



Dalhousie University

International Ocean  
Institute

**FAXED**



FACSIMILE TRANSMISSION

To: Dr. S.K. Singh  
Fax: 91 11 684 6302

From: Elisabeth Mann Borgese  
Fax: 1 902 868 2455

Date: February 25, 1998

Subject: World Commission

Dear S.K.,

I thought you would be interested in the attachment!

I am glad I am rid of it!

Warm regards,

*Elisabeth*



**Suggestions for minor changes for final draft**

1. There should be some consistency with regard to the status of the high seas. On page 14 they are referred to as “public trust,” and we have heard Guido de Marco’s eloquent advocacy of that term. On p. 35, the high seas are referred to as “common property,” which is quite another thing, and on p. 56, we are told that they “belong to” the people of the world. My own strong preference, which I think is widely shared, inside and outside our Commission, is that the oceans are the common heritage of mankind.

2. On p. 15, we call for “compensating measure” that should be contained in fishing licences. I don’t think that is a good terminology. It conveys the notion that such agreements or licenses are really licences to plunder -- for which coastal States should get some “compensation” That is of course in fact what they are doing, but I don’t think that we want to endorse it. We want to say that there should be profit sharing, technology transfer, training, and onshore processing of part of the product.

3. On p. 18 we rightly state that (a) we reject ambitious blue prints; (b) we are guided by a long(er) term vision; (c) we take existing institutional arrangements and political receptivities (not a very good term) as starting points. I really am afraid, this is not what we are doing in this report. The “vision” does not come through -- in spite of the improvements that have been made in the “overview” and in chapter 6. The “vision” is fragmented and buried in various places in the Report. We fail to build on, and develop existing institutions, “using

them as a starting point” and, instead, we build three costly new institutions, out of nowhere!.

4. Let me deal with this fundamentally important point right here. I have no intention of being dogmatic and unbending. But after talking to several of our colleagues, including our Chairman, I have the feeling that, at least, we can reduce these new institutions from three to just one, a sort of Ocean Amnesty International. I would like to note, however, that there is Greenpeace who is doing that already, quite effectively; insofar as it can be done at all. I still think such an “observatory” would not get off the ground and would be ineffective and only cost money.

It is my impression that, in the opinion of several of our colleagues, the office of the “Guardian” is too complex for the NGO sector, and might be dispensed with, or, rather, its function could be merged with that of the “observatory” -- if any of these three recommendations were to remain. I still advocate the elimination of all three.

The “Forum,” in my opinion, is really not called for. There are, and have been for a long time, quite a few NGO “forums,” putting together diplomats, scientists, industrialists, and environmentalists, to discuss ocean affairs in an integrated manner. Suffice it to mention ACOPS and Pacem in Maribus. There are many others, in all parts of the world, working with IOC, with UNESCO, with UNEP, etc. Here, again, I think it would be better to strengthen what is there rather than building additional and costly institutions. I think the Commission should build on what the Mediterranean Commission on Sustainable

Development and UNCTAD are doing, that is, strengthening the role of NGOs in intergovernmental fora -- especially in the General Assembly, or in the Committee of the Whole, that is going to prepare the work of the General Assembly. In this Committee, NGO representatives should have the same standing as the Delegates -- just as in the Med. CSD.

I think that to convey our "vision" of ocean governance, we should have a 2-page spread, with a chart presenting all the proposals, from the local to the national to the regional to the global level. Most of the proposals are there, buried somewhere: They just have to be concretized and visualized. I refer particularly to the excellent intervention of Ruud Lubbers.

5. Much as I love to see the oceans in the lime light, I oppose the idea of an "Ocean Conference" in the year 2000. That smacks of UNCLOS IV and serves the purposes of those who want to do away with the remnants of UNCLOS III.

What I could envisage in 2000 is a conference on ocean governance at the regional level: the "revitalization" of the Regional Seas programme." Such a conference would have to be preceded by a number of UNEP initiated workshops, along the lines developed by UNEP in the context of the Washington Global Programme of Action on the prevention of pollution from land-based activities -- that is, including quite a broad range of regional organisations, both intergovernmental and nongovernmental, besides States parties to the Regional Seas Conventions.. These workshops, culminating in a inter-regional, global conference in 2000, could also effectively deal with the integration of human

security and sustainable development at the regional level. I am sorry I did not have a chance to introduce this during our all too brief discussion in Rabat!

6. P.63, box. The definition of the Common Heritage is incomplete. Reservation for peaceful purposes is not mentioned. Conservation of the environment is not mentioned.. Articles 140, 141, and 145 should be added

7. P.75,, end of line 2: add, “Selected technologies should be environmentally and socially sustainable and apt to improve living standards and generate employment in poor coastal communities.” Last sentence,, I cannot endorse or defend in any way the Implementation Agreement of 1994 nor accept without criticism the triumph of the market. The Implementation Agreement has *not* “enabled universal acceptance of the Law of the Sea. It has *not* achieved its main purpose, i.e. to obtain US ratification.

8. P.80. I am against the establishment of an Ocean Trust Fund, again, for the reason that we should not build new institutions where instead we can build on existing ones. It looks naive, as though we were not well informed about what is already there. We should increase the funds to be spent on the Oceans within the GEF. We should propose ways and means to increase funding of the Trust Funds of the Regional Seas Programmes. The establishment of a new Global Fund would be a total waste.

9. P. 88, beginning of last paragraph. As I had pointed out previously the

term”in our societies” is not clear. Is it a Freudian slip giving away the Northern orientation of the Commission’s infrastructure?

10. On p. 113, there is a printer’s slip which might easily escape the spell checker: Line 6 of the second para. Should read “inland seas,” not “island seas.

11. “Revaluing the ocean” is still too much focussed on *conservation*, with too little attention to people: to improving living standards, generating employment and “eradicating poverty.” E.g., p. 127, it is not considered that ITQ systems might lead to the elimination of the small artisanal fishermen and thus generate unemployment. And it may turn out to be impossible to take care “to ensure that certain social objectives, such as community development, are fully taken into account in the actual design of ITQ schemes.” ITQ schemes and community development are at loggerheads.

12. P. 154, box. Both Salvino Busuttil and myself have already drawn attention to the fact that this box is inadequate. The great innovation of the Mediterranean CSD is threefold: (1) parification of delegates of NGOs with Delegates of States; (2) direct linkages with and participation of coastal communities; (3) transcendence of sectoral approach by including “high-ranking Ministers” not only from the Ministry of the Environment but any other involved one way or another in ocean affairs.

13. P. 160-61. As already mentioned, the Secretariat should ask Mr. Steiner

at DOALOS to add a paragraph on the Common Heritage of Mankind and the International Sea-bed Authority. A summary of the Convention, completely leaving out Part XI, which is the heart of the Convention, is unacceptable.

14. P. 173 "Advisory bodies" might also include Parliamentary Commissions on the Ocean. That would be a useful recommendation

15. P. 179 I have already made my objection to the proposal to modify the membership of SPLOS, which should remain restricted to the States Parties to the Law of the Sea Convention, and to have it deal with the interaction of all ocean-related Conventions, etc. I still believe, only the General Assembly can legitimately deal with this subject. I do believe, however, that the mandate of SPLOS should be broadened, and that it should sit, every six years, as a Review Conference of the whole Law of the Sea Convention, including Part XI and the Implementation Agreement. No such review conference is provided for at present, and it is needed, if the Convention is to be considered as a process rather than a product, if it is to be kept alive and current in a world of rapid change.

I am opposed to the United Nations Conference on the Ocean, for the reason explained under (5>) above.

I am mentioning only these few points because they can be taken care of rather easily. But while recognizing the great progress that has been made, I am afraid there is still a lot of work to be done. Rereading the Commission's terms of reference in the Annex, I still doubt whether the Commission has fulfilled its

mandate.

Warm regards,



**S.K. SINGH**

April 7, 1998

To: Elisabeth Mann Borgese  
Fax: 1 902 868 2455

From: S.K. Singh  
Fax: 91 11 469-8201

Subject: World Commission

Dear Elisabeth,

Please forgive me for not acknowledging your fax communication of February 25<sup>th</sup>, enclosing a copy of your letter of resignation from the Independent World Commission on the Ocean. The delay was due to my travels.

I saw your letter to Dr. Mario Soares with some regret, and considerable disappointment. I could not help being aware of your dissatisfaction with the way the Independent Commission was being managed. I noticed this at the Capetown meeting, which you declined to attend, on a point of principle.

The removal of Ambassador Yaker from the office of Secretary-General in a manner which you consider objectionable and unacceptable, has caused us pain. Ambassador Layashi Yaker and I have been friends since our younger years when he was in Delhi as the FLN representative, and I was amongst those from our Foreign Office who liaised with the FLN team.

I have tried to contact Eduardo Faleiro. He has been in Goa; & pre-occupied with the general elections.

May I assure you that all those in India who are concerned with the work of the Independent Commission appreciate deeply the idealism that has motivated your resignation.

With warm regards & many thanks.

Yours sincerely,

  
(S.K. Singh)