The Contribution of the States of Central America to the Evolution of the New Law of the Sea

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Introduction

Generally speaking, Latin America has made a generous contribution to the evolution and ensuing codification of the Law of the Sea. Since President Truman’s famous initiative on September 28, 1945 until the Third United Nations Conference on the Law of the Sea in 1973, the countries of this region filed many claims to their sovereignty and jurisdiction over the seas off their coastlines, drawn by either the need to protect the resources of their maritime space or an interest to extend the breadth of their territorial waters. These initiatives gave rise to precedents, until then unheard-of, which would be the object of discussion in subsequent Conferences on the Law of the Sea. In this context, Central America played a leading role on account of their particularly significant input on the definition of new maritime spaces.

There is no end of examples illustrating these facts, so unjustly disregarded by legal doctrines; hence our interest in acknowledging their valuable contribution. The closeness in time and common concerns of their claims, as well as the statements made by these governments and their active participation in international conferences, were essential to the formation and development of a ‘new law of the sea’ in the succeeding years. Along these lines and taking into account the object of this study, we will discuss all forms of State practice on the basis of both the unilateral decisions made by Central American nations as subjects of international law and their participation in multilateral effort related to the Law of the Sea, to wit, conferences, meetings, and joint statements about this legislation.

1 Unilateral Acts by Central American States and the Definition of New Maritime Spaces

The interest of Latin American States in the oceans appeared late in life. It is in the late 1940s when this concern increased, and mainly for two reasons. On one hand, because of the entry into effect of a new legal figure—continental shelf—initially supported by Mexico and, eventually, by the rest of the
region; on the other hand, because some Latin American governments (especially Chile, Peru and Ecuador) quickly became aware of the need to protect the marine resources contiguous to their coasts in light of the intense fishing activity developed by other States, in particular Norway, Great Britain and the United States.¹

This is the reason that the concept of continental shelf and the interest of the States to reserve competences for the exploitation of living and non-living resources in maritime spaces near their shores gave rise to a number of unilateral declarations across the region. In this connection, Central America was not the exception, to the point that it became an active venue of state claims and statements that included economic considerations in the *Mare Liberum* vs. *Mare Clausum* debate. Latin American ingenuity was no doubt what made it possible to break with the classic approach of the debate about maritime control, traditionally linked to the concept of sovereignty. With these new claims and statements, the Latin American governments took the said debate to a higher level by bringing to the fore a horizon never before explored: the economy. Indeed, since the concept of maritime space in the 1960s and 1970s was not clearly defined, the claimed rights were neither unequivocal nor uniform. Therefore, it is safe to say that Latin America was the breeding ground for maritime spaces over which coastal States have exclusive rights to exploit living and non-living natural resources and the driving force behind the consolidation of the concepts of continental shelf and exclusive economic zone (EEZ).²

Now, the study of these unilateral declarations cannot be addressed without making reference to its first antecedent, namely President Truman’s Proclamation 2627 of September 28, 1945, ‘Policy of the United States With Respect to the Natural Resources of the Subsoil and Sea Bed of the Continental Shelf’, stating literally that, ‘having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the subsoil and sea bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United States, subject to its jurisdiction and control.’³

² Ibid., pp. 6 and 18–19.