

DECLARATION OF VICE-PRESIDENT NELSON

I am in agreement with the Tribunal's Judgment. I take this opportunity of making some brief observations on the note verbale of 4 January 2001.

Note verbale of 4 January 2001

The Tribunal, in coming to the conclusion that it has no jurisdiction to hear the Application, has arrived at this finding, based, for the most part, on an examination of the relevant documents relating to the registration or nationality of the *Grand Prince*. It seems to me that another factor comes into play. That is the status of the author of the note verbale. It must be presumed that a note verbale from the Ministry of Foreign Affairs must be treated as one coming from the Minister of Foreign Affairs. With respect to the competence of a Foreign Minister, the following observations have been made: "... it must be recognized that the constant and general practice of States has been to invest the Minister for Foreign Affairs – the direct agent of the chief of the State – with authority to make statements on current affairs to foreign diplomatic representatives, and in particular to inform them as to the attitude which the government, in whose name he speaks, will adopt in a given question" (*Legal Status of Eastern Greenland, Judgment, 1933, P.C.I.J., Series A/B, No. 53, p. 91; diss. op. Anzilotti*). This observation, although made more than 60 years ago, still holds good (see Sir Arthur Watts, "The Legal Position in International Law of Heads of States, Heads of Governments and Foreign Ministers", *Recueil des cours – Collected Courses of The Hague Academy of International Law, 1994, III, p. 100*). Such statements, written or oral, are binding upon States or at least must be of high persuasive value. That is why I am of the view that with respect to the communications coming from Belize relating to the registration of the *Grand Prince* this note verbale should enjoy a special status.

The contents of this note must also be taken into account. As the Tribunal has already recalled, the note verbale declares that "The Ministry of Foreign Affairs wishes to inform that Belize's shipping registry has confirmed that the vessel was registered with the Belize registry. However, as this is the second reported violation committed by the vessel, *the punitive measures being imposed by the Belizean authority is its de-registration effective today 4 January 2001.*" ("Le Ministère des affaires étrangères a l'honneur de vous informer que les responsables du registre maritime bélizien ont confirmé

que ledit navire se trouvait inscrit au registre du Belize. Toutefois, comme il s’agit de la deuxième violation signalée, la sanction qui est imposée par les autorités béliziennes à titre de sanction est la radiation du navire du registre du Belize à compter de ce jour, 4 janvier 2001.”) (Paragraph 72 of the Judgment, emphasis added.) In my opinion the text is clear. The decision was taken to revoke the registration of the *Grand Prince* “effective today 4 January 2001”. It may be remarked that the result of an examination of the contents of this note verbale also serves to enhance its authority.

(Signed) L. Dolliver M. Nelson