

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

CASE NO. 27

THE M/T “SAN PADRE PIO”

THE SWISS CONFEDERATION v. THE FEDERAL REPUBLIC OF NIGERIA



**INITIAL REPORT OF THE FEDERAL REPUBLIC OF NIGERIA UPON THE
STEPS IT HAS TAKEN OR PROPOSES TO TAKE IN ORDER TO ENSURE
PROMPT COMPLIANCE WITH THE MEASURES PRESCRIBED**

22 JULY 2019

1. The Federal Republic of Nigeria (“**Nigeria**”) submits this *Initial Report of the Federal Republic of Nigeria upon the Steps It Has Taken or Proposes to Take in Order to Ensure Compliance with the Measures Prescribed* (“**this Report**”) pursuant to Article 95(1) of the Rules of the International Tribunal for the Law of the Sea (“**the Tribunal**”)¹ and paragraphs 144 and 146(3) of the Tribunal’s Order of 6 July 2019.²

2. At paragraph 146 of its Order, the Tribunal:

(1) *Prescribe[d]*, pending a decision by the Annex VII arbitral tribunal, the following provisional measures under article 290, paragraph 5, of the Convention:

(a) Switzerland shall post a bond or other financial security, in the amount of US\$ 14,000,000, with Nigeria in the form of a bank guarantee, as indicated in paragraphs 139 and 140;

(b) Switzerland shall undertake to ensure that the Master and the three officers are available and present at the criminal proceedings in Nigeria, if the Annex VII arbitral tribunal finds that the arrest and detention of the *M/T “San Padre Pio”*, its cargo and its crew and the exercise of jurisdiction by Nigeria in relation to the event which occurred on 22-23 January 2018 do not constitute a violation of the Convention. Switzerland and Nigeria shall cooperate in good faith in the implementation of such undertaking;

(c) Upon the posting of the bond or other financial security referred to in (a) above and the issuance of the undertaking referred to in (b) above, Nigeria shall immediately release the *M/T “San Padre Pio”*, its cargo and the Master and the three officers and shall ensure that the *M/T “San Padre Pio”*, its cargo and the Master and the three officers are allowed to leave the territory and maritime areas under the jurisdiction of Nigeria. ...

(2) *Decide[d]* that Switzerland and Nigeria shall refrain from taking any action which might aggravate or extend the dispute submitted to the Annex VII arbitral tribunal. ...³

3. To facilitate the implementation of the Order, on 22 July 2019, Nigeria transmitted a *note verbale* dated 19 July 2019 to Switzerland expressing its willingness to provide assistance

¹ ITLOS, Rules of the Tribunal, art. 95(1) (“Each party shall inform the Tribunal as soon as possible as to its compliance with any provisional measures the Tribunal has prescribed. In particular, each party shall submit an initial report upon the steps it has taken or proposes to take in order to ensure prompt compliance with the measures prescribed.”).

² *The M/T “San Padre Pio” Case (Switzerland v. Nigeria)*, ITLOS Case No. 27, Provisional Measures, Order (6 July 2019), paras. 144, 146(3).

³ *Ibid.*, para. 146(1)-(2).

and to cooperate in good faith in carrying out the provisional measures. A copy of the *note verbale* is annexed to this Report.

4. With respect to paragraph 146(1)(a) of the Tribunal's Order, Nigeria recognizes that the measure is directed at Switzerland. Nonetheless, Nigeria's *note verbale* affirmed that "the Federal Republic of Nigeria is available to provide such assistance as may be appropriate with respect to the Swiss Confederation's obligation to post such a bond or other financial security".

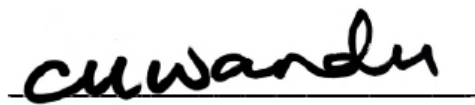
5. With respect to paragraph 146(1)(b), Nigeria again recognizes that the measure is directed at Switzerland, though it also obliges both Switzerland and Nigeria to "cooperate in good faith in the implementation of such undertaking". In this respect, Nigeria in its *note verbale* "provide[d] its assurances to the Swiss Confederation of the Federal Republic of Nigeria's willingness to cooperate in good faith in the implementation of Switzerland's undertaking".

6. With respect to paragraph 146(1)(c), Nigeria's obligations to "immediately release the *M/T 'San Padre Pio'*, its cargo and the Master and the three officers" and to "ensure that the *M/T 'San Padre Pio'*, its cargo and the Master and the three officers are allowed to leave the territory and maritime areas under the jurisdiction of Nigeria" will be engaged after Switzerland complies with its obligations to post the bond or other financial security referred to in paragraph 146(1)(a) and issue the undertaking referred to in paragraph 146(1)(b). As Switzerland has not yet posted the bond or other financial security, or issued the required undertaking, Nigeria has not yet implemented paragraph 146(1)(c).

7. With respect to paragraph 146(2), Nigeria affirms that it has not taken any action which might aggravate or extend the dispute submitted to the Annex VII arbitral tribunal.

8. In light of the above, Nigeria has fully complied with the provisional measures prescribed by the Tribunal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'cuwandu', is written over a horizontal line.

Mrs. Chinwe Uwandu

Co-Agent of the Federal Republic of Nigeria

Director/Legal Adviser
Ministry of Foreign Affairs
Federal Republic of Nigeria

22 July 2019

NOTE NO: Σ. 9-18/2019

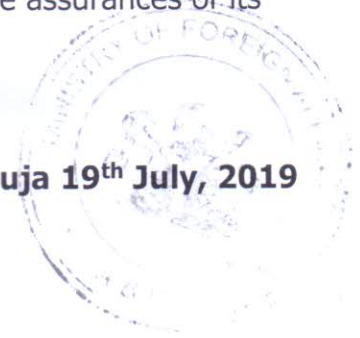
The Ministry of Foreign Affairs of the Federal Republic of Nigeria presents its compliments to the Embassy of the Swiss Confederation and has the honour to refer to the Order of 6 July 2019 rendered by the International Tribunal for the Law of the Sea in *The M/T "San Padre Pio" Case*.

The Ministry of Foreign Affairs of the Federal Republic of Nigeria observes that the Tribunal has ordered that Switzerland shall post a bond or other financial security, in the amount of US\$ 14,000,000, with Nigeria in the form of a bank guarantee, as indicated in paragraphs 139 and 140 of the Order. The Ministry of Foreign Affairs of the Federal Republic of Nigeria wishes to convey to the Swiss Confederation that the Federal Republic of Nigeria is available to provide such assistance as may be appropriate with respect to the Swiss Confederation's obligation to post such a bond or other financial security.

The Ministry of Foreign Affairs of the Federal Republic of Nigeria further observes that, under paragraph 141 of the Order of 6 July 2019, "Nigeria needs to be assured unequivocally through an undertaking," which is "binding upon Switzerland under international law," that the "Master and the three officers will be available and present at the criminal proceedings in Nigeria, if the Annex VII arbitral tribunal finds that the arrest and detention of the *M/T "San Padre Pio,"* its cargo and its crew and the exercise of jurisdiction by Nigeria in relation to the event occurred on 22-23 January 2018 do not constitute a violation of the Convention." The Ministry of Foreign Affairs of the Federal Republic of Nigeria also observes that the Tribunal has ordered that Switzerland and Nigeria shall cooperate in good faith in the implementation of such undertaking. The Ministry of Foreign Affairs of the Federal Republic of Nigeria provides its assurances to the Swiss Confederation of the Federal Republic of Nigeria's willingness to cooperate in good faith in the implementation of Switzerland's undertaking.

The Ministry of Foreign Affairs of the Federal Republic of Nigeria avails itself of this opportunity to renew to the Embassy of Switzerland the assurances of its highest consideration. *ⓧ*

Abuja 19th July, 2019



Embassy of Switzerland
157, Ademola Adetokunbo Crescent,
Wuse II,
Abuja.

*Document received by
Mobolaji A.
On 22/7/19*