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LAW OF THE SEA AND ITS IMPLICATIONS FOR BANGLADESH

INTRODUCTION

The commercial and strategic significance of the sea in the world merits adequate elaboration. The sea is a major source of food and the sea lanes are the life lines of all the economies which are heavily dependent on unimpeded access to raw materials, markets and investment opportunities throughout the world. Many international straits continue to be regarded as strategically vital by the global powers because of the link they provide between different regional or sub-regional seas in the context of naval deployment. The medium of trade is by shipping which carries over 98 percent of all goods traded. It was generally acknowledged that the threats to the security of the sea lanes never ceased to exist. Moreover, naval developments have also led to the rather paradoxical situation where more navies of regional powers have begun to exert themselves in the regional waters apparently to fill the power vacuum. Earlier, attempts at extension of coastal state powers beyond a narrow territorial sea belt was minor and posed no serious threat to the sanctity of the high seas regime. The majority of states realized that they were benefiting from the free movement of commerce allowed by the freedom of the seas. This stable regime, however, came under significant challenge after the Second World War. The history of the law of the sea since that time

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is a history of coastal state expansion. The underlying cause has been the increased demand for marine resources.

Acquisitive impulses to exploit fishery resources, offshore petroleum and natural gas, and later mineral deposits on the deep seabed, have been given impetus by technological developments in ocean resource exploitation. Coastal states have also responded to increased dangers to the marine environment from human activities on land or at sea by enclosing ocean space. Dominant naval power took a big step in the direction of coastal state expansion when it claimed the mineral resources of the continental shelf and a special interest in fisheries conservation beyond its territorial sea. Other states moved more firmly in the same direction claiming ever-wider zones that varied in their nature, sometimes claiming exclusive fishing rights, sometimes larger zones of exclusive economic rights or even 200-mile territorial seas. Even the maritime powers took part in this expansionist trend, limiting some freedoms off their coasts as it suited their interests. It then became extremely difficult for the maritime states to explain why any other coastal state could not restrict high seas freedoms that were of interest to the maritime powers. Thus, the necessity to develop a uniform, coherent maritime regime was more felt mainly because practice on the important aspect of ocean uses substantially diverged among the littoral states. In the past, the principal objective of all states and maritime powers with interests in the ocean was to endeavour to build a stable and secure maritime regime. Such maritime regime was a fundamental prerequisite not only for enhancing the security of the sea lanes, but also for further maritime cooperation between regional states. Thus, ocean regime can be defined as a set of norms and patterns of behaviour that help to regulate maritime relations within a system of states. The global ocean regime, are therefore, sets of international law for the jurisdictions and uses of the ocean, received its expression in the United Nations Convention on the Law of the Sea.

The present article aims to provide an overview of the law of the sea, including definitions and descriptions of the jurisdiction and sovereignty exercised by nations over various parts of the worlds oceans. The international legal status, self defence and navigational rights of warships and military aircraft are also covered. In the context of Bangladesh, Territorial and Maritime Zones Act, 1974 and its implications on Bangladesh vis-a-vis law of the sea are discussed.

INTERNATIONAL LAW

International law derives from the practice of nations in the international arena and from international agreements. International law provides stability in international relations and an expectation that certain acts or omissions will evoke predictable consequences. If one nation violates the law, it may expect that others will react. Consequently, failure to comply with international law ordinarily involves greater political and economic costs than does observance. In short, nations comply with international law because it is in their interest to do so. Like most rules of conduct, international law is in a continual state of development and change. International law particularly the law of the sea, is derived increasingly from express international agreements, often termed "treaties" "conventions", or "protocols" - agreements which are only binding on states which have accepted them either by signing or ratifying them[1]. The majority of such agreements are bilateral, although there is a growing number of multilateral agreements in many fields of international law. Customary law is the body of general rules which have gradually crystallized by regular state practices. Many of the traditional areas of the law of the sea - such as the law in relation to the rights of a coastal state over its maritime belt - are of customary origin. Much of the law in relation to self-defence also has its basis in state practice of this kind. However, there is no compulsory machinery for the

1 R.R. Churchill and A. V. Lowe, *The Law of the Sea,* 1983, pp. 4-5.

enforcement of international law, other than insofar as the United Nations Charter confers certain powers on the Security Council for the maintenance or restoration of peace in matters of aggression or breaches of or threats to, international peace and security. There are international judicial tribunals of which the most comprehensive is the International Court of Justice, these tribunals depend, however, for the exercise of their jurisdiction over on the consent of those states or international organizations in submitting to the jurisdiction of the tribunal. In the absence of such consent, an international tribunal cannot take cognizance of a dispute. This constraint has signified that since the Second World War international tribunals have had little scope to contribute to the development of what may be termed strategic or military aspects of international law, such as with regard to self-defence.

THE DEVELOPMENT OF THE LAW OF THE SEA

The law of the sea is perhaps the classic example of a regime once almost entirely based on customary law, as evidenced by state practice over several centuries. Naval control of the sea was a dominant feature of mediaeval international relations. Sovereignty was expressed in a variety of ways; from the proclamation of zones of neutrality to the assertion of the right of exclusive fishing on the part of a particular state. It was only in the 18th century that the present distinction between the right of a coastal state to control exclusively its maritime belt and the right of all states to make use of the High Seas was drawn. The growth of treaty-making in the present century, especially treaties of a multilateral character, has resulted in efforts by the international community to codify large areas of international law and to provide machinery for its enforcement. The sea and the air, as the most important media for inter-state transportation, have naturally been subjected to this codification process. The codification of the law of the sea attracted the attention of international lawyers early in the present century. In 1930, for

example, a League of Nations Codification Conference tried in vain to achieve international agreement on a uniform breadth for the territorial sea.[2] Soon after the International Law Commission (ILC) of the UN General Assembly was set up. As it undertook the task of codifying the law of the sea, impetus was given to its task by the international dissension as to the breadth of the territorial sea and even as to the method of measuring it. The dissension which came to a head in the Anglo-Norwegian Fisheries case[3] before the International Court which gave an important judgment in Norway's favour in December 1951. The effect of this judgement was to deny large traditional fishing grounds off the Norwegian coast completely to British fishermen. The ILC prepared four Draft Conventions on various aspects of the law of the sea, and these were considered by the representatives of 87 states at a UN Conference on the Law of the Sea held in Geneva in February-April 1958. The Conference adopted four Conventions on the basis of the ILC drafts. Each Convention required ratification by 22 states to bring it into force. The Conventions are as follows (the dates in brackets represent the date of entry into force of each Convention).[4]

a. Convention on the Territorial Sea and the Contiguous Zone (10 September 1964);

b. Convention on the High Seas (30 September 1962).

c. Convention on Fishing and Convention of the Living Resources of the High Seas (20 March 1966)

d. Convention on the Continental Shelf (10 June 1964)

All of the four Conventions adopted at the First United Nations Conference on the Law of the Sea (UNCLOS-I) in 1958 received

2. S. Rosenne, *League of Nations Conference for the Codification of International Law,* New York 1975, pp. 833-835.

3 Churchill and Lowe, op. cit. pp. 6-7.

4 D.P.O 'Connell, *The International Law of the Sea,* UK, 1984, p.11.

sufficient ratification or accession by states to come into force by 1966. However, the 1958 Convention failed to agree upon two controversial topics - the breadth of the territorial seas and the nature and breadth of fishery limits, whilst it did agree upon the method of measuring the territorial seas and also upon the notion of a Contiguous zone outside the territorial sea. A second Convention on the Law of the Sea (UNCLOS-II), attended by representatives of 88 states, was held in Geneva in March-April 1960. This narrowly failed to adopt a 6-mile territorial sea plus a 6-mile exclusive or partially exclusive fishery zone for a coastal state.[5] Nevertheless the proposals put forward at the 1960 Geneva Conference were subsequently used as the basis for international agreements. Many states did not, however accept the Conventions, considering that the law was in need of radical change to meet present day economic and social conditions in the international community. Some states indeed thought that the whole basis of the classic law of the sea had broken down and that there was no real constraint. Some intended to extend unilaterally their territorial sea or to develop some other extended form of coastal jurisdiction. Some states considered that even after the coming into force of the 1958 Conventions, the law did not protect adequately valuable local economic interests, e.g., the conservation of coastal fisheries. Some states contended that the law of the sea should embrace the whole marine environment in a comprehensive fashion, providing in particular a precise legal regime to govern the methods of exploitation of the deep sea-bed and the ocean floor and to guard against abuses which resulted in pollution of the marine environment. The attitude of many states was in any event conditioned by geographic factors. Geographically disadvantaged states (such as land locked states) were naturally anxious to have a legal regime which properly protected their national interests and their access to the sea and its resources. Last but not least, many states, particularly the naval powers, considered that if the law of the sea was allowed to drift

5 *Ibid,* p. 15.

into chaos, the very freedom of the seas for international community use would be threatened. Something, they felt, has to be done to restrain unilateral action of an expansionist character by states. These anxieties about the adequacy of the law of the sea were naturally voiced in the United Nations General Assembly from time to time. The developing countries were particularly concerned with the status of the deep sea-bed and the ocean floor beyond national jurisdiction and wished to see that area was reserved for peaceful purposes, with its resources being used in the interests of mankind as a whole. Many of these developing countries had not of course had any opportunity of voicing their opinions on any issues of the law of the sea at the first two United Nations Conferences. In 1968, the UN General Assembly set up a Sea-bed Committee to consider the elaboration of legal principles with regard to the peaceful uses of the sea-bed and the ocean floor.[6]

Third United Nations Conference on the Law of the Sea (UNCLOS-III)

In an effort to resolve the many disputes over access to various parts of the oceans, and to preempt further and perhaps more serious disputes from arising, the United Nations adopted at its General Assembly in 1970 a "declaration of principles" based on the recommendations of its Committee on Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction (the Sea-Bed Committee). After consultation and negotiation between more than 150 nations, a draft treaty had been worked out and was placed before the General Assembly in 1982. It was adopted as the Third United Nations Convention on the Law of the Sea. On 10 December 1982, UNCLOS-III or Law of the sea was opened for signature in

6 R R Churchill and A.V. Lowe, *op. cit.*, p. 13.

7 *Ibid*, p. 16.

Jamaica by states and international organizations.[7] Bangladesh along with same 119 states signed the convention on the same day.[8] The convention thereafter remained open for signature for a period of two years and at the end of this period it had been signed by 159 states and other entities. However, some developed and industrialized states raised objection about the articles on seabed mining and refused to sign the convention. It took further 12 years, mainly for technical and legal reasons, for the required 60 instruments of ratification to be deposited at the UN and the Convention came into force on 16 November 1994. To avoid ambiguities which could have led to further disputes, terms such as *continental shelf, reef, strait* and many other had to be defined and agreed. The report of the Working Group on Technical Aspects of the Law of the Sea defines nearly 100 terms with both technical and legal accuracy, so that there would be no doubts about the exact meaning of any of the 320 articles of UNCLOS-III, and the additional 103 articles of its 9 annexes.[9] In addition, the Convention is setting up two international bodies, the International Sea-Bed Authority and the International Tribunal for the Law of the Sea. The former will regulate the exploration and exploitation of the sea-bed beyond the limits of national jurisdiction, to safeguard the sea-bed for the common benefit to humanity. The authority will also set up an enterprise, which may undertake exploration and exploitation in its own rights or in co-operation with national or private enterprises. The latter will set up a Sea-bed Disputes Chamber, which will have exclusive competence over all disputes involving the international sea-bed area.

8 From Bangladesh, Rear Admiral (Late) M A Khan, ex-Chief of the Naval Staff (CNS), Barrister A.K.H. Morshed, ex-Foreign Secretary, present author, and Mr Shahed Akhter of the Ministry of Foreign Affairs were present in the signing ceremony.

9 Lt. Cdr Chris Charleton ,RN, *Gearing up for the United Nations Law of the Sea,* London, 1994, p. 20.

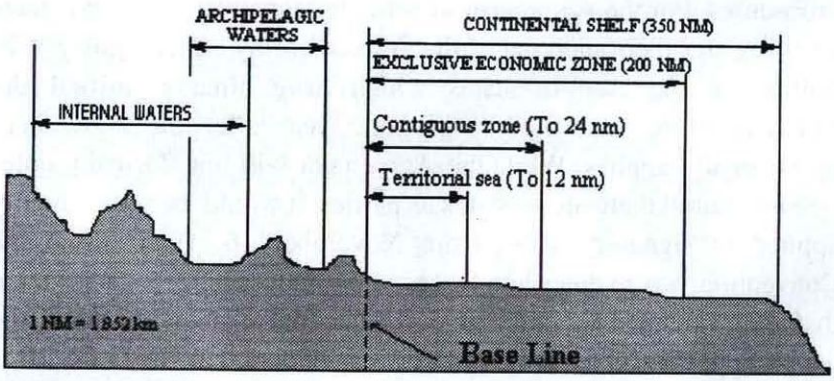
Part XI Agreements

In 1990, then UN Secretary General convened informal meetings in New York to begin negotiation of a multilateral instrument which would correct the objectionable portions of Part XI (Article 133 onwards of the convention). The object was universal adherence to the Convention. Approximately 30 developing and developed countries participated in the discussions which resulted, in early 1994, in a Draft UN General Assembly Resolution and Draft Agreement Relating to Implementation of Part XI of the 1982 United Nations Convention on the Law of the Sea. The Part XI Agreement and Draft General Assembly Resolution have been crafted so as to incorporate by reference the provisions of the Convention which are not objectionable (the entire Convention less specified provisions in Part XI). Most parties and non-parties to the Convention are expected to sign the Agreement, including most industrialized nations. Since the Convention entered into force in November 1994, those states which have agreed to be bound by the Convention may signal their assent to the Agreement through, in essence, silent consent procedures. The legal significance of the draft UN General Assembly Resolution is that it eliminates the requirement to amend the Convention through the convening of an entirely new Law of the Sea Conference or by use of the Convention's 2/3-vote amendment procedures. For the Agreement to formally enter into force, 40 states must register their approval of the Agreement by either signing it or failing (in the case of states which have already ratified the Convention) to "opt out" within one year after the Agreement provisionally applies. While the Agreement will not formally enter into force until there are 40 states as parties, it would be provisionally applied to signatory states from November 16, 1994, when the Convention was to enter into force. Many industrialized states stated that they intended to ratify or accede to the convention since the adoption of Part XI agreements. It is thus evident that UNCLOS-III is a very significant and substantial regulatory package, and that it will

have an impact on all aspects of maritime activities throughout the world.

MARITIME ZONES

Traditionally, the oceans of the world traditionally have been classified under the broad headings of internal waters, territorial seas and high seas. In recent years, new concepts have evolved, such as the exclusive economic zone (EEZ) and archipelagic waters, which have dramatically expanded the jurisdictional claims of coastal and island nations over wider expanses of the ocean previously regarded as high seas. Under UNCLOS-III (1982) a nation's water can be divided into six distinct zones. The first of these, called internal waters, is of course not an off-shores zones, but was included in the agreement to encompass all navigable waters. The other zones are the archipelagic waters, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf(Figure 1). The regimes of ocean and airspace areas directly affect naval operations by determining the degree of control that a coastal or island nation may exercise over the conduct of foreign merchant ships, warships, and aircraft operating within these areas.



PROTECTION OF MARITIME ENVIRONMENT

An entire part of UNCLOS is devoted to the environment, under the opening statement "States have the obligation to protect and preserve the marine environment". In discussing the measures to be taken, the document includes pollution from land-based sources, from or through the atmosphere and by dumping, as well as from vessels, platforms and other installations.[10] It requires international co-operation in scientific studies and in transfer of technology, as well as the monitoring of pollution risks and the publication of relevant information. Enforcement of anti-pollution measures by both flag states and port states are detailed, especially the rights of coastal states to enforce measures to prevent damage to their coastline, fishing grounds and other assets by a "maritime casualty" (collision, stranding and similar events). Significantly, such measures may extend "beyond the territorial sea, proportional to the actual or threatened damage." The regulations therefore place obligations on coastal states irrespective of any territorial claims they may register on offshore waters. Coping with these obligations calls for a wide range of expertise and equipment, such as the identification and quantification of harmful substances carried from the land to sea by water or the air, and the development of means to reduce such pollution. There must also be an organization and suitable equipment for dealing with pollution originating at sea, whether from shipping or from offshore activities. Depending on the size of the area surveyed, there may be a need not only for oil spill booms and dispersant sprayers, but also for infra-red and other sensors carried on surveillance aircraft to spot and locate pollution, for offshore monitoring buoys or rafts and for marine biology research laboratories to control and direct activities. All the States have also actively participated in the IMO, the institutional sponsor for a number of other related convention, including

10 Churchil and Lowe, *op. cit.*, p. 55-56.

* The 1973 Convention and 1978 Protocol for the Prevention of Pollution from Ships (MARPOL);

* The 1972 Convention on the Prevention of Marine Pollution (London Dumping Convention).

* The 1972 Convention on Prevention of Collisions at Sea.

Most rules for navigational safety governing surface and sub surface vessels, including warships, are contained in the International Regulation for Preventing Collisions at Sea 1972, known informally as the "International Rules of the Road" or (R O R). These rules apply to all international waters (i.e. the high seas, exclusive economic zones and contiguous zones) and except where a coastal or island nation has established different rules in that nations territorial sea, archipelagic waters and internal waters as well. All persons in the maritime services responsible for the operation of naval/merchant ships and craft "shall observe" the R O R.

ARCHIPELAGIC SEA LANES PASSAGE

All ships and aircraft including warships and military aircraft, enjoy the right of archipelagic sea lanes passage while transiting through, under or over the waters of archipelagoes and adjacent territorial seas via designated archipelagic sea lanes.[11]

Archipelagic sea lanes include all routes normally used for international navigation and overflight whether or not designated by the archipelagic nation. Each sea lane is defined by a continuos line from the point of entry into the archipelago to the point of exit. Ships and aircraft engaged in archipelagic sea lanes passage are required to remain within 25 nautical miles to either side of the axis line and must approach no closer to the coastline than 10 percent of the distance (i.e. 4nm) between the nearest islands. Outside of sea archipelagic sea

11 *Ibid.*, p.20-21.

lanes, all surface ships, including warships, enjoy the more limited right of innocent passage throughout archipelagic waters just as they do in the territorial sea. Submarines must remain on the surface and fly their national flag. Any threat or use of force directed against the sovereignty, territorial integrity, or political independence of the archipelagic nation is prohibited. Launching and recovery of aircraft are not allowed, nor may weapons exercises be conducted. The archipelagic nation may promulgate and enforce reasonable restrictions on the right of innocent passage through its archipelagic waters for customs, fiscal, immigration, fishing, pollution and sanitary purposes. Innocent passage may be suspended temporarily by the archipelagic nation in specified areas of its archipelagic waters when essential for the protection of its security, but it must first promulgate notice of its intentions to do so and must apply the suspension in a non-discriminatory manner. There is no right of overflight through airspace over archipelagic waters outside of archipelagic sea lanes passage sea lanes.

NATIONAL AND INTERNATIONAL WATERS

It can be seen that the worlds oceans are divided into two parts the first includes internal waters, territorial seas, and archipelagic waters. These "national waters" are subject to the territorial sovereignty of coastal and island nations, with certain navigational rights reserved to the international community. The second part includes contiguous zones, waters of the exclusive economic zone, and the high seas. These are "international waters" in which all nations enjoy the high seas freedoms of navigation and overflight. International waters include all ocean areas not subject to the territorial sovereignty of any nation. All waters sea ward of the territorial sea are international waters in which the high seas freedoms of navigation and overflight are preserved to the international community. Coastal and island nations may establish safety zones to protect artificial islands, installations and structures located in their

internal waters, archipelagic waters, territorial seas and exclusive economic zones and on their continental shelves. In the case of artificial islands, installations and structures located in the exclusive economic zones or on the continental shelf beyond the territorial sea, safety zones may not extend beyond 500 metres from the outer edges of the facility in question, except as authorized by generally accepted international standards.

Warship

International law defines a warship as a ship belonging to the armed forces of a nation bearing the external markings distinguishing the character and nationality of such ships under the command of an officer duly commissioned by the government of that nation and whose name appears in the appropriate service list of officers and manned by a crew which is under regular armed forces discipline.[12] In the Bangladesh Navy those ships designated "BNS" are "warships" as defined by international law. Bangladesh Coast Guard vessels designated "CGS" may also "warships" under international law. A warship enjoys sovereign immunity from interference by the authorities of nations other than the flag nation. Police and port authorities may board a warship only with the permission of the commanding officer. A warship cannot be required to consent to an onboard search or inspection nor may it be required to fly the flag of the host nation. Although warships are required to comply with coastal nation traffic control, sewage, health and quarantine restrictions instituted in conformance with the 1982 LOS Convention. A failure of compliance is subject only to diplomatic complaint or to coastal nation orders to leave its territorial waters immediately. Moreover, warships are immune from arrest and search, whether in national or international waters, are exempt from foreign taxes and regulation and exercise exclusive control over all passengers and

12 *Ibid.*, p. 12.

crew with respect to acts performed aboard. Sunken warships and military aircraft remain the property of the flag nation until title is formally relinquished or abandoned, whether the cause of the sinking was through accident or enemy action (unless the warship or military aircraft was captured before it sank). Auxiliaries are vessels, other than warships that are owned by or under the exclusive control of the armed forces. Because they are state owned or operated and used for the time being only on government noncommercial service, auxiliaries enjoy sovereign immunity. This means that like warships, they are immune from arrest and search, whether in national or international waters. Like warships they are exempt from foreign taxes and regulations and exercise exclusive control over all passengers and crew with respect to acts performed on board.

Innocent Passage

International law provides that ships (but not aircraft) of all nations enjoy the right of innocent passage for the purpose of continuous and expeditious traversing of the territorial sea or for proceeding to or from internal waters. Innocent passage includes stopping and anchoring, but only insofar as incidental to ordinary navigation or rendered necessary by force majeure or distress.[13] Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal or island nation.[14] Among the military activities considered to be prejudicial to peace, good order, and security and therefore inconsistent with innocent passage are :

(a) Any threat or the use of force against the sovereignty, territorial integrity or political independence of the coastal or island nation.

(b) Any exercise or practice with weapons of any kind.

13 *Ibid.*, pp. 7-8.

14 W E Butler, *Innocent Passage and the 1982 Convention*, 1987 p. 347.

(c) The launching, landing or taking on board of aircraft or any military device.

(d) Intelligence collection activities detrimental to the security of that coastal or island nation.

(e) The carrying out of research or survey activities.

The coastal or island nation may take affirmative actions in its territorial sea to prevent passage that is not innocent, including, where necessary, the use of force. Foreign ships including warships, exercising the right of innocent passage are required to comply with the laws and regulations enacted by the coastal or island nation in conformity with established principles of international law and in particular, with such laws and regulations relating to the safety or navigation. Innocent passage does not include a right of overflight. For purposes such as resource conservation, environmental protection and navigational safety, a coastal or island nation may establish certain restrictions upon the right of innocent passage of foreign vessels. A coastal or island nation may suspend innocent passage temporarily in specified areas of its territorial sea, when it is essential for the protection of its security. Such a suspension must be preceded by published notice to the international community and may not discriminate in form or in fact among foreign ships.

All warships, including submarines, enjoy the right of innocent passage on an unimpeded and unannounced basis. Submarines, however, are required to navigate on the surface and to show their flag when passing through foreign territorial seas. If a warship does not comply with coastal or island nation regulations that conform to established principles of international law and disregards a request for compliance which is made to it, the coastal or island nation may require the warship immediately to leave the territorial sea. All ship and aircraft commanders have an obligation to assist those in danger of being lost at sea. This long recognized duty of mariners permits

assistance entry into the territorial sea by ships or under certain circumstances, aircraft without permission of the coastal or island nation to engage in bona fide efforts to render emergency assistance to those in danger or distress at sea. This right applies only when the location of the danger or distress is reasonably well known. It does not extend to entering the territorial sea or airspace to conduct a search.

Self-Defence

Self-defence in international law is enshrined in customary law and now restated in Article 51 of the UN Charter.[15] This proclaims that nothing in the Charter in any way precludes the inherent right of self-defence either on the part of individual states or collectively if an armed attack actually occurs. The only provisos that action taken in self-defence by UN member states is designed to restore the status quo, pending reference of the matter to the Security Council of the UN. How far Article 51 eclipses the customary law of self-defence, and how far it affects the freedom of action of non-member states of the UN is debatable. Three, questions nevertheless call for answer, first what is an 'armed attack'? Secondly, can anticipatory action be taken? Thirdly, what degree of response is permissible? In traditional practice an 'armed attack' was measured by the arrival of the first cannon-ball, or the arrival of an invading force on the victims territory or vessel. The development of weapon technology has, however, eclipsed this simple test, and it is now suggested that an 'armed attack' is judged by the degree of commitment on the part of a potential attacker if his actions are only referable to the intention to attack and must inevitably lead to an actual assault, then it may well be that an 'armed attack' within Article 51 has occurred. Illumination of a target by an attack radar installation may be evidentiary, but it is not conclusive of the existence of an 'attack' as the regularity and frequency of the illumination may downgrade the expectation. No

15 D.P.O, Connell, *op. cit.*, p. 41.

comprehensive treaty rules exist where however areas of sea are habitually use of exercise or weapons testing, and this fact has been publicized that the law of seas does suggest that foreign merchant vessels at least should exercise some degree of voluntary restraint and forbearance in the interests of 'community usage' of the sea. If foreign naval units are obstructive, there is no rule of law which suggests that freedom of navigation' on the high seas means the right to be in any particular location at any particular moment in time. Hence we find Rules of Engagement or Fighting Instructions with their own peculiar leaders of escalation through 'hostile intent' to 'hostile act' and 'armed attack'. These rules are necessarily based on principles of law it is suggested, however, that insofar as the rules postulate the use of weaponry, the situation must fall within the proven grounds for resort to self-defence if the use of weapons is to be condoned by international law.

TERRITORIAL WATERS AND MARITIME ZONES ACT, 1974 OF BANGLADESH

The UN Convention established the means by which the coastal nations extend their sovereignty over adjacent marine resources and enjoy immediate benefits of tangible fishing and navigational rights, a just and equitable framework to protect and conserve the resources of the world ocean for the welfare of the entire world community. The people of Bangladesh have historically been a sea-faring people. The limited land resources available to us and the disparity between those resources and subsistence need of the 120 million population of Bangladesh makes it imperative to recognise the potential of the oceans as a tangible promise for the future. Sea is the only link of Bangladesh with the countries of the out side world with the exception of India and Myanmar. 98% of our total exports and imports travel by sea. Some 120 ships including Bangladesh flag vessels arrive monthly in the ports of Chittagong and Mongla. Bangladesh has to depend on imports of 100% fuel, raw material,

spares and military hardware through the sea. We can not afford to stockpile large quantities of these items due financial constraint and as such critical supplies will have to come through the sea. Stoppage of import of food grain and POL will be at the stake of nations survival. So undisturbed flow of shipping in and out of our ports is vital to the economic survival and defence of the country. Keeping the above in purview, the Govt. of Bangladesh through an act of parliament enacted the Territorial waters and Maritime zones Act 1974 (Act no XXVI of 1974)[16] almost simultaneously when the discussion on the law of the Sea was going on and much before the Law of the sea was placed for signature the 1982. The act provides for declaration of the following maritime zones and matters ancillary thereto.

a. *Territorial waters* The Government may declare the limits of the sea beyond the land territory and internal waters of Bangladesh which "shall be the territorial waters of Bangladesh specifying in the notification the baseline.[37]

(1) from which such limits shall be measured; and

(2) the waters on the landward side of which shall form part of the internal waters of Bangladesh.

Where a single island, rock or a composite group thereof constituting the part of the territory of Bangladesh is situated seawards from the main coast or baseline, territorial waters shall extend to the limits declared by notification measured from the low waterline along the coast of such island, rock or composite group. The Sovereignty of the Republic extends to the territorial waters as well as to the air space over and the bed and subsoil of such waters. No foreign ship shall unless it enjoys the right of innocent passage, pass through the territorial waters. Foreign ship having the right of

16 *The Territorial Water and Maritime Zones Act 1974* published in the Bangladesh Gazette extra Feb 14, 1974, P-2334.

innocent passage through the territorial waters shall while exercising such right, observe the laws and rules in force in Bangladesh. The govt. by notification can suspend in the specified areas of the territorial waters, the innocent passage of any ship if it is of opinion that such suspension is necessary for the security of the Republic. No foreign warship shall pass through the territorial waters except with the previous permission of the Government. The Government may take such steps as may be necessary,

(1) to prevent the passage through the territorial waters of any foreign ship having no right of innocent passage;

(2) to prevent and punish the contravention of any law or rule in force in Bangladesh by any foreign ship exercising the right of innocent passage;

(3) to prevent the passage of any foreign warship without previous permission of Government; and

(4) to prevent and punish any activity which is prejudicial to the security or interest of the Republic In this section "warship" includes any surface or subsurface vessel or craft which is or may be used for the purpose of naval warfare.

b. *Contiguous zone* The zone of the high seas contiguous to the territorial waters and extending seawards to a line 06 nautical miles measured from the outer limits of the territorial waters is hereby declared to be the contiguous zone of Bangladesh.[17] The Government may exercise such powers and take such measures in or respect of the contiguous zone as it may consider necessary to prevent and punish the contravention of and attempt to contravene, any law or regulation in force in Bangladesh relating to-

17. *Ibid.*, p.2334.

(1) the security of the Republic:

(2) the immigration and sanction: and

(3) customs and other fiscal matters.

c. *Economic zone.* The Government may, by notification in the official Gazette, declare any zone of the high seas adjacent to the territorial water to be the economic zone of Bangladesh specifying therein the limits of such zone. All natural resources within the economic zone, both living and non-living on or under the seabed and subsoil or on the water surface or within the water column shall vest exclusively in the Republic. Nothing in this shall be deemed to affect fishing within the economic zone by a citizen of Bangladesh who uses for the purpose vessels which are not mechanically propelled.

d. *Conservation zone.* The Government may, with a view to the maintenance of the productivity of the living resources of the sea, by notification in the official Gazette, establish conservation zones in such areas of the sea adjacent to the territorial waters as may be specified in the notification and may take such conservation measures in any zone so established as it may deem appropriate for the purpose including measures to protect the living resources of the sea from indiscriminate exploitation, depletion or destruction.

(e) *Continental Shelf.* The continental shelf of Bangladesh comprises-

(1) the seabed and subsoil of the submarine areas adjacent to the coast of Bangladesh but beyond the limits of the territorial waters up to the outer limits of the continental margin bordering on the ocean basin or abyssal floor; and

(2) the seabed and subsoil of the analogous submarine areas adjacent to the coasts of any island, rock or any composite group thereof constituting part of the territory of Bangladesh.[18]

Subject to the above, the Government may, by notification in the official Gazette, specify the limits thereof. No person shall, except under and in accordance with the terms of, a license or permission granted by Government explore or exploit any resources of the continental shelf or carry out any search or excavation or conduct any research within the limits of the continental shelf. Provided that no such license or permission shall be necessary for fishing by a citizen of Bangladesh who uses for the purpose vessels which are not mechanically propelled. Resources of the continental shelf include mineral and other non-living resources together with living organisms belonging to sedentary species, the is to say, organisms which at the harvesting stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil. The Government may construct, maintain or operate within the continental shelf installation and other devices necessary for the exploration and exploitation of its resources.

f. *Control of pollution.* The Government may, with a view to preventing and controlling marine pollution and preserving the quality and ecological balance in the marine environment in the high seas adjacent to the territorial waters, take such measures as it may deem appropriate for the purpose.[19]

g. The Government may make rules for carrying out the purpose of this Act. In particular and without prejudice to the generality of the foregoing power, such rules may provide.

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18 *Ibid* p. 2336.

19 *Ibid* p.2336.

(1) for the regulation of the conduct of any person in or upon the territorial waters, contiguous zone, conservation, zone and continental shelf;

(2) for measures to protect, use and exploit the resources of the economic zone;

(3) for conservation measures to protect the living resources a the sea;

(4) for measures regulating the exploration and exploitation of resources within the continental shelf.

(5) for measures designed to prevent and control of marine pollution of the high seas.

In making any rule under this section the Government may provide that a contravention of the rules shall be punishable with imprisonment which may extend to one year or with fine which may extend to five thousand takas.

Geographical Coordinates of Baseline

In exercise of the powers conferred by the Territorial Waters and Maritime Zones Act, 1974 (Act No XXVI of 1974) and in suppression of any previous declaration on the subject, the Government declared that the limits of the sea beyond the land territory and internal waters of Bangladesh shall be the territorial waters of Bangladesh. The limits of the sea shall be twelve nautical miles measured seaward and the baseline set out in as in menso that each point of the outer limit of the sea to the nearest point inward on the baselines is twelve nautical miles. The baselines from which territorial waters shall be measured seaward are the straight lines linking successively the baseline points set out below :[20]

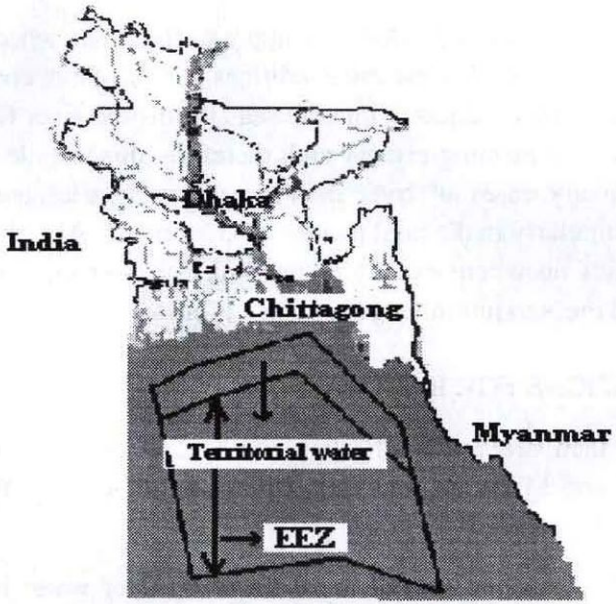
20 *The Bangladesh Gazette Extra* April 16, 1974, p. 4130

Baseline Point	Geographical Latitude	Co-ordinate of baseline point. Longitude
No.1	21°12"OO"N	89°O6"45"E
N.2	21°15"OO"N	89°16"OO"E
N.3	21°29"OO"N	89°36"OO"E
N.4	21°21"OO"N	89°55"OO"E
N.5	21°11"OO"N	9O°33"OO"E
N.6	21°O7"3O"N	91°O6"OO"E
N.7	21°1O"OO"N	91°56"OO"E
N.8	21°21"OO"N	92°17"3O"E

In exercise of the powers of the Territorial Waters and Maritime Zones Act, 1974 (Act No XXVI of 1974) the Government also declared that the Zone of the high seas extending to 2OO nautical miles measured from the baselines shall be the Economic Zone of Bangladesh.[21]

The above geographical coordinates of the baseline are drawn on a large-scale chart of the coast of Bangladesh and is shown as Fig 2 drawn on 10 fm or 60 ft of water (depth criteria) probably considering the peculiar deltaic and deeply indented coast line of Bangladesh. From the baseline the 12 mile territorial water belt was also established. The govt. also declared a zone of high seas extending to 200 nautical miles measured from the baseline shall be the economic zone of Bangladesh. Bangladesh therefore had established in 1974 exclusive rights of exploring and exploiting marine resources in the Economic Zone, i.e., an area of about 40,000 sq miles almost equal to 2/3 of our total land area. From the above, it can be seen that the govt. of Bangladesh declared such zones long before the UNCLOS III established various maritime zones. Specially the establishment of baseline on depth criteria was very unique and was not adopted by any other country till then. The UNCLOS III was at a very early state

21 *Ibid.*, p. 4230.



in 1974 when Bangladesh framed the rule of baseline. But till 1982, when UNCLOS III was adopted, Bangladesh could not get the concept of depth criteria accepted by the world community or by our neighbours (as all decisions in the UNCLOS III were taken by consensus).[22] Bangladesh originally suggested the "appropriate points" as "the furthest seaward extent of submerged sedimentary delta" but the submerged point is invisible so that the traditional visibility criteria prevailed. Where presence of delta causes unstable coastlines "appropriate points may be selected along furthest seaward extent of the low-water line", was incorporated by Bangladesh to protect the interest of deltaic countries having continual fluvial erosion and sedimentation.[23] Because of Bangladesh proposal accepted on Article 7 & 8 of UNCLOS-III on "delta baselines",

22 B. Buzan, *Negotiating by Consensus on the Law of the Sea,* 1981, pp. 324-348.

23 Takeo Iguchi, "The new law of the sea (UNCLOS-III) major issues", paper presented by Ambassador of Japan in a seminar at Bangladesh Institute of Law and International Affairs, Dhaka 1989.

Article 9 of UNCLOS-III does not apply to the cases where a river forms "a delta and other natural conditions" or "unstable coastlines". Also, "a river flows directly into the sea" means the river flows into the sea without forming estuary and, therefore, this Article does not apply in many cases of river mouths where estuaries are usually found, particularly in the tidal mouths of great rivers. Also there is the lack of rules on where exactly along banks of river are the closing points and the maximum length of closing lines.

IMPLICATIONS FOR BANGLADESH

What then are the implication of the law of the sea on our Territorial and Maritime zones act. Upon careful scrutiny, following observations can easily be made:

a. The baseline set out in 10 fm or 60 ft of water is not in conformity with provisions the law of the sea and hence needs review.

b. If the baseline is reviewed in accordance with the UNCLOS-III then the limits of territorial water and Exclusive Economic zone set out by the Act will have to be redrawn.

c. Bangladesh can claim 24 n m of contagious zone as against 6 nm declared under the Act of 1974.

d. Bangladesh may claim more continental shelf then what is declared in the Act, taking advantage of new methods of calculation of continental shelf under UNCLOS-III (Para 7g and also Annex II of UNCLOS-III which provides different system of calculation of Continental margin only for the Bay of Bengal).

e. Since the law of the sea has come into force with effect from November 1994, Bangladesh is under obligation to deposit a copy of a large scale chart showing baselines or

geographical coordinates with the UN Secretary general.[24] Since the baseline on depth criteria was not accepted earlier it would be imperative to draw new baselines in accordance with the provisions of the law of the sea. Bangladesh can however, make declaration or statements to modify the legal effect of the provisions of UNCLOS-III while ratifying the convention under Article 310.

f. Review of the term conservation zone along with the enacted punishment may be necessary.

g. Some of our neighbours have already ratified the UNCLOS-III, we can not be sure how long it would be possible for us not to ratify the treaty and continue our present claim as per Act of 1974 and the law may as well be applicable to us as a signatory.

h. In one case three foreign Trawlers seized by Bangladesh Navy were set free as the court observed that "Customs Water" as stated in section 2(p) of Customs Act 1964 means the waters extending into the sea to a distance of 12 nautical miles measured from the appropriate base line on the coast of Bangladesh. It was therefore, 12 miles belt of the sea starting from the "base line" which was the material point for consideration in this case. If any act as allegedly done by the trawlers with in this 12 miles zone i.e., Customs Waters, then that will come within the mischief of the Act. Territorial Waters i.e., Sea-belt of 12 miles from the base line as defined in the Territorial Waters and the Maritime Zone Act is synonymous with the Customs Waters as defined into the Customs Act. Trawlers in question were not found within the Customs Water Territorial/Waters of Bangladesh but were found within the "Economic Zone" and as such the

24 *UN Conventions on the Law of the Sea* 1982, p. 6.

punishment provided in the Customs Act could not be inflicted upon the trawlers. It is to be seen whether the unauthorized act of the trawlers done in the "economic zone" is punishable under any other law enforce in Bangladesh. So, the present base line was not effective and new rules may be framed or updated so that such situations are avoided.

j. It is not yet known whether Bangladesh like India and Pakistan has signed the Part XI agreements or not.

k Finally, Bangladesh could not as yet proceed with maritime boundary delimitation either with India or Myanmar. It may be possible to delimit maritime boundary under the UNCLOS-III. This will help us in exploring the untapped resources of the Bay of Bengal for our sustenance. Solution of Maritime boundary issues will finally allow establishment of rightful claim over EEZ and continental shelf. The issues of delimitation of maritime boundary with India and Myanmar and sovereignty claim over south Talpatti may also be taken up in the light of Law of the Sea and other international rules as stated below.

DELIMITATION OF MARITIME BOUNDARY

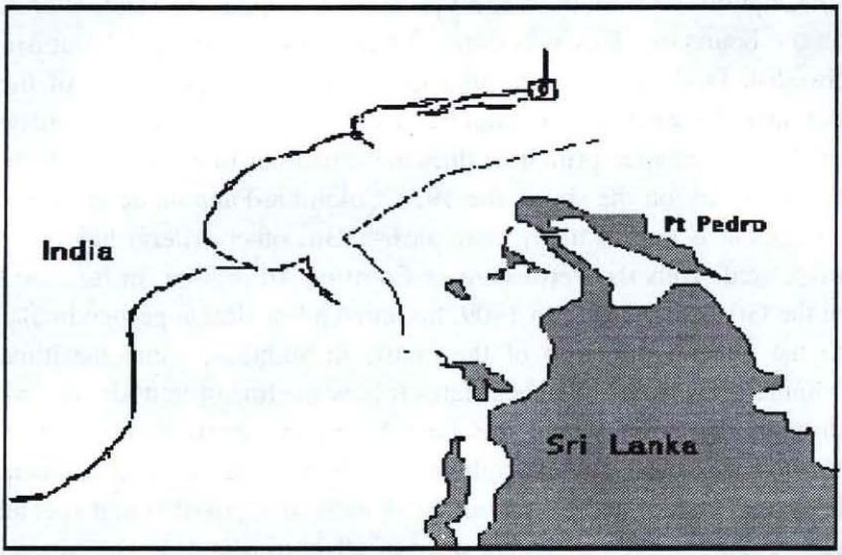
It is extremely difficult to recommend any precise principles of delimitation as might be applied in future to boundary issues of Bangladesh. Quite apart from the inherent vagueness of the principles, each delimitation involves a situation which has its own unique characteristics which will have to be taken into account. Previous practice and decisions will at best point to the kind of factors to be considered and approach to be adopted and will not permit the deduction of a precise boundary line which must be applied. In the case of delimitations between opposite States i.e., two State facing each other the normal practice has been to agree upon the median

line, equidistant from the nearest points of the opposing States shores, as the boundary. This was done, for example, in the 1932 Danish-Swedish Declaration concerning the Sound, for a large part of the boundary between the two States.[25] Considerable use has been made of the equidistance principle, drawing a median line outwards from the boundary on the shore, the 1976 Colombia-Panama delimitation agreement is one of many examples.[26] But other criteria have also been used. Thus the Permanent of Court of Arbitration, in its award in the Grisbadarna case in 1909, favoured a line drawn perpendicular to the general direction of the coast. In addition, some maritime boundaries between adjacent States follow the line of latitude passing through the point where the land boundary meets the sea. This method was used, for example in the 1975 delimitation agreement between Ecuador and Colombia. In all cases it is possible that special circumstances, such as the presence of offshore islands or the general configuration of the coast, or claims to water areas based upon an historic title, will demand the adopting of some other boundary line by agreement between the States concerned. In the 1974 Agreement between India and Sri Lanka on the Boundary in Historic Waters between the two countries for instance, a modified median line was used, to take account of historical factors (Fig 3)[27]. Indeed, it is the common practice at present to set boundaries by reference to geographical coordinates for the sake of certainty and simplicity and such determinations almost inevitably demand some departure from the exact median line or other criterion. Our coastline being concave in nature, rules of special circumstances as per Article 15 may be applied for delimitation of maritime boundary between adjacent states. Once the boundary line is justified by special circumstances, then the boundary of EEZ and continental shelf may be determined

25 Churchill and Lowe, *op. cit.*, p.154.

26 *Ibid,* p.154.

27 Rear Admiral K R Menon, "Maritime Developments and Opportunities - South Asia", paper presented at a seminar on *Maritime Bridge into Asia* held in Sydney from 17-19 Nov 1993, p. 5.



by applying 'equidistance plus special circumstances principle. Many EEZ and continental shelf boundaries have been settled by agreement in relations between States accepting that obligation under the Convention. Rights to the continental shelf are inherent and this must be recognised in delimitations and delimitation by agreement remains the primary rule of international law. Any delimitation whether agreed or determined by a third party, must result in an equitable solution and there is in principle no limit to the factors relevant to the determination of 'equitableness. In practice, geographical considerations are coming to predominate, and the existence of a significant disproportion between the relative maritime areas attaching to the States and the relative lengths of their coastlines is likely to be taken as a sign of inequity. Other factors, such as economic, ecological, security and geomorphological factors are given less weight. Articles 74 and 83 of UNCLOS-III contain no reference to equidistance, which may now be applied only in so far as it leads to an equitable solution. Although it is generally desirable that

EEZ and continental shelf boundaries should coincide the fact that article 74 of the Law of the Sea convention stipulates that such boundaries should represent an 'equitable solution' will in many cases make it more difficult to agree on a common boundary. A boundary that might be equitable for EEZ purpose may not be equitable for continental shelf purposes because of the different considerations that are relevant to achieving an equitable solution in each case for example, the location of fish stocks in the case of the EEZ, the geological characteristics of the sea bed and the location of sea bed mineral deposits in the case of continental shelf.

The Issue of South Talpatty

There is a need to examine the conflicting claims on any offshore island like South Talpatty from international law perspective for three reasons: (i) to show linkages between law and conflicting claims (ii) to establish the legality of the claim and (iii) to establish the extent to which international law can be used to explain the relating to conflicting territorial claims. The island was first shown in the Admiralty chart no 859 as New Moore island on information provided by India. Since the flow of the river Hariabhanga continues either side of South Talpatty, size and height of the island may deplete/increase depending on various hydrological factors in future. Within the discipline of international law there is a well-established body of rules and state practices dealing with modes of territorial acquisitions. Problems of conflicting claims often do not result from lack of understanding of international law but from the politics surrounding the claims. Conceptually in international law , the earth's surface can be viewed as consisting of three types of territory: (I) that which rightly belongs to some state (ii) *terra nullius* - that which belongs to no state and (iii) *terra communis* that which belong to all states. Strictly speaking only *terra nullius* territory can be nationally appropriated. International law deals with delimiting respective territorial boundaries, regulating the transfer to territory from one

state to another as well as determining the actual status of a particular territory. In this context, International law is also concerned with boundary disputes and conflicting claims to territories by states. Evidently, many of the conflict territorial claims arise from the tendency of states to expand by acquiring additional territories through creeping annexation. New territories are acquired for various reasons: for their resources out of strategic considerations and lately to expand maritime jurisdiction. According to the stipulation of the 1982 International Law of the Sea, possession of even one small island or piece of reef enables a country to claim a total of 1,500 square kilometers of territorial sea based on a radius of 12 nautical miles of territorial waters (1 nautical mile=1,825 metres). The contiguous zone, exclusive economic zone (EEZ) and continental shelf all begin at the seaward limit of the territorial sea. The contiguous zone may extend to a maximum distance of 24 nm from the baselines and the EEZ may extend to a maximum of 200 nm from the baselines. Therefore, it enables the country that owns the island to claim some 430,000 square kilometers of special economic zone. A speck of land in the middle of the ocean can thus become very important as it can be used to expand a states maritime territory, which explains why states are keen to claim distant islands. But such attempts at creeping annexation can also lead to territorial conflicts between states as International law recognises five principal modes of territorial acquisition. Occupation, prescription, accretion, cession and conquest. These are useful to explain the validity of conflicting territorial claim and these factors will lay rightful claim of Bangladesh on South Talpatti in addition to the provisions of the UNCLOS-III

a. Occupation is a means of acquiring unappropriated territory. To constitute a valid claim, occupation must satisfy at least two minimum conditions. First the territory to be occupied must not belong to anybody and must in essence, be *terra nullius* at the time of acquisition otherwise the occupation is

not valid. Second the occupation must be effective to the extent that there exists an actual continuous and peaceful display of state authority over the occupied territory. Mere discovery not immediately followed by effective occupation gives the discoverer only temporary title. Unless the occupation is followed with effective jurisdiction within a reasonable time, it is subject to appropriation by another state. There are exceptions to the rule.

b. To be valid, prescription must be based on effective occupation although it differs from occupation only with regard to the status of the territory at the time of occupation. This applies to territory lawfully claimed by another state. Title through prescription effective only through a sufficient period of uninterrupted occupation and by acquiescence of the other claiming party. Acquiescence is implied when one party fails to manifest its opposition of a title in a sufficiently effective and positive manner, for example, by reference to an international tribunal or taking such actions to announce publicly its protests or opposition of the title.

c. A state acquires territory by accretion when a new territory is formed, within its existing territorial limits for example, when the sea recedes or river changes its course or dries up leaving a new piece of territory within the states territorial limit. The emergence of an island in the territorial sea or the states EEZ is another example of natural accretion.

d. Cession on the other hand refers to the transfer of territory from one state to another, often by treaty or agreement. Cession can be both voluntary or forced. The cession of Singapore in 1819 was voluntary. So was the cession (sale) of Alaska to the United States in 1867. Germany was forced to secede Alsace-Lorraine to Germany in 1871.

e. Conquest is similar to forced cession in that it involves the forcible seizure of another states territory. The current principles of international law pertaining to the permissible use of force, particularly those adopted by the United Nations Charter, have caused some writers and jurists to question the validity of such title.

f. States occasionally invoke the concept of discovery and proximity to strengthen their territorial claims. Discovery in itself does not normally create permanent title only inchoate title. For ownership to be valid, discovery must be followed by effective occupation of the territory. Likewise, proximity alone cannot create title to a territory if not properly substantiated by other modes of acquisition. Many states have erroneously maintained that islands close to their shores belong to them by virtue of their geographical proximity. It is not possible to show the existence of a rule of international law that islands situated outside the territorial waters should belong to a state for the mere fact of proximity or contiguity. Other evidence must exist to support title to a territory in such a situation. Without effective occupation of territories in a terra nullius status proximity and discovery on their own cannot create permanent title.

Both the governments of Bangladesh and India have however agreed to exchange data through hydrographic survey for a peaceful settlement of the sovereignty claim of South Talpatty.[28] Decision on this will finally effect the maritime boundary line drawn under the gazette notification of 1974. The machinery for dispute settlement of sea-related problems is well established in the 1982 conventions of the law of the Sea. Since all countries in South Asia are signatories of the treaty, the legal framework for dispute settlement is already

29 *White Paper* published by the Ministry of Foreign Affairs, Bangladesh on 26 May 1980, p. 4.

agreed on. What is needed is to transform the legal consent into a strong political will to resolve this issue by peaceful means.

CONCLUSION

A universal regime for governance of the oceans is needed to safeguard security and economic interests, as well as to defuse those situations in which competing uses of the seas are likely to result in conflict. In addition to strongly supporting freedom of navigation, the Convention provides an effective framework for serious efforts to address pressures upon the oceans resulting from land and sea-based sources of pollution and overfishing. Perhaps nowhere more dramatic has been the change than in the South Pacific where virtually overnight the small island nations acquired the legal right to resources within and underlying vast areas of surrounding ocean due UNCLOS-III. Kiribati, for example, with 690 square kilometres of land area, now controls 3.5 million square kilometres of sea area. The Marshall Islands has a land mass of 181 km^2 and a fishing zone of 2.1 million kilometres. When the largest country, Papua New Guinea, is excluded, the sea area of EEZs of the South Pacific islands is a staggering 296 times the land area.[29] The Agreement provides with all that with a near term opportunity to join with other industrialized nations in a widely accepted international order to regulate and safeguard the many diverse activities, interests and resources in the worlds oceans. The principal accomplishments of the LOS Convention is the establishment of a clear set of maritime zones, the territorial sea, contiguous zone, EEZ, and continental shelf, which uphold the security and resource interests of coastal states, balanced against the interest of maritime nations to have relatively open access to the oceans for navigation, overflight, and telecommunications. This careful balance of maritime zones reverses a disturbing trend in jurisdictional creep in which some states claimed territorial seas of up

30 Dr Authony Bergin, "New Developments in the Law of the Sea", *Asian Defence*

to 200 nm in order to create a monopoly over coastal resources or for purposes of security.

Burdened with a large population and lacking adequate natural resources on land, Bangladesh will have to depend more and more on her sea territories. It is expected that beyond the year 2000 when the population of our country would be more than 160 million, it will be necessary to look towards the sea for food, mineral and energy and probably for reclaiming land as well. The people of our coastal area are largely, dependent on sea. Traditionally, the people of these area have been sailing across the sea from time immemorial as the sea is the life blood of the inhabitants, though sea sometimes bring horror to the, people and inhabitation becomes painful and impossible. Very often Sea takes away their near and dear ones and they sink into misery. Inspite of all that they built up abode in the coastal belt fighting with the adverse sea for future peace and happiness. Bangladesh has been put in a unique condition. How much more could be grown by applying more scientific and methodical inputs from our rich soil? Where we can look for a solution? The solution lies in the living resources of our EEZ, Which is equal to 2/3 of our total land area. In this context, the developed countries have been endeavouring to explore and utilise the sea resources for better solution of food economy. The yearly production of marine resources are over US $50 billion in the developed countries. The Bay of Bengal has much potentials in fish and sea food. The annual catch of fish is about 7.5 hundred thousand tons. Besides providing nutrition to our people, the earning of foreign exchange from fish exports alone is more than 500 crore. Experts are of the opinion that oil, gas, metals like zircon, cobalt and magnetite, nickel soda ash, chorine, Hydroclorine, sodium hydrochloride are abundantly lying in the seabed which can be used for industrial purposes if tapped properly. Bangladesh has already struck gas at sea and the exploration in other areas are going on under the aegis of the present govt. Survey and research should be continued in the entire EEZ and continental shelf

for detailed, upto date and reliable information about the minerals available and harvestable stock of various type of fish. Effective and scientific extraction and preservation of sea resources could change our lot. But are we capable to do so? To accept this challenge we have to delimit maritime boundary and consolidate our position in the Bay of Bengal more effectively to derive maximum benefit out of it. We must have effective and modern maritime instruments to master over the whole area of our economic zone in line with the Law of the Sea.