

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



STATEMENT BY

JOSÉ LUIS JESUS

PRESIDENT

OF THE

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

ON

THE REPORT OF THE TRIBUNAL

AT

THE TWENTIETH MEETING OF STATES PARTIES TO THE UNITED NATIONS

CONVENTION ON THE LAW OF THE SEA

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Mr President, Excellencies, Ladies and Gentlemen,

1. It is with great pleasure that I address the twentieth Meeting of States Parties to the United Nations Convention on the Law of the Sea in my capacity as President of the International Tribunal for the Law of the Sea, on the occasion of its consideration of the Report of the Tribunal for the period 1 January to 31 December 2009.

2. It is a particular pleasure for me to speak here today under your able guidance, Mr President. I would like to congratulate you on your election to the presidency of this Meeting. My most sincere good wishes for the successful completion of the mission with which you have been entrusted.

3. Let me take this opportunity to pay tribute to a former colleague, Judge, Paul Bamela Engo, who recently passed away. Judge Bamela Engo, a native from Cameroon, served the Tribunal for 12 years before retiring at the end of 2008. As is well known, he played a major role as Chairman of the First Committee of the Third Conference on the Law of the Sea. For those of us who got to know him in the heydays of his involvement with the law of the sea negotiations he was a towering figure in the law of the sea community and played a major role as a top African negotiator at the Third Conference. May his soul rest in peace.

Mr President,

4. Since the nineteenth Meeting of States Parties, two States, the Dominican Republic and Chad, have ratified the United Nations Convention on the Law of the Sea. I would like to welcome them. These ratifications bring to 160 the number of States Parties to the Convention. I am pleased to note that, of these 160 States, 43 have made a declaration concerning the procedure for the settlement of disputes relating to the

interpretation or application of the Convention, and of those 29 have selected the Tribunal as a means for the settlement of law of the sea disputes, pursuant to article 287 of the Convention. Switzerland (on 1 May 2009) and Angola (on 14 October 2009) are the States that most recently made such a declaration.

Mr President,

5. The Tribunal has already communicated its Annual Report to the Meeting of States Parties. Since the document is quite lengthy, I thought it useful to summarize its main points here. In the course of 2009, the Tribunal held two sessions during which it considered legal and judicial matters as well as administrative and financial matters.¹ The matters of an administrative and budgetary nature that were considered, included the draft budget proposals for 2011-2012 and the implementation of the current budget, the status of contributions the conditions of service and compensation of the members of the Tribunal, the appointment of an auditor for the period 2009-2012, the Staff Regulations and Staff Rules, the recruitment of Registry staff, and the Registry staff pension committee (document SPLOS/206). Matters concerning the permanent premises of the Tribunal were also considered, including the extension of the cooling system, the use of the Tribunal's premises, the development of electronic systems, including the wireless local area network and a new electronic mailing system, the courtroom technology, and the security, maintenance and modernization of the electronic systems.

6. During the two sessions held last year, the Tribunal considered certain legal and judicial matters, in particular matters pertaining to the Rules and judicial practice of the Tribunal. It considered also matters concerning the implementation of article 292 on the prompt release procedure, matters concerning article 287 on the choice of dispute

¹ The Twenty-seventh Session was held from 9 to 20 March 2009 and the Twenty-eighth Session from 21 September to 2 October 2009.

settlement procedures and matters concerning articles 20 of the Statute of the Tribunal and 138 of the Rules.

7. The Tribunal also considered working documents prepared by the Registry for information purposes on various matters concerning the law of the sea and of interest to the Tribunal's activities.

Mr President,

8. You may recall that, in 2000, Chile and the European Community (EC), submitted to a special chamber of the Tribunal established pursuant to article 15, paragraph 2, of the Statute of the Tribunal their dispute in the Case concerning the conservation and sustainable exploitation of swordfish stocks in the south-eastern Pacific Ocean. At the request of the Parties, the chamber suspended for a number of years the proceedings to allow for negotiations between them. The Parties reported a negotiated solution of their dispute reached in 2009 and requested that the case before the chamber be discontinued. Accordingly, on 16 December 2009, the special chamber issued an order by means of which it took note of the discontinuance of the case by agreement of the parties and decided that the case be removed from the List of cases.

Mr President,

9. We are pleased to state that the Tribunal has received in the last six months two new cases. As you have been timely informed, on 14 December 2009 proceedings were instituted before the Tribunal in relation to the dispute concerning delimitation of the maritime boundary in the Bay of Bengal between the People's Republic of Bangladesh and the Union of Myanmar.

10. In a letter dated 13 December 2009 to the President of the Tribunal, the Minister of Foreign Affairs of the People's Republic of Bangladesh referred to the declaration made by the Union of Myanmar, pursuant to which the Union of Myanmar "accepts the jurisdiction of the International Tribunal for the Law of the Sea for the settlement of dispute between the Union of Myanmar and the People's Republic of Bangladesh relating to the delimitation of maritime boundary between the two countries in the Bay of Bengal." In her letter, the Minister also communicated to the Tribunal a declaration made by Bangladesh, dated 12 October 2009, by means of which Bangladesh "accepts the jurisdiction of the International Tribunal for the Law of the Sea for the settlement of the dispute between the People's Republic of Bangladesh and the Union of Myanmar relating to the delimitation of their maritime boundary in the Bay of Bengal."

11. In the light of the agreement between the Parties, as expressed through their respective declarations, to submit their dispute to the Tribunal, and taking into account Bangladesh's invitation to the Tribunal "to exercise jurisdiction" over said dispute, the case has been entered in the List of cases as Case No.16. Subsequently, following consultations held with the two Parties, by order of 28 January 2010, the President of the Tribunal fixed the time-limits for the submission of the memorial by Bangladesh and of the counter-memorial by Myanmar, as displayed on the Tribunal's website. In addition, The Tribunal, by its order, dated 17 March this year, fixed the dates for the submission of the reply and rejoinder.

12. Likewise, the Seabed Disputes Chamber of the Tribunal received last May a request from the International Seabed Authority for an advisory opinion on "The responsibilities and obligations of States sponsoring persons and entities with respect to activities in the international seabed area". This case, which has been entered in the List of cases as Case No. 17, is the first advisory case brought before the Seabed Disputes Chamber.

By order, dated 18 May 2010, the President of the Seabed Disputes Chamber set 14 September this year, as the date for the opening of the hearings at which oral statements may be submitted to the Seabed disputes Chamber.

13. Furthermore, the President of the Tribunal is given a very important authority by article 3 of Annex VII to the Convention, to appoint arbitrators at the request of one of the parties to a dispute submitted to an Annex VII arbitration whenever they do not agree on the choice of arbitrators. Recently I had the opportunity to exercise this authority in relation to the dispute concerning the delimitation of the maritime boundary between Bangladesh and India in the Bay of Bengal. In this respect, by letter dated 13 December 2009, the Minister of Foreign Affairs of Bangladesh requested the President of the International Tribunal for the Law of the Sea to designate three arbitrators in the arbitral proceedings instituted in accordance with Annex VII to the United Nations Convention on the Law of the Sea to settle the dispute. In accordance with article 3 of Annex VII to the Convention, if the parties are unable to reach an agreement on the appointment of one or more of the members of the tribunal to be appointed by agreement, or on the appointment of the president of the arbitral tribunal, these appointments shall be made by the President of the International Tribunal for the Law of the Sea at the request of a party to the dispute and in consultation with the parties.

14. Based on this request, on 12 February 2010, the President of the International Tribunal for the Law of the Sea appointed three arbitrators to serve as members of the Annex VII arbitral tribunal instituted for the settlement of the maritime delimitation dispute between Bangladesh and India in the Bay of Bengal. These appointments were made in consultation with the two parties to the dispute.

Mr President,

15. According to information provided by the United Nations Division for Ocean Affairs and the Law of the Sea, contributions to the voluntary trust fund established by

the Secretary-General of the United Nations in 2000 to assist States to meet expenses incurred with cases submitted to the Tribunal were made by the Government of the United Kingdom and the Government of Finland. I should like to thank these Governments on behalf of the Tribunal for their contributions.

16. Concerning the Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, adopted on 23 May 1997 and in force since 30 December 2001, I note that, since my last report to the Meeting of States Parties, one State – Portugal – has ratified the Agreement (on 8 October 2009), bringing the number of States Parties to it to 38. I should like to recall that, in its resolution A/RES/63/111, the General Assembly of the United Nations recommended that States that have not yet done so consider ratifying or acceding to the Agreement.

17. The Tribunal continues its efforts to enhance knowledge about the United Nations Convention on the Law of the Sea and the dispute-settlement mechanisms relating to it. During 2009, the Tribunal, in collaboration with the International Foundation for the Law of the Sea, organized two workshops, one in Putrajaya (Malaysia) in August, in cooperation with the Government of Malaysia and the Asian-African Legal Consultative Organization, and the other in Cape Town (South Africa), from 7 to 9 October, for participants from countries in the subregion. On behalf of the Tribunal, I should like to express my gratitude to the Governments of the host States for their hospitality and valuable assistance.

I am glad to note that a similar workshop is being scheduled to take place in Fiji next August for the Pacific Island States and other States and territories of the region.

18. Furthermore, in 2007, the Tribunal, with the support of the Nippon Foundation, established an annual capacity-building and training programme on dispute settlement under the Convention. The five fellows in the 2009-2010 cycle (July 2009 to March 2010) were nationals of the Bahamas, Fiji, Georgia, India and Sierra Leone. Moreover, the Registry of the Tribunal continues to run an internship programme, established in

1997. In 2009, 16 participants from 15 different countries and regions of the world were accepted on the programme. Of these interns, nine benefited from grants from the fund established by the Korea International Cooperation Agency. Intended for candidates from developing countries, these grants cover the interns' expenses during their participation in the programme.

19. The Tribunal also organizes jointly with the International Foundation for the Law of the Sea a Summer Academy held on the Tribunal's premises. The Foundation held its third Summer Academy from 26 July to 23 August 2009 under the theme "Uses and protection of the sea – Legal, economic and natural science perspectives". I should like to inform you that the fourth Summer Academy will take place on the Tribunal's premises from 25 July to 21 August 2010.

20. In this connection, at its Twenty-eighth Session, the Tribunal gave further consideration to a proposal for the establishment of "a trust fund for training in law of the sea and maritime fields" composed of voluntary contributions. The object of the fund is to give financial assistance for participation in the Tribunal's internship programme and the Summer Academy to applicants from developing countries as identified on the list published by the Organization for Economic Co-operation and Development as well as to cover expenses incurred with respect to the implementation of the programme. Following consideration of the matter, the Tribunal adopted the terms of reference of the fund (see SPLOS/205) and authorized the Registrar to establish a "Trust fund for the law of the sea", pursuant to regulation 6.5 of the Financial Regulations of the Tribunal.

Mr President,

21. The Tribunal has taken steps to ensure that vacancy announcements for posts at the Registry of the Tribunal are distributed widely, the aim being to recruit Registry staff on as extensive a geographical basis as possible. To that end, vacancy announcements have been transmitted to the diplomatic missions of the States Parties to the Convention both in Berlin and in New York. They have also been posted on the

Tribunal's website and published in the press. A list of the staff members of the Registry as at 31 December 2009 is contained in annex 1 to the report.

Mr President,

I would like to thank the Legal Counsel, especially the Division for Ocean Affairs and the Law of the Sea (DOALOS) and its Director, Mr Tarassenko, for the assistance and cooperation extended to the Tribunal.

This brings to an end the summary of the main points of the annual report.

I thank you for your attention.