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10-1-1972

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### Recommended Citation

T. A. Clingan Jr., *The Oceans*, 4 U. Miami Inter-Am. L. Rev. 576 (1972)

Available at: <http://repository.law.miami.edu/umialr/vol4/iss3/11>

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## THE OCEANS

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### CARIBBEAN CONFERENCE

From June 5 to June 9, 1972, the representatives of fifteen Latin American countries met in Santo Domingo to consider pressing problems of the law of the sea. The meeting, held at the level of foreign ministers, resulted in a joint declaration adopted on the affirmative vote of ten of the fifteen countries (Colombia, Costa Rica, Dominican Republic, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Trinidad and Tobago and Venezuela). There were no negative votes, but five abstentions (Barbados, El Salvador, Guyana, Jamaica and Panama). Panama and El Salvador abstained because of technical reasons involving domestic law. The principles contained in the resolution are as follows:

#### *Territorial Sea*

1. The sovereignty of a State extends beyond its land territory and interior waters to an area of sea adjacent to its coast designated as the territorial sea, including the superjacent airspace as well as the subadjacent seabed and subsoil.
2. The breadth of the territorial sea and the manner of its delimitation should be the subject of international accord, preferably of worldwide scope. Each State has in the meanwhile the right to establish the breadth of the territorial sea up to a limit of twelve nautical miles measured from the applicable baseline.
3. Ships of all States, whether coastal or not, should enjoy the right of innocent passage through the territorial sea, in accordance with international law.

#### *Patrimonial Sea*

1. The coastal State has sovereign rights over the renewable and non-renewable natural resources which are found in the waters, seabed,

and subsoil of the area adjacent to the territorial sea, called the patrimonial sea.

2. The coastal State has the duty to promote and the right to regulate the conduct of scientific research within the patrimonial sea as well as the right to adopt necessary measures to prevent marine pollution and ensure its sovereignty over the resources of the area.

3. The breadth of this zone should be the subject of international agreement, preferably of worldwide scope. The whole of the area of both the territorial sea and the patrimonial sea, taking into account geographic circumstances, should not exceed a maximum of 200 nautical miles.

4. Delimitation of this zone between two or more States should be carried out in accordance with the peaceful procedures stipulated in the Charter of the United Nations.

5. In this zone, ships and aircraft of all States, whether coastal or not, should enjoy the right of freedom of navigation and overflight with no restrictions other than those resulting from the exercise by coastal States of their rights within the area. Subject only to these limitations, there will also be freedom for the laying of submarine cables and pipelines.

#### *Continental Shelf*

1. The coastal State exercises over the continental shelf sovereign rights for purposes of exploring it and exploiting its natural resources.

2. The continental shelf includes the seabed and subsoil of the submarine areas adjacent to the coast, but outside of the area of the territorial sea, to a depth of 200 meters, or, beyond that limit, to where the depth of superjacent waters admits of the exploitation of the natural resources of the said areas.

3. In addition, the States participating in this conference consider that Latin American delegations in the Committee on the Seabed and Ocean Floor of the United Nations should promote a study concerning the advisability and timing for the establishment of precise outer limits of the continental shelf taking into account the outer limits of the continental rise.

4. In that part of the continental shelf covered by the patrimonial sea the legal regime provided for this area shall apply. With respect to the part beyond the patrimonial sea, the regime established for the continental shelf by international law shall apply.

*International Seabed*

1. The seabed and its resources, beyond the patrimonial sea and beyond the continental shelf and not covered by the former, are the common heritage of mankind. in accordance with the declaration adopted by the General Assembly of the United Nations in Resolution 2749(XXV) of December 17, 1970.

2. This area shall be subject to a regime to be established by international agreement, which should create an international authority empowered to undertake all activities in the area, particularly exploration, exploitation, protection of the marine environment, and scientific research, either on its own, or through third parties, in a manner and under conditions that may be established by common agreement.

*High Seas*

The waters situated beyond the outer limits of the patrimonial sea constitute an international area designated as high seas, in which there exists freedom of navigation, of overflight and to lay submarine cables and pipelines. Fishing in this zone should neither be unrestricted nor indiscriminate and should be the subject of adequate international regulation, preferably of worldwide scope and general acceptance.

*Marine Pollution*

1. It is the duty of every State to refrain from performing any acts which may pollute the sea, and its seabed, either inside or outside its respective jurisdictions.

2. International responsibility of physical or juridical persons damaging the marine environment is recognized. With regard to this matter drawing up of an international agreement, preferably of worldwide scope, is desirable.

*Regional Cooperation*

1. Recognizing the need for the countries in the area to unite their efforts and to adopt a common policy vis-à-vis problems peculiar to the Caribbean Sea relating mainly to scientific research, pollution of the marine environment, conservation, exploration, safeguarding and exploitation of the resources of the sea;

2. We decide to hold periodic meetings, if possible once a year, of senior governmental officials, for the purpose of coordinating and har-

monizing national efforts and policies in all aspects of oceanic space with a view to ensuring the maximum utilization of the resources by all peoples of the region. The first meeting may be convoked by any of the States participating in the conference.

Finally, feelings of peace and respect for international law which have always inspired the Latin American countries are hereby reaffirmed. It is within this spirit of harmony and solidarity, and for the strengthening of norms of the inter-American system, that the principles of the document shall be realized.

The Santo Domingo Declaration is interesting from a number of standpoints. Perhaps the most notable is the advancement of the concept of the patrimonial sea. This could be viewed as a possible compromise between the absolute sovereignty claims to 200 miles by some Latin American countries, and a narrow limit proposed by the United States. The concept is in its nature a claim to economic control over the resources of the broader area while not interfering with surface transportation. While the development of this concept has been attributed to Chilean Professor Edmundo Vargas Carreno in his preliminary report to the Inter-American Juridical Committee in 1971, the first government to propound it was Venezuela, which was later joined by Colombia and Mexico.

In setting forth the proposal, advocates cite a long list of precedents which, it has been said, led to the present development. They include, among others, Resolution LXXXIV of the Tenth Inter-American Conference, 1954, the Principles of Mexico on the Legal Regime of the Sea, adopted in Resolution XIII of the Third Meeting of the Inter-American Council of Jurists, Mexico City, 1956, and Resolution 6 adopted at the Inter-American Specialized Conference held at Santo Domingo in 1956.

While most of the nations involved in the Santo Domingo Declaration were in favor of its principles, some concern was voiced over the status of the landlocked countries of the region. In a working paper submitted to the Conference, Venezuela proposed that appropriate regional machinery be established to insure sharing by the landlocked countries in the benefits of the submerged resources of the region. However, the question was considered outside the scope of the general principles adopted, and the question was postponed for further study.

Other questions of note raised by the Declaration are the recommendations dealing with the deep seabeds, regional cooperation, and scientific research.

The seabeds proposal, providing authority to *undertake* activities on the seabed, including exploration and exploitation, goes far beyond the international machinery proposed by the United States in its draft working paper of August 3, 1970. That proposal would limit the authority of the international seabeds machinery to the issuance of licenses. With respect to regional cooperation, the Declaration reflects a growing interest on the part of developing States to seek out new ways to effect technology transfers. While a number of methods of providing technical assistance are being considered, the Declaration shows that one of the most prominent is the regional system. The Declaration's language concerning scientific research is also in opposition to the position of the United States, which favors open and free scientific research. The Declaration makes research within the patrimonial sea subject to the regulation of the coastal State.

#### LAW OF THE SEA INSTITUTE

The Seventh Annual Conference of the Law of the Sea Institute was held at the University of Rhode Island, Kingston, Rhode Island, from June 26 to 29, 1972; the theme was "The General Needs and Interests of the Developing States." The meeting was attended by scholars, diplomats, and other interested persons from more than forty nations.

The four-day event was keynoted by Ambassador Christopher Pinto of the Republic of Sri Lanka. His remarks focused upon the problems and the attitudes of the developing nations. Among the problems he cited poor endowment of natural resources, the lack of access by many to the sea, differences in width of continental shelves and lengths of coastlines, poor progress toward industrialization, and apathy among former colonial states. With regard to the attitudes, he noted that the developing nations have a common driving force toward nationalism, and the sea provides a natural channel for such energies. Further, he said, the developing nations have learned that numerical political strength is effective in offsetting military and economic superiority. He emphasized that the full participation of all states in the making of all decisions regarding the oceans, without weighted voting, would be essential to any agreed upon regime for the oceans.

During the course of the Conference, many commentators showed concern for the widening technology gap between the developed and the developing nations. Special concern in this matter was voiced with regard to legislation presently pending (S. 2801) before the Senate of the United States under which the U.S. would provide protection and licensing for its citizens to exploit the hard mineral resources of the deep seabeds beyond

national jurisdiction. It was felt by some that this would open the door to unilateral action by the developed technology states. Others voiced the concern that such a move, if carried out, would be in violation of the moratorium resolution adopted by the United Nations General Assembly.

The growing political independence of the developing nations was emphasized by Ambassador Paul Engo of the Cameroons. Ambassador Engo pointed out that in his opinion the needs and interests of the developing nations must be evaluated in the light of their own values, and that it would be a continuing mistake to "attempt to channel growth in the image of European ideas and institutions." Mr. Engo pointed to the close relationship between developed and developing nations that grows out of the flow of raw materials in one direction and manufactured goods in the other, and reminded the audience of the continued importance of working out a meaningful role for the developing countries in the sharing of resources, technology, and decision-making.

In other sessions, the topics of seabed mining, fisheries, as well as other major subjects (such as the patrimonial sea) were discussed. A transcript of the meeting was kept and will be available from the Institute during the next few months.

#### BAHAMAS — UNDP FISHERIES AGREEMENT.

An agreement between the Government of the Bahamas and the United Nations Development Programme was signed in June, 1972 to assist the Bahamas to develop its fishing industry over a three year period at a cost of over \$750,000. Of this, UNDP would contribute an amount of approximately \$428,000 with the rest to be raised by the Government. The declared purpose of the project is to undertake intensive exploratory fishing for identifying and quantifying available fish. Further it would demonstrate improved fishing techniques, provide training on such improved techniques, and establish advisory services to demonstrate the handling, distribution, and marketing of fish and frozen fish products. Additional goals would be to provide the data required to evaluate spiny lobster resources and to advise on the necessary legislation to manage such resources. The United Nations' 56 foot multipurpose fishing vessel, M.V. Fregata, is to be utilized in the project, providing for training cruises in various parts of the Out Islands.

#### QUOTAS FOR NORTHWEST ATLANTIC FISHERIES

The International Commission for Northwest Atlantic Fisheries (ICNAF) has recommended national quotas for several stocks of fish in

the Gulf of Maine, on Georges Bank, and off Nova Scotia. Members of this commission include the United States, the United Kingdom, Iceland, Canada, Denmark, Spain, Norway, Japan, Portugal, Italy, France, the Federal Republic of Germany, the USSR, Poland and Rumania. This is the first time such an agreement has been reached in a major multi-national fisheries management body, and was hailed by the U.S. State Department as a major step forward in international fisheries management. Many stocks, such as the herring in the Northwest Atlantic have suffered for years from overfishing, demonstrating a need for increased conservation measures. The agreed upon national quotas would mean a catch in 1972 considerably less than the total taken in 1971, but the U.S. share would be reduced less than those of others on the grounds of historical rights and proximity.

As a result of the action of ICNAF, for example, the take of Atlantic salmon in the ICNAF area will be as follows:

	1972	1973	1974	1975
Denmark, Mainland and Faroe Islands	800 mt	600 mt	550 mt	500 mt
Norway	285 mt	215 mt	200 mt	185 mt
Other Contracting Governments	10 mt	10 mt	5 mt	5 mt

By comparison, the approximate annual catches of salmon by local Greenland fishermen in the area off Greenland covered by the convention has been approximately 1100 tons for several years.

## WHALING MORATORIUM

The 14 nation International Whaling Commission, meeting in London in June, 1972, rejected U.S. proposals for a 10-year moratorium on whaling. Although the proposal, suggested recently in the international environmental meeting in Stockholm, was strongly supported by conservation groups, it nevertheless met with a six to four vote rejection, with four abstentions. Voting in favor of the moratorium were Britain, Argentina, Mexico and the United States. The USSR, Japan, Iceland, Norway, Panama, and South Africa opposed the move, with Canada, Australia, Denmark and France abstaining. Of the nations in opposition, the USSR and Japan jointly share approximately 80% of the total annual catch of whales.



## FISHERIES DISPUTE

A recent article in the *New Scientist* magazine (July 20, 1972) began with the phrase "The Icelandic government's unilateral decision to promulgate the decrees extending the country's fishing limits from 12 to 50 miles brings the second 'cod war' nearer." The extension of Iceland's claim to fisheries jurisdiction is the second such extension since the effective date of the Geneva Conventions of 1958. In 1961, following a dispute with Great Britain, Iceland extended its claim from 4 to 12 miles.

The extension incorporates about half of the United Kingdom's supply of demersal fish, and between 20 to 25 percent of her total landings. Icelandic waters yield approximately 1.25 million tons of white fish a year of which Iceland takes about a third. An extension to fifty miles would exclude foreign fishing vessels from about 80 percent of the present fishing grounds near Iceland and enable that country to double its catch almost immediately. Fishery products are important to Iceland, making up approximately 80% of her exports and accounting for about 20% of her GNP. The toughness of the Icelandic position and the inflexibility in negotiations over the years have created some apprehension concerning the impact of this move on the proposed 1973 Law of the Sea negotiations.

## U.N. CONFERENCE ON THE HUMAN ENVIRONMENT.

The United Nations Conference on the Human Environment was held in Stockholm from June 5 to June 16, 1972. This Conference reached agreement on several major points:

1. A new permanent organization will be established within the United Nations to coordinate international environmental activities. This organization will consist of a small secretariat supported by a Governing Council for Environmental programs composed of representatives of 54 nations.

2. A \$100 million U.N. environmental fund financed by voluntary contributions from member governments will be established. The U.S. is prepared to commit \$40 million over a five year period, according to a recent White House release.

3. The Conference called for the completion of work on a convention to control the dumping of shore-generated wastes into the sea. Preparatory work held in Reykjavik in 1972 produced draft articles and annexes.

4. The Conference recommended that the International Whaling Commission adopt a 10 year moratorium on commercial whaling (see, Whaling, above).

5. The Earthwatch Program, a plan to use monitoring systems to measure pollution levels around the world was approved. A network of 10 baseline and 100 regional monitoring stations will be set up under the WMO.

6. Two proposals for conservation conventions were endorsed: The World Heritage Trust Convention, and the Endangered Species Convention.

7. A 27 point declaration of environmental principles was adopted. These principles call for responsible action on the part of nations when dealing with environmental problems of international significance. For example, Principle 21 declares that states have "the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or areas beyond the limits of national jurisdiction."

8. The Conference recommended compensation to the developing nations by the developed nations in cases where it could be shown that trade was damaged by adoption of environmental factors. The U.S. opposed this recommendation, but stated its readiness to deal with any complaint to the effect that its environmental actions affected GATT obligations.

The White House announced satisfaction with the conference, stating that "The United States achieved practically all of its objectives at Stockholm," citing particularly the establishment of the secretariat, the environmental fund, the conference on ocean dumping, and the proposal to establish a World Heritage Trust to help protect scenic natural landmarks.