Ladies and gentlemen,

Thank you for joining me. Today marks 25 years to the day since the International Tribunal for the Law of the Sea held its inaugural meeting in Hamburg. On the occasion of the twenty-fifth anniversary of the Tribunal, I wish to reflect on the diversity of procedure before the Tribunal as well as the significant contribution of the Tribunal to the development of the law of the sea.

The agreement of States on the compulsory dispute-settlement system incorporated in the United Nations Convention on the Law of the Sea was unprecedented in scale and included several novel elements. In accordance with this system, the Tribunal has compulsory jurisdiction in two instances: proceedings relating to the prompt release of vessels and crews and proceedings for the prescription of provisional measures pending the constitution of an arbitral tribunal. The Seabed Disputes Chamber also has compulsory jurisdiction over disputes with respect to activities in the Area. Over the years, the Tribunal has applied and given substance to these various innovative procedures created under the Convention.

Proceedings for the prompt release of vessels and crews upon the posting of a reasonable bond are unique and may, in some respects, be compared to diplomatic protection, in that they allow a dispute concerning a private vessel to be brought to the level of inter-State proceedings. In accordance with article 292 of the Convention, an application for the prompt release of a vessel which has been detained in alleged non-compliance with the provisions of the Convention concerning the prompt release of vessels may be made by the flag State of the vessel, or on its behalf, by a person duly authorized by the flag State. Since the first application for the prompt release of a vessel and its crew was submitted in 1997, that concerning the *M/V “Saiga”*, the Tribunal has developed comprehensive jurisprudence on prompt release, in particular on the relevant factors for determining a reasonable bond or other financial security.

Also of note is the development of provisional measures. The Tribunal, in common with other judicial bodies tasked with the settlement of disputes under Part XV of the Convention, has the power to prescribe provisional measures in cases

pending before it (article 290, paragraph 1, of the Convention). In developing its jurisprudence on provisional measures, the Tribunal has drawn on the practice of the International Court of Justice ("the ICJ"), while at the same time being cognizant of the differences between the Statute of the Tribunal and that of the ICJ in this regard. In particular, article 290 of the Convention provides that the Tribunal may prescribe provisional measures to prevent serious harm to the marine environment. In this respect it may be considered that the Tribunal is called upon to act not only to preserve the rights of the parties but also to protect and preserve the marine environment as a whole.

The Tribunal is also empowered to prescribe provisional measures in respect of disputes submitted to an Annex VII arbitral tribunal, pending the constitution of that arbitral tribunal (article 290, paragraph 5, of the Convention). The Tribunal has ordered provisional measures in eight such disputes submitted to Annex VII arbitration, most recently in respect of the *M/T "San Padre Pio" (Switzerland* v. *Nigeria).*

In some of its first decisions on provisional measures, the Tribunal made important contributions to the legal regime on the protection and preservation of the marine environment. By way of example, in its 1999 Order on provisional measures in the *Southern Bluefin Tuna* cases, the Tribunal found that "the conservation of the living resources of the sea is an element in the protection and preservation of the marine environment". In the same Order, the Tribunal relied on the notion of "prudence and caution" to ensure that effective conservation measures are taken to prevent serious harm to the stock of southern bluefin tuna. Building on this statement, in its 2011 Advisory Opinion, the Tribunal's Seabed Disputes Chamber recognized that a trend had been initiated towards making the precautionary approach part of customary international law.

It may be noted that several more recent requests for provisional measures concern the release of vessels, and that amongst the provisional measures that have been prescribed by the Tribunal is the release of a vessel, which may include posting of a bond or other financial security. The Tribunal has also prescribed other measures, including the obligation to exchange information and to enter into

consultations. The Tribunal has thus tailored the provisional measures procedure to the needs of the parties, and used it as a tool to bring about the settlement of disputes.

In proceedings on the merits, the approach of the Tribunal has been consistent, while at the same time innovative when necessary. From its initial case law on the arrest and detention of vessels and crews, in which the Tribunal provided valuable clarification on the issue of the nationality of ships and developed the notion of “ship as a unit”, the Tribunal has gone on to deal with important aspects of resource exploitation, whether fisheries or the non-living resources of the Area, maritime delimitation, or the protection and preservation of the marine environment.

In 2012, the Tribunal delivered a ground-breaking judgment in the dispute concerning the delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal. The Tribunal was the first international judicial institution to delimit the boundary between the parties’ respective continental shelves beyond 200 nautical miles. The approach of the Tribunal, which distinguishes between the functions of delimitation and delineation, was subsequently followed by other judicial bodies when dealing with the issue of the delimitation of the continental shelf beyond 200 nautical miles.

With regard to the Area, in the 2011 Advisory Opinion I previously mentioned, the Seabed Disputes Chamber provided important clarification concerning the exploration and exploitation of the mineral resources of the deep seabed. It set out the obligations of sponsoring States and established the conditions required for their liability to arise. Subsequently, the Tribunal itself delivered an advisory opinion making a significant contribution with regard to the obligations and liability of flag States whose vessels are engaged in illegal, unreported and unregulated fishing activities.

It is not possible for me to cover all the contributions which the Tribunal has made to the development of the law of the sea in my short remarks today, but I hope I have nevertheless demonstrated some of the ways in which the Tribunal, building on the foundations set out in the Convention, has, over the first twenty-five years of

its existence, applied and developed a diverse range of procedures in order to assist the States Parties to the Convention with the settlement of disputes.

I am also happy to announce that the Tribunal has released an updated *Digest of Jurisprudence* to mark its twenty-fifth anniversary. This publication provides detailed information on the jurisprudence of the Tribunal and on its key contributions to the development of the law of the sea and is available on the website of the Tribunal.

Before concluding, I wish to provide some thoughts on the future role of the Tribunal. Given the increased attention that the international community is paying to ocean governance, I am confident that the Tribunal will not only remain relevant in the years to come, but that it will be called upon to pronounce on law of the sea issues that will have a bearing on humanity as a whole. Issues related to sea-level rise, the potential environmental risks posed by the exploration of the non-living resources of the Area as well as by new uses of the ocean, and the overexploitation of marine living resources present formidable challenges.

The Tribunal remains mindful of its responsibility as a custodian of the United Nations Convention on the Law of the Sea. As it has done in the first 25 years of its existence, the Tribunal stands ready to adapt, to remain flexible, and to ensure stability and predictability for States parties for the next quarter of a century.

I thank you for your attention and for your interest in the International Tribunal for the Law of the Sea.