

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS,
ADVISORY OPINIONS AND ORDERS

QUESTIONS RELATING TO THE SEIZURE
AND DETENTION
OF CERTAIN DOCUMENTS AND DATA

(TIMOR-LESTE *v.* AUSTRALIA)

ORDER OF 28 JANUARY 2014

2014

COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS,
AVIS CONSULTATIFS ET ORDONNANCES

QUESTIONS CONCERNANT LA SAISIE
ET LA DÉTENTION
DE CERTAINS DOCUMENTS ET DONNÉES

(TIMOR-LESTE *c.* AUSTRALIE)

ORDONNANCE DU 28 JANVIER 2014

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No. 156

28 January 2014

QUESTIONS RELATING TO THE SEIZURE
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(TIMOR-LESTE v. AUSTRALIA)

ORDER

Present: President TOMKA; Vice-President SEPÚLVEDA-AMOR; Judges OWADA, ABRAHAM, KEITH, BENNOUNA, SKOTNIKOV, CANÇADO TRINDADE, YUSUF, GREENWOOD, XUE, DONOGHUE, GAJA, BHANDARI; Judges ad hoc CALLINAN, COT; Registrar COUVREUR.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Article 48 of the Statute of the Court and to Articles 31, 44, 45, paragraph 1, 48 and 49 of the Rules of Court,

Having regard to the Application filed in the Registry of the Court on 17 December 2013, whereby the Democratic Republic of Timor-Leste instituted proceedings against Australia with respect to a dispute concerning the seizure and subsequent detention by “the agents of Australia of documents, data and other property which belongs to Timor-Leste and/ or which Timor-Leste has the right to protect under international law”;

Whereas on 17 December 2013 an original copy of the Application was transmitted to Australia;

Whereas, in its Application, Timor-Leste notified the Court of the appointment of H.E. Mr. Joaquim A. M. L. da Fonseca as Agent; and whereas, by letter dated 19 December 2013, Australia notified the Court of the appointment of Mr. John Davidson Reid as Agent and of H.E. Mr. Neil Allan Mules as Co-Agent;

Whereas, since the Court included upon the Bench no judge of the nationality of either of the Parties, each Party proceeded to exercise the right conferred upon it by Article 31, paragraph 3, of the Statute to choose a judge *ad hoc* to sit in the case; whereas Timor-Leste chose Mr. Jean-Pierre Cot and Australia chose Mr. Ian Callinan;

Whereas, on 17 December 2013, Timor-Leste also submitted a request for the indication of provisional measures, pursuant to Article 41 of the Statute of the Court and Articles 73 to 75 of the Rules of Court, and whereas public hearings were held on that request on 20, 21 and 22 January 2014;

Whereas, at the end of the second round of oral argument, Australia requested, *inter alia*, that the Court stay the proceedings in the current case until the Arbitral Tribunal, established under Article 23 of the Timor Sea Treaty of 20 May 2002 to adjudicate on a dispute between Timor-Leste and Australia, had rendered its decision;

Whereas, at a meeting held by the President of the Court with the Agents of the Parties on 22 January 2014, after the closure of the hearings on the request for the indication of provisional measures, Timor-Leste expressed its discontent with Australia's request for a stay of the proceedings, noting that no reasons had been given in support, and that no time remained for it to address the matter, and that it was thus opposed to the request being granted; and whereas Timor-Leste indicated that it wished to be allowed a period of three months from the day of that meeting for the preparation of its Memorial;

Whereas, at the same meeting, Australia explained that it had requested that the Court stay the proceedings in view of the fact that the outcome of the *Arbitration under the Timor Sea Treaty* could have an impact on this Court's ruling in the current case; and whereas Australia proposed that, should its request for a stay of the proceedings not be accepted by the Court, each Party should have a period of nine months at its disposal for the preparation of its pleading, stating that it needed several months to finalize its Counter-Memorial after the completion of the hearings before the Arbitral Tribunal, scheduled to begin at the end of September 2014;

Whereas the Court, acknowledging Timor-Leste's concerns regarding the way in which the request for a stay of the proceedings was put before the Court, considers that the dispute before it is sufficiently distinct from the dispute being adjudicated upon by the Arbitral Tribunal; whereas the Court has accordingly decided not to accede to Australia's request for a

stay of the proceedings; and whereas time-limits have to be fixed for the filing of the written pleadings;

Taking into account the views of the Parties,

Fixes the following time-limits for the filing of the written pleadings:

28 April 2014 for the Memorial of the Democratic Republic of Timor-Leste;

28 July 2014 for the Counter-Memorial of Australia; and

Reserves the subsequent procedure for further decision.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this twenty-eighth day of January, two thousand and fourteen, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Democratic Republic of Timor-Leste and the Government of Australia, respectively.

(Signed) Peter TOMKA,
President.

(Signed) Philippe COUVREUR,
Registrar.

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