

THE ICJ AND ITLOS — IS THERE A PLACE FOR JUDICIAL DIALOGUE BETWEEN THEM?

The International Court of Justice (ICJ) and the International Tribunal for the Law of the Sea (ITLOS) are two prominent international judicial organs established to resolve international disputes by peaceful means. They are independent and permanent bodies dedicated to adjudicating contentious cases and rendering advisory opinions.

The ICJ was established by the United Nations Charter as one of the six main organs of the Organization and its principal judicial organ. It started its activities in 1946. Since its inception, 177 cases have been brought before the Court, 27 of them through requests for advisory opinions. Among the 150 contentious cases, 28 concerned matters governed by the law of the sea.

The ITLOS was established in 1994 by the mandate of the United Nations Convention on the Law of the Sea (UNCLOS), which confers upon it jurisdiction over disputes concerning the interpretation and application of the UNCLOS and related instruments. It formally took up its work in 1996 after the election of the first judges that year. Since its establishment, 27 cases, including two requests for advisory opinions, have been submitted to the Tribunal. Whereas the ICJ can exercise its contentious jurisdiction in inter-State cases only, the ITLOS can handle cases brought by or against international organizations, enterprises, and natural or juridical persons. Due to increased demand for deep seabed mining related to not only States but also non-State entities, such jurisdiction is likely to become even more relevant, especially for the Seabed Disputes Chamber of the Tribunal.

Even after the establishment of the ITLOS, the ICJ continues to adjudicate matters related to the law of the sea, for example, maritime boundary delimitation. As a result, both bodies share some judicial roles on certain types of cases and could benefit from judicial dialogue based on mutual respect. The ICJ has considerable experience and knowledge that

could be passed on to the ITLOS from its years of adjudication as the principal judicial organ of the United Nations, while the ITLOS, for its part, has specialized expertise on the law of the sea that could be valuable to the ICJ.

Since their establishment, the ITLOS and the ICJ have contributed in promoting and reinforcing the rule of law at the international level. Furthermore, they have a critical role to play in the peaceful settlement of disputes on the basis of applicable international law, thereby helping to prevent conflicts and achieve the objectives of the United Nations. The institutions' decisions, opinions, and other measures, have important implications for the international community as they develop and clarify international law and strengthen the international legal system.

Mr. Peter Tomka, Senior Member of the ICJ and its past President and Vice-President, will address the evolution of its jurisprudence on the law of the sea, in particular the law of maritime boundary delimitation. He will illustrate how this jurisprudence has had an impact on the work of the ITLOS and arbitral tribunals and to what extent the ICJ has taken into account the work of these other dispute settlement bodies.

Mr. Jin-Hyun Paik, the President of ITLOS, will be speaking about the unique character of the ITLOS and its relationship with the ICJ in practice from the perspective of ITLOS. Furthermore, he will be discussing ways to promote cooperation between the judicial bodies to maximize the benefits to be gained from their respective knowledge and experience in peacefully resolving conflicts.

Ms. Daphne Hong, Director-General of the International Affairs Division of the Attorney-General's Chambers of Singapore, will moderate the discussion, which would also be enriched by her experience and insights from the perspective of the government's Legal Adviser.