

# INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



2025

Public sitting

held on Thursday, 9 October 2025, at 2.30 p.m.,  
at the International Tribunal for the Law of the Sea, Hamburg,  
President of the Special Chamber, Judge Albert J. Hoffmann, presiding

## THE M/T “HEROIC IDUN” (No. 2) CASE

(Marshall Islands/Equatorial Guinea)

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**Verbatim Record**

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Special Chamber  
of the International Tribunal for the Law of the Sea

|                 |                      |                                               |
|-----------------|----------------------|-----------------------------------------------|
| <i>Present:</i> | President            | Albert J. Hoffmann                            |
|                 | Judges               | María Teresa Infante Caffi<br>Kathy-Ann Brown |
|                 | Judges <i>ad hoc</i> | Gudmundur Eiriksson<br>Philippe Couvreur      |
|                 | Registrar            | Ximena Hinrichs Oyarce                        |

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*The Marshall Islands are represented by:*

Ms Meredith Kirby, Deputy Commissioner of Maritime Affairs, Republic of the Marshall Islands Maritime Administrator,

*as Agent;*

*and*

Mr Bernard J. Adiniwin, Attorney-General,

*as Representative;*

Sir Daniel Bethlehem KC, Barrister, Twenty Essex, London, United Kingdom; Member of the Bar of England and Wales,

Ms Penelope Nevill, Barrister, Twenty Essex, London, United Kingdom; Member of the Bar of England and Wales; Barrister and Solicitor of the High Court of New Zealand,

Mr Paolo Busco, Barrister, Twenty Essex, London, United Kingdom; Member of the Bar of England and Wales; Member of the Rome Bar,

Mr Manuel Casas Martínez, Barrister, Twenty Essex, London, United Kingdom; Member of the Bar of England and Wales; Member of the Bar of New York; Member of the Bar of Caracas,

Ms Courtney Grafton, Barrister, Twenty Essex, London, United Kingdom; Member of the Bar of England and Wales,

*as Counsel and Advocates;*

Mr Richard M. Gunn, Partner, Reed Smith LLP, London, United Kingdom,

Mr Jiahui Huang, Barrister, Twenty Essex, London, United Kingdom; Member of the Bar of England and Wales,

Ms Julia Z. Cyron, Associate, Reed Smith LLP, London, United Kingdom,

*as Counsel;*

Mr James Myazoe, Deputy Commissioner of Maritime Affairs, Republic of the Marshall Islands Maritime Administrator,

Mr Joseph Bigler, Deputy Commissioner of Maritime Affairs, Republic of the Marshall Islands Maritime Administrator,

Mr Baron Bigler, Deputy Commissioner of Maritime Affairs, Republic of the Marshall Islands Maritime Administrator,

*as Advisers.*

*Equatorial Guinea is represented by:*

Mr Carmelo Nvono-Ncá, Ambassador of the Republic of Equatorial Guinea to France; Permanent Delegate to UNESCO, Paris, France,

*as Agent;*

*and*

Mr Hussein Haeri KC, Partner, Withers LLP, London, United Kingdom; Solicitor-Advocate of England and Wales, SOAS, University of London, London, United Kingdom,

Ms Floriane Lavaud, Partner, Withers LLP, New York, United States of America; Member of the Bars of New York and Paris; Solicitor of England and Wales,

Mr Dapo Akande, Barrister at Essex Court Chambers; Chichele Professor of Public International Law, University of Oxford, Oxford, United Kingdom; Member of the Bar of England and Wales; Member of the International Law Commission,

Mr Francisco Moro Nve Obono, State Lawyer Office of the Republic of Equatorial Guinea,

Ms Clàudia Baró Huelmo, Senior Associate, Withers LLP, Geneva, Switzerland; Solicitor-Advocate of England and Wales; *Abogada* of the Bar of Barcelona,

*as Counsel and Advocates;*

Mr Juan Olo Mba Nseng, Vice-President of the Legal Commission of State Lawyers, Government of Equatorial Guinea,

Mr Antonios Tzanakopoulos, Professor of Public International Law, University of Oxford, Oxford, United Kingdom,

Ms Maanya Tandon, Associate, Withers LLP, London, United Kingdom; Barrister and Solicitor of the High Court of New Zealand,

Ms Sudipta Purkayastha, Associate, Withers LLP, London, United Kingdom; Solicitor of England and Wales, Advocate of the Bar Council of India,

Ms Eva Keita, Associate, Withers LLP, New York, United States of America; Member of the New York Bar,

Mr Niccolò Dell'Alba, Paralegal, Withers LLP, London, United Kingdom,

Mr Adalberto Acumu Ncogo Angono, State Lawyer of the Republic of Equatorial Guinea,

Ms Gladys Delcourt Ncara Nzang, State Lawyer of the Republic of Equatorial Guinea,

Ms Anouch Sedef, Adviser to the Ministry of Transport, Telecommunications and Artificial Intelligence Systems,

*as Counsel;*

Ms Carmen Matas Gallardo, Communications Adviser to the Agent, Paris, France,

*as Adviser.*

1 **THE PRESIDENT OF THE SPECIAL CHAMBER:** Good afternoon. The Special  
2 Chamber will continue its hearing in the “*Heroic Idun*” (No. 2) Case, and we meet this  
3 afternoon to hear Equatorial Guinea’s first round of oral argument.  
4

5 I now invite the Agent of Equatorial Guinea, His Excellency, Mr Carmelo Nvono-Ncá,  
6 to make his opening statement. You have the floor, sir.  
7

8 **MR NVONO-NCÁ:** (*Interpretation from Spanish*) Mr President, Members of the  
9 Special Chamber, it is an honour to appear before you in my capacity as Agent for  
10 Equatorial Guinea to open Equatorial Guinea’s submissions on the merits of the  
11 dispute concerning the “*Heroic Idun*” between the Marshall Islands and Equatorial  
12 Guinea.  
13

14 We thank you, Mr President and the Members of the Special Chamber, for the  
15 opportunity to present our position and interact with our colleagues from the Marshall  
16 Islands. We’d also like to thank ITLOS, and, in particular, the Registrar and her team  
17 for their assistance and for the exemplary execution of their mandate in these  
18 proceedings.  
19

20 President, Members of the Special Chamber, allow me to continue now in English,  
21 especially so that the Marshall Islands delegation can follow and better understand  
22 what happened, how it happened, and why the incident in the Gulf of Guinea  
23 happened.  
24

25 (*Continued in English*) Mr President, Members of the Special Chamber, just over  
26 three years ago, Equatorial Guinea received and acted in response to a request from  
27 Nigeria and apprehended the “*Heroic Idun*” after an encounter between the “*Heroic*  
28 *Idun*” and the Nigerian authorities in the Nigerian Exclusive Economic Zone near  
29 Akpo Offshore Terminal. Equatorial Guinea did so on reasonable suspicion of piracy,  
30 in accordance with the communications transmitted by Nigeria. It acted pursuant to  
31 its international obligations under the United Nations Convention on the Law of the  
32 Sea and its commitments under the Code of Conduct concerning the Repression of  
33 Piracy, Armed Robbery Against Ships, and Illicit Maritime Activity in West and  
34 Central Africa (called the Yaoundé Code), to which both countries, Equatorial Guinea  
35 and Nigeria, are parties. The Code’s commitments complement, and are consistent  
36 with, obligations under the Convention to combat piracy. I wish to remind this  
37 Chamber that only recently, over 40 per cent of global piracy incidents occurred in  
38 the Gulf of Guinea.  
39

40 The “*Heroic Idun*” was apprehended by Equatorial Guinea and escorted to Luba  
41 Freeport, on the southwest side of Bioko Island. It was anchored here, where it  
42 remained safely for the duration of its stay in Equatorial Guinea. The crew of the  
43 “*Heroic Idun*” either remained on board the vessel or were stationed on shore at an  
44 accommodation facility, and for some days and some time at a luxury hotel in  
45 Malabo, where they were at all times treated with humanity, and provided with all  
46 requested provisions and high-quality medical care during this time. In that moment,  
47 both the Equatoguinean and Nigerian authorities conducted their own investigations  
48 into the vessel and its conduct.  
49

1 On request from Nigeria, and in compliance with the Yaoundé Code of Conduct,  
2 Equatorial Guinea transferred the vessel to Nigerian custody. This was done after  
3 entering into an agreement with Nigeria that it would respect the crew's human rights  
4 and guarantee the safety of the vessel while under investigation in Nigeria. The  
5 vessel later accepted liability to an offence under Nigeria's piracy-related legislation.  
6

7 Now, before this Chamber, the Marshall Islands attempts to paint a picture of  
8 Equatorial Guinea that sits entirely at odds with Equatorial Guinea's responsible and  
9 reasonable conduct and assistance rendered to Nigeria.  
10

11 Equatorial Guinea acted in good faith, Mr President, to the best of its ability,  
12 Members of the Special Chamber, in accordance with the United Nations Convention  
13 on the Law of the Sea and its regional commitments to maritime and security  
14 co-operation and ensured that all those within its jurisdiction as a result were treated  
15 with dignity and humanity. Much of the Marshall Islands' own evidence confirms this.  
16

17 As the Special Chamber will be aware, these events began and ended in Nigeria.  
18 Simply put, they would not have happened without Nigeria, both temporally and  
19 logically speaking. It is undisputed that Equatorial Guinea acted at the request of  
20 Nigeria for the interception, detention and ultimately the return of the vessel to  
21 Nigeria. Equatorial Guinea has always understood that Nigeria retained ultimate  
22 control over the vessel, within the framework of the Yaoundé Code of Conduct.  
23

24 Yet, the Marshall Islands chose not to commence proceedings against Nigeria  
25 despite informing Nigeria that it intended to do so. Instead, and for its own reasons,  
26 the Marshall Islands has sought to redirect its case solely against Equatorial Guinea,  
27 claiming damages of 58 million United States dollars of alleged losses. This raises a  
28 serious question of good faith.  
29

30 On 18 April of 2023, following consultations with the President of the Tribunal, the  
31 Parties concluded that the Special Agreement by which the present dispute was  
32 submitted to this Special Chamber. This demonstrates that the confidence and faith  
33 that Equatorial Guinea has in this Tribunal, and recognition of its unique position as  
34 the only permanent tribunal with the authority to ensure the proper interpretation and  
35 application of the United Nations Convention on the Law of the Sea.  
36

37 Mr President, Members of the Special Chamber, I will first briefly address an  
38 important overarching point in this dispute chamber concerning Equatorial Guinea's  
39 place in the regional West African maritime security architecture, and the  
40 implications of the Marshall Islands' positions. Second, I will briefly summarize  
41 Equatorial Guinea's first round of oral presenting in this hearing.  
42

43 I turn first to address Equatorial Guinea's position in the regional maritime  
44 architecture.  
45

46 The threat of piracy and maritime crime is one of the most serious and continuing  
47 challenges present in the Gulf of Guinea. In May 2022, just a few months prior to the  
48 events surrounding the "*Heroic Idun*" in the present case, the United Nations  
49 Security Council recognized the persistent threat of piracy, armed robbery and  
50 transnational organized crime at sea in the Gulf of Guinea, and expressed deep

1 concern about the threat that piracy, armed robbery and transnational organized  
2 crime at sea posed to international navigation, security, and sustainable  
3 development of States in the region.

4  
5 It is recognized that States in the region bear primary responsibility for countering  
6 this threat. As a result of consistent efforts by national authorities and regional  
7 co-operation, especially the ongoing operationalization of the Yaoundé Architecture  
8 Code, piracy in the Gulf of Guinea has started to design. Mr President, Members of  
9 the Special Chamber, my country's contribution is highly significant, in line with our  
10 responsibilities and obligations.

11  
12 This is because the Yaoundé Code creates, in line with obligations under the  
13 Convention, a regional framework to counter piracy and armed robbery at sea,  
14 committing States to cooperate to the fullest extent in the repression of transnational  
15 organized crime in the maritime domain. It includes, for example, responsibilities to  
16 interdict suspected ships, and to ensure apprehension and prosecution of persons  
17 responsible.

18  
19 The Yaoundé Code has established different geographic zones to coordinate joint  
20 patrols and action between the States. Equatorial Guinea sits in Zone D of the  
21 Yaoundé Code, alongside Cameroon, Gabon, and São Tomé and Príncipe. In  
22 addition, Equatorial Guinea has a close and important maritime security relationship  
23 with Nigeria, within the framework of both multilateral and bilateral agreements.

24  
25 United Nations authorities have recognized that this decline in piracy is due to the  
26 significant efforts of national authorities. In May 2022, the United Nations Security  
27 Council continued to encourage regional States to strengthen measures to combat  
28 piracy in the region and implement the Yaoundé Code, including with regard to the  
29 conduct of patrols, law enforcement at sea and land, maritime and air surveillance. In  
30 November 2022, the United Nations Secretary-General recognized the Yaoundé  
31 Architecture "as the most appropriate regional framework to coordinate and  
32 strengthen counter-maritime crime efforts in the Gulf of Guinea". Further, in June  
33 2023, the United Nations Assistant Secretary-General for Africa acknowledged that a  
34 key factor that had contributed to this decline was the ongoing operationalization of  
35 the Yaoundé Architecture.

36  
37 Indeed, the Marshall Islands and other countries have consistently benefited from  
38 the protection provided by the armed forces of Equatorial Guinea. For example:

39  
40 a) In 2020, the Equatoguinean Navy rescued the "*Methane Princess*", a Marshall  
41 Islands-flagged vessel, which had been attacked by pirates and later secured by our  
42 naval forces.

43  
44 b) Equatorial Guinea acted in 2021 to rescue and assist the "*Sea Phantom*", another  
45 Marshall Islands-flagged vessel, from pirate attack in the exclusive zone of  
46 São Tomé and Príncipe (the same zone where the "*Heroic Idun*" was apprehended  
47 in the following year).

48  
49 c) In February 2021, the "*Maria E*", a Panama-flagged vessel, was attacked by  
50 pirates and subsequently assisted by our armed forces.

1 d) In May 2019, the “Blue Merlin”, a Dutch-flagged vessel, was attacked by pirates  
2 and rescued by ships from our armed forces, with support from a vessel of the  
3 Spanish Navy.

4  
5 e) In 2024, the vessel “HANA I”, flying the flag of Tuvalu, was attacked by pirates  
6 and rescued by the Equatoguinean Navy.

7  
8 Mr President, Members of the Special Chamber, as you can see, the acts of  
9 Equatorial Guinea’s national maritime authorities are carried out in good faith, with  
10 the utmost professionalism, and in full respect of our international treaty obligations,  
11 as well as regional, bilateral, and domestic agreements.

12  
13 The Yaoundé Code and its operationalization will continue to evolve and improve  
14 over time, and Equatorial Guinea will play its part in this process, in line with the  
15 United Nations Convention on the Law of the Sea and all other international legal  
16 obligations.

17  
18 Mr President, Members of the Special Chamber, all States in West Africa know that  
19 they cannot address this problem alone and rely on joint cooperation to do so.  
20 Equatorial Guinea deeply appreciates the importance of playing its role within this  
21 regional framework and being a reliable and effective security partner.

22  
23 No State is able to conduct surveillance over such a vast maritime zone as the Gulf  
24 of Guinea. Equatorial Guinea must rely on the assessments, analyses and requests  
25 made by other States, particularly its close partners in the region. It may be  
26 necessary to act quickly to deter in response to urgent threats, in real time, often  
27 without a complete factual picture.

28  
29 Indeed, Equatorial Guinea was not then – and is not now – in a position to elaborate  
30 the factual circumstances of what happened in Nigeria and what underpinned  
31 Nigeria’s request for assistance. Equatorial Guinea did not have then, nor possesses  
32 now, the complete factual record of events relating to the “Heroic Idun”.

33  
34 The documents and evidence that Nigeria may possess, including those that explain  
35 or justify its own assessments and actions, are not on the record and have not been  
36 shared with Equatorial Guinea.

37  
38 Regarding the critical events in Nigeria, Equatorial Guinea is limited to those  
39 documents received by its own authorities and documents that the Marshall Islands  
40 has chosen to place on the record. Even this limited factual record proved that  
41 Equatorial Guinea acted in accordance with international law and the Yaoundé  
42 Code, with the urgency required to respond to a reasonable threat of piracy and in  
43 line with the principles of reasonableness and humanity.

44  
45 The factual implication of the Marshall Islands’ arguments is that Equatorial Guinea  
46 should not have responded as it did and should instead have ignored a request for  
47 security assistance from Nigeria arising from a perceived maritime security threat.

48  
49 However, this would have great implications for the West African and Gulf of Guinea  
50 region, as for all regions where maritime security relies on joint information sharing

1 and naval responses by multiple States. The legal assertions made by the Marshall  
2 Islands, if upheld, would have severe and indeed dangerous implications for  
3 international cooperation and the rule of law to counter the global scourge of piracy.  
4

5 First, these would run counter to the Yaoundé Code's well-recognized material  
6 positive impact on reducing piracy and maritime crime in the Gulf of Guinea region,  
7 including as recognized by the United Nations Security Council. For example, in May  
8 2022, just a few months before these events began, the United Nations Security  
9 Council Resolution 2634 welcomed and encouraged the full and effective  
10 implementation of the Yaoundé Code and called upon regional organizations to  
11 further operationalize the Yaoundé Code architecture.  
12

13 Second, these would create a chilling effect on lawful measures taken by States in  
14 cooperative and joint efforts against piracy and maritime crime. For West and  
15 Central Africa, this would have serious consequences for regional security, for its  
16 trade, its people, and their well-being and prosperity.  
17

18 What remains entirely absent from the Marshall Islands' claim is the proper  
19 appreciation that must be given to States in cross-border cooperation to combat  
20 piracy and the maintenance of the international rule of law in areas outside the  
21 territorial sea. The very principles that the Marshall Islands says it is seeking to  
22 uphold, including freedom of navigation, presume and rely upon unimpeded, safe  
23 and secure maritime passage, which are gravely threatened by piracy.  
24

25 Mr President, Members of the Special Chamber, Equatorial Guinea's oral  
26 presentations will proceed as follows:  
27

28 Today, Equatorial Guinea will call its two witnesses for examination before this  
29 Chamber. First, Ms Cláudia Baró Huelmo will examine Captain Juan Nsue Esono  
30 Nchama. Next, Professor Hussein Haeri KC will examine Mr Alberto  
31 Hernández Martín before then providing an overview of the factual events  
32 underpinning this dispute.  
33

34 Tomorrow, Friday, 10 October, Professor Haeri will make objections of admissibility  
35 of several of the Marshall Islands' claims, based on the *Monetary Gold* principle.  
36 Professor Dapo Akande will then address matters of jurisdiction and applicable law  
37 in the dispute. Next, Ms Floriane Lavaud and Francisco Moro Nve Obono will  
38 address objections of inadmissibility based on the failure of the Marshall Islands to  
39 exhaust local remedies.  
40

41 Later, Professor Akande will submit on the powers relating to piracy under the  
42 Convention, and address the Marshall Islands' claims based on an alleged breach of  
43 exclusive flag State jurisdiction and freedom of navigation. Professor Haeri will make  
44 submissions on considerations of humanity and the treatment of the vessel's crew  
45 while in Equatorial Guinea. Finally, Professor Akande will conclude with submissions  
46 concerning Article 225 and the principle of reasonableness.  
47

48 On Saturday, 11 October, Professor Akande will address those claims of the  
49 Marshall Islands based on alleged breaches of treaties and instruments external to  
50 the Convention, and of alleged aggravation of this dispute. Ms Lavaud will address

1 those claims of the Marshall Islands concerning the exercise of Equatorial Guinea's  
2 prescriptive jurisdiction, obligations to notify the flag State, and obligations of prompt  
3 release. Finally, Professor Haeri will address issues of causation and the quantum of  
4 damages sought by the Marshall Islands.

5  
6 Mr President, Members of the Special Chamber, it is a privilege for Equatorial  
7 Guinea to participate in these proceedings before the Special Chamber of the  
8 International Tribunal for the Law of the Sea. My delegation remains available to  
9 provide any such assistance as the Special Chamber might need and welcome any  
10 questions from the Special Chamber. We will be pleased to offer our fullest  
11 collaboration and cooperation to the delegation for the Marshall Islands in making  
12 this hearing as helpful as possible for the Special Chamber.

13  
14 To assist the Special Chamber, we have provided Judges' folders to the Registry,  
15 which contain a copy of the presentation slides to be used during Equatorial  
16 Guinea's oral statements.

17  
18 Mr President, I now respectfully request that you invite Ms Cláudia Baró Huelmo to  
19 call Equatorial Guinea's first witness.

20  
21 Thank you, Mr President, and thank you very much for your kind attention, Members  
22 of the Special Chamber.

23  
24 **THE PRESIDENT OF THE SPECIAL CHAMBER:** I thank the Agent of Equatorial  
25 Guinea for his opening statement.

26  
27 My understanding is that Equatorial Guinea wishes to call its first witness. May I ask  
28 the Agent of Equatorial Guinea to confirm this? You have already mentioned that,  
29 but could you just confirm it?

30  
31 **MR NVONO-NCÁ:** Yes, I confirm that, Mr President.

32  
33 **THE PRESIDENT OF THE SPECIAL CHAMBER:** Thank you, Your Excellency.

34  
35 Pursuant to the decision of the Special Chamber to which I referred to on Monday,  
36 the next part of this sitting shall be held *in camera*. It is estimated that this will apply  
37 until the mid-afternoon break and possibly after that.

38  
39 I, therefore, request the Registry staff to ensure that the public has left the courtroom  
40 and that the online broadcast has been interrupted. This may take a few minutes.

41  
42 *(The hearing went in camera)*

43  
44 **IN CAMERA PROCEEDINGS**

45  
46 **Part of the hearing not public in accordance with article 26 of the Statute**  
47 **and article 74 of the Rules of the Tribunal,**  
48 **pursuant to an agreement between the Parties**

49  
50 *(The sitting closed at 6.28 p.m.)*