinion focuses on the nature and status of freedom of navigation in the EEZ under the 1982 Convention in the light of the rules of interpretation as reflected in Articles 31 and 32 of the Vienna Convention on the Law of Treaties.

The Opinion explores the applicability of article 33 of the Convention on the contiguous zone to determine whether it justifies the right of hot pursuit claimed by Guinea. Judge Laing examines the regime of the contiguous zone because of the reliance by Guinea on the regime and because it illustrates his views on freedom of navigation. He concludes that: (1) article 33 authorizes the coastal State to exercise control in the contiguous zone by way of inspections, verifications and warnings (as long as it is in connection with laws and regulations relating to territorial areas); (2) the regime includes the right to prescribe; (3) it includes the right to punish; and (4) it does not extend to conduct occurring outside the coastal State’s territorial areas.

Judge Laing notes that it is logical to conclude that the Judgment finds that Guinea violated Saint Vincent’s freedom of navigation. He observes that the finding was, however, “somewhat muted” and that the Judgment does not address the related issue of bunkering.

Judge Laing examines freedom of communication as a possible basis of the freedom of the high seas (of which the freedom of navigation is an aspect). After a historical survey, he concludes that the freedom of navigation is one of the fundamental principles of the global order, and related to other principles such as equality of access, security and non-interference. Thus formulated, freedom of navigation was reinforced as a principle of international law by international instruments, State action before and during World War II, and by the 1982 Convention.

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Judge Laing's Opinion next explores the forms of freedom of the high seas and freedom of navigation. He notes the possibility that coastal States and flag States have rights of co-equal access in the EEZ. He views the freedom of navigation as having been strengthened by: (1) detailed provisions of the Convention on the status of the EEZ and the form which that regime takes; and (2) the effects of numerous coastal States' claims related to the EEZ. This is reinforced by provisions of the Convention on flag State's obligations and privileges, flag State participation in maritime ordering, pollution control, marine scientific research, and by a comparison with the Convention's territorial institutions other than the EEZ.

Judge Laing concludes that: (1) as an internally consistent instrument, the Convention provides for concurrent jurisdiction of coastal States and flag States, neither of which has *prima facie* paramountcy; (2) the new regime of the EEZ has not diminished the established freedom of navigation; (3) on the facts, Guinea violated Saint Vincent's freedom of navigation; and (4) whether the Saiga actually encroached on rights of Guinea required fuller evidence and arguments.

The Opinion also briefly explores relevant aspects of offshore bunkering, prompt release of detained ships and their crews, and the settlement of disputes between developing countries.

Dissenting Opinion of Judge Warioba

According to Judge Warioba, the Judgment as a whole lacks transparency. In the first place he considers the summary of evidence and arguments of the parties to be inadequate, omitting important aspects of, and departing from, the evidence and arguments. He maintains that the summary of evidence and arguments of the Judgment is not objective. He also finds that the reasoning has been vague to the extent of making the Judgment lack transparency.

On the question of nationality of the Saiga, Judge Warioba finds that the relevant law of Saint Vincent and the Grenadines is the Merchant Shipping Act 1982. At the oral hearing counsel for Saint Vincent and the Grenadines argued that the expiry of a registration certificate does not lead to cessation of nationality, comparing the situation with the expiry of a passport. According to Judge Warioba, the Merchant Shipping Act shows that nationality is acquired through registration and that it is therefore not correct to compare a certificate of registration to a passport, because, unlike a certificate, a passport is not conclusive evidence of citizenship.

Judge Warioba finds that the Saiga when it was arrested on 28 October 1997 did not have the right to fly the flag of Saint Vincent and the Grenadines. His opinion is based on the expiry of the provisional certificate of registration and on the lack of evidence that the previous nationality of the vessel was terminated.

Judge Warioba considers it strange that the Judgment bases itself on the consistent behaviour of Saint Vincent and the Grenadines and criticizes the Tribunal for introducing new conditions outside those set in the 1982 Convention. He also asserts that the Tribunal is trying without explanation to

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introduce some notions of estoppel or preclusion or acquiescence. He does not think these principles apply in this case.

He finds it dangerous for a tribunal to brush aside important issues of procedure simply because it feels it has to deal with the merits. The main problem of Judge Warioba with the Judgment is, however, the manner in which the Tribunal has reached its decision. He believes that the Tribunal has based its decision mainly on issues on which the parties were not given the opportunity to be heard: the behaviour of the parties and the importance of dealing with the merits.

Judge Warioba further comments on the finding of the Tribunal on the non-exhaustion of local remedies. He asserts that this is a case of diplomatic protection and not, as the judgment states, of direct injury to Saint Vincent and the Grenadines and therefore the rule on the exhaustion of local remedies should apply. Differing from the Tribunal, he does find that there exists a jurisdictional connection between the State of Guinea and the Saiga.

Judge Warioba stresses that it is clear that the laws relied upon by Guinea had the intention of suppressing smuggling or contraband as characterized by Guinea. The question which arises is whether Guinea could apply these laws in the EEZ. He finds that the 1982 Convention does not prohibit laws and regulations relating to earning revenue in the EEZ and that Guinea could properly apply customs and contraband laws against the Saiga when it undertook bunkering activities in the EEZ. He observes that the substantial amounts of revenue derived from activities undertaken in the EEZ of Guinea constitute a public interest for Guinea and would indeed for any developing country.

Judge Warioba observes that the reason for the legislation on which Guinea bases its actions was to suppress the extensive smuggling that is taking place in the region. He notes that the primary purpose of the 1982 Convention is to promote and maintain order in the oceans. Since smuggling disturbs peace and security, it was not appropriate for the Tribunal, in the face of clear evidence of smuggling along the coast of Guinea, not to say anything about the matter.

Dissenting Opinion of Judge Ndiaye

Judge Ndiaye, to his regret, was not able to concur in the Judgment of the Tribunal. In his view, the Tribunal should have sustained the submission of the Government of Guinea that the Application of Saint Vincent and the Grenadines was inadmissible due to the fact that the Saiga was not duly registered. In addition, he asserts that the question with regard to jurisdiction and the challenges to admissibility should have been dealt with otherwise.

Judge Ndiaye considers the challenge to admissibility concerning the registration of the Saiga of cardinal importance. He considers it to be quite clear that the Saiga was not inscribed on the registry of Saint Vincent and the Grenadines in accordance with its laws during the period from 12 September 1997 to 28 November 1997 and that for that reason, the Saiga may be characterized as a ship without nationality at the time it was attacked.

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Quoting the *Nottebohm* case, Judge Ndiaye maintains that, while it is up to each State to lay down the rules governing the grant of its own nationality, it does not depend on the law or on the decision of that State whether that State is entitled to exercise its protection in the case under consideration.

To have recourse to a tribunal is to place oneself on the plane of international law and it is from the rules of international law that the Tribunal derives its power to verify the validity of the registration. Judge Ndiaye asserts that the Tribunal not only had the right to investigate the nationality of the *Saiga*, but was under an obligation to do so.

All in all, consideration of the Provisional Certificate of Registration, the Permanent Certificate of Registration, the official brochure of the Maritime Administration concerning procedures for registration, the certificate of the Deputy Commissioner for Maritime Affairs, the 1982 Merchant Shipping Act, and the non-production of the Maltese certificate of deletion enables him to conclude that the *Saiga* was not validly registered on the relevant date (27 and 28 October 1997), *i.e.* at the time of its arrest by the Guinean authorities.

The statement of Guinea that the *Saiga* was not duly registered in the registry of Saint Vincent and the Grenadines at the time of its arrest is, according to Judge Ndiaye, a new fact in the present case. He asserts that it falls within the category of a fact “of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Tribunal”, warranting a request for revision.

Judge Ndiaye finds the approach of the Tribunal in reaching its conclusions on the registration of the *Saiga* lacking in clarity. According to him, it would not have meant that the vessel would be completely without protection had the Tribunal decided otherwise. The right to protect a ship might equally extend to the State whose nationals own the ship.

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