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It appears to be part of human nature that anyone, anywhere, at any time, tends to think his or her place is the navel of the world, and his time, crucial for the evolution of the earth, if not the universe; but the statement, at this time and place, that the period lapsed since the publication of Ocean Yearbook II has indeed been crucial for the future of the oceans and, therefore, the future of the world, is not necessarily inspired by this general feeling.

The adoption of the Convention on the Law of the Sea on April 30, 1982, by 130 States with only 4 dissenting votes; and the signing of the Convention on December 6 at Montego Bay by 119 States are events that constitute a caesura. A phase of international ocean affairs has come to an end; a new one is clearly beginning.

In spite of the failure of consensus and universal adoption at this time, Montego Bay undoubtedly is the greatest success in the history of international negotiations. It demonstrates the potential of multilateral diplomacy even on the most complex issues. It revindicates the utility of the United Nations as a negotiating forum. Never before has any Treaty or Convention been signed, on the first day, by 119 States: a rare demonstration of unity of political will on

the part of the overwhelming majority of the international community.

An analysis of the signatures shows that they include the totality of the socialist countries, a large majority of the developing countries, exactly half of the members of the EEC, all of the Commonwealth with the exception of the U.K. (leading to the paradoxical situation in which Queen Elizabeth II will inaugurate the building, now under construction in Kingston, Jamaica, which will house the Preparatory Commission, as the Head of the Commonwealth, not the Queen of England), and, with Japan having signed in January, 1983, the vast majority of the members of OECB. The trend is clearly established. With one more signature (probably Luxembourg) the EEC will sign as a whole (giving rise to another curious situation: The Federal Republic of Germany, a non-signer will represent the EEC on the Commission in 1983!)

The pull will be strong: irresistible. There is no room for alternative mini-treaties. Universal consensus, even if it eluded us at Montego Bay, is inevitable.

Of course, there is some distance between signature and ratification: This, however, is to be considered as a blessing in disguise, since it gives the

Preparatory Commission the opportunity to adjust the ideas and ideals of the 'seventies to the economic realities of the 'eighties -- particularly in the sector of ocean mining. Universal ratification will hinge on the Commission's ability to fulfil this task.

The history of the Convention is aptly summarized in

the Final Act of the Convention, reproduced on pp.xxx of this volume. ✓

Historians will recall that this history has been *nurtured* nourished by two conflicting roots: which may contribute to explaining the specific conflictual character of the Conference and the ambiguity of the document as it emerged.

One of these roots, clearly, is the penetration of the industrial revolution into the ocean. The industrialization of fishing necessitated measures of conservation. Conservation required management. Management required jurisdiction; and jurisdiction meant the expansion of national claims in ocean space. The advance of the oil industry into deeper and deeper water farther and farther out exercised convergent pressures. All this is to say that the trend towards the expansion of national jurisdiction in the oceans clearly was triggered by the industrialized countries and it primarily served the interests of the "North." Inevitably it was quickly imitated by the "South." Whether, and in how far, it really serves the interests of the South or the building of a New International Economic Order, remains a moot question. It is notable, in this connection, that the language of Parts I to X of the Convention, defining the limits of jurisdiction

It was of interest to many of our readers

The most complete and recent record of the Japanese process of
and documents and objects, compiled and edited by Dr. Rendo

Platzöder of the Far. Rep. & Commerce, is about to be published in
10 volumes by Orlano Publications.

and the rights and duties of States in various ocean zones, hearkening back to the Conventions of 1958 -- prior to the time when the struggle for a New International Economic Order was launched -- hardly mentions the needs of the developing countries: in sharp contrast to the later parts of the Convention. "If we were to ask the gods on Mount Olympus to judge the result of our work," President Tommy Koh said in his opening address at Montego Bay, "we should probably be informed that the new Convention has many shortcomings and is far from ideal. For example, we would be told that the creation of the exclusive economic zone and giving substantially the whole of the continental margin to coastal States, with revenue sharing limited to the area beyond 200 miles, was not the most equitable way of re-distributing the wealth and resources of the oceans among mankind. We would also be told that some of the compromises in the Convention contain ambiguities and even loopholes. I readily acknowledge that the new Convention has many imperfections. It is, however, the best we can achieve, given the existing realities in the world and the need to accommodate the competing interests of 160 States. We must not allow the best to become the enemy of the good. The undeniable fact is that the new Convention

constitutes a very significant improvement on the pre-existing law and that it has succeeded in promoting several important interests of the world community."

The second root, ^{nourishing} the history of the Convention, was the revolution in the structure of international relations following the Second World War and de-colonialization. More than doubling the membership of the United Nations, it gave rise to the struggle for a New International Economic Order and to the assertion of the right of the newly emancipated countries to participate actively in the making of international law and the Law of the Sea. This development, clearly, came from the "South," and it served the interests of the "South." Its main thrust was on the building of strong international institutions through which the countries of the "South" could wield an influence proportional to their numerical strength. Its main emphasis was on the new principle of the Common Heritage of Mankind. This was manifest in all the statements heard at Montego Bay. Almost every Delegation referred to it, and to its author, Arvid Pardo of Malta. President Tommy Koh said: "I cannot

conclude my statement without recalling, once more, our collective debt to two men, Shirley Amerasinghe and Arvid Pardo. Arvid pardo contributed two seminal ideas to our work: first, that the resources of the deep seabed constitute the common heritage of mankind, and second, that all aspects of ocean space are inter-related and should be treated as an integral whole.

In closing the Conference, the Rt. Honourable Hugh L. Shearer, Deputy Prime Minister and Minister for Foreign Affairs & Foreign Trade, Jamaica, said: "As we come to the end of this stage, Jamaica wishes to give the highest tribute to Dr. Arvid Pardo whose vision, eloquence, and persistence started it all..."

The full text of the Convention, as signed at Montego Bay will be published in Volume V of the Ocean Year-book, together with a detailed analysis. Suffice it to affirm here that, no matter what its defects, the adoption and signing of the Convention is an event of major historic significance: that it has already triggered trends which are so broad as to be irreversible; and that it offers a new platform for the launching of the struggle for a new international economic order. Whether this platform will be used,

depends on circumstances beyond the Law of the Sea. If present, disintegrative trends continue, the gaps, contradictions and ambiguities of the Convention will be used to carry the conflict into the oceans. If people become serious about peace and balanced development, they will not nitpick the Convention for its defect, but use its constructive, its innovating aspects to innovate, to construct.

In Volume III of Ocean Yearbook we pointed to four major areas in which the Convention -- even before completion and adoption -- has generated new developments: (1) The "internalization" of the Convention through the drafting of new national legislation on ocean uses, the building of national infrastructure, and the articulation of its proper interaction with regional and global institutions; (2) Regional development and cooperation; (3) the restructuring and strengthening of the U.N. agencies engaged in ocean affairs; and (4) the advancement of deep-sea mining under the auspices of the Preparatory Commission, established in March, 1983.

The scene of ocean development in this new phase thus will be far more decentralized than it was during the UNCLOS III phase: giving to the strategists of the NIEO multiple options to push where the chances of a

breakthrough appear to be best.

In subsequent issues of the Yearbook we shall continue to review events under these four headings.

During the past eighteen-month period, there has been promising action on all four fronts.

In the field of national legislation, States are busy creating Departments for Ocean Development, National Agencies for Aquatic Resources, Ministries for the Oceans, ^Petc., and recasting, updating, harmonizing their laws, among themselves, and with the new international law.

All these issues were joint^{ed}~~ed~~ at Pacem in Maribus XI, which took place at the Ministry for Foreign Affairs in Mexico City, from October 26 to 29, 1982, attended by 82 experts from countries. While elucidating the complexity of this new task from the technical point of view -- that is, the sheer volume and variety of legislation required by the post-UNCLOS situation -- the Conference also drew attention to a rather fascinating political phenomenon: the "osmosis" between international and national political development. While this, obviously, is an all-pervasive phenomenon, it is, perhaps, nowhere ^{so} as concentrated, ^{so} as palpable as it is in the marine sector, due to the very nature of the medium of the ocean, with its direct effects on

the international community, on States, and on individual citizens. Be this as it may, it is certainly curious to observe that, after the ^{big} global Conference on the Law of the Sea, there are now, as it were, little Conferences on the Law of the Sea within each country: faced with the same issues, the same conflicts that the Big Conference had to face; and just as the "competent international organizations" -- the "Departments" or "Ministries" of the United Nations -- are laboring to re-assess and coordinate their responsibilities and find some level, some mechanism where their policies could be integrated -- not without some friction and inter-Agency rivalry -- so the ministries and departments within national governments. There is a bureaucratic rivalry and empire-building within many a Government, whether North or South, and the transfer of competences from one level to another for the sake of rationality and unity, encounters the same, nearly unsourmountable force of inertia, intranationally as internationally.

While several of the U.N. Agencies and institutions -- especially UNCTAD, FAO, IMO, and the Ocean Economics and Technology Branch -- have been, for some time already, very actively engaged in providing

information and assistance to developing countries in drafting new legislation in various sectors of marine activities, Pacem in Maribus XI was the first international conference to deal with these novel problems in a comprehensive and interdisciplinary way. The Government of Mexico itself has pioneered in drafting what might be called a comprehensive intranational Convention on the Law of the Sea, benefitting not only the Mexican people by enhancing Mexico's ocean management capacity and the possibility to utilize the new Law of the Sea to its best advantage, but other developing people as well, who may learn from a comparative study of the Mexican legislation.

Regional cooperation is developing and expanding slowly but safely, spearheaded by UNEP's Regional Seas Programme (see pp.xxx in this volume), now covering practically the whole world ocean with its eleven Plans of Action, Framework Treaties, Protocols: The Mediterranean (the pilot project: most advanced, through a series of Protocols adopted in the wake of the Barcelona Convention); the Kuwait Convention, covering the Gulf region; the Caribbean; West and Central Africa; East Africa; the East Asian Sea; the South West Pacific;

the South East Pacific; the Red Sea and the Gulf of Aden; the South West Atlantic; and the South Asian Sea.

Based on the universal standards laid down by the Convention on the Law of the Sea, the Regional Seas Programme performs the vitally important function of transforming the "soft" law of the Convention into "hard," enforceable law, articulating it regionally and providing the institutional infrastructure which is lacking in the Convention. The Regional Seas Programme, as pointed out in Vol. II of the Yearbook, is the most comprehensive and "systemic" programme in existence. Covering all activities in an ecological region this, necessarily, must include a regional sea together with its hinterland up to the watershed. Regional Seas Programmes cover a wide variety of marine activities, from coastal management to aquaculture and the extraction of energy from the sea. The institutional infrastructure includes networks for monitoring and surveillance and data exchange as well as common funds to pay for the cost of cleaning up the oceans.

As this work expands and unfolds, it could make a fourfold contribution to the further development of the new order in the oceans.

First: the Regional Seas Programme is likely to become the engine of the mechanism that will adapt the universal standards of the Convention to specific regional needs -- not only with regard to the protection of the environment but also with regard to resource management and ocean development as a whole.

Secondly, the establishment of regional funds may be the beginning of the development of a more comprehensive system of regional revenue sharing, which would offer a practical means to correct the inequities of the Convention with regard to resource distribution mentioned by President Koh. As early as 1971, Pacem in Maribus recommended that contributions to such a Fund should be based, not on the U.N. scale of contributions, too unrelated to the purposes of the Fund, but on an Ocean Development Tax, based on a State's uses of the oceans (see p.xxx in this volume). Perhaps the time has come to reconsider this proposal.

Thirdly, since it embraces the hinterlands, up to the watershed, the Regional Seas Programme could make an important contribution to solving the worst problems of the poorest of the landlocked nations, giving them new responsibilities, and new rights, in systems of integrated water management, including lakes and rivers. This obviously could not be done at

the global level. It can, and must, be done at the regional level.

Fourthly, the Regional Seas Programme has a peace-enhancing potential. Since its inception, the Programme displayed the unique capability of obtaining the cooperation of Greeks and Turks, Arabs and Israelis, Iraqis and Iranians, even in times of war between them. In the coming years, the protection of the environment may involve militarily sensitive issues, particularly in some regions, such as the dumping of radio-active materials or the testing of atomic weapons in the Pacific, or the presence of atomic weapons in the Indian Ocean region. If the coastal States of these regions can muster the political will -- and there are already indications they they may -- the Regional Seas Programme may give impetus to the movement for peace and disarmament, which may be significantly strengthened by adding the marine dimension.

The evolution of the U.N. agencies and institutions engaged in marine affairs, triggered off by the Convention, may eventually affect the whole United Nations system. There are no less than 62 references to these "competent international organizations" in the text of the Convention: and this fact alone may serve as

an indication of the importance these organizations are to assume under the new ocean regime. In a way, they now have to fill gradually the place the "Ocean Institutions" occupy in the Ocean Space Draft Convention the Delegation of Malta introduced in the Seabed Committee in 1971. That Draft -- the prototype of the Convention on the Law of the Sea: way ahead of its time -- provided with one swoop a full-grown multi-purpose ocean regime* with "Ocean Institutions" in charge of managing all major ocean uses.

The Convention on the Law of the Sea provides for only one such "Ocean Institution" -- the International Seabed Authority. The rest is left to the "competent international organizations," which now have to catch up to become "competent" to assume their new functions and responsibilities. A number of studies have been published in recent years on the new functions and responsibilities of these agencies and institutions, and on possible ways of strengthening them to enable them to discharge them successfully.**

*See also The Ocean Regime by Elisabeth Mann Borgese, Santa Barbara, Ca. Center for the Study of Democratic Institutions, 1968.

**IOI, Declaration of Oaxtepec, 1975; Pardo and Borgese, The Law of the Sea and the New International Economic Order, IOI Occasional Paper No. 4, 1976; The Delegation of Portugal, Doc. No. ; McRae,

During the past year, each one of the "competent international organizations" has held meetings to examine its new responsibilities and requirements. The U.N. Secretariat, in its turn, has undertaken the same analysis with regard its own functions in the new context. It is now in the process of preparing an annotated version of the Convention, with all the implications for the structure and functions of the international organizations in the U.N. framework.

The principal new responsibilities of the "competent international organizations" are in the following areas:

1. Assistance to coastal States in framing (and harmonizing) national legislation;
2. Assistance to developing coastal States in the management of living and nonliving resources in their economic zones;
3. Training of manpower for ocean management in developing countries;
4. Cooperation with coastal States in the management of living resources moving between two or more economic zones or between economic zones and the high seas;
5. Cooperation with coastal States and other States in the protection of the marine environment, including