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Title: The Minister of Finance, Minister of Corporate Affairs and Minister of Information and Broadcasting laid a statement regarding order of arbitral tribunal in the Enrica Lexie incident.

THE MINISTER OF FINANCE, MINISTER OF CORPORATE AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRI ARUN JAITLEY):
Madam, I rise to make a statement on behalf of my colleague the External Affairs Minister Shrimati Sushma Swaraj.

I rise to make a statement on the order of the Arbitral Tribunal constituted under Annex VII of the United Nations Convention on the Law of the Sea concerning the dispute between India and Italy on the Enrica Lexie incident. The order, in response to Italy's request for provisional measures, was given yesterday by the Arbitral Tribunal at The Hague. The House has been following this matter since the incident in 2012 with considerable attention. It is, therefore, only fitting that we should take the House into confidence regarding these recent developments.

As hon. Members are aware, the incident in question happened in February 2012 when Italian naval personnel on board the MV Enrica Lexie opened fire on an Indian fishing vessel, St. Antony, resulting in the death of two fishermen. The two Italian marines, Sergeants Latorre and Girone, who were charged with this killing were detained by the police and the case against them is presently for bail in the Supreme Court.

This case has been contested in various courts since 2012 and the two Italian Marines involved, in 2012 itself obtained bail. The bail conditions have been relaxed on numerous occasions. India's jurisdiction in this case has been challenged by Italy since the occurrence of the incident. Members would recall that we even had a situation where the sovereign undertaking given by Italy to the Supreme Court of India was sought to be repudiated.

In July 2015, Italy invoked international arbitration on this matter under the United Nations Convention on the Law of the Sea. As a State Party to the Convention, we were obliged to join such proceedings. An Annex-VII Arbitral Tribunal was accordingly constituted that comprised five members, from Russia, Republic of Korea, Jamaica, Italy and India. An initial request for provisional measures was made by Italy even before the constitution of this Arbitral Tribunal when it approached the International Tribunal of the Law of the Sea (ITLOS). It sought an immediate end to the restrictions on the liberty, security and movement of the two Marines and for India to refrain from taking or enforcing any judicial or administrative measures against them, and from exercising any other form of jurisdiction over the incident. The ITLOS order did not accept Italy's plea but pronounced that all court proceedings should be suspended in the two countries and no new proceeding should be initiated.

Since India contested this Italian plea before the ITLOS successfully, this time Italy sought more limited relief from the Annex-VII Arbitral Tribunal on humanitarian grounds. It did so essentially on the argument that since the court proceedings in India were stayed, no purpose would be served by the continued presence in India of Sergeant Girone. This too was contested by India on the ground that there is no change in circumstances or urgency. It was on this matter that the Arbitral Tribunal issued its order yesterday.

The Tribunal noted that while Italy had earlier made a far reaching request that, if granted, would have removed Sergeant Girone entirely from the reach of India's legal system, this time Italy was only requesting India to relax the bail conditions to enable him to return to Italy. In doing so, Italy was prepared to accept that he remained under the jurisdiction of the Courts of India. In essence, they proposed to change the physical location of Sergeant Girone's bail without prejudice to the authority of India's courts.

Let me make clear that the authority of the Supreme Court has been affirmed, not questioned. The issue of jurisdiction, which is at the heart of the case, is yet to be argued before the Tribunal. And even the limited relief given on entirely humanitarian considerations has been made contingent on the clear cut undertakings provided by the Italian Government that Sergeant Girone will return to India in case Indian jurisdiction is established.

Now, let me come to the order that the Arbitral Tribunal unanimously issued as a provisional measure. It prescribed that India and Italy would approach the Supreme Court of India for relaxation of the bail conditions of Sergeant Girone. While remaining under the authority of the Supreme Court of India, he may return to Italy for the duration of the present arbitration. The Tribunal confirmed Italy's obligation to return him to India in case it was found that India had jurisdiction over him in respect of the incident.

The Tribunal has left it to the Supreme Court of India to fix the precise conditions of Sergeant Girone's bail. These could include, inter alia, him reporting to an authority in Italy designated by our Supreme Court in intervals to be determined by it, surrendering his passport to Italian authorities and not leaving Italy without the permission of our Supreme Court. Further, Italy shall apprise our Supreme Court of his situation every three months.

I would like to inform the hon. Members that the Tribunal also placed on record undertakings given by Italy in regard to Sergeant Girone's return to India. India is assured, unequivocally and with legally binding effect, that Sergeant Girone will return to India in case of the Tribunal finding that we have jurisdiction over him in respect of the incident concerned. It noted that Italy's undertakings constitute an obligation binding upon it under international law. It has also confirmed that Italy is under an obligation to return Sergeant Girone to India if the Tribunal finds that India has jurisdiction over the Marines.

The Tribunal considers that provisional measures should not alter the situation where the Supreme Court of India exercises jurisdiction over Sergeant Girone. It has also noted that while Sergeant Girone may return to Italy during the present arbitration, during all this period he would remain under the authority of the Supreme Court of India.

Members may be assured that in due course, the Government will approach the Hon. Supreme Court for its directions on this matter. We see the Tribunal's order not just as a recognition of India's consistent positions and the key arguments but also as an affirmation of the authority of the Supreme Court of India.

Let me conclude by making the Government's position on this case amply clear. We strongly believe that India has jurisdiction in this case and this position has been and will be our unwavering stance. As a nation that respects international law, we will pursue our case vigorously before the

arbitral tribunal. The Government will fight for the rights of the victims of this incident and are confident in obtaining justice for them and their families. I am confident that we have the full support of the hon. House in this endeavour.

HON. SPEAKER: The House shall now take up 'Zero Hour'.

...(Interruptions)

HON. SPEAKER: No question on this. Shri Baijayant Panda.

...(Interruptions)

माननीय अध्यक्ष : इस पर पर पूछ नहीं होता है।

...(व्यवधान)

माननीय अध्यक्ष : स्टेटमेंट पर पूछ नहीं होता है।

...(व्यवधान)

HON. SPEAKER: You give a notice. Give a proper notice, not like this.

...(Interruptions)

HON. SPEAKER: It is not the practice here. I cannot help it.

...(Interruptions)

HON. SPEAKER: I will not allow anybody. You give proper notice. It is not the practice here. I am sorry.

...(Interruptions)

HON. SPEAKER: Only whatever Shri Baijayant Panda says will go on record.

...(Interruptions) ❗ *

HON. SPEAKER: This is not the way. You know it better. Only whatever Shri Baijayant Panda says will go on record.

...(Interruptions) ❗ *

HON. SPEAKER: Shri Panda, do you not want to say anything?

SHRI BAIJAYANT JAY PANDA (KENDRAPARA): Madam, thank you for giving me this opportunity to speak on this important issue which kills one million Indians every year....(Interruptions)

HON. SPEAKER: This is not the practice. I will not allow you.

THE MINISTER OF URBAN DEVELOPMENT, MINISTER OF HOUSING AND URBAN POVERTY ALLEVIATION AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI M. VENKAIAH NAIDU): Kharge ji is a very senior Member. There is neither such a rule nor practice also. That is the end of the matter. He knows it.

HON. SPEAKER: I know it. I will not allow them.

...(Interruptions)

HON. SPEAKER: Panda ji, you may continue. Only your statement is going on record.