A Comparative Study on the International Tribunal for the Law of the Sea and the International Court of Justice – Focusing on the Tribunal’s Characteristics in Respect of Constitution, Jurisdiction, Procedure and Judgment

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Abstract: The International Tribunal for the Law of the Sea (hereinafter “the Tribunal”) established in accordance with the United Nations Convention on the Law of the Sea (hereinafter “the Convention”) is a permanent tribunal within the regime of the Convention, and its Statute and Rules have been developed with reference to the Statute and the Rules of the International Court of Justice (hereinafter “the Court”) with improvements based thereon. Hence, on the occasion of the tenth anniversary of the Convention’s entry into force, a comparative study on the Tribunal and the Court would be considered worthwhile and assume great importance to the recurring event. This paper firstly compares relevant provisions of the Statute and the Rules of the Court with those of the Tribunal, pointing out the difference and characteristics of the Tribunal and the Court in terms of constitution, jurisdiction, procedure and judgment. It is finally proposed that the role of the specialized Tribunal shall be given to play.

Key Words: International Tribunal for the Law of the Sea; International Court of Justice; Difference; Characteristics

Three institutions with different responsibilities have been established under

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the United Nations Convention on the Law of the Sea of 1982 (hereinafter "the Convention"), i.e., the Commission on the Limits of the Continental Shelf (CLCS), the International Tribunal for the Law of the Sea (hereinafter "the Tribunal") and the International Seabed Authority. On the occasion of the tenth anniversary of the Convention's entry into force, it is worthwhile to elaborate on the constitution, jurisdiction, procedure and other aspects of the Tribunal. Prior to the establishment of the Tribunal, the International Court of Justice (hereinafter "the Court") had been the exclusive international permanent judicial organ. However, following the Convention's entry into force, the Tribunal established in 1996 has also become a permanent specialized international forum with mandatory authority. Besides, the Statute and the Rules of the Tribunal\(^1\) have been developed with reference to the Statute and the Rules of the Court with improvements based thereon. As a result, it is particularly necessary to focus on the constitution, jurisdiction and procedure of the Tribunal and make comparison thereof with the regime of the Court.

I. Overview of the Dispute Settlement Regime under the Convention

The Convention has rendered a detailed and flexible dispute settlement regime. It has not only provided for dispute settlement methods but also established

\(^1\) The Rules of the Tribunal was adopted in 1997 pursuant to Article 16 of the Statute of the International Tribunal for the Law of the Sea (the Statute of the Tribunal) and was amended twice in 2001. The first amendment was related to the procedure of release of relevant vessels, i.e., amendments were made to Articles 111 and 112 mainly as follows. Article 112, Paragraph 3 of the Rules states originally that the Tribunal, or the President, if the Tribunal is not sitting, shall fix the earliest possible date, within a period of 10 days commencing with the first working day following the date on which the application is received. In the amendment, 10 days was amended as 15 days. Article 112, Paragraph 4 of the Rules states originally that the judgment shall be adopted as soon as possible and shall be read at a public sitting of the Tribunal to be held not later than 10 days after the closure of the hearing. In the amendment, 10 days was amended as 14 days. Article 111, Paragraph 4 of the Rules states originally that the detaining State, which may submit a statement in response with supporting documents annexed, to be filed as soon as possible but not later than 24 hours before the hearing referred to in Article 112, Paragraph 3. In the amendment, 24 hours was amended as 96 hours. The second amendment was made in connection with the term of the Registrar of the Tribunal. Article 32, Paragraph 1 of the Rules originally states that the Tribunal shall elect its Registrar by secret ballot from among candidates nominated by Members. The Registrar shall be elected for a term of seven years and may be reelected. In the second amendment, seven years was amended as five years. These rules consist of 138 articles arranged respectively in the Preamble, Part I (Use of Terms), Part II (Organization) and Part III (Procedure).
dispute settlement procedures and organs; thereby overcoming the disadvantage of the Geneva Conventions on the Law of the Sea of 1958, i.e., not stipulating any dispute settlement regime in the main text but rather including such provision in the annexed protocol. The Convention has managed to incorporate the dispute settlement procedure in its Part XV, i.e., States Parties shall settle any dispute by peaceful means and pay respect to any peaceful means of dispute settlement chosen by any State Party pursuant to an agreement executed thereby; moreover, in accordance with the principle of sovereign equality of States, any State has the right to freely choose its own dispute settlement methods. The scope of the provision below is enormous in terms of significance and State rights.

1. Significance of the Dispute Settlement Regime under the Convention

The dispute settlement regime under the Convention plays an important role in the development of the international dispute regime. First, any dispute arising from the interpretation or application of the Convention shall, in principle, be submitted to a binding international court of justice, and a mandatory dispute settlement procedure shall be applied. Second, in the dispute settlement regime under the Convention, it is specified that not only States but also self-governing associated States, non-autonomous regions and organs having transferred authority concerning relevant matters of the Convention from the States Parties to international organizations, are competent as contentious parties. With respect to disputes concerning activities addressed to the International Seabed Area, regardless disputes between States Parties, disputes between a State Party and the International Seabed Authority, or disputes between parties to a contract, being the States Parties, the International Seabed Authority or the Enterprise, State enterprises and natural or juridical persons, the Seabed Disputes Chamber shall also have jurisdiction. In other words, an entity other than a State may also lodge a complaint to an international court of justice. This has affected the issue of subject under international law, but since the approval of the States has been obtained and

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the scope remains very limited, the impact on the subject under international law would not be huge in principle.

2. Necessity of Establishing the Tribunal

During the Third Session of the United Nations on the Law of the Sea, hot debates were carried out regarding whether or not the Tribunal shall be established. Developed countries, which were against the establishment of the Tribunal, claimed that disputes arising in relation with the law of the sea shall be handled by the Court on a continual basis. The main grounds put forward were that the Court had played a significant role in the international dispute settlement regime, established its position as the supreme judicial organ in the international community and proved itself competent for settling disputes concerning the law of the sea. They emphasized that disputes arising out of the interpretation and application of the new Convention shall be settled within the Court playing a core role. With regard to the expansion of the parties to the Convention, they envisaged that a review of the Statute of the Court would be sufficient and no need for the establishment of the Tribunal has been advanced. They support the view that it would also be advisable to establish a new chamber under the Court and dedicate it to handling the disputes relating to the law of the sea, thereby strengthening the Court’s capability to entertain new disputes involving the law of the sea. Developing countries, which were in favor of the establishment of the Tribunal, held that disputes under the Convention were highly particular and specialized, and along with the diversification of the subject, the scope of *ratione personae* had been expanded. In their opinion, even if the Court’s qualification as a party was expanded, it would still be necessary to constitute a tribunal for the law of the sea for comprehensively handling disputes regarding the law of the sea. Meanwhile, they stressed that judgments over the interpretation of and disputes over the Convention should be made by a professional tribunal in order to comply with the purpose of the Convention. Concurrently, developing countries had sought active
reform by the Court and had been dissatisfied with the performance thereof.\(^5\) In the end, developing countries succeeded in the debates and a provision of establishing a tribunal was incorporated into the Convention. The establishment of the Tribunal has been highly beneficial for a uniform interpretation of the Convention and the handling of disputes and special activities in relation to the law of the sea.\(^6\) It is also of great significance to the realization of the purpose of the Convention and the construction of the new international maritime order.

II. Comparing the Organization of the Tribunal and the Court

1. Different Status

The Court shall be one of the principal organs of the United Nations and the principal judicial organ thereof.\(^7\) Judging upon Article 287, Paragraph 1 of the Convention\(^8\) and Annex VI, Article 1, Paragraph 1 of the Convention\(^9\), the Tribunal is constituted in accordance with Annex VI to the Convention. In other words, the Court is a permanent judicial organ of the United Nations, while the Tribunal is a

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7 Article 287, Paragraph 1 and Article 94 of the Charter of the United Nations.

8 Article 287, Paragraph 1 of the Convention states that: when signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention: (a) the International Tribunal for the Law of the Sea established in accordance with Annex VI; (b) the International Court of Justice; (c) an arbitral tribunal constituted in accordance with Annex VII; (d) a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

9 Annex VI, i.e., the Statute of the International Tribunal for the Law of the Sea, Article 1, Paragraph 1 of the Convention prescribes that, the International Tribunal for the Law of the Sea is constituted and shall function in accordance with the provisions of this Convention and this Statute.
permanent specialized institution within the regime of the Convention.

2. Election of Judges

The Court shall be composed of a body of 15 independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurists of recognized competence in international law. The members of the Court shall be elected for nine years and may be re-elected. The Tribunal shall be composed of a body of 21 independent members, elected from among persons enjoying the highest reputation for fairness and integrity and of recognized competence in the field of the law of the sea. The members of the Tribunal shall be elected for nine years and may be re-elected.\(^\text{10}\) The reason why the number of members of the Tribunal has been increased to 21 is that 11 of them shall be elected to compose the permanent Seabed Disputes Chamber of the Tribunal. At the same time, members of the Tribunal shall be experts in the field of the law of the sea. On the other hand, the Tribunal of the Court stipulates that, at every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that, in the body as a whole, the representation of the main forms of civilization and of the principal legal regimes of the world should be assured. On the other hand, the Statute of the Tribunal provides that in the Tribunal as a whole, the representation of the principal legal regimes of the world and equitable geographical distribution shall be ensured, and that there shall be no fewer than three members from each geographical group as established by the General Assembly of the United Nations.\(^\text{11}\) The above regulations have been embodied judging from the composition of members of the Tribunal established in 1996.

The members of the Court shall be elected from a list of not more than four persons nominated by the national groups in the Permanent Court of Arbitration. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, and submit this list to the General Assembly and to the Security Council. The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court. Those candidates who obtain an absolute majority of votes in the General

\(^{10}\) Article 2, Article 3 and Article 13, Paragraph 1 of the Statute of the Court; Article 2, Paragraph 1 and Article 5, Paragraph 1 of the Statute of the Tribunal.

\(^{11}\) Article 9 of the Statute of the Court; Article 2, Paragraph 2 and Article 3, Paragraph 2 of the Statute of the Tribunal.
Assembly and in the Security Council shall be considered as elected. In the case of electing members of the Tribunal, each State Party may nominate not more than two persons. The Secretary-General of the United Nations or the Registrar of the Tribunal shall prepare a list in alphabetical order of all the persons thus nominated. The members of the Tribunal shall be elected by secret ballot at meetings attended by over two-thirds of the States Parties. The person elected to the Tribunal shall be those nominees who obtain the largest number of votes and a two-thirds majority of the States Parties present and voting, provided that such majority includes a majority of the States Parties. At the election of judges of the Tribunal, not only States but also subjects set out in Article 305, Paragraph 1 of the Convention such as self-governing associated States and international organizations can get involved. However, the international organization of the European Union cannot participate in voting for the purpose of preventing its member States from repeatedly exercising the right of representation at the time of voting.

The "political color" of electing judges of the Tribunal is stronger than that of electing judges of the Court for the following reasons: When voting candidates of the Tribunal, the States will take into account the status of the States Parties which have directly nominated; at the time of electing judges of the Court, the exercise of voting rights at the General Assembly and the Security Council by members of the Security Council constitutes double voting, while the principle of one country one vote is abided by at the election of judges of the Tribunal. Meanwhile, according to the Statute of the Tribunal, in the event of more than one national of the same State having obtained necessary votes and getting elected, and in the event that not all the seats are filled at the first election, provisions like Article 10, Paragraph 3 and

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12 Articles 4 to 10 of the Statute of the Court; Article 4 of the Statute of the Tribunal.
13 Article 4(4) of Annex IX (Participation by International Organizations) to the Convention states that: participation of such an international organization shall in no case entail an increase of the representation to which its member States which are States Parties otherwise be entitled, including rights in decision-making.
Article 12 of the Statute of the Court\textsuperscript{14} do not exist.

3. Functions and Authority of Judges

No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature. Likewise, no member of the Tribunal may exercise any political or administrative function, or associate actively with or be financially interested in any of the operations of any enterprise concerned with the exploration or the exploitation of the resources of the sea or the seabed or other commercial use of the sea or the seabed. Therefore, a member of the Tribunal may engage in a profession not forbidden in this article, and any doubt on these points shall be resolved by decision of the majority of the other members of the standing Tribunal. It is also provided that all available members of the Tribunal shall sit. The Tribunal shall determine which members are suitable to constitute the Tribunal for the consideration of a particular dispute.\textsuperscript{15} In other words, the members of the Tribunal do not work on a full-time basis and their position is essentially different from that of members of the Court, difference which can also be deduced from the following regulations. First, each member of the Court shall receive an annual salary. The President shall receive a special annual allowance. On the other hand, each elected member of the Tribunal shall receive an annual allowance and, for each day on which he exercises his functions, a special allowance. Moreover, the salaries, allowances and compensation shall be determined from time to time at meetings of the States Parties, taking into account

\textsuperscript{14} Article 10, Paragraph 3 of the Statute of the Court stipulates that in the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected. Article 12, Paragraph 1 provides that: if, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance. Paragraph 2 prescribes that: if the joint conference is unanimously agreed upon any person who fulfills the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7. Paragraph 3 regulates that: if the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council. Paragraph 4 indicates that: in the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

\textsuperscript{15} Article 16, Paragraph 1 of the Statute of the Court; Article 7, Paragraph 1, Article 7, Paragraph 3 and Article 13, Paragraphs 1 and 2 of the Statute of the Tribunal.
the workload of the Tribunal.\textsuperscript{16} Second, the members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities. Such stipulation agrees with Article 19 of the Statute of the Court. However, the Court is under the protection of Article 105 of the Charter of the United Nations with respect to the United Nations treaty on privileges and immunities. On the contrary, the Tribunal is not an organ under the United Nations and hence has to enter into a new agreement in order to ensure the privileges and immunities of its members.\textsuperscript{17} Such an agreement has been entered into in 1997.

4. Nationality of the Judge

Article 17, Paragraphs 1 to 3 of the Statute of the Tribunal regulate: "Members of the Tribunal of the nationality of any of the parties to a dispute shall retain their right to participate as members of the Tribunal. If the Tribunal, when hearing a dispute, includes upon the bench a member of the nationality of one of the parties, any other party may choose a person to participate as a member of the Tribunal. If the Tribunal, when hearing a dispute, does not include upon the bench a member of the nationality of the parties, each of those parties may choose a person to participate as a member of the Tribunal". These provisions are identical with those in Article 31, Paragraphs 1 to 3 of the Statute of the Court. Article 31, Paragraph 2 of the Statute of the Court sets out: The judge of the nationality of one of the parties shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5. Namely, it would be preferable that such a judge be chosen from nominated judge candidates, which precondition does not apply under the Statute of the Tribunal. The regime concerning the nationality of judge also applies to the Seabed Disputes Chamber and the Special Chamber. Such a regime applies equally to the regulations applicable to a chamber established

\textsuperscript{16} Article 32, Paragraphs 1 and 2 of the Statute of the Court; Article 18, Paragraphs 1 and 5 of the Statute of the Tribunal.

\textsuperscript{17} Article 10 of the Statute of the Tribunal; Article 19 of the Statute of the Court prescribes that: the members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities. Article 105, Paragraph 1 of the Charter of the United Nations states that: the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes. Paragraph 2 stipulates that: representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization. Moreover, Article 7 of the Charter of the United Nations indicates that the International Court of Justice is established as the principal organs of the United Nations; Article 92 provides that the International Court of Justice shall be the principal judicial organ of the United Nations.
by the Court for dealing with particular categories of cases and to a chamber of
summary procedure established thereby.  

Article 31, Paragraph 4 of the Statute of the Court provides: “the President
shall request one or, if necessary, two of the members of the Court forming the
chamber to give place to the members of the Court of the nationality of the parties
concerned, and, failing such, or if they are unable to be present, to the judges
specially chosen by the parties”. Article 26, Paragraph 2 states: “The Court may at
any time form a chamber for dealing with a particular case. The number of judges
to constitute such a chamber shall be determined by the Court with the approval of
the parties”. Article 17, Paragraph 4 of the Statute of the Tribunal prescribes: The
President, in consultation with the parties, shall request specified members of the
Tribunal forming the chamber, as many as necessary, to give place to the members
of the Tribunal of the nationality of the parties concerned or to the members
specially chosen by the parties. Moreover, Article 15, Paragraph 2, referring to
chambers dealing with a particular dispute, thereof provides: “The composition
of such a chamber shall be determined by the Tribunal with the approval of the
parties”. It is thus clear that, in terms of the composition of a chamber, the Tribunal
pays more respect to the will of the parties concerned.

Article 17, Paragraph 5 of the Statute of the Tribunal stipulates: “Should there
be several parties in the same interest, they shall, for the purpose of the preceding
provisions, be considered as one party only”. This provision agrees with Article
31, Paragraph 5 of the Statute of the Court. Nevertheless, since a chamber is made
up of a small number of members, it is not that simple when it deals with the
application of the regime concerning the nationality of judge and the regime of
devise judge ad hoc. Additionally, the Tribunal shall be open to each State Party
and to entities other than States Parties (Article 20 of the Statute of the Tribunal).
In particular, where such a regime is applied to the Seabed Disputes Chamber, the
situation will be even more complicated. In this regard, Article 22 of the Statute
of the Tribunal contains specific provisions. For instance, Paragraph 1 in this
article states that an entity other than a State may choose a judge ad hoc only if:
(1) one of the other parties is a State Party and there is upon the bench a judge of
its nationality or, where such party is an international organization, there is upon
the bench a judge of the nationality of one of its member States or the State Party
has itself chosen a judge \textit{ad hoc}; or (2) there is upon the bench a judge of the nationality of the sponsoring State of one of the other parties.

The regime concerning the nationality of judge has been developed in keeping with the arbitral tradition. Allowing judges of nationality of the parties concerned or judges chosen \textit{ad hoc} to participate in the proceedings is actually against the will of the adjudication organ even though they do not represent the interests of the States concerned but rather are at the stance of a third party. The Tribunal has adopted such a regime on the grounds that these judges can soundly understand the claims of the parties to the dispute, participate in the whole hearing process and get involved in the preparation of the judgment, which are helpful for enhancing confidence in the Court or the Tribunal on the part of the parties to the dispute and thus explaining the judgment to the nationals. Such a regime has been proved convenient during the development of international judgment.

5. Experts

Article 289 of the Convention stipulates: “In any dispute involving scientific or technical matters, a court or tribunal exercising jurisdiction under this section may, at the request of a party or \textit{proprio motu}, select in consultation with the parties no fewer than two scientific or technical experts chosen preferably from the relevant list prepared in accordance with Annex VIII (Special Arbitration), article 2, to sit with the court or tribunal but without the right to vote”. Article 9 of the Statute of the Court states: “The Court may [...] decide, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it without the right to vote”. Article 15 of the Statute of the Tribunal specifies: “Where the Tribunal selects experts at the request of a party or \textit{proprio motu}, it shall make such selection in accordance with the Tribunal President’s proposal”. In this provision of the Statute of the Tribunal, the assessor in the case of the Court is substituted by an expert, which is decided by the Tribunal’s specialization.

6. Special Chamber

Article 26 of the Statute of the Court provides: “The Court may from time to time form one or more chambers for dealing with particular categories of cases, and may at any time form a chamber for dealing with a particular case”. Such provision is equal to that of Article 15, Paragraphs 1 and 2 of the Statute of the Tribunal. Concurrently, Article 15, Paragraph 3 of the Statute of the Tribunal states: “With a view to the speedy dispatch of business, the Tribunal shall form annually a chamber, which may hear and determine disputes by summary procedure”. Paragraph 5 in that article prescribes: “A judgment given by a chamber shall be
considered as rendered by the Tribunal”. Article 27 of the Statute of the Court bears the same content as this provision.

III. Comparing Jurisdiction of the Tribunal and the Court

1. Ratione Personae

Article 34, Paragraph 1 of the Statute of the Court states: Only States may be parties in cases before the Court. Article 35, Paragraphs 1 and 2 stipulate: The Court shall be open to the States Parties to the present Statute. The conditions under which the Court shall be open to other States shall be laid down by the Security Council. It can be seen that only States may be parties in cases before the Court. Article 291 of the Convention also stipulates: “All the dispute settlement procedures specified in Part XV shall be open to States Parties. The dispute settlement procedures specified in Part XV shall be open to entities other than States Parties only as specifically provided for in this Convention”. Article 20 of the Statute of the Tribunal prescribes thereby: “The Tribunal shall be open to each State Party and to entities other than States Parties which have met certain conditions”. Namely, the Tribunal’s ratione personae stays as follows: (1) Not only the States Parties to the Convention but also the self-governing associated States, non-autonomous regions and international organizations which have met conditions specified in Article 305, Paragraph 1 of the Convention are included; (2) With respect to any case expressly stated in Part XI, besides the States Parties, the International Seabed Authority, the Enterprise, state enterprises and natural or juridical persons can also be a party (Article 187 of the Convention); (3) As regard to any case submitted in accordance with any other agreement which confers jurisdiction on the Tribunal as accepted by all the parties to the case, the Tribunal shall be open to entities other than the States Parties. Of course, these agreements are not limited to international agreements. Provided that all the parties to the case accept jurisdiction by the Tribunal, the scope of subject is unlimited.19

2. Ratione Materiae

Article 36, Paragraph 1 of the Statute of the Court regulates: “The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and

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conventions in force”.

Article 288 of the Convention prescribes: “A court or tribunal shall have jurisdiction over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part. A court or tribunal shall also have jurisdiction over any dispute concerning the interpretation or application of an international agreement related to the purposes of this Convention, which is submitted to it in accordance with the agreement”. The Seabed Disputes Chamber of the International Tribunal for the Law of the Sea, and any other chamber or arbitral tribunal referred to in Part XI, Section 5, shall have jurisdiction in any matter which is submitted to it in accordance therewith. Article 21 of the Statute of the Tribunal states: “The jurisdiction of the Tribunal comprises all disputes and all applications submitted to it in accordance with this Convention and all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal”. With regard to ratione materiae, all cases shall be included under the Statute of the Court, while all disputes and applications relating to the Convention shall apply under the Statute of the Tribunal. As such, the scope of jurisdiction of the Court is wider than that of the Tribunal, which is decided by the nature of the Tribunal.

Article 22 of the Statute of the Tribunal specifies: “If all the parties to a treaty or convention already in force and concerning the subject matter covered by this Convention so agree, any disputes concerning the interpretation or application of such treaty or convention may, in accordance with such agreement, be submitted to the Tribunal”. In other words, a dispute may be submitted to the Tribunal as along as all the parties to a treaty so agree. However, the time basis of “treaty already in force” is not made clear, and it is uncertain whether or not it can be construed as treaty in force when the Convention is enacted.

3. Choosing Jurisdiction

Article 287, Paragraph 1 of the Convention stipulates: “When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means (i.e. the International Tribunal for the Law of the Sea, the International Court of Justice, an arbitral tribunal and a special arbitral tribunal) for the settlement of disputes concerning the interpretation or application of this Convention”. Namely, the States Parties have chosen jurisdiction by the Court or the Tribunal by accepting dispute settlement methods in advance. If the parties to a dispute have accepted the same procedure for the settlement of the dispute, the dispute may be submitted only
to that procedure. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, the dispute may be submitted only to the arbitral tribunal, unless the parties otherwise agree.

In accordance with Article 287 of the Convention, the States Parties can declare in writing that they accept mandatory jurisdiction by the court or tribunal. Simultaneously, with respect to disputes set out in Article 298 of the Convention, the States Parties can also declare in writing that they do not accept mandatory jurisdiction by the court or tribunal they have selected, with respect to one or more of the following optional exceptions: disputes concerning sea boundary delimitations or those involving historic bays or titles; disputes concerning military activities, disputes concerning law enforcement activities in regard to the exercise of sovereign rights or jurisdiction, and disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations. Besides, a State Party, which has made such a declaration, may at any time withdraw it.\footnote{Article 298, Paragraphs 1 and 2 of the Convention.}

IV. Comparing Procedures of the Tribunal and the Court

A. Proceedings of the Tribunal and the Court

Article 24, Paragraph 1 of the Statute of the Tribunal states: “Disputes are submitted to the Tribunal, as the case may be, either by notification of a special agreement or by written application, addressed to the Registrar. In either case, the subject of the dispute and the parties shall be indicated”. Such provision is the same with that in Article 40, Paragraph 1 of the Statute of the Court. In terms of procedure, where there is no corresponding stipulation in the Statute of the Tribunal, supplementary provision shall be made therein. For example, as regards the official language of the Tribunal, Article 43 of the Statute of the Tribunal prescribes: “The official languages of the Tribunal are English and French”, which corresponds to Article 39 of the Statute of the Court. Article 53 of the Statute of the Tribunal specifies: “The parties shall be represented by agents”. The parties may have the assistance of counsel or advocates before the Tribunal. Such contents are identical to those of Article 42, Paragraphs 1 and 2 of the Statute of the Court.
Provisions on the proceedings (written proceedings and oral proceedings) can be found in Article 44 of the Rules of the Tribunal corresponding to Article 43 of the Statute of the Court. However, provision like Article 43, Paragraph 3 of the Statute of the Court does not exist in the Statute of the Tribunal. Provisions relevant to the revision of a judgment can be found in Articles 127 to 129 of the Statute of the Tribunal and Article 61 of the Statute of the Court.

Article 26, Paragraph 1 of the Statute of the Tribunal regulates: “The hearing shall be under the control of the President”; Article 27 further prescribes: “The Tribunal shall make orders for the conduct of the case, decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence”. Furthermore, regarding written proceedings, relevant provisions can be found in Articles 44 to 53 of the Statute of the Court and in Articles 59 to 68 of the Statute of the Tribunal. With regard to trial by default, Article 53, Paragraph 1 of the Statute of the Court indicates: “Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favor of its claim”. Accordingly, Article 28 of the Statute of the Tribunal sets out: “When one of the parties does not appear before the Tribunal or fails to defend its case, the other party may request the Tribunal to continue the proceedings and make its decision”. Absence of a party or failure of a party to defend its case shall not constitute a barrier to the proceedings. It is visible that the Tribunal takes a neutral stance in the case of a party failing to appear before the Tribunal or failing to defend its case.

B. (Accessory) Special Procedures of the Tribunal and the Court

1. Provisional Measures

It takes a considerable long time for the final judgment to be made following the submission of the dispute to the Court. For the purpose of preserving the rights of all the parties and preventing the occurrence of irreversible situations, the Court can take provisional measures. For this purpose, Article 41 of the Statute of the Court provides: “The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party”. Notwithstanding, as to whether or
not the provisional measures are legally binding and whether or not the parties to a
dispute are obliged to observe the provisional measures, there is no definite provision
under the Statute of the Court. In this regard, explicit prescription can be indeed
found in the Convention. For instance, Article 290, Paragraph 1 of the Convention
stipulates: “the court or tribunal may prescribe any provisional measures which
it considers appropriate under the circumstances to preserve the respective rights
of the parties to the dispute or to prevent serious harm to the marine environment,
pending the final decision”. And Paragraph 6 states: “The parties to the dispute
shall comply promptly with any provisional measures prescribed under this article”.
It can be seen that the Convention has explicitly provided for the parties’ obligation
of complying with the provisional measures and provided that the court or tribunal
may prescribe any provisional measures in order to prevent serious harm to the
marine environment.

Article 75, Paragraph 1 of the Rules of the Court stipulates: “The Court may
at any time decide to examine proprio motu whether the circumstances of the case
require the indication of provisional measures which ought to be taken or complied
with by any or all of the parties”. Article 290, Paragraph 3 of the Convention states:
“Provisional measures may be prescribed, modified or revoked under this article
only at the request of a party to the dispute and after the parties have been given
an opportunity to be heard”. In the meantime, Article 74, Paragraphs 1 and 2 of the
Rules of the Court regulates: “A request for the indication of provisional measures
shall have priority over all other cases”. The Court, if it is not sitting when the
request is made, shall be convened forthwith for the purpose of proceeding to a
decision on the request as a matter of urgency. Article 25, Paragraph 1 of the Statute
of the Tribunal indicates: “In accordance with Article 290, the Tribunal and its
Seabed Disputes Chamber shall have the power to prescribe provisional measures”.
Article 90, Paragraph 1 of the Statute of the Tribunal prescribes: “Subject to
Article 112, Paragraph 1, a request for the prescription of provisional measures has
priority over all other proceedings before the Tribunal”. Article 25, Paragraph 2
of the Statute of the Tribunal states: “If the Tribunal is not in session or a sufficient
number of members is not available to constitute a quorum, the provisional
measures shall be prescribed by the chamber of summary procedure, and shall be

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22 Article 112, Paragraph 1 of the Rules of the Tribunal stipulates: “If the Tribunal is seized
of an application for release of a vessel or its crew and of a request for the prescription of
provisional measures, it shall take the necessary measures to ensure that both the application
and the request are dealt with without delay”.

subject to review and revision by the Tribunal”.

With regard to the dispute settlement regime under the Convention, it can be perceived from the provisions of Article 287 and Article 290, Paragraph 3 of the Convention that in terms of the prescription of provisional measures, the Tribunal’s authority overrides that of the Court, an arbitral tribunal and a special arbitral tribunal.

2. Preliminary Proceedings

Article 294, Paragraph 1 of the Convention sets out: “A court or tribunal provided for in Article 287 to which an application is made in respect of a dispute referred to in Article 297 shall determine at the request of a party, or may determine proprio motu, whether the claim constitutes an abuse of legal process or whether prima facie it is well founded. If the court or tribunal determines that the claim constitutes an abuse of legal process or is prima facie unfounded, it shall take no further action in the case”. Paragraph 2 states: “Upon receipt of the application, the court or tribunal shall immediately notify the other party or parties of the application, and shall fix a reasonable time-limit within which they may request it to make a determination in accordance with Paragraph 1”. Paragraph 3 finally prescribes: “Nothing in this article affects the right of any party to a dispute to make preliminary objections in accordance with the applicable rules of procedure”. The regime of preliminary proceedings means that a court or tribunal does not take any action until the evidence is clear-cut for the purpose of preventing the applicant’s abuse of legal process. It differs from the regime of preliminary objection concerning disputes in respect of whether or not the court or tribunal has jurisdiction.

3. Preliminary Objection

Article 288, Paragraph 4 of the Convention indicates: “In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal”. Such provision matches perfectly with Article 36, Paragraph 6 of the Statute of the Court. Article 79 of the Rules of the
International Court of Justice\textsuperscript{23} provides for preliminary objection, and so does Article 97 of the Rules of the Tribunal.

4. Intervention in the Proceedings

In respect of a third party's intervention in the proceedings, relevant provisions can be found in Articles 62 and 63 of the Statute of the Court as well as in Articles 31 and 32 of the Statute of the Tribunal. Article 31, Paragraph 1 of the Statute of the Tribunal stipulates: "Should a State Party consider that it has an interest of a legal nature which may be affected by the decision in any dispute, it may submit to the Tribunal to be permitted to intervene". States entitled to request to intervene in the proceedings are limited to those whose interest of a legal nature may be affected by the decision in any dispute. A similar provision also exists in the Statute of the Court, but while the Statute of the Court puts it as States whose "judgment in any case" may be affected, the Statute of the Tribunal puts it as States whose "decision in any dispute" may be affected. Despite the scope of request to intervene in the proceedings before the Tribunal is somewhat expanded, the subject of request is limited to States Parties, which is restrictive, to some degree, compared with the subject of request before the Court. Meanwhile, provision of Article 31,

\textsuperscript{23} Article 79, Paragraph 1 of the Rules of the Court provides: "Any objection by the respondent to the jurisdiction of the Court or to the admissibility of the application, or other objection the decision upon which is requested before any further proceedings on the merits, shall be made in writing as soon as possible, and not later than three months after the delivery of the Memorial. Any such objection made by a party other than the respondent shall be filed within the time-limit fixed for the delivery of that party's first pleading". Paragraph 4 states: "The preliminary objection shall set out the facts and the law on which the objection is based, the submissions and a list of the documents in support; it shall mention any evidence, which the party may desire to produce. Copies of the supporting documents shall be attached". Paragraph 5 prescribes: "Upon receipt by the Registry of a preliminary objection, the proceedings on the merits shall be suspended and the Court, or the President if the Court is not sitting, shall fix the time-limit within which the other party may present a written statement of its observations and submissions; documents in support shall be attached and evidence which it is proposed to produce shall be mentioned". Paragraph 6 notes: "Unless otherwise decided by the Court, the further proceedings shall be oral". Paragraph 7 indicates: "The statements of facts and law in the pleadings referred to in paragraphs 4 and 5 of this Article, and the statements and evidence presented at the hearings contemplated by paragraph 6, shall be confined to those matters that are relevant to the objection". Paragraph 8 regulates: "In order to enable the Court to determine its jurisdiction at the preliminary stage of the proceedings, the Court, whenever necessary, may request the parties to argue all questions of law and fact, and to adduce all evidence, which bear on the issue". Paragraph 9 provides: "After hearing the parties, the Court shall give its decision in the form of a judgment, by which it shall either uphold the objection, reject it, or declare that the objection does not possess, in the circumstances of the case, an exclusively preliminary character". If the Court rejects the objection or declares that it does not possess an exclusively preliminary character, it shall fix time-limits for the further proceedings.
Paragraph 324 is added in the Statute of the Tribunal. Additionally, Article 63 of the Statute of the Court prescribes: intervention in the proceedings applies only "when the construction of a convention is in question". Article 32 of the Statute of the Tribunal provides: intervention in the proceedings applies where "the interpretation or application of an international agreement is in question". As can be deduced, the scope of intervention in the proceedings is expanded before the Tribunal.

With reference to the Rules of the Court (Articles 81 to 86), the Rules of the Tribunal (Articles 99 to 104) provide for intervention in the proceedings almost the same way. Article 100, Paragraph 1 of the Rules of the Tribunal states: "A State Party or an entity other than a State Party referred to in Article 32, Paragraphs 1 and 2, of the Statute which desires to avail itself of the right of intervention conferred upon it by Article 32, Paragraph 3, of the Statute shall file a declaration to that effect". As such, regarding the interpretation of the Convention, a State other than a State Party and a subject other than a State can also intervene in the proceedings.

5. Prompt Release of Vessels and Crews

The regime of release of vessels and crews is newly added into the Convention concurrently with the introduction of the regime of exclusive economic zone.25 After the issue of prompt release of vessels and crews is submitted to a court or tribunal, if there is an agreement between the parties to a dispute, it is not required that a decision in the dispute should be adopted by an international court or tribunal set out in Article 287 of the Convention. Meanwhile, since it takes time for an arbitral tribunal and a special arbitral tribunal to form a tribunal upon the receipt of a case, it is very foreseeable that the issue of prompt release of vessels and crews will be submitted to the Tribunal. The judicial practices of the Tribunal have also proved this point. Article 292, Paragraph 3 of the Convention prescribes: "The court or tribunal shall deal without delay with the application for release". Article 112 of the Rules of the Tribunal stipulates: "The Tribunal shall give priority to applications for release of vessels or crews over all other proceedings before the Tribunal. If the applicant has so requested in the application, the application shall be dealt with by the Chamber of Summary Procedure, provided that, within five days of the receipt

24 Article 31, Paragraph 3 of the Statute of the Tribunal states: "If a request to intervene is granted, the decision of the Tribunal in respect of the dispute shall be binding upon the intervening State Party in so far as it relates to matters in respect of which that State Party intervened".

of notice of the application, the detaining State notifies the Tribunal that it concurs with the request. The Tribunal, or the President if the Tribunal is not sitting, shall fix the earliest possible date, within a period of 15 days commencing with the first working day following the date on which the application is received”. Article 292, Paragraph 2 of the Convention regulates: “The application for release may be made only by or on behalf of the flag State of the vessel”. Article 110, Paragraph 2 of the Rules of the Tribunal indicates: “A State Party may at any time notify the Tribunal of: (a) the State authorities competent to authorize persons to make applications on its behalf under article 292 of the Convention; (b) the name and address of any person who is authorized to make an application on its behalf”. In addition, it is generally believed that the principle of the exhaustion of local remedies should not apply, when it comes to application for release.

Article 292, Paragraph 1 of the Convention states: the detaining State has not complied with the provisions of this Convention for the prompt release of the vessel or its crew upon the posting of a reasonable bond or other financial security; Paragraph 3 prescribes: “The court or tribunal shall deal without delay with the application for release”. In spite of the above provisions, the Convention does not contain any prescription on the applicable standard for determining a reasonable bond, while in practice the determination is extremely difficult. Pursuant to Tribunal’s judicial practices, the Tribunal decides on the bond by considering the price of the vessel and the cargo loaded therein. Article 113, Paragraph 1 of the Rules of the Tribunal stipulates: “The Tribunal shall in its judgment determine in each case in accordance with Article 292 of the Convention whether or not the allegation made by the applicant that the detaining State has not complied with a provision of the Convention for the prompt release of the vessel or the crew upon the posting of a reasonable bond or other financial security is well-founded”. At the same time, Article 113, Paragraph 2 of the Rules of the Tribunal regulates: “If the Tribunal decides that the allegation is well-founded, it shall determine the amount, nature and form of the bond or financial security to be posted for the release of the vessel or the crew”. In this regard, it is generally deemed that where the detaining State unlawfully demands a large sum of bond and refuses to implement the release on the ground that the applicant has failed to post such a bond, it shall be affirmed that the detaining State has breached relevant provisions of the Convention.

Article 292, Paragraph 4 of the Convention sets out: “Upon the posting of the bond or other financial security determined by the court or tribunal, the authorities of the detaining State shall comply promptly with the decision of the court or
tribunal concerning the release of the vessel or its crew. Such decision shall be final and binding and shall be complied with by all the parties to the dispute".26

V. Comparing Judgment of the Tribunal and the Court

Articles 29, 30 and 33 of the Statute of the Tribunal provide for the decision method of the Judgment, the content of the Judgment and the finality and binding force of decisions respectively, corresponding to Articles 55 to 60 of the Statute of the Court.

As regards the enforcement of a judgment, Article 94 of the Charter of the United Nations prescribes: "Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment". With respect to the enforcement of relevant judgments by a tribunal, the Convention contains two provisions exclusively: First, Article 165, Paragraph 2(j) of the Convention indicates that the Legal and Technical Commission shall make recommendations to the Council with respect to measures to be taken, upon a decision by the Seabed Disputes Chamber; second, Article 162, Paragraph 2(V) of the Convention states that the Legal and Technical Commission shall notify the Assembly upon a decision by the Seabed Disputes Chamber, and make any recommendations which it may find appropriate with respect to measures to be taken. Simultaneously, Article 39 of the Statute of the Tribunal provides: "The decisions of the chamber shall be enforceable in the territories of the States Parties". It is therefore that the Tribunal's enforcement of a judgment lacks follow-up measures as those that are in the possession of the Court.

1. Construction of a Judgment

Article 33, Paragraph 3 of the Statute of the Tribunal prescribes: "In the event of dispute as to the meaning or scope of the decision, the Tribunal shall construe it

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26 Article 286 of the Convention states: "Subject to Section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to Section 1, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section".
upon the request of any party". Article 60 of the Statute of the Court also stipulates: “In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party”. The Court’s object of construction is limited to the meaning or scope of the “judgment”, while the Tribunal’s object of construction is the meaning or scope of the “decision”, which also includes the “order”. Article 126, Paragraph 1 of the Rules of the Tribunal regulates: “In the event of dispute as to the meaning or scope of a judgment, any party may make a request for its interpretation”. Here, only “judgment” constitutes the object of construction.

2. Revision of a Judgment

Article 61 of the Statute of the Court provides for revision of a judgment, but no corresponding provisions can be found in the Convention or in the Statute of the Tribunal. To this end, with reference to the Statute of the Court (Article 61) and the Rules of the Court (Articles 99 and 100), provisions on revision have been developed in the Rules of the Tribunal, mainly Article 127, Paragraph 1, Article 128, Paragraph 3 and Article 129 thereof.27

3. Appeal

Article 287, Paragraph 1 of the Convention grants equal status to the Tribunal, the Court, an arbitral tribunal and a special arbitral tribunal. It seems that with regard to a judgment made by any court or tribunal, no appeal shall be made with another tribunal or court. However, the provisions of the Convention reveal that the circumstance is really not so. A dispute, which has been dealt with by other international courts or other international organizations, can still be referred to a

27 Article 127, Paragraph 1 of the Rules of the Tribunal states: “A request for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Tribunal and also to the party requesting revision, always provided that such ignorance was not due to negligence. Such request must be made at the latest within six months of the discovery of the new fact and before the lapse of ten years from the date of the judgment”. Article 128, Paragraph 3 stipulates: “The Tribunal, before giving its judgment on the admissibility of the application, may afford the parties a further opportunity of presenting their views thereon”. Article 129 prescribes: “If the judgment to be revised or to be interpreted was given by the Tribunal, the request for its revision or interpretation shall be dealt with by the Tribunal. If the judgment was given by a chamber, the request for its revision or interpretation shall, if possible, be dealt with by that chamber. If that is not possible, the request shall be dealt with by a chamber composed in conformity with the relevant provisions of the Statute and these Rules. If, according to the Statute and these Rules, the composition of the chamber requires the approval of the parties which cannot be obtained within time-limits fixed by the Tribunal, the request shall be dealt with by the Tribunal.”
different court or tribunal specified in Article 287 of the Convention for appeal. Specific circumstances are as follows: (1) circumstances specified in Article 281, Paragraph 1 of the Convention; (2) circumstances specified in Article 188, Paragraph 2(2) of the Convention; (3) circumstances specified in Annex VII, Article 11 and Annex VIII, Article 4; conversely, provided that the parties to the dispute have agreed in advance to an appellate procedure, an appeal may be made to another court or tribunal; (4) circumstances specified in Article 298, Paragraph 1(c) of the Convention; (5) circumstances specified in Articles 21 and 22 of the Statute of the Tribunal, i.e., as long as the parties to a dispute so agree, the Tribunal can play the role of a superior court. In addition, Article 60 of the Statute of the Court stipulates: "The judgment is final and without appeal". In this article, appeal is explicitly forbidden. Article 33, Paragraph 1 of the Statute of the Tribunal regulates: "The decision of the Tribunal is final and shall be complied with by all the parties to the dispute". It is clear that the Tribunal does not prohibit appeal. Nevertheless, if mutual appeal, among the

28 Article 281, Paragraph 1 of the Convention states: "If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed to seek settlement of the dispute by a peaceful means of their own choice, the procedures provided for in this Part apply only where no settlement has been reached by recourse to such means and the agreement between the parties does not exclude any further procedure".

29 Article 188, Paragraph 2(2) of the Convention stipulates: "If, at the commencement of or in the course of such arbitration, the arbitral tribunal determines, either at the request of any party to the dispute or proprio motu, that its decision depends upon a ruling of the Seabed Disputes Chamber, the arbitral tribunal shall refer such question to the Seabed Disputes Chamber for such ruling. The arbitral tribunal shall then proceed to render its award in conformity with the ruling of the Seabed Disputes Chamber."

30 Article 11 of Annex VII to the Convention prescribes: "The award shall be final and without appeal, unless the parties to the dispute have agreed in advance to an appellate procedure. It shall be complied with by the parties to the dispute". Annex VIII, Article 4 indicates: "Annex VII, Articles 4 to 13, apply mutatis mutandis to the special arbitration proceedings in accordance with this Annex."

31 Article 298, Paragraph 1(e) of the Convention regulates: "Disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council decides to remove the matter from its agenda or calls upon the parties to settle it by the means provided for in this Convention."

32 Article 21 of the Statute of the Tribunal sets out: "The jurisdiction of the Tribunal comprises all disputes and all applications submitted to it in accordance with this Convention and all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal". Article 22 states: "If all the parties to a treaty or convention already in force and concerning the subject matter covered by this Convention so agree, any disputes concerning the interpretation or application of such treaty or convention may, in accordance with such agreement, be submitted to the Tribunal."
four courts or tribunals set out in Article 287 of the Convention is allowed, except where the parties before the arbitral tribunal and the special arbitral tribunal have agreed in advance to an appellate procedure, inconsistent judgment regarding the interpretation of the Convention and the dispute settlement will be generated, disputes will arise and then the authoritativeness of the judgment will be materially affected. Moreover, even if appeal is not acknowledged, since these four courts or tribunals make judgment independently, inconsistent legal precedents are very likely to occur. We expect that along with the accumulation of legal precedents concerning disputes under the law of the sea, including the less diversified judgment forms and the organic development of the law of the sea, these problems will be gradually overcome and the unification of legal precedents will be achieved eventually. It is left to judicial practice for the proof.

VI. Conclusion

In summary, relevant provisions of the Convention, the Statute of the Tribunal and the Rules of the Tribunal have been analyzed by comparison with the Statute of the Court and the Rules of the Court, and the characteristics of the Tribunal in terms of composition, jurisdiction, procedure and judgment have been expounded.

The Tribunal, which is established in accordance with Annex VI to the Convention, is an international permanent specialized tribunal designed to settle the disputes arising in relation with the interpretation and application of the Convention and of the international agreements relating to the purpose of the Convention. In spite of the limited jurisdiction of the Tribunal, it is still a universal global judicial organ just like the Court. Moreover, the Court has had abundant legal precedents and experience so far and has developed into an authoritative international judicial organ. For the newly established Tribunal, the Court serves as a template, and relevant regulations on the Tribunal’s constitution and procedure have been developed with reference to and by revising the Statute of the Court and the Rules of the Court. In order to give full rein to the role of a specialized tribunal, the Tribunal shall overcome the defects of the Court, i.e., long case deciding duration and low efficiency, change the situation of a minority of developed countries controlling the Court, and endeavor to handle and settle disputes in a fair.

prompt and reasonable manner. The Tribunal’s judicial practice has proved this point. However, the cases having been submitted to the Tribunal so far are mostly request for prompt release of vessels and crews and for prescription of provisional measures. As such, it is necessary to enhance the Tribunal’s position. On the basis of fairly and reasonably handling cases and claims, the Tribunal shall continuously accumulate judicial practice experience, build up prestige, boost the States’ trust in it and enhance its own position, so as to duly contribute to the realization of the purpose of establishing the Tribunal under the Convention and of the development of a new international maritime order.

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