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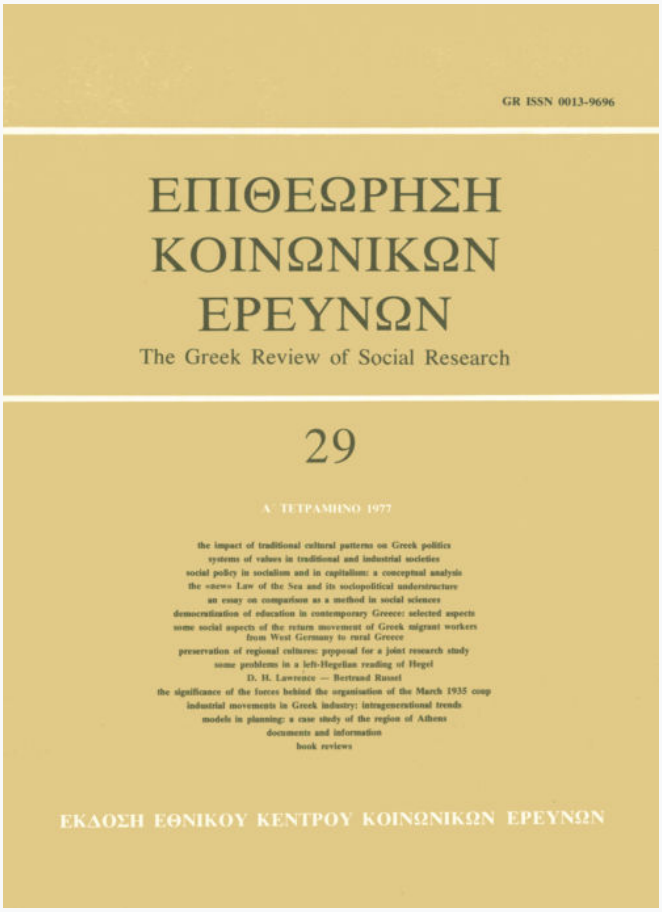


# The "new" law of the sea and its sociopolitical understructure

*Christos L. Rozakis*

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# the «new» Law of the Sea and its sociopolitical understructure

by
**Christos L. Rozakis**

*Reader in Public International Law*
*Panteios School of Political Science, Athens*

## 1. introductory note

The object of this brief study is to point out the basic changes which have occurred—or presently occur—in the body of the rules of the Law of the Sea from the time of its first codification (1958)[1] until today, and to examine the causes of the considerable modifications that can be observed in the position of States in matters of sea policy. The student of that phenomenon is also presented with the opportunity to search into the more general re-orientations which take place within the sphere of international relations and on their socio-political surface. Thus, the delimitation of the legal changes and of their causes may lead to certain conclusions which concern directly the future evolution of inter-State relations and the possible modification in the correlation among the traditional political forces. In other words, the present radicalism in the Law of the Sea should not be simply considered as an isolated phenomenon but should be given its full dimensions within the system of international relations presently under formation; this does not mean, of course, that one should overlook the particular circumstances and the limits suggested by the dynamics of the modifications in the Law of the Sea.

## 2. the basic changes in the Law of the Sea

### *a. The main concerns of the past*

The Law of the Sea began to be shaped into a complete system of rules from the time of the Great Discoveries.[2] This was the result of the

1. The Law of the Sea was codified in its greater part, by the four conventions which were adopted in 1958 (Geneva). After the lapse of a long period of preparation, by the International Law Commission, most of the countries of the international community participated in the Conference of Geneva for the Law of the Sea, under the aegis of the United Nations. The legislative work in Geneva ended up with the adoption of those four conventions which partly incorporated in the field of written law the preexisting customary rules of the Law of the Sea and partly created new rules which had not, as yet, been accepted in the domain of customary law, through State practice. The four conventions of substantive law are: a. The Convention on the Territorial Sea and the Contiguous Zone; b. The Convention of the High Seas; c. The Convention on Fishing and Conservation of the Living Resources of the High Seas; d. The Convention on the Continental Shelf. See, Rozakis, C.L., *The Law of the Sea as Developed through the Claims of the Coastal States* (Athens: Papazisis Publishing Co. 1976).

2. Some elementary rules of the Law of the Sea existed, of course, even before the Great Discoveries. However, most of the customary rules were limited *ratione materiae* and *ratione loci* to fields concerning rights of coastal States in their neighbouring seas and, basically, jurisdiction upon ships sailing in these adjacent areas. See, Fulton. T. W., *The Sovereignty of the Seas* (London, 1911).

competition among States for the acquisition of access to the newly discovered lands. By providing the only efficient means of communication with those remote areas, the sea became a field of dispute and controversy, since domination upon it secured the monopolization of the vast riches of the new lands. The fight for supremacy among the main powers at the time (Britain, The Netherlands, Portugal, Spain) did not result in favouring any of them in particular since no one among them surpassed the others in strength so considerably as to be able to secure the exclusive use of the seas for her own profit. Consequently, the great maritime States were forced to seek a peaceful co-existence in the high seas[1] and, therefore, to work out some rules of behaviour that might ensure for all of them the unobstructed communication in the seas.

Under those circumstances, the rules of the Law of the Sea began to be shaped on the basis of one main principle, namely the freedom of the (high) seas. According to that principle, except for one narrow strip of water which fell under the sovereignty of the coastal States (territorial sea), the sea was free to all States and for all possible uses. The principle of the freedom of the seas, as formed by its initial supporters, aimed at free navigation which was then the main concern.[2]

However, the evolution of things in the following centuries and especially within the 19th and the beginning of the 20th centuries, increased the usefulness of the sea and led to the enlargement of the content and of the constituent elements of the principle of the freedom of the seas. The possibility of exploitation of marine resources—of the living organisms which can be found within the deep waters of the high seas—increased as technology progressed, thus leading to the adoption of the freedom of fishing as a constituent element of the freedom of the seas. Still later, to these two initial principles came to be added, again as a result of technological progress, other principles such as the freedom of overflying the high seas, the freedom of installation of submarine cables and pipelines, the freedom of scientific research, of exploitation of the sea-bed,[3] of waste discharge,[4] etc.

That historically first phase in the modern Law of the Sea, in which the principle of the freedom of the seas was the corner-stone of all specific legal regulations, remained unaltered until the end of the second World War. It could be argued, of course, that already since the latter years of the period between the two wars the absolute character of that principle had begun to be disputed both by State practice and by the theory of International Law; the relative expansion of the ter-

1. As «High Seas» are considered the marine areas beyond the outward limits of the territorial sea, which constitute the area of the full sovereignty of a coastal State. See, however, for the emerging changes of this scheme, the new tendencies in the Law of the Sea, *infra*.

2. See the views of its main supporter, Hugo Grotius, in Fulton, T. W. (*op. cit.*, footnote 2), 345 f.

3. The question whether the principle of the freedom of the seas secured the freedom of exploitation of the sea-bed resources, beyond the outward limits of the territorial sea, should be answered positively, in our view. The sea-bed and its subsoil are rich in living and non-living resources. We may refer, for instance, to sponges and crustacean (for the living resources) or to manganese nodules and oil (for the non-living resources). From a practical point of view, the exploitation of the sea-bed started to take place within the nineteenth century; while for the raw materials there was no interest at all, at that time, because there was no technical means to secure feasible methods of exploitation. Thus, the question of the exploitation of the raw materials of the sea-bed remained, to a great extent, quite theoretical for the sea areas which were outside of the territorial sea. A part, however, of the doctrine [see, Gidel, *Le Droit international public de la mer* (Paris, 1932-1934)] considered that the exploitation of the sea-bed beyond the territorial sea, was not permissible for any country, and that the only legitimate access to the sea-bed and its subsoil was through submarine tunels dug from the coasts or from within the territorial sea of a coastal State. Despite the extraordinarily theoretical character of this subject, we would like to express our disagreement with that *viewpoint*. We believe that the freedom of exploitation of the sea-bed beyond the limits of national jurisdiction (and with respect to the non-living resources, since for the living resources there was no doubt that they were covered by the principle of the freedom of the seas) constituted—and constitutes—a substantive element of the freedom of the seas. The fundamental principle of the freedom of the seas seems to be applicable *ratione loci* in all parts of the sea, extending to the air above, the sea surface, the water column, the sea-bed and its subsoil and *ratione materiae* all the activities which may take place there, unless they are specifically excluded, and provided that they do not prevent the exercise of the rights of other States deriving from the precepts of that same principle. The fact that the exploitation of the sea-bed means, in substance, exclusive rights for the State which first enters the area, it should not be considered as violating the principle of the freedom of the seas. Certain other activities, as well (such as fishing by the means of permanent gear embedded on the seafloor), create relevant situations which are not prohibited by International Law. We believe that the principle of the freedom of the seas does not exclude occupation of specific areas of the sea; the only thing which is excluded by the principle is the acquisition, through occupation, of property rights amounting, in the field of International Law, to sovereignty.

4. For many years, particularly in the aftermath of the industrial revolution, the seas have been utilized as receptacle of waste from ships or coastal communities. In our days the uncontrollable use of the oceans has led to the pollution of large sea areas and caused serious damages to the sea life. Thus, since the early fifties some measures have been taken which aim at limiting the use of the seas as a waste receptacle. We may argue that today the principle of the freedom of the seas does not cover, under its protecting aegis, the «right» of waste discharge and the pollution of the waters by ships or human communities. Those activities are regulated by a series of general and particular rules which determine the conditions of the waste discharge.

ritorial sea towards the high seas (at the latter's expense), the creation or claim of new zones in areas of the sea which formerly were considered free—such as the contiguous and the fishery zones[1]—constituted the first blows to that principle. However, the priorities remained more or less the same during those years and the conflict between the interests of the coastal States and those of the aggregate of States (including, of course, the coastal States) was not so strong as to challenge in any way the principle of the freedom of the seas.

*b. The new concerns*

Immediately after the end of the Second World War one can notice a shift of interest among States with respect to the sea. Progressively and steadily the basic concerns which had supported the principle of the freedom of the seas (navigation and fishing) began to be substituted by a new interest, namely the exploitation of the raw-materials of the sea-bed.

Already since 1945, coastal States had presented the tendency to expand the limits of their sovereignty and jurisdiction towards the high seas in an effort of exclusive exploration and exploitation of the sea-bed beyond the traditional territorial sea. The United States led the way in the creation of a complex (often contradictory) practice and laid the foundation, through the Truman Proclamation, of the expansionist tendency of the coastal States and of the acceptance of the notion of the continental shelf in the Law of the Sea.[2] The example of the United States was soon followed by other States which proceeded, mainly by unilateral declarations, to the definition of new maritime areas through the expansion of the already existing territorial zones or through the creation of new «multi-functional» zones (hitherto unknown in the international field) or, finally through the acceptance of the new regime of the continental shelf which acquired a legal status for the first time.[3]

This manifold practice of States was to be multiplied during the decade of the fifties. But whereas with respect to the claims of coastal States to maritime areas laying at a great distance from the coast and having a multi-functional character, practice was limited to the States of Latin America,[4] the regime of the continental shelf was expanded to a much more considerable extent. The coastal States, without exception, acquired, through a general custom gradually increasing in strength, the exclusive right of exploration and exploitation of a part of the sea-bed which was called continental shelf. There still existed, of course, a certain confusion as to the precise limits and extent of the continental shelf as a legal notion. However, that regime had entered well into the sphere of law so that the questions related to it were of a rather marginal character.

Thus, the new situation which had been created since the end of the second world war consisted in the modification of the use of the seas through the important addition of the exploitation of the sea-bed and its subsoil (which was practiced between the two wars only in an elementary way) and in the resultant change in the hierarchy of the interests of States in the sea. Whereas in the past the interest of the international community had focused on communication—and rather incidentally on exploitation (fishery)—,in the after-war years exploitation became, slowly but steadily, the chief concern. This shift of interest made itself manifest in the ever-increasing claims of the coastal States upon their neighbouring seas and in

1. See Rozakis, C. L. (*op. cit.*, footnote 1), 48 and 67 respectively.

2. The Truman Proclamation points out that the government of the USA «regards the natural resources of the subsoil and sea-bed 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 character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected...» (Proclamation No 2667, «Policy of the United States with Respect to the Natural Resources of the Subsoil and Sea-Bed of the Continental Shelf», Sept. 28, 1945. Fed. Reg. 12303, XIII *Bulletin*, Department of State, No. 327, 1945.

3. These three methods of State practice has as a goal the expansion of the exclusive rights of the coastal States in their adjacent waters beyond the traditional limits of the territorial sea which did not exceed few miles from the coasts. Some States choose, as a method of expansion, the transposition of the limits of the territorial sea from 3-6 n. miles to considerably greater distances from the coasts (for some of them the distance reaches 200 n. miles). By the adoption of this method they secure the desirable exclusive control of the resources, without running the risk of applying a totally new and unorthodox legal regime which might create doubts and problems to the rest of the States of the international community. Some other States try to impose new zones, beyond the limits of the territorial sea, which could have a «multifunctional» character (namely zones of jurisdiction over the exploitation, fisheries and navigation). These zones are instituted through internal decisions of a legislative character and *ratione materiae* are either totally new (such as the «maritime zone» of some States in Latin America) or traditional zones modified so as to contain satisfactory arrangements for the new exigencies (for instance the effort to differentiate the function of the contiguous zone). Finally, a great number of States is aligned with the position adopted by the USA and proceeds to the acceptance of the new «single-functional» regime of the continental shelf, which eventually prevails over the other tendencies and arrangements. For a detailed discussion of these problems see Chapter First of the book of the writer (*op. cit.*).

4. See Rozakis, C. L. (*op. cit.*).

their disregard of any possible influence of the new regimes on the freedom of communication;[1] it soon became so important as to render questionable the legal status which had been valid until then in maritime areas beyond the territorial waters, imposing upon States the need of a re-examination of a great part of the orthodox Law of the Sea with the aim of creating a new balance between communication and exploitation.

The first Geneva Conference on the Law of the Sea (1958) which was convened under the auspices of the United Nations aimed at creating a new legal status in the sea which might harmonize the traditional law—and its accepted priorities—with the new concerns of the international community. Thus began a parallel effort toward the codification of the customary Law of the Sea, on the one hand, and the creation of new rules on the rights of States on their neighbouring seas, beyond territorial waters, on the other.

After a great deal of effort, the first Geneva Conference adopted four Conventions containing the greater part of the rules of the Law of the Sea concerning almost the aggregate of maritime inter-State activities.[2]

The Geneva Conventions on the Law of the Sea resolved all but two of the problems which had come to light with respect to inter-State relations and which had been put in the agenda for discussion: the question of the limits of the territorial sea (its distance from the coast) and the question of the acceptance of an exclusive fishery zone beyond the territorial sea.

On these two points the first Conference was not able to give definite answers. For that reason, another Conference was convened in Geneva, in 1960, again without any positive results. The beginning of the decade of the sixties were to find, therefore, the international community burdened with two pending important matters that had been left unsettled by the first Geneva Conference. This was soon to agitate the relatively calm atmosphere that had prevailed after the codification enacted by the four Conventions adopted by the Conference.

It should be stressed, however, that the first Geneva Conference did not confront the problems that had emerged in the years after the war with the necessary insight. Most States did not foresee clearly enough the enormous importance of the sea as a future source of raw materials and manifested a conservatism which did not correspond to the requirements of that particular historical moment.

The four Conventions which were adopted by the Conference codified mainly the traditional Law of the Sea (which was based on the principle of the freedom of the seas) but hesitated to proceed to some necessary compromises that might resolve the conflict between the old and the new interests of States. In short, the Geneva Conference created a body of rules of law which, while reflecting the immediate interests of the great majority of the participant States at the moment (and especially of the great maritime and fishing interests) failed to make provision for the developments of the immediate future and to conceive the gathering momentum of the exploitative tendency of coastal States in their neighbouring seas. Thus, the first Geneva Conference on the Law of the Sea confirmed once more the freedom of the seas in its essential constituent elements[3] and adopted the regime of the continental shelf through a special Convention which purported to regulate that matter as a whole.[4] However, while

1. The great maritime and fishing countries were against the original efforts made by States for the expansion of the coastal zones. Their opposition was obvious: any expansion of the coastal jurisdiction might influence, directly or indirectly, the freedom of navigation and the freedom of fishing. The influence was direct in the cases where the expansion transformed the regime of high seas in a regime of national jurisdiction for those areas contained in the new regime (for instance in the case of an expansion of the territorial sea to the high seas). The influence was indirect in the cases where the expansion of national jurisdiction to the high seas led to factual limitations of the freedom of the use of these seas by third States in the areas of the new regime, despite the legal assurance that the zones of specific jurisdiction do not affect the basic freedoms of inter-State communication. It is, indeed, extremely difficult for one to secure the unimpeded communication and fishing in sea areas whose bed is subject to tense exploitation: the real needs of exploitation of the sea-bed influence the freedom of superjacent waters and impose limitations which result from that exploitation upon the remaining freedoms.

2. See *supra*, footnote 1 for the Conventions adopted in Geneva (1958).

3. Article 2 of the Convention on the High Seas provides that «[t]he high seas being open to all nations, no state may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by these articles and by other rules of international law. It comprises, *inter alia*, both for coastal and non-coastal States: (1) Freedom of navigation, (2) Freedom of fishing; (3) Freedom to lay submarine cables and pipelines; (4) Freedom to fly over the high seas. These freedoms and others which are recognized by the general principles of international law, shall be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedom of the high seas ».

4. The Convention on the Continental Shelf contains both the definition of the term «continental shelf» and the methods of its delimitation as well as the specific rules which determine the relations of the coastal States (which have sovereign rights on the continental shelf) with third States using the seas over the shelf. Despite the fact that the Convention on the Continental Shelf constituted a real progress which dissipated, in those years (1958), the doubts over and the inconsistencies

these two principles dominated thereafter the field of conventional law giving the impression that a successful compromise had been achieved, the particular provisions of the legal rules of the Conventions and the absence of a realistic coordination among them did not contribute at all in the promotion of definite solutions.[1]

The spirit of indecision and the inadequacy which marked the Law of the Sea that emanated from the first Geneva Conference became evident even during the first years of application of the Conventions. In the beginning of the sixties the interest of the international community was turned to the direction of the sea resources, thus leading to an expansionist policy of States with regard to their rights in the sea, aiming at the exclusive exploitation of the sea-bed. Indeed, most States began at that time to seek new ways to extend their jurisdiction in the high seas and to deviate from the principle of the freedom of the seas which was gradually becoming quite burdensome.

Beyond, however, that exploitative tendency which carried away the traditional (as well as the recent) law in the adventure of a radical change—the main victim being the principle of the freedom of the seas—the international community began also to be concerned with the great problem of environmental protection.[2] As human intervention in the maritime environment increased with the lapse of time, the latter becoming more and more the garbage can of humanity, the sea water began to show the limits of its toleration: as a result of pollution or of unreasonable over-exploitation, the living organisms of the sea began to die or to reproduce themselves less than they used to do before; the flora vanished in some parts of the sea and, generally, the biological course of life began to lose its natural balance. Some seas entered into the dying process and the long-run consequences of such a phenomenon upon life on our planet were not hard to imagine. The tardy realization of the new great danger which threatened the earth forced the international community to seek out some efficient means of environmental protection and to create a special legal regime for the protection of the maritime space. The emergence of this new concern struck another blow on the principle of the freedom of the seas, which was soon transformed into a legal reality through the taking of some very concrete measures by the international community to that effect.[3]

### *c. The fundamental changes*

The multiple claims of States in the area of the high seas did not remain theoretical and abstract. During the decade as the sixties, a great number of States began to apply a practice with respect to the sea, which aimed at establishing new regimes of jurisdiction in their neighbouring waters or in the waters beyond their territorial seas. This practice was mainly expressed in the following ways: A. Through the «creative» interpretation of the Geneva Conventions of 1958 (that is of those that had come into force) by the States which had ratified them.[4] The Convention on the Continental Shelf, in particular, offered the possibility of expansion of the limits of exploitation of the coastal States through the elastic criterion of article 1.[5] Thus, the application of that Convention led to a gradual expansion of the limits of the continental shelf, something which certainly was not envisaged or foreseen by its drafters in 1958.

of the new legal regime, its text did not cover with success the central problem of the *limits* of the continental shelf. Article 1, containing the general rule, provides: «For the purpose of these articles, the term 'continental shelf' is used as referring (a) to the sea-bed and subsoil of the submarine areas *adjacent* to the coast but outside the area of the territorial sea, *to a depth of 200 metres or beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas;* (b) to the sea-bed and subsoil of similar submarine areas adjacent to the coasts of islands». (The emphasis is ours). Article 6 of the same Convention provides: «1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured». The same rule applies, *mutatis mutandis,* for the delimitation of the continental shelf of two adjacent States (par. 2 of Article 6).

1. We may consider as a failure of the Conference the fact that the legislative efforts did not succeed in regulating, in a detailed manner, to question of the dialectic «freedom of the seas»—«claims for exploitation beyond the limits of national jurisdiction». The Geneva Conference did not accept the widening of the territorial sea to some reasonable new limits (for instance 12 miles) which, for some time, might have stopped the expansionist tendencies; it also refused to accept a fishing zone, beyond the territorial sea, which might have silenced the opposition of some States; it refused to take some rigid measures for the protection of the maritime environment. On the other hand, the Conference refused to guarantee the basic constitutive elements of the freedom of the seas by omitting a) to set out clear limits of the jurisdiction of the coastal States and b) to create a rigid legal hierarchy of rules giving, thus, prominence to the rules protecting the freedom of the seas.

2. See *supra,* footnote 6.

3. These measures also affect the activities of States within the areas of (national) sovereignty or jurisdiction.

4. See, *inter alia,* Rozakis, C. L. *(op. cit.),* particularly Chapter 2.

5. *Ibid.*

Other Conventions, too, such as the Convention on Fishing and the Conservation of the Living Resources of the High Seas, were applied as a pretext in order to confirm and corroborate the expansionist intensions of States in their neighbouring waters and the sea-bed.

B. Through the abuse of rights granted by customary regimes—not necessarily codified by the four Geneva Conventions—and the unilateral alteration of their content by some States. The more frequent «violation» of that character occurred in the case of the territorial sea which was sometimes extended to two hundred miles in order to serve the expansionist needs of States. Within the same trend lay the effort of a qualitative, this time, modification of the character of the traditional contiguous zone from a security zone of the coastal States to a zone of exploitation of the living resources contained in its waters.[1]

C. Through the creation of conventional regimes among interested States aiming at the eradication of the constituent elements of the freedom of the seas. Such regimes principally concerned fishery, environmental protection and navigation and actually consisted in the allotment of sea areas, beyond the territorial sea, for those aims. Despite the fact that such conventions do not generally influence third States, their multiplication in recent years has inevitably rendered legitimate many claims of coastal States to their neighbouring seas. Through the method of «regional» agreements, which have prevailed in the field of the Law of the Sea in the last two decades, the resolution of local disputes has certainly been facilitated, but this practice resulted in the gradual weakening of the principle of the freedom of the seas in the areas where a regional agreement created a regime of «vested» rights.[2]

D. Through the customary establishment of new zones of sovereign rights or simple jurisdiction. In the sixties, the practice of the States of Latin America led to the creation of a two-hundred mile zone which was named «patrimonial sea». The basic meaning of the patrimonial sea is that the coastal State enjoys the exclusive right of exploration and exploitation of the resources of the sea-bed and its subsoil and of the living organisms which exist in the maritime areas which are contained in that zone.[3]

Under these circumstances and due to the multiplication of the number of incidents in the international practice, lying under the above examined categories, the system of law that had been established by the four Geneva Conventions of 1958 could not serve anymore the inter-State relations in the sea. It became evident that claims like the ones described in the previous lines, could no longer be considered as violations of the orthodox Law of the Sea but should acquire the character of legitimate acts through the acceptance, beyond the usual processes of custom, of a generally accepted multilateral convention.

The need of transformation of the unilateral, usually, acts of many States into a generally accepted law was certainly not intended simply to satisfy some newly developed claims; it sprang from the fact that the international community realized that a new international convention, created by a common law-making effort, would help to transform such claims (through the compromise involved in the process of creating generally accepted rules) so as to correspond to the demands of the international community as a whole and not only of those States which wished to impose the change.

The activities for convening a world Conference on the Law of the Sea reached their climax after the warm acceptance of Malta's proposition for the examination, through the United Nations, of the question of establishing an international regime «beyond the areas of national jurisdiction» (1967).[4] The ad hoc Committee which was created by the General Assembly was aimed at «examining the peaceful uses of the sea-bed beyond the limits of national jurisdiction».[5] The Committee, however, soon detected the interdependence of all maritime problems and the need of a more general reformulation of the Law of the Sea so as to become conformable to the claims of States and their practice. Thus, the work of the Organization was transposed from the level of the problems related to the sea-bed of the high seas to that of a comprehensive reexamination of the Law of the Sea. The creation of three Committees[6] purported to study separate aspects of that subject-matter marked the beginning of the preparatory stage of an international Conference on the Law of the Sea in which States would be given the opportunity to legislate the rules of that law as they thought best.

The Third Conference on the Law of the Sea began to convene in sessions under the auspices of the United Nations from the end of 1973.[7] The special characteristic of those sessions was

1. See, Rozakis, C. L. (op. cit.), particularly Chapter 2.
2. *Ibid.*
3. *Ibid.*
4. *Ibid.*, 258-259.
5. U N Resolution 2340 (XXII), December, 18, 1967.
6. See, Rozakis, C. L. (*op. cit.*) 271 *et seq.*
7. *Ibid.*, 277 *et seq.*

that, for the first time, legislation took place mainly on the «backstage» through unofficial Committees or groups of States in which the various interests were represented.[1] At the end of every session, the President of each Committee presented the legal texts containing the drafts of rules of law accompanied by introductory notes which exposed the conclusions drawn from the various discussions during the session.

Judging from the work accomplished up to the present day, it could be maintained that the Third Conference has brought about the acceptance of a number of draft articles which set out the function of the most important maritime regimes. The general regime which is being shaped includes one area in which coastal States exert their sovereignty or jurisdiction and another one, outside the limits of national jurisdiction, the surface of which is free while the sea-bed belongs to the international community of States as a whole.

More specifically, the basic regimes which are being created by the Conference are:

A. Within the limits of national jurisdiction

(a) The territorial sea, where coastal States enjoy absolute sovereignty and which extends up to twelve miles from the coast.[2]

(b) The contiguous zone, which remains a zone of security for coastal States, as it used to be in the past.[3]

(c) The continental shelf which is freed from all legal uncertainties of its past through the acceptance on the part of the legislators of its new outward limits. These are located at the point where the continental margin ends (and the ocean abyss begins) or at a distance of two hundred nautical miles from the baselines in cases that the outer edge of the continental margin does not reach that distance.[4]

(d) The exclusive economic zone, which is the real legislative novelty of the Third Conference and has been accepted by the totality of States, is an area extending two hundred miles from the outer limit of the territorial sea, in which the coastal State has jurisdiction as well as the almost exclusive use of the maritime space embraced by that zone. More precisely, the coastal State has the exclusive right of exploration and exploitation of all resources existing within the exclusive economic zone, including the sea-bed and its subsoil. The parallel obligations of the coastal States to third States or to the international community as a whole do not impair in any substantial way the importance of their jurisdictional rights. Actually, under this new regime coastal States acquire the undisputed control over forty per cent of the sea of our planet.[5]

B. Beyond the limits of national jurisdiction

Beyond the outward limit of the exclusive economic zone—or, in some cases, the outward limit of the continental shelf—[6] begin the high seas where, as can be seen in the draft articles of the Third Conference, still prevails the principle of the freedom of the seas. However, a regime is created even here, which clearly influences the freedom of the seas both directly, that is, in its constituent elements of exploration and exploitation of the sea-bed and indirectly, namely through the very character of the restriction which is legally imposed: the Third Conference on the Law of the Sea favours the creation of a regime, called Common Heritage of Mankind, which offers to the international community as a whole the exclusive right of exploration and exploitation of all the resources that can be found on the surface of the sea-bed and its subsoil. Independently of what kind of regulation will finally prevail with respect to the method of exploration and exploitation, the output will be distributed to all States of the international community in proportions favouring the developing countries.[7] This new regime, which will drastically influence the principle of the freedom of the seas in the long run, completes the exploitative trend which came to light in the after-war as a result of the new orientations and needs of the international community of States.

In concluding, at this point, on the positions which were analyzed in the previous lines, it should be admitted that the principle of the freedom of the seas—representing a historical stage in which free communication was humanity's main concern—has been seriously suppressed. This has been brought about in two ways: first, the freedom of the seas no longer applies to the forty per cent of the total maritime space which has lost the character of high seas. Here, the freedom of the seas has been substituted by several separate obligations of the coastal States to respect naviga-

1. *Ibid.*
2. *Ibid.*, 292 *et seq.*
3. *Ibid.*
4. *Ibid.*
5. See, Rozakis, C. L. (*op. cit.*).
6. In the cases where the outer edge of the continental shelf of a State lies beyond the 200 mile distance from the coast.
7. See, Rozakis, C. L. (*op. cit.*).

tion, overflying and communication in general. Second, in the sixty per cent of the total maritime space where the freedom of the seas is still theoretically valid, it is actually restricted to communication and fishing. Its former constituent elements are, in this case, simply nominal and the probability of their survival is, at least in the long run, extremely low. The development of exploration and exploitation in the large maritime space which constitutes the common heritage of mankind will certainly alter the priorities so that the freedom of the seas will be determined in the future according, each time, to the actual material needs of the international community. It should be stressed, at this point, that the concern of environmental protection and of the conservation of the living resources of the sea will also influence the remaining constituent elements of the freedom of the seas; indeed, the Third Conference has already paved the way in that direction.

### 3. the sociopolitical understructure of the changes in the Law of the Sea

The changes that have occurred in the body of the Law of the Sea must be mainly attributed to two basic factors: the numerical increase of the members of the international community (which has also resulted in a qualitative change) and the multiplication of the needs of the aggregate of States which helped by technological progress focus their interest on the new sources of goods.

*a. The appearance of new States*

In the Geneva Conference on the Law of the Sea in 1958, State participation did not exceed the number of one hundred and seventy.[1] That number indicated both the breadth of the international community at the time—given that its greater part was represented in Geneva—and the degree of interest of the States which participated in the Conference.

Since 1958, however, States have multiplied in number and their interest in an active participation in the processes, political and other, which are related to law-creation, has also increased.

A. The multiplication of States

At the end of the 19th century and the beginning of the 20th, the international community consisted of only a few independent States, most of them being in Europe and in America. The peoples of Africa and Asia, in their greater part, did not enjoy national sovereignty and independence but were under the colonial yoke of the Europeans and the American States.

The decolonization of Africa and Asia begins after the end of the first World War.[2] Between 1920 and 1939, there is a moderate and hesitant granting of independence by Europeans in some parts of the world. Decolonization gains a great impetus in Africa and Asia after the end of the Second World War and reaches its climax during the fifties and the sixties. Today, in 1977, the number of areas which are still under a regime of subjection has been drastically reduced.[3]

The States which have emerged as a result of the decolonization are numerous. Over eighty States have appeared on the map of Africa, Asia, Latin America and the Pacific Ocean, whether purely ethnocentric or connected by loose national ties mainly through the criterion of geographical location. Within a short time, those States have formed an important majority which has overturned the correlation among the political forces of the international community. Moreover, the new States are beginning to become aware of their numerical importance, of the dependence of the industrialized world on their natural wealth and of the need to form alliances among them so as to render their majority strong enough to exert the pressure which is necessary for the promotion of their demands.

The proper evaluation of this change in the international majority is of an extreme interest. In the last years, the international community has functioned on the basis of the majority principle which has determined an important part of its decision process. Despite the fact that the great powers have always played a significant political (and often legally established)[4] role in international decisions, especially in the ones that were of great weight for the political future, the majority system has been used as a means of decision-taking in most international organs which have been created by the international community in the last years, in most international conferences and, generally, in most of the manifestations which expressed, or simply indicated, the will of States vis à vis the problems of the community and their resolution.

However, the majority system was established

1. UN Conference on the Law of the Sea (A/CONF. 13/37).

2. See, Tenekides, *Public International Law* (A΄ 1975), especially 119 *et seq.*

3. See, Calogeropoulos-Stratis, *Le Droit des Peuples à disposer d'eux-mêmes* (1973), 293 *et seq.* and tables, 349 *et seq.*

4. See for example the case of articles 23-32 of the Charter of the United Nations.

at a time when the correlation among political forces was different than it is today. Indeed, it was established when the developed Western world still enjoyed a certain unity and homogeneity;[1] when the common historical, cultural and political background allowed for a common, at least, perception of a problem. Although the international community has never in its history known a stage of a really peaceful cooperation, alterations and disputes among independent States had had for a long time the character of a «family affair», a fact which permitted, at times, a co-existence which was based on reason because it was commonly orientated. Shortly after the end of the Second World War, that conception of common goals had led, very briefly, to an optimism concerning survival in a world left in ruins by the catastrophic urge of uncontrollable interests. In that spirit, there were, indeed, some concessions made in the name of «social» welfare. The majority system which was accepted in the international decision process was among those concessions.

That conception of common goals was naturally dissipated with the entrance of the new States in the international community in the last two decades. There have been two reasons for that: on the one hand, the new States come from geographical areas where other civilizations, bearing almost no resemblance to the Western civilization, have grown. The mentality, the way of life, the value system, even the mode of expression which prevail in those parts of the world differ substantially from those of the Western countries, especially of Europe and America. Thus, the common background on which international cooperation had rested is lacking from the enlarged international community of our days, a fact which renders even more difficult the solution of the various problems which are, of course, themselves highly complex.

On the other hand, beyond those cultural and psychological factors, there are purely political considerations which contribute to the modification of the co-existence image. It could be maintained that the predominant characteristic of the new States, as opposed to the old world, is their deep mistrust for the intentions of the latter. They are still under the influence of their colonial origin, their long submission to today's developed States. They cannot too easily forget the conditions of their previous relationship with them. Their natural wealth had become for centuries the object of an insatiable exploitation; the same was true of the indigenous peoples themselves who completed the needs of the white men through their work and services. It should not be surprising, therefore, that the States of Africa and Asia, in their great majority, are so mistrustful of the industrialized world, to the extent of avoiding, as much as possible, any offer of economic and technical aid that might seem to conceal some sort of exploitative intention of a «neo-colonial» character.

The acquisition of the numerical majority by the new States had, therefore, as a result the disturbance of the delicate balance of the international system, thus becoming one of the most serious political and legal problems of our times. The States of the old world are unable to remodify the majority system since the process of any change is trapped within this very same system. This has obliged them to concentrate their efforts towards other solutions which, though functioning within the majority system, might nevertheless contribute in making it more elastic.[2] However, for the time being, the international community accepts the majority system in many of its legislative activities, and this greatly helps the acceptance and adoption of the views and the legal convictions of the new States.

## B. The interest of the new States in the modification of International Law

Although the decolonization of Africa and Asia had started early in our century, the presence of the new States did not make itself felt on the level of international relations but in the last few decades; it did not start influencing international decisions until the sixties. This has been so because, first, the numerical majority was completed only within that decade; and secondly, the full awareness of the new States regarding their common interests and their decision to proceed to the creation of a common front concerning some fundamental political and legal matters came, of course, much later than the proclamation of independence in most of them.

The community of the positions of the new States is mainly due to the community of their concerns. Beyond the fact that they all share the same experience of past suppression, which ties them with a link of affinity, they also have the same or similar problems in their relations with

1. See, Goodspeed, *The Nature and Function of International Organization* (1967), 76 *et seq.*

2. Recently there has been an effort for the modification of the majority principle and the transference of the voting principles on the level of the importance of the States which vote, of the silent consent of others, etc. See, among others, Sohn, «Voting Procedures in United Nations Conferences for the Codification of International Law» 69 *A. J. I. L.*, 310 (1975).

the industrialized countries. The geopolitical image of the world today actually presents a polarization between the developed, industrialized Northern hemisphere and the under development Southern hemisphere. The North comprises Europe, North America and a part of Asia while the South embraces Africa, Latin America, Oceania and a part of Asia.[1] The industrialized North depends, for its welfare, on the exploitation of the natural resources of the developing South, while the latter depends, for its economic growth, on the reduction, as much as possible, of the profits of the industrialized North. This simplified scheme explains quite clearly the extent of the disagreements and conflicts existing between the two worlds.

If the alliance of the Southern hemisphere is to succeed not perhaps in imposing its views but, at least, in bringing about a certain balance in the satisfaction of claims between itself and its Northern counterpart, it must proceed, above all, to an effort of modification of the legal framework which presently prevails in our world. The network within which international relations presently function is so constructed as to favour the States of the old world, since, after all, it was first invented and established by the latter. The same is true of the state of law: an important part of the rules of International Law has been adopted to serve the interests of the great powers or, generally, of the developed States. Under such a regime, the new States seem to have little or no hope of satisfying some of their claims.

Consequently, the new States are presently engaged in a struggle for the modification of the legal understructure of the international community. With respect to the rules of International Law, their position comprises two basic priorities: first, the modification or the abolition of international customary rules of general application which are harmful to their interests. These rules had been created as a result of the practice of the developed States at a time when the new States were not in a position to express their *opinio juris* since they did not enjoy an international personality.[2]

The position of the new States with respect to those rules is not uniform. They have not all become an object of contest on their part. Moreover, they have accepted some of them in their relations with other States. At the same time, they try to abolish some others or to adopt them to the new image of the international community. What they insist upon, however, is the avoidance of application of international customary rules on the basis of the criterion of «general application».[3] In other words, a great number of new States does not accept the traditional conception of the old world that a customary rule is generally applicable (that is, applicable to the international community of States as a whole) if it is sufficiently proved that it has been accepted by the practice of the great majority of States. The new States are of the opinion that a customary rule of law applies to a State only if there is sufficient proof that this particular State has accepted the rule in its practice.

The second priority in the position of new States with respect to the rules of International Law is closely related to the first. Being more generally opposed to customary law, they would like to see conventional law becoming the primary process of international legislation. Their efforts concentrate, therefore, on the one hand, on the codification of customary International Law, which may transfer the vague and often contradictory customary rules into the field of positive law. Codification offers the additional advantage of allowing the new States to intervene during the process of transcription in order to modify or, at least, to attempt to modify the legal content of the rule. Thus, in an indirect way, the new States are trying to reformulate the rules which were created before they entered the international scene and to adapt them, as much as possible, to their own interests and goals.

On the other hand, beyond the codification of unwritten law, which aims at the gradual weakening of the customs of the past, the new States (backed by a number of the old States, especially from the socialist world) seek the establishment of the convention as the exclusive tool of future

1. Japan, South Corea, Taiwan (Nationalist China) and Australia should be placed in the category of the industrially developed States of Asia and Oceania.

2. The colonies of the European and American States did not enjoy an international personality or autonomous international relations. The latter were carried out by the States of Europe or America. See Tenekides, *op. cit.*, 114 *et seq.*

3. By the term «general application» we mean the application of a rule of International Law (customary or conventional) by a great number of States, which indicates its general acceptance by the international community to an extent allowing the assertion that there is a general consent of all States to its application. The problem which certainly arises—and which is intensively discussed by theory —concerns the exact terms on which a rule may be considered as satisfactorily covering the criterion of general application. See, *inter alia*, Briggs, «The Colombian-Peruvian Asylum Case and Proof of Customary International Law» 45 *A.J.I.L.*, 728 (1951); D'Amato, *The Concept of Custom in International Law* (1971), especially 47-168; Kunz, «The Nature of Customary International Law» 47 *A.J.I.L.*, 662; Rozakis, «Treaties and Third States: A Study in the Reinforcement of the Consensual Standards of International Law» 35 *Z.a.ö.R.V.* 1 (1975).

legislative activity in international legal relations. It should be stressed, at this point, that in this particular effort the new States are assisted by a fact which, objectively, has orientated International Law towards the convention as the most appropriate method for the creation of legal rules, both general and particular; namely the fact that contemporary international relations have become so complex and technical that they require an international legislation able to give detailed, immediate and clear solutions to the problems that arise. International economic relations, or relations pertaining to environmental pollution or to the problems of the sea and the air can no longer be regulated by general and ambiguous rules of behaviour of customary law. What is required is an unequivocal and precise legal process offering to each question a concrete answer and determining, beyond any doubt, the extent and the limits of the rights and obligations of States in their *inter se* relations.

Within the context of the activity which tends to the abolition of the customary rules of the past and to the participation of new States in the creation of a new International Law, is included the revision of the rules of the Law of the Sea which is presently taking place through a series of legislative actions within the framework of the United Nations or under its auspices. Moreover, in the case of the Law of the Sea there is also a tendency for the revision of rules that had recently been codified (1958) and not simply of the general customary rules created at a former stage.

The effort for the revision of the Law of the Sea by the new States—as well as by other States, as already mentioned—is part of a more general endeavour undertaken by them for the modification of the international economic order. That effort is not caused by any expansionist or chauvinist tendencies or by any emotional hostility to the old maritime powers (which often coincide with their ex-colonialist masters). On the contrary, their criteria are almost entirely based on their common belief in the need of a change in the correlation among the economic forces of the world. From the moment that they began to gain consciousness of the impact of their presence in the international field on account of the importance of their land and sea resources, and of the force of the unity of their claims, they immediately began to seek to impose some changes to the edifice of economic relations.

The main goal of the new States is not a mere participation in the economic processes of the world under the same conditions which apply to the developed States. They realize perfectly well that such a solution would be fair only in appearance. In a system of economic transactions in which the weaker party enjoys the same rights with the stronger one, the latter is likely to totally absorb and exhaust the former within a very short interval. Thus, the new States aspire to something more than equality, namely to the creation of *favourable* conditions on their behalf through the taking of concrete measures by the international community. They ask for the creation of a new economic order in which the economically less favoured States will enjoy some privileges which will help them to develop as fast as possible and to approach the level of the industrialized States.

It should be noticed, at this point, that it is from this basic idea that derives its existence the «International Law of Development»,[1] presently under creation, which aims at setting out a new structure for the legal framework of International Law, one that would help bring about the changes that are necessary for establishing a system favourable to the developing countries. In this spirit of keeping pace with the demands of the new States (which have been expressed quite eloquently in the recent U.N. resolution under the title «Charter of Economic Rights and Duties of States»)[2] many fields of International Law begin to change. The more immediately affected is, of course, the Law of the Sea since, like International Economic Law, it constitutes a field in which the legal rule is usually connected with economic interests.

Besides, however, economic interests *stricto sensu*, the position of the new States is also determined by some other concerns which are in need of protection, or demand satisfaction, and which are connected, more or less, with corresponding economic rights. Environmental protection and strategic problems belong to this category.

Concerning environmental protection, the position of new States is not very clear since they are faced, in this respect, with a contradiction which is also felt, though to a lesser degree, by industrialized States. The need of technological and industrial development of States of the Southern

1. See Institut Universitaire (Genève), *Les Résolutions dans la Formation du Droit International du Développement* (1971).

2. See, for activities in this field, *inter alia*, UNGA «Declaration the Establishment of a New International Economic Order» [A/RES/3201 (S-VI) of 9th May 1974] and UNGA «Programme of Action on the Establishment of a New International Economic Order [A/RES/3202 (S-VI) of 16th May 1974. In the 13 I.L.M. 715 and 720 respectively (1974)]. For the «Charter of Economic Rights and Duties of States», see UNGA [A/RES/3281 (XXIX) of 15th January 1975. In 14 *International Legal Materials* 251 (1974) where also is found the text of the resolution.

hemisphere inevitably leads to a destruction of the physical environment and to an increased indifference to the fate of nature. The new States are presently in the extremely difficult position of having to constantly keep an accelerated pace of development so as to reach soon the level of industrialized States; while lacking, on the other hand, the strong economic means needed for that purpose. Consequently there is for them little room left for some policy of environmental protection. Such a policy would be a luxury which would reduce the intensive use of their resources as well as the economic profits from the latter's exploitation. Environmental protection today requires very important economic sacrifices that the new States cannot afford. Thus, for the time being, their policy on this issue remains elementary and does not, certainly, constitute a determining factor of their policy of economic growth.

Although, however, new States follow the same track that had in store so many unpleasant experiences for the industrialized States, without re-examining their own course on the basis of those experiences, the demand of environmental protection is gradually becoming a negotiating weapon in their hands at the expense of third States which either try to penetrate their neighbouring seas or carry out activities which are harmful to environment.

Indeed, one of the main arguments of new States for the exclusion of third States from their neighbouring seas is precisely the concern of pollution and the conservation of maritime resources which are endangered by over-exploitation. Both the above issues are within the spirit of environmental protection. Moreover, the new States have sought the extension of their sovereignty, or of their sovereign rights, beyond their territorial waters, or the extension of their territorial waters, using, *inter alia*, the argument of environmental protection. The significance of this practice should not be underestimated. Although there is, admittedly, an element of pretext in their present position, the fact remains that such policies are likely to lead them, sooner or later, to the acceptance of the principle of environmental protection as a result of international obligations which they would not be able to deny having themselves resorted so frequently to that same principle. Consequently, the new States will conform to the demands of environmental protection much sooner than the industrialized States did, which only after a hundred and fifty years of destruction of their natural environment began to realize the need of its protection.

With respect to strategic interests it suffices to mention that the modern development of massive means of destruction has permitted the installation of weapons of great range on the soil of the sea-bed. The advantages of the use of the sea-bed for war purposes are obvious: the huge expanse of the sea which covers the greater part of our planet offers to the great powers the possibility of installing military bases in any part of the earth. Actually, to almost every strategic target corresponds a part of the sea from where that target may be attained. Another advantage of the use of the sea-bed is the relative safety of the submarine bases, since obviously enough, they are difficult both to detect and to destroy.[1]

For all the above reasons, the claims (of sovereign rights) with regard to the sea-bed for the installation of military bases enter the scene and join the already discussed claims of economic nature. However, whereas in the case of economic claims the demands of most States cover only the right of exploitation of the sea-bed and its subsoil, in the case of the strategic claims there seems to be a tendency to ask for an extension of sovereign control on the superjacent waters. That is not difficult to explain: it would be hard for a military installation to operate on the sea-bed and to be protected from the enemy without being controlled from the surface on a permanent basis. Consequently, the undisturbed and efficient operation of such an installation could be assured only through the sovereign control of its superjacent waters by the State-owner of the base.

Thus, one more reason is added to the already existing reasons of the restriction of the freedom of the seas. The demand of some States for the extension of their sovereignty on the sea which is superjacent to their submarine bases—for the installation itself no problem arises since the freedom of the seas offers this right to the «first occupant»—[2] leads to ever increasing demands by other States for the acquisition of as large as possible portions of the seas for the same purposes.

The position of new States with regard to the issue of strategic bases is negative. For them, the installation of such bases does not constitute a priority. Consequently, their opposition both to the installation of, and to the acquisition of sovereignty over, submarine bases is not in conflict with their immediate interests. The principle aim of the new States in this respect is to exclude, as much as possible, the installation of strategic bases near their coasts through the extension of their own sovereignty on large portions

1. Friedmann, *The Future of the Oceans* (1971), 50 *et seq.*
2. *Supra*, footnote 5.

of their neighbouring seas. However, on the basis of the Law of the Sea presently in force, they may prohibit the installation of such bases only within the area of their continental shelf according to the accepted view that all activities of foreign military powers on the sea-bed which is exploited by, and is under the sovereignty of, a coastal State may harm the sovereign rights of the latter on its continental shelf.[1]

*b. The multiplication of the needs of the enlarged international community*

Although it could be asserted without any reservation that the efforts for the creation of a new economic order are owed almost exclusively to the initiative of the new States, the same is not true of the «new» Law of the Sea. Indeed, it would be oversimplifying to maintain that only the new States wish to see some changes in that Law. It would be more accurate to assert that the emerging modification of the regime of the freedom of the seas is the outcome of the merging tendencies of the aggregate of coastal (but not only the coastal) States, which support such a modification for various reasons. Sometimes these reasons are diametrically opposed; but the final aim, which is to restrict or abolish some of the constituent elements of the freedom of the seas as well as the methods used to that effect, are more or less the same.

Thus, to the group of the new States one should add a great number of the developed States of Europe, North America, Australia and part of Asia, which seek in the sea the resources that are necessary for the satisfaction of their needs.

Certainly there is nothing new in maintaining that modern civilization has been entirely based on a constant amelioration of the conditions for a materially richer life; and that in their frenzied course for the conquest of material wealth, the States of the industrialized world drew prodigally from the existing resources of the earth, their prodigality sometimes deriving from their inability to use their resources in a rational way. At the same time, the consumer's society began to create, through a vicious circle, a multiplication of needs: the satisfaction of one need led to the birth of another. The multiplication of needs, in its turn, led to a corresponding increase in the consumption of the material natural wealth.

The consumption of raw materials, especially in the last fifty years, has led to a serious decrease of the natural resources of the earth. Despite all efforts for the substitution of some kinds of raw material (which are used today as basic industrial goods) by artificial or other natural products, the existing needs are still not satisfactorily covered. With the exception of atomic energy, no other sources have yet been found which might substitute the existing ones without any sacrifices on the material level of life. On the other hand, the international techno-economic system is solidly built upon the exploitation of certain natural kinds of raw materials (e.g. iron, oil, etc.). Any change in its orientation inevitably meets with the immense difficulties which are caused by economic, political, technical, even psychological factors.

The tardy realization on the part of the industrial States of the gradual decrease of natural resources and of the danger of their utter extinction in the not so remote future[2] has led them to search into new fields in order to secure their uninterrupted technological advance. Beyond their long-run efforts for achieving a painless reorientation of the economy towards other sources of energy, their short-run aims are (a) a more rational, thought-out use of the earthly goods and (b) the search for the discovery of raw materials in yet unexploited parts of the world. Consequently, it is only too natural that their interest has focused on the sea-bed and its subsoil from the moment that, due to the technological progress, they began to discover that the resources of the seas are so immense that they may secure a very considerable prolongation of their industrial development.

It should be stressed, at this point, that the need of raw materials becomes even more pressing as the claims of the new States progressively add themselves to those of the developed countries. Indeed, it is a quite noticeable fact that while the existing resources of the earth were used until quite recently by a limited only number of States, which represented a small percentage of the total earth population, today the same resources (meanwhile, of course, considerably reduced) are used to satisfy the needs of a greatly increased number of States. Beyond, that is, the natural, though rapid, increase of the earth's population—which is especially felt in the developing areas—the acquisition of sovereignty by the former colonialist States has given great impetus to the planning of national development programs which necessitate, of course, the intensive use of raw materials.

Thus, humanity is presently the witness of two

1. See Brown, *Arms Control in Hydrospace: Legal Aspects* (1973).

2. See Wenk, *The Politics of the Ocean* (1972), 6 *et seq.*

phenomena which may determine its future and which are both related to the sea. These are: (a) A strong rivalry among the States of the international community for the acquisition of the sources of raw materials, especially at those parts of our planet which seem to offer substantial hopes of exploitation and which had not been up to now under anyone's sovereignty or jurisdiction. In this struggle of economic predominance, the sea element is of a primordial importance. The change thus effectuated in the character of the sea, which from a means of communication and transportation has become a first rate source of raw materials, will undoubtedly be a determinant factor of the more general political directions of States, which will, in turn, influence the final image of the Law of the Sea. (b) A gradual deterioration of man's physical environment. This phenomenon has already been detected as one of the gravest dangers which menace the human species. The pollution of the air and sea, the destruction of life (either by over-exploitation or pollution) may signify, in a system of ecologic interdependence, the end of all life on our planet. Consequently, the demand for the protection of the environment and for the conservation of all living organisms on which depends the delicate balance between the continuance of life or its final extinction, becomes now more imperative than ever.