



INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
TRIBUNAL INTERNATIONAL DU DROIT DE LA MER

Press Release

PRESIDENT WOLFRUM ADDRESSES LEGAL ADVISORS IN NEW YORK

The President of the International Tribunal for the Law of the Sea, Judge Rüdiger Wolfrum, addressed the Informal Meeting of Legal Advisors of Ministries of Foreign Affairs in New York on 29 October 2007.

President Wolfrum first focussed on the judicial work of the Tribunal in 2007 and presented the main legal issues which were raised by the two applications for prompt release of fishing vessels submitted to the Tribunal by Japan against the Russian Federation in July 2007. With regard to the *"Hoshinmaru" Case*, where the alleged offence involved the inaccurate reporting of the species caught, the President highlighted the Tribunal's statement that "[m]onitoring of catches, which requires accurate reporting, is one of the most essential means of managing living resources". He recalled that the Tribunal had considered that the amount of a bond should be "proportionate" to the gravity of the alleged offences rather than set on the basis of the maximum penalties applicable and that it had set a significantly lower bond than the amount requested by the detaining State. The President noted the parties' prompt compliance with the Tribunal's decision.

The President reviewed the issues concerning the relation between international procedures and proceedings under domestic law that arose in the *"Tomimaru" Case*, where the vessel had been confiscated according to the decisions of the domestic fora. In its judgment, the Tribunal had considered the effects of the confiscation of the vessel and the question as to whether the confiscation rendered the application without object, concluding that the decision of the Supreme Court of the Russian Federation did indeed render the Application without object. The President underlined the Tribunal's statement that the confiscation of a vessel does not result *per se* in an automatic change of the flag or in its loss, and its view that the confiscation of a fishing vessel must not be used in such a way as to upset the balance of the interests of the flag State and of the coastal State as established in the Convention. The President noted that the Tribunal in this case had to assess the extent to which national judicial decisions were relevant for making a determination under article 292 of the Convention.

The President dedicated the second part of his statement to the harmonization of jurisprudence, underlining the simbiotic nature of the jurisprudence of the Tribunal and that of the International Court of Justice, giving a number of examples where the Tribunal has cited decisions of the Court in applying rules of international law and stating that "this demonstrates a constructive manner of maintaining consistency in international law and reinforcing the necessary coherence between general

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international law and the law of the sea". The President expressed his belief that mutual respect among international courts and tribunals is a way of avoiding fragmentation of international law and of overcoming conflicts of jurisdiction.

The President then gave his attention to the advisory function of the Tribunal, deeming it a significant innovation in the international judicial system, and emphasising its potential for States as an interesting alternative for conflict resolution. He concluded his remarks stating that "[a]lmost 25 years after the adoption of the Convention, it is not surprising that new economic and scientific uses of the seas continue to increase but their legal status sometimes remains controversial. New developments require new legal answers which may be given by the Tribunal through its advisory function."

The text of the President's statement may be found on the website of the Tribunal.

The press releases of the Tribunal, documents and other information are available on the Tribunal's websites: <http://www.itlos.org> and <http://www.tidm.org> and from the Registry of the Tribunal. Please contact Ms Julia Ritter:
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