The paper examines the development of the Regime of the Continental Shelf from a historical perspective. It considers the beginning of the legal aspects of the Regime emanating from the 1942 Gulf of Paria Treaty. The paper then assesses the development and contribution to the regime by Trinidad and Tobago, a country which recognizes that the commercial production of oil and gas is inevitably subject to laws and regulations, nationally and internationally, because of the value and effect this resource has on the economy of any oil producing country—more so where a very large percentage of oil and gas is extracted from its continental shelf.

1. Introduction

Rapid global development of the Regime of the Continental Shelf may not have been easily envisaged in the 1930s when the exploration for oil and gas had extended to the sub-marine areas of some coastal States. The literature and articles on legal aspects of the regime are voluminous as national and international jurists continue to examine and consider new developments in science and technology as they relate to global submarine exploitation.

In examining the contribution of Trinidad and Tobago in the development of the regime of the Continental Shelf, a historical perspective of the twin island Republic has to be viewed. Trinidad is the southern-most island in the Caribbean archipelago. The Caribbean Sea lies to the north of Trinidad and Tobago, the Atlantic Ocean to the east, the Columbus channel and the Venezuelan mainland to the south and the Gulf of Paria on the western coast of Trinidad. Occupying

* Judge Lucky has been a member of the Tribunal since September 2003. From 2005 to 2008, and since October 2011, he has served as President of the Chamber for Marine Environment Disputes. He sat as Judge of the Supreme Court of Trinidad and Tobago from 1987 to 2003, and as Justice of Appeal in the Court of Appeal from 2000 to 2003. He has lectured and published on international law and the law of the sea.
an area of approximately 1,981 square miles (5,131 square kilometers) and a population of 1,226,383 in 2011, Trinidad and Tobago is a large producer of oil and natural gas.¹

Prior to 1962, Trinidad and Tobago was a colony of Great Britain, achieving its independence in August 1962 and Republican status in September 1976. Although oil exploration and exploitation take place in the Caribbean Sea north of Trinidad, the major oil finds are located on the island’s southeastern coast in its continental shelf in the Atlantic Ocean.

The period from 1942 onwards marked the development of the law of the sea, which to say the least, could be described as both rapid and continually progressive. I have chosen 1942 because the Gulf of Paria Treaty was concluded during that year, in which the United Kingdom and Venezuela divided the submarine areas of the Gulf of Paria between themselves.² It is noteworthy that the geological and scientific exploration of the Gulf of Paria began in 1935 because reports in that year revealed a vast oilfield in the submarine areas of the Gulf of Paria.³ The technocrats recommended that a treaty should be concluded with Venezuela to ensure that the submarine area where the potential field was found would be within the boundary of Trinidad. Specific instructions from the geologists, scientific experts and negotiators were likely given to the official draftsmen of the Treaty to consider the anticipated results of the scientific findings as they prepared the document. After close examination of Articles 6, 7 and 8 of the Treaty, I have no doubt that the beginnings of the law of the sea as it relates to the continental shelf is inextricably linked to the commercial production of oil and gas, since no such law had come into existence prior to the Gulf of Paria Treaty.⁴

The Gulf of Paria Treaty was the first agreement of its kind at that time and was the only bilateral treaty with respect to the sea, which sought to regularize the legal position regarding fishing and other related rights between Trinidad and Tobago and Venezuela inter se. It was concluded prior to the Truman Proclamation of 1945, in which the Continental Shelf was defined.⁵ It will be argued in this paper that the Gulf of Paria Treaty created an impetus in the development of the regime of the Continental Shelf. In fact, it was the forerunner of the doctrine of

⁴ Discussion with Joyce C. Lynch, Senior Legal Advisor, Energy, Policy and Planning Ministry of the Attorney General, Trinidad and Tobago.