

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



YEAR 2020

7 January 2020

THE M/T “SAN PADRE PIO” (No. 2) CASE

(SWITZERLAND/NIGERIA)

ORDER

The President of the International Tribunal for the Law of the Sea,

Having regard to articles 24 and 27 of the Statute of the Tribunal,

Having regard to articles 45, 46, 55, 56, 59 and 61 of the Rules of the Tribunal,

Makes the following Order:

1. Whereas, further to consultations held by the President of the Tribunal with representatives of the Swiss Confederation (hereinafter “Switzerland”) and the Federal Republic of Nigeria (hereinafter “Nigeria”) in Hamburg on 2 and 3 December 2019, a special agreement was concluded between the two States on 17 December 2019 to submit to the Tribunal their dispute concerning the arrest and detention of the M/T “*San Padre Pio*”, its crew and cargo;

2. Whereas the Special Agreement and Notification between Switzerland and Nigeria dated 17 December 2019 (hereinafter “the Special Agreement”) reads as follows:

Special Agreement and Notification

1. The Governments of the Swiss Confederation (hereinafter “Switzerland”) and of the Federal Republic of Nigeria (hereinafter “Nigeria”) hereby record their agreement to submit to the International Tribunal for the Law of the Sea (hereinafter “the Tribunal”) their dispute concerning the arrest and detention of the *M/T “San Padre Pio”*, its crew and cargo. The agreement was reached on 3 December 2019, under the conditions reflected in the agreed Minutes of Consultations (3 December 2019), attached hereto.

2. The Parties record their agreement that, if any objection to jurisdiction or admissibility were to be raised before the Tribunal, it shall be dealt with together with the merits.

3. Each Party records its intention to choose a judge *ad hoc* pursuant to article 17 of the Statute and article 19 of the Rules of the Tribunal.

4. Receipt by the Registry of the Tribunal of the electronic copy of this Agreement and Notification signed by both Parties shall constitute the notification contemplated in article 55 of the Rules of the Tribunal. The date on which the Registry of the Tribunal has received this electronic copy will constitute the date of the institution of proceedings before the Tribunal. The original of the Special Agreement and Notification should be submitted to the Tribunal forthwith.

5. Pursuant to article 56, paragraph 3, of the Rules, Switzerland and Nigeria have the honour to notify the Tribunal that the Government of Switzerland has appointed Ms Corinne Cicéron Bühler, Director of the Directorate of International Law of the Federal Department of Foreign Affairs, as its Agent and the Government of Nigeria has appointed Ms Stella Anukam, Director, International Law and Comparative Law, Federal Ministry of Justice, as its Agent, for the purpose of all proceedings in the case.

6. The address for service to which all communications concerning the case are to be sent in accordance with article 56, paragraph 1, of the Rules are as follows:

For the Government of Switzerland:

Swiss Embassy
Otto-von-Bismarck-Allee 4 A
10557 Berlin

with a copy to the Agent of Switzerland

For the Government of Nigeria:

Embassy of the Federal Republic of Nigeria
Neue Jakobstrasse Nr. 4
10179 Berlin

with a copy to the Agent of Nigeria

Dated: 17 December 2019

[signed]

H.E. Ms Corinne Cicéron Bühler, Agent
For the Government of the
Swiss Confederation

[signed]

H.E. Ms Stella Anukam, Agent
For the Government of the
Federal Republic of Nigeria

3. Whereas the Minutes of Consultations agreed between Switzerland and Nigeria on 3 December 2019 and attached to the Special Agreement, in their relevant parts, read as follows:

**Consultations by the President of the Tribunal
with representatives of Switzerland and Nigeria**

Minutes of consultations

1. At the invitation of the President of the International Tribunal for the Law of the Sea (hereinafter "the Tribunal"), delegations from the Swiss Confederation (hereinafter "Switzerland") and the Federal Republic of Nigeria (hereinafter "Nigeria") participated in consultations with the President, held on 2 and 3 December 2019, at the premises of the Tribunal in Hamburg, Germany, on matters relating to the implementation of the Order of the Tribunal of 6 July 2019 in *The M/T "San Padre Pio" Case (Switzerland v. Nigeria)*, *Provisional Measures* and relating to the arbitration proceedings instituted by Switzerland in the dispute concerning the arrest and detention of the *M/T "San Padre Pio"*, its crew and cargo, including the possible transfer of the dispute to the Tribunal.

2. The composition of the delegations was as follows:

For Switzerland:

Ambassador Corinne Cicéron Bühler, Agent;
Mr Clément Marquet;
Ms Flavia von Meiss;
Sir Michael Wood.

For Nigeria:

Mr Joseph Okoro, Head of Political Section, Nigerian Embassy, Co-Agent for the purpose of the consultations;
 Prof. Dapo Akande, Co-Agent for the purpose of the consultations;
 Mr Andrew Loewenstein.

3. With regard to the arbitration proceedings instituted by Switzerland by Notification and Statement of Claim and Grounds dated 6 May 2019, the Parties agreed during the consultations to transfer their dispute concerning the arrest and detention of the *M/T "San Padre Pio"*, its crew and cargo to the Tribunal. The Parties agreed that the date of the institution of proceedings before the Tribunal is the date on which the Registry of the Tribunal has received the electronic copy of the Special Agreement and Notification signed by both Parties (see paragraph 4 of the Special Agreement and Notification).

4. The proceedings before the Tribunal shall be governed by the provisions contained in the Statute and the Rules of the Tribunal and the agreement referred to in paragraph 2 of the Special Agreement and Notification.

4. Whereas the Special Agreement provides that the receipt by the Registry of the Tribunal of an electronic copy of the Special Agreement and Notification signed by both Parties shall constitute the notification contemplated in article 55 of the Rules; and whereas an electronic copy of the Special Agreement was received by the Registrar of the Tribunal on 17 December 2019;

5. Whereas the Special Agreement states that Switzerland has appointed H.E. Ms Corinne Cicéron Bühler as Agent, and Nigeria has appointed H.E. Ms Stella Anukam as Agent;

6. Whereas Switzerland and Nigeria are States Parties to the United Nations Convention on the Law of the Sea;

7. Whereas telephone consultations were held by the President with the representatives of the Parties on 19 December 2019 to ascertain the views of the Parties with regard to questions of procedure in respect of the case;

8. Whereas, during these consultations, the Agent of Switzerland and the Agent of Nigeria agreed that the written proceedings shall consist of a Memorial presented by Switzerland and a Counter-Memorial presented by Nigeria and that the filing of further written pleadings should be decided at a later stage;

THE PRESIDENT

Having ascertained the views of the Parties,

Fixes the following time-limits for the filing of the Memorial and the Counter-Memorial:

6 July 2020 for the Memorial of Switzerland;

6 January 2021 for the Counter-Memorial of Nigeria;

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 seventh day of January, two thousand and twenty, in three copies, one of which will be placed in the archives of the Tribunal and the others transmitted to the Government of Switzerland and to the Government of Nigeria, respectively.

Jin-Hyun PAIK,
President

Ximena HINRICHS OYARCE,
Registrar