Interpreting at the International Tribunal for the Law of the Sea

Specific problems and knowledge demands await the interpreter who works for this UN body.

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"On 10th December 1982 the United Nations Convention on the Law of the Sea was opened for signature in Montego Bay, Jamaica. This marked the culmination of 14 years of work involving participation by more than 150 countries representing all regions of the world, all legal and political systems, all degrees of socio-economic development, countries with various dispositions regarding the kinds of minerals that can be found in the sea-bed, coastal States, States described as geographically disadvantaged with regard to ocean space, archipelagic States, island States and land-locked States. These countries convened for the purpose of establishing a comprehensive regime 'dealing with all matters relating to the law of the sea, ... bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole.' The fruits of their labours are embodied in the United Nations Convention on the Law of the Sea."

This is the introductory paragraph of the United Nations Convention on the Law of the Sea, one of the most comprehensive international treaties ever enacted.

Background

The Convention establishes the outer limits of the offshore waters over which coastal States can claim jurisdiction, regulates major issues such as fisheries and navigation, devotes an entire chapter to the prevention of pollution of the marine environment, declares the deep seabed as the common heritage of Mankind and creates the International Seabed Authority to regulate the exploitation of the deep offshore seabed.

The Convention is unique in that the document incorporates a compulsory mechanism that all parties to the Convention must resort to for settling disputes: the International Tribunal for the Law of the Sea, an independent international organisation created pursuant to the Convention.

During the negotiation of the Convention, the city of Hamburg in Germany, with its rich maritime history as part of the Hanseatic League, was appointed the seat of the Tribunal.

On 11th April 1997, the flag of the Tribunal was hoisted for the first time in the presence of Dr Henning Voscherau, the First Lord Mayor of the Free and Hanseatic City of Hamburg, the President, the Judges and the Registrar of the Tribunal. The flag depicts the official seal of the Tribunal: the scales of Justice above the ocean waves, wreathed by laurel leaves.

The bench consists of 21 Judges from all over the world elected, by the signatories to the Convention on 1 August 1996, amongst experts in maritime jurisprudence, many of whom were involved in
negotiating the Convention. The Tribunal met at a first session in October 1996 to settle administrative and organisational matters ranging from the election of officials to the drafting and adoption of its rules of procedure.

At a special inaugural session of the Tribunal in the Great Hall of Hamburg’s City Hall, the 21 Judges of the International Tribunal for the Law of the Sea were sworn in on 18 October 1996 in the presence of high ranking dignitaries including Dr Boutros Boutros-Ghali, the then Secretary-General of the United Nations, and the Federal German Minister of Foreign Affairs.

At the beginning, other members of the UN family of institutions offered the temporary assistance of their staff conference interpreters until such a time as the Tribunal could sort out its own interpreter services. Today, the Tribunal recruits freelance interpreters who work in their mother tongue and who have a certain amount of experience in legal issues and in working for international institutions.

By way of preparation and to provide a solid base for reliable terminology, the interpreters are provided with a wide range of basic documents in both the Tribunal's official languages - French and English.

The principal mode of interpreting is simultaneous, with a considerable amount of sight translation of documents presented in only one of the official languages. Consecutive interpreting is primarily required when the judges interrogate witnesses who speak a language other than one of the official languages of the Tribunal and, until recently, when members of the Tribunal visited the site of the new premises and met with architects and government representatives responsible for the construction project.

The services of interpreters are required in two fields: first, the work relating to judicial administration, i.e., discussions on rules, procedures and internal organisation, management, staff, relations with the host country and relations with UN Member States, and secondly, legal activities themselves including deliberations on cases before the Tribunal and hearings. The hearings, which are generally public, were first held in the Great Hall of the Hamburg City Hall before the courtroom had moved to its temporary premises.

The internal administrative discussions and the deliberations of the Tribunal are conducted in camera between the 21 Judges and representatives of the Registry. Prior to the official inauguration of the new headquarters on the banks of the River Elba on 3 July 2000, in the presence of Mr. Kofi Anan, Secretary-General of the United Nations, and representatives of the Government of the Federal Republic of Germany and of the Senate of the Free and Hanseatic City of Hamburg, these meetings were held in the conference room of the provisional headquarters in the centre of Hamburg.

The interpreters are confronted with a variety of specific problems:

**Frequent quotations from legal texts**

Whether the discussion is on administrative issues or legal matters, reference to various rules and statutes and case law constitutes an essential part of the debate. As the judges often submit draft proposals or amendments in only one or other of the working languages, the interpreters have to be extremely well prepared to find quotations at a glance and be particularly adept at sight translation.

The interpreters not only require a precise knowledge of legal and technical terminology as they also must keep abreast of new terms emerging from the judge's deliberations as these may have a lasting impact on the jurisprudence of the Tribunal. For this purpose, the interpreters have produced a terminology database that is constantly updated.

**Diverse cultural and legal traditions**
Given that the judges come from 21 different countries, there is a wide diversity of accents employed in French and English. Furthermore, the different cultures and traditions are reflected in their approach to legal concepts and the way they present arguments and they often make cryptic references to national jurisprudence with which the interpreters are not always familiar.

**Use of Latin**

Another example of the difficulties interpreters frequently encounter is the use of Latin terms which may have to be translated or left in the original, depending on legal tradition (i.e., *res judicata*, *proprio motu*, *mutatis mutandis*).

**Imbalance of languages**

Of the 21 judges, 17 are English-speaking and 4 French-speaking, which in practice imposes the major burden of active work on the French booth.

**The first interpreting equipment**

During the period of transition prior to the move to the new premises, temporary booths were provided in the conference room at the provisional headquarters. Although these may be perfectly adequate for short conferences when interpreters do not have to cope with an abundance of documents, this type of booth proved far from satisfactory for the kind of work required at the Tribunal. Aside from inadequate ventilation, there was a serious shortage of space given that the interpreters are required to constantly leaf through reference texts, dictionaries and working documents which themselves alone can fill two or three file binders.

**Acoustics**

The acoustics in the conference room were generally satisfactory thanks to the high quality of the interpreting equipment. However, during the first public hearing in the Great Hall of the Hamburg City Hall, the interpreters were confronted with serious acoustical problems, namely electrical interference and echoing.

**Recording**

All of the working meetings, deliberations and public hearings are recorded on tape; listening to a tape recording out of context can never entirely reconstitute a message that is perfectly intelligible in a real situation. In addition, court stenographers listening to the interpretation make a verbatim record of the public hearings and their transcripts are submitted to the parties to the proceedings. The poor acoustics and the stress provided by the temporary booths were an added source of possible errors.

The Tribunal was called upon to deliberate its first case in November 1997. The case concerned the seizure, by the authorities of Guinea, of the oil tanker M/V "Saiga" which flies the flag of Saint Vincent and the Grenadines, off the coast of West Africa. The vessel and its crew, two members of which were seriously injured during the arrest, were held by the Guinean authorities in Conakry under the claim that the vessel was engaged in smuggling activities. Saint Vincent and the Grenadines accused Guinea of piracy.

During the first three years of its existence, the Tribunal has ruled on a total of five cases, a remarkable achievement for an institution that is still in its infancy.

In conclusion, the interpreters can truly say that they feel they have participated in a historic event: the creation of the International Tribunal for the Law of the Sea. Faced with a new and exciting task, confronted with a diversity of cultures and legal traditions, being there at the inception of a new
institution, they have been amply enriched and rewarded with intellectual stimulation.

Sources

- The Law of the Sea
- International Court of Justice
- Acts and Documents concerning the Organisation of the Court, No. 5
- Charter of the United Nations, Statute and Rules of Court and Other Documents, 1989
- Status of the Oceans and the Law of the Sea
- Division for Ocean Affairs and the Law of the Sea, April 06, 1998
- International Tribunal for the Law of the Sea
- Press Releases
- Rules of the Tribunal
- Internal Judicial Practice
- Guidelines
- International Tribunal for the Law of the Sea, A publication by the Federal Republic of Germany, represented by Finanzbauamt Hamburg, September 1996

Recommended citation format: