

## **Results of Eleventh Meeting**

The Eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea concluded on 18 May 2001. The major issues for discussion were the time limit for submissions to the Commission on the Limits of the Continental Shelf and the budget of the International Tribunal for the Law of the Sea.

### **Limits of Continental Shelf**

The debate concerned the question of the 10-year time limit for submissions to the Commission on the Limits of the Continental Shelf,<sup>1</sup> as set out in article 4 of Annex II to the United Nations Convention on the Law of the Sea. Those submissions concern the de-

lineation of the outer limits of a continental shelf beyond 200 nautical miles.

Yuri Kazmin, Chairman of the Commission, reminded States Parties of the 10-year deadline from the entry into force of the Convention for States to make their submission on the outer limits of the extended continental shelf. He said that, until it was legally changed, the deadline was the Commission's basic guiding principle.

The representative of the Federated States of Micronesia pointed out that a clear idea of how to prepare a submission of such information had only emerged after the adoption by the Commission on the Limits of the Continental Shelf of its Scientific and Technical Guidelines on 13 May 1999.

The 11-member Pacific Island Forum States introduced a position paper strongly urging the extension of the time frame for submission to the Commission. They noted that the scientific and technical work required to support a submission was highly complex and beyond the capacity of many small island States. The problem was exacerbated, they said, by the fact that, in many cases, zones of national jurisdiction, including territorial seas, archipelagic seas and exclusive economic zones, had not been accurately defined.

During the discussions, it was noted that the adoption of the Commission's Scientific and Technical Guidelines, which were to assist coastal States in making their submissions, had been delayed. It was noted that many States, particularly developing countries, faced difficulties, including insufficient technical and scientific expertise to fulfil their obligations under article 4 of Annex II to the Convention.

In the end, the Meeting adopted a decision based on a proposal by Papua New Guinea, to keep under review the more general issue of the ability of States, particularly developing countries, to fulfil the requirements of article 4 of Annex II of the Convention.

During the debate on the topic, the Chairman of the Commission on the Limits of the Continental Shelf said that although it had developed training modules, it was not within the Commission's mandate to provide such training itself.

A number of delegates stressed the importance of training, and one representative said a fund should be set up to assist regional and other centres of excellence such as the United Nations University to organise its training. Norway announced it had provided more than US\$1 million to assist developing countries to meet their obligations under article 76 of the Convention (the article dealing with the definition of the continental shelf).

The Meeting decided at its closing session on 18 May 2001 that 13 May 1999 shall be taken as the starting date of the 10-year period from the entry into force of the Convention for each State to make a submission on the outer limits of the extended continental shelf.

That date will apply to States for which the Convention entered into force before 13 May 1999 – the date on which the Commission on the Limits of the Continental Shelf adopted its Scientific and Technical Guidelines.

The Meeting also decided to keep under review the general issue of the ability of States, particularly developing States, to fulfil the Commission's requirements. Those requirements, including the submission of data to the Commission within a 10-year period, are set out in article 4 of Annex II to the Convention.

### Reporting under the Convention

Another important topic on the agenda concerned questions related to article 319 of the Law of the Sea (LOS) Convention, covering the reporting functions of the Secretary-General under the Convention.

Hans Corell, Under-Secretary-General for Legal Affairs and UN Legal Counsel, gave delegations background information on the matter.

He recalled that General Assembly resolution 498/28 of 6 December 1994 had given the Secretary-General a mandate to prepare comprehensive reports on developments relating to the implementation of the LOS Convention, the law of the sea and ocean affairs as reflected in Assembly resolutions. The resolution, adopted after the entry into force of the Convention, highlighted the importance of the General Assembly's annual review of the overall competence to undertake such a review.

With regard to matters relating to article 319, Maria-Teresa Infante (Chile) said it had been a concern shared by many States that the Meeting of States Parties not be restricted to consideration of organisational matters. It was



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not simply a question of granting the Meeting powers over issues that had already been decided, but one of overall decision-making power with respect to implementing annual review of the Convention and other developments in the context of the oceans.

She said that article 319 provided a good basis for promoting a more active role for the Meeting of States Parties. It could analyse information of general interest received from various bodies that did not necessarily rely on the responsibility of the Secretariat. An overall approach and vision, in accordance with article 319, was important,

particularly when dealing with the way in which the Convention worked. It was important for the Meeting to make a contribution at a legal level.

Hans Wilhelm Longva (Norway), noting that this was the third year that the discussion had taken place, said his country did not agree that the meeting was an appropriate forum for implementing of the review of the Convention. The Commission on the Limits of the Continental Shelf and other bodies had specific functions under the Convention and they should stick to those functions. The Commission had a scientific and technical function and could not give legal advice to the Meeting. Likewise, it was not the function of the Meeting to discuss issues such as general review and implementation. Only the General Assembly had the overall global competence to review.

### International Tribunal for the Law of the Sea

Judge P. Chandrasekhara Rao, President of the International Tribunal, informed the meeting that the Tribunal had delivered judgements in two cases during the reporting period: The "Camoucou" case between Panama and France and the "Monte Confurco" case between Seychelles and France. More recently, the Tribunal had delivered its judgement in the "Grand Prince" case between Belize and France.



At the request of Chile and the European Union, it had formed a special chamber to hear a dispute concerning conservation and sustainable exploitation of swordfish stocks in the south-eastern Pacific Ocean. It was the first chamber formed to deal with a particular dispute.

#### *Tribunal Budget*

On 17 May, the Meeting approved the draft 2002 budget of the International Tribunal for the Law of the Sea, totalling \$7,807,500. It also approved \$894,300 as contingency funds to provide the Tribunal with the necessary financial means to consider cases in 2002, in particular those requiring expeditious proceedings.

The budget also allocated \$698,300 for the maintenance of the Tribunal's new permanent premises in Hamburg, Germany, which it has occupied last November.

The draft budget envisaged the convening of meetings of the Tribunal for 10 weeks in 2002: six weeks to deal with cases and four for other purposes, such as budget preparation and consideration of organisational and procedural matters related to the work of the Tribunal. It included an annual remuneration for the 21 judges of the Tribunal of \$1,295,100 in addition to \$318,000 in special allowances and \$120,000 in travel for the judges.<sup>2</sup>

The Meeting also decided to revise the level of compensation for *ad hoc* judges to bring it in line with the system of remuneration applicable to the elected 21 members of the International Tribunal. The aim was to ensure consistency between the two systems. The budget and all

other funds approved by the Meeting will be financed by all States and international organisations that are parties to the United Nations Convention on the Law of the Sea.

A proposal by Japan, to have the ceiling rate of the scale of assessments of contributions lowered from 25 to 22 per cent, following the decision of the General Assembly on contributions to the United Nations budget, was withdrawn on the understanding that the issue would be included on the agenda of the Twelfth Meeting next year.

The Meeting adopted a new rule that in effect formalised its current practice of considering the proposed budget of the Tribunal through an open-ended working group on financial and budgetary matters, chaired by the President, which will make recommendations to the Meeting.

Progress was made in the debate on the financial regulations of the Tribunal, based on a working paper produced by the Secretariat. The item will be taken up at the next meeting of the States Parties.

#### *New Judge*

The Meeting elected Guangjian Xu (China) to fill a vacancy on the International Tribunal for the Law of the Sea. Guangjian Xu was the only candidate, obtaining 92 votes out of 94 ballots cast, with 1 invalid ballot and 1 abstention. The required majority was 62 votes. Judge Guangjian will complete the remainder of his predecessor's six-year term, which would have ended on 30 September 2002.

#### *International Seabed Authority*

Satya Nandan, Secretary-General of the Jamaica-based International Seabed Authority, said the main achievement of the Assembly of the Authority, during the Authority's sixth session, was the approval of the Regulations for Prospecting and Exploration for polymetallic nodules in the Area established by the Convention. That followed the adoption of the regulations by the Council of the Authority during the same session. The Council approved the Rules of Procedure of the Legal and Technical Commission of the Authority.

Twenty-seven members of the Authority had signed the Protocol on Privileges and Immunities of the International Seabed Authority, which was opened for signature in Kingston on 26 August 1998. Slovakia, Spain and the United Kingdom have ratified the Protocol, while Croatia acceded to it on 8 September 2000. It would enter into force 30 days after the tenth instrument of ratification or accession has been deposited.

#### *Trust Funds*

Norway announced that it had made a contribution to the trust fund to assist developing countries in meeting their obligations under article 76 of the Convention (definition of the continental shelf). It was announced that the UK had made a further contribution to the voluntary trust to assist developing States in the settlement of disputes through the International Tribunal. ➤

*Closure*

In his closing statement, Christian Maquieira (Chile), President of the Eleventh Meeting, welcomed the fact that the issue of the 10-year time period had been resolved. He expressed gratitude to the Government of Norway for its substantial contribution to a voluntary trust fund to help developing countries meet their obligations under article 76 of the Convention and hoped that other States would also contribute to the fund.

The President also paid tribute to Gritakumar Chitty, the outgoing Registrar of the International Tribunal for the Law of the Sea, who will resign on 1 July 2001.

The President announced that the Twelfth meeting of States Parties would be held from 13-24 May 2002. That date would coincide with the twentieth anniversary of the adoption of the LOS Convention. He would hold discussions in the months ahead with delegations on the appro-

priate manner in which to celebrate “the great contributions the Convention has made to the progressive development of international law”. (MJ)

**Notes**

<sup>1</sup> The Commission is an autonomous body created under the Convention on the Law of the Sea. Despite the lack of a formal relationship such as observer status, the Commission, in the words of its Chairman, “considered it important to work with the States Parties on issues such as areas where disputed areas existed in submissions on the limits of the continental shelf. Other issues of interest to the Commission ... included the establishment of a trust fund to cover expenditures arising from the participation in the activities of the Commission of members nominated by developing countries, as well as a fund to train technical and administrative staff and to help the least developed countries in preparing their submissions to the Commission.”

<sup>2</sup> It also covered \$2,187,700 for established posts, \$100,000 for general temporary assistance, \$50,300 for overtime and \$94,700 for official travel. In addition, the budget allocated \$129,000 for temporary assistance for meetings.

