PHILIPPINE NATIONAL MARITIME ISSUES UNDER THE UN CONVENTION ON THE LAW OF THE SEA

By

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TABLE OF CONTENTS

I. PHILIPPINE NEGOTIATION ISSUES UNDER THE UNCLOS

A. Philippine Exclusive Economic Zone (EEZ) Boundary Delimitation

The Philippines, which is expected to ratify the Law of the Sea Treaty, is bound to enter into negotiations and agreements due to overlapping EEZ boundaries in the North with Taiwan, in the west with Vietnam and the Paracels (which is near the People's Republic of China) in the south with Malaysia and Indonesia, and in the east, with the Palau Islands (a U.S. Trust territory). The primary issue in the settlement of these overlapping boundaries is the determination of what equitable principle should be applied in the boundary delimitation. In specific instances, however, the negotiations process will be further complicated by:

1. The absence of diplomatic relations between the Philippines and Taiwan (the Philippines recognizes the People's Republic of China (PRC) as the sole representative of the Chinese people);
2. The strained relations between the Philippines and Malaysia owing to their Sabah conflict and the alleged Malaysia involvement in the Southern Philippines conflict;
3. The opposition of the United States (US) to the Convention (U. S. administers the Palau islands); and
4. The existence of Third parties to territorial claims which raises the questions of "whom to negotiate with" (the PRC claims sovereignty over Taiwan, while Vietnam, Taiwan, the PRC, France and the so-called Republic of Morac-Songhrati-Meads dispute ownership over

the Spratlys and the Paracels, and Malaysia and the Philippines over the part of the Spratlys.

B. Philippine Continental Shelf Boundary Delimitation

The Philippines claims to the continental shelf westward from the southern coast of Palawan in the direction of the Kalayaan Island Group, may be contested by other states, particularly Malaysia, due to the occurrence in the shelf of a channel 2,600 fathom (fm) deep, marking the western rim of the archipelago. In fact, Malaysia has published a continental shelf map whose boundaries enclosed some islands of the Kalayaan Group and other islands much nearer Palawan than Malaysia.

In other parts of the archipelago on the other hand, where the continental margin measure less than 200 nautical miles from the baselines, a claim to a 200 nautical mile wide continental shelf will be beset with the same problems anticipated in the delimitation of the Philippine EEZ.

C. Philippine Baselines

The Kalayaan Group may be incorporated into the existing Philippine Baseline System without violating any of the provisions of the Convention. A line measuring 117 nautical miles would connect Alicia Annie Reef to a point on Palawan south of Tagbita bay, and another line measuring 102 nautical miles would connect Commodore Reef to Ligas Point on Balabac Island. The other baseline

segments would measure less than 100 nautical miles, and the new water to land ratio after incorporation would be 2.1:1. Incorporation of the Kalayaan Group, however, will be contested by several stats claiming ownership over all or some of the Paracel and Spratly islands.

In the present Baseline System, on the other hand, Baseline No. 26, which closes the Moro Gulf, has to be redrawn to conform to Convention provisions before it could be submitted to the Secretary General of the United Nations. This particular segment measures 136 nautical miles over the maximum allowable length.

D. The Miangas Island

Ownership of the Miangas Island has been the subject of litigation between the United States and the Netherlands, former colonial administrators of the Philippines and Indonesia, respectively. In 1928, the litigation was decided on by the Permanent Court of Arbitration at the Hague in favor of the Netherlands. In 1960, Indonesia fixed Miangas Island as point 56 of its baseline system, such that an area of 4,300 nautical square miles was disputed by the Philippines and Indonesia as territorial seas and internal waters, respectively. Additional marine areas could be disputed if Indonesia further declares territorial seas and exclusive economic zone from its baselines, bringing the total area of Philippine territorial seas under dispute to 6,200 nautical square miles.

If, however, the Philippine International Treaty limits is considered decisive in the settlement of conflicting claims, the Indonesian claim can only be limited to the ownership of the island and/or the surrounding waters (territorial seas), thus forming an enclave within the Philippine International Treaty limits.

E. Kalayaan Group of Islands

The Philippines declared the Kalayaan, a cluster of islands 270 kilometers of the coast of Southern Palawan, as Philippine Territory by reason of proximity, history, indispensable need and effective occupation, and by the fact that much of the Kalayaan area is part of the continental shelf of the Philippine archipelago. China, Taiwan, Vietnam, Malaysia and the so-called Republic of Morac-Songhrati-Meads dispute this declaration. China, Taiwan and Vietnam consider the Kalayaan as not separate but part of Spratlys, and individually claim the Spratlys together with the Paracels on similar grounds of right of prior discovery and effective administration. Malaysia on the other hand, claims some of the islands as part o its continental shelf.

The multi-party dispute generates much interest because of the strategic geographical location and potential petroleum deposits and other marine resources that may be found in the islands' maritime zones. Being naturally formed areas of land surrounded by waters and standing above high tide, the islands may be used to make claims to territorial waters, contiguous zone, exclusive economic zones and continental shelves. The particular characteristics of the Philippines

as an archipelago even makes the incorporation of the Kalayaan to the Philippine baseline System a possibility.

F. Philippine International Treaty Limits

The Philippines Territorial Sea is effectively the marine area enclosed by the International Treaty Limits. The Convention, however, binds the Philippines to conform with the 12-nautical mile territorial sea provision. In this connection the Philippines has the option of abandoning the Treaty Limits as the outer limits of its territorial sea, or devising a diplomatic program that would delay the Philippine declaration of a 12-nautical mile territorial sea, with the end view of introducing an amendment to the Convention that would legalize its claim to a territorial sea on historical basis.

II. REGIONALISM - AN OPTION FOR SETTLEMENT OF JURISDICTIONAL ISSUES

The Asia-Pacific region as a whole is plagued by the shortages of food and energy resources. This shortage is of global phenomenon. But in the case of the Asia-Pacific region the shortage is aggravated by a very high population growth rate, and the shift towards industrialization of the coastal states' economy, such that the sea has been increasingly turned to as a potential source of both food and energy.[1] Claims to the sea and its resources have consequently been raised.

1 Choon-Ho Park, "South China Sea Disputes: Who Owns the Islands and the Natural Resources." *The Journal of Marine Affairs Vol.5, 1978.*

The Law of the Sea Treaty, which provides the legal framework for the seaward extension of coastal states' maritime jurisdiction, has further added impetus to widening unilateral claims to the sea. As a consequence, the Asia Pacific region, the seas have fallen under coastal state jurisdiction. Moreover, claims of sovereignty and jurisdiction over some areas have been disputed.

In the case of the Philippines, studies could be undertaken to seek out possible areas of cooperation whereby the country could actively participate with the end and view of promoting its interest. This task should fall under the competence of the Cabinet Committee on the Law of the Sea, specifically the Third Sub Committee on Negotiations and Agreements' Senior Experts Group on Jurisdictional Issues. The task includes the identification of specific areas of possible cooperation on a regional/ sub-regional basis, and studies on the establishment of appropriate mechanism/s for the settlement of jurisdictional issues, particularly where the Philippines is a direct party to the issue.

III. CURRENT MARITIME JURISDICTIONAL CLAIMS OF OTHER COUNTRIES IN CONFLICT WITH PHILIPPINE CLAIMS

The National Jurisdiction over Maritime Areas as claimed by other countries and in conflict with Philippine claims reveal the following:

A. THE REPUBLIC OF THE PHILIPPINES

The Philippines has declared a territorial sea zone, a continental shelf zone and an economic zone, and is claiming sovereignty and exclusive rights over said zones. In Addition, the Philippine is also claiming territorial rights over North Borneo (Sabah), Kalayaan (Freedom land), and the Marianas-Guam island.

JURISDICTIONAL CLAIMS

Territorial Sea. The Philippines claims a territorial sea zone wherein she should exercise absolute sovereignty. This sovereignty extends to the airspace above, and the seabed and subsoil below the territorial sea.

In delimiting the boundaries of her territorial sea, the Philippines used a combination of historical and legal elements as bases for the claims, instead of the conventional 3-mile or 12-mile limit. Hence, the Philippine territorial sea is defined as the waters extending seaward from the baseline to the limits as determined in the Treaty of Paris in subsequent conventions. baselines, as defined in Republic Act No. 3046, are drawn by connecting the outermost points of the outermost islands and drying reefs of the archipelago.

The waters enclosed within the baseline is distinct from the territorial sea. it is referred to as archipelagic waters. The archipelagic waters, regardless of depth and distance from the coasts, is subject to the sovereignty of the state.

Continental Shelf. The Philippine claims a continental shelf that extends throughout the natural prolongation of the land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baseline from which the territorial sea is measured, whichever extends from farther.

The Philippine will exercise sovereign and exclusive rights, but only over mineral and non-living resources and sedentary living organisms found in the shelf. Other states' freedom of navigation and overflight, and of laying of submarine cables and pipelines will be respected in the superjacent waters, and the airspace above the continental shelf.

Exclusive Economic Zone. The Philippines declared an Exclusive Economic Zone on June 11, 1978. The zone extends 200 nautical miles seaward measured from the baseline from which the territorial sea is measured. Without prejudice to the country's rights over the territorial sea and continental shelf, the Philippines will exercise sovereign rights over the living and non-living resources of the zone, exclusive rights and jurisdiction over the establishments and uses of artificial islands, offshore terminal and other structures, the preservation of marine environment, and scientific research; and such other rights recognized by international law of state practices.

The rights of other states, however, is recognized with respect to navigation and overflight, and the laying of submarine cables and pipelines.

Archipelagic Principles. The underlying basis of the Archipelagic Principle is the unity of land, water and people as a single identity. The necessity of maintaining and preserving this unity is important so that the archipelago may not be splintered into as many islands as compose it with the consequent fragmentation of the nation and the state.

Instead of arbitrary boundaries, straight baselines are drawn connecting the outermost points of the archipelago. The waters enclosed within these baselines, as in the case of continental states, are defined as internal waters.
The archipelagic concept was presented by the Philippines to the United Nations Conference on the Law of the Sea (1974). The concept, co-sponsored by Fiji, Indonesia and Mauritius, embodies three major principles:

1. An archipelagic state whose component islands and other natural features form an intrinsic geographical economic and political entity and historically have or may have been regarded as such may draw straight baselines connecting the outermost points of the outermost island and drying reefs of the archipelago from which the extent of the territorial sea of the archipelagic state is or may be determined.
2. The waters within the baselines, regardless of their depths or distance from the coast, the seabed and the subsoil thereof, and the superjacent airspace, as well as their resources, belong to, and are subject to the sovereignty of the archipelagic state.

3. Innocent passage of foreign vessels through the waters of the archipelagic state shall be allowed in accordance with its national legislation, having regard to the existing rules of international law. Such passage shall be through sea lanes as may be designated by the archipelagic states.

The Philippines had to withdraw the archipelagic concept as a proposed item in the United Nations agenda in 1958 due to lack of support. Since 1967, however, when the concept was again prosed, a number of countries in Africa, Latin America, Western Europe and Asia have proposed consideration and adoption of the concept.

OVERLAPPING BOUNDARIES

Territorial Sea. The Philippine Territorial Sea overlaps in the north with Taiwan's Exclusive Economic Zone and in the south with Indonesia's baselines and the host of maritime zones claimed by Indonesia and are measured from such baselines. The Philippines claims extended territorial sea on the basis of historical right and legal title.

Exclusive Economic Zone. The Philippines 200-nautical mile Exclusive Economic Zone overlaps with that of Taiwan, Indonesia, Malaysia and the Palau Islands and with Vietnam and the Paracels if exclusive economic zones are also claimed for the two island groups. If the Philippines abandons the Treaty Limits

as the outer boundary of its territorial sea, the same area will be disputed as exclusive economic zone of both countries. In the southeastern corner of the Treaty Limits, on the other hand, the intervening waters between the Philippines and Indonesia territorial waters would become disputed EEZ areas. With Malaysia, meanwhile, boundaries could either be redrawn or be maintained in its present status. Malaysia's territorial waters extend up to the Philippine Treaty Limits such that no intervening EEZ or high seas occur in the area.

Continental Shelf. Part of the Philippine continental shelf off the southern tip of Palawan in the direction of the Kalayaan Islands has been enclosed in a continental shelf map published officially by Malaysia, while in other parts of the archipelago where the Philippines will claim seabed areas up to 200-nautical miles measured from its baselines, the name problem of overlapping claims should be anticipated in the delimitation of the Philippine EEZ.

TERRITORIAL CLAIMS

North Borneo. The International Court of Justice has been cited by the Philippines as the proper forum to decide on the validity of her claims to North Borneo, but to date, the case has not been brought to the Court due to the opposition of the other party.

The portion of North Borneo claimed by the Philippines was originally ceded by the Sultan of Brunei to the Sultan

of Sulu in 1704 in exchange for the letter's assistance in suppressing a rebellion.

In 1878, the sultan of Sulu signed a contract with two Europeans, Baron de Overbeck and Alfred Dent, leasing the lands he now owned, comprising what is Sabah today, to the latter. The term of the lease required the Europeans to pay the Sultan of Sulu annual rentals in the amount of approximately $5,300.00.

Some years later, baron de Overbeck and Alfred Dent organized as association, the North Borneo Company, to take over the lease. The Company continued to pay the annual rentals until 1946. In that year, the British government took over the payment of the rentals and continued paying these until 1963. As recent as 1968, letters were being sent to the heirs of the Sultan of Sulu informing them that the rent-money is waiting to be collected by them.

As a result of the Spanish-American war, the Philippines was ceded to the United States. But while the United States was later to occupy the exercise sovereignty over the Philippines, the Sultan of Sulu continued to hold sovereignty over North Borneo by virtue of the Bates Treaty and the Carpenter Agreement entered into by the US and the Sultan of Sulu.

On July 4, 1946 the Philippines gained its independence from the United States. A few days later, the British government without notice to the Sultan of Sulu or to

the government of the new Republic of the Philippines, annexed the territory of North Borneo.

Efforts have since been made by the government to prosecute the claim, first with the United Kingdom and subsequently, with the Federation of Malaysia.

Kalayaan. The Philippines has differentiated the Kalayaan group of islands, located 400 kilometers of West Palawan, from the Spratly and Paracel islands, which are being disputed by the Republic of China, the People's Republic of China and the Republic of Vietnam.

According to the Philippine Ministry of Foreign Affairs, the 31-island group does not form part of the Spratlys. In fact, it is located 321.8 kilometers of the northeast of the disputed territory.

The Ministry recalled that under the *de facto* trusteeship of the victorious Allied Powers of the Second World War as a result of the Japanese Peace Treaty of 1951, Japan renounced all its rights, titles and claim to the Spratly and Paracel Islands. No territorial settlement has been made by the Allied Powers up to the present with respect to their disposition.

The Ministry observed that as long as this group of islands is in the status, it is equally open to economic exploitation and settlement by nations or any member of the Allied Powers on the basis of equally of opportunity and treatment in social, economic and commercial matters.

Kalayaan according to the Philippine claims, has been acquired by the Philippines by right of occupation. The island group discovered by Thomas Cloma, owner of a fleet of fishing and commercial vessels, between 1947 and 1950. In 1956, the Ministry of Foreign Affairs then a department of the national government, declared the islands *res nullius*.

Some of them were newly risen while others were marked in international maps as unchartered and their existence being doubtful. All the islands were unoccupied and uninhabited, which meant that they were open to economic exploitation and settlement by the Filipino nationals who made as much right under international law as other nationals of any other country to carry on such activities, so long as the exclusive sovereignty of any country over them has not been established in accordance with the generally accepted principles of international law, or recognized by the international community of nations.

Guam and the Marianas. For more than two centuries, the Marianas Archipelago, the Carolines, and Guam were politically and administratively under the Spanish Governor General in Manila as a province of the Philippines. In later years, they were ecclesiastically part of the Diocese of Cebu. It was the place of exile for Filipino nationalists and rebels.

On February 12, 1899, Spain sold the Marianas islands, Palaus and Carolines to the German Empire. A year earlier, Guam was acquired by the United States.

The claim over Marianas including Guam is based on the research work of the National Archives, which composed of documents and maps, showing that from 1500's to 1898, these island group was governed by the Spanish Governor General in Manila.

B. INDONESIA

Indonesia, a 13,000-island state, considers its establishment as an archipelagic state of strategic importance to its territorial integrity, and political and economic stability. As early as 13 December 1957, the Indonesian Government proclaimed the country an archipelagic state.

In addition to the declaration of an archipelagic state, Indonesia also proclaimed a territorial waters zone, a continental shelf zone, and an Exclusive Economic Zone. Indonesia also pursues marine interests in the Timor Sea area, and in the Miangas island area.

JURISDICTIONAL CLAIMS

Archipelagic State. When Indonesia proclaimed an archipelagic state, the Indonesian Government stated that all waters around and between the islands of Indonesia, regardless of their width, are the natural appurtenances of the land territory and form part of the internal or national waters under Indonesia's absolute sovereignty.

The unity of land and water is emphasized in the archipelagic state concept. But the right of innocent passage

is guaranteed by Indonesia, unless it infringes upon its sovereignty or security.

Territorial Sea. Indonesia declared a territorial water zone whose breadth is 12 nautical miles measured from the straight baseline segment. Being an archipelagic and strait state, Indonesia can also enclose straits which connect two area of high seas and declare them as territorial waters in accordance with the second provision of the United Nations Laws and Regulations on the Regime of the Territorial sea.

Continental Shelf. On the 20th meeting of the United Nations Conference on the Law of the Sea, Indonesia supported proposal that the coastal state shall exercise sovereign rights over the continental shelf to a depth of 200 meters isobath of beyond that, where the depth of the waters permit exploitation. In addition, Indonesia proposed that the regime of the continental shelf should continue to be applied even in cases where it extends beyond 200 nautical miles (breadth of the exclusive economic zone).

Exclusive Economic Zone. In March 1980, Indonesia declared an Exclusive Economic Zone which extends to a maximum distance of 200 miles from her territorial baselines. Within this zone, Indonesia will exercise sovereign rights over the living and non-living natural resources of the seabed and the subsoil and the adjacent waters, and islands, installation and structures, to marine scientific research, to the preservation of marine

environment, and to other rights based on international law. Indonesia guarantee the freedom of navigation and overflight, and of the laying of cable and pipelines inside the Exclusive Economic Zone while in cases where problems of delimitation with opposite or adjacent countries arise, she is prepared to negotiate with a view to reach an agreement.

OVERLAPPING BOUNDARIES

Archipelagic Baselines. Indonesia proclaimed archipelagic baselines in 1960, long before the adaption of the current rules on archipelago. The Indonesian's baselines conform to the Convention provisions. The inclusion of Miangas Island as point 56 of the Indonesia baseline system, however, presents some difficulties in delimitation.

Miangas was declared as Indonesia's territory by the Permanent Court of Arbitration at the Hague. But Miangas island lies within the International Treaty Limits of the Philippines, such that with the declaration of the Indonesian baseline system, an area measuring around 4,300 nautical miles of Indonesia's internal waters is also claimed by the Philippines as territorial waters.

Territorial Waters. An additional 12-mile-wide strip of ocean seabed and airspace will be disputed by Indonesia and the Philippines once the former formally claim a territorial sea zone measured from the baselines off Miangas Island. The bases of Indonesia's claim remain the Convention provision and

the Permanent Court of Arbitration decision on the Miangas (Palmas) case.

Exclusive Economic Zone. A much larger marine area off Miangas Island will fall under dispute with Indonesia's declaration of a 200-mile Exclusive Economic Zone. Indonesia will gain rights to over 6,200 nautical square miles of marine area now claimed by the Philippines, by applying the principle of equidistance related to the baselines. If the line of equidistance is measured from the coasts, Indonesia's claimed will be slightly reduced.

Continental Shelf. Indonesian and Philippine claims to continental shelf zones unlikely generate as much controversy as claims to a territorial sea or an exclusive economic zone. The seabed between Indonesia and Philippines lies beneath 3,600 meters of water, and the occurrence of hydrocarbon deposits in the seabed is relatively negligible.

TERRITORIAL CLAIMS

The Waters Between Miangas and Mindanao Islands. The Miangas Island present difficulties to both Indonesia and the Philippines. Indonesia on the other hand, owns the island by virtue of the judgement delivered by the Permanent Court of Arbitration, and has consequently fixed said island as basepoint 56 of the Indonesian baseline system.

In the settlement of this territorial issue, if the Philippine Treaty Limits is considered decisive, Indonesia's claims

would be restricted to territorial waters around Miangas Island. If, however, the Indonesian baseline is deemed paramount, then a maritime boundary between Miangas and Mindanao will be drawn. Since Indonesia claims other maritime zones beyond the territorial waters, a common boundary will have to be drawn in accordance with the principles of equidistance or equity. The lines of equidistance may be drawn in relation either to the baseline drawn by both countries, or to their coasts.

Both countries, however, have yet to simplify on their claims.

Timor Sea. The Timor Sea dispute between Indonesia and Australia maybe subdivided into four topics: the continuation of the seabed boundary south of eastern Timor; he continuation of the seabed boundary of the 1972 terminus at point A 25 south of Palau Rot I; the seabed boundary between Christmas Island and Java; and the boundary separating their fisheries area.

On the question of the seabed boundary south of eastern Timor, Indonesia contends that the principle of equidistance shall apply since there is only a single continental margin between the two countries. Australia, on the other hand, contends that there are two continental margins, and thus nominates that Timor Trough, 1,700 fathoms in depth, as the proper boundary.

In the area west of the terminus at point A 25, both countries agree that the principle of equidistance shall

apply. Indonesia favors the line equidistance to be drawn from the Australian mainland to the Indonesia baseline. Australia insists that the line of equidistance shall give full effect to all Australian islands in the area.

With respect to the seabed boundary between Christmas Island and Java, Indonesia questions whether the island generates any rights to continental shelf resources. Christmas Island is within 200 nautical miles off Indonesia and is relatively remote from Australia.

On the issue of fisheries jurisdiction, both countries believe that an agreement can be reached through the application of the principle of equidistance. the two, however, still do not agree as to what baseline should be used.

Natuna Islands. On June 1971, Vietnam claimed an area of the continental shelf north of Natuna Islands. The sone claimed lies south of the line of equidistance between Indonesia and the Vietnamese coast and islands. Since the Vietnamese government has not renounced this continental shelf claim, it is still possible that Indonesia will dispute said claim.

C. MALAYSIA

Malaysia claims jurisdiction over a continental shelf, territorial sea, and exclusive economic zone, but not over a contiguous zone. Malaysia also pursues territorial claims over Amboyna Cay, the Spratly Islands and the Pedra Branca Island.

JURISDICTIONAL CLAIMS

Territorial Sea. Malaysia proclaimed on 2 August 1969 a territorial sea 12 nautical miles measured from normal baseline or the low waterline. In determining the baselines, the outermost point of permanent harbor works is regarded as forming part of the coast. In addition, a baseline may be drawn 24 nautical miles in length across the mouth of a bay, or between appropriate points along a shore fringed with islands or where the coastline is deeply indented.

It must be noted however, that although Malaysia did not officially proclaim straight baseline segments, such can be inferred from recent maps which show straight line segments as outer territorial sea limits. By drawing parallel lines 12 nautical miles closer to the coast, straight baselines can be inferred. Some sections of these baselines, however, cannot be justified according to existing or proposed rules for drawing baselines.

Exclusive Economic Zone. Malaysia declared a 200 miles Exclusive Economic Zone in April 1980. Final boundary delimitations however are still pending until such time with Malaysia and Indonesia should draw their common boundaries, and when the Spratly Island dispute should have been resolved. The continental shelf boundary agreed upon by Malaysia and Indonesia do not conform with the principles of equidistance thus, it is not safe to assume that the continental shelf boundary will also be the economic zone boundary. Ownership of the Amboyna Cay and the Spratly Islands on the other hand, will necessarily affect the final outcome of boundary delimitation.

Continental Shelf. In October 1969, Malaysia and Indonesia agreed upon a common boundary line off the East Coast of West Malaysia, the Coast of Sarawak, and the Strait of Malacca. In 1979, Malaysia unilaterally extended northeast and then southwest the terminus of the agreed boundary line off the east coast of Peninsular Malaysia. The terminus east of Natuna Island, on the other hand, was extended eastward up to the southwest corner of the Philippine treaty limits.

This unilateral claim appears to be the equidistance boundaries with the Thai-Vietnamese mainland. All islands, however, were ignored in determining the boundary limits.

OVERLAPPING BOUNDARIES

Continental Shelf. In 1979, Malaysia issued a Continental Shelf Map which was strongly protested by the Philippines since some portions allegedly overlap with the Philippine territorial claims, specifically:

a. Malaysia's claimed continental shelf extending toward the southwestern tip of Palawan in the area of the Kalayaan
b. Malaysia's claimed continental shelf southeast of Sabah.

Malaysia's diplomatic note to the Department of Foreign Affairs noted that the map was based on its existing bilateral agreement with Indonesia regarding their seabed boundary as well as the principles of international law. It also stated that it does not recognize the Philippine

claim under P.D. No. 1959 issued in 1978 to areas which constitute part of Malaysia's territory.

The Malaysian continental shelf map shows the extent of its continental shelf in the South China Sea enclosing some islands of the Spratlys at Amboyna Cay (Palau Kecil Amboyna), Mariveles Reef (Terumba Mantani), Commodore Reef (Terumba Lakasamana) and the rocks on Layang-layang, Royal Charlotte Reef (Terumba Samarang Berat Besar) and Barque Canada Reef (Terumba Perahu).

On the continental shelf claimed off Brunei, south of Sabah, Malaysia appears to enclose areas that lie closer to the Philippines, and Indonesia as well, than to any Malaysian island.

Exclusive Economic Zone. The Philippine and Malaysian claims to Exclusive Economic Zones will lead to overlapping areas, specifically over the southwestern tip of Palawan including the southern portion of the Spratlys Islands, as well as the southern portions of the Philippines, north of Sabah.

The conflict over boundaries is further aggravated by the economic, political, military and strategic value of the areas under contention. The areas are known to be major source of fishery resources. The Periphery of the South China Sea poses also as a source of mineral resources mainly oil and gas.

The areas of Spratlys is also highly strategic because merchant marines, oil tankers, and major navies use the sea routes which links to East Asia with Africa and Europe.

The settlement of the dispute on the first area of contention (Spratlys) will be very difficult because of the presence of other claimant states aside from the Philippines and Malaysia. On the other hand, on the second area of contention, the Sabah claim may be revived. This will consequently, complicate the issue. Furthermore, there is presently a strain in the diplomatic relations between the Philippines and Malaysia.

TERRITORIAL CLAIMS

Amboyna Cay and the Spratlies. The continental shelf claimed Malaysia enclosed the islands of Amboyna Cay, Mariveles Reef and Commodore Reef, and the rocks of Louisa Reef, Shallow Reef, Royal Charlotte Reef and Barque Canada Reef. In addition, territorial waters drawn around Amboyna Cay and the Shallow Reef.

The delimitation of the shelf boundary basically followed the principle of equidistance, but the islands were totally ignored in determining the limits. Hence, the overlapping of claims. Malaysia's shelf claim overlaps the Philippine territorial claims to Kalayaan (Freedomland). Vietnam, China and the Philippines also claim the Amboyna Cay and the Spratly islands.

Pedra Branca and the Hosburg Light. Padre Branca is an island situated in the eastern approach of Johore Strait. The island has been under Singapore's control, and the Hosburg Light, a navigational aid located in the island, has been supervised and maintained by Singapore for many years.

Malaysia, however, claims the feature on which the lights stands and has included it within her continental shelf.

It is not known what the official positions of these two countries at present are but Singapore and Malaysia have both signified willingness to negotiate delimitations according to International Law.

D. PEOPLE'S REPUBLIC OF CHINA

The People's Republic of China (PRC) has declared only a territorial sea zone. It also recognizes the right of coastal countries to declare an exclusive economic zone, and a continental shelf zone. However, she has yet to declare and define the limits of her own claims. She has, on the other hand, no position on, and has not declared a contiguous zone.

China also lays claim to the following territories: the Paracels and he Spratlys, the Tiao-Yu-Tai (Senkaku) Islands, and the gulf of Tonkin.

JURISDICTIONAL CLAIMS

China defines its territorial sea as its coastal waters up to 12 nautical miles seaward measured from a baseline which is composed of straight line connecting base-point in the mainland coast and on the outermost points of the coastal islands. The water inside the baselines including the Pahar Bay and Chiung Chou Straits are declared Chinese inland

waters. These definitions apply to the Chinese mainland as well as all other islands belonging to China, but which are separated from the mainland and its coastal islands separated by the high seas.

Exclusive Economic Zone. China supports the 200-mile exclusive economic zone. Her avowed policy on the zone is exclusive jurisdiction, and full sovereignty over the zone's renewable and non-renewable resources. With regards to landlocked countries, her position is that they should enjoy reasonable rights, to and benefits from some of the neighboring coastal states.

Continental Shelf. China, however, has yet to declare her own exclusive economic zone. She is awaiting settlement of the territorial dispute over the South China Sea islands before demarcating her zone boundaries. China subscribes to the principles of the continental shelf as a natural prolongation of a continental territory. She recognizes the rights of Coastal states to define the limits of their continental shelf beyond their territorial and economic zone, but the actual limits shall be determined through consultation among states. Within the limits of a declared continental shelf, the state gains exclusive rights to its natural resources, including the mineral sedentary species. In addition, the coastal state may enact all laws and regulations the states deemed necessary to effectively manage its continental shelf.

China, however, has yet to formally announce any intention to declaring marine areas as its continental shelf.

OVERLAPPING BOUNDARIES

Exclusive Economic Zone. China's claim of ownership over the Paracels Islands could be extended to claim an exclusive economic zone. A claim to an exclusive economic zone will overlap with the Philippine Exclusive Economic Zone, if the Kalayaan Island Group is incorporated into the Philippine Baseline System, or if an exclusive economic zone is claimed separately for the Island Group. Disputes over ownership of the South China Sea island, however, makes the more difficult any attempt to delimit exclusive economic zone boundaries in the area.

TERRITORIAL CLAIMS

Paracels-Spratlys. China cites the right of prior discovery and the length of administration as the bases for its claim over these islands. It has offered historical records, even archeological finds, as evidence to support her claim. Chinese historical records and archeological relics reveal that the Chinese have been occupying the islands 2,000 years ago. Thus, when in 1974 the Chinese took over the Paracels by military force, the action was described by them as defensive in the sense that the objective of the action was to regain territories lost to occupation.

Tiao-Yu-Tai (Senkaku) Islands. The Chinese possession (historical records describe how Chinese-diplomat navigators discovered the islands and subsequently made use of that as navigational aid), until 1893 when they were

ceded to Japan by virtue of the Shimonoseki Peace Treaty. The treaty provided for the cession of Taiwan and its appurtenant islands in addition to the Pescadores Islands, to Japan. But the outbreak of another war between Japan and China in 1937 operated to cancel the treaty, thereby effecting the return of the Tiao-Yu-Tai to China.

China did not sign the San Francisco Peace Treaty because it failed to refer expressly to the Tiao-Yu-Tai as one of the restored territories. China also denounces the 1952 Bilateral Treaty of Peace between Japan and the Republic of China. The PRC government claims to be the official government of China, thus questioning the competence of the Republic of China to conclude legally binding international agreement.

Gulf of Tonkin. The People's Republic of China contends that maritime boundary delimitation in the Gulf of Tonkin is an unsettled issue. She rejects the Sino-French Convention of 1887 as the basis for determining her maritime boundaries in the Gulf because of the ambiguities of the terms in the Convention text. She had pointed out that the Gulf was never mentioned in the relevant article of the Convention; thus, the meridian referred to as a boundary line was not a sea boundary line. In addition, the termini of the meridian referred to was not established in the text.

The People's Republic of China proposes that the boundary accords should be utilized only as basis for further settlements.

Northeast Asia Fisheries Issues. In 1950, the People's Republic of China established in the waters of Northeast China Military Warning zone, a military Navigation zone, two Military Operations zone, and a Motor Trawl Prohibition zone. These unilateral claims decreed from limited to unconditional prohibition of entry to the zones.

Japan disputed the claims, but they could not be settled in government levels due to the absence of diplomatic relations between the People's Republic of China and Japan. Pending normalization of relations, fishery agreement has been reached through the Fishery Association of China and the Japan-China Fishing Association of Japan.

But the existing agreement serve only to ease the tension between Japan and the People's Republic of China. A better settlement may be reached if the two countries normalize relations.

E. SOCIALIST REPUBLIC OF VIETNAM

Territorial Sea. The territorial sea claimed by the Socialist Republic of Vietnam measures 12 nautical miles from her baseline to the outer boundary limits of the claim. Baseline are drawn by connecting the farthest point of the coast and the outermost point of Vietnam's offshore islands.
The waters on the landward side, on the other hand, constitute Vietnam's internal waters.

Vietnam claims full and complete sovereignty over the territorial sea, including the sea's superjacent airspace, and the seabed and subsoil below it.

Continental Shelf. Vietnam subscribes to the principles of natural prolongation of land territory in declaring its continental shelf. Vietnam, however, qualified that the zone shall be extended to a maximum of 200 nautical miles from the baselines when the continental margin falls short of this distance.

Exclusive Economic Zone. Vietnam claims an exclusive economic zone which extends 200 nautical miles from the baseline seaward within this zone. Vietnam will exercise sovereign right for the purpose of exploring, exploiting, conserving and managing all natural resources, and jurisdiction over construction and other exploration and exploitation activities, scientific research, marine preservation, and pollution control.

Contiguous Zone. Vietnam's contiguous zone is twelve (12) nautical miles in breadth and is adjacent to, and beyond the Vietnamese territorial sea. Within this zone, Vietnam will exercise customs and fiscal control, and will enforce sanitary, emigration and immigration regulations.

OVERLAPPING BOUNDARY

Exclusive Economic Zone. Vietnam's claim to an exclusive economic zone is complicated by the existing

conflict over the ownership of the Paracels and the Spratlys. Should Vietnam gain control over the Spratlys (including Kalayaan) a claim to an exclusive economic zone will overlap with the Philippine Exclusive Economic Zone. If on the other hand, Vietnam loses its bid for ownership over the Kalayaan, and the Philippines subsequently claims an exclusive economic zone for such island, that zone will also overlap with Vietnam's EEZ.

Another instance where Vietnam's EEZ will overlap with the Philippine EEZ is when both countries claim EEZ's for the islands they presently occupy in the Spratly area.

TERRITORIAL CLAIMS

Paracels-Spratlys. Historical possession is the primary basis of the Socialist Republic of Vietnam's claims to the Paracel and Spratly group of islands. It was pointed out that Vietnamese fishermen have frequented these islands and, as early as 1816, these two groups of islands had been annexed by the King of Annam. In addition, Vietnam claims the Spratlys and the Paracels on the basis of geographical proximity.

In 1933, colonial France, in behalf of Vietnam, seized control of the nine main islands in the Spratlys group, and then proceeded further to capture the entire Paracels. During World War II, Japan gained control over the islands. After the war and Japan's renunciation of its claim over the islands, Vietnam reestablished her position in the said

islands, and naval convoy made regular visits to supply logistics needs of the detachments stationed in the islands. In 1974, however, the People's Republic of China gained complete control over the Paracels. After two days of military confrontation, Vietnam was forced to withdraw from the Paracels to the Spratlys.

At present, Vietnam occupies only six Spratly islands. It is not clear whether reunified Vietnam's position over the Paracels is identical to South Vietnam's position then which states that temporary loss of physical control does not mean relinquishing of a legitimate right to a territory. A 1976 Quan Dhoi Nhan Dan article on the Paracels-Spratlys dispute referred only to the Spratlys and not the Paracels.

Gulf of Tonkin. Vietnam maintains that the Gulf of Tonkin has already been subdivided by virtue of the Sino-French Treaty, and thus proposing to treat the entire gulf as a historic gulf belonging to Vietnam and China only. Vietnam specifically refers to a section in the treaty which mentioned 108˚3 east of Greenwhich (or the north south line passing through the eastern point of Trac Co) as a boundary. She interprets this relevant provision as a delimitation of the islands in, and the water area of the Gulf.

Gulf of Thailand. The precise position of Vietnam on the Gulf of Thailand seabed dispute could not be ascertained due to two developments: Vietnam's reunification, and Vietnamese presence in Kampuchea. But prior to these developments, South Vietnam's position was clear. She has

unilaterally declared the seaward limits of her seabed claim and has rejected the Brevie line as the maritime boundary between Kampuchea and Vietnam.

Vietnam's unilateral claim basically follows the principle of equidistance. The Thai island of Ko Losin and Ko Kra, however, were not considered in drawing baselines from which the points of equidistance were determined. The Brevie Line, on the other hand, was rejected by Vietnam as a maritime boundary because it would forfeit 860 nautical miles of seabed and sea area in favor of Kampuchea.

F. REPUBLIC OF CHINA (TAIWAN)

The government of the Republic of China (Taiwan) has declared two maritime zones, namely, an exclusive economic zone and a territorial waters zone. In addition, it has territorial claims over the Paracels-Spratlys, the Northeast Asia Seabed, and the Senkaku Islands. Taiwan has made no precise claim over a continental shelf area and has not declared a contiguous zone.

JURISDICTIONAL CLAIMS

Territorial Sea. On 6 September 1979, Taiwan declared its territorial waters, defined as the water areas 12 nautical miles seaward measured from the baseline. Taiwanese baselines are the lo-water lines since no segment of straight baselines has been proclaimed.

Exclusive Economic Zone. Taiwan claims an exclusive economic zone that extends two hundred nautical miles seaward measured from its baselines. overlapping boundary claims will be settled by agreement between states concerned, or in accordance with generally accepted principles of international law.

Taiwan pledges to respect the freedom of navigation and overflight and the laying of submarine cables and pipelines within the exclusive economic zone.

Continental Shelf. Although a party to the 1958 Convention on the Continental Shelf, Taiwan insist that the shelf boundaries between adjacent and opposite countries be determined in accordance with the principle of natural prolongation of land territories, and that exposed rocks and islets not be taken into account in determining the continental shelf.

OVERLAPPING BOUNDARIES

Exclusive Economic Zone. Taiwan's Exclusive Economic Zone to the southwest overlaps with Philippine territorial waters as defined by the Philippine International Treaty Limits. The Philippines position had been that its claim is an exclusive economic zone does not prejudice its earlier claims to territorial waters, such that where the territorial waters are wider than 200 nautical miles as in this particular case, the claim to territorial waters is maintained. Taiwan, however, recognizes only a 12 - mile territorial waters zone as provided for in the Convention, such that the country disputes 14,400 square nautical miles of

marine areas earlier declared by the Philippines as territorial waters. Said area could be incorporated in Taiwan\s Exclusive Economic Zone if the principle of equidistance is applied in delimiting the overlapping claims.

Continental Shelf. Taiwan subscribes only to the "natural prolongation of land territory" principle in claiming a continental shelf zone. The Philippines, on the other hand, subscribes to the complimentary principles of "natural prolongation" and a 200-nautical miles wide continental shelf. This could potentially generate conflict once seabed mining technology advances to the level where coastal states will be able to exploit deeper seabed areas.

TERRITORIAL CLAIMS

Paracels-Spratlys. Taiwan claims jurisdiction over these islands on the basis of its historical heritage and as the sole representative government of the Chinese people.
The islands in question have been in Chinese possession since the Yuan Dynasty. During the Second World War, these islands were placed by Japan under the jurisdiction of occupied Taiwan. In November 1946, following the Japanese withdrawal, a naval contingent sent by Taiwan took over the islands but only to withdraw in May 1950 when Chinese (PRC) forces landed in Hainan. After the San Francisco Peace Treaty of 1951, Japan and Taiwan signed a bilateral peace treaty which the latter interprets as Japan's abrogation of all rights, title and claim over the islands in favor of Taiwan. At present, however, Taiwan occupies only one island in the disputed islands.

Tiao-Yu-Tai (Senkaku) Islands. The Chinese claim that these islands have been Chinese territory through discovery of immemorial possession until 1805, when they were ceded to Japan by virtue of the Shimonoseki Peace Treaty. They contend further that with Japan's acceptance of the Potsdam Proclamation of 1945, and later, the signing of the San Francisco Peace Treaty, Japan virtually renounced her right to the islands in favor of Taiwan.

Northeast Asia Seabed. Taiwan's claim of exclusive jurisdiction based in the principle of prolongation of land territory. She had drawn four (4) concession blocks forming a chain northeastward from the Strait of Taiwan and has contracted four foreign oil companies to develop the concessions. In addition, Taiwan, presupposing representation of both mainland China and Taiwan, declared five seabed reserved area which are extensions of Taiwan's claim beyond the existing concessions and whose limits by implication is the coast to mainland China.

G. PALAU ISLANDS (US TRUST TERRITORY)

Palau Island Group is generally considered part of the Western Caroline Islands. (It is about 550 miles east of Mindanao in the Philippine Islands).

The largest island called Babelthuap or Palau is 27 miles long and up to 8 miles wide which is about 120 sq. ml. It is a volcanic island, mountainous, fertile and well-wooded. A

series of small islands and scores of coral islets extend for about 30 miles Southwest from Babelthuap.

The island group also include principally the volcanic islands of Koror Aral Abesan and Malakal, the coral island of Urukthapel, Eil Malk and Peleliu. From the northern tip of Babelthuap to the southern end of Pelelie these islands are surrounded by an almost continuous barrier reef, close inshore in the east but up to 10 miles offshore on the west, forming a large lagoon. Outside the barrier reef lie Anguar a coral island southwest of Peleliu and the Kayang islands.

The native inhabitants are Micronesians who are skilled fishermen. They produce and raise crops for local consumption like sugarcane, coconuts, bananas etc. and some cattle.

There are minerals of importance as phosphate on Anguar and bauxite on Babethuap.

As part of the Caroline island, Palau Island Group has been discovered in 1953 by Ruy Lopez Villalobos and was named Arecifos. During World War I, Koror was the administrative center of all Japanese mandated island. In 1974, Palau island group became part of the Trust Territory of the Pacific Island by the U.S. under the United Nations.

With these, further study is needed to determine the position of Palau vis-à-vis the Philippines on the Law of the Sea. The figure given as the distance between Mindanao

and Palau is rather inaccurate, but the Philippine Bureau of Coast and Geodetic Survey anticipate an overlap between the Philippines and Palau EEZ's.

OVERLAPPING BOUNDARIES

Exclusive Economic Zone. Conflict between Palau Islands and the Philippines is anticipated if the latter declares itself an archipelago and claims to all the rights guaranteed an archipelagic state, including rights to establish maritime zones. A claim by Palau Islands to an exclusive economic zone will overlap with the Philippine Exclusive Economic Zone.

But even if Palau Islands is not established as an archipelagic state, it is in its present status competent to declare a 200-nautical mile exclusive fishery zone. A complicating factor in the study on Palau is the effect of the U.S. opposition to the Law of the Sea Treaty. Palau Islands is a U.S. Trust Territory.

H. BRUNEI

Brunei's impending independence from the United Kingdom in 1983 brings o the surface maritime boundary issues in that part of the Asia-Pacific Rim.

JURISDICTIONAL CLAIMS

Brunei has declared a territorial sea which extends three nautical miles seaward, and a twelve-mile contiguous

zone, broken down as six-mile exclusive and six-mile outerbelt areas. In the absence of proclaimed straight baseline segments, it is assumed that Brunei's maritime claims are measured from the low-water line of Brunei's coasts.

Possible Conflict Issues. A possible conflict issues that may arise at Brunei's independence are Brunei's declared maritime boundaries delimiting its continental shelf from those of Sabah and Sarawak, and Brunei's possible seaward limits which lie in the direction of Spratly Islands.

In 1958, when Britain defined Brunei's continental shelf, the declared frontier may have encroached upon Sarawak's territory. It is not known what position Malaysia will adopt in the future with regards to this issue.

Definitely, Brunei's boundary vis-à-vis the Spratly Islands present more difficulties. Should Malaysia honor Brunei's proclaimed boundaries, it will be difficult to extend them farther since the western terminus is twenty-one nautical miles from a line of equidistance. Even discounting the possibility that Brunei will also claim jurisdiction over some of the islands, Brunei will still have to await the outcome of the conflict over Spratlys in order to determine which country to negotiate with. The absence of declared baselines and the geographical features of the Spratlys will also compound the problem of boundary delimitation.

Other possible points of contention are the possibility of Brunei's getting shelf-locked and of Malaysia claiming areas of sea and seabed assumed presently to be Brunei's territory.

I. SINGAPORE

Singapore's jurisdictional claims reflect its geographically disadvantaged status. Being Zone-locked, she has not declared a continental shelf zone nor a contiguous zone. And having claimed a lesser number of zones, she is involved in only one territorial dispute, with Malaysia, over the ownership of the waters and seabed surrounding the Horsburg Light and Pedra Branca.

JURISDICTIONAL CLAIMS

Territorial Sea. Singapore claims a maritime sea zone whose breadth is twelve miles measured from the low-water lines of her coasts (no segment of straight baseline has been proclaimed). Prior to Singapore's declaration of an economic marine resource zone, she claims only a three-mile territorial sea.

As a consequence of the absence of defined baseline, Singapore has not declared her internal waters.

Economic Marine Resource Zone. In September 1980, Singapore declared an economic marine resource zone whose are extends to two hundred miles from the baseline. No further data pertinent to this claim is yet available.

Although the economic marine resource zone resembles the exclusive economic zone, caution must be practiced in equating the two, considering Singapore's objections to the exclusive economic zone. Singapore favors a regional approach to the economic zone.

TERRITORIAL CLAIMS

Horsburg Light on the Pedra Branca Island. Horsburg Light is a navigational aid located at the Pedra Branca, a strategic island situated in the eastern approach of Johore Strait. The light has been supervised and maintained by Singapore for many years. The island, on the other hand, is clearly within Singapore's territorial limits, and has been in her control for well over a century.

Recently, however, Malaysia has demarcated the areas as part of her continental shelf. Singapore protests this Malaysian action but is willing to amicably settle the issue.

J. DEMOCRATIC KAMPUCHEA

Democratic Kampuchea has declared a territorial sea zone, a continental shelf and exclusive economic zone. In the process of demarcating her claims, Democratic Kampuchea got involved in a dispute over the Gulf of Thailand seabed. The status of Kampuchea's claims, however, are uncertain, considering the two changes of government and the presence of Vietnamese forces in the country.

JURISDICTIONAL CLAIMS

Territorial Sea. Kampuchea declared in 1977 a 12-mile territorial waters zone. The country, however, maintains its reservations over the convention provisions on territorial sea limits. It considers the provision ambiguous.

Kampuchea is also working for the revision of the right of innocent passage in the light of the danger and damage that may be precipitated by warships, large oil tankers and fishing vessels. She proposes that foreign vessels that do not frequent a coastal state's ports should be outside territorial sea limits and should enter territorial sea zones only in time of danger or *force majeure.*

Continental Shelf. Kampuchea deplores the dual criteria of the depth of superjacent waters and of the possibility of exploiting underwater areas, claiming this would favor great industrial powers with their superior technology. For its part, Kampuchea declared in 1957 her continental shelf to the depth of 50 meters isobath. Sovereignty over this shelf extends to the superjacent waters.

Exclusive Economic Zone. Kampuchea declared on 15 January 1978 an exclusive economic zone whose breadth is 188 nautical miles measured from the outer limits of her 12-mile territorial sea. The country claims without prejudice to the traditional rights of navigation and overflight and of the laying of cables and pipelines.

sovereignty rights over the natural resources found in the zone's seabed and ocean floor, as well as the superjacent waters.

Kampuchea, however, reserves the rights to impose limitations if, in the pursuit of such traditional rights, her interests are threatened. In addition, Kampuchea contends that warships, tankers and other vessels transporting pollution and harmful or dangerous substances and fishing vessels should not be accorded the right of innocent passage.

TERRITORIAL CLAIMS

Gulf of Thailand. Kampuchea's unilateral claim to a part of the Gulf of Thailand seabed primarily on the median-line principle.

The western limit of Kampuchea's claim was drawn by getting the mining the baseline, Kampuchea made use of the island of Kao Pring as basepoint, while the islands of Ko Losin and Ko Kra in the Thai side were ignored. The southern limit of the claim is proposed to be the Brevie Line, but Vietnam rejects the proposals. The northern limit, on the other hand, may have been based on the Protocol attached to the boundary treaty entered into between France and Thailand in 1807. The Protocol states that "the boundary between French Indo-China and Siam leaves the sea at the point opposite the highest point of Koh-kut island."

K. JAPAN

Japan claims two maritime zones: a territorial sea and a continental shelf. She is opposed to the establishment of an exclusive economic zone and does not claim a contiguous zone. Relative to the determination of boundaries of jurisdictional claims of archipelagic states, Japan subscribes to the archipelagic formula submitted by the United Kingdom.

JURISDICTIONAL CLAIMS

Territorial Waters. On 22 May 1977, Japan declared its internal and territorial waters. All waters around and between islands enclosed in a baseline are declared internal waters and the area of the sea extending from baseline to 12 nautical miles seaward is declared as territorial sea. In the case of overlapping claims, japan would follow the "Baseline Principle". The "Baseline Principle" means that the boundary line would run exactly halfway between the sea separating any two countries.

Continental Shelf. Japan recognizes as extension of jurisdiction of coastal states over continental shelves, or coastal seabed areas, but only up to 200 nautical miles measured seaward from the outer limits of the territorial seas and solely for the purpose of exploring and exploiting non-living resources.

With respect to the delimitation of jurisdictional claims over continental shelf or coastal seabed area between adjacent and opposite states, Japan favors the adoption of

the principles of equidistance, except for certain special circumstances as in the definition of the outer limits of a coastal seabed area. Moreover, it seeks, in relation to the continent part of the territory, equitable share for islands and islets in supporting coastal seabed areas.

Exclusive Economic Zone. Citing United Nations Food and Agricultural Organization (UNFAO) reports that the present level of marine resource utilization is still way below the level of over-exploitation, japan has opposed the principle of the EEZ. Furthermore, Japan believes that the EEZ would accentuate rather than diminish existing inequalities since major fertile fishing grounds would fall under exclusive jurisdiction of several coastal states including some highly developed countries.

In lieu of the EEZ, Japan has put forward alternative proposals of : a) regional cooperation, especially in the field of conservation of endangered fish species; b) special treatment based on equity and justice, for land locked and otherwise geographically disadvantaged countries, and for states overly dependent on fishing industry; and c) respect to traditional fishing rights of states.

Archipelagic Principles. Japan has formulated its own parameter in the establishment of archipelagic states: the establishment of a regime of archipelago should not result in the undue curtailment of the legitimate interest of other states or the general interest of the international community. Specifically, the archipelagic state should be objectively

and reasonably defined; freedom of navigation should be safeguarded; and the existing rights and interests of the countries in the region should be adequately protected.

In addition, Japan has expressed agreement over the United Kingdom (UK) formulation on the establishment of archipelagic states. It suggests that only states constituted wholly by one or more archipelago shall qualify for archipelagic statehood.

TERRITORIAL CLAIMS

Senkaku (Tiao-Yu-Tai) Islands. Japan's claim to the Senkakus relies. heavily on the principles of prior discovery and effective occupation and on the strength of the Okinawa Reversion Treaty.

Tatsuhiro Koga, a Japanese national, discovered the Senkakus in 1884 and has since then engaged in various activities in the islands, including their development. In 1886, when the Ryukyu (Okinawa) government annexed the Senkakus, Koga was granted the use of the island, free of charge, for 10 years. When the free lease expired in 1926, Senjiro Koga, Tatsuhiro's son purchased the Senkakus from Ryukyu government.

At the end of the Second World War, the Senkaku and Mansie islands were placed under American administration. Article 3 of the San Francisco Peace Treaty did not specifically mention the islands in question, but Proclamation 27, and Ordinances 22 and 68 clearly provide

that the islands fall under US administration. With the ratification of the Okinawa Reversion Treaty, Japan in effect, regained jurisdiction over the Senkakus.

With regards to the effect of the Treaty of Shimonoseki and Sino-japan Treaty of 1962 on the issue, Japan maintains that the Senkakus were never a part of Taiwan; hence, China never gained jurisdiction over the islands through said treaties.

Northeast Asia Seabed. Japanese claims over the Northeast Asia Seabed follows the "median line principles". In 1969, four Japanese oil companies applied for mining rights to four blocks, located in a chain extending from the Korean Strait down East China Sea in the area of the disputed Senkaku Islands. The four blocks were drawn in accordance with the principle of equidistance. The disputed Senkakus were assumed Japanese territories and were consequently used as basepoints in drawing the baselines from which the median lines were measured. Once the Japanese government approves the applications, or formally defends the applicants, the claims shall have become official potion of the Japanese government.

Northern Territories. Japan's claim over the Kuriles is based on the Russo-japanese Treaty signed 7 May 1875 in St. Petersburg wherein Japan yielded its interest over the Sakhalin in exchange for the rest of Kuriles (from Uruppo Island northward up to Shimushu Island). To them, the Russian annexation of the Kuriles was illegal on the grounds that Japan was never present

during the negotiations, and that the 1951 San Francisco Peace Treaty did not name the USSR as successor to the Kuriles, and in any case, the Soviet Union was not signatory to the treaty.

Sakhalin. Japan's jurisdictional claim over the southern part of Sakhalin Island is based on the Treaty of Portsmouth.

Japan claims to have preceded the USSR in discovering, exploring and settling on the Sakhalin. She renounced her claims through the Treaty of Portsmouth which provided for Japanese control over southern Sakhalin and fishing privileges off the Soviet territory of Kamchatko.

Japan rejects the applicability of the Yalta Accords and the San Francisco Peace Treaty on Sakhalin in since this territory was acquired through negotiations and not through military occupation.

Japan-Soviet 200 - Mile Confrontation. Restricted from the rich fishing ground of the United States, Canada and the Union Soviet Socialist Republics, Japan hoped to compensate for this loss by concentrating its operations in areas still open to Japanese exploitation, as in the North Pacific. The Union of Soviet Socialist Republic, however, declared a 200-mile fishery zone off its North Pacific coast, whose boundary enclosed the disputed fishery zone and whose boundary also enclosed the Kuriles. Conflicting boundary claims and intense competition for marine resources led to the confrontation.

The dispute has yet to be settled, Japan hopes to reach a fishery agreement with the Union of Soviet Socialist Republic without necessarily prejudicing its claim to the Kuriles.

Northeast Asia Fisheries Issue. Asserting freedom of the high seas, Japan protested the People's Republic of China's establishment of five military and conservation zones in the waters of Northeast Asia. The zones practically prohibited Japanese fishermen from entering large areas of the Yellow and East China seas.

In the absence of diplomatic relations between japan and China, settlements were negotiated through the Fishery Association of China and the Japan-China Fishing Association of Japan. But the agreement reached served only to ease a little the tension between the two countries.

In a parallel development, Japan and Korea signed a Fisheries Treaty in 1965 wherein both countries recognize exclusive rights of both over a 12-mile fishing zone, and equal rights over a joint control zone. This treaty was reached after Japan rejected Korea's peace line proclamation wherein the latter claimed waters from 20 to 200 limes from the shore.

L. THAILAND

Thailand has claimed three maritime zones: a continental shelf zone, a territorial waters zone and an exclusive

economic zone. she has signed agreements with neighboring countries regarding the delimitation of her claims. One issue, however, remains to be settled - the dispute over the seabed of the Gulf of Thailand.

JURISDICTIONAL CLAIMS

Territorial Waters. Thailand claims sovereignty over a territorial sea whose breadth is 12 nautical miles measured from straight baseline segments. The baseline segments proclaimed in June 1970, conform with the proposals contained in the Draft convention on the Law of the Sea.

Thailand's claim its sovereignty to extend to the seabed and subsoil below, the airspace above the territorial waters.

Continental Shelf. Thailand has reached agreements with neighboring India, Indonesia and Malaysia with regards to common continental shelf boundaries in the following areas; the northern part of Malacca and the Andaman Sea. In the gulf of Thailand, on the other hand, Thailand unilaterally declared a continental shelf zone. The boundary delimitation of this zone roughly follows the principle of equidistance although the consideration of islands was selected thereby arriving at a different version of lines of equidistance.

Exclusive Economic Zone. Generally Thailand favors the adoption of the 20-mile exclusive economic zone but she had stipulated that living resources shall be shared on an

equitable basis by all interested states and that concepts and terms used to express the principle of the exclusive economic zone be further qualified.

Thailand accepts the concept of the coastal states' exclusive jurisdiction over the seabed and subsoil but contends that because of the renewable character of the zone's living resources, such shall be shared with other interested states to ensure and optimum utilization.

TERRITORIAL CLAIMS

Gulf of Thailand. In May 1973, Thailand unilaterally declared the boundaries of her seabed claim in the Gulf of Thailand. The delimitation of her claim involved the drawing of lines equidistance between the Thai mainland and the large islands, such as Kao Rong, which are close to the Kampuchea-Vietnamese coast. This procedure of determining the lines of equidistance entirely disregarded the Thai island of Kao Wai, and the Vietnamese island Hon Panjang. Since the Thai islands are nearer the Thai coast than the Kampuchean and Vietnamese islands are to Kampuchea or Vietnamese coast, in effect, this version of equidistance is to Thailand advantage.

But this Thai version may be viewed as a tactical move only whose aim is to force Vietnam and Kampuchea to negotiate (previously they have announced versions of equidistant lines which are to Thailand's disadvantage).

The Thai boundary as it proceeds southwestward from the Thai-Kampuchea land boundary terminus, on the other hand, bears no resemblance to the line of equidistance but appears to be the extension of the land boundary.

M. LAOS

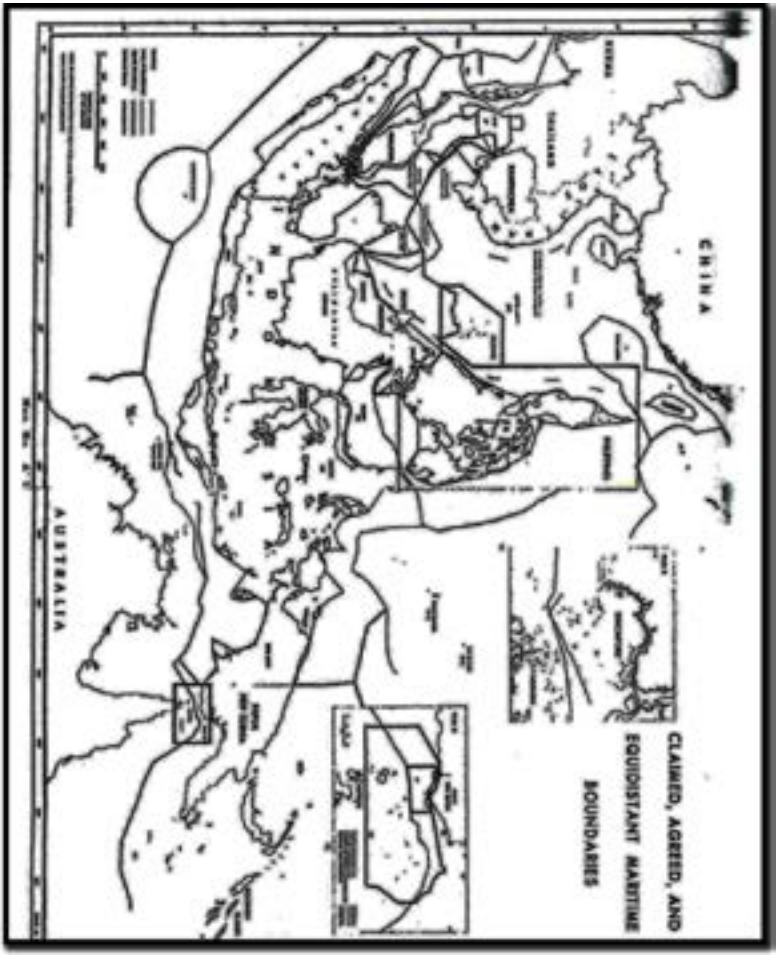
Lao is a small and the only land-locked country in the Asia-Pacific Rim. She is bounded by China on the north, Vietnam on the east and northeast, by Kampuchea on the south and Thailand and Burma on the west. This land-locked status disqualifies Laos from claiming any of the four maritime zones. But instead of rendering Laos detached, this status makes her more concerned over the maritime issue.

In fact, Laos is a signatory to the Kampala Declaration. This declaration laid down a fundamental right of all states, regardless of geographical status, free access to and from the sea, and access to the resources of the sea. This right is based on the concepts of the "right of transit" and of the sea as "common heritage of mankind."

The right of transit is juridically equivalent to the right of innocent passage. This ensures land-locked and otherwise geographically disadvantaged states free of access to and from seas. The concept of common heritage, on the other hand, ensures countries like Laos equal rights to the boundaries of the sea.

IV. WORKING MAPS FOR JURISDICTIONAL ISSUES

A. CLAIMED, AGREED AND EQUIDISTANT MARITIME BOUNDARIES



B. THE PHILIPPINE MARINE JURISDICTIONAL BOUNDARIES

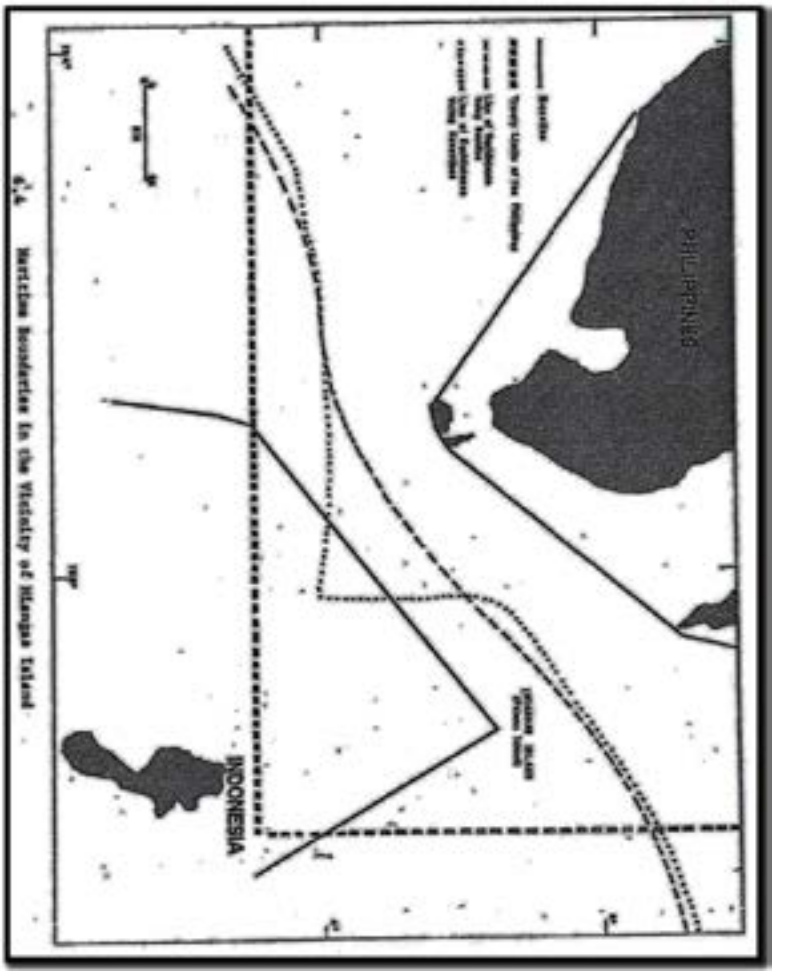
Republic of the Philippines, showing marine jurisdictional boundaries. (Sources: Geographic coordinates as listed in legislation and treaties cited above, as well as the "working map" of the Philippines' EEZ Claim (1979), as provided by Dr. Nazio Manansala of the Bureau of Coast and Geodetic Survey in the Ministry of Defense, Republic of the Philippines)

C. THE PHILIPPINE PROPOSED ARCHIPELAGIC SEALANES PASSAGE OF THE PHILIPPINES

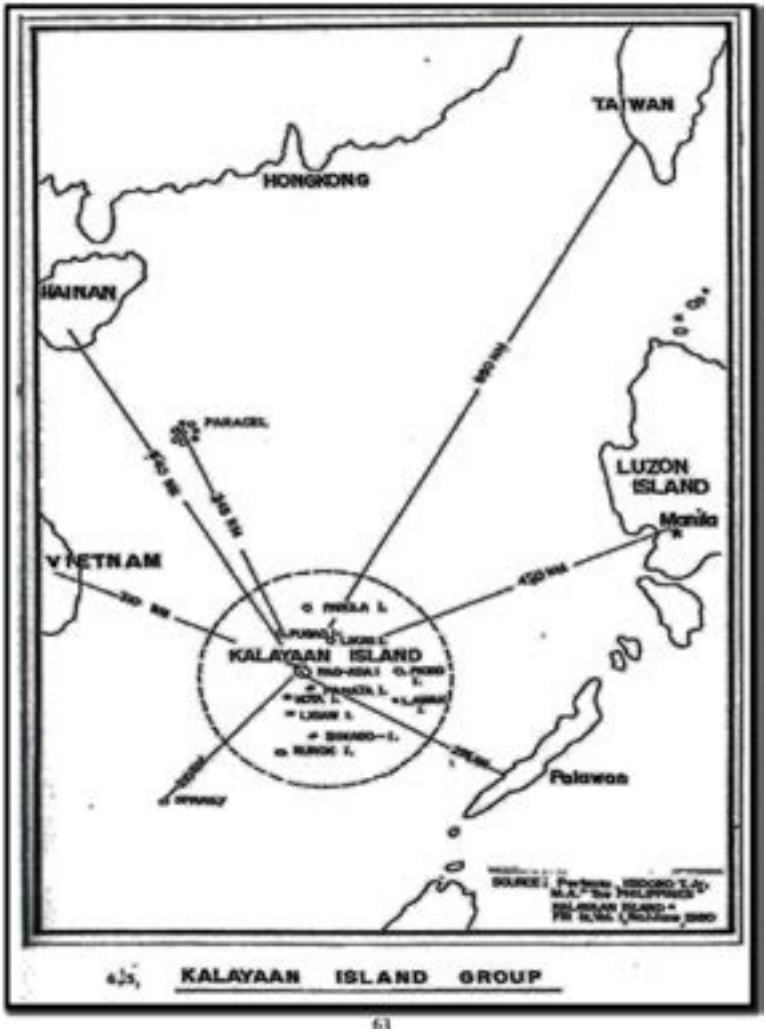
6:3 : Proposed Archipelagic Sealanes Passage of the Philippines

Source: Mr. Mario Manansala
Bureau of Coast and Geodetic Su

D. INDONESIAN MARITIME BOUNDARIES IN THE VICINITY OF MIANGAS ISLAND

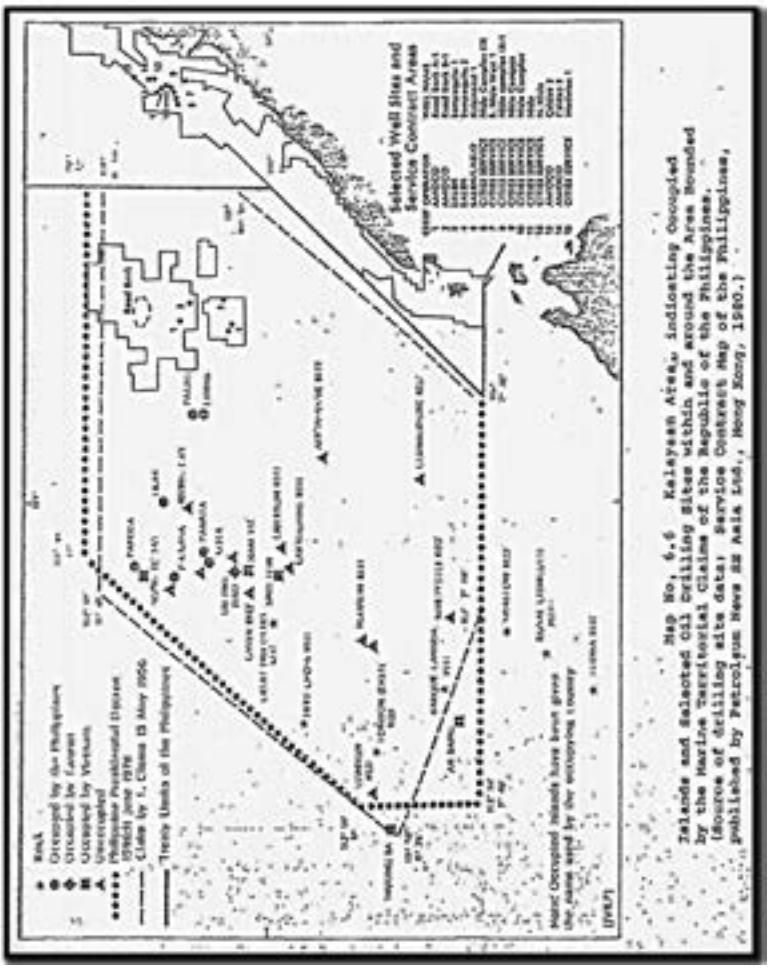


E. KALAYAAN ISLAND GROUP

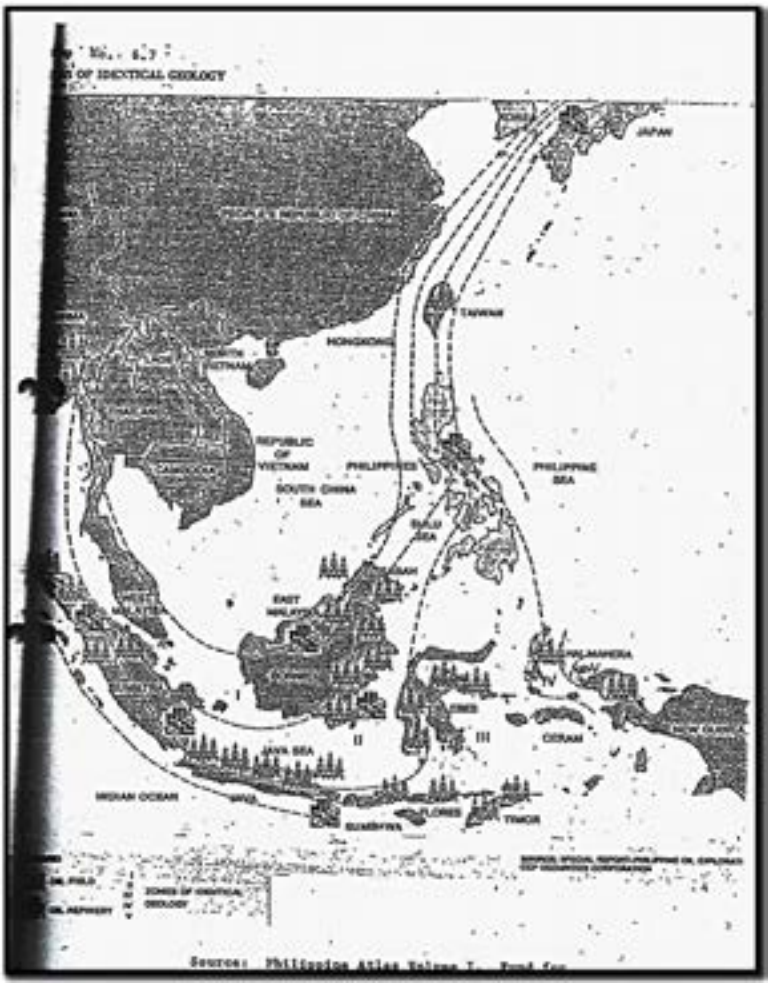


KALAYAAN ISLAND GROUP

F. KALAYAAN AREA



G. ZONES OF IDENTICAL GEOLOGY



H. ASIA PACIFIC RIM COUNTRIES

MAP OF ASIA PACIFIC RIM COUNTRIES

COMPREHENSIVE LIST OF NEGOTIATIONS ISSUES

1. DISPUTE OVER NATIONAL BOUNDARIES

A. Philippine Exclusive Economic Zone (EEZ) Boundary Delimitation

The Philippines, which is expected to ratify the Law of the Sea Treaty, is bound to enter into negotiations and agreements due to overlapping EEZ boundaries in the north with Taiwan, in the west with Vietnam and the Paracels (which is near the People's Republic of China) in the south with Malaysia and Indonesia and in the east with the Palau Islands (a U.S. Trust Territory). The primary issue in the settlement of these overlapping boundaries is the determination of what equitable principle should be applied in the boundary delimitation. In specific instances, however, the negotiations process will be further complicated by:

1. The absence of diplomatic relations between the Philippines and Taiwan (the Philippines recognizes the People's Republic of China (PRC) as the sole representative of the Chinese people);
2. The strained relation between the Philippines and Malaysia owing to their Sabah conflict and the alleged Malaysia involvement in the Southern Philippines conflict;
3. The opposition by the United States (U.S.) to the Convention (U.S. administers the Palau islands); and
4. The existence of Third parties to territorial claims which raises the questions of "whom to negotiate with" (the PRC claims sovereignty over Taiwan,

while Vietnam, Taiwan, the PRC, France and the so-called Republic of Morac-Songhrati-Meads dispute ownership over the Spratlys mand the Paracels, and Malaysia and the Philippines over part of Spratlys.

B. Philippine Continental Shelf Boundary Delimitation

The Philippine claim to the continental shelf westward from the southern coast of Palawan in the direction of the Kalayaan Island Group may be contested by other states, particularly Malaysia, due to the occurrence in the shelf of a channel 2,600 fathom (fm) deep, marking the western rim of the archipelago. In fact, Malaysia has published a continental shelf map whose boundaries enclosed some islands of the Kalayaan Group and other islands much nearer to Palawan than Malaysia.

In other parts of the archipelago on the other hand, where the continental margin measure less than 200 nautical miles from the baselines, a claim to a 200 nautical mile wide continental shelf will be beset with the same problems anticipated in the delimitation of the Philippine EEZ.

C. Philippine Baselines

The Kalayaan Group may be incorporated into the existing Philippine Baseline System without violating any of the provisions of the Convention. A line measuring 117 nautical

miles would connect Alicia Annie Reef to a point on Palawan south of Tagbita Bay and another line measuring 102 nautical miles would connect Commodore Reef to the Ligas point on Balabac Island. The other baseline segments would measure less than 100 nautical miles, and the new water to land ration after incorporation would be 2.1:1. Incorporation of the Kalayaan Group, however, will be contested by several states claiming ownership over all or some of the Paracel and Spratly islands.

In the present Baseline System, on the other hand, Baseline No. 26 which closes the Moro Gulf, has to be redrawn to conform to Convention provisions before it could be submitted to the Secretary General of the United Nations. This particular segment measures 136 nautical miles, or 11 nautical miles over the maximum allowable length.

D. The Miangas Island

Ownership of the Miangas Island has been the subject of litigation between the United States and the Netherlands, former colonial administrators of the Philippines and Indonesia, respectively. In 1928, the litigation was decided on by the Permanent Court of Arbitration at the Hague in favor of the Netherlands. In 1960, Indonesia fixed Miangas Island as Point 56 of its baseline system, such that an area of 4,300 square nautical miles was disputed if Indonesia further declares territorial seas and exclusive economic zone from its

baselines, bringing the total area of Philippine territorial seas under dispute to 6,200 square nautical miles.

If, however, the Philippine International Treaty Limits is considered decisive in the settlement of conflicting claims the Indonesian claim can only be limited to the ownership of the island and/or the surrounding waters (territorial seas), thus forming an enclave within the Philippine International Treaty Limits.

E. Kalayaan Group of Islands

The Philippines declared the Kalayaan, a cluster of Islands 270 kilometers off the coast of Southern Palawan, as Philippine territory by reason of proximity, history, indispensable need and effective occupation, and by the fact that much of the Kalayaan area is part of the continental shelf of the Philippine archipelago. China, Taiwan, Vietnam, Malaysia, France and the so-called Republic of Morac-Songhrati-Meads dispute this declaration. China, Taiwan and Vietnam consider the Kalayaan as not separate but part of the Spratlys, and individually claim the Spratlys together with the Paracels on similar grounds of right of prior discovery and effective administration. Malaysia on the other hand, claims some of the islands as part of its continental shelf.

The multi-party dispute generates much interest because of the strategic geographical location and the potential petroleum deposits and other marine resources that may be found in the islands' maritime zone. Being naturally formed areas of land

surrounded by water and standing above high tide, the islands may be used to make claims to territorial waters, contiguous zones, exclusive economic zones and continental shelves. The particular characteristics of the Philippines as an archipelago even makes the incorporation of the Kalayaan to the Philippine Baseline System a possibility.

F. Philippine International Treaty Limits

The Philippine Territorial Sea is effectively the marine areas enclosed by the international Treaty Limits. The Convention, however, binds the Philippines to conform with the 12 nautical mile Territorial sea provision. In this connection, the Philippines has the option of abandoning the Treaty Limits as the outer limits of its territorial sea, or devising a diplomatic program that would delay the Philippine declaration of a 12-nautical mile territorial sea with the end view of introducing an amendment to the Convention that would legalize its claim to a territorial sea on historical basis.

2. RIGHTS WITHIN NATIONAL BOUNDARIES

A. Conservation of Living Resources

The coastal state, with the cooperation of proper international organizations, whether regional, sub-regional or global, shall draw up proper *management and conservation measures* to prevent over exploitation and maintain or restore fish population at levels which can produce the maximum sustainable yield. To achieve this objective the Convention

specifically *prescribes contribution and exchange of available and other data relevant to the conservation of fish stocks,* through competent international organization.

B. Utilization of the Living Resources

1. Access to Fisheries Resources

The Philippine has determined the maximum allowable catch of its exclusive economic zone and has subsequently declared its fisheries industry capable of *optimum utilization* of the maximum allowable catch. But the information base of fisheries management, whether in the Philippines or in most other countries is at best imprecise such that other countries may on this basis demand access to Philippine fisheries, or in the least demand a reevaluation of the maximum allowable catch and the technological capacity for optimum exploitation of the Philippine fisheries industry.

Meanwhile, an increasing incidence of illegal fishing by foreign nationals in the Philippine EEZ has been observed. Bilateral/multilateral agreements could complement Philippine enforcement effort to eliminate poaching or illegal fishing.

2. Traditional Fishing Rights

The existence of traditional fishermen in Philippine waters, and of Filipino fishermen claiming rights to other coastal states' traditional fishing grounds, shall be established

either unilaterally or by agreement with other states. Once established, bilateral/unilateral agreements shall be drawn up to closely define the limits of their operation in traditional fishing grounds.

If appropriate, the agreement should *quid pro quo* guarantee access of traditional fishermen to the other states' traditional fishing grounds.

3. Conservation of Highly Migratory, Transboundary, Anadromous and Catadromous Species

Measures for conservation of stocks shall be drawn up

a. between the coastal state and other state fishing for the *same stocks of associated species occurring both within the EEZ and in the area beyond and adjacent to the zone*;
b. between the coastal state and other states fishing for *highly migratory species*; and
c. between "breeding states" and "feeding states" for *anadromous and catadromous species*.

C. Non-Military Navigation

1. Dispute Over Pollution Regulation

Unilateral standard-setting by coastal states in excess of international agreements are strongly opposed by states

with shipping interests for fear pollution regulations would increase coasts, reduce efficiency and open the door to political meddling with freedom of navigation. Another source of dispute would be the disagreement as to will shoulder the *coast of onshore oil waste reception facilities* necessary to reduce vessel source pollution, and the *coast of containing oil spills and other remedial measures*. Questions regarding the *effectiveness/fairness of anti-pollution enforcement practice* could also be raised.

2. Straits Passage

Proposals or sealanes and traffic separation schemes should be referred to the component international organization for its adoption. On the other hand, where two or more states border a strait, such state shall, in consultation with the competent international organization, cooperate in formulating proposals for sealanes and traffic separation schemes.

3. Archipelagic Sealanes Passage

Proposals or traffic separation schemes and archipelagic sealanes shall be referred to the competent international organization for its adoption. The Philippines is contemplating to propose only three archipelagic sealanes. The U.S. on the other hand, has submitted to the Philippine authorities' proposals that will virtually turn most of the Philippines archipelagic waters into archipelagic sealanes.

D. Military Activities

Military activities may give rise to disputes as a result of differences in interpretation as to what exactly are the *rights of warships in the EEZ*; the term or conditions of *passage of warship through straits and military activities over or on a continental margin*; and if the region collectively attempt to declare zones of peace and nuclear free zones in a deliberate attempt to reduce foreign naval presence in the area.

E. Marine Scientific Research

Many coastal states view marine scientific research (MSR) as inseparable from commercial and military research, and suspect such activities as being "the thin edge of the wedge of exploitation". In addition, information is a resource; hence, the demand *for control and participation in gathering information*. Differences of *interpretation of rights over the conduct of scientific research* in areas of national jurisdiction could trigger disputes over the granting of research rights, seizures of vessel involved in alleged violation, and disposition of research results with commercial or military implication. Institution building for MSR should also be undertaken to avoid "jurisdictional vacuum" and the possibility of permitting other states and international organizations to conduct MSR activities in the Philippine marine areas on the basis of implied consent.

F. Seabed Resource Exploitation (Under the International Seabed Authority (ISA) Provisions of the LOS Treaty.

The Convention provides that mineral resources in the seabed outside national jurisdiction will be exploited by the International Seabed Authority (ISA) directly and state and private enterprises acting under contract with the ISA. The source difficulties in the operation of the ISA will lie in the differences in interpretation of ISA provisions, and the effects of policies regarding the nature of relationships between the ISA and the contractors, the systems of financial and technology transfer, and the scope of the ISA's regulatory powers, in particular with regard to the establishment of production ceilings and policies relating to other activities in the area such as measures to compensate for adverse effects of deep sea mining. There is also potential conflict on the delineation between freedom of the high seas and ISA jurisdiction.

In the organizational aspect of the ISA, on the other hand, the Philippines may field candidates, singly or in cooperation with the states of the region, to the different positions in the ISA organization to ensure that the interest of the Philippines and the region as a whole is properly represented in the ISA.

Because of the novelty of the concepts of seabed mining and the ISA, a thorough study, which should include the preparation of a diplomatic program, should be undertaken for this particular field of interest.

3. RIGHT IN THE OCEAN BEYOND NATIONAL JURISDICTION

A. Disputes Over Military Activities Beyond National Jurisdiction

Military activities such as placing detection devices on the deep seabed could be interpreted to contravene either the "peaceful purpose" provision of the common heritage principle, or the right of the ISA. The naval power practice of temporarily closing off large areas of the high seas for purpose of naval exercise or weapons testing could also trigger disputes, particularly in the latter case, in the light of rising anti-nuclear and anti-pollution sentiments worldwide.

4. ISSUE ARISING FROM NON-OCEAN SOURCES

A. Rights of Land-locked and Geographically Disadvantaged State

Land-locked and geographically disadvantaged states are guaranteed access to marine resources of other coastal states and the traditional rights of access to ports for purposes of trade as well as participation on other economic activities in marine areas. Agreement and arrangements, however, should be devised in such a way that no undue strain will be suffered by the economy of other coastal states.

5. REGIONALIZATION

A. Regional Center or Marine Scientific Research

One purpose of marine scientific research is to generate knowledge about the marine environment that shall be the basis for future management/conservation plans. But the limitations of the coastal state in terms of technology and capital necessary to undertake research, and the nature of the objects of research, i.e. transboundary, requires the assistance and cooperation of other states or institutions/organizations.

B. Environmental Protection

Environmental protection covers a wide range of activities. Environmental stresses result from the discharge of pollutants into the marine environment, from overfishing, from the search of hydrocarbon in offshore areas, and from other functional activities such as shipping and mariner scientific research. Hence, a sizeable number of bilateral agreements and regional arrangements are necessary to cover such diverse area of environmental protection.

C. Surveillance and Enforcement

The cost of enforcement technology has increased in recent years. The additional area under the EEZ will add tremendously to the task of surveillance. The enforcement task therefore demands upon the coastal states, majority of which are poor and underdeveloped, to cooperate and pool their resources in order to enforce with some level of effectiveness, laws regulating their zones.

ANNEXES

A. Definition of Terms
B. Presidential Decree 1599
C. Presidential Decree 1596
D. Article I: The National Territory Under the Philippine Constitution

ANNEX A

DEFINITION OF TERMS

The following terms should be construed only within the concepts and meanings they are accordingly defined hereunder:

ARCHIPELAGO − a formation of two or more islands which geographically may be considered as a whole; a sea which is studded with a number of islands; an islands-studded sea.

ARCHIPELAGO DOCTRINE − refers to a group of islands considered a national unit. The waters around, between and connecting every island in the group regardless of their breadth and dimensions will be treated as part of the internal waters of the State. As advocated by the Philippines, the baseline from which the territorial sea of an archipelago is to be determined consists of straight lines joining appropriate points of the outermost islands of the archipelago. Connecting baselines are, therefore, drawn close the entire archipelago.

PHILIPPINE ARCHIPELAGO − comprises all the islands and waters embraced within the baselines defined and described specifically under Republic Act N0. 3046 as amended by Republic Act No. 5446.

TERRITORIAL SEA − the sovereignty of a coastal state extends beyond its land territory and internal waters, and in the case of an archipelagic state, its archipelagic waters over an adjacent belt of sea described as the territorial sea.[1]

PHILIPPINE TERRITORIAL SEA – all other areas embraced within the lines described in the Treaty of Paris of 10 December 1898, the Treaty concluded at Washington D. C. between the United States and Spain on 7 November 1900, the Agreement between the United States and the United Kingdom on 2 January 1930, and the Convention of 6 July 1952 between the United States and Great Britain, as reproduced in Section 6 of Commonwealth Act No. 4003 and Article 1 of the Philippine Constitution.[2]

PHILIPPINE INTERNAL WATERS – the waters around, between and connecting the islands of the archipelago, irrespective of their breadth and dimension form part of the internal waters of the Philippines.[3]

CONTINENTAL/INSULAR SHELF –comprises the seabed and sub-soil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.[4]

CONTINENTAL MARGIN – refers to the prolongation of the continental land mass into the ocean. it is composed of the continental shelf, the continental slope and the continental rise.[5]

CONTINENTAL SLOPE – refers to the steeper area between the continental shelf up to the point where the inclination becomes steeper.[6]

CONTINENTAL RISE − refers to the generally steeper area between the continental slope and the point where it merges with the true ocean bottom or the ocean bed.[7]

THE HIGH SEAS − means all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or the internal waters of any State or in the archipelagic waters of an archipelagic State.[8]

PHILIPPINE EXCLUSIVE ECONOMIC ZONE − a belt of 200 nautical miles of the sea around the archipelago and all the resources whether living or non-living in and at the bottom of this area including, but not limited to oil, copper, corals and other minerals would pertain to the Philippines.

NOTES

1 Informal Composite Negotiating Text (Documents A/Conf. 62/WP. 10 and Add. 1) Part II Section 1 Article 2 (1).

2 Note Verbale dated 20 Janaury 1951 from the Permanent Mission of the Philippines to the United Nations.

3 Article 1, Consitution of the Philippines.

4 Article 76, ICNT

5 Corazon Morales - Siddayao, The Off-shore Petroleum Resources of Southeast Asia, Kuala Lumpur: Oxford University Press, 1978. p. 22.

6 Ibid.

7 Ibid.

8 Article 86, ICNT.

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Fernandez, Hermogenes C. *The Philippine 200-Mile Economic Zone: Source of Possible Cooperation or Disputes with Other Countries*. National Defense College, 1981.

ANNEX B

MALACAÑANG
Manila

PRESIDENTIAL DECREE NO. 1599

ESTABLISHING AN EXCLUSIVE ECONOMIC ZONE AND FOR OTHER PURPOSES

WHEREAS, an exclusive economic zone extending to a distance of two hundred nautical miles from the baselines from which the territorial sea is measured is vital to the economic survival and development of the Republic of the Philippines;

WHEREAS, such a zone is now a recognized principle of international law;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order:

SECTION 1. There is hereby established a zone to be known as the exclusive economic zone of the Philippines.

The exclusive economic zone shall extend to a distance of two hundred nautical miles beyond and from the baselines from which the territorial sea is measured: Provided, That, where the outer limits of the zone as thus determined overlap the exclusive economic zone of an adjacent or neighboring state, the common boundaries shall be determined by agreement with the state concerned or in accordance with pertinent generally recognized principles of international law on delimitation.

SEC. 2. Without prejudice to the rights of the Republic of the Philippines over its territorial sea and continental shelf, it shall have and exercise in the exclusive economic zone established herein the following:

a. Sovereign rights for the purpose of exploration and exploitation, conservation and management of the natural resources, whether living or non-living, both renewable and non-renewable of the sea-bed, including the subsoil and the superjacent waters, and with regard to other activities for the economic exploitation and exploration of the resources of the zone, such as the production of energy from the water, currents and winds;
b. Exclusive rights and jurisdiction with respect to the establishment and utilization of artificial islands, off-shore terminals, installations and structures, the preservation of the marine environment, including the preservation and control of pollution, and scientific research;

c. Such other rights as are recognized by international law or state practice.

SEC. 3 Except in accordance with the terms of any agreement entered into with the Republic of the Philippines or of any license granted by it or under authority by the Republic of the Philippines, no person shall, in relation to the exclusive economic zone:

a. explore or exploit any resources;
b. carry out any search, excavation or drilling operations;
c. conduct any research;
d. construct, maintain or operate any artificial island, off-shore terminal, installation or other structure or device; or
e. perform any act or engage in any activity which is contrary to, or in derogation of, the sovereign rights and jurisdiction herein provided.

Nothing herein shall be deemed a prohibition on a citizen of the Philippines, whether natural or juridical, against the performance of any of the foregoing acts, if allowed under existing laws.

SEC. 4 Other states shall enjoy in the exclusive economic zone freedom with respect to navigation and overflight, the laying of submarine cables and pipelines, and other internationally lawful uses of the sea relating to navigation and communication.

SEC. 5 (a) The President may authorize the appropriate government office/agency to make and promulgate such rules and regulations which may be deemed proper and necessary for carrying out the purposes of this decree.

(b) Any person who shall violate any provision of this decree or of any rule or regulation promulgated hereunder and approved by the President shall be subject to a fine which shall not be less than two thousand pesos (P2,000.00) or not more than one hundred thousand pesos (P100,000.00) or imprisonment ranging from six (6) months to ten (10) years, or both such fine and imprisonment, in the discretion of the court. Vessels and other equipment or article used in connection therewith shall be subject to seizure and forfeiture.

SEC. 6 This Decree shall take effect thirty (3)) days after publication in the Official Gazette.

Done in the City of Manila, this 11th day of June in the year of our Lord, nineteen hundred and seventy-eight.

(SGD.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(SGD.) JACOBO C. CLAVE
Presidential Executive Assistant

ANNEX C

MALACAÑANG
Manila

PRESIDENTIAL DECREE NO. 1596

DECLARING CERTAIN AREA PART OF THE PHILIPPINE TERRITORY AND PROVIDING FOR THEIR GOVERNMENT AND ADMINISTRATION.

WHEREAS, by reason of their proximity the cluster of islands and islets in the South China Sea situated within the following:

KALAYAAN ISLAND GROUP

From a point/on the Philippine Treaty Limits/ at latitude 7˚40˙ North and longitude 116˚00 East of Greenwhich, thence due and West along the parallel of 7˚40˙N to its intersection with the meridian of 112˚10˙E, thence due north along the meridian of 112˚10˙E to its intersection with the parallel of 9˚00˙N, thence northeastward to the intersection of the parallel 12˚00˙N with the meridian of longitude 114˚30˙E, thence, due East along the parallel of 12˚00˙N to its intersection with the meridian of 118˚00˙E, thence, due South along the meridian of longitude 118˚00˙ E to its intersection with the parallel of 10˚00˙N, thence Southwestwards to the point of beginning at 7˚40˙N, latitude and 116˚00˙E longitude.

are vital to the security and economic survival of the Philippines;

WHEREAS, much of the above area is part of the continental margin of the Philippine archipelago;

WHEREAS, these areas do not legally belong to any state or nation but, by reason of history, indispensable need, and effective occupation and control established in accordance with international law, such areas must now be deemed to belong and subject to the sovereignty of the Philippines;

WHEREAS, while other states have laid claims to some of these areas, their claims have lapsed by abandonment and can not prevail over that of the Philippines on legal, historical, and equitable grounds.

NOW, THEREFORE, I FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution. do hereby decree as follows:

SECTION 1. The area within the following boundaries:

KALAYAAN ISLAND GROUP

From a point/on the Philippine Treaty Limits/ at latitude 7°40' North and longitude 116°00 East of Greenwhich, thence due and West along the parallel of 7°40'N to its intersection with the meridian of 112°10'E, thence due north along the meridian of 112°10'E to its intersection with the parallel of

9°00'N, thence northeastward to the intersection of the parallel 12°00'N with the meridian of longitude 114°30'E, thence, due East along the parallel of 12°00'N to its intersection with the meridian of 118°00'E, thence, due South along the meridian of longitude 118°00'E to its intersection with the parallel of 10°00'N, thence Southwestwards to the point of beginning at 7°40'N, latitude and 116°00'E longitude; including the sea-bed, sub-soil, continental margin and air space shall belong and be subject to the sovereignty of the Philippines. Such areas is hereby constituted as a distinct and separate municipality of the Province of Palawan and shall be known as "Kalayaan."

SEC. 2. Pending the election of its regular officials and during the period of emergency declared in Proclamation No. 1081, and unless earlier provided by law, the administration and government of the area shall be vested in the Secretary of the National Defense or in such officers of the Civil Government or the Armed Forces of the Philippines as the President may designated.

SEC. 3. This decree shall take effect immediately.

DONE in the City of Manila, this 11th day of June, in the year of our Lord, nineteen hundred and seventy-eight.

(SGD.) FERDINAND E. MARCOS
President of the Philippines

By the President:
(SGD.) JACOBO C. CLAVE
Presidential Executive Assistant

ANNEX D

The Philippine Constitution

Article I

The National Territory

Section I. The National territory comprises the Philippine Archipelago, with all the islands and water embraced therein, and all the other territories belonging to the Philippines by historic rights 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 have 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.

The new provision no longer mention the various treaties notably the Treaty of Paris under which our territories have been acquired by us, in order to eliminate any colonial vestige in the words “belonging to the Philippines by historic right or legal title” which words also give authority to the Philippine government to claim title to such islands or lands that should pertain to the Philippines but are now in foreign hands or control. The last sentence of the New Constitution above asserts the archipelagic principle.

Peoples Development Institute