

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA



STATEMENT BY

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PRESIDENT OF THE
INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

ON

AGENDA ITEM 34 (a)

AT

THE PLENARY OF THE FIFTY-FIFTH SESSION OF THE
UNITED NATIONS GENERAL ASSEMBLY

30 OCTOBER 2000

Mr President and distinguished delegates:

It is an honour to address the Millennium General Assembly in connection with the discussion of the item "Oceans and the Law of the Sea". I extend to you, Mr President, our congratulations on your election as the President of the General Assembly.

I regret to inform you of the death, in Beijing, on 10 October 2000, of Judge Lihai Zhao. Judge Zhao had been a member of our Tribunal since October 1996. His term was due to expire in September 2002. Steps are being taken to fill the vacancy created by his death in accordance with the Statute of the Tribunal.

I am glad to report to you that the official opening of the headquarters building of the Tribunal in the Free and Hanseatic City of Hamburg took place on 3 July 2000, in the presence of several high dignitaries, including His Excellency Mr Kofi Annan, the Secretary-General of the United Nations. The Tribunal is grateful to the Federal Republic of Germany and the Free and Hanseatic City of Hamburg for their efforts in erecting this magnificent new headquarters building.

It is a matter of special satisfaction that the Federal Republic of Germany and the Tribunal have, on 18 October 2000, concluded an Agreement on the Occupancy and Use of the Premises of the Tribunal. We hope to operate from the new building very soon. However, negotiations with regard to the Headquarters Agreement have not been concluded. It is our hope that we would soon reach agreement in this matter also.

During this year, the Tribunal heard the "Camouco" Case between Panama and France. Panama brought the case to the Tribunal on 17 January 2000 and the Tribunal was able to deliver the judgment within a period of three weeks thereafter. This case

has once again demonstrated the Tribunal's ability to bring about dispute settlement without unnecessary delay or expense.

Speaking on the occasion of the official opening of the headquarters building of the Tribunal, the Secretary-General Mr Kofi Annan observed that the Tribunal is "the keystone" of the Convention, that it is "the central forum available – to States, to certain international organisations, and even to some corporations – resolving disputes about how the Convention should be interpreted and applied", and that it has "already built a reputation among international lawyers as a modern court that can respond quickly". We are thankful to the Secretary-General for his support of the Tribunal. It is also very encouraging to note that the draft resolution under consideration (doc. A/55/L.10) underlines the Tribunal's important role and authority concerning the interpretation and application of the Convention.

I wish to bring to your attention that under the Convention the Tribunal could offer flexible mechanisms for settlement of disputes. Parties may choose between having a dispute heard by the full Tribunal, which includes all its judges, and having a dispute heard by one of its special chambers. The Tribunal formed the following special chambers for dealing with particular categories of disputes: Chamber of Summary Procedure; Chamber for Fisheries Disputes; Chamber for Marine Environment Disputes. It may form other special chambers, depending upon the need.

The Tribunal is also required to form an *ad hoc* chamber for dealing with a particular dispute submitted to it, if the parties so request. The composition of such an *ad hoc* chamber is required to be determined by the Tribunal with the approval of the parties. This option would be of particular interest to parties who are considering arbitration. The costs of an *ad hoc* chamber are met from the general budget of the Tribunal and are not borne by the parties to the case. Parties also have the option of choosing *ad hoc* judges on their behalf. And a judgment given by any of the special chambers of the Tribunal shall be considered as rendered by the Tribunal. Some States have shown interest in *ad hoc* chambers.

The rule of law in international relations cannot be maintained unless international disputes are resolved by peaceful means. It is equally important that judgments rendered by international courts or tribunals are implemented in good faith and in time by States and other parties to international adjudication. It is encouraging to note that the United Nations Millennium Declaration found it appropriate to call upon Member States of the United Nations to “ensure compliance” with the decisions of the International Court of Justice, in compliance with the Charter of the United Nations, in cases to which they are parties. This exhortation is equally relevant in respect of decisions of all international courts or tribunals, whether within the framework of the United Nations system or outside. We are very happy to see that the draft resolution notes the obligation of parties to cases before a court or a tribunal referred to in article 287 of the Convention to ensure prompt compliance with the decisions rendered by such court or tribunal.

Not many States Parties to the Convention have filed declarations as regards choice of compulsory procedures for the settlement of disputes under article 287 of the Convention. Only 25 States Parties have filed such declarations. It is satisfying to note that the draft resolution under consideration calls upon States Parties to the Convention to consider making a written declaration choosing from the means for the settlement of disputes set out in article 287 of the Convention.

The establishment of new tribunals in recent years is indeed a positive development since such bodies fulfil complementary needs. The United Nations Convention on the Law of the Sea offers States a wide choice among several procedures for dispute settlement entailing binding decisions. These forums are of equal standing. The effect of more tribunals being available to the litigants is that more disputes have come to be resolved by parties by means of their choice. There is also the additional but in no way less important factor that several of the newly created tribunals are also accessible to non-State entities.

The financial situation of the Tribunal remains far from satisfactory. As of 9 October 2000, there was an unpaid balance of assessed contributions to the overall budget of the Tribunal in the amount of \$ 1,791,009. I regret to inform you that as many as 35 States Parties to the Convention have never paid their assessed contributions. Timely payments of contributions have an important bearing on the ability of our Tribunal to discharge its functions effectively. I thank the sponsors of the draft resolution under consideration for inviting the General Assembly to make an appeal to States Parties to the Convention to pay their assessed contributions to the Tribunal, in full and on time.

Establishment of trust funds with a view to providing financial assistance to States for costs incurred in connection with disputes before international adjudicative forums is not a new concept. The availability of such funds would serve as a device to overcome financial impediments to the judicial settlement of disputes and promote peaceful settlement of disputes. We welcome in this regard the decision of the Tenth Meeting of States Parties to the Convention to recommend to the General Assembly the establishment of a trust fund, to be financed through voluntary contributions, for the purpose of providing financial assistance to States in order to help them in proceedings before our Tribunal. I wish to thank again the co-sponsors of the draft resolution for inviting the Assembly to request the Secretary-General to establish such a voluntary fund. I convey my appreciation to the delegations which announced contributions to the proposed Fund.

There has not been much progress in the matter of ratification of the Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea. Since I spoke to you on 22 November 1999, only two more States have ratified the Agreement, making the total number of ratifications four. As you are aware, 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. Here, too, we welcome the provision in the draft resolution calling upon States that have not done so to consider ratifying or acceding to the Agreement.