INTRODUCTION

It has been more than ten years since the inauguration of the International Tribunal for the Law of the Sea (ITLOS) in 1996. One might wonder whether the short history of the Tribunal could be regarded as a success story. Some critics point out that ITLOS has heard only a disappointingly small number of cases so far. Indeed, it cannot be denied that the sum of thirteen cases does not sound particularly impressive. A lot of ocean-related disputes have emerged since 1996, yet most of them have been resolved by means other than the Tribunal.

The main purpose of this article is to analyze why ITLOS is receiving so few cases and to examine how this affects the potential role of the Tribunal, especially concerning the protection of the marine environment. It seems questionable whether the Tribunal will be able to play a more important role in this regard in the future. Arguably, only a court that receives enough cases is able to influence the development of the Law of the Sea in a comprehensive manner.

In this context, the dispute settlement system of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) will be described and analyzed with respect to its effects on the judgments of ITLOS. In addition, the authors will try to find an answer as to why the States Parties to UNCLOS still prefer arbitration to ITLOS. The relationship between ITLOS and the International Court of Justice (ICJ) will also be scrutinized. Finally, measures that might improve the current situation will be presented and discussed.
ITLOS AND THE DISPUTE SETTLEMENT SYSTEM OF UNCLOS: A SHORT OVERVIEW

ITLOS is an independent judicial body established by UNCLOS to adjudicate disputes arising from the interpretation and application of the Convention. The Tribunal, which is situated in Hamburg, is composed of twenty-one independent members elected by the States Parties to UNCLOS.

This Convention has been called a "shining example of international cooperation, diplomacy, and the role of international law in the regulation of international affairs." As the outcome of one of the most complex and time-consuming international diplomatic negotiations that took place in the twentieth century, the Convention is generally regarded as a huge success. It has created a sophisticated and well-balanced framework for the law of the sea and the rights and duties of States in that respect. Yet it is far more difficult to evaluate the role of ITLOS. The Tribunal is perhaps the most significant of the UNCLOS institutions; however, it is not a central, exclusive dispute settlement organ for all law of the sea matters as its name might suggest, although its jurisdiction comprises all disputes submitted to it in accordance with the Convention. The Tribunal is in fact but one of the alternative "procedures" designated by UNCLOS for the settlement of disputes regarding the interpretation or application of its provisions.

Important provisions relating to the Tribunal are to be found in Part XV of UNCLOS and particularly in Articles 287 to 291. As Louis B. Sohn, who has contributed much to the success of the negotiations and especially to the establishment of the Tribunal, points out, the provisions on dispute settlement constitute a breakthrough in the methods of enforcement of international law. The main goal is to promote the peaceful settlement of disputes in accordance with the Charter of the United Nations. The requirement for the peaceful settlement of disputes is expressly mentioned in Article 279 of UNCLOS as one of its main foundations. Therefore, the

2. Id., p. 132.