

**STATEMENT BY P. CHANDRASEKHARA RAO, PRESIDENT OF THE
INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
ON AGENDA ITEM 40 (a): OCEANS AND LAW OF THE SEA AT
THE PLENARY OF THE FIFTY-FOURTH SESSION OF THE UNITED NATIONS
GENERAL ASSEMBLY 22 NOVEMBER 1999**

Mr. President and Distinguished Delegates, On behalf of the International Tribunal for the Law of the Sea, I wish to express my appreciation for the opportunity given to me to address this 54th session of the General Assembly in connection with the discussion of the item: Oceans and the law of the sea. I extend to you, Mr. President, my personal congratulations, and those of the Tribunal, on your election as the President of the General Assembly. Under your leadership, the General Assembly has been successfully advancing its work at this session.

The Tribunal was established with 21 Judges on 1 October 1996. The terms of office of seven Judges, who were elected for a three-year term, expired on 30 September 1999. The first triennial election to fill the places of these seven members was held on 24 May 1999. During the eighth session of the Tribunal, held in late September and early October 1999, the Judges of the Tribunal elected Judge P. Chandrasekhara Rao as the President and Judge Dolliver Nelson as the Vice-President. Judge Tullio Treves was elected as the President of the Seabed Disputes Chamber.

Mr. President, the Tribunal has had a very productive year since the former President of the Tribunal, Judge Thomas A. Mensah, addressed this august body at its 53rd session. Over the last 12 months, the Tribunal has made important progress in consolidating its special position in dealing with disputes concerning the interpretation or application of the United Nations Convention on the Law of the Sea. In 1999, the Tribunal delivered its first Judgment on the merits in the M/V "Saiga" (No. 2) case (Saint Vincent and the Grenadines v. Guinea) and an Order in the Southern Bluefin Tuna cases (New Zealand v. Japan; Australia v. Japan).

The Tribunal is part of the system for the peaceful settlement of disputes as envisaged in the Charter of the United Nations. Indeed, it finds its origins in the efforts sponsored by the United Nations, which culminated in the adoption of the United Nations Convention on the Law of the Sea. The Convention does not provide a single body for adjudicating law of the sea disputes but provides for a number of alternative means for the settlement of disputes. Nevertheless, the Tribunal, composed as it is of persons of "recognised competence in the field of the law of the sea", is accorded, by the Convention, a pre-eminent position in the matter of settlement of law of the sea disputes. This position is confirmed by, among other things, the prescription of compulsory jurisdiction of the Tribunal in respect of certain matters and the extension of the Tribunal's jurisdiction to entities other than States. The Tribunal is given a special competence to hear applications for the prompt release of vessels and crews under article 292 and to deal with requests for provisional measures under article 290, paragraph 5, of the Convention. These compulsory jurisdictions are unique in international law. The Seabed Disputes Chamber of the Tribunal also enjoys compulsory jurisdiction in respect of certain disputes referred to in Part XI, section 5 of the Convention. Above all, it is worth noting that the International Tribunal for the Law of the Sea is a standing court

consisting of 21 Judges with recognised competence in the field of the law of the sea. The Tribunal is a world court that is designed by the United Nations Convention to play a central role in the resolution of the law of the sea disputes.

Mr. President, the Tribunal has already dealt with two cases in which it has been called upon to exercise its compulsory jurisdiction under article 290, paragraph 5, and article 292 of the Convention. It has also prescribed provisional measures under article 290, paragraph 1, and has heard its first case on the merits. The Judgment in the M/V "Saiga" (No. 2) case, delivered by the Tribunal on 1 July 1999, dealt with many important issues under the Convention including the freedom of navigation and other internationally lawful uses of the seas, commercial activities in the exclusive economic zone, the enforcement of customs laws, and the right of hot pursuit.

The Southern Bluefin Tuna cases were the first in which provisional measures were prescribed under article 290, paragraph 5, of the Convention. In these cases, the provisional measures were requested in connection with important issues of conservation and management of a highly migratory fish stock. The requests for provisional measures were submitted by both New Zealand and Australia on 30 July 1999 and public hearings, involving the use of courtroom multimedia facilities, were held on 18, 19 and 20 August. The decision of the Tribunal was delivered one week later on 27 August 1999. As well as providing the Tribunal with an opportunity to scrutinise the scheme of the Convention on a wide range of issues, these cases also permitted the Tribunal to test the efficacy of its own rules of procedure and methods of working.

It is of significance that the establishment of the Tribunal took place during the United Nations Decade of International Law. This Decade has witnessed momentous changes in international law and the Report of the Secretary-General faithfully records them.

Mr. President, I wish to take this opportunity to express my sincere thanks and appreciation to the Secretary-General, Mr. Kofi Annan, for the continuing support provided to the Tribunal and his interest in its activities. I wish also to express my appreciation and thanks to the Legal Counsel of the United Nations, Mr. Hans Corell, for his ongoing support. The Tribunal is also deeply appreciative of the continuing assistance rendered to the Tribunal by the Division for Ocean Affairs and the Law of the Sea. I acknowledge the important contribution of the Division in placing promptly the records of the Tribunal and the verbatim transcripts of the hearings in the cases before it on the website of the United Nations within hours of the close of each daily session during the hearings in the M/V "Saiga" (No. 2) case and in the Southern Bluefin Tuna cases. Mr. President, the Tribunal wishes to add its support to preambular paragraph 19 of draft resolution A/54/L. 31, which expresses the appreciation of the General Assembly to the Secretary-General for his efforts in support of the Convention and assistance in the functioning of the institutions created by the Convention.

On behalf of the Tribunal, I wish to thank the co-sponsors of the draft resolution for noting, in operative paragraph 7, the continued contribution of the International Tribunal for the Law of the Sea to the peaceful settlement of disputes in accordance with part XV of the Convention and for underlining the Tribunal's important role and authority concerning the interpretation or application of the United

Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the Convention.

Mr. President, as preambular paragraph 8 of draft resolution A/54/L.31 states, the financial situation of the Tribunal is a source of concern for us. Operative paragraph 13 of draft resolution A/54/L.31 underlines the importance of prompt payments of contributions by States Parties to the effective functioning of the Tribunal. Timely payments of contributions have a vital bearing on the promotion of the rule of law within the framework of the United Nations Convention on the Law of the Sea. In this connection, I join the appeal made, in operative paragraph 13 of the draft resolution, to all States Parties to the Convention to pay their assessed contributions to the Tribunal in full and on time in order to ensure that it is able to carry out its functions as provided for in the Convention.

Mr. President, the Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea has to date been signed by 21 States Parties; two States Parties have ratified it. The Agreement was closed for signature on 30 June 1999 and is open for ratification or, as the case may be, for accession. For the Agreement to enter into force, at least ten instruments of ratification or accession need to be deposited with the Secretary-General of the United Nations. Mr. President, I would like to emphasise that the early entry into force of the Agreement would greatly facilitate the work of the Tribunal. I welcome operative paragraph 12 of draft resolution A/54/L.31, which calls upon States that have not done so to consider ratifying or acceding to the Agreement. I would also like to point out that the Agreement permits a State, which intends to ratify or accede to the Agreement, to notify the depositary at any time that it will apply the Agreement provisionally for a period not exceeding two years.

Mr. President, on behalf of the Tribunal, I wish to take this opportunity to express special appreciation to the Government of the Federal Republic of Germany and to the senate of the Free and Hanseatic City of Hamburg for the excellent cooperation extended to us. The negotiations between the Federal Government and the Tribunal concerning the conclusion of a headquarters agreement for the Tribunal have yet to be concluded. We hope this agreement will soon be concluded.

I wish to note that the Tribunal plans to move into its permanent premises at Elbchaussee in Hamburg in about five or six months from now. We hope that this facility will contribute to the effective functioning of the Tribunal. The planning for a ceremonial opening of the building is under way.

Mr. President, our court is now three years old. Within this short period of its existence, it has been able to prepare efficient, cost-effective and user-friendly rules, guidelines and procedures for promoting settlement of disputes without unnecessary delay or expense. We hope that States and other entities will continue to make full use of the Tribunal for achieving rapid settlement of the law of the sea disputes and ensuring uniform and consistent application of the United Nations Convention on the Law of the Sea.

We will soon enter the first century of the third millennium. On this occasion, I wish to assure this august body that it shall be the constant endeavour of the

Tribunal to promote the rule of law in matters relating to the oceans in accordance with the United Nations Convention on the Law of the Sea and other rules of international law not incompatible with this Convention.

Mr. President and Distinguished Delegates, I wish to thank you again for enabling me to address this august body on a subject of importance to the Tribunal.