

ITLOS/Press 6
5 May 1997



INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
TRIBUNAL INTERNATIONAL DU DROIT DE LA MER

Press Release

(Issued by the Registry)

**TRIBUNAL READIES ITSELF FOR CASES;
DRAFT BUDGET FOR 1998; AND
SETS UP COMMITTEES.**

HAMBURG, 5 May. The Judges of the International Tribunal for the Law of the Sea, meeting in Hamburg from 2 to 29 April, concluded their Third Organizational Session having taken several further steps to ready themselves for any case that may be submitted to the Tribunal including the establishment of four Committees.

The Session concentrated on the intensive examination of the Rules of the Tribunal. The Tribunal focused on a first review of procedures in areas exclusively within the Tribunal's jurisdiction such as the prescription of provisional measures pending the constitution of an arbitral tribunal. These measures could be prescribed at the request of one of the parties and would be binding. The Tribunal also considered the special preliminary requirements of whether a claim constitutes an abuse of legal process or whether *prima facie* it is well founded. These need to be established before the Tribunal would consider a case concerning the exercise of sovereign rights or jurisdiction of a coastal State or the freedoms of other States in the exclusive economic zone.

[PICTURE IN ORIGINAL]

Mr. Kofi Annan, Secretary-General of the United Nations, meeting with Judge Thomas A. Mensah, the President of the Tribunal, at the United Nations Headquarters in New York. Both are nationals of Ghana.

In addition, the Tribunal prepared an interim report on its activities to be submitted to the Meeting of States Parties. The Report emphasizes the importance of forum choice declarations. These declarations may be made at the time of signature, ratification of, or accession to, the Convention, or at any time thereafter. The Convention also permits *ad hoc* declarations for the purposes of a specific dispute, thus enabling the Tribunal to deal with a case even when one or both of the parties had not previously accepted its jurisdiction.

(more)

For information media -- not an official record

**Press Release ITLOS/Press 6
5 May 1997**

During the Session, the Tribunal also carefully scrutinized its essential needs for the budgetary period 1998. Guided by the wish to be user-friendly, efficient and cost-effective, the concluding presentation by the Tribunal to the Seventh Meeting of States Parties is modest and limited in all sectors. The Tribunal continued its work on the review of the Financial Regulations, Staff Regulations, the Internal Judicial Practice, the Tribunal's Privileges and Immunities, the relationship agreement with the United Nations as well as many other aspects of its organization.

Committees

The Tribunal decided to establish four Committees to direct its internal organization. The Committees were established and the members selected by consensus on the proposal of the President following consultations carried out by him. The terms of office of the members of the Committees will end on 30 September 1998. It was decided that the term of office of the members of the subsequently selected Committees will be one year.

Budget and Finance Committee

The Budget and Finance Committee is to prepare the budget, draft the Financial Regulations and make recommendations on the financial organization of the Tribunal and the management of its finances and accounts. The Committee will examine the accounts and financial reports of the Tribunal. The Vice-President of the Tribunal, Judge Wolfrum, presides over the Committee which consists of Judges Yamamoto, Kolodkin, Bamela Engo, Akl, Warioba and Laing.

Committee on Rules and Judicial Practice

The Committee on Rules and Judicial Practice is responsible for safeguarding the uniform and proper application of the Rules of Procedure of the Tribunal and of the regulations that will be laid down in the Resolution concerning the Internal Judicial Practice and the Guidelines. The Committee is presided over by the President of the Tribunal, Judge Mensah, and consists of Judges Marotta Rangel, Yankov, Chandrasekhara Rao, Anderson, Vukas, Warioba, Treves, Laing and Ndiaye. Judge Akl, President of the Seabed Disputes Chamber, is an *ex officio* member of the Committee.

Committee on Staff and Administration

The Committee on Staff and Administration will make recommendations to the Tribunal on the administrative policies of the Tribunal, draft the Staff Regulations, and propose procedures for recruitment and staff appeals. The Committee is presided over by Judge Chandrasekhara Rao and consists of Judges Caminos, Yankov, Bamela Engo, Nelson, Marsit and Eiriksson.

Committee on Library and Publications

(more)

For information media - not an official record

**Press Release ITLOS/Press 6
5 May 1997**

The Committee on Library and Publications will advise the Tribunal on the organization and functioning of the Tribunal's library. The tasks of the Committee include consideration of the programme of acquisitions and supervision of the technical support for the library and consideration of the nature and form of publications to be issued by the Tribunal. The Committee is presided over by Judge Park and consists of Judges Zhao, Nelson, Anderson, Vukas, Treves and Marsit.

Rules of the Tribunal

The significance of the Rules

The Rules of the Tribunal serve two functions. They set out the organisation of the Tribunal and its Registry and they stipulate the procedure to be followed by the Tribunal when a case is submitted to it. The procedure includes the manner and mode of the submission of a case, the establishing of time-limits for steps in the procedure, the exchange of written pleadings, the conduct of hearings, and the issuance of judgements.

The Tribunal is ready to receive cases

The Tribunal was provided with a set of Draft Rules prepared by the Preparatory Commission, which were recommended to it by the Meeting of States Parties. In order to deal with any case that may be brought before it, the Tribunal has decided to apply these Rules on a provisional basis. Thus the Tribunal is now in a position to deal with cases that may be submitted to it.

User-friendly, cost-effective and efficient procedures

The Rules are the cornerstone of the judicial functions of the Tribunal. The Judges therefore decided at the very outset to review the Draft Rules with the aim of improving their viability, and thereby the appeal of the Tribunal as a means of dispute settlement. The guiding principle is the efficient administration of justice by the Tribunal by providing user-friendly and cost-effective procedures that would facilitate the speedy resolution of cases.

The specific needs of the Tribunal

In the ongoing review of the Rules, the Tribunal is also addressing some of the specific procedural issues such as how it would deal with the different entities that have access to the Tribunal. The Tribunal is not only open to States, as is the case with traditional international dispute settlement procedures, but also to entities such as international organizations, consortia of corporations, companies and private individuals.

The Rules must also reflect the many different categories of cases that can be brought to the Tribunal. Disputes that can be referred to the Tribunal cover a wide range of issues such as the delimitation of maritime zones, fisheries, navigation and protection of the marine environment. The

(more)

For information media - not an official record

**Press Release ITLOS/Press 6
5 May 1997**

Tribunal can also prescribe provisional measures pending the constitution of an arbitral tribunal and has compulsory jurisdiction over the prompt release of arrested vessels and their crews. Furthermore, the Tribunal is competent to resolve disputes relating to the exploitation of deep seabed resources and to give advisory opinions at the request of the International Seabed Authority.

All these different kinds of cases have their own procedural requirements. For example, whereas a case concerning maritime delimitation would require a relatively elaborate procedure, a case concerning the release of a vessel and its crew would demand expeditious proceedings. The Tribunal is therefore faced with the task of formulating rules that enable it to deal with each of these different kinds of cases in an appropriate way.

The Internal Judicial Practice

After the review of the Rules has been completed and after the revised Rules have been adopted, the Tribunal will finalize its work on the Resolution concerning its Internal Judicial Practice. The Resolution will contain a statement of the rules and procedures as to how the Tribunal deals with a case internally. It will deal with such issues as the deliberations of the Judges, the writing of notes by the Judges, and the writing of the decision. The Resolution concerning the Internal Judicial Practice of the Tribunal can have a crucial impact on the ability of the Tribunal to operate expeditiously and cost-efficiently.

Guidelines

The Judges of the Tribunal have also decided to develop guidelines to inform and assist Parties appearing before it. The Guidelines of the Tribunal will contain detailed information and guidance on the procedures of the Tribunal. The contents of the Guidelines will be considered by the Tribunal after the formal adoption of the Rules.

The work already done

At the First Session, certain rules of procedure were provisionally adopted to facilitate the organizational work of the Tribunal. The Tribunal reviewed the draft Rules presented by the Preparatory Commission and agreed on a revised structure for the provisions.

Between the First and the Second Session, the Judges set up an informal consultative mechanism to channel the proposals for revision of the Rules. Much of the Second and Third Sessions was devoted to a close examination of the Rules. The Tribunal completed the first reading of the Rules dealing with its internal organization and most of the provisions regarding the procedure in contentious cases. The work on the Rules has largely been undertaken in a working group of the whole presided over by Judge Treves.

Formal adoption

(more)

For information media - not an official record

Press Release ITLOS/Press 6
5 May 1997

The Tribunal intends to complete its work on the Rules at the Fourth Session planned for October 1997 at which time the Rules will be formally adopted. The Judges have, however, indicated that they regard the review of the Rules as an ongoing process and that they intend to continue reviewing the Rules also after their formal adoption.

Budget

The Tribunal carefully scrutinized its essential needs for the budgetary period 1998. Guided by the wish to be user-friendly, efficient and cost-effective, the concluding presentation by the Tribunal to the Seventh Meeting of States Parties, which convenes from 19 to 23 May 1997, is modest and limited in all sectors.

As the organizational phase of the Tribunal's work moves ahead, it is preparing for its functional phase. In its organizational phase (1 October 1996 - 31 December 1997) the Tribunal will have substantially completed the task of preparing itself for operation and its chambers will be fully operational.

In its functional phase the Tribunal will start dealing with contentious cases, applications for the prompt release of vessels and crews or for the prescription of provisional measures pending the constitution of an arbitral tribunal. During its functional phase the requirements will therefore be different from those of its organizational phase.

The Tribunal's requirements are unique because it does not enjoy the institutional support of other international judicial bodies functioning within the wider scope of an international organization. Thus, for example, the Tribunal is responsible for the collection of the contributions of States to the budget; and for the running of its accounts. The Meeting of States Parties determined, however, that the staff structure of the Tribunal should mirror that of the International Court of Justice. The Tribunal has nevertheless decided to operate initially with an even more limited number of staff.

Interim Report

At the Meeting of States Parties from 19 to 23 May 1997, the Tribunal will submit an Interim Report to inform the States Parties on the developments which have taken place since the constitution of the Tribunal. The Report outlines the Tribunal's internal organization and the relations of the Tribunal with the host country and the United Nations. It gives information on the Tribunal's finances, its future work and how the Tribunal promotes the dissemination of information on its work.

The Report stresses that the Tribunal is operational and ready to fulfil its functions and exercise its mandate in an efficient, cost-effective and user-friendly manner. It also emphasizes the importance of forum choice declarations. These declarations may be made at the time of signature, ratification of, or accession to, the Convention, or at any time thereafter. The Convention also permits *ad hoc* declarations for the purposes of a specific dispute, thus enabling the Tribunal to deal with a case even when one or both of the parties has not previously accepted its jurisdiction.

(more)

For information media - not an official record

**Press Release ITLOS/Press 6
5 May 1997**

Ceremonial Hoisting of the Flag of the Tribunal

On 11 April 1997, the Flag of the Tribunal was hoisted for the first time. The ceremonial hoisting of the Flag of the Tribunal took place in the presence of Dr. Henning Voscherau, the First Lord Mayor of the Free and Hanseatic City of Hamburg, the President, the Judges, and the Registrar of the Tribunal.

[PICTURE IN ORIGINAL]

Judge Thomas A. Mensah, the President of the Tribunal, and Dr. Henning Voscherau, the First Lord Mayor of the Free and Hanseatic City of Hamburg, at the ceremonial hoisting of the Flag of the Tribunal at its temporary Headquarters in Hamburg.

The Flag depicts the official seal of the Tribunal which shows the scales of justice hanging over the waves of the oceans encompassed by a wreath of laurel leaves. Apart from representing justice governing the oceans, the emblem also reflects the strong links between the United Nations Office of Ocean Affairs and the Law of the Sea, the Seabed Authority and the Tribunal.

Visit to Bonn

The First Mayor of the Free and Hanseatic City of Hamburg, Dr. Voscherau, invited the Tribunal to an official reception organized in honour of its President at the Hamburg representation in Bonn. Present at the reception on 15 April 1997 were Judges from the Supreme Court, representatives of the Federal ministries, parliamentarians, and members of the diplomatic corps. The President of the Tribunal addressed the invitees expressing his sincere appreciation for their presence and gratitude for the warm welcome that the Tribunal has received in Germany.

Meeting with the Secretary-General of the United Nations

Further to the granting of Observer Status at the General Assembly, the President and the Registrar met with H.E. Mr. Kofi Annan, the Secretary-General of the United Nations during the Sixth Meeting of States Parties. Various issues of importance to the Tribunal were discussed including the relations between the Tribunal and the United Nations, future developments, and the programme of work of the Tribunal. The Secretary-General also accepted the invitation by the President to visit the Tribunal in the near future.

Privileges and Immunities

During the Session, the President, the Vice-President and the Registrar met again with representatives of the German Government to discuss the Privileges and Immunities that the Tribunal will enjoy in the host country. The deliberations, which will result in a Headquarters Agreement, have reached an advanced stage.

Relationship with the United Nations

(more)

For information media - not an official record

**Press Release ITLOS/Press 6
5 May 1997**

The Tribunal is in the process of negotiating a relationship agreement with the United Nations. The consultations with the Office of the Legal Counsel are continuing. The Agreement would take account of the special nature of the Tribunal as an autonomous judicial organization. The Agreement, which would be based on the draft agreement prepared by the Preparatory Commission and submitted to the Tribunal by the States Parties, is expected to be signed soon.

[PICTURE IN ORIGINAL]

Mr. Hans Corell, Legal Counsel of the United Nations, presenting a set of the United Nations Treaty Series to Judge Thomas A. Mensah, the President of the Tribunal, at the United Nations Headquarters in New York. Also present at the ceremony were Mr. Gritakumar E. Chitty, Registrar of the Tribunal, and Mr. Palitha Kohona, Chief of Treaty Section, United Nations.

Future Meetings of the Tribunal

The Judges are permanently at the disposal of the Tribunal and will be ready to meet at short notice in the event that a case is received by the Tribunal.

The next session of the Tribunal has been planned for the month of October. The Judges considered it important to have this session, additional to those planned by the Meeting of States Parties in 1995, to ensure the resolution of urgent organizational matters in a timely manner.

In 1998, the Judges plan to meet for a total of three organizational sessions, each of four weeks duration. The sessions have been scheduled for 2 to 27 February, 20 April to 15 May, and 21 September to 16 October.

The International Tribunal for the Law of the Sea

The International Tribunal for the Law of the Sea is an independent international judicial body which has been established pursuant to the United Nations Convention on the Law of the Sea. This Convention is one of the most comprehensive international treaties ever completed. It provides for the outer limits to which coastal States can claim jurisdiction in their adjacent waters and regulates prominent issues such as fisheries and navigation. A whole chapter of the Convention is devoted to the prevention of pollution of the marine environment. The Convention also pronounces the deep seabed as the common heritage of mankind and sets up the International Seabed Authority to regulate the exploitation of the deep seabed.

The Convention is unique in that the mechanism for the settlement of disputes is incorporated into the document, making it obligatory for parties to the Convention to go through the settlement procedure in case of a dispute with another party. The Tribunal is the central forum for the settlement of disputes arising from the Convention. At present, 116 States are party to the Convention, indicating the world wide approval which the Convention has obtained.

(more)

For information media - not an official record

**Press Release ITLOS/Press 6
5 May 1997**

The Convention gives the Tribunal jurisdiction to resolve a variety of international disputes. Disputes amongst States that can be referred to the Tribunal may involve *inter alia* the delimitation of maritime zones, fisheries, navigation and ocean pollution. The Tribunal also has compulsory jurisdiction over the prompt release, upon the deposit of a bond, of arrested vessels and their crews. In addition, as discussed earlier, the Tribunal's Seabed Disputes Chamber has its own specialized jurisdiction.

On 5 October 1996, the Judges elected Judge Thomas A. Mensah from Ghana to serve as the first President of the Tribunal. On the same day, Judge Rüdiger Wolfrum, a German national, was elected Vice-President. The 21 Judges take precedence as set out below.

	<i>Name</i>	<i>Country</i>	<i>Date of expiry of term of office</i>
President	Thomas A. Mensah	Ghana	1 October 2005
Vice-President	Rüdiger Wolfrum	Germany	1 October 1999
Judges	Lihai Zhao	China	1 October 2002
	Hugo Caminos	Argentina	1 October 2002
	Vicente Marotta Rangel	Brazil	1 October 1999
	Alexander Yankov	Bulgaria	1 October 2002
	Soji Yamamoto	Japan	1 October 2005
	Anatoly Lazarevich Kolodkin	Russian Federation	1 October 1999
	Choon-Ho Park	Republic of Korea	1 October 2005
	Paul Bamela Engo	Cameroon	1 October 1999
	L. Dolliver M. Nelson	Grenada	1 October 2005
	P. Chandrasekhara Rao	India	1 October 1999
	Joseph Akl	Lebanon	1 October 1999
	David Anderson	United Kingdom	1 October 2005
	Budislav Vukas	Croatia	1 October 2005
	Joseph Sinde Warioba	United Republic of Tanzania	1 October 1999
	Edward Arthur Laing	Belize	1 October 2002
	Tullio Treves	Italy	1 October 2002
	Mohamed Mouldi Marsit	Tunisia	1 October 2005
	Gudmundur Eiriksson	Iceland	1 October 2002
	Tafsir Malick Ndiaye	Senegal	1 October 2002

On 23 October 1996, the Judges elected Mr. Gritakumar E. Chitty, of Sri Lankan nationality, as the first Registrar of the International Tribunal for the Law of the Sea. On 25 October 1996, the Tribunal elected Mr. Philippe Gautier, of Belgium, as its Deputy Registrar.

The City of Hamburg, with its rich maritime history as part of the League of Hanseatic Cities, obtained the seat of the Tribunal during the negotiation of the Convention. The temporary Tribunal

(more)

For information media - not an official record

**Press Release ITLOS/Press 6
5 May 1997**

building is situated at Wexstrasse in the centre of Hamburg. On 18 October 1996, the Secretary-General of the United Nations and other high dignitaries participated in the ceremony to lay the foundation stone for the future Tribunal premises at the site on the Elbchaussee at Nienstedten in Hamburg overlooking the river Elbe. The future facility is scheduled to be ready just before the new millennium.

States Parties

As of 13 March 1997, the following 116 States had deposited ratifications, accessions or successions to the Convention with the Secretary-General of the United Nations:

Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Barbados, Belize, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Cameroon, Cape Verde, China, Comoros, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Djibouti, Dominica, Egypt, Fiji, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Guatemala, Guyana, Haiti, Honduras, Iceland, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Mozambique, Myanmar, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Philippines, Republic of Korea, Romania, Russian Federation, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saint Lucia, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Somalia, Spain, Sri Lanka, Sudan, Sweden, The former Yugoslav Republic of Macedonia, Togo, Tonga, Trinidad and Tobago, Tunisia, Uganda, United Republic of Tanzania, Uruguay, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe. The United Kingdom has indicated its intention to become a party.

Previous Press Releases of the Tribunal and additional information can be obtained from the Tribunal's Registry in Hamburg, Germany, at: Tel: (49) (40) 35607-227/228,
Fax: (49) (40) 35607-245/275, E-mail: itlos@itlos.hamburg.de

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