



Dalhousie University

International Ocean
Institute



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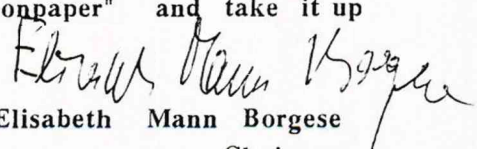
1. During the last session of the "Consultations" on the Law of the Sea held under the auspices of the Secretary-General of the United Nations, November, 1993, H.E. Ambassador Abdul Koroma of Sierra Leone introduced a "nonpaper" presenting an alternative approach to the issues under discussion. He presented it as a "fall-back position," should the ongoing discussions on the anonymous "Boat Paper," attempting to amend the Convention before its coming into force, be exhausted without results. Since then, the Koroma "Nonpaper" has been slightly revised, to incorporate some of the suggestions made during the November Consultations. The revised version will be re-introduced during the coming session (January 31-February 4). The revised version is attached to this note.
2. The International Ocean Institute has always been critical of attempts to amend the Convention before its coming into force. While we fully share the desire for the universality of the Convention, this approach seemed to us to be without basis in international law. It seemed to ignore the concept that the Convention is an integral whole. It also seemed unpractical to try to rewrite today provisions concerning deep seabed mining which are bound to be as obsolete in 2010 as those we wrote in the 'Seventies are today. We still know too little about when and where and under what circumstances deep seabed mining will actually get off the ground. Lastly, it seemed to us most unfair to change, before its coming into force, the text of a Convention which had already been ratified by a large number of States which then would be obliged to go back to their Parliaments with a different text.
3. The reasons militating against attempts to change the Convention before its coming into force are all the more peremptory now that there are 60 ratifications and the Convention will come into force on November 16 this year. Apart from anything else, there simply is no time to renegotiate Part XI at this date.
4. The alternative, proposed by the "Koroma Nonpaper" and fully endorsed by the International Ocean Institute, is far simpler, more pragmatic, and more cost-effective. In most simple terms, it suggests that we continue the Prepcom/Pioneer regime for an interim period lasting from November 16, 1994 to the time when commercial seabed mining is about to begin; that we authorize the Prepcom to exercise all the initial functions of the Authority and the Enterprise in an evolutionary manner; and that a Review Conference should be convened when commercial seabed mining is about to begin, or fifteen years after the coming into force of the

Convention, whichever comes first. The costs of the Prepcom should be borne by the United Nations general budget, as heretofore.

5. This solution leaves the integrity of the Convention intact. It does not oblige us to renegotiate anything at this time, prior to the coming into force of the Convention. It enables us to fully utilize, and build on, what we have built during ten years of work of the Prepcom and the Pioneer Investors. For all practical purposes, the Prepcom has functioned, during these years, as an interim regime, carrying out all the functions that need and can be carried out in this interim period: It has put together an excellent programme for exploration, related technology development, and the development of human resources (training programme). Almost all industrialized countries have cooperated in these Prepcom activities: There is no reason why they should not be able to continue to do so after the coming into force of the Convention. The Prepcom is tried and trusted. Let us keep what we have and build on it.

6. In the present and near-term future economic and technological situation the main purpose, and most beneficial activity, of the deep-sea mining regime would be to genuinely internationalise the development of the high technologies needed for, and related to, seabed mining, to open this development to the full participation of the smaller industrialised and the developing countries, and to prepare conditions apt to smoothen and facilitate the transition to the permanent mining regime when the time for commercial mining will have come. The Prepcom/Pioneer regime, such as it has evolved until today and as it could evolve during the next few years is fully suited to promote this goal.

7. We would be grateful if the distinguished Delegates to this solemn conference could devote some moments to a study of the "Koroma Nonpaper" and take it up with their Governments for consideration.


Elisabeth Mann Borgese
Chairman

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JAMAICA BREAKFAST CLUB

1. We now have 56 ratifications (Malta being the latest); we need four more for the **Convention** to come into force.
2. The coming into force of the Convention is of fundamental importance, for the international community as whole; for the developing countries in particular, and, quite specifically, for Jamaica where the Seabed Authority is to be located.
3. If the Convention does not come into force in the very near future (the four missing ratifications should come within the next two or three months) we risk losing it. A process of dismantling and disintegrating the Convention has already started. There have been strong pressures to rewrite part XI, and to eliminate all the benefits for developing countries which they had been fighting for over two decades. And now even the EEZ is under pressure; one must fear that, if the results of the High-Seas Fisheries Conference are not satisfactory (which is very likely), a number of countries will expand their national boundaries within the next two years. If the Convention is not in force, this will be its death-blow.
4. If the Convention is destroyed, it will be a severe setback for the Caribbean, including Jamaica. There will be chaos with regard to fishing rights. Parts XII-XIV of the Convention, containing the only existing binding, comprehensive international environmental law, will not be implemented. The Dispute Settlement system, the most advanced ever designed, will not be implemented, which means: more conflict, and possible armed conflicts. And the Seabed Authority will not be established. Jamaica loses its only U.N. organisation; it also loses possibilities in high marine technology cooperation.
5. There are several things we can do to prevent this from happening:
 - (a) The Secretary-General of the United Nations should be induced to take the initiative to put pressure on some countries to ratify immediately. He should be urged to do that from many sides; Jamaica could use its own influence in this direction;
 - (b) The Secretary-General's Consultations -- the results of which are being awaited by many States before they go ahead with their ratification -- will

continue in November. The Group of 77 has not "got its act together". Proposals, "Nonpapers" are being put forward by those who want to dismantle Part XI. The G77 has not come forward with anything. We need a "Nonpaper" safeguarding the interests of the developing countries. We have to have it by November, and we should all agree to it.

6. The solution we should propose must be very simple, so that there can be a general agreement on it this November. I would like to discuss such a solution briefly in this interview.