



Dalhousie University

International Ocean  
Institute

STRICTLY CONFIDENTIAL



FAXED

FACSIMILE TRANSMISSION

- posted  
(12 pp. world  
comm.)

COPY

To: Dr. Barbara Kwiatkowska  
FAX No: 31-30-537073

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

Date: May 15, 1994

Subject: World Commission

Dear Barbara,

We are in the process of launching a rather exciting project. The project outline is enclosed. This is, for the time being, confidential, because the initiative has not yet been launched. But the first reactions have been extremely favourable. I think this Commission is an idea whose time has come. What is happening to our poor Convention is rather alarming. It has been high-jacked.

In any case, the project is so linked to PIM XXII that it will go ahead, whether we get the Commission together on time or not.

What I would like you to do is to write the piece indicated under No. 4 (b) on p. 7. I do think IOMAC was way ahead of its time because of the broadness of its scope, the inclusion of landlocked States and the integration of fresh-water and sea-water resources.

I am sending you, by mail, a funny paper I wrote, sort of as an intellectual exercise. I took it upon myself to rewrite the Barcelona Convention the way I thought it ought to be written if it were written today!

To my great delight, the Government of Malta has picked up this document, worked on it, and introduced it just now at the Tunis meeting. So: new ideas are beginning to percolate.

Your paper ought to be ready early September, and, of course we would like you to



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come to the Malta workshop during the first week of October, and to Pacem in Maribus in Madras, December 4-8.

All local expenses are already covered --they have raised sufficient funds for that in India --but we are still desperately raising funds for international air travel. So, at this moment I cannot promise with 100 percent certainty that we can cover your air fare to Madras, although I certainly hope that we will be able to. But, if by any chance you can drum up some travel money from other sources, it certainly would help.

Do let me know soonest whether you will write the piece: I don't think it will cause you very much extra work: you have the material on your finger tips!

All the very best and much love,

*Elroy*

Your reference

Our reference

Direct line

NILOS

Netherlands Institute for  
the Law of the Sea

IWCO

Date

Subject

Visiting address

2 February 1996

Janskerkhof 3  
Utrecht, The Netherlands

Janskerkhof 3, 3512 BK Utrecht, The Netherlands

Phone +31 30 253 70 60

Fax +31 30 253 70 73

Professor Elisabeth Mann Borgese  
Chairman IOI  
Dalhousie University  
1226 Le Merchant Street

RECEIVED FEB 15 1996

Fax: 00-1-902-868 24 55



*Faculty of Law*

**Universiteit Utrecht**

Dear Elisabeth,

I was very pleased to see (through kindness of Jan Ettinger) the blue pamphlet of your Independent World Commission on the Oceans under the distinguished Chairmanship of President Mario Soares of January 1996!

I was, however, puzzled by not finding my name included in the long list of the Commission's members. I have understood from our previous correspondence that you invited me as a member and were pleased by my acceptance of this your invitation.

As I have been keeping to indicate my membership for various purposes, I would greatly appreciate to hear from you whether I should stop doing so, or whether perhaps an omission of my name in the pamphlet was due to some oversight?

Hope that you are doing great as usual! With warmest regards,

Yours sincerely,

Prof. Dr Barbara Kwiatkowska  
Associate Director NILOS

Your reference

Our reference

Direct line

**NILOS**

Netherlands Institute for  
the Law of the Sea

Date

Subject

RECEIVED FEB 22 1996

Visiting address

15 February 1996

Janskerkhof 3  
Utrecht, The Netherlands

Janskerkhof 3, 3512 BK Utrecht, The Netherlands

Phone +31 30 253 70 60

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Professor Elisabeth Mann Borgese  
Chairman IOI  
Dalhousie University  
1226 Le Merchant Street

Fax: 00-1-902-868 24 55

(enclosures mailed only)



*Faculty of Law*

**Universiteit Utrecht**

Dear Elisabeth,

Thank you for your indeed sad fax of today. To close the matter, and in the context of your surprise "how and where this misfortunate misunderstanding slipped in," I assure you that surprise is much greater on my side. I have a difficulty to comprehend:

- why did you sent me your (strictly confidential) fax of May 15th, 1994 on the World Commission with an Annex on its Establishment, asking me to write on No.4(b) of its programme?

- why did you acknowledge with delight in your fax of May 18th, 1994 my acceptance of your invitation?

- why did you ask me in your fax of January 16th, 1995 to inform Judges Fleischhauer, Koroma and Bedjaoui that Boutros and Major agreed jointly to nominate Soares as the Commission's President?

I really see no reason whatsoever to be the recipient of all those communications in a situation that, as you now wrote, you never invited me to be a member.

The worst part, however, is that both Judges Fleischhauer and Koroma also believed - as they told me - that you did invite them as the Commission's members. This is reflected in cc., to both of them in my enclosed letter to President Bedjaoui of January 17th, 1995, which was sent to all three of them and yourself on your express request of January 16th.

Since neither of the two Judges is now included among the Commission's members (what places me in a good company), I feel truly disappointed that they would associate their absence with my name in a situation when I had nothing to do with the occurred manipulation.

Yours sincerely,

Prof. Dr B. Kwiatkowska

COUR INTERNATIONALE DE JUSTICE

INTERNATIONAL COURT OF JUSTICE

PALAIS DE LA PAIX 2517 KJ LA HAYE PAYS-BAS

TÉLÉPHONE: (070) 3022323 TÉLEX: 32323

TÉLÉGR: INTERCOURT LAHAYE

TÉLÉFAX: (070) ~~0040020~~ 362.10.11.



PEACE PALACE 2517 KJ THE HAGUE NETHERLANDS

TELEPHONE: (070) 3022323 TELEX: 32323

CABLES: INTERCOURT THEHAGUE

TELEFAX: (070) ~~0040020~~ 362.10.11.

*Le Président*

*The President*

The Hague, 18 January 1995

Dear Professor Kwiatkowska,

I thank you very much for your communication of 17 January 1995.

I am very pleased to learn that President Mario Soares has been nominated as President of the Independent World Commission for the Seas and Oceans.

With my warm regards and best wishes, I remain

Sincerely yours,

*Best wishes for a  
happy New Year.*

A handwritten signature in black ink, appearing to be 'M. Bedjaoui', written over a horizontal line.

Mohammed Bedjaoui

Professor Dr. Barbara Kwiatkowska  
Associate Director NILOS  
Netherlands Institute for  
the Law of the Sea  
Janskerkhof 3  
3512 BK Utrecht

Your reference

Our reference

Direct line

**NILOS**

Netherlands Institute for  
the Law of the Sea

Date

Subject

Visiting address

17 January 1995

Janskerkhof 3  
Utrecht, The Netherlands

Janskerkhof 3, 3512 BK Utrecht, The Netherlands

Phone +31 30 537060

Fax +31 30 537073

His Excellency  
Judge Mohammed Bedjaoui  
President of  
International Court of Justice  
The Hague - Peace Palace



*Faculty of Law*

**Universiteit Utrecht**

Dear President Bedjaoui,

In connection with your appreciable acceptance of membership in the Independent World Commission for the Seas and Oceans, I am pleased to let you know that Boutros Boutros-Ghali and Federico Mayor have just agreed to jointly nominate Mario Soares as President of this Commission.

For your interest, I may also mention that the Government of Malta has taken up in toto proposals of Professor Elisabeth Mann Borgese for the revision of the UNEP Barcelona Convention, to bring it "from Stockholm to post-Rio," as now discussed by the State Parties.

With warm regards and best wishes, also on behalf of Elisabeth Borgese,

Yours sincerely,

Prof. Dr Barbara Kwiatkowska  
Associate Director NILOS

cc., His Excellency Judge Carl-August Fleischhauer  
His Excellency Judge Abdul G. Koroma  
(members of the World Commission)



Dalhousie University

International Ocean  
Institute



FACSIMILE TRANSMISSION

To: Professor Barbara Kwiatkowska  
FAX No: 31 30 537 073

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

Date: 16 January 1995

Subject: Your various communications

Dear Barbara,

I owe you acknowledgment and thanks for various missives. My correspondence is in deplorable shape. I have been away too much, and things are piling up!!

Among the various things you sent, there was the Heidelberg material, with your generous references to my work on so many occasions. You are extremely kind and I shall do my best to try to live up to your praises!

Things are moving very well. Bontros-Ghali and Federico Mayor have agreed to jointly nominate Mario Soares as President of the Independent World Commission for the oceans. This is happening just now --and our schedule for 1995 is in place. and we are working!

Please tell Fleischhauer, Koroma, and Bedjaoui.

And I am very excited because the Government of Malta has taken up in toto my proposals for the revision of the Barcelona Convention, to bring it 'from Stockholm to post-Rio.' These amendments are now on the table of the States Parties. They will be resisted furiously, but they are on the table!

Much love and happy New Year.

Yours as ever,

1228 LeMarchant Street, Halifax, Nova Scotia, Canada B3H 3P7  
Tel: (902)494-1737, Fax: (902)494-2034, Tlx: 019 21863 DALUNIV, E-Mail: IOIHXF@ADM.DAL.CA



Dalhousie University

International Ocean  
Institute



FACSIMILE TRANSMISSION

To: Dr. Barbara Kwiatkowska  
FAX No: 31 30 53 70 73

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

Date: May 18, 1994

Subject: missing page

Dear Barbara,

Delighted to have your prompt and positive reply.

Here is the missing page. It is the one with the miserly news...in contrast to the grandiosity of the rest of the material...

Well, you know how it is. But I do hope we will solve the problem. We always have.

I am airmailing the Barcelona paper.

Have a good trip, and we'll be in touch soon.

Love,

*Elisabeth*

1225 LeMarchant Street, Halifax, Nova Scotia, Canada B3H 3P7  
Tel: (902)494-1737, Fax: (902)494-2034, Tlx: 019 21863 DALUNIV, E-Mail: IOIHFX@ADM.DALCA



Your reference

Our reference

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**NILOS**

Netherlands Institute for  
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Subject

Visiting address

18 May 1994

Janskerkhof 3

Utrecht, The Netherlands

Janskerkhof 3, 3512 BK Utrecht, The Netherlands

Phone +31 30 537060

Fax +31 30 537073

Professor Elisabeth Mann Borgese  
Chairman IOI  
Dalhousie University  
Halifax

Fax: 00-1-902-868 2455



*Faculty of Law*

**Universiteit Utrecht**

Dear Elisabeth,

Thanks a lot for your fax of 15 May and the enclosed Project Proposal concerning your brilliant idea of the new World Commission!

However, the second page of your letter itself is missing, because the first page ends with half sentence:

"Your paper ought to be ready early September, and, of course we would like you to" which sentence is not continued, but instead the Commission's tasks follow. (Otherwise I received all 12 pages.) So please fax me the missing part (till the end) of your letter itself.

I am honoured by your invitation and I will be delighted to provide you by early September with a piece on Institutional Developments in the Indian Ocean: Seminal Ideas in IOMAC indicated under No.4(b) on p.7 of your Project Proposal. I fully agree with you as to the perfect timing of your proposed World Commission and I sincerely hope that international community will witness its birth soon and profit from its activities as outlined in your Project Proposal.

I also look forward to receiving your paper on the Barcelona Convention and I congratulate you for it having been introduced at the Tunis Meeting by Malta! Once I receive it, I will send its copy to Peter Sand, Legal Adviser/Environmental Affairs\*who as you may know initiated the Barcelona Programme and to whom your paper may be thus of a very special interest. (Peter was a Principal Legal Officer of the UNCED).

With warm regards and best wishes,

Yours ever,

\*World Bank, Washington D.C.

Prof.Dr Barbara Kwiatkowska  
Associate Director NILOS

P.S. I will be away 25-31 May in Singapore at Post-UNCED Meeting with Tommy Koh, then in July I look forward to see you at the LSI in Honolulu, and in November I will be a speaker at the Lisbon '94 IOC Conference Towards Sustainable Use of Oceans and Coastal Zones (Ruivo-Kullenberg).



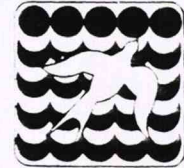
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FAX No.: 1 902 868 2455

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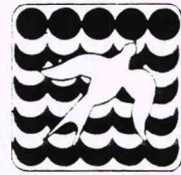
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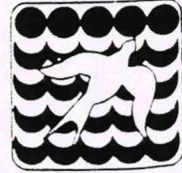
All the very best and much love,

*Elroy*



Dalhousie University

International Ocean  
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ESTABLISHMENT OF AN  
INDEPENDENT WORLD COMMISSION FOR THE SEAS AND OCEANS  
("THE COMMISSION")

EXECUTIVE SUMMARY

The oceans cover three-fourths of the surface of our planet. They are of crucial importance for the economy/ecology of the 21st century. The new order for the seas and oceans created by the United Nations Convention on the Law of the Sea, 1982, could be model for, and must be part of, a new global order capable of meeting the challenges of the next century.

Fourteen years after the adoption of this Convention, hailed by the Secretary-General of the United Nations as the most important event since the establishment of the United Nations itself, there are clear signs of erosion of this Convention and the order it was to establish.

Considering the basic importance of the world ocean in the development of human society, the maintenance of peace, and the health of the biosphere, we propose the establishment of an INDEPENDENT WORLD COMMISSION FOR THE SEAS AND OCEANS.

The Commission should be established on November 16, 1994, the day the United Nations Convention on the Law of the Sea ("the Convention") is coming into force.

The Commission's tasks should be

- . 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;

[...]



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**FAXED**



FACSIMILE TRANSMISSION

To: Professor Barbara Kwiatkowska  
FAX No: 313 70 73  
From: Elisabeth Mann Borgese  
FAX No.: 1 902 868 2455

Date: 15 February, 1996

Subject: World Commission

Dearest Barbara,

I have no idea when, how, and where this unfortunate misunderstanding slipped in: I once noticed that, in a communication to me, you referred to "our Commission" but I took that merely as a sign of general interest in this work.

The sad fact is that I never invited you to be a member. As a matter of fact, I never was in a position to invite anybody --that is the prerogative of the Chairman, to whom I have made recommendations which, quite frequently, he has chosen to ignore. The Dutch member of the Commission, as you saw, is Ruud Lubbers, and he is there on the recommendation of Jan Pronk who is supporting the Commission very generously.

But, perhaps you won't have to be sorry not to be on the Commission. I myself -- who, in fact, had done all the preparatory work to get it off the ground --feel quite frustrated at this point. Things do not move at all the way I had wanted them to move, and I am not even sure whether I want to stay on the Commission. I am still trying, though. It was such a good idea!

IOI work, instead, is going exceedingly well. We have moved Ocean Yearbook from Hawaii to Halifax, and we are preparing a special issue for the Year of the Oceans, for which I have great hopes and ambitions. I hope you will be able to contribute to that!

Much love and all the best,

*E. Mann Borgese*



Dalhousie University

International Ocean  
Institute

FAXED



FACSIMILE TRANSMISSION

To: Professor Barbara Kwiatkowska  
FAX No: 31 30 253 70 73

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

Date: 16 February, 1996

Subject: Your fax of 15 February

Dear Barbara,

A misunderstanding is a misunderstanding. And, on hand of the dates provided in your fax of yesterday, I have been able to find out where and how it happened.

In my fax of May 15, 1994, to which you refer, I invited you to Pacem in Maribus in Madras and to the preparatory workshop which was to serve as a preparation for both Pacem in Maribus and the not yet existing Commission. Since all the preparatory papers and the preparatory work for the Commission were done by me, I was of course perfectly free to show them, confidentially, to whomever I chose to show them, and since I consider you as a good, interested, and extremely well informed friend, I shared this information with you.

You accepted to write the piece and to come to the meetings. That was my understanding. There is no word in the fax you sent me that you accepted *to become a member of the Commission, nor that I had invited you to do so.* My (mis)understanding was that you had accepted to write the paper, which you did. You commented very favourably about the Commission, which I understood to be a general comment.

On May 18, I expressed my delight because you had accepted to write the paper and attend the workshop and conference. I also informed you that all your costs in this connection were to be paid.

The situation with regard to Fleischhauer and Koroma is entirely different, and the incompetent and inexcusable way in which Lisbon has handled their case is the primary reason for my withdrawal from the Commission. I have already given my resignation, but they don't want me to go, and so I will wait until after the next Executive meeting to see whether things can still be salvaged.

That is the situation.

All the very best,

Yours as ever,

*Elinor*