

## THE TRIBUNAL FOR THE LAW OF THE SEA

The Tribunal is one of the four fora among which state parties may choose within the compulsory dispute settlement system of the Convention<sup>1</sup> whenever the interpretation or application of the Convention is in question<sup>2</sup>; parties may also call upon the Tribunal in a dispute arising from treaties or conventions already in force concerning subject matters covered by this Convention, if the parties agree to do so<sup>3</sup>. The Tribunal's position will ultimately depend upon the reputation it earns for itself, but its greatest significance from the beginning will be related to the compulsory jurisdiction in matters concerning deep-sea mining in the Area for its sub-chamber, the Sea-Bed Disputes Chamber<sup>4</sup>, to which all concerned (state parties, the Sea-Bed Authority, the Enterprise, state enterprises, and natural or juridical persons) have access<sup>5</sup>, and its final jurisdiction in matters of release from detention of crews and vessels, if the states concerned have not otherwise agreed<sup>6</sup>.

The Tribunal has twenty-one members<sup>7</sup> elected by the states parties<sup>8</sup> for nine-year terms; in order to provide for staggered terms, at the first election seven of the members will be elected for only three years and another seven members for only six years.<sup>9</sup> The members are to be elected from among persons enjoying the highest reputation for fairness, integrity, and competence<sup>10</sup> and are to be independent and avoid incompatible activities.<sup>11</sup> Each member is to declare solemnly that he will exercise his power impartially and conscientiously.<sup>12</sup> Due regard is to be given to geographical representation in the Tribunal and no more than one national of any one state may be elected.<sup>13</sup> The Tribunal elects its President and Vice-President and appoints a Registrar.<sup>14</sup> The sessions of the Tribunal are to be held as far as possible with all twenty-one members in attendance, but a minimum of eleven members is necessary to constitute the Tribunal.<sup>15</sup>

Proceedings before the Tribunal are instituted when a dispute is submitted to the Tribunal either by notification of a special agreement or by written application.<sup>16</sup> If the dispute concerns interpretation or application of this Convention, the Registrar notifies all states parties; if an international agreement is in question, he notifies all parties to the agreement<sup>17</sup>. The Tribunal itself is responsible for laying down rules of procedure;<sup>18</sup> the Convention provides that the hearings are to be public and under the control of the President of the Tribunal.<sup>19</sup> The Tribunal may prescribe provisional measures<sup>20</sup> and is to make orders for the conduct of the case.<sup>21</sup> If one of the parties does not appear or refuses to participate, the other party may request that proceedings continue.<sup>22</sup> Every state which has a legal interest in a decision may submit an intervention request.<sup>23</sup> Decisions of the Tribunal are made by majority vote<sup>24</sup> and the reasons on which the judgement is based must be given; the judgement must be read in open court.<sup>25</sup> Decisions other than in provisional matters are final and are binding on the states parties of the dispute<sup>26</sup> and for an intervening state in so far as the decision relates to matters in respect of which that state intervened.<sup>27</sup>

---

<sup>1</sup> Art. 287

<sup>2</sup> AVI, Art.21; Art. 286; Art. 288, Para 1

<sup>3</sup> AVI, Art.22

<sup>4</sup> AVI, Art. 35-40; Art. 288, Para. 2

<sup>5</sup> Art. 187

<sup>6</sup> Art. 292

<sup>7</sup> AVI, Art. 2

<sup>8</sup> AVI, Art. 4

<sup>9</sup> AVI, Art. 5

<sup>10</sup> AVI, Art. 2

<sup>11</sup> AVI, Art. 7-9; AVI, Art. 17

<sup>12</sup> AVI, Art. 11

<sup>13</sup> AVI, Art. 2-3

<sup>14</sup> AVI, Art. 12

<sup>15</sup> AVI, Art. 13, Para. 1

<sup>16</sup> AVI, Art. 24

<sup>17</sup> AVI, Art. 32

<sup>18</sup> AVI, Art. 16

<sup>19</sup> AVI, Art. 26

<sup>20</sup> AVI, Art. 25; Art. 290

<sup>21</sup> AVI, Art. 27

<sup>22</sup> AVI, Art. 28

<sup>23</sup> AVI, Art.; AVI, Art. 32, Para.3

<sup>24</sup> AVI, Art. 29

<sup>25</sup> AVI, Art. 30

<sup>26</sup> AVI, Art. 33; Art. 296

<sup>27</sup> AVI, Art. 31, Para. 3

## TRIBUNAL FOR THE LAW OF THE SEA

<p><i>Membership</i> AVI, Article 3</p> <ul style="list-style-type: none"> <li>- No fewer than three from each region</li> <li>- Each nation only one member</li> </ul>	<p><i>Term of Office</i> AVI, Article 5</p> <ul style="list-style-type: none"> <li>- Nine years</li> <li>- Varying terms in initial phase</li> </ul>	<p><i>Expenses of Tribunal</i> AVI, Article 19</p> <ul style="list-style-type: none"> <li>- States parties</li> <li>- Sea-bed Authority</li> </ul>	<p><i>Costs of Parties</i> AVI, Article 34</p> <ul style="list-style-type: none"> <li>- Each party bears its own costs</li> <li>- Tribunal may make deviating decision</li> </ul>
---	--	--	---

<p><i>Experts</i> Article 289</p> <ul style="list-style-type: none"> <li>- Upon request by parties</li> <li>- No right to vote</li> </ul>	<p style="text-align: center;"><i>Tribunal (AVI, Article 2)</i></p> <p>(a) President Elected by Tribunal (AVI, Article 12)</p> <p>(b) Vice-President Elected by Tribunal (AVI, Article 12)</p> <p>(c) 21 members in all Elected by states parties (AVI, Article 4)</p> <ul style="list-style-type: none"> <li>- All available members of Tribunal are to sit; 11 members required to constitute tribunal</li> </ul> <hr/> <p style="text-align: center;"><i>Registrar</i></p> <ul style="list-style-type: none"> <li>- Appointed by Tribunal (AVI, Article 12)</li> <li>- Duties of Registrar: AVI, Article 4, Paragraph 2; AVI, Article 24; AVI, Article 30, Paragraph 4; AVI, Article 32</li> </ul>
---	---

<p><i>Competence</i> AVI, Articles 16, 20-23</p> <ul style="list-style-type: none"> <li>- Open for all states parties</li> <li>- Tribunal has jurisdiction in respect to the Convention (Article 288)</li> <li>- In respect to other agreements</li> <li>- Applicable law (Article 293)</li> <li>- Rules for carrying out its functions</li> <li>- Rules of procedure</li> </ul>	<p><i>Procedure</i> AVI, Articles 24-34</p> <ul style="list-style-type: none"> <li>- Institution of proceedings                             <ul style="list-style-type: none"> <li>- by notification of special agreement</li> <li>- by written application addressed to Registrar</li> </ul> </li> <li>- Provisional measures may be prescribed (Article 290)</li> <li>- Hearings are to be public</li> <li>- Non-appearance of party does not bar the proceedings</li> <li>- Decision taken by majority</li> <li>- Judgement                             <ul style="list-style-type: none"> <li>- Give reasons on which it is based</li> <li>- Contain names of judges</li> <li>- Dissenting opinion permitted</li> </ul> </li> <li>- Signed by President and Registrar</li> </ul>
--	--

