



Dalhousie University

File

International Ocean  
Institute



I.O.I. - Malta

Sep[tember 27, 1989.

hlu → Ms Lee A. Kimball  
Council on Ocean Law  
1709 New York Ave., Suite 700  
Washington, D.C. 20006  
USA

Dear Lee:

Thanks for the nice note on Pacem in Maribus. I am a great believer in cooperation. It all helps!

Working hard on a new study for the AALCC, on an R&D joint venture. The technology boggles the mind.

All the very best,

Yours as ever,

Elisabeth Mann Borgese

December 18, 1984

Ms. Elisabeth Mann Borgese  
Dalhousie University  
Department of Political Science  
Halifax, Nova Scotia  
Canada B3H 4H6

Dear Elisabeth,

As I may have mentioned to you, Citizens for Ocean Law is going through a period of evaluation that will probably lead to new directions for the organization in form and substance. After ten years' experience in negotiations on international ocean law and five on Antarctic policy matters, I would like to pursue a project to develop the role of non-profit, non-governmental, third-party institutions in contributing to the resolution of problems of global significance. The objective of the project will be to develop and apply improved procedures for international consultation and decision-making.

The project will emphasize (1) timely dissemination of reliable information, (2) close, continuous involvement in the development of policy in the United States and abroad, and (3) procedural mechanisms for consultation among opposing sides and with independent, outside experts. The model for the project will be the kinds of activities that I have been associated with through the Ocean Education Project, the United Methodist Law of the Sea Project and Citizens for Ocean Law (COL) on ocean law matters, and through the International Institute for Environment and Development (IIED) on Antarctic affairs.

Over the years, you have been the beneficiary of reports and publications from one or more of these organizations: "Soundings", NEPTUNE, COL's "Oceans Policy News" and IIED's Antarctica updates. I would like to ask whether you would be willing to write a letter of support for this information component of the above-named organizations with which you are familiar. I would plan to use the letter for fund-raising purposes. Your reference to specific examples would be helpful. I would also value any additional comments you would wish to make on the overall work of these organizations.

Thank you for your help.

Sincerely,



Lee Kimball

*Best for 1985!*

# IIED

## INTERNATIONAL INSTITUTE FOR ENVIRONMENT AND DEVELOPMENT

1717 Massachusetts Avenue, N.W. • Suite 302 • Washington, D.C. 20036 • (202) 462-0900 • Telex: 64414 IIEDWASH

William Clark  
*President*  
David Runnalls  
*Director*  
*North American Office*

*Co-Chairmen*  
*Board of Directors*  
Robert O. Anderson  
Abdlatif Y. Al-Hamad

November 1, 1984

Dear Sir/Madam:

Please find enclosed a report on Antarctica prepared bearing in mind the 1984 United Nations debate on Antarctica. The report provides an update on recent meetings and decisions taken in the various forums that make up the Antarctic Treaty System (ATS). It also briefly describes that system and lists several publications on Antarctic affairs issued during the last year.

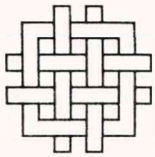
The report's update sections highlight the continuing evolution of the ATS. Its three sections on recommendations give examples of how the ATS could yet evolve to respond to the concerns of the wider international community.

When the U.N. General Assembly takes up the Antarctic agenda item on November 28-30, it will be difficult to make any progress until those involved in the discussion agree on the terms of reference for U.N. consideration of Antarctica and on how to explore options to improve the system of governance for Antarctica. The first step is to identify areas for further examination that command broad-based support from those countries party to the Antarctic Treaty and from those outside, such as the further development of working relationships with the U.N. and its specialized agencies. Once these possibilities have been examined, those interested in Antarctica will be able to resume discussion in the U.N.G.A. of how to give effect to improvements in the ATS acceptable to all concerned states.

If you have any questions on this report, please contact Lee Kimball at (202) 462-3737.



Lee Kimball  
Consultant to IIED



Center for International Development and Environment

A Center of the World Resources Institute

1717 Massachusetts Avenue, N.W., Suite 302, Washington, D.C. 20036  
Telephone: 202-462-0900 Telex: 64414 IIEDWASH Fax: 202-234-1112

WRI

January 23, 1989

Dear Colleague:

You probably noticed that the last communications you have received from me have been from the World Resources Institute. The former Washington office of the International Institute for Environment and Development (IIED) has now separated from IIED [which continues operations in London] and merged with the World Resources Institute (WRI) here in Washington. That process is complete, so I can now officially notify you of two changes:

1. Within WRI, most of the former IIED program will be organized as the Center for International Development and Environment. The Center's program remains the same -- the provision of policy advice and technical services to governments, donors and nongovernmental organizations (NGOs) in developing nations. **The Antarctica Program**, however, will fit into WRI's pre-existing policy research program and will no longer be part of the Center. Both the Center and the Antarctica Program are fully part of WRI and will share integrated administrative and program operations. **The Council on Ocean Law**, my other employer, will maintain its independent status and continue as a tenant of WRI.

2. Our new address, effective January 30, 1989, is:

World Resources Institute  
1709 New York Avenue, N.W.  
Washington, D.C. 20006  
Telephone: (202) 638 6300  
direct line at Council on Ocean Law: (202) 347 3766  
Telex: 64414 WRI WASH  
Fax: 202 638 0036.

I look forward to a continuing and even stronger relationship with you, as part of the World Resources Institute. Best for 1989!

Sincerely,

Lee A. Kimball  
Director,  
The Antarctica Program

# COUNCIL ON OCEAN LAW

1717 MASSACHUSETTS AVENUE, N.W. • SUITE 302 • WASHINGTON, D.C. 20036 • (202) 462-3737

October 20, 1986

Elisabeth Mann Borgese  
IOI  
Center for Foreign Policy Studies  
Pearson Institute  
1321 Edward Street  
Dalhousie University  
Halifax, Nova Scotia  
CANADA B3H 3H5

Dear Elisabeth:

Please find enclosed a brief summary of the informal workshop discussions organized by the Council on Ocean Law (COL) at the summer session of the Preparatory Commission in New York. I hope you find that it fully reflects the exchange of views that took place on controversial issues in the LOS Convention's seabed mining regime. In light of the discussions, and developments in the Commission itself, I thought it might be useful to explore, well before the Kingston meeting of the Commission in 1987, what COL could do in preparation for it. Our hope is to move these workshop discussions forward in a manner that contributes usefully to the work of the Commission.

What COL proposes to do is to revise the Discussion Paper prepared for the New York workshop to serve as a basis for further discussion. The revised paper would accomplish the following:

- (1) Identify the specific provisions of the Convention mining regime that, due to changed economic/market circumstances, raise practical problems for those who would engage in seabed mining, and identify in addition the specific rules and regulations before the Commission relevant to these provisions;
- (2) Relate the other practical problems in the seabed mining regime to specific Convention provisions, particularly with respect to item #1 in the Discussion Paper, 'The Discretion of the International Seabed Authority and the Need for a Stable Investment Climate'. Identify in addition the specific rules and regulations before the Commission relevant to these problems, or, if they have not yet been prepared, suggest in general what they might cover.
- (3) Identify Convention provisions whose lack of specificity presents opportunities to develop them through rules and regulations in a way that would mitigate practical problems in the seabed mining regime.

If there are specific topics on which participants would like to hear the views of technical experts, COL will attempt to recruit such experts for a future discussion.

I will look forward to receiving your comments and suggestions on our future program.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Lee A. Kimball', written in a cursive style.

Lee A. Kimball  
Executive Director

enc.

# COUNCIL ON OCEAN LAW

1717 MASSACHUSETTS AVENUE, N.W. • SUITE 302 • WASHINGTON, D.C. 20036 • (202) 462-3737

Summary Report  
Seabed Mining Discussions  
August 18 and 25, 1986  
New York City

The Council on Ocean Law sponsored two informal dinner seminars during the New York session of the Preparatory Commission August 14-September 5. Participants were invited to consider issues in the area of deep seabed mining that have been raised as impediments to widespread adherence to the 1982 Law of the Sea Convention. While the Council strongly supports an international regime of ocean law as reflected in the 1982 Convention, it is aware that the Convention's deep seabed mining regime must be clarified and modified in certain key areas before it will be able to command widespread support. A number of countries -- signatories and non-signatories alike -- have stated that it is up to the Preparatory Commission to clarify through rules, regulations, and procedures presently ambiguous provisions in the Convention mining regime before they will ratify the Convention.

At the two meetings in New York, where participants took part in their personal capacities, several themes were explored:

- (1) Issues of timing affecting the work of the Preparatory Commission.
- (2) The need to explore and comprehend the full range of practical problems facing those who would engage in seabed mining, both in a comprehensive manner and in relation to the specific provisions where clarifications and/or modifications may be necessary.
- (3) The need to distinguish practical problems brought about by changed economic/market circumstances from those desired for other reasons; that is, what provisions have been rendered obsolete by changing economic circumstances and what problems have not changed since 1982 and continue to give rise to problematic uncertainties for those who would engage in deep seabed mining.
- (4) The scope of practical problems that can be addressed by the Preparatory Commission versus problems to be addressed by amendment once the Convention has entered into force.

Issues of Timing and the Work of the Commission. The ramifications of entry into force of the Convention were distinguished from effects of the delay in viable commercial seabed mining operations. On the one hand, the delay in seabed mining gives the impression that there is plenty of time to address the practical problems in the Convention mining regime. Yet if the Convention enters into force before sufficient clarifications have been effected to obtain widespread adherence to it, this could produce a situation where the major seabed mining states were not party to it and not contributing to the financing and implementation of the seabed mining regime. Equally important to the mining states, they would not be able to participate in the

amendment process.

It was also pointed out that the issue of the long-term viability of the Convention was quite separate from the question of pioneer investor registration. Registration would not affect concerns about the operation of the Convention itself.

A few participants questioned whether members of the Commission were willing to turn to practical problems at this time and wondered whether renewed interest in seabed mining was a pre-requisite to considering these problems. In general, however, participants were responsive to exploring the exact nature of the practical problems and what the Preparatory Commission could do about them within the scope of existing Convention provisions.

Comprehending the Problems. There was a lot of interest in gaining a full understanding of practical problems, drawing on the expertise of outside technical experts as appropriate. Several members of the group also wished to pursue an exchange of questions among the different interest groups represented at the Commission on an informal basis in order to better appreciate how they would resolve such problems as a shortfall in Enterprise funding.

Obsolete Provisions versus Other Problems The group discussed in general issues requiring clarification outlined in the discussion paper prepared by COL, such as which organ of the International Seabed Authority (ISA) is responsible for particular decisions and/or functions; what procedures it will follow; applicable deadlines; and the necessity of recourse to expeditious and binding dispute settlement procedures. For instance, it was noted that concerns about ISA discretion can be at least partially addressed by Commission rules, regulations and procedures dealing with the form and nature of a contract; that problems with the definition of technology can be fixed by Commission rule-making, as can the issue of whether and/or how the ISA represents seabed mineral production in commodity arrangements; and that the definition of "all" interested parties required to participate in new commodity arrangements or agreements (article 151(1)) can also be interpreted by Commission rules.

Some participants pointed out in addition that there are a number of provisions in the Convention that the Commission could elaborate, develop and interpret through rules and regulations in a manner that might be able to remedy certain practical problems if not take care of some of the obsolete provisions as well. These include Annex III, art. 11 on joint arrangements with the Enterprise; Annex III, art. 13 on financial incentives for such joint arrangements; and article 151(2)(c) on performance requirements applicable during the period of application of the production ceiling.

Several participants cautioned against replacing one detailed, obsolete provision with another that might be obsolete by the time commercial mining operations begin. The production formula (article 151(2-7)) was identified as one specific example of a now obsolete provision that did not serve either the interests of the land-based producers or the seabed miners.



The group preferred to focus on practical, technical problems as a first priority, reverting to political aspects of these problems such as decision-making later on in its discussions. Their first concern was to gain a common understanding of the practical problems, which do not necessarily give rise to differing positions among the interests represented at the Commission. One such issue would be whether the Enterprise is really meant to be exempt from responsibility, liability and penalty provisions applicable to private contractors. They also stressed, however, that questions deferred by the Commission, such as decision-making, observer status and financial implications of the Convention, would have to be addressed before too long.

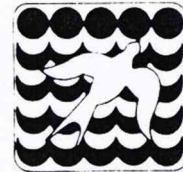
Finally, there was some interest in convening a like-minded group to identify priority issues requiring clarification and/or modification without which the Convention mining regime would not be viable.

Issues of Timing and Modification of the Convention. Several participants stressed that any modification of the Convention would have to await its entry into force and cited the alternative amendment procedures outlined in the Convention. They did not feel that the Preparatory Commission had the mandate to modify the Convention. Several of the mining states found some difficulty in relying on the amendment procedures, because without sufficient improvements they could not have ratified the Convention and would be unable to participate in the amendment process. For those who felt that a fourth LOS Conference might be in order, it was noted that such a negotiation would not be starting again at zero, but rather would draw on the work of the Third UNCLOS.



Dalhousie University

N 150 / Kimball  
International Ocean  
Institute



I.O.I. - Malta

February 11, 1990

*Ms Lee Kimball  
Council on Ocean Law  
Washington, D.C.*

*Dear Lee:*

*I am sure you will be interested in the enclosed copy of a letter I am sending to Elliot Richardson and a few others.*

*I would love to have your reaction.*

*All the best,*

*Yours as ever,*

*Elisabeth Mann Borgese  
Professor*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta

Lee Kimball  
World Resource Inst.  
Washington, D.C

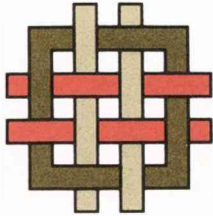
Dear Lee.

This is our background paper  
for MIT XIX.

I think we should cooperate with you  
and the project on "legal and institutional instruments"  
in which you are involved, a Maurice Strong led  
one.

Love

Elwood



WORLD RESOURCES INSTITUTE

1709 New York Avenue, N.W., Washington, D.C. 20006, Telephone: 202-638-6300  
Facsimile: 202-638-0036 Telex: 64414 WRIWASH Direct Dial: (202) 662-

March 22, 1991

Ms. Elisabeth Mann Borgese  
International Ocean Institute  
Pearson Institute  
1321 Edward Street  
Halifax, Nova Scotia  
Canada B3H 3H5

Dear Elisabeth,

Thank you for your letter and the revised paper submitted to the oceans secretariat. Alicia Barcena had given me the earlier version. I am enclosing for you a draft of the paper I did, along with annexes. It is not a final draft, and is now being re-worked by OALOS to give more emphasis to the institutional side and less to the legal. It appears that they may even stick their necks out on the institutional side (having just gotten off the telephone with Gwenda). At this point I do not plan to do any more work on it until after circulation of the revised document to some delegations at the present session of UNCED. The UNCED secretariat will also have to do some sorting out on which issues are dealt with in which papers, since there are clear overlaps between this paper and the London Dumping Convention, marine pollution, and fisheries pieces.

You will see that I have covered a number of the points you raise, if not all, and that I have picked up on some more recent information you have on UNIDO's regional center in the Mediterranean, as well as your study on financing in the Mediterranean. I would appreciate your thoughts on the scope of coverage, although at this point the revised version will probably be quite different.

All the best. I continue to hear about you from Barbara Kwiatkowska, and that you are as enamoured of your protrait as I am of mine.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee A. Kimball".

Lee A. Kimball  
Senior Associate



Dalhousie University

sent

International Ocean  
Institute



I.O.I. - Malta

FACSIMILE TRANSMISSION

To: Lee Kimball  
FAX No: 202 638 0036

From: Elisabeth Mann Borgese  
FAX No.: 1 902 868 2818

Date: April 3, 1991

Subject: institutional implications

Dear Lee:

Thanks very much for the material. Quite a job! and very very useful. Congratulations. I think our two studies complement each other, and there is no contradiction between them. As an INGO, we could be a little bit more daring on the innovative side whereas, necessarily, your recommendations are more of the incremental type. But they are all in the right direction and all useful.

Could you be so very kind as to send another set to our coordinator in the Netherlands

Mr. Jan van Ettinger  
88 Zwanenkade  
2925 AS Krimpen a/d Ijssel  
Netherlands

-- the quickest possible way. it would save as lot of time.

Do let me know, because if you cannot send it, then I will have to!

All the best,

Yours as ever,

Elisabeth Mann Borgese

**DALHOUSIE UNIVERSITY ARCHIVES DIGITAL SEPARATION SHEET**

**Separation Date:** June 29, 2015

**Fonds Title:** Elisabeth Mann Borgese

**Fonds #:** MS-2-744

**Box-Folder Number:** Box 279, Folder 8

**Series:** United Nations

**Sub-Series:** UNCLoS III : correspondence

**File:** Correspondence with Lee Kimball

**Description of item:**

File contains a report by Lee Kimball (“International Institutions and Legal Issues: The Oceans”).

**Reason for separation:**

Page has been removed from digital copy due to copyright concerns.

Lee A. Kimball

No. 403

1735 New Hampshire Avenue, NW  
Washington, DC 20009

tel. 202-234-6264

fax 202 234 0112

RECEIVED JUN 21 1993

June 14, 1993

\*\*\* CHANGE OF ADDRESS \*\*\*

International Ocean Institute  
Dalhousie University  
1321 Edward Street  
Halifax, Nova Scotia  
CANADA B3H 3H5

Dear Sir/Madam:

Please note that Ms. Lee A. Kimball is no longer at the World Resources Institute. Please forward correspondence to the address above. Thank you for your attention to this matter.

Sincerely,



Lee A. Kimball

Lee A. Kimball  
No. 403  
1735 New Hampshire Avenue, NW  
Washington, DC 20009

tel. 202-234-6264  
fax 202-234-0112

June 13, 1993

RECEIVED JUN 21 1993

Ms. Elisabeth Mann Borgese  
Dalhousie University  
Dept. of Political Science  
1321 Edward Street  
Halifax Nova Scotia,  
Canada B3H 3H5

Dear Elisabeth:

I'm glad to know that you are still engaged in saving the LOS Convention. I have had no time to pay much attention to current "fixit" proposals, so I am afraid my views are not well informed. In glancing at your suggestions, while they are certainly reasonable, I wonder what the incentive would be for those nations that have not yet ratified or acceded to the Convention to do so. All they get is the possibility of denunciation, with no indication that anything will be done to fix the problems they have had to date. If you had intended that your proposal be merged with one that accepts as a basis for the review conference the types of solutions and the principles being considered in the Secretary-General's consultations, then at least there's a bit more for the 'reluctants' to go on.

As to PrepCom performing initial functions, this seems consistent with the conclusion of the recent Kingston session, and I don't see any reason why a lean PrepCom can't hold the "watching brief". The critical issue is the one you mention: membership of the General Committee and its decision-making procedures. And as noted above, without a significant increase in ratifications/acessions, the General Committee is unlikely to be acceptable.

In effect, it's a chicken-and-egg problem. A clear willingness to "fix" the Convention's mining regime must precede any agreement on the institutional back-up for the interim period, because it will determine who's likely to become eligible to be part of the institutions.

Hope this helps. All the best with your many endeavors,

Sincerely,



Lee A. Kimball



Lee A. Kimball

1735 New Hampshire Avenue, NW #403

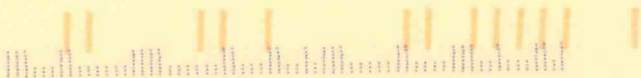
Washington, DC 20009

02 07 24 97 009 315846352 017 00



POSTAL CODE / CODE POSTAL

Elisabeth Mann Borgese  
International Ocean Institute  
1226 LeMarchant Street  
Halifax Nova Scotia  
CANADA B3H 3P7



## CHANGE OF ADDRESS

As of September 1, my new address will be:  
1517 P Street, NW #3  
Washington, DC 20005

✓ 0- A25

Telephone, fax, and email will remain the same:  
tel. (202) 234 6264  
fax (202) 234 0112  
email [lkimball@igc.apc.org](mailto:lkimball@igc.apc.org)

During the month of August, I will be temporarily at:  
2130 N Street, NW #503  
Washington, DC 20037  
tel. (202) 861 2955

Calls to the old telephone number will be forwarded  
automatically to the temporary telephone. Call first to fax.

**Lee A. Kimball**  
No. 403  
1735 New Hampshire Avenue, NW  
Washington, DC 20009

tel. 202-234-6264  
fax 202-234-0112

April 2, 1997

RECEIVED APR 10 1997

Elisabeth Mann Borgese  
International Ocean Institute  
1226 LeMarchant Street  
Halifax Nova Scotia  
CANADA B3H 3P7

Dear Elisabeth:

I recently received a copy of your paper "Sustainable Development in the Oceans" and, as usual, found it quite interesting in several respects. I couldn't agree more with the comprehensive regional approach and the need to strengthen and broaden the regional seas processes. As to the global level, the General Assembly has an important role to play, and it would be useful to draw in oceans specialists for the type of focused discussion you envisage in a biennial Committee of the Whole.

FYI, I am enclosing a copy of a recent essay for a book honoring Louis Henkin. It further addresses the 'architectural plan' for oceans institutions, specifying regional and global comparative advantages from the perspective of the three primary functions carried out by international institutions: policies and norms, information and analysis, and operational activities. In my view, by distinguishing these functions, one can better get at what I have called elsewhere the "two-axis problem": that we have to deal at the same time with (1) impacted natural systems at the scale of the affected system and taking into account the multiple stresses on that system, and (2) the specific human activities that cause impacts, and specialized measures to reduce impacts from each. While I share your view that regional centers are an essential capacity-building component, the identification and improvement of best practices and environmentally-sound technologies for specific activities impacting coastal/marine areas and related watersheds should draw on global expertise and resources. Global expert processes to this effect would jump-start regional centers. As the regional centers grow stronger, they would provide a primary source of input to revise regularly global information resources on best practices/ESTs. See especially pages 26-32.

All the best,

Sincerely,



Lee A. Kimball

**DALHOUSIE UNIVERSITY ARCHIVES DIGITAL SEPARATION SHEET**

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File contains a report by Lee Kimball (“Whither International Institutional Arrangements to Support Ocean Law”).

**Reason for separation:**

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