

IT-37(a)

REPORT OF THE ITALIAN REPUBLIC PURSUANT TO PARAGRAPH 141(2)
OF THE ITLOS ORDER AND ARTICLE 95(1) OF THE RULES OF THE
TRIBUNAL, 23 SEPTEMBER 2015



*Ministero degli Affari Esteri
e della Cooperazione Internazionale*

The Hague, 23 September 2015

Your Excellency, dear President,

**Report of the Italian Republic in the Case of *The “Enrica Lexie” Incident (Italy v. India)*
Pursuant to Paragraph 141(2) of the Provisional Measures Order of 24 August 2015 of the
International Tribunal for the Law of the Sea and Article 95(1) of the Rules of the Tribunal**


1. The present Report is submitted by the Italian Republic (“Italy”) in compliance with paragraph 141(2) of the Provisional Measures Order of 24 August 2015 (“Provisional Measures Order”) of the International Tribunal for the Law of the Sea (“the Tribunal”) and Article 95(1) of the Rules of the Tribunal (“the Rules”) in the Case of *The “Enrica Lexie” Incident (Italy v. India)*.
2. In its Provisional Measures Order, the Tribunal prescribed the following provisional measures:
 - (1) Italy and India shall both suspend all court proceedings and shall refrain from initiating new ones which might aggravate or extend the dispute submitted to the Annex VII arbitral tribunal or might jeopardise or prejudice the carrying out of any decision which the arbitral tribunal may render.
 - (2) Italy and India shall each submit to the Tribunal the initial report referred to in paragraph 138 not later than 24 September 2015, and *authorizes* the President, after that date, to request such information from the Parties as he may consider appropriate.

H.E. Mr Vladimir Golitsyn
President
International Tribunal for the law of the sea
Hamburg

3. As regards proceedings in Italy, the Italian Ministry of Justice drew the Tribunal's Provisional Measures Order to the attention of the Rome Public Prosecutor, the Office that has independent constitutional responsibility for the open criminal investigation into the *Enrica Lexie Incident*. In response, the Public Prosecutor informed the Ministry of Justice that he had decided to stay the investigation into the Incident and to refrain from commencing any other connected investigation during the pendency of the Annex VII arbitral proceedings in order not to interfere with the determination of the case by the Annex VII arbitral tribunal.
4. As regards proceedings in India, following a hearing before the Special Designated Court in New Delhi on 25 August 2015 concerning the criminal proceedings in India against Sergeant Latorre and Sergeant Girone, that Court ordered as follows:

"An application dated 27.11.2013 had been filed on behalf of NIA^[1] seeking transfer of two accused into the custody of this Court. However, the proceedings have been stayed by the Order of Hon'ble Supreme Court of India. Therefore, the file is consigned to be revived as and when appropriate directions are received."
5. A copy of the Order of the Special Designated Court is attached hereto.
6. Following a hearing before the Supreme Court of India on 26 August 2015, the Supreme Court, by Order dated that day, ordered the four pending proceedings in Indian courts in this matter to "remain stayed/deferred till further orders".
7. Although no request to this effect was made by any party, the Supreme Court, in its Order of 26 August 2015, nonetheless also ordered that "the main case [be listed] on 13.01.2016 at 2.00 P.M."
8. A copy of this Order, and an associated Order of the Supreme Court of 2 September 2015 which modified the original Order, are attached hereto.
9. Given the Supreme Court's stay/deferment of the named proceedings, Italy presumes that the purpose of the hearing scheduled before the Supreme Court on 13 January 2016 is largely procedural, to inform the Supreme Court of developments in the Annex VII arbitral proceedings.

Please accept, Your Excellency, the assurances of my highest consideration.


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¹ National Investigation Agency