



INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
TRIBUNAL INTERNATIONAL DU DROIT DE LA MER

Press Release

“DEVELOPMENTS IN 2019 KEEP TRIBUNAL BUSY”

PRESIDENT PAIK REPORTS TO THE MEETING OF STATES PARTIES

On 17 June 2019, Judge Jin-Hyun Paik, President of the International Tribunal for the Law of the Sea, presented the Tribunal’s annual report for 2018 to the 29th Meeting of States Parties to the United Nations Convention on the Law of the Sea. The President reported on the judicial activity of the Tribunal, including the recent developments which have kept the Tribunal busy since the beginning of the year.



The President commented on the Tribunal’s Judgment in *The M/V “Norstar” Case (Panama v. Italy)*, delivered on 10 April 2019. He highlighted several important issues addressed by this Judgment. First, the Tribunal clarified the legal status of bunkering under the Convention. It stated that “bunkering on the high seas is part of the freedom of navigation to be exercised under the conditions laid down by the Convention and other rules of international law” and that “the bunkering of leisure boats carried out by the *M/V “Norstar”* on the high seas falls within the freedom of navigation under article 87 of the Convention”. Second, the Judgment represents a long-awaited contribution of the Tribunal to the interpretation and application of the freedom of navigation under article 87 of the Convention, one of the fundamental principles of the law of the sea. Third, the Judgment adds to the development of the rules of evidence by providing a concise overview of the factors that it takes into

account in assessing the relevance and probative value of witness and expert testimony.

President Paik then referred to the Order on provisional measures delivered by the Tribunal on 25 May 2019, in the *Case concerning the detention of three Ukrainian naval vessels (Ukraine v. Russian Federation), Provisional Measures*. The President recalled that Ukraine had instituted arbitral proceedings against the Russian Federation under Annex VII to the Convention and submitted to the Tribunal a Request for the prescription of provisional measures under article 290, paragraph 5, of the Convention. As regards the *prima facie* jurisdiction of the Annex VII arbitral tribunal, the President indicated that a key question concerned the applicability of article 298, paragraph 1(b), of the Convention, which enables a State Party to the Convention to exclude from the compulsory mechanism for the settlement of disputes of Part XV disputes concerning military activities. The President recalled that, in its Order, the Tribunal prescribed the following as provisional measures “[t]he Russian Federation shall immediately release the Ukrainian naval vessels *Berdyansk*, *Nikopol* and *Yani Kapu*, and return them to the custody of Ukraine”. In addition, the Tribunal ordered that “[t]he Russian Federation [should] immediately release the 24 detained Ukrainian servicemen and allow them to return to Ukraine” and that “Ukraine and the Russian Federation [should] refrain from taking any action which might aggravate or extend the dispute submitted to the Annex VII arbitral tribunal.” The President informed the Meeting that the Tribunal had fixed 25 June 2019 as the date for the submission by both parties of a report and information on compliance with the provisional measures prescribed pursuant to article 95, paragraph 1, of the Rules.

The President also reported on the recent case submitted to the Tribunal on 21 May 2019. On that date, Switzerland filed with the Tribunal a request for the prescription of provisional measures pursuant to article 290, paragraph 5, of the Convention. The dispute concerns the arrest and detention by Nigeria of the Swiss-flagged vessel *M/T “San Padre Pio”*, its crew and cargo. President Paik informed the delegates that a public hearing will be held on 21 and 22 June 2019 and that a decision in the case is expected to be delivered in early July 2019.

Turning to organizational matters, the President noted that Registrar Philippe Gautier had announced his resignation with effect from 31 July 2019. The President thanked Mr Gautier for his outstanding service to the Tribunal for more than two decades. He congratulated him upon his election as Registrar of the International Court of Justice and wished him every success in the discharge of his new responsibilities.

The President also informed the States Parties that the Tribunal has already taken steps to elect a new registrar as soon as possible in accordance with its Statute and Rules, and has issued a vacancy announcement which has been notified to the permanent and observer missions in New York and will be published shortly in different media and formats to ensure it is widely disseminated.

The President concluded his statement by emphasizing the role of the training and capacity-building programmes organized by the Tribunal, and expressed the Tribunal’s appreciation of the ongoing support given by the Nippon Foundation to the capacity-building and training programme on dispute settlement under the

Convention. He also thanked the Korea Maritime Institute, the China Institute of International Studies and the Government of China for their contributions to the Tribunal's internship programme and the Summer Academy.

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