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ASIA-PACIFIC CHAPTER

# United Nations-Nippon Foundation Fellowship Alumni Newsletter— Asia-Pacific Chapter

## Alumni Meeting in Tokyo: Rethinking Ocean Affairs and the Law of the Sea



Alumni Gathering in Tokyo (Nippon Foundation Headquarters)

During the Alumni meeting in Tokyo, each alumnus gave a presentation. Fifteen presentations were categorized in two sessions: national and regional. The sessions were chaired by Prof. John Duff and Prof. Ronan Long, respectively.

From the 15 presentations, maritime boundaries was the most popular issue. Muhammad Hoque, Nguyen Manh Dong, Ravin Mom, Nuzar Dundua, and Reza Dehghani talked about maritime delimitation for Bangladesh, Vietnam, Gulf of Thailand, Georgia, and the Persian Gulf, respectively. Their presentations covered legal and technical issues, as well as proposals for solutions. Andi Arsana addressed the

delineation of continental shelf in Asia Pacific region by summarizing the

latest developments with respect to continental shelf submissions to the UN.

Michael Lyndon B. Garcia presented the Philippine Archipelagic Baseline. Ritche Capahi from the Philippines presented the Measures in Philippine Shipping in Compliance with Part XII of Low of the Sea Convention.

The second most dominant issue was fisheries, with presentations by Ansy Mathew N. P, Pakjuta Khemakorn, Nopparat Nasuchon, and Sampan Panjarat. Ansy presented on marine fisheries conservation and management in India, while the three Thai alumni presented on issues of fisheries in Thailand cov-

ering marine fisheries management in general and, tuna resources management.

Ocean management issues were also at the forefront of deliberations, with Hendra Siry presenting his latest research on decentralized coastal zone management, through case studies from Indonesia, Philippines and Malaysia. Rudolf Djora, the only alumnus from the Pacific, presented the challenge of implementing integrated national ocean polices for Small Island Developing States. Another presentation was delivered by Anna Natova, addressing Implications of Law of the Sea Convention to the IMO.

The alumni delivered interesting presentations that sparked constructive discussion. At the end of each session, Prof. Martin Tsamenyi made remarks and conclusion. Some of the presentation are published in this current newsletter. All presentations are accessible from <http://tinyurl.com/unff>

## Editorial - Tokyo's Promise

For the first time in history, alumni of the UN-Nippon Foundation Fellowship conducted a gathering in Tokyo. The meeting was held on 13-16 April 2009 in the headquarters of the Nippon Foundation, attended by 15 alumni from the Asia Pacific region. Presenting ideas and listening to presentations from the Government of

Japan were the main activities in Tokyo. A visit to the University of Tokyo and field game/exercise were also part of the program. We, of course, had some other good times meeting old and new friends.

Apart from the above, we managed to talk constructively about the alumni association. We discussed seriously about what we have been through and the destination that we are aiming for. We engaged in a warm, yet productive, conversation about the future of the alumni.

We promised to

continue the journey, friendship and collaboration. With a variety of expertise, experiences, access to information, and nature of works, we viewed that we can build strong and mutually beneficial collaboration.

Several possibilities for future programs were explored, ranging from the most pragmatic to the highly idealistic. We also viewed the need to have simple, yet, effective programs for the alumni.

We made ourselves promises in Tokyo and it is now time for us to keep these. More than fifty people are now sharing the privilege of belonging the UN-Nippon family. We can do something.

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## Opinion: The race to secure larger continental shelf *by Andi Arsana*

The deadline has past for many coastal States in their race to secure a larger continental shelf (seabed). May 13, 2009 was the deadline for many States to submit information concerning the outer limits of their continental shelf to the United Nations



Continental shelf around the Globe ([www.not.soton.ac.uk](http://www.not.soton.ac.uk))

Commission on the Limits of the Continental Shelf (CLCS). By submitting the information, coastal States have the opportunity to secure rights to the seabed beyond 200 nautical miles (370 kilometers) from their baseline, pursuant to the Law of the Sea Convention. For the many States that ratified the LOSC before May 13, 1999, (including Indonesia) the deadline was May 13, 2009. Meanwhile, other States, which ratified the LOSC after May 13, 1999, have 10 years after ratification.

By the time the deadline came, 50 complete and 41 preliminary submissions had been made by coastal States to the CLCS. Around 70 States were in the race to secure larger continental shelves, a reasonably

surprising number given the fact that the procedure of the process is complicated and costly. For a coastal State to be entitled to a continental shelf beyond 200 nautical miles from its baseline, natural prolongation of the landmass has to be proven.

This requires the conduction of studies on seabed reliefs and sedimentary thickness, and this requires geodesy, geology, geophysics, hydrography experts, among others. This process is not only complicated but very expensive. A comprehensive survey may cost approximately US\$67,365 per day and one leg of a survey can take between two weeks and a month to complete.

On June 16, 2008, Indonesia became the first nation in Asia to provide its submission on the outer limits of its continental shelf to the CLCS. The submission concerned the seabed area to the west of Sumatra, encompassing 3,915 square km of area beyond 200 nautical miles from its baseline. The

submitted area is equal to the size of Madura Island. It was intended as a partial submission, which will be likely followed by two more submissions for other areas. The Indonesian team presented the proposal orally to the CLCS at the end of March 2009 and is now waiting for recommendations from the CLCS.

For a continental shelf that lies between two or more States, there is a potential overlapping entitlement. Submissions concerning a continental shelf in this situation may spark disputes. To avoid disputes, the States in question may make a coordinated or even joint submission to the CLCS. The first joint submission was lodged by the UK, Spain, France, and Ireland for the area of the Celtic Sea and the Bay of Biscay. In the Asia Pacific, joint submissions were given by Vietnam with Malaysia as well as by the Federated States of Micronesia, Papua New Guinea and the Solomon Islands for the Ontong Java Plateau area. In Africa, Mauritius and Seychelles made a joint submission for the Mascarene Plateau region. Should the CLCS provide recommendation for a joint submission, it is then the responsibility of the submitting States to divide the continental shelf among them. In addition, the CLCS will not provide any consideration if the area submitted is in dispute. [cont on page 4].

## MARINE FISHERIES CONSERVATION AND MANAGEMENT IN INDIA

*By Ansy Mathew N. P.*

This paper contains information on steps and initiatives taken or recommended by India to improve the conservation and management of fishery resources and other marine



living resources with a view to achieving sustainable fisheries and protecting vulnerable marine ecosystems and biodiversity. The paper is based on information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations System, sub-regional and regional organizations and arrangements for the conservation and management of fishery resources as well as other intergovernmental bodies and non-

Governmental organizations.

The paper emphasizes the importance of the full implementation by India of all international fishery

instruments, whether legally binding or voluntary, which promote the conservation, management and sustainable use of marine living resources. It also emphasizes the importance of cooperation among States, directly or through sub-regional and regional fisheries management organizations or arrangements (RFMO/As) to address unsustainable fishing practices and promote sustainable fisheries in areas beyond national jurisdiction, including through implementing their responsibilities as flag States, improving governance of RFMO/As, and cooperating in the establishment of new

organizations or arrangements where none exist.

Certain fish stocks in India are depleted and the Marine Fishing Regulation Act of the Federal Governments and the Maritime Zones of India (Regulation of fishing by foreign vessels), Act, 1981 need amendments so as to be in tune with the Code of Conduct for Responsible Fisheries (CCRF) and other legal instruments. India has only acceded to the 1995 UN Fish Stock Agreement and yet to accede to the 1993 FAO Compliance Agreement. CCRF have been disseminated to the end users through translations etc. to the regional languages of India. Considering all these aspects, a marine fisheries management model for fishery resources in the Exclusive Economic Zone (EEZ) of India which includes depleted stocks, is formulated based on the legal instruments, CCRF, including the National Plan of Action (NPOA) for fishing capacity, sharks, sea birds and illegal, unreported and unregulated (IUU) fishing.



# Implications of the United Nations Convention On the Law of the Sea for The IMO Conventions *by Anna Mihneva-Natova*

The Law of the Sea Convention codified a number of important maritime principles which already existed within the International Maritime Organization (IMO) treaty instruments. Beginning from the principal objective of the Convention on the law of the Sea, as stated in its Preamble “to establish a legal order for the seas and oceans [...] marine environment” and the reflection of this noble objective of the aims and purposes of the IMO. The Law of the Sea Convention is a legal and political confir-

mation of the regulatory regimes developed by IMO. The Convention implicitly recognizes IMO as the legitimate international forum in which States are expected to develop new international standards and regulations or revise existing rules on these subjects. The presentation is based on a document LEG/MISC.5 prepared by IMO Secretariat and finalized in consultation with the UN DOALOS.

My presentation in Tokyo includes comments and concepts of relevance in assess-

ing the Law of the Sea Convention as an “umbrella convention”. It provides a detailed analysis of the relationship between the Law of the Sea Convention and various IMO instruments: Maritime safety Conventions, Marine Pollution Conventions, Liability Conventions and Conventions intended to encourage and facilitate maritime transport.

## Measures in Philippine Shipping in Compliance with Part XII of the Law of the Sea Convention Provisions *By Ritche Capahi*

Since time immemorial, the ocean and seas have always been protecting, providing and giving life to human beings. With our ailing world today, pollution from whatever sources is gradually killing our oceans. It is now high time for human beings to act and return the favor. Realizing this necessity, part XII of the Law of the Sea Convention was born.

Part XII addresses the protection and the preservation of the marine environment. This provides and serves as an international legal framework to ensure that measures, in the spirit of cooperation among nations will be undertaken to prevent, reduce, and control pollution from whatever sources.

My presentation in Tokyo however only

covers what the Philippines is doing in addressing a specific source of pollution: that is from vessels. It will mention about some of the pertinent provisions of Part XII of the Law of the Sea Convention as the legal bases, the regulatory bodies/agencies regulating the shipping industry both at the international and the local levels, their main concerns which are the prevention of marine pollution and safety and why they go hand in hand, the most important instruments/conventions promoted by the international body giving effect to the concerns and objectives which are in turn implemented in the local levels. These instruments include MARPOL 73/78 (International Convention for the Prevention of Pollutions from Ships, 1973 Modified in 1978), SO-

LAS (Safety of Life and Sea), STCW (Seafarers Training and Certification and Watchkeeping, IBC Code (International Code for Construction and equipment of Ships carrying Dangerous Chemicals in Bulk) and International Loadline 69. An overview of how these objectives or concerns are being achieved in the Philippines is likewise included. Further, outlined are the recent developments made by the Philippine Shipping regulatory body.

With the measures mentioned, it may be gleaned how the Philippines will fair if compared with the other developing countries and how its measures maybe improved in complying with its obligations in accordance with its capabilities.

## Philippine’s new archipelagic baselines *by Michael Garcia*

In preparation for the 13 May 2009 deadline for the submission on extended continental shelf, the President of the Republic of the Philippines signed into law Republic Act 9522 on 10 March 2009. The new law is a revision to Republic Act 3046 as amended by Republic Act 5446, which established the baselines of the Philippine maritime territory.

With the entry into force of the Law of the Sea Convention in 1994, however, the baselines law has become inconsistent with international law. Prior to the enactment of RA 9522, The Philippine baselines consisted of 80 baselines with a total length of over 8 million miles. Three of these baselines or 2.4% of the total number exceeded the 100-nautical mile limit. Article 47 of LOSC allows 3 per cent of the total number of baselines to exceed 125 nautical miles.

Under RA5446, however, a baseline segment in the Moro Gulf in the southeastern part of Mindanao has a length of 140.05 nautical miles in length. The new baseline law corrects this non-compliance with the LOSC and establishes the basis for the submission of an extended continental shelf.

The Philippine Government considered several options in determining the baselines. The policy decision actually taken by the policy-makers was guided by the desire to promote and protect territorial integrity, ensure acceptability of the policy by the international community, as well as to comply with the Law of the sea Convention provisions. The most crucial aspect in the process of defining the baselines is the treatment of the Kalayaan Island Group (KIG) and Scarborough Shoal (Bajo de Masinloc). In view of this consideration,

the archipelagic baselines drawn by the Philippines basically kept the existing configuration of the baselines with technical adjustment made to the Moro Gulf baseline. Under the new law, KIG and Scarborough Shoal are treated as under Article 121 of the Law of the Sea Convention. It is not apparent, however, which particular paragraph is being referred to as Article 121 contains the definitions provided by the Convention on what consists an island or a rock. Notwithstanding this ambiguity, the new baselines law serves its current purpose in relation to the submission of the outer limits of an extended continental shelf claim with the additional advantage of avoiding disruptions in the country’s foreign relations, particularly with States involved in territorial disputes over Spratlys Islands and Scarborough Shoal.

## The Challenge of Fisheries Management in Thailand, a Case Study of Closed Areas and Season in Prachub Khirikhan, Chumphon and Surat Thani Provinces by Nopparat Nasuchon

Thailand adopted their first fishery Act in 1947. Later, Thailand adopted and implemented the fisheries proclamation for Indo-Pacific Mackerel conservation in Prachub Khirikhan, Chumphon and Surat Thani Provinces in 1953 by closing areas, establishing



seasons and regulating methods. These areas are important spawning grounds and nursery areas and thus are managed to protect that species. Thailand had amended the proclamation several times based on new

technical data and the evaluation and outcome of decisions. However, Thai fishers are always trying to adapt their gears and methods to work around the proclamation. As the Department of Fisheries (DOF) recognized this trend, they gathered the stakeholders together so as to find the best solutions to control this behavior and continue monitoring the resource data base. Thailand recently implemented the conservation area protocols with the proclamation of 2007.

## Marine Capture Fisheries in Thailand: Review and Synthesis by Pakjuta Khemakorn

Marine capture fisheries play a very important role in the food security and economies of Thailand. They have significantly developed since 1945 mainly due to the introduction of modern technologies and techniques for fishing. According to the definitions of the Thai Department of Fisheries, marine capture fisheries are categorized into two groups, Large Scale Fisheries (LSF) and Small Scale Fisheries (SSF). Otter board trawl contributes the highest production among

all fishing gears. In LSF, pelagic fish is the dominant production, while short necked clam is the dominant production of SSF. Pelagic fish contributes the highest value in both LSF and SSF. Most of the fishing units employed in marine capture fisheries are small scale fishing boats. The average number of crews and the net profit per fishing unit are related to the size of the boat. Because of resources overexploitation in Thai waters, Thai fishers with support from the Thai

Government have sought for new fishing grounds outside Thai waters, such as the EEZs of States in Southeast Asia, South Asia and East Africa. Licensing and joint ventures are generally the mode through fisheries arrangements are codified. Thailand has confronted the problems regarding marine capture fisheries in many aspects, including marine resource aspect, fishing aspect and fisheries management aspect.

## The race ... (from page 2)

It is anticipated that submissions by coastal States may spark reactions from other, especially neighboring States. The executive summaries of submissions are made public on the CLCS website, so other States have a chance to respond. The submission by Australia, for example, sparked responses from several States including the United States, because the submission includes the continental shelf of the Antarctic Territory, even though Australia requested the CLCS not to consider the Antarctic part of the submission. India reacted to Indonesia's submission as they saw potential overlapping claims and suggest the submission be made without prejudice to the future seabed delimitation. An interesting, yet anticipated, response came from China to Vietnam's and Malaysia's submissions, as they covered the Spratly Islands in the South China Sea, the sovereignty of which is disputed by several States.

Among those submitting States, some have received recommendation from the CLCS. Australia, for example, confirmed around

2.5 million square kilometers of extended continental shelf. Similarly, in 2008, New Zealand confirmed 1.7 million square kilometers of extended continental shelf. Recommendations have also been given to Brazil, Ireland, Russia, Norway, and Mexico. Based on the recommendation, those coastal States can now establish final and binding outer limits of their continental shelves. By the time all coastal States have delineated the outer limits of their continental shelves, the territorial map of the world will significantly change. Seabed areas, the ownership of which is currently unconfirmed, will fall under the jurisdiction of specific States that will gain the right to utilize resources therein.

Two traditional seabed resources - oil and gas - are viewed as the biggest potential benefit of securing a larger continental shelf. However, other resources related to nutrition, medicine and cosmetics are becoming increasingly attrac-

tive and could be explored and exploited. Consequently, the race to secure larger maritime areas will not only change the world map, but also future economic activities. For sovereign rights of nations on earth and the future of ocean management, May 13, 2009 represented an important historical moment.



Note: this article has been previously published in the Jakarta Post, 25 May 2009



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***Building capacity in ocean affairs  
and the law of the sea***

## [www.unfalumni.org](http://www.unfalumni.org)



One of the most important achievements during the Alumni Meeting in Tokyo was the decision to establish an alumni website. A constructive discussion among alumni brought out two agreements: alumni will setup a new domain for the website and hire a professional hosting space for the content. The domain picked was [www.unfalumni.org](http://www.unfalumni.org), standing for United Nations Nippon Fellowship Alumni. The Asia-Pacific alumni also donated USD 30 each for the domain and hosting for the first few years. Within less than 24 hours of the conclusion of the meeting, the domain was established. Thanks to the website team: Hendra, Andi, and Pakjuta for their good job.

The website is being continuously developed. As per today, it contains alumni profiles, repository page (download center), gallery, testimony, and blogs. The website is updated regularly with relevant contents. Each alumnus can change her/his profile and also contribute to the website. Alumni profiles are also presented in an interactive map depicting the distribution of alumni around the globe. In addition, each alumnus has a personal email account ([surname@unfalumni.org](mailto:surname@unfalumni.org)). The website and email account will help the alumni collaborate more effectively and also build their identity and brand.

In the future, the website will also host practical information for incoming fellows. The alumni association is now developing a guidebook containing information necessary for new fellows. The guidebook will contain, among others, visa application procedures, cool places in New York to visit, procedure in utilizing health insurance, tips and tricks to secure accommodation in New York, etc. Once finished, the guidebook will be made available on the website. Please feel free to visit the website and leave your comments.

### **Announcement:**

*This is the last issue of the Asia-Pacific Alumni Newsletter. The next issue will be the first of the alumni network as a whole. Michael Garcia is the Editor in Chief of the new newsletter. Please contact Michael ([garcia@unfalumni.org](mailto:garcia@unfalumni.org)) for your contribution.*

## The Tokyo “Amazing Race”



The alumni meeting was not only about presentations and discussions, it was also about having fun. The organizer introduced a brilliant game in which everybody participated. The game was something like “The Amazing Race” where participants were assigned to discover culturally important locations in Tokyo. The idea was to give opportunities to participants (alumni and professors) to exercise learn practical leadership through a team-building activity, while discovering Tokyo.

Participants were split into three groups with one team leader. Andi, Hendra and Reza were the appointed team leaders for each group. Prior to the race, each group was given guidelines on how the game

works. The guidelines contained, for example, places to visit, pictures to take and points the group could earn by completing certain assignments. Each group, for example, had to visit a temple honoring women and take pictures with as many women as possible. The more women, excluding team members, in the group picture, the higher the point the group would earn. Another assignment, for example, was to go to the observation deck of the Tokyo Municipal building and take a picture of the city with Mount Fuji as the background. Unfortunately, no group could complete the assignment due to the not-very-friendly weather. Mount Fuji was hiding behind fog/cloud.

Apart from the assignment to visit as many places in the list as possible, time did also matter. Each group must arrive at the final destination, which was the Maritime Museum, at 19.00 sharp. Five points would be



deducted for every 5 minutes past 19.00.

The idea to set the city tour as a competition was brilliant. Participants not only managed to see beautiful places but also to build good and even emotional relationships among them. In addition to maps and dictionary each group brought, they also secured a lot of assistance from people in Tokyo. They are really nice people. Andi’s team even managed to ‘kidnap’ a lady, who was happy to accompany the team discovering places in the assignment list.

At around 20.30, the result of the game was announced. Reza’s team won the competition. Andi’s group came in second followed by Hendra’s. No matter what the results, everybody had fun enjoying Tokyo and each other.