

STATEMENT BY

H.E. JUDGE TOMAS HEIDAR

PRESIDENT OF THE
INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

ON

THE ANNUAL REPORT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF
THE SEA FOR 2024

FOR

THE THIRTY-FIFTH MEETING OF STATES PARTIES TO THE
UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

23 June 2025

Mr President, distinguished delegates,

1. I am honoured to address the Meeting of States Parties to present the Annual Report of the International Tribunal for the Law of the Sea for 2024. On behalf of the Tribunal, I convey to you, Mr President, our congratulations on your election as President of the Meeting of States Parties and wish you every success in the fulfilment of your mandate.

2. The Annual Report of the Tribunal gives an account of the Tribunal's activities for the period from 1 January to 31 December 2024. In my statement today, I will refer to some of the main aspects of the report and then provide the Meeting with additional information on developments which have taken place this year.

3. As regards organizational matters, I wish to inform you that, on 18 September 2024, the members of the Tribunal re-elected Ms Ximena Hinrichs Oyarce, of Chilean nationality, as the Registrar of the Tribunal, for a term of five years. Ms Hinrichs Oyarce has served as Registrar of the Tribunal since 2019. Furthermore, on 9 April 2025, the members of the Tribunal re-elected Mr Antoine Ollivier, of French nationality, as the Deputy Registrar of the Tribunal, for a term of five years. Mr Ollivier has served as Deputy Registrar of the Tribunal since 2020.

4. Allow me now to focus on the judicial work of the Tribunal. Two cases are currently on the Tribunal's docket: *The M/T "Heroic Idun" (No. 2) Case (Marshall Islands/Equatorial Guinea)*, which is pending before a special chamber of the Tribunal; and *The "Zheng He" Case (Luxembourg v. Mexico)*, which is pending before the full Tribunal.

5. With regard to *The M/T "Heroic Idun" (No. 2) Case*, it should be recalled that, following consultations with the previous President of the Tribunal in April 2023, the Marshall Islands and Equatorial Guinea concluded a special agreement to transfer the Annex VII arbitral proceedings in the dispute concerning the *M/T "Heroic Idun"* and her crew to a special chamber of the Tribunal, to be constituted pursuant to article 15, paragraph 2, of the Statute of the Tribunal. By an Order of 27 April 2023, the Tribunal acceded to the Parties' request and formed a special chamber of five judges to deal

with the case. It may be noted that this is the eighth case in which parties have agreed to transfer arbitral proceedings already instituted either to the Tribunal or to a special chamber of the Tribunal.

6. Written proceedings in this case have already taken place pursuant to orders adopted by the President of the Special Chamber fixing time limits for a Memorial by the Marshall Islands and a Counter-Memorial by Equatorial Guinea, as well as for a Reply by the Marshall Islands and a Rejoinder by Equatorial Guinea. All written pleadings were submitted by the Parties within the respective time limits.

7. I would like to inform you that the hearing in this case will be held in autumn 2025. Indeed, by an Order dated 13 May 2025, the President of the Special Chamber fixed 6 October 2025 as the date for the opening of the oral proceedings.

8. I will now turn to the second pending case before the Tribunal, *The “Zheng He” Case*, which concerns the detention of a dredger flying the flag of Luxembourg by the Mexican authorities in the Port of Tampico, Mexico. Proceedings in this case were instituted by Luxembourg against Mexico on 4 June 2024 on the basis of declarations made by the two Parties under article 287 of the United Nations Convention on the Law of the Sea (“the Convention”), recognizing the competence of the Tribunal as a means for the settlement of disputes concerning the interpretation or application of the Convention.

9. On 7 June 2024, Luxembourg submitted to the Tribunal a request for the prescription of provisional measures under article 290, paragraph 1, of the Convention. A hearing dedicated to this matter took place on 11 and 12 July 2024. In its final submissions, Luxembourg requested that the Tribunal prescribe a number of provisional measures, including measures “to preserve the fundamental rights and freedoms of the crew” and “to safeguard the rights of Luxembourg as the flag State”. For its part, Mexico requested the Tribunal to reject Luxembourg’s request for provisional measures.

10. On 27 July 2024, the Tribunal adopted its Order on provisional measures. In the Order, the Tribunal first examined whether, *prima facie*, it had jurisdiction over the

dispute pursuant to article 290, paragraph 1, of the Convention. The Tribunal recalled that, at that stage of the proceedings, it needed only satisfy itself that at least one of the provisions invoked by the Applicant appeared *prima facie* to afford a basis on which the Tribunal's jurisdiction might be founded. In this respect, the Tribunal considered that article 131 of the Convention – which had been invoked, among other provisions, by Luxembourg, and which concerns the equal treatment of ships in ports – appeared *prima facie* to afford such a basis.¹

11. Turning to the plausibility of rights, the Tribunal, relying on its earlier jurisprudence, considered that, “[a]t this stage of the proceedings, [it] is not called upon to determine definitively whether the rights claimed by the applicant exist, but need only decide whether such rights are plausible”.² The Tribunal observed that “Luxembourg is a landlocked State as defined in article 124 of the Convention and that its flagged vessel “*Zheng He*” is detained in the Port of Tampico, Mexico.”³ The Tribunal then took note of “the opposing claims of the Parties concerning the alleged unequal treatment of the “*Zheng He*” in Mexico.”⁴ The Tribunal further noted the evidence provided by the Parties, while remaining mindful of the fact that, at that stage of the proceedings, “the Parties have not had sufficient opportunity to furnish all the evidence to establish their arguments in full.”⁵ Against this background, the Tribunal held that “the rights claimed by Luxembourg ... on the basis of article 131 of the Convention are plausible.”⁶

12. The Tribunal then recalled that it may prescribe provisional measures if the urgency of the situation so requires, for instance where “there is a real and imminent risk that irreparable prejudice may be caused to the rights of the parties to the dispute, pending the final decision” of the Tribunal.⁷ On the basis of the factual information and legal arguments presented by the Parties, the Tribunal considered however that “there is at present no urgency, in the sense that there is no real and imminent risk of

¹ “*Zheng He*” (*Luxembourg v. Mexico*), *Provisional Measures, Order of 27 July 2024*, ITLOS Reports 2024, see p. 228, para. 85.

² *Ibid.*, p. 235, para. 119.

³ *Ibid.*, p. 236, para. 122.

⁴ *Ibid.*, para. 123.

⁵ *Ibid.*, para. 124.

⁶ *Ibid.*, para. 125.

⁷ *Ibid.*, para. 126.

irreparable prejudice to the rights claimed by Luxembourg.”⁸ In this context, the Tribunal placed on record assurances given by Mexico during the hearing.

13. For these reasons, the Tribunal found that the circumstances, as they presented themselves to the Tribunal, were not such as to require the exercise of its powers to prescribe provisional measures.

14. The merits of the case remain, of course, pending before the Tribunal. In this regard, as President of the Tribunal, I issued an Order on the conduct of the proceedings on 8 August 2024, fixing 10 February 2025 as the time limit for the filing of the Memorial by Luxembourg and 11 August 2025 as the time limit for the filing of the Counter-Memorial by Mexico. By another Order dated 3 February 2025, following a joint letter from the Parties seeking an extension of these time limits, I extended the time limit for the submission by Luxembourg of its Memorial to 24 March 2025 and the time limit for the submission by Mexico of its Counter-Memorial to 3 November 2025. Luxembourg, for its part, has filed its Memorial within the time limit thus fixed.

15. Both of the cases currently on the Tribunal’s docket, which I have just discussed, are contentious. But of course, as you are well aware, the Tribunal also enjoys advisory jurisdiction. In this regard, I would like to draw your attention to the Advisory Opinion adopted by the Tribunal on 21 May 2024 on the *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law*.

16. This important Opinion marked the first time that an international court or tribunal considered the obligations of States Parties under the Convention in the context of climate change. As the Tribunal delivered its Advisory Opinion shortly before the last Meeting of States Parties, I had the chance to report on it in my previous statement to you.

17. You may recall that, in the Advisory Opinion, the Tribunal found that anthropogenic greenhouse gas (“GHG”) emissions into the atmosphere constitute

⁸ *Ibid.*, p. 241, para. 143.

pollution of the marine environment within the meaning of article 1, paragraph 1, subparagraph 4, of the Convention. On this basis, the Tribunal considered how various obligations of States under the Convention should be interpreted and applied in relation to such pollution.

18. In this regard, the Tribunal held, in particular, that under article 194, paragraph 1, of the Convention, “States Parties to the Convention have the specific obligations to take all necessary measures to prevent, reduce and control marine pollution from anthropogenic GHG emissions and to endeavour to harmonize their policies in this connection.”⁹ As the Tribunal explained, such measures are to be “determined objectively, taking into account, *inter alia*, the best available science and relevant international rules and standards contained in climate change treaties such as the UNFCCC and the Paris Agreement”.¹⁰ According to the Tribunal, the obligation to take all necessary measures to prevent, reduce and control marine pollution under article 194, paragraph 1, of the Convention is one of due diligence. On account of “the high risks of serious and irreversible harm to the marine environment from [GHG] emissions”, the Tribunal was of the view that the standard of due diligence is stringent.¹¹

19. The Tribunal also identified further obligations of States Parties under other provisions of the Convention, such as obligations applicable to specific sources of pollution, obligations to cooperate and obligations to assist developing States, in particular vulnerable developing States, in their efforts to address marine pollution from anthropogenic GHG emissions.

20. Further, the Tribunal was of the view that the general obligation under article 192 of the Convention to protect and preserve the marine environment can be invoked to combat any form of degradation of the marine environment, including climate change impacts, such as ocean warming and sea level rise, and ocean acidification. In its Advisory Opinion, the Tribunal also noted the importance of the

⁹ *Request for Advisory Opinion submitted by the Commission of Small Islands States on Climate Change and International Law, Advisory Opinion*, 21 May 2024, ITLOS Reports 2024, p. 92, para. 243.

¹⁰ *Ibid.*

¹¹ *Ibid.*, p. 93, para. 243.

precautionary approach and an ecosystem approach in the implementation of this obligation through all measures necessary.

21. In my remarks today, time does not permit a more detailed analysis of the Advisory Opinion, and so I would invite you to consult its full text and to peruse its key findings. Suffice it to say, since the delivery of the Tribunal's Opinion, numerous international events have been devoted to analysing and taking stock of the Opinion, bringing together States, international organizations, academics, practitioners and various other stakeholders. Having been invited to many of these events, I have had the opportunity to experience first hand the positive reception of the Advisory Opinion by the international community. It is also seen as reaffirming the status of the Convention as a living instrument, capable of addressing and adapting to contemporary challenges to the law of the sea. Furthermore, it demonstrates the Tribunal's ability to handle complex and novel legal questions thoroughly and cogently and in an efficient manner.

22. Beyond the Tribunal's case-related work, in 2024, as in previous years, the Tribunal held two sessions devoted to legal and judicial as well as organizational and administrative issues. The Annual Report before you includes a review of these issues. The Registrar will address the budgetary matters of the Tribunal in a separate statement.

23. In addition to its judicial and administrative work, the Tribunal is also engaged in various activities that provide capacity-building in the law of the sea and which increase awareness of the Tribunal's role in the settlement of disputes. I would like to take this opportunity to provide you with a short update on these activities.

24. The Tribunal regularly organizes regional workshops that enhance capacity-building in the law of the sea. I am happy to report that the seventeenth regional workshop was held last month in Ha Noi, Viet Nam, and was attended by representatives of 14 States from the region. I wish to express my sincere appreciation to Viet Nam for its generous support in hosting the workshop and to the Korea Maritime Institute, whose funding also made the organization of the workshop possible.

25. Moreover, in September 2024, the Tribunal hosted the third ITLOS Workshop for Legal Advisers, aimed at familiarizing legal advisers with the dispute settlement mechanisms under the Convention and at providing insight into the Tribunal's procedure and practice. The third workshop was designed for legal advisers from Latin American and Caribbean States, and it was attended by participants from 27 States in the region. I wish to thank the Republic of Korea for sponsoring and assisting in the organization of this successful event. I am also pleased to confirm that a fourth workshop for legal advisers will be held in September this year, this time for States from Africa.

26. During the period 2024-2025, the eighteenth edition of a nine-month capacity-building and training programme on dispute settlement under the Convention was conducted with the support of the Nippon Foundation. Fellows from Botswana, Eritrea, Hungary, India, Libya and Syria took part in the programme. I am pleased to inform you that the selection of candidates for the nineteenth edition of the programme has recently been concluded. The programme is aimed at junior to mid-level government officials and researchers, mainly from developing countries, working on issues related to the activities of the Tribunal. I wish to express the Tribunal's deep appreciation to the Nippon Foundation for its ongoing support to this programme.

27. In addition, the Tribunal's internship programme offers training opportunities to students and recent graduates. During a three-month internship, interns are exposed to the work of the Tribunal, assisting the Registry with its functions and preparing research papers in relevant fields. In 2024, 15 interns from as many States took part in the programme at the Tribunal.

28. Another important capacity-building programme is the annual Summer Academy organized by the International Foundation for the Law of the Sea in Hamburg. The Academy offers participants a wide array of courses on the law of the sea and maritime law. The 2024 session of the Summer Academy took place in July and August of last year on the premises of the Tribunal, and this year's edition is set to commence on 13 July.

29. In order to provide financial assistance to participants from developing countries in the internship programme and in the Summer Academy, special trust funds have been established with the support of the Korea Maritime Institute, the China Institute of International Studies and the Government of China. I wish to express our sincere appreciation to these donors for their contributions to the trust funds.

30. Finally, I wish to recall that, since 2021, a Junior Professional Officer programme has been in place at the Tribunal. This programme enables young professionals to serve in the Legal Office of the Tribunal's Registry or in other departments of the Registry, as necessary. Memoranda of understanding concerning the programme were signed with the Government of China in December 2022 and with the Republic of Korea in February 2024. The first Junior Professional Officer entered into service on 1 July 2024 pursuant to the Memorandum of Understanding with the Government of China.

Mr President, distinguished delegates,

31. This brings my presentation of the Annual Report of the Tribunal for 2024 to a close. As always, the Tribunal stands ready to assist States in whatever way possible in the fulfilment of its mandate under the Convention. I am pleased to say that the Tribunal benefits from excellent cooperation with the United Nations and I convey our gratitude to the Secretary-General, the Legal Counsel and the Director of the Division for Ocean Affairs and the Law of the Sea and his staff for their support. I thank you all for your kind attention.