

# INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



STATEMENT BY

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PRESIDENT

OF THE

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

ON

THE REPORT OF THE TRIBUNAL

AT

THE NINETEENTH MEETING OF THE STATES PARTIES TO THE  
UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

22 JUNE 2009

International Tribunal for the Law of the Sea  
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Mr President,

1. It is a great honour and pleasure for me to address the Meeting of States Parties in my capacity as the current President of the Tribunal. May I, on behalf of the Tribunal, convey to you, Ambassador Somduth Soborun, our good wishes on your election as the President of this Meeting. I would also like to express our gratitude to your predecessor, Ambassador Yuriy Sergeyev, for his work and for the cooperation extended to the Tribunal.

Mr President,

2. The Annual Report of the Tribunal has already been circulated. It contains a comprehensive review of the activities of the Tribunal for the period 1 January to 31 December 2008. In my presentation today I will address some of the main elements covered by that report and I will also add some pieces of information on recent developments. In line with past practice, I should address budgetary matters in a separate statement.

Mr President,

3. Let me begin by welcoming the States which ratified the Convention since the last Meeting of States Parties, namely, the Republic of the Congo, Liberia and Switzerland. These ratifications bring the total number of parties to the Convention to 158, a step closer to achieving universal participation in the Convention.

4. As regards the composition of the Tribunal, I would like to recall that, on 13 June 2008, the eighteenth Meeting of States Parties elected seven judges for a term of nine years. Of these seven members, five were re-elected, namely Judge Akl (Lebanon), Judge Chandrasekhara Rao (India), Judge Marotta Rangel (Brazil), Judge Wolfrum (Germany) and myself (Cape Verde). The newly elected judges are

Mr Bouguetaia (Algeria) and Mr Golitsyn (Russian Federation). They, as well as the five re-elected judges, will serve until 30 September 2017.

5. You may recall that, at a Special Meeting of States Parties held on 6 March 2009, Mr Jin-Hyun Paik (Republic of Korea) was elected member of the Tribunal to replace the late Judge Choon-Ho Park. Judge Paik will hold office for the remainder of his predecessor's nine-year term, which ends on 30 September 2014. I take this opportunity to acknowledge the valuable contribution Judge Park made to the work of the Tribunal. I have already had the occasion to present to his family and to his country our most sincere condolences.

6. Last year, the Tribunal held two sessions<sup>1</sup> devoted to legal and judicial matters related to the work of the Tribunal and to administrative matters. During the Twenty-sixth Session, on 1 October 2009, I was elected President of the Tribunal for a three-year term and succeeded Judge Wolfrum, who completed his three-year term as President of the Tribunal on 30 September 2008. During the same session, on 2 October 2008, Judge Helmut Türk was elected Vice-President of the Tribunal and Judge Tullio Treves President of the Seabed Disputes Chamber.

7. During the Twenty-sixth Session, the Tribunal reconstituted its Seabed Disputes Chamber as well as the Chamber of Summary Procedure, the Chamber for Fisheries Disputes, the Chamber for Marine Environment Disputes and the Chamber for Maritime Delimitation Disputes. The composition of the Chambers is set out in the report.

8. During its two last sessions, the Tribunal examined various issues of an administrative nature related to financial and staff matters, the maintenance of its premises and equipment, and public relations. In addition, the Tribunal considered a certain number of legal and judicial matters relevant to its work. This concerned, *inter alia*, questions related to the time frame for urgent proceedings in the event of two prompt release applications being submitted simultaneously, the institution of prompt

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<sup>1</sup> The Twenty-fifth Session, held from 3 to 14 March 2008, and the Twenty-sixth Session, held from 24 September to 7 October 2008.

release proceedings in cases of alleged marine environment pollution offences, as well as matters relevant to the work of the Chambers.

9. The Tribunal also concluded its examination of the possibility of posting a bond or other financial security with the Registrar of the Tribunal in cases of prompt release of vessels and crews. In this regard, the Tribunal reviewed its Rules of procedure and, on 17 March 2009, amended articles 113, paragraph 3, and 114, paragraphs 1 and 3, thereof. Prior to these amendments, a bond or other financial security in cases of prompt release of vessels and crews had to be posted with the detaining State, unless the parties agreed otherwise. Pursuant to the amendments introduced, the Tribunal will now have the option to determine whether a bond or other financial security is posted either with the Registrar of the Tribunal or with the detaining State. These amendments aim to facilitate the implementation of the decisions of the Tribunal in prompt release proceedings. Moreover, in order to assist parties in implementing the amended rules, the Tribunal also adopted Guidelines concerning the posting of a bond or other financial security with the Registrar. The texts of these Guidelines and the amendments are available on the Tribunal's website.

10. In order to keep its members abreast with developments on ocean activities, the Tribunal also considered several reports prepared by the Registry on issues related to law of the sea or ocean activities which may have a bearing on its judicial work.

Mr President,

11. In addition to the Standing Chambers of the Tribunal to deal with particular categories of disputes referred to earlier, parties to a dispute have the possibility of requesting the Tribunal to establish a special *ad hoc* chamber to deal with a particular dispute. Chile and the European Community already exercised this option in the year 2000, when they submitted to an *ad hoc* chamber of the Tribunal the *Case concerning the conservation and sustainable exploitation of swordfish stocks in the South-Eastern Pacific Ocean*.

12. As you may be aware, the proceedings in the case have been postponed on several occasions, upon the request of the parties, as they have striven to reach an arrangement to settle the dispute. On 10 and 11 December 2008, the Special Chamber met once again to consider a further request of the parties for a postponement of the time-limits of the proceedings. On the basis of the agreement of the parties and the information provided by them, the Chamber adopted an Order on 11 December 2008, by which it extended the time-limit for making preliminary objections until 1 January 2010 and maintained the rights of the parties to revive the proceedings at any time.

13. In its Order of 11 December 2008, the Special Chamber considered that “it is in the interests of the proper administration of international justice that proceedings in the case be conducted without unnecessary delay” and noted that “it should facilitate so far as is compatible with the United Nations Convention on the Law of the Sea, the Statute and the Rules, direct and friendly settlement of the dispute between the Parties”. The Chamber also observed that “the Parties have to provide adequate justification for seeking an extension of any time-limit”.

Mr President,

14. In connection with cases brought to the Tribunal, I would like to remind States Parties that a trust fund has been established by the General Assembly in order to assist developing States to settle their disputes through the Tribunal. In this regard, I wish to thank the Government of Finland, which last year made a contribution to the fund.

Mr President,

15. The Annual Report gives an account of the status of the Agreement on the Privileges and Immunities of the Tribunal, which entered into force on 30 December 2001. Two States have recently become parties to the Agreement - Bulgaria and Estonia – bringing the total to 37 States. May I take this opportunity to draw your attention to the recommendation in General Assembly resolution A/RES/63/111 that States that have not yet done so consider ratifying or acceding to the Agreement.

16. The Tribunal has continued its efforts to contribute to enhancing knowledge of the dispute-settlement system established under the Convention. In 2008, the Tribunal - in cooperation with the International Foundation for the Law of the Sea – organized two regional workshops, in Bahrain and Buenos Aires, on Tribunal procedures for the settlement of disputes related to the law of the sea. These workshops supplemented those held in 2006 and 2007 in Dakar, Libreville, Kingston and Singapore. On behalf of the Tribunal, I would like to express our gratitude to the host countries of these workshops for their valuable support. I am glad to announce that another regional workshop on our procedures is planned to be held in South Africa later this year.

17. In 2007, with the support of the Nippon Foundation, the Tribunal also established an annual capacity-building and training programme on dispute settlement under the Convention. During the 2008-2009 cycle, five government officials and researchers from China, Gabon, Indonesia, Kenya and Romania benefited from this programme.

18. Likewise, the Tribunal continues to administer an internship programme which began in 1997. In 2008, 16 participants from 15 countries and different regions were admitted to this programme. Nine of these interns took advantage of the grant made available by KOICA –the Korean Cooperation Agency- to provide financial assistance to enable candidates from developing countries to participate in the programme.

19. In addition - while it is not as such an activity of the Tribunal - I would like to highlight the role of the Summer Academy of the International Foundation for the Law of the Sea on "Uses and Protection of the Sea – Legal, Economic and Natural Science Perspectives", whose second session was held at the premises of the Tribunal from 3 to 31 August 2008. I am grateful to the Foundation for organizing this event, which gave 32 participants from 24 different countries a comprehensive overview of matters relating to both law of the sea and maritime law, including matters related to the procedures and jurisprudence of the Tribunal. I am also pleased to announce that the third session of the Summer Academy is scheduled to be held from 26 July to 23 August 2009.

20. On behalf of the Tribunal, I would like to express our appreciation to the Nippon Foundation, KOICA and the International Foundation for the Law of the Sea for their financial assistance and support for these programmes and activities.

21. I would also like to take this opportunity to thank the host country, the Federal Republic of Germany, for its continuous cooperation with our institution. Allow me to conclude by expressing my appreciation to the Legal Counsel as well as to the Director of the Division for Ocean Affairs and the Law of the Sea and his staff for their continued cooperation with and assistance to the Tribunal. I would especially like to thank Mr Václav Mikulka, who served as Director of the Division for Ocean Affairs and the Law of the Sea until the end of last March, for his much appreciated cooperation with our institution. We wish him every success in his new position as Director of the Codification Division of the Office of Legal Affairs.

22. I take this opportunity to congratulate Mr Serguei Tarassenko on his appointment as Director of the Division for Ocean Affairs and the Law of the Sea and we wish him a successful mandate.

I thank you for your attention.