

**APPLICATION SUBMITTED BY SAINT VINCENT AND THE
GRENADINES**

IN THE MATTER OF THE UN CONVENTION ON THE LAW OF
THE SEA, 1982 BEFORE THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA AND THE MATTER OF AN
ARBITRATION

BETWEEN:
ST. VINCENT & GRENADINES, *Claimant*
and
GUINEA, *Respondent*

“SAIGA”

MEMORIAL

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The Applicant requests that the application be dealt with by the Chamber of Summary Procedure pursuant to Article 112(2) of the Rules of the Tribunal.

PART 1 – MEMORIAL

AUTHORIZATION

Notice is hereby given to the Tribunal of:

- a) The Attorney General of St Vincent and the Grenadines, being the State Authority competent to authorize persons to make application on its behalf under Article 292 of the Convention, acting through the Commissioner for Maritime Affairs of St Vincent and the Grenadines has authorized Messrs Stephenson Harwood to make this application on its behalf.¹
- b) Stephenson Harwood’s contact details are as follows:
Stephenson Harwood
One St Paul’s Churchyard
London EC4M 8SH (Ref: 751)
Tel: 0171 329 4422
Fax: 0171 895 0093

- c) The contact details of their Agent for the receipt of Communications are the following:
 Busing, Muffelmann & Theye
 Marktstrasse 3 – Borsenhof C
 Bremen 1 (Attn: Jorg Zimmer)
 Tel: 00 49 421 360 000 Fax: 00 49 421 366 00188

STATEMENT OF FACTS

1. "SAIGA" was drifting at 0900°N/01459°W in the Exclusive Economic Zone of Sierra Leone² from 08:00 on 28 October 1997. At around 09:11³ she was attacked by representatives of the Guinean Government who shot at the ship and crew and injured four of them before taking control of the vessel. The vessel was brought into Conakry, Guinea at around 21:00 on 28 October 1997. Two seriously injured crew have since been allowed to leave. The vessel and remaining crew continue to be held hostage at Conakry.
2. Relevant information concerning the vessel and crew is as follows:

The vessel:

Name	SAIGA
Flag	St Vincent & the Grenadines
Port of Registry	Kingstown
GRT	4252
NRT	2042
Deadweight	5780
Type of Vessel	Oil Tanker
Insured Value	\$1.5 Million
Present Cargo	Approx 5,000 tons of Gasoil
Value of Cargo	Approx US\$1 Million

Name and Address of Owner

Tabona Shipping Co Ltd
 c/o Seascot Shipmanagement Ltd
 45 Carrick Street
 Glasgow
 Scotland
 G2 8PJ

Name and Address of Charterers

Lemania Shipping Group Ltd
 c/o Addax BV Geneva Branch
 82 Rue de Lausanne
 1202 Geneva
 Switzerland

The Crew:

	Rank	Name	D.O.B.	Nat.	Passport Number
1	Master	Mikhail Oslov	20.06.53	Ukr	103589
2	C/O	Nikolav Popov	21.07.52	Ukr	019669
3*	2/O	Sergiy Klyuyev	18.08.72	Ukr	95293
4	ERO	Volodymyr Kutovy	26.08.58	Ukr	91827
5	C/E	Oleksandr Bobrovnik	20.08.46	Ukr	60016
6	2/E	Vyacheslav Nezdymlnoha	19.08.65	Ukr	349621
7	3/E	Sergiy Maslov	16.08.72	Ukr	050279
8	4/E	Yevheniy Komanych	24.03.62	Ukr	167169
9	Elect	Oleksandr Ovanov	03.12.63	Ukr	116288
10	Bos	Yevgenly Svinlov	16.12.57	Ukr	055138
11	P/P	Oleksandr Gaponenko	24.02.62	Ukr	89546
12	AB	Oleksandr Vyshnevsky	15.04.50	Ukr	105984
13	AB	Sarhgly Tatun	03.06.74	Ukr	167143
14	AB	Volodymyr Lymar	02.08.74	Ukr	103860
15	MM	Volodymyr Shevchenko	23.07.70	Ukr	167375
16	MM	Vasyl Soltys	24.12.59	Ukr	47455
17	MM	Kostyantyn Volynets	14.02.60	Ukr	110651
18	CK	Mykola Bilonozhko	27.10.44	Ukr	060141
19	Eng/Cad	Vadim Krivenko	12.07.73	Ukr	6165715
20	ABTkCl	Yehenly Lashchyonykh	04.12.71	Ukr	125923
21	Eng/Cad	Vadym Baranov	15.01.73	Ukr	AE266574
22	Dk/Cad	Deny Stanislavsky	11.01.47	Ukr	AC801940
23*	A.B.	Niasse Djibril	31.10.63	Senegal	42706/84
24	A.B.	Fall Lat Soukabe	11.08.62	Senegal	164970/92
25	A.B.	Abdulaye Sene	11.09.67	Senegal	93B1760

*3 and 23 are the two injured crewmen who have been allowed to leave.

3. Contrary to Article 73 of the Convention, Guinea has not to date sought any bond or other financial security in respect of the detention of the “SAIGA”, nor has it advised any interested party of the reasons for its action, nor has it allowed their representatives access to the crew remaining on board. Instead Guinean officials have unlawfully forced the Master to commence discharge of the cargo into shore tanks.
4. The Applicants’ researches reveal that the Guineans had no grounds for the detention of the “SAIGA”. For the time being and pending further enquiries the Applicant relies on the following:

PARTICULARS

- a) The vessel was not in Guinean waters at the time of the detention.

- b) The Guineans have failed to submit their notes, official reports, or indeed any other documents establishing any offences, contrary to Article 5 of Decree No. 336 of 30 July 1980 of the Republic of Guinea² which provides as follows:

"Merchant Marine officers responsible for the surveillance of territorial waters, Customs Service officials, officers of the National Navy and, in general, all criminal police officers shall be empowered to establish that an offence has been committed, prepare an official report thereon, and conduct the perpetrator or perpetrators and their boat or vessel to the nearest Guinean port.

Within twenty-four hours of disembarkation, they must submit to the responsible Merchant Marine officer or to the Governor of the appropriate administrative region their notes, official reports and all other documents establishing the offences."

- c) Such information as the Applicants have been able to discover concerning the detention of the Vessel is set out in an Article appearing in a local newspaper⁴. This maintains, amongst other things, that "SAIGA" was detained by Customs for "smuggling" in Guinean territorial waters. In this regard:
- (i) It is denied that the vessel, her owners, or charterers have even been involved in smuggling;
 - (ii) It is denied that the vessel has ever entered Guinean territorial waters;
 - (iii) Guinean Customs Officers have no jurisdiction to take such action within the Customs Code of Guinea⁴; and
 - (iv) Guinea has no jurisdiction to take such action within the Maritime Code of Guinea⁵.
- d) The Applicant is aware of previous allegations of illegal conduct perpetrated by Guinean Government entities within the Exclusive Economic Zone of Guinea. Previous incidents of which the Applicants are aware involve attacks upon other tankers including the following:
- "AFRICA" (twice)
 - "NAPETCO" (twice)
 - "TOURMALET"
 - "ALFA 1"
 - "LEONA 1"
 - "LEONA 2"
- e) In view of the above the Applicant believes that the detention of the "SAIGA", her cargo and crew is part of a wider pattern of international piracy in which the Guinean Government are actively engaged.

AND IN VIEW OF THE FOREGOING the Applicant submits that the Tribunal should determine that the vessel, her cargo and crew be released immediately without requiring that any bond be provided. The Applicants are

prepared to provide any security reasonably imposed by the Tribunal to the Tribunal itself, but in view of the foregoing seek that the Tribunal do not determine that any security be provided directly to the Guineans.

PART II – DOCUMENTS IN SUPPORT

1. Authorization for Commissioner of Maritime Affairs of St Vincent and the Grenadines dated 10 November 1997.
2. Telex from ship to Charterers dated 28 October 1997 timed 09.11.39.
3. Decree No. 336 of 30 July 1980 of the Republic of Guinea as lodged with the United Nations Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs.
4. Article appearing in *La Lance* dated 5 November 1997.
5. Customs Code of Guinea dated 20 April 1997.
6. Maritime Code of Guinea dated 30 November 1995.

We certify that a copy of this application and all supporting documentation has been delivered to the Flag State.

[Signed]

Stephenson Harwood 11/11/97