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*Current Developments on the Law of the Sea Relevant to the Philippines**

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a. *Introduction*

When a government announces new limits for its territorial sea, say 200 miles; when an off-shore oil discovery is made in deeper waters, say 300 meters; when fish resources are depleted in certain areas and there is increased pressure to fish elsewhere; when greater movement of goods, say petroleum, becomes necessary, and by larger and larger tankers; when bilateral or multilateral agreements are concluded over the use, the exploitation or conservation of the ocean or sea-bed resources; when there is an oil spill and vast areas of water are polluted, destroying animal and vegetable life — when any of these or similar events occur, and all these I have mentioned currently occur, there is development, a movement, in the law of the sea, of perceptible dimensions.

And since as an archipelago, we are not only surrounded by seas but there are seas within our territory, every such occurrence has relevance to us, as every wave that washes our shores does not leave the sand, the rocks, the pebbles, the way they were before.

b. *The UN Sea-Bed Committee*

But, quite plainly, the most apparent developments on the law of the sea should be those arising from the proceedings of the UN Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction. Because of the work it is mandated to undertake, this committee should, more appropriately, be called the UN Preparatory Committee on the Law of the Sea Conference which is scheduled next year.

In the language of paragraph 2 of resolution 2750 C (XXV) of 17 December 1970 of the General Assembly, the conference "would deal with the establishment of an equitable international regime — including an international machinery — for the area and resources of the sea-bed

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* Read at the Joint Annual Meeting of the Philippine Society of International Law and Philippine Commission of Jurists on February 24, 1973.

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and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, a precise definition of the area, and a broad range of related issues including those concerning the regime of the high seas, the continental shelf, the territorial sea (including the question of its breadth) and the question of international straits and contiguous zone, fishing and conservation of living resources of the high seas (including the question of the preferential rights of coastal States), the preservation of the marine environment (including, *inter alia*, the prevention of pollution) and scientific research". The committee has been assigned the task of drafting treaty articles dealing with this broad range of subjects and issues. And since the committee is composed of 91 members, decisions or agreements concluded in the committee could fairly suggest, however indecisively, practices of states, primary interests, possibilities of accommodation and compromise.

This is not to say that the committee has reached definite conclusions on any particular issue, or that it shall be able to do so in two more meetings scheduled this year, although it had reached understanding on a broad list of subjects and issues[1] to be considered by the conference. Among the subjects listed are archipelagoes and historic waters — items directly pertaining to the two basic positions of the Philippines on the law of the sea — but the broadness of the list does not augur for easy agreement. The wide-ranging issues dealt with in the list suggest the multifarious interests that must be accommodated if there is to be a successful conference in terms of positive agreements.

c. *Archipelago Concept and Treaty Limits Position*

Let us now recall the principal Philippine positions relating to the law of the sea which we commonly refer to as the archipelago concept and the treaty limits position. The archipelago concept would allow an archipelago, such as the Philippines, to draw straight baselines connecting the outermost points of the outermost islands and drying reefs of the archipelago. From these connecting baselines which enclose the entire archipelago shall the territorial sea commence. We have done this with the enactment of a law defining the baselines of the Philippine archipelago (R.A. 3046, as amended by R.A. 5446). And pursuant to this law and the new Constitution[2], the waters within the baselines are internal waters; seaward from the baselines lies our territorial sea.

The outer limits of our territorial sea are those described in Article III of the Treaty of Paris concluded between the United States and Spain on December 10, 1898, in the treaty concluded at Washington between the United States and Spain on November 7, 1900 and in the treaty between the United States and Great Britain on January 2, 1930.[3]

I must emphasize that the archipelago concept and the treaty limits position do not proceed from common foundations. Their roots are distinct. They are related but are not interdependent. I emphasize this because quite often they are incorrectly treated as one or as mutually dependent. The archipelago concept springs from the fact that our country is an archipelago, that an archipelago is in no way like a continent or an island state, and that, therefore, distinct rules as to its waters properly arise. Upon the other hand, the treaty limits position is traced to the logical implications of the instruments of cession and to the imperatives of history. Thus, while related, the archipelago concept and the treaty limits position are founded on distinct considerations.

1 See UN General Assembly Official Records: Twenty-Seventh Session Supplement No. 21 (A/8721) pp. 4-8.

2 Article I of the new Constitution which took effect on January 17, 1973 provides as follows: "SECTION 1. The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all the other territories belonging to the Philippines by historic right or legal title, including the territorial sea, the air space, the subsoil, the seabed, the insular shelves, and the other submarine areas over which the Philippines has sovereignty or jurisdiction. The waters around, between, and connecting the islands of the archipelago, irrespective of their breadth and dimensions, form part of the internal waters of the Philippines."

3 See Article I of the 1935 Constitution.

The archipelago concept implies full dominion and sovereign rights over waters within the baselines, primarily, the waters between the islands which comprise the archipelago. By the application of the concept, our identity as one state is preserved and our nation is not splintered into 7,000 islands. Upon the other hand, the treaty limits position merely identifies the outer limits of our territorial sea which commences from the baselines proceeding seaward or away from the archipelago.

As an archipelago, our country, as you all know, is not only with seas around it but is with seas within it. If certain states which are entirely surrounded by land areas belonging to other states refer to themselves as "land-locked states", we may perhaps refer to an archipelago not only as "sea-locked" but as "sea-engulfed". This being the case, the natural assumption should be that indispensable to our national interest is control of the waters within our archipelago and of the broadest area possible over waters surrounding it. By this way only may we assure that the waters within and around our archipelago shall not be used for hostile purposes, that they would not be polluted to a degree which would cause us irreparable injury, that our people would fully enjoy both the living and sea-bed resources to which by the logic of geography they should be entitled, and that these waters would not be destructive of the territorial integrity of our country and the unity of its people.

I do not propose to discuss . . . the legal foundation of either the archipelago concept or the treaty limits position. But I must reiterate that I particularly regard the archipelago concept as vital to our national interests, and that it is so distinctly peculiar that its legitimate objectives may not be attained by the application of some other rules of international law. Simply stated, from the Philippine viewpoint, there can be no substitute for it. Upon the other hand, with respect to the treaty limits position, since it deals essentially with the breadth of the territorial sea, not in my view peculiar to an archipelago, some of its objectives may perhaps be attained by the application of some other rules. I mention these so that we may better appreciate the relevance of developments on the law of the sea to our national interests.

d. *Continental Shelf and Sea-Bed Limits*

Because of tremendous interest recently generated in off-shore oil exploratory work in our country, I should recall that although we had not acceded to the Convention on the Continental Shelf we have laid claim to the mineral and other natural resources in the sea-bed and subsoil of the continental shelf of the Philippines, adopting in the process, the definition of the "continental shelf" in the convention.[4] Thus, we claim as part of our continental shelf not only the shelf up to the depth of 200 meters but even beyond these limits "to where the depth of the super-

4 See Proclamation No. 370 issued by the President of the Philippines on 20 March 1968.

jacent waters admits of the exploitation of the natural resources" of the sea-bed and subsoil of the submarine areas. It is perhaps fit to emphasize that a claim to continental shelf jurisdiction is relevant only where the continental shelf extends beyond the limits of the territorial sea. As such, in our particular case, our claim of jurisdiction over the continental shelf would be extremely meaningful in those areas where the territorial sea (on the basis of the treaty limits position) is relatively and extremely narrow. This is especially true in the areas of Palawan and Sulu where at certain points the breadth of our territorial sea is barely three miles.

As the very name of the United Nations committee now engaged in a consideration of law of the sea problems suggests, the primary reason for the establishment of the committee was to give substance to the declaration that "the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as the resources of the areas, are the common heritage of mankind" by the drafting of treaty articles embodying the international regime, including an international machinery for such area and resources. Although some states would avoid the issue initially, it is plain and inevitable that ultimately the limits of national jurisdiction over the sea-bed and the ocean floor must be indicated; for, otherwise, it would be impossible to define the precise limits of national jurisdiction.

Viewed in this light, every effort to define the area of the sea-bed and the ocean floor beyond the limits of national jurisdiction would necessarily have implications on the pronounced limits of national jurisdiction of every coastal, island or archipelagic state.

I wish to caution that at this point, I am referring only to the sea-bed and the ocean floor and the subsoil thereof and not to the superjacent waters. At the present time, it is generally regarded that the limits of national jurisdiction over the sea-bed and the ocean floor are either the outer limits of the territorial sea or the terminal point of the continental shelf, whichever is farther from shore. Otherwise stated, where the continental shelf extends beyond the outer limits of the territorial sea, then the outer limits of the sea-bed and the ocean floor subject to national jurisdiction would be the terminal point or outer limits of the continental shelf. Depending, therefore, on how broad or narrow the territorial sea of a state is, and how broad or narrow its continental shelf may be, the area of the sea-bed and the ocean floor subject to national jurisdiction would be an incident merely of its territorial sea, or it may have to be founded on the continental shelf concept independently of the state's territorial sea. I understand that in our case, there may be certain areas, particularly off Palawan, where the continental shelf extends beyond the limits of our territorial sea.

A great deal of dissatisfaction has been expressed in regard the definition of the term "continental shelf", largely on account of the fact that it encompasses an area even beyond the depth of 200 meters "where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas". Because of the continuing and rapid development of technology which permits the exploitation of sea-bed resources in depths greater than 200 meters, there is theoretically no limit to the extent of the continental shelf which may be claimed by a coastal or island state. While at the present time, most of the commercial exploitation of petroleum is in waters less than 200 meters depth, it is

5 U.N. Document E/4973 (26 April 1971), pp. 19 and 39.

believed that commercial exploitation of petroleum would be possible in 457 meters (1,500 feet) of waters by 1975 and the technological limit would extend much farther off-shore probably in 1,800 meters (6,000 feet) of water depth within the next decade.[5] In fact, it has been suggested that perhaps the only limit to commercial petroleum development in ultra deep water would be the economic feasibility of such an endeavor because of considerable cost increase with water depth rather than technological capability.[6] Aside from oil and gas, of course, other minerals, such as manganese nodules (which have been explored up to 12,000 feet depth in the Pacific Ocean), iron sands, gold, coal, even diamonds, may be derived from the sea-bed and the ocean floor.[7]

There are a number of ways of rectifying the plain indefiniteness of the concept of the continental shelf. A fixed depth or a fixed breadth criteria may be provided. In this connection, it should be recalled that nations have not been endowed by nature with equally broad or equally narrow continental shelves. The width of the shelf may vary from zero to 1,500 kilometers. The shelf is extremely narrow off the western coast of South America and off the eastern coast of the Philippines. Along the coast of Angola and off the Ivory coast the isobath of 1,500 to 2,000 meters approaches the coast so nearly that no shelf at all is present. But others, such as those off the eastern coast of Asia, the northern coasts of the Indonesian Archipelago, Australia, the British Isles, Siberia and the coast of the Bering Sea, extend hundreds of miles. In our case, on the basis of the 200 meter isobath, we hardly have any shelf in certain parts of the country. This tremendous variation in the continental shelves makes the problem of definition extremely difficult. But there could be pressure to settle this problem, and whatever the settlement, it will have implications on our country since our shelves do not appear to be all within our territorial seas.

e. *Breadth of Territorial Sea*

No doubt, however, the question most directly relevant to the problem of the limits of national jurisdiction is the breadth of the territorial sea. Attempts to settle this question in the 1958 and 1960 conferences on the law of the sea were unsuccessful. But it is a vital problem that can not be avoided. It may well be that the success or failure of the present efforts to rationalize and reach agreements on various aspects of the law of the sea would depend on whether or not some understanding could be reached on the question of breadth of the territorial sea.

In the 1958 Convention on the Territorial Sea and the Contiguous Zone, it was provided that "[T]he sovereignty of the state extends beyond its land territory and its internal waters, to a belt of sea adjacent to its coast, described as the territorial sea"[8]. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.[9] In essence, therefore, the territorial sea is an effective extension of the territory of a state. Broadly viewed, the territorial sea has two implications, namely: (a) that of resources both of the waters as well as that of the sea-bed and subsoil thereof: and (b) that of navigation through the territorial sea.

6 *Ibid.*
7 E/4973 at page 9.
8 Article I.
9 Article I, par. 2.

Expansion of the territorial sea necessarily implies contraction of the high seas. This would mean less fish that are free for the catching, less sea-bed and ocean floor for resource exploitation, in short, less of the resources that are part of the common heritage of mankind.

Moreover, from the navigational viewpoint, certain straits used for international passage which previously were high seas would, because of the expansion of the territorial sea, cease to be high seas. If, for example, we assume that the appropriate breadth of territorial sea is six miles, this would mean that a strait of a 20 mile width would have a free channel of at least eight miles. But if the breadth of the territorial sea is extended to 12 miles, then the waters of the entire strait would become territorial in character. At most, there would be right of innocent passage. This has stirred the maritime nations of the world, such as the United States, the Soviet Union, Japan and the United Kingdom.

Because the matter of breadth of the territorial sea is considered unsettled by many states, there have been through the years unilateral extensions of the breadth of the territorial sea, some up to 200 miles, others to the more modest distance of 12 miles. Still others have done so for limited purposes, such as fisheries only.

f. *Compromise proposals: Economic Zone and Patrimonial Sea*

Certain proposals have recently been put forward which, it seems to me, are intended to work out a compromise between those who claim a broad territorial sea of 200 miles and those who insist on a territorial sea of not more than 12 miles. As previously indicated, one may view the problem of breadth of the territorial sea in the light of the incident navigational problem and that of resource control.

Kenya has proposed the establishment of what is denominated to be an economic zone, the limits of which are not firmly indicated but which, in no case, shall exceed 200 nautical miles measured from the baselines for determining the territorial sea.[10] This proposal conceives of a territorial sea of 12 miles but of an economic zone extending up to possibly 200 nautical miles. Within this economic zone, the coastal state shall have exclusive control of the resources of the seas, as well as those of the sea-bed and ocean floor. Of a similar thrust are the conclusions reflected in the general report of the African Regional Seminar on the Law of the Sea held in Yaonde from 20-30 June 1972.[11]

Similarly, in a declaration now known as the "Declaration of Sto. Domingo"[12] approved at a meeting of the Ministers of the Specialized Conference of the Caribbean Countries on Problems of the Sea held on 7 June 1972, it is proclaimed that "[T]he coastal state has sovereign rights over the renewable and non-renewable natural resources, which are found in the waters, in the sea-bed and the subsoil of an area adjacent to the territorial sea called the patrimonial sea." The breadth of the zone is proposed to be determined by international agreement but it is cleared that the "whole of the area of both the territorial sea and the patrimonial sea, taking into account geographic circumstances, should not exceed the maximum of 200 nautical miles". Twelve nautical miles is proposed preliminarily to be the limit of the territorial sea.

10 UN Document A/Ac. 138/SC.II/L.10. Reproduced in A/8721, pp. 180-182.
11 A/AC. 138/79.
12 A/AC. 138/80.
13 Fourteenth session held 10-18 January 1973.

Whether or not these proposals provide for a balanced accommodation of coastal state interests to a broad territorial sea and of the desire of highly developed maritime states, land-locked states and other states desirous of preserving as wide an area as possible for free navigation or free exploitation or international community control is as yet difficult to tell. The proposals are relatively recent and active negotiations along the lines indicated do not appear to have even started. I might state, however, that at Consultative Committee at New Delhi,[13] the suggestion was made to initiate efforts to reconcile fully the concept of the exclusive economic zone and that of the patrimonial sea. If this is accomplished, the proposal would probably draw broad support from African and South American states, perhaps also from Asian countries, in which event it could serve as a basis for negotiations with those who insist on narrow territorial seas.

It is apparent that many states who claim a wide breadth of territorial sea do so largely on account of resource needs rather than navigational considerations while the impression is given by those who insist on a relatively narrow territorial sea that they do so primarily because of navigational considerations rather than a desire to control resources. The Kenya proposal, the Yaonde conclusions and the Declaration of Sto. Domingo would give to the coastal state a broad area of water and sea-bed for resource purposes but would limit the territorial sea to no more than 12 miles. This would accommodate the interest of coastal states over resources without constricting too greatly the high seas for navigational purposes. I would imagine, however, that the problem of passage through straits used for international navigation, the waters of which become entirely territorial, would still have to be dealt with.

g. *Fisheries*

Let me now deal briefly on the problem of fisheries. Dr. Francis T. Christy, Jr. in a paper entitled "An Over-All View of Alternative Arrangements for Fisheries"[14] emphasized the importance and complexities of the problem, as follows:

> There are many and varied issues that will require decisions at the forthcoming UN Conference on the Law of the Sea. Of these issues, those of fisheries are perhaps the most important to the largest number of states, for almost all coastal nations, no matter how small, engage in some form of fishery activity. In addition to their importance, fisheries are worthy of considerable attention because of the complexities involved in making decisions on management and distribution. These complexities derive from the fact that most fish stocks are fugitive in character, freely swimming across man-made boundaries, and that they are, for the most part, not subject to cultivation. Supplies of individual stocks are thus limited by natural conditions and cannot be increased in response to increasing demand. Instead, means for controlling the levels of catch must be devised. And since the stocks are generally shared by two or more nations, the controls must be acceptable to all relevant states.
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> Since the Second World War, the rate of increase in the world catch of all fish has been fairly steady at about 6% per year.

14 Prepared for the 14th Session of the Asian African Legal Consultative Committee (January 1973.

This increase, however, has been made up of two quite diverse constituents. The catch of fish for food purposes has been increasing at a rate of only about 4% per year, while catch for non-food purposes has grown at the very large rate of about 14% per year. This latter development was largely due to the phenomenal expansion of the Peruvian catch of anchoveta combined with the swift development in the use of fish meal as a feed in the commercial production of poultry. An exponential rate of growth of this magnitude leads to a doubling of the quantity every five years and cannot be maintained very long. In fact, the Peruvian catch has levelled off and the opportunities for greatly increasing catches of other fish meal stocks appear to be quite limited.

For this and other reasons, it does not appear that the total world catch of fish will expand in the future at anywhere near the rate it has in the past. Two recent studies making projections of future demand and supply indicate, that future world catch will grow at a rate of only about 3% per year — a major decrease from the record of the past. One of these projections indicates that the total demand by the year 1985, will be about 106 million tons, but that actual catch is likely to lower — about 100 millions tons — because of shortages of supply. These figures compare to about 70 million tons for 1970. The other projection is much more pessimistic, indicating that total world catch may be only about 79 million tons by 1985.

In either case, there are significant indications of growing scarcity in the availability of fish stocks of value to man, on a world-wide basis. This is likely to have several important consequences because the shortage in supply combined with increasing demand increases the value of fish stocks. One of the consequences will be additional incentives for states to acquire greater shares of the seas' fisheries wealth for themselves, whether this is by expansion of jurisdiction or by the adoption of exclusive arrangements. Another consequence is that fishing effort is likely to continue to increase at a rapid pace. Even though fewer fish may be caught per vessel, rising prices for the products will make it economically worthwhile to increase fishing effort. With increases in fishing effort on limited supplies, there will be a further consequence of increased pressures on fish stocks and increased needs for regulations and controls. These kinds of pressures on a global basis will soon be felt in local situations, if they are not already. Thus, there is great need for new arrangements for the management of fisheries and new agreements on distribution of fisheries wealth — a new need that would be present even if the Law of the Sea Conference were not being held.

He then identified what should be the goals of alternative arrangements, thus:

> The examination of alternative techniques for the management and distribution of the seas' wealth in fisheries depends upon the goals that are sought. This presents certain complications because there are many and widely varied goals sought from the use of fisheries and because the different goals may be differently evaluated by the different states. Among the goals that might be sought are such varied objectives as the maximum production of food; the maximization of sustainable yields from stocks; the maximization of opportunities for employment; the maximization of net economic revenues; decreased dependence upon foreign sources of food; and even such items as the enhancement of national prestige or the maintenance of maritime skills.
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> In considering the alternatives, each individual state will want to take into consideration its own evaluation of the goals that it seeks from fisheries. It would, however, be inappropriate and fruitless for us to do so. Instead, we adopt an economic approach, assuming that the goal of maximizing net economic revenues is of general interest to all states. This also permits us to use a common denominator for the examination of the alternatives. With an economic approach, we can say, for example, that one management scheme is likely to produce greater net revenues than another. In the absence of economic information, however, it is difficult to determine what the net contributions to national prestige might be from different alternatives.
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> In addition, the use of economic goals provides a better basis for making choices with regard to non-economic goals. If, for example, a state wishes to use fisheries primarily for the purpose of increasing employment opportunities, the use of an economic approach will help it determine how much loss in revenue it might incur in the use of fisheries for achieving that goal and whether or not the goal can better be achieved through other means.
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> On this basis, we identify four separate goals as being of particular value in the examination of the alternative arrangements — three of these relate to the management of fisheries and the fourth to the distribution of fisheries wealth. **The goal is that of satisfactory maintenance of the natural resources.** While this goal might be considered biological in nature, it is clear that unless the resources are maintained satisfactoriy, economic returns will be diminished. **The second goal is that of reducing economic waste** in the use of fisheries. This goal is worthy of particular emphasis because the traditional conditions of free and open access to fisheries have led to considerable amounts of economic waste. **The third goal is that of reducing the costs of research, management, and enforcement** — an important goal in view of the complexity of the inter-relationships between fish and stocks and between the users of shares resources. **The final goal for decisions is the acceptability** of the arrangements, because management in the production of fisheries wealth cannot be achieved unless all relevant parties abide by the rules.[15]

It seems, indeed, that the problems of fisheries present difficulties in many ways more complicated than those of ocean floor or sea-bed resources. And the danger of depletion of fish stocks through sheer waste and irrational competition impresses the problem with greater urgency of solution. The trouble really with fish is that they are in constant motion, unaware of national boundaries, with no known loyalties to the states from where they may have spawned or from which resources they may have been nourished; they do not distribute themselves equitably

15 Emphasis mine.

among the various states either in terms of population, of poverty, or gastronomic preferences and they will not wait to be caught before they die. Thus, nations with highly developed distant water fishing industries often chide less developed states with the observation that in certain areas, fish die of old age.

The problem of fisheries is, of course, linked to that of breadth of territorial sea. But if no agreement is reached on breadth, the urgency of the problem may demand solution independently of the problem of the territorial sea. As it is, a number of proposals have been tabled but if any of them is to merit serious consideration, there must be realistic demonstration that whatever arrangement is reached would not peculiarly benefit only particular states — and are not intended solely to save the fish from dying of old age.

To us, fisheries has great importance. As a basic food, fish is second only to rice. Our per capita consumption of fish is about 36.5 kilograms of fish per year, which is more than twice the world's average. In 1971, it is said that 67% of the animal protein consumed by our people came from fish. Aside from this, about 700,000 persons are employed in our fisheries industry or roughly 4.05% of the total labor force in the country. It will have to be in full awareness of these that any proposed arrangement on fisheries will have to be considered by us.

h. *Other Problems*

Aside from the problem of limits and its incidents, or the problem of resource control or jurisdiction and that of navigation, current efforts on the law of the sea are also directed towards equally important but perhaps less controversial problems such as those dealing on the preservation of the marine environment, problems of pollution, measures necessary to preserve the ecological balance in the marine environment, scientific research, transfer of technology from developed to developing countries, enclosed and semi-enclosed seas, settlement of disputes, peaceful uses of the ocean space, and even archeological and historical treasures to be found on the sea-bed and ocean floor beyond the limits of national jurisdiction.

i. *Relevance to the Philippines*

How relevant are all these developments to the Philippines? As I had stated at the outset, since our country is not only surrounded by seas but seas are integral parts of our archipelago, any rule dealing on the seas would have its implications on our country. How steadfast we shall be in maintaining certain positions, how strongly we shall support certain efforts at accommodation, how vigorously we shall resist movement of the law towards certain directions will depend on just how importantly we regard certain national interests and how even a common and international approach to the difficult problems does in the ultimate promote and protect these interests.

j. *Rules for the Oceans and Their Resources*

Ladies and Gentlemen: How vast are the waters of the earth?

> The surface of the earth is chiefly water. This is a fact which we as dwellers on the land are apt to ignore or completely forget. The Pacific Ocean covers nearly one-third of the globe; moreover, it is of such great size that if all the continents were placed in it, there would still remain approximately eight million square miles of open ocean surface — an area almost as large as North America and more than twice the size of Europe. The combined areas of all water bodies, including oceans, seas, and lakes, add up to a total nearly three times that of all the lands of the earth; in other words, about 71 percent of the earth's surface is water. In addition to the large expanses just mentioned, there are waters which run as streams on the top of the land and others which lie or move within the upper portion of the earth's crust. Likewise there is water in vapor and condensed form in the atmosphere. Thus, water is an important and practically all-pervasive element in man's habitat.[16]

But what puts increasing pressure on people and states to formulate rules dealing on the waters, particularly the oceans and seas of the earth and the sea-bed and ocean floor beneath them, is not their vastness but the realization that from the waters of the oceans and the seas and the sea-bed and ocean floor beneath them, man may now derive what land has not or now does not adequately provide.

Let me refer, for example, to the search for black gold. For a number of reasons, there is now greater pressure to search for oil off-shore. The following observations[17] may be of interest to you:

> 8. The great expansion of activities in marine geological-geophysical investigations and research in the world's oceans over the last few years is largely due to exploration for subsea petroleum. World off-shore petroleum production has increased sixfold since 1960 and as of 1969 is worth $6,100 million a year. Proved off-shore reserves have tripled and now constitute 21 per cent of the world's total reserve of 430,000 million barrels. Offshore expenditure per annum throughout the world is now about $2,500 million and is expected to increase continuously at about 18 per cent per year. It is apparent that subsea oil and gas become increasingly important to the world's petroleum industry and to the coastal nations.
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> 9. Geological and geophysical exploration is being carried out off the coast of more than seventy-five countries, encompassing all continents of the world except Antarctica. Drilling is in progress off the coast of forty-five of these countries. Although off-shore petroleum is still in an early stage of development, production is now obtained off more than thirty countries, and it accounts for between 17 per cent and 19 per cent of the world's total oil production. By 1980 between 30 per cent and 40 per cent of world oil production — four times the 1969 average off-shore output of 6.5 million barrels per day — is expected to come from beneath the oceans. The increase in gas production is expected to be even larger because of the rising demand for this clean fuel in an increasingly pollution-conscious world.
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> 13. The success of on-shore exploration is not necessarily an indication of the possibilities off-shore. In Nigeria's off-shore delta, for example, the wildcat success ratio for a recent year was 85 per cent (i.e. seventeen discoveries out of twenty wildcats). In Australia (Bass Strait), the very first off-shore well drilled a

16 KENDALL, GLENDINNING, MACFADDEN, INTRODUCTION TO GEOGRAPHY (1951) p. 278.
17 E/4973, pp. 10, 11.

> major discovery although previous drilling in on-shore adjacent areas had been unsuccessful. In South Africa, an important gas and condensate discovery was made in 1969 in the very first off-shore well drilled in 120 meters (40 feet) of water forty miles off-shore from Plettenberg Bay. This well followed more than seventy years of unsuccessful on-shore exploration in South Africa.

In our particular case, the belief is that if we are going to find oil, it will be off-shore.

The wealth and uses of the oceans and the ocean floor is, indeed, vast and extensive. On a global scale, ocean products and uses are said to be concurrently worth nearly US $60,000 million annually.[18] Further development of science and technology would enable man to expand even more their use and value. But as this advance is made, the possibilities of conflict will very likely increase and thus the need even now of rationalizing the problems of order in the ocean.

Discussions in the Sea-Bed Committee have thus far served to draw from participating states the particular interests they each consider vital. This is indeed useful and valuable. But if the number of divergent interests is to portend results, it is plain that many difficult days lie ahead.

The conflicts are multifarious and they are not easily categorized in fixed and clear-cut patterns. The problem really is that when the world was created, its resources were not evenly distributed. Some states have broad continental shelves, others have none; some have long and rich coastlines, others are land-locked; some have a lot of fish proximate to their shores, others have exhausted what little they had; some have big and powerful vessels that can move goods quickly and cheaply, others have no merchant marine or navy to speak of — indeed, the inequality and the disparity in the geographic, economic, geological, etc. situations of the nations of the world is beyond easy enumeration.

Thus, in the law of the seas, traditional alignments in the corridors of the UN are not easily apparent. For example, take the land-locked states. They have no coast to speak of, much less fish or sea-bed. Every contraction of the high seas, or every right accorded to coastal states, is often viewed by them as adverse to their interests. Thus, while a known alignment in the UN is that of developing states on the one hand, and of developed states on the other, we see in the law of the sea both developed and developing land-locked states aligning together. Another known alignment is that of the United States and other western states. And yet, in the law of the sea, the United States, the Soviet Union, the United Kingdom, and Poland, for example, would be pressing the same position in respect of passage through straits used for international navigation. Indeed, in the law of the sea, it may be difficult to speak of old friends — only of common situations.

In this light, is there hope for agreement? It is extremely difficult to hazard a prediction. But if there is to be any, there must first be identification of special interests with ultimate community interest and an overwhelming realization that a price must be paid by all states for order in the oceans. One thing is sure, that agreement can not be reached with the patronizing admonition at times heard from the more

developed states that the new and developing states of the world do not know what is good for them.

Nonetheless, even if no convention is eventually concluded, the current efforts of the world community to formulate rules that shall govern the oceans will have been extremely useful. The statements of delegates to the Sea-Bed Committee now replete in the record, amplifying not only what the law is and what the rules should be, the economic, the political, the geographical and other considerations which must not be ignored; the draft articles and working papers now before the committee; the process of negotiation, at times brief and easy, on occasions, long and tedious; the declarations of groups of states no doubt inspired by the work of the committee, constitute a broad and indubitable index of the factors relevant to an orderly and beneficial use of the oceans and the sea-bed resources, of the law of the sea as it is believed to be and as it is desired to become.

No doubt, whether or not a formal convention should eventually emerge from what has been done in the committee, the future conduct of nations in regard to the oceans and their resources will be guided, impelled or constrained in large measure by what has been said and done there. The law of the sea of the 19th century is in many respects now inadequate and unresponsive; to many, such has now only historical value. The law of the sea of the 1950's is perhaps no longer good law in the 1970's. And before this decade is over, I am certain that the law of the sea will not be what it is believed to be today.

New rules will emerge from the work in the committee, if not by formal treaty or convention, then by an upheaval resulting from a myriad of factors demanding immediate response such as advances in technology, the awesome dangers of pollution, the imbalance in the economic wealth and needs of nations, etc., or by the process of evolution hastened and guided by considerations made clear in the current discussions.

It seems to be the current belief that clarity and definiteness in rules that shall govern nations is as vital as the need for rules to be broadly and widely accepted as truly responsive to the needs of nations. Hence, the effort to codify, to formalize, to write out conventions. But it seems to me that the greater and more beneficial result of the current efforts is not the convention that may result but the process itself that has set in motion the re-examination of traditional rules, the formulation of new concepts, all in the context of the present and the anticipated future needs of states, the potentials of the oceans, their living resources and the wealth of the ocean floor. For in the ultimate, rules that result from this tedious process can truly have meaning and enduring vitality.

k. *Again, the Philippine Archipelago*

Ladies and Gentlemen: Let me conclude with the hope that next time you sail the waters of the Philippine archipelago or marvel at the beauty of the sun vanishing in the western seas of the archipelago, imperceptibly but valiantly, in a myriad of colors, only to rise again from the eastern seas of the archipelago with greater grandeur and fresh hopes, you will swoon in the beauty of the sight, forgetting in the meanwhile that the Philippine archipelago is a legal concept solidly rooted in law and equity with implication of baselines, security, fisheries, oil exploration, passage, territorial integrity and unity of people, land and water.