

10 AUGUST 2021
ORDER

THE M/T "SAN PADRE PIO" (NO. 2) CASE
(SWITZERLAND/NIGERIA)

AFFAIRE DU NAVIRE « SAN PADRE PIO » (NO. 2)
(SUISSE/NIGÉRIA)

10 AOÛT 2021
ORDONNANCE

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



YEAR 2021

10 August 2021

List of cases:
No. 29

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 article 27 of the Statute of the Tribunal,

Having regard to articles 45 and 69 of the Rules of the Tribunal,

Having regard to the Orders of the President of the Tribunal of 7 January 2020, 5 January 2021 and 18 June 2021,

Makes the following Order:

1. Whereas, pursuant to the Order of 7 January 2020, the President fixed 6 July 2020 and 6 January 2021 as the time-limits for the filing of the Memorial of Switzerland and the Counter-Memorial of Nigeria, respectively; and whereas the Memorial was filed within the prescribed time-limit;

2. Whereas, pursuant to the Order of 5 January 2021, the President extended the time-limit for the submission of the Counter-Memorial of Nigeria to 6 April 2021; and whereas the Counter-Memorial was not filed within the extended time-limit;
3. Whereas telephone consultations were held between the President and the representatives of the Parties on 30 April 2021 to ascertain the views of the Parties with regard to questions of procedure, including the date for the opening of the oral proceedings; and whereas during the consultations it was agreed that the next procedural step in the proceedings should be the scheduling of the hearing on the merits;
4. Whereas, pursuant to the Order of 18 June 2021, the President fixed 9 September 2021 as the date for the opening of the oral proceedings;
5. Whereas, by letter of 30 July 2021, filed in the Registry on 2 August 2021, the Agent of Switzerland requested that "[i]n view of the ongoing implementation of a Memorandum of Understanding (MoU) concluded by Switzerland and Nigeria on 20 May 2021 regarding the issue of the M/T "San Padre Pio" ... the opening of the oral proceedings be postponed until a later date towards the end of fall 2021", and whereas the Registrar transmitted forthwith a copy of that letter to the Agent of Nigeria;
6. Whereas, in response to a request from the President, by letter of 3 August 2021, the Agent of Switzerland provided additional information regarding Switzerland's request for postponement;
7. Whereas in the letter of 3 August 2021, the Agent of Switzerland indicated that the Memorandum of Understanding concluded between the Parties provides for the "immediate release" of the vessel and the discontinuance of the proceedings before the Tribunal "only from the moment that the M/T "San Padre Pio" enters the high seas, or the territorial sea or Exclusive Economic Zone of another State", that "the M/T "San Padre Pio" is currently not in a state allowing it to swiftly depart from Nigeria" and that it "remains uncertain when and under what conditions the vessel might be able to depart", and whereas a copy of that letter was transmitted forthwith to the Agent of Nigeria;

8. Whereas, by letter of 3 August 2021, the Agent of Nigeria was invited to indicate the views of Nigeria with regard to Switzerland's request for postponement by Wednesday, 4 August 2021;
9. Whereas no response was received from the Agent of Nigeria;

THE PRESIDENT

Having regard to the special circumstances of the case and having sought the views of the Parties,

Decides to postpone the opening of the oral proceedings until a later date to be fixed after consultations with the Parties;

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 tenth day of August, two thousand and twenty-one, 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.

(signed)

Albert J. Hoffmann,
President

(signed)

Ximena Hinrichs Oyarce,
Registrar