



## Meeting of States Parties

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### Report of the International Tribunal for the Law of the Sea to the Meeting of States Parties

## Annual report of the International Tribunal for the Law of the Sea for 2021

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## I. Introduction

1. The present report of the International Tribunal for the Law of the Sea is submitted to the Meeting of States Parties under rule 6, paragraph 3 (d), of the Rules of Procedure for Meetings of States Parties and covers the period from 1 January to 31 December 2021.

2. The Tribunal was established under the United Nations Convention on the Law of the Sea of 1982. It functions in accordance with the relevant provisions of parts XI and XV of the Convention, the statute of the Tribunal, as contained in annex VI to the Convention, and the Rules of the Tribunal.

## II. Organization of the Tribunal

3. The Tribunal is composed of 21 members, elected by the States parties to the Convention in the manner provided for in article 4 of the statute.

4. Since 1 October 2020, the composition of the Tribunal has been as follows:

<i>Order of precedence</i>	<i>Country</i>	<i>Date of expiry of term of office</i>
<i>President</i>		
Albert J. Hoffmann	South Africa	30 September 2023
<i>Vice-President</i>		
Tomas Heidar	Iceland	30 September 2023
<i>Judges</i>		
José Luis Jesus	Cabo Verde	30 September 2026
Stanislaw Pawlak	Poland	30 September 2023
Shunji Yanai	Japan	30 September 2023
James L. Kateka	United Republic of Tanzania	30 September 2023
Boualem Bouguetaia	Algeria	30 September 2026
Jin-Hyun Paik	Republic of Korea	30 September 2023
David Joseph Attard	Malta	30 September 2029
Markiyan Z. Kulyk	Ukraine	30 September 2029
Alonso Gómez-Robledo Verduzco	Mexico	30 September 2023
Óscar Cabello Sarubbi	Paraguay	30 September 2026
Neeru Chadha	India	30 September 2026
Kriangsak Kittichaisaree	Thailand	30 September 2026
Roman A. Kolodkin	Russian Federation	30 September 2026
Liesbeth Lijnzaad	Netherlands	30 September 2026
María Teresa Infante Caffi	Chile	30 September 2029

<i>Order of precedence</i>	<i>Country</i>	<i>Date of expiry of term of office</i>
Jielong Duan	China	30 September 2029
Kathy-Ann Brown	Jamaica	30 September 2029
Ida Caracciolo	Italy	30 September 2029
Maurice K. Kamga	Cameroon	30 September 2029

5. The Registrar of the Tribunal is Ximena Hinrichs Oyarce (Chile). The Deputy Registrar is Antoine Ollivier (France).

### **III. Chambers**

#### **A. Seabed Disputes Chamber**

6. In accordance with article 35, paragraph 1, of the statute, the Seabed Disputes Chamber consists of 11 judges selected by the Tribunal from among its elected members. The members of the Chamber are selected triennially. As at 31 December 2021, the composition of the Chamber, in order of precedence, was as follows: Judge Chadha, President; Judges Jesus, Bouguetaia, Paik, Gómez-Robledo, Cabello Sarubbi, Kittichaisaree, Kolodkin, Lijnzaad, Duan and Brown, members.

7. The terms of office of the members of the Chamber expire on 30 September 2023.

#### **B. Special chambers**

##### **1. Chamber of Summary Procedure**

8. The Chamber of Summary Procedure was established in accordance with article 15, paragraph 3, of the statute and consists of five members and two alternates. The Chamber is constituted annually. As at 31 December 2021, the composition of the Chamber, in order of precedence, was as follows: Judge Hoffmann, President (ex officio); Vice-President Heidar (ex officio) and Judges Kateka, Kolodkin and Lijnzaad, members; Judges Kulyk and Caracciolo, alternates.

##### **2. Chamber for Fisheries Disputes**

9. On 20 February 1997, the Tribunal established the Chamber for Fisheries Disputes in accordance with article 15, paragraph 1, of the statute. As at 31 December 2021, the composition of the Chamber, in order of precedence, was as follows: Judge Pawlak, President; Judges Yanai, Bouguetaia, Paik, Attard, Gómez-Robledo, Cabello Sarubbi, Caracciolo and Kamga, members.

10. The terms of office of the members of the Chamber expire on 30 September 2023.

##### **3. Chamber for Marine Environment Disputes**

11. On 20 February 1997, the Tribunal established the Chamber for Marine Environment Disputes in accordance with article 15, paragraph 1, of the statute. As at 31 December 2021, the composition of the Chamber, in order of precedence, was as follows: Judge Attard, President; Judges Jesus, Yanai, Kateka, Kittichaisaree, Kolodkin, Infante Caffi, Brown and Kamga, members.

12. The terms of office of the members of the Chamber expire on 30 September 2023.

#### **4. Chamber for Maritime Delimitation Disputes**

13. On 16 March 2007, the Tribunal established the Chamber for Maritime Delimitation Disputes in accordance with article 15, paragraph 1, of the statute. As at 31 December 2021, the composition of the Chamber, in order of precedence, was as follows: Judge Hoffmann, President (ex officio); Vice-President Heidar (ex officio) and Judges Pawlak, Kulyk, Chadha, Lijnzaad, Infante Caffi, Duan and Caracciolo, members.

14. The terms of office of the members of the Chamber expire on 30 September 2023.

### **IV. Committees**

15. On 24 September 2021, during the fifty-second session, the Tribunal reconstituted its committees. The composition of the committees is provided in paragraphs 16 to 21 below.<sup>1</sup>

#### **A. Committee on Budget and Finance**

16. The members of the Committee on Budget and Finance are Judge Yanai, Chair; Judges Jesus, Pawlak, Bouguetaia, Kulyk, Cabello Sarubbi, Chadha, Lijnzaad and Duan, members.

#### **B. Committee on Rules and Judicial Practice**

17. The members of the Committee on Rules and Judicial Practice are President Hoffmann, Chair; Vice-President Heidar and Judges Pawlak, Yanai, Kateka, Paik, Chadha (ex officio), Kittichaisaree, Kolodkin and Kamga, members.

#### **C. Committee on Staff and Administration**

18. The members of the Committee on Staff and Administration are Judge Lijnzaad, Chair; Judges Jesus, Kulyk, Chadha, Infante Caffi and Caracciolo, members.

#### **D. Committee on Library, Archives and Publications**

19. The members of the Committee on Library, Archives and Publications are Judge Kolodkin, Chair; Judges Attard, Gómez-Robledo, Kittichaisaree, Infante Caffi and Kamga, members.

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<sup>1</sup> For the terms of reference of the committees, see [SPLOS/27](#), paras. 37–40; [SPLOS/50](#), para. 37; and [SPLOS/136](#), para. 46.

## **E. Committee on Buildings and Electronic Systems**

20. The members of the Committee on Buildings and Electronic Systems are Judge Cabello Sarubbi, Chair; Judges Kateka, Attard, Duan, Brown and Caracciolo, members.

## **F. Committee on Public Relations**

21. The members of the Committee on Public Relations are Judge Paik, Chair; Judges Pawlak, Bouguetaia, Gómez-Robledo and Brown, members.

## **V. Meetings of the Tribunal**

22. In 2021, the Tribunal held judicial meetings about the *Dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives), Preliminary Objections*. The Special Chamber constituted to deal with the case met from 12 to 26 January 2021 to consider and adopt the draft judgment. The Special Chamber delivered its judgment on 28 January 2021. In the light of the COVID-19 pandemic, the deliberations and the reading of the judgment were held in hybrid format, with some judges present at the premises of the Tribunal and others attending through video link (see para. 59).

23. The Tribunal also held two sessions devoted to legal and judicial matters and organizational and administrative matters. The fifty-first session was held from 15 to 26 March 2021 and the fifty-second session from 20 September to 1 October 2021. In the light of the COVID-19 pandemic, the fifty-first session was held in hybrid format (see para. 59).

24. The Tribunal decided to hold its fifty-third session from 21 March to 1 April 2022, to deal with legal and judicial matters and organizational and administrative matters.

## **VI. Judicial work of the Tribunal**

### **A. *Dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)***

25. On 24 September 2019, Maldives and Mauritius concluded a special agreement to submit the dispute concerning the delimitation of their maritime boundary in the Indian Ocean to a special chamber of the Tribunal, to be formed pursuant to article 15, paragraph 2, of the statute. The Registrar received the special agreement and notification on the same date. The case was entered in the Tribunal's list of cases as case No. 28.

26. By order dated 27 September 2019, the Tribunal constituted the Special Chamber as follows: Judge Paik, President; Judges Jesus, Cot, Yanai, Bouguetaia, Heidar and Chadha, Judge ad hoc Oxman (chosen by Maldives) and a judge ad hoc to be chosen by Mauritius, members. Mauritius subsequently chose Nicolaas Schrijver to serve as judge ad hoc.

27. By order dated 10 October 2019, the President of the Special Chamber fixed 9 April 2020 as the time limit for the filing of the memorial by Mauritius and 9 October 2020 as the time limit for the filing of the counter-memorial by Maldives, and reserved the subsequent procedure for further decision.

28. On 18 December 2019, within the time limit set under article 97, paragraph 1, of the Rules, Maldives filed with the Special Chamber written preliminary objections, under article 294 of the Convention and article 97 of the Rules, to the jurisdiction of the Special Chamber and the admissibility of the claims of Mauritius. Upon receipt of the preliminary objections by the Registry, the proceedings on the merits were suspended, pursuant to article 97, paragraph 3, of the Rules.

29. By order dated 19 December 2019, the President of the Special Chamber fixed 17 February 2020 as the time limit for the filing by Mauritius of its written observations and submissions on the preliminary objections filed by Maldives and 17 April 2020 as the time limit for the filing by Maldives of its written observations and submissions in reply, and reserved the subsequent procedure for further decision. The pleadings were filed within the prescribed time limits.

30. By order dated 19 May 2020, the President of the Special Chamber, having ascertained the views of the parties, fixed 13 October 2020 as the date for the opening of the oral proceedings. In the light of the ongoing COVID-19 pandemic and the difficulty of organizing an in-person hearing, the President of the Special Chamber, having ascertained the views of the parties, decided on 13 August 2020 that the hearing would be conducted in hybrid format.

31. By letter dated 26 August 2020, the Registrar informed the parties that Judge Cot had tendered his resignation as member of the Special Chamber, with effect from 26 August 2020, and that, accordingly, a vacancy had occurred in the Special Chamber. By order dated 15 September 2020, the Tribunal determined, with the approval of the parties, that Judge Pawlak should fill the vacancy left by the resignation of Judge Cot.

32. Prior to the opening of the hearing, the Special Chamber held initial deliberations on 12 October 2020.

33. The hearing was held in hybrid format between 13 and 19 October 2020, during which the parties presented their oral statements at four public sittings. In accordance with article 75, paragraph 2, of the Rules, the parties presented the following final submissions during the hearing:

*On behalf of Maldives:*

In accordance with article 75, paragraph 2, of the Rules of the Tribunal, and for the reasons set out during the written and oral phases of the pleadings, the Republic of Maldives requests the Special Chamber to adjudge and declare that it is without jurisdiction in respect of the claims submitted to the Special Chamber by the Republic of Mauritius. Additionally or alternatively, for the reasons set out during the written and oral phases of the pleadings, the Republic of Maldives requests the Special Chamber to adjudge and declare that the claims submitted to the Special Chamber by the Republic of Mauritius are inadmissible.

*On behalf of Mauritius:*

For the reasons set out in the written observations of Mauritius on the preliminary objections raised by the Republic of Maldives, dated 17 February 2020, and for the reasons set out in the oral pleadings of Mauritius during the hearings on 15 and 19 October 2020, the Republic of Mauritius respectfully requests the Special Chamber of the International Tribunal for the Law of the Sea to rule and adjudge that:

- (a) The preliminary objections raised by Maldives are rejected;
- (b) It has jurisdiction to entertain the application filed by Mauritius;



- (c) There is no bar to its exercise of that jurisdiction;
- (d) It shall proceed to delimit the maritime boundary between Mauritius and Maldives.

34. The Special Chamber delivered its judgment on 28 January 2021.

35. Maldives had presented five preliminary objections. As its first preliminary objection, Maldives contended that the United Kingdom of Great Britain and Northern Ireland was an indispensable third party to the proceedings and as the United Kingdom was not a party to those proceedings, the Special Chamber did not have jurisdiction over the alleged dispute. In its second preliminary objection, Maldives submitted that the Special Chamber had no jurisdiction to determine the disputed issue of sovereignty over the Chagos Archipelago, which the Special Chamber would necessarily have to do if it were to determine the claims of Mauritius in the proceedings. In its judgment (para. 100), the Special Chamber considered it appropriate “to examine the two objections together insofar as the legal status of the Chagos Archipelago is concerned”.

36. In its examination of the legal status of the Chagos Archipelago, the Special Chamber considered in particular whether the following had any relevance or implication: the award of 18 March 2015 in the arbitration regarding the Chagos marine protected area between Mauritius and the United Kingdom; the advisory opinion of the International Court of Justice of 25 February 2019 on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965; and General Assembly resolution [73/295](#) of 22 May 2019, entitled “Advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965”.

37. In the view of the Special Chamber, the arbitral award “demonstrates that, aside from the question of sovereignty, the Chagos Archipelago has been subject to a special regime, according to which Mauritius is entitled to certain maritime rights” (judgment, para. 246). With respect to the above-mentioned advisory opinion of the International Court of Justice, the Special Chamber found that “[t]he determinations made by the ICJ with respect to the issues of the decolonization of Mauritius in the *Chagos* advisory opinion have legal effect and clear implications for the legal status of the Chagos Archipelago” and that “[t]he United Kingdom’s continued claim to sovereignty over the Chagos Archipelago is contrary to those determinations” (ibid.). The Special Chamber also found that, “[w]hile the process of decolonization has yet to be completed, Mauritius’ sovereignty over the Chagos Archipelago can be inferred from the ICJ’s determinations” (ibid.).

38. The Special Chamber noted that the General Assembly, in its resolution [73/295](#), had demanded that the United Kingdom withdraw its administration from the Chagos Archipelago within six months from the adoption of that resolution. In the view of the Special Chamber, “[t]he fact that the time-limit set by the General Assembly has passed without the United Kingdom complying with this demand further strengthens the Special Chamber’s finding that its claim to sovereignty over the Chagos Archipelago is contrary to the authoritative determinations made in the advisory opinion” (judgment, para. 246.).

39. Having examined the legal status of the Chagos Archipelago, the Special Chamber reached its conclusions as regards the first and second preliminary objections raised by Maldives. With respect to the first objection, the Special Chamber considered that “whatever interests the United Kingdom may still have with respect to the Chagos Archipelago, they would not render the United Kingdom a State with sufficient legal interests, let alone an indispensable third party, that would be affected by the delimitation of the maritime boundary around the Chagos

Archipelago” (judgment, para. 247). Accordingly, the first preliminary objection of Maldives was rejected.

40. Regarding the second objection, the Special Chamber considered that its “findings as a whole provide it with sufficient basis to conclude that Mauritius can be regarded as the coastal State in respect of the Chagos Archipelago for the purpose of the delimitation of a maritime boundary even before the process of the decolonization of Mauritius is completed” (judgment, para. 250). The second preliminary objection was thus also rejected.

41. In its third preliminary objection, Maldives contended that, as Mauritius and Maldives had not engaged, and could not meaningfully engage, in the negotiations required by articles 74 and 83 of the Convention, the Special Chamber lacked jurisdiction. In its judgment, the Special Chamber noted that “Mauritius, on several occasions, attempted to engage the Maldives in negotiations concerning the delimitation of their claimed overlapping exclusive economic zones and continental shelves” (para. 288), while Maldives, “for most of the time, refused to negotiate with Mauritius” (para. 289). The Special Chamber concluded that “the obligation under article 74, paragraph 1, and article 83, paragraph 1, of the Convention has been fulfilled” (para. 293) and, accordingly, rejected the third preliminary objection of Maldives.

42. The Special Chamber rejected the fourth preliminary objection of Maldives, according to which there was no dispute, and there could not be a dispute, between Mauritius and Maldives concerning the delimitation of their maritime boundary, having found that such “a dispute existed between the Parties” (para. 335) at the time of filing of the notification. In its fifth preliminary objection, Maldives submitted that the claims of Mauritius constituted an abuse of process and were therefore inadmissible. This objection was also rejected by the Special Chamber.

43. On the basis of the above, the Special Chamber concluded that it had “jurisdiction to adjudicate upon the dispute concerning the delimitation of the maritime boundary between the Parties in the Indian Ocean and that the claim submitted by Mauritius in this regard [was] admissible” (para. 351). The Special Chamber found it appropriate to defer to the proceedings on the merits “questions regarding the extent to which the Special Chamber may exercise its jurisdiction [over the above dispute], including questions arising under article 76 of the Convention” (para. 354 (6)). Regarding the parties’ views in relation to the claim of Mauritius concerning the obligations under article 74, paragraph 3, and article 83, paragraph 3, of the Convention, the Special Chamber found it “appropriate to reserve this matter for consideration and decision in the proceedings on the merits, as this point has not yet been fully argued by the Parties” (para. 353).

44. By order dated 3 February 2021, the President of the Special Chamber fixed 25 May 2021 as the time limit for the filing of the memorial by Mauritius and 25 November 2021 as the time limit for the filing of the counter-memorial by Maldives. The memorial and the counter-memorial were filed within the time limits so prescribed. By order dated 15 December 2021, the President of the Special Chamber, taking into account the agreement of the parties, fixed 14 April 2022 as the time limit for the filing of a reply by Mauritius and 15 August 2022 as the time limit for the filing of a rejoinder by Maldives.

**B. *The M/T “San Padre Pio” (No. 2) case (Switzerland/Nigeria)***

45. On 17 December 2019, Switzerland and Nigeria transmitted a special agreement and notification to the Tribunal to submit to it the dispute concerning the arrest and detention of the *M/T “San Padre Pio”*, its crew and cargo. The case was entered in the Tribunal’s list of cases as case No. 29.

46. By order dated 7 January 2020, the President of the Tribunal fixed 6 July 2020 as the time limit for the filing of the memorial by Switzerland and 6 January 2021 as the time limit for the filing of the counter-memorial by Nigeria, and reserved the subsequent procedure for further decision. The memorial by Switzerland was filed within the prescribed time limit.

47. By order dated 5 January 2021, the President of the Tribunal extended the time limit for the submission of the counter-memorial by Nigeria to 6 April 2021 and reserved the subsequent procedure for further decision. The counter-memorial of Nigeria was not filed within the extended time limit.

48. On 30 April 2021, the President of the Tribunal held consultations with the representatives of Switzerland and Nigeria in order to ascertain their views with regard to questions of procedure and the scheduling of the hearing on the merits.

49. By order dated 18 June 2021, the President of the Tribunal fixed 9 September 2021 as the date for the opening of the oral proceedings.

50. By letter dated 30 July 2021, filed in the Registry on 2 August 2021, the agent of Switzerland requested that “[i]n view of the ongoing implementation of a Memorandum of Understanding (MoU) concluded by Switzerland and Nigeria on 20 May 2021 regarding the issue of the *M/T ‘San Padre Pio’* ... the opening of the oral proceedings be postponed until a later date towards the end of fall 2021”. By letter dated 3 August 2021, the Registrar invited the agent of Nigeria to indicate the views of Nigeria with regard to the request of Switzerland for postponement by Wednesday, 4 August 2021. No response was received from the agent of Nigeria. By order dated 10 August 2021, the President of the Tribunal, having regard to the special circumstances of the case and having sought the views of the parties, decided to postpone the opening of the oral proceedings until a later date to be fixed after consultations with the parties and reserved the subsequent procedure for further decision.

51. By letter dated 10 December 2021, the agent of Switzerland stated that, according to the Memorandum of Understanding concluded between the parties, the proceedings before the Tribunal “shall be discontinued from the moment that the *M/T ‘San Padre Pio’* enters the high seas, or the territorial sea or Exclusive Economic Zone of another State” and that, as of 10 December 2021, the vessel had “exited the exclusive economic zone of Nigeria, and entered the exclusive economic zone of Benin”. In the same letter, the agent of Switzerland further stated that, in accordance with the terms of the Memorandum of Understanding, “Switzerland requests the Tribunal to record the discontinuance of the *M/T ‘San Padre Pio’ (No. 2) case (Switzerland/Nigeria) (case No. 29)* in accordance with Article 105 of the ITLOS Rules and to remove the case from Tribunal’s List of cases”. In a letter dated 24 December 2021, the agent of Nigeria indicated that “on the 10th of December, 2021, *San Padre Pio* was released and departed the Maritime space of Nigeria and entered the Exclusive Economic Zone of Benin Republic” and that “[o]n this basis therefore, Nigeria has no objection whatsoever to the discontinuance of the case by the Tribunal as already notified by Switzerland”. In accordance with article 105 of the Rules of the Tribunal, the President of the Tribunal, by order dated 29 December

2021, placed on record the discontinuance, by agreement of the parties, of the proceedings and ordered that the case be removed from the list of cases.

## **VII. Legal matters**

52. During the period under review, the Tribunal devoted part of its two sessions to the consideration of legal and judicial matters. In this respect, the Tribunal examined various legal issues of relevance to its jurisdiction, its Rules and its judicial procedures. This review was undertaken by both the Tribunal and its chambers. Some of the subjects considered are listed below.

### **A. Jurisdiction of the Tribunal**

53. During the period under review, the Tribunal took note of the information presented by the Registry concerning the status of declarations made under articles 287 and 298 of the Convention.

### **B. Rules of the Tribunal**

54. On 25 March 2021, during its fifty-first session, the Tribunal amended its Rules with a view to rendering them gender-neutral. The texts of the Rules in both English and French were amended. The amendments entered into force forthwith.

### **C. Recent developments in law of the sea matters**

55. During the period under review, the Tribunal considered reports prepared by the Registry concerning recent developments in law of the sea matters.

### **D. Chambers**

56. During the period under review, the chambers of the Tribunal held meetings at which they considered reports prepared by the Registry on matters falling under their responsibilities.

## **VIII. Twenty-fifth anniversary of the Tribunal**

57. A ceremony to mark the twenty-fifth anniversary of the Tribunal was held on 1 October 2021 at the premises of the Tribunal in Hamburg, Germany, during which statements were made by the President of the Tribunal, Judge Albert Hoffmann; First Mayor of the Free and Hanseatic City of Hamburg, Peter Tschentscher; and Doyen of the Consular Corps Hamburg and Consul General of Croatia, Kristijan Tušek. The judges of the Tribunal and members of the Diplomatic and Consular Corps attended the event. As part of the celebrations, a newly created twenty-fifth anniversary film was posted on the Tribunal's website and an updated version of the Tribunal's *Digest of Jurisprudence* was published and posted on the Tribunal's website.

## **IX. Response to the COVID-19 pandemic**

58. In the light of the COVID-19 pandemic, the Tribunal continued to implement the measures adopted in 2020 to protect the health of its members and Registry staff.

59. In the *Dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)*, the deliberations of the Special Chamber and the reading of the judgment on the preliminary objections of Maldives were held from 11 to 28 January 2021 in hybrid format. The Tribunal's fifty-first session was also held in hybrid format, from 15 to 26 March 2021.

60. From 1 January to 30 June 2021, the majority of Registry staff were authorized to work from home. With a view to ensuring the performance of the Tribunal's essential functions, in particular the deliberations of the Special Chamber, some staff members continued to work at the Tribunal's premises during that period.

## X. Agreement on Privileges and Immunities

61. The Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea was adopted by the seventh Meeting of States Parties on 23 May 1997. The Agreement was opened for signature for 24 months as from 1 July 1997<sup>2</sup> and entered into force on 30 December 2001, 30 days after the date of deposit of the tenth instrument of ratification or accession. As at 31 December 2021, 41 States had ratified or acceded to the Agreement.

## XI. Relations with the United Nations

62. At its fifty-first session, the General Assembly, by its resolution [51/204](#) of 17 December 1996, granted observer status to the Tribunal. On 9 December 2021, at the 43rd plenary meeting of the seventy-sixth session of the Assembly, the President of the Tribunal delivered a statement under agenda item 78 (a), entitled "Oceans and the law of the sea".<sup>3</sup> In his statement, the President gave an overview of the judicial work of the Tribunal. He noted that, during the 25 years of its history, the Tribunal had established itself as the primary judicial body to which States parties to the Convention turn when seeking peaceful settlement of their disputes concerning the interpretation or application of the Convention. He offered some remarks about the future work of the Tribunal, highlighting the prospect of handling cases involving new challenges as related to the law of the sea, whether in the exercise of its contentious or its advisory jurisdiction. The President also provided information to the Assembly on the Tribunal's capacity-building activities.

## XII. Headquarters Agreement

63. The Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany regarding the Headquarters of the Tribunal was signed on 14 December 2004. The Agreement between the Tribunal and the Government of the Federal Republic of Germany on the Occupancy and Use of the Premises of the International Tribunal for the Law of the Sea in the Free and Hanseatic City of Hamburg was concluded on 18 October 2000.

64. During the period under review the Registry, in cooperation with the Federal Building Authorities of Germany, made several improvements to the Tribunal's equipment and systems.

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<sup>2</sup> [SPLOS/24](#), para. 27.

<sup>3</sup> The text of the statement is available on the Tribunal's website at [www.itlos.org](http://www.itlos.org) and [www.tidm.org](http://www.tidm.org).

## **XIII. Finances**

### **A. Budgetary matters**

#### **1. Budget of the Tribunal for 2023–2024**

65. During the fifty-second session of the Tribunal, the Committee on Budget and Finance gave preliminary consideration to the budget of the Tribunal for the financial period 2023–2024 on the basis of draft proposals submitted by the Registrar.

#### **2. Report on budgetary matters for the financial period 2019–2020**

66. At its fifty-first session, the Tribunal considered the report presented by the Registrar on budgetary matters for the financial period 2019–2020 ([SPLOS/31/3](#)). Following consideration by the Tribunal, the report was submitted to the thirty-first Meeting of States Parties for its consideration. The report included the performance report for 2019–2020 and a report on action taken pursuant to the Financial Regulations and Rules of the Tribunal (surrender of the cash surplus from the financial period 2017–2018; investment of Tribunal funds; and establishment of trust funds pursuant to regulation 6.5 of the Financial Regulations and Rules of the Tribunal).

#### **3. Cash flow situation**

67. At its fifty-first and fifty-second sessions, the Tribunal took note of the information presented by the Registrar concerning the cash flow situation of the Tribunal.

### **B. Status of contributions**

68. As at 31 December 2021, 117 States parties had made contributions to the budget for the period 2021–2022, totalling €11,368,404, while 51 States parties had not made any payments with respect to their assessed contributions for the period 2021–2022. The balance of unpaid contributions with respect to the budget period 2021–2022 was €709,926. An amount of €4,926,911 was credited against the assessed contributions for 2022.

69. Furthermore, assessed contributions amounting to €575,113 in respect of the Tribunal's budgets for the budget periods 1996/1997 to 2019–2020 were still pending as at 31 December 2021.

70. As at 31 December 2021, the balance of unpaid contributions with respect to the overall budget of the Tribunal amounted to €1,284,209. In December 2021, the Registrar sent notes verbales to the States parties concerning their assessed contributions for 2022 to the Tribunal's budget for the period 2021–2022 and containing information about outstanding contributions to the previous budgets.

### **C. Financial Regulations and Rules**

71. The Financial Regulations of the Tribunal, adopted by the thirteenth Meeting of States Parties on 12 June 2003, became effective on 1 January 2004.<sup>4</sup> On 9 December 2020, the thirtieth Meeting of States Parties approved amendments to the Financial

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<sup>4</sup> Financial Regulations, regulation 14.1.

Regulations of the Tribunal, as set out in the annex to document [SPLOS/30/6](#), which became effective on 1 January 2021 ([SPLOS/30/16](#)).

72. Pursuant to financial regulation 10.1 (a), the Tribunal, at its seventeenth session, approved the Financial Rules, which were submitted to the fourteenth Meeting of States Parties for its consideration. The Meeting took note of the Financial Rules of the Tribunal, which, in accordance with rule 114.1, became effective on 1 January 2005.<sup>5</sup>

73. Pursuant to financial regulation 14.2, the thirty-first Meeting of States Parties on 24 June 2021 endorsed the amendments to the Financial Rules proposed by the Tribunal ([SPLOS/31/8](#)). The amended Rules became effective on 1 January 2021 and apply to the financial period 2021 and subsequent financial periods.

74. Pursuant to financial regulation 12.1, the thirtieth Meeting of States Parties appointed BDO AG Wirtschaftsprüfungsgesellschaft as the Tribunal's auditor for the financial periods 2021–2024.

#### **D. Report of the external auditor for the financial period 2019–2020**

75. The results of the audit for the financial period 2019–2020 were presented by the Registrar at the fifty-first session of the Tribunal. The Committee on Budget and Finance noted the auditor's opinion that the financial statements for the financial period 2019–2020 had been prepared, in all material respects, in accordance with the Financial Regulations and Rules of the Tribunal. The Tribunal took note of the audit report for the financial period 2019–2020 ([SPLOS/31/4](#)) and requested that the report be submitted to the thirty-first Meeting of States Parties. The thirty-first Meeting of States Parties took note with satisfaction of the report of the external auditor ([SPLOS/31/9](#), para. 28).

#### **E. Trust funds and donations**

76. On the basis of resolution [55/7](#) on oceans and the law of the sea, adopted by the General Assembly on 30 October 2000, a voluntary trust fund was established by the Secretary-General to assist States in connection with disputes to be settled by the Tribunal. According to information provided by the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat, the financial statements of the trust fund showed a balance of US\$202,605.68 as at 31 December 2021.

77. In addition, the Registrar has established the following trust funds pursuant to regulation 6.5 of the Financial Regulations and Rules of the Tribunal: Nippon Foundation trust fund, trust fund for the Law of the Sea, China Institute of International Studies trust fund (closed in 2018), twentieth anniversary trust fund (closed in 2017) and special account for a workshop to be held for legal advisers.

78. The Nippon Foundation trust fund was established in 2007, further to a grant provided in that year by the Nippon Foundation to fund the participation of fellows in a capacity-building and training programme on dispute settlement under the Convention. During the period 2007–2021, the Nippon Foundation made contributions to the trust fund in the amount of €3,356,310. As at 31 December 2021, the balance of net assets/equity stood at €114,674.

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<sup>5</sup> The Financial Regulations and Rules of the Tribunal are contained in document [SPLOS/120](#).

79. The trust fund for the Law of the Sea was established in 2010, pursuant to a decision of the Tribunal at its twenty-eighth session. The terms of reference for the trust fund were adopted by the Tribunal and submitted to the twentieth Meeting of States Parties for its consideration. The trust fund is intended to promote human resource development in developing countries in the law of the sea and maritime affairs in general. Contributions made to the trust fund are used to provide applicants from developing countries with financial assistance to enable them to participate in the Tribunal's internship programme and the summer academy as well as for the organization of regional workshops. States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions, as well as natural and juridical persons, are invited to make voluntary financial or other contributions to the trust fund. Since 2010, contributions to the trust fund have been made by the Korea Maritime Institute in the amount of €305,482, the Government of China in the amount of €150,000, Korwind in the amount of €25,000 and the Government of Cyprus in the amount of €23,000. As at 31 December 2021, the balance of net assets/equity stood at €238,465.

80. The Tribunal received voluntary contributions from the Government of the Republic of Korea in the amount of US\$ 195,595 in 2020 and US\$ 176,033 in 2021. According to the concept paper on the utilization of voluntary contributions to the Tribunal approved on 9 March 2020, the contributions are to be used for capacity-building of legal advisers in the field of international dispute settlement in matters pertaining to the law of the sea. In accordance with regulation 6.5 of the Financial Regulations and Rules of the Tribunal, a special euro bank account has been set up with Deutsche Bank for a workshop for legal advisers sponsored by the Republic of Korea. As at 31 December 2021, the balance of net assets/equity stood at €314,068. The contributions will cover the expenses of high-level professionals involved in decision-making related to the law of the sea to enable them to participate in the workshop, which had been scheduled for 2021 on the premises of the Tribunal but was postponed until 2022 owing to COVID-19 pandemic-related travel restrictions (see para. 116).

## **XIV. Administrative matters**

81. During the period under review, the committees of the Tribunal considered various administrative matters within the scope of their activities; reference is made below to some of those matters.

### **A. Staff Regulations and Staff Rules**

82. In order to ensure compatibility of the Staff Regulations of the Tribunal with the United Nations common system of salaries, allowances and benefits, as required under regulation 12.6 of the Staff Regulations, the Tribunal, during the period under review, approved the recommendations of the Committee on Staff and Administration regarding amendments to the Staff Regulations concerning Annex IV to the Staff Regulations (repatriation grant).

83. On 30 September 2021, during the fifty-second session, the Tribunal also approved recommendations of the Committee on Staff and Administration regarding amendments to staff regulations 11.1 and 11.2 (appeals) and annex VI to the Staff Regulations (proceedings before the Joint Appeals Board).



## **B. Staff recruitment**

84. In 2021, the Tribunal recruited staff members for the posts of Legal Officer (P-4), Associate Press Officer (P-2), Personal Assistant to the President (G-7) and Senior Translator-Reviser/Head of Linguistic Services (P-5). At the end of 2021, recruitment was in progress with respect to the post of Legal Officer (P-3).

85. A list of the staff members of the Registry as at 31 December 2021 is contained in annex I to this report.

86. Temporary personnel were recruited to assist the Tribunal during its fifty-first and fifty-second sessions and during the deliberations in case No. 28.

87. The Registry comprises 38 posts, of which 18 are in the Professional and higher categories.

88. The recruitment of staff members in the Professional category, excluding language staff, is subject to the principle of equitable geographical distribution, in accordance with regulation 4.2 of the Staff Regulations, which provides as follows:

The paramount consideration in the appointment, transfer or promotion of the staff shall be the necessity for securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

89. Taking into account the small number of staff in the Registry of the Tribunal, a flexible regional approach has been followed in this regard. The Tribunal has taken steps to ensure that vacancy announcements for posts in the Professional category are disseminated in such a way as to enable recruitment of staff on as wide a geographical basis as possible. Information on vacancies is transmitted to the embassies of the States parties to the Convention in Berlin and the permanent missions in New York. Information is also posted on the Tribunal's website and in the Tribunal's social media accounts (Twitter, LinkedIn) and disseminated to United Nations Headquarters and the specialized agencies.

90. Although the principle of geographical distribution does not apply to the recruitment of General Service staff, the Tribunal has made efforts to recruit staff in that category on as wide a geographical basis as possible.

## **C. Junior Professional Officer programme**

91. At its fifty-second session, on 30 September 2021, the Tribunal established a Junior Professional Officer programme for young professionals to serve in the Legal Office of the Tribunal's Registry or in other departments of the Registry, as necessary. The programme is governed by guidelines concerning the Junior Professional Officer programme of the International Tribunal for the Law of the Sea, as adopted by the Tribunal. Junior Professional Officers will be recruited under memorandums of understanding concluded between the Tribunal and participating States.<sup>6</sup>

## **D. Staff Pension Committee**

92. Further to the proposal of the Tribunal, the sixteenth Meeting of States Parties decided that a Staff Pension Committee would be established with the following composition: (a) one member and one alternate member to be chosen by the Meeting;

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<sup>6</sup> The text of the guidelines and a model memorandum of understanding are available on the Tribunal's website at [www.itlos.org](http://www.itlos.org) and [www.tidm.org](http://www.tidm.org).

(b) one member and one alternate member to be appointed by the Registrar; and  
(c) one member and one alternate member to be elected by the staff. The term of office of members and alternates is three years.

93. The twenty-ninth Meeting of States Parties adopted a decision extending the nominations of Indonesia as member and Canada as alternate member of the Staff Pension Committee for a three-year term of office starting on 1 January 2020 ([SPLOS/29/8](#)).

#### **E. Language classes at the Tribunal**

94. English and French classes for Registry staff members were held in 2021.

### **XV. Buildings and electronic systems**

#### **A. Building arrangements and new requirements**

95. During the fifty-first and fifty-second sessions, the Registrar presented reports on building arrangements and use of the Tribunal's premises. Those reports were prepared by the Registry for review by the Committee on Buildings and Electronic Systems and the Tribunal with a view to improving working conditions at the Tribunal.

#### **B. Use of the premises and public access**

96. On 1 October 2021, a ceremony to mark the twenty-fifth anniversary of the Tribunal was held on its premises (see para. 57).

97. Owing to the COVID-19 pandemic, access to the premises has been restricted since 19 March 2020. Virtual tours and presentations have been offered to students and legal practitioners.

### **XVI. Library facilities and archives**

98. During the fifty-first and fifty-second sessions, the Registrar reported on several matters pertaining to the Library, including the collections and an integrated library management system. The Registrar also presented reports on the archive collections and databases.

99. A list of donors to the Library is contained in annex II to the present report.

### **XVII. Publications**

100. During the period under review, the status of the Tribunal's publications was considered by the Committee on Library, Archives and Publications and the Tribunal.

101. In 2021, the following volumes were published:

- (a) *Pleadings, Minutes of Public Sitings and Documents 2019, vol. 27*;
- (b) *Pleadings, Minutes of Public Sitings and Documents 2019, vol. 28*;
- (c) *Yearbook 2020, vol. 24*.

## **XVIII. Public relations**

102. During the period under review, the Committee on Public Relations gave consideration to a set of measures to provide and disseminate information on the work of the Tribunal and participation by representatives of the Tribunal in international legal meetings.

103. The Tribunal publicized its work through its website, press releases and briefings by the Registry and through the distribution of its judgments, orders and publications.

104. In February 2021, the Tribunal launched a redesigned website that can be accessed at the following addresses: [www.itlos.org](http://www.itlos.org) (English) and [www.tidm.org](http://www.tidm.org) (French). The texts of judgments and orders of the Tribunal and the verbatim records of hearings, as well as other information about the Tribunal, are available on the website.

105. In 2021, judges and Registry staff members also delivered lectures and published papers on the work of the Tribunal.

## **XIX. Capacity-building activities**

106. A number of capacity-building activities relating to the work of the Tribunal continued to be conducted in 2021.

### **A. Internship programme**

107. The internship programme of the Tribunal, which was established in 1997, is designed to give participants the opportunity to gain an understanding of the work and functions of the Tribunal. Funding has been available for applicants from developing countries to assist them in covering the costs incurred for travel to Hamburg and participation in the programme. The trust fund for the Law of the Sea is currently used to provide financial assistance to interns.

108. As at 31 December 2021, a total of 390 interns from 104 States had participated in the programme of whom 165 had benefited from funding.

109. During 2021, 11 persons from 11 States (China, Cyprus, Ecuador, Ethiopia, Germany, Greece, Italy, Japan, Slovakia, Ukraine and United States of America) served as interns at the Tribunal.

110. Information on the programme and an online application form can be obtained at the Tribunal's websites.

### **B. Capacity-building and training programme**

111. In 2021, for the fifteenth time, a capacity-building and training programme on dispute settlement under the Convention was conducted with the support of the Nippon Foundation. The Nippon Foundation Grant was set up in 2007 to provide capacity-building and training for fellows and assist them in covering the costs of participation in the programme. Programme participants attend lectures on topical issues related to the law of the sea and maritime law and training courses on negotiation and delimitation. They also visit institutions engaged in work in the fields of law of the sea, maritime law and dispute settlement. At the same time, they carry

out individual research on selected topics. Information about the programme can be obtained from the Registry and the Tribunal's website.

112. Nationals of Colombia, Ecuador, the Gambia, Italy, Nepal, the Russian Federation and Togo are participating in the 2021/22 programme. Owing to the COVID-19 pandemic, it was decided that the programme would run from August 2021 through April 2022.

### **C. Regional workshops**

113. The Tribunal has organized a series of workshops on the settlement of disputes related to the law of the sea in different regions of the world. The purpose of those workshops is to provide government experts engaged in work on maritime and law of the sea matters with insight into the procedures for dispute settlement covered in part XV of the Convention, with special emphasis on the jurisdiction of the Tribunal and the procedural rules applicable to cases before the Tribunal.

114. Owing to the COVID-19 pandemic, no workshop was conducted during 2021.

### **D. Summer academy**

115. The fourteenth session of the summer academy organized by the International Foundation for the Law of the Sea had to be postponed for a second time owing to the COVID-19 pandemic. The Foundation hosted a one-week online course on international law of the sea and maritime law instead of the usual summer academy. The event was held from 16 to 20 August 2021 and approximately 30 individuals participated in real time.

### **E. Workshop for legal advisers (sponsored by the Republic of Korea)**

116. The Tribunal had planned to hold a workshop for legal advisers on international dispute settlement in matters pertaining to the law of the sea in 2020 and 2021, with the support of the Republic of Korea. The aim of the workshop would be to familiarize legal advisers, in particular from developing countries, with the Convention's dispute settlement mechanisms and provide insight into the Tribunal's procedure and practice, and the Republic of Korea made a voluntary contribution to the Tribunal for that purpose (see para. 80). Owing to the COVID-19 pandemic, however, the workshop had to be postponed in 2020 and again in 2021.

## Annex I

### Information on staff (2021)

#### A. Professional and higher categories

<i>Name</i>	<i>Title</i>	<i>Country of nationality</i>	<i>Level of post</i>	<i>Level of incumbent</i>
Hinrichs Oyarce, Ximena	Registrar	Chile	ASG	ASG
Ollivier, Antoine	Deputy Registrar	France	D-2	D-2
Guy, Pauline	Senior Translator-Reviser/Head of Linguistic Services <sup>a</sup>	United Kingdom	P-5	P-5
Füracker, Matthias	Senior Legal Officer/Head of Legal Office	Germany	P-5	P-5
Savadogo, Louis	Legal Officer	Burkina Faso	P-4	P-4
Mizerska-Dyba, Elzbieta	Head of Library and Archives	Poland	P-4	P-4
Gaba, Kafui	Head of Personnel, Building and Security	Togo	P-4	P-4
Gaultier, Léonard	Translator/Reviser (French)	France	P-4	P-4
Gbadoe, Alfred	Information Systems Officer	Germany	P-4	P-4
Ritter, Roman	Head of Budget and Finance	Germany	P-4	P-4
Burke, Naomi	Legal Officer	Ireland	P-4	P-4
Rostan, Jean-Luc	Translator (French)	France	P-3	P-3
Vacant	Legal Officer		P-3	
Ritter, Julia	Press Officer <sup>b</sup>	United Kingdom	P-2	P-2
Buergers-Vereshchak, Svitlana	Associate Administrative Officer (Contributions/Budget)	Ukraine	P-2	P-2
Vorbeck, Antje	Associate Administrative Officer	Germany	P-2	P-2
Berberovic, Dejan	Associate Archivist	Bosnia and Herzegovina	P-2	P-2
Benatar, Marco	Associate Legal Officer	South Africa	P-2	P-2
Steenkamp, Robert	Associate Press Officer <sup>b</sup>	South Africa	P-2	P-2

*Abbreviations:* ASG, Assistant Secretary-General.

*Note:* Number of posts totals 18.

<sup>a</sup> Post is vacant as of 1 January 2022.

<sup>b</sup> Fifty per cent part-time post.

## B. General Service

<i>Name</i>	<i>Title</i>	<i>Country of nationality</i>	<i>Level of post</i>	<i>Level of incumbent</i>
Bothe, Andreas	Building Coordinator	Germany	G-7	G-7
Egert, Anke	Publications/Personal Assistant (Registrar)	Germany	G-7	G-7
Winkelmann, Jacqueline	Administrative Assistant (Procurement)	Germany	G-7	G-7
Mba, Patrice	Information Systems Assistant	Cameroon	G-7	G-7
Albiez, Berit	Linguistic Assistant/Judiciary Support	Germany	G-7	G-7
Tatam, Kirsten <sup>a</sup>	Personal Assistant (President)	Germany	G-7	G-7
Naegler, Thorsten	Finance Assistant	Germany	G-6	G-6
Karanja, Elizabeth	Administrative Assistant	Kenya	G-6	G-6
Koch, Béatrice	Legal Assistant	France	G-6	G-6
Bartlett, Emma	Personnel Assistant	United Kingdom	G-6	G-6
Heim, Svenja	Library Assistant	Germany	G-6	G-6
Gomez Ramirez, Sebastian	Administrative Assistant (Finance)	Colombia	G-6	G-6
Rouault, Stéphanie	Linguistic Assistant/Judiciary Support	France	G-6	G-6
Fusiek, Christoph	Finance Assistant (Accounts Payable)	Germany	G-5	G-5
Schneider, Inga	Administrative Assistant <sup>b</sup>	Germany	G-5	G-5
Fislage, Sylvie	Personal Assistant (Deputy Registrar)	France	G-5	G-5
Banerjee, Mita	Administrative Assistant	Germany	G-5	G-5
Duddek, Sven	Senior Security/Administrative Assistant	Germany	G-5	G-5
Aziamble, Papagne	Senior Security/Administrative Assistant	Togo	G-5	G-5
Ntinugwa, Chuks	Security/Administrative Assistant	Germany	G-4	G-4

*Note:* Number of posts totals 20.

<sup>a</sup> Resigned. Last date of service: 14 August 2021.

<sup>b</sup> Eighty per cent part-time post for the period from 1 January 2021 to 30 September 2022.

## Annex II

### **List of donors to the Library of the International Tribunal for the Law of the Sea as at 31 December 2021**

Dariusz Bugajski, Polish Naval Academy, Gdansk, Poland

Rafael Casado Raigón, Faculty of Law, Universidad de Córdoba, Spain

Inter-American Court of Human Rights, San José

International and Comparative Law Research Centre, Moscow

International Court of Justice, The Hague, Netherlands

Japan Branch of the International Law Association, Tokyo

Japanese Society of International Law, Tokyo

Mareverlag, Hamburg, Germany

Gabriela A. Oanta, Instituto Universitario de Estudios Europeos “Salvador de Madariaga”, Universidade da Coruña, Spain

Igor Okunev, Centre for Spatial Analysis in International Relations, Institute for International Studies, MGIMO University, Moscow

André de Paiva Toledo, Belo Horizonte, Brazil

José Manuel Sobrino Heredia, Catedrático de Derecho Internacional Público, Universidade da Coruña, Spain

Walther-Schücking-Institut für Internationales Recht, Universität Kiel, Kiel, Germany

Hilde Juliette Woker, Norwegian Centre for the Law of the Sea, Faculty of Law, UiT The Arctic University of Norway, Tromsø, Norway

World Trade Organization, Geneva

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