Final as of 15 September 2026

Celebrating the 30th Anniversary of ITLOS

on 25 September 2026

Remarks by Professor Tommy Koh, former President of the Third UN Conference on the Law of the Sea

Salutations

1. The President of ITLOS, Judge Tomas Heidar

2. Judges

3. Your Excellencies

4. Ladies and Gentlemen

My Three Points

5. I will make three points in the 5 minutes allocated to me.

First Point: History and Importance of Part XV Dispute Settlement

6. First, I was a member of the negotiating group on dispute settlement, co-convened by Australia, Kenya and the Netherlands. Our rapporteur was Professor Louis Sohn of Harvard Law School. At the time, it was rare for international treaties to contain mandatory

provisions on the settlement of disputes. In the 1958 Geneva Conventions, the Optional Protocol for settling disputes had been ratified by very few States. Most States have always been reluctant to tie their hands in advance and commit themselves to binding third-party procedures.

7. The inclusion of Part XV on the settlement of disputes in UNCLOS was a landmark achievement in international law. States accepted it because of the importance of the interests at stake, reflected in a series of delicately balanced compromises. States recognized that it was in everybody's interests to protect these compromises from being unravelled through conflicting interpretations. It was for this reason that the USSR and the African States were prepared, for the first time, to put aside their objections and to embrace a binding system of dispute settlement.

Second Point: Importance of ITLOS

8. UNCLOS provides for four different forums for the settlement of disputes: the International Court of Justice, ITLOS, Annex VII arbitration, and Annex VIII arbitration. I was in favour of creating a specialized tribunal to adjudicate disputes concerning the interpretation and application of the Convention. As a founder of ITLOS, I am proud of what we have achieved.

9. Over the past 30 years, thirty-three contentious cases have been submitted to ITLOS, or a special chamber of ITLOS or to the Seabed Disputes Chamber. While ITLOS' early cases have primarily

concerned prompt release of ships or provisional measures applications, States are increasingly referring general disputes over the interpretation or application of UNCLOS to ITLOS, including disputes on maritime delimitation, which have traditionally been decided by the ICJ. ITLOS has also issued 3 advisory opinions, clarifying the obligations of States on activities in the Area, the responsibilities of States on illegal, unreported and unregulated fishing and, most recently, on States' climate change obligations under UNCLOS. ITLOS' growing case load reflects its importance, in not only the resolution of law of the sea disputes, but also its vital role in the interpretation and clarification of UNCLOS rights and obligations.

10. On a personal note, I was the Agent of Singapore in a legal dispute with Malaysia. Malaysia referred the dispute to arbitration, under Article 287 and Annex VII of the Convention. Malaysia then applied to ITLOS for provisional measures. Some of Singapore's foreign legal advisers expressed concern about the forum. I told them that I did not share their concern and was confident that the Tribunal would do the right thing, which it did.

Third Point: Fragmentation Concerns

11. Third, some legal experts were concerned that the different forums for adjudication of disputes under UNCLOS could lead to the fragmentation of the law of the sea with different courts and tribunals

adopting contradictory findings on similar issues. I am pleased to say this concern has also proven to be unfounded. There has been considerable harmony and consistency between the jurisprudence of ITLOS and annex VII arbitral tribunals, and ITLOS and the ICJ on various issues, such as climate change. The harmony between the two Advisory Opinions on climate change, by ITLOS and the ICJ, proves my point. This general uniformity in the jurisprudence of courts and tribunals interpreting UNCLOS has strengthened the legal order of the oceans.

Conclusion

12. I shall conclude. We live in an increasingly violent and turbulent world. At a time like this, it is important for us to reaffirm our commitment to the peaceful settlement of dispute between States, in accordance with international law.

13. I congratulate ITLOS on its 30th anniversary and wish it continued success in the years ahead.

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