I am very honoured to have been given the opportunity to join with the distinguished contributors to this volume in tribute to Judge Choon-Ho Park, who passed away in November 2008. Judge Park had been a member of the International Tribunal for the Law of the Sea for 12 years and he was one of the Tribunal's founding judges. Judge Park's contribution to the development of the international law of the sea and to the work of the Tribunal is much appreciated. It is a great gesture to honour him in connection with the conference of the Law of the Sea Institute in Hawaii, where he spent a considerable amount of time during the early years of his academic career.

1. Freedom of the Seas

The dominant feature of, and perhaps the driving force behind, the law of the sea in the whole of history has been the freedom of the seas concept, a concept that, as is well known to you, was articulated precisely 400 years ago by Grotius, in defence of his clients' needs for a mare liberum. Embraced by theorists and statesmen over the centuries, the freedom of the seas concept became the undisputed mainstay of the law of nations and ruled the seas for centuries. Since then, however, this principle has been constantly eroded to accommodate new situations and interests of States.

This erosion has been particularly felt in relation to the freedom of navigation which over time has gradually been restricted to accommodate the security needs of the community of Nations. Today, the increasing level of violence at sea poses a formidable challenge to States. To deal effectively with this challenge, some further restrictions to the freedom of navigation, sooner or later, may have to be considered.

The seas are increasingly becoming a route for criminal activities. The substantial increase in piratical acts and acts of armed robbery, the trafficking of human beings by sea and the increase in the trafficking of narcotics through certain regions of the oceans are new factors to be reckoned with and a test for the freedom of navigation.

* I am very honoured to have been given the opportunity to join with the distinguished contributors to this volume in tribute to Judge Choon-Ho Park, who passed away in November 2008. Judge Park had been a member of the International Tribunal for the Law of the Sea for 12 years and he was one of the Tribunal's founding judges. Judge Park's contribution to the development of the international law of the sea and to the work of the Tribunal is much appreciated. It is a great gesture to honour him in connection with the conference of the Law of the Sea Institute in Hawaii, where he spent a considerable amount of time during the early years of his academic career.
I will address only a few issues, which I believe are more pressing in the current debate on oceans developments. I shall concentrate my brief comments on issues pertaining to violence at sea, the preservation and protection of the marine environment and the effect of the sea-level rise on maritime space, as well as on the outer limit of the continental shelf as it relates to the work of the Commission on the Limits of the Continental Shelf. Finally, as you would expect from me, I will highlight the role that the International Tribunal for the Law of the Sea can and may play on some of these issues.

I will dedicate most of this Chapter to commenting on issues pertaining to the current wave of violence at sea and related criminal activities, in recognition of the increasing challenge these issues pose to the international community.

2. THE ISSUE OF PIRACY AS IT UNFOLDS TODAY

Recent developments relating to piracy, especially those involving Somali pirates, have shown the inability of some States and of the wider international community to cope with the challenge.

Piracy is not a new phenomenon. What makes it new and so challenging is the dimension and the new turns it has taken lately. History shows piracy to have been a practice carried out since man first ventured out to sea. It has persisted and thrived for millennia. Its origin is lost in the beginnings of time. As two writers put it, “the very first time something valuable was known to be leaving a beach on a raft, the first pirate was around to steal it”.¹

History also shows that at least since ancient times piracy has been a constant hurdle to maritime trade, affecting at different times every maritime region of the world, from the Mediterranean and northern European seas, to the seas of Asia, the Middle East, Africa and, of course, the Americas.² After its peak in the seventeenth and eighteenth centuries, piracy diminished substantially and at the end of the nineteenth century and for the greater part of the twentieth century, piracy was thought to have been eliminated. Then in the 1970s and 1980s, attacks on ships for private ends began to increase in various regions of the world; and most recently it has gained dramatic proportions, as Somali pirates take over ship after ship before the eyes of a world that seems unprepared to deal with the situation. This situation has in recent times made piracy a major source of concern for crews, ship-owners, insurers, coastal communities and international organizations.

If, in the past, the existing rules on piracy provided enough guidance to States to deal with the problem, why is it that today, States, especially those most