The Role and Activities of the International Tribunal for the Law of the Sea as a Dispute Settlement Body: Judgements, Advisory Opinions and Orders

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Abstract

The International Tribunal for the Law of the Sea is an internationally qualified judicial institution created by the United Nations Convention on the Law of the Sea dated 1982. The Tribunal is founded to solve the disagreements related to maritime law such as transport liberalization, ships and crews immediately release, marine environmental protection of a nuclear plant operation, radioactive materials transport, fishing activities, nationality requirements, the implementation of facilities to use force in international law.

In this study, it is aimed to assess the success level of the implications of the International Tribunal for Law of the Sea active as a mechanism to provide peaceful solutions to international disputes for the future. In this context, the cases within the scope of the Tribunal's jurisdiction will be analyzed in terms of international law in general, also law of the sea in private.

Keywords: UNCLOS, international disputes, law of the sea.

Introduction

The International Tribunal for the Law of the Sea (ITLOS) is an international establishment of adjudication to create within the framework of the United Nations Convention on the Law of the Sea (UNCLOS) in 1982 for the resolution of the disputed in the law of the sea peacefully (Wolfrum, ITLOS, 2006: 3). The ITLOS that was provided by the UNCLOS as a new body, is an independent and neutral tribunal. The tribunal has the jurisdiction on all the disputes related to the interpretation and implementation of the Convention pursuant to the Article 297 and 298 of the Convention. The states which are party to the Convention are free to choose one or more of the judicial tools like International Tribunal for the Law of Sea to be established pursuant to Annex VI provisions; International Court of Justice (ICJ), *ad hoc* arbitration court according to the provisions in Annex VII or a special arbitration court (Wolfrum, ITLOS, 2008: 2). On the other hand, the Tribunal is not only open to the states but also the international legal entities may become a party to the Tribunal in compliance with the Annex IX of the Convention. (Caminos, ITLOS, 2006: 1).

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UNCLOS enables the fair implementation of the Tribunal's jurisdiction. The Convention did not only create a comprehensive and radical changes in the law of the sea but also it provided the creation of a universal and continuous tribunal like ITLOS for a compulsory jurisdictional system (Seymour, 2006: 1). Despite the compulsory jurisdiction with reference to the Convention, the Tribunal has been mainly limited in terms of the subject, scope and number of the cases since its establishment. ITLOS was filed 25 cases since its activity started in October 1996. Many of these cases are related to the matters on which the jurisdiction of the Tribunal is compulsory. The Tribunal has the jurisdiction for the protection of the ocean space as the UNCLOS states. When we consider the practices until today, the ITLOS has mainly focused on ocean space disputes. There is a special principle in the article 290/5 of the Convention on matter and this provision vests the compulsory jurisdiction to the Tribunal.

1. Jurisdiction of the ITLOS

ITLOS has three main jurisdictions. These are to "*rule the cases*" which are brought to it, to "*give advisory opinion*" on the legal disputes and "*to take decisions for temporary protection measure*". Before considering these three, it is meaningful to have a look on the regulations in the United Nations Convention on the Law of Sea for the dispute resolution ways.

The states party to UNCLOS are obliges to solve any disputes related to the interpretation or implementation of this Convention according to the paragraph 3 of the Article 2 of the United Nations Convention with peaceful methods, so they are required to try to find a solution with the tools which are stated in the 1st paragraph of the Article 33 of the UN Convention (UCLOS Article 279). The Section XV of the Convention (the articles from 279 to 299 of the Convention) is on the disputes which may emerge among contracting countries. No provision in this Section affects the right of the states to solve peacefully any dispute on interpretation or implementation of the Convention with any tool (UNCLOS, Article 280). In other words, the UNCLOS gives a priority to the parties for the resolution of the disputes. The regulations on the peaceful resolution of the disputes which are defined within the frame of the Convention are used in case the parties cannot reach a solution by using other peaceful means which they define among themselves (UNCLOS, Article 281). It is that, the dispute among the contracting states cannot be solved with a peaceful tool other than the regulations in the Convention, upon the will of one of the party to the dispute, it should be sent to a tribunal or a court of arbitration which has a jurisdiction in accordance with the articles 297 and 298 (UNCLOS, Article 286).

On the other side, upon the unilateral application of a contracting party to UNCLOS (UNCLOS, Article 286), with consideration of the selections of the parties on the matter, it is possible to take the dispute to an international court or arbitration for a binding decision (UNCLOS, Article 287): i) ITLOS, ii) ICJ, iii) *ad hoc* international court of arbitration, iv) the special court of arbitration pursuant to the Annex VIII of the Convention. The notifications of the parties on the selection of the courts or arbitrations to be chosen are considered for a dispute that cannot be solved in this frame and if the parties accepted the same method and do not take a common decision for another method; the dispute is considered according to this selection; if the parties chose different methods and took different decisions at the same time, the dispute is considered by *ad hoc* arbitration method with reference to the Annex VII of the Convention (UNCLOS, Article 287/3-5). The methods which the parties previously decide comes first than what the UNCLOS foresees (UNCLOS, Article 282) and the peaceful methods in the Convention are effective if other methods cannot provide a solution (UNCLOS, Article 281). Furthermore, the parties have the right to each other to invite to the reconciliation method that is arranged in the Annex V of the Convention on any dispute related to the interpretation or implementation of the UNCLOS (UNCLOS, Article 284; Pazarcı, 2006: 63).

Actually, the accepted jurisdiction of the ITLOS within the framework of the UNCLOS does not include a monopolistic obligatory authority. The compulsory and monopolistic jurisdiction of the ITLOS is only defined in the UNCLOS on three matters: First one is the disputes related to the Section XI of the Convention regulating the international seabed that is called as Area in short as it was amended with the Convention on Modification dated 28.07.1994. Second matter in the jurisdiction of the Tribunal is the disputes on ending to stop a ship and immediate release of the crew if certain conditions are provided (UNCLOS, Article 292). Third matter on which the Tribunal has the jurisdiction is the recognition of the temporary protection authority of the Tribunal if the temporary protection decision is immediately required until the *ad hoc* arbitration is established, if the parties select the arbitration (UNCLOS, Article 290/5).

1.1. Authority to Rule the Cases

The International Tribunal for the Law of the Sea is available for all the contracting parties to the UN Convention on the Law of the Sea, as a rule. Also, 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 (Statue of ITLOS, Article 20).

The matter that is important and different than other international jurisdictions within the content of the jurisdiction of the Tribunal is that the real or legal entities may become party before the Tribunal in two certain cases. The first one is that real or legal entities which are authorized by the flag state of the vessel to be detained may claim the Tribunal to decide for the release of the vessel and the crew immediately (UNCLOS, Article 292/2). The second case where the real or legal entities may be the party before the Tribunal is related to the individual jurisdiction of the Seabed Disputes Chamber. Furthermore, the real or legal entities may only bring a case directly to the Tribunal if the states permit (Merrils, 2000: 188-189).

1.2. Authority to Give an Advisory Opinion

The ITLOS has the jurisdiction power together with the advisory opinion authority. The Tribunal may provide advisory opinion on any legal matter upon the application of the authorized offices pursuant to the Procedural Rules. In this content, the states may apply for the advisory opinion of the Tribunal. This method can be seen as an important tool to clarify a legal matter causing a dispute (Wolfrum, ITLOS, 2006: 5-6).

It is possible to consider the advisory opinion authority of the ITLOS under three headings. First two of these are performed within the framework of the UNCLOS and the third one is realised within the framework of the international agreements other than the Convention: i) the advisory opinion authority of the ITLOS Seabed Disputes Chamber upon the request of the International Seabed Authority General Chamber on the compatibility of any proposal submitting to the General Assembly, ii) the advisory opinion authority of the Seabed Disputes Chamber for the legal matters which the International Seabed Authority General Chamber or the Council face within the scope of their respective activities upon the request of the General Chamber or the Council, iii) the advisory opinion authority with reference to legal matters under the scope of other international agreements. In the latter case, the international agreement should recognise the jurisdiction of the Tribunal on that case. Actually, the advisory opinion authority of the ITLOS is so comprehensive when it is compared with other international judicial bodies. Also, the Tribunal is not equipped with the authority to give advisory opinions upon the request of the international organizations. When it is compared with the International Court of Justice, the advisory opinion authority of the Tribunal is more

general and comprehensive. The reason why the ICJ is equipped with such authority is that it was established as the basic judicial body of the UN. However, ITLOS was not foreseen as the judicial body of any international organization or establishment (Aksar, 2007: 113).

1.3. Authority to Take Provisional Measures

The UNCLOS regulates another matter on which the ITLOS has compulsory and monopolistic jurisdiction. Accordingly, if the parties to the dispute accept the *ad hoc* tribunal for a resolution and the provisional protection measures are required immediately until the formation of tribunal in question, the judicial power of the Tribunal is again exercised (Aksar, 2007: 112).

If a dispute is referred a court or a judicial organisation according to the procedure of the dispute and this court or organisation defines itself *"prima facia"* competent, in order to protect the rights of the stats party to the dispute or to prevent the sea from an important damage, it can rule any order that it deems appropriate. Until a court of arbitration where the dispute was referred is formed, any court or judicial body on which the parties agreed, within two weeks following the date of the provisional measure; if there is not such an agreement, if the ITLOS or the Seabed Disputes Chamber in relation with the Area activities, considers the court to be formed will be *prima facia* competent and the urgency of the case requires, provisional measure can be applied, changed or removed. Here, if the court of arbitration is not formed, upon the unilateral application of a contracting state to the Convention, the protection measure against another contracting state may be claimed until the final decision is taken (UNCLOS, Article 290/1-5).

On that point, the important change which the UNCLOS provided should be mentioned. Firstly, the measures which the Tribunal decides are binding for the parties. Secondly, the measures do not only protect the rights of the parties but also enable the measures for the "*protection of the sea area from serious damages*". These kinds of regulations in the UNCLOS found the field of application in three cases before the ITLOS *(Southern Bluefin Tuna Case, MOX Plant Case, Land Reclamation Case)* (Churchill, 2004: 371). The common side of these cases is that they are all the disputes on the protection of sea environment. These cases enable the Tribunal to contribute to the international law of environment significantly (Aksar, 2007: 112). Moreover, the Tribunal has the authority to impose protection measures

on disputes related to the use of marine species (UNCLOS, Article 290/1; Presentation given by the President of the ITLOS, 2007: 10).

As it is seen, the jurisdiction of the ITLOS has defined largely. In this content, all the disputes related to the interpretation and implementation of the UNCLOS includes the other conventions within the scope of the aims of the Convention. Despite the fact, majority of the cases which were submitted to the Tribunal are generally related to its compulsory and monopolistic judicial competency. Therefore, the cases which the Tribunal considered are on emergencies which the Tribunal had to decide urgently and the unilateral applications of the contracting states for the exercise of two important jurisdictions: They are the cases on immediate release of the detained vessels and respective crews and provisional measures (The ITLOS and the Oil and Gas Industry, 2007: 3-4).

2. Types of Disputes of the ITLOS

It is possible to define the types of disputes which the ITLOS has the jurisdiction as; i) disputes on the interpretation and implementation of the UNCLOS; ii) disputes on the conventions other than the UNCLOS; iii) disputes before the Seabed Disputes Chamber related to the share of the international seabed; iv) disputes to end the detention of the vessels and the release of the crew.

2.1. Disputes on the Interpretation and Implementation of the UNCLOS

The ITLOS has a jurisdiction on all the disputes which are submitted pursuant to the Section XV of the Convention by reserving the rights related to the interpretation or implementation of the Section XI of the Convention (UNCLOS Statue, Article 21; ITLOS, Article 288/1).

The first preference is belong to the parties of the dispute in the dispute resolution methods within the frame of the ITLOS. However, in case no result is achieved, the compulsory resolution principle of the Tribunal becomes active. But, there are some exceptions and restrictions on this compulsory dispute resolution principle. These restrictions and exceptions are stated in the articles 297 and 298 of the UNCLOS.

The UNCLOS Article 297 stipulates some restrictions related to the authorities of the coastal states. The jurisdictions of either other judicial or arbitration bodies or the Tribunal will be possible in below conditions: i) when it is alleged that a coastal State has acted in contravention of the provisions of this Convention in regard to the freedoms and rights of

navigation, overflight or the laying of submarine cables and pipelines; ii) when it is alleged that a State in exercising the aforementioned freedoms, rights or uses has acted in contravention of this Convention or of laws or regulations adopted by the coastal State in conformity with this Convention and other rules of international law not incompatible with this Convention (UNCLOS Statue, Article 297/1); iii) when it is alleged that a coastal State has acted in contravention of specified international rules and standards for the protection and preservation of the marine environment which are applicable to the coastal State and which have been established by this Convention or through a competent international organization or diplomatic conference in accordance with this Convention (UNCLOS Statue, Article 297/1); iv) When the coastal state does not object to the resolution of the disputes on the matters like scientific researches and their suspension in continental shelf and exclusive economic zone before the judicial or arbitration bodies; v) When the coastal state does not object to the resolution of the disputes on the matters like fishing in sovereign exclusive economic zone before the judicial or arbitration bodies (UNCLOS Statue, Article 297/2-3)I the jurisdiction of the Tribunal becomes active.

The Article 298 of the UNCLOS is on that the contracting state that does not want the case to be submitted to one or more of the judicial or arbitration which is defined as compulsory in the Convention for certain disputes has the opportunity to state it previously by a written notification (Pazarcı, 2006: 65). The disputes on the matters which are listed below can be prevented from proceeding before the ITLOS or ICJ, an *ad hoc* arbitration and special arbitration with a written previous declaration: i) the disputes concerning the interpretations and implementation of articles 15, 74 and 83 relating sea boundary (territorial waters, exclusive economic field and continental shelf) delimitations, those involving historical bays or titles; ii) the disputes concerning the military activities by government vessels and aircrafts; iii) the disputes in respect of which the Security Council of the United Nations exercises the function assigned to it by the UN Charter (UNCLOS Statue, Article 298/1).

2.2. Disputes Related to the Agreement other than the UNCLOS

According to the provisions in Article 288/2, it has the 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 according to the agreement. The ITLOS Statue, on the other hand mentions that 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 (ITLOS Statue, Article 21). According to the ITLOS Statue, 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 (ITLOS Statue, Article 22).

2.3. The Jurisdiction of the Seabed Disputes Chamber

The disputes as the subject of the Section XI of the Convention related to the international seabed are counted in the compulsory jurisdiction of the Tribunal. Unlike the ITLOS, the competency of the Seabed Disputes Chamber is automatically accepted by the UNCLOS contracting states. On the other hand, some other alternative methods can be used for certain disputes. Thus, the principle that enables the resolution of the dispute with a method to be selected independently in the Convention became valid for the seabed disputes, as well. As an alternative to the Seabed Disputes Chamber, a dispute between the states related to the provisions in the seabed articles of the Convention can be referred any chamber of the ITLOS as the parties consent. Also, the dispute can be referred to an *ad hoc* committee that will be formed by the Seabed Disputes Chamber upon the claim of a party to the dispute. Similarly, as soon as the parties decide otherwise, it is possible to refer the dispute to an *ad hoc* court of arbitration that can take binding decisions upon the claim of a party to the dispute on the interpretation or application of the Convention. However, the *ad hoc* court of arbitration to be formed has not competency for the interpretation of the UNCLOS. In order to decide on such disputes, they must be referred to the Seabed Disputes Chamber (UNCLOS, Article 188/2).

The Seabed Disputes Chamber has actually compulsory and monopolistic jurisdiction on disputes related to the activities in the Area to meet the requirements of the Article 187 of the Convention. The Chamber has the jurisdiction on various types of disputes. These are; the disputes between the contracting states on the interpretations and application of the Section XI of the Convention and 1994 Application Agreement; the dispute between a contracting state and the International Seabed Authority, for example the cases where a violation or action of the Authority or the contracting state, or violation of the Convention is claimed; the disputes between the legal units and the Authority on the interpretation or application of the Convention (Wolfrum, ITLOS, 2008: 3-6).

On the other side, the Seabed Disputes Chamber has no jurisdiction on the exercise of the authority of the International Seabed Authority. As a natural consequence of this situation, Seabed Disputes Chamber has the competency to decide if the regulations and rules of the Authority are compatible with the Convention or they are void. Therefore, the competency of the Chamber is restricted with the Convention, other legal regulations on the Convention, definitely. As a result, the natural discretion of the Authority to be exercised is not seen within the jurisdiction of the Chamber (Aksar, 2007: 109-110).

2.4. Disputes on Ending the Detention of the Vessels and Release of the Crew

When the implementations of the International Tribunal for the Law of the Sea up to date are examined, there are 25 cases in the list of the Tribunal and 12 of them are on the detention of vessels and immediate release of the crew (www.itlos.org). The immediate end of the detention of a vessel and the immediate release of the crew has an important place in the applications of the ITLOS. The case Saint-Vincent and Grenadines vs. Guinea on *Saiga Vessel* that was decided on 4 December 1997 by the ITLOS is the first case on that sense in addition to that it was the first case which the Tribunal proceeded (Pazarcı, 2006: 64). In the *Saiga Case*, the vessel having the flag of Saint-Vincent and Grenadines and the crew was claimed not to be released. The Tribunal decided within three weeks after the case was filed the Guinea to release the vessel and the crew against sufficient financial assurance and the Guinea followed this decision (Aksar, 2007: 111).

The ITLOS plays an important role for the formation of said provisions by providing a connection with the immediate release that is created by the UNCLOS. For the balance between the flag state and detaining state, the amount of the connection should not be free from the crimes to be claimed and after the release of the detained vessel and the crew, the decisions on the base of the case should be able to be imposed for a secure adjudication (Jianjun, 2008: 115).

The UNCLOS, when a contracting state authorities detains a vessel carrying the flag of another state and the detaining state is claimed violating the UNCLOS provisions upon the payment of a reasonable compensation or financial assurance for the immediate release of the vessel and the crew, the matter of saving from detention can be referred to a any court or judicial body on which the parties agreed or within 10 days after the detention if such agreement cannot be reached, a court or judicial body which the detaining states accepts

according to the Article 287 may be referred. However, the parties can decide otherwise. The ITLOS or another judicial body will examine the release application urgently and consider the release matter alone without affecting the base of a case to be considered in a domestic remedy against the owner of the vessel or the personnel. The authorities of the detaining state have to release the vessel and the crew at any time (UNCLOS, Article 292).

3. Procedural Rules of the ITLOS

The Article 293 of the UNCLOS defined the legal rules for the ITLOS. According to that Article, a competent court or judicial body will apply either rules of this Convention or other rules of the international law not contradicting with the Convention. The competent court or judicial body will have the jurisdiction in compliance with the *ex aequo et bono* principles if the parties so agree. The second paragraph of this article in the Convention was arranged parallel to the ICJ Statue, Article 38/2. Accordingly, the ITLOS also can apply the *ex aequo et bono* principles like the ICJ for the resolution of a dispute if the parties request (Pazarcı, 2006: 66).

In addition to the provisions of the Article 293 in the Convention, the ITLOS Statue includes related provisions on the legal rules to be applied by the Seabed Disputes Chamber; the rules, regulations and procedures of the International Seabed Authority which were accepted according to the Convention and the contracts to be made with commercial partnerships for the activities inside the Area. The addition of said matters into the legal rules to be applied by the Seabed Disputes Chamber is assessed as the natural consequence of the jurisdiction of the Chamber (Aksar, 2007: 112).

4. Practices of the ITLOS: The Cases

When the applications of the ITLOS until today, it was already mentioned that 12 cases over 25 were about the immediate release of the detained vessels and their respective crews. In this context, it can be said that the Tribunal established a strong precedent on the matter. Especially, four of these 12 cases (*Camouco Case, Monte Confurco Case, Grand Prince Case, Volga Case)* were on illegal, uncontrolled and unannounced fishery (Wolfrum, ITLOS, 2008: 8).

The reason of little legal activities of the ITLOS until today is the restricted use of some provisions of the resolution procedures for the disputes within the framework of the UNCLOS

(Churchill, 2004: 382). The Tribunal decided on the base of the case in only one case that was the *Saiga Case*. In two cases (*Swordwish and MOX Plant Cases*) legal actions were suspended. In another case (*Land Reclamation Case*) the verdict was not given and the other case (*Southern Bluefin Tuna Case* – the case to be formed according to the Annex VII) was resulted with the decision in which the Tribunal found no competency on the case. The Tribunal examined only one case *(Swordfish Case)* among these three which were suspended or not considered (Lowe and Churchill, 2004: 484).

The Tribunal also has the competency to decide for the provisional measures. The provisional measure authority similar to the interim injunction is provided with the provision in the Article 290/5 of the UNCLOS. The Tribunal is equipped with a provisional measure authority until the court of arbitration which is needed to be referred is formed. The Tribunal had found the space for the provisional measures in the four cases to be filed *(Saiga Case, Southern Bluefin Tuna Case, MOX Plant Case, Land Reclamation Case).* The common side of these cases is that they are the disputes on the protection of international sea environment and they provided the possibility to important contributions to the international law of the environment. In addition to the compulsory jurisdiction of the Tribunal, the number of the cases which were filed in first ten years and it could consider is just two: One of them is the *Saiga Case* where the Saint Vincent and the Grenadines vs. Guinea. The Tribunal had to answer many tough matters like the nationality tie, compensation of the damages, use of force for the enforcement of the law, how pursuit, if there was a real tie between the vessel and the flag state. Another case where the Tribunal considered the base is between the Chili and the European Union (*Swordfish Case*) on the sustainable fishing and protection of the swordfish stocks in South – East Pacific Ocean. An interesting matter on that case is that it was sent to a special *ad hoc* chamber consisting of five judges instead of the complete committee of the Tribunal. However, this case was postponed as the parties demanded to find a diplomatic solution to the dispute (Wolfrum, ITLOS, 2006: 4-5).

There were two cases to be submitted to the Tribunal for the immediate release of the vessels and the crews in 2007. It was filed by Japan against Russia with reference to the Article 292 of the UNCLOS on 6 July 2007. It was the first time when the Tribunal considered two cases where the parties were the same since its establishment. This caused pressure either on the judges and the Seabed Disputes Chamber or the parties. However, the Tribunal tried to solve both disputes within the time limitation that was defined in the procedural rules (Wolfrum, ITLOS, 2007: 2). These two cases which were decided by the Tribunal were the 14th case that

was *Hoshinmaru Case* and the 15th case that was *Tomimaru Case*. The first one of these two cases was on the release of the Hoshinmaru fishing vessel and the crew. In both cases, the detaining party, namely Russia claimed that the vessels violated the national law of Russia on fishing. Both vessels were performing a fishing activity during an appropriate term with a valid permission document. In the *Tomimaru Case*, the Tomimaru vessel was claimed as having no valid fishing license. In that case the Tribunal reached the conclusion that Japan made no violation and a legal rule was not required (Wolfrum, ITLOS, 2008: 4-7).

Conclusion

The International Tribunal for the Law of the Sea that was created within the framework of the United Nations Convention on the Law of the Sea, 1982 is an independent, neutral, continuous and universal judicial body to undertake important duties for the fair resolution of the disputes with rapid and efficient actions. The ITLOS became a respected establishment in terms of its rapid resolutions and use of current information technologies for the first ten years of its existence. The Tribunal either forms a legal method contributing to the development of the law of the sea or plays an important role for the legal resolution of the disputes which cannot be solved through diplomatic initiatives among the states party to the UNCLOS.

The existence of a continuous judicial body like the ITLOS in international arena provides many functions. Firstly, the establishment of an expert judicial body like the ITLOS is important for the advancement and development of the international law. Such expert judicial bodies play an important role for the authorization of the international law to meet the requirements. All 21 judges of the UNCLOS are experts in their fields and they represent the basic legal systems in the world. Secondly, the parties of the dispute may refer the judges of the Tribunal or the Seabed Disputes Chamber, the Simple Procedural Chamber, Fishing Disputes Chamber and the Sea Environment Disputes for the resolution of a dispute (Gautier, 2005: 347). Also, as an alternative to those, the parties of a dispute may prefer the establishment of an *ad hoc* chamber consisting of at least three members. Thirdly, the verdicts of the Tribunal are binding for the contracting states and the verdict of each one consists a strong precedent. Fourthly, the Tribunal uses an open and rapid procedural arrangement and application. As it is seen, the ITLOS became the part of a legal mechanism functioning greatly in terms of the regulating the use areas of all the states in the ocean activities.

The ITLOS has been performing its duty successfully by deciding fairly in cases which are seen difficult to be solved since its establishment. The Tribunal tries to save the interests of the parties of the dispute and also solves the matters which are filed carefully and with a long consideration. The Tribunal functions as an active and effective organisation to decide on the disputes in the field of the law of the sea as a dispute resolution mechanism. Since the ITLOS is a judicial body enabling the development of fundamental legal systems around the world, it indicates the measure of the consistency in the international law. Together with a legal system that is applied in this way, the international courts or *ad hoc* tribunals or special regimes will be able to increase, the legal mechanisms which will especially provide an answer to the matters in the law of the sea will be formed.

References

Aksar, Yusuf (2007), Evrensel Yargı Kuruluşları, Seçkin Yayınevi, Ankara.

Bozkurt, Enver (2003), Türkiye'nin Uluslararası Hukuk Mevzuatı, İlaveli 3. Baskı, Nobel Basımevi, Ankara.

Caminos, Hugo (4 April 2006), Observer of the International Tribunal for the Law of the Sea, Asian-African Legal Consultative Organization 45th Session, New Delhi, Republic of India.

Churchill, Robin (2004), "The International Tribunal for the Law of the Sea: Survey for 2003", The International Journal of Marine and Coastal Law, Vol. 19, No. 4.

Gautier, Philippe (2005), The International Tribunal for the Law of the Sea: Activities in 2004", Chinese Journal International Law, Vol. 4, No. 1.

Gündüz, Aslan (1998), Milletlerarası Hukuk Temel Belgeler Örnek Kararlar, Beta Yay., İstanbul.

Jianjun, Gao (2008), "Reasonableness of the Bond under Article 292 of the LOSC: Practice of the ITLOS", Chinese Journal of International Law, Vol. 17, No. 1.

Lowe Alan ve Churchill, Robin (2004), "The International Tribunal for the Law of the Sea: Survey for 2001", The International Journal of Marine and Coastal Law, Vol. 17, No. 4.

Merrills, John (2000), International Dispute Settlement, Third Edition, Cambridge University Press.

Pazarcı, Hüseyin (2006), Uluslararası Hukuk Dersleri; IV. Kitap, Gözden Geçirilmiş 2. Bası, Turhan Kitabevi, Ankara.

Pazarcı, Hüseyin (2007), Uluslararası Hukuk, Gözden Geçirilmiş 5. Bası, Turhan Kitabevi, Ankara.

Presentation given by the President of the International Tribunal for the Law of the Sea (21 June 2007), The Meeting of the Friends of the Tribunal at the Permanent Mission of Germany to the United Nations in New York.

The International Tribunal for the Law of the Sea and the Oil and Gas Industry (20 September 2007), Second International Oil and Gas Conference - Managing Risk - Dispute Avoidance and Resolution, London.

Seymour, Jillaine (2006), "The International Tribunal for the Law of the Sea: A Great Mistake?", Indiana Journal of Global Legal Studies, Volume 13, Issue 1.

Uluslararası Deniz Hukuku Mahkemesi web sitesi: http://www.itlos.org

Wolfrum, Rüdiger (20 October 2006), Statement of the President of the International Tribunal for the Law of the Sea to the Sixth Committee of the General Assembly of the United Nations, New York.

Wolfrum, Rüdiger (10 December 2007), Statement of the President of the International Tribunal for the Law of the Sea on Agenda Item 77 (a) at the Plenary of the Sixty-Second Session of the United Nations General Assembly, New York.

Wolfrum, Rüdiger (17 January 2008), Statement of the President of the International Tribunal for the Law of the Sea, Asia-Pacific Ambassadors' Luncheon Intercontinental Hotel, Berlin.