“RIGS–TO–REEFS”
PROSPECTS FOR LARGE SCALE ARTIFICIAL REEFS IN TROPICAL SOUTHEAST ASIAN SEAS
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The International Legal Regime Governing the Disposal and Re-Use of Offshore Platforms

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Part 1

Introduction: The Starting Point for Analyzing Law of the Sea Issues
The Starting Point for almost all issues of law of the sea

- 1982 UN Convention on the Law of the Sea (UNCLOS)
  - Establishes legal regime for all use of the oceans
  - Supplemented by other international treaties
  - Governs “States”, not individuals and companies
- The Starting Point: Outer limit of 12 nm Territorial Sea
  - Areas within sovereignty of coastal State – ports, internal waters, archipelagic waters & territorial sea
  - Areas outside sovereignty of coastal State – exclusive economic zone (EEZ), continental shelf & high seas
Indonesian Archipelago
Part 2

UNCLOS Provisions on Offshore Installations & Structures in EEZ & Continental Shelf
EEZ: A Specific Legal Regime

- EEZ extends from outer limit of 12 nm territorial sea to 200 nm
- Not high seas; Not under sovereignty of the coastal State
- Coastal State has sovereign rights to explore and exploit the natural resources in the water column and of seabed
- Coastal States have jurisdiction to regulate economic activities and marine scientific research
- Other States have high seas freedoms of overflight, navigation, and right to lay submarine cables and pipelines
- Both groups must give due regard to rights of the other
Coastal States have sovereign rights to explore and exploit the natural resources of the seabed and subsoil.

- Overlaps with EEZ out to 200 nm.
- Coastal State can claim an “extended continental shelf” beyond 200 nm.
- In exercising its rights, Coastal State must have due regard for freedoms of other States in waters above the shelf.
  - Example: Coastal State cannot build installations and structures in the middle of a shipping lane.
Installations and Structures in EEZ and on Continental Shelf

- Coastal State has the **exclusive right** to construct and to authorize and regulate the construction, operation and use of installations and structures.

- Coastal State has **exclusive jurisdiction** over installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration.

- Coastal State must give **notice and warning** of presence of installations and structures.

- Installations and structures **may not be established** where they may interfere with navigation in recognized sea lanes.
Abandoned or Disused Installations & Structures

- Any installations or structures which are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established by the competent international organization.

- If oil and gas installations and structures are not abandoned or disused, but used for another purpose, such as rigs to reefs, they need not be removed.

- The rights and jurisdiction of coastal State with regard to installations and structures is the same – whether the purpose is for oil exploitation or for creating an artificial reef.
Regional Regulations on Pollution from Seabed activities

- UNCLOS calls for the adoption of **regional** rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from **seabed activities** subject to national jurisdiction
Residual Liability for disused or abandoned structures

Coastal States have continuing obligations with respect to disused or abandoned installations and structures:

1. Obligation not to endanger safety of navigation or pollute the marine environment
2. Obligation to maintain to prevent structural failure and monitor condition of remaining structure
3. Obligation to warn of dangers to navigation on navigational charts and by signals
Part 3

International Legal Regime on Ocean “Dumping”
UNCLOS Art 1. Definition of “Dumping”

• "dumping" means . . . any deliberate disposal of . . . platforms or other man-made structures at sea;

• "dumping" does not include:
  – (ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.
Art 210 – Adoption of laws on Dumping

Article 210. Pollution by dumping

• States shall adopt laws and regulations and measures to prevent, reduce and control pollution of the marine environment by dumping

• States... shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution

• 6. National laws, regulations and measures shall be no less effective in preventing, reducing and controlling such pollution than the global rules and standards
### UNCLOS Art 216 – Enforcement of Laws on Dumping

**Article 216. Enforcement of Pollution by Dumping**

- 1. Laws and regulations adopted in accordance with this Convention . . . shall be enforced:

- (a) by the coastal State with regard to dumping within its territorial sea or its exclusive economic zone or onto its continental shelf;

- (b) by the flag State with regard to vessels flying its flag or vessels or aircraft of its registry;
UNCLOS & 1972 London Convention

- The “global rules and standards” referred to in Art 210 are the rules and standards set out in the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972 London)
- Parties to UNCLOS are not bound by 1972 London Convention
- However, parties to UNCLOS must adopt laws and regulations and take other measures to prevent, reduce & control pollution from dumping that are no less effective than the global rules and standards in the 1972 London Convention
UNCLOS calls for the adoption of **regional** rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from **dumping**.
The UNCLOS Dumping Regime applies in the territorial sea, archipelagic waters, EEZ, continental shelf & high seas.

The definition of “dumping” in the London Convention includes the abandonment or toppling of a disused platform for the purpose of disposal.

Under both the 1972 Convention offshore installations can be disposed of at sea with a Permit.

Placement of platform on the seabed for a purpose other than disposal is NOT DUMPING.
“Rigs to Reefs” and Dumping

- The placement of structures on the seabed for purposes other than disposal is not dumping under UNCLOS.
- Therefore, the placement of offshore installations and structures on the seabed for the purpose of creating artificial reefs is not dumping under UNCLOS or the London Convention.
2009 LC/UNEP Guidelines for Placement of Artificial Reefs

- Purpose is to assist countries in assessing proposals for placement of artificial reefs on basis of scientifically sound criteria
- Not legally binding even on parties to the London Convention
- Should be taken into account when adopting regional rules, standards and recommended practices
Part 4

CONCLUSIONS
Conclusions: Installations in EEZ and on Continental Shelf

1. Coastal States have exclusive right to construct installations and structures and exclusive jurisdiction over them.

2. Coastal State cannot place installations and structures in major shipping lanes.

3. If installations and structures are abandoned or disused, they must be removed.

4. If installations and structures are placed on the seabed for another purpose (such as to construct an artificial reef), the rule on removal is not applicable.
Conclusions: Dumping Regime applies in all maritime zones

1. States Parties to UNCLOS must adopt laws and take measures that are “no less effective” than the “global rules and standards” in the 1972 London Convention

2. Rules to prevent pollution by dumping should apply in all maritime zones, including territorial sea & archipelagic waters

3. The placement of platforms on the seabed for the purpose of disposal is DUMPING

4. The placement of platforms on the seabed for the purpose of creating an artificial reef is NOT DUMPING
Conclusions – Regional Approach

1. UNCLOS calls for the adoption of regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from dumping and from seabed activities subject to national jurisdiction.

2. A regional approach can take into account the benefits in a tropical marine environment of using platforms for the purpose of constructing artificial reefs.
Thanks for Your Attention

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