



INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



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International Tribunal for the Law of the Sea
Press Office
Am Internationalen Seegerichtshof 1
D-22609 Hamburg

Tel.: +49 (0)40 35607-0
Fax: +49 (0)40 35607-245
press@itlos.org

www.itlos.org
www.tidm.org

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Hans Georg Esch
Andreas Laible
Michael Rauhe
UN Photo
Stephan Wallocha
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THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

The International Tribunal for the Law of the Sea (ITLOS) is an independent judicial body established by the 1982 United Nations Convention on the Law of the Sea. It has jurisdiction over any dispute concerning the interpretation or application of the Convention, and over all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal (Statute, article 21). The Tribunal is open to States Parties to the Convention (i.e. States and international organizations which are parties to the Convention). It is also open to entities other than States Parties, i.e., States or intergovernmental organizations which are not parties to the Convention, and to state enterprises and private entities "in any case expressly provided for in Part XI or in any case submitted pursuant to any other agreement conferring jurisdiction on the Tribunal which is accepted by all the parties to that case" (Statute, article 20).

For a current list of States Parties see insert

The Tribunal is composed of 21 Judges elected by the States Parties to the Convention, and is assisted by a Registry (an international secretariat). The seat of the Tribunal is in Hamburg, Germany. Its official working languages are English and French.



ITLOS Judges (2009)

For a current list of Judges see insert

The first election of the Judges of the Tribunal took place on 1 August 1996. A ceremony to mark the official inauguration of the Tribunal took place in Hamburg's

City Hall on 18 October 1996. One year later, the Tribunal completed its judicial organization with the adoption of three instruments: the Rules of the Tribunal, which regulate the organization of the Tribunal as well as the conduct of cases; the Guidelines Concerning the Preparation and Presentation of Cases Before the Tribunal, providing guidance for parties in the preparation and submission of cases; and the Resolution on the Internal Judicial Practice of the Tribunal, setting out the manner in which the deliberations of the Tribunal take place. On 13 November 1997, the Tribunal received an application instituting its first case, *The M/V "Saiga" Case*.

THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

The United Nations Convention on the Law of the Sea brings together in one instrument rules relating to the legal regime of oceans and their uses and resources. It contains, *inter alia*, provisions regarding: the exercise of rights in, and the delimitation of, different maritime zones; the protection and preservation of the marine environment; fisheries; and marine scientific research. One important part of the Convention concerns exploration for, and exploitation of, the resources of the "Area". The Area is a zone established by the Convention as the common heritage of mankind comprising the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction.

Regarded by many as a landmark in international law, Part XV of the Convention establishes a mechanism for the compulsory settlement of disputes concerning the interpretation and application of its provisions, relying for this purpose, *inter alia*, on the International Tribunal for the Law of the Sea.

Historical Background

For centuries, the international law of the sea developed on the basis of both customary law and conventions. The First United Nations Conference on the Law of the Sea in 1958 led to the adoption of the so-called Geneva Conventions on the Law of the Sea. The Second United Nations Conference on the Law of the Sea did not result in an international agreement. The 1982 Convention on the Law of the Sea is the result of a process initiated in 1970, which led to the convening of the Third United Nations Conference on the Law of the Sea. On 17 December 1970 the United Nations General Assembly adopted a Declaration of Principles Governing the Sea-Bed and Ocean Floor, declaring them to be the common heritage of mankind. It also decided to convene a new international conference with a view to establishing an international regime of the law of the sea.

The first session of the Third United Nations Conference on the Law of the Sea took place in 1973. During nine subsequent years, representatives of more than 160 States negotiated the most comprehensive multilateral treaty in the history of public international law: the United Nations Convention on the Law of the Sea. On 30 April 1982 the United Nations General Assembly adopted the Convention, which was opened for signature on 10 December 1982 at Montego Bay, Jamaica. At the closing of the period for signature, 159 States and other entities had signed it. However, it was only on 16 November 1994 that the Convention entered into force, 12 months after the deposit of the required 60th instrument of ratification or accession. In his statement at the opening ceremony of signature of the Convention, H.E. Mr Perez de Cuellar, the Secretary-General of the United Nations, described the Convention as "possibly the most significant legal instrument in this century."

PROCEDURE

Proceedings are instituted before the Tribunal by notification of a special agreement or by written application. A written application may be submitted to the Tribunal on the basis of an agreement between the parties to the dispute, in cases of compulsory jurisdiction of the Tribunal or pursuant to declarations made by the parties in accordance with article 287 of the Convention. When they sign, ratify or accede to the Convention, States are free to make a declaration under article 287 of the Convention, by which they choose one or more of the following means for the settlement of disputes: the International Tribunal for the Law of the Sea, the International Court of Justice, an arbitral tribunal or a special arbitral tribunal. If States choose the Tribunal, the Tribunal is competent to deal with disputes involving those States.

The Tribunal has compulsory jurisdiction by virtue of the Convention in two instances: proceedings relating to the prompt release of vessels and crews (Convention, article 292) and proceedings for the prescription of provisional measures pending the constitution of an arbitral tribunal (Convention, article 290, paragraph 5).



The MOX Plant Case (Ireland v. United Kingdom)

One of the chambers of the Tribunal, the Seabed Disputes Chamber, has compulsory jurisdiction over disputes with respect to activities in the Area. This Chamber is also competent to give advisory opinions on legal questions arising within the scope of activities of the International Seabed Authority.

Sitting as a full court, the Tribunal may also give advisory opinions when required to do so on the basis of international agreements related to the purposes of the Convention.

The procedure to be followed for the conduct of cases submitted to the Tribunal is defined in the Statute of the Tribunal (Annex VI to the Convention) and the Rules.

Further information concerning the procedure can be found in 'A Guide to Proceedings before the International Tribunal for the Law of the Sea', which is available from the Press Office and the Tribunal's website at www.itlos.org.

For a current list of cases see insert

ORGANIZATION

Judges

The Tribunal is composed of 21 independent members. They are elected by secret ballot, for renewable terms of nine years, by the States Parties to the Convention, from among persons enjoying the highest reputation for fairness and integrity and possessing recognised competence in the law of the sea. To ensure continuity, elections of one third of the Judges take place every three years.



The M/V "Louisa" Case (Saint Vincent and the Grenadines v. Kingdom of Spain)

In the Tribunal as a whole, the representation of the principal legal systems of the world shall be assured together with an equitable geographical distribution of

members from among the following five geographical groups as established by the General Assembly of the United Nations:

- African States
- Asian States
- Eastern European States
- Latin American and Caribbean States
- Western European and Other States

No two Judges may be nationals of the same State. If the Tribunal, or a chamber of the Tribunal, does not include a judge of the nationality of a party to the dispute, that party may choose a person to sit as a judge (judge *ad hoc*). Should there be several parties in the same interest, they are considered for this purpose as one party only.

President and Vice-President

The President and Vice-President are elected by secret ballot by the Judges of the Tribunal. They serve for a period of three years and may be re-elected. The President directs the judicial work of the Tribunal, supervises its administration and represents it in its relations with States and other entities. The President presides at all meetings of the Tribunal. In the event of an equality of votes, the President has the casting vote.

The Vice-President exercises the functions of the presidency in the event of a vacancy in the presidency or of the inability of the President to exercise his or her functions.



Entrance hall

***The M/V "SAIGA" Case and The M/V "SAIGA" No.2 Case
(Saint Vincent and the Grenadines v. Guinea)***

On 13 November 1997, Saint Vincent and the Grenadines filed an application against Guinea for the prompt release of the oil tanker M/V SAIGA, its cargo and crew. The ship, flying the flag of Saint Vincent and the Grenadines, had been arrested for bunkering fishing vessels off the coast of Guinea. On 4 December 1997, the Tribunal delivered its Judgment and ordered the release of the vessel and crew upon the posting of a security, consisting of the value of its gasoil cargo and a bond of US\$ 400,000.

On 20 February 1998, the Governments of Saint Vincent and the Grenadines and Guinea agreed to submit the merits of their dispute concerning the M/V SAIGA to the Tribunal. The case involved issues relating to, *inter alia*, the jurisdiction of the coastal State in its exclusive economic zone, freedom of navigation, enforcement of customs laws, bunkering of vessels and the right of hot pursuit.



The Judgment was delivered on 1 July 1999. The Tribunal decided that Guinea had violated the rights of Saint Vincent and the Grenadines under the United Nations Convention on the Law of the Sea by arresting and detaining the M/V SAIGA and its crew, and that Guinea should pay compensation to Saint Vincent and the Grenadines in the sum of US\$ 2,123,357.

Chambers

Apart from the specific case of the Seabed Disputes Chamber, the rule is that all disputes are dealt with by the Tribunal as a full court, in accordance with paragraph 3 of article 13 of the Statute of the Tribunal. Disputes may however be referred to a chamber, if both parties so agree. The following chambers have been established:

- **Seabed Disputes Chamber**

This Chamber, composed of 11 members of the Tribunal, has exclusive jurisdiction, in either contentious or advisory proceedings, over disputes or issues relating to the exploration and exploitation of the Area.

- **Chamber of Summary Procedure**

This Chamber is composed of five members and two alternates. The President and the Vice-President of the Tribunal are members *ex officio* of the Chamber.



Seabed Disputes Chamber, *Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area*

- **Other Special Chambers**

The Tribunal has also established the following standing special chambers: the Chamber for Fisheries Disputes, the Chamber for Marine Environment Disputes and the Chamber for Maritime Delimitation Disputes.

- **Ad hoc chambers**

If parties so request, the Tribunal may establish *ad hoc* chambers to deal with a particular dispute. The composition of such chambers is determined by the Tribunal with the approval of the parties.

The Registry

The Registry is an international secretariat which assists the Tribunal in legal, administrative and financial matters. It also provides library, conference and information services.

Registrar and Deputy-Registrar

The Registrar is the head of the Registry. He is elected by the Judges of the Tribunal for a renewable term of five years. The Registrar is assisted by the Deputy Registrar, who is also elected for a renewable term of five years.

The Registrar is responsible for all legal and administrative work, including the administration of the Tribunal's accounts and finances. The Registrar is the regular channel of communications to and from the Tribunal. He keeps the List of cases, and copies of communications and agreements, as required by the Rules.



Staff of the Tribunal (2011)

Case concerning Land Reclamation by Singapore in and around the Straits of Johor (Malaysia v. Singapore), Provisional Measures

On 5 September 2003, a request for the prescription of provisional measures was submitted by Malaysia against Singapore, pending the constitution of an arbitral tribunal to be established under Annex VII of the United Nations Convention on the Law of the Sea. The dispute concerned land reclamation activities carried out by Singapore that allegedly impinged upon Malaysia's rights in and around the Straits of Johor, which separate the island of Singapore from Malaysia.

The Tribunal delivered its Order on 8 October 2003. It took the view that the land reclamation works might have adverse effects on the marine environment in and around the Straits of Johor. For that reason, the Tribunal considered that prudence and caution required Malaysia and Singapore to establish mechanisms for exchanging information on the land reclamation work and assessing its effects. It ordered the parties to establish a group of independent experts to prepare a report on the effects of the activities. The Tribunal directed Singapore not to conduct its land reclamation activities in ways that might cause irreparable prejudice to the rights of Malaysia, or serious harm to the marine environment, and also decided that the parties should submit a report by 9 January 2004 on their compliance with the provisional measures ordered.



On 26 April 2005, Malaysia and Singapore settled their dispute by signing an appropriate agreement. On 1 September 2005, a final arbitral award was made in the case in accordance with the terms specified in the settlement agreement. The provisional measures ordered by the Tribunal in 2003 were instrumental in bringing the parties together and providing a successful diplomatic solution to the dispute.

HAMBURG AS THE SEAT OF THE TRIBUNAL

On 17 March 1981 Germany submitted its candidature to the Third United Nations Conference on the Law of the Sea for Hamburg to become the seat of the Tribunal. On 21 August 1981 the Conference voted to make Hamburg the seat of the Tribunal.

In 1986 the Government of the Federal Republic of Germany offered to provide the Tribunal with premises at the expense of the Federal Government, with a substantial contribution from the City of Hamburg.

In 1989 an international architectural competition was held in which the design for the building submitted by the Munich-based firm of Baron Alexander and Baroness Emanuela von Branca won first prize. The foundation stone for the building was laid on 18 October 1996 by the Secretary-General of the United Nations, H.E. Mr Boutros Boutros-Ghali. Pending the completion of this building, Germany provided the Tribunal with temporary premises located in the centre of Hamburg.

On 3 July 2000, the Secretary-General of the United Nations, H.E. Mr Kofi Annan, officially inaugurated the premises of the Tribunal. The premises are located at Am Internationalen Seegerichtshof 1, in the district of Nienstedten, Hamburg.



Presentation of the key at the Official Opening of the Headquarters Building, 3 July 2000

THE PREMISES

The Tribunal's premises cover an area of 30,090 square metres. They include a modern concrete and glass building as well as a nineteenth-century villa, which the Tribunal uses for official receptions, meetings and training programmes. Germany provides the Tribunal with the premises free of rent.



Courtrooms

The main courtroom is used for plenary sittings of the Tribunal and of the Seabed Disputes Chamber. The bench has seating for the Members of the Tribunal, for Judges *ad hoc* and for experts. The courtroom can seat up to 250 people.

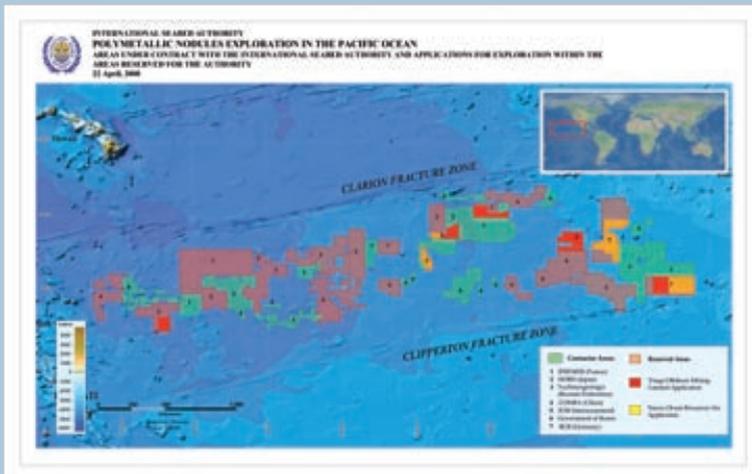
There are two smaller courtrooms for sittings of the chambers of the Tribunal.

Each courtroom is equipped with modern technology enabling witnesses or experts to testify from remote locations via video-link.

**Responsibilities and obligations of States sponsoring persons
and entities with respect to activities in the Area
(Request for Advisory Opinion submitted to the Seabed Disputes Chamber)**

On 6 May 2010, the Council of the International Seabed Authority decided to request the Seabed Disputes Chamber to render an advisory opinion on the responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area. The "Area" is a zone established by the United Nations Convention on the Law of the Sea as the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction. The Convention declares the Area and its resources to be the common heritage of mankind. The resources of the Area, such as polymetallic nodules and sulphides, are managed by the International Seabed Authority.

Written statements were submitted by twelve States Parties to the Convention and three intergovernmental organizations, and proceedings took place in September 2010 with the participation of nine States Parties and three intergovernmental organizations.



The Advisory Opinion, unanimously adopted by the members of the Seabed Disputes Chamber, was delivered on 1 February 2011. The Chamber distinguished two kinds of obligations incumbent on sponsoring States: a direct obligation, such as the duty to apply the precautionary approach, and a duty of due diligence to ensure compliance by sponsored contractors with the terms of the contract and the obligations set out in the Convention. According to the Opinion, a failure by the sponsored contractor to comply with its obligations does not in itself give rise to liability on the part of the sponsoring State. The liability of a sponsoring State arises if the State fails to carry out its responsibilities under the Convention and if damage occurs. A causal link must be established between such failure and the damage. The Chamber also held that the Convention requires the sponsoring State to adopt laws and regulations within its legal system, and to take administrative measures to ensure compliance by the contractor with its obligations and exempt the sponsoring State from liability.

Library

The Tribunal has a specialised library with a comprehensive collection on the law of the sea and related subjects such as maritime law, environmental law, ocean affairs, coastal management, international organizations, dispute settlement, arbitration, and general issues of public international law.

The Library's facilities include a main library containing the monograph collection, a library annex containing the serials and periodicals collection, and a reading room.

RELATIONSHIP WITH THE UNITED NATIONS

Although the Tribunal was established by a United Nations convention, it is not an "organ" of the United Nations. Even so, it maintains close links with the United Nations. In 1997, the Tribunal concluded an agreement on cooperation and relationship with the United Nations.



President José Luís Jesus with UN Secretary-General Ban Ki-Moon

Since 1996 the Tribunal has had observer status with the General Assembly, enabling it to participate in meetings and the work of the United Nations General Assembly when matters of relevance to the Tribunal are being considered. The President addresses the General Assembly every year when law of the sea is discussed. The Tribunal has also concluded an agreement with the United Nations in order to allow its staff members to have recourse to the United Nations Appeals Tribunal in administrative matters.

BUDGET AND FINANCES OF THE TRIBUNAL

The budget of the Tribunal is funded by contributions of the States Parties to the Convention. The contributions are calculated according to the scale of assessment of the United Nations, which reflects the size of the economy of the States Parties concerned.

States Parties which are parties to cases before the Tribunal do not incur any court fees or charges. Developing States which are parties to a dispute before the Tribunal may qualify for financial assistance to help them cover lawyers' fees or the cost of travel and accommodation for their delegation during the oral proceedings in Hamburg. This assistance is available through a voluntary trust fund established by the United Nations General Assembly and maintained by the Division for Ocean Affairs and the Law of the Sea (DOALOS) of the United Nations Office of Legal Affairs.

TRAINING

Internship Programme

Approximately twenty internships are available each year for young government officials and students of law, international relations, public relations, political science, library science and translation. Internships run for three months. Through assignment to one of the Tribunal's departments, participants acquire an understanding of the work and functions of the Tribunal, and are able to conduct research in a topic related to the work of the Tribunal.

ITLOS/Nippon Capacity-Building and Training Programme

The ITLOS/Nippon capacity-building and training programme on dispute settlement under the Convention is designed to provide government officials and researchers with advanced legal training in international dispute settlement under the Convention.

Lectures, case studies and training in negotiation and mediation and in the delimitation of maritime areas enable participants to gain a deeper understanding of the dispute-settlement mechanisms available under the Convention. Upon completion of the training programme, participants are expected to have acquired the necessary knowledge and skills to provide legal and expert advice to their governments on the various mechanisms of dispute settlement under the Convention, and on the implementation of the Convention in their home countries.



Nippon participants 2009

International Foundation for the Law of the Sea Summer Academy

The International Foundation for the Law of the Sea runs an annual four-week Summer Academy at the seat of the Tribunal for students of both international law of the sea and maritime law, bringing together members of the Tribunal, professors and professionals from the fields of law of the sea and maritime law, and a group of highly motivated participants from around the world. Further information about the Foundation is available on its website, www.iflos.org.

WHERE TO FIND ADDITIONAL INFORMATION

Additional information may be obtained from the Press Office of the Tribunal (press@itlos.org) or the website of the Tribunal, www.itlos.org.

