

IFLOS/KMI Symposium
The International Law of the Sea at the 30th Anniversary of ITLOS:
Developments and Challenges

International Tribunal for the Law of the Sea, Hamburg
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Keynote Address: ITLOS at Thirty

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President of the International Tribunal for the Law of the Sea

Distinguished Participants, Ladies and Gentlemen,

It is a great pleasure to address you at this Symposium which is dedicated to the 30th anniversary of the International Tribunal for the Law of the Sea. I would like to thank the International Foundation for the Law of the Sea (IFLOS) and the Korea Maritime Institute (KMI) sincerely for organizing this event and for giving me the opportunity to deliver this keynote.

This year marks the 30th anniversary of the inaugural meeting of the Tribunal, which was held in Hamburg on 1 October 1996. The Tribunal formally commemorated this anniversary at a ceremony here in the courtroom yesterday where some of you were present. Today's event provides another occasion, in the company of this informed audience, to reflect more substantively on what the Tribunal has achieved over its first three decades and on the challenges that lie ahead.

It is fitting to begin where the Tribunal began. At the ceremonial inauguration of the Judges on 18 October 1996, the Tribunal's first President, Judge Thomas A. Mensah, described the Tribunal's purpose in these words:

It will be the constant wish and determined intention of my colleagues and myself to offer to the international community an alternative forum for the resolution of their differences and disputes in matters maritime when such an alternative is considered necessary or useful.¹

¹ Statement of Judge Thomas A. Mensah, President of the Tribunal, on the occasion of the ceremonial inauguration of the Judges, Hamburg, 18 October 1996, available at: https://www.itlos.org/fileadmin/itlos/documents/calendar_of_events/Inauguration/1996_Statement_Mensah.pdf

Thirty years on, States have, with growing frequency, treated the Tribunal as both “necessary and useful”, to use the words of President Mensah. My remarks today reflect on that record. I will speak first of the Tribunal’s caseload across its three decades, distinguishing what may be called the first period from the second. I will then proceed to cover, by way of example, three of the areas in which the Tribunal has made significant contributions to the law of the sea and international law, namely, the delimitation of the outer continental shelf, the legal effect and weight of advisory opinions, and the freedom of navigation. Finally, I will offer brief reflections on some of the challenges that lie ahead.

Distinguished Participants, Ladies and Gentlemen,

In its first period, from its establishment in 1996 to around 2011, the Tribunal’s docket was largely devoted to urgent proceedings. The Convention confers on the Tribunal a central role in two such categories, namely the prompt release of vessels and crews under article 292 and provisional measures pending the constitution of an arbitral tribunal under article 290, paragraph 5. Both share a common feature: the need for an international tribunal able to act swiftly, whether to secure the release of a detained vessel and its crew upon the posting of a reasonable bond or other financial security, or to preserve the parties’ rights or prevent serious harm to the marine environment.

The first case ever brought before the Tribunal was an application for prompt release, the *M/V “SAIGA”* case submitted by Saint Vincent and the Grenadines against Guinea in 1997.² Further prompt release cases followed, including “*Camouco*”, “*Monte Confurco*”, “*Grand Prince*”, “*Volga*”, “*Juno Trader*”, “*Hoshinmaru*” and “*Tomimaru*”.³ Through these cases, the Tribunal developed a coherent jurisprudence on article 292, in particular on the criteria for determining a reasonable bond or other financial security.

² *M/V “SAIGA” (Saint Vincent and the Grenadines v. Guinea), Prompt Release, Judgment, ITLOS Reports 1997*, p. 16.

³ “*Camouco*” (*Panama v. France*), *Prompt Release, Judgment, ITLOS Reports 2000*, p. 10; “*Monte Confurco*” (*Seychelles v. France*), *Prompt Release, Judgment, ITLOS Reports 2000*, p. 86; “*Grand Prince*” (*Belize v. France*), *Prompt Release, Judgment, ITLOS Reports 2001*, p. 17; “*Volga*” (*Russian Federation v. Australia*), *Prompt Release, Judgment, ITLOS Reports 2002*, p. 10; “*Juno Trader*” (*Saint Vincent and the Grenadines v. Guinea-Bissau*), *Prompt Release, Judgment, ITLOS Reports 2004*, p. 17; “*Hoshinmaru*” (*Japan v. Russian Federation*), *Prompt Release, Judgment, ITLOS Reports 2005–2007*, p. 18; “*Tomimaru*” (*Japan v. Russian Federation*), *Prompt Release, Judgment, ITLOS Reports 2005–2007*, p. 74.

In the same period, the Tribunal handled several requests for the prescription of provisional measures pending the constitution of an Annex VII arbitral tribunal in cases such as *Southern Bluefin Tuna*, *MOX Plant*, and *Land Reclamation in and around the Straits of Johor*.⁴ In these proceedings, the Tribunal made significant contributions to the law of the sea. In its Order in the *Southern Bluefin Tuna* cases, for example, the Tribunal recognized that “the conservation of the living resources of the sea is an element in the protection and preservation of the marine environment”, and it relied on the notion of prudence and caution in relation to the prevention of serious harm to the southern bluefin tuna stock.⁵

It bears mentioning that the first period also saw the Tribunal's first merits judgment, a landmark in the development of the law of the sea: the Judgment of 1999 in *M/V “SAIGA” (No. 2)*.⁶ That Judgment, although delivered during the first period, also illustrates a pattern that became more pronounced later: the case was submitted to the Tribunal by a special agreement transferring proceedings from Annex VII arbitration to the Tribunal. I will return to this pattern in a minute.

Around 2011 and 2012, two notable pronouncements marked a shift in the Tribunal's work. On 1 February 2011, the Seabed Disputes Chamber delivered its Advisory Opinion in *Responsibilities and obligations of States with respect to activities in the Area*.⁷ This was the first time the Chamber exercised its advisory function, and it elaborated in great detail the duties of sponsoring States and the conditions of their international responsibility. On 14 March 2012, the full Tribunal delivered its Judgment in the *Dispute concerning delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar)*.⁸ This was the first time in history that an international court or tribunal delimited the continental shelf beyond 200

⁴ *Southern Bluefin Tuna (New Zealand v. Japan; Australia v. Japan)*, Provisional Measures, Order of 27 August 1999, ITLOS Reports 1999, p. 280; *MOX Plant (Ireland v. United Kingdom)*, Provisional Measures, Order of 3 December 2001, ITLOS Reports 2001, p. 95; *Land Reclamation in and around the Straits of Johor (Malaysia v. Singapore)*, Provisional Measures, Order of 8 October 2003, ITLOS Reports 2003, p. 10.

⁵ *Southern Bluefin Tuna (New Zealand v. Japan; Australia v. Japan)*, Provisional Measures, Order of 27 August 1999, ITLOS Reports 1999, p. 280, at p. 295, paras. 70 and 77.

⁶ *M/V “SAIGA” (No. 2) (Saint Vincent and the Grenadines v. Guinea)*, Judgment, ITLOS Reports 1999, p. 10.

⁷ *Responsibilities and obligations of States with respect to activities in the Area*, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, p. 10.

⁸ *Delimitation of the maritime boundary in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, ITLOS Reports 2012, p. 4.

nautical miles (nm). Together, the Advisory Opinion and Judgment ushered in the second period of the Tribunal's work.

The second period has produced a diverse and substantial body of jurisprudence. The Tribunal has rendered further merits judgments on maritime delimitation, namely the Special Chamber Judgments in *Ghana/Côte d'Ivoire* and *Mauritius/Maldives*.⁹ It has rendered rulings on the freedom of navigation and the respective rights of flag States and coastal States, including *M/V "Virginia G"* and *M/V "Norstar"*.¹⁰ It has delivered two further advisory opinions, on the request from the Sub-Regional Fisheries Commission in 2015 and on the request from the Commission of Small Island States on Climate Change and International Law in 2024.¹¹ It has continued to decide upon requests for provisional measures where these have been brought. Across the second period, the cases have engaged the full breadth of subject-matters under the Convention, with parties drawn from every region in the world.

Allow me to draw out one feature that has clearly emerged in the practice of the Tribunal. Under article 287 of the Convention, Annex VII arbitration is the default procedure where the parties' choices of forum do not coincide. In practice, however, States have increasingly chosen to transfer cases from Annex VII arbitration to the Tribunal. Several reasons likely influence that choice. A notable factor is that, in arbitration, the parties bear the fees of the arbitrators and the costs of the proceedings, whereas recourse to the Tribunal does not entail such expenses for States Parties to the Convention.

The recent figures are striking. Of the eight arbitral proceedings instituted since 2014, five have been transferred to the Tribunal or a special chamber of the Tribunal by special agreement. The trend is particularly visible in the field of maritime delimitation. Four maritime delimitation cases that began as Annex VII proceedings were transferred to the Tribunal: *Bangladesh/Myanmar*, *Ghana/Côte d'Ivoire*,

⁹ *Delimitation of the maritime boundary in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, Judgment, ITLOS Reports 2017, p. 4; *Delimitation of the maritime boundary in the Indian Ocean (Mauritius/Maldives)*, Judgment, ITLOS Reports 2022–2023, p. 10.

¹⁰ *M/V "Virginia G" (Panama/Guinea-Bissau)*, Judgment, ITLOS Reports 2014, p. 4; *M/V "Norstar" (Panama v. Italy)*, Judgment, ITLOS Reports 2018–2019, p. 10.

¹¹ *Request for Advisory Opinion submitted by the Sub-Regional Fisheries Commission*, Advisory Opinion, 2 April 2015, ITLOS Reports 2015, p. 4; *Request for Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, Advisory Opinion, 21 May 2024, ITLOS Reports 2024, p. 4.

Mauritius/Maldives, and most recently *Ghana/Togo*.¹² Each case was brought before a bench in different formation, reflecting the flexibility that the Tribunal offers to parties. *Bangladesh/Myanmar* was heard by the full Tribunal; *Ghana/Côte d'Ivoire* by a Special Chamber of five members; *Mauritius/Maldives* by a Special Chamber of nine; and *Ghana/Togo*, in which a Special Chamber was formed by Order of 12 June 2026, will be heard by a bench of seven.

When the picture is viewed as a whole, it becomes apparent that most recent law of the sea disputes under the Convention have been submitted to the Tribunal. This is more than a statistic. It reflects the trust that States Parties have come to place in the Tribunal over its first thirty years as a leading forum for the peaceful settlement of their disputes under the Convention.

Distinguished Participants, Ladies and Gentlemen,

I now turn to three areas in which the Tribunal has, in my view, made significant contributions to the law of the sea and international law: the delimitation of the outer continental shelf, the legal effect and weight of advisory opinions, and the freedom of navigation.

The first contribution concerns the delimitation of the continental shelf beyond 200 nm. As I have noted, *Bangladesh/Myanmar* in 2012 was the first occasion on which an international court or tribunal delimited the outer continental shelf. The Tribunal's reasoning has shaped the practice of international adjudication in this area, both within the Convention's dispute settlement system and beyond.

Three points in particular bear emphasis. The first concerns the distinction between delimitation and delineation. Article 76, paragraph 8, of the Convention entrusts the Commission on the Limits of the Continental Shelf ("CLCS") with making recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf beyond 200 nm. The delimitation of the continental shelf between States with opposite or adjacent coasts, however, is assigned under

¹² *Delimitation of the maritime boundary in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, ITLOS Reports 2012, p. 4; *Delimitation of the maritime boundary in the Atlantic Ocean (Ghana/Côte d'Ivoire)*, Judgment, ITLOS Reports 2017, p. 4; *Delimitation of the maritime boundary in the Indian Ocean (Mauritius/Maldives)*, Judgment, ITLOS Reports 2022–2023, p. 10; *Delimitation of the maritime boundary in the Gulf of Guinea (Ghana/Togo)*, Special Agreement of 3 June 2026 and Order of 12 June 2026.

article 83 to the procedures provided for in Part XV, including the Tribunal. In *Bangladesh/Myanmar*, the Tribunal held that the functions of the CLCS regarding delineation are without prejudice to the exercise of jurisdiction by international courts and tribunals regarding the delimitation of maritime boundaries, and vice versa. These functions are complementary, and the activities of the bodies established under the Convention are intended to ensure its coherent and efficient implementation.¹³

The second point is the significant uncertainty standard. The Tribunal stated in *Bangladesh/Myanmar* that it would have been hesitant to proceed with delimitation beyond 200 nm “had it concluded that there was significant uncertainty as to the existence of a continental margin in the area in question”.¹⁴ The Tribunal was able to proceed in this instance, noting the unique situation of the Bay of Bengal as acknowledged in the course of negotiations at the Third United Nations Conference on the Law of the Sea and relying on uncontested scientific evidence.¹⁵

The Special Chamber in *Mauritius/Maldives* in 2023 applied this standard. Finding significant uncertainty as to whether the routes of natural prolongation advanced by Mauritius could sustain its claim, the Special Chamber declined to proceed to delimit the continental shelf beyond 200 nautical miles.¹⁶ It also articulated the standard's underlying rationale, which “serves to minimize the risk that the CLCS might later take a different position regarding entitlements in its recommendations from that taken by a court or tribunal in a judgment”.¹⁷ Caution was further warranted, the Special Chamber observed, by the risk of prejudice to the interests of the international community in the Area and to the common heritage principle.¹⁸

The third point concerns the so-called grey area, namely an area beyond 200 nm from the coast of one State but within 200 nm from the coast of another State. The Tribunal in *Bangladesh/Myanmar* addressed this situation by distinguishing between seabed and water column. It held that, in such an area, the maritime boundary delimits the rights of the parties with respect to the seabed and subsoil of the continental shelf, but

¹³ *Delimitation of the maritime boundary in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, ITLOS Reports 2012, p. 4, at pp. 102–104, paras. 373 and 379.

¹⁴ *Ibid.*, at p. 115, para. 443.

¹⁵ *Ibid.*, at p. 115, paras. 444 and 446.

¹⁶ *Delimitation of the maritime boundary in the Indian Ocean (Mauritius/Maldives)*, Judgment, ITLOS Reports 2022–2023, p. 10, at pp. 151–152, paras. 448–451.

¹⁷ *Ibid.*, at p. 148, para. 433.

¹⁸ *Ibid.*, at p. 152, para. 453.

does not otherwise limit the coastal State's rights in its exclusive economic zone over the superjacent waters. Each coastal State must exercise its rights and perform its duties with due regard to those of the other.¹⁹

I turn now to the second of the three contributions that I mentioned at the outset of my address, namely the legal effect and weight of advisory opinions.

The Tribunal has delivered three advisory opinions: the Advisory Opinion of 1 February 2011 of the Seabed Disputes Chamber on *Responsibilities and obligations of States with respect to activities in the Area*; the Advisory Opinion of 2 April 2015 on the request from the Sub-Regional Fisheries Commission; and the Advisory Opinion of 21 May 2024 on the request from the Commission of Small Island States on Climate Change and International Law.²⁰ Today, I will not address the substance of these opinions, important as they are. Instead, I will focus on a related topic, namely the Tribunal's clarification of the legal effect and weight of advisory opinions.

The starting position on this matter is that an advisory opinion is not binding, and the Tribunal has expressly affirmed this.²¹ Non-binding does not, however, mean without legal effect.

The Special Chamber in *Mauritius/Maldives*, in its Judgment on Preliminary Objections of 28 January 2021, drew this important distinction. While recognizing that an advisory opinion of the ICJ is not binding, the Special Chamber observed that “judicial determinations made in advisory opinions carry no less weight and authority than those in judgments because they are made with the same rigour and scrutiny by the ‘principal judicial organ’ of the United Nations with competence in matters of international law”.²² On that basis, the Special Chamber concluded that

¹⁹ *Delimitation of the maritime boundary in the Bay of Bengal (Bangladesh/Myanmar)*, Judgment, ITLOS Reports 2012, p. 4, at pp. 119–121, paras. 472–475.

²⁰ *Responsibilities and obligations of States with respect to activities in the Area*, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, p. 10; *Request for Advisory Opinion submitted by the Sub-Regional Fisheries Commission*, Advisory Opinion, 2 April 2015, ITLOS Reports 2015, p. 4; *Request for Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, Advisory Opinion, 21 May 2024, ITLOS Reports 2024, p. 4.

²¹ *Request for Advisory Opinion submitted by the Sub-Regional Fisheries Commission*, Advisory Opinion, 2 April 2015, ITLOS Reports 2015, p. 4, at p. 25, para. 76; *Request for Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*, Advisory Opinion, 21 May 2024, ITLOS Reports 2024, p. 4, at p. 38, para. 114.

²² *Delimitation of the maritime boundary in the Indian Ocean (Mauritius/Maldives)*, Preliminary Objections, Judgment, ITLOS Reports 2020–2021, p. 17, at p. 77, para. 203.

determinations made in advisory opinions “cannot be disregarded simply because the advisory opinion is not binding”,²³ and accordingly recognized those determinations and took them into consideration. The Special Chamber emphasized that the non-binding character of an advisory opinion must be distinguished from its authoritative nature and considered that determinations made in an advisory opinion may have legal effect.²⁴ This is a noteworthy contribution to international law and goes beyond the field of the law of the sea.

A prominent recent illustration of the weight of advisory opinions of the Tribunal comes from the ICJ. In its Advisory Opinion of 23 July 2025 on *Obligations of States in respect of Climate Change*, the Court acknowledged the Tribunal’s standing as the specialized judicial body under the Convention in terms that merit repeating. The Court observed that “since its establishment, ITLOS has developed a considerable body of jurisprudence on UNCLOS, both in contentious and advisory proceedings”, and added that “in so far as it is called upon to interpret the Convention, it should ascribe great weight to the interpretation adopted by the Tribunal”.²⁵ In the law of the sea section of its Advisory Opinion, the Court referred to the interpretation adopted in the Tribunal’s 2024 Advisory Opinion on Climate Change on multiple matters, including the meaning of “pollution of the marine environment” and the interpretation of various environmental provisions of the Convention.²⁶ The Court also drew on the Tribunal’s jurisprudence on the obligation of due diligence, on the duty to cooperate, and on the relationship between obligations under the Convention and obligations under other relevant treaties.²⁷

The Tribunal’s Advisory Opinion was delivered to the Commission of Small Island States on Climate Change and International Law in May 2024. Just over a year later, the determinations made in that opinion were drawn upon by the principal judicial organ of the United Nations in answering questions put to it by the General Assembly. The sequence illustrates how the relevance of an advisory opinion may extend well

²³ *Ibid.*, at p. 77, para. 205.

²⁴ *Ibid.*, at pp. 77–78, paras. 203 and 205–206.

²⁵ *Obligations of States in respect of Climate Change, Advisory Opinion of 23 July 2025* (not yet reported), para. 338.

²⁶ *Ibid.*, paras. 340, 342–344, 346–347, 351 and 353.

²⁷ *Ibid.*, paras. 138, 251–252, 275–276, 281, 287, 291, 302–304, 343 and 347.

beyond the requesting body, and it exemplifies the centrality of the Tribunal to the harmonious interpretation of the Convention.

I turn now to my third example, the freedom of navigation.

Across the Tribunal's first thirty years, the freedom of navigation has been a recurring theme. The Tribunal has considered how this freedom applies on the high seas and in the exclusive economic zone, from its earliest contentious proceedings to a case decided only a few months ago.

The Tribunal has addressed the bunkering of vessels in the exclusive economic zone in *M/V "SAIGA" (No. 2)* in 1999 and *M/V "Virginia G"* in 2014.²⁸ The Tribunal has also been seized on several occasions of requests for provisional measures in which the freedom of navigation was alleged to have been violated in respect of a commercial vessel or a warship. It has addressed the scope of the freedom of navigation under article 87 of the Convention in *M/V "Norstar"* in 2019.²⁹ Most recently, a Special Chamber of the Tribunal has had the opportunity to address the interaction between freedom of navigation and the repression of piracy in its Judgment on 27 May 2026 in *M/T "Heroic Idun" (No. 2) (Marshall Islands/Equatorial Guinea)*.³⁰

The case arose from the interception of the *M/T "Heroic Idun"*, flying the flag of the Marshall Islands, by an Equatoguinean naval vessel in the exclusive economic zone of São Tomé and Príncipe. By threatening the use of force, that vessel diverted the *M/T "Heroic Idun"* from its course and brought it to an Equatoguinean port. Equatorial Guinea sought to justify its enforcement action as a measure for the repression of piracy, relying on several articles of the Convention and on a regional instrument, the Yaoundé Code. The Special Chamber held that the piracy exception to the freedom of navigation must be strictly construed, with the burden of proof resting on the party invoking it.³¹ That burden, in the circumstances of the case, had not been met. The Special Chamber did not find that the evidence adduced by Equatorial Guinea provided adequate grounds to justify the seizure of the *M/T "Heroic Idun"* on suspicion

²⁸ *M/V "SAIGA" (No. 2) (Saint Vincent and the Grenadines v. Guinea)*, Judgment, ITLOS Reports 1999, p. 10; *M/V "Virginia G" (Panama/Guinea-Bissau)*, Judgment, ITLOS Reports 2014, p. 4.

²⁹ *M/V "Norstar" (Panama v. Italy)*, Judgment, ITLOS Reports 2018–2019, p. 10.

³⁰ *M/T "Heroic Idun" (No. 2) (Marshall Islands/Equatorial Guinea)*, Judgment, 27 May 2026, to be published.

³¹ *Ibid.*, para. 270.

of piracy.³² The Special Chamber accordingly concluded that Equatorial Guinea had breached the freedom of navigation of the Marshall Islands.³³ This Judgment is the most recent contribution to the rulings of the Tribunal with respect to navigational rights and confirms the continuing relevance of that case law in contemporary maritime contexts.

The Tribunal's freedom of navigation case law yields two further jurisprudential points that I wish to emphasize. The first point concerns the scope of this freedom. In *M/V "Norstar"*, the Tribunal held that bunkering on the high seas forms part of the freedom of navigation and that the freedom applies in the exclusive economic zone by virtue of article 58, paragraph 1, of the Convention.³⁴ By contrast, the freedom of navigation does not apply in the internal waters of a coastal State, where the coastal State exercises sovereignty.³⁵

The second point concerns what acts may amount to a breach. The Tribunal held in *M/V "Norstar"* that "any act of interference with navigation of foreign ships or any exercise of jurisdiction over such ships on the high seas constitutes a breach of the freedom of navigation, unless justified by the Convention or other international treaties".³⁶ Importantly, even acts which do not involve physical interference may breach the freedom. In particular, the application of a State's laws over foreign ships on the high seas may in itself constitute a breach, even if the State refrained from enforcing those laws on the high seas.³⁷

The cumulative effect of these decisions has been the development of a coherent jurisprudence on a freedom that, as the drafters of the Convention well understood, is central to the legal order of the oceans.

³² *Ibid.*, paras. 304.

³³ *Ibid.*, para. 306.

³⁴ *M/V "Norstar" (Panama v. Italy)*, Judgment, ITLOS Reports 2018–2019, p. 10, at pp. 73–74, paras. 219–221.

³⁵ *Ibid.*, at p. 74, para. 221.

³⁶ *Ibid.*, at p. 74, para. 222.

³⁷ *Ibid.*, at pp. 74–75, paras. 222–225.

Distinguished Participants, Ladies and Gentlemen,

I turn now to the future. The Tribunal's first thirty years have produced a steadily expanding body of work. The years ahead will bring new challenges. Allow me, in this final part, to mention four, beginning with the entry into force of the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction ("the BBNJ Agreement") and its implications for the Tribunal.

On 17 January 2026, the BBNJ Agreement entered into force.³⁸ This is the third implementing agreement under the Convention, following the 1994 Part XI Agreement and the 1995 UN Fish Stocks Agreement.

For the Tribunal, the BBNJ Agreement is significant in three respects. Let me begin with contentious jurisdiction. Article 60 of the BBNJ Agreement makes the dispute settlement system of the Convention applicable for disputes under the Agreement, including for disputes involving Parties to the Agreement that are not also Parties to the Convention. By the operation of article 287 of the Convention as applied through article 60 of the BBNJ Agreement, the Tribunal is among the available fora for the settlement of such disputes.

I turn next to advisory jurisdiction. Pursuant to article 47, paragraph 7, of the BBNJ Agreement, the Conference of the Parties may, subject to certain restrictions, decide to request an advisory opinion from the Tribunal on the conformity with the Agreement of a proposal before the Conference of the Parties on any matter within its competence. This is a notable provision. It extends the full Tribunal's advisory function, hitherto exercised on requests from the Sub-Regional Fisheries Commission and from the Commission of Small Island States on Climate Change and International Law, to questions arising under the BBNJ Agreement.

I turn finally to subject-matter. The BBNJ Agreement addresses four principal areas: marine genetic resources of areas beyond national jurisdiction, including the fair and equitable sharing of benefits; area-based management tools, including marine

³⁸ Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction, opened for signature 20 September 2023, entered into force 17 January 2026.

protected areas; environmental impact assessments; and capacity-building and the transfer of marine technology. Each of these areas may give rise to legal questions of considerable novelty. Disputes may concern, for example, the interface between the Convention and the BBNJ Agreement, the construal of decisions of the Conference of the Parties, the legal status of advice provided by the Scientific and Technical Body, and the application of the precautionary approach. The Tribunal stands ready to play its role under this new implementing agreement, drawing on three decades of experience, including in handling complex cases that raise novel legal issues. That expertise is reinforced by the fact that several of the Tribunal's current Members took part in the BBNJ process and negotiations before their election to the bench.

The second challenge I would mention is the question of climate change and the oceans. The Tribunal's Advisory Opinion of 21 May 2024 provides a major point of reference for the interpretation and application of obligations under the Convention as they relate to climate change. The ramifications of the Advisory Opinion may be tested in further proceedings, whether before the Tribunal or other fora. Related questions, including sea level rise and its implications for maritime zones, will require continued attention from international adjudicatory bodies and from States. The Tribunal is fully equipped to address questions pertaining to climate change with care, with close attention to science, and within the legal regime established by the Convention.

The third challenge concerns activities in the Area. The 2011 Advisory Opinion of the Seabed Disputes Chamber set out the responsibilities of sponsoring States and the conditions for their liability.³⁹ Its findings remain relevant as the International Seabed Authority continues its work on the regulations governing exploitation, and as questions arise about the relationship between deep seabed mining and the protection of the marine environment.

The Seabed Disputes Chamber enjoys compulsory jurisdiction over certain disputes with respect to activities in the Area under article 187 of the Convention, including disputes involving entities other than States Parties. In this regard, it is worth recalling that, by two Applications filed on 5 June 2026, Nauru Ocean Resources Inc. and Tonga Offshore Mining Ltd. each instituted proceedings against the International Seabed

³⁹ *Responsibilities and obligations of States with respect to activities in the Area, Advisory Opinion, 1 February 2011, ITLOS Reports 2011, p. 10.*

Authority concerning an inquiry by the Authority. I wish to highlight that these are the first contentious cases brought before the Chamber, thus opening a new chapter in the realm of dispute settlement under the Convention.

A fourth set of challenges may be grouped under the heading of maritime security. The phenomenon of so-called dark fleets, namely vessels that disable their automatic identification systems and operate outside transparent oversight, has revived attention to the genuine link requirement under article 91 and to the responsibilities of flag States under article 94 of the Convention. Damage to undersea cables, on which much of global communication depends, calls attention to articles 113 to 115 of the Convention. As “*Heroic Idun*” (No. 2) illustrates, the interaction between the freedom of navigation and the enforcement powers available to States in matters of piracy is also a matter of continuing legal importance. These developments illustrate the enduring relevance of the Convention to contemporary challenges, and the role the Tribunal stands ready to play in addressing them.

Distinguished Participants, Ladies and Gentlemen,

The Tribunal’s first thirty years have demonstrated the wisdom of the choice made by the drafters of the Convention to create a permanent judicial body specialized in the law of the sea, alongside the ICJ, arbitration and special arbitration. The Tribunal has provided urgent remedies where pressing circumstances called for such action; it has rendered authoritative judgments and advisory opinions of substantial weight; and, as the increasing recourse to transfer agreements shows, it has earned the confidence of States Parties as a forum for the peaceful settlement of law of the sea disputes.

I have now come to the end of my lecture. As I look back at the founding aspirations of our institution, it gives me great satisfaction to observe that, three decades on, the Tribunal continues to serve as the forum that President Mensah envisaged: available to States whenever they consider it necessary or useful for the peaceful settlement of their disputes under the Convention.

I thank you for your attention and am looking forward to an interesting and thought-provoking Symposium over the next two days.