

**INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA  
TRIBUNAL INTERNATIONAL DU DROIT DE LA MER**



2007

Public sitting

held on Monday, 23 July 2007, at 1.50 p.m.

at the International Tribunal for the Law of the Sea, Hamburg,

President Rüdiger Wolfrum presiding

**THE “HOSHINMARU” CASE**

(Application for prompt release)

*(Japan v. Russian Federation)*

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**Verbatim Record**

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Uncorrected  
Non-corrigé

<i>Present:</i>	President	Rüdiger Wolfrum
	Vice-President	Joseph Akl
	Judges	Hugo Caminos
		Vicente Marotta Rangel
		Alexander Yankov
		Anatoli Lazarevich Kolodkin
		Choon-Ho Park
		Paul Bamela Engo
		L. Dolliver M. Nelson
		P. Chandrasekhara Rao
		Tullio Treves
		Tafsir Malick Ndiaye
		José Luis Jesus
		Jean-Pierre Cot
		Anthony Amos Lucky
		Stanislaw Pawlak
		Shunji Yanai
		Helmut Türk
		James L. Kateka
		Albert J. Hoffmann
	Registrar	Philippe Gautier

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*Japan is represented by:*

Mr Ichiro Komatsu, Director-General, International Legal Affairs Bureau,  
Ministry of Foreign Affairs,

*as Agent,*

Mr Tadakatsu Ishihara, Consul-General of Japan, Hamburg, Germany,

*as Co-Agent,*

*and*

Mr Yasushi Masaki, Director, International Legal Affairs Division, Ministry of  
Foreign Affairs,

Mr Kazuhiko Nakamura, Principal Deputy Director, Russian Division, Ministry  
of Foreign Affairs,

Mr Ryuji Baba, Deputy Director, Ocean Division, Ministry of Foreign Affairs,

Mr Junichi Hosono, Official, International Legal Affairs Division, Ministry of  
Foreign Affairs,

Mr Toshihisa Kato, Official, Russian Division, Ministry of Foreign Affairs,

Ms Junko Iwaishi, Official, International Legal Affairs Division, Ministry of  
Foreign Affairs,

Mr Hiroaki Hasegawa, Director, International Affairs Division, Resources  
Management Department, Fisheries Agency of Japan,

Mr Hiromi Isa, Deputy Director, Far Seas Fisheries Division, Resources  
Management Department, Fisheries Agency of Japan,

Mr Tomoaki Kammuri, Fisheries Inspector, International Affairs Division,  
Resources Management Department, Fisheries Agency of Japan,

*as Counsel;*

Mr Vaughan Lowe, Professor of International Law, Oxford University, United  
Kingdom,

Mr Shotaro Hamamoto, Professor of International Law, Kobe University,  
Kobe, Japan,

*as Advocates.*

*The Russian Federation is represented by:*

Mr Evgeny Zagaynov, Deputy Director, Legal Department, Ministry of Foreign  
Affairs,

*as Agent,*

Mr Sergey Ganzha, Consul-General, Consulate-General of the Russian Federation, Hamburg, Germany,

*as Co-Agent,*

Mr Alexey Monakhov, Head of Inspection, State Sea Inspection, Northeast Coast Guard Directorate, Federal Security Service, and Mr Vadim Yalovitskiy, Head of Division, International Department, Office of the Prosecutor General,

*as Deputy Agents;*

*and*

Mr Vladimir Golitsyn, Professor of International Law, State University of Foreign Relations, Moscow,

Mr Alexey Dronov, Head of Division, Legal Department, Ministry of Foreign Affairs,

Mr Vasiliy Titushkin, Senior Counselor, Embassy of the Russian Federation in the Netherlands,

Mr Andrey Fabrichnikov, Senior Counselor, First Asian Department, Ministry of Foreign Affairs,

Mr Oleg Khomich, Senior Military Prosecutor, Office of the Prosecutor General;

*as Counsel;*

Mrs. Svetlana Shatalova, Attache, Legal Department, Ministry of Foreign Affairs, and Ms. Diana Taratukhina, Desk Officer, Legal Department, Ministry of Foreign Affairs;

*as Advisers.*

1 **THE PRESIDENT:** As indicated earlier, we will now resume the oral proceedings in  
2 the *Hoshinmaru* case.

3  
4 Following consultations with the Agents of the parties, it was decided that each party  
5 will present its final submissions today.

6  
7 I now give the floor to Mr Komatsu, Agent for the Government of Japan, to read  
8 Japan's final submissions.

9  
10 **MR KOMATSU:** Thank you, Mr President. I will now read out the final submissions  
11 of Japan with regard to the 88<sup>th</sup> *Hoshinmaru* case. The Applicant requests the  
12 International Tribunal for the Law of the Sea (hereinafter "the Tribunal") by means of  
13 a judgment

- 14  
15 a. to declare that the Tribunal has jurisdiction under Article 292 of the United  
16 Nations Convention on the Law of the Sea (hereinafter "the Convention") to  
17 hear the application concerning the detention of the vessel 88<sup>th</sup> *Hoshinmaru*  
18 (hereinafter the *Hoshinmaru*) in breach of the Respondent's obligations under  
19 Article 73(2) of the Convention  
20 b. to declare that the application is admissible, that the allegation of the  
21 Applicant is well founded and that the Respondent had breached its obligation  
22 under Article 73(2) of the Convention and  
23 c. to order the Respondent to release the vessel *Hoshinmaru* upon such terms  
24 and conditions as the Tribunal shall consider reasonable.

25  
26 **THE PRESIDENT:** Thank you, Mr Komatsu. I now call upon the Agent for the  
27 Government of the Russian Federation, Mr Zagaynov. Please read the submissions.

28  
29 **MR ZAGAYNOV:** Thank you, Mr President. The final submissions of the Russian  
30 Federation are as follows. The Russian Federation requests the Tribunal to decline  
31 to make the orders sought in paragraph 1 of the Application of Japan. The Russian  
32 Federation requests the Tribunal to make the following orders:

- 33  
34 a. that the Application of Japan is inadmissible  
35 b. alternatively, the delegations of the Applicant are not well founded and that  
36 the Russian Federation has fulfilled its obligations under paragraph 2 of  
37 Article 73 of the United Nations Convention on the Law of the Sea.

38  
39 Thank you, Mr President.

40  
41 **THE PRESIDENT:** Thank you, Mr Zagaynov.

42  
43 I would like to remind the parties that their final submissions have to be signed and  
44 submitted in writing, if you have not already done so, to the Tribunal and transmitted  
45 to the other party in accordance with Article 75, paragraph 2 of the Rules.

46  
47 That brings us to the end of the oral proceedings in the *Hoshinmaru* case.

1 I have already expressed my gratitude to both parties for their professional  
2 competence and I will not reiterate my words, but my gratitude is the same as in the  
3 previous case.

4  
5 The Registrar will now address questions in relation to documentation.

6  
7 **THE REGISTRAR:** Mr President, in conformity with Article 86, paragraph 4 of the  
8 Rules, the parties have the right to correct the transcripts in the original language of  
9 their presentations and statements made by them in the oral proceedings. Any such  
10 corrections should be submitted as soon as possible but in any case not later than  
11 6.00 p.m. on 24 July 2007.

12  
13 In addition, the parties are requested to certify that all the documents that have been  
14 submitted and which are not originals are true and accurate copies of the originals of  
15 those documents. For that purpose, the Agents of the parties will be provided with a  
16 list of documents concerned.

17  
18 With respect to the questions put to the parties, the parties are also requested to  
19 provide the Registry with responses not later than 6.00 p.m. on Tuesday, 24 July  
20 2007. Thank you, Mr President.

21  
22 **THE PRESIDENT:** The Tribunal will now withdraw to deliberate on this case. The  
23 judgment will be read on a date to be notified to the Agents. The Tribunal has  
24 tentatively set a date for the delivery of the judgment in this case. That date is  
25 6 August 2007. The Agents will be informed reasonably in advance if there is any  
26 change to the schedule, by way of advancing the date or by way of postponing it.

27  
28 In accordance with the usual practice, I request the Agents kindly to remain at the  
29 disposal of the Tribunal in order to provide any further assistance or information that  
30 it may need in its deliberations of the case prior to the delivery of the judgment.

31  
32 This hearing is now closed, but I hope to see both delegations in roughly 15 minutes  
33 in the Villa in a more informal setting.

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36 *(The hearing was adjourned at 2 p.m.)*  
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