

**Contribution to the report of the Secretary-General
on oceans and the law of the sea**

Judicial work

1. The *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law* (Case No. 31) is pending before the International Tribunal for the Law of the Sea (“the Tribunal”). On 16 December 2022 and 15 February 2023, the President issued orders regarding the conduct of the case. In the *Dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)* (Case No. 28), the President of the Special Chamber, by Order dated 18 August 2022, fixed 17 October 2022 as the date for the opening of the oral proceedings. The Special Chamber of the Tribunal delivered its Judgment on 28 April 2023. In *The M/T “Heroic Idun” Case (Marshall Islands v. Equatorial Guinea), Prompt Release* (Case No. 30), the President, by Order dated 15 November 2022, placed on record the discontinuance of the proceedings and ordered that the case be removed from the List of cases. *The M/T “Heroic Idun” (No. 2) Case (Marshall Islands/Equatorial Guinea)* (Case No. 32) is pending before a special chamber of the Tribunal. On 27 April 2023, the Tribunal adopted an order constituting a special chamber of five judges to hear the case, in accordance with the request of the Parties. On 19 May 2023, the President of the Special Chamber adopted an order fixing the time-limits for the filing of a memorial and counter-memorial.

2. *Case No. 28.* This case relates to the dispute between Mauritius and the Maldives concerning the delimitation of their maritime boundary in the Indian Ocean. It was submitted to a special chamber of the Tribunal by notification of a special agreement concluded between the Parties on 24 September 2019. On 28 January 2021, the Special Chamber delivered its Judgment on the preliminary objections raised by the Maldives. The Special Chamber concluded that it had jurisdiction to adjudicate upon the dispute concerning the delimitation of the maritime boundary between the Parties in the Indian Ocean and that the claim submitted by Mauritius in this regard was admissible.

3. The Special Chamber held oral proceedings on the merits from 17 to 24 October 2022 and delivered its Judgment on 28 April 2023. In its Judgment, the Special Chamber first proceeded to the delimitation of the exclusive economic zone and the continental shelf within 200 nautical miles between Mauritius and the Maldives. It found that the appropriate method to be applied was the equidistance/relevant circumstances method and, in applying this method, followed the three-stage approach. Before constructing a provisional equidistance line, the Special Chamber examined whether a maritime feature known as Blenheim Reef could be a site for base points as a low-tide elevation (or low-tide elevations). The Special Chamber did not consider that there was a general rule which requires that a low-tide elevation be disregarded in selecting base points for the purpose of delimitation. Rather, it held that the “[t]he selection of base points on a low-tide elevation depends on whether it would be appropriate to do so by reference to the geographical circumstances of the given case.” (Judgment, para. 152) Having considered the impact Blenheim Reef would have on the provisional equidistance line, the Special Chamber found that Blenheim Reef, as a low-tide elevation, was not a site for appropriate base points for the construction of the provisional equidistance line. The Special Chamber further examined the issue whether Blenheim Reef could be a site of base points as a drying reef (or drying reefs) and found, in this regard, no reason to “change its previous finding that no base points can be located on Blenheim Reef for the construction of the provisional equidistance line.” (Judgment, para. 192) The Special Chamber then constructed a provisional equidistance line from the base points it had selected and proceeded thereafter to determine whether

any relevant circumstances existed requiring an adjustment of the provisional equidistance line in order to achieve an equitable solution. In this respect, the Special Chamber found that Blenheim Reef constituted such a relevant circumstance and decided to adjust the provisional equidistance line accordingly.

4. On the question of the delimitation of the continental shelf beyond 200 nautical miles, the Special Chamber concluded that its jurisdiction to delimit the continental shelf between the Parties included not only the continental shelf within 200 nautical miles but also any portion of the continental shelf beyond 200 nautical miles. It rejected the objection of the Maldives to the admissibility of Mauritius' claim on the grounds that its submission to the Commission on the Limits of the Continental Shelf was not filed in a timely manner. The Special Chamber addressed the question whether the Parties have entitlements to a continental shelf beyond 200 nautical miles in the area concerned and, if so, whether they overlapped. The Special Chamber concluded that, given the significant uncertainty, it was not in a position to determine the entitlement of Mauritius to the continental shelf beyond 200 nautical miles in the Northern Chagos Archipelago Region. Consequently, in the circumstances of the case, the Special Chamber did not proceed to delimit the continental shelf beyond 200 nautical miles between Mauritius and the Maldives, as requested by Mauritius.

5. *Case No. 30.* On 10 November 2022, the Republic of the Marshall Islands submitted to the Tribunal an application under article 292 of the Convention against the Republic of Equatorial Guinea concerning the prompt release of the *M/T "Heroic Idun"* and its crew. On 11 November 2022, the President of the Tribunal adopted an order fixing 24 November 2022 as the date for the opening of the hearing and reserving the subsequent procedure for further decision. By letter dated 14 November 2022, the Agent of the Marshall Islands informed the Tribunal that "Equatorial Guinea caused the Vessel and her crew to be transferred into the jurisdiction, control and custody of Nigeria on 11 November 2022". The Agent further stated that "[t]hese developments have regrettably rendered moot the Marshall Islands' Prompt Release Application" and that, "[a]s a result, the Marshall Islands is compelled to discontinue the proceedings". At the time this letter was filed, the Government of Equatorial Guinea had not taken any steps in the proceedings. Following receipt of this letter, on 15 November 2022, the President of the Tribunal adopted an order placing on record the discontinuance of the proceedings initiated on 10 November 2022 and ordering that the case be removed from the List of cases.

6. *Case No. 31.* On 12 December 2022, the Tribunal received a request for an advisory opinion from the Commission of Small Island States on Climate Change and International Law. On 16 December 2022, the President of the Tribunal adopted an order on the conduct of proceedings in the case, fixing 16 May 2023 as the time-limit within which States Parties to the Convention, the Commission and other intergovernmental organizations listed in the annex to the Order may present written statements on the questions submitted to the Tribunal for an advisory opinion. This time-limit was later extended to 16 June 2023 by Order of the President of 15 February 2023.

7. *Case No. 32.* This case relates to the dispute between the Marshall Islands and the Republic of Equatorial Guinea concerning the *M/T "Heroic Idun"* and her crew (see para. 5). On 27 April 2023, the Tribunal adopted an order constituting a special chamber of five judges to hear the case, in accordance with the request of the Parties. On 19 May 2023, the President of the Special Chamber adopted an order fixing 20 November 2023 as the time-limit for the filing of the memorial of the Marshall Islands and 20 May 2024 as the time-limit for the filing of the counter-memorial of Equatorial Guinea.

Capacity-building

8. Since 1997, the Tribunal has offered an internship programme for students of law, international relations, public relations, political science, library science and translation. Since 2007, with the support of the Nippon Foundation, the Tribunal has organized a capacity-building and training programme on dispute settlement under the Convention. Over 500 individuals from 120 States are part of the ITLOS alumni network, including more than 280 women. Since 2007, the Tribunal has also hosted the four-week Summer Academy of the International Foundation for the Law of the Sea. In September 2021, the Tribunal established a Junior Professional Officer (“JPO”) programme for young professionals to serve in the Legal Office of the Tribunal’s Registry, or in other departments of the Registry, as necessary. On 1 December 2022, a memorandum of understanding between the Tribunal and the Government of China concerning the JPO programme was signed. The Tribunal has also organized a series of workshops on the settlement of disputes related to the law of the sea in different regions of the world. These workshops are intended to provide government experts working on maritime and law of the sea matters with a better understanding of the procedures for the settlement of disputes contained in Part XV of the Convention, with special emphasis on the jurisdiction of the Tribunal. On 1 and 2 June 2023, the Tribunal organized its 16th regional workshop in Nice, France, in cooperation with the Institute for Peace and Development at Côte d’Azur University and with the financial support of France, Cyprus and the Korea Maritime Institute. A new capacity-building programme in the form of a series of workshops for legal advisers, and in particular from developing countries, was established in September 2022 at the seat of the Tribunal in Hamburg. The purpose of the workshops, funded by the Republic of Korea, is to familiarize legal advisers with the Convention’s dispute-settlement mechanisms and provide insight into the procedure and practice of the Tribunal. The first workshop was designed for legal advisers from South-East Asian and Pacific Island States, and a second workshop for legal advisers from African States was held at the Tribunal in July 2023.