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KEYNOTE SPEECH BY AMBASSADOR-AT-LARGE TOMMY KOH (SINGAPORE), FORMER PRESIDENT OF THE THIRD UN CONFERENCE ON THE LAW OF THE SEA AT THE INTERNATIONAL SEABED AUTHORITY 20TH ANNIVERSARY COMMEMORATIVE SESSION, 22 JULY 2014, KINGSTON, JAMAICA

1. Salutations

Mr. President, Mr. Secretary-General, Madam Prime Minister, Mr. Stephen Mathias, Ambassador Satya Nandan, Professor Hasjim Djalal, Judge Jose Luis Jesus, Judge Vladimir Golitsyn, the President of the Council and the Chairmen of the Finance Committee and the Legal and Technical Commission, the Chairmen of the Regional groups, Your Excellencies, distinguished colleagues, friends from the NGO community, ladies and gentlemen.

2. Thank Nii A. Odunton

I would like to begin by thanking the distinguished Secretary-General, my good friend Nii Odunton, for inviting me to deliver the keynote speech on this auspicious occasion. I feel less deserving of this honour than some of my friends who will be speaking after me. Let me therefore pay a brief tribute to each of them.

3. Tributes to colleagues

My brother from Fiji, Ambassador Satya Nandan has made many outstanding contributions. He played a leadership role in the Third UN Conference on the Law of the Sea. He was instrumental in negotiating the 1994 Agreement relating to the implementation of Part XI of the Convention. He then served for 12 years as the founding Secretary-General of the International Seabed Authority (ISA). His legacy is both substantial and enduring.

4. Judge Jose Luis Jesus of the International Tribunal for the Law of the Sea (ITLOS) had made an important contribution as the Chairman of the Preparatory Commission for the ISA from 1987 to 1994. A few years ago, I had the pleasure of representing my country in a case before him at ITLOS. My brother from Indonesia, Professor Hasjim Djalal, an esteemed expert on the law of the sea, was the first President of the Assembly in 1996. He has devoted many years of his life to promoting peace and cooperation in the South China Sea. The Seabed Disputes Chamber of ITLOS has made an important contribution to our work by way of its Advisory Opinion. Judge Vladimir Golitsyn, is with

us in his capacity as the President of the said chamber as well as the representative of the President of ITLOS, Judge Shunji Yanai.

5. Following Wife's Advice:

In accordance with my wife's advice to be brief, I shall only make three points.

6. A Constitution for the Oceans

First, I note that the ISA is one of the three institutions created by the 1982 UN Convention on the Law of the Sea. The other two institutions are ITLOS and the Commission on the Limits of the Continental Shelf. I am happy to report that all three institutions are working effectively.

7. In celebrating the 20th anniversary of the ISA, we are also commemorating the 32nd anniversary of the 1982 UN Convention. The Convention is the fulfilment of our quest for an authoritative and comprehensive law to govern all aspects of the ocean. It is the modern law of the sea. Speaking at the final session of the conference, in Montego Bay, in December 1982, I described the Convention as “a

constitution for the oceans”, a term which has come to be universally accepted.

8. The Convention enjoys near universal acceptance with 166 States Parties. Countries which have not yet become parties to the Convention have nevertheless acknowledged it as the authoritative law. The Convention has promoted cooperation among States. It has replaced legal chaos with legal certainty. It has strengthened the rule of law and the principle of the peaceful settlement of disputes. Conflicts at sea are avoidable if the parties involved would strictly abide by the law and are willing to settle their disputes by peaceful means. The Convention has therefore served the world well. It is a good answer to those who denigrate the UN, dismissing it as a mere talk shop which is incapable of solving the problems of the real world.

9. Bouquet for ISA

Second, I would like to present a bouquet to the ISA on the occasion of its 20th birthday. During the past 20 years, the ISA has methodically developed the rules, regulations and procedures governing contracts for

the exploration of the Area. It has taken an evolutionary approach in its work. Regulations have been formulated to deal with polymetallic nodules, polymetallic sulphides and cobalt-rich ferromanganese crusts. The legal regime governing contracts of exploration has rightly emphasised the protection of the marine environment, the promotion of scientific research, safety and the training of personnel from developing countries.

10. The success of the ISA's work can be seen in the numbers. 16 contracts of exploration are in force. Three are in the process of conclusion. In addition, 7 plans of work were approved by the Council yesterday. This brings the total to 26.
11. I would like to commend the secretariat for having accomplished so much with so little. I wish to thank the Secretary-General, the Legal Counsel and the other members of their small team for their hard work. The ISA must be one the UN's leanest and most cost-efficient institutions. However, as the workload of the secretariat continues to increase, we must be fair and enhance its capacity in a commensurate way.

12. I would like to make one other comment about the ISA. We should help to raise its visibility and inform the world about its important mission. I am told that some Jamaican taxi drivers do not know where the ISA is located. I am afraid that even my wife is not sure where it is and what it does! The ISA should enhance its outreach programme. It should, for example, encourage the leading law schools of the world to teach a module on Part XI of the Convention. It should also reach out to the students and researchers in the fields of oceanography and ocean engineering. It should continue to organise seminars and co-organise workshops in different regions of the world. When financial resources are available, it should proceed to build the ISA museum in order to showcase the results of research on and new discoveries of the flora, fauna and mineral resources of our last frontier, which covers an area of 160 million square kilometres. It is ironic that we seem to know more about outer space than we do about the seabed and ocean floor.

13. Looking to the future

Third, we must prepare now for the next stage of the ISA's work. The first generation of contracts of exploration will be coming to an end in the next few years. Our regulations assume that most, if not all, of the contractors will apply for contracts of exploitation.

14. We must therefore begin formulating the rules, regulations and procedures applicable to contracts of exploitation. One important issue is the financial regime. Our approach should be that we are dealing with an industry at a nascent stage. We should encourage those with contracts of exploration to proceed to the next stage of exploitation.
15. The industry faces several challenges. It will have to invest substantial funds in order to develop and perfect the technology to mine in very deep waters and to do it without damaging the environment. It would have to cope with the vagaries of the world metal market and competition from land-based sources.
16. Based on ISA's track record, I am confident that we will succeed in adopting a legal regime for contracts of exploitation which is both business friendly and at the same time, fair to all stakeholders. I am

also confident that the ISA will succeed in establishing a standardised taxonomy regime on seabed flora, fauna and minerals.

17. Conclusion

I shall conclude. As a young man, I had a dream. I dreamt of a world ruled by law and not by might. I dreamt of a world in which big countries and small countries, developed countries and developing countries will cooperate with one another as equals and with mutual respect. I dreamt that we will be good stewards of the oceans which give us life. I dreamt that we will succeed in negotiating a new legal order to govern all activities in the oceans. I dreamt that the mineral wealth of the deep seabed and ocean floor will be shared by all countries, including the landlocked countries, as the common heritage of mankind. I dreamt that one day seabed mining will become a reality. I believe that the time for seabed mining has come. It is now within our power to turn the ideal of the common heritage of mankind into reality. The future is in our hands.

Thank you.

