STATEMENT BY P. CHANDRASEKHARA RAO PRESIDENT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA ON THE REPORT OF THE TRIBUNAL AT THE ELEVENTH MEETING OF THE STATES PARTIES TO THE LAW OF THE SEA CONVENTION 14 MAY 2001

Mr. President,

On behalf of the Tribunal, I convey to you good wishes on your election as the President of the Eleventh Meeting of States Parties. I am confident that, equipped as you are with a deep understanding of the law of the sea, you will offer able leadership in the discharge of the mandate entrusted to this Meeting. I may convey our thanks to Ambassador Peter Donigi, your immediate predecessor, for all the help he rendered.

On behalf of the Tribunal, I wish to congratulate Mrs. De Marffy on her well-deserved promotion as the Head of the Division for Ocean Affairs and the Law of the Sea.

I take this opportunity to inform the States Parties that Mr. Gritakumar Chitty, the Registrar of the Tribunal, has informed the Tribunal that he will resign from the Office of Registrar with effect from 1 July 2001. He has served the Tribunal in different capacities, first as an officer appointed by the Secretary-General of the United Nations for making preparations for the establishment of the Tribunal, then as Director-in-Charge of the Registry of the Tribunal and finally as the first Registrar of the Tribunal. He has played an important role in the establishment of the Registry, negotiations on relations between the Tribunal and the host country and the setting up of necessary infrastructures. He will carry the Tribunal's best wishes in his future endeavours. The Tribunal is taking steps to elect a new Registrar as early as possible.

I regret to inform you of the demise of Judge Lihai Zao of China on 10 October 2000. One of the items on your agenda concerns the election of a member for the remainder of Judge Zao's term of six years, which would have ended on 30 September 2002.

The Tribunal's Annual Report 2000 contains a succinct statement of the work done by the Tribunal from 1 January to 31 December 2000. To this, I may add some recent developments.

During the period under review, the Tribunal and gave judgments in two cases: the "Camouco" Case between Panama and France and the "Monte Confurco" Case between Seychelles and France. More recently, on 20 April 2001, the Tribunal delivered its judgment in the "Grand Prince" Case between Belize and France.

Further, at the request of Chile and the European Community, the Tribunal formed, on 20 December 2000, a special chamber under article 15, paragraph 2, of its Statute to hear a dispute concerning the conservation and sustainable exploitation of swordfish stocks in the South-Eastern Pacific Ocean. This Special Chamber consists of five judges, including a judge *ad hoc* chosen by Chile. This is the first time that a special chamber of the Tribunal under article 15, paragraph 2, of the

Statute had been formed for dealing with a particular dispute. On 15 March 2001, at the request of the parties, the President of the Special Chamber made an Order by virtue of which the time-limit of 90 days for the making of preliminary objections would now commence from 1 January 2004; each party would, however, have the right to request that the said time-limit should begin to apply from any date prior to 1 January 2004.

The advantage for the parties in the formation of a special chamber, under article 15, paragraph 2, of the Statute, is that the composition of such a chamber requires the approval of the parties; further, if the chamber includes a judge of the nationality of one of the parties, any other party may choose a judge *ad hoc* to participate in the case. This type of special chamber should be of special interest to States who generally prefer arbitration to other modes of settlement of disputes. It is also significant that the Chile-European Community case, a case between a State and an international organization, is the first of its kind to come for adjudication in the contentious jurisdiction of a world court.

In addition to the Special Chamber mentioned earlier and the Seabed Disputes Chamber of the Tribunal, the Tribunal has three other chambers established in accordance with article 15 of its Statute: (i) the Chamber of Summary Procedure; (ii) the Chamber for Fisheries Disputes, and (iii) the Chamber for Marine Environment Disputes. A judgment given by any chamber will be considered as rendered by the Tribunal. Any of the chambers will be competent to hear disputes if the parties so request. The Tribunal thus has flexible dispute settlement procedures to suit the needs of the parties to a dispute.

The Judgments in all the cases decided by the Tribunal have been delivered within remarkably short periods. The Tribunal makes special efforts to make this possible, keeping in view the need for achieving expeditious settlement of international disputes. The parties to prompt release proceedings under article 292 of the Convention have, however, underlined the difficulties they face in complying with the time-limits fixed in the Rules of the Tribunal in the matter of filing of a statement in response by the respondent and examination of that statement by the applicant before commencing its arguments.

The Tribunal reviewed its Rules in the light of the experience gained in handling prompt release cases. On 15 March 2001, it amended articles 111 and 112 of its Rules. Whereas, prior to the amendments, an application under article 292 of the Convention was required to be disposed of within a period not exceeding 21 days, after the amendments, an application is required to be disposed of within a period not exceeding 30 days. While the Tribunal is keen to render its judgments within as short periods as possible, it will have to bear in mind the difficulties and requirements of the parties.

In the course of last year, the Tribunal held two administrative sessions, the Ninth Session in March 2000 and the Tenth Session in September 2000. During these sessions, the Tribunal, its Committees and Working Groups discussed, among other things, issues that have a direct bearing on its judicial work such as costs to be borne by parties in judicial proceedings, bonds or other financial security to be furnished by parties, and time factors in the handling of cases. The Tribunal also

considered administrative matters not directly related to cases, such as budget proposals, budget performance, audit report, Staff Regulations and Rules, recruitment of staff, Instructions for the Registry, buildings and electronic systems, and Library facilities. The Annual Reports contains an account of the work done by the Tribunal in this regard. In short, the Tribunal utilises its administrative sessions for consideration of matters that have a bearing both on its judicial and administrative work.

I am happy to report to you that the official opening of the Tribunal's permanent premises took place on 3 July 2000. The ceremony for this purpose was jointly organised by the Tribunal, the Government of the Federal Republic of Germany and the Senate of the Free and Hanseatic City of Hamburg. It was held in the presence of Mr. Kofi Annan, the Secretary-General of the United Nations and was attended by several high dignatories, including Ambassador Peter Donigi, the then President of the Meeting of States Parties.

It is also a matter of special satisfaction to us that, on 18 October 2000, the Tribunal and the Government of the Federal Republic of Germany concluded an Agreement on the Occupancy and Use of the Premises of the Tribunal. No such progress could, however, be made in the matter of finalisation of the Headquarters Agreement between the Tribunal and the Government of the Federal Republic of Germany. We hope that this issue too will be resolved soon in a spirit of good will and accommodation.

On behalf of the Tribunal, once again, I wish to place on record our deep appreciation to the Government of the Federal Republic of Germany and the Senate of the Free and Hanseatic City of Hamburg for making available to the Tribunal a magnificent new court building which is indeed a work of art. The Tribunal would welcome donations to the new building of art works to highlight the universal character of the Tribunal.

Our new building has served as a centre for the holding of several international conferences on matters concerning the law of the sea. The Tribunal hopes that its building will continue to serve as such a centre for conferences and seminars devoted to promoting and encouraging better understanding of, and respect for, the United Nations Convention on the Law of the Sea.

The Tribunal's Annual Report contains a new section on communications received from parties in the matter of implementation of the judgments of the Tribunal. By virtue of article 296 of the Convention, the Tribunal's decisions are "final" and are to be "complied with" by all the parties to the dispute. The Tribunal's Statute also contains a provision in article 33 to the same effect. The Statute and the Rules of the Tribunal authorise the Tribunal to entertain requests for the interpretation or revision of a judgment. However, these instruments do not confer jurisdiction on the Tribunal to deal with matters concerning enforcement of its judgments.

Nevertheless, aggrieved parties do write to the Tribunal about such matters. The Tribunal has deemed it appropriate to draw the attention of States Parties to the communications received by it in this regard. Paragraph 61(a) of the Annual Report

refers to certain communications received from Saint Vincent and the Grenadines on the issue of compliance with the Judgment of the Tribunal in the M/V “Saiga” (No. 2) Case. More recently, on 12 April 2001, the Tribunal received a communication wherein it has been stated that the parties to the “Saiga” dispute have now reached an amicable settlement between themselves for resolution of the outstanding issues in connection with the Tribunal’s Judgment of 1 July 1999.

I must hasten to add here that, in drawing attention to these communications, the Tribunal is not expressing any view on the contents of the communications. Before I part with this topic, I wish to draw attention to operative paragraph 8 of General Assembly resolution 55/9 of 30 October 2000 which recalled “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.”

It gives me great pleasure to inform you that the Tribunal will soon have its own website. I wish to take this opportunity of expressing the Tribunal’s sincere thanks to the Division for Ocean Affairs and the Law of the Sea for its assistance so far in placing the records of the Tribunal on the website of the United Nations.

It is satisfying to note that, acting upon a recommendation of the Meeting of States Parties, the General Assembly of the United Nations, at its fifty-fifth session, requested the Secretary-General to establish a trust fund to assist States in the settlement of disputes through the Tribunal. We welcome the establishment of this Trust Fund and hope that an increasing number of jStates would make contributions to it.

The Agreement on the Privileges and Immunities of the Tribunal has not yet entered into force. Though it was adopted nearly four years ago, there are only five States which have either ratified or acceded to it and the General Assembly has called upon States that have not done so to consider ratifying and acceding to the Agreement.

Mr President, the Tribunal is a standing body consisting of judges of recognised competence in the field of the law of the sea. In the Tribunal as a whole, the representation of the principal legal systems of the world and equitable geographical distribution is assured. Though the number of cases decided by it in the course of the last three or four years is not very large, the Tribunal has made in its Judgments and Orders significant pronouncements on several aspects of the Convention.

It is gratifying to note that, at its fifty-fifth session, the General Assembly referred to the continued contribution of the Tribunal to the peaceful settlement of disputes and underlined what it called “the important role and authority” of the Tribunal concerning the interpretation or application of the Convention. In this connection, it further encouraged States Parties to the Convention to consider making a declaration choosing from the means set out in article 287 of the Convention. Only a limited number of States —26 States— have so far made such declarations.

We hope that the recommendations made by the General Assembly will be acted upon by States Parties in the interests of the harmonious development of the law of the sea.

With these introductory remarks, I place the Annual Report before you for consideration.