

**ADDRESS TO THE UNITED NATIONS GENERAL ASSEMBLY AT THE COMMEMORATION
OF THE THIRTIETH ANNIVERSARY OF THE OPENING FOR SIGNATURE OF
THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA**

by

H.E. Judge Christopher Greenwood

on behalf of the International Court of Justice

10 December 2012

Mr. President,

Mr. Secretary-General,

Your Excellencies,

Ladies and Gentlemen,

1. It is a great privilege to take part in this meeting of the General Assembly to mark the thirtieth anniversary of the opening for signature of the United Nations Convention on the Law of the Sea. I do so on behalf of the International Court of Justice and of President Peter Tomka, who has asked me to express his regret that he is unable to be here today. His absence is due to the fact that he is presiding over the hearings in the *Case concerning the Maritime Dispute between Peru and Chile*. This case is the second maritime dispute to be heard by the Court this year and the thirteenth occasion on which the Court has been called upon to determine questions of maritime boundaries, a fact which bears witness to the importance of the relationship between the International Court of Justice and the Law of the Sea.

2. The International Court of Justice thanks you, Mr. President, the General Assembly and the Secretary-General for having kindly invited the Court, as the principal judicial organ of the United Nations, to be represented at today's celebration. And there is much to celebrate today. The Convention on the Law of the Sea is without doubt one of the most important international conventions ever adopted. It has created a legal order of the oceans which has made possible a reconciliation of the different interests of States and the establishment of the common heritage of mankind. On this happy anniversary, the International Court of Justice wishes to express its

congratulations to all of those who “served as officers of the Third United Nations Conference on the Law of the Sea or who otherwise contributed untiringly towards the conclusion of the Convention and its adoption” (*A/67/L.4, preamble*). It is a particular pleasure to join in the tribute to the visionary approach of Ambassador Arvid Pardo of Malta and to the hard work of Ambassador Hamilton Shirley Amerasinghe of Sri Lanka and Ambassador Tommy Koh of Singapore, which did so much to make that vision a reality. Coming, as I do, from an island and having been born into a seafaring family, I am particularly conscious of the debt which we all owe to those who made possible the adoption of the Convention and of the magnitude of their achievement.

3. The International Court of Justice has been concerned with the application of the law of the sea from the start of the Court’s existence. The first case which the Court decided — the *Corfu Channel* case — required the Court to apply principles on the right of passage which were the forerunner of those now set forth in Articles 17 to 32 and 34 to 45, as well as Article 279, of the Convention. Since then, the Court has given some 30 judgments which, in one way or another, have touched upon issues concerning the law of the sea.

4. Less than two years after Ambassador Pardo delivered his crucial speech to the General Assembly, the Court — in its judgments in the *North Sea Continental Shelf* cases — first explained the role of equitable principles as part of the law in determining the boundary between the continental shelf of neighbouring States. The Court also emphasized the duty of neighbouring States to negotiate in good faith in order to achieve agreement upon their maritime boundaries. These aspects of the Court’s judgments were subsequently reflected in the importance attached to achieving an equitable solution through agreement which is found in what became Articles 74 and 83 of the Convention on overlapping entitlements to the exclusive economic zone and continental shelf.

5. In their turn, developments at the Third United Nations Conference on the Law of the Sea began to influence the law applied by the Court even before the adoption of the Convention. As early as 1978, in a dispute regarding continental shelf delimitation, the Parties asked the Court to take into account in deciding the case “the recent trends admitted at the Third Conference on the Law of the Sea” (*Special Agreement of 10 June 1977 between Tunisia and Libya*). The Court’s

judgment in that case — which was delivered two months before the Convention was adopted — was the first occasion on which a court or tribunal considered the principles enshrined in Article 83 of the Convention.

6. In the 30 years which have followed, the judgments of the Court have discussed the Convention's provisions on the extent of the territorial sea, the delimitation of the territorial sea between neighbouring States, the continental shelf, the exclusive economic zone, fisheries, the legal régime of islands and navigational rights. The Parties to those cases have included States from all of the five regional groups. In some instances all of the Parties to the case have been parties to the Convention and its provisions have therefore been applied as a matter of treaty law. In other cases, particular provisions of the Convention have been relevant because the Court found that they reflected customary international law as it stands today. The result has been a substantial body of jurisprudence which we believe has been a major contribution to the interpretation, exposition and application of the principles enshrined in the Convention.

7. I would like to conclude with two reflections on the judicial application of the Convention during the last 30 years. First, when the Convention was adopted, a number of commentators expressed concern that the choice of different methods of dispute settlement in Article 287 of Part XV might lead to a fragmentation of this area of international law and even to competing lines of jurisprudence from different courts and tribunals. In fact, there has been a remarkable harmony between the pronouncements of the International Court of Justice, the International Tribunal for the Law of the Sea and the Annex VII arbitration tribunals. If we consider, for example, the approach to delimitation of the continental shelf and exclusive economic zone between neighbouring States, the jurisprudence built up by the International Court of Justice in the many cases which it has decided over the last 30 years has been followed and applied by the arbitral tribunals in the two principal Annex VII cases decided so far and by the International Tribunal for the Law of the Sea in its judgment in the *Bay of Bengal* case earlier this year. Conversely, the most recent judgment of the International Court in a maritime delimitation case (delivered only three weeks ago) draws on the awards of the Annex VII tribunals and the judgment of the International Tribunal. Far from fragmentation, what we have seen is a consistent determination to achieve a clear and coherent jurisprudence across all of the relevant courts and tribunals.

8. Secondly, I would suggest that the resolution of competing national claims to the continental shelf and exclusive economic zone has been one of the important achievements of the last 30 years. The substantial enlargement of coastal States' rights to the sea-bed and waters extending to a great distance from their coasts had the potential to be a seriously destabilizing factor in international relations. While some cases of competing claims remain problematic, the principles laid down in the Convention and the application of those principles in the jurisprudence of which I have just spoken have made possible the peaceful resolution of a remarkable number of such cases. The International Court of Justice is happy to have played its part in that process and looks forward to continuing its work in that regard.
