

The 2013 Conference on Ocean Law and Policy
2 May 2013

1 According to our good friend, Myron Nordquist, the theme of this conference is freedom of navigation and globalisation. In the next 10 minutes, I will touch on three points: (i) how globalisation has transformed the world we live in; (ii) the freedom of navigation as an enabler of globalisation; and (iii) UNCLOS as the guarantor of the freedom of navigation.

Globalised World

2 A good friend, Kishore Mahbubani, has recently published his fourth book. It is entitled, “The Great Convergence: Asia, The West And The Logic Of One World.” In the second chapter of the book, Mahbubani argues convincingly that, for the first time in human history, we live in a single interdependent world. Although globalisation has its detractors, I hold the view that, on balance, it has done more good than harm. According to Mahbubani, the globalised world has four pillars, namely, the environmental pillar, the economic pillar, the technological pillar and the pillar of common human aspirations.

Four Pillars of Globalisation

3 The fact that we live in one world environmentally is best demonstrated by the threat of global warming and climate change. The problem real and it cannot be solved by any one country acting alone. It can only be solved by the collective action of all the nations of the world. I regret to say that it is not clear whether we will have the political will to agree on a new legally binding agreement to replace the Kyoto Protocol, which expires this year. The fact that we live in one world economically was brought home vividly to us when the crisis on Wall Street in 2008 was quickly transmitted across the Atlantic and caused a crisis in Europe and, as a result, the world economy was in danger of going over the cliff. In this regard, the G20, of which South Korea is a member, has played a significant role. Another significant development is that Asia has become an engine of growth for the world economy. Nothing better demonstrates the fact that we live in one world technologically than the power of mobile telephony and the wonders of the information and communication industry. The internet has made the Korean singer, Psy, into a global icon. The internet would not exist if we did not have a global network of submarine cables. We are also united by certain common aspirations, such as, to achieve a decent standard of living, to be treated with humanity and to live under the rule of law.

International Trade Drives Globalisation

4 One of the drivers of the global economy is international trade. Trade has lifted more developing countries out of poverty than foreign

aid. Trade has enabled the people of the world to access goods and services no matter where the producers are located. For example, it is because of trade that Samsung Galaxy S4 is sought after by the young people all over the world. It is because of trade that Apple's iPhone and iPad are essentially produced, not in America but, at Foxconn's factories in southern China.

Freedom of Navigation Lifeblood of Shipping Industry

5 We often forget that over 90 per cent of international trade is sea-borne. It is ships, not aircraft, which carry most of our trade in goods. Shipping takes place within a framework of laws and rules. A fundamental value is freedom of navigation. A ship may safely navigate through the territorial area, contiguous zone and the exclusive economic zone of any coastal state and the high sea in order to arrive at its destination. A ship may enter a port, discharge its cargo and leave. Freedom of navigation is the lifeblood of the shipping industry. It is a global public good. It is in the interests of all countries to uphold it. It is in the interests of no country to interfere with the freedom of navigation. Asian countries are highly dependent on trade for their prosperity. We are therefore a stakeholder in protecting the freedom of navigation.

UN Convention on the Law of the Sea

6 My third and final point is that the 1982 Convention on the Law of the Sea is the "constitution for the oceans". The convention

represents a carefully negotiated package of balances between the rights and interests of the coastal state, on the one hand, and the rights and interests of the international community, on the other. On the 10th of December 2012, I had the privilege of speaking to the UN General Assembly, on the occasion of the 30th anniversary of the opening for signature of the Convention. There was a consensus that the Convention has served the world well. We agreed that the Convention embodies the modern law of the sea. It has brought order and peace. We should faithfully abide by the Convention. We should refrain from undermining it by deviating from it in our domestic laws and practices. We should also refrain from adopting a selective approach towards the Convention, ie, choosing to abide by the provisions we like and ignoring those we do not like. As the former President of the Third UN Conference on the Law of the Sea, I would like to appeal to all states and to scholars on the law of the sea, to comply faithfully with the convention. I would also like to express the hope that when states disagree with one another, on the interpretation or application of the Convention, and if such disputes cannot be resolved by negotiation, they will consider referring such disputes to compulsory arbitration or adjudication under Part XV of the Convention. It is better to settle the disputes peacefully and in accordance with the law than to settle them by other means.

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