

THE SEA-BED DISPUTES CHAMBER

ARTICLES 186-191

Disputes arising from deep-sea mining activities¹ in the Area are to be settled by compulsory procedures which basically do not give the parties a choice of courts or tribunals.² In interpreting or applying provisions related to the sea-bed Area and related Annexes, jurisdiction is to be exercised in such a manner as to ensure that rulings are uniform. The essential device for achieving this goal is the Sea-Bed Disputes Chamber, a special chamber of the Tribunal for the Law of the Sea.³ This Tribunal elects eleven of its twenty-one members⁴ to the Sea-Bed Disputes Chamber⁵ for a three-year term; a quorum of seven members is required to constitute the Chamber.⁶ The Chamber has jurisdiction in the following cases:

- (1) States parties in dispute may submit cases to a three-member *ad hoc* chamber formed from the members of the Sea-Bed Disputes Chamber⁷ or to a special chamber of the Tribunal for the Law of the Sea;⁸
- (2) Contractual disputes, including those involving the plan of work, with respect to interpretation or application⁹ and financial terms in general and in particular with respect to transfer of technology¹⁰ are to be submitted to binding commercial arbitration (if the parties to the dispute do not agree otherwise).¹¹ But tribunals for commercial arbitration have no jurisdiction on questions of the interpretation of the Area provisions and the Annexes; such questions must be referred to the Sea-Bed Disputes Chamber.¹² In summary: questions on interpretation of the Convention which are related to the interpretation of Part XI (Activities in the Area) cannot be referred to or decided by commercial arbitration;¹³
- (3) The Sea-Bed Disputes Chamber has no jurisdiction with regard to the exercise by the Authority of its discretionary powers; furthermore, it does not pronounce itself on the question of whether any rules, regulations, and procedures of the Authority are in conformity with the Convention, nor does it declare invalid any such rules, regulations, and procedures.¹⁴ This limitation of the Chamber's jurisdiction should be regarded in light of the majority requirements for taking decisions on questions of substance in the Assembly¹⁵ and of the possibility for the Assembly to request opinions from the Chamber.¹⁶

The Chamber gives advisory opinions at the request of the Assembly or the Council on legal questions arising within the scope of their activities and treats such requests as matters of urgency.¹⁷

The procedure of the Sea-Bed Disputes Chamber is governed by the provisions applicable for the International Tribunal for the Law of the Sea.¹⁸ In cases where a natural or judicial person is a party to a dispute, the sponsoring state¹⁹ has the right to participate in the proceedings by submitting written or oral statements.²⁰

¹ Art. 1, Subpara. 1(3)

² Art. 187; Art. 288, Para. 3; Art. 287, Para. 1

³ Art. 287, Subpara. 1(a); Annex VI, Art. 35

⁴ Annex VI, Art. 2

⁵ Annex VI, Art. 35

⁶ Annex VI, Art. 35, Para. 7

⁷ Art. 188, Subpara 1 (b); Annex VI, art. 36

⁸ Art. 188, Subpara. 1(a); Annex VI, Art.15

⁹ Art. 187, Subpara. (c)(i)

¹⁰ Annex III, Art. 13 (15); Art. 5, Para. 4

¹¹ *Ibid*; Art. 188, Para. 2

¹² Art. 188, Subpara. 2(a-b); Art. 288, Para. 3

¹³ *Ibid*; Art. 286

¹⁴ Art. 189

¹⁵ Art. 159, Para. 8

¹⁶ Art. 159, Para. 10

¹⁷ Art. 191

¹⁸ Part. XV, (Art. 289-296); Annex VI, Art. 40

¹⁹ Art. 153, Para. 2(b); Annex III, Art. 4, Para. 3

²⁰ Art. 190, Para. 1

THE SEA-BED DISPUTES CHAMBER

LAW OF THE SEA TRIBUNAL (Annex VI, Articles 1-19) Members: 21 Term of Office: 9 years			
<i>Ad Hoc</i> Chamber (Annex VI, Art. 36) Members: 3	<i>Sea-Bed Disputes Chamber</i> (Art. 186-191; Annex VI, Art. 14, 35-40) MEMBERS 11 (elected from the members of the Tribunal); 7 members constitute a quorum TERMS OF OFFICE: 3 years	Special Chamber (Annex VI, Art. 15) Members: 3 or more	Chamber of Summary Procedure (Annex VI, Art. 15) Members: 5

PRINCIPLES OF THE SEA-BED DISPUTES CHAMBER'S JURISDICTION WITH RESPECT TO ACTIVITIES IN THE AREA

Obligatory Jurisdiction of Sea-Bed Dispute Chamber on Non-Contractual Matters

Disputes between States Parties concerning Part XI, including Annexes, Art. 187(a) - which can, however, be submitted instead:

1. to a special chamber of the Tribunal (Art. 188, Para. 1(a)); or
2. to an *ad hoc chamber* (Art. 188, Para. 1(b))

Disputes between a State Party and the Authority (Art. 187(b)) concerning alleged violation by State Party or Authority with the limitation that the Chamber has no jurisdiction with regard to the Authority's discretionary power (Art. 189)

Obligatory Jurisdiction of Sea-Bed Disputes Chamber on Contractual Matters

Disputes between States Parties, the Authority or the Enterprise, state enterprise, and natural and judicial persons in cases of omission, refusal, or liability affecting contractual relations (Article 187, Subpara. (c)(ii), (d), (e))

but not in

- (1) disputes concerning the interpretation or application of the contract or plan of work Art. 188, Subpara. 2(a) with further reference);
- (2) Disputes over financial terms of contracts (Annex III, Art. 13, Para. 15);
- (3) Disputes related to transfer of technology - commercial terms and conditions – (Annex III, Art. 5, Para. 4).

Such disputes shall be referred to binding commercial arbitration.

Other Tasks of the Sea-Bed Disputes Chamber

- On submission of a commercial arbitral tribunal, decide any question of interpretation of Part XI and Annexes (Article 188, Subparagraph 2(b))
- Advisory opinions at the request of the Assembly on conformity of proposals before the Assembly with the Convention (Art. 159, Para. 10)
- Decisions on suspension of membership (Art. 185)
- Advisory opinions at the request of the Assembly and Council on legal questions (Art. 191)