

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

Judicial work

1. The *Dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)* (Case No. 28) is pending before a Special Chamber of the Tribunal. On 19 May 2020, the President of the Special Chamber adopted an Order fixing the date for the opening of the oral proceedings with regard to the preliminary objections filed by the Maldives and, on 15 September 2020, the Tribunal adopted an Order concerning the filling of a vacancy resulting from the resignation of a member of the Special Chamber. The hearing was held from 13 to 19 October 2020, in hybrid format. On 28 January 2021, the Special Chamber delivered its Judgment on preliminary objections, finding that it has jurisdiction to adjudicate upon the dispute and that Mauritius' claim in this regard is admissible. By Order dated 3 February 2021, the President of the Special Chamber fixed the time-limits for the filing of a Memorial by Mauritius and Counter-Memorial by the Maldives. In *The M/T "San Padre Pio" (No. 2) Case (Switzerland/Nigeria)* (Case No. 29), the President of the Tribunal adopted an Order on 7 January 2020, fixing the time-limits for the filing of a Memorial and Counter-Memorial by the Parties and another Order on 5 January 2021, extending the time-limit for the submission of the Counter-Memorial. As of 9 June 2021, Cases No. 28 and 29 are pending.

2. *Case No. 28.* The 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. The Tribunal, by Order of 27 September 2019, decided to accede to the request of the Parties to form the Special Chamber under article 15, paragraph 2, of the Statute. On 18 December 2019, the Maldives filed with the Special Chamber preliminary objections to the jurisdiction of the Special Chamber and to the admissibility of Mauritius' claims. Pursuant to article 97 of the Rules of the Tribunal, the proceedings on the merits were suspended upon receipt of the preliminary objections by the Registry. Within the time-limits fixed by Order of the President of the Special Chamber of 19 December 2019, Mauritius filed written observations on the preliminary objections and the Maldives filed written observations in reply on 17 February 2020 and 17 April 2020, respectively. By Order dated 19 May 2020, the President of the Special Chamber, in light of the situation concerning the COVID-19 pandemic and having ascertained the views of the Parties, fixed 13 October 2020 as the date for the opening of the oral proceedings. On 13 August 2020, the President of the Special Chamber, in light of the ongoing COVID-19 pandemic and having ascertained the views of the Parties, decided that the hearing would be conducted in hybrid format, combining physical and virtual participation of members of the Special Chamber and representatives of the Parties. Following the resignation of Judge Cot as member of the Special Chamber with effect from 26 August 2020, a vacancy occurred in the Special Chamber. By Order dated 15 September 2020, the Tribunal determined, with the approval of the Parties, that Judge Pawlak shall fill the vacancy left by the resignation of Judge Cot. The hearing on the preliminary objections was held from 13 to 19 October 2020 in hybrid format.

3. On 28 January 2021, the Special Chamber delivered its Judgment on the preliminary objections raised by the Maldives. As its first preliminary objection, the Maldives contended that the United Kingdom is an indispensable third party to the proceedings, and, as the United Kingdom is not a party to these proceedings, the Special Chamber does not have jurisdiction over the alleged dispute. In its second preliminary objection, the Maldives submitted that the

Special Chamber has no jurisdiction to determine the disputed issue of sovereignty over the Chagos Archipelago, which it would necessarily have to do if it were to determine Mauritius' claims in these proceedings. The Special Chamber examined the two objections together insofar as the legal status of the Chagos Archipelago is concerned. With respect to the first objection, the Special Chamber considered that, whatever interests the United Kingdom may still have with respect to the Chagos Archipelago, they would not render the United Kingdom a State with sufficient legal interests, let alone an indispensable third party, that would be affected by the delimitation of the maritime boundary around the Chagos Archipelago. Accordingly, the first preliminary objection of the Maldives was rejected. Concerning the second objection, the Special Chamber considered that its findings as a whole provide it with sufficient basis to conclude that Mauritius can be regarded as the coastal State in respect of the Chagos Archipelago for the purpose of the delimitation of a maritime boundary even before the process of the decolonization of Mauritius is completed. Accordingly, the second preliminary objection of the Maldives was rejected. In its third preliminary objection, the Maldives contended that, as Mauritius and the Maldives have not engaged, and cannot meaningfully engage, in the negotiations required by articles 74 and 83 of the Convention, the Special Chamber lacks jurisdiction. The Special Chamber noted that Mauritius, on several occasions, attempted to engage the Maldives in negotiations concerning the delimitation of their claimed overlapping exclusive economic zones and continental shelves, while the Maldives, for most of the time, refused to negotiate with Mauritius. The Special Chamber concluded that the obligation under article 74, paragraph 1, and article 83, paragraph 1, of the Convention has been fulfilled, and, accordingly, rejected the third preliminary objection of the Maldives. Having found that a dispute existed between the Parties concerning the delimitation of their maritime boundary, the Special Chamber rejected the Maldives' fourth preliminary objection, which submitted that there was no, and cannot be, such a dispute between Mauritius and the Maldives. In its fifth preliminary objection, the Maldives submitted that Mauritius' claims constituted an abuse of process and is therefore inadmissible. It was also rejected. The Special Chamber thus 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 is admissible. Furthermore, the Special Chamber found it appropriate to defer to the proceedings on the merits questions concerning the extent to which it may exercise its jurisdiction over the above dispute, including questions arising under article 76 of the Convention. Regarding the Parties' views in relation to Mauritius' claim concerning the obligations under article 74, paragraph 3, and article 84, paragraph 3, of the Convention, the Special Chamber found it appropriate to reserve this matter for consideration and decision in the proceedings on the merits, as this point had not yet been fully argued by the Parties. By Order dated 3 February 2021, the President of the Special Chamber fixed 25 May 2021 and 25 November 2021 as the time-limits for the filing of a Memorial by Mauritius and a Counter-Memorial by the Maldives, respectively.

4. *Case No. 29.* The case relates to the dispute between Switzerland and Nigeria concerning the arrest and detention of the *M/T "San Padre Pio"*, its crew and cargo. The case was submitted to the Tribunal by notification of a special agreement concluded between the Parties on 17 December 2019. By Order dated 7 January 2020, the President of the Tribunal fixed 6 July 2020 and 6 January 2021 as the time-limits for the filing of a Memorial by Switzerland and a Counter-Memorial by Nigeria, respectively. The President of the Tribunal extended the time-limit for the submission of the Counter-Memorial of Nigeria to 6 April 2021.

Organization of the Tribunal

5. The triennial election to fill the positions of seven members of the Tribunal whose term of office expired on 30 September 2020 was held during the thirtieth Meeting of States Parties to the Convention from 24 to 26 August 2020. The Meeting re-elected Judges Attard and Kulyk, and elected Ms Kathy-Ann Brown, Ms Ida Caracciolo, Mr Jielong Duan, Ms María Teresa Infante Caffi and Mr Maurice K. Kamga. At a public sitting of the Tribunal held on 1

October 2020, the newly elected Judges made the solemn declaration provided for in article 5 of the Rules of the Tribunal. The swearing-in ceremony was held in hybrid format, with some judges present in the courtroom and others attending via video link. Judge Brown, who was among the judges attending through video link, made her solemn declaration remotely. The ceremony was streamed live on the Tribunal's website.

6. On 2 October 2020, the Tribunal, in its new composition, elected Judge Albert J. Hoffmann President of the Tribunal and Judge Tomas Heidar Vice-President, for a term of three years. The elections took place during the Fiftieth Session of the Tribunal, which was held in a hybrid format. A secure electronic voting system was used for the elections. The President and the Vice-President entered upon their functions forthwith.

Rules of the Tribunal

7. During the Fiftieth Session, on 25 September 2020, the Tribunal amended its Rules in order to provide that the Tribunal may decide, as an exceptional measure, for public health, security or other compelling reasons, to hold hearings and meetings entirely or in part by video link. During the Fifty-first Session, on 25 March 2021, the Tribunal amended several provisions in both the English and the French text of its Rules with a view to rendering them gender inclusive.

Capacity-building

8. Since 1997, the Tribunal has run an internship programme for young government officials or students of law, international relations, public relations, political science, library science and translation. Despite the outbreak of the COVID-19 pandemic, in 2020-2021 the Tribunal has endeavoured to keep the programme running as normal and in person, albeit in a slightly reduced form. 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. Owing to the COVID-19 pandemic, it was decided to organize the 2020-2021 programme in hybrid format. Owing to the COVID-19 pandemic, no workshops have taken place during 2020.