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Title: The Minister of External Affairs laid a statement on return of two Italian Marines to India accused in the killing of two Indian fishermen.

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THE MINISTER OF EXTERNAL AFFAIRS (SHRI SALMAN KHURSHEED): Madam, I seek your permission to lay the paper. I beg to lay the paper and I want to bring to the notice of the House that the marines are now coming back....(*Interruptions*)

I rise to inform the House on recent developments on the issue of return of two Italian marines to India accused in the killing of two Indian fishermen.

In response to concerns raised by the Members of the House, Hon'ble Prime Minister had made a statement on 13 March 2013 on the matter regarding the decision by Italy not to send back two Italian marines accused in the killing of two Indian fishermen. Prime Minister had stated, *inter alia*, that the Government has insisted that the Italian authorities respect the undertaking they have given to the Hon'ble Supreme Court and return the two accused persons to stand trial in India. The Minister for Parliamentary Affairs Shri Kamal Nath had also stated during the Zero Hour on 13 March 2013 in the Rajya Sabha that all issues raised by Members in this matter will be addressed and answered at a time and in a manner which the Chair may decide.

It would be recalled that the Supreme Court in its Order of 22 January 2013 allowed an application by the two Italian marines, Massimiliano Latorre and Salvatore Girone and permitted them to travel to Italy and to remain in the Republic of Italy for a period of four weeks. The Order, *inter alia*, stated that the marines shall travel to Italy, remain in Italy and return to India under the care, supervision and control of the Italian Republic. On return, they shall once again be bound by the conditions contained in the Order passed by the court on 18 January 2013. The Republic of Italy gave an undertaking to the court that the Italian marines will be kept under its constant custody, supervision and control during this period and took full responsibility for securing the return of the Italian marines to New Delhi on or before the expiry of the period permitted by the court.

Earlier the Supreme Court in its order dated 18 January 2013, in a writ petition filed by the Italian marines and the Republic of Italy raising several jurisdictional issues, had ruled, *inter alia*, that India has jurisdiction, the matter will be put before a Special Court to be set up by the Union of India in consultation with the Chief Justice of India to try this case and to dispose of the same in accordance with the provisions of the Maritime Zones Act, 1976, the Indian Penal Code, the Code of Criminal Procedure and the provisions of UNCLOS 1982, where there is no conflict between the domestic law and UNCLOS 1982.

A communication was received by the Ministry of External Affairs from the Embassy of Italy in New Delhi late in the evening of 11 March 2013 conveying, *inter alia*, that Italy deems that there is an existing controversy with India concerning the applicability of the provisions of the United Nations Convention on the Law of the Sea of 1982 and the general principles of international law applicable to the Enrica Lexie incident. For these reasons, it requested the Indian Government to set up a meeting at diplomatic level in order to reach an amicable solution of the said controversy, and conveyed that "since a controversy between the two States has been established, the two Italian Marines, Mr. Latorre and Mr. Girone, will not return to India on the expiration of the permission granted to them".

On 14 March 2013, the Attorney General of India filed an Affidavit before the Hon'ble Supreme Court conveying these developments in this matter to the Hon'ble Court. The matter was heard by Hon'ble Supreme Court on 18 March 2013. The next hearing is scheduled for 2 April 2013.

Our position has been conveyed in clear terms to the Italian Government. The Supreme Court has affirmed that India has the jurisdiction to try the case even as it has given another opportunity vide its judgement of 18 January, to the petitioners to raise the issue of jurisdiction by adducing evidence before the Special Court to be set up for trial of this case. The Italian requests for diplomatic or expert level meetings to consider the issue of jurisdiction or referring the case to arbitration or any other judicial mechanism cannot be accepted. I have made it clear that the Republic of Italy is bound to honour the solemn commitment that it has made to the Supreme Court to ensure the return of the marines to India within the time period permitted by the Supreme Court.

Following this, we were informed through a diplomatic approach that the Government of Italy would be willing to send the two marines back to India as per its commitment. It sought from India clarifications regarding the conditions applicable to the marines on their return and the provisions regarding the death penalty that could be applicable in this case which was an Italian concern. Notwithstanding the pending proceedings, the Government has informed the Italian Government that the two marines will not be liable for arrest if they return within the timeframe laid down by the Supreme Court of India, and shall once again be bound by the conditions contained in the order passed by the Court on 18<sup>th</sup> January 2013; and that, according to well settled Indian jurisprudence, this case would not fall in the category of matters which

attract the death penalty, that is to say the rarest of rare cases. Therefore, there need not be any apprehension in this regard.

These clarifications will also be placed before the Hon'ble Supreme Court appropriately. Following the clarification, we have a confirmation that the Italian Government is arranging for the return of the two Italian marines within the timeframe permitted by the Supreme Court.

I am glad that the matter has been brought to a satisfactory conclusion and the trial of the marines will now proceed as per the directions of the Supreme Court in its order of 18 January 2013.

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