



Dalhousie University

International Ocean  
Institute



COPY

INDEPENDENT WORLD COMMISSION  
ON THE OCEANS

SENT BY  
DHL  
27.07.95

H.E. Minister Kader Osmal  
Minister of Water Affairs and Forestry  
1029 Residence Building  
185 Schoeman Street  
Pretoria, South Africa 0001  
Tel.: 12 299 2001

Dear Excellency:

You should have received these days an official invitation from President Mario Soares of Portugal, the Chairman of our newly established Independent World Commission on the Oceans, inviting you to join the Commission and to participate in our first Plenary Session, on September 6, 7, and 8, at the United Nations University in Tokyo.

I am attaching today (a) a provisional agenda; and (b) some information on logistics which has been issued by the local organiser, INTERCOM. I hope that everything is clear.

You will note that you kindly should make your own travel arrangements, and that the air fare (business class) will be refunded in cash in Tokyo. You will also note that your expenses at the Westin Hotel in Tokyo are fully covered. However, if you prefer another hotel, you would be responsible for the difference in price between the Westin (23,000 Yen) and the Hotel of your choice. You should kindly advise Ms Masako Otsuka, INTERCOM, fax 81 3 3586 4706, of your decision as well as of your flight number and arrival time.

A set of documentation for the meeting will be sent within the next two weeks.

I very much hope it will be possible for you to join us in Tokyo. This first session of the Commission is of fundamental importance for the orientation and organisation of our work, and I am convinced that this Commission has a unique opportunity to offer a "vision" and make a long-term contribution to the making of a somewhat better world. But what we do today is decisive for the chances of realising the long-term vision. Ocean policy is being made this year

and next year, and we are in an exceptionally good position to influence it. We need your help and cooperation.

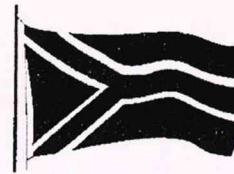
The time between now and Tokyo is very short indeed, and I would be most grateful if you could let me know just as soon as possible whether you will be able to attend as I fervently hope.

With all good wishes,

Yours sincerely,

Elisabeth Mann Borgese  
Vice Chair

Ministry of Water Affairs and Forestry  
Ministerie van Waterwese en Bosbou  
Tona ya tsa Meetse le Dithokgwa  
Umnyango Wexa Manzi Nexama Hlathi



Private Bag X313  
Pretoria  
0001  
Tel: (012) 299-2525  
Fax: (012) 328-4254

RECEIVED AUG 04 1995

Private Bag X9052  
Cape Town  
8000  
Tel: (021) 45-7246  
Fax: (021) 45-3362

4 August 1995

Ref.  
FAX 09 1 902 494 2034

Elisabeth Mann Borgese  
Vice Chair  
Independent World Commission on the Oceans  
Dalhousie University  
International Ocean Institute  
1226 LeMarchant Street  
Halifax, Nova Scotia, Canada B3H 3PJ

Dear Ms Borgese

I refer to our conversation on the telephone today, and confirm that Professor Kader Asmal is most touched and appreciative of the fact that you have invited him to join the Commission on the Oceans and to participate in your first Plenary Session in Tokyo early in September.

He is giving the idea his active consideration; the only possible problem being his reconciling this with his heavy Ministerial programme around that time.

We shall give a definitive response early next week by fax.

Meanwhile in passing I might mention that it would be of interest to the Minister to have the names of those who are to serve on this Commission. I wonder if you would be so kind as to fax them to me at Cape Town (country code 27, city code 21) number 45-3362.

Yours sincerely

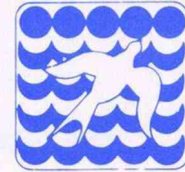
A H HEARD

Special Adviser to Prof Asmal



Dalhousie University

International Ocean  
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**FAXED**

FACSIMILE TRANSMISSION

To: Mr. A.H. Heard  
Special Adviser to Professor Asmal  
FAX No: 27 21 45 33 62  
From: Elisabeth Mann Borgese  
FAX No.: 1 902 868 2455

Date: 4 August, 1995

Subject: Your fax, just received

Dear Mr. Heard,

Thank you very much for your fax letter. We are delighted about Professor Asmal's interest.

The membership of the Commission has not yet been quite finalized. Thus far we have:

President Soares of Portugal, Chairman

Ambassador Layashi Yaker, Vice Chairman for Africa

Dr. Yoshio Suzuki (Nomura Research Institute, Tokyo) Vice Chairman for Asia

Professor Guido de Marco, Deputy Prime Minister, Malta, Vice Chairman for Europe

Dr. Jose Israel Vargas, Minister for Science and Technology, Brazil, Vice Chairman for Latin America

Myself, Chair, International Ocean Institute, Vice Chairman for North America

Their presence in Tokyo is confirmed. Also the following Members of the Commission are confirmed:

Professor Su Jilan, Academia Sinica, China

Professor M.S. Swaminathan, India

Dr. R. Lubbers, former Prime Minister, Netherlands

Professor John Kendrew, U.K.  
Dr. Robert Muller, Chancellor, Peace University, Costa Rica  
Professor Ronald St John Macdonald, European Human Rights Court  
Professor Richard Falk, USA  
Professor Alexander Yankov, Bulgaria (International Law Commission).

The Directors of the Operational Centres of the International Ocean Institute are attending as "staff."

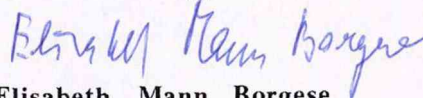
We are still expecting a number of confirmations. My guess is that at least 20 of the 30 invited will accept and participate.

Further communications will undoubtedly reach you from Lisbon.

We hope everything will work out, in spite of the short lead time. Professor Asmal would appear to be an ideal Commission Member!

With my warmest thanks for your help and cooperation,

Yours sincerely,



Elisabeth Mann Borgese  
Professor

YES	UNCERTAIN	NO
Chairman 5 Vice Chairmen Su Jilan Swaminathan (immediate action required) Lubbers (immediate action required) Kendrew (immediate action required) Robert Muller (immediate action required) Macdonald (immediate action required) Falk (immediate action required) Yankov Asmal (South Africa) Staff	Bedjaoui Khalid St Jorre Koroma Ruperti Mayor Ulf Lie Kolodkin Somaia Arias Don Mills James Baker	Koh El Nauimi Solofa Dupuy Hedrich Fleischhauer Speth Turner Barcena



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**FAXED**

FACSIMILE TRANSMISSION

To: H.E. Minister Kader Asmal

FAX No: 27 21 45 33 62

From: Elisabeth Mann Borgese

FAX No.: 1 902 868 2455

Date: 29 August, 1995

Subject: **World Commission** and International Ocean Institute

My dear Professor Asmal,

I was most happy to hear that you have accepted to be one of the Vice Chairmen of our World Commission. At the same time, however, came the notification of the postponement of our first Plenary Session. I sincerely hope this has not caused you too much inconvenience and that you will be able to meet the new date, December 12 for the Executive Committee meeting and December 13-15 for the Plenary.

Today I should like to ask for your advice in another matter.

The International Ocean Institute (which is the organisation that initiated the World Commission) is completing a major project carried out under a grant of almost three million dollars from the GEF. That project consisted in the establishment of 4 new operational centres in developing countries (Fiji, India, Costa Rica, and Senegal) to consolidate and expand our activities, especially in training and policy research. We are completing this project quite successfully. In fact, we have delivered more than had been asked for: Instead of 4 new centres we have established 6, the additional two, in China and in Japan.

Some time ago, the University of Western Cape (Professor Derek Keats) approached us with a proposal for the establishment of an IOI Operational Centre at this University.

We are now preparing our project for a second GEF tranche (almost 5 million dollars), to further consolidate and expand the project with the establishment of four additional centres, one of which might be in South Africa.

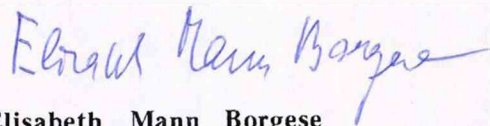
I did mention this possibility to Dr. Heard, and I would be most grateful for your advice.

GEF II would be for three years. There would be an MOU between the IOI and the University to establish the Centre as a joint venture. The University would provide a couple of rooms; some equipment, like computers, photocopiers, etc., would be made available by the project; the University would appoint a senior faculty member as (part-time) Director of the Centre; it also would appoint a junior faculty member or post-graduate student as "coordinator" to take care of the daily work; there would be a local advisory committee, and we would provide programmes, syllabi, etc. which, for three years, would be financed by the GEF. The networking between all our centres, the exchanges, the joint development of curricula and modules has proved to be very beneficial and stimulating to all concerned. The Centre would also be responsible for organising hearings for the World Commission, under your direction.

I would be most grateful if you could let me know as soon as possible whether, in principle, you would favour the establishment of such a Centre and whether you think the University of Western Cape would be the best place. We would then include South Africa in our project, which has to be submitted to the GEF very soon.

With all good wishes, and hoping to meet you in December,

Yours sincerely,



Elisabeth Mann Borgese  
Professor





Dalhousie University

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International Ocean  
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FACSIMILE TRANSMISSION

To: H.E. Prof. Kader Asmal MP  
Minister for Water Affairs and Forestry  
FAX No: 27 21 45 3362

From: Elisabeth Mann Borgese  
FAX No.: 1 902 868 2455

Date: 4 September, 1995

Subject: Your fax, just received

My dear Professor Asmal,

I cannot thank you enough for your prompt reply.

We shall proceed with our proposal for IOI South Africa at the University of Western Cape according to your suggestion.

As to Richard Falk, he had agreed to come to Tokyo on the original date, and I very much hope he will be able to shift to December.

I am looking forward with great pleasure to seeing you in Tokyo.

With all good wishes,

Yours sincerely,

*Elisabeth Mann Borgese*

Ministry of Water Affairs and Forestry  
Ministerie van Waterwese en Bosbou  
Tona ya tsa Meetse le Dithokgwa  
Umnyango Wexa Manxi Nexama Hlathi



Private Bag X313  
Pretoria  
0001  
Tel: (012) 299-2525  
Fax: (012) 328-4254

RECEIVED SEP 15 1995

Private Bag X9052  
Cape Town  
8000  
Tel: (021) 45-7246  
Fax: (021) 45-3362

Professor Elizabeth Mann Borgese  
International Oceans Institute  
Dalhousie University  
Halifax  
Nova Scotia

Ref.

4 September 1995

By Fax: 09.1.902.868.2455

My dear Professor Borgese

WORLD COMMISSION AND INTERNATIONAL INSTITUTE

Thank you for your letter of 29th August 1995. Since you wanted an urgent, reply I am doing so at the earliest possible opportunity.

I am extremely moved at the invitation to be associated with the World Commission. As you would no doubt have heard from my advisor, Mr Tony Heard, I have accepted your invitation to be one of the vice-chairmen of the commission. I look forward very much to the meeting of the Commission in December.

In relation to the application and proposal from Dr Derek Keats of the University of Western Cape to establish an International Ocean Institute Operational Centre at the University of the Western Cape, I have the following comments.

The University of the Western Cape has been setting the pace as far as development in the area of affirmative action and science involvement as far as the majority of South Africans are concerned. Universities in South Africa have neither been innovative nor creative and it is to the credit of the University of the Western Cape that it has played a pioneering role in this. I have, since your letter, obtained considerable information from Dr Keats and have cast a critical eye on his proposal. In my view the University of the Western Cape is eminently suited to be the focus of the IOI's work in South Africa. I therefore strongly recommend that such a centre should be established in South Africa and hope very much that your GEF application would be successful.

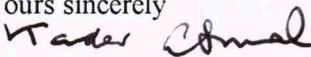
If you require any further information about Dr Keats or the University of the Western Cape I would be glad if you would contact me.

Thank you for sending me a copy of your book on *Ocean Governance and the United Nations*. I shall read it with great interest.

I have not been in Japan for nearly thirty years and look forward very much to the encounter in December. However the real attraction will be the work of the World Commission. Is Richard Falk going? He is an old friend.

With my best wishes

Yours sincerely

  
Prof Kader Asmal MP  
Minister of Water Affairs and Forestry

for Reconstruction and Development  
BY FAX: 4/9/95 - 4:55

*Ministry of Water Affairs and Forestry  
Ministerie van Waterwese en Bosbou  
Tona ya tsa Meetse le Dithokgwa  
Umnyango Weza Manxi Nexama Hlathi*

RECEIVED SEP 27 1995  
S.A



Private Bag X313  
Pretoria  
0001  
Tel: (012) 299-2525  
Fax: (012) 328-4254

Private Bag X9052  
Cape Town  
8000  
Tel: (021) 45-7246  
Fax: (021) 45-3362

Ref.

**12 September 1995**

**Ms Elisabeth Mann Borgese  
International Ocean Institute  
Dalhousie University  
1226 LeMarchant Street  
Halifax  
Nova Scotia  
Canada B3H 3P7**

**BY POST AND FAX: 09 1 902 494 2034**

**Dear Ms Borgese**

**Thank-you for your note of 4 September 1995. I am very pleased that you will be proceeding with your proposal regarding the University of the Western Cape.**

**It is my firm intention to attend the Tokyo meeting in mid-December, and we are putting arrangements in hand to that end.**

**I should appreciate it very much indeed if you could send me some further information on the Independent World Commission on the Oceans and the Tokyo meetings.**

**Yours sincerely**

**Prof Kader Asmal MP  
MINISTER OF WATER AFFAIRS & FORESTRY**

*for Reconstruction and Development*

FAXED 13/09.



Dalhousie University

International Ocean  
Institute

**FAXED**



FACSIMILE TRANSMISSION

To: H.E. Minister Kader Asmal  
Vice Chairman, IWCO  
Minister for Forests and Water Resources

FAX No: 27 12 328 4254

From: Elisabeth Mann Borgese  
FAX No.: 1 902 868 2455

Date: 21 December, 1995

Subject: World Commission

Mr. Minister, dear Kader,

I hope you had a safe trip back home and have recovered from the stress and strain of the Session!

Altogether, I think it was a quite productive meeting, and we have now an excellent basis for starting something constructive, innovative, and beneficial to developing countries.

After my return home, I have assisted the Secretary-General in incorporating the results of our discussions in the documents that should go into the brochure. The Secretary-General is going to take this new material to Lisbon on January 4.

I would be most grateful if you could have a look at it and let me have any comment or suggestion for further changes. So we could incorporate them before January 4.

The second point of this letter is that we should start thinking about the hearings in Africa. As Vice Chairman for Africa, you should take the lead on that. In Asia, Vice Chairman Suzuki worked with the IOI Operational Centres in Japan, China, and Fiji to

get it done. He also raised the needed funds (\$30,000 per Centre). In India, Vice Chairman Faleiro is cooperating with the IOI Operational Centre in Madras. In Canada, I raised the money, and we are doing the job through our Operational Centre at Dalhousie University. In Africa you would have two Centres to work with, at the University of the Western Cape and at the Centre de Recherches Oceanographiques de Dakar-Thiaroye --if you so chose, and if they are ready to do the job. I could send you the material we have prepared with the other Centres.

There are many ways of organising this project. You could organise the whole operation under your direction. You could also delegate it to one or both of the African Centres. I don't know whether you could provide the necessary funding --it is not much, or whether you would like the IOI to raise it.

Quite apart from the World Commission, I do think these hearings will be most useful for the people of Africa. They will provide what in U.N. parlance is called a "needs assessment"; they will be consciousness-raising and educative. If you choose to utilize the IOI operational centres, they will strengthen these institutions and raise their visibility.

We should put together an impressive report on these hearings, all over the world, ready for presentation at the Rotterdam Session of our Commission in November.

Do let me know as soon as possible how you wish to proceed. The time between now and November is not very long!

Let me use this occasion to send you my most fervent wishes for Christmas and for a peaceful and productive 1996. My intuition tells me that it will be an excellent year!

It was a real pleasure meeting you, and I am looking forward to working in close cooperation with you on this Commission.

All the best,

Yours as ever,

*Elzabeta*

*Ministry of Water Affairs and Forestry  
Ministerie van Waterwese en Bosbou  
Tona ya tsa Meetse le Dithokgwa  
Umnyango Wexa Manzi Nexama Hlathi*

IND. WORLD COMMISSION  
IN THE OCEANS



Private Bag X313  
Pretoria  
0001  
Tel: (012) 299-2525  
Fax: (012) 328-4254

Private Bag X9052  
Cape Town  
8000  
Tel: (021) 45-7246  
Fax: (021) 45-3362

Ref.

4/5/3  
5 June 1996

Dr. Elizabeth Mann Borgese  
International Ocean Institute  
Dalhousie University  
1225 LeMerchant Street  
Halifax  
Nova Scotia  
Canada  
B3H 3P7

RECEIVED JUN 18 1996

Fax: 09-902-494-1737

Dear Elizabeth,

I apologise for the long break in our correspondence, but the demands of trying to turn a new democracy from an overnight miracle into a sustainable reality are overwhelming. I have, as a result of these demands, paid far too little attention to my duties as Vice-Chairperson of IWCO.

In a letter to me, dated 21 December 1995, you made reference to the need to get the Africa hearings on the move, and referred to two IOI centres that might be useful in this regard - one in Cape Town and one in Dakar. I have not yet established contact with the centre in Dakar (I would be glad if you could furnish me with their contact details), but have had a fair amount of contact with the Cape Town centre. The sad truth, however, is that the centre in Cape Town consists of one person (who is employed full-time as a lecturer at the University of the Western Cape) and an empty office. He is turning to my office for help, rather than the other way round.

In the same letter, you asked whether we would be able to provide funding for the Africa hearings, or whether I would like the IOI to raise it. I realise that this is late in the day, but I must tell you honestly that, facing the capacity crisis here that we are, I doubt very much whether we will be able to raise the funds for the Africa hearings. Could you please let me know whether this is still possible, and what sort of sum you would be talking about. It would have to include the payment of at least one full-time staff member to work on this project.

I would also like to know whether IOI will be able to assist us with any kind of expertise to facilitate and organise these hearings?

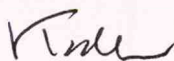
*for Reconstruction and Development*

B9 FAX: 091 902 494 2034

I am also concerned about the funding for the plenary session that is due to be held in South Africa in November, 1997. We are already investigating funding options for this conference, but once again, I would like to know whether there is any contribution that the IOI would be able to make to assist us in this regard.

I am, unfortunately, not able to attend the July meeting in Brazil, since I will be in Ireland at the time, but I look forward to hearing from you, and hope to see you again soon.

Best wishes



Prof. Kader Asmal, MP  
Minister of Water Affairs and Forestry



Dalhousie University

International Ocean  
Institute



**FAXED**

FACSIMILE TRANSMISSION

To: Professor Kader Asmal, MP  
Minister of Water Affairs and Forestry  
Fax: 27 21 45 33 62

From: Elisabeth Mann Borgese  
Fax: 1 902 868 2455

Date: June 24, 1996

Subject: Your letter dated 5 June 96.

Dear Kader,

now it is up to me to apologize for my long silence. While I can well imagine how full your working schedule must be, I, too, have been under some pressure -- too many things in too short a time!

Now as to the hearings: Financially, I would get in touch with the Japanese Ambassador. They have a lot of discretionary funds in their hands and might well support the effort. I think Professor Keats has a complete file of our Canadian preparatory documentation which you might use. I am attaching also our application to CIDA for the funding they provided (altogether \$45,000; this may give you an idea of how much, maximally, might be involved) which might also be useful. I think it is important to stress that these are the first global hearings on the oceans ever. There have been full hearings on the environment, but not on the oceans. So they are really and practically very important.

Alternatively you might also talk to the Res.Rep of the Commonwealth Secretariat -- but the Japanese have more money and they are very much interested in ocean affairs.

I think it will be easier to get this funding through a South African initiative than through the IOI. We already have so many applications going for so many things - including with the Commonwealth Secretariat and Japan!



But of course we shall be glad to assist you in any way you might find useful.  
Perhaps I could come to South Africa for one of the hearings? I have never been there, and would love to -- time permitting.

We'll see each other in a few days in Brazil. I hope and pray the meeting will be a success.

All the very best,

Yours as ever,

*Elrally*



Dalhousie University

International Ocean  
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INTERNATIONAL OCEAN INSTITUTE

REQUEST FOR CIDA FINANCIAL ASSISTANCE

1. On the initiative of the IOI, an INDEPENDENT WORLD COMMISSION FOR THE OCEANS ("the Commission") is being established. The Commission will consist of 30 members, including the Chairman (President Mario Soares of Portugal) and six vice-chairmen who will form the Commission's executive body. A certain number of "eminent persons" and "honourary members" will be added. Among those who have already accepted to be members of the Commission are: Judge Mohammed Bedjaoui, President of the International Court of Justice; Judges Abdul Koroma and Carl-August Fleischhauer, also of the ICJ; Mr. J. Gustave Speth, Administrator of UNDP; Professor Tommy Koh, President of UNCLOS III; Ambassador Juan Somavia, Chair, Social Summit Prepcom.; Dr. Yoshio Suzuki, former head of the Central Bank of Japan, now Director of the Nomura Research Foundation; Professor M.S. Swaminathan of India, Professor Ronald St.John Macdonald of Canada, Professor Rene Jean Dupuy of the College de France, and about a dozen others of the same high calibre. The list will be finalized during the next couple of weeks.
  
2. The purpose of the Commission, as stated in the founding document, is
  - . to refocus world attention on the importance of sustainable ocean development and the law of the sea;
  - . to monitor the ratification, implementation, and progressive development of the Convention, at national, regional and global levels;
  - . to examine whether States, especially developing countries, are able to fulfil their duties, enjoy their rights and generate their benefits under the Convention, to analyze the difficulties they might encounter, and to propose ways and means to overcome them;
  - . to monitor the implementation of Chapter 17 of Agenda 21, at national, regional and global levels and to observe the function of the Convention in this process (legal framework; peaceful settlement of disputes; enforcement);
  - . to follow the development of regional programmes of cooperation and development in the marine sector and examine how they adjust to the new requirements of Integrated ocean management and sustainable development;
  - . to examine the role of the Law of the Sea and ocean development in the process of restructuring the United Nations system as a whole for the 21st century and elaborate proposals to strengthen this role.
  
3. The Commission enjoys the full support of the United Nations Secretary-General, who has expressed his endorsement of the Commission's goals in a personal letter addressed to President Soares. The Commission also enjoys the full support of UNESCO, whose Director-General, Dr. Federico Mayor, has assured the contribution of means for the implementation of the recommendations that will be contained in the Commission's Final Report, to be published in 1998, the year declared by the United Nations as the Year of the Oceans.

4. Funding for the Commission, calculated at about one million dollars per year, has been assured by Japan (Sasakawa Peace Foundation), the Netherlands (Minister for Development Cooperation), Germany (Ministry for the Environment), Portugal, Malta, Monaco, and UNDP.
5. The main sources for the work of the Commission will be three:
  - (a) Global Hearings;
  - (b) Commissioned background papers;
  - (c) the intellectual input of the Commissioners.

The output of the Commission will be three volumes:

- (a) The Report of the Commission
  - (b) The background papers
  - (c) The report on Global Hearings, edited by the IOI Operational Centres in Canada, China, Costa Rica, Fiji, India, Japan, Malta, and Senegal.
6. It is in connection with the Hearings that this request for funding is being made.
  7. The purpose of the Hearings is multiple:
    - . to make a "grass-roots" input into the work of the Commission. People who work in the oceans and have a first-hand knowledge of problems and difficulties, such as fishermen's cooperatives, Harbour Masters, municipal authorities, NGOs, indigenous people, will be invited to make statements.
    - . to heighten awareness of the importance of ocean development and conservation and the Law of the Sea for the global economy, the conservation of the biosphere, and peace and human security;
    - . to make an input into curriculum development for IOI (and other) training programmes so that they respond to felt needs;
    - . to strengthen, through this activity, the experience and infrastructure of the IOI Operational Centres.
  8. A comprehensive background paper for the Hearings has been drafted. It will be edited by each IOI Operational Centre in accordance with regional needs and problems.
  9. The Hearings organised by the GEF sponsored Centres (Costa Rica, Fiji, India, and Senegal) will be funded by UNDP. The China and Japan Hearings will be funded by Japan; the Malta Hearings will be funded by Malta and the European Community. We are seeking funds for the Hearings to be held in Canada, which should also have some input from the United States.

10. The Hearings in Canada will be organised by IOI at Dalhousie University, in cooperation with the Ocean-Net organised by IDRC. Funding is needed for
  - (a) Preparation of a list of persons and organisations to be interviewed or invited to send statements; \$500
  - (b) Advertising; \$5,000
  - (c) Travel and meeting costs; \$20,000
  - (d) Computerization and analysis of results; Production of Report; \$5,000.
  - (e) Clerical assistance; contingencies; \$4,500

A total of CA\$ 35,000 is requested.

11. The work should be initiated immediately. The final report on these hearings is due by January 31, 1996.
12. The funds will be administered by Dalhousie University.

Reo/1wco



Dalhousie University

International Ocean  
Institute



FACSIMILE TRANSMISSION

To: H.E. Minister Kader Asmal  
 Fax: 27 21 453 362

From: Elisabeth Mann Borgese  
 Fax: 1 902 868 2455

Date: November 6, 1997

Subject: Draft Report

My dear Kader,

First of all, let me express to you my deep regret for not being with you at this session which I know will be very important. I hope it will be a turning point in the history of our Commission. I also would have loved to see your country where I never have been before.

However, obligations in Malta where very important developments are taking place in our International Ocean Institute, prevent me from coming. I wish you all the very best.

Secondly, could you be so very kind as to give the attached to Jan van Ettinger. I promised him I would send a detailed criticism -- and here it is whatever it is worth. I am really sorry that it had to be so negative. But I am afraid, the whole process has not been conducted the way it should have been.

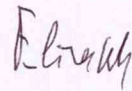
I would be grateful if you could have a look at my criticisms and positive suggestions yourself, and decide whether you would it useful or harmful to distribute it to our colleagues for the November 10 session. I leave it to you to decide.

I have had a long talk with our colleague Dr. Suzuki here in Tokyo. He is not pleased with the report either. All the points he tried to contribute have been completely ignored. On the other hand, Japan is taking a very exciting initiative to integrate regional security and sustainable development in ocean governance in

the East Asian Seas. We had discussions at the National Institute for Defense Studies. Quite amazing. Our Japanese colleagues are very keen on having a reference to this initiative inserted in our Final Report.

With all good wishes,

Yours very cordially,

A handwritten signature in black ink, appearing to read "E. L. ...". The signature is written in a cursive style with a large initial letter.



Dalhousie University

International Ocean  
Institute



October 31, 1997

Mr. Jan van Ettinger  
IWCO  
14 Avenue de Joli-Mont  
Geneva

My dear Jan,

Although we talked a great deal about the draft report, and you knew my general reactions, you asked me very insistently to send a detailed criticism. I do it with reluctance, because I hate to be negative, but since I promised it to you, here it is.

I think, given the circumstances, the report could not be better than it is -- it also could not be much worse.

To begin my review, I would like to return to the Commission's terms of reference, and ask: have the tasks we imposed on ourselves been fulfilled? Have we encouraged the further development of the ocean regime evolving from the United Nations Convention on the Law of the Sea in the light of changing scientific perceptions and discoveries, with particular attention to the needs of developing countries? Have we studied the interaction between the United Nations Convention on the Law of the Sea and other related legal instruments and programmes of action and explored ways to promote their implementation taking account of overlaps, complementarities and synergies? Have we analysed the requirements of integrated coastal zone management? Have we explored new forms of North-South and South-South cooperation for joint technology development? Have we examined the potential of ocean governance to the implementation of the United Nations Secretary-General's Agenda for Peace?

To ask these questions, I think, is to answer them. I frankly think we have not lived up to our mandate. We have not given a better idea of what ocean governance in the next century might be. We have worked on the assumption (p.4) that we should avoid to be in-depth descriptive of the ocean problematique and in-detail prescriptive of its "solution" "since that is already being undertaken by competent bodies inside and outside the UN system." Where are these bodies that are doing this job? Why do we need an Independent World Commission if

indeed other bodies are fulfilling these tasks? What on earth is meant by a phrase such as "Financial incentives might prove a unifier of our ideas and intentions"? (p.4)

Let me then begin from the beginning: p.1.

The opening fanfare to the Portuguese navigator Vasco da Gama is unfortunate as a tone setter for the report and should be eliminated. The style of the whole introduction is inappropriate. The attempts at being poetic are not very successful -- e.g., "the self-sustaining minuet that powers the elegant dance of the hydrological cycle" is not a felicitous phrase. There are grammatical errors on p. 3 ("them" and "us.") There is a non-sequitur in the two sentences. "Every act we make has consequences. This is why we are witnessing the birth of the Age of the Ocean."

We need a new and better introduction.

Security chapter: Overall assessment: The body of te chapter is quite weak. The recommendations are good as far as they go, but they are not linked effectively to the body of the chapter. They seem to come from somewhere else -- afterthoughts.

Details: p.2: I do not think we need to endorse the freedom of the high seas with such fervour. It is a little strange to say in two consecutive sentences that "the freedom of the high seas has provided the keystone for peace and security of the oceans up to the present time," and "it continues to govern thinking about military activities in the oceans, which still rest on the central ideas of res communis and freedom of navigation..."

That second sentence really gives it away! Whose peace and security was secured by the freedom of the high seas? Who benefitted from it? To enjoy the freedom of the high seas you have to have a blue-water commercial fleet and a blue-water navy. Poor countries don't have that. The freedom of the high seas made of the ocean the highway of imperialism and colonialism. The former colonies, the developing countries do not have the same enthusiasm about the freedom of the high sea as people in the "North."



While we need not make a frontal attack on the concept -- which would be unacceptable to some of our colleagues, we need not endorse it unconditionally either, or consider it as sacrosanct. I personally believe -- and many scholars do -- that the freedom of the seas is on its way out. The high-seas freedom to fish has been abolished for all practical purposes -- and this was a necessity if we wanted sustainable development -- and the freedom of navigation is being hedged more and more by rules and regulation, and as technology progresses, surveillance and enforcement will become more and more effective.

P.4 The mere question, "do the few global maritime states have a special leadership role in principle" is unacceptable if we believe in the equality of States. I don't think the world at large wants to be policed by "generally reliable and responsible" superpowers!

I find these pages too elementary, talking down to the audience!. Why put everything in the form of questions?

P.7, again: "Any proposed interference with the essential condition of freedom should therefore be viewed with caution"!

P.8 "Part of ocean governance has thus been taken over by leading powers, acting as agents for the world community." They most certainly are not acting, and never have been acting, as agents for the world community. They act in their own self interest, under the "freedom of the high seas."

P.9 Do we really have to say explicitly that "maritime security is the concern not only of the five major maritime nations who are permanent members of the UN Security Council." Is that not to be taken for granted?

P. 11 "This served as a continuous check against a catastrophic preemptive strike by an adversary." I do not accept the theory of deterrence. There are excellent scholars who argue most convincingly (e.g., Michael McGuire) that the theory of deterrence increased insecurity, not security, also during the Cold War..

On this page 11 we appear to endorse the Security Council's endorsement of US actions in the Kuwait war. I cannot associate myself with this endorsement.

P.12 More about the enlightenment of the freedom of the high seas!

We are an independent commission. We do not need to endorse unqualifiedly the policies of the leading maritime states -- especially the United States, which has adamantly excluded any discussion on naval disarmament , during the cold war and after. Again: I do not think we need explicitly attack them, but to speak their language, and only their language -- putting any other thought timidly into the form of an unanswered question, is not what an independent world commission should do..

P. 13 Apparently we do not have the courage to state -- as other reports have stated, that the oceans are a Common Heritage of Mankind. It is a statement that is gaining more and more acceptance. Obviously, legally, this concept was only applied to the international seabed; but practically, the straddling stocks agreement extends it to the high seas and the living resources. This, for instance is the opinion of Judge Shigeru Oda. Of the ICJ. "Trusteeship" "Public Trust" sounds quite evasive when we have the established principle of the Common Heritage of Mankind.

The principle of establishing Joint Management Zones should have been explained in some detail. There are some extremely interesting case studies, for instance the Senegal-Guinea-Bissau joint development zone.

P. 14 last sentence. "Expanding the law enforcement role of navies....could also have the secondary positive effect of demilitarizing the oceans." The meaning is not at all clear.

P. 15 nuclear weapons free zones and zones of peace should have been explained in the body of the chapter. The necessary integration of human security and sustainable development in regional seas Conventions and institutions is not mentioned. Naval peace-keeping is beginning to appear on international agendas. See, for instance, the recent conference in Tokyo on this subject.

These last pages are by far the best in the chapter, but the foundation should have been laid in the preceding part.

The chapter is very thin, limping behind, not leading, current discussions...

5

I have sent to all members of the Commission a copy of the little volume *Peace in the Oceans: The Contribution of Ocean Governance to the United Nations Agenda for Peace. The Proceedings of Pacem in Maribus XXIII*, published this summer by UNESCO. Perhaps some member may draw some additional ideas from it.

The Japanese have just now taken an initiative, which may be of break-through importance, to *integrate regional security in East Asia and sustainable development in ocean governance at the regional level*. There was an international workshop on this subject organised by the National Institute of Defence Studies on October 27/28. Our Japanese colleagues are very keen on having a reference to this initiative -- and to the importance of this subject -- inserted in our final report.

## II. Equity.

This is the best chapter in the book, but, it too, lacks specificity and is very timid. The recommendations are very few -- surely we ought to be able to come up with more -- and they are very broad. How are regional centres to be established? Who is going to pay for them? Articles 276 and 277 have been overtaken by the UNCED Conventions and programmes, each one of them has its own provisions for the "transfer of technology" We should propose one single system that serves the needs *all* the Conventions and programmes: at the regional level, within the "revitalized" Regional Seas Programme.

Regional Commissions on Sustainable Development deserve much greater attention. The Mediterranean Commission is extremely interesting, not only because it includes NGOs but because it gives to their representatives the same rights, including voting rights, as to the representatives of States; because it is the first time that UNEP departs from its "sectoral approach" and explicitly invites not only Environment Ministers but Ministers from all Ministries involved in ocean affairs to participate; and because it provides linkages between regional decision making and decision making at the level of the coastal community.

I think we should have the courage to say that the time has come to integrate sustainable development and human security at the regional level, and invite Regional Seas treaty organisations to participate in the implementation of the

Agenda for Peace. In terms of that Agenda, these organisations qualify for this task. See my comments above, on the Japanese initiative.

P.2 I don't understand the sentence "A central equitable conviction is the worth of these differences...". I also think the expression "territorial authorities" in the last line of that paragraph is not very clear.

On p. 3, there is a grammatical error, in the first full para., lines 3 and 4: "the limited range...*were*..."

P.6 The expansion of territorial claims by coastal States really was pioneered by the USA with the Truman Proclamations of 1945. The Latin Americans and Africans responded to the challenge.

On this page, again, we talk about the universal benefits of the freedom of the high seas...These benefits are not universal.

P.7, typo, end of second para: "can and *do* (not *to*) produce..."

P. 14. I am not sure how enthusiastic I am about the "partnerships" between NGOs and multilaterals. They will have to prove themselves first.

P. 16, the Seabed Authority. I was a little puzzled by the final paragraph. The seven plans of work approved by the Authority were the individual work plans the Pioneer Investors were obliged to submit. I do not think it likely that they can develop into the kind of joint ventures between private and public enterprises and the Authority. Much more suitable would be the programme for the exploration of the first mine site of the Enterprise, adopted by the Prepcom. That was in fact a joint venture between 3 of the Pioneer Investors and could and should be developed and updated.

Genetic Resources; this of course is a good recommendation. I think the methane hydrates and other deep sea-bed resources should be mentioned here as well. One urgent recommendation would be to refer to Art. 61(2)(o)(ii) (I don't have the Convention with me, and these numbers may not be quite correct). of the Convention and request that rules and regulations be made for resources other than the manganese nodules whose commercial exploitation may be very far in

the future. I know there are already Governments which are studying this option.

Ocean Development tax. Fine. What should be pointed out is that the Convention actually has set the first legal precedent for the collection of international taxes -- not only in the international area but even from areas under national jurisdiction (continental shelf beyond 200 miles from the base line). For the time being, there is no commercial production beyond 200 miles. But it undoubtedly will come, and this law (it actually is Article 76, if I remember correctly, not Article 82; I am writing this on a plane and don't have the Convention on me) In the meantime, however, the existing legal precedent might well be applied to other forms of international taxes. I am not sure whether an Ocean Trust Fund and appeals to wealthy individuals is the best approach, as it emphasizes voluntarism and charity rather than equity and the duty of equitable sharing. Also, one Ocean Trust Fund would be a major institution raising a host of problems with regard to decision-making, representation, etc. Probably international taxation should be closer to the user, most likely at the regional level.

### III. Revaluing the Ocean

It is a fairly weak chapter, very limited in its perspective. The entire emphasis is on the protection of the environment, not on development, and there is no attempt to integrate the two.. Poverty is to be dealt with only in so far as it impacts on the environment. The economics of shipping, of offshore oil, tourism, etc. are not considered.

P.6 The paragraph on the Sea-bed Authority is not very good. That it "gives states the power to allocate specific sites to private or state enterprises" is not an accurate description nor would it necessarily "promote fairness without sacrificing economic efficiency."

P. 7. The problem with aquaculture is not aquaculture. It is the perversity of the market system which, of course, treats aquaculture just like any other industry. "External costs were not considered." The second part of that sentence is not too meaningful. Who took the original decision to begin aquaculture?

Pages 11-12, especially the chart on p. 12 confirms my comments above. This chapter looks at "instruments for preservation of coastal and marine systems; not

at the wellbeing of people What happens to workers when marine activities are “down-sized” for the preservation of coastal and marine systems?

The limitation to the management of living resources is unfortunate. One of the dangers of ITQ is that it will force the small fisherman to “sell” his quota, and the industry will be monopolized by a few large companies. This may be “efficient” -- but where is equity? Where is employment?

Among the “International agreements” in fisheries, the Straddling Stocks Agreement deserves a prominent place. It should have been summarised, analysed, interpreted, developed

Other interesting missing points: UNCED’s emphasis on *integrated coastal management* has added a new dimension to the concept of the Common Heritage of Mankind. Under the Law of the Sea, the CHM was to be managed with particular consideration for the need of poor *countries*. After UNCED, it must be managed with particular consideration for the needs of poor *people*. The goal of the eradication of poverty must be part of any programme for integrated coastal management. Poor coastal communities, dying fishing villages, shanty-towns of coastal megacities must be effectively integrated into integrated coastal management. If integrated coastal management fails to make its contribution to some of the major socio-economic problems of our time, such as poverty and unemployment, integrated coastal management is not sustainable..

The recommendations are extremely meagre and generic. I am afraid the chapter adds absolutely nothing to the ongoing discussions.

#### IV. Ocean Knowledge and Uncertainties.

Also this chapter is disappointing. Both thin and redundant (fisheries). I think there is too much faith in computer simulations, but only time will tell.

P.12. Is it really true that “The first official national marine sanctuary legislation in the world was enacted in the United States in 1972”? I seem to remember that Peter Dohrn published an enormous volume on marine sanctuaries back in the ‘sixties. There certainly was Italian legislation at that time, and I remember

demonstrations by Italian fishermen against it. This statement on p. 12 needs checking.

Again, the recommendations are extremely meagre and generic, and add nothing to current discussions -- and everything is restricted to conservation and living resources.

Agencies and institutions. This gives a 100 percent "northern" perspective of marine scientific research. What is going on in India, China, Brazil, Chile, Mexico, even Mombasa is completely ignored. The same applies to p. 22. I would go so far as to say, it is scandalous that no institution in any other country has been named; but it betrays the carelessly northern perspective of the whole undertaking.

I am not sure that the chapter is well placed in the order of chapters. Some physical description of the oceans and their importance in the biosphere would be needed right at the beginning, so we know what we are talking about.

#### V. Public Participation and Awareness

There is, again, an almost exclusive emphasis on "environmental decision-making", and environmental law. The chapter is well structured but takes us far into the concepts of international environmental law, rather far from our central concerns. This adds to one of the weaknesses of the whole report, that is, the lack of focus.

#### VI. Towards effective ocean governance

p.2 The Sea-bed Committee was established in 1968, not 69, if my memory is correct.

P.3-4, bullets: a very mixed bag. Some paragraphs are merely descriptive, others are "should."

Under "Fragmentation at the international level" there is too much emphasis on "information." Everybody knows that we need information, but we need more

than that: we need vision, and of that I do not find much.

The unfinished agenda of ocean law will never be completed. It is an ongoing process of evolutionary change..

The recommendations on pp.9-11 are of course all right, but quite timid and status-quo oriented. They certainly are not novel or path-breaking.

The recommendations for national institutional development, the establishment of National Advisory Commission on the Ocean, are all right; but, on the one hand one should state that such arrangements will have to be different in every State, depending on existing national structures -- whether it is a federal or a unitary State; whether it is small or large; it also will depend on the stage of economic development, on culture; whether it is a democracy or otherwise; etc. on the other hand, one could be more specific with recommendations that science and industry as well as local government must be involved.

At the regional level, the emphasis on “comparative advantages” is not clear to me. Once more, the concern is entirely for the environment, not on development and the needs of people

There are a number of very specific proposals that one could make at the regional level:

- ◆ examine the possibility of establishing regional Commissions on Sustainable Development in all Regional Seas Programmes, on the precedent of the Mediterranean Commission and its threefold innovations;
  - breakthrough to interdisciplinary approach; which should now be extended also to the Bureaus (Executive Committees)
  - new form of cooperation between governments and NGOs
  - appropriate linkages between regional and local (municipal) decision-making organs.
  
- ◆ Examine the possibilities of establishing regional networks or systems for



South-South and North-South cooperation in joint ventures for research and development of socially and environmentally sustainable technologies, suitable in particular for poor coastal and island communities (eradication of poverty) and filling the technology transfer requirements not only of the Law of the Sea but of all ocean- and coastal-management related UNCED Conventions, Agreements, and Programmes.

- ◆ Study ways and means to integrate regional security and sustainable development in the institutional framework of regional seas programmes.

It should also be pointed out that this sort of upgrading of regional seas programmes is absolutely essential for the successful implementation of the entire UNCLOS/UNCED process as well as for the Agenda for Peace.

The recommendation “Undertake an assessment of conditions...” does not get us very much ahead.

Global: I do believe the emphasis on the “comparative advantages is not very meaningful.

I do not think that the singling out of the 1995 London Workshop is particularly useful. It did not achieve very much.

“Consider the options for a global overview of ocean governance.” Is that a specific recommendation? Is that not self-understood?

I think there are four recommendations one should make, in a very specific way, at the global level:

The first is indeed the role of the General Assembly, or a Committee of the Whole of the General Assembly, in the adoption of an integrated ocean policy. It is essential that it must be *the* body of the United Nations where *all members* are represented, including the diverse memberships of the various ocean-related Conventions which must be dealt with in their interaction.

The second is the role of the Specialized Agencies and Programmes of the United Nations. Present efforts under the ACC are abortive, and bound to be so. The kind

of integration of policies that is needed cannot be obtained at the inter-secretariat level. It can only be attained at the level of the General Assembly. Once that is done, however, the work of the ocean subcommittee of the ACC will be greatly facilitated. It will function like the interministerial councils or commissions at the national level, and each Agency or Programme then will execute its part of an integrated policy.

Thirdly, the Trusteeship Council. It would have to be made clear that this will need Charter Revision, and the establishment of a quite different membership, together with the new mandate. But the suggestion was a very good one, and it is very encouraging indeed that the Secretary-General of the UN has taken it up.

Fourthly, the Sea-bed Authority and the Meetings of States Parties to the LOS Convention:

the first recommendation would be that States should be encouraged to revert to the Article authorizing the making of rules and regulations for the exploration and exploitation of minerals other than manganese nodules. This is essential if the Authority is to be viable and able to keep up with scientific and technological developments.

Second, Based on the Authorities responsibilities for the conservation of the fauna and flora, evidently including also the genetic resources of the deep sea-bed, cooperation must be established with the Secretariat of the Biodiversity and Climate Conventions for the establishment of a regime for the management of these resources, and the establishment of a joint programme, of the kind indicated..

Thirdly, the mandate of the Meetings of States Parties must be broadened: Alternate meetings (every six years) should be constituted as Review Conferences of the Law of the Sea Convention as a whole, including Part XI. This Convention must be considered as a living and evolving organism. It must be open to periodic review and revision if it is to live.

I find it surprising that there is so little specificity in the recommendations dealing with existing and real issues, and that there is so much specificity in recommendations for the establishment of new and fanciful organisations which may not be needed at all.. I believe we should use what we have and improve it

and let it evolve; not create new institutions. The functions of the "Ocean observatory" should be evolved by IOC, GOOS, etc.; the World Ocean Forum should be established by the General Assembly; the "Ocean Guardian's Office" should be in the Trusteeship Council.

The tentative conclusions do not add much. There are a few phrases which I cannot understand, e.g., "it [the ocean] knows no political boundaries, hence the need for delimitation of jurisdictions..."???. On p. 2, I do not know how the 11 years are calculated (first paragraph); on p. 3 I don't know what is meant by "the delicate interaction between the ocean and our life-support system"; I always thought the ocean itself was a fundamentally important part of that life-support system...

Accountability and transparency are important but are they the alpha and omega of what we have to offer?

I think we have failed in methodology and timing, and time is running out. There is no input whatever from the "grass root level." Some of us took great pains in trying to provide such an input through timely hearings. This input has been blissfully ignored.

I have sent to the Secretariat a copy of the first draft of my Report to the Club of Rome. It will be published only late in November next year, giving the Commission Report priority and a six month advantage in time. Any member of the Commission who might be interested in seeing this first draft of my report, is welcome, and the Commission is free to borrow whatever it might want to borrow from that draft.

I hope that Cape Town will be a turning point and that there is still time to correct at least some of the mistakes of the past.

With all good wishes,

Elradd

Res/1wco

*Ministry of Water Affairs and Forestry  
Ministerie van Waterwese en Bosbou  
Tona ya tsa Meetse le Dithokgwa  
Umnyango Weza Manzi Nezama Alathi*



Private Bag X313  
Pretoria  
0001  
Tel: (012) 338-8733  
Fax: (012) 328-4254

Private Bag X9052  
Cape Town  
8000  
Tel: (021) 464-1500  
Fax: (021) 45-3362

Ref.

9 February 1998

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Elisabeth Mann Borgese  
Dalhousie International  
Dalhousie University  
Ocean Institute  
1226 LeMerchant Street  
Halifax  
Nova Scotia  
Canada  
B3H 3P7

BY FAX: 1 902 868 2455

My dear Elisabeth

I have been very remiss. You have written to me on at least two occasions and given me copies of your responses to the draft report on the oceans. In particular, I wanted to say how much we missed you in Cape Town because the Cape Town meeting was both creative in terms of giving shape to the report and socially very exciting.

In particular, I want to thank you for selling me your longer response to the draft circulated in December. It was your response that prompted me to write one myself as I was not able to travel to Morocco this week. Pressure work has made it impossible for me even to fulfill my social obligations, such as writing replies to people who kindly write to me. But more important, it has restricted my freedom of movement considerably; hence my absence from Morocco.

I have found your inputs extremely valuable. I hope that the final report will bear your imprint more than ever before.

With my best wishes

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kader'.

Prof Kader Asmal, MP  
Minister of Water Affairs and Forestry

*for Reconstruction and Development*



Dalhousie University

International Ocean  
Institute

FAXED



+ Feb 22  
critique 2.24  
+ resignation  
letter

FACSIMILE TRANSMISSION

To: H.E. Minister Kadar Asmal  
Fax: 27 21 45 33 62  
  
From: Elisabeth Mann Borgese  
Fax: 1 902 868 2455  
  
Date: February 24, 1998  
  
Subject: World Commission

My dear Kadar,

Thanks a lot for your kind letter. I am glad we agree on so many points!

I had just sent my criticism of the new draft to Geneva (see attachment)-- when the bomb of Layashi Yaker's removal exploded. I have now, regretfully, given my resignation. Copy of my letter is attached.

Let us hope, something decent and useful may come out in spite of all this! You have my warmest wishes.

Yours very cordially

*Elisabeth*

*Ministry of Water Affairs and Forestry  
Ministerie van Waterwese en Bosbou  
Tona ya tsa Meetse le Dithokgwa  
Umnyango Wexa Manzi Nxama Hlathi*

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Private Bag X313  
Pretoria  
0001  
Tel: (012) 338-8733  
Fax: (012) 328-4254

Private Bag X9052  
Cape Town  
8000  
Tel: (021) 464-1500  
Fax: (021) 45-3362

Ref.

**9 March 1998**

**Prof Elisabeth Mann Borgese  
International Ocean Institute  
Dalhousie University  
1226 LeMarchant Street  
Halifax  
Nova Scotia  
Canada B3H 3P7**

**FAX 09 1 902 494 2034**

**Dear Prof Borgese**

**Thank you for sending on a copy of your letter dated 24 February to Dr Soares. It grieves me that you have found it necessary to resign from the Independent World Commission on the Oceans. All I can say is that I was not at any stage aware of the events that occurred, and I am deeply sad that one of the prime movers in this important initiative, namely yourself, is now no longer associated with it.**

**It is my hope that you might, at this late stage and in the light of explanations from Lisbon in the matter, reconsider your position.**

**Warm regards**

**Yours sincerely**



**Prof Kader Asmal MP  
MINISTER OF WATER AFFAIRS & FORESTRY  
VICE-CHAIR: IWCO**

*for Reconstruction and Development*

*International Ocean Institute*

*Dalhousie University  
1226 Le Marchant Street  
Halifax, N.S. B3H 3A7*

*1 page  
Tel. 1 902 494 1737  
fax: 1 902 494 2034  
Canada*

## FACSIMILE TRANSMISSION

To: H.E. Minister Kader Asmal  
Fax: 0027 12 328 42 54

From: Elisabeth Mann Borgese  
Fax: 1 902 868 2455

Date: March 10, 1998

Subject: Your fax of 9 March

My dear Kader,

Thanks so much for your kind words. I wish I could stay with you.

From my office in Canada you will receive these days the whole documentation  
The explanations from Lisbon make things worse rather than better!

.It is really too bad -- but my conscience does not permit me to stay on. You will  
note that also Sidney Holt has resigned -- for reasons of his own, but, in any case,  
he, too apparently thinks that things have not gone the right way.

All the very best. I do hope that during the course of this year I will come to  
South Africa to visit our Centre - and it will be great to see you again.

Warm regards,

*Elmann*

Commission File

> Kader Asmal  
Minister of Forests + Waters  
Pretoria  
S Af

> (Prince) Moulay Hicham  
ben Abdallah  
Morocco

Commission  
Candidates