INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

STATEMENT BY

DR. P. CHANDRASEKHARA RAO,

PRESIDENT OF THE
INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

ON

AGENDA ITEM 30

AT

THE PLENARY OF THE FIFTY-SIXTH SESSION OF THE
UNITED NATIONS GENERAL ASSEMBLY

27 NOVEMBER 2001

NOTE FROM THE REGISTRY: As the President was unable to attend the General Assembly meeting, his statement was circulated to all delegations participating in the meeting.

Mr President:

It is indeed an honour for me to address the General Assembly under your distinguished Presidency.

I regret my inability to deliver my statement in person, since the Tribunal is presently engaged in hearing Ireland's request for provisional measures under article 290, paragraph 5, of the United Nations Convention on the Law of the Sea in its dispute with the United Kingdom concerning the MOX Plant at Sellafield, international movements of radioactive materials and the protection of the marine environment of the Irish Sea. The order of the Tribunal is scheduled to be delivered on 3 December 2001. I would not, however, like to miss the privilege of reporting to this august body recent developments concerning the Tribunal as also making our views known on agenda item 30.

It is with great regret that I inform you of the death, in Belize, on 11 September 2001, of Judge Edward Arthur Laing. Judge Laing had been a member of the Tribunal since its inception in October 1996. His term was due to expire on 30 September 2002. Judge Laing made a significant contribution to the work of the Tribunal. Steps are being taken, in consultation with the States Parties, to fill the vacancy created by his death in accordance with article 6 of the Statute of the Tribunal. On account of the vacancy that had arisen due to the death of Judge Lihai Zhao of China in October 2000, Judge Guangjian Xu of China was elected to serve as a Member of the Tribunal till 30 September 2002.

In accordance with article 5 of the Statute of the Tribunal, the terms of office of seven members first elected on 1 August 1996 would expire on 30 September 2002. Elections to fill their vacancies would be held during the twelfth meeting of States Parties which is scheduled to be held from 13 to 24 May 2002.

Following the resignation of Mr. Gritakumar Chitty, former Registrar of the Tribunal, the Tribunal elected, on 21 September 2001, Mr. Philippe Gautier of Belgium as its Registrar for a term of five years. Earlier, on the same day, the

Tribunal had amended article 32 whereby it reduced the term of office of the Registrar and of the Deputy Registrar from seven to five years.

On the judicial side, since my last report to you, the Tribunal heard the “Monte Confurco” Case between Seychelles and France. Seychelles brought this case to the Tribunal on 27 November 2000 by an Application under article 292 of the United Nations Convention on the Law of the Sea. This was the first case heard at the permanent premises of the Tribunal. The Tribunal delivered its judgment on 18 December 2000, that is, within three weeks from the institution of proceedings.

More recently, the Tribunal heard the “Grand Prince” Case between Belize and France instituted by Belize on 21 March 2001. The Tribunal delivered its judgment on
20 April 2001, that is, within one month the case was brought to the Tribunal.

Further, at the request of Chile and the European Community, the Tribunal formed, on 20 December 2000, a special chamber under article 15, paragraph 2, of its Statute to hear a dispute concerning the conservation and sustainable exploitation of swordfish stocks in the South-Eastern Pacific Ocean. This Special Chamber consists of five judges, including a judge *ad hoc* chosen by Chile. This is the first time that a special chamber of the Tribunal under article 15, paragraph 2, of the Statute had been formed for dealing with a particular dispute. On 15 March 2001, at the request of the parties, the President of the Special Chamber made an Order by virtue of which the time-limit of 90 days for the making of preliminary objections would now commence from 1 January 2004; each party would, however, have the right to request that the said time-limit should begin to apply from any date prior to 1 January 2004.

The advantage for the parties in the formation of a special chamber, under article 15, paragraph 2, of the Statute, is that the composition of such a chamber requires the approval of the parties; further, if the chamber includes a judge of the nationality of one of the parties, any other party may choose a judge *ad hoc* to participate in the case. This type of special chamber should be of special interest to

States who generally prefer arbitration to other modes of settlement of disputes. It is also significant that the Chile-European Community case, a case between a State and an international organization is the first of its kind to come for adjudication in the contentious jurisdiction of a world court.

In addition to the Special Chamber mentioned earlier and the Seabed Disputes Chamber of the Tribunal, the Tribunal has three other chambers established in accordance with article 15 of its Statute: (i) the Chamber of Summary Procedure; (ii) the Chamber of Fisheries Disputes, and (iii) the Chamber for Marine Environment Disputes. A judgment given by any chamber will be considered as rendered by the Tribunal. Any of the chambers will be competent to hear disputes if the parties so request. The Tribunal thus has flexible dispute settlement procedures to suit the needs of the parties to a dispute.

More recently, on 3 July 2001, Panama instituted proceedings against Yemen under article 292 of the United Nations Convention. The case was fixed for hearing on
18 and 19 July 2001. Subsequently, the parties discontinued the proceedings, following settlement of the dispute between them. The case was then removed from the List of Tribunal's cases.

The Tribunal reviews its Rules from time to time, keeping in view the experience gained in their implementation. On 15 March 2001, it amended articles 111 and 112 of its Rules in the matter of handling of prompt release cases under article 292 of the United Nations Convention. Whereas, prior to the amendments, an application under article 292 of the Convention was required to be disposed of within a period of not exceeding 21 days, after the amendments, an application is require to be disposed of within a period not exceeding 30 days. While the Tribunal is keen to render its judgments within as short periods as possible, in the interests of administration of justice, it will have to bear in mind the difficulties and requirements of the parties.

The international community is going through troubled times. Terrorism cannot serve as a means for the settlement of disputes. It is in direct opposition to peaceful settlement of disputes, which is declared to be one of the primary purposes of the United Nations. Mankind as a whole is enjoined by the Charter of the United Nations to seek solutions to disputes by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means. There can be no lasting peace and development, unless the rule of law prevails in human relations. Where disputes cannot be resolved by other peaceful means, they should be referred to international courts and tribunals in the interests of orderly conduct of international relations. The establishment of new international tribunals to fulfil complementary needs of States and even of private entities should, therefore, be seen as a positive development. States should indeed take advantage of these courts and tribunals.

It is well-known that, that though there is no organic connection between the United Nations and the Tribunal, the Tribunal belongs to the family of the United Nations. It takes birth from a United Nations Convention. The Tribunal follows, *mutatis mutandis,* the regulations and rules of the United Nations in its financial, service and administrative matters. The Meetings of States Parties to the Convention which, among other things, approve the Tribunal's budget and elect its judges, are organized by the UN. There is then the Agreement on Cooperation and Relationship between the United Nations and the Tribunal. More recently, by an exchange of letters dated 26 May 2000 and 12 June 2001, the United Nations and the Tribunal entered into a special agreement whereby the competence of the Administrative Tribunal of the United Nations has been extended to the staff members of the Tribunal. We are also thankful to this august body for the initiative it had taken last year in the establishment of a trust fund to assist States in the settlement of disputes through the Tribunal. Only one State has so far made contributions to the Fund. I hope that more contributions would be forthcoming to make this Fund meaningful.

The Tribunal's activities are fully documented in its publications: the Yearbooks; the Judgments, Advisory Opinions and Orders; the Pleadings, Minutes of Public Sittings and Documents. With effect from 9 November 2001, the Tribunal has

set up its own website whose site address is: www.itlos.org for the English version, and www.tiddm.org for the French version. We are thankful to the Division for Ocean Affairs and the Law of the Sea for its assistance so far in placing the records of the Tribunal on the website of the United Nations.

There has always been full cooperation between the Tribunal and the United Nations. Our special thanks are due to Mr. Kofi Annan, the Secretary-General of the United Nations, for his special efforts in promoting this corporation. I would also like to express our sincere appreciation in particular to Mr. Hans Corell, the Under Secretary-General for Legal Affairs and Mrs. De Marffy, the Head of the Division for Oceans Affairs.

On behalf of the Tribunal, I would like to convey our special appreciation to the sponsors of the draft resolution in document [A/56/L.] for all the references made therein to the important role and authority of the Tribunal concerning the interpretation and application of the Convention and for underlining the need to strengthen the Tribunal in all respects.

As of 30 October 2001, there was an unpaid balance of assessed contributions to the overall budget of the Tribunal in the amount of US$ 1,447,772. We have addressed letters to States Parties to the Convention requesting them to pay their assessed contributions to the Tribunal, in full and on time. We are thankful to the sponsors of the draft resolution for incorporating an appeal to States Parties in this matter.

Not much progress has been be made in the matter of finalization of the Headquarters Agreement between the Tribunal and the Government of the Federal Republic of Germany. We hope that this issue will be resolved soon consistent with well-established international conventions and practices in this regard. I must, however, declare that generally there has been full cooperation between the Tribunal and the Government of the Federal Republic of Germany.

The Tribunal held its first meeting on 1 October 1996. It has thus completed five years since its inception. During this period, it has become a functioning judicial institution. It spent the first of these five years in developing its rules, regulations and procedures and generally preparing itself to hear cases. Since then, it heard nine cases involving important questions concerning prompt release of vessels and crews under article 292 of the United Nations Convention, coastal State jurisdiction in its maritime zones, freedom of navigation, hot pursuit, marine environment, flags of convenience, conservation of fish stocks, etc. The record of the Tribunal to decide cases without necessary delay or expense is well-demonstrated by the cases that it has decided so far. The Tribunal is thus firmly set to discharge the mandate entrusted to it by the United Nations Convention on the Law of the Sea.