

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 11 JUNE 2015

2015

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 11 JUIN 2015

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11 June 2015

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

ORDER

The President of the International Court of Justice,

Having regard to Article 48 of the Statute of the Court and to Article 89, paragraphs 2 and 3, 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 on 3 December 2013, and subsequent detention, by “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”,

Having regard to the Order of 3 March 2014, by which the Court indicated the following provisional measures:

- “(1) Australia shall ensure that the content of the seized material is not in any way or at any time used by any person or persons to the disadvantage of Timor-Leste until the present case has been concluded;
.....
- (2) Australia shall keep under seal the seized documents and electronic data and any copies thereof until further decision of the Court;
.....
- (3) Australia shall not interfere in any way in communications

between Timor-Leste and its legal advisers in connection with the pending *Arbitration under the Timor Sea Treaty of 20 May 2002* between Timor-Leste and Australia, with any future bilateral negotiations concerning maritime delimitation, or with any other related procedure between the two States, including the present case before the Court” (*Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v. Australia), Provisional Measures, Order of 3 March 2014, I.C.J. Reports 2014*, p. 161, para. 55),

Having regard to the Order of 28 January 2014, whereby the Court fixed 28 April 2014 and 28 July 2014 as the time-limits for the filing, respectively, of the Memorial of Timor-Leste and the Counter-Memorial of Australia,

Having regard to the Memorial and the Counter-Memorial duly filed by the Parties within the time-limits thus fixed,

Having regard to the letters dated 17 June 2014, whereby the Parties were informed that the oral proceedings would open on 17 September 2014,

Having regard to the joint letter dated 1 September 2014, whereby the Agents of Timor-Leste and Australia requested the Court “to adjourn the hearing set to commence on 17 September 2014, in order to enable the Parties to seek an amicable settlement”, and raised the possibility that the Parties might jointly seek a variation of the Order indicating provisional measures of 3 March 2014,

Having regard to the letters dated 3 September 2014, whereby the Registrar informed the Parties that the Court had decided, pursuant to Article 54 of the Rules of Court, to grant their joint request to postpone the oral proceedings,

Having regard to the letter dated 25 March 2015, whereby the Agent of Australia indicated that his Government, “[i]n affirmation of its commitment to the peaceful settlement of the dispute” and in order “to move forward in a constructive and positive manner to put this dispute behind the Parties”, wished “to return the materials removed from the premises of Collaery Lawyers on 3 December 2013”, and requested, pursuant to Article 76 of the Rules of Court, “a modification of the second of the provisional measures” indicated by the Court in its Order of 3 March 2014,

Having regard to the Order of 22 April 2015, by which the Court

- “(1) *Authorize[d]* the return, still sealed, to Collaery Lawyers of all the documents and data seized on 3 December 2013 by Australia, and any copies thereof, under the supervision of a representative of Timor-Leste appointed for that purpose;
- (2) *Request[ed]* the Parties to inform it that the return of the documents and data seized on 3 December 2013 by Australia, and any

copies thereof, has been effected and at what date that return took place; [and]

- (3) *Decide[d]* that, upon the return of the documents and data seized on 3 December 2013 by Australia, and any copies thereof, the second measure indicated by the Court in its Order of 3 March 2014 shall cease to have effect” (*Questions relating to the Seizure and Detention of Certain Documents and Data (Timor-Leste v. Australia), Request for the Modification of the Order indicating Provisional Measures of 3 March 2014, Order of 22 April 2015, I.C.J. Reports 2015*, pp. 560-561, para. 21);

Whereas, by a joint letter dated 15 May 2015 and received in the Registry on the same day, the two Parties, in accordance with the Court’s Order of 22 April 2015, confirmed the return by Australia on 12 May 2015 of the documents and data seized on 3 December 2013;

Whereas, by a letter dated 2 June 2015 and received in the Registry on the same day, the Agent of Timor-Leste, stating that

“[f]ollowing the return of the seized documents and data by Australia on 12 May 2015, Timor-Leste successfully achieved the purpose of its Application to the Court, namely the return of Timor-Leste’s rightful property, and therefore implicit recognition by Australia that its actions were in violation of Timor-Leste’s sovereign rights”,

notified the Court that his Government wished to discontinue the proceedings;

Whereas a copy of that letter was immediately communicated to the Government of Australia, which was informed that the President of the Court, acting pursuant to Article 89, paragraphs 2 and 3, of the Rules of Court, had fixed 10 June 2015 as the time-limit within which Australia could state whether it objected to the discontinuance;

Whereas, by a letter dated 9 June 2015, and received in the Registry on the same day, the Agent of Australia informed the Court that his Government had no objection to the discontinuance of the proceedings as requested by Timor-Leste, and whereas the Agent reaffirmed the statement made in his letter dated 25 March 2015 that “Australia’s request to return the material was an affirmation of Australia’s commitment to the peaceful settlement of the dispute in a constructive and positive manner to put it behind the Parties”, and added that “[n]o other implication should be drawn from Australia’s actions”;

Places on record the discontinuance by the Democratic Republic of Timor-Leste of the proceedings instituted by its Application filed on 17 December 2013; and

Directs that the case be removed from the List.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this eleventh day of June two thousand and fifteen, 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) Ronny ABRAHAM,
President.

(Signed) Philippe COUVREUR,
Registrar.

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