



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

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**SPEECHES DELIVERED AT THE INAUGURAL SESSION OF THE TRIBUNAL
ON 18 OCTOBER 1996**

On 18 October 1996 the Judges of the International Tribunal for the Law of the Sea took their oath of office. The twenty-one Judges made their solemn declarations at a special inaugural session of the Tribunal in the stately Great Hall of Hamburg's City Hall.

The invitees were addressed by Mr. Hans Corell, the Legal Counsel of the United Nations, Dr. Boutros Boutros-Ghali, the Secretary-General of the United Nations, Dr. Klaus Kinkel, the German Federal Minister of Foreign Affairs, Dr. Henning Voscherau, the First Lord Mayor of the Free and Hanseatic City of Hamburg, and Dr. Thomas A. Mensah, the President of the Tribunal. Their speeches are reprinted here in order of delivery. The Registry does not accept responsibility for any errors or omissions contained herein.

Mr. Corell:

The International Tribunal for the Law of the Sea is now for the first time in open session: the inaugural session of the Tribunal.

Since the dawn of time, men and women have sailed the seas and oceans, harvested their resources and enjoyed the pleasures of the coastal waters and beaches. Since the very early stages of civilisation, efforts have been made to regulate the different uses of the seas and in later years also to protect its resources and the marine environment. Gradually there has emerged an international law, customary as well as treaty law, which has become known as the law of the sea.

However, it was not until a few decades ago that the content of this law was discussed at the global level with the participation of a growing number of independent states, representing all continents of the world. The outcome of these deliberations reached an important stage when, after many years of negotiations, the United Nations Convention for the Law of the Sea was adopted on 30 April 1982, fourteen years ago. The

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Convention, which was opened for signature at Montego Bay, Jamaica, on 10 December 1982, sets out a comprehensive framework regulating the many different uses of the seas. In 1994 the General Assembly of the United Nations adopted an Agreement Relating to the Implementation of Part XI of the Convention. This Agreement is today an integral part of the Convention which is often described as a Constitution for the Oceans. As of today, 107 States have become parties to the Convention and other States are preparing to do so.

The drafters of the Convention foresaw that there would be differences or even disputes concerning its interpretation and application. A dispute is not necessarily a negative phenomenon; a State party is always entitled to form an opinion on how international law should be interpreted or applied in a particular case. Another State party may form a contrary opinion. In such situations, what matters is the way in which disputes are settled.

In order to secure the peaceful settlement of disputes relating to the law of the sea, the Convention contains extensive jurisdictional provisions, including the establishment of the International Tribunal for the Law of the Sea. The Tribunal consists of twenty-one independent members, elected from among persons enjoying the highest reputation for fairness and integrity and of recognised competence in the field of the law of the sea. In the Tribunal as a whole the representation of the principal legal systems of the world and equitable geographical distribution shall be assured.

The Tribunal has its seat in this city with long maritime traditions: the Free and Hanseatic City of Hamburg.

On 1 August 1996 the States Parties to the Convention elected the members of the Tribunal. The Judges have been drawn from all regions of the world.

The Secretary-General of the United Nations is entrusted by the Convention with the task of the setting up of the Tribunal. On the first day of this month, the members of the Tribunal met for the first time. Their tasks during this first session were, among others: to elect the President and the Vice-President of the Tribunal, to adopt Rules of Procedure and to deal with other organizational matters.

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On 5 October, Mr. Thomas A. Mensah was elected the first President of the Tribunal. Mr. Rüdiger Wolfrum was elected Vice-President.

We have gathered here today in this magnificent City Hall of Hamburg to celebrate the inauguration of the Tribunal. This inauguration takes place: in the presence of the Secretary-General of the United Nations, who is the depositary of the Convention; in the presence of one of the Judges and the Registrar of the International Court of Justice, the principal judicial organ of the United Nations; in the presence of prominent representatives of many States, including the Host State, the Federal Republic of Germany; in the presence of representatives of the Host City, the Free and Hanseatic City of Hamburg; and in the presence of specially invited guests and representatives of the media.

According to Article 11 of the Statute of the Tribunal, every member of the tribunal shall, before taking up his duties, make a solemn declaration in open session that he will exercise his powers impartially and conscientiously.

During this first open session the members of the Tribunal will be called upon to make this solemn declaration.

On behalf of the President of the Tribunal, I now invite Dr. Henning Voscherau, First Mayor of the Free and Hanseatic City of Hamburg, to take the Rostrum.

Dr. Voscherau:

It is a pleasure and privilege to welcome the distinguished guests who are gathered in Hamburg today to celebrate the inauguration of the 21 Judges of the International Tribunal for the Law of the Sea.

I would like to extend a special welcome to the Secretary-General of the United Nations, Mr. Boutros Boutros-Ghali, who is honouring the Hanseatic City with his presence on this special occasion.

This is a great moment in the history of our city.

On August 21, 1981, the Free and Hanseatic City of Hamburg was elected as the seat of the International Tribunal for the Law of the Sea.

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Today, 15 years of expectation and preparation are finally over. The tribunal has arrived in our city. It is a great honour for the Hanseatic City to play a part in pursuing the United Nations objective of preserving world peace.

I would like to thank the members of the Kuratorium, who did not hesitate to invest time and effort to convince the international community that Hamburg is the right choice as seat of the Tribunal, as well as the Federal Government in Bonn to sign the Convention.

Ladies and Gentlemen, Hamburg is a historic port city with a long tradition in international shipping and maritime trade. Ever since Emperor Barbarossa granted the City of Hamburg free access to the seas in the year 1189, the law of the sea has become an integral part of the jurisdiction in our city.

In the spirit of peace and understanding the Free and Hanseatic City has always been a mediator between the regions and peoples of the world. In former times foreign powers appealed to the Senate of Hamburg to serve as court of arbitration in maritime disputes. The contribution of Hamburg and the Hanseatic League to the development of maritime law was significant. In 1643, the "Hamburg Admiralty" was established, the first shipping court in Hamburg. Many of the documents in Hamburg's archives testify to the city's tradition of maritime law.

Today, the International Tribunal for the Law of the Sea has assumed responsibility for securing peace and justice in the seas and oceans. As the seat of the Tribunal, Hamburg is very proud to continue its tradition of maritime jurisdiction.

We are well prepared: International maritime law plays an important part in the sciences in the Hanseatic City. The law faculty at the university treats maritime law as a major aspect of research, an institute of maritime law has been founded and the administration of law as it affects maritime law holds an important position. It is the concern of the Marine Court (*Seeamt*), the Federal Supreme Marine Court (*Bundesoberseeamt*) and a special chamber of the local supreme state court (*Oberlandesgericht*). Law firms specialized in the law of the sea are located in Hamburg.

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Ladies and Gentlemen, today, we witness the beginning of a new era of the law of the sea, a new era of the peaceful resolution of maritime disputes. The International Tribunal for the Law of the Sea will contribute to international peace and stability.

The Convention on the Law of the Sea entered into force almost 50 years after the United Nations was founded (November 16, 1994). Throughout the decades, the UN helped to end wars, to feed the hungry, to aid the poorest, to fight diseases; to promote peace, security and cooperation, to develop a new standard of international law and to foster democracy.

However, the international community is still helplessly looking upon unending regional conflicts. They have become the security dilemma of our times. The path from authoritarian regimes to democracy, freedom and human rights is full of obstacles; and - in many cases - appears to lead past nationalism or ethnocentrism; an inglorious heritage of a bipolar world.

Therefore, I believe our challenge today is to strengthen the course of law as a means of international relations, in order to develop a new architecture of preventing and resolving conflicts. This, of course, requires an international consensus that aggression (in the sense of the UN Charter) is unacceptable, no matter where it occurs, no matter what interests are involved.

The United Nations Convention on the Law of the Sea is based on this consensus: to prevent disputes and - if they occur - to settle them with a stipulated procedure. It constitutes a guide for behaviour by states in the world's oceans, defining maritime zones, laying down rules for drawing sea boundaries, assigning legal rights, duties and responsibilities to states, and providing machinery for the settlement of disputes.

The International Tribunal for the law of the Sea will be the most suitable and specialized judicial body to address in resolving differences regarding the law of the sea.

Together with the International Court of Justice at The Hague, it will serve the goals formulated by the United Nations 50 years ago.

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Hamburg will render every possible support in this epochal task. We are very proud and full of joy to welcome the International Tribunal for the Law of the Sea to our city.

Dr. Boutros-Ghali:

I am honoured to be here today in the Free and Hanseatic City of Hamburg. This great city symbolises humankind's eternal relationship with the sea -- as a source of life, as a means of commerce, as the common heritage of all the peoples of the globe.

The family of nations warmly welcomes the invitation made by the Federal Republic of Germany to host the International Tribunal for the Law of the Sea here in this Hanseatic City-State. This invitation, made in the 1970s, was a prominent step by Germany to declare its dedication to multilateralism in the pursuit of peace. The international community overwhelmingly voted in favour.

Now, more than 15 years later, the Law of the Sea Convention has given birth to this International Tribunal.

We celebrate today a truly historic event. We are here to witness the swearing-in of the twenty one Judges who constitute this International Tribunal, dedicated to resolve disputes of the seas and oceans and on the seafloor -- a jurisdiction which includes 75 % of the surface of our blue planet.

They are among the most prominent contributors to the creation of the Law of the Sea Convention which they will now apply. This is a situation without precedent in international law and from which the Tribunal and the international community can only benefit. On their shoulders the States Parties -- one hundred of them -- have placed the burden of the interpretation of the Convention and ensuring its consistent application.

With the establishment of this Tribunal we enter a new era. The Tribunal will be a modern institution upholding the Rule of Law not only between States but also among States, the International Seabed Authority, companies and individuals engaged in the exploitation of the international seabed area.

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This Tribunal will be a dynamic institution having jurisdiction over matters which require immediate action. It has special competence to prescribe provisional measures when the ocean environment is seriously threatened. It can order the prompt release of arrested vessels on deposit of a bond. For all categories of disputes involving fisheries, communications, navigation and ocean pollution, special chambers can be set up to provide the most rapid and appropriate procedure.

Because maritime disputes can be a source of confrontation and conflict between States, the Tribunal has an important role to play in the building of an international society governed by the Rule of Law. The Law of the Sea Tribunal will be part of the system for the peaceful settlement of disputes as laid down by the founders of the United Nations. Though not an Organ of the United Nations the Tribunal finds its origin in efforts sponsored by the United Nations. As a sign of this excellent linkage a relationship agreement should soon be signed between the Tribunal and the United Nations.

Let us now join in witnessing the swearing-in of this distinguished panel of eminent Judges.

Dr. Kinkel:

I am pleased that today Hamburg becomes the seat of the International Tribunal for the Law of the Sea. The United Nations have made a good choice - in Hamburg the Tribunal has the perfect base for its work, since this city represents an all but unique maritime tradition and a modern, pragmatic, liberal and cosmopolitan outlook.

It is a special pleasure for me that you, Mr. Secretary-General, are our honoured guest today. You are a frequent and welcome visitor to Germany; yesterday you joined me in Lübeck, and in June we jointly opened Villa Carstanjen as the headquarters of the United Nations in Bonn. Allow me to thank you once again, Mr. Secretary-General, for your part in making this decision in favour of Hamburg possible.

On behalf of the German government I would like to warmly welcome the members of the International Tribunal for the Law of the Sea to Germany. Today's swearing-in is a milestone in the long history of the international law of the sea. You come from all over the world and cover a broad spectrum of maritime law. We can be proud of this bench. This high

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quality, of course, also means high expectations. I hope you feel at home here in Hamburg and I wish you every success in the fulfilment of your responsible task.

Ladies and gentlemen, this is a special day for the law of the sea. By creating this International Tribunal we have committed ourselves to an important shared goal, the establishment and safeguarding of peace and justice at sea. The force of the law will triumph over the law of brute force, and we will make sure that the oceans are protected and preserved as one of mankind's life-giving resources. Significant problems for the future must be addressed:

- Rising sea levels, the exhaustion of marine resources and the changing climate pose a threat to all countries. We must find common solutions to the problems of global environment protection. Only thus will we ensure that Planet Earth will remain viable for our children and grandchildren.
- The dumping and transport of pollutants increasingly endanger the sensitive marine ecology. We must make sure that the oceans' natural balance, their unique flora and fauna, are not destroyed forever.
- We must secure an equitable food supply for all - a gigantic task in view of decreasing fish stocks and increasing world population.
- Maritime transport must become safer. Accidents involving ferries and other shipping time and again result in the loss of life. Tanker disasters often cause almost irreparable damage to animal and plant life.

Although many of these issues go beyond the realm of the classical law of the sea, they are becoming more and more important. Our citizens rightly demand action from the international community in order to improve the situation. The world forum, the United Nations, is facing one of its greatest tests, it must think across national frontiers and regard the security of the seas and safeguarding mankind's sources of life as a common task. All UN Member States bear their share of the responsibility in this connection.

Ladies and gentlemen, the 1982 Convention on the Law of the Sea together with the 1994 Implementation Agreement governing sea-bed mining is the most comprehensive and significant treaty to date in the

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history of international law. Twenty-five years of negotiations were required. The task was to reasonably reconcile differing interests, the protection of the endangered maritime environment and the fair distribution of decreasing resources. This aim was achieved, and the result is a true “constitution” for the seas governing all possible marine uses, such as trade and maritime transport, overflying rights and cable-laying, oceanography and environment protection, the conservation and use of fish stocks, and the economic exploitation of the continental shelf and the sea bed.

The history of the international law of the sea has always been one of conflict, too - between countries over their rights to the sea, between ships over their behaviour at sea, and between economic and ecological interests.

The United Nations’ “first commandment” is the non-use of force. The principle of the peaceful settlement of disputes also applies to the law of the sea. This has resulted in the creation of an arbitration system, of which the International Tribunal is the core. The Tribunal is open to countries involved in any dispute regarding the interpretation and application of the Convention on the Law of the Sea. A separate Sea-Bed Disputes Chamber will deal with disputes concerning sea-bed mining. Germany has been actively involved in the Third Conference on the Law of the Sea since it began.

The Federal Republic of Germany has always felt a particular commitment to the peaceful settlement of disputes, a fundamental lesson we have learned from our history. We actively promote the establishment of international arbitration procedures; our application to have the International Tribunal based here in Hamburg must also be seen in this light. Thus we are all the more pleased that the Tribunal is now about to begin its work.

Germany will continue its strong commitment to the United Nations; this applies to peace-keeping, safeguarding human rights worldwide and narrowing the gap between rich and poor. We are prepared to assume greater responsibility also within the framework of the UN Security Council. The UN can only be as strong as its members make it.- Yes, it must be urgently reformed, but what it needs above all is commitment, not just criticism.

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Ladies and gentlemen, today's ceremony to "launch" the International Tribunal is not only a climax in the development of the international law of the sea but also a major step for Hamburg and Germany which makes all of us happy. The Federal Government and the Free and Hanseatic City of Hamburg have cooperated smoothly in erecting the Tribunal building. Let me warmly thank you, Herr Voscherau, for this. We will continue to help ensure that the Tribunal can fulfil its role in a manner appropriate to its status and the prestige of its members. Hamburg and Germany will be a good home for this institution!

President Mensah:

The main business of this, the first public sitting of the International Tribunal for the Law of the Sea, was to enable the Judges to make the declarations prescribed by the Statute of the Tribunal. That business having been completed, it is my duty to declare the sitting closed. But, before doing so, I wish to express, on behalf of all my colleague Judges, deep and sincere appreciation to you, Mr. Secretary-General, for having agreed to honour our Tribunal with your presence on this our truly red-letter day. We are especially thankful for your inspiring address and up-lifting message.

Our gratitude also goes to the high representatives of the Federal German Government and the dignitaries of the Free and Hanseatic City of Hamburg who are with us today. As our esteemed hosts, your interest in our Tribunal and your concern for its success mean a great deal to us. We are, therefore, encouraged by your presence which is a public demonstration of your commitment to the Tribunal.

We are thankful to the many distinguished ambassadors, plenipotentiaries and other high representatives of State and Government who have come to witness this ceremony and to give us their moral support. We appreciate their gracious gesture and we value most highly their kind interest.

We are also gratified and honoured by the presence of the representative of the President of the International Court of Justice and the Registrar of the Court. We welcome them most warmly and we thank them sincerely for the fraternal support which their presence today so clearly betokens. We look forward to constructive and mutually beneficial relations with the Court, with the individual Judges and with its Registry.

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Finally I wish, if I may, to avail myself of the opportunity to renew our thanks to our individual Governments for agreeing to nominate us for election to the Tribunal, to the States Parties to the United Nations Convention on the Law of the Sea for electing us to the Tribunal and making financial provisions for our work, and to the German authorities, both Federal and City, who have gone to such great lengths to provide us with temporary accommodation and related facilities, pending the completion of the permanent headquarters premises for which they have so carefully and generously planned.

The Judges, the staff of the Registry and all associated with the Tribunal have been immensely impressed by the warmth of the welcome accorded to them by the authorities and people of the beautiful city of Hamburg. We are even more encouraged by the promises of continued assistance and co-operation from so many quarters. Our experience so far has confirmed our belief that Hamburg is a suitable seat for our Tribunal - not only because of its glorious traditions of the past but also on account of its current and continuing attractions and appeal, both physical and human.

Your Excellencies, Distinguished Ladies and Gentlemen, the International Tribunal for the Law of the Sea was established to offer an additional mechanism which States and other appropriate entities may use for the settlement of disputes which may arise between them in connection with activities related to the control, management and use of the resources of the seas and oceans, and the protection and preservation of the marine environment. Our Tribunal is not intended to replace any of the existing judicial bodies and arrangements for the settlement of disputes. Rather, it is to complement them and, thereby, afford to States and other entities a wider choice of the means by which they may seek legal redress, whenever they consider that their rights have been infringed or their interests compromised. It will be the constant wish and determined intention of my colleagues and myself to offer to the international community an alternative forum for the resolution of their differences and disputes in matters maritime when such an alternative is considered necessary or useful. It is our earnest hope that this Tribunal will be accepted as suitable for that task. We also trust that our rules and methods

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of work will appeal to all partners as responsive to their particular concerns.

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We have today pledged to discharge our duties and to exercise our powers with honour, with impartiality and in all good conscience. We shall use our best and maximum endeavours, individually and collectively, to fulfil this pledge. We shall do whatever lies within our power to ensure that this Tribunal will serve the whole of humanity in its search for peace with justice; that it will be one of the custodians of that great principle enshrined in the Charter of the United Nations and in the Convention on the Law of the Sea: the principle that international disputes shall be settled by peaceful means in accordance with the principles of justice and international law. We cannot promise more, but we promise no less.

I now declare this public sitting of the Tribunal closed.

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