

**EXCHANGE OF LETTERS BETWEEN THE UNITED NATIONS AND THE
INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA EXTENDING
COMPETENCE OF THE UNITED NATIONS ADMINISTRATIVE TRIBUNAL
TO THE STAFF OF THE REGISTRY OF THE
INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA**

**(A) Letter from the President of the International Tribunal for the Law
of the Sea to the Secretary-General of the United Nations**

26 May 2000

Mr. Secretary-General,

I have the honour to draw to your attention the question of the appeals system available to the staff of the Registry of the International Tribunal for the Law of the Sea against such administrative decisions or disciplinary actions as they may wish to contest (with the exception of decisions taken with regard to pensions which were already the subject of a special agreement of 18 February - 25 February 1998).

The States Parties to the United Nations Convention on the Law of the Sea at their Fourth Meeting held from 4 - 8 March 1996, approved the application *mutatis mutandis* of the Staff Regulations and Rules of the United Nations and the Tribunal endorsed this recommendation.

In conformity with this decision, the Tribunal has adopted the Staff Regulations of the Tribunal. Regulation 11 provides for a machinery of conciliation in its paragraphs (a) to (f), and prescribes in its paragraph (g) that:

“In the event of a failure to achieve a conciliation, the administrative decision or disciplinary action may be the subject of an Application to the United Nations Administrative Tribunal, in accordance with the Statute of that Administrative Tribunal and under the conditions agreed between the International Tribunal for the Law of the Sea and the United Nations.”

The Statute of the United Nations Administrative Tribunal has been modified by the General Assembly of the United Nations. By its resolution 52/166 of 15 December 1997, the General Assembly approved the addition, to Article 13 of this Statute, of a paragraph 4 reading as follows:

“The competence of the Tribunal may also be extended, with the approval of the General Assembly, to any other international organization or entity established by a treaty and participating in the common system of conditions of service, upon the terms set out in a special agreement between the organization or entity concerned and the Secretary-General of the United Nations. Each such special agreement shall provide that the organization or entity concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in

respect of a staff member of that organization or entity and shall include *inter alia*, provisions concerning its participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal.”

In application of this provision, I would propose that you consider that Applications submitted to the United Nations Administrative Tribunal by virtue of Regulation 11, paragraph (g), of the Staff Regulation of the International Tribunal for the Law of the Sea are to be subjected to the following conditions:

(1) In the event of an application filed by a staff member of the Registry of the International Tribunal for the Law of the Sea (hereinafter referred to as “the International Tribunal”) or by his or her eligible beneficiaries, the United Nations Administrative Tribunal (hereinafter referred to as “the Administrative Tribunal”) shall apply its Statute and Rules, subject to the specific provisions indicated in paragraphs (2) to (7) of the present exchange of letters.

(2) For the purposes of the present exchange of letters:

(a) the references to the staff members of the Secretariat of the United Nations that are made in Article 2 of the Statute of the Administrative Tribunal shall be deemed to apply to the staff members of the Registry of the International Tribunal;

(b) the references to the provisions of the Staff Regulations and Rules that are made in the Statute and Rules of the Administrative Tribunal shall be deemed to apply to the relevant provisions of the Staff Regulations of the International Tribunal, including the applicable provisions of the Staff Regulations, Rules, Administrative Instructions, Administrative Circulars and Information Circulars of the United Nations, together with the Instructions for the Registry;

(c) the references to the Secretary-General of the United Nations that are made in Articles 9 and 11 of the Statute of the Administrative Tribunal and in Articles 7, 18 and 20 of its Rules are to be deemed to refer to the Registrar of the International Tribunal;

(d) when the text of the Statute and Rules of the Administrative Tribunal refers to one of the official languages of the United Nations or to the working languages of the General Assembly, this should read; “either of the official languages of the International Tribunal”.

(3) Under Article 2, paragraph 1, of its Statute, the Administrative Tribunal shall be competent to deal with applications contesting disciplinary actions.

(4) Article 2, paragraph 4, of the Statute of the Administrative Tribunal shall be replaced by the following provisions:

“The Administrative Tribunal shall not be competent to hear and pass judgment upon applications if the administrative decision or disciplinary action complained of occurred prior to 1 August 1996.”

(5) In order to take account of the conciliation procedure applicable to the staff of the Registry, the following provisions will be substituted for the text of Article 7 of the Statute of the Administrative Tribunal:

- (a) an application shall not be receivable unless the person concerned has previously submitted the dispute to the Conciliation Committee set up under Regulation 11 of the Staff Regulations of the International Tribunal and the Committee has transmitted to the Registrar and the concerned staff member the report provided for, in the event of a failure to achieve a conciliation, in Annex V, paragraph 5, to those Staff Regulations;
- (b) an application shall not be receivable unless it is filed within 30 days reckoned from the reception by the concerned staff member of the aforementioned report, that time-limit being extended to one year if the heirs of a deceased staff member or the trustee of a staff member who is not in a position to manage his own affairs file the application in the name of the said staff member;
- (c) in any particular case the Administrative Tribunal may decide to suspend the provisions regarding time-limits;
- (d) the filing of an application shall not have the effect of suspending the execution of the decision contested;
- (e) applications may be filed in either of the official languages of the International Tribunal.

Consequently, Article 7, paragraphs 8 and 9, of the Rules of the Administrative Tribunal shall not be applicable, with the exception of the provision according to which “The applicant shall file the duly signed original and seven copies of the application with the Executive Secretary”.

(6) The text of Article 13 of the Rules of the Administrative Tribunal shall be replaced by the following provisions: “An applicant may present his case before the Administrative Tribunal in person, in either written or oral proceedings. He may be assisted or represented by a member or former member of the Registry staff or by counsel authorized to practice in any of the States Parties to the United Nations Convention on the Law of the Sea.”

(7) In Annex I to the Rules of the Administrative Tribunal, items 6, 7, 8 and 9 are to be read in accordance with the conciliation procedure laid down in Annex V to the Staff Regulations of the International Tribunal.

If you are in agreement, the present letter and your reply shall constitute the special agreement contemplated by Article 13, paragraph 4, of the Statute of the

Administrative Tribunal. The special agreement shall enter into force on the date given as the date of reply.

Accept, Sir, the assurances of my highest consideration.

(Signed)
P. Chandrasekhara Rao

**(B) Letter from the Secretary-General of the United Nations to the President
of the International Tribunal for the Law of the Sea**

12 June 2001

Excellency,

I have the honour to acknowledge receipt of your letter dated 26 May 2000, in which you make reference to General Assembly resolution 52/166 of 15 December 1997, which provides that the competence of the United Nations Administrative Tribunal may be extended to the staff of any other international organization or entity established by a treaty and participating in the common system of conditions of service upon the terms set out in a special agreement between the organization or entity concerned and the Secretary-General of the United Nations. In this regard, you propose that applications submitted to the United Nations Administrative Tribunal by the staff of the Registry of the International Tribunal for the Law of the Sea by virtue of Regulation 11, paragraph (g), of the Staff Regulations of the International Tribunal for the Law of the Sea be subject to the conditions referred to in your letter.

I am pleased to confirm that the conditions stipulated in your letter are acceptable and that, therefore, your letter and the present reply to it shall constitute the special agreement contemplated in General Assembly resolution 52/166 which will enter into force upon the date of this reply.

Please accept, Excellency, the assurances of my highest consideration.

(Signed)
Kofi A. Annan