Current Issues of the Law of the Sea and Their Relevance to Cyprus

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Let me start by saying that I am very pleased to be speaking to a knowledgeable and concerned audience on a topic with which I have been dealing, in different capacities, for some four decades – and which is currently of considerable significance in its many facets.

Time does not allow to go into the historical development of the rules of the Law of the Sea, going back to Hugo Grotius and his De Mare Liberum (1648), or, earlier still, the Rhodian Code of the 3rd century B.C. Nor is it possible to deal with the earlier attempts at codification by the United Nations, which were superseded by the much more ambitious undertaking of the Third United Nations Conference of the Law of the Sea (1973–1982). The resulting Convention, this veritable Constitution of the Oceans consisting of 320 Articles and nine Annexes, was signed in Montego Bay, Jamaica on 10 December 1982 and regulated a multitude of issues. Having been ratified by some 160 states (including the EU), its provisions are considered to have become part of customary international law.

These included old traditional concepts, such as the territorial sea and freedom of navigation and new concepts, such as the exclusive economic zone (EEZ), the regime of the deep seabed and archipelagic waters. Small delegations (such as ours) while not totally neglecting issues marginal to the country’s interest, such as environmental protection and scientific research (indeed, I had to pay some attention to these as Vice Chairman of the Third Committee and member of the General Committee), archipelagic waters, passage through straits, etc, they of necessity had to concentrate on the issues which were of direct significance to them.

In the case of Cyprus, in addition to strongly supporting the adoption of a 12 mile territorial sea (Art. 3 of the Convention – Cyprus had already in 1964 proclaimed a 12 mile territorial sea zone) and that enclosed and semi enclosed seas, such as the Mediterranean, are regulated by the same
basic rules as those applicable to open seas and oceans (e.g. the Pacific or the Atlantic) subject to the acceptable anodyne duty to cooperate with the riparian states (Articles 122 and 123) and for the protection of archaeological objects found in the seabed (Articles 149 and 303), we concentrated on certain key issues of primary importance to Cyprus.

These were, firstly, the regime of islands and their undiminished entitlement to the zones of maritime jurisdiction, i.e. territorial sea, EEZ, continental shelf and contiguous zone (Art. 121): secondly, the question of the delimitation of these zones of maritime jurisdiction between states, the coasts of which are opposite or adjacent to each other (Articles 15, 74, 83); and, thirdly, the question of settlement of disputes (Part XV, Articles 279−299 and Annexes VI, VII, VIII).

I do not think I need to elaborate on why these issues are of primary concern to Cyprus. All you need to do is to have a look at a map of the Eastern Mediterranean to realize why. Cyprus is of course, an island state as, for instance, is Malta in the Mediterranean and Jamaica in the Caribbean (both are located in semi-enclosed seas).

Despite efforts made by some states (notably Turkey) in the Preparatory Committee (1970−73) and in the early stages of the Conference, to differentiate between island states or other islands, this effort faced coordinated opposition and did not succeed. Consequently, all islands (including the Greek islands in the Aegean), other than uninhabited rocks, are governed by the same basic rule, as was our objective. Cyprus is an island surrounded in three directions (north, east, south) by continental states and, to the west, by the Greek islands of Crete, Rhodes and Carpathos (and indeed, Castelorizo), in no direction reaching 400 miles (200 from each side). Therefore, it is self evident that the application of the median or equidistant line as the basic rule for delimitation is of primary importance, especially when it comes to the EEZ (and indeed, to the continental shelf, which are co-extensive in the ordinary situations).

Additionally to establishing that an island has no less entitlement to the zones of maritime jurisdiction than continental territories, and also that the median line is the starting point and basic rule for delimitation, it is essential, especially for small and militarily weak states such as Cyprus, that there be in place an effective system of compulsory settlement of disputes ensuring that the rights of all states are equally protected. Our position on this point was spelled out in a statement we made in the Plenary of the Conference in 1976, and was motivated both by reason of our attachment to the general principle of equal justice under the law and by national self interest as a small and military weak state, which needs the protection of the law, impartially and effectively administered, in order to safeguard its legitimate interests under the Convention. In other words, we were firmly for the rule of law