

**STATEMENT OF THOMAS A. MENSAH, PRESIDENT OF THE
INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA,
ON AGENDA ITEM 39: OCEANS AND THE LAW OF THE SEA,
DISTRIBUTED AT THE PLENARY OF THE FIFTY-SECOND SESSION
OF THE UNITED NATIONS GENERAL ASSEMBLY, 26 NOVEMBER 1997**

Mr. President,

On behalf of the International Tribunal for the Law of the Sea, I express my appreciation for the opportunity to address this 52nd session of the General Assembly under the item: Oceans and the Law of the Sea. I also wish to express my personal congratulations and those of the Tribunal, to you Mr. President on your election to the high office of President of the General Assembly. We are aware of your long and distinguished association with the United Nations and also with the law of the sea.

Mr. President, the International Tribunal for the Law of the Sea considers it eminently appropriate that it commenced its operation within the period of the Decade of International Law and at the threshold of the Year of the Oceans. As an international judicial institution created to contribute to the promotion of international justice and the rule of law in the seas and the oceans, the Tribunal recognises the significance of these two important programmes established by the General Assembly.

The Tribunal has just concluded the first year of its existence, following its ceremonial inauguration on 18 October 1996. It has now concluded the organisational phase of its work with the adoption of its Rules. The Rules of the Tribunal comprise a comprehensive set of 138 articles in its two official languages, English and French. In adopting these Rules, the Tribunal based itself on the very useful set of draft rules prepared for it by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea. Although the final Rules are consistent in all essentials with the long-standing precedents in comparable international judicial bodies, they have been formulated to be appropriately innovative and to be responsive to the demands of efficiency and cost-effectiveness, both to the Tribunal and to the parties appearing before it. They are also intended to be "user-friendly" in terms both of content and presentation. In particular, they take full account of the opportunities presented by modern technology and advances in communications. The Rules are complemented by the Guidelines concerning the Preparation and Presentation of Cases before the Tribunal and the Resolution on the Internal Judicial Practice.

Mr. President, the progress of the work of the Tribunal has not gone unnoticed by the international community. In particular, our readiness to deal with cases has been welcomed by interested States. This is borne out by the fact that the Tribunal has received the first application almost immediately following the conclusion of the fourth session. The application is for the prompt release of a vessel and its crew, pursuant to article 292 of the United Nations Convention on the Law of the Sea.

The arrest is alleged to have taken place on 28 October 1997 and the proceedings

were instituted on 13 November 1997 by an application sent to the Tribunal by facsimile. Although the Judges of the Tribunal are not resident at the seat of the Tribunal, it was possible for the Tribunal to be convened for deliberations on the case on 20 November, and the first hearing was fixed to take place on 21 November. At the request of one of the parties, continuation of the hearing was adjourned to 27 November 1997, with the date for the delivery of the judgement set for 4 December 1997. The timely response to the Application in this case has vindicated the decision of the international community to entrust competence on this important and sensitive matter to the Tribunal. It should, we believe, also serve as proof that the procedure of the Tribunal can be expeditious and cost-effective to all concerned.

Mr. President, it is a great disappointment to me that the demands of the case have prevented me from making this statement in person before the General Assembly, and I hope that you, and the Distinguished Delegates, will accept my sincere regrets.

The last twelve months have seen many developments in the Tribunal's organisation. Indeed, it is not an exaggeration to say that the Tribunal has completed a very substantial work programme, not only in the time and manner expected of it by others but also according to what the Tribunal had itself anticipated. I would recall in this regard that the Meeting of States Parties to the United Nations Convention on the Law of the Sea decided that the principle that institutions established by the Convention shall be cost effective should apply to all aspects of the work of the Tribunal. In carrying out its work over the past twelve months, the Tribunal has been very mindful of this requirement and has sought to apply this principle in all aspects of its work. As stated earlier, and in order to ensure efficiency at all stages in the judicial proceedings, the Tribunal has adopted guidelines to assist parties with the preparation and presentation of cases. It is hoped that this will enable the Tribunal and the parties before it to cooperate constructively to reduce delays and unnecessary expense in connection with cases.

In accordance with its Statute, the Tribunal has established a number of chambers to which disputes may be presented by the parties if they so wish. In addition to the Seabed Disputes Chamber which has the competence to deal with disputes arising in respect of seabed activities, the Tribunal has established a Chamber of Summary Procedure, a Chamber for Marine Environment Disputes and a Chamber for Fisheries Disputes.

Substantial progress has also been made in other areas. Mr. President, the Tribunal was pleased and grateful to be granted observer status by the General Assembly at its 51st session. The Meeting of States Parties to the United Nations Convention on the Law of the Sea adopted the Agreement on Privileges and Immunities of the International Tribunal for the Law of the Sea during its seventh meeting on 23 May 1997. The Agreement was opened for signature on 1 July 1997, and a number of States have already signed the Agreement. It is my hope that all Governments concerned will give early consideration to the measures to enable them to sign the Agreement and, in due course, deposit their instruments of ratification with the Secretary-General of the United Nations.

An Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea has been negotiated and awaits signature by the Secretary-General of the United Nations and by the President of the Tribunal. It is anticipated that it will be signed very shortly, in time for its approval by the General Assembly during the current session.

The Tribunal has also made progress towards the conclusion of two important agreements with the Government of the Federal Republic of Germany. As noted in the draft resolution on the Oceans and the Law of the Sea, it is expected that the proposed Headquarters Agreement between the Tribunal and the Government of Germany will be concluded shortly. Within the last few months, progress has also been made towards the conclusion of a supplementary agreement between the Federal Government and the Tribunal concerning the occupancy and use of the Tribunal's temporary premises in Hamburg and its permanent premises which are now under construction. Mr. President, I wish to avail myself of this opportunity to express deep appreciation for the generous assistance and cooperation accorded to the Tribunal by the Federal Government and the authorities in the Free and Hanseatic City of Hamburg.

I am pleased to report that the Tribunal has signed an agreement with the United Nations Joint Staff Pension Board governing the admission of the Tribunal to membership in the United Nations Joint Staff Pension Fund. Another agreement extends the jurisdiction of the Administrative Tribunal of the United Nations to staff members of the Tribunal, in cases concerning the application of the regulations of the Pension Fund.

Mr. President, I would also like to take this opportunity to thank the Secretary-General, Mr. Kofi Annan, for the personal interest in the work of the Tribunal and for the support he has extended to us in so many ways. We particularly appreciated the messages of good wishes which he was so kind to send me on the occasion of the first anniversary of the inauguration of the Tribunal.

My appreciation and thanks also go to the Legal Counsel of the United Nations, Mr. Hans Corell, for his continuing support during the organisational phase of the Tribunal; and Mr. Paul Szasz, the Deputy Legal Counsel, for his assistance. We are also thankful to the Director and the Division for Ocean Affairs and the Law of the Sea, both for the continuing support from the Division and, especially, for their assistance during the Second and Third sessions of the Tribunal earlier this year. The Tribunal is immensely grateful for the Division's assistance in making its web site available to the Tribunal pending the establishment of a web site.

Earlier this year, the Treaty Section of the Office of Legal Affairs contributed a set of the United Nations Treaty Series to the library of the Tribunal. I would like to express appreciation both for this very valuable contribution, and also their readiness to provide on a continuing basis up to date information to facilitate the work of the Tribunal.

On behalf of the Tribunal, I note with special thanks the efforts of the co-

ordinator of the draft resolution under this item, the distinguished representative of New Zealand, Ms. Felicity Wong, and also the support of many delegations, including the delegation of our host country that made it possible for the resolution to reflect the Tribunal's role and activities. I refer particularly to preambular paragraph 10 and to operative paragraph 8 of the draft resolution. As always, Mr. President, we appreciate very much the excellent reports submitted by the Division for Ocean Affairs and the Law of the Sea under this item. Most importantly, Mr. President, I acknowledge your own statement and the gracious references you made concerning the commencement by the Tribunal of its judicial deliberations with the receipt of its first case.

Mr. President and Distinguished Delegates, I thank you and wish the session of the General Assembly every success.