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“There’s no shoot-to-kill order” vs. fleeing fishermen - Chin

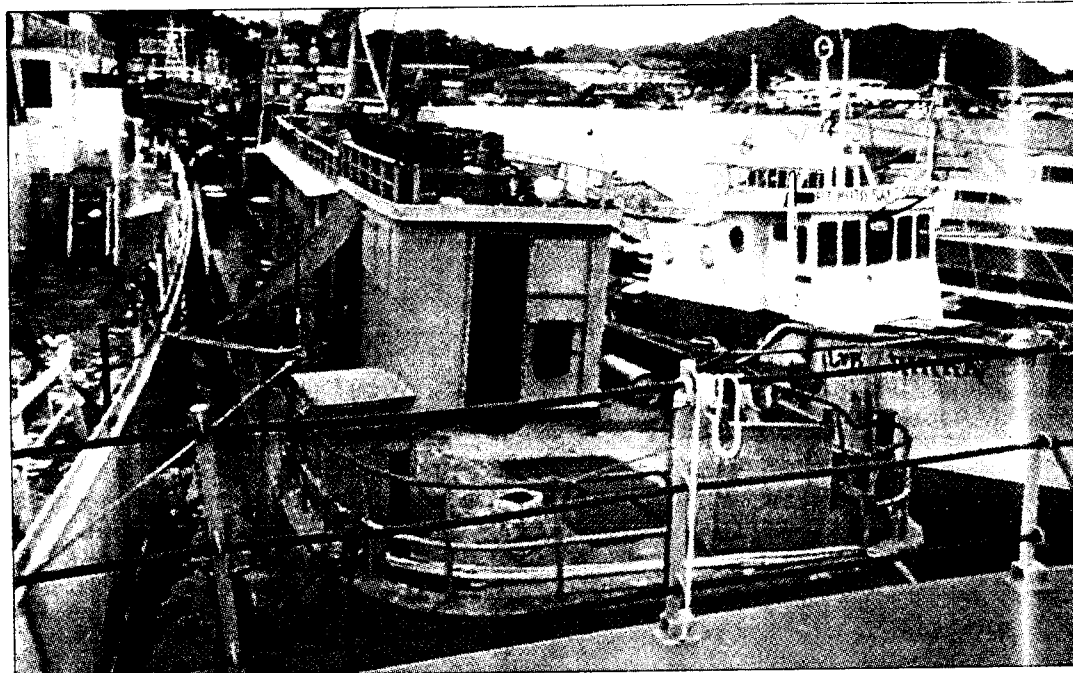
By MALOU L. SAYSON
Horizon News Staff

THE strafing of the two Metro Manila-based fishing vessels trying to escape arrest by the Palau marine patrol boat last July 4 for illegal fishing in the Palauan waters has caused injuries to some of the men, one of whom was reported to have lost his left eye, on board the mother boat named Buena Suerte J-88 or Rejeki Utama-5.

Media reports from the Philippines cited a “shoot-to-kill” order issued in the heat of the chase given by PSS R.I. Remeliik Patrol Boat.

When the shoot-to-kill order was verified with Justice Minister Elias Chin Wednesday, he said: “We have never issued a shoot-to-kill order. If there was such, it didn’t come from this ministry.” Those reports are

**\$23-M FY 2K
budget set for
OEK scrutiny**



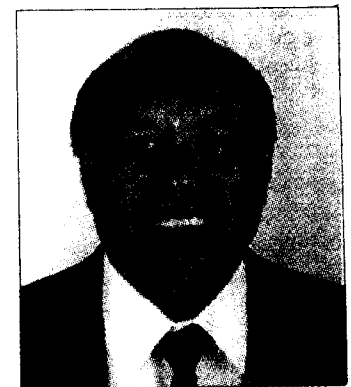
Rejeki Utama-4, the light boat manned by a nine-man crew, is placed under house arrest at the Malakal Dock. The fishermen face six counts of criminal charges for unlawful fishing and escape.
(Photo by Malou Sayson)

**Noah Idechong, one of TIME
Magazine’s “Heroes for the Planet”**

absolutely false.” According to Chin, he was informed that Rejeki Utama-5 was trying to ram against H.I. Remeliik Pa-

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**“My leadership lies
in the hearts of the
people” - Roberto**



Ben Roberto

By MALOU L. SAYSON
Horizon News Staff

WHO is Ben Roberto? He is just a common man who has

PALAU HORIZON FROM THE ISLANDS

There's...

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trol Boat.

However, the *Horizon* was told by two of the arrested fishermen that they overheard in their VHF radio an order spoken in English for a shoot to kill following the escape attempt staged by the two vessels. The mother boat which was manned by a 37-member crew was able to flee arrest.

The two fishermen also heard from the mother boat's radio operator that one of them was seriously wounded and that he may be dead.

The man was later identified as Winefredo Nunez, the chiefmate of the Rejeki Utama-5's captain. Nunez survived but lost his left eye.

When asked to remark on the claims made by the arrested fishermen that they were in the Indonesian waters, the justice minister said: "That's not true. We patrol our EEZ (exclusive economic zone) for the Republic of Palau, and we don't have any overlapping of EEZ with Indonesia."

The arrested fishermen told *Horizon* that during the chase, they were fired upon. The strafing lasted for about 30 minutes, they said.

However, in the charge sheet (Criminal Case No. 00-242 filed last July 4 by Assistant Attorney General John T. Thompson), the strafing was not noted.

PSS H.I. Remelilik Patrol Boat's Commanding Officer

Capt. Ian O. R. Tervet, in the Affidavit of Probable Cause, though mentioned that he ordered a warning shot when the light boat continued to flee. This happened after the patrol boat failed to stop the mother boat.

The *Horizon* was, however, told by a source (who requested anonymity), who was approached to give his opinion regarding the rules of engagement, of some statutes not on Palau but in the United States, such as AMJUR2D, 1-38 - 5 AMJUR ARRESTS111, which states in part: "The possible excuse of self-defense is generally absent if the person whose arrest is sought is running away and not offering resistance at the time he is shot, ...unless the officer has good grounds for thinking that his own life is in peril from the fleeing prisoner."

Again in the same statute under Section 113 - Use of Deadly Force to Stop Fleeing Felon, it is stated: "...The Fourth Amendment prohibits the use of deadly force to prevent the escape of a suspected felon unless force is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others..."

Consul General Julius Torres of the Philippine Embassy here on Palau noted that the fishing vessels were unarmed, though.

According to Chin, the influx of fishing vessels from

General Santos City in Mindanao to the EEZ of Palau was stopped because the people there later learned that Palau marine patrol boat is well-equipped and that it is backed up with air surveillance. "With what we have, we can see what's going out there in our waters," he said.

These fishermen, who were just arrested, according to the minister, may not know the capability of the patrol boat.

The Philippine fishing vessels' intrusion into the Palau waters must be stopped, Chin said. "This illegal activity only ruins the reputation of the Filipino community here on Palau," he added.

According to the minister, it is unfortunate for these fishermen to just go about doing illegal fishing. "They are stealing our fish and that's not the way we should do it. We'll capture them. I believe they are just creating a bad friction here," he stressed.

In an interview, Consul Torres said the issue is delicate because it involves bilateral relations between countries.

The map used by the fishermen was issued to their com-

pany, Jimenez Marine Corp. which is based in Malabon, Metro Manila, by the government of Indonesia. Lope Jimenez, the owner of said company, also secured a valid fishing license from Indonesia. In fact, Ilorjie Quimay, captain of Rejeki Utama-4, said they had in their possession some 3.0 million rupiah. The money, along with log books from the two vessels, two pieces of satellite, SSB radio, VHF radio from the light boat, was confiscated by the arresting marine patrol officers.

His men claimed that when they were spotted by the patrol boat they were right at Halmajera Island located northeast of Palau. They said they were well within the Indonesian EEZ.

However, the justice minister made it clear that the Palau EEZ starts from the last island state, which is Sonsorol, and goes out 200 miles. The marine patrol boat spotted the two vessels at a position approximately 55 miles south of Tobi Island and 60 miles southwest of Helen Reef, within the Palau EEZ, as noted in the charge sheet.

Consul Torres pointed out that such causes a problem. "There is indeed overlapping of the EEZ's of Indonesia and Palau, and also of the Philippines and Palau. There's a need of these three countries to demarcate the extent of their EEZs," he said.

As noted by former Public Defender Marvin Hamilton, who in many cases had represented Filipino fishermen charged with unlawful fishing and other illegal activities, there is one important element in the case of illegal fishing that needs to be looked into, the United Nations Convention on the Law of the Sea (UNCLOS).

In the earlier report of the *Horizon*, Hamilton cited the UNCLOS provisions, one of which is that immigration laws cannot be imposed if the vessel is not within a 24-mile range.

During Hamilton time as a defender, the court has for the first time acknowledged the presence of so-called "gray area" which Palau and neighboring nations like Indonesia share and should be resolved based on the UNCLOS, which Palau is a signatory of.



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