



INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
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Press Release

PRESIDENT HEIDAR GIVES AN OVERVIEW OF THE CLIMATE CHANGE ADVISORY OPINION AT THE MEETING OF STATES PARTIES TO THE CONVENTION, UNDERLINING THE TRIBUNAL'S ABILITY TO HANDLE INTRICATE DISPUTES AND LEGAL QUESTIONS

Judge Tomas Heidar, President of the International Tribunal for the Law of the Sea, today addressed the thirty-fourth Meeting of States Parties to the United Nations Convention on the Law of the Sea, currently ongoing at United Nations headquarters.

In his first statement to this body in his capacity as President, Judge Heidar introduced the Tribunal's annual report for 2023 to the delegates, reminding the Meeting that six new judges had been elected at the Meeting the previous year, and recalling that his own election as President, that of Judge Neeru Chadha as Vice-President, and that of Judge David Attard as President of the Seabed Disputes Chamber, had taken place in early October 2023.

Turning to the Tribunal's judicial work, the President referred to the unanimous Judgment of the Special Chamber in the maritime boundary dispute between Mauritius and the Maldives, the ongoing case before another Special Chamber of the Tribunal between the Marshall Islands and Equatorial Guinea concerning the arrest of the "M/T Heroic Idun", and the recent submission to the whole Tribunal of a dispute between Luxembourg and Mexico relating to the arrest of the vessel "Zheng He". Much of his statement was however devoted to a review of the recent Advisory Opinion requested by the Commission of Small Island States on Climate Change and International Law, delivered by the Tribunal on 21 May 2024, opining that the Tribunal has provided a "comprehensive guide to the relevant specific obligations of States Parties ... putting them in good stead to tackle the sizeable challenges posed by climate change".

President Heidar highlighted, among others, the Tribunal's conclusions that anthropogenic greenhouse gas (GHG) emissions into the atmosphere constitute pollution of the marine environment within the meaning of the Convention and that States Parties have specific obligations, under article 194, paragraph 1, of the Convention, to take all necessary measures to prevent, reduce and control marine pollution from such emissions. He underlined the Tribunal's findings that these measures should be determined objectively, taking into account, *inter alia*, the best available science and relevant international rules and standards contained in climate change treaties such as the United Nations Framework Convention on Climate

Change and the Paris Agreement, and in particular the goal of limiting temperature increase to 1.5°C above pre-industrial levels.

President Heidar emphasized that the Tribunal did not however consider that the obligation under article 194, paragraph 1, of the Convention would be satisfied simply by complying with the obligations and commitments under the Paris Agreement, as the Convention and the Paris Agreement are separate agreements, with separate sets of obligations, and noted the Tribunal's statement that a failure to comply with this obligation would engage international responsibility. He then cited the Tribunal's findings that the obligation under article 194, paragraph 1, of the Convention is one of due diligence and that the standard of due diligence is stringent given the risks of serious and irreversible harm to the marine environment from anthropogenic GHG emissions. In this regard, he noted the Tribunal's view that the implementation of the obligation of due diligence may vary according to States' capabilities and available resources.

President Heidar then highlighted the Tribunal's finding that, under article 194, paragraph 2, of the Convention, States Parties have the specific obligation to take all measures necessary to ensure that anthropogenic GHG emissions under their jurisdiction or control do not cause damage to other States and their environment, and that pollution from such emissions under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights. He explained that, while the Tribunal also found that this is an obligation of due diligence, it considered that the standard of due diligence can be even more stringent than under article 194, paragraph 1.

Following the Tribunal's analysis of the obligation under article 192 of the Convention to protect and preserve the marine environment from climate change impacts and ocean acidification, President Heidar underscored the conclusion that States Parties have an obligation to do so, and that this may call for measures to restore marine habitats and ecosystems. He noted the Tribunal's findings that States Parties have a specific obligation under article 194, paragraph 5, of the Convention to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life from climate change impacts and ocean acidification.

Concluding his remarks on the Advisory Opinion, President Heidar asserted that the achievement of a unanimous Advisory Opinion, which answers questions relating to a highly complex scientific context and takes a broad spectrum of rules of international law into account, "speaks volumes for the ability of the Tribunal to handle intricate disputes and legal questions".

Closing his statement, President Heidar provided the Meeting of States Parties with a succinct update on the numerous capacity-building programmes in which the Tribunal is engaged, from the internship and fellowship programmes to regional and Legal Advisers' workshops, the IFLOS Summer Academy and the Junior Professional Officer programme, and reiterated, with his gratitude, the excellent cooperation the Tribunal enjoys with the United Nations Secretary-General, the Legal Counsel and the Director and staff of the Division for Ocean Affairs and the Law of the Sea.

The President's statement may be found on the [website](#) of the Tribunal.

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The press releases of the Tribunal, documents and other information are available on the Tribunal's website (<http://www.itlos.org> and <http://www.tidm.org>) and from the Registry of the Tribunal. Please contact Ms Julia Ritter or Mr Robert Steenkamp at: Am Internationalen Seegerichtshof 1, 22609 Hamburg, Germany, Tel.: +49 (40) 35607-227; E-mail: press@itlos.org