SOME THOUGHTS ON THE CONCEPT OF THE CONTIGUOUS ZONE AND ITS POTENTIAL APPLICATION TO THE GREEK SEAS

Aristotelis B. Alexopoulos*

1. INTRODUCTION

By the time the 1982 United Nations Convention on the Law of the Sea (hereinafter cited as “LOS Convention”) was adopted, the contiguous zone had no longer maintained its interest for most States, the reason being primarily the new concept of the exclusive economic zone (EEZ). A similar situation occurred but for different reasons, ever since the Geneva Convention on the Territorial Sea and the Contiguous Zone (hereinafter cited as “TSC”) had come into force. Article 24(2) of the latter states: “The contiguous zone may not extend beyond 12 miles from the baselines from which the breadth of the territorial sea is measured”. Bearing in mind that State practice tended towards the adoption of a 12-mile limit for the territorial waters and knowing that the contiguous zone could not extend beyond 12 miles, it was apparent that the regime of the contiguous zone would lose its significance.

Although the LOS Convention followed in article 33(1) the same rule established by the TSC in article 24(1) with respect to the nature and scope of coastal rights within the contiguous zone (see infra section 3), the extension of its maximum breadth to 24 miles from the territorial sea baselines together with the insertion of a new provision on the protection of archaeological and historical objects under article 303(2) has brought new interest to the rights of coastal States in this area. This paper discusses the legal status of the contiguous zone in international law, including a brief account of its history, and its potential application to the seas surrounding Greece.

---

* Adjunct Assistant Professor, University of the Aegean.


2. HISTORICAL PERSPECTIVE

State practice has shown in the past, even before the 1958 Geneva Convention, that raising a claim for a zone contiguous to the territorial sea was not unreasonable. It was based on the coastal State’s need to exercise limited powers over the sea, mainly for the protection of its revenue and health interests. It was felt that the narrow breadth of the territorial sea could not prevent activities such as smuggling and threats to public health. The first related regulations were the British Hovering Acts of 1718, which gave the authority to British warships to patrol the sea areas near the coastline in order to suppress unlawful acts such as the transport of slaves or prevent custom violations. This law was abolished when Britain claimed a 3-mile territorial sea. At a later stage, France and the United States followed with similar laws. The Greek corresponding law promulgating a customs zone can be traced back in 1918.

It seems that priority of control was given to the customs sector but those States in favour of establishing such zones expanded their jurisdiction in other sectors as well, notably for public health and security reasons. The tendency during that time was to treat these ‘protection zones’ as having a territorial-sea status. A detailed discussion about the concept of the contiguous zone took place during the 1930 Hague Codification Conference; a compromise was reached at that time in a sense that the coastal State could not exercise sovereignty over this zone but rather limited powers of an administrative nature.

It took a lot of time until the international community accepted a right of exercising control outside the territorial sea, in the high seas; upon the initiative of G. Gidel, this new concept was named ‘contiguous zone’. The US had already enacted related laws, the 1935 Anti-Smuggling Act, which dealt with the suppression of illegal acts, notably liquor activities, in a zone of 50

---

