



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

Press Release

PRESIDENT HEIDAR ADDRESSES THE UNITED NATIONS GENERAL ASSEMBLY

Judge Tomas Heidar, President of the International Tribunal for the Law of the Sea, addressed the plenary of the seventy-eighth session of the United Nations General Assembly yesterday during its consideration of agenda item 75(a) “Oceans and the law of the sea”.



UN Photo/Evan Schneider

First addressing organizational matters, the President reported on the elections held by the Meeting of States Parties in June 2023, at which he was re-elected and six new judges were elected (Ms Frida María Armas Pfirter of Argentina; Mr Hidehisa Horinouchi of Japan; Mr Thembile Elphus Joyini of South Africa; Mr Osman Keh Kamara of Sierra Leone; Mr Konrad Jan Marciniak of Poland; and Mr Zha Hyoung Rhee of the Republic of Korea). He informed the Assembly that on 2 October 2023 he had been elected President by the judges, with Judge Neeru Chadha (India) elected Vice-President and Judge David Attard (Malta) President of the Seabed Disputes Chamber.

The President then provided delegates with an update on the judicial activity of the Tribunal, informing them about developments in three cases. With regard to the *Dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)*, he informed the Assembly that the Special Chamber constituted to deal with the dispute delivered its Judgment on the merits in April 2023. Concerning the delimitation of the exclusive economic zone and the continental shelf within 200 nautical miles, the President highlighted that the Judgment of the Special Chamber is remarkable in that it concerned delimitation between two archipelagic States. The President further stressed that the Judgment provided a rare opportunity to elucidate various features of the legal regime of archipelagic States, including archipelagic baselines and drying reefs, and laid out important details on the use of a low-tide elevation as a relevant circumstance in the second stage of applying the equidistance/relevant circumstances method.

With regard to the delimitation of the continental shelf beyond 200 nautical miles, the President noted the Special Chamber's conclusion that, given the significant uncertainty, it was not in a position to determine the entitlement of Mauritius to the continental shelf beyond 200 nautical miles in the Northern Chagos Archipelago Region. In this context, he referred to the relevance of the significant uncertainty standard and stressed the meticulous manner in which the Special Chamber had applied this standard in the case after engaging in a careful assessment of the legal arguments as well as the supporting evidence presented by the Parties. The President highlighted that this standard "serves to minimize the risk that the CLCS might later take a different position regarding entitlements in its recommendations from that taken by a court or tribunal in a judgment" (see paragraph 433 of the Judgment), and that caution was further warranted in the case by the risk of prejudice to the interests of the international community in the international seabed area and the common heritage principle (see paragraph 453 of the Judgment). He concluded that the Judgment of the Special Chamber "provided a well-reasoned and prudent blueprint that other international courts and tribunals may wish to follow, in appropriate circumstances, when dealing with the question of entitlement to the continental shelf beyond 200 nautical miles."

Concerning the *M/T "Heroic Idun" (No. 2) Case (Marshall Islands/Equatorial Guinea)*, the President informed delegates that by agreement of both Parties, the arbitral proceedings initially filed by the Marshall Islands had been transferred to a special chamber of the Tribunal. In this regard, he noted that the President of the Special Chamber, by Orders of 19 May 2023 and 16 November 2023, had fixed the time-limits for the filing of the Memorial and Counter-Memorial.

The President further informed delegates of developments in the *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, noting that the public hearing in this historic case was concluded in September with 33 States Parties and four intergovernmental organizations participating. He added that the Tribunal was now deliberating on the case and would deliver its advisory opinion in due course.

Turning to the capacity-building work of the Tribunal, the President expressed gratitude to the Institute for Peace and Development at Côte d'Azur University, which co-organized the Tribunal's regional workshop in June 2023 in Nice, France, and

thanked the Republic of Cyprus, France and the Korea Maritime Institute for their financial support. He also expressed gratitude to the Republic of Korea for sponsoring and assisting in the organization of the second ITLOS Workshop for Legal Advisers, which took place at the Tribunal in July 2023 and was attended by participants from 21 African States. In addition, the President mentioned the 2023 Summer Academy of the International Foundation for the Law of the Sea, held once again on the premises of the Tribunal, as well as the ongoing internship programme and the capacity-building and training programme in international dispute settlement in the law of the sea, for which he acknowledged the Korea Maritime Institute, the Ministry of Foreign Affairs of the People's Republic of China and the Nippon Foundation of Japan for their valuable support.

The President closed his statement with reference to the role of the Tribunal within the dispute settlement system of the newly adopted "BBNJ Agreement". He highlighted that the Tribunal remains one of the four compulsory procedures that States may select for the adjudication of their disputes under the Agreement, observing that the Tribunal, given its unique status as a specialized law of the sea adjudicatory body, is a highly attractive option for the sound and efficient resolution of BBNJ-related disputes. At the same time, the President pointed out that the BBNJ Agreement greatly enhanced the role of the Tribunal through its conferral of advisory jurisdiction. In this regard, he stated that advisory opinions rendered by the Tribunal could ensure that the Conference of the Parties to the Agreement would be able to conduct its activities effectively, while keeping within the legal limits set by the BBNJ Agreement.

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