

**c) Reply of Belize to questions posed by the Tribunal dated 6 April 2001****INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA****Reply to questions posed by the Tribunal**

6 April 2001

**To question n. 1**

What effect would the French position with regard to jurisdiction and admissibility have on the object and purpose of article 292 of the Convention ?

As mentioned yesterday , this an independent proceeding of those carried out by the domestic courts. Both run in paralell .

As we also indicated , if the theory sustained by France prevails, then every State could avoid prompt release of vessels and crews just by carrying out a speedy proceeding for prompt confiscation or prompt imprisonment , and deciding provisional execution of the decision.

Through this way , invoking domestic Laws, would be evaded the requirement stated under article 73.2 of the Convention. This would affect not only vessels but also crews, which could be promptly imprisoned .

Which is the purpose and objective of art. 292 of the Convention ?

To deal with matters were it is alleged that in whatever way a vessel is detained by a State without the possibility of being released upon the posting of a reasonable bond

To end with, I will recall that as was held by this Tribunal in the Monte Confurco case , paragraph 70 of the Judgement, the release of prompt detention can be subject only to a reasonable bond.

**To question n. 2**

Could the confiscation of Grand Prince be overturned by the Court of Appeal ?

If this would be so, could the Court of Appeal decide release of the vessels upon payment of the bond.

It is obvious that the Court of Appeal, or the Supreme Court in Paris, could perfectly overturn the said decision. There are arguments to defend that confiscation is not a proportional sanction in relation with the offence comitted. Evidence thereof if the amount of the fine imposed to the Captain of 200,000 FF , which is in a low level in comparison with other cases before the local courts.

But the most important thing is that even in case the said decision is overturned the Court of Appeal, this Court will not pronounce anything regarding release upon a bond or other security, as it is not the subject matter of the appeal. We would still have to await until the Supreme Court pronounced a final and firm decision.

**To question n. 3**

Regarding ownership of Grand Prince.

It seems that some confusion as to the ownership of the vessel has arisen from a reference in the Certificates of Class, enclosed as exhibit 17 of the application, to Noycan as shipowning company.

The current shipowner bought the vessel on the 27<sup>th</sup> March 2000, as it is shown by the contract of sale, duly notarized and apostilled enclosed as exhibit 2 of our application.

Document number 3 of the application evidences that on the 16 October 2000 the shipowner of Grand Prince was Paik Commercial Corp.

This ownership has also been confirmed by the International Merchant Marine Registry of Belize in its letter dated 30 March 2001, which was ordered following indications of the Registrar and which is part of the file.

The certificate further states that despite the expiration of the provisional patent of navigation is still registered in Belize, being documents related to Status of the vessel, such as the final patent of navigation and ship station licence of the vessel, pending of being processed by the Registry.

The certificate of class which seems to create the confusion, as you can see, was issued on the 23 June 1999, and as it is stated in the same document it expires in a term of five years.

Therefore it is evident that the document was issued when the ownership corresponded to Noycan, **previously** to the purchase of the vessel by the current owner, Paik Commercial.

Note also that the only survey due on January 2000 were carried out in November 1999 by the previous owner of the vessel.

That's the simple reason why Paik Commercial does not yet appear in the classification society documents, as they have not had the necessity to make any arrangement for the time being regarding the classification certificates.

Notwithstanding, Mr. President, whether the Tribunal wishes us to provide any further evidence as regards to ownership, we will be more than happy to do that.

**To question n. 4**

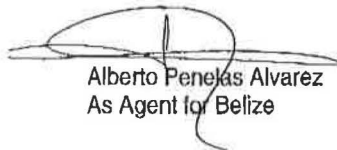
What are the legal meaning and effects of the word confiscation in french Law.

It is obvious that confiscation supposes, in principle, the attachment of the goods by the confiscating State. As to its effects, if article 73.2 of the Convention did not exist then the immediate effect would be the detention of the vessel and its expropriation by the detaining State. However, as far as article 73.2 is applicable, which I feel is not under discussion, then the vessel must be promptly released against a reasonable bond, and this requirement, as held by the Tribunal cannot be subjected to any domestic laws or regulations, but only to the posting of a reasonable bond.

Despite what we have exposed, following the request of the Tribunal, we must insist that we are not questioning in this proceeding the legality of those measures, but only that related to prompt release, which cannot be avoided by alleging domestic Laws or proceedings.

As conclusion, France breached the convention by first fixing a totally unreasonable bond, and moreover, by, only one week thereafter, impeding by a prompt confiscation proceeding combined with provisional execution, any possibility of release.

Questions 5, 6 and 7 have been answered with the occasion of Belize statements during the morning of the 6<sup>th</sup> April 2001



Alberto Penelas Alvarez  
As Agent for Belize