



Heroic Idun: What we can learn from the landmark ITLOS ruling

Following the International Tribunal for the Law of the Sea's judgment in the M/T Heroic Idun case, Gard looks back on a dispute that truly tested the fundamental principles of international maritime law. The ruling offers important lessons – on freedom of navigation, crew welfare, and the value of early legal support when vessels become caught in complex geopolitical disputes.

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On 27 May 2026, a Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) issued its judgment in the *M/T Heroic Idun (No. 2)* case between the Republic of the Marshall Islands and the Republic of Equatorial Guinea. The verdict fully vindicated the positions of both the Marshall Islands as the flag state and Gard as the vessel's P&I Club.

This article provides a recap of the case, and highlights some of the key lessons learned as seen from a legal and P&I insurance perspective.

Background

The case concerned the *M/T Heroic Idun*, a 336-metre VLCC which, at the material time, was sub-chartered to BP Shipping Ltd and had 26 crew on board.

On 7 August 2022, the vessel approached the Nigerian coast to load crude oil. As the necessary authorisations had not yet been received, however, the vessel remained some 10 nautical miles off the Akpo Offshore Terminal. The following evening, it was approached by a Nigerian navy vessel, which instructed it to proceed to the Bonny Fairway Buoy. The navy vessel's AIS was switched off and, in the absence of clear instructions, the Master moved further offshore, concerned that the approaching vessel might be involved in piracy.

The *M/T Heroic Idun* subsequently moved away from Nigerian waters and entered the EEZs of Equatorial Guinea and São Tomé and Príncipe. Nigerian authorities then requested Equatorial Guinea's assistance, alleging that the vessel was involved in illegal bunkering and had raised a false piracy alarm.

On 12 August 2022, an Equatoguinean naval vessel intercepted the *M/T Heroic Idun* in the EEZ of São Tomé and Príncipe and ordered it to an Equatoguinean port, where the vessel and crew were detained. In September 2022, Equatorial Guinea imposed a EUR 2 million fine on the Master for alleged unlawful entry into its "jurisdictional waters". The fine was paid, but the vessel and crew were later transferred to Nigeria following contacts between the two States.

The vessel reached Nigeria on 12 November 2022, where the crew ended up being held for several months. Finally, after a plea bargain, Nigeria dropped the charges against the crew, and the *Heroic Idun* was finally released on 27 May 2023. The 26 crew members had then been held in detention for 288 days.

The ITLOS case

The Marshall Islands brought proceedings against Equatorial Guinea under the United Nations Convention on the Law of the Sea (UNCLOS), seeking compensation for the unlawful interception, detention and transfer of the vessel and crew. The claim, initially put at around USD 57 million, was later reduced to approximately USD 15 million. In April 2023, the parties agreed to refer the case to a Special Chamber of ITLOS.

In the first instance, the Special Chamber found that a dispute existed between the Marshall Islands and Equatorial Guinea, and that the admissibility of the Marshall Islands' claims was not precluded by reference to, or application of, the Monetary Gold principle. The Chamber held that Equatorial Guinea's conduct could be assessed independently of Nigeria's conduct, notwithstanding Nigeria's involvement in the events giving rise to the case.

The Special Chamber found that the interception, and all enforcement measures taken by Equatorial Guinea against the *M/T Heroic Idun* with a causal connection to the interception, were contrary to international law and constituted “ *a continuing wrongful international act* ” on the part of Equatorial Guinea.

In its landmark ruling, the Special Chamber unanimously found that Equatorial Guinea breached the foundational principles of freedom of navigation and exclusive flag State jurisdiction, as enshrined in Articles 87(1), 90 and 92(1) of the UNCLOS. In this regard, the Chamber decisively rejected Equatorial Guinea's contention that the arrest of the *M/T Heroic Idun* was justified on suspicion of piracy under Articles 101 and 105 of UNCLOS. The Special Chamber emphasized, that piracy represents a narrow and carefully circumscribed exception to the freedoms of the high seas - one that could not be invoked in the present case, given that the evidence relied upon by Equatorial Guinea provided “ *no support for the suggestion that the M/T Heroic Idun was suspected of engaging in piracy* ”. The Special Chamber also observed that the ensuing detention of the vessel and its crew was a continuing wrongful act connected to the unlawful apprehension.

The Special Chamber further held that regional agreements designed to suppress unlawful activities at sea - such as the Yaoundé Code, upon which Equatorial Guinea placed considerable reliance - do not confer upon their signatories powers with respect to vessels flying the flag of non-signatory States beyond those already provided for under UNCLOS.

The Special Chamber also unanimously upheld the position of the Marshall Islands and Gard with respect to the fine of over EUR 2 million imposed by Equatorial Guinea against the Master of the *M/T Heroic Idun* for failing to seek authorisation to enter its exclusive economic zone. That fine was found to be contrary to international law, and in particular to Articles 56(1), 58, 87, 89 and 92(1) of UNCLOS. The Special Chamber stated unequivocally that there is “ *no foundation upon which the Convention could be interpreted as permitting a coastal State to take enforcement measures on the basis of non-compliance with national law requiring authorisation for entry into the exclusive economic zone and the display of a physical flag while navigating therein*” . The Special Chamber consequently ordered Equatorial Guinea to compensate the Marshall Islands for the entire amount of the unlawful fine, plus interest.

The Special Chamber concluded that the vessel’s transfer to Nigeria had been unlawful for being done ‘ *without consideration of due process of law*’ .

The judgment further confirmed that considerations of humanity apply with full force at sea. The Special Chamber gave explicit recognition to the mistreatment suffered by the crew of the *M/T Heroic Idun* at the hands of Equatorial Guinea. Having regard in particular to the conditions and duration of their detention, the denial of due process, the violation of the rights of the detainees, and the physical and mental suffering caused by the acts and omissions of Equatorial Guinea, the Special Chamber awarded compensation in excess of USD 4 million in moral damages. This is a powerful affirmation that the human dimension of law of the sea violations will not pass unrecognised by law of the sea tribunals.

At Gard, we are extremely gratified that the Special Chamber gave concrete effect to its findings by awarding the Marshall Islands an overall sum in excess of USD 14 million plus interest in compensation for Equatorial Guinea’s unlawful conduct - the largest sum ever awarded by ITLOS, and indeed in any UNCLOS dispute settlement proceeding.

Why it matters to the industry

This decision sends an important message to States that may be tempted to disregard the basic rules of the international law of the sea, or to take coercive action against vessels and their crews without proper legal basis. It is a clear reminder that the sea remains open and free to all, and that the core UNCLOS principles of freedom of navigation and exclusive flag State jurisdiction cannot simply be set aside. Regional security concerns may be important, but they do not displace those fundamental rules. The judgment also makes clear that unlawful detention can give rise to very significant compensation exposure. Importantly, it recognises, in concrete financial terms, the hardship suffered by seafarers who are wrongfully detained in these circumstances.

For Gard's Members and clients, the wider importance of the case is clear: The judgment reinforces the legal protections on which international shipping relies, and it sends a strong message that crew members must not be treated as collateral damage when maritime disputes arise. It is a landmark award not only because of the level of compensation, but because it recognises both the legal violations and the human cost of unlawful State action.

In that sense, the *M/T Heroic Idun* case is about more than legal principles. It is a reminder that the maritime order created by UNCLOS exists to protect trade, safety and people alike. The Tribunal's recognition of the crew's unacceptable hardship is therefore a particularly important aspect of the judgment.

Gard's involvement in this matter from the very outset reflects our unwavering commitment to standing alongside shipowners and crews at every stage – and especially when it matters the most.

Special thanks to Owners; MI's legal team; Twenty Essex team led by Sir Danel Bethlehem, Penelope Neville, Paolo Busco, Courtney Crafton, Manuel Casas and Jiahui Huang; and the Reed Smith team led by Richard Gunn.

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