

Statement of Mr Nicolas Michel, the Legal Counsel of the United Nations, on the occasion of the tenth anniversary of the Tribunal

Mr President,
Excellencies,
Ladies and Gentlemen,

It is indeed a great honour and pleasure for me to be here with you today especially to celebrate the tenth anniversary of the International Tribunal for the Law of the Sea. Allow me to thank the Tribunal for inviting me to this ceremony and asking me to address you. It is with great pleasure that I note the presence of some prominent personalities and highly distinguished participants. Like you, I look forward to listening to their speeches concerning the Tribunal and the role it plays.

I have been asked to address you on the topic of the Tribunal and its relationship with the United Nations as well as the latter's contribution to maritime affairs and issues relating to the law of the sea. And this is what I shall now do.

Considered as the "constitution of the oceans", the United Nations Convention on the Law of the Sea ("the Convention") sets out essential rules governing maritime spaces and all activities carried out in them.

The Convention contains in a single instrument both conventional rules concerning the use of the oceans and innovative legal regimes and concepts which can be applied to new problems and emerging trends.

The establishment of the Tribunal was considered crucial for encouraging a coherent application of the Convention and conferring on it a functional judicial mechanism. The Convention sets out a detailed system for settling disputes resulting from the interpretation or application of its provisions. It requires States Parties to settle their differences by peaceful means, as demanded by the United Nations Charter. It also provides that, if parties to a dispute are unable to resolve it by resorting to the peaceful means of their choice, they are obliged to submit the case to compulsory proceedings which can lead to binding decisions, within the limits provided by the Convention. This requirement is an innovative measure that goes far beyond conventional international law. However, it is not the only innovative feature; I should like to mention some others.

- First, the Tribunal is accessible not only to States Parties to the Convention, but also to other States which, by signed agreements between them, confer on the Tribunal competence to deal with their dispute.
- Second, there exist special clauses for the settlement of disputes relating to the exploration and exploitation of the Area and its resources.
- Further, the Convention stipulates that disputes between States concerning the exploitation of the Area must be submitted to the Seabed Disputes Chamber, which is open to entities other than States Parties, that is, international organizations as well as physical or juridical persons, in the cases specifically provided for by the Convention.

- Finally, the Tribunal is called upon to play a wider role in the matter of advisory opinions. The Tribunal may, indeed, issue such an opinion if an international agreement pursuing the same aims as the Convention contains a provision allowing a request for an advisory opinion to be submitted to the Tribunal.

I should like to take this opportunity to congratulate the President of the Tribunal, Judge Wolfrum, on his excellent presentation of the *Guide to proceedings before the Tribunal*, at the sixteenth Meeting of States Parties to the Convention, which was held in New York last June.

During the first ten years of its existence, the Tribunal has produced its own basic texts and elaborated a jurisprudence which has already made a noteworthy contribution to the development of international law of the sea and plays an important role in the peaceful settlement of disputes, by applying the Convention and the Straddling Fish Stocks and Highly Migratory Fish Stocks Agreement.

Although the achievements of the Tribunal has acquired thus far is vast, the potential role the Tribunal can play is even greater. To encourage developing countries to have recourse to the Tribunal, and pursuant to the General Assembly's resolution 55/7, a voluntary trust fund has been set up to assist States to settle their disputes through the intermediary of the Tribunal. The aim of this fund is to give financial assistance to States Parties to the Convention in connection with expenses they incur in order to submit, or following the submission of, a dispute to the Tribunal or one of its Chambers.

Although it is a body created by a treaty, the Tribunal has solid connections with the United Nations. Indeed, the United Nations contributes to the efficient operation of the system of institutions and other entities established by the Convention. The special relationship between the United Nations and the Tribunal was underlined in the Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea, concluded in 1997. The Office of Legal Affairs of the United Nations, through its Division of Ocean Affairs and Law of the Sea, carries out special liaison functions on behalf of the Tribunal. I would also like to mention that the Tribunal has recently made an important contribution to a work prepared by the Division, containing a digest of law of the sea-related cases which is to be published shortly.

Mr President, Excellencies, Ladies and Gentlemen,

That brings me to provide an overview of the United Nations work in the field of oceans and the law of the sea. One of the important functions of the United Nations is to contribute to the progressive development and codification of international law, and promote the strengthening and development as well as the effective implementation of the international legal order for the seas and oceans. The United Nations, through its Division for Ocean Affairs and the Law of the Sea (DOALOS), provides legal services as well as substantive secretariat functions in the implementation and application of the Convention and its related

Agreements. DOALOS provides substantive servicing of the relevant institutions and intergovernmental bodies as mandated by the Convention and the General Assembly and the fulfilment of the Secretary-General's responsibilities with respect to dispute settlement. Substantive servicing is provided to the Meetings of States Parties to the Convention, which deals with elections of the members of the Tribunal as well as with budgetary and administrative matters of the Tribunal.

Secretariat services are also provided to the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (the Consultative Process), established by the General Assembly, as well as to the Commission on the Limits of the Continental Shelf. It is pertinent to briefly explain the salient features of these functions.

The purpose of the Consultative Process is to facilitate, in an effective and constructive manner, the review by the General Assembly of developments in ocean affairs and the law of the sea by considering the annual reports of the Secretary-General on this matter. The Consultative Process identifies areas where coordination and cooperation at the intergovernmental and inter-agency levels should be enhanced. The seventh meeting of the Consultative Process was held in New York in June this year. The subject for discussion at this year's meeting was ecosystem approaches and oceans. At this meeting considerable importance was given to an ecosystem-based approach to oceans management and in seeking to progress in the understanding and application of that concept. The Consultative Process has proposed to the General Assembly a number of actions which could be taken to achieve or advance the implementation of an ecosystem approach.

The Commission on the Limits of the Continental Shelf facilitates the implementation of the Convention by making recommendations to coastal States on matters related to the establishment by them of the outer limits of the continental shelf beyond 200 nautical miles. The recommendations are based on an examination of complex scientific and technical data and information included in submissions to the Commission from those States. The servicing of the Commission is thus more than normal servicing functions such as organizing meetings, preparing of documents, drafting reports etc. It involves providing Geographic Information System (GIS) laboratory facilities as well as assisting in the operation of that system.

The Secretary-General of the United Nations has specific responsibilities under the Convention such as depositary functions, and due publicity. These functions include expeditious processing and publication of treaty-related actions and treaties registered and deposited, and to provide assistance to Member States.

In addition to the functions provided for in the Convention, the United Nations carries out tasks as mandated by the General Assembly, in its resolutions on the oceans and the law of the sea and sustainable fisheries. In this context, I would like to mention the Secretary General's annual reports on oceans and the law of the sea, as well as the annual report on sustainable fisheries. These reports provide a review and evaluation of the activities implementing the Convention and other developments and emerging issues

relating to ocean affairs and the law of the sea. I would like to mention also that, prior to the main discussions in the General Assembly, DOALOS facilitates informal consultations concerning the annual resolution on oceans and the law of the sea which in the past have often been long and protracted. And I also wish to recall that briefings on developments in ocean affairs and the law of the sea are organized jointly by the United Nations Institute for Training and Research (UNITAR) and DOALOS, and most delegations take advantage of these briefings for their General Assembly negotiations.

Apart from Secretariat and reporting functions, the United Nations also takes a pro-active approach to emerging issues, and new areas. Let me briefly mention a few examples. The General Assembly established an Ad Hoc Open-ended Informal Working Group, serviced by DOALOS, to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. The first meeting took place in February of this year. The Review Conference on the Fish Stocks Agreement also took place earlier this year, and was serviced by DOALOS. The "UN-Oceans" is yet another initiative established on the basis of the General Assembly's request for an effective, transparent and regular inter-agency coordination mechanism on oceans and coastal issues within the United Nations system.

Lastly, but not the least, I would like to mention that the United Nations assists Member States in their efforts to derive practical benefits from the international legal regime for the oceans. In this area, emphasis is given to developing and building up the capacities of States, including human resources, institutional infrastructures, as well as legal and technical resources. Developing States, Small Island Developing States (SIDS), and States with economies in transition are most in need of assistance. Necessary training courses and workshops in relevant areas are conducted by DOALOS. Drawing on the experience gained, the Division plans to expand its training workshops with a pro-active approach on new subjects such as Marine Protected Areas, The Ecosystem Management Based Approaches, Maritime Security and Marine Biodiversity.

By focusing on such topical issues, the United Nations is looking ahead at the future developments that await the international community in the field of international law of the sea.

These reflexions, Mr. President, Excellencies, Ladies and Gentlemen, bring me close to my conclusion.

But before closing, I want to express my gratitude to the Host Country, Germany, for their hospitality and the excellent work conditions for the Tribunal.

And now, to conclude, I wish to extend my gratitude and my congratulations, on behalf of the Secretary-General and personally, to the Members of the Tribunal on the occasion of the tenth anniversary celebration. We extend to you our warm wishes of success and happiness in your remarkable endeavour.