INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

YEAR 2008

11 December 2008

CASE CONCERNING THE CONSERVATION AND SUSTAINABLE EXPLOITATION OF SWORDFISH STOCKS IN THE SOUTH-EASTERN PACIFIC OCEAN

(CHILE/EUROPEAN COMMUNITY)

ORDER

Present: *Judge* CHANDRASEKHARA RAO, *President of the Special Chamber*; *Judges* CAMINOS, YANKOV, WOLFRUM; *Judge* ad hoc ORREGO VICUÑA; *Registrar* GAUTIER.

The Special Chamber of the International Tribunal for the Law of the Sea formed to deal with the above-mentioned case,

composed as above,

after deliberation,

Having regard to article 27 of the Statute of the Tribunal (hereinafter "the Statute"),

Having regard to articles 45, 49, 59 and 107 of the Rules of the Tribunal (hereinafter "the Rules"),

Having regard to the Order of the Tribunal of 20 December 2000,

Having regard to the Orders of the President of the Special Chamber of 15 March 2001 and 16 December 2003,

Having regard to the Orders of the Special Chamber of 29 December 2005 and 30 November 2007,

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Makes the following Order:

1. Whereas, pursuant to the request of Chile and the European Community, the Tribunal, by its Order dated 20 December 2000, formed a special chamber of five judges to deal with the above-mentioned case;

2. Whereas, by the said Order, the Tribunal decided that:

> if no preliminary objection is made in writing within 90 days from the institution of proceedings, or if the Special Chamber rejects the preliminary objection or objections, if any, made, or in case of other issues not affected by the judgment of the Special Chamber on the preliminary objection or objections, the written proceedings shall consist of:
>
> - a Memorial presented by each of the Parties within six months from the date of the judgment on the preliminary objection or, if no preliminary objection is made within the time-limit specified above, within six months after the expiry of the period of 90 days from the institution of proceedings;
>
> - a Counter-Memorial presented by each of the Parties within three months after the date on which a certified copy of the last of the two Memorials sent by one Party has been received by the other Party;

3. Whereas the President of the Special Chamber, by his Order dated 15 March 2001 decided that for the words "the institution of proceedings", wherever they occur in the decision contained in the Order dated 20 December 2000, the words "1 January 2004" shall be substituted, and reserved the subsequent procedure for further decision;

4. Whereas the President of the Special Chamber, by his Order dated 16 December 2003, decided that for the words "the institution of proceedings", wherever they occur in the decision contained in the Order dated 20 December 2000, the words "1 January 2006" shall be substituted, and reserved the subsequent procedure for further decision;

5. Whereas, in the Order dated 29 December 2005, the Special Chamber decided that for the words "the institution of proceedings" wherever they occur, the words "1 January 2008" shall be substituted, and reserved the subsequent procedure for further decision;

6. Whereas, in the Order dated 30 November 2007, the Special Chamber decided that for the words "the institution of proceedings" wherever they occur, the words "1 January 2009" shall be substituted, and reserved the subsequent procedure for further decision;

7. Whereas the European Community, by a letter dated 20 October 2008, and Chile, by a letter dated 23 October 2008, informed the Tribunal that the Parties agreed on a draft text of a new "Understanding concerning the conservation of

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swordfish stocks in the South Eastern Pacific Ocean", that the purpose of the said Understanding is to agree on a bilateral fisheries cooperation framework for swordfish which should enable both Parties to agree on a discontinuance of the present proceedings before the Special Chamber, and that necessary steps were being taken to recommend to their respective authorities that the said Understanding be approved in accordance with their respective internal procedures;

8. Whereas, in view of the foregoing, the European Community and Chile, in the letters referred to above, requested that the time-limits for the proceedings before the Special Chamber established by Order of the Tribunal of 20 December 2000, continue to be suspended for at least one year starting from 1 January 2009;

9. Whereas, on 4 December 2008, a list of questions in respect of which the Special Chamber requested the Parties to provide information was communicated to the Agents of the Parties;

10. Whereas the Agent of the European Community and the Agent of Chile provided information in writing in respect of the questions referred to above by communications dated 10 December 2008;

11. Whereas, on 10 and 11 December 2008, the President of the Special Chamber held consultations with the Agents of the Parties, in accordance with article 45 of the Rules;

12. Whereas the Special Chamber held deliberations on 10 and 11 December 2008 concerning the request of the Parties referred to in paragraph 8;

13. Whereas the Special Chamber considers that it is in the interests of the proper administration of international justice that proceedings in the case be conducted without unnecessary delay;

14. Whereas the Special Chamber considers that it should facilitate so far as is compatible with the United Nations Convention on the Law of the Sea, the Statute and the Rules, direct and friendly settlement of the dispute between the Parties;

15. Whereas the Parties have to provide adequate justification for seeking an extension of any time-limit specified in the Order of the Tribunal of 20 December 2000, as amended by the Orders of the President of the Special Chamber and of the Special Chamber referred to in paragraphs 3 to 6;

THE SPECIAL CHAMBER,

Taking into account the agreement of the Parties, the information provided by them and their commitment to securing approval of a bilateral understanding concerning the conservation of swordfish stocks in the South Eastern Pacific Ocean, in accordance with their respective procedures, in the course of 2009;

Decides that the decision of the Tribunal, referred to in paragraph 2, shall apply, subject to the following modification:

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In the said decision, for the words “the institution of proceedings”, wherever they occur, the words “1 January 2010” shall be substituted;

Decides further that, notwithstanding anything contained above, either Party shall have the right to request that the time-limit of 90 days specified in the decision of the Tribunal, referred to in paragraph 2, shall begin to apply from any date prior to 1 January 2010, in which case the said time-limit shall begin to apply from the date on which such a request is received by the other Party;

Reserves the subsequent procedure for further decision.

Done in English and in French, both texts being authoritative, in the Free and Hanseatic City of Hamburg, this eleventh day of December, two thousand and eight, in three copies, one of which will be placed in the archives of the Tribunal and the others transmitted to the Government of Chile and to the European Community, respectively.

(signed)
P. CHANDRASEKHARA RAO,
President of the Special Chamber.

(signed)
PHILIPPE GAUTIER,
Registrar.

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