

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



YEAR 2013

24 May 2013

**REQUEST FOR AN ADVISORY OPINION
SUBMITTED BY THE SUB-REGIONAL FISHERIES COMMISSION (SRFC)**

**(REQUEST FOR ADVISORY OPINION
SUBMITTED TO THE TRIBUNAL)**

ORDER

Present: *President* YANAI; *Vice-President* HOFFMANN; *Judges* MAROTTA RANGEL, NELSON, CHANDRASEKHARA RAO, AKL, WOLFRUM, NDIAYE, JESUS, COT, LUCKY, PAWLAK, TÜRK, KATEKA, GAO, BOUGUETAIA, GOLITSYN, KELLY, ATTARD, KULYK; *Registrar* GAUTIER.

The International Tribunal for the Law of the Sea,

composed as above,

after deliberation,

Having regard to articles 21 and 27 of the Statute of the Tribunal,

Having regard to articles 130, 131, 133 and 138 of the Rules of the Tribunal,

Makes the following Order:

Whereas the Conference of Ministers of the Sub-Regional Fisheries Commission (SRFC) adopted a resolution during its fourteenth session (27-28 March 2013), by which it decided, in accordance with article 33 of the 2012 Convention on

the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the Maritime Areas under Jurisdiction of the Member States of the Sub-Regional Fisheries Commission, to authorize the Permanent Secretary of the SRFC “to seize the International Tribunal for the Law of the Sea [...] in order to obtain its advisory opinion on the following matters:

1. What are the obligations of the flag State in cases where illegal, unreported and unregulated (IUU) fishing activities are conducted within the Exclusive Economic Zone of third party States?
2. To what extent shall the flag State be held liable for IUU fishing activities conducted by vessels sailing under its flag?
3. Where a fishing license is issued to a vessel within the framework of an international agreement with the flag State or with an international agency, shall the State or international agency be held liable for the violation of the fisheries legislation of the coastal State by the vessel in question?
4. What are the rights and obligations of the coastal State in ensuring the sustainable management of shared stocks and stocks of common interest, especially the small pelagic species and tuna?”

Whereas, pursuant to the said resolution, the Permanent Secretary of the SRFC transmitted the request for an advisory opinion by letter dated 27 March 2013 addressed to the President of the Tribunal, and received by the Registry on 28 March 2013;

Whereas the request for an advisory opinion was entered into the List of cases as Case Number 21;

Whereas, by letter dated 28 March 2013, the Registrar of the Tribunal invited the Permanent Secretary of the SRFC to submit to the Tribunal all documents likely to throw light upon the questions contained in the request for an advisory opinion, pursuant to article 131 of the Rules of the Tribunal;

Whereas, by letter dated 9 April 2013, pursuant to article 131 of the Rules of the Tribunal, the Permanent Secretary of the SRFC transmitted additional documents;

Whereas, by a note verbale dated 8 April 2013, pursuant to article 133, paragraph 1, of the Rules of the Tribunal, the Registrar gave notice of the request for an advisory opinion to the States Parties to the United Nations Convention on the Law of the Sea (hereinafter “the Convention”);

Decides, in accordance with article 133, paragraph 2, of the Rules of the Tribunal, that the SRFC and the intergovernmental organizations listed in the annex to the present order are considered likely to be able to furnish information on the questions submitted to the Tribunal for an advisory opinion;

Invites, in accordance with article 133, paragraph 3, of the Rules of the Tribunal, the States Parties to the Convention, the SRFC and the other organizations referred to above to present written statements on the questions submitted to the Tribunal for an advisory opinion;

Fixes, in accordance with article 133, paragraph 3, of the Rules of the Tribunal, 29 November 2013 as the time-limit within which written statements may be presented to the Tribunal;

Decides, in accordance with article 133, paragraph 4, of the Rules of the Tribunal, that oral proceedings shall be held;

Reserves the subsequent procedure for further decision.

Done in English and in French, both texts being equally authoritative, in the Free and Hanseatic City of Hamburg, this twenty-fourth day of May, two thousand and thirteen.

(signed)
SHUNJI YANAI
President

(signed)
PHILIPPE GAUTIER
Registrar

Annex

Annex to Order 2013/2 of the International Tribunal for the Law of the Sea

I. United Nations

- United Nations
- Food and Agriculture Organization of the United Nations (FAO)
- United Nations Environment Programme (UNEP)

II. Regional fishery bodies invited to attend the 30th meeting of the Committee on Fisheries (COFI)

Global and Trans-Ocean

- Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)
- Commission for the Conservation of Southern Bluefin Tuna (CCSBT)
- International Whaling Commission (IWC)
- Latin American Organization for Fisheries Development (OLDEPESCA)
- Central America Fisheries and Aquaculture Organization (OSPESCA)

Pacific Ocean

- Asia-Pacific Fishery Commission (APFIC)
- Permanent Commission for the South Pacific (CPPS)
- Pacific Islands Forum Fisheries Agency (FFA)
- Inter-American Tropical Tuna Commission (IATTC)
- International Pacific Halibut Commission (IPHC)
- North Pacific Anadromous Fish Commission (NPAFC)
- North Pacific Marine Science Organization (PICES)
- Southeast Asian Fisheries Development Centre (SEAFDEC)
- Secretariat of the Pacific Community (SPC)
- Western and Central Pacific Fisheries Commission (WCPFC)

Mediterranean, Black Sea, and Connecting Waters

- General Fisheries Commission for the Mediterranean (GFCM)

Indian Ocean

- Intergovernmental Organization for the Bay of Bengal Programme on Coastal Fisheries (BOBP-IGO)
- Indian Ocean Tuna Commission (IOTC)
- Regional Commission for Fisheries (RECOFI)
- Southwest Indian Ocean Fisheries Commission (SWIOFC)

Atlantic Ocean

- Fishery Committee for the Eastern Central Atlantic (CECAF)
- The Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic Ocean (ATLAFCO/COMHAFAT)
- Regional Fisheries Committee for the Gulf of Guinea (COREP)

- Caribbean Regional Fisheries Mechanism (CRFM)
- Fishery Committee of the West Central Gulf of Guinea (FCWC)
- International Commission for the Conservation of Atlantic Tuna (ICCAT)
- International Council for the Exploration of the Sea (ICES)
- Northwest Atlantic Fisheries Organization (NAFO)
- North Atlantic Marine Mammal Commission (NAMMCO)
- North Atlantic Salmon Conservation Organization (NASCO)
- North East Atlantic Fisheries Commission (NEAFC)
- Southeast Atlantic Fisheries Commission (SEAFO)
- Western Central Atlantic Fishery Commission (WECAFC)

III. Other intergovernmental organizations invited to attend the 30th meeting of COFI

- African Development Bank
- African Union (AU): New Partnership for African Development (NEPAD)
- Benguela Current Commission (BCC)
- Comisión Técnica Mixta del Frente Marítimo (CTMFM)
- The International Organization For the Development Of Fisheries in Eastern and Central Europe (EUROFISH)
- Asia-Pacific Economic Cooperation
- Southern African Development Community (SADC)
- The World Bank
- International Commission for Scientific Exploration of the Mediterranean Sea (ICSEM)

IV. Observers at the 14th Extraordinary session of the Conference of Ministers of the SRFC, 27-28 March 2013

- Agence de Gestion et de Coopération Entre le Sénégal et la Guinée Bissau (AGC)
- Intergovernmental Organization for Marketing, Information and Cooperation Service for Fishery Products in Africa (INFOPECHE)
- International Union for the Conservation of Nature (IUCN)