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REPORT OF THE CHAIRMAN OF THE DRAFTING COMMITTEE TO THE PLENARY

Addendum

Recommendations of the Drafting Committee

Annex VI

ANNEX VI. STATUTE OF THE INTERNATIONAL TRIBUNAL  
FOR THE LAW OF THE SEA

Article 1  
General provisions

1. 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.

2. The seat of the Tribunal shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany.

3. The Tribunal may sit and exercise its functions elsewhere whenever it considers this desirable.

4. A reference of a dispute to the Tribunal shall be subject to the provisions of Parts XI and XV.

SECTION 1. ORGANIZATION OF THE TRIBUNAL

Article 2  
Composition

1. 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.

2. In the Tribunal as a whole the representation of the principal legal systems of the world and equitable geographical distribution shall be assured.

Article 3  
Membership

1. No two members of the Tribunal may be nationals of the same State. A person who for the purposes of membership in the Tribunal could be regarded as a national of more than one State shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

2. There shall be no fewer than three members from each geographical group as established by the General Assembly of the United Nations.

Article 4  
Nominations and elections

1. Each State Party may nominate not more than two persons having the qualifications prescribed in article 2 of this Annex. The members of the Tribunal shall be elected from the list of persons thus nominated.

2. At least three months before the date of the election, the Secretary-General of the United Nations in the case of the first election and the Registrar of the Tribunal in the case of subsequent elections shall address a written invitation to the States Parties to submit their nominations for members of the Tribunal within two months. He shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties before the seventh day of the last month before the date of each election.

3. The first election shall be held within six months of the date of entry into force of this Convention.

4. The members of the Tribunal shall be elected by secret ballot. Elections shall be held at a meeting of the States Parties convened by the Secretary-General of the United Nations in the case of the first election and by a procedure agreed to by the States Parties in the case of subsequent elections. Two thirds of the States Parties shall constitute a quorum at that meeting. The persons 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.

Article 5  
Term of office

1. The members of the Tribunal shall be elected for nine years and may be re-elected; provided, however, that of the members elected at the first election, the terms of seven members shall expire at the end of three years and the terms of seven more members shall expire at the end of six years.

2. The members of the Tribunal whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General of the United Nations immediately after the first election   .

3. The members of the Tribunal shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any proceedings which they may have begun before the date of their replacement.

4. In the case of the resignation of a member of the Tribunal, the letter of resignation shall be addressed to the President of the Tribunal. The place becomes vacant on the receipt of that letter   .

Article 6  
Vacancies

1. Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Registrar shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in article 4 of this Annex, and the date of the election shall be fixed by the President of the Tribunal after consultation with the States Parties.

2. A member of the Tribunal elected to replace a member whose term of office has not expired shall hold office for the remainder his predecessor's term.

Article 7  
Incompatible activities

1. 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 for or exploitation of the resources of the sea or the sea-bed or other commercial use of the sea or the sea-bed.

2. No member of the Tribunal may act as agent, counsel\_ or advocate in any case.

3. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

Article 8  
Conditions relating to participation of members in a particular case

1. No member of the Tribunal may participate in the decision of any case in which he has previously taken part as agent, counsel\_ or advocate for one of the parties, or as a member of a national or international court or tribunal, or in any other capacity.

2. If, for some special reason, a member of the Tribunal considers that he should not take part in the decision of a particular case, he shall so inform the President of the Tribunal.

3. If the President considers that for some special reason one of the members of the Tribunal should not sit in a particular case, he shall give him notice accordingly.

4. Any doubt on this point shall be decided by a majority of the other members of the Tribunal present.

Article 9

Consequences of failing to fulfil required conditions

If, in the unanimous opinion of the other members of the Tribunal, a member has ceased to fulfil the required conditions, the President of the Tribunal shall declare the seat vacant.

Article 10

Privileges and immunities

The members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities.

Article 11

Solemn declaration by members

Every member of the Tribunal shall, before taking up his duties, make a solemn declaration in open session that he will exercise his powers impartially and conscientiously.

Article 12

President, Vice-President and Registrar

1. The Tribunal shall elect its President and Vice-President for three years; they may be re-elected.
2. The Tribunal shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.
3. The President and the Registrar shall reside at the seat of the Tribunal.

Article 13

Quorum

1. All available members of the Tribunal shall sit;     a quorum of 11 elected members shall be required to constitute the Tribunal.
2. Subject to     article 17 of this Annex, the Tribunal shall determine which members are available to constitute the Tribunal for the consideration of a particular dispute, having regard to the effective functioning of the     chambers as provided for in articles 14 and 15 of this Annex.
3. All disputes and applications submitted to the Tribunal shall be heard and determined by the Tribunal, unless article 14 of this Annex applies, or the parties request that it shall be dealt with in accordance with article 15 of this Annex.

Article 14  
Sea-Bed Disputes Chamber

A Sea-Bed Disputes Chamber shall be established in accordance with the provisions of section 4 of this Annex. Its jurisdiction, powers and functions shall be as provided for in Part XI, section 5.

Article 15  
Special chambers

1. The Tribunal may form such chambers, composed of three or more of its elected members, as it considers \_\_\_\_\_ necessary for dealing with particular categories of disputes.

2. The Tribunal shall form a chamber for dealing with a particular dispute submitted to it if the parties so request. The composition of such a chamber shall be determined by the Tribunal with the approval of the parties.

3. With a view to the speedy dispatch of business, the Tribunal shall form annually a chamber composed of five of its elected members which may hear and determine disputes by summary procedure. Two alternative members shall be selected for the purpose of replacing members who are unable to participate in a particular proceeding.

4. Disputes shall be heard and determined by the chambers provided for in this article if the parties so request.

5. A judgment given by any of the chambers provided for in this article and in article 14 of this Annex shall be considered as rendered by the Tribunal.

Article 16  
Rules of the Tribunal

The Tribunal shall frame rules for carrying out its functions. In particular it shall lay down rules of procedure.

Article 17  
Nationality of members

1. 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.

2. 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.

3. 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.

4.        This article        applies to the chambers referred to in articles 14 and 15 of this Annex. In such cases, 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, and, failing such, or if they are unable to be present, to the members specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be considered as one party only. Any doubt on this point shall be settled by the decision of the Tribunal.

6. Members chosen in accordance with paragraphs 2, 3 and 4 shall fulfil the conditions required by articles 2, 8 and 11 of this Annex. They shall participate in the decision on terms of complete equality with their colleagues.

Article 18  
Remuneration of members

1. Each elected member of the Tribunal shall receive an annual allowance and, for each day on which he exercises his functions, a special allowance, provided that in any year the total sum payable to any member as special allowance shall not exceed the amount of the annual allowance.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for each day on which he acts as President.

4. The members chosen under article 17 of this Annex, other than elected members of the Tribunal, shall receive compensation for each day on which they exercise their functions.

5. The salaries,      allowances and compensation shall be determined from time to time at meetings of the States Parties, taking into account the work load of the Tribunal. They may not be decreased during the term of office.

6. The salary of the Registrar shall be determined at        meetings of the States Parties, on the proposal of the Tribunal.

7. Regulations adopted at        meetings of the States Parties shall determine the conditions under which retirement pensions may be given to members of the Tribunal and to the Registrar, and the conditions under which members of the Tribunal and Registrar shall have their travelling expenses refunded.

8. The        salaries, allowances, and compensation shall be free of all taxation.

Article 19  
Expenses of the Tribunal

1. The expenses of the Tribunal shall be borne by the States Parties and by the Authority on such terms and in such a manner as shall be decided at \_\_\_ meetings of the States Parties.

2. When an entity other than a State Party or the Authority is a party to a case submitted to it, the Tribunal shall fix the amount which that party is to contribute towards the expenses of the Tribunal.

SECTION 2. COMPETENCE \_\_\_

Article 20  
Access to the Tribunal

1. The Tribunal shall be open to \_\_\_ States Parties.

2. The Tribunal shall be open to entities other than States Parties in any case expressly provided for in Part XI or in any case submitted pursuant to any other agreement conferring jurisdiction on the Tribunal which is accepted by all the parties to that case \_\_\_.

Article 21  
Jurisdiction

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  
Reference of disputes subject to other agreements

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.



Article 23  
Applicable law

The Tribunal shall decide all disputes and applications in accordance with article 293.

SECTION 3. PROCEDURE

Article 24  
Institution of proceedings

1. 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.

2. The Registrar shall forthwith notify the special agreement or the application to all concerned.

3. The Registrar shall also notify all States Parties.

Article 25  
Provisional measures

1. In accordance with article 290 \_\_\_, the Tribunal and its Sea-Bed Disputes Chamber shall have the power to prescribe provisional measures.

2. 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 formed under article 15, paragraph 3, of this Annex. Notwithstanding article 15, paragraph 4, of this Annex, such provisional measures may be adopted at the request of any party to the dispute. They shall be subject to review and revision by the Tribunal.

Article 26  
Hearing

1. The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President. If neither is able to preside, the senior judge present of the Tribunal shall preside.

2. The hearing shall be public, unless the Tribunal \_\_\_ decides otherwise\_ or unless the parties demand that the public be not admitted.

Article 27  
Conduct of case

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.

Article 28  
Default \_\_\_

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 bar to the proceedings. Before making its decision, the Tribunal must satisfy itself not only that it has jurisdiction over the dispute, but also that the claim is well founded in fact and law.

Article 29  
Majority for decision

1. All questions shall be decided by a majority of the members of the Tribunal who are present.
2. In the event of an equality of votes, the President or the member of the Tribunal who acts in his place shall have a casting vote.

Article 30  
Judgment

1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the members of the Tribunal who have taken part in the decision.
3. If the judgment does not represent in whole or in part the unanimous opinion of the members of the Tribunal, any member shall be entitled to deliver a separate opinion.
4. The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the parties to the dispute.

Article 31  
Request to intervene

1. 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 a request to the Tribunal to be permitted to intervene.
2. It shall be for the Tribunal to decide upon this request.

3. 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.

#### Article 32

##### Right to intervene in cases of interpretation or application

1. Whenever the interpretation or application of this Convention is in question, the Registrar shall notify all States Parties forthwith.

2. Whenever pursuant to article 21 or 22 of this Annex the interpretation or application of an international agreement is in question, the Registrar shall notify all the parties to that agreement.

3. Every party referred to in paragraphs 1 and 2 has the right to intervene in the proceedings; if it uses this right, the interpretation given by the judgment will be equally binding upon it.

#### Article 33

##### Finality and binding force of decisions

1. The decision of the Tribunal is final and shall be complied with by all the parties to the dispute.

2. The decision shall have no binding force except between the parties in respect of that particular dispute.

3. In the event of dispute as to the meaning or scope of the decision, the Tribunal shall construe it upon the request of any party.

#### Article 34

##### Costs

Unless otherwise decided by the Tribunal, each party shall bear its own costs.

### SECTION 4. SEA-BED DISPUTES CHAMBER

#### Article 35

##### Composition

1. The Sea-Bed Disputes Chamber referred to in article 14 of this Annex shall be composed of 11 members, selected by a majority of the elected members of the Tribunal from among them.

2. In the selection of the members of the Chamber, the representation of the principal legal systems of the world and equitable geographical distribution shall be assured. The Assembly of the Authority may adopt recommendations of a general nature relating to such representation and distribution.

3. The members of the Chamber shall be selected every three years and may be selected for a second term.

4. The Chamber shall elect its President from among its members, who shall serve for term for which the Chamber has been selected.

5. If any proceedings are still pending at the end of any three-year period for which the Chamber has been selected, the Chamber shall complete the proceedings in its original composition.

6. If     a vacancy occurs in the Chamber, the Tribunal shall select a successor from among its elected members, who shall hold office for the remainder of his predecessor's term.

7. A quorum of seven of the members selected by the Tribunal shall be required to constitute the Chamber.

Article 36  
Ad hoc Chambers    

1. The Sea-Bed Disputes Chamber shall form an ad hoc chamber, composed of three of its members, for dealing with a particular dispute submitted to it in accordance with article 188, paragraph 1 (b)    . The composition of such a chamber shall be determined by the Sea-Bed Disputes Chamber with the approval of the parties.

2. If the parties do not agree on the composition of an ad hoc chamber    , each party to the dispute shall appoint one member, and the third member shall be appointed by them in agreement. If they disagree, or if any party fails to make an appointment, the President of the Sea-Bed Disputes Chamber shall promptly make the appointment or appointments from among its members, after consultation with the parties.

3. Members of the ad hoc chamber must not be in the service of, or nationals of, any of the parties to the dispute.

Article 37  
Access

The Chamber shall be open to the States Parties,     the Authority and the other entities referred to in     Part XI, section 5.

Article 38  
Applicable law

In addition to the provisions of article 293    , the Chamber shall apply:

(a) the rules, regulations and procedures of the Authority adopted     in accordance with this Convention; and

(b) the terms of     contracts concerning activities in the Area in     matters relating to those contracts.

Article 39

Enforcement of decisions of the Chamber

The decisions of the Chamber shall be enforceable in the territories of the States Parties in the same manner as judgments or orders of the highest court of the State Party in whose territory the enforcement is sought.

Article 40

Applicability of other sections of this Annex

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1. The other sections of this Annex which are not incompatible with this section \_\_\_\_ apply to the Chamber.
2. In the exercise of its functions relating to advisory opinions, the Chamber shall be guided by the provisions of this Annex relating to procedure before the Tribunal to the extent to which it recognizes them to be applicable.

SECTION 5. AMENDMENTS

Article 41

Amendments

1. Amendments to this Annex, other than amendments to section 4, may \_\_\_\_ be adopted only in accordance with article 313 \_\_\_\_ or by consensus at a conference convened in accordance with this Convention.
2. Amendments to section 4 \_\_\_\_ may \_\_\_\_ be adopted only in accordance with article 314 \_\_\_\_.
3. The Tribunal may \_\_\_\_ propose such amendments to this Statute as it may consider necessary, by written communications to the States Parties\_ for their consideration in conformity with \_\_\_\_ paragraphs 1 and 2 \_\_\_\_.