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Latin American States and the Law of the Sea

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LATIN AMERICAN STATES AND THE LAW OF THE SEA

(TITLE)

BY

KING FAROUK BRIMAH

THESIS

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I HEREBY RECOMMEND THIS THESIS BE ACCEPTED AS FULFILLING
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DEPARTMENT HEAD

To My Late Sister Rukiatu Brimah

PREFACE

The time frame of this thesis begins in 1826, when the issue of the sea became significant in the Latin American states' regional politics. The Inter-American Conference of 1826 regarded the issue of the sea in Latin America as very important because of the state of belligerence which existed in that hemisphere and among the respective Latin American states, with the victor dominating all activities in the sea. The thesis traces a series of sea conferences on the regional level, significant to the Latin American states' development and the shaping of their policies until the 1958 conference on the international law of the sea. At this point, the thesis begins to demonstrate the emergence of the homogeneous policy among the Latin American states, tracing most of the regional conferences of the Latin American states where policy declarations were made with regard to the challenge of the sea. The paper further surveys the 1960 law of the sea conference, the 1970 convention on the law of the sea and the 1974 conference on the law of the sea. The thesis concludes with the 1974 conference where differences and similarities of Latin American policies are examined. The thesis stops short of the 1975 conference since few materials on the conference had been released while it was being written.

The collection of books, articles, journals and government papers which helped in the writing of my thesis, have been compiled in the bibliography. But the following outstanding books have been a great source

of information: Pacem in Maribus, by Elizabeth Mann Borgese; The Future of the Ocean, by Wolfgang Friedman; El Dominio Del Mar, by Teodora Alvarado-Guraicoa; and La Doctrino de la Plata Forma Submaria, by Teresa H. T. Flouret. These materials have contributed significantly to the thoughts, assessments and information which are vital to the evolution of the international crisis of the sea and the problems of our modern nations face in the sea.

I do not hesitate to include Dr. Margaret Soderberg, the chairperson of the Political Science Department and my thesis adviser as a vital source of information and organization of this thesis. Without her great effort to help shape this thesis, I do not believe this project would have been completed. I express gratitude to Dr. Abdul Lateef and Dr. John Faust of the Political Science Department for their continuous help when needed. And finally to my sister, Comfort Adiyatu Brimah, I express my sincerest felicitation for many of her encouraging greeting cards which gave me the zest to continue with the struggle of getting this paper done.

King Farouk Brimah

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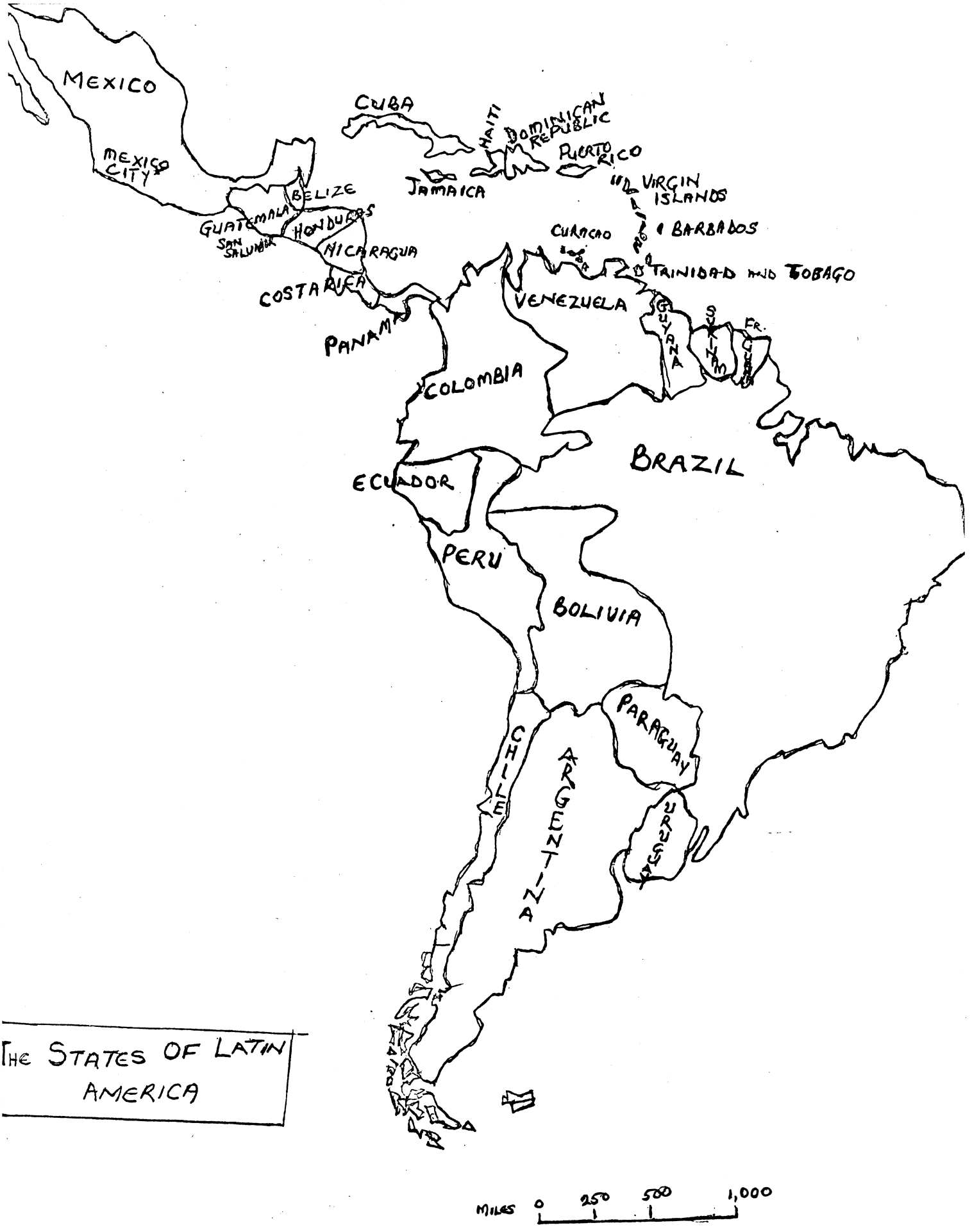

THE STATES OF LATIN AMERICA

CHAPTER I

INTRODUCTION

The recent Law of The Sea Conferences failed to produce a law acceptable to all parties and nations concerned. The nations at these conferences can be divided into two categories, the "satisfied nations" and the "dissatisfied nations".[1] The satisfied nations are mostly from European background. "The core of their category included Western Europe, Benelux, NATO common interest groups, European Community, and Scandinavia.[2] The supporters of these nations included White Commonwealth States, United States, other European States not represented in the General Assembly, Israel and the United States' cold war allies, "namely, Japan, Pakistan, Democratic Republic of China, and South Korea."[3]

The dissatisfied nations are the poor nations, who could not be described as lacking an international law tradition. For example, the Latin American states have long been active in the forums of international law. These emerging nations are the "have nots" who have strong convictions that their interests have not been represented by the prevailing concepts of international law guarding the seas. Further, many newly-independent states value their newly-won freedom above all else and refuse to accept certain international rules evolved before they attained statehood.[4] Thus, the traditional law of the seas has become an area of such protest and reaction that it warrants considerable attention.

The prospect of sea science and technology and the transfer of new hopes and national aspirations to the ocean realms are forcing the pace in the evolution of the seas. Major legal, regulatory, and policy issues relating to the handling of disputes and questions of ownership, control and regulation of the ocean resources must be settled. These developments in the recent history of mankind bring into question the traditional laws of the seas. Both nation-states, and international organizations have become aware of the fact that law and peace can only be achieved through common consent.

From the dawn of history until a quarter of a century ago the seas have served two main purposes: "communication and fishing."[5] The ocean bottoms and depths had been a hidden mystery. When, in the course of history, the seas took on military importance and a strategic position, they were usually dominated by a victor nation. This nation became the most powerful and prestigious nation in the politics and decision-making concerning the seas. The subsequent rivalry that emerged between states for the control of the strategic seas led to the acceptance of the "mare liberum" open seas doctrine of Hugo Grotius, promulgated in 1609, which prevailed over John Selden's "mare clausum" closed seas doctrine offered in 1635.[6] Never have the seas become closed or divided between nations in time of peace.

The opening of the seas constituted a threat to the coastal states. Without any effective control of their coastal waters, they were exposed to enemy attack. The coastal states began to react to such open danger by taking actions to exercise jurisdictional powers over the belt adjacent to

to their seacoast. The cannon rule of three miles (the range of effective cannon attack from the sea) was introduced by the British and accepted as the sea limits of all national jurisdictions. For three and a half centuries the three-mile limit and twelve-mile contiguous zones providing free passage for peaceful purposes has been upheld.[7] Today these limits are being challenged, due to the fact that resource-rich ocean beds are being opened up for exploration and exploitation by various national and corporate interests of the techonologically-advanced nations. Thus, the limitations of the traditional freedom of the seas became questionable to the disadvantaged nations who are unable to exploit and explore the ocean resources at a rate commensurate to that of the advanced nations. They have exercised sovereign claims beyond traditional limits to protect their interests. This development has led to a crisis situation and unwillingness by both the satisfied and dissatisfied nations to reduce their activities, demands, and claims at the sea conferences. Therefore, it is necessary in the twentieth century to renegotiate the traditional laws to the satisfaction of both groups. Consensus has not been reached at recent conferences, and many more drilling rigs, floating islands, stationary platforms, submersibles, and artificial structures are appearing above and below the seas, and mechanical power, refrigeration, floating canneries, radar, sonar, power blocks and nylon nets are continuing to invade the deep seas. It is not surprising that the underdeveloped nations have shown reluctance to succumb to partial solutions which would give advantages to the technologically-superior nations. The developed nations, on the other hand,

are not willing to rescind their ingenious creativity and mastery over the resources of the ocean. The result has been continuous adjustment of claims by both parties over their sea territories in an attempt to counteract the new developments.[8]

In light of the failure of the earlier law of the sea (1958, 1960) conferences to reach compromises, the difficulty that resulted from the later conferences (1970, 1974) occurred as the nations began to reflect policies that favored their own interests rather than the enlightened interests of all nations participating. Since one of the rules of the later conferences allowed political consideration of the sea issue, the greater tendency towards political alliance emerged among the sympathizers of a common course. The third world, becoming more aware of the political strategies of the affluent nations, and the type of proposals and draft articles they advanced, began to form a caucus under the banner of ex-colonial groups with common colonial experience. They began to view the activities of the affluent nations as neo-colonialistic and imperialistic. To them, the affluent nations' desire in the sea issue was motivated by the same interest that drove them to Africa, Asia, and Latin America, and that was to colonize the sea and to solely exploit its resources to their advantage. Realizing their present numerical superiority, they emphasized that all future conferences should still be guided by the parliamentary procedure[9] which had been instituted a long time ago by the Europeans who then comprised a majority of the world body. The third world nations refused any change in rules and procedure. With the parliamentary

procedure adopted, both advanced and less advanced nations began bloc organization, bloc voting, bloc-sponsored candidates for the elective offices, and bloc attempts to manipulate the rules of procedure at all levels of the conference (subcommittee level, committee level, and general assembly level).

The third world organized efforts, constantly harrassed their opponents, and frequently forced their opponents to water-down or to withdraw proposals opposed unanimously by them. They established a system of vote mobilization within their caucus in order to dominate key issues and proposals which they either favored or disfavored. With this strategy, they have been able to block passage of various United States proposals for six-mile territorial sea and twelve-mile contigious fishing zones; and can also boast of forcing the elimination of British proposals for a fifteen-mile territorial limit, and of eliminating the Soviet Union's proposals on twelve-mile territorial limits. They were victorious in gaining for their states a sovereignty, rather than exclusive rights, over the continental shelf, and an increase of coastal states authority over the fishing in waters off their coasts.[10] At the Venezuela Conference of 1974, they refused to yield their desire to have international authority to control the international sea. Though they have not won absolute victory, they have influenced the policy approach of the new laws emerging on the sea.

The driving force of the third world nations has been a desire for a change in the traditional laws of the seas, which they have regarded as a cloak used to camouflage self-interest (the domination of the many by

the powerful few). They perceive the maritime powers as not only exercising their special powers in their own coastal areas but as often eager to use their technology to expand into the territorial seas of the less developed countries, therefore deciding the fate of the weak. Thus far, the third world nations have seen fit to reject the legal codifications under consideration at these conferences. Relatively weak in power terms, they see as their main protection from the physically powerful states the ability to avoid being permanently obliged to perform required acts not yet sanctioned by law. Of the third world nations involved in the debate, the Latin American States are the center of study in this paper.

Statement of Purpose

The purposes of the paper are: (1) to trace the emergence of the Latin American States as a force in international law deliberations and to examine the positions they reflected within the traditional law of the sea at that time; (2) to analyze the Truman Declaration of 1945 and its effect on the Latin American States' attitude towards the traditional law of the sea; (3) to reflect the continuing importance of the sea to the economic life of the Latin American nations; (4) to trace the Latin American nations drive for equal participation in the structuring of the contemporary law of the seas in the years since the Truman Declaration; and (5) to analyze the law of the sea debates at the conferences, focusing primarily on the roles and policy positions adopted by the Latin American representatives at these conferences.

It should be noted that this study, though it deals with Latin American States, does not deal extensively with the land-locked Latin

American nations, Bolivia and Paraguay. However, it should also be noted that they have strongly enunciated policies geared to include them in the participation of exploration and exploitation of the seas. They have also won the support of the rest of the Latin American states and have been represented and included in the relatively homogeneous regional bloc of Latin America at the conferences. This study is mainly concerned with the claims which the Latin American nations, mainly the coastal states, have posed to the traditional law of the seas in terms of revamping or refusing to allow codifications of the existing laws of the seas, especially when they believed such proposed codifications favored the interests of the Western affluent nations.

An attempt, therefore, is made by the author to show to what extent the land-locked Latin American states have been able to work out their differences in order to arrive at the unanimity with which they approach their policies. It should be noted that on a narrower spectrum, this homogeneous policy approach of the Latin American states has created some conflict involving the extent of territorial sea to be claimed. The land-locked states of Latin America have on occasion joined forces with the rest of the land-locked nations at the conferences to propose policies which would regulate any extensive claim by any coastal state into the blue sea. The land-locked states of Latin America saw this as an attempt to protect their interest as opposed to that of their coastal neighbors who wanted to lay claim to considerable distances in the sea. The land-locked Latin Americans saw the claim of the coastal states as a means of weakening their power to exploit the resources of the sea within the twelve-mile limit.

Statement of Propositions

The propositions advanced here are: (1) that the perceived threat from the affluent nations embodied in the Truman Declaration necessitated the Latin American states' extreme reaction to protect resources found within the regional area of their sea as well as the international sea; (2) that the importance of fishing to the life and economy of the Latin American states generated in them the desire to stop the technology of the affluent from reaching their regional waters, and also that same fear of technology motivated them to request an international authority in areas beyond traditional national boundaries; (3) that the resources discovered in the ocean bottom was seen by the Latin American nations as a liability at present, rather than an asset, since the only nations capable of exploiting them were the affluent, who also depended on mineral imports from the Latin American states; (4) that the ability to allow exploitation of the resources by the affluent would mean economic chaos to the Latin American states; subsequently, they have envisioned the political chaos that would follow as a result of increase in unemployment in the domestic sector, since the mineral industries which employ many laborers would be forced to cut down in production and labor; (5) that the fear of extinction of life in the sea by pollutants from the vessels, submersibles and oil drilling floats of the affluent necessitated in Latin American states the vanguard to defend their interests; (6) that the desire to participate in shaping the laws of the sea had reflected the unity with which the Latin American states had confronted the conferences; and (7) that Latin American states are capable of arriving at unified positions and capable of assuming a leadership role among the developing nations.

Method of Approach

An historical analytic approach will be the method the author will apply. This means the author will not try to prove the propositions which have been raised individually. The author will amalgamate all the findings by means of random approach; but when one takes the pain to read all the contents of the thesis, he will find the evidence and materials which support the propositions spread over the entire paper. Therefore, one should not expect to read the findings in support of proposition number one. Instead, proposition number one could be contained in an area of the text which is also in support of another proposition. The author is doing this because most of the arguments presented by the Latin American delegates in support of one proposition is also used somewhere else at another conference in support of another argument. Examples of such an argument could be traced in the arguments of many of the Latin American representatives when they referred to the importance of the sea to the life of the Latin American people. This same argument was used interchangeably to denote the importance of the sea to the economy of Latin America. The usage of similar arguments would mean repetition of the same argument at different places in support of the different propositions. The author has decided to adopt the present method since it will help to avoid repetition.

Information concerning the emergence of the Latin American nations into the world body, and the role they played with respect to any question on the sea is collected and analyzed. This investigation gives a basic comparison and contrast between the Latin American states' policy before the emergence of the sea crisis and the aftermath policies, adopted when

the sea became of much greater importance in the area of resources. An in depth study of the governmental documents of the Latin American states and the U.N. documents will contribute to elaborate Latin American policies covering the period of development of the sea problems. Since an inter-American organization, known presently as the Organization of American States, activities have long been in existence, it is important that documents from the organization concerning conferences and meetings in which the sea was the issue of discussion and debate will further add to the information needed to explain respective attitudes the Latin American nations have exhibited all along on the issue of the sea.

U.S. Senate hearings and State Department bulletins will be a major area of study to extract what were the reasons that motivated the Truman Declaration of 1944 and the attitude of the American decision-makers and industrial men towards the declaration. Since the declaration generated the new crisis of the sea and subsequently led to the following conferences of the law of the sea, the U.N. documents concerning all the conferences until 1974 will be reviewed to develop the argument and strategies adopted by the Latin American states in the defense of their claims. Also, international journals, periodicals on international affairs, international law journals and newspapers will be very important sources of research since they spend much time presenting both sides of the controversial claims from both the affluent and the poor nations in an attempt to determine the legitimacy or legality and illegality of such claims. Finally, since the issue of the sea to the Latin American nations has been that of protecting economic interests, the author will review the U.N. economic journals and bulletins with respect to what percentage of

the gross domestic and the gross national product of the Latin American states comes from the sea resources, and also what type of economic benefit they get from the resources. Similarly, economic journals and documents from the Latin American States will be studied to see whether the sea actually poses a threat to the land base mineral resources of the Latin American States. Information received from this source will determine if the argument presented by the Latin American states justifies their attitude towards protecting their national interests.

CHAPTER II

THE ISSUE OF THE SEA AND LATIN AMERICAN NATIONS

The History of Latin American Nations and the Law of the Seas

In order to acquaint ourselves with the Latin American nations challenge to the existing international legal system guarding the ocean, a brief historical analysis of the Latin American emergence is necessary. Latin American influence in international politics resulted from the victories achieved by them in the revolutionary wars against Spain and Portugal in the eighteenth century. The same intellectuals and philosophers who called for the liberation struggles were convinced after independence that the instability which was common in Latin America could only be contained if an orderly society could be developed both at the regional level and in the world community. One of the promulgators of Latin American involvement within a world community was Simon Bolivar, also known as "The Southern Liberator". Under his leadership, a conference was convened in Panama City in 1826 to reach a settlement on a Continental Federation of American Nations.[11] The intent of this Congress was for all American states to gather as a collective entity to administer international justice, to settle the differences among them by peaceful methods through arbitration, conciliation, or sanction and to find other institutional means of regulating and controlling aggressors and violators of the collective security of these nations.

Though the intentions of the Conference did not materialize at this early stage, it provided inspiration to the Latin American states and their determination to organize better and more progressive conferences. The result was the reconvening of a series of conferences, notably, the Lima Congress of 1847, The Santiago Congress of 1856, the Lima Congress of 1864 and 1876, and the Montevideo Congress of 1889 sponsored by the United States.[12] The key word at all these congresses had been the establishment of peace in the Americas and in the international community of nations. Modern conferences of Latin American states have continued to use the motto: peace among all nations. The quest for peace in the twentieth century became one of the strongest points at the third meeting of the foreign ministers of the American Republics, held at Rio de Janeiro. The group addressed a request to the Inter-American Judicial Committee set up at that meeting to consider not only hemispheric problems but also to prepare detailed recommendations for post-war international organization and security. The findings of the committee, as a result of the Latin American nations request, resulted in the establishment of the League of Nations through which international peace could be maintained.[13] The failure and the collaspe of the League of Nations did not discourage the Latin American nations quest for any instrumentality that would establish and maintain universal peace among all states. Thus, when in 1945, at San Francisco, the United Nations was inaugurated, the presence of all the twenty Latin American nations was felt.

It should be noted that the desire for peace and the establishment of an international body to litigate and mitigate in these affairs of nation-states was expounded by the Latin American Republics not only in

the interests of curbing the wars and instability that had been rampant in their region; but also in order to have strong influence as small nations in the shaping of the charter of the world body. Such a world body could help protect them from outside interventionist forces of the powerful nations by constraining the great powers within clearly defined limits. They expressed concern over the judicial equality of all states rather than domination by the powerful. Thus, at San Francisco when the United Nations was founded, the Charter clearly established guarantees of non-intervention and non-interference in the domestic politics of nations by each other.

The Sea and Latin America

After independence in Latin America the controversy over the question of the sea led to greater confrontation among the states. The sea, which was once exploited and controlled by the Spanish and the Portuguese Colonial Governments within the territorial boundaries of the established traditional law of the sea, became an asset to the Latin American states after independence. It provided them with great abundance of fish marketable to other nations for trade. However, economic benefits incurred from the fish trade escalated the conflicts and wars among the respective republics. The Latin American states' individual claims on the territorial sea limits were extended to prevent and protect regional influence from extending into the boundaries occupied in the sea. Similarly, the naval advantage which the sea provided to the more powerful states within the region gave rise to a significant hegemonic control of the entire regional sea by the then powerful naval states. The multitude of con-

frontations within the republics over the issue of exploitability of the fish resources and domination of the sea by the powerful states necessitated the finding of the means of achieving a solution to the crisis among the Latin American Republics at the 1826 Congress in Panama. The failure of the congress to achieve solutions to the sea crisis among the republics generated greater confusion among the Latin American states in their efforts to control the sea in their region. Chile, in 1855, then one of the strongest naval forces in the area, enacted a civil code which extended her maritime frontiers beyond her original boundary. The extension provided for a dual zone which included an inner zone of territorial seas and an extended zone for other purposes, which included the protection of fish and security from hostile neighbors. Article 593 of the civil code indicated that "The contiguous sea to the distance of a marine league counted from low-water line is a territorial sea appertaining to the national domain; but the right of police in all matters concerning the country and the observance of the custom laws extends to the distance of four marine leagues counted in the same manner."[14] Chile's claim triggered other claims within the republics. Ecuador, in 1857, threatened by the civil code of Chile, decreed her own civil code extending her territorial sea limit for the same reason given by Chile. In 1860 El Salvador followed suit. Argentina followed in 1869 and Honduras devised a civil code extending her territorial sea in 1880.[15] These claims became the first attempt to challenge the three-mile law of the sea, but failed because the three-mile rule had enjoyed unanimous support from the European nations, who constituted the majority of the international arbitration body, which established the three-mile rule in 1855. The

Hague Conference of 1882 reiterated that the fishermen of each country shall enjoy the exclusive right of fishing within the distance of three miles from the low-water mark along the extent of the coasts of their respective countries as well as of the dependent islands and banks. With this arbitration decision enforced at the Hague Conference, all the Latin American Republics withdrew their claims to the original three miles, with the reservation that the issue of the sea would once again be raised at the coming Congresses of the American States. At the 1889 Montevideo Conference in Uruguay, Latin American states tabled proposals which requested the extension of territorial sea claims to five miles. Eight draft treaties, incorporating both public and private international law, were adopted and approved at the Congress. They included Article 12 which favored a five-mile territorial sea "for the purpose of penal jurisdiction. Also declared as territorial waters were those areas which were bound to within the extent of five miles from the terra firma and from the islands which constituted part of the territory of each state."[16] The eight draft treaties received the signatures of Argentina, Bolivia, Paraguay and Uruguay. Only Uruguay followed up with the five-mile limit claims, whereas Argentina, Bolivia and Paraguay did not change from their three-mile limit claim. Uruguay's adherence to the new five-mile limit was seen as a control device over her fisheries in the mouth of the Rio de la Plata, an area more than 60 miles wide and including about 5,000 square miles. The adoption of the five-mile territorial limit, passed by the Congress, was intended to stop the British vessels from fishing within the five miles of Uruguan waters.

The events that triggered the Latin American states' interest in the issue of the sea in the nineteenth century stemmed from the international rivalry that emerged relating to the economic resources that the sea provided for the nations in this region. Similarly, the naval importance which the sea provided to the powerful nations within the region provoked responses from the weaker nations to guard their territorial waters from the naval forces of their neighbors. Finally, the threat imposed on Latin American fishing resources by foreign vessels necessitated moves to protect one of the sources of their economic benefits. At this period of the development of the sea crisis, there was no coherent regional policy towards the question of the sea. The hetrogeneous policy approach that was prevalent at this time resulted from the immediate threat that was posed to the national interest of the respective Latin American nations. The threat to national economic interests in the sea at this time was not of external origin even though the British had shown considerable interest in the fish meal of Latin America. Their presence in the area did not pose an immediate threat. The immediate threat was posed by their neighbors. The conflict that existed among them over the issue of the sea had been the prime reason for the Latin American states' request for views on the question of the codification of the sea law.

By the early twentieth century the potential threat which Britain had shown to the Latin American states had shifted hands. At this time the United States maritime power had grown strong. The proximity of the U.S. to Latin America generated another response from Latin America on the sea issue. They saw the immediate threat to the sea at a very close range. The fear of U.S. domination of their sea was confirmed when in 1902, the

U.S. defeated Spain in the Gulf of Mexico and the Caribbean. In the same year the U.S. issued a policy declaration in support of the three-mile rule which read:

> The Government of the United States claims and admits the jurisdiction of any state over its territorial waters only to the extent of a marine league, unless a different rule is fixed by treaty between two states; even then the treaty states are alone affected by the agreement.[17]

This policy declaration began to influence the policies of the rest of the Latin American states who had been anxious to retain their extended boundaries or those who had intentions of extending them. Latin American states readjusted their territorial claims to the three-mile limit to protect themselves from the naval power and to win their friendship. The first move to reserve the sea claim was made by Mexico, which for years had claimed three-league (more than three miles) territorial waters. Mexico passed an act which reversed her nine-mile claim to three miles as the territorial limit in response to the desire of the U.S. preserve the traditional three-mile law of the sea territory as the only legitimate claim. The U.S. began to bring the rest of the Latin American states into the three-mile traditional limit. She signed a smuggling treaty with Cuba and Panama which affirmed the three-mile limit as the territorial boundary within which smuggling laws could be exercised. Until World War I the three-mile limit remained the principal demand on Latin American states and the world in general. The imperial power of the U.S. and her European allies was able to dominate any contrary claims by the weaker nations including the Latin American states. Disputes that emerged during this period relating to sea claims were settled by the Permanent

International Court of Arbitration which was dominated by the European nations. They unanimously agreed to the three-mile rule which favored their exploitative interest in fish resources beyond the three-mile limit, and which also provided greater access to the sea for their naval activities.[18]

World War I and Latin American Resistance to the Law of the Sea

Considerable damage inflicted to the coastal states by the naval vessels of the belligerent nations during World War I resulted in a world-wide reaction to the viability of the three-mile territorial sea limit. The new forces that challenged the three-mile doctrine held the opinion that the traditional three-mile limit must be reviewed in order to develop new limits that would contain the superior destructive effects of the modern war ships. Realizing that the traditional law of the three-mile limit had helped the naval powers, mostly European nations, critics argued for a new law which would reflect the common consent of all nations. This nationalistic fervor which evolved after World War I rejuvenated the Latin American states and led them to demand once again, the extension of their sea limits. This new spirit enjoyed wider support among the Latin Americans, as well as a majority of the "third world nations".[19] In 1930 when the League of Nations Conference was convened in the Hague, the argument raised by both Latin American states and these new nationalistic forces was concerned mainly with new provisions extending the sea limit to a safer limit out of range of the naval vessels of the modern era. Latin Americans were very vociferous in discussing the question of the three-mile and twelve-mile contiguous zone limit of the sea claim.[20] Past

differences in the respective claims of Latin American nations persisted and were clearly evident at this conference. The idea of national interest on the issue of the sea dominated all the activities of the respective nations in Latin America. There was no indication of any closeness in their projected policy approach on the question. However, what emerged at this time among the Latin American states in view of this new development was a greater consensus to expand their territories within the sea to the area of the contiguous zone. Thus it could be noted that while Chile supported the three-mile with a twelve-mile contiguous zone and while Colombia, Uruguay and Brazil voted for a twelve-mile territorial limit, Cuba, then newly independent, supported a six-mile territorial limit and a twelve-mile contiguous zone.[21] These differences in policy approach characterized the Latin American states' claim to the sea. In spite of these differences there was general acceptance by the Latin American states of the contiguous zone doctrine. The differences in the claims could be attributed to the national law of each state with regard to the treaties they had signed, the existing national declarations, fishing zone protection, and the state of belligerence which existed in the region. The proximity of the U.S. and some of the Latin American states influenced their action and inaction when the expansions into the sea were initiated. Mexico, which shared close proximity with the U.S., abstained from expressing any view of expanding her sea claims at the Hague Conference but stuck to the six-mile claim which it had exercised after the U.S. defeat of Spain in the Gulf of Mexico. By 1935, five years after the Hague Conference, Mexico had seen fit to extend her territorial sea limit. The decree stated that,

> Sole Article, Section 1 of Article 4 of the law of immobile properties of the nation, of December 18, 1902 is amended to read as follows: 1) The territorial waters, for a distance of nine nautical miles (16,668 kilometers), counted from the mark of lowest tide in the coasts of the mainland or on the shores of the islands forming part of the national territory.[22]

Mexico's new decree was an effort to curtail the overabundant U.S. fishing vessels in the Gulf area of Mexican waters. These waters had been overly fished by the highly-equipped U.S. vessels to the disadvantage of the unsophisticated vessels of Mexico which yielded less fish catch compared to that of the U.S. Also, Mexico had been apprehensive about the consequences of depletion of the fish in their waters by foreign vessels.

As Table 1 indicates, the Latin American states' reaction at this period of the debate on the issue of the sea was generated mainly by economic considerations. There existed the desire to safeguard their fisheries and other sea resources from foreign vessels and fishermen in order to protect Latin American economies which depended on the export of fish to other foreign lands for revenue. Secondly, the need to enforce custom laws due to the increase in smuggling, which had deterred their economic development, led to the various national anti-smuggling acts enforced rigorously in the waters of Latin America. By creating custom laws, new sources of revenue were established by the Latin American states in a form of taxation on items entering or leaving the states. It could also be said that Latin America's greatest effort to negate the traditional three-mile rule actually was made during the period 1938 to 1945. Although the Latin American nations and other European and Asiatic nations had begun adjusting their sea boundaries because of the effect of the First World War on the

TABLE I

SELECTED LATIN AMERICAN NATIONS AND THE CONTIGUOUS ZONE CLAIMS 1930-1940*

NATION	EXTENT	PURPOSE	MEANS AND DATE OF IMPLEMENTATION
Colombia	20 kilometers	Customs	Customs law of June 1931
Cuba	5 miles	Sanitation	General law of fisheries March 28, 1936
Dominican Rep.	3 leagues	Naval Security Area	Law #55 of December 27, 1938
Ecuador	15 miles	Fishing	Decree No. 607 of August 29, 1934
El Salvador	12 miles	Police and Security	Law of Navigation and Marine of October 23, 1933
Guatemala	12 miles	Port Authority Jurisdiction	Regulations of April 21, 1939
Honduras	12 miles	Territorial Sea	Constitution of March 28, 1938
Venezuela	12 miles	Security, Sanitation, Customs	Presidential Decree of September 15, 1939

*Information on the table was selected from the documents of U.N. Laws and Regulations on the Regime of the High Seas, pp. 53-168; and also from the U.N. Laws and Regulations on the Regime of the Territorial Sea, pp. 45-46.

security of their coasts, Latin America had not exhibited any great concern for the military security of its coast against naval vessels foreign to the region. The U.S. had offered the Latin American nations full military protection from any foreign attack on their countries. The military security they enjoyed from the U.S. was a significant factor in the early Latin American relaxation on the security issue. The period from 1938 to 1945 saw a significant Latin American states' attack on the three-mile law; and an extension of their coasts to within the twelve-mile contiguous zone. They did not overlook the resistance which their closest neighbor and friend, the U.S., would bring to bear on their new claims. At the Hague Conference a change in attitude was expressed by Argentina, Chile, and Peru, who not only feared the attack of their countries by the Axis powers, but were convinced that because of their lengthy coastlines the U.S. could not offer them all the necessary protection against any invasion.

World War II and the Rise of Collective Approach in Latin America Against the Law of the Sea

The Panama Conference of 1939 primarily demonstrated the emergence of greater consensus among Latin American nations on the issue of the sea laws. The central theme which confronted the delegates was the question of the three-mile rule and to what extent this three-mile limit provided security and safeguarded the neutrality of the Americas from future wars. The experiences from the First World War demonstrated that the strike capability of modern military vessels could not be deterred by the old three-mile rule. The Latin American nations sensed a new crisis arising

and they wanted to protect themselves against the conflict developing among the European nations. The attitude projected by the Latin American states at the Panama Conference was influenced by the need to design measures necessary to protect their regional and national interests. All the foreign ministers of the Latin American states, (the U.S. was also present at the meeting) unanimously declared that Latin America would ratify their neutrality status in view of the conflict which was disrupting the peace of Europe. Their conviction was that there could be no justification for the interests of the belligerents to prevail over the rights of the neutrals.[23] Thus they became convinced that by abstaining from the war in distant European waters, they would escape the horrors which the war would bring. The fatal and painful consequences, if any, would be lightly felt by them. The foreign ministers at the conference therefore declared a resolution to protect their waters from the belligerent states which read:

> As a measure of continental self-protection, the American Republics, so long as they maintain their neutrality, are as the inherent right entitled to have those waters adjacent to the American continent...free from the commission of any hostile act by any non-American belligerent nation, whether such hostile nation act be attempted or made from land, sea or air.[24]

The area of the neutrality belt was described to include all the areas of the ten rhumb lines with the exception of Canada, starting from the Maine-New Brunswick boundary, proceeding south, around Cape Horn and then north, ending at the Washington-British Columbia border. These neutrality areas covered about 500 to 900 miles in width and extended to 1,200 miles at a point off the coasts of Chile and Peru. The greatest protest to this

declaration came from Great Britain which for many years had been the protector of the three-mile rule. She cited the three-mile rule violation by the American states as a contradiction to the established limit set at the Hague Convention. But the determination of the American states to protect their claims was evident on December 23, 1939, March 16, 1940, and May 24, 1940, when they protested about the hostile incidents within the zone by the Axis powers.[25]

Further, the Panama Declaration openly repudiated the Hague Convention's innocent passage rule which allowed neutral states to be impartial to belligerent states with respect to the usage of their harbors or roadsteads provided the belligerent powers' vessels had met all the regulations of the neutral powers in their waters.[26] The Declaration of Panama denied any innocent passage to any other vessels except those of the American republics.[27]

After the war only a few Latin American states reversed their claim to within the three-mile limit which the U.S. had long favored. As Table II indicates, though there had been divergent claims, the greater consensus among the majority of the Latin American republics favored expansion of their sea in order to enjoy a wider fishing area limit. Even those who favored the traditional three miles have favored greater control of the sea for the purpose of fishing.

TABLE II

OFFSHORE CLAIMS OF LATIN AMERICAN NATIONS
AFTER WORLD WAR II
Arranged According to Breadths of the Territorial Sea

DISTANCE CLAIM	LENGTH OF COASTLINE	FISHING LIMITS IN NAUTICAL MILES	OTHER LIMITS
THREE MILES			
Argentina	2,129	10	Continental Shelf
Brazil	3,692	12	
Cuba	1,747	5	
Dominican Republic	325	15	
Nicaragua	445	200	
SIX MILES			
Colombia	1,022	12	
Haiti	584		
Uruguay	308	12	
TWELVE KILOMETERS			
Honduras	374		
NINE MILES			
Mexico	4,848		
TWLEVE MILES			
Ecuador	458		
Guatemala	178		
Panama	979		
Venezuela	1,081		Continental Shelf
FIFTY KILOMETERS			
Chile	2,882	200	
TWO HUNDRED MILES			
El Salvador	164		
NO SPECIFIC TERRITORIAL LIMITS			
Costa Rica	446		
Peru	1,258	200	

The republics favored expansion of their sea with regard to the fishing limit they wanted to enjoy. Even those who favored the traditional three miles have favored greater control of the sea for the purpose of fishing and protecting their fishes.

CHAPTER III

THE TRUMAN DECLARATION AND LATIN AMERICAN REACTION

With World War II over, the crisis over the claims relating to the sea by Latin American states had not subsided when the Truman Proclamation concerning the continental shelf and fisheries conservation was issued. This gave added stimulus to the Latin American nations who began extending their claims beyond the twelve-mile limit which had dominated their earlier decrees and declarations. The Truman Declaration of 1945 was a response by the U.S. to major developments that had been taking place in the adjacent waters of the U.S., namely, the growth of foreign fishing and the discovery of oil. These developments called for the necessary laws within the U.S. to protect their fishes and to exploit the new resources discovered in that area. Events leading to this significant proclamation can be traced back to the 1930's when the question of eliminating foreign vessels in the areas adjacent to the U.S. contiguous zone was vigorously argued in the U.S. Congress. The subsequent years saw the emergence of fishing interests as a vociferous lobby. Their influence in Congress led to the introduction in 1937 of two bills in both Houses which, though never passed, were intended to eliminate foreign fishermen from the Alaskan Continental Shelf. The bill read:

> The salmon which are spawned and hatched in the waters of Alaska are hereby declared to be the property of the United States, and it shall be unlawful for any person...to fish for, take, or

> catch any of the said salmon in the waters adjacent to the coast of Alaska...east of the international boundary in the Bering Sea between U.S. and USSR, the depth of which is less than one hundred fathoms.[28]

This bill, if passed, could have altered the international law of ownership of fisheries established by the Hague Convention on fisheries and also could have violated the three-mile limit rule on territorial sea limit established by the same convention. The continental shelf of Alaska lies between the 100 fathoms line and covers about half of the Bering Sea which extends over four hundred miles from the Alaskan mainland. The failure of passage of the bill did not deter the determined fishing interests. By 1938, a less stringent bill was introduced by Senator Copeland which explained the shallow depth of the Bering Sea to be the slightly submerged margin of the American continent which, as determined by experts, did not partake in the qualities of a true continental shelf. This second bill stressed the significance of protecting the U.S. fishes and minerals from foreign exploitation. "...U.S. is hereby declared to extend to all the waters and submerged land adjacent to the coast of Alaska lying east of the international boundary in the Bering Sea...and lying within the limits of the continental shelf, the edge of such continental shelf having a depth of water of one hundred fathoms..."[29] This bill was passed in the Senate but failed in the House. If this law had been passed, though it was more moderate than the House version, it would nevertheless have been a violation of the Hague Convention which required all nations to fish in the areas beyond the three-mile limit of the territorial sea which was referred to as the high seas. Since such protective bills did not receive the approval of the national legis-

lators, the respective states, began to enact their own laws concerning the ocean issues. Louisiana and Texas took the first initiative in 1938, each enacting legislation which projected the extent of sea territory they could claim. Louisiana claimed 24 miles territorial sea,[30] while Texas claimed 27 miles, respectively.[31] The rationale behind their claim was that the effective range of cannon had extended beyond the traditional three-mile limit due to changes in technology. Passage of these laws by Louisiana and Texas brought a confrontation between the federal government and the state governments over the issue of decision-making in international matters. The U.S. Supreme Court held that only the federal government has the ultimate right to make decisions affecting international relations. Thus, Louisiana and Texas were prohibited from pressing their maritime claims. But, all indications showed that in passing such laws extending their sea limits Louisiana and Texas were concerned with maintaining their jurisdiction over the oil deposits that lay about 10 to 130 miles into the ocean.

The failure of the states to pass any law concerning the sea moved the fishing and oil interests to direct their efforts towards the federal government. This time, the oil and fishing interests were able to convince the U.S. government of the importance of such industries to the economy of the United States. By 1945, it became apparent that the executive branch was willing to proclaim, for the first time, what the Congress had continually battled over prior to the Second World War. The proclamations on mineral resources of the sea were collaborately prepared by the State Department, Justice Department and Interior Department which jointly emphasized that:

> Whereas the Government of the United States of America, aware of the long range world wide view for new resources of petroleum and other minerals ...Whereas it is the view of the Government of the United States that the exercise of jurisdiction over the natural resources of the subsoil and seabed of the continental shelf by the contiguous nations is reasonable and just, since the effectiveness of measures to utilize or conserve these resources would be contingent upon cooperation and protection from the shore, since the continental shelf may be regarded as an extension of the land mass of the coastal nation and thus naturally appurtinant to it, since these resources frequently form a seaward extension of a pool or deposit lying within the territory, and since self-protection compels the coastal nation to keep close watch over activities of its shore which are of the nature necessary for utilization of these resources.
>
> The Government of the United States regards the natural resources of the subsoil and seabed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States subject to its jurisdiction and control.

The proclamation declared that "the character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way this affected."[32]

A letter from the Secretary of the Interior in 1943 to the White House showed the vigor with which the fishing industries demanded government regulation devices to protect the ocean from foreign vessels. The letter, which was one of the preparatory works for the Truman Proclamation, indicated that:

> The continental shelf extending some 100 or 150 miles from our shores form a fine breeding place for fish of all kinds; it is an excellent hiding place for submarines and since it is a continuation of our continent, it probably contains oil, and other resources similar to those found in our states.[33]

The letter, therefore, suggested the advisability of laying the ground work for availing the U.S. of the riches in the submerged land and in the waters over them. Nevertheless, the letter recognized the legal problems that would accrue in the international scene, and therefore, advised the government to evolve a new concept of maritime territorial limits beyond three miles.[34] Franklin D. Roosevelt held office when these letters arrived. He developed a greater interest in the subject matter and concluded that, "the old three-mile limit or the twenty-mile limit should be superseded by a rule of common sense...[35] The President requested the establishment of an interdepartmental board to investigate all areas of the continental fisheries issues including submarine areas. The final result of the study by the State Department, Interior Department and the Justice Department led to the 1945 Truman Proclamation. The fisheries proclamation stressed that:

> Whereas for some years the government of the United States of America has viewed with concern the inadequacy of present arrangements for the protection and perpetuation of the fisheries resources contiguous to its coasts ...; Whereas such fisheries resources have importance to coastal communities...and... Whereas there is an urgent need to protect coastal fishery resources from destructive exploitation; having due regard to conditions peculiar to each region and situation...the government of the United States regards it as proper to establish conservation zones in those areas of the high seas contiguous to the coasts of the United States wherein fishing activities have been or in the future may have developed and maintained on a substantial scale...the character as high seas of the areas in which such conservation are in no way thus affected.[36]

Whether or not the U.S. proclamation of the continental shelf and subsoil could be characterized as legal or illegal, it demonstrated one

thing and that is stated in the proclamation, "the exercise of jurisdiction over the contiguous nation is reasonable and just." Whatever reason the proclamation gave for the justification of the claim is immaterial since any coastal state has the right to protect her sea resources no matter what distance she recommends as the limit of the claim. Thus, Latin American action and reaction was in response to the U.S. proclamations. If the U.S. could protect her economic and national interests in the waters so close to Latin American waters, similarly the latter could do likewise. But this had not been the policy of Latin America over the issue of the sea after the Second World War. The Truman Proclamation brought the area of threat, to the security and economy of Latin America, from Europe to a closer proximity to Latin America herself. The threat is now posed by their North American neighbor, the United States. The Truman Proclamation generated in Latin American states the need to watch the activities of the U.S. very carefully. The U.S. proclamation made the exploitation of Latin American waters a prime target for nations previously fishing in the U.S. waters because of the weakness of Latin America as a superpower and the consequences these nations would encounter if they were to break the U.S. proclamations. The effect of such a wholesale exploitation by foreign vessels in the waters of Latin America would mean more economic underdevelopment in Latin America and more dependency on the U.S. as the prime trader with the Latin American countries. The superpower position of the U.S. has been a matter the Latin American states feared would eventually evolve into U.S. domination of both political and economic activities of Latin America. Their policy of alliance with

the U.S. in the field of trade and military protection was the extent to which the Latin American republics would permit their relationship to go with the U.S. There were new forces in Latin America who wanted greater independence from the U.S., and who viewed the strength of the U.S. as a threat to their freedom with respect to international relations.

The theory expounded so far has indicated that the Latin American states' reaction to the sea issue was generated primarily by the xhenophobic reaction first within her periphery and then from among her own Latin American republics. This fear of domination of the sea by one entity expanded and developed to other areas where the threat had been noticed emerging with greater force and power. They feared the damage that could be done to their economy and national interests if appropriate measures were not taken by them to protect the sea close to home. The geographical interest began to be a considerable factor in the Latin American quest to defend the sea. The reactions and actions of Latin American states during the period before the First World War and after the Second World War demonstrated the repercussion taken by the Latin American states and the inter-American states as a whole to protect their interests against that of the warring European nations. But when the U.S. emerged not only as a superpower but made a declaration on the sea, the suspicion of their neighbor grew stronger and the confidence that Latin America once had in the U.S. began to decline. The Truman Declaration was viewed as the U.S. intention to use its newly acquired power to dominate both regional and international relations. Latin American republics took drastic counter measures to balance the U.S. claims. Thus, Latin American states saw their action as "reasonable and just," in the same

ways as the U.S. viewed their proclamations. Thus, Latin American claims to the sea have always been necessitated by peculiar events initiated by the strong nations whose desire had been to dominate international affairs. As indicated at the Geneva Conference of 1958 by the Peruvian delegate, "the great powers which were at present resisting the rights claimed by coastal states had, in fact, during the Second World War, demanded that small countries of Latin America exercise, over a vast sea area, rights fo jurisdiction and control which included the obstruction of navigation and trade."[37] This statement of the Peruvian delegate clearly criticized the nature of the policy set by the U.S. after the Second World War. It must be remembered that prior to the Second World War, at the Panama Conference of American States, both the United States and the participating Latin American states had endorsed the extension of the latter's territorial sea to areas beyond the three-mile limit in order to ward off enemy vessels and activities in their region. After the war, the U.S., now the world's most powerful nation, began changing and shaping the legal order to suit her interests. The Truman Proclamation was viewed strictly by Latin America as U.S. domination of world order. The irritation Latin American states felt towards this domination and the future threat it posed to the national interests of the Latin American states precipitated a series of claims by Latin America to areas of the sea not included in previous claims.

The characteristics and nature of the claims of the Latin American nations at this time placed them into three distinct groups. The first group , which included Brazil, The Dominican Republic, Guatemala, Nicaragua and Venezuela, followed similarily the U.S. claim, by claiming the

continental shelf and excluding the super adjacent waters. The second group, which included Argentina, Honduras and Mexico, issued a more modest claim. They claimed the continental shelf and the waters covering it. And finally, the third group, Chile, Costa Rica, Peru, Ecuador and El Salvador, used the method of the continental shelf as a measure to claim seaward distance up to 200 miles due to the narrowness of their shelf.

Mexico was the first of the Latin American states to extend her sea boundaries in response to the Truman Proclamation. On October 29, 1945, a month after the Truman Proclamation, Mexico issued a Presidential decree containing similar claims to that of the U.S.[38] Argentina soon followed and on October 11, 1946, issued a stronger decree than that of Mexico. She proclaimed areas over the continental shelf to be inclusive in her jurisdictional claim. Her justification for such a claim was that the waters over her continental shelf constituted a transitory zone of mineral reserves and aquatic life which are all susceptible to industrial utilization.[39] Since the U.S. and Mexico claimed their shelves, the government of Argentina followed suit. The Argentine Declaration read:

> The Government of the United States of America and of Mexico have issued declarations asserting the sovereignty of each of the two countries over the respective peripheral epicontinental seas and continental shelves...It is hereby declared that the Argentine epicontinental seas and continental shelves are subject to the sovereignty power of the nation...[40]

Thus, Argentina, which has the most extensive continental shelves in the Southern hemisphere (100-300 miles) declared sovereignty over all this area. Panama, in 1946, also issued a decree claiming her continental

shelf. In 1947 Chile and Peru followed suit. In 1949 Costa Rica issued her decree, and in 1950, Nicaragua and El Salvador did likewise. Clearly, the main reason for the extension by the Latin American states of their sea territory was their reaction to the U.S. proclamation which had done the same. However, while the U.S. proclamation provided for innocent passage, the Latin American decrees did not clarify whether or not the right to free and unimpeded navigation would be affected.

At this point in the history of the sea it became evident that both the three-mile and the twelve-mile rules, which the major maritime powers favored strongly, had become unacceptable to the Latin American states. Such rejection by Latin Americans surfaced in almost all the regional and international conferences held to discuss the sea issue. At the 1950 Inter-American Council of Jurists meeting to study the regime of the territorial sea and questions concerning Latin American claims, the majority of the Inter-American Council of Jurists committee members represented at the meeting were the nations which claimed generous extension of jurisdiction over territorial seas.[41] These nations (Argentina, Peru, Chile and Mexico) took advantage of the conference to prepare a draft convention which accommodated the extra-territorial claims by the other nations. Another group at the Conference, comprised of Brazil, Colombia and the U.S. who claimed moderate limits, objected strongly to the committee's endorsement of the extra claims of the radical groups (Argentina, Chile, Costa Rica, Peru, Ecuador and El Salvador). But the signatory states to the draft convention emphasized that the present "international law" granted to the littoral states "exclusive sovereignty over the soil, subsoil, and waters on its continental shelf and the air

space and stratosphere above it.[42] These states claimed, therefore, that all states have the right to establish an area of protection, to control and prevent economic exploitation. They also expressed the view that states with a narrow continental shelf have the right, by virtue of the narrowness of their continental shelf, to establish a distance of two hundred nautical miles from the low water mark along their coasts.[43] This marked the first time since the Truman Proclamation that the issue of claiming a specific distance in miles was mentioned. The delay in mentioning specific distances was intentional. The topography of Latin American sea coasts shows the irregularities of the continental shelf along the Pacific coast of both South and Central America. The continental shelves in these areas range from a distance of ten miles in some places to about a distance of eighty miles in others and since the U.S. has one of the longest continental shelves in the world, the Latin American nations calculated that a two-hundred mile claim would be justified against that of the U.S. Thus, the two hundred-mile limit was developed by Latin America in response to the exclusive fishing and mineral rights in the continental waters claimed by the U.S.

The two hundred-mile limit began to gain overwhelming support among the majority of Latin American states. In 1952, at the Santiago Conference on Exploitation and Conservation of Maritime Resources of the South Pacific, Peru, Ecuador and Chile were signatories of the Santiago Declaration, which not only supported the idea of the two hundred-mile claims of Latin America, but established a permanent commission for the exploitation and conservation of the marine resources of that area. The purpose was to unify fishing and whaling regulations, and to promote

scientific study and coordinate conservation measures aimed at controlling the possibility of future extinction of some of their fishing resources threatened by massive fishing by foreign vessels. At the 1954 Lima Conference, Peru, Costa Rica, El Salvador and Honduras claimed this time "exclusive authority" over the two hundred-mile zone. A claim of "exclusive authority " over the two hundred-mile limit was made by these states as a result of a study undertaken in 1950 by the Organization of American States. The purpose of such a study was to analyze the effects of the economic and judicial aspects of the regimes of the continental shelf, the waters of the sea and its natural resources. The study revealed the resources contained in the continental shelf area and beyond in the ocean. The OAS Council of Jurists unanimously agreed that the seabed and the subsoil of the continental shelf, adjacent to the coastal state to a depth of two hundred meters or, beyond that limit to where the depth allows exploitation of natural resources, should be "exclusive sovereign authority of that state and subject to its jurisdiction and control."[44] Due to this recommendation by the OAS Council of Jurists several Latin American states, namely, Chile, Peru, Costa Rica, Ecuador and El Salvador by 1955 had adopted the two hundred-mile limit including both exclusive rights to fishing and control of the mineral resources. All of these nations began to revise their former decrees to include the language "two hundred-mile limit." Examples taken from Chile's old and new decrees typified the nature of the changes made.

> Article 3. The adjacent sea up to a distance of fifty kilometers measured from the low-water mark, constitutes the territorial sea and belongs to the national domain: but the right of policing, with respect to matters concerning the security of the country and the observance of fiscal laws, extends up to a distance of 100 kilometers measured in the same manner.[45]

The new decree read:

> Article 7. The territory of the Republic within its present boundaries is irreducible; it includes the adjacent sea within a distance of 200 marine miles measured from line of lowest tide, and it embraces the corresponding continental shelf.[46]

Supporters of the two hundred-mile limit contended that the principles upon which the three-mile limit and the twelve-mile contiguous zone were founded no longer fulfilled the security needs of the nations in the international community. Their new decrees and their new drafts called for new rules in the area of international law designed so that the stronger nations could not dominate and reflect decisions safeguarding only their national interests. According to the Latin American states, the present rise in awareness that the international rules of the game are shaped only by a few nations calls for the transformation of international law so that it will be applicable to all and protect the common interest of all.[47]

Latin American Intellectuals and the 200-mile Limit

This attitude of Latin American states with respect to the crisis of the sea was given considerable support by both the intellectuals and the citizenry. The support given by the population as a whole acted as a catalyst in encouraging the leadership to take a very radical role in shaping the common law of mankind on the sea. Garcia Amandor, an outspoken Cuban intellectual and a member of the International Law Commission, has justified the two hundred-mile claim of the Latin American states. He cited scientific and moral reasons in justification of his support of Latin America's two hundred-mile claim. Realizing the complex ecological systems

which exist within the two hundred-mile limits, Garcia Amandor declared that it was necessary for Latin America to initiate measures to preserve its fishing from extinction. On the moral issue, he emphasized the evolutionary changes occurring on the continental shelf of both the east and west coasts of the American continents. As a means of legitimizing the Latin American claim to the two hundred-mile limit, he explains that the west coasts have virtually lost the width of their continental shelf whereas the east coasts have a larger continental shelf due to slower evolutionary changes.[48] Thus, the more fortunate east coast states have taken advantage of their large continental shelf and have undertaken measures to exploit them for the well being of their subjects. The two hundred-mile claim of the western states of the Latin American nations meant that these countries have compensated themselves in broader jurisdiction over the sea in replacement of their narrow continental shelf, therefore balancing the prehistoric geological calamity which nature has caused to human society.[49]

Another Latin American educator and publicist of Ecuadorian descent, Teodoro Alvarado-Garaicoa, supported the Latin American claim of two hundred-mile limits by arguing that the passage of time and the progress of modern armaments and the discovery of new natural resources, has called for modification of the classic delineation of the territorial sea. He condemned the three-mile limit rule as illogical and not consistent with the present evolutionary stage of technology.[50] The validity of the Latin American claims of a two hundred-mile limit was considered both on the governmental and intellectual level as very logical and morally justified. Their challenges, on whatever basis, showed that Latin America

considered the traditional laws guarding the sea as obsolete. The unanimity with which Latin American nations endorsed the two hundred-mile claim at the Inter-American Council of Jurists meeting held in 1953 demonstrated the emerging homogenity with which Latin American nations would initiate and attack any policy concerning the sea issue. The only opposition to the two hundred-mile limit proposal at the conference came from Brazil, Colombia and the United States. The fears that generated the two hundred-mile claim was expressed by the Council in these words,

> It is an obvious fact that development of technical methods for exploring and exploiting the riches of these zones has had as a consequence the recognition by international law of the right of such states to protect, conserve and promote these riches, as well as to insure for themselves the use and benefit thereof.[51]

By 1956, the opposition from Brazil and Colombia had withered away. A greater consensus was reached on the two hundred-mile claim with the only opposition coming from the U.S. By the close of the 1956 Mexico Conference the Council had unanimously declared that the right to establish the two hundred-mile limit was the sole responsibility of each state.[52] Included in the draft convention of the conference was a clear description of the resources within the continental shelf up to the two hundred-mile limit that were regarded as the property of the coastal state. These included "all marine resources, animal and vegetable species that live in a constant physical and biological relationship with the shelf not excluding the bethonic species."[53] The Council reserved the coastal states exclusive right to "species closely related to the coast, the life of the country, or the needs of the coastal population..., when the existence

of certain species has an important relation to the industry of activity essential to the coastal country."[54] Among the twenty-one nations present at the Mexico Conference, as indicated in Table III, fifteen voted in favor of the act, five abstained and one voted against.

TABLE III

SECOND INTER-AMERICAN COUNCIL OF JURISTS VOTE ON PROVISIONS ON FINAL ACT

STATE	VOTE
Argentina	Yes
Dominican Republic	Abstain
Colombia	Abstain
Bolivia	Abstain
Guatemala	Abstain
Nicaragua	Abstain
Brazil	Yes
U.S.A.	No
Uruguay	Yes
Paraguay	Yes
Cuba	Yes
Venezuela	Yes
Peru	Yes
Ecuador	Yes
Mexico	Yes
Chile	Yes
El Salvador	Yes
Honduras	Yes
Haiti	Yes
Panama	Yes
Costa Rica	Yes

Source: Compiled by the author from U.N. records and U.S. Department of State documents.

CHAPTER IV

LATIN AMERICAN SECURITY CONTROVERSY

The perception of military, technological and economic threats in a changing world appear to be significant factors in Latin American extensions of their sea claims to the two hundred-mile limit. As indicated by the earlier pace of developments, the Truman Proclamation galvinized Latin American claims which otherwise would have taken a considerably longer period of time to develop to the magnitude of the post-Truman Declaration period. But the events after World War II which led the U.S. to proclaim jurisdiction over the continental shelf did not go unnoticed in Latin America. Increasing activities in Latin American waters after the Second World War had already been observed by the Latin American states.

The fishing industry which had become one of the main sources of economic development in Latin America was threatened by foreign fishing fleets. Unfortunately, no definitive statistics exist testing the validity of the argument by Latin Americans as to the extent to which these foreign vessels posed a threat to the fishing interests of Latin America. However, reliable statistics are available which measure the extent to which Latin American nations depended on their own fishing industries. Between 1950 and 1970, as indicated in Table IV, Latin American nations have produced, in the field of commerce, millions of metric tons of fish in her South Pacific waters. Peru's records indicate that her gross

TABLE IV

GROSS DOMESTIC PRODUCT AT FACTOR COST
AND AT MARKET PRICES BY INDUSTRIAL ORIGIN
Thousands of Millions of Pesos at 1960 Prices

COUNTRY	PERIOD	SECTOR OF ACTIVITY
Argentina	1950-1969	Fishing
	0.4 1.0	Thousands of Millions of Pesos
		GDP at factor cost by industrial origin
Bolivia	1958-1969	Agriculture, Forestry, Hunting, Fishing
	906 2088	Millions of Pesos
Brazil	1961-1969	Hunting and Fishing
	1200 302.8	Millions of new Cruzellscars
Colombia	1950-1969	Hunting and Fishing
	17.8 130.9	Millions of Pesos (58 prices)
		GDP at market prices and by origin
Chile	1950-1969	Hunting and Fishing
	0.3 201	Millions of Escudos
Ecuador	1950-1969	Agriculture, Hunting, Fishing, Forestry
	2545 8552	Millions of Sucres
Paraguay	1950-1970	Fishing and Hunting
	1.3 84.1	Millions of Guaranies
Peru	1950-1968	Hunting and Fishing
	88 3729	Millions of Soles
Uruguay	1955-1967	Hunting and Fishing
	1 147	Millions of Pesos
Venezuela	1960-1969	Agriculture, Forestry, Hunting, Fishing
	1650 3647	Millions of Bolivares
Costa Rica	1950-1970	Agriculture, Forestry, Hunting, Fishing
	5435 1450.3	Millions of Colones
El Salvador	1958-1970	Hunting and Fishing
	2.0 14.1	Millions of Colones
Guatemala	1958-1970	Agriculture, Forestry, Hunting, Fishing
	286.5 403.8	Millions of Guetzales
Honduras	1950-1970	Agriculture, Forestry, Hunting, Fishing
	197.2 451.9	Millions of Lempiras
Mexico	1950-1970	Hunting and Fishing
	152 675	Millions of Pesos
Nicaragua	1965-1970	Hunting and Fishing
	12.8 33.2	Millions of Cordobas
Panama	1950-1968	Forestry, Hunting, and Fishing
	2.3 7.6	Millions of Pesos

Source: Statistical Bulletin for Latin America, Vol. IX, No. 1-2, June 1972; United Nations, N.Y. 1972, pp. 1-387. There is estimated variation due to changes in annual market prices of these activities which were not taken into consideration. 1950 market prices could be different from 1954 or 1960 market prices. The importance of the table is to expose the greater economic significance of the fishing industry.

domestic product from net fish catch sold at market prices had increased significantly. In the same period the Chilean fish catch increased considerably from thousands of metric tons to almost millions of metric tons raising the gross domestic product to a level surpassing earlier fishing records kept by the Latin Americans. The economic benefit from the fishing industries grossed some extra thousands of millions of pesos to the gross national product of the Latin American states, raising the per capita income to a higher level. Peru became the number one benefactor from the fish resources, grossing the highest monetary benefits and registering the highest in the annual metric tons of fish catch. This made her the prime producer of fish not only in Latin America but also in the world. Chile, the second ranking producer of fish in the region also ranked fourteenth in the world.[55] Thus, it is no surprise that the appearance in Latin American waters of enormous fishing vessels from Britain, Japan, Russia and the U.S. outside the three-mile and twelve-mile contiguous zone limits after the Second World War were seen as a major threat by those republics who now regarded the sea as their future source of wealth. The invasion of their waters was seen as an unnecessary situation in which the more technologically advanced nations were applying new techniques and equipment, unknown to the Latin Americans. The Latin American states still utilize the old and the new methods in fishing. The developed nations apply strictly new methods in fishing in the Latin American waters. Using detecting systems--sonar or echo sounders--the advanced nations were able to interpret the information on the exact locations of the fish, while Latin American states' fishing vessels had to fend for the fish wherever they could be traced. The vessels of the advanced nations

have been equipped with pump fishing devices, with light lures to attract the fisheries within the range of the suction pump, which draws them out of the water and dumps them into the holds of the vessels. They also have introduced in the waters of Latin America large factory trawlers equipped with very sophisticated nets and preservatories which allow the trawlers to stay for days and months exploring and exploiting greater distances in Latin American waters without going to their national coasts to dump their catch. These trawlers have been noted by the Latin Americans to have frozen all the fish caught for several months in the seas without decomposing.[56] The Latin American states could not see these developments and activities of the advanced nations in their waters as fair and equal competition. Thus, when the Truman Declaration was proclaimed, the Latin American states took advantage of the situation and enacted measures to protect the interests of their waters from the industrial nations, whose use of sophisticated fishing equipment was detrimental to the fishing industries of Latin America. The fear of overfishing, which had long bothered the Latin American states, could be regulated in this manner. Latin American nations, therefore, embarked on a policy of expanding their sea limits even though this was contrary to the traditional rules of the international law of the seas. Traditional law was viewed as promoting the interests of the great maritime powers who advocated the open seas since they alone possessed the fishing fleets and the military force (see Table V) to back their vessels in exploiting the riches of the seas to the benefit of their commerce and industries at the expense of the underdeveloped nations. The Latin American nations, therefore, regarded their move as logical. They alone have to promote their interests just

TABLE V

WARSHIPS OF THE POWERS, 1946

COUNTRY	BATTLESHIPS CARRIERS CRUISERS	FRIGATES DESTROYERS ESCORTS	SUBMARINES	PATROL CRAFT
U.S.A.	197	663	200	423
U.K.	86	400	119	943
USSR	11	57	100	409
FRANCE	15	49	14	132
CHINA	2	4	--	23
ITALY	6	22	--	22
JAPAN	18	104	58	74
GERMANY	2	15	30	94

Source: Swarztrauber Sayre, The Three Mile Limit of Territorial Seas, p. 171. "The figures for Italy do not include 3 battleships, 6 cruisers, 8 destroyers, 7 submarines and 46 patrol craft surrendered to the Allies. The figures for Japan are the ships surrendered to the U.S. The figures for Germany are the surviving seaworthy ships surrendered and divided between the U.S.A., the U.K., and USSR."

as the maritime powers have long been protecting theirs. They thought that any laxity in policy towards the sea issue would give advantage to the already rich industrial nations who would eventually monopolize the last resource area left on the planet Earth. Therefore, the Latin American states' unanimous endorsement of the two hundred-mile limit was a measure intended to protect the main industry, fisheries, from domination by the industrial nations.

Latin American Enforcement of the Two Hundred-Mile Claim

At the Inter-American Conferences, it became apparent that the U.S., a participating member at all these conferences, openly refused to recognize the extended territorial claims of the Latin American states. As indicated in Table III, at the Mexican Conference of 1956, the only state which voted against the two hundred-mile limit claim was the U.S. The other maritime powers also refused to recognize the new Latin American boundaries into the sea. By 1953, the Latin American nations who had claimed the two hundred-mile limit, saw it would be necessary to defend their claims against the continuous violations by the vessels of the affluent nations. Mexico was the first Latin American nation to be tested. Mexico did not claim the two hundred-mile limit at that time. It claimed a moderate nine-mile limit which, if accepted, would limit fishing in the shrimp-rich Gulf of Mexico. Despite the Mexican protest, the United States, Japan, and Russia continued shrimp fishing in the Gulf of Mexico in violation of the Mexican nine-mile rule.[57] In July 1953, Panama's new territorial claims were challenged by the tuna clipper of the United States, "THE STAR CREST". Panamanian authorities confiscated the tuna vessel for violating their claim to the continental shelf.[58] In Spring 1953, Ecuador followed by capturing U.S. tuna vessels which had entered her two hundred-mile zone. The United States, like the rest of the affluent nations fishing in Latin American waters and refusing to recognize the Latin American claims, viewed the seizure of the U.S. vessels with mixed reactions. A scheduled meeting between officials of the United States and the Ecuadorian authorities, to talk over the seizure of U.S. vessels, ended in failure. The refusal by the Ecuadorian Govern-

ment to reach an agreement with the U.S. was in fact due to the determination of the Latin American states to pressure the affluent nations to recognize their two hundred-mile claim. At the meeting the Ecuadorian delegate stated that the seizure of the U.S. tuna vessels could not be resolved by the U.S. and Ecuador alone. The Latin American nations with two hundred-mile claims must participate in the decisions on the issue.[59] The determination by Ecuador to include other Latin American nations in the decision over the seizure of foreign vessels resulted in a closer relationship between Ecuador, Chile, and Peru. After the seizure of the U.S. tuna vessels, Ecuador, Chile, and Peru agreed that, irrespective of who seized any foreign vessels or cargoes violating their territorial waters, the proceeds from such seizures would be divided equally among them. The agreement implied that either Peru, Chile, or Ecuador could apprehend any foreign vessels in any of the three nations' territorial waters. In addition, none of them were to enter into any form of agreement with any foreign country that would nullify the enforcement of the two hundred-mile rule on all foreign vessels.[60] The agreement reached by these Latin American states guaranteed only to each other the relaxation of their territorial sea boundaries to the twelve-mile exclusive fishery zone limit.

The failure of the U.S. to reach and agreement with the Ecuadorian Government over the seizure of the tuna vessels in the Spring of 1953 led to the U.S. enactment of "The Fishermen's Protective Act of 1954". The legislation guaranteed reimbursement to U.S. fishermen for fines that might be imposed by Chile, Peru, and Ecuador.[61] The U.S. government would seek to secure immediate release of all U.S. vessels seized by these Latin

American nations and the U.S. would later seek reimbursement at a diplomatic level (International Court). Such counter measures taken by the U.S. did not achieve any great degree of success. The purpose of the U.S. appeal to the International Court of Justice was to deter these Latin American nations from imposing arbitrary rules contrary to the international law on foreign vessels in what the U.S. recognized as international waters.

The clash in territorial claims and the determination by these Latin American nations to protect their economic interests led to the continued seizure of foreign vessels irrespective of the three-mile rule. In 1954 Ecuador again seized two U.S. vessels, THE ARTIC MAID and the SANTA ANA off the west coast of the Ecuadorian island of Santa Clara within fourteen and twenty-five miles of the Ecuadorian territory. The dramatic seizure of these boats warrants further discussion. On sighting the U.S. vessels, the naval vessel of Ecuador ordered them to stop but the two boats kept on going. A warning shot was fired by the Ecuadorians to no avail. More gunfire from the Ecuadorian naval vessel seriously wounded one of the fishermen, thus forcing both boats to stop. The U.S. protest was ignored by Ecuador which imposed a fine of $49,000 on the two boats.[62] In 1963 Ecuador again seized two San Diego tuna boats, THE WHITE STAR and THE RANGER and imposed a fine of over $20,000 on them for violation of territorial waters.[63] Peru followed suit in 1967 by seizing the U.S. tuna boats HORNET and CARIBBEAN, twenty miles offshore, and imposing a fine of $20,000 on the two boats. Ecuador, at the same time, captured the U.S. vessel, DAY ISLAND. Peru followed two months later by capturing the U.S. vessel, MARINE. The U.S. became weary of the seizures of her vessels and

gave up hopes of having these Latin American seizure cases referred to the International Court of Justice. Both Ecuador and Peru resisted all U.S. efforts to send the cases to the International Court of Justice for settlement.[64] Since one of the rules for the transfer of a case to the International Court of Justice for settlement requires concurrent agreement by all parties, the refusal by any party to send the case to the International Court makes the case untransferable. In response to these seizures by Ecuador and Peru, the U.S. in 1968 suspended all military sales to these two countries.[65] Both countries ignored the military embargo imposed on them by the U.S. In March 1969, Peru arrested two U.S. boats, SAN JUAN and CAPE ANNE, and imposed a heavy fine on them.[66] The U.S. Congress could no longer tolerate such actions on U.S. vessels. Congress, therefore, demanded the recall from Peru of the destroyer, ISHERWOOD, which was on loan to Peru.[67] The three Latin American nations, in response to the pressure exerted on Peru and Ecuador by the U.S., issued a joint statement in June 1969 declaring that the U.S. had been applying force on the South Pacific states to back down from their two hundred-mile claim.[68]

At a meeting between the U.S. and the three Latin American states, the contracting parties represented by Peru, agreed to discuss the controversy over the two hundred-mile limit on the condition that the military embargo be lifted. With the military embargo lifted, the number of seizures declined but continued into the 1970's. Boat seizures are estimated at ninety-two with the total fines adding up to $775,000.[69] Until a permanent solution is reached at the U.N. level, the prevalent attitude in Latin America favored wholeheartedly the Chilean, Peruvian and Ecuadorian

approach towards the protection of the two hundred-mile limit. Even at this time of confrontation between Peru, Ecuador, Chile and the U.S. not many of the Latin American nations have adopted the two hundred-mile limit. Yet the Latin American republics have shown greater support for the protection of their fisheries from foreign domination. The greater consensus with which the rest of the republics support the C.E.P. states is a clear indication of their attitude toward future adoption of the two hundred-mile limit.

CHAPTER V

LATIN AMERICA AND THE MINERAL RESOURCES OF THE SEA

Protection of the economic security and the national interests of the Latin American nations was not confined only to their fisheries resources. The Truman Proclamation on the continental shelf also triggered off, among the Latin American republics, the desire to protect the mineral resources of the ocean within a desirable limit which they referred to as their territorial limit. By claiming a two hundred-mile sea limit, Latin American nations, in essence, were trying to bar the technology of the affluent from reaching the ocean zone where an abundance of mineral deposits could be found. Thus, the call for measures by the Latin American states to protect these mineral resources was a common sentiment shared by all the Latin American republics. Some of their intellectuals, notably Teresa H. I. Flouret, the Argentine professor and Teodoro Alvarado-Garacia, the Ecuadorian publicist, pointed out that there is no distinction between the legal status of the soil and that of the waters above. Flouret indicated that "the sovereignty over the subsoil of the continental shelf would demand correlative rights over the respective waters."[70] Flouret added that if the subsoil is allowed to be exploited, it would automatically affect the waters above. Alvarado-Garacia also pointed out that "international law, influenced by the progress of modern armaments and now by the discovery of new resources, had become obliged to modify the classic delimination of the territorial sea..."[71]

The intellectuals explained that the new threat evolving in the sea from the emergence of modern technology and discovery of mineral resources in the ocean could have serious economic consequences for the less developed nations if they allowed this technology to exploit the new resources in the sea. Thus, many Latin American nations supported the "Bioma Theory" which had been developed in Latin America to justify the expansion of their territorial waters. The Bioma Theory was propounded, especially by Chile, Ecuador and Peru, during the initial stages of the enactment of their two hundred-mile claims. The Bioma Theory, the work of biologists and ecologists, explained the biotic factors, mainly climate and water, as capable of creating a particular situation that would permit an aggregate of vegetables and animals to live within it, ecosystem. Within this ecosystem, many living communities including man, may co-exist in a particular chain, or succession, constituting a whole called a "Bioma". This "Bioma" points out the complex of living communities of a region which through time becomes more homogeneous until, in its final phase, a complete entity. (The living things within this Bioma become inseparable--one entity.) An ecosystem could comprise one or more Biomas, but each one of these will maintain its unity within the system, except in the areas of contact where there may be an intermixing.[72] All the complexes that may form a Bioma are in a state of dynamic equilibrium which is subject to the laws of nature. A perfect unity and interdependence exists between the communities that exist in one Bioma.[73] The Bioma Theory was, therefore, regarded by the Latin American states as a concept of biological unity. From it, one can arrive at the preferential right of coastal countries to protect their sea since the human population

of the coast forms part of the biological chain which originates in the adjoining sea, and which extends from the microscopic vegetable and animal life (Fitoplankton and Zooplankton) to the higher mammals including man. The Latin American states, therefore, deemed it a prime duty of every coastal state to insure the safety of the sea life in any way possible. To allow their sea to be exploited by the technology of aliens who do not live in their Bioma is, in essence, a violation of the principal law of nature. The removal of such resources from their Bioma by a non-littoral person would eventually have a drastic consequence on the life of the inhabitants of that Bioma.[74]

The emergence of the Bioma Theory enlightened the Latin American states to the potential resources that exist on the ocean floor in the South Pacific and Atlantic. The new science of the ocean has been able to substantiate the fact that these new riches would accrue to whomever has the technology to explore and exploit it. Weak in the area of sea technology, the Latin American states did not hesitate to react to the Truman Proclamation on the continental shelf. They noticed the increase in activities of the industrial nations after 1945. Counter measures were, therefore, deemed necessary by the Latin American states to protect not only their Bioma but also to see to it that their economic interests were not lost to the affluent nations, who have the needed technology to successfully carry out exploitative expeditions in areas beyond their waters. The use of such technology by the affluent nations in Latin American waters caused great concern to the Latin American states. As indicated in the previous chapters the vessels of the U.S., USSR and Japan had been sighted in the Latin American waters, with modern equipment cap-

able of exploiting those resources which science has revealed to exist in the Pacific and Atlantic Oceans. A study conducted in 1958 and 1959 by a group of U.S. scientists on the Pacific Ocean alone revealed about 1,700 billion tons of manganese nodules. Other mineral contents of the manganese nodules were estimated to be 16.4 billio tons of nickel, 8 billion tons of copper and 8.8 billion tons of cobalt.[75] Among the other minerals discovered in abundance in the Pacific were coal, sulphur, iron ore, salt, oil, and gas. (See Tables VI and VII) Equipment, which included ladder bucket dredges, surface pump hydraulic dredges, wireline dredges and air hydraulic dredges, began to appear on vessels beyond the three-mile Latin American waters.[76] The Latin American nations recognized the potential danger such equipment posed to them if the economic benefits from such exploitation only improved the already superior economic and living conditions of the affluent nations. Their own economic improvement from the additional discovery of mineral resources in the ocean and ocean bottoms could, in fact, be severely hampered. The Latin American states, lacking technology and unable to compete with the affluent states, declared all the areas of the sea believed to contain rich mineral resources within their jurisdiction. Thus, the Latin American nations' proclamation of the two hundred-mile limit, in response to the Truman Proclamation, was designed to sabotage any intention of the affluent to exploit alone the resources of the ocean. They thought that the Truman Proclamation was intended to benefit the industrial countries alone because their technological superiority gave them the upperhand against those nations which did not posses the technical know-how to exploit the riches of the sea. Exploitation of the waters of Latin America was nothing new, since in

TABLE VI

MINERALS FROM THE SEA: ANNUAL PRODUCTION
(Valued in millions of U.S. dollars)

FROM SEA WATER	
Salt	172
Magnesium metal	75
Fresh water	51
Magnesium compounds	45
Heavy water (D_2O)	41
Others (Potassium, Calcium, Salts, Sodium Sulphate	27 1
TOTAL VALUE FROM SEA WATER	412
FROM SEA FLOOR (Surface Deposits)	
Sand and Gravel	100
Shell	30
Tin	24
Heavy mineral sand (Vmenite, Rutile, Zircon, Garnets, etc.)	43
Diamonds	9
Iron sands	4
TOTAL VALUE OF SURFACE DEPOSITS	180
FROM SEA FLOOR (Sub-Surface Deposits)	
Oil and Gas	6,100
Sulphur	26
Coal	335
Iron Ore	17
TOTAL VALUE OF SUB-SURFACE DEPOSITS	6,478
TOTAL	7,070

Source: Evan David Luard, "The Control of the Seabed." Originally produced by Marine Science Affairs--Selecting Priority Programmes, Annual Report of the President to the Congress on Marine Resources and Engineering Development, U.S. Government Printing Office, April 1970 (UN Doc E/4973 of April 26, 1971).

TABLE VII

SELECTED LIST OF MARINE BEACH DEPOSITS
(Major Latin American States)

LOCATION	MINERALS PRESENT	REF
Costa Rica	HM	
Brazil	HM, M_2	
Argentina	HM	
Southern Chile	HM, Au	
Guatemala	HM	

Source: Selected from John L. Mero, The Mineral Resources of the Sea, Elsevier Oceanography Series, p. 12.

HM = Heavy Minerals (Magnetite, Umenite, Zircon, Rutile, Manazite)

M_2 = Monazite

Au - Gold

1923 Venezuela had undertaken with the U.S. the drilling of Venezuelan off-shore oil.[77] But in 1945 strong Latin American reaction grew up in response to the development of large-scale off-shore drilling and oil and mineral research activities in the Latin American waters by the affluent nations. After the 1945 Truman Declaration the actions of the Latin American states reflected their determination to secure their waters from the greed of the industrial nations. This was the sentiment expressed in the Mexican Presidential Decree of October 1945.[78] The activities of the U.S. in the Gulf of Mexico was seen as a threat by Mexico, which saw the large-scale buildup of U.S. oil drilling equipment in the area as injurious to its economic interests.[79] These activities generated in Mexico the need to expand the existing limits in

order to protect her territorial claims. Failure to deal with U.S. activities in this area would encourage and allow easy access to the U.S. to exploit the waters beyond her sovereign claim. Such activities had spread throughout the waters of Latin America beyond the traditional three-mile limit. Outside these limits, oil drilling rigs, floating islands, stationary platforms, submersibles and artificial structures have appeared in the Atlantic and Pacific Oceans.[80] The decrees and proclamations which followed these new developments were an attempt by the Latin American nations to deal with the situation in the oceans. Chile indicated in Article 3 of her Presidential Declaration that "the adjacent sea up to a distance of fifty kilometers,...belongs to the national domain. But the right of policing, with respect to matters concerning the security of the country...extends up to a distance of 100 kilometers."[81] El Salvador, responding to the new development in the sea, also indicated in Article 7 of a 1950 decree that "the territory of the republic within its present boundaries (200 miles) is irreducible; it includes the adjacent sea within a distance of 200 marine miles measured ...It embraces the air space above, the subsoil and the corresponding continental shelf."[82] The nature of events developing in the sea after the Second World War appeared to have serious consequences beyond the control of the Latin American states. Exploitation and the resulting pollution, which had already destroyed some of the life in the sea, was considered by the Latin American states to have serious implications for their ecosystems in the future if drastic action was not taken early enough to stop the colonialization of the sea by the affluent. The extension of their territorial limit to two hundred miles was intended,

therefore, to protect the ocean mineral resources and the marine life within their Bioma. They regarded the destruction of any life in their seas as detrimental to the total ecosystem. In justifying their claims they have realized that any single blow-out from an off-shore oil well could pollute vast expanses of their waters, destroying the ecological balance and thus affecting all the nations within that region. They have had considerable experiences from the waste materials which were stirred up from the sea during the mining and dredging of the ocean. The dumped waste materials from this dredging had resulted in the extinction of some of the life in the sea.[83]

The Military Threat

The quantity of military equipment and activities in the oceans after the Second World War also influenced the Latin American states reaction to the Truman Proclamation. The development of both U.S. and Soviet military activities in the Pacific and Atlantic Oceans was observed by the Latin American republics with great interest. The Truman Proclamation was the open declaration of the expansion of both U.S. and USSR military might in the oceans, which had been regarded as one of the most strategic locations for military dominance. The oceans and their seabeds, therefore, became and area for concealment of military equipment and a base for nuclear tests.[84] (See Table VIII) This military expansion reached the waters of Latin America within and beyond the traditional three-mile limit. This resulted in the Latin American states' questioning of the credibility of the three-mile rule. The Chilean delegate, at the twenty-thrid session of the UN General Assembly meeting, pointed out that with

TABLE VIII

MILITARY EQUIPMENT OF U.S. AND USSR IN THE OCEAN
AFTER WORLD WAR II

U.S.

SUBMARINE AND OTHER SHIP-LAUNCHED MISSILES

Ballistic Missiles		In Service	Range	Warhead
Submarine Launched	Polaris I	1960	1380 ft.M	0.7 megaton
From Underwater	Polaris II	1963	1700 ft.M	0.7 megaton
	Polaris III	1964	2850 ft.M	0.7 megaton
	Poseidon	1970		
Ballistic Missiles Surface Launched From Submarine				
Ballistic Missiles Ship Launched (Destroyers)				
Cruise Missiles Ship Launched (Cruisers)				

USSR

Sawfly Missile	In Service	Range	Warhead
A Polaris type (in Y Class Sub)	1969	12,000	1 megaton
"Sark"	1959	300	1 megaton
"Sark"	1964	630	1 megaton
"Strela"	1961	400	kiloton range
"Scud"	1957	150	kiloton range
Snaddock	1962	250	kiloton range

Source: Pacem in Maribus by Elizabeth Mann Borgese.

the present military escalation in the ocean and oceanbed, there were, in reality, no international laws governing the military activities of the seabed.[85] This new military development made Latin American states even more dissatisfied with traditional law. They see the new military buildup in the ocean as the biggest threat and violation of the principle of freedom of the sea, navigation and fishing. They characterize these activities as illegal and see them as the greatest threat to their security. They realize the threat which the superpowers are beginning to pose to their neutral stand on the cold war. The Latin American states, therefore, are condemning all military activities in the sea. They openly condemned the superpowers' tests on nuclear weapons in the sea often protesting about these activities at the international level. They saw these nuclear tests in the ocean floors as destructive to the life under the sea. Re-emphasizing their "Bioma Theory", they saw that such tests in their waters resulted in extensive pollution that would exterminate life in their waters and eventually destroy their ecosystem.[86] The only recourse available to the Latin American states to regulate such military activities of the superpowers was to extend their territorial boundaries to the two hundred-mile range.

The Truman Proclamation led to the new developments which produced a more determined effort on the part of the Latin Americans not to rescind any of their claims on the sea until an acceptable solution is reached. Solutions cannot be attained through action by individual nation states; but rather must come through the instrumentality of the United Nations.

CHAPTER VI

LATIN AMERICA AND THE GENEVA LAW OF THE SEAS CONFERENCE OF 1958

The law of the seas conference sponsored by the U.N. emerged from the desire of the world body to avoid a crisis and to settle the differences in sea claims. At these conferences the arguments, strategies and tactics applied by the delegates of Latin American states further supports this thesis. As members of the international community, the Latin American nations wanted to have some influence in formulating the laws of the seas. They refused to recognize any traditional rule or law designed to protect the entire international community which they had not helped to formulate. They refused to recognize any rule made by the affluent which they regarded as representing the interests of the affluent against that of the poor nations. When the first law of the sea conference under United Nations' auspices opened in Geneva in 1958, all the Latin American representatives were present. (See Table IX) The need to negotiate an acceptable solution at the U.N. level revealed the failure of the nations to reach agreement at the regional level and emphasized the magnitude of the conflict, especially over the issue of territorial claims. It was clear that the developing nations considered maintenance of the three-mile limit as an effort by the super powers to exercise their own interests on the international community. Whatever the motives of the participating nations the conference was regarded as a common meeting ground to codify the laws of the seas which had been in turmoil since the Second World War.

TABLE IX

LATIN AMERICAN NATIONS PRESENT
AT 1958 SEA CONFERENCE

Argentina
Bolivia
Brazil
Chile
Colombia
Costa Rica
Cuba
Dominican Republic
Ecuador
El Salvador
Guatemala
Haiti
Honduras
Mexico
Nicaragua
Panama
Peru
Uruguay
Venezuela
Paraguay

Source: Yearbook of U.N. 1958 (New York: Columbia University Press), p. 381.

Even though concepts of national interests could be disruptive to the negotiations, the conference was authorized to take into consideration all aspects of national interest including legal, technical, biological, economic and political aspects of the sea problems.[87] This approach to the conference generated wide attendance by U.N. members who realized that refusal to appear at the conference could lead to a bypassing of their national interests. Realizing the extent to which the superpowers have dominated the international decision-making mechanism, Latin American states came prepared to participate fully in the discussions. When the conference committees were established Latin American representatives

were elected, among others, to various official positions. (See Table X) The Latin American representatives regarded this as politically quite significant. At the conference the proposals of the Latin American states centered around the twelve and the two hundred-mile limit while that of the advanced nations and their allies centered strictly on the three-mile limit. A principal proposal stipulating a three-mile limit with an exclusive fishing zone of twelve miles was introduced by the U.S.[88] The Soviet Union proposal requested that each individual state should determine the extent of its territorial waters within the three to twelve mile range.[89] The Latin American nations proposals at this time varied, due to the fact that many were still respecting the traditional three-mile law while questioning its continuation. Colombia, one of the moderate states in the region, proposed a twelve-mile limit, while Chile, Peru and Ecuador, the more radical nations, claimed that "each state is competent to fix its territorial sea within reasonable limits."[90] Mexico, in a joint proposal with India, proposed that any limit up to twelve miles should be accepted.[91] In the following month duration of the conference, Mexico, along with Burma, Colombia, Morocco, Indonesia, Egypt, Saudi Arabia and Venezuela, sponsored the "eight power" proposal which suggested that the limit every state should claim as their breadth of territorial sea should be up to twelve miles.[92] The difference between these proposals led the conference to a stalemate. This could be attributed to the fact that the states at the conference were not actually willing to sacrifice their national interest in place of other nations' interest. The claims of all the nations which occurred without changing the length of the territorial limit was an indication that the projection of the national interest of

TABLE X

GENEVA CONVENTION OF 1958 CONFERENCE
ON LAW OF THE SEA

President of Conference

His Royal Highness Wan Waithayakon Bongsprabo (Thailand)

Vice-President

Argentina, China, France, Guatemala, India, Haly, Mexico, Netherlands, Poland, USSR, U.A.R., U.K., Northern Ireland and U.S.A.

General Committee

Chairman: The President of the Conference

First Committee: (Territorial Sea and Contiguous Zone)

Chairman: Mr. K. H. Bailey (Australia)
Vice-Chairman: Mr. S. Gutierrez Oliuos (Chile)
Rapporteur: Mr. Vladimir N. Koretsky (Ukranian) USSR

Second Committee: (High Seas: Fishing, The Conservation of Living Resources)

Chairman: Mr. Carlos Sucre (Panama)
Vice-Chairman: Mr. E. Krispis (Greece)
Rapporteur: Mr. N. K. Panniter

Fourth Committee: (Continental Shelf)

Chairman: Mr. A. B. Perera (Ceylon)
Vice-Chairman: Mr. R. A. Quarshie (Ghana)
Rapporteur: Mr. L. Diaz Gonzalez (Venezuela)

Fifth Committee: (Question of Free Access to the Sea of Land-locked Countries)

Chairman: Mr. J. Zourek (Czechoslovakia)
Vice-Chairman: Mr. W. Guevara Arze (Bolivia)
Rapporteur: Mr. A. H. Tabibi (Afghanistan)

Drafting Committee

Chairman: Mr. M. Wershof (Canada)

Source: American Journal of International Law, Vol. 52, 1958, pp. 830-867.

the respective nations dominated the conference. The radical Latin American states stuck to their demand on the territorial sea limit. The moderate Latin American states claimed considerable support for their extensions, while the conservative Latin American states hoped the conference could find a better solution to the problems of the sea. In an effort to break the deadlock, the U.S. made a proposal hoping to attract the conservative and moderate Latin American states. This proposal outlined a six-mile territorial rights zone and a six-mile exclusive fishing rights zone with the proviso that foreign vessels which had traditionally fished in such waters could continue to do so in the outer six miles.[93] This proposal came close to breaking the deadlock with a vote of forty-five out of eighty-six, only seven votes short of the two-thirds majority. Another proposal came from Canada, putting pressure on the claims of Chile, Ecuador and Peru. The Canadians pushed for a six-mile territorial sea limit and a six-mile exclusive fishing zone without any qualification of traditional foreign fishing rights in the outer six miles. The Canadian proposal was intended to prevent the U.S. from fishing in their waters and to deny them any traditional fishing rights in the outer limits of their territorial waters. But this proposal also suffered a narrow defeat, failing to receive the two-thirds majority necessary for adoption of a resolution. (See Table XI)

Continental Shelf Debate

The continental shelf issue was of great significance to the Latin American states. Prior to the 1958 conference, they convened a meeting in 1956 in Ciudad Trujillo, Mexico at which the Dominican Republic had proposed

TABLE XI

PLENARY VOTE ON THE TERRITORIAL SEA AND FISHING ZONE

CANADIAN PROPOSAL	U.S.A. PROPOSAL
THESE LATIN AMERICAN STATES SUPPORTED THE PROPOSAL	
Costa Rica	Bolivia
Argentina	Brazil
Chile	Cuba
Colombia	Dominican Republic
Ecuador	Haiti
El Salvador	Honduras
Guatemala	Nicaragua
Panama	
Peru	
Uruguay	
Venezuela	
Mexico	
IN FAVOR OF BOTH	
Paraguay	

Source: Selected from U.N. Document on Law of the Sea Conference 1958.

> the seabed and the subsoil of the continental shelf and insular terrace, or other submarine areas, adjacent to the coastal state, outside the area of the territorial sea, and to a depth of two hundred meters or beyond that limit to where the depth of superadjacent waters admits of the exploitation of the natural resources of the seabed and subsoil, appertain exclusively to that state and are subject to its jurisdiction and control.[94]

With overwhelming support, a copy of the resolution was, therefore, forwarded to the International Law Commission which had been authorized to seek information from nations with respect to their claims on the sea, in order to establish the differences and to present them to the conference. When the International Law Commission Draft on the continental shelf was

introduced at the conference its contents did not conform to the Dominican Republic's proposal. Instead, the resolution presented by the International Law Commission signified that

> for the purposes of these articles, the term 'Continental Shelf' is used as referring to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial, to a depth of 200 meters (approximately 100 fathoms) or beyond that limit, to where the depth of the super adjacent waters admits of the exploitation of the natural resources of the said areas.[95]

Latin American states received this with mixed feelings but did not react immediately. The conference proceeded and Latin American states were willing to push forward and support any proposal that respected and represented the national claims to the areas within and beyond the continental shelf. They showed a strong interest in proposals which requested the establishment of an international regime to exercise jurisdiction in areas beyond the national limits. When the idea of establishing an International Office of the Sea, for the sake of exploration and exploitation of the resources of the subsoil of the continental shelf was proposed by the representative from Monaco it was overwhelmingly supported by the Latin American states who saw this as the only means of protecting the resources of the sea from monopolization by the affluent nations. Such nations were not particularly responsive to this proposal which they deemed detrimental to their interests. Their unwillingness to support Monaco's proposal accounted for its failure. Instead the German delegate made a proposal which required that all nations exploring and exploiting the subsoil of the sea must exercise self-executing rules which would govern their activities in the sea.[97] The affluent nations overwhelmingly supported this

proposal. This withering away of the internationalist approach to the solution of the continental shelf and the introduction of a more national approach to the issue affected Latin American attitudes towards the conference. The first outward reaction was their open protestation over the change in the resolution of the Dominican Republic which was not given expression in the resolutions forwarded to the conference by the International Law Commission. The Latins emphasized their claim over the entire continental shelf and beyond and introduced a proposal which they hoped would generate enough support to change the original draft to include "exclusive" and "jurisdiction" to all the areas of the continental shelf and beyond. Their intension was, therefore, to claim exclusive jurisdiction over these areas and to prevent the technology of the affluent from invading such areas. This proposal failed. A Philippine draft which captured the support of the Latin Americans read "all references in these articles to the 'Continental Shelf' shall be understood to apply to similar submarine areas adjacent to and surrounding the coast islands." This gave the Latin American states a greater control of the areas beyond their narrow continental shelf, but nevertheless, they would not be fully satisfied until they could gain the acceptance of sovereign control over these areas rather than the exclusive right which the conference favored. The Latin American states realized that sovereign control, if granted, implied a legal control of activities within these areas of the sea territories. In light of this, Mexico made a proposal concerning the continental shelf which indicated that "the coastal state exercises sovereignty over the seabed and subsoil of the continental shelf and over the natural resources thereof, to the exclusion of other states, physical or virtual

occupation not being a necessary condition."[98] Though this proposal failed by a vote of 24 in favor, 37 against and 6 abstentions, the words "sovereign right" regained ground over the words "exclusive right". Finally, at the Eighth Plenary Session the "sovereign right" of the coastal state over the continental shelf proposal was unanimously passed over the "exclusive right" proposal by a vote of 51 in favor, 14 against and 16 abstentions.[99] The first paragraph of Article 2 on the continental shelf was worded "sovereign right".

This victory encouraged the Latin American states to initiate further proposals. One of their successful proposals was initiated by Argentina concerning the exclusive right of a coastal state to explore and exploit the continental shelf. The Argentinian proposal indicated that "the rights of the coastal state are exclusive in the sense that if that state does not explore or exploit the continental shelf, no other may undertake these activities without its consent."[100] Argentina emphasized in an earlier amendment that this exclusive right of the coastal state did not affect the freedom of navigation on the high seas or the air space;[101] but it applied to the regulation of coastal fisheries for the purpose of conservation.[102] Conservation would not extend or prohibit fishing in their superadjacent water. However, the Argentinian amendment was rejected for fear that it would restrict freedom of navigation on the high seas. Thus the original proposal of exclusive right to explore and exploit the continental shelf by the coastal state passed. One of the Latin American proposals came from the Cuban delegate. It stressed that the natural resource of the subsoil and seabed, whether living or unliving, should belong to the coastal state.[103] This pro-

posal generated a lot of discussion in the committee. It was modified by a joint proposal from Australia, Ceylon, Federation of Malaya, India, Norway and United Kingdom and passed by a vote of 59 in favor, 5 against and 6 abstentions.[104] At the conclusion of the convention on the continental shelf, it had become apparent that the Latin American states had gained the upperhand by blocking all the avenues through which the affluent nations could invade the sea without violation of a U.N. resolution. Articles 1 through 5 of the convention on the continental shelf specifically declared all the areas of the sea beyond the continental shelf as the exclusive and sovereign right of the coastal state. This freed the Latin American republics to begin looking at areas beyond the limits ascribed by the convention.

High Seas Convention on Fishing and Conservation of Living Resources

The issue of conservation of fisheries which developed around the twelve-mile fishing limit introduced in a joint U.S.-Canadian proposal was not welcomed by the more radical Latin American states, notably, Chile, Ecuador and Peru.[105] They staunchly defended their exclusive claims, arguing that each state has a right to establish a territorial sea claim with reasonable limits to safeguard its fisheries from foreign exploitation.[106] Mexico expressed the same sentiment so far as protection of her fisheries was concerned but she settled for a maximum of twelve miles as the length of her claim to the sea. Colombia also claimed twelve miles indicating that it was necessary to protect her fisheries from foreign exploitation. El Salvador, Costa Rica and Honduras, who later entered into the two hundred-mile claim of their territorial water, cited the

same reasons as the rest of the Latin American states who had requested extention of the traditional three-mile rule to compensate for the new developments in the ocean.

The conference adopted resolutions which ruled that the claims of the radical Latin nations to a limit of two hundred-miles were illegal. Article 3 of the convention on high seas emphatically ruled out any sovereign claim beyond two hundred miles. But at the same time there was no mention in any of the thirty-seven articles of an acceptable limit on territorial sea. The vagueness of the resolution only indicated the difficulty in reaching an acceptable agreement among the nations at the conference.

Latin American View of the Conference

The accomplishments of the conference did not impress the Latin American states. The victory they had expected had not come. The outcome actually hurt the alliance which the Latin American states had attempted to organize at the conference. The emerging nations of Africa and Asia were not enlightened about the economic and political significance of the sea and, therefore, simply followed in the footsteps of their former colonial lords. These new nations were in no position at this conference to forsake their former masters. Even the most nationalistic nations among these newly-emerging nations did not see any grounds for an alliance with Latin America culturally, economically or politically. Thus, they refused or ignored the Latin American call for solidarity and unity in policy approach against the affluent nations.

The solidarity with which the Latin American nations prepared for the conference fell apart early. Their voting records on resolutions and policy proposals concerning the territorial sea brought to light some vast differences in their claims. Some ranged from three to two hundred miles, irrespective of the fact that the 1952 Santiago Conference had declared the two hundred-mile limit as the sole sovereinty and jurisdiction of each.[107] Some of the differences that developed among the Latin American nations could be attributed to the sophisticated counterattack of the affluent nations. The nature of their proposals broke the backbone of the Latin American nations who had not anticipated the accommodating proposals which came from the affluent nations. Thus, the conservative and more moderate Latin American nations were easily won over to support the proposals of the affluent. Even on some occasions the radical Latin American states (Peru, Ecuador, Chile) were influenced into supporting some of the proposals of the affluent, therefore, refraining from their own hard line.

The adjournment of the conference and the failure to reach agreement saved the Latin American states from completely breaking away from their prior agreements. This gave the Latin American states time to rethink their diverse claims and their disorganization and to regroup into a better organized force for future conferences. The first important move by the Latin American states was the formation of the tripartite alliance of the Southeastern Pacific, which was generated by the desire of Latin American states to strike, once and for all, a fatal blow to the traditional three-mile limit. The first move among some of the Latin Americans, therefore, was to fulfill the "Santiago Declaration" of the

two hundred-mile sovereignty of Latin American waters. The need for a change in policy of all the Latin American states became evident. They realized from the 1958 conference that future dire consequences could result from their failure to take collective action. Therefore, any action necessary must be taken to protect and preserve their limited resources in order to ensure that a similar situation to that which occurred in Chile was prevented, i.e., Chile's stockpile of whales had been devastated mostly by foreign fishermen. All the Latin American nations became aware that the lack of bilateral, multilateral and regional agreements would make them vulnerable to the technology of the affluent nations which had become a threat to their resources, revenues and nutritions. They were, therefore, determined to preserve and protect their wealth from the pillaging vessels of the seafaring affluent nations. The only alternative envisioned by the Latin Aemricans was to seek a legal sanction to their new extended claims in the ocean so that it would be illegal for foreign vessels to trespass into their sovereign waters without prior notification to the coastal states. This spirit of unity that had began to prevail in Latin America had not gained full maturity; it was in its initial stages but gathering momentum to enable them to present a united front for the protection of regional interests at the forthcoming 1960 conference.

Latin America and the 1960 Conference on the Law of the Sea

Eighty-seven nations were represented at the second conference to discuss the problems which had not been solved at the first conference. These included: a) the breadth of territorial sea and fisheries limits,

b) the breadth of territorial sea bordering each coastal state, c) the establishment of fishing zones by coastal states in the high seas contiguous to, but beyond, the outer limit of the territorial seas of the coastal states.[108] The conference formed a committee, comprising all the represented states, to facilitate discussions, negotiations and to debate the various proposals on the subject matter facing the conference. The conference stated that the committee of the whole could adopt, by simple majority, a report or proposal to the plenary session of the conference where an affirmative vote of two-thirds of the states present would be required for the final adoption of any resolution.[109] Latin American states saw this rule as beneficial to their collective interest. The narrowly-defeated American proposal at the 1958 conference was the first proposal to be tabled again. The U.S. proposal called for a six-mile fishing zone and a six-mile territorial sea. It claimed that the outer six miles should remain under the sovereign right of the coastal states but subject to "historic right" to the fishing vessels of states which had, prior to the proposal, been fishing during the five-year period (known as the base period) in these waters.[110] The Latin American states did not endorse this proposal since it would automatically give the U.S., Japan and Soviet Union the right to exploit the resources of the Latin Americans, which they had been protesting about since the Truman Declaration. Similarly, Canada did not accept the wording of the U.S. proposal, which would give the U.S. historic right in Canadian waters, while Canada could not benefit from any historic right in U.S. waters since they had not developed such a right. Canada, sensing the danger such a proposal presented to them, reintroduced its proposal which narrowly failed to pass

at the earlier conference. The Canadian proposal omitted the "historic fishing right", which was contained in the U.S. proposal, but emphasized the six-mile fishing waters and six-mile territorial waters. The differences between the two proposals were settled by the chairman of both the U.S. and Canadian delegation resulting in the joint Canada-U.S. proposal. This compromise proposal was framed in a way that suspended the "historic fishing right" during an interim period of ten years and finally gave to the coastal state exclusive control and jurisdiction over this water. Those vessels of states which had respected and fulfilled the agreement by fishing exclusively outside the first six miles (territorial sea) within the base period (five years) from January 1, 1953 to January 1, 1958 could continue to fish for another ten-year period. When this ten-year period expired, these foreign vessels would no longer be allowed access to fish in this outer six-mile zone without a bilateral treaty with the coastal state. The coastal state, therefore, was required to claim all her twelve-mile territorial limit as fishing jurisdiction if she refused the bilateral agreement.[111] The aftermath of this joint proposal generated some political maneuvering within the conference. The Soviet Union, realizing the support this proposal was gaining, reintroduced a proposal which she had earlier tabled at the 1958 conference in order to neutralize the joint U.S.-Canadian proposal. The Soviet proposal extended the fishing rights to twelve miles and left the option of territorial limit from three to twelve miles subject to the desire of each nation.[112] This proposal did not gain much support from the Latin American states due to the flexible nature of the proposal. Mexico sponsored the "Eighteen Power" proposal which came from

a group of third-world nations, in response to the U.S.-Canadian proposal. It provided a scale of fishing zone bonuses for territorial sea claims between three and twelve miles. The less territorial sea a state claimed, the more fishing zones within the twelve-mile limit she would be entitled to get.[113] In the end the U.S.-Canadian proposal received a slight majority vote in the committee as a whole. Forty-three nations voted in favor of the joint proposal, thirty-three voted against and twelve abstained.[114] But, at the plenary session, the U.S.-Canada proposal failed to get a two-thirds majority vote; receiving a vote of 54 in favor, 28 against and 5 abstentions, and failed by one vote to pass. (See Table XII)

Both the passage of the U.S.-Canadian proposal at the committee level and its failure at the plenary session could be attributed to the degree with which Latin American states' support and lack of support affected the outcome of the proposal. Though the failure of the adoption of the U.S.-Canadian proposal at the plenary session was caused by the late withdrawal of promised support from Chile, Ecuador and Japan, the passage of the same proposal at the committee level could be attributed to the greater support the proposal received from the Latin American states. The Latin American nations were able to influence the shaping of the joint U.S.-Canadian proposals. At the committee level, Peru and Cuba separately proposed that coastal states must be allowed preferential fishing rights in the areas adjacent to their fishing zones if this measure would boost the economy of those nations which depended on fish for their economic development.[115] This proposal received little support from the U.S., Canada and the USSR. The Peruvian proposal was, therefore, with-

TABLE XII

VOTES ON THE JOINT U.S.-CANADIAN PROPOSAL
Latin American Nations Capitalized

IN FAVOR:	ARGENTINA, Australia, Austria, Belgium, BOLIVIA, BRAZIL, Cameroon, Canada, Ceylon, China, COLOMBIA, COSTA RICA, CUBA, Denmark, DOMINICAN REPUBLIC, Ethiopia, Finland, France, Ghana, Greece, GUATEMALA, HAITI, Haly See, HONDURAS, Ireland, Israel, Italy, Jordan, South Korea, Laos, Liberia, Luxemberg, Malaysia, Monaco, Netherlands, New Zealand, NICARAGUA, Norway, Pakistan, PARAGUAY, Portugal, San Marino, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, United States, United Kingdom, URUGUAY, Vietnam and West Germany.
AGAINST:	Albania, Bulgaria, Burma, Byelorussian SSR, CHILE, Czechoslovakia, ECUADOR, Guinea, Hungary, India, Indonesia, Irac, Libya, MEXICO, Morocco, PANAMA, PERU, Poland, Romania, Saudi Arabia, Sudan, Ukranian SSR, United Arab Republic, Soviet Socialist Rpublic, VENEZUELA, Yugoslavia, Yemen.
ABSTENTION:	Cambodia, EL SALVADOR, Iran, Japan and Philippines.

Source: Selected from U.N. Document on Law of the Sea Conference, 1960.

drawn before a vote could be taken on it. The Cuban proposal was voted down by the committee. This did not deter the Latin Americans from pressuring for what they considered necessary before they would support the U.S.-Canadian proposal. Brazil, Cuba and Uruguay, in their joint amendment to the U.S.-Canadian proposal, indicated that

> the coastal state has the right to claim preferential fishing rights in any area of the high seas adjacent to its exclusive fishing zone when it is scientifically established that a special situation or condition makes the exploitation of the living resources of the high seas in that area of fundamental importance to the economic development of the coastal state or the feeding of its population.[116]

The argument was made in conjunction with Article 9 of the 1958 convention which requested a special commission to find out and determine if the state requesting the preferential right had a scientific basis for such a claim or whether special conditions actually existed to warrant the preferential right. At a hearing conducted by the special commission, both the coastal state and fishing state concerned would have the right to present all relevant evidence,technical, geographical, biological and economic, to substantiate the fact that such a condition did or did not exist.[117] Their amendment to the joint U.S.-Canada proposal rejected the ten-year phasing out period clause established in the initial proposal, indicating that historic fishing rights might vary between respective states which enter into agreements whether bilaterally, multilaterally or regionally.[118] Argentina also proposed an amendment to the U.S.-Canadian proposal. Following the format of the Cuban and Peruvian proposals, the Argentinian proposal stated that coastal states could claim preferential fishing rights in the high seas off their coasts beyond twelve miles without necessarily informing fishing states in advance or sustaining any burden of proof before an impartial international commission, if the area adjacent to the exclusive fishing zone of the coastal states sustained the economic well-being of the nation and the population as a whole.[119] Ecuador, on the other hand, re-emphasized her desire to control the entire two hundred-mile limit as her territorial waters. The Ecuadorian delegate argued that no foreign vessel would be tolerated in the outer six miles of her territorial waters regardless of the "historical fishing rights". The delegate emphasized that the domestic law of the Ecuadorians did not respect any historic fishing rights or any phasing out

period. Expressing the paramount and special right of Ecuador in her own waters, the delegate of Ecuador stressed that "each state was free to fix the breadth of its territorial sea within reasonable limit.[120] Though many of these proposals and amendments did not win over the affluent nations, they propelled the U.S. and Canada to reconsider the type of action required in order to win the support of the Latin Americans in backing their joint proposals. The U.S. representative met with the Latin American states' representatives, Western European states' representatives and Canadian representatives to reconsider many of the Latin American amendments which had favorable support and vote in the committees. The U.S. offered support for the amendments of Brazil, Cuba, Uruguay and Argentina with the following reservations that, a) the procedure of settlement of claims under the auspices of an international commission set up by Article 9 of the 1958 convention on fishing and conservation of living resources of the high seas must be applicable to claims by the coastal state to preferential fishing rights in the high seas; b) that the commission should hear evidence of both sides as to the scientific proof justifying preferential fishing rights for the coastal state in the high seas beyond the twelve-mile limit before making its decision.[121] The U.S.-Canada proposal thus became officially acceptable to many of the Latin American states; notably, Argentina, Cuba, Guatemala, El Salvador, Chile and Ecuador. Panama and Venezuela were the only ones who openly showed disfavor for the U.S.-Canada joint proposal due to the fact that their vested interests in the Panama Canal and the Venezuelan oil off her coasts would be jeopardized if they were to support the proposal. After the proposal had passed the committee with favorable support

from the Latin Americans, the package deal offered at the plenary session of the proposal was put to the vote. El Salvador and Ecuador pledged to abstain from voting and the rest of the Latin American states, excluding Panama and Venezuela, expressed their full support for the joint U.S.-Canadian proposal. The result of the vote showed Ecuador, Chile, Mexico and Peru taking a different stand from their original proposed stand. Thus, the U.S.-Canadian joint proposal was one vote short of enjoying a two-thirds majority. The conference, therefore, ended without any decision on the territorial sea and the contiguous fishing zone issue. The conference closed with no plans for a third conference. The failure of the twelve-mile limit to pass was a great victory for the Latin American states. Both the three-mile and the twelve-mile limits have withered away leaving the two hundred-mile limit thriving.

Latin American States Contribution to the Failure of the Two Conferences

It is clear that even after two conferences, a compromise could not be worked out between all the nations present at these conferences. Latin America, in particular, realized the importance of the issue not only to Latin America but to other developing nations who could utilize the resources of the sea, if the affluent nations' strong monopoly was regulated, to alleviate poor nations' economic, social and political underdevelopment. In addition, it would lead to their increased participation in other decisions which affected all the human communities. By projecting such an attitude, it became obvious that greater support was needed from the developing nations for the policies of the Latin American nations. This was especially true of Chile, Ecuador and Peru

who wanted to take necessary actions to prevent the affluent nations from dominating and exploiting the riches of the sea due to their military superiority and their technological advantage over the developing nations. They, therefore, realized that to represent unaware, developing nations their national and collective policies must steadfastly be defended until the other developing nations were more enlightened on the facts of the ocean and the cunningness of the affluent nations to take advantage of the resources of the ocean to the detriment of the poor nations. The radical and moderate Latin American states maintained that these interests had to be regarded as national, regional and international. The Latin American nations realized that much political maneuvering would take place at the conference in order to finally reach decisions they considered to be beneficial to the interests of the poor nations. The last-minute withdrawal of some of their votes from the joint U.S.-Canada proposal, had been a clear indication of what political maneuverings entailed. This need to protect the national, regional or international interests of the poor nations was demonstrated by Latin America at the conference and outside the conference in the hope that more support would be generated from the poor nations in backing Latin American proposals which represented the interest of the poor nations' right to protect their resources in the ocean.

All of the affluent nations and some of the enlightened developing nations also showed greater consideration for their national interest but this was mixed with the collective interest of their colleagues. The national interest of many nations prevailed at these two conferences. As indicated in the U.S. delegation leader Arthur Dean's testimony to the U.S.

Senate, "The United States is making extensive preparations...with the hope that agreement on some formula for the breadth of the territorial sea and fisheries rights in a contiguous zone, acceptable to the U.S. will result."[122] This statement by Arthur Dean signified one area of the U.S. national interest which would be strongly emphasized at the conference. It is no wonder, therefore, that the joint Canada-U.S. proposal reflected this interest indicated by Dean. In referring to other areas of U.S. interest Dean stressed that, "our navy would like to see as narrow a territorial sea as possible in order to preserve the maximum possibility of deployment, transit and maneuvering ability on and over the high seas, free from the jurisdictional control of individual states."[123] Reiterating the advice given to him by Admiral Arleigh Burke, Chief Naval Officer, on the preservation of U.S. seapower, Dean said that the "naval forces are more important in the missile age than ever before. Mobility is a primary capability of the navy to move unhampered, to wherever it is needed to support American foreign policy." His reason for such an attitude was that free access to the sea for the navy to support American foreign policy would be a great contribution of United States seapower toward the progress of free civilization.[124] From such a testimony by Dean to the U.S. Senate, it was evident at the two conferences that the U.S. proposals and policy stands were primarily concerned for her security interest and thus any effort by the conference to expand the territorial sea could not be approved by the U.S. since it would seem to be in conflict with U.S. interests. In view of this and the confusion that surfaced at the two conferences, the U.S. made a sacrifice by extending the three-mile limit to six miles and not further than that. The extent

to which the additional three-mile extension of the controversial three-mile rule would affect U.S. security was not overlooked by the U.S. as indicated by Arthur Dean,

> U.S. defensive capability would be so profoundly jeopardized by our acceptance of a greater than 6-mile territorial sea that those responsible for planning for our defense have concluded that we must take a position against such a course in any event.[125]

The statements made by Arthur Dean and the attitude expressed by the U.S. at the conferences could not easily be overlooked. It is worth noticing, therefore, that all the actions of the U.S. had been generated by the danger to U.S. foreign policy from the cold war. The U.S. ability to dispatch immediately her warships and their supporting aircraft unhampered through the international straits would be affected if considerable extension was made into the sea. Such extension conveyed to the U.S. that not only would it wipe out U.S. vital passageways on the high seas which would then be subjected to national sovereignty, it would also make the U.S. virtually weak in effectuating a strong connection with her cold war allies and her friends among the non-aligned nations. The U.S. was not really ready to do this. Even with the limited sacrifice of the three-mile limit to six miles, the U.S. realized what that would mean to their security. They knew that fifty-two of the one-hundred -sixteen international straits would be annexed by the coastal states, thus becoming a part of their waters. Eleven of these fifty-two straits thus annexed by the coastal states were likely to cancel or interfere with the passage of U.S. warships or aircraft. The handicap in defense capability that would result from the closure of the eleven straits was considered by the U.S.

to be tolerable. The U.S. had refused to accept extensions of more than six miles since that would allow eighteen of the one hundred-sixteen straits to be controlled by nations who were likely to revoke the rules permitting U.S. passage in such waters. This was considered an unacceptable hinderance on the U.S. warships' operation and defense capabilities. Therefore, U.S. preparation for the sea conference and the drastic actions taken by them had been influenced by the existing atmosphere between it and the Soviet Union after the Second World War. The Soviet Union buildup of military capabilities in the sea had become the main concern of the U.S. In Dean's argument, it was clear that the Soviet submarines with their long-range effect on coastal states would pose a considerable threat to warships of the United States if the territorial limits were expanded beyond the limits of six miles which the U.S. had endorsed.[126] Dean claimed that the Soviets, relying heavily on the long-range submarines, would have the advantage of striking at U.S. warships in their newly-found abode, that is, the new neutral waters of the neutral states as the result of the increase in area of this new territory. Their activities in these extended territorial waters could hardly be detected, thus making the U.S. submarines and warships openly vulnerable to the attack of the illegally hidden Soviet submarines.[127] Such activities of the Soviet Union according to Dean could cause a grave threat to the national security of the U.S. Another effect on the U.S., if the sea boundaries were allowed to be extended beyond the six miles, according to Dean's statement could be realized in the area of economic repercussions to the U.S. fishing interest. The extension of the territorial sea would imply that the U.S. would lose some of her fishing rights in waters which were once free sea but would

now be under foreign control. The United States, therefore, saw as unacceptable any move by the conference to extend the territorial boundaries from the present six miles which they had sacrificed. Thus, the U.S. saw it necessary to protect the interest of her fishing industry so that only a minimum amount of damage would be done to her commercial interest. The force with which the United States presented these national interests at the conference made it imperative that Latin America also represent their collective interests with a certain degree of conviction (which began to surface more at the second conference).[128]

The Soviet Union had also been determined to bring her national interest and security to the attention of the two conferences. Though on many occasions Soviet proposals and policy stands reflected support for her allies more than her own interests, in this case it recognized the threat which their cold war enemy, the U.S., posed to them on the military developments on the sea. They realized the short range of American submarines and, therefore, agreed to the idea of the twelve-mile limit which was expressed in almost all their proposals concerning the territorial sea. Their objective, then, had been to wipe out the effectiveness of the U.S. submarines. Their proposals also included the banning of nuclear tests on the high seas. This was intended to sabotage the development of polaris submarines which the U.S. had undertaken and were testing in the ocean. In addition to these demands the Soviets camouflage their real national interest by introducing resolutions and proposals which largely reflected the interest of the landlocked and non-aligned nations in order to win their support. Their proposals

requested the absolute right of landlocked nations to travel across the territories of adjacent coastal states with free access to their ports and also allowing the landlocked states duty free entry of goods. This was a political strategy to win more influence and support of the landlocked nations so that they, in turn, would tend to support Soviet interests.[129] The Soviet Union, therefore, sought their national interest at these conferences.

At these two conferences, Japan and Great Britain were strong advocates of their respective national interests. Although the sea power once possessed by Great Britain had been lost after the Second World War, her fishing power had been very pervasive in her European waters--often violating the three-mile rule of her neighbors in Europe. Thus, any effort to increase the territorial limit to twelve miles or beyond would have disasterous consequences on Britian's fishing industries which obtain most of their fish from the free waters of the European Community. Similarly, Japan depended heavily on her fishing industry. Possessing one of the leading fish industries in the world, Japan could not support any proposal or resolution extending the territorial limit. She realized that if such an extension was achieved, her fishing interest in the waters of India, Burma, Thailand, South Vietnam, Cambodia, Korea and the South Pacific including Latin American waters, where her fishing was heavily concentrated, would be lost to the coastal states. The Latin American states had become exposed to the political maneuverings that had characterized both conferences and had learned to play the game according to the rules. Whether individually or on a collective basis, they began to subscribe to policies and proposals which would benefit them to the fullest. They had become very aware of the

fact that the great doctrine of international law which limited the territorial limits to three miles, six miles and twelve miles, respectively, had protected the commercial interests and internal security of the great powers by enabling their fishing and military vessels to approach all areas in the sea close to the three-mile established territorial sea of other states and to exploit virtually every living and non-living resource found there. It also allowed the great powers' military vessels to threaten them at will without actually infringing on their sovereignty. The Latin Americans viewed the military activities of these powerful nations in their waters as a direct infringement and interference with ther domestic security. The proximity of these nations in their waters was regarded by them as a means for invasion and overthrow of their legitimate regimes. From an economic point of view the Latin Americans viewed the question of exploitation of their coasts as very detrimental. The economic crisis in Latin America had reached its peak when price controls at the international level affected the domestic prices of their exportable goods such as coffee, wool, cotton, sugar, tuna, shrimp, lead, zinc and copper. The rise in price of raw materials of other third world countries made the Latin American states aware of the need to secure an influential bargaining position at these conferences. This would enable them to acquire a better portion of the newly discovered and old resources which the sea provides in order to alleviate their miseries before the affluent nations with their superior technology claimed the resources from their periphery. Throughout the debates, and even after the conferences, the Latin American states continued to dispute any foreign vessels that came within the nine-mile limit they claim regardless of the traditional three-mile limit rule.

They vehemently defended the claim to this limit both at the conference and outside the conference, and refused to support any proposal which did not reflect the nine to twelve-mile territorial limit. The Latin American states feared that if strong measures were not embarked upon at the conference to recognize and rectify the threat which existed in their waters, then the continuous exploitation of the resources in their waters without adequate protective measures would result in serious consequences. The extinction of the marine tuna would subsequently affect the production of the guano deposits (bird feces) which are a source of fertilizer for domestic agriculture and for foreign exports. Thus, Ecuador, Peru and Chile were determined to protect their national interests from the threat faced in the sea. This attitude was paramount in their activities at the conference. At both conferences, Panama fought to protect her national interests with regard to the Panama Canal. Panama had seen the need to protect her claim to the canal as an historic water, therefore, legally excluded from the high seas. Mexico, on the other hand, desperately fought to exclude foreign vessels from her fisheries in the nine-mile waters.

The Latin American states did not exhibit any conformity in their overall policy approach but the degree to which they defended their respective claims signified their unwillingness to concede to any sort of instant arrangement which would be of grave consequences in the future. Realizing the extent to which national and regional interests dominated the conference, the Latin American states became less willing to sacrifice any more than they had in the past. Contrary to the reasons given by Arthur Dean, the U.S. represenative, the failure of the passage of the joint U.S.-Canada

proposal and the resulting failure of the conference could not be blamed on either Chile, Ecuador or El Salvador for their late change in attitude which earlier had been favorable to the joint U.S.-Canada proposal.[130] The failure of the conference and the joint U.S.-Canada proposal could be attributed to the degree with which national and regional interests of Latin America had capitulated on the theme of the conference. The voting statistics on the proposals tabled at the two conferences supported this point. In addition, the verbal arguments exchanged for and against many proposals indicated the unwillingness of nations to refrain from representing their own national interests. It could be argued that while this national interest dominated the proposals of the affluent nations, Latin American states were split on what should be regarded as the center on which their common interests should be focused. Being divided in the area of collective policies, they also showed a lack of cohesiveness on policy approach. Their voting patterns reflected a diversity in their objectives and they were often influenced by the superpowers. They lacked homegenity in the policies they propounded and supported, but they were acquiring an awareness of the political nature of the conferences. This was the prime factor in stimulating them to occasionally form a bloc or alliance to propose or offset a proposal that was unfavorable to the interests of their states. The eight, ten, eighteen and nineteen powers' proposals which called for contrary resolutions to those of the affluent nations at these conferences indicate the way Latin America and some of their third-world friends began to view the political nature of the debates. Latin America as a whole, therefore, did not hesitate to attempt to utilize such tactics which had become prevalent in the acti-

vities of the affluent nations so far as the conferences were concerned. When referring to the extension of a broader territorial sea to within a twelve-mile limit the Mexican delegate, Dr. Alfonso Garcia Robles, indicated that, "It had been suggested that the states whose fleets carried almost all the world's maritime transport should be asked why they opposed the extension...."[131] He stated that the maritime powers were opposed because the old rule gave them advantages in other areas of the seas. These advantages he saw as detrimental to the interest of all concerned and especially the poor nations. Similarly, Peru, Ecuador, Chile and El Salvador realized the advantage the joint U.S.-Canadian proposal gave to the affluent. The degree to which this joint proposal benefited the maritime powers prompted the final withdrawal of support from Chile, Ecuador and El Salvador. The Peruvian delegate, Mr. Ulloa Sotomayor, noted that, "the rules of international law had sometimes been unilaterally created in the interest of great powers. It was, therefore, reasonable for certain rules of law to be initiated by small states in their legitimate interests."[132] The Chilean representative, Mr. Lecaros, also expressed that, "the rise and development of the law of the sea had been prompted by one single factor," this single factor he referred to as political, economic and national interest.[133] This interest had permeated the definition of the law of the sea through the centuries. The Latin American states saw the joint U.S.-Canadian proposal as benefiting only the interests of the few. Ecuador, Chile and El Salvador refused to support the proposal because they wanted a general review of the international law to satisfy all parties and not just a part of the world community. Modern technology demands modern laws to protect the sea. The Latin American

states have realized that the question of codification of legal principles concerning the sea would only be possible when a complete restructure of the sea has taken place to accommodate the collective interests of all. In conclusion, the joint U.S.-Canadian proposal did not offer them much security in terms of their interests.

Latin America and the 1970 Convention on the Peaceful Uses of the Seabed and the Ocean Floor Beyond the Limit of National Jurisdiction

The 1960 conference which failed to settle the sea issue did not make any provision for future conferences on the law of the sea but this did not deter the Latin American nations from making preparations for future conferences. At this particular time Latin America like the rest of the third world had become conscious of the wealth to be exploited from the seabed by the technologically-advanced nations. This awareness revitalized in Latin America the need to look into the question of the uses of the seabed and ocean floor and subsequent ecological hazards which might result due to the exploitation of the sea's resources. Though the issue of technology had affected the outcome of the earlier conferences this time it had infiltrated into an entirely new area of the sea's resources, one which the Latin American states viewed with the utmost suspicion. These new developments escalated the race into the vast ocean by the technology of the affluent nations. This caused a considerable damage to any effort at reaching a solution to the sea crisis at the international level. This crisis in the sea which Latin America has long predicted and which had influenced the Latin American states' position at the international conferences, was recognized by the rest of the developing nations. In response to this awareness, the U.S.

became more concerned about the problem. The Nixon Declaration, which represented the alteration of the U.S. policy with respect to the influence of technology in the ocean depth, recognized for the first time "that the law of the sea is inadequate to meet the needs of modern technology and the consensus of the international community." The U.S., therefore, endorsed that if the international law "is not modernized multilaterally, unilateral action and international conflict are inevitable." The Nixon Declaration, therefore, indicated that "this is the time, then, for all nations to set about resolving the basic issues of the future regime for the ocean...and to resolve it in a way that rebounds to the general benefit in the era of intensive exploitation that lies ahead."[134] The Soviets recognized that the nations of the world community had become aware of the riches of the seabed and ocean depth and were very anxious to control and conserve these riches. The Soviet government had, therefore, considered how these new resources could be regulated and divided when there was scarcity or conflict.[135]

This common attitude resulted in the overwhelming support for the Malta representative's proposal at the 1968 U.N. General Assembly meeting, which for the first time called for a regulatory centralized authority to research and control pollution due to technological presence in the deep waters. This resolution (2340 XXII) was co-sponsored by the Latin American states, who also served in the thirty-five member ad hoc committee entrusted with the duty of looking into the question of the reservation exclusively for peaceful purposes of the seabed and the ocean floor and the subsoil beyond the limits of present national jurisdiction for the utilization of such resources to benefit mankind.[136] The committee was

TABLE XIII

MEMBERS WHO SERVED ON THE AD HOC COMMITTEE
Latin American States Capitalized

ARGENTINA, Australia, Austria, Belgium, BRAZIL, Bulgaria, Canada, Sri Lanka, CHILE, Czechoslovakia, ECUADOR, EL SALVADOR, France, Iceland, India, Hally, Japan, Kenya, Liberia, Libya, Malta, Norway, Pakistan, PERU, Poland, Romania, Senegal, Somalia, Thailand, United Soviet Socialist Republic, United Kingdom, Tanzania, United States, and Yugoslavia.

CO-SPONSORS OF RESOLUTION 2340 (XXII)

Afghanistan, Australia, Austria, Belgium, BOLIVIA, BRAZIL, Bulgaria, Canada, Sri Lanka, CHILE, COLOMBIA, ECUADOR, France, Japan, Kenya, Libya, Luxembourg, Madagascar, Malta, MEXICO, Netherlands, Nigeria, Norway, Pakistan, PERU, Poland, Romania, Senegal, Sigapore, Somalia, Sudan, Trinidad and Tobago, Tunisia, Turkey, U.A.R., United Kingdom, United States, VENEZUELA and Yugoslavia.

Source: U.N. Conference Document on Law of the Sea, 1970.

also entrusted with the duty of studying the past and present U.N. scientific, economic, technical and legal activities with respect to the ocean floor and to find means of promoting international cooperation in conservation and exploration of such areas.[137] The Latin American intention in co-sponsoring this resolution was to curtail all activities which the technologically-advanced nations had undertaken in the ocean floor without directly affecting their two hundred-mile claim. This was indicated by the Chilean delegate in a debate that followed the endorsement of resolution 2340 (XXII). The wording of the resolution had made it clear that national jurisdiction claims of the nations were in no way included in the research zone which the U.N. had proposed. The same expression was contained in

the arguments of the Colombian delegate when he argued that the establishment of such an international organization would not affect the rights of the parties at the Geneva Convention and did not restrict or modify their claims.[138] The committee's recommendations to the General Assembly, which were contained in four draft resolutions and classified under resolution 2467 A-D (XXIII), reflected the interests of the Latin American states. The resolutions (a) stressed the peaceful uses of the ocean seabed and the ocean floor, (b) stressed the need for the Secretary-General to study the catastrophic aspect of marine pollution, (c) emphasized study by the Secretary-General on the establishment of international machinery to exploit the resources of the sea beyond national jurisdiction, and (d) requested an international oceanographic exploration. The Latin American states did not hesitate to unanimously cast their votes in support of these resolutions. They were particularly responsive to resolution D which banned all exploitation activities in the ocean beds and subsoil, pending the establishment of an international regime in these areas outside the national boundaries. Results of the voting on the resolutions were as follows:

	IN FAVOR	AGAINST	ABSTENTION
Resolution A	112	--	7
Resolution B	119	--	--
Resolution C	85	9	25
Resolution D	119	--	--

The General Assembly further established a forty-two man committee to review the adopted resolutions and to accept proposals which would generate both national and international programs which would be undertaken

during the decade with regard to the interests of developing nations and to transmit these proposals to the U.N. The result of the review of these resolutions did not please the Latin American states. Their most favored resolution D received a mixed reaction though it was adopted by a simple majority (62 in favor, 28 against, and 8 abstentions).[139] The large negative reaction generated in the Latin Americans the determination to adopt resolution D without which the deep seas would once again be easily open for the affluent nations to exploit. Thus, they argued that any alternative to resolution D would be contrary to the previous affirmation that the seabed and the ocean floor beyond the limits of national jurisdiction were the common heritage of mankind. In the Latin American representatives' arguments to promote resolution D, they emphasized the complete domination by the affluent nations over the mineral resources of the ocean by virtue of their superior technology. The Mexican representative remarked that though resolution D was limited and inexplicit, to find another solution equally acceptable to the General Assembly would be difficult. Thus, the objective of the draft which barred any kind of exploitation and exploration of the ocean floor and seabed beyond the limits of national jurisdiction must be retained pending the establishment of an international regime to explore and exploit for the benefit of mankind. The representatives of Uruaguay, Chile, Guatemala, Trinidad and Tobago and Ecuador agreed with the views outlined by the Mexican delegate. They stated that the attempt to kill resolution D was the work of the affluent nations who were trying to sabotage the draft resolution in order to protect their national interests. The affluent nations had been bitterly opposed to the draft resolution D. The United States representative showed his opposition to the

resolution by indicating that he would vote against it since this draft proceeded on an unsound hypothesis that would retard the development of deep seabed exploration by those nations who had already developed the instruments and scientific means for achieving better results in the ocean. To the Latin Americans the issue was not to prevent technological undertakings in the deep sea but to expose the technological advantage of nations who have it to use it for reasons of benefiting themselves. Unless it moved forward to a point where every nation could benefit from its exploits, the Latin American states would continue to show strong support for resolution D. To this argument, the affluent nations unanimously responded by indicating that no one country or group of countries had exclusive use of technology for exploitation of the seabed any more than they had exclusive use of technology for exploiting the land resources. The Latin American states were not ready to entertain the explanations of the affluent nations which they regarded as camouflage for their real interests. In no way were the Latin American states convinced that the technology of the affluent nations would not abuse the deep sea in which their activities had already escalated to all the areas beyond the national jurisdiction. These activities of the affluent nations in the oceans could not reassure the Latin Americans that the sea would be safe if resolution D was altered to include national activities in the seabed and ocean floor beyond the national jurisdiction of the coastal states. The Latin American states' desire to pressure for the adoption of the draft resolution D resulted in the final testing of all the draft resolutions A-D.

Final Votes on Resolutions A-D

Resolution	In Favor	Abstention	Against
A	58	40	13
B	112	--	--
C	99	13	1
D	52	35	27

With the adoption of all the resolutions, the 26th session of the General Assembly endorsed the convening of a conference on the sea to iron out the differences on the sea issue.

One predominant attitude observed at the General Assembly meetings prior to the third law of the sea conference, was the fear that the Latin Americans had over the affluent nations' attempt to dominate the outcome of the sea issue. Once again, not only were the Latin Americans afraid of the technology of the affluent nations, they realized the degree to which the affluent nations were prepared to go to represent their own interests, irrespective of the new attitude expressed by the affluent nations that due to the development of modern technology the law of the sea must be reconsidered and new laws must be made. The argument presented by the affluent nations in support of their technological activities in the oceans and their lack of support for resolution D, called for Latin America to demonstrate as they had done in earlier conferences, their determination to represent what they considered to be their vital interests. Their voting pattern at this General Assembly meeting not only demonstrated their willingness to represent their interests, but also their desire to protect the interests of all developing countries from that of the developed nations.

The Latin American states' consensus on any decision on the sea could only be forthcoming when the interests of all nations had been duly represented in the final decision. This feeling among the Latin American states at the General Assembly meeting was reflected in their proposals and their statements during the floor debates. The Latin American states relented on some issues when the questions and proposals offered by other nations sounded a moderate tone reflecting the interests of the poor nations. In such cases, they showed a willingness to modify their basic position and consider an alternative proposal. If this alternative demand failed, they immediately returned to their original hard claims. The controversy that emerged over resolution D, and the type of legal regime to be established over the seabed in the 1970 convention on the sea, was a typical example of the Latin American states' method of consolidating their activities in order to have their interests considered.

The possibility of convening a future conference after the 1970 convention stimulated the Latin American states to meet again at Montevideo to consider policies which, up to that point, had not been homogeneous. At the conference, those republics present, emphasized again their belief that there existed a geographical, economic and social linkage between the sea, the lands and the inhabitants. Thus, any norm that was to govern the limits of the national sovereignty and jurisdiction over the sea, the ocean floor and the subsoil, and the conditions for exploiting these resources, must take account of the geographical realities of the coastal states and must also consider the social responsibilities of the developing nations.[140] The Montevideo Declaration, which received the

signatures of Argentina, Brazil, Chile, Ecuador, El Salvador, Nicaragua, Panama and Peru, reiterated that scientific and technological advances in the exploitation of the natural wealth of the sea necessitated the Latin American action to protect its living resources from injustice of abusive harvesting practices. Their declaration contended that such abusive harvesting of the sea was liable to affect the ecological conditions of the coastal states, a fact which supports the right for coastal states to take the neccessary measures to protect those resources within and outside the limit ascribed by the traditional law of the sea. The claim of the adjacent areas of the sea would act as an auxillary measure allowing regulation of any fishing or aquatic hunting carried out by vessels operating under the national or foreign flags. This would also give the Latin American states the right to conserve, develop and exploit the natural resources of the maritime areas adjacent to their coasts. They considered these actions taken at the Montevideo Conference as an acceptance of the right of states to protect the resources in their waters without any interference with freedom of navigation or overfly by any foreign ship.

By the end of the Montevideo Conference the greater community of Latin America had shown a strong desire to cooperate at all future conferences in order to fully defend all the principles embodied in the Montevideo Declaration on the law of the sea. This attitude of solidarity among the Latin Americans began to surface at the seabed committee convention. The narrative working papers introduced by Chile, Colombia, Ecuador, El Salvador, Guatemala, Guyana, Jamaica, Mexico, Panama, Peru, Trinidad and Tobago, Uruguay and Venezuela embodied most of the Monte-

video Declaration.[141] In the subcommittee charged with the issue of the sea beyond national jurisdiction, Latin American states reiterated their usual argument in either separate or joint proposals and working papers. They argued that the responsibility of regulating and controlling the areas of the sea beyond the national jurisdiction must be left in the hands of an international organization. They emphasized their support for the General Assembly Resolution 2574 (XXIII) of 1969 which was reopened for discussion. This resolution barred all activities on the ocean floor and the subsoil until an international regime had been developed to administer that area.[142] The Latin American states' contention was that evidence had proven that a number of organizations and commercial interests of the affluent nations had already engaged in operational activities in this area without waiting for international agreement. The affluent nations' actions called for all nations to conform with the provisions of the General Assembly resolutions which forbade the exploitation pf the ocean resources until a permanent solution had been reached on the issue. The Latin American states indicated that since resolution 2749 (XXII) of the 17th December, 1970 voted by the General Assembly forbade the apportionment of the ocean floor and seabed beyond the limits of national jurisdiction by any state or person, no state or person "natural or juridicial" shall acquire or exercise within these areas any control or authority incompatible with the international organ to be established.[143] The Latin Americans were again opposed by the affluent nations who viewed the Latin American states' action as detrimental to their progress in the ocean floor and subsoil beyond the limit of national jurisdiction. The force with which the Latin American states met the opposition from the

affluent nations enabled them to generate more support from the island communities of the Caribbean who now showed a greater interest in the economic benefits from the sea and the threatening activities of the affluent nations. This led to the calling of a specialized conference of the Caribbean countries at Santo Domingo, Dominican Republic, in June 1972 to unify their collective efforts and to reinforce their position with respect to the coming law of the sea conference. The approved declarations of the conference called the "Santo Domingo Declaration" further strengthened the Latin American and Caribbean states' policy approach to the question of the sea conference. Both the Caribbean and the Latin American states emphasized the need to apply pressure on the sea issue with respect to arriving at an equitable solution which would render equal opportunities to all. This they considered not only an essential condition for peace but also a necessary solution to the sea crisis. They believed that the resources of the sea could be utilized for the speedy development of the developing nations and any action taken by the affluent nations to monopolize these resources would destroy the economy and the ecology of the developing nations. They stressed cooperation and protection as the motto of their debate at the future conferences. They indicated that if the resources of the deep ocean were to be dispensed on an equal basis through harmonization of the needs of each state and those of the international community, they would be willing to compromise on the more controversial policies and cooperate with the affluent nations to reach a decisive solution over the sea crisis. But until then, they found it necessary to protect their original claims on the sea. They declared the sovereignty of the territorial states, with

respect to the sea, to extend to areas adjacent to their internal waters, the superadjacent air space and the subjacent seabed and subsoil. The breadth of the territorial sea and its delineation, they considered a matter subject to international agreement acceptable to all nations. But since such collective decisions had not yet been reached, they maintained that each state had the right to establish a limit of up to twelve nautical miles measurable from the baseline. They agreed to allow innocent passage in these waters as established by the international law.

On the subject of the patrimonial sea they indicated their claim for the coastal state to exercise its sovereignty right over the "renewable and non-renewable natural resources found in its waters, seabed, and subsoil within the area adjacent to the territorial water." The Latin American nations believed that the coastal states deserved the right to control pollution and scientific research within this area to the two hundred-mile limit which was considered as the end of the patrimonial sea. The littoral states should try to avoid disputes among themselves for the sake of strengthening the declaration but if such disputes could not be avoided, the guiding principle to settle all disputes among themselves in the sea would be in accordance to the U.N. procedures stipulated in the charter. With respect to the continental shelf, they declared that the coastal states have the sovereign right to explore and exploit its resources whether on the seabed or the ocean floor to the depth of two hundred meters or beyond to the limit where exploitable resources could be found but not outside the two hundred-mile limit. With respect to the declaration on the international seabed which had been of great concern to the Latin American states due to the exploitation going on there, they emphasized that, it is the common

heritage of mankind as declared by the U.N. resolution 2749 (XXV) which subjects the exploitation and exploration area only to the regime established by the general consent of all members of the General Assembly.

They considered the high seas to be an international area subject to indiscriminate use by all members of the international community and subject to international rules and regulations acceptable to all. This conference showed for the first time ever a collective endeavor by all the nations in South and Central America and the Caribbean to endorse a periodic meeting to review, coordinate and, if necessary, harmonize national policies in order to ensure maximum utilization of their resources to offset the policies, proposals and activities of the affluent nations with respect to the issue of the sea.[144] The degree to which all the nations supported the declarations demonstrated their collective realization that their regional interests must prevail over the interests of the affluent nations. They must collectively guard against any activities in their seas and the international sea that is detrimental to their economic development and well being. Thus, they maintained that all policies concerning the sea at future conferences must represent fully their regional interests. Sacrifice of regional interests would come about only when equitable proposals and agreements were reached which represented the interests of all nations and which gave consideration to the needs of the developing nations.

This collective interest developed by the Latin Americans and their Caribbean friends surfaced at the later stages of the U.N. committee on seabed and ocean floor conference. In the Latin American states' draft articles, resolutions, proposals and working papers submitted to the

committee they re-emphasized their stand with respect to the sea issue. The draft articles of Ecuador, Panama and Peru introduced in July 13, 1973 by their delegations indicated that,

> "Article 1--The sovereignty of the coastal state and consequently the exercise of its jurisdiction shall extend to the sea adjacent to its coasts up to a limit not exceeding a distance of 200 nautical miles measured from the appropriate baseline.
>
> "Article 2--The afore said sovereignty and jurisdiction shall also extend to the air space over the adjacent sea, as well as to its bed and subsoil."[145]

Uruaguay's draft treaty article on the territorial sea also had some bearing on the outcome of the conference and reflected to considerable extent the Latin American policies adopted in the Santo Domingo Declaration.

> "Article 2--Every state is entitled to determine the breadth of its territorial sea within limits not exceeding a distance of 200 nautical miles measured from the applicable baseline..."[146]

Brazil also reflected the same attitude. In her draft article on the territorial sea she emphasized that,

> "Article 1--Each state has the right to establish the breadth of its territorial sea within reasonable limits, taking into account geographical, social, economic and national security factors."
>
> "Article 2--The breadth of the territorial sea shall in no case exceed two hundred nautical miles measured from the baselines determined in accordance with Article... on the present convention."[147]

On the question of the continental shelf's natural resources, the guiding principles of the Latin American states' draft articles were the policies adopted by the Santo Domingo Declaration. Argentina's draft article 18 stated that "a coastal state has sovereignty over the resources of its

continental shelf. The said resources includes the mineral and other non-living resources..."[148] This was the nature of the resolutions and declarations tabled at the committee level of the conference on the law of the sea by the Latin American states to substantiate the fact that a solution could not be arrived at by the conference and they were not ready to rescind their claims either. The degree to which many of the Latin American states and their Caribbean neighbors stressed this radical position raises the question of whether any concrete means can be arrived at, by which the exploitation of the resources of the international sea and the areas beyond the twelve-mile limit could be carried out. All the draft articles of the Latin American states openly rejected any proposal which did not allow for the establishment of an organ, whether at the national level or the international level under the U.N. body. This organ would be solely entrusted with the responsibility of exploration, scientific research and exploitation. The dividend resulting from such exploitation, they concluded, must be equitably distributed to meet the needs of all nations. Their statements and draft articles showed no relaxation in their demands and no willingness on their part to accept any proposals which they believed would give the affluent nations an advantage over the poor nations. With this stand by the Latin Americans, the affluent nations were convinced not to relax their efforts to regulate the influence of the U.N. body on exploitation and exploration of the international sea and areas beyond the twelve mile-limit. The unwillingness of both parties and other nations to arrive at a concrete solution on how the resources of this area of the ocean should be administered and the functions and powers, if any, that would be performed by the inter-

national organization led the subcommittee to establish alternatives from the conflicting suggestions introduced by Latin America as well as the other nations present at the convention, with the intention of finding the most favorable alternatives.

Alternative A

All exploration and exploitation activities in the area could be undertaken by either a contracting party or group of contracting parties, or juridicial persons under their sponsorship and authority but subject to regulation by authority with regard to rules established for exploration and exploitation in these articles.

Alternative B

All activities of scientific research and exploration of the area and exploitation of its resources and other related activities shall be conducted by the authority directly or, if the authority so determines, through service contracts or in association with persons natural or juridicial.

Alternative C

All exploration and exploitation activities in the area shall be conducted by the authority either directly or in such other manner as it may from time to time determine if it considers it appropriate and subject to such terms and conditions as it may determine. The authority may decide to grant licenses for such activities to a contracting party or group of contracting parties or through them to natural or juridicial persons under its or their authority or sponsorship including multinational corporations or associations.

Licenses may also be issued for this purpose to international organizations active in the field of the direction of the authority.

Alternative D

All exploration and exploitation activities in the area shall be conducted by a contracting party or group of contracting parties or natural or juridicial persons under its or their authority or sponsorship, subject to regulation by the authority and in accordance with the rules regarding exploration and exploitation set out in these articles. The authority may decide, within the limits of its financial and technological resources, to conduct such activities.[149]

In addition to these alternatives there was also further consideration for the establishment of general rules with regards ro safety

procedures, work plans, inspection, service payable, revocation of services, contracts, integrity of investments and the revocation of licenses on the international ocean.[150] Latin American states not only favored the Alternative D but also vigorously showed their support for immediate establishment of rules and adoption of such rules in order to safeguard their interests and to prevent the need for any delay in adoption of the rules. The affluent nations sensed defeat if such a hasty demand to initiate and exercise rules over the deep ocean was accepted. They demanded that any rules concerning the activities and control of the deep ocean would have their support only with the consultation and approval of their experts and agencies in charge of the sea issue. At this point the Latin American states began to suspect the intentions of the affluent nations towards the economic needs of the developing nations. Their refusal to endorse the making of rules to guard the deep seas reconfirmed to Latin America that the affluent nations were determined to continue to play politics with the sea issue and not give in to the demands of the poor nations.

In recapitulating on the Latin American policy approach at the subcommittee level of the convention on the seabed and ocean floor, the continuous refusal of the affluent nations to give in to some of the safety measures requested by the Latin American states, called for continuous research by the Latin American states into the damage that would result if the affluent nations had the advantage in the decisions concerning the sea (Table XV). The findings of such long research had begun to surface in Latin America, the Caribbean, Africa and Asia. The Latin American states were aware of the consequences, if such monopolization in the sea

TABLE XIV

THE EFFECT OF OCEAN RESOURCE EXPLOITATION ON LATIN AMERICAN LAND RESOURCE PRODUCERS

Copper:	Profoundly affected:	Peru, Chile
	Lesser effect:	Haiti, Bolivia, Nicaragua, Mexico, Cuba
Manganese:	Profound effect:	Brazil
	Lesser effect:	Trinidad and Tobago
Nickel:	Profound effect:	Cuba
	Lesser effect:	Guatemala, Dominican Republic
Cobalt:	Profound effect:	Cuba

Source: Third U.N. Conference on Law of the Sea, pp. 180-182.

by the affluent nations was allowed. This was strongly and vociferously indicated at the convention of the subcommittee on the seabed and subsoil beyond the national jurisdiction. Thus, the Latin American states endorsed strongly the view that the mineral supply of the deep ocean must, at all costs, be placed under a strong central control. The enormous potential resources in these areas must be regulated or else, These deep sea resources would compete with the monopoly enjoyed for thousands of years by the land-based resources (Tables XV, A, B, C) and eventually destroy the land-based mineral resources economic potential. Since the deep ocean is out of the sovereign control of any nation-state, the likelihood of the affluent nations devising strategies to dominate the outcome of the conferences was seen by the Latin American states as a means by which the affluent nations could enjoy a monopoly in exploiting and exploring these areas to their advantage, subsequently causing further deterioration of the market prices of the land-based resources of the Latin Americans. The dependence on these land-based resources for national income and as a means

TABLE XV (A)

MINERAL PRODUCTION OF THE WORLD AND LATIN AMERICA

ITEM	WORLD PRODUCTION EXCLUDING LATIN AMERICA	LATIN AMERICAN PRODUCTION
Copper	6.3	-0.5
Lead and Zinc	11.2	5.1
Tin	10.7	-3.1
Precious Metals[b]	3.6	-0.8
Alloying Metals[c]	10.6	5.6
Light Metals[d]	13.3	9.7
Miscellaneous Metals[e] (excluding tin)	5.8	1.9
Chemical Minerals[f]	8.8	1.1
Miscellaneous Non-Metallic Minerals[g]	5.2	-0.7
Crude Petroleum	7.9	8.6
Iron Ore	8.1	24.1

[a]Production data for some minerals exclude countries with centrally-planned economies (e.g., Mainland China, USSR, and Eastern Europe).

[b]Gold, Silver, Platinum.

[c]Manganese, Chromium, Nickle, Tungsten, Molybdenum, Cobalt, Vanadium, Colombuim and Tantalum.

[d]Alminium, Magnesium and Titantium.

[e]Antimony, Mercury, Cadonium, Bery llium, Zirconium and Bismith.

[f]Salt, Phosphate Rock, Potash, Sulphur, Pyrite, Borates, Fluospar, Sodium Nitrate and Guano.

[g]Asbestos, Mica, Graphite, Quartz, Talc, Barite, Diamonds, Kaolin, Feldspar, Magnesite, and Natural Abrasives.

Source: Third U.N. Conference on Law of the Sea.

TABLE XV (B)

PRODUCTION OF MINERALS AND METALS BY LATIN AMERICAN COUNTRIES
(thousands of dollars)

	1945	1950	1955
Argentina	39,180	74,013	113,709
Bolivia	69,556	80,143	98,061
Brazil	47,808	78,947	133,112
Chile	174,134	280,217	490,240
Colombia	50,415	107,772	155,122
Costa Rica	127	32	35
Cuba	14,548	12,741	31,414
Dominican Republic	74	81	223
Ecuador	6,789	10,838	11,212
El Salvador	751	1,592	561
Guatemala	89	1,102	3,358
Haiti	25	101	138
Honduras	2,167	3,983	2,207
Mexico	185,493	397,584	546,306
Nicaragua	7,367	8,237	8,237
Panama	8	61	42
Paraguay	---	---	5
Peru	52,951	104,589	179,171
Uruguay	29	17	44
Venezuela	398,601	1,379,089	2,287,975
TOTAL	1,050,172	2,541,144	4,072,745

Source: Statistical Bulletin for Latin America, Vol. IX, June 1972, U.N.

TABLE XV (C)

LEADING LATIN AMERICAN NATIONS CRUDE PETROLEUM EXPORT

COUNTRY	EXPORT IN 1968 (millions of U.S. $)	Value of Petroleum as a percentage of TOTAL EXP	Value of Petroleum as a percentage of GROSS DOMESTIC PRODUCT
A. Petroleum as major foreign exchange earner (above 10% of total exports)			
Venezuela	1,973.9	69.1	19.9
Bolivia			
B. Petroleum as important foreign exchange earner (between 3%-10% of total exports)			
Colombia	40.3	7.2	0.4
Trinidad and Tobago	29.0	6.2	3.6
Mexico	40.8	3.2	0.2
C. Petroleum as Minor foreign exchange earner (less than 3% total exports)			
Peru	12.5	1.4	0.3
Uruguay	0.54	0.3	0.03

Source: Third U.N. Conference on the Law of the Sea, Vol. III, p. 179.

of creating employment to millions of the Latin Americans, meant that certain interests had to be safeguarded until an equitable international rule could guarantee every state an equal share of the profits from the proceeds from the exploits of the high sea and also transfer technology to the weaker nations to give them a viable competitive position in the deep sea. The Latin American states believed that this would create new capital which would help to alleviate Latin America's economic problems. The Latin American states believed that any agreement reached at the international level should give considerable advantage to the already disadvantageous nations in which category they belonged. They have seen as endemic the unwillingness of the affluent nations to accede to this appeal. The Latin American states attributed the unwillingness of the affluent nations to accept the appeal to the fact that most of the mineral resources in Latin America were once the property of the affluent nations. Since these resources have become antionalized and now belong to the Latin Americans, the affluent nations have taken an offensive attitude against the confiscation of their investments and are anxious to strike back at the Latin Americans. If the sea resources provide such means of striking back, the affluent nations see no reason why they should not utilize it. The affluent nations, the Latin American states conclude, would not hesitate to direct all their activities and investments in the tax free and duty free deep sea. The Latin American states stressed these points and positions at the convention in subcommittee one, where their request for international control or authority over the deep seas was approved by the majority of the General Assembly. This demand was not to hamper any progressive scientific development in the deep seas but to

ensure that any decision made would not endanger the economic resources of their countries.

In subcommittees two and three, the Latin American states projected a similar attitude as they had expressed in subcommittee one. The attitudes and proposals of the Latin American states were dominated mostly by agreements reached with their Caribbean neighbors in conjunction with the principles pf the Santo Domingo Declaration which became the guiding principle of Latin American policy formation. They began to measure their territorial claims from the point of political, economic, and military significance with respect to the Latin American region in particular and the poor nations as a whole. The Latin American states were willing to sacrifice earlier claims of sovereign control of the two hundred-mile limit. A greater majority of them immediately reversed their sovereign control to the twelve-mile limit. The Latin American states viewed their action as a means of speeding up the conference into reaching an acceptable solution to all parties and nations. But the Latin Americans did not heistate to indicate that if such a sacrifice was not responded to, it would mean that these Latin nations would reverse back to exercising exclusive sovereign control over the two hundred-mile zone. In all the proposals introduced by the Latin American states at this time of the convention, they indicated the twelve mile-limit as a sovereign control area, with the exception of Brazil and a few others. Brazil did not reverse her claim to within the twelve-mile limit. In her draft articles submitted to the subcommittee, she emphasized the desire to establish full control over navigation and overflight up to two hundred nautical miles of her territorial sea. Brazil's action was not viewed by the other

Latin American states as contrary to the collective approach they had all endorsed to take. Rather, they saw it as a measure corresponding to the policy of collective approach. In the Santo Domingo Declaration, which had been the guiding principles of the Latin American states policy stand, the declaration on the patrimonial sea emphasized that any nation could claim up to two hundred miles, while the article on territorial seas emphasized that a state has the right to claim a twelve-mile limit territorial sea. Thus Brazil, in claiming two hundred miles and exercising control in this area, was actually conforming to the collective endeavor policy as exercised in the Santo Domingo Declaration. Brazil's action was, therefore, regarded as exercising Brazilian claim subject to national interest and regional interest. Those who supported the twelve-mile sovereign control, including Uruguay, declared to subcommittee two that though Uruguay exercised two hundred mile economic zone rights, she had limited her exclusive sovereign territorial claim to within twelve nautical miles for navigation and overflight. Thus, Uruguay indicated her willingness to allow innocent passage in the twenty-four mile contiguous zone of the outer twelve to two hundred-mile limit. Ecuador, Panama, and Peru's proposals exercised the two hundred-mile sovereignty and jurisdiction but had navigation and overflight control over unspecified breadth but it was in a narrower zone.[151] The provisions entertained in these proposals of the Latins was exercised only on the high seas but excluded the subsoil, which meant that the privilege was given only to overflight and navigation, but whenever the resources of the ocean were included in the debate or issue at hand, the Latin American states emphasized their economic claim up to the two hundred-mile limit. Similarly, they reserved

the navigation and overflight over their waters in accordance with the Santo Domingo Declaration to vessels and ships of all states, whether coastal or not, excluding military ships. Since they considered the passage of military vessels as involving security matters, they vehemently requested that all the established legal formalities and agreeable rules established for ships with special characteristics be complied with in Latin American waters.

When the question of the resources of the sea within the national jurisdiction was raised in subcommittee two, the Latin American states showed strong support for the coastal states to fully control and protect the resources in these areas, whether living or non-living. Ecuador, Panama, and Peru, in their draft articles in this subcommittee indicated in Article 8 that,

> "The prospecting, protection and conservation and exploitation of the renewable resources of the adjacent sea shall also be subject to the regulations of the coastal state....[152]

The three countries indicated though that such measures were only appropriate to regulate activities of other nations in such areas until such a time that relevant agreement was reached on the international level, which would stress cooperation among states and ensure control over such an area by investing power in the hands of an international technical organization. The Latin American states regarded any change in policy stand now as limiting their power over these areas and making accessible the exploitation of these areas by the industrial nations. With the strong recognition of such areas as an economic zone, the Latin American states had proclaimed the resources of these areas where, in the form of oil, natural gas, or other

mineral resources as belonging to their sovereign right. Argentina's draft article vigorously stressed this point by indicating that,

> "the coastal state has sovereignty over the renewable and non-renewable natural resources of its continental shelf. The resources include the mineral and other non-living resources of the seabed and subsoil together with living vegetable organisms and animals belonging to sedentary species; that is to say, organisms which at the stable stage, either are immobile or under the seabed or are unable to move except in constant physical contact with the seabed or subsoil.[153]

All the Latin American draft articles to the subcommittee strongly expressed the need for the coastal states to authorize scientific research and to participate in the undertaking of such activities. Where the coastal states were not direct participants, the Latin American states requested that information on the result of the research be disseminated to those coastal states. The underlying assumption of the Latin American states actions and proposals in subcommittee two was geared towards complete protection of their sea either within the twelve mile or the outer limits of the two hundred miles. The Latin American states recognized the disadvantageous position in which they had been placed with respect to the exploitation of the sea. They were concerned at this convention whether there was going to be an agreement and if such agreement was possible, they felt that it should not overlook the interests of the poor nations. The Latin American states strong endorsement of the transfer of technology to poor nations and the dissemination of information on the outcome of scientific research to the poor nations, was considered by the Latin American states as a stepping stone to reach an acceptable solution. With such determination to repre-

sent the position of the poor nations, the Latin American states' doctrine of a two hundred-mile economic zone began to enjoy considerable backing from the majority of the poor nations, who found such a claim on a two hundred-mile economic zone favorable to the protection of their interests from the ravages of the technology of the affluent nations. In essence, this hard line position taken by the Latin American states with respect to promoting the interests of the poor nations, was intended for that purpose. Contrary to general belief that the Latin American states were only representing the interests of the poor coastal states, the Latin Americans were able to deomonstrate their greater interest in all the poor nations by applying in all their proposals terms such as "the developing nations" and "disadvantaged nations" without showing any favor whatsoever to the coastal states. The lack of bias in the Latin American states' support to the entire range of poor nations could be attributed to the accommodation made on the regional level between the landlocked and the coastal states of Latin America. The coastal Latin American states assumed that such measures to settle the differences between the landlocked and the coastal states of the poor nations were either taking place or had taken place in their region. The Latin American states believed that the Third World nations could never succeed at the conference unless they had accommodated their landlocked states. Awareness of the economic crisis that would result if the affluent nations sustained domination of the deep seas, has eventually surfaced in the rest of the poor nations. The Latin American states felt that all the Third World nations would make the necessary provisions to come to the conferences ready to defend their collective regional economic interest which

was now threatened rather than the coastal states of the poor nations pushing for their interests. It could be noticed from the pattern of voting and policy proposals of the Third World nations that the differences between the coastal and landlocked poor nations had been accommodated to a considerable extent. The greater support the landlocked states demonstrated for the concept of the two hundred-mile economic zone substantiated the fact that the Latin American states were considering the total interests of all the developing nations whether coastal or landlocked. Even the advanced nations began to consider the economic zone theory of Latin America which they (the affluent nations) found very beneficial to their interests against the superior technology of the other affluent nations who could easily outexploit the lesser developed affluent nations in the deep seas. Canada, for instance, began to look into the economic zone claim, realizing the threat posed by the superior technology of the U.S. in Canadian waters. Such reactions as exhibited by Canada could be credited to the Latin American states. It is therefore conclusive that the Latin American states realized the conflict that would arise not only among the poor landlocked or shelflocked states, but also among the landlocked industrial nations whose competitive power in the sea would be handicapped due to their geographical position. The Latin American states' action to endorse strong state control of their coastal waters and endorsing international regimes in the high seas was dedicated to bring about peace among all nations. The Latin American states demonstrated this willingness for peace by redefining their exclusive sovereign claim of two hundred miles to a limit of twelve miles. This demonstrated that Latin American actions at all the previous conferences on the law of

the sea were not motivated by selfish means. Instead it was a response to the new developments at sea which they believed were highly detrimental to their active existence as independent nations. In view of their economic and political dependence on the sea any action or inaction in such areas of the world must respect their interests. This reality of protecting the economic interests in the economic zone became common in many of the proposals to subcommittee two. In the draft article, Canada, India, Kenya, Madagascar, Senegal and Sri Lanka supported the Latin American economic zone theory, by emphasizing the need for either coastal states, international or regional organizations to manage the seas in order to conserve and preserve the living and non-living resources of the economic zone.[154] Australia and Norway's draft articles on the continental shelf also indicated the need to conserve the living and non-living resources of the economic zone.[155] The U.S. draft article to the subcommittee at this time began to reflect the need to protect the extinction of the fisheries of the sea and, therefore, endorsed without specifying the exact limit of territorial sea to be controlled, the coastal state right to exercise jurisdiction over and, thus, control the resources in that area. The economic zone resolution was, therefore, enacted.

In subcommittee three, charged with the duty of finding an acceptable solution to scientific research, the pollution issue became a paramount area of disagreement . The Latin American states strongly stressed the Bioma theory of the Santo Domingo Declaration. To the Latin American states, the need for the coastal states to promote and regulate the conduct of scientific research within the economic zone as well as adopting measures to prevent marine pollution were justifiable. To ensure Latin

American sovereignty over all the resources and activities in this area, they are, of course, preventing the destruction of their ecosystem. The Latin American states reflected strong pollution measures which would guarantee the safety of their interests. The draft articles of Colombia, Mexico, Venezuela, submitted to subcommittee three, indicated that the coastal states would take a measure necessary to prevent marine pollution of the economic zone.[156] Ecuador, Panama, and Peru indicated in draft article 9 that,

> "it shall be the responsibility of the coastal state to establish measures to prevent, reduce or eliminate in its adjacent sea any danger or risks arising from pollution or other effects detrimental or dangerous to the environment, water, health and the recreation of its population."[157]

In lieu of this measure to promote regulative pollution devices, the Latin American states found it necessary to command pollution control within two hundred-miles. They were not willing to sacrifice any lesser distance for such control, though many of the affluent nations openly disagreed with the two hundred-mile Latin American pollution control territory since there had never been an agreed starting point for the international sea. The arrogant attitude showed by the Latin American states with respect to the demand by the affluent nations that Latin American states should reconsider the two hundred-mile pollution control claim to a twelve mile, signified the extent that the situation arising in the sea had struck the Latin American states. As indicated in the early chapters, Latin American experience with pollution in their coasts (notably Mexico and Venezuela), and the extinction of many of their living resources called for firm action to be taken with respect to pollution. The Latin American states overall attitude with respect to the convention was that of an

ambivalent nature. Though very strong in protecting the security of the Latin American states from the hoarding vessels and technology of the affluent nations, the Latin Americans were willing to strike a justifiable outcome of the conference. The nature of the agreement reached between the participatory nations indicated the Latin American states' determination to support the conferences in order to find an equitable solution. The minor disagreement that resulted at the convention which led to the next conferences could not be attributed to the Latin American states since their failure to endorse many proposals or resolutions only indicated that such resolutions would not benefit their interests.

CHAPTER VII

THIRD U.N. CONFERENCE ON LAW OF THE SEA AND LATIN AMERICA

Resolution 2750 (XXVI) of the 1970 conference, Resolution 2881 (XXVI) of December 21, 1971 and Resolution 3029 (XXVII) of December 18, 1972 requested the convocation of a future law of the sea conference with the emphasis on the reports submitted by the committee on the peaceful uses of the seabed and the ocean floor beyond the limits of national jurisdiction.[158] Latin American states present at this meeting were more united in their policy. At the plenary meeting, the Argentinian representative, speaking on behalf of the Latin American nations, mentioned that Latin America had been aware of the wealth of the sea, and deemed it necessary that a solution to the problem of the sea lay in just and equal distribution of such wealth. He continued to indicate the Latin American nations' willingness to cooperate fully for the successful accomplishment of a satisfactory result from this conference.[159] The Latin American states' pledge for cooperation was reflected in their subtle reaction towards the structure and the composition of the elected bodies to the various established committees. The Latin American states agreed easily over their role in the general and drafting committees, which were responsible for reviewing the subject matters undertaken by the previous three subcommittees of the last convention. The Latin Americans further agreed to the formation of a forty-eight member general committee. But in apportioning the seats, the African and Asian

groups had twelve members, Latin American states were given nine member seats, Western Europe was represented by nine members and Eastern Europe had six members. In the drafting committee consisting of twenty-three members, Africa was given six member seats, Asia received six member seats, Latin American states received four member seats and Western Europe and other groups including the U.S.A. received five seats and Eastern Europe, two seats.[160] At this juncture Latin American states drew attention to the unequal distribution of the seats. They charged that this allocation of seats had not been equitably distributed according to geographical distribution. They expressed that the underrepresentation of Latin American states and the developing nations had been a clear indication of the European nations' determination to dominate the political body of the conference regardless of all efforts by the Latin American states to cooperate. The Latin American states demounced this tentative apportionement and wanted it changed before it was officially established. Ms. Flourett, speaking as Argentina's delegate, indicated that, "Latin American states had adopted the decision that no country would occupy more than one of the seats or posts allocated to their group.[161] The Latin American states envisioned the advantage the two-to-one vote margin the affluent nations would have over the developing nations if the dual-representation was allowed to remain. The Brazilian delegate in responding to the affluent nations over-representation indicated that, "Its delegation had always thought that there were only five geographical groups; it had not been aware of the existence of six." The Brazilian delegate continued by elaborating their strong support for the Latin American states' claims that no country should hold more than one

office.[162] In a unified way, the Latin Americans in the plenary session of the conference, made the affluent nations aware of the extent to which they, as a collective regional entity, were ready to go in order to ward off any possible threat that would be used by the affluent nations to further exhibit the dominance of the affluent nations' national interests over that of others. The Latin American states did not hesitate to show a great concern for the success of the conference even though they resisted the manipulation of the developed nations. The Mexican delegate showed the Latin Americans' desire to honestly look for a solution to the sea crisis by proposing that this issue of over-representation by the U.S. and the European groups in the general committee, the main committee, and the drafting committee should be directed to the conference where it could be settled once and for all. The Mexican proposal in actuality wanted the U.S. and the Western European delegations to settle the question of their own representation in the drafting committee.[163] The Latin American states as a whole supported the Mexican proposal allowing the plenary sessions to continue. However, the Latin American states' protests regarding the seating was actually a measure geared towards challenging the rules of procedure which had been established by the affluent European imperialists at the peak of the imperial era. This process of rule making in the modern era was considered by the Latin American states as discriminatory to the interests as perceived by the weaker states. Latin America's challenge was to domonstrate that today's international conferences must be fully represented by all interests and must fully reflect the realities of today's society. Any decision arrived at, according to the Latin American states, must be free from the control

of one dominant group over the weak. The new nations, which constituted the majority in the world body, must be allowed equal representation and equal roles in deciding the fate of humanity. The Venezuelan delegate, Mr. Diaz Gonzales, reflected this attitude by indicating that the conference must begin to employ democratic rules in shaping its policies and must allow states to represent their inalienable right to legal equality. He therefore denounced the principle established at the San Francisco Conference that some states were more equal than others and that the formation of the Security Council, which was dominated by the European nations, was a conspiracy to establish their hegemony over all the nations in the U.N., thus giving them decision-making advantage over the nations who are not Security Council members. In his proposal the Venezuelan delegate expressed the need for a democratic voting process which could be applied in electing officers and setting down rules for the conference rather than adopting the San Francisco principles.[164] The Latin American states, therefore, endorsed as a viable alternative to the previous system of delegating seats, an equitable geographical representation in which the exercising of equal distributive votes would be based on the ration and percentage of representatives, regional groups and states present at this conference. One state, one seat was what the Latin American states were willing to settle for before the conference itself started. Here, again, the Latin American states met with success and their demand received overwhelming support. The general nature, procedures and rules of the conference were based on the one state, one seat principle (gentlemen's agreement).[165]

The election of officers to the various seats of the committees was by acclamation. The chairmanship of the first committee was Mr. Engo of Cameroon. The second committee chairmanship went to Mr. Aguilar of Venezuela. The third committee chairmanship was given to Mr. Yankov of Bulgaria. In the twenty-three member drafting committee, the chairmanship was given to Western Europe and other states (U.S.A.) with Mr. Beesley of Canada receiving a vote of 81 against 54 votes received by Mr. Harry of Australia, to become the chairman of the Western European group.

After the election, the conference was ready to start. The first committee was responsible for investigating the international regime and machinery for the seabed, and subsoil beyond the limits of national jurisdiction. This committee was to establish a working group and a negotiating group to gain consensus in the area to be established as the international sea. The second committee was to embrace all the traditional law, including the problems and issues with regard to the territorial sea, straits, archipelagos, the high seas, the economic zone, living and non-living resources, the continental shelf, and access to the sea. The third committee was concerned with pollution and transfer of technology.

With the activities of the committees inaugurated, the political grouping which had characterized the previous conferences began to surface in this Caracas, Venezuela conference. The political grouping of the Latin American states and that of other states became predominant and pervasive. Among the many obvious groups were the African, the Asian, the Eastern European, the Western European and the Latin American groups. Also visible as interest groups were the bloc groups of the dissatisfied nations com-

prised of more than one hundred nations, but known as the group of Seventy-seven. This group of seventy-seven were overwhelmingly developing nations. The subregional groupings of economic interests, in this case the Arab states, the European Economic community, the COMECON--East European community, and the shelflocked and landlocked nations and coastal states were exerting political pressure within the committees to influence the outcome of the conference and hoping to be able to tilt the accepted resolutions to meet their desired goals. The Latin American states reacted to the politics of the conference by strongly emphasizing harmony and regional representation. They shifted emphasis at this time to settling and accommodating minor differences among themselves in order to create room for a common policy goal with respect to the establishment of an international regime in the deep seas outside national jurisdiction. The central cry of the Latin American states at this conference was dedicated to cooperation in making the conference a more highly productive one than the previous ones.

With respect to the first committee, draft article 9 which has already been discussed in the last chapter, was reintroduced for further consideration and to find an agreeable alternative, if possible, to the four resolutions recommended by the subcommittee. These new alternatives were regarded by the Latin American states as favoring the interests of different groups, therefore, the Latin American states did not hesitate to support alternative B of Article 9, which ruled that, "all activities of scientific research and exploration of the area and exploitation of its resources and other related activities shall be conducted by the authority directly or, if the authority so determines, through services

contracts or in association with persons natural or juridicial.[166] The Latin American states viewed this alternative as the only one which would protect their interests from the greed of the affluent nations and would limit the affluent nations' technology from invading the international sea. On the other hand, the affluent nations overwhelmingly supported alternative A of Article 9, which favored "the single system" of exploitation and exploration of the resources in the international sea, through contracting parties, groups of contracting parties and natural or juridicial persons under the sponsorship of such contracting parties.[167] This alternative, as envisioned by the affluent nations, was intended to make the international sea, also known as "the common heritage of mankind," absolutely independent of any international authority, thus giving them more access and non-interference in their exploration and exploitation of this area. The virtual elimination in alternative A of the effective role of the international regime in partaking in the activities in this area, triggered off most of the reactions from the Latin American states and the poorer nations. The Latin American states refused to support the idea that the only power granted to the international regime in alternative A was that of an administrative and licensing role. Though this role was subjected to rules and regulations as seen fit by the conference, the Latin American states saw the move by the affluent nations as if it were a conspiracy to weaken the position of the international seabed authority, so that the power of the affluent nations would overshadow the international authority. The Latin American states did not see why alternative B could not be adopted since it was the only alternative that contained a multiple system serving all interests.

The handing over of power to an international seabed authority to exercise the primary activities of conducting exploratory expeditions in the area, and also having the power and the ability to contract other natural and juridicial persons to conduct explorations and exploitations in the international waters, the Latin American states saw as a measure that would protect the threatened interests of the nations which depend heavily on their export of mineral resources for development. Mr. Illanes, the Chilean delegate, represented this idea in the following words:

> ...the concept of common heritage would serve as the cornerstone of the international regime and machinery. The importance of the declaration of the principle was both political and legal.... One consequence was that any exploitation of the area must be prohibited until the international regime had been established. Another was that the exploitation of the mineral resources must not harm the interests of the developing nations which were themselves mineral producers and exporters...international machinery with powers adequate to ensure the application of the regime ....The machinery should, therefore, control all economic and related activities in the area and its resources....The essential aim was to ensure that the resources of the sea benefited equitably the whole of mankind.[168]

The reaction of the Latin American states to the article supported by the affluent nations, had demonstrated that the Latin American states were not willing to take this resolution in committee one lightly. To the extent that the fear of the affluent nations dominated the thinking of the Latin American states, no viable agreement to the alternatives in Article 9 could be arrived at. All efforts by the first committee to negotiate a settlement through working groups failed to convince the Latin American states, neither did it convince the other developing nations on

the committee. The affluent nations were themselves not willing to give in to any change of their position. Thus, no alternative settlement was reached by all of the parties.

The overriding factors, which the Latin American states were concerned with at this point of the conference, were the economic, political and social implications of the affluent nations' domination of the mineral resources of the sea. Receiving more information on the domestic danger of such exploitation, after the 1968 seabed convention report was out, the Latin American states became convinced that the economic implications, if the sea were to be dominated by the affluent nations, would become intolerable to their economies. Thus, the collective policy approach, with respect to the conference on the mineral resources of the seas, by the Latin American states was constructed in a manner similar to that at the earlier conferences on fisheries and territorial boundaries. Such action taken by the Latin American states was designed to temporarily protect their interests from the affluent nations whom the Latin American states knew had developed the technology capable of exploiting the resources of the sea to the potential detriment of the prices of the landbase resources upon which the Latin American states depend for their economic development. If this unregulated exploitation by the affluent nations was allowed to carry on, it would in turn weaken the purchasing power of the Latin American states. The fatal result would be not only a fall in purchasing power amidst the constant upsurge in prices of imported goods, but possibly also a complete phase out of the Latin American states' mineral resources which would no longer be needed in the industries of the affluent nations. The Latin American states,

therefore, saw their collective action against the alternative A of Article 9, of the first committee, as the most logical action to take in order to avoid any unforeseen disaster to their economies either now or in the future. The only viable alternative for Latin American states was to support alternative B which called for a central control of the authority responsible for the major exploitation in the international sea. The Latin American states demonstrated firmly their strong subscription to the rule of equity, in that whatever the outcome of the exploitation of the resources of the international sea, a central authority with control of all facets of this area, would mean a greater security for the Latin American states. Any economic loss to the Latin American states due to the exploitation of the resources in the sea by the central organ established by the U.N. would be replaced by the dividend which the central organ would appropriate to all nations according to their economic needs. Thus, the Latin American states had shown clearly their support for the exploitation of the international ocean only if it was going to be carried on for the interests of all nations and not only for the interests of the few nations who possessed the means of exploiting the sea. Until a greater consensus had been reached on the question of what means should be used in the exploitation of the international sea, Latin American states would continue to demonstrate the strong policy stand which had been characteristic of their position in the committee on the peaceful uses of the seabed and the ocean floor beyond the limits of national jurisdiction.

In committee two, the Latin American states' defense of their two hundred-mile economic zone claim was very persuasive. Adhering to the

rigidity of the Santo Domingo Declaration on the economic zone, the Latin American states feverishly defended their various claims of the twelve to two hundred miles solely for security measures and, were unwilling to refrain from pressing these claims. They unanimously endorsed the creation of an international maritime zone in which the coastal states would play a role in exercising and implementing the rules established for such a zone. When the question of the control of the continental shelf and the type of activities to be undertaken in this area was raised, the Latin American states, in their usual defense of the continental shelf, indicated as they had in the past conferences, that they would exercise exclusive control over their continental shelf, and would never allow the construction, maintenance of any operation by any country on their continental shelves. In taking such a stand, the Latin American states indicated their unwillingness to accept any military installations or any other installations by any country on their continental shelf. Such a policy, if adopted by the U.N. conference, the Latin American states were certain would impede the vessels of the affluent nations from infiltrating their continental shelf area for the covert purpose of exploitive activities. All the proposals of the respective Latin American states in committee two reflected control of the continental shelf. Peru, Brazil, El Salvador, Panama and Uruguay expressed sovereign claim over their coastal waters to a distance of two hundred miles, and exercise in this area of their sole authority. However, the sort of authority to be exercised in this area over which they had rights differed considerably. El Salvador indicated in her working papers and proposal that she would recognize only innocent passage in the two

hundred-mile limit. Uruguay conceded to the "plurality of regime" in her two hundred-mile limit, but claimed the zone as exclusive area for her nationals and authorized foreign vessels to fish in the second one hundred miles. Ecuador, Panama and Peru, on the other hand, declared their two hundred-mile limit as sovereign area, but they indicated that they would not deter exploration and scientific research if it were conducted jointly with the coastal state or independently with the knowledge and consent of the coastal state.[169]

A majority of the members of the conference showed considerable favor towards the Latin American states' claim over the patrimonial sea. Of the one hundred and fifty-eight member nations present at the conference, one hundred nations accepted control over the continental shelf, some even accepted the three hundred-mile limit as the zone to which their authority extended. Why, then, did some of the Latin American states still use the word "sovereignty" to represent the two hundred-mile claim of their economic zone? Peru, Ecuador, Panama and Brazil refused to use any other term to represent their claim of the two hundred-mile limit. Their refusal to change the term was predicated on the fact that the problems facing the sea were not as yet resolved. Thus, it was their intention to continuously use "sovereignty" to refer to their two hundred-mile limit claim in order to demonstrate to the affluent nations their desire to continue to protect what they deemed to be very vital and important a matter at this time. The experiences encountered by the Latin American states, as a result of the extinction of their whales, anchovy and other sea life by foreign vessels, coupled with the inability to reach an agreement at the international level were the prime reasons for the Latin

American states' strong defense of this sovereignty. The Latin American states' constant exhibition of radical policies and their deliberate and systematic approach towards the present cirsis of the sea was justified, in that it was evident that in claiming exclusive right of the two hundred-mile limit, Latin American states had been able to secure the right to supervise all scientific research and to endorse all activities in such areas. The protection of the two hundred-mile claim of the Latin Americans was deemed very important. This was indicated by Mr. Valencia Rodriguez, the Ecuadorian delegate, in the following words...

> Ecuador was firmly opposed to any claim that would infringe its rights over all the species in its two hundred-mile territorial sea, nor could it accept that the basis for the organization of the fisheries regime should be the so-called division of species whereby some would be termed 'international' simply because of their migratory habits..., while these fishes could be called international, they should be regarded as local and under the control of the coastal jurisdiction for the purpose of conservation and utilization by such coastal states.[170]

When the draft article of the committee declared that it was the global obligation of nations to prevent pollution in the sea, the Latin American states were relieved. The Ecuadorian delegate, responding to the measures adopted by the committee, indicated that such action would help in preserving the national interest and the international interest that would be at stake if pollution is allowed to destroy life in the sea. He stressed the significance of the Latin American states' claim to the two hundred-mile limit as a means of preserving their marine life. Thus, the Latin American states accepted fully the establishment of national and regional bodies to coordinate activities in preserving the regional waters,

in conjunction with the international organ, which would be established to protect and preserve the high seas.

It must be realized that in supporting pollution control devices for the seas, the Latin American states did not hesitate to point out the degree to which these laws affected the developing nations the most. They noted that if such laws were evenly applied, it would restrain the developing nations' newly acquired technology. This would be a handicap to the developing nations since it would prevent them from gaining ground on the domination achieved by the technology of the developed nations in the sea long before the pollution laws came into effect. Mr. Barra, the Caribbean delegate, emphasized the discriminatory nature of the law. He contended that if such laws were made it would hurt the poorer nations most. He stressed that separate laws should apply to both the developing and the developed nations. His reasoning was that since the ships of the developed nations were responsible for the present pollution in the sea, they should be subjected to stronger rules. Since the ships of the developing nations did not contribute to the present pollution, Mr. Barra concluded that, the developing nations should not be subjected to the same laws as the developed nations. The Cuban delegate reflected the same views as that of the Chilean delegate and even went beyond to attribute pollution of the international waters and the national waters to the developed nations. Mr. Hernandez de Armas, pointed out that...

> ...the current situation was the outcome of the unfettered development of capitalistic industrial society...the pollution of the sea was caused by the installations of the trans-national corporations of the imperialists in the waters of the developing nations.[171]

The common belief among the Latin American states was that the pollution of the sea was the sole act of the developed nations and they alone should be burdened with the restrictions which the U.N. was going to implement

The controversy that characterized the issue of pollution and the lack of agreement in the committee led to the adjournment of the pollution issue to another conference where the differences would be negotiated.

This thesis, so far, has shown that the pattern of the Latin American states' behavior in the law of the sea conferences demonstrated that Article 2 of the 1958 Geneva convention on the four freedoms of the sea was too unrestrictive. This freedom, which opened the international sea for unrestricted activities could not meet today's realities. At a time when the sea has become a great economic asset, the scientific and technological advantage enjoyed by the developed nations in the sea was enough cause for anxiety to a number of countries with long coastlines, but limited means of obtaining information and inability to develop the technology to exploit their wealth in the sea. Latin American states fitted into the group of anxiety-prone nations and will continue there until an agreeable solution on the sea issue has been reached. Mr. Escallón Villa, the Colombian delegate, indicated this attitude by saying that since information was hardly available for the poor coastal states as to the wealth in their sea, it is their duty to have the right to regulate and control all activities in their territorial sea, patrimonial sea, or the economic zone and their continental shelf. This action he exemplified as a measure by the poor coastal states to partake in any research conducted in their waters with the motive of receiving the benefits from such research for the sake of their people in particular and the international community as a whole.[172]

CHAPTER VIII

LATIN AMERICAN CONTRIBUTIONS TO THE SEA CONFERENCE

Whether or not the Truman Declarations were the catalyst for the Latin American states' challenge to the traditional laws of the sea, there is no question that the declarations generated in Latin America the awareness of the great resources in the ocean. This contributed to their governments' determination to question the ancient laws of the seas which were established by the international community of predominantly white nations. The continent of Latin America began, from that point on, to challenge the traditional laws which they considered obsolete, establishing and extending their territorial waters to areas beyond the reach of the established three-mile limit. This new extension was considered by them to be their economic zone, or patrimonial sea, or epicontinental sea. The limit of the new territorial claim extended from twelve to two hundred miles with exclusive sovereign control over all activities in this area. The announcement of such claims were made in Presidential decrees and declarations similar to the Truman decree. These declarations then became the national law of the Latin American nations. The exercise of aboslute power in these areas of extended territorial waters was reinforced by the seizure of foreign ships, mostly of the affluent nations, for refusing to respect Latin American national law with respect to their territorial waters. The critical nature of the confusion over the issue of the sea led to the U.N. conference on law of the sea to find a viable modern solution to modern problems of the sea.

With the opening of the U.N. conference the Latin American nations did not hesitate to represent in their proposals their intention to extend the sea territory beyond the three-mile limit. They viewed this area of extension, the maritime zone, as their economic zone. Though at the initial stages of their utilization of the term "economic zone," considerable support was not shown for their concept, the term soon received recognition by the world nations. Maritime and economic zones became accepted terms in the U.N. and were inserted into the U.N. documents. After recognition and strong debate over the legality of the Latin American states' economic zone claim, most of the world nations began to accept the economic significance of the wider claims of the sea, and, therefore, began to extend their own claim into this economic zone area. Another contribution of the Latin American states, in the law of the sea conferences, was their application and usage of the term "adjacent sea". The originality of this term was contained in the proposal of Ecuador, Panama and Peru. This proposal explicitly declared that "the sovereignty of the coastal state and consequently, the exercise of its jurisdiction, shall extend to the sea adjacent to its coast."[173] The usage of the phrase "adjacent sea" by these Latin American states showed the extent to which their authority would be exercised in areas of their coastal waters, a distance not exceeding two hundred nautical miles. Such a phrase was adopted by the U.N. conference on law of the sea in support of the Latin American states' premise that there is always a geographical, economic and social relationship between the sea, the land and man. Therefore, man has a lawful priority to protect whatever sustains his life and that of the environment in which he lives. Although the U.N. organ did not

concede wholeheartedly to the "Bioma Theory (as the Latin Americans did), it realized the effects and consequences that pollution, exploitation and colonization of the adjacent sea by the affluent nations, would have on the lives of the poorer nations, who depended mainly on the maritime resources for their development and foreign exchange. The acceptance and endorsement by the U.N. of the principle of the right to adjacent sea recognized and gave considerable leverage to the Latin American states' demand for coastal states to have the right to conserve, explore, and exploit her territorial waters without interference from foreign nations. The greatest contribution that the Latin American states have made to the law of the sea conferences could be their revelation to the rest of the developing nations that the traditional law of the sea represented solely the interests of the Europeans. By using rational agreements, the Latin American states impressed upon the rest of the developing nations the need to organize themselves into a political bloc in order to weaken and break up the solidarity of the affluent nations. The alacrity with which the poorer nations organized into a bloc and extended their territorial waters to the two hundred mile or more economic zone demonstrated the effectiveness with which Latin America was able to meet the affluent nations. The Latin American states were able to bring the developing nations into supporting realistic rather than rhetorical proposals. The fatal blow struck to the three and the twelve miles rule, respectively, signified greater amalgamation among the poorer nations. They endorsed the expansion of the territorial sea, requested international juridicial organization over the sea, and demanded harsh pollution abatement laws against the affluent nations. The Latin American states, therefore, have through their count-

less efforts in reacting to their national interests revealed to the entire international community that laws should be made to reflect all interests and not only those of powerful nations. The Latin American states believed that such a step would open the door for greater sacrifice of national interests to be replaced by enlightened interest of all the nations present at the conference. The Latin American states were the first to demonstrate the will to sacrifice some of their own interests in order to encourage other nations to follow suit. Their strong insistence on the word cooperation in their proposals and their willingness to reverse their sovereign claims from the two hundred-mile limit to the twelve-mile limit was proof that the Latin American states did represent the greater interests of large numbers of nations rather than representing their national or regional interests. The attitude of arrogance sometimes shown by the Latin American states and the then developing nations was a strategy initiated by the Latin American states in order to emphasize hostility to any resolution detrimental to their national interests. The greater fusion which characterized the developing nations voting patterns against the developed nations, and the homogeneity that characterized the European nations voting behavior in opposition to the strong voting homogeneity of the developing nations proved that the conference had not then arrived at a concept of the collective interests of all states.

The resolution, which called for the commencement of the 1975 conference, was designed to accommodate the major differences that still existed from the previous conference.

THE DIFFERENCES IN LATIN AMERICAN STATES' POLICIES

The differences which appeared in the Latin American states' policies and proposals at the three conferences on the international law of the sea, 1958, 1960, and 1974, could be traced back as far as the 1800's when the regional state of belligerence was evident in Latin America. The Inter-American states conference held in 1826 was intended to solve problems of belligerency in the area. Not until 1945 when the Truman declaration appeared were efforts made by them to redirect Latin American states' fear to the external threat imposed by the U.S. The national laws with respect to the Latin American states' claims to the sea varied considerably. As Table I indicated, the period from 1930-1940 showed divergence in the claims of all the states. The purpose of such divergent claims was to protect domestic tariffs, customs, and fishing, as well as security which was then threatened by other powerful Latin American states.

When the U.S. evolved from her long era of isolationism to assume dominance in international politics, the state of belligerency, which for many years existed in Latin America, was negated by the close relationship which the U.S. developed with her neighbors (Monroe Doctrine). Friendly ties with the Latin American republics put the U.S. into a paternalistic role in finding a solution to the warring situation that had long existed in Latin America. This led the Latin Americans into stronger economic, trade, and security ties with the U.S. until the emergence of the Truman Proclamation in 1945. The proclamation necessitated the Latin American states to call for a review of what their relationship with the U.S. should be. The Truman Proclamation triggered a series of conferences

from which the Santiago Declaration of 1952, discussed in this thesis, was of significant importance in shaping the Latin American states' initial collective approach to the modern sea crisis. The Santiago Conference called, for the first time, for the unification of Latin American policies favorable to the regional interests. The openess of the declaration with respect to what limits would be claimed by the Latin American states was one of the major reasons why most of the Latin American states did not claim a two hundred-mile limit at the 1958 and 1960 law of the sea conferences. The Santiago Declaration left the option of the territorial limit choice to the discretion of each individual state. The openness of the declaration also made it possible for the affluent nations to influence the moderate Latin American states to rescind the two hundred-mile claim. By the 1970 convention on the law of the sea, it had become eminent that the "Bioma Theory", which emerged at the Santiago Conference, had gained unanimous support, not only among the poor nations, but among the technologically lesser developed affluent nations. They held the "economic zone theory" as logical and protective against the technological advantage enjoyed by the better advanced technology of the most affluent nations. The extension of the territorial claims of the lesser developed affluent nations into the two hundred-mile limit also encouraged the bloc of Latin American states to claim a two hundred-mile economic zone limit and a nine to twelve-mile territorial sea with absolute sovereignty and juridicial control of these limits.

It could be concluded, therefore, that the conformity in Latin American states' policies, as noted at the 1970 convention and the 1974 conference, could be attributed not only to the economic crisis which

had been felt in the whole of Latin America or which will be felt in the future is the affluent nations are allowed access to the deep sea, but also could be attributed to the degree with which the developing nations and some of the affluent nations overwhelmingly supported the Latin American call for protection of the seas from the greed of the affluent nations. The general favor which greeted these Latin American states' resolutions at the 1970 convention and the 1974 conference acted as a moral boost for all Latin American nations to further develop a more homogeneous policy approach for all future conferences. By the end of the 1974 conference, the Latin American states had emerged as a regional entity with policies which favored absolute protection of the entire international sea from all forces.

CHAPTER IX

CONCLUSION

The likelihood of failure to arrive at a universally acceptable conclusion to the 1975 conference was great. The emergence of strong political groupings with highly visible activities by both the advanced and developing nations to dominate the outcome of the conference raises a sharp question as to whether these blocs will continue to function at forthcoming conferences. Such bloc formations and deliberations within the blocs produced devastating blows to the advanced nations who have the technology to be used in the ocean for the benefit of all. In an era of shortage of resources and the existing energy crisis, it would be highly advisable for the affluent nations to try and strike a middle of the road bargain which would allow them immediate access into the ocean for the purpose of utilizing their technology for the benefit of all. Since they possess the technical knowledge to operate such instruments, the operation cost alone could bring them more profits which would offset the total dividend distributed from the exploitation of the ocean to all nations according to their needs. The affluent nations should realize that the cost of providing the technology needed to invade the sea cannot be overlooked by the international organ selected to exercise control in the international sea. The payment of the cost of the technological instruments could also add, as another profit, to the affluent nations when all these operation and construction costs are subtracted from the general

profit accrued from the sea. The rest of the dividend, when divided, would give the affluent nations nations greater monetary advantage over the developing nations. This alternative would help free the high seas from exploitation and balance the shortages which face us today. But instead, the affluent nations have steadfastly held to their demands. At the North American Lawyers Convention held on August 10, 1975 in Canada to review present international law of the sea, the U.S. Secretary of State, Dr. Henry Kissinger, responded to the threatening claims of the developing nations in the sea, and stated that if the present conference (started April 1975) could not offer any decisions on the sea crisis, the U.S. would start to exploit the resources without regard to the U.N. Charter which forbids all activities in the ocean. If such a statement is taken seriously, it would mean that the already tense situation on the sea would be escalated beyond its present point.

It should be noted that the Latin American states' reaction to the traditional law has been motivated by the fear of the U.S., Japan and Russia's domination of their waters; similarly, if the United States once again began to invade the international waters to exploit the mineral resources there, it will create new anxiety in the Latin American states, forcing them to react more severely. The results could produce a more serious situation than before. Not only would the Latin American nations extend their sovereign limit beyond the two hundred miles, but they would be forced to exercise strict military duties in their new territory which would obviously lead them into open confrontation with the U.S. vessels or military ships which would be released to escort the vessels. The subsequent result of such confrontation is highly predictable. Latin

America, known for its high degree of instability and revolutionary fervor, would be forced to take a negative approach to their relationship with the United States which has enjoyed over two hundred years of good neighbor policies. The radical elements and the revolutionary elements, already a menace to the relationship which Latin America has with the United States, would be forced to strike back at their national government with the motive of overthrowing the systems in Latin America favorable to the U.S. government. Russia would not hesitate to take advantage of such an opportune situation, since the ideological beliefs of the revolutionary and the radical elements lean towards the Russians. To avoid such a situation from occurring in Latin America, the U.S. must rather influence and negotiate with the Latin Americans on their (Latin American) policy positions. It is necessary for the U.S. to guarantee to the Latin American states that their interests will be recognized. Major reductions in the many differences that have characterized the previous conferences is necessary before any concrete solution to the sea crisis can be reached. The affluent nations must be willing to recognize the needs and the demands of the Latin American states. An understanding of the basis of Latin American anxieties, as well as those of the other developing nations, would help the affluent nations to cope realistically with the demands. The Latin American nations have a legitimate reason to protect the sea until they have been guaranteed that their economic interests and needs would be favorably met from its exploitation. If this is understood by the affluent nations and reflected in the present conference or the coming conference (1975), then, on the other hand, the Latin American states

and other Third World nations could begin to give realistic consideration to the new proposals of the affluent nations. This means that the political maneuvering, which had dominated the proposals of the affluent nations, must be guided by a genuine application of nonpolitical and humanitarian proposals. The overall interests of Latin America and the Third World nations have been economic, This, however, constitutes only one area of the complexity of interests the affluent nations have in the ocean. If the affluent nations would accede to some of the wishes of the Latin American states, they (the affluent nations) would open the opportunity to obtain approval of their intended activities in the sea which are of no interest to the Latin American states. In my opinion, the protections the Latin American states have requested are not outrageous enough to warrant refusal by the affluent nations. Compromise on the sea can only be achieved at great sacrifice of the national interests. The Latin American awareness of the economic realities of the sea is a condition the affluent nations must accept and recognize that national interests may have to give way to be replaced by the general interests of all. It is very difficult to see Latin American states succumbing to any decision that will limit their effective participation in the sea exploitation. The affluent nations, therefore, must accommodate the interests of the Latin American states or else the Latin Americans will continue to perceive threat from the affluent nations. The Latin American nations will continue to protect the fish which still sustain their life and economic well being. Inasmuch as the resources discovered in the ocean and subsoil are viewed as detrimental and pose threats to their economies, the Latin American states will not relax on the sea issue until

the outcome of the conferences ensures control of the problems envisioned by the Latin American nations. I hope the 1975 conference will address itself to these fears demonstrated by the Latin American states.

SUMMARY OF LATIN AMERICAN STATES' POLICY FORMATION

1826-1902

Latin American republics' policy formation on the sea was based solely on internal and regional threats from other Latin American states who possessed strong naval and fishing power and were able to establish dominance over the rest of the weaker Latin American states.

British influence was felt at this period in the waters of Latin America but not to a considerable degree.

1902-1930

The U.S. defeat of Spain in the Gulf of Mexico and the Caribbean. This development heightened the Latin American states' fear and, therefore, readjusted individual states' claims to within the three-mile limit to protect the traditional three-mile limit.

By 1930, the Latin American states exhibited some consensus and determination to include the contigious zone into the national territory. This was noticed in the League of Nations' Conference. But the state of belligerence which existed in the area and the closeness of the U.S., which at that time had developed strong maritime power to protect Latin American states, diffused the Latin American states' claim. Policy information of the Latin American states was based on individual nations' priority.

1939-1945

The period of emergence of unity of policies. The Panama Conference was held to consider World War II and the question of security in Latin American waters. The three-mile rule and the future security from war was put to the foreign ministers present. There was general agreement to extend the limit of the territorial sea; but only bilateral agreement was reached between Latin American states and the U.S.

1945

Advent of the Truman Declaration. Greater unity began to surface as Latin America felt threatened by the U.S. declaration which they envisioned as a deliberate action which would force foreign vessels into Latin American waters. Also, the economic significance of the Truman Declaration began to occupy the thinking of the Latin American states.

1950-1958

In 1950, the Organization of American States undertook to study the economic and juridicial significance of the sea. At the Inter-American Council of Jurists Conference, the Latin American states' policy on the sea began to show a pattern. Jurists at the conference began making accommodation for the right of states to protect their soil, subsoil, continental shelf of the sea, and the air space of their region.

1952

Santiago Conference. At this conference, the Latin American states unilaterally adopted unification of fishing regulations, unifica-

tion of whaling regulations, unification of scientific study, and unification of coordinate measures to control extinction of fishing resources. They unanimously endorsed the extension of the territorial limit to the two hundred-mile limit.

1953

In this year, the Inter-American Council of Jurists Conference was once again convened. All the jurists again endorsed the two hundred-mile limit. The only exceptions came from Brazil, Colombia and the U.S.

1956

The Mexican Conference was held in Cuidad Trujillo, at which the council unanimously declared the right and responsibility of states to establish the two hundred-mile claim. Brazil and Colombia, at this point, showed support for the declaration and their opposition withered.

1958

The Geneva Conference on law of the sea was convened. The failure of the conference to reach an acceptable solution, and the failure of the Latin American states to reach a uniform policy called their attention to reorganize their strategy. They formed the Southern Pacific Alliance which was to stike a final blow to the three-mile rule.

1960-1974

The Latin American states' alliance was not that effective. This was tested in the 1960 conference. The joint Canadian-U.S. proposal was

the testing proposal for the Latin American unity. The United States took the initiative to call a meeting with the Latin Americans in order to win their support for the new Canada-U.S. proposal which called for recognition of the twelve-mile limit. Immediately, many Latin American states showed support for the Canada-U.S. proposal (Argentina, Cuba, Guatemala, El Salvador, Chile and Ecuador). Those who showed disfavor for the proposal included Panama and Venezuela.

1970

By this time the differences which had been prevalent in the policies of the Latin American states had been replaced with a more dynamic policy. This was, in fact, due to the rest of the developing nations' awareness of the wealth of the ocean, and willingness to support Latin American proposals which the developing nations saw as representing their economic interests. Similarly, the developed nations had began to show signs of awareness in their efforts to repress the claims of the developing nations. Instead, some of the affluent nations began to adopt the economic zone theory of the Latin American states.

1974

At this law of the sea conference, the Latin American nations had gained a strong momentum in their proposals. They enjoyed considerable support from almost all the poorer nations at the conference. The Latin American nations had achieved a greater unity in policy proposals in this conference than they had ever had.

FOOTNOTES

[1]Robert L. Friedheim, "The Satisfied and Dissatisfied States Negotiate International Law," World Politics, October, 1965, p. 20.

[2]Thomas Hovet, Jr., Bloc Politics in the United Nations (Cambridge: Harvard University Press, 1960), p. 31.

[3]Ibid., p. 123.

[4]Seyourn Brown, New Forces in World Politics (New York: Brookings Institute, 1974), p. 94.

[5]Wolfgang Friedmann, The Future of the Oceans (New York: George Brazibler, Inc., 1971), p. 3

[6]Ibid., pp. 3-4. Mare Liberum (open sea). This called for an open sea or freedom of the sea for all sorts of maritime purposes by all nations. It was believed that the dominant maritime interest of Hugo Grotius' country--Holland, was the prime reason for advocating of open sea to allow Dutch ships to reach their colonies and to protect their commercial interest. Mare Clausum (closed sea). This concept was a response to the open sea theory. John Selden, an Englishman, was familiar with the work of Hugo Grotius, and therefore, propounded on this closed sea theory to reflect mostly the interest of his country, which lacked such naval power as the Dutch had in the sea. When the naval power in the sea changed hands to Britain, she upheld the open sea doctrine, which gave her the advantage of reaching her colonies and commercial areas quickly. From then on Britain became the champion of freedom of the seas.

[7]Ibid., pp. 3-4. The twelve-mile contiguous zone originated technological advancement modified the destructive capabilities of naval vessels. The three-mile rule (cannon rule) became threatened and further development in the area of fishing vessels became noticeable. The disadvantaged nations began to press for new distances to claim in the sea. The twelve-mile contiguous zone rule was then established.

[8]Lewis Alexander, The Law of the Sea, Offshore Boundaries and Zones (Athens: Ohio University Press, 1967), pp. 133-144.

[9]Op. cit., Friedheim, p. 23.

[10]United Nations, Third U.N. Conference on Law of the Sea: Official Records, Plenary Meeting and General Committee (Caracas, 20 June-29 August, 1974), Vol. II(New York: U.N. Pub., 1975), p. 299.

[11]John Houston, Latin America in the United Nations, Carnegie Endowment Fund for International Peace, U.N. (New York: Marstin Press, Inc., 1956), p. 2

[12]Ibid., Foreword.

[13]Ibid., p. 9.

[14]Henry G. Crocker, ed., The Extent of the Marginal Sea; A Collection of Official Documents and Views of Representative Publicists (U.S., Department of State, Washington, D. C.: Government Printing Office, 1919), p. 512.

[15]United Nations, "Second Report on Regime of the Territorial Seas," United Nations Yearbook of International Commission (1953), (New York: U.N. Pub., 1953), p. 60. United Nations, Laws and Regulations on the High Seas, "Ecuadorian Civil Code of Nov. 21, 1857," Article 582, p. 61; "El Salvadorian Civil Code of 1860," Article 574, p. 71; "Argentina Civil Code of Sept. 29, 1869," Article 2340, p. 51; "Honduras Civil Code of 1880," Article 671, p. 80; Vol I (New York: U.N. Pub., 1957).

[16]Inter-American Institute of Legal Studies, The Inter-American System" (Washington, D. C.: Government Printing Office, 1889), p. XIX.

[17]Op. cit., Crocker, pp. 680-681.

[18]James Brown Scott, ed., The Report of the Hague Conferences of 1889 and 1907 (Oxford: The Claredon Press, 1917), p. 664.

[19]The word "third world" was coined in the 1950's and, therefore, these mostly Asiatic, African, and Arabic nations, represented for the first time in the world body, wanted equal participation in deciding the fate of mankind.

[20]League of Nations Doc. C.73 M.38, 1929 (Hague: League of Nations, 1929), pp. 28-29.

[21]Ibid., pp. 253-257.

[22]United Nations, Laws and Regulation on the Regime of the High Seas, 2 Vols. and Suppl. Doc. No. ST/LEG/SER B/1, 1951 (New York: U.N. Pub., 1951). Ibid., United Nations, Laws and Regulation on the Regime of the High Seas, Doc. No. ST/LEG/SER B/2, 1952 (New York: U.N. Pub., 1952.

[23]Pan American Union Congress and Conference Series No. 29, Report on the Meeting of the Ministers of Foreign Affairs of the American Republics, Panama (Washington, D. C.: Pan American Union, 1939), p. 19.

[24] Ibid., p. 19. United Nations, Laws and Regulation on the Regime of the High Seas, Doc. No. ST/LEG.SER B/8, 1959 (New York: U.N. Pub., 1959), p. 145.

[25] Ibid., p. 146.

[26] United States, Department of the Navy, Office of the Chief of Naval Operations, The Law of Naval Welfare (Washington, D. C.: Government Printing Office, 1955), p. B-3.

[27] U.S., Congress, H.R. 8344, Nov. 15, 1937, Supplanting H.R. 7552 of June 17, 1937 (Washington, D. C.: Government Printing Office, 1937), p. 130. Phillip C. Jessap, "The Pacific Coast Fisheries," American Journal of International Law, VXXXIII, Jan., 1939, pp. 129-139.

[28] Ibid., Jessap, p. 129.

[29] United Nations, Laws and Regulation on the Regime of the High Seas, 2 Vols., and Suppl. Doc. No. ST/LEG/SER B/1, 1951, ST/LEG/SER B/2, 1952, ST/LEG/SER B/6 (New York: U.N. Pub., 1959), pp. 114-115.

[30] Ibid., p. 41.

[31] U.S., Doc. Proclamation No. 2667, Policy of the U.S. with Respect to the Natural Resources of the Subsoil and Seabed of the Continental Shelf, Sept. 28, 1945, 10 Federal Reg. 12303, 3CFR 1943-1948 (Washington, D. C.: Government Printing Office, 1945), p. 67

[32] Ibid., p. 756-757. Marjorie M. Whiteman, Digest of International Law, 15 Vols. (Washington, D. C.: Government Printing Office, 1946), p. 946.

[33] Ibid.

[34] Ibid.

[35] Ibid.

[36] United Nations Document, Laws and Regulation on the High Seas, Vol. 116, No. 10,542 (New York: U.N. Pub. 3rd Oct., 1945), p. 31.

[37] Ibid., 1-17.

[38] Ibid., p. 13.

[39] Ibid., p. 4-5, "Decree No. 14,708, Concerning National Sovereignty over Epicontinental Sea and the Argentine Continental Shelf.

[40] Inter-American Juridicial Committee, Draft Convention on Territorial Waters and Related Questions (Washington, D. C.: Government Printing Office, 1952), pp. 10-19.

[41] Ibid., pp. 10-15.

[42] Ibid., pp. 10-19.

[43] United Nations Document, Laws and Regulations on the Territorial Seas (New York: U.N. Pub., 1948), p. 61.

[44] Ibid., 1950, p. 14.

[45] Ibid.

[46] Op. cit., Inter-American Juridicial Committee, Draft Convention On Territorial Waters and Related Questions, pp. 10-19.

[47] Garcia F. V. Amandor, The Exploitation and Conservation of the Resources of the Sea: A Study of Contemporary International Law (Leyden, Netherlands: A. W. Sythoff, 1963), pp. 74-76.

[48] The East Coast's claim to a two hundred-mile limit was in response to the study which revealed that in some areas fish ahd been known to migrate beyond the two hundred miles.

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[70]Teresa H. T. Flouret, La Doctrina de la Plata Forma Submaria (Madrid Artes Garcia Arges, 1952), pp. 63.-64. (Translated Version)

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[80]United Nations Doc., Law and Regulation on the Regime of the Territorial Sea (New York: U.N. Pub., 1948), pp. 56-57.

[81]Ibid.

[82]Lewis A. Alexander, The Law of the Seas: Offshore Boundaries and Zones (Athens: Ohio University Press, 1967), pp. 133-144.

[83]Op. cit., Laws and Regulations on the Territorial Seas, 1948, p. 14.

[84]Ibid.

[85]Ibid.

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[87]Ibid., p. 26.

[88]United Nations Doc., U.N. Conference on the Law of the Sea, "U.S. Proposal," Vol. III (New York: U.N. Pub., 1958), p. 249.

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APPENDIX

TABLE XVI

THE EFFECT OF OCEAN RESOURCES EXPLOITATION ON THE LATIN AMERICAN LAND REOURCES

Product and Country	1960	1965	1966	1967	1968	1969	1970
				Thousands of Tons			
CARBON/COAL							
Argentina	271.2	373.8[b]	356.5[b]	410.8[b]	472.3[b]	521.9[b]	615.4
Brazil	2330.1	3137.2	3665.7	4338.8	4827.6	5127.4	-----
Colombia	2600.0	3072.0	2500.0	3100.0	3000.0	-----	-----
Chile[c]	1365.0	1629.0	1542.0[d]	1397.0[d]	1475.0	1558.0	1382.4
Peru[e]	162.2	128.9	150.1	166.8	160.6	161.8	165.0
Venezuela	35.3	29.9	34.2	34.5	30.8	31.7	39.0
Mexico	1771.0	2005.7	2101.2	84.7	152.5	161.8	188.1
Total	8534.8	10376.5	10349.7	9532.6	10118.8	-----	-----

[a]Exports
[b]Net Production
[c]Including heavy and light coal
[d]Excluding the production of the Magallanes province for want of data
[e]Volume of of ore before any kind of processing

Product and Country	1960	1965	1966	1967	1968	1969	1970
				Thousands of m^3			
CRUDE PETROLEUM							
Argentina	10152.9	15624.7	16655.5	18231.6	19951.1	20681.3	22798.4
Bolivia	568.2	533.7	967.4	2039.5	2383.8	2349.3	1407.6
Brazil	4708.5	5460.3	6748.9	8508.8	9510.0	10072.2	9530.5
Colombia	8865.8	11637.6	11432.3	11035.1	10106.2	12284.4	12725.5
Chile	1149.6	2019.8	1976.0	1966.5	2177.4	2122.4	1976.5
Ecuador	438.3	453.1	411.8	349.4	280.1	249.1	229.6
Peru	3061.2	3667.1	3660.6	4110.4	4301.1	4173.3	4228.6
Venezuela	165613.4	201533.0	195628.5	205511.2	209758.7	208565.0	215177.0

Con't.

Con't.

Product and Country	1960	1965	1966	1967	1968	1969	1970
Cuba	25.0	29.0	50.0*	135.0	61.0*	58.0	-----
Mexico	17293.0	21008.0	21466.0	23835.0	25514.0	26769.0	29235.0
Subtotal	211875.9	261966.3	258997.0	276032.5	284042.4	287324.0	-----
Trinidad-Tabago	6739.0	7773.3	8688.4	10340.4	10644.0	9136.7	-----
Total	218614.9	269739.6	267685.4	286372.9	294686.4	296460.7	-----

Product and Country	1960	1965	1966	1967	1968	1969	1970
			Thousands of Tons				
MANGANESE							
Argentina	13.8	9.3	7.7	11.6	9.3	10.9	-----
Brazil	438.3	614.3	640.2	597.7	922.5	-----	-----
Chile	19.8	7.8	8.4	6.6	10.5	9.9	11.7
Peru	0.7	0.4	0.4	0.5	2.7	4.5	0.6
Cuba	8.2[a]	34.4[b]	31.0*	26.7	-----	-----	-----
Mexico	71.9	58.8	31.1	30.8	26.7	60.1	98.6
Subtotal	552.7	725.0	718.8	673.9	-----	-----	-----
Gyana	49.9	65.0	64.0	63.5	38.4	-----	-----
Total	602.6	790.0	782.8	737.4	-----	-----	-----

[a]United States imports
[b]Estimated export
[c]Exports

Con't.

Con't.

Product and Country	1960	1965	1966	1967	1968	1969	1970
				Thousands of Tons			
COPPER							
Argentina	0.6	0.5	0.3	0.4	0.4	0.5	-----
Bolivia[a]	2.3	4.7	5.7	6.3	6.9	8.0	8.9
Brazil	2.1	3.8	3.6	3.6	4.9	-----	-----
Chile	536.4	585.3	636.7	660.2	658.2	688.1	700.2
Ecuador	0.2	0.2	0.4	0.8	1.1	-----	-----
Peru[b]	184.0	180.3	200.0	192.7	212.5	198.8	212.0
Cuba*	11.8	6.0	5.4	6.3	6.8	7.2	7.2
Haiti	0.9	4.0	2.8	2.3	1.6	-----	-----
Mexico	60.3	69.2	74.4	56.0	61.1	66.2	60.8
Nicaragua	4.9	10.2	9.9	9.3	11.7	-----	-----
Total	803.5	864.2	939.2	937.9	965.2	-----	-----

[a]Exports
[b]Recoverable metal content
[c]United States imports

Product and Country	1960	1965	1966	1967	1968	1969	1970
				Tons			
NICKLE							
Brazil	95.0	1127.0	1135.0	1184.0	1287.0	-----	-----
Colombia	0.9	0.3	0.5	0.4	0.5	-----	-----
Cuba[b]	11382.4	18325.0	15875.6	23586.7	34019.2	35198.3	36287.2
Mexico	30.0	-----	-----	-----	-----	-----	-----
Total	11508.3	19452.3	17011.1	24771.1	35306.7	-----	-----

[a]Concentrates
[b]Oxide and sulphide content

Con't.

Con't.

Product and Country	1960	1965	1966	1967	1968	1969	1970
				Tons			
TIN							
Argentina	242.0	1225.0	1321.0	2073.0	1728.0	1989.0	
Bolivia[a]	20542.0	23406.0	25930.0	27720.0	29567.0	30045.0	
Brazil	1581.0	1219.0	1341.0	1626.0	1821.0	2497.0	
Peru	25.4	20.3	20.3	20.3	20.3	20.3	
Mexico	371.0	511.0	802.0	597.0	528.0	500.0	
Total	22761.4	26381.3	29414.3	32036.3	33664.3	35051.3	

Product and Country	1960	1965	1966	1967	1968	1969	1970
				Thousands of Tons			
IRON							
Argentina	58.0	54.0	69.0	100.0	121.4	133.9	
Brazil	6355.0	14112.0	15813.0	15163.0	17084.0	15447.0	
Colombia	178.0	370.0	310.0	404.0	538.0	-----	
Chile	3804.3	7763.0	7790.7	6853.2	7428.1	7160.6	
Peru	3947.2	6009.1	5880.8	6111.4	7016.8	6411.7	
Venezuela	12474.0	11296.0	11418.0	10959.0	9922.0	12410.0	
Cuba	1.0	1.0	-----	-----	-----	-----	
Guatemala	4.1	8.5	10.0	10.2	3.7	-----	
Mexico	521.4	1592.7	1480.5	1617.1	1921.3	2097.0	
Dominican Republic	82.0	-----	-----	-----	-----	-----	
Total	27425.0	41206.3	42772.0	41217.9	44035.3	-----	

[a]Exports

Con't.

Con't.

Product and Country	1960	1965	1966	1967	1968	1969	1970
				Thousands of Tons			
SULPHUR							
Argentina	39.9	29.3	30.4	31.9	34.2	34.5	40.1
Bolivia[a]	1.2	9.5	57.5	50.3	35.4	36.2	16.3
Colombia	9.0	18.4	21.0	24.0	-----	-----	-----
Chile[b]	31.4	45.6	51.1	68.2	75.1	112.2	118.5
Ecuador	-----	0.4	0.4	0.3	6.1	8.5	-----
Mexico[c]	1336.2	1581.3	1701.1	1891.2	1684.9	1716.2	1366.4
Total	1417.7	1684.5	1861.5	2065.9	-----	-----	-----

[a]Exports
[b]Including sulphur from mines, pyrites and gases
[c]Mining and petroleum production
[d]Dried equivalent of crude ore

Source: Statistical Bulletin for Latin America, Vol. IX, June 1972, United Nations.

GLOSSARY OF TERMS

Continental Shelf

The area of the sea, seabed and subsoil adjacent to the coast but outside the territorial sea area to a depth of two hundred meters (approximately one hundred fathoms) or beyond that limit, to where the depth of the superadjacent waters admits of the exploitation of the national resources of the area.

Mare Liberum

Postulated that the sea should be open and free of any domination. The purpose of such theory was based on the fact that they must be allowed to provide access to all ships for the purpose of carrying out commercial interests anywhere.

Mare Clausum

Contrary to the Mare Liberum, this doctrine was to contain all nations from dominating the sea by virtue of their naval power. The coastal state is responsible by declaration to protect some distance in the sea to the exclusion of the marine traffic of other nations.

C.E.P.

Abbreviation for Chile, Ecuador, and Peru, the pioneers of the two hundred-mile limit.

Satisfied States

Refers to the advanced nations due to the economic superiority they have over the poor nations. These satisfied nations include the European nations, U.S., and Canada.

Patrimonial Sea

The region of the sea which stretches beyond the territorial limit to the abyses of the sea which often reaches the edge where the international sea starts. This area is known to contain a lot of living and nonliving resources.

Economic Zone

Also called the patrimonial sea, is the area between the territorial sea nad the high seas to the area where the international waters take affect. This area is subjected to the supervision of the coastal state.

Dissatisfied Nations

Refers to the poor nations of the world. These nations include African, Asiatic and Latin American nations. Lack of economic social development comparable to that of the developed nations, led to the coining of the word to signify their dissatisfaction with the world economic order.

Baselines

The point at which the measurement of the territorial sea commences. There are different forms and shapes of the coastlines making it very hard to draw the baselines.

Marine League

(Was usually) The universally acceptable three nautical miles. This faced a greivious problem at the present conference.

Cannon Rule

A rule established by the British, which (simply) emphasized that the sovereignty of a state over her coastal waters could only be a distance which a cannon shot can effectively do dammage to her. This distance is considered to be three miles.

Contiguous Zone

Coined at the Hague Conference, refers to the supplementary zone adjacent to the territorial waters. Often regarded as the distance between the end of the three mile territorial limit to six mile contiguous zone.