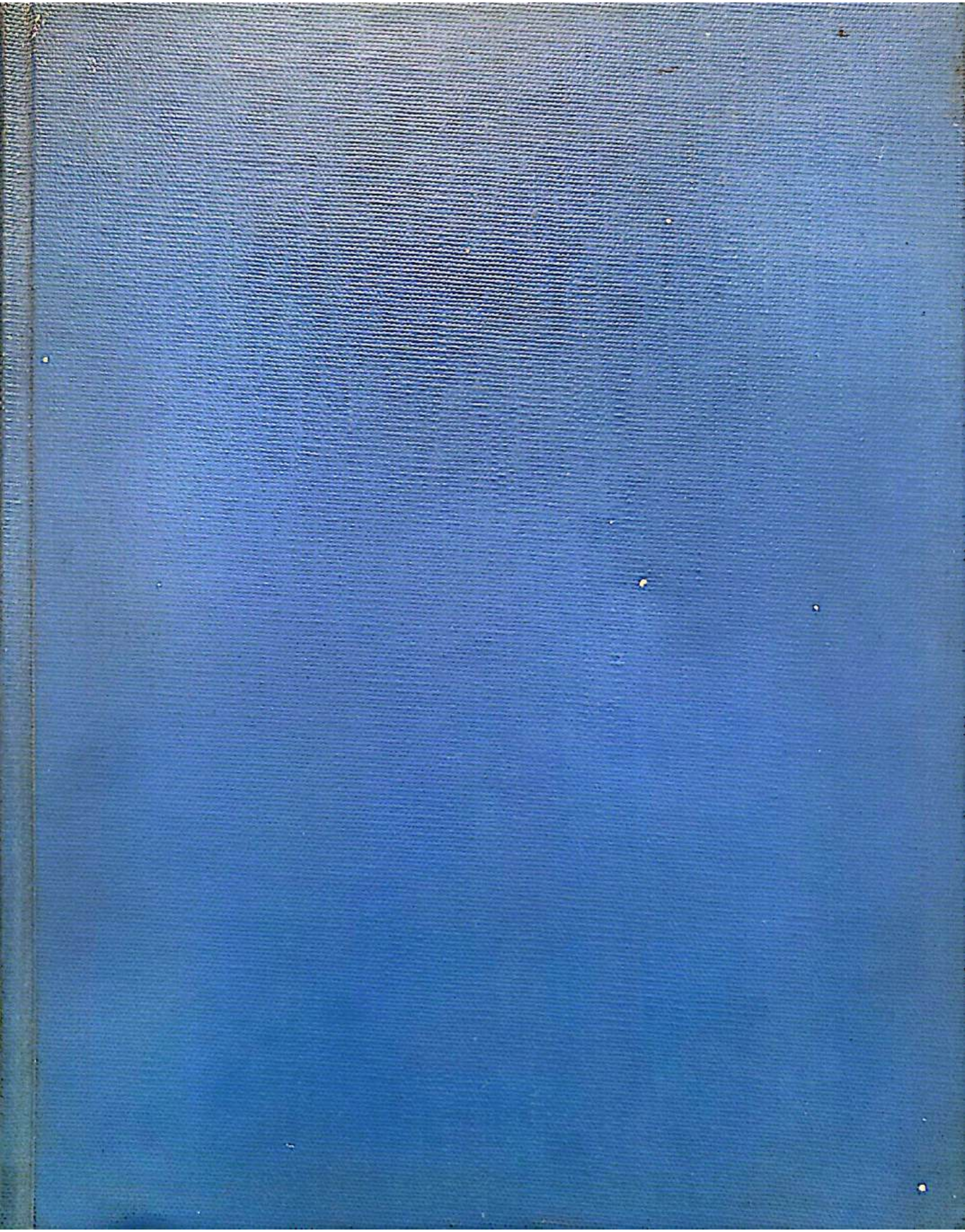


THE PERUVIAN POLICY REGARDING TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE

A thesis submitted to the faculty of
San Francisco State University
in partial fulfillment of the
requirements for the
degree

Master of Arts
in
International Relations

by

NICOLAS RONCAGLIOLO HIGUERAS

San Francisco, California

May 1983

CERTIFICATION OF APPROVAL

I certify that I have read THE PERUVIAN POLICY REGARDING TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE by Nicolas Roncagliolo Higueras, and that in my opinion this work meets the criteria for approving a thesis submitted in partial fulfillment of requirements for Master of Arts degree in International Relations at San Francisco State University.

Dwight James Simpson
Professor of International Relations

David K. Marvin
Professor of International Relations

Mukund Untawale
Lecturer of International Relations

THE PERUVIAN POLICY REGARDING TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE

Nicolas Roncagliolo Higueras
San Francisco State University
1983

This thesis deals with Peruvian sovereignty and jurisdiction on the 200 maritime miles and the Peruvian participation in the Law of the Sea conference. It is a current issue in which the interests of the industrialized (West-East) and Third World countries are involved. I would like to emphasize the evolution of the International Law which needs to deal with unstable realities. I would show how Peru has used its persuasive leadership among underdeveloped countries in order to get support for its views.

ACKNOWLEDGEMENTS

Since this work deals with one of the most important issues of my country's Foreign Policy, my appreciation must be extended to those Peruvians who made possible the international recognition of the Peru Doctrine of 200 Miles. I would like to particularly extend my appreciation to José Luis Bustamante y Rivero, Enrique Garcia Sayán, Alberto Ulloa S., Raúl Ferrero R., Alfonso Arias Schreiber and Juan Miguel Bákula.

Also, much appreciation must go to Professor Mukund Untawale for his thoughtful advice during the development of important parts of this work and for allowing me the opportunity to explain, in his course "World Law", some of the ideas of the aforementioned jurists.

I extend my appreciation to my wife, Antonieta, for her help and encouragement in the completion of this thesis.

TABLE OF CONTENTS

Chapter		Page
I.	INTRODUCTION	1
II.	BASIS OF THE OLD CONCEPT OF THE LAW OF THE SEA	5
III.	CONTEXT SURROUNDING THE PERUVIAN DOCTRINE OF 200 MILES	17
	New Directions in the Law of the Seas	22
	The Peruvian Thesis of 200 Miles	26
IV.	PERUVIAN MARITIME DIPLOMACY AND SANTIAGO DECLARATION	32
	Basis of the Peruvian Claim	50
V.	PERUVIAN DIPLOMATIC POLICY AT REGIONAL AND WORLD LEVELS	55
	Geneva Conferences	56
	Response to Chile, Ecuador and Peru	59
	Peruvian Multilateral Diplomacy and the Third U.N. Conference of the Law of the Sea	66
	UNCLOS III and the Exclusive Economic Zone (EEZ)	72
	Law of the Sea Treaty and Latin American Countries	79
VI.	CONCLUSIONS	84
ENDNOTES		92
BIBLIOGRAPHY		101
APPENDIX		107

ABBREVIATIONS

CECLA	Latin American Special Commission of Coordination
CEP	Chile, Ecuador and Peru
CS	Continental Shelf
CZ	Contiguous Zone
EZ	Economic Zone
FZ	Fishing Zone
FAO	United Nations Food and Agricultural Organization
GDP	Gross Domestic Product
ILO	Interamerican Labor Organization
LOS	Law of the Sea Conference
PS	Patrimonial Sea
TS	Territorial Sea
UNCLOS	United Nations Conference on Law of the Sea
UNICEF	United Nations Educational, Scientific and Cultural Organization
UNCTAD	United Nations Conference on Trade and Development
US	United States
UK	United Kingdom
WHO	World Health Organization

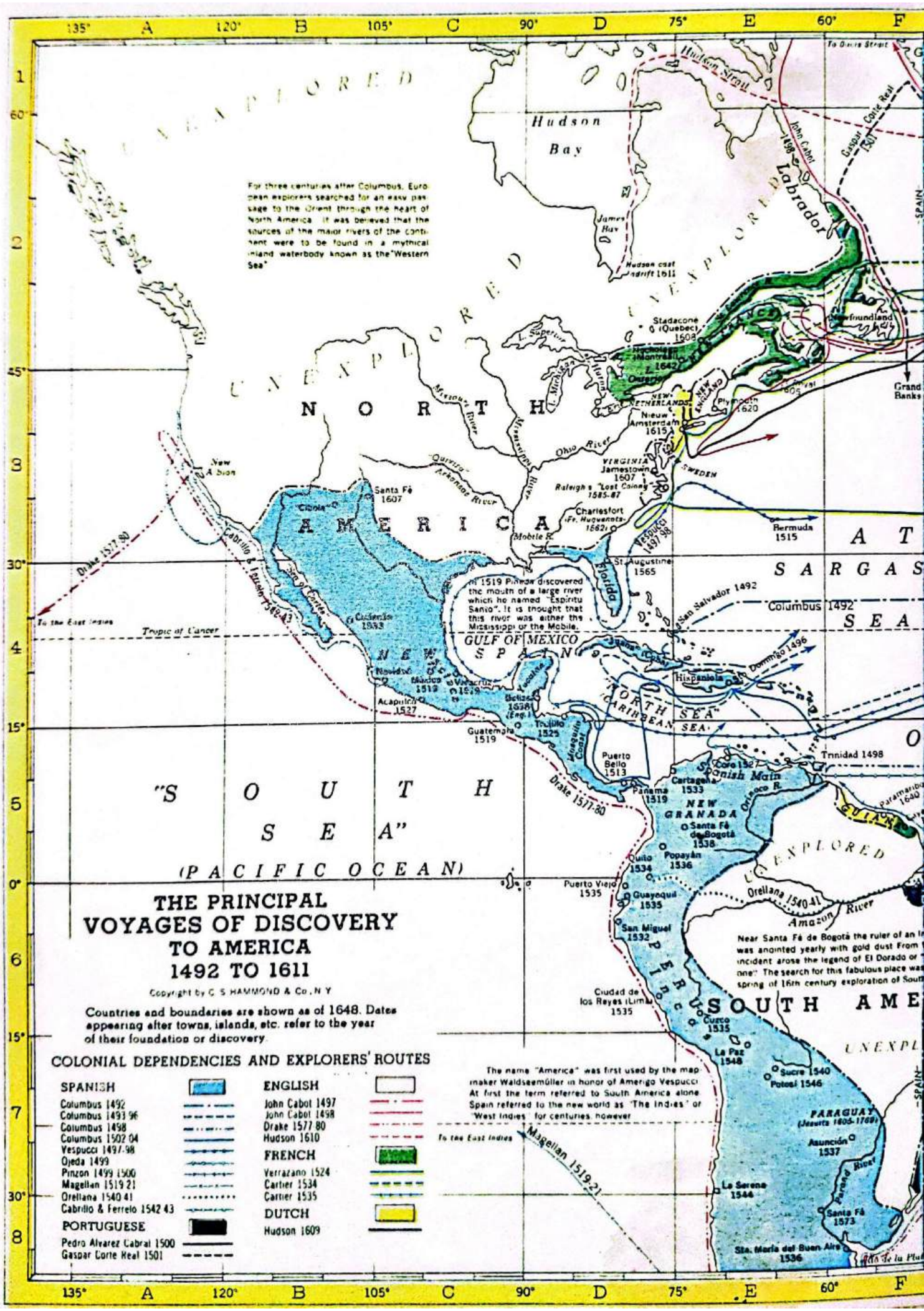
LIST OF FIGURES AND TABLES

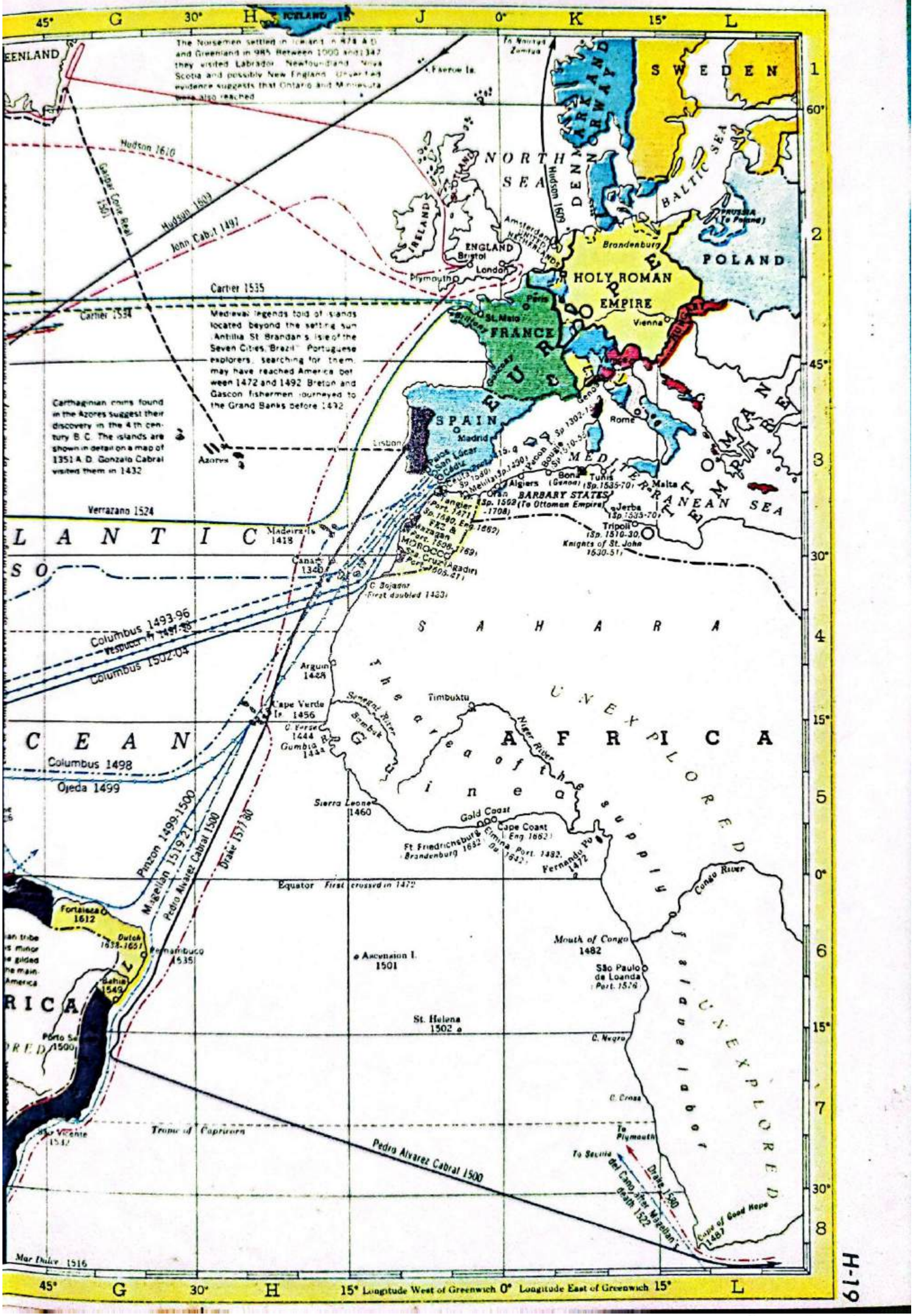
		Page
Figure 1:	LATIN AMERICAN CLAIMS SINCE 1940	64
Figure 2:	LIST OF LATIN AMERICAN CLAIMS	65
Table A:	LIST OF TERRITORIAL SEAS, FISHING ZONES, AND ECONOMIC ZONES	113
Table B:	COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982	124

LIST OF MAPS

THE PRINCIPAL VOYAGES OF DISCOVERY TO AMERICA 1492 to 1611 ix

THE PERUVIAN SEA AND ITS LIMITS 25





CHAPTER ONE

INTRODUCTION

This thesis deals with information on historic, diplomatic and international law concentrated in Latin America, with particular stress on Peru.

There is an area within international law that handles a variety of issues related to the practice (customs), principles and international regulations on the uses of the ocean space. This area became known as international law of the sea, and it had been subject to a slow evolution in the 18th and 19th centuries. Dynamic changes have occurred in the Law of the Seas since the late 1940s in order to incorporate the increasing economic demands of developing states into the legal sphere.

In this context, there were different Latin American legal approaches put forward to counteract the indiscriminate use of sophisticated fishing technology in their adjacent waters by nationals of industrialized countries. Thus, we will discern the real motivations behind legislation and the consensus in the law of the sea treaty in 1982.

After Peru adopted the Convention on Law of the Seas, in April of 1982, the action generated internal

discussions about the real scope of the Peruvian decree of 1947 that established its "sovereignty and jurisdiction" over a breadth of 200 nautical miles. In this sense, we assume that the mentioned decree created a new law of the sea juridical concept: an economic zone of 200 miles, in which the coastal state has special sovereignty rights to preserve and protect their living and non-living resources, but still respects the principle of freedom of navigation in favor of third nations. This zone was created as a clear economic and conservation necessity for the coastal states. For about a quarter of a century it has been configuring Latin American custom with increasing acceptability around the world. In addition, while classical territorial seas appeared as neutral and military defense areas, the EEZ has mainly economic and conservation connotations.

Since the Peruvian 200 mile zone has been regarded as an area of territorial sea by some scholars and Latin American jurists, we desire to clarify its real scope. Consideration in this analysis will take into account the different pieces of Peruvian legislation, the diplomatic practice of the Peruvian Minister of Foreign Relations and the analysis of different scholars.

In Chapter Two, the principles of the ancient law of the sea and the practice of the nations are examined. Also, we will consider some aspects of the 1930 Hague

Conference convoked to codify the law of the sea.

The focus of Chapter Three will be on the context in which the Peruvian Doctrine of 200 miles appeared. We will analyze Truman's proclamations about the American seabed, Mexico's declaration, and Argentinian and Chilean decrees as immediate precedents to the Peruvian Doctrine of 200 miles. Then we will inquire into the Peruvian decree of 1947.

Chapter Four consists of legal analysis on the scope of the Santiago Declaration (signed by Ecuador, Chile and Peru), the creation of a new juridical concept: economic zone in a transitional period of the law of the sea, Peruvian maritime diplomacy and the basis of the Peruvian claim.

Chapter Five will deal with Peruvian multilateral diplomacy during the 1958 and 1960 Conferences on the Law of the Sea regarding territorial sea issues; analysis of the subsequent Latin American legislation in response to CEP; Peruvian multilateral diplomacy and the Third U.N. Conference on the Law of the Sea (UNCLOS); UNCLOS III and the EEZ; and, the Law of the Sea Treaty and Latin American countries (of which a comparative table on this matter has been made).

Chapter Six will be the conclusion in which we will corroborate our assumptions in the context of a new

Law of the Sea that will regulate the management of the oceans in the coming years.

CHAPTER TWO

BASIS OF THE OLD CONCEPT OF THE LAW OF THE SEA

Two principles have focused the discussions of the uses of the seas: a) Res Nullius argues that, although the ocean and its resources are the property of no one, such freedom of use can be limited by appropriation; b) Res Communis declares that the sea is a thing belonging to everybody.[1]

While the Roman jurist Cayo supported the Res Nullius thesis, Celso advocated the Res Communis concept.[2] Thus Celso held that all men on this earth have the right to use the sea, that like the air, it is common (Maris communnem usum omnibus homini ut aeris) to mankind.[3] Despite these theories, in times of the Roman Empire the Mediterranean was known as "Mare Nostrum" or Rome's Sea. This was a consequence of the political power of that culture.[4]

With the expansion of trade in the later Middle Ages, the nautical nations began to claim dominion over sectors of the sea adjacent to their territories. The Adriatic Sea was claimed by Venice, and the Ligurian Sea by Genoa. The Baltic Sea was shared by Sweden and Denmark. Charles G. Fenwich emphasized that:

> England not only claimed sovereignty over the Narrow Seas and the North Sea, but staked out the Atlantic Ocean itself by a line drawn from Cape Finisterre in

> Spain around the British Isles to Scotland in Norway. These claims reached the height of their extravagance when Portugal and Spain, in dispute as to the extent of their territorial possessions in the Atlantic and the Pacific, entered into the Treaty of Tordesilla in 1494, delimiting their boundaries of discovery in the New World by a line drawn 370 leagues West of the Cape Verde Island, Spain receiving the lands West of the line and Portugal those to the East.[5]

Spain claimed sovereignty over the Pacific and the Gulf of Mexico and Portugal over the Indian Ocean and the South Atlantic. (See Map A.)

This situation was a clear consequence of the competition of these two maritime powers within the New World. The important voyages of discovery gave a new approach to the definition of the law of the sea. Hence, the national interest, regarding the values which would come out of new uses of the oceans, began to contend with the historical Res Communis. Commerce with new lands was seen as being of major national benefit to the maritime powers.[6]

In the 16th Century, new European maritime powers challenged this appropriation of the sea by Portugal and Spain. France did not recongnize the Papal Bull and supported the Res Communis principles. On the other hand, Queen Elizabeth I of England reasserted the doctrine of the freedom of the seas, proclaiming that "the use of the air and sea is common to all; neither can any title to the ocean belong to any people or private man, for as much as neither nature nor regard of the public use permitted any possesion thereof."[7]

In the late 16th Century Spain and Portugal were no longer the most important maritime powers. Their positions were taken by England and Holland. When the latter kingdom wanted to expand its trade, it met the armed opposition of Portugal that was interested in keeping its colonies, and excluding other nations from the Indian Ocean. Under these circumstances the Dutch East India Company requested Hugo Grotius to publish an essay dealing with the freedom of the seas. This was done under the title of "Mare Liberum" and its purpose was to refute the high seas claims of Spain and Portugal which excluded foreigners from them. Grotius' assumption is that nobody can be forbidden trade and travel. The main reason of the Mare Liberum is to state, briefly and clearly, that the Dutch have the right to do business in East India.

In his book Grotius established two important foundations for his claim that the oceans and their resources were Res Communis:

> The first is that which cannot be occupied or which never has been occupied, cannot be the property of anyone, because all property has arisen from occupation. The second is, that all that has been so constituted by nature that although serving some one person it still suffices for the common use of all persons, is today and ought to be in perpetuity to remain in the same condition as when it was first created by nature.[8]

Concerning the property of the oceans, he said:

> For the same reasons the sea is common to all, because it is so limitless that it cannot be a possession of

> anyone, and because it is adapted for the use of all, whether we consider it from the point of view of navigation or fishing.

With Grotius' doctrine we can see a reversal of the extravagant principles of the maritime states of the 15th Century. We cannot justifiably criticize the imperialistic motivation behind Grotious' advocation. We have to be fair and recognize that his intellectual elaboration rendered an important service to mankind. Accordingly, the idea that all the oceans should be open to free navigation of the people obtained general approval. Edward W. Allen considers that Grotius himself realized that "from a practical standpoint, people who live adjacent to an ocean shore have a special seaward interest differing from that of others. He did not define this interest, but over the years it gradually developed into recognition of ownership by each coastal nation of a strip of coastal water now called the territorial sea. . ."[9]

On the other hand, the claims of the British Kings to sovereignty over the British Seas were advocated in 1613 by William Welwood in a book under the title "Abridgement of All Sea Laws." However, the most substantive of the works on this matter is John Selden's essay ("Mare Clausum"), which is an extensive reply to Grotius' book.[10]

It is important to recognize that behind Grotius and Selden's positions there lay the economic interest of

the countries that clashed in the 17th Century because England had been developing its fleet and Holland was a maritime power with transnational interest. Thus, the thesis of Grotius was not broadly accepted until the end of the Napoleonic Wars. At that moment England had become the foremost power on the seas.

Concurrently, the right of the riparian state to exercise sovereignty over a breadth of waters adjacent to its coast was also recognized. Moreover, the appropriate width of this breadth was never gradually established. There were claims of 2,4,6,12 miles and up to the limits of eyesight. Geoffrey Carlisle states that: "the maritime nations, in the interests of their fishermen, their merchant transport, and their naval power, attempted to limit territorial sea claims as much as possible. The most generally recognized limit became three miles."[11]

Another Dutch jurist, Cornelius van Bynkershoek, in 1702 published his book De domino maris, in which he recognized the fact that the dominion of the land ends where the power of the arms ends. When this thesis was established in the 19th Century the range of the artillery, actually in place on the coast, was approximately one marine league and this was considered the distance within which the state could exercise sovereignty. This created the basis for the old concept of the 3 mile limit for territorial waters.[12]

In the evolution of the concepts about the seas we can differentiate two important trends: a) the first, or exclusive, comes from the mainland and has to do with the rights of the riparian states; b) the second, or inclusive, comes from the uses of the high seas in which is implicit the idea of "freedom of the seas". Thus, while the exclusve interests refer to national interests that oppose the goals of other states, the inclusive interests refer to global or supranational interests.

Rene Jean Dupy explains that the traditional law of the sea was a law of movement because it governed activities involving movement. He explains this as follows:

> It is true and perfectly natural that the maritime powers constitute the principal, if not the exclusive, users of this law of the sea, the essential norms of which inevitably only interest those who have the means to navigate over long distances. On the other hand, this law was of only minor interest to riparian states lacking large fleets and as a result being restricted to coastal fisheries, which more often than not satisfied them; for them the presence of foreign fleets three miles of their coasts was less than preoccupying given the inexhaustive character ascribed to the resources of the sea. It was only for special reasons such as the shape of coastlines or the importance of fishing to the economy of the country that any resistance to freedom of the seas ever occurred. Consequently, the entire law of the sea has been constructed around the notion of freedom of navigation, that is to say the freedom to move on oceans. The regime of innocent passage can thus be explained: the presumption of innocence only benefits a foreign ship in terrorial waters as long as it does not stop; if not it is suspect.[13]

The old conception of Mare Liberum in the 19th century was a consequence of an increasing capitalism without limitations to the commerce, without trade regulations and tarrifs, monopoly and state subsidy.[14] The major maritime nations had a common interest in opening the seas to the freedom of navigation to merchant vessels in order to develop trade, facilitate military manuevers, guarantee security, promote fishing, and to exploit the natural resources. Hence, the uses of the sea were limited to fishing and navigation in peace and war. Fish were considered inexhaustible and their renewal assured by nature, while the lack of obstruction in the use of the oceans for navigation was in the interests of a small group of maritime powers who had great influence over Europe.[15]

The maritime states claiming wider oceanic extensions, such as the Danish who claimed sixty miles of jurisdiction around Iceland and Greenland, could not enforce these rights before maritime powers such as Holland, France, and England. Against the traditional belief that the cannon rule allowed the development of the essential elements of territorial jurisdiction, H.S.K. Kent considers that these elements are owed to Danish-Norweigian practice. He adds that in view of the weak position of the Danish in relation to Holland, France and England, a retreat to narrower limits was therefore necessary if Denmark wanted to assert at least part of

her claim. The differences with other powers which led to the Danish retreat, and the wars in which Danish neutrality was safeguarded by a continuous neutral belt rather than by cannon protected zones, accustomed other maritime states to Danish practice.[16]

In the New World, the United States shared with England the concept of freedom of the seas because they realized that if large sectors of the seas were to be considered the territory of one particular state, the international trade would be hampered and limited to the detriment of all. Thus, both countries adopted Grotius' doctrine. Furthermore, they backed their pronouncements with action when action was necessary.[17]

Spain adopted the six mile limit to neutrality, smuggling and fishing, despite the opposition of the maritime powers, establishing the same distance on their Latin American colonies, particularly in Cuba which got its independence at the turn of the 19th century. In 1885 Spain signed a treaty with Portugal in which they agreed to an exclusive fishing zone of six miles and an adjacent conservation zone that reached 12 miles.[18]

Regarding the new independent Latin American countries, Mexico was the state that most clearly established limits beyond 3 miles. In 1848 it proclaimed a territorial sea of 9 miles. Between 1848 and 1908 Mexico

signed 13 bilateral treaties in which, in some way, it has recognized a belt of more than 3 miles of territorial waters. These treaties were signed with the United States, five Latin American nations, five European countries and one Asiatic country. In seven treaties it established a breadth of three leagues (9 maritime miles) and in the other six it accepted a distance of 20 kilometers. There was no reference to the three mile limit in any of these treaties.[19]

It should be pointed out that Article 12 of the International Criminal Law Treaty adopted five miles of territorial waters for criminal jurisdiction. This treaty was signed and ratified by Argentina, Bolivia, Paraguay, Peru and Uruguay.[20]

Not only the New World states extended their dominion beyond the traditional three miles. In Europe we also see this trend. For example, in 1907 Russia signed a treaty with Romania in which they established an exclusive fishing zone of 10 miles. After World War I the United States took Britain's traditional role of the first maritime power, becoming the most influential country in the evolution of the law of the sea in the present century. American President Woodrow Wilson received enough support for the creation of the League of Nations, the main goal of which was to prevent international conflicts through peaceful negotiations. New

international regulations could be adopted with the general approval of the states. These conditions exerted influence over the traditional three mile limit because the new rules were not going to be established by only the maritime powers.[21]

The League of Nations sponsored the Hague Conference in 1930 to codify the Law of the Sea. A preparatory committee was designed to establish the basis for negotiation, which included the statement that the belt of territorial water was three miles. In its observations on the basis for discussion, it noted a lack of consensus of the states on this point. This was evidence that, in International Law, there did not exist a general rule regarding the extension of territorial waters. Hence, the states were not obligated to the three mile limit. However, the Hague Conference had some positive aspects concerning the doctrine of the Law of the Sea because it defined the notions of territorial sea, high seas and contiguous zone. Thus, territorial sea was considered as an area of state domain over which sovereignty is exercised in the same way it is exercised over its mainland with only the limitation of innocent passage of foreign vessels. In this it was also established that beyond the territorial sea were the high seas wherein existed freedom of navigation. The third oceanic space defined was the contiguous zone, considered part of

the high seas, in which the coastal state may exercise protective as well as preventative custom, immigration and health control over a belt adjacent to its territorial seas. The conference did not give the states sovereignty over the contiguous zone.[22]

In the 1930s many states established their maritime jurisdiction beyond the traditional 3 miles with different purposes. Several had the characteristic of contiguous zone. Most of these were for custom reasons. It was very often determined to be 12 miles, such as in Poland and El Salvador in 1933, Iran and China in 1934, Denmark in 1935, Guatemala and Venezuela in 1939 and Italy in 1940. On the other hand, some states extended their territorial sea to 6 miles, such as Romania in 1934, Bulgaria in 1935 and Greece in 1936; others established fishing jurisdiction, such as Ecuador that set it at 15 miles in 1934 and France 20 kilometers in 1936.[23]

Following the policy of the 1935 Anti-smuggling Act to prevent illicit trade in alcoholic beverages, the United States signed treaties with different states in which these accepted the possibility that their vessels could be inspected in areas beyond the territorial waters.[24] This action authorized the President of the United States to declare a limited customs enforcement area up to a maximum of 62 miles from the coast.

The failure of the Hague Conference to reach agreement on the limits of territorial sea was a symptom of the pressure for change.[25] Thus, as was illustrated previously, it had spurred an inclination to the extension of other state's jurisdiction beyond the traditional three miles of territorial waters. The United States, the first maritime country and the dominant power in the New World, also became involved in this revolutionary movement, establishing temporary exceptions to its formal support of the three mile limit thesis. Hence, in 1943, President Roosevelt made a proposal to Mexico to divide the Gulf of Mexico between the two countries. He established that the old three nautical miles should be changed by the new rule of "common sense".[26] He preferred to define America's territorial waters fexibly, as extending "as far as our interests need it to go out."

CHAPTER III

CONTEXT SURROUNDING THE PERUVIAN DOCTRINE OF 200 MILES

We may assume that the law can only operate in a specific political environment. It changes according to time and space and it is influenced by social, economic and cultural factors. While the general principles of international law and international customary rules have a wide application to all of the states, the treaties are considered as something restricted to whomever signs them. According to Alfred Verdross the international convention is that established juridical rules of broad usefulness have obligation only over those who sign and ratify them. However, if conventions ahve reasonable and practical rules, they may influence third nations[27] and can be used as sources of international law.[28] For examples, we can cite the Congress of Vienna's rules about diplomatic ranks, and the Geneva Red Cross Convention of 1864, which had initial application to a few countries and then was extended to the rest of the states due to its acceptable regulations.

Morton Kaplan and Nicholas Katzenbach consider that politics have important influence over the development of international law, and they analyze the role of this in

two different epochs of international relations. The first one is well known as traditional balance of power, in the 18th and 19th centuries, in which the main actors were the nations. The second is bipolarity, appearing after World War II, with new important elements such as international organization and supranatinal alliances that have the diplomatic characteristics of nation-states. The international balance of power model had been worked through the alliances systems, which attempted to fulfill the interests of the larger nationas and had relied on the laissez-faire economy.[29]

It must be considered that even though the dominated territories demonstrated the juridical influence of their metropolis, recognition of some important customs, originating from specific new realities, began to emerge. This was more evident in Latin America because the old Viceroyalties and other Spanish colonial administrations became independent in the early 19th century, therefore acquiring full rights and duties as new members of the international legal system. This condition allowed these nations to adopt regional customs. One instance of this was the Latin American principle of self-determination that had been used in the configuration of the new countries of that region that was adopted in the present century by the United Nations and has been contributing to solving many of the colonial territories' independence

claims.

Before we refer to the immediate precedents of the Peruvian thesis of 200 maritime miles, it is necessary to briefly analyze the traditional and current meanings and scope of the sovereignty concept. This analysis will help to clarify the uses of sovereignty over different extensions of the adjacent water of the riparian states appearing after World War II under the title of Latin American doctrines of "Maritime Zones," "Patrimonial Sea" and "Territorial Sea of 200 Miles."

Within the positivist concepts of the 19th century, individuals were not important in international law, and the nation-states occupied a preferential position in international society. We can point out the overemphasized use of the sovereignty concept in that century. Sovereignty, which has been regarded as the highest authority of a state over an area of the earth, is the legal counterpart to nationalism. Within the given territory, the laws of the sovereign are supreme and exclusive: or in other words, cannot be interfered with by other states. Thus, it seems that without this idea the modern nation-state could not exist. However, this conception suffered innovations when it was applied to reality.

David Brook explains the evolution of the notion of sovereignty as follows:

> In the last 300 years, the concept of sovereignty has undergone profound changes of meaning. In the 17th century it was employed by Bodin and other theorists to serve as support for the absolute authority of kings in their territory. With the growth of democratic movements, however, the king as sovereign was replaced by the people -- while the idea that the state shall not be bound by any superior continued to flourish. It soon became apparent, though, that an unlimited concept of sovereignty was incompatible with peace in a world of interdependent nation-states. The unlimited concept implies that a state can fight with or do grievous harm at will to another state: it would be restrained by neither rules nor laws. Such a concept also implies that the citizens of a state would have no resource against the most barbaric suppression of human rights.[30]

The 19th century for Latin American meant the configuration of a regional legal system that had its early expressions in the diplomatic asylum and Calvo Doctrine.[31] The former, as a typical creation of Latin American countries' practice has, due to its usefulness, currently a wide acknowledgment among occidental countries which consider diplomatic asylum as a sort of equilibrium between the power of nation-states and the rights of the individual. Since the late 19th century Latin American countries have required the inclusion of the Calvo Doctrine in contracts with either foreign people or foreign private companies.[32] Consequently, Latin American countries have developed unique regional norms in which the state has acquired a specific and active role to protect and promote the economic interest of its nationals.

On the other hand, it is obvious that the interests of the Latin American nations in the 19th and early 20th

centuries offered little opposition to the application of the freedom of the seas doctrine, analyzed in Chapter II. The predominant agricultural and trade interests required a maximum of free trade and security based on the Protective role of the United Kingdom and the United States. For about a century "the question of jurisdiction over territorial waters and contiguous zones caused little trouble in interamerican relations.[33]

New Directions in the Law of the Sea

Thus far, we have examined how and why the great maritime powers desired to obtain the general approval of the three miles of territorial sea that was becoming obsolete after the Hague Conference in 1930. The United States, supposedly the leader in the 'freedom of the seas' movement, settled some exceptions to this theory, leading to the inauguration of a new era in the law of the sea.

Regarding this revoultion in the ancient conception of the law of the sea, Rene Dupuy states:

> It is only since the Second World War that the wind from the land, shouldered the eager sovereignty and earned the authority of states to distances further and further removed from their coasts. Here the contradiction attained its most dramatic level, for it leads to a collision of political philosophies and economic interests.[34]

The scientific and technological innovation that followed the end of World War II caused great concern for Third World countries, particularly Latin American states which feared the possibility of depredation of their

living resources of the seas and the unfair exploitation of the oil deposits located in their maritime subsoil by industrialized countries and their enterprises.

Roosevelt's proposal, analyzed in Chapter II, was followed by the so-called "Truman Proclamations." In September of 1945, President Truman made two important statements regarding jurisdiction and control over the continental shelf and over some areas to protect the fishing resources. In the first statement, the President said that the subsoil and seabed resources under the high sea, close to the American coast, belonged to the U.S. The sovereignty the U.S. claimed did not include the superadjacent waters, but the U.S. enlarged its jurisdiction and maritime controls in order to establish some high seas areas to preserve the fishing resources.[35]

The President's statements marked a new era of transition in the link of the U.S. with the oceans. From a regional power with a riparian productivity, the U.S. has evolved during World War II into a major maritime power with global interests.[36] Truman's proclamations exerted great influence on the establishment of state's sovereignty over the continental shelves adjacent to the coast.

After analysis of these developments, it is clear that Truman did not use the ancient foundations either of security or defense to establish sovereignty, instead he

used economic and conservation reasons to ensure the interest of the coastal state and its population.[37]

These proclamations had immediate effect on Latin American reality. Mexico was the first country that imitated the principles of Truman's statements when its President declared sovereignty over the continental shelf and fishery conservation zone. However, there is one difference with the American position: the government of Mexico declared its jurisdiction over the waters above its continental shelf.[38]

The Mexican Declaration announced the conflictive interests between the underdeveloped coastal states and the high seas fisheries in the following terms:

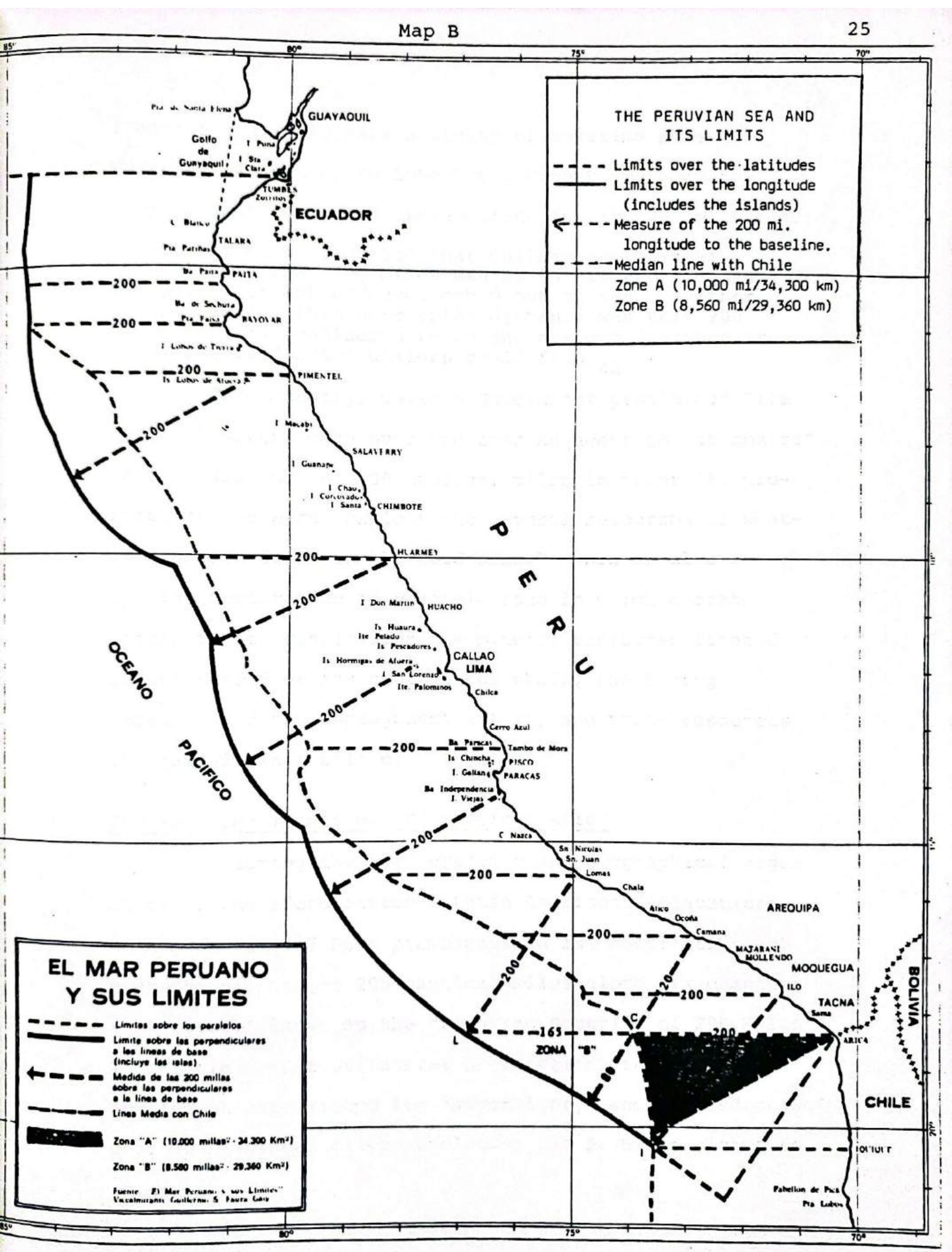
> In the pre-war years the Western Hemisphere had to stand aside while permanent fishing fleets from other countries engaged in an excessive and exhaustive exploitation of these vast resources which, although they should of course contribute to international well-being, must belong above all to the country possessing them and to the continent of which it forms a part. In view of its very nature, it is essential that this protection should consist in the extension of control and supervision by the state to the places and zones indicated by science for the development of high seas fisheries, irrespective of their distance from the coast.[39]

Once again, Mexico founded its declaration in economic reasons, stating the required element to establish fishing zones. In addition, this declaration proclaimed the right to take unilateral measures, to conserve the living resources in areas of the high seas, that were suitable to both Mexicans and foreigners.[40]

In its Decree #14,708 (September 11, 1946), the Argentinian government used the above-mentioned argument of the Mexican Declaration and in its Article 1 claimed that "the Argentine epicontinental sea and continental shelf are subject to the sovereign power of the nation." In this decree, Argentina did not define the extension of its territorial seas, but rather established the principle for controlling the living and non-ling resources in both the continental shelf and its epicontinental waters. As with the Mexican Declaration, the main concern of the Argeninian' decree was the protection of the coastal state's exclusive access to the resources located in adjacent maritime areas. Security reasons that are involved in the traditional concept of territorial seas are not apparent here. Furthermore, this decree establishes that "for purposes of free navigation, the character of the waters situated in the Argentine epicontinenta sea and above the Argentine continental shelf remain unaffected by the present Declaration."[41]

In addition, the Panamanian Decree No. 449 of December 17, 1946, is considered to be of the same family of prior Latin American Declarations because it affected the living resources of the superjacent waters.

The first immediate precedent to the Peruvian Doctrine of 200 miles was the Chilean Presidential Declaration of June 23, 1947 designed to protect fishing and whaling



from the undiscriminate activity of maritime powers' vessels. According to Bobbie and Robert Smetherman, there are at least two explanations for the 200 mile figure.

> It has been suggested that Chilean authorities believed that 200 miles was as far as the rich Humboldt Current had ever moved out to sea. Another reason for this particular distance was that 200 miles was considered to be the maximum distance from which land based whalers could fish.[42]

Consequently, Chilean Government proclaimed "its national sovereignty over the seas adjacent to its coasts" up to a distance of 200 nautical miles in order "to protect, preserve and exploit the natural resources of whatever nature found on the said seas." This is also a typical declaration of economic zone in which a state proclaims its rights over the mineral resources located in its seabed or its continental shelf, the living resources of the suprajacent waters, and those resources located within a belt of 200 miles.

The Peruvian Thesis of 200 Nautical Miles

Assuming the same economic and geographical arguments of the aforementioned Latin American declarations, on August 1, 1947 Peru promulgated a law about its right over the breadth of 200 nautical miles along its coasts that is well known as the "Peruvian Doctrine of 200 Miles". In this important unilateral declaration, the Peruvian Government established its "sovereignty" and "jurisdiction" over 200 nautical miles, including the Peruvian rights to

all living and non-living resources in both the seabed and subsoil and breadth of water (see Map B). It is necessaryto clarify the scope of this decree from the beginning in order to avoid confusion with other subsequent Latin American claims that in explicit terms establish the 200 miles of territorial seas, such as those of Ecuador, Brazil, Argentina, Uruguay, Panama and El Salvador. The confusion was also compounded by the strong advocacy of the 200 miles of territorial seas by important Peruvian scholars who, even though they recognized the revolutionary concept of the Peruvian 200 miles in the context of a changing law of the sea, provided -- in their opinion -- to this doctrine the typical classical component of the ancient concept of territorial waters: security argument. In the opinion of the author of this thesis, after studying the different pieces of Peruvian legislations, Peruvian international declarations, and the feelings of many writers, what Peru claimed was an exclusive economic zone of 200 miles in which its right to protect, defend and preserve its living resources were guaranteed, and so were its exclusive rights to exploit its natural resources located within a breadth of 200 miles. Peru did not show an interest in including in this zone the territorial sea elements of security, overemphasizing the state's control and giving third party states the right to "innocent passage". The Peruvian

decree guaranteed the freedom of navigation within the sovereign belt of 200 miles. In the analysis of this law and succeeding legal instruments, the Peruvian Government uses the terms "maritime dominion", "zones of control" and "maritime zone" to express the concept of economic zone.

The first part of the degree argumentation addressed the concepts of "sovereignty" and "national jurisdiction" over the entire extension of the submerged shelf as well as over the continental waters which cover it.[43] This part of the decree has the same principles of the Mexican, Argentinian, Panamanian and Chilean declarations that claim control and sovereignty over the continental shelf and the epicontinental waters. Moreover, Peru, as well as Chile, were aware that they do not have large continental shelves that would allow them sufficient water space to regulate and control the living resources in it. As Szekely has pointed out in the best of the zones, the 200 meter depth of the Peruvian Continental Shelf is reached at 23 miles from the coast between Huarmey and Pisco, at 18 in El Callao from San Lorenzo Island, at 3 in Punta Pariñas and Punta Aguja, and less than 3 in Puntas San Juan, Lomas, Chala, Pescadores, Islar and Coles.[44] This circumstance led Chile and Peru to use the already explained figure of 200 miles to compensate for the lack of large continental shelves. Nevertheless, the essence of these decrees is economic. Peru thinks it is "necessary

that the State protect, maintain and establish control of fisheries and other national resources found in the continental waters which cover the submerged shelf and the adjacent continental seas in order that these resources which are so essential to our national life may continue to be exploited now and in the future in such a way as to cause no detriment to the country's economy or to its food production."[45] Also, this legal instrument emphasizes the value of the fertilizer left by the guano birds on islands off the Peruvian Coast, as well as the need for safeguarding the control of the fisheries which serve to nourish these birds.[46]

The next aspect is to establish what could be a national and operative extension to protect the Peruvian economic interests. Thus, following similar argumentation of the Chilean President's declaration, Article 3 of the Peruvian decree states:

> As a result of previous declarations the State reserves the right to establish the limits of the zones of control and protection of natural resources in continental or insular seas which are controlled by the Peruvian Government and to modify such limits in accordance with future changes which may originate as a result of further discoveries, studies or national interests which may arise in the future and at the same time declares that it will exercise the same control and protection on the seas adjacent to the Peruvian Coast over the area covered between the coast and an imaginary parallel line to it at a distance of 200 (two hundred) nautical miles measured following the line of the geographical parallels. As regards islands pertaining to the nation, this demarcation will be traced to include the sea area to the shores of these islands to a distance of 200 (two hundred) nautical miles, measured from all points of the contour of these islands.[47]

Finally, it is stated that this decree "does not affect the right to free navigation of ships of all nations according to international law."[48]

Again, we are witnessing formation of an original concept created in Latin America as a response to a necessity: protection and preservation of the national resources from indiscriminate exploitation by industrialized countries. These unilateral declarations dealt with topics that were not considered in International law and sought to fill this vacuum. The problem created was how to get the general approval of the revolutionary concept of exclusive economic zone in a context of a conservative law of the sea, customarily dominated by a few maritime powers.

The destruction generated in Europe by World War II presented the U.S. as the occidental leader and the first superpower for several years. Thus, Truman's Proclamations were used by Latin American countries as political and moral precedents in the formulation of unilateral claims over economic zones, taking into consideration that the old law of the sea was in revision.

In Latin America, the maritime customs are new and have appeared founded in its geographical reality and our political convenience. Adrés Aramburu goes further in saying that these new customs had replaced obsolete ones, and that after a quarter of a century we can be

assured that they are old enough to be considred as custom.[49] Thus, while in the early 1950s the economic zone claims beyond 12 miles were isolated unilateral declarations, at the middle of the 1970s they could be considered as Latin American customs with great acceptability in other regions.

CHAPTER FOUR

PERUVIAN MARITIME DIPLOMACY AND SANTIAGO DECLARATION

After analyzing the municipal laws of Latin America since 1945 Szekely[50] classifies the different claims of maritime zones as follows:

1) Traditional Territorial Sea - This concept refers to claims over a territorial sea in the traditional perception, irrespective of breadth and subject only to the right of innocent passage. In Latin America two subcategories may be drawn up here, namely, territorial sea claims of up to 12 miles from the coast, and the more extended territorial sea claims of up to 200 miles from the coast.

2) Modified Territorial Sea - In this case the coastal state has accepted further restrictions on the exercise of sovereignty in its territorial sea by recognizing the right of foreign vessels and aircraft to enjoy freedom of navigation and over flight, either in part or in totality of the zone. In Latin America, such freedom would apply to the outer 188 miles of a belt of 200 miles of territorial waters, consequently preserving the right of innocent passage only in the first 12 miles.

3) Functional Zones - The reason for claiming a functional zone, whether it is called "exclusive economic zone," "epicontinental sea", "exclusive fishing zone", "conservation zone", or "patrimonial sea", is to exercise concrete functional jurisdiction over the resources of an area adjacent to the territorial sea, normally up to 200 miles from the coast or, in the case of the "epicontinental sea", to the limit corresponding to the outer limit of the continental shelf however it may be defined.

4) Contiguous Zone - For the traditional purpose of exercising limited jurisdictions, usually up to a limit of 12 miles from the coast, over custom, fiscal, sanitary and emigration matters and some civil and criminal jurisdictions. This zone is part of the high seas, as its name indicates, contiguous to the territorial sea.

Regarding functional zones, it is necessary to explain that in Latin America it was usually mentioned as "maritime zone", "the adjacent sea", "jurisdictional waters" and "maritime dominion". For instance, as mentioned in Chapter Three, in different legal instruments Peru uses the terms "maritime dominion", "zone of control" and "maritime zone" to refer to functional zones. Also when Peru, Chile and Ecuador signed on August 18, 1952, "Santiago Declaration", they spoke about a "maritime zone" (functional zone) of 200 miles over which they claimed sovereignty and jurisdiction. The concepts "patrimonial

sea" and "exclusive economic zone", the latter being used mainly by African States, were developed at the 1972 Santo Domingo Conference and in sessions of the U.N. Sea-Bed Committee. The economic character of the zone was declared in the text of the enacting instrument. The concept was later developed to include other jurisdictions, such as the right to regulate scientific research and to prevent pollution.

The Santiago Declaration gives top priority to man in national and international activity, according to the concepts already explained in Chapter Three. It states that governments who signed this document have the obligation to ensure their population the necessary condition of living and give them the required means for their economic development. Consequently -- it adds -- it is the duty of each government to ensure the conservation and protection of their natural resources and regulate the utilization thereof to the greatest possible benefit of their respective countries.[51]

The first part of this document points out some important aspects of the economic rights which were established by the Universal Declaration of Human Rights referred to in Chapter Three. Thus, when the Santiago Declaration mentions the responsibility of the states who sign this document to provide their populations required means for their economic development, they were aware that

it is an important duty of a modern state to adopt and activate attitudes in favor of the welfare of their population. In this regard, Article 22 of the Universal Declaration of Human Rights establishes that all people, as members of society, have the right to social security and to obtain, through national assistance and international cooperation, the satisfaction of economic rights.[52] As was seen by the Peruvian Decree of 200 Miles, the exploitation of the resources of the maritime zone within the aforementioned distance is an essential means to the satisfaction of the needs of the Peruvian people. This aspect will be discussed at the end of this chapter.

The last introductory paragraph of the Santiago Declaration states that the three governments have decided to maintain for their respective populations the natural resources of the maritime zones of their coasts.

Relying on the prior argument, Chile, Ecuador and Peru declared that geological and biological factors that permit the existence, conservation and development of the maritime life in the waters of their coasts render the old extension of territorial waters and contiguous zones insufficient to conserve, develop and utilize the resources by riparian states. Hence, the three governments proclaimed as a principle of their international maritime policy that each possessed sovereignty and exclusive jurisdiction to a minimum distance of 200 nautical miles,

together with the respective soil and subsoil. The Article V of the Declaration states that the prior announcement does not mean that the three countries ignore the necessary limitations in exercise of sovereignty and jurisdiction established by international law in favor of "innocent passage".[53]

Chile ratified this document in 1954, Ecuador and Peru in 1955 through national legislation. Peru entered through Legislative Resolution No. 12, 305, and the Decree of May 10, 1955.[54]

Contrary to the belief expressed by some non-Latin American scholars, the Doctrine of Santiago supposes more than "economic nationalism" and "national pride".[55] We can affirm that Ecuador, Chile and Peru were not only concerned with their economic rights, but also emphasized, in the second paragraph of the Declaration, that it is the duty of each government to "ensure the conservation of their natural resources." Regarding the fisheries of the South Pacific, the same countries signed, on August 18, 1952, a Joint Declaration in which they expressed concern over the indiscriminate use of sophisticated fishing technology that, in some cases, could lead to the depletion of the fishing resources. They decided to coordinate national and international scientific research and recommend to their respective governments that fishing licenses

given in their maritime zones only be given when the catch is not attempted against species conservation policies and when it was oriented toward national consumption.[56] The nationalism exhibited in the behavior of Ecuador, Chile, and Peru was due to the pressures exerted by maritime powers in general, and the United States in particular, which did not recognize these claims. Consequently, the Santiago Declaration's members reacted basically to the right of economic self-defense in order to preserve their living resources.

On the other hand, when we speak about Latin American nationalism without analyzing the complexity of the maritime claim phenomenon, it is easy to give the impression that the claims are only something emotive and with mere domestic political application. However, in most cases, the main objectives of the claims are conservation and protection of the living and non-living resources. This was later reinforced by the Santiago Declaration, which sought a permanent coordination in fishing policies and an approximation of national fishing legislation.[57] We have to point out that every member of the Santiago Declaration has established fishing laws which regulate the participation of foreign vessels in the maritime zone through licensing systems. Thus, foreign vessels have the opportunity to fish in maritime zones of Peru, Ecuador and Chile, but are subject to licenses, which take into

consideration the conservation policies of each country.[58]

Since the Santiago Declaration conceives of international cooperation as an effort to find solutions to the problems of fishing conservation, it is interesting to mention D.W. Bowett's reaction to this multilateral (tripartite) instrument:

> The Chilean, Ecuadorian and Peruvian Government legislated unilaterally, in a manner comparable to the Korean legislation, but also joined in the Santiago Declaration of 1952, to which Costa Rica later subscribed in 1955. The basis of these claims is interesting. They were, of course, related to the Continental Shelf, but the Santiago Declaration really laid the emphasis upon their economic justification . . . Whether these claims are truly exclusive is not entirely clear: there are statements by representatives of the three states to suggest that the claims are not opposed to fishery rights by nationals of other States, but merely assert an exclusive right to regulate in the interest of conservation.[59]

Two years later Peru, Ecuador and Chile -- also called CEP nations -- reinforced their resolution by establishing (in the well known "Convenio de Lima") that none of the three would diminish the 200 mile claim without previous consultation and agreement with the other two governments.[60] This loyalty pact indicated that the members were "under considerable pressure from the maritime powers, especially the United States, to revoke their claim."[61] This was due to the fact that the U.S. had returned to its traditional defense of the 3 mile concept.

A few months later, the Peruvian navy seized Aristotle Onassis's five whaling vessels, led by the

"Olympic Challenger" and operating under the Panamenian flag, which had the avowed intention of challenging Peru's 200 mile limit. Three nations claimed these seized vessels: the United States, on principle; Panama, because the vessels had its flags; and the United Kingdom, because its company, Lloyd's of London, had insured the fleet for ninety percent of the seizure's cost.

The Peruvian Court of the Port Officer at Paita supported the validity of these seizures and condemned the Masters of the vessels to pay, within five days, a fine of three million dollars. Onassis' insurance firms finally paid the fine.[62] According to the American Tunaboat Association's statistics from 1961 through 1972, 175 U.S. tuna vessels were seized for fishing in the disputed waters of Latin America without license. Ecuador seized 125 of them -- 51 in 1971 -- and Peru seized 39, and the remaining 11 were seized by Mexico, Panama, Colombia and El Salvador.[63]

In this regard, there were diplomatic efforts between CEP countries -- considered as the more aggressive in the assertion of authority over their fishing zone -- and the U.S. Government in order to settle the differences through bilateral and multilateral agreements, but for political reasons there was no possibility of arriving at a satisfactory solution. Thus, it had generated an impasse in this aspect of the American-CEP

nations' diplomatic relations. Behind the fishing disputes were conflicts in the traditional position of territorial sea of three miles, defended by the U.S. and maritime powers, and the new concept of maritime zone (economic zone) advocated by the CEP countries. Bobbie and Robert Smetherman concluded that:

> The Pentagon is clearly and adamantly opposed to license purchase or fishery agreements, which imply a de factor acceptance of the 200 mile terminology. It is equally celar that the Latin American claimants are not likely to accept any treaty which does not incorporate a 200 mile economic zone.[64]

It is necessary to clarify that Peru enforced with seizures its 1947 declaration of sovereignty over its 200 nautical miles. However, this exercise of sovereignty was only for fishing conservation, wihtout restrictions on the freedom of navigation.[65]

For Colombos, the 200 mile economic zone claimed by Latin American countries "constituted violation of the freedom of the seas and are cleary contrary to International Law."[66] This position was typical of the one adopted by teh advocates of the traditional principle of the freedom of the seas. In other words, those who consider only three legal areas for the ocean spaces: territorial seas, comprised of a maximum distance of three miles; contiguous zones; and high seas, which for many years validated the dispute between "Res Communis" and "res nullius".

Nevertheless, some maritime powers prefer the notion of "Res Communis". Colombos says that, in his opinion, the legal position of the high seas is based on the notion that "it is common and open to all nations". Since 197 of the 200 miles of economic zone claimed by increasing numbers of Latin American countries is in conflict with the traditional point of view of the law of the sea supported by a handful of nations, it is supposed to supersede the high seas doctrine. In this context, it is not difficult to arrive at the conclusion that the claims of "economic zone" did not have enough juridical support because they contested the ancient freedom of fishing on the high seas.

Regarding the motivations of Latin American countries for extending its sovereignty over 200 miles, Szekeli says:

> The 200 mile movement is the result of a basic dissatisfaction with the traditional law of the sea, and of an aspiration towards a better and more equitable distribution of oceanic resources. The 200 mile movement has had the beneficial effect of pointing at the need to raise the traditional concept of freedom of fishing in the high seas, so as to restrict it in accordance with new and more reasonable conservationism and economic criteria. Abuses of freedom of fishing in the high seas are the worst enemies of the traditional regime of freedom in the law of the sea and the real instigator of creeping jurisdiction.[67]

We cannot understand the process of claiming the 200 mile economic zone without taking into consideration its economic, juridical and diplomatic aspects. In

this sense we cannnot isolate juridical factors from the rest of them in order to make a criticism because we lose the scope of the 200 mile thesis. We are aware of the difficult situation in which this thesis appeared. This situation is characterized by an era of transition of the law of the sea from a restricted conception, that only considered the interest of the states as abstract entities, to a new one in which the state remains an important factor in International Law but loses its traditional characteristic of unique and supreme factor in favor of the individual. Furthermore, when the state seeks to preserve its interest it does it in the name of the population it represents. In the new International Law framework, the state is not restricted to the military security concept; a new economic concept emerged due to the circumstances which appeared after World War II.

Regarding this transition Dupuy states that:

> To a certain extent, concerning the question of the limits of national jurisdiction in the Law of the Sea, the 'consumer' has replaced the military. Already the criterion of exploitability of the Convention on the Continental Shelf has opened the way, but the occupation of fishing zones is still more important for countries living principally from the resources of the sea. The difference existing between the indispensable and the superfluous could symbolize the degree of interest between biological resources for the developing countries and the mineral perspectives of the continental shelf for industrialized countries.[68]

Thus, through the evolution of the Law of the Sea, men want to help reach a desirable objective in which the

individual becomes a subject of International Law. In principle, the individual at present is not a subject of International Law, because it neither gives rights nor duties directly to men. Only the state receives the responsibility of subjection to International Law. However, there is a clear trend to consider that International Law is pursuing more human ends than the mere preservation of the state interests. In this regard, the Peruvian jurist who signed the Santiago Declaration as Chairman of his country's delegation, Alberto Ulloa, emphasizes that now International Law is to the benefit of man. He adds that thre are three moments in this evolution: The first one designed by the Hague Conferences of 1899, at which was signed the Convention with Respect to the Laws and Customs of War on Land. The objective sustained in this conference was "to diminish the evils of war as far as military necessities permit, are intended to serve as a general rule of conduct for the belligerents in their mutual relations and in their relations with the inhabitants."[69] For Ulloa the next moment was the juridical system of Versailles addressed to protect the worker. The treaty of Versailles was based on the principle that world peace, which was the aim of the League of Nations, could be established only if it was based upon social justice.[70] Thus the International Labor Organization (ILO) was

created. Ulloa recalls that the third movement started with the League of Nations, but has evolved into the United Nations after the San Francisco Conference. This system is represented at the present not only by the ILO, but also by the Food and Agriculture Organization (FAO), the United Nations Education, Scientific and Cultural Organization (UNICEF), and World Health Organization (WHO), and so on. All these organizations emphasize that their main objective is mankind's welfare. Independent from his link with the State, man has rights because he is man, not because he has a nationality.[71] Even though the Universal Declaration of Human Rights states that among these kinds of rights are the rights to life, freedom, human treatment, and so on,[72] we understand the need of the individual to live under nationality in order to obtain the guarantee to enjoy these rights. However, the states have the obligation to behave according to the new principles established by the United Nations system. In these circumstances the state loses its traditional omnipotency and shares its position with the individual.

If International Law shows an explicit evolution in favor of human rights, within a framework created by the United Nations, we cannot isolate the old law of the sea from this trend. The fishing and whaling activity of some industrialized nations has been directed against the developing coastal states' interests in favor of their

population that traditionally depended upon fishing activity. This situation created a conflict of interests between maritime powers and Third World riparian states that were not then resolved. The claim of an economic zone with exclusive sovereignty (functional concept) took into account another broader interest, that of the conservation of the fish species. This means a central concern for the elevated aims of laws in favor of the welfare of mankind. In this regard there is a coastal state's duty to settle and enforce conservation policies. Furthermore, it is also an important duty of the riprian state to give to its population the necessary means for its subsistence. In other words, the right of subsistence is compatible with conservation principles, because in both there is a noble end: the welfare of humankind.

The links between coastal populations of underdeveloped states and fishing conservation is explained by Dupuy as follows:

> Since their accession to independence, the developing coastal states have become conscious not only of their property, but also the immense potential of the adjacent marine resources. This double awareness should be rapidly synthesized in what certain authors qualify as 'bioma' or 'eco' theories: 'there is an indissoluble link between the land, man and sea, between economic development and the vast resources of the ocean'. (Declaration of Mr. Zegers, Chile): The sea and man constitute a biological unity, the populationof the coastal state represents only a link in this biological chain stretching from microscopic plants to the large marine mammals.' The

> conservation of the biological unity permits, in a first stage, the maintenance of a nutritional equilibrium for the coastal states and, later, contributes to economic development. The first theory is then refined and extended: 'The possibilities of exploitation of the seabed have enlarged the scope for demands. There has been an extension of 'biological rights' to 'mineral rights' of the coastal state in a global strategy for development.[73]

In this analysis we can conclude that neither the traditional territorial three mile limit had facilitated any guarantee to protect and preserve the living and non-living resources of the riparian states, nor had the high seas doctrine, because freedom of fishing was one of its components. The contiguous zone had the same limitation because of its short extension -- 12 miles according to the Geneva Convention of 1958[74] -- and its lack of preferential or exclusive fishing rights. In other words, the contigous zone did not guarantee the riparian states' interests. Consequently, it was necessary to create a new juridical concept, establishing much larger maritime space than the inoperable three miles of territorial sea that was valid only until the 1930 Hague Conference.

Latin American countries gave economic character to the new juridical concept, thus establishing the exclusive economic zone. Even though the Latin American claims were mainly of an economic character, it was necessary to provide the coastal state with sovereignty for the protection of its natural resources located in the so-called

economic zone. Moreover, it was necessary to keep the ancient principle of freedom of navigation within the aforementioned zone. In order to make compatible sovereignty and the freedom of navigation the question arises: what kind of sovereignty could be assigned?

The immediate reference is the Latin American doctrine expressed mainly by the position of the CEP countries because they did not claim 200 miles of territorial sea in an classic sense. Instead, they claimed an economic zone, the so-called "maritime zone" in which the coastal states can exert "functional sovereignty."

Dupuy refers to teh functional jurisdiction as follows:

> . . . the majority of national appropriations it is a question not of an extension of territorial waters, strictly speaking, but rather of the exercise of a special jurisdiction for certain specific ends. In this framework, a greater number of states have declared themselves in favor of preferential or exclusive fishing rights for coastal states beyond their territorial waters. A synthesis of these demands as a whole, not based on sovereignty but on a functional jurisdiction, has led several delegations to recognize, beyond territorial waters set at 12 miles, an economic zone called 'patrimonial sea' with a maximum breadth of 200 miles. This zone would give efect to the necessary quilibrium between fishing rights of the coastal states and freedom of the high seas... The classical notion of the contiguous zone is thus abandoned as no longer corresponding to the needs of coastal states. A new 'functional zone' has been born with a juridical status as yet uncertain, although it can be analyzed in contrast to territorial waters: It involves isolating all jurisdictions, sovereignty included, which are lumped together in the notion of territorial waters for particular areas of competence such as exclusive rights, with respect to

> fishing for example to take measures of control and conservation and measures of exclusive preferential use.[75]

According to what we have analyzed so far, we can infer that the Santiago Declaration's claims regarding the 200 miles had the same scope as the Peruvian decree of 1947: economic zone. The jurist F.V. García-Amador[76] pointed out that the Maritime Zone established by the aforementioned Declaration is "also an extension of specialized jurisdiction, or, to use a more modern term, it is a 'special jurisdiction.'" Furthermore, García-Amador explained that in reference to the nature of the Maritime Zone, repeated interpretations by authorized representatives of the three countries, particularly in U.N. organs and conferences, fully confirm that this is a "special jurisdiction" or, also in the terminology of today, an "economic zone."[77]

At this point, it is relevent to recall that after the Santiago Declaration appeared in the international arena, the maritime powers (United States, United Kingdom, Norway, Denmark, Sweden and Holland) made reservations as to its precepts. The British note sent to Peru stated that the U.K. does not recognize, in principle, claims to territorial waters beyond the three miles, because it considers the maritime area beyond that limit as high seas. Consequently, the note adds, the U.K. cannot accept the Peruvian desire to exercise jurisdiction and control in

these areas.[78] The three signers of the Santiago Declaration decided to give a coordinated answer to these reservations, refusing its basis and reinforcing the precepts of the Santiago Declaration. Representatives of the three countries after carefully analyzing the scope of the Maritime Zone, stated that they have not only respected the rights that third nations could have regarding commerce and navigatoin, but also they have sought the conservation and rational utilization of natural resources. Hence, the Maritime Zone established in the Santiago Declaration -- they add -- does not have the characters that seem to be adduced by the Government of the U.K.

Finally, the note explains that the firm decision of the CEP countries to find convenient legal solutions to situations that were not of great importance some decades ago, is evidence of their friendly desire to remain within the international precepts for the maritime problems that are of common interest.[79] A similar answer was given to the rest of the maritime powers, giving a special dimension to the loyalty pact established in the Convenio de Lima (Lima Treaty) of 1954. The above mentioned note also illustrates that the CEP countries were interested in proclaming an economic zone, a new confusing concept that the maritime powers did not understand.

The Peruvian representative in the 11th Meeting of the United Nations General Assembly in 1956, Ambassador

Letts, explained that in neither the Peruvian decree of 200 miles, nor in the documents signed by the CEP countries, is the expression "territorial sea" used as synonymous with "maritime zone" that had been established for conservation.[80]

Basis of the Peruvian Claim

On the other hand, Peruvian diplomats and jurists started a new momentum in the 200 mile thesis' generalization at regional and world levels. In this regard, we will analyze, briefly, the geographical, economic, social and juridical basis that Peru had been using.

Geographical Foundations: Peru has four important elements that affect its coastal characteristics:

- The Cordillera of the Andes. This chain of mountains, located very close to the coast, is an important cause of the dry situation of the Peruvian coast because it forms an obstacle to the clouds.

- The South Pacific Anticyclon that works over the ocean and the occidental side of the Andes.

- the marine currents, particularly the Peruvian Current (also known as the Humboldt Current), that flows from South to North, very close to the coastline. This current changes over the year, with two different stages. The first one occurs in spring and summer, and the width of the Peruvian Current System diminishes an average of

35 to 50 miles. The second stage is in Autumn and Winter, when the Peruvian Current System increases its width to an approximate distance of 200 miles from the coast. We have to emphasize that the waters of the Peruvian Current are very cold and with a large amount of organic material.[81]

- The latitude of the Peruvian coastline and the adjacent sea.

The interaction of these four elements and other forces of nature create the ecological system on which the constitution of the weather and the characteristics of the coast and its adjacent waters depend. This explains Peruvian maritime wealth. Scientists have proven that material which comes from territorial erosion is an important factor in the formation of plankton, which is the food of small fishes living in the Peruvian waters. Thus, the wealth of the Peruvian Sea is interrelated to the wealth of the Peruvian mainland.[82]

Social and Economic Foundations: There is historical evidence that ancient Peruvian cultures developed two main economic activities: agriculture and fishing. The archeologist Edward P. Lanning established that there has been a fisherman population on the North Coast of Chile for 4,200 years before Christ and 3,600 years before Christ on the central and south Peruvian Coast. Furthermore, he says, marine resources made settlement of the coast by

large numbers of people easy. In the present century, fishing activity remains an important source of the Peruvian economy, along with minerals and oil. The fishing industry contributes about 1.3% of the G.D.P. but its importance lies in its potential as a source of foreign exchange, income and employment. During the late 1960s and early 1970s, fishing generated up to one third of the foreign income. Traditionally, the industry's base was anchovies, which accounted for about 90% of the total catch and were used in the production of fishmeal and fish-oil.

However, due to the lack of conservation and other ecological factors, the size of the anchovy catch dropped off sharply in 1973. Because of the crisis, the government took on a program to revitalize the fishing industry and to promote diversification into fishing for species suitable for human consumption, both for domestic use and for export. These efforts quickly proved successful with the catch of food fish increasing sharply. The cash from fish used in fishmeal production, other than anchovies, has also been steadily increasing and now represents over half of the total fishmeal production. In 1980, exports of fish and fish products amounted to U.S.$289 million or 8.6% of the total exports.[84]

Juridical Foundations: Peru considers that all

riparian staes have the right of adjacency or neighborhood regarding the resources located in a breadth of sea adjacent to their coast. On the other hand, nobody can argue that other states have more rights over areas of sea far away from their territory. Hence, it is obvious that Peru has more rights over her sea than any other state.[85]

As a consequence of the ancient exploitation of the fishing resources by Peruvians we may consider the right of possession. In the current century this right has been in evidence through the Peruvian legislation, which first set precedent in the decree of 1947.

Peru argues that riparian states have the right to conserve the ecological system of the ocean and to exercise this right through national enforcement and international cooperation, that will allow the preservation of marine species. Thus, in 1971, Peru approved a new General Law on Fishing, which makes fishing resources within the 200 mile zone national property. Fishing may be done only by persons with respective permits, according to the aforementioned law.[86]

Finally, every state - particularly the less developed countries -- have the right of development in order to promote their social and economic improvement. In this they can use, rationally, their national resources located not only on their mainland but also in their

adjacent waters. The U.N. has recognized the rights of the populations to use their natural resources as an expression of the state's sovereignty and as a means to obtain their development and economic independence.

CHAPTER FIVE

PERUVIAN DIPLOMATIC POLICY AT REGIONAL AND WORLD LEVELS

The roots of Peruvian foreign policy are founded in its history and geography. Even though we realize that the foreign policy of one country cannot be summarized in a few lines, for pragmatic reasons, we can assume that the pillars of the Peruvian foreign policy are based on its soil's configuration: a) the coast and the sea (the Peruvian Doctrine of 200 miles and its policy in different Latin American and world organizations); b) the Andes (the dynamic Peruvian participation within the most important Latin American scheme of economic integration: the Andean Pact); and c) the Amazon (through an adequate colonization policy of Peruvian Amazonean borders with Ecuador, Colombia and Brazil and its participation in the Amazonean Pact that seeks to coordinate the policies of Amazonean development of its members, taking into consideration ecological principles of the region).[89]

Present in the three aforementioned areas is the concept of management of resources in order to benefit the population of Peru. Also, international cooperation in its different forms is an important instrument in the development of these areas. The Peruvian maritime

policy has sought to enlarge its national jurisdiction up to a distance of 200 nautical miles, which represents one-third of the Peruvian mainland (see Map B) in order to protect and preserve its living resources. In this regard, Peru signed the decree of 1947 that was analyzed in Chapter II. In the early 1950s, Chile, Ecuador and Peru felt the need to establish the so-called South Pacific Maritime System through the signature of the Santiago Declaration and Lima Treaty.[91] This was done to preserve the marine species in a breadth of 200 nautical miles and regulate the exploitation of the natural resources in favor of coastal populations. Thus, the isolated maritime policies of Ecuador, Chile and Peru became a common policy bearing in mind the need to get support from other Latin American riparian states.

Geneva Conferences

The General Assembly of the United Nations, in its 1952 meeting, adopted Resolution No. 1105 which asked for an international meeting of representatives to analyze the Law of the Sea, keeping in mind juridical, technical, biological, economic and political aspects of the problem.[92] The first U.N. Law of the Sea Conference (UNCLOS I) assembled 86 nations. The conference work was divided among four main committees. The first committee dealt with issues related to the territorial sea and contiguous

zone. The second committee handled high seas. The third committee was in charge of fishing matters. The fourth was responsible for questions concerning the continental shelf. Even though the failure to reach agreement on the breadth of the territorial sea was regarded by many as the major weakness of the 1958 conventions, this conference made important progress in the codification of the law of the sea.[93] It adopted four conventions: the Convention on the Territorial Sea and Contiguous Zone;[94] the Convention on the High Seas;[95] the Convention on Fishing and Conservation of Living Resources of the High Seas;[96] and, the Convention on the Continental Shelf.[97]

The members of the South Pacific System participated as a group in this conference, defending their claim of 200 miles, and they emphasized that the extension of 3 miles of territorial sea, supported by the United Kingdom and the United States, was insufficient to protect coastal interests and was not under the rules of international law.[98] In addition, they said that every state had the right to fix the belt of its territorial sea according to reasonable limits, taking into account geographical, geological and biological factors, as well as the economic needs of its populations, and its security and defense.[99]

On the other hand, the International Law Commission established that there was not a uniform international

practice regarding the delimitaton of the territorial sea. It considered that international law does not permit extension of the territorial sea beyond 12 miles. The Commission realized that many states had fixed a distance of the territorial sea beyond three miles. Finally, the Commission suggested that the breadth of territorial sea should be fixed by an International Conference.[100]

This statement shows trends similar to those appearing during the Hague Conference in 1930 (see Chapter Two) regarding the extension of the territorial sea. Thus, it was evident that three miles of territorial sea was not a rule of international law. Although the United States had defended the three mile concept, in the course of the Geneva Conference, it made a proposal in which the maximum breadth of territorial sea would be six miles.[101] This radical change in the American position regarding the extension of territorial sea adopted also by the U.K., shows the lack of conviction of the maritime powers over the three mile limit as a rule of international law.[102] With the exception of CEP countries and El Salvador,[103] the rest of Latin America did not coordinate their maritime policies. There was no Latin American doctrine regarding the Law of the Sea.[104] However, the lack of agreement regarding the breadth of territorial sea was succussful for the CEP countries and El Salvador because their sovereignty claims were far beyond the traditional

three miles and would need some time to get support from other developing nations.

UNCLOS II was relatively brief, lasting from March 17 to April 26, 1960. The agenda was limited to the interrelated issues of the breadth of the territorial sea and contiguous fishing zones. This meeting was polarized from the first round, with support for a 12 mile territorial sea on the one hadn and support for a 6 mile territorial plus fishing zone on the other.[105] Neither sides' position obtained the necessary two-thirds majority. According to many delegates, two years was not enough time for the countries to change some of their positions to accommodate their national interest within an international conference.[106]

Response to Chile, Ecuador and Peru

After the Geneva Conference failures, more developing countries took unilateral steps in order to protect the economic interests of their populations. In this regard, the South Pacific System exerted enough influence over Latin American countries to compel them to adopt similar economic and conservation principles within a breadth of 200 miles.

Chilean scholar Francisco Orrego Vicuña states that:

> In examining the formulation of the ocean policy of Latin American countries, it is important to bear in mind that the scheme followed does not respond to the needs of a maritime power, nor to the purpose of harmonizing discrepant national interests, for the latter are relatively uniform in the case of Latin America.[107]

In Central America, El Salvador was the first state to establish the 200 mile area and also add to this belt certain territorial sea elements. El Salvador considers its 200 miles a prolongation of its territory. Article 8 of the Constitution of 1950 recognizes that:

> The territory of the republic within its present boundaries is irreducible; it includes the adjacent sea within a distance of 200 marine miles measured from the line of lowest tide, and it embraces the air space above the subsoil, and the corresponding continental shelf.

Like the Peruvian and Chilean decress, the Salvadorian constitutional provision expressly affirms that the claim does not affect freedom of navigation. Garcia-Amador states that:

> . . . clearly this is not an attempt to project the territorial sovereignty of the state in its entirety, that is, with the same purpose and scope as when the outer limit of the territorial sea is extended. On the contrary, this is an attempt to claim for the coastal state rights for specific purposes in the zone in question.

For Garcia-Amador the right claimed either explicitly or implicitly was that of "reserving, protecting, maintaining, and utilizing" the natural resources of the zone.[108] In other words, the aforementioned claims are coincidental with the characteristics of the "functional zone" that we described at the beginning of Chapter Four.

On the other hand, Ecuador gave a different interpretation to the Santiago Declaration. It stated that the "exclusive Sovereignty and Jurisdiction" proclaimed

by the CEP countries in 1952 did not have any restriction. Ambassador Luis Valencia[109] says that when Ecuador, Chile and Peru signed the Santiago Declaration they established a "new extension of territorial sea" that replaced the old one because this did not satisfy the "vital requirements of the three countries."[110] In addition, Valencia points out that Paragraph V of this declaration mentioned the "innocent passage," which is an institution characteristic of the territorial sea.

Addressing himself to this, Professor Garcia-Amador states that:

> The right of innocent passage, being an element of the legal regime of the territorial sea, need not be expressly mentioned. This lead to the assumption, particularly in the light of the specific, exclusive purposes and objectives of the claim, that what the Declaration in effect comtemplates and recognizes is freedom of navigation, as did the five claims which preceded it. Obviously this refers to the part of the "Maritime Zone" not claimed as the territorial sea of any of the three countries.[111]

Furthermore, the Santiago Declaration used "innocent and inoffensive passage" because in that time there was no other way to justify the seizure of vessels that were catching fish without license within the 200 miles of Ecuador, Chile and Peru.[112]

As we explained in Chapter Four, the Santiago Declaration established a system coordinating the national policies of Ecuador, Chile and Peru regarding their "maritime zone" (economic zone) of 200 miles.

However, Ecuador took a new direction, claiming a 200 mile territorial sea by Decree No. 1542 (November 10, 1966), which amended the Civil Code.[113] As further amended by the Permanent Legislative Committee in 1970, Article 628 of that code says that "the adjacent sea, to a distance of 200 nautical miles . . . comprises the territorial sea and is of national domain." The same article states that "different zones of the territorial sea shall be established by executive decree and these shall be subject to the regime of free maritime navigation or of innocent passage for foreign ships." When the "different zones of the territorial sea" are established, states Garcia-Amador, the claim will no longer have the same nature of scope as theretofore.[114]

Other Latin American countries that claimed territorial seas of 200 miles are: Argentina (1966), Panama (1967), Uruguay (1969) and Brazil (1970). However, these claims are not uniform. For instance, Uruguay admits a "plurality of regimes" in the 200 miles of territorial sea; only in the first 12 mi. do we find all the characteristics of territorial sea, while in the rest of the zone freedom of navigation and overflight is granted, and the authorized fishing of foreign ships is also permitted.[115]

Brazil, on the other hand, has reserved for the exclusive use of its citizens only the first 100 miles of

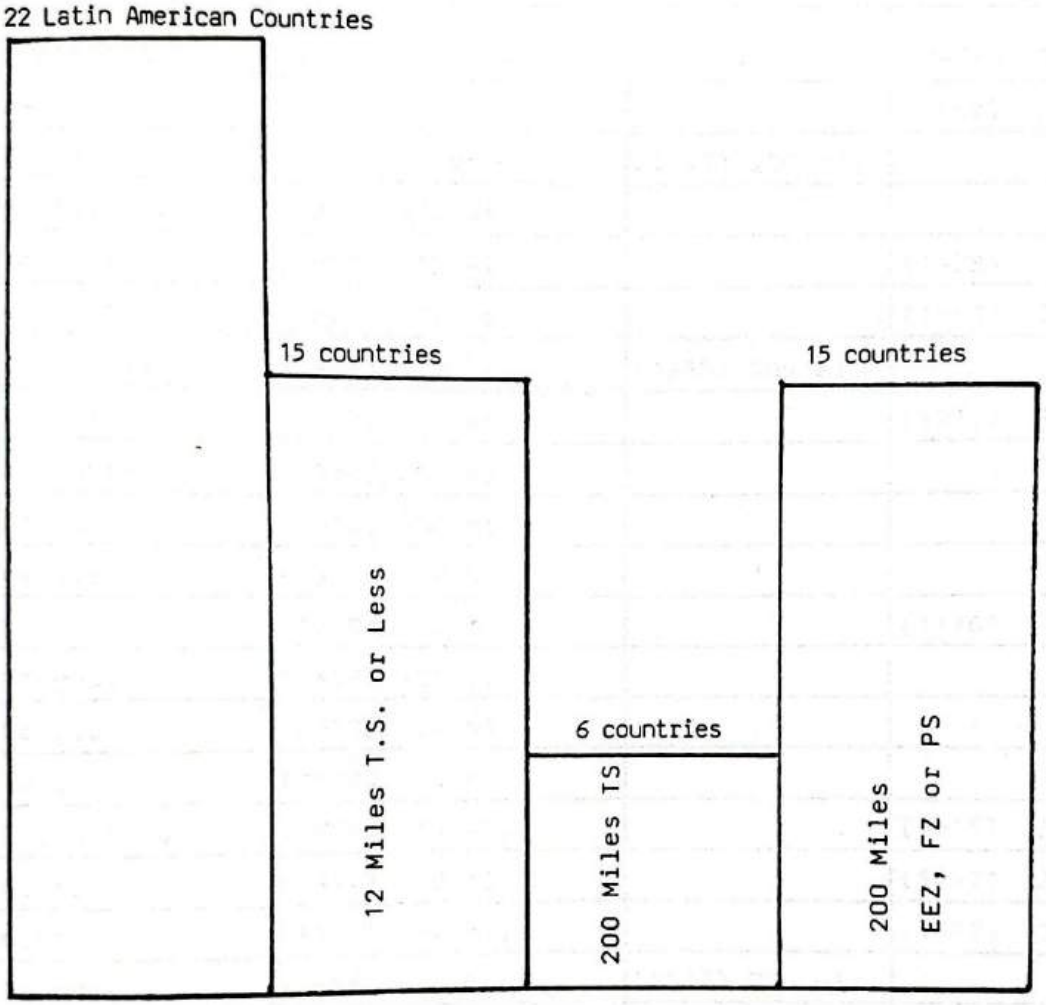
territorial sea, with permission granted to foreign fishing vessels in the second 100 miles.[116]

Notwithstanding, Argentina in the Law 17094[117] establishing sovereignty over the sea adjacent to its territory for a distance of 200 nautical miles, expressly says that this law shall not affect freedom of navigation or of air traffic.[118] The fishing law of 1967 refers to the "Argentine territorial sea" and apparently identifies it with the 200 mile adjacent sea, without referring to freedom of navigation and air traffic.[119]

On February 2, 1967, Panama signed Decree No. 31, which established that its sovereignty will extend to a breadth of 200 miles of territorial sea. However, the introductory paragraph[120] states that Panama "shares the principles and purposes of the Santiago Declaration" that established a "maritime zone" of 200 miles.

Other Latin American nations which support a 200 mile claim have taken a different approach. The territorial waters in the strictest sense are limited to 12 miles, and in some cases to still only 6 miles (Dominican Republic) while the rest of the zone is an economic zone for the exclusive exploitation of the living and non-living resources (also known as "patrimonial sea"). Freedom of navigation and overflight beyond the territorial sea is not affected in general.

LATIN AMERICAN CLAIMS SINCE 1940



TERRITORIAL SEA: TS

EXCLUSIVE ECONOMIC ZONE: EEZ

FISHERY ZONE: FZ

PATRIMONIAL SEA: PS

LIST OF LATIN AMERICAN CLAIMS

COUNTRY	TERRITORIAL SEA	FISHERY ZONE	EXCLUSIVE ECONOMIC ZONE
Guatemala	(1940) 12 miles		(1976) 200 miles
Peru			(1947) 200 miles
Chile	3 miles	(1947) 200 mi.	
El Salvador	(1950) 200 mi.		
Venezuela	(1956) 12 mi.		(1978) 200 mi.
Honduras	(1965) 12 mi.		(1951) 200 mi.
Nicaragua	(1965) 3 mi.	(1980) 200 mi.	
Dominican Rep.	(1967) 6 mi.		(1977) 200 mi.
Argentina	(1966) 200 mi.		
Ecuador	(1966) 200 mi.		
Panama	(1967) 200 mi.		
Mexico	(1969) 12 mi.		(1976) 200 mi.
Uruguay	(1969) 200 mi.		
Brasil	(1970) 200 mi.		
Jamaica	(1972) 12 mi.		
Costa Rica	(1972) 12 mi.		(1975) 200 Pat.Sea
Haiti	(1972) 12 mi.		(1977) 200 mi.
Cuba	(1977) 12 mi.		(1977) 200 mi.
Bahamas	(1878) 3 mi.	(1977) 200 mi.	
Colombia	(1970) 12 mi.		(1978) 200 EEZ
Suriname	(1978) 12 mi.		(1978) 200 mi.
Guyana	(1977) 12 mi.	(1977) 200 mi.	

Source: The information in this table has been derived from the following sources:

Ministerio de Relaciones Exteriores del Perú. Instrumentos Nacionales e Internacionales sobre el Derecho del Mar. Lima: Ed. "El Cid," 1972.

Alberto Szekely. Latin America and the Development of the Law of the Sea, Volume II (New York: Oceana Publications, 1976).

Peruvian Multilateral Diplomacy and the Third U.N. Conference on the Law of the Sea

We can determine that Peruvian diplomacy regarding the Law of the Sea issues has two periods: a defensive one, since the signature of the 1947 decree that established 200 maritime miles; followed by the signature of the Santiago Declaration and Lima Treaty, lasting until UNCLOS II in 1960. During the thirteen years Peru adopted a defensive attitude in its claim of 200 miles, seeking to coordinate its policy with other Latin American countries. In the early 1960s began a second period that might be called an assertive one because Peru assumed a dynamic role among Latin American and Third World countries.

Thus, in the latter period, Peru participated in the groups that follow:

- Group of 77 (considered as the most active and creative group)
- Group of Coastal States
- Latin American group
- Montevideo Group (that only had meetings during the Preparatory Period of UNCLOS III)
- Territorialist Group
- South Pacific System (CEP countries)
- Evensen Group[123]
- Solution of Controversies Group
- Producer of Minerals Group
- Highly Migratory Species Group[124]

The first action with a view towards a UNCLOS III began in 1967, when the U.N. General Assembly, following an initiative by the Malta Delegation, established a 35 member Ad-Hoc Committee to "Study the Peaceful Uses of

the Seabed and the Ocean Floor Beyond the Limits of National Jurisdiction." This was replaced the following year by a 42 member committee on the "Peaceful Uses of the Seabed and the Ocean Floor Beyond the Limits of National Jurisdiction."

Peru supported the idea to convoke a new LOS conference in order to deal with all the issues connected with ocean space. In this sense, Peru rejected the U.S. and the U.S.S.R. positions, calling for UNCLOS III to deal with restricted issues as had happened with UNCLOS II in Geneva.[125]

In 1970, as a result of Third World suggestions -- in which Peru had prominent participation -- the U.N. General Assembly adopted the Declaration of Principles Governing the Seabed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction (Resolution 2749). This document, the first internationally agreed upon, set principles covering the area, beginning with the concept that the zone and its resources "are the common heritage of mankind" and "shall not be subject to appropriation by any means by states or persons." This principle is extremely important to us because it removes other notions such as those deriving from the principles of the freedom of the high seas and the concept of <u>res communis</u>.

In this regard Alvaro de Soto[126] states that:

The common heritage principle

> does imply to us, first of all, peaceful purposes, though that is more in the line of a premise, that the idea of non-appropriation by anyone of any part of the area. It implies the notion of Proxy, that is, of trusteeship and trustees, which means international machinery; and implies also the notion of equitable sharing and, perhaps more important, equitable participation.[127]

The determination to hold the third Conference in 1973 was taken by the Assembly in 1970. The aims established for the Conference in Resolution No. 2750C of 1970 were to:

> . . . deal with the establishment of an equitable international regime -- including an international machinery -- for the area and the resources of the seabed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, a premise definition of the area, and a broad range of related issues, including those concerning the regimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal states), the preservation of the marine environment (including inter-alia, the prevention of pollution) and scientific research.[128]

According to the U.N. resolution calling for UNCLOS III, the U.N. Seabed Committee worked as the official preparatory committee for the conference. From 1971 through 1973 it met twice a year for a total of 29 weeks. It produced a six volume report setting out attempts to consolidate these proposals into draft Articles, mostly in alternative versions.[129] The first meeting of UNCLOS III was held for two weeks in December 1973 to deal with organizational matters. The second

session of the Conference met for ten weeks in Caracas ostensibly to address substantive issues.[130]

Several Latin American countries have adopted the doctrine of sovereignty over 200 miles of adjacent sea. Peru decided to introduce the notion of "plurality of regimes over the territorial seas"[131] in order to make compatible the concepts of economic zone and territorial seas of 200 miles. This was also a strategic position, because in all negotiation procedures each party adopts a maximal attitude in order to obtain large portions of the pie. The strategy of the Peru delegation was to explore the acceptability of the notion of 200 miles of territorial seas without excluding any alternative that could guarantee the Peruvian maritime interests defined by two instruments: the 1947 Decree and the Santiago Declaration.

In order to establish regional common policy regarding the Law of the Sea issues to be negotiated in UNCLOS III, the Latin American Meeting on Aspects of the Law of the Sea was held in Lima on August 4-8, 1970. It had the participation of 20 states: Argentina, Barbados, Bolivia, Brazil, Colombia, Chile, Ecuador, El Salvador, Guatemala, Honduras, Jamaca, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Trinidad and Tobago, Uruguay and Venezuela. Costa Rica sent an observer and

Haiti did not assist. A document was signed, known as the "Declaration of the Latin American States on the Law of the Sea." This document declares as common principles of the Law of the Sea:

> The inherent right of the coastal state to explore, conserve and exploit the natural resources of the sea adjacent to its coasts and the soil and subsoil thereof, likewise of the Continental Shelf and its subsoil, in order to promote the maximum development of its economy and to raise the level of living of its people;
>
> The right of the coastal state to establish the limits of its maritime sovereignty or jurisdiction in accordance with reasonable criteria, having regard to its geographical, geological and biological characteristics, and the need to make rational use of its resources;
>
> The right of the coastal State to take regulatory measures for the aforementioned purposes, applicable in the areas of its maritime sovereignty or jurisdiction, without prejudice to freedom of navigation and flight in transit of ships and aircraft, without distinction as to flag....[132]

The rights of the coastal states mentioned in this document are considered to be consistent with the Peruvian decree of 1947, the Santiago Declaration and the internal legislation of Peru because all of them contemplate Peruvian Sovereignty over living and non-living resources in its 200 nautical miles zone. Thus, the 200 mile thesis (economic or functional zone) obtained an important success at the regional level with this declaration even when distance is not mentioned. For nine states that participated in this meeting the "reasonable criteria" to fix the limits of "maritime sovereignty or jurisdiction" according to their own charactertics was

200 miles. This was accepted by the rest of the participants with the exception of Venezuela, Mexico and the Dominican Republic.[133]

Contrary to what happened in UNCLOS I, the Lima declaration of 1970 is clear evidence that in this occasion the Latin American countries have coordinated their policies regarding the Law of the Sea, establishing the principles they desired to see included in a new treaty.

Latin American countries wanted to obtain international recognition of the coastal states' rights principles adopted in the Lima Declaration on the Law of the Sea. Thus, Peru again invited Latin American states to assist at the 12th Meeting of the Latin American Special Commission of Coordination (CECLA) - at Ministerial level - , held in Lima on October 23, 1971. It is important to emphasize that in Resolution I/XII of CECLA, Latin American states reaffirmed the above-mentioned principles and their firm resolve to obtain its international recognition. Furthermore, they agreed to initiate the necessary actions in order to get the support of this principle by all developing countries in the next Ministerial Meeting of 77 Group and in UNCTAD III.[134] Thus, in the Final Document of Ministerial Meeting II of Group 77, held in Lima from October 28 to November 8, 1971, this organization approved the Latin American

initiative regarding the coastal rights in their adjacent sea.[135]

UNCLOS III and the Exclusive Economic Zone (EEZ)

We will focus our attention on a new concept emerging in the context of UNCLOS III: Exclusive Economic Zone.

Again, the question of the "preferential rights of coastal states" was considered in U.N. Resolution 2750C through which it was decided to convene a new conference on the law of the sea. However, formal proposals embodying the concept of exclusive economic zone did not become visible until the 1972 Session of the Seabed Committee. At this session, the representative from Kenya submitted a proposal entitled "Draft Articles on the Exclusive Economic Zone Concept"[136] This document declared that every state has the right to establish, beyond its territorial seas, an economic zone in benefit of its population and its economy, in which it will exert sovereign rights for exploration and exploitation of natural resources. The draft points out that the economic zone will not exceed the limit of 200 maritime miles.[137]

The concept which has been adopted under the name of "exclusive economic zone" was not a new one. As mentioned in Chapter Two and Three, this notion

has been present in Latin America with Peruvian and Chilean decrees claiming a "maritime zone" of 200 miles.

In this regard Winston Conrad Extavour states that:

> The emergence of the notion as a formal concept advanced by a group of African and Asian countries only attested to the growing support for the idea among developing states, resulting from the efforts to this end by those Latin American States which had earlier promulgated the same idea in the "Santiago Declaration" of 18th August 1952. In short, the decision to include this item on the agenda of the Conference was to be seen, in some ways, as a triumph for the Latin Ameraican thesis concerning the law of the sea, including their argument in favor of an integrated approach to the problems of ocean space, the validity of which was now being confirmed in Resolution 2750C (XXV). The new and interesting feature about the concept was its propagation in various regions outside Latin America and its espousal by many states, mainly by developing countries, across the globe.[138]

By the time of the Caracas U.N. Substantive Session on the Law of the Sea Conference, the largest category of states -- over 50 -- recognized a maximum breadth of the territorial sea of up to 12 maritime miles. Most of the nations that had a three nautical mile territorial sea had declared that in the context of an overall satisfactory treaty they were ready to accept a 12 mile territorial sea. Similarly, at least some, if not most, of the nine states with a 200 mile territorial sea had implied that subject to beneficial resolution of the economic zone, they might be willing to accept a territorial sea of no more than 12 nautical miles.[139] John

Norton Moore states that "we can say after Caracas, there is no possibility of agreement on any breadth of the territorial sea either less or greater than twelve nautical miles."[140]

In addition, the majority of developing riparian states accepted the classical notion of territorial sea of up to 12 miles, with the condition that the Convention establish an exclusive economic zone (EEZ) of up to 200 nautical miles. Thus, the formula was: "there is not 12 without 200". Peru's delegation agreed with this positon and after the session at Caracas, Peru concentrated its efforts on strengthening the coastal sovereignty within the EEZ.[141] This position was supported by the majority of Latin American states and later by the 77 group (see Table A). Robert D. Hodgson explains Latin American states' position regarding the EEZ as follows:

> Some states, primarily Latin American, are attempting to territorialize the zone by increasing the rights of all coastal states and its exclusivity and even sovereignty within the zone.[142]

Regarding the achievements of the first two sessions of UNCLOS II, Dupuy asserts that:

> In the case of coastal states, the right to control the resources of the sea over a varying area, which is the case of the developing countries can be up to 200 miles, a limit of Peruvian origin which today is reflected and copied throughout the world and in particular in the People's Republic of China.[143]

The meaning of the EEZ is functional[144] rather than territorial regarding the nature of the jurisdiction which it implies to confer upon the riparian state in the proposed zone. Generally speaking, the EEZ, as it was characterized in the early stages by the Kenyan delegate, is the term used to refer to a breadth of water adjacent to territorial sea. In this belt, the riparian state would be highly empowered to enjoy exclusive rights for the purpose of exploring and exploiting both the living and non-living resources of the sea as well as of its sea-bed and subsoil. It sould also have the power to legislate in relation to scientific research and antipollution activities as far as these affect its economic rights in the zone.[145] The EEZ would extend up to a maximum distance of 200 nautical miles from the applicable territorial sea baselines.[146]

After more than eight years of deliberations on the items dealt with in the different Committees of the Conference, it was approved by the Convention on the Law of the Sea, on April 30, 1982, during the Eleventh Session Period of UNCLOS III. The draft of the Convention is a consequence of intense negotiations, which seek to reflect the consensus obtained by more than 150 repreentatives. Article III of the convention mentioned that all states have the right to establish a breadth of territorial sea up to 12 nautical miles.

With reference to the exclusive economic zone, the Convention states that this is an area located beyond and adjacent to the territorial sea, subject to a specific juridical regime established in this part of the treaty (Article 55).[147]

Rights of the Coastal State in the EEZ: Rights of sovereignty for exploration and exploitation, conservation and administration of the natural resources, living and non-living, located in the seabed and subsoil, as well as in the superjacent waters, and regarding other activities for the economic exploration and exploitation of the Zone, such as production of energy from the water (Article 56).

Jurisdiction with reference to:

- Control over construction and use of all artificial islands, and of installation and structures which are used for the purposes of conducting activity under its jurisdiction.

- Marine scientific research

- The protection and preservation of the marine environment (Article 56).

Extension: The EEZ will not extend beyond the 200 mile nautical miles from the baselines from which the breadth of the territorial sea is measured (Article 57).

Rights of other States in the EEZ are:

- Freedom of navigation, overflight and the laying of submarine cables and pipelines.

- Other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines (Article 58).

Duties of other States: Other states will take into account the rights and duties of the riparian state and will comply with the laws and regulations adopted by the coastal states (Article 58).

Conservation: The coastal state, taking into account the best scientific evidence available to it, will ensure through proper conservation and management measures that the maintenance of the living resources in th EEZ are not endangered by over-exploitation. As appropriate, the coastal state and competent international organizations, whether subregional, regional, or global, will cooperate to this end (Article 61).

Participation of other states: Where the coastal state does not have the capacity to harvest the entire allowable catch, it will, through agreements or other arrangements and pursuant to the terms, conditions and regulations referred to in paragraph 4, give other states access to the surplus of allowable catch having particular regard to the provision on rights of landlocked states and states with special geographic characteristics,

especially in relation to the developing states mentioned therein.

Regulations of the coastal states (¶4): The regulations of the coastal states will be consistent with this Convention and may relate, inter alia, to the following:

- License requirements
- Determining the species which may be caught, and fixing quotas on the catch.
- Regulating seasons and areas of fishing.
- Fixing the age and size of the fish and other species that may be caught.
- Specifying information required of fishing vessels, including catch and effort statistics and vessel position reports
- Requiring, under the authorization and control of the coastal state, the conduct of specific fisheries research programs and regulating the conduct of such research.
- The placing of observers or trainers on board such vessels by the coastal state.
- The landing of all or any part of the catch by such vessels in the ports of the coastal states.
- Terms and conditions relating to joint ventures or other cooperative arrangements.

- Requirement for training personnel and transfer of fishery technology, including enhancement of coastal state's capability of undertaking fisheries research.

- Enforcement procedures. (Article 64)

On December 10, 1982, the Convention was signed by 118 countries and the United Nations Council for Namibia. No United Nations convention has ever received such a large number of signatures on the first day and never before has a majority of participants in a United Nations treaty-making conference signed a convention as soon as it was opened for signature.[148] The treaty does not permit reservations, but does allow other declarations and statements.

It is interesting to point out that the Preparatory Commission for the main institutions to be established under the Convention -- the International Seabed Authority[149] and the International Tribunal for the Law of the Sea -- will hold its first session at Kingston, Jamaica, beginning March 15, 1983. The meeting was assured when the required 50 signatures to the Convention were affixed the first day.

Law of the Sea Treaty and Latin American Countries

Of the six Latin American countries that claim 200 miles of territorial sea, only three (El Salvador, Ecuador and Argentina) did not sign the Law of the Sea

Treaty. However, with reference to the EEZ included in the treaty, Ecuador stated that recognition of coastal state sovereignty over the resources of the zone and continental shelf had been an important success for those states.[150] Argentina did not sign the treaty because it is against Resolution III regarding protection of the rights of people in a territory who are not independent. Also, Argentina stated that, as the Malvinas, South Sandwich and South Georgia Islands formed an integral part of its territory, it did not recognize the right or title of any other state relating to resources alleged to be protected by that resolution.[151] Guatemala, Nicaragua and Venezuela, which have legislation either for fishing zones or economic zones of 200 nautical miles, did not sign the treaty. Venezuela refused articles regarding delimitations of marine and submarine areas among states with adjacent coasts.[152]

Notwithstanding, Peru, one of the creators of the 200 mile economic zone ("maritime zone"), an important contributor to the Seabed Committee and the Committee II, responsible for the discussions of the EEZ, did not sign the treaty because after the adoptionof the Convention, domestic discussions regarding the scope of the 1947 decree and internal regulations over Peruvian sovereignty in its breadth of 200 nautical miles had been generated.

A group of jurists and politicians in Peru think that the aforementioned decree established 200 miles of territorial sea, rather than economic zone.

On the other hand, the Ministry of Foreign Affairs, the Naval Ministry, and other groups of Peruvian jurists and politicians believe that Peru did not claim a territorial sea of 200 miles because this provision was not adequate for the new social and economic requirements of a coastal state such as Peru. What this country adopted in 1947 -- according to these viewpoints -- was a zone of protection of the natural resources located within a belt of 200 miles, which was complemented by the Santiago Declaration.

It is relevant to mention that after the Law of the Sea Convention was adopted, the delegations of Colombia, Chile, Ecuador and Peru sent a joint letter to the President of the Conference. In this they pointed out that the universal acknowledgment of the sovereignty and jurisdiction of the coastal state within the limits of 200 miles in the Convention is a substantial achievement of the Permanent Commission of the South Pacific, according to the basic objectives contemplated in the 1952 Santiago Declaration.[153]

This letter supports the interpretation made in Chapter Four, that the Santiago Declaration was a trilateral document in favor of the economic zone.

In order to illustrate objectively and briefly the different Latin American claims in the context of the Law of the Sea, we have elaborated a "Comparative Study of the Latin American Countries' Position Regarding Relevant Categories in the Law of the Sea Treaty, Signed in December 1982"[154] (see Appendix, Table B). This study determined that even in the case of the six countries that have claimed territorial seas of 200 miles, the economic, social and conservation considerations of the claims are dominant in the legal text. Furthermore, El Salvador, Ecuador, Argentina and Uruguay recognize the right of freedom of navigation of other states within their 200 mile limits, which differs from the "innocent passage" element established in territorial seas in favor of nationals of foreign states. Additionally, freedom of navigation and of overflight, or air navigation, are integral elements of the legal regime of the high seas, as established by the Geneva Convention on the High Seas.[155]

Out of the twenty-two Latin American states examined, six nations which claim 200 miles of territorial seas have, in theory, disagreements between their national legislation, which established their breadth of territorial sea, and the Law of the Sea Treaty article which fixed a maximum belt of 12 miles for the territorial sea. However, Panama, Uruguay and Brazil signed

the treaty. The rest of 16 Latin American states do not have substantial disagreements with the Law of the Sea text in general, and the EEZ in particular, as shown in the comparative study in the Appendix.

The above information indicates that the main reasons that have supported Latin American claims, broadly speaking, are social, economic, and conservationist. These nations realized that the sophisticated technology of the industrialized nations' fisheries could deplete the living resources located in their adjacent seas. They therefore established regulations in order to preserve the marine species and give priority attention to the essential needs of their populations. These are the principles supporting the Santiago Declaration that were adopted by the majority of Latin American nations. Some of them considered the establishment of a territorial sea of 200 miles necessary to obtain efficient protection of their economic interests. The Geneva Convention did not facilitate adequate juridical instruments for this purpose. Thus, with the 1982 Law of the Sea Convention offering this juridical instrument through the concept of EEZ, Panama, Brazil and Uruguay signed it.

CHAPTER SIX

CONCLUSIONS

1) As a consequence of the analysis made in prior chapters of this thesis, we can assert that the traditional concepts of international Law of the Sea were created by a handful of European nations. This takes into consideration the conditions that existed in the 18th and 19th centuries and their interests as members of the historical balance of power system in Europe that controlled the international system. The principle of freedom of the seas was advocated by the maritime powers in order to have no restrictions on the movement of their fleets for military and economic reasons. However, they accepted as a unique concession, the distance of three miles as the maximum breadth of territorial seas. In the aforementioned period the majority of nations in today's so-called Third World were considered as colonies of the European states without rights to participate in the international system. Therefore, they were not involved in the configuration of the principles inherited when they became independent.

2) Territorial waters of three miles adopted mainly by European nations had the basic goal of

establishing a military defense zone (the range of the cannon from the shore) and neutrality in favor of riparian states. Thus, the territorial sea was born as a security space created in order to protect the interests of the coastal state without taking into account its fishing rights. Nevertheless, three miles was not a uniform limit for territorial waters, despite the interest of the maritime powers. Spain adopted the six mile limit for the purposes of neutrality, smuggling and fishing, establishing the same distance in their Latin American colonies.

3) The Hague Conference, held in 1930 to codify the international customs on the oceans, determined that the states were in disagreement regarding the establishment of three miles as a maximum breadth of territorial sea. There were no rules with reference to the extension of territorial waters. Consequently, the states were not under legal obligation to the three mile limit. In the 1930s, many states enlarged their sovereignty for different purposes (customs, defense, and fishing) beyond three miles.

4) After World War II, two new realities became apparent: a) The sophistication of the technology in industrialized states whose major interest was profit; and b) the Latin American coastal states seeking to preserve their natural resources from alient vessels' overfishing. Since the characteristic elements of the Law of the Sea, territorial waters, contiguous zones and high

seas, did not ensure the protection of the developing coastal states' interests, it was indispensable to formulate a new juridical concept. The Law of the Sea was in revision and this had to be taken into consideration.

Hence, we realize that there was an international law vacuum regarding the rights claimed by coastal states over their natural resources.

5) To endow coastal states with the legal capacity to protect their population's economic interests that traditionally depended upon fishing, it was necessary to borrow some elements from the territorial sea concept, such as "sovereignty" and "jurisdiction" over living and non-living natural resources. Peru, Chile and Ecuador, in 1952 adopted the "maritime zones" (economic zone) of 200 miles in order to protect and preserve their natural resources. The United States and maritime European nations accustomed to dealing with the three aforementioned categories of the Law of the Sea, reacted against the zone as a violation of international law. They understood the "maritime zone" of 200 miles as a claim of territorial sea of such a distance. However, CEP made a mediatory response, stating that the "maritime zone" was not 200 miles of territorial sea and pointed out that it ensured other states the freedom of navigation throughout the economic zone. Thus, it was defined as neither

territorial seas, nor high seas; it was regarded as a sui generis zone. In their misperception of the claim, maritime powers defined Latin American economic zones as an invasion of the high seas.

In our opinion, while coastal states were respecting the community interest of freedom of navigation during the transitional period, their claims of an economic zone of 200 miles did not violate international law. But we are aware that all unilateral delimitation of maritime space cannot depend only on the political decision of the coastal state through its domestic legislation, and also that its validity, in relation to other states, will depend upon international law. While there was not a new international law regulation on this matter, the regional custom would maintain its validity if this respect the jus communicationis as a community interest.

6) The Peruvian decree of 1947, along with a similar Chilean law, establishing "sovereignty and jurisdiction" over a belt of 200 miles, including the Peruvian rights to all living and non-living resources in both seabed and breadth of water, inaugurated a new era characterized by the struggle for the recognition of a new category: economic zone. This was an original concept created in Latin America as a response to a necessity: protection and preservation of the natural resources

from indiscriminate exploitation by industrialized states.

7) The Santiago Declaration reinforced the unilateral economic claims mentioned above, establishing a new dimension in the policy of international recognition of the economic zone concept. The South Pacific System, comprised of Colombia, Chile, Ecuador and Peru, was the pillar in the propagation of the 200 mile thesis and received Third World approval through diplomatic declarations and international conferences.

8) For about a quarter of a century, Latin American countries created regional customs in which the traditional area of high seas -- beyond the three miles of territorial seas according to the maritime power's view -- was losing its constitutive element of freedom of fishing. This occurred through the consecutive legislation of Latin American coastal states, establishing areas of sovereignty and jurisdiction with a maximum breadth of 200 nautical miles. However, it was difficult to define at what distance the high seas started. The 1930 Hague Conference failed to fix the maximum breadth of territorialll seas. In this sense, time had run in favor of the Latin American states' positions because the lack of consensus regarding the limit of territorial seas permitted the change in consciousness favoring the coastal states' rights in their adjacent waters. After subsequent

failures of the Geneva 1958 and 1960 Conferences to fix the maximum breadth of territorial seas, the CEP adopted a more dynamic policy. The international community gave its support to the 200 mile economic zone thesis at the first substantial session of UNCLOS III, held in Caracas. Thus, the adoption of the EEZ by the convention in April 1982 meant a clear success of the Latin American economic zone claims.

9) If we compare the Peru decree of 1942 and Article 56 of the Law of the Sea Treaty, which established the EEZ, we can infer that, in essence, both have the same components.

In both instruments the following elements are present:

a) The economic and conservation motivation to legislate in favor of the riparian state.

b) The breadth of 200 nautical miles, in which the coast state can exert sovereignty and jurisdiction.

c) The only element of the high seas recognized within the 200 mile economic zone is the freedom of navigation.

On the other hand, the only legal conflict found between the Peruvian Constitution and the treaty was regarding the extension of the air sovereignty enjoyed by

coastal states. While the treaty gave coastal states sovereignty in the superajacent space located above the territorial sea (12 miles), the Constitution enlarged the sovereignty over the 200 miles. However, we think that Peru can self-restrict its air space sovereignty to the limits indicated by the Convention in order to surmount this internal obstacle.

10) According to the information given in this thesis, Peru never defined its 200 miles of sovereignty and jurisdiction as territorial seas, as did Argentina, Brazil, Ecuador, El Salvador, Panama and Uruguay. If Brazil, Panama and Uruguay, with a clear background of 200 mile territorial sea claims, signed the treaty, Peru -- which claimed 200 miles of economic zone -- finds less conflictive internal legislation that makes its accommodations to the Convention easier.

11) Unlike UNCLOS I and II, the 1982 Convention on the Law of the Sea recognized the principles of the Peruvian doctrine of 200 miles through the adoption of the concept of EEZ, of up to 200 nautical miles. This convention not only codified the customs and principles of the seas, but also incorporated the new idea that the seabed and its resources beyond national jurisdiction are "the common heritage of mankind" and its exploitation will be subject to the control of the International Seabed

Authority. Peruvian participation in this institution would protect its land-based mining interests.

12) Finally, the Peruvian absence is not understandable in a Convention that protects its national interests as fishing and mining and country and would give it access to the Seabed Authority.

ENDNOTES

[1]C. John Colombos, The International Law of the Sea (London: Longsmans, Green & Co., Ltd, 1959), p. 60.

[2]Luis Valencia Rodriguez, Ecuador y las 200 Millas (Quito, Ecuador: IGPH, 1977), p. 36.

[3]Raul Ferrero, Derecho Internacional, Tomo I (Lima: Ediciones Peruanas, 1966), p. 71.

[4]Eduayo Ferrero Costa, El Peru y las 200 Millas (Lima: Fondo Editorial, 1979), p. 5.

[5]Charles G. Fenwick, International Law (New York: Appleton Century Crofts, 1965), p. 497.

[6]Margaret Leah Zendejas, "The United Nations and the Law of the Sea" (Thesis, S.F.S.U., 1974), p. 10.

[7]Fenwick, International, p. 497.

[8]Hugo Grotius, Freedom of the Seas (New York: Oxford Univ. Press, 1916), p. 27.

[9]Edward W. Allen, "Freedom of the Sea," The American Journal of International Law, Vol. 60, No. 4 (October 1966), p. 814.

[10]Colombos, The International, p. 58.

[11]Captain Geoffrey E. Carlisle, "Three Mile Limit: Obsolete Concept?" U.S. Naval Institute Proceedings (February 1967), p. 27.

[12]Colombos, The International, p. 80.

[13]Rene Jean Dupuy, The Law of the Sea: Current Problem (Netherlands: A.W. Sijthoff-Leiden, 1974), p. 11.

[14]Morton Kaplan and Nicholas Katzenbach, Fundamentos Politicos del Derecho Internacional (Mexico: Editorial Limusa-Wiley, S.A., 1965), p. 172.

[15]H.S.K. Kent, "The Historical Origins of the Three Mile Limit," The American Journal of International Law, 48 January 1954), pp. 552-553.

[17]Commander Burdick H. Brittin and L.B. Watson, International Law for Seagoing Officers (Annapolis: U.S. Naval Institute, 1960), p. 85.

[18]Edardo Ferrero, El Peru, p. 21.

[19]Ibid., pp. 21-22.

[20]Ibid., p. 22.

[21]Ibid., pp. 28-29.

[22]R. Ferrero, Derecho Internacional, p. 73.

[23]E. Ferrero, El Peru, p. 38.

[24]De. Ferrero, "Evolucion del Derecho del Mar," Panorma sobre el Nuevo Derecho del Mar (Lima, 1981), p. 3.

[25]Arvid Pardo, "The Emerging Law of the Sea," The Law of the Sea (N.Y.: Praeger Publishers, 1977), p. 35.

[26]Ministerio de Relacions Exteriore del Peru, Conferencia del Embajador Alfonso Aria Schreiber sobre los Fundamentos de la Soberania Maritima del Peru, Exposiciones Oficiales sobre el Nuevo Derecho del Mar (Lima: Editorial "El Cid," 1972), p. 34.

[27]Alfredo Verdross, Derecho Internacional Publico (Madrid: Biblioteca Jurídica Aguilar, 1974), p. 93.

[28]Gerhard von Glahn, Law Among Nations (London: Macmillan Publishers, 1978), p. 18.

[29]Morton A. Kaplan and Nicholas B. Katzanbach, Fundamentos Politicos del Derecho Internacional (Mexico: Editorial Limusa-Wiley, 1965), p. 36.

[30]David Brook (ed.), "Sovereignty," Search for Peace, New York, p. 91.

[31]Andres Aramburu M., "La Costumbre y la Delimitacion de los Espacios Maritimos en el Continente Americano," Revista de Derecho y Ciencias Politicas, Vol. 38, Ene-Dic, 1974, Lima, pp. 10-12.

[32]E.J. Osmancziyk, Enciclopedia Mundial de las Relaciones Internacionales y las Naciones Unidas (Mexico: Fondo de Cultura Económica, 1978), p. 560.

[33]C. Neale Ronning, Law and Politics in Interamerican Diplomacy (N.Y.: John Wiley, 1963), pp. 107-108.

[34]Dupuy, The Law, p. 74.

[35]The exercise of jurisdiction over natural resources of the subsoil and seabed of the continental shelf is considered "reasonable" and "just", according to the proclamation of Truman, since adequate exploitation and conservation would depend on "cooperation and protection from the shore, since the continental shelf may be regarded as an extension of the land mass of the coastal nation and thus naturally appurtenant to it," and "since these resources frequently form a seaward extension of a pool or deposit lying within the territory." Thus the statement said that "the government of the U.S. is apportioning to the U.S., subject to its jurisdiction and control." Finally, it declared that "the character on high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected."

[36]Ann L. Hollick, U.S. Foreign Policy and the Law of the Sea (N.J.: Princeton Univ. Press, 1981), p. 18.

[37]E. Ferrero, El Peru, p. 48.

[38]Alberto Szekely, Latin America and the Development of the Law of the Sea (N.Y.: Oceana Publications, 1976), p. 67.

[39]Ibid., pp. 23-24.

[40]F.V. Garcia-Amador, "The Latin American Contribution to the development of the Law of the Sea," American Journal of International Law, Vol. 68 (January 1974), p. 34.

[41]Szekely, Latin America, pp. 18-19.

[42]Bobbie B. Smetherman and Robert M. Smetherman, Territorial Seas and Interamerican Relations (N.Y.: Praeger Publishers, 1974), pp. 5-6.

[43]Presidential Decree No. 787, 1 August 1947, Internatonal Law Quarterly, vol. 2, 1948, p. 137.

[44]Szekely, Latin America, p. 130.

[45]See Pres. Decree, International Law, p. 137.

[46]In the next chapter we will develop the economic characteristic of the Peruvian thesis of 200 miles. However, we just want to say in advance that guano in high quality fertilizer has been used for a long time in Peru.

. . .According to the current government's data, the agricultural sector represented in 1981, twelve percent of the Gross Domestic Product, 7.1% of the exports, and employed 35% of the labor force.

[47]Pres. Decree, International Law, p. 137.

[48]Ibid., p. 137.

[49]Aramburu, "La Costumbre," p. 13.

[50]Szekely, Latin America, pp. 88-89.

[51]Ministerio de Relaciones, "Declaracion de Santiago."

[52]F. Bonilla, Constitucion Politica del Peru (Lima: Edit. Mercurio, 1979), p. 92.

[53]Ministerio, Instrumentos, pp. 143-144.

[54]Ibid., p. 144.

[55]See this perception in the already mentioned book of Kaplan and Katzenbach, Fundamentos Politicos, pp. 173-175. See also Smertherman, Territorial Seas, pp. 15-16.

[56]Ministerio, Instrumentos, p. 146.

[57]Ibid., p. 146.

[58]Ministerio, Instrumento, pp. 33-35; 70-100; 107-113.

[59]D.W. Bowett, The Law of the Sea (London: Manhester Univ. Press, 1967), p. 29.

[60]Ministerio, Instrumentos, pp. 156-157.

[61]Smetherman, Territorial Seas, p. 6.

[62]Beverly May Carl, "Latin American Laws Affecting Coastal Zones, Lawyer of the Americas. Vol. 10 (Spring 1978), p. 56.

[63]Smetherman, Territorial Seas, p. 16.

[64]Ibid., p. 31.

[65]E. Ferrero, El Peru, p. 68.

[66]Colombos, The International, p. 86.

[67]Szekely, Latin America, p. 172.

[68]Dupuy, The Law, p. 82.

[69]See preamble of the convention in von Glahn, Law Among Nations, pp. 61-62.

[70]Fenwick, International, p. 596.

[71]A. Ulloa, "El Nuevo Derecho del Mar," Biblioteca de Cultura Peruana Contemporanea (Ediciones del Sol: Lima, 1963), p. 508.

[72]See Articles 3,4,5, and 6 of the Universal Declaration, Bonilla, Constitucion Politica, p. 89.

[73]Dupuy, The Law, p. 80.

[74]Bowel, Law of the Sea, p. 70.

[75]Dupuy, pp. 91-92.

[76]He was Director of Legal Affairs Dept. of the Organization of American States (OAS).

[77]Garcia-Amador, "Latin American Contribution to the Development of the Law of the Sea," pp. 37-38.

[78]Juan Miguel Bakula, "La Declaracion de Santiago y el Nuevo Derecho del Mar," Panorama sobre el Nuevo Derecho del Mar, Direccíon General de Intereses, Maritimos del Peru (Lima, 1981), p. 5.

[79]Ibid., p. 6.

[80]Valencia, Ecuador, p. 18.

[81]E. Ferrero, El Peru, p. 230.

[82]Alfonso Arias Schreiber, "Fundamentos Juridico de la Soberania Maritima del Peru," Exposiciones Oficiales Peruanas sobre el Nuevo Derecho del Mar, Lima, 1972, pp. 20-21.

[83]Edward P. Lanning, "El Hombre Temprano en el Peru," Vision de las Ciencias Historico Sociales (Lima: Retablo del Papel Ediciones, 1976), pp. 12,13, 22, 23.

[84]National Commission of Foreign Investment and Technology, Peru: Background Information (Lima: Merrill Lynch White Weld Capital Market Group, 1982), p. 16.

[85]E. Ferrero, El Peru, pp. 324-326.

[86]May Carl, "Latin American Laws," Lawyer of the Americas, p. 56.

[87]Schreiber, "Fundamentos," pp. 25-31.

[88]E. Ferrero, El Peru, p. 302.

[89]Carlos Garcia Bedoya, Politica Exterior Peruana (Lima: Mosca Azul Editores, 1981), pp. 45-49.

[90]Ibid., p. 68.

[91]See Chapter Four of this thesis.

[92]E. Ferrero, El Peru, p. 75.

[93]Javier Illanes Fernandez, "El Derecho del Mar y sus Probpemas Actuales" (B. Aires: Ed. Universitaria, 1974) p. 7.

[94]D.W. Bowett, The Law of the Sea, pp. 64-79.

[95]Ibid., 72-80.

[96]Ibid., pp. 81-87.

[97]Ibid. pp. 88-91.

[98]E. Ferrero, El Peru, p. 76.

[99]Ibid., p. 76.

[100]Ibid., pp. 77-78. See also Hollick, U.S. Foreign Policy and the Law of the Sea, pp. 140-141.

[101]J. Illanes, El Derecho del Mar, p. 7.

[102]E. Ferrero, El Peru, pp. 80-81.

[103]In 1950 El Salvador established 200 miles of territorial sea.

[104]Alfredo Vasquez Carrizosa, "La Declaracion Santo Domingo y la Evolucion del Derecho del Mar," Revista Peruano de Derecho Internacional, No. 70 (Lima, 1975), p. 102.

[105]Hollick, U.S. Foreign Policy, p. 156.

[106]Illanes, El Derecho del Mar, p. 8.

[107]Francisco Orrego Vicuña, "Regional Approaches to the Law of the Sea: Latin America," Perspectives on Ocean Policy (Airlie, VA: National Science Foundation, 1974), p. 76.

[108]Garcia Amador, "The Latin American," p. 37.

[109]President of the Ecuadorian Delegation in the Third United Nations Law of the Sea Conference.

[110]Valencia, El Ecuador, p. 14.

[111]Garcia-Amador, "The Latin American," p. 38.

[112]Ministerio de Relaciones Exteriores del Peru, Alfonso Arias Respuesta la los planteamientos contenidos en el estudio del doctor Jose Luis Bustamante y Rivero Sobre el tema "El Mar Territorial de las 200 Millas" (Lima, 12 October 1982), p. 5.

[113]Ministerio de Relacions Exteriores del Peru, Instrumentos, p. 66.

[114]Garcia-Amador, "Latin America," p. 39.

[115]Ministerio de Relaciones, Instrumento, p. 120.

[116]Ibid., p. 56.

[117]Ibid., p. 43.

[118]Ibid.

[119]Garcia-Amador, "The Latin American," p. 40.

[120]So-called "Considerando" in which the Latin American goverments use to explain the basis of the decree.

[121]Ministerio, Instrumento, p. 118.

[122]It is comprised of Third World countries, Rumania and Yugoslavia. This group had evidenced specific weight in the negotiations of the International seabed authority.

[123]Informal group comprised by independent jurists.

[124]Bakula, "La Declaracion de Santiago," p. 14.

[125]E. Ferrero, El Peru, p. 104.

[126]Peruvian delegate in UNCLOS III and Chairman of the 77 Group.

[127]Alvaro de Soto, Panel of Discussion, Law of the Sea: Caracas and Beyond (Ed. by Francis Christy, Thomas Clingan Jr., John King, H. Gary and Edward Miles) (Cambridge: Ballinger Publishing Co., 1975), p. 155.

[128]"Leadership Sees Completion of Law of Sea with Treaty," The Diplomatic World Bulletin (March 1-8, 1982), p. 8.

[129]Hollick, U.S. Foreign Policy, p. 240. See also "Leadership Sees . . .," p. 8.

[130]Ibid., p. 241.

[131]Since the geographical, geological and ecological realities of the adjacent seas and continental shelves are different from one region to the other, the principles that regulate them should also be different. Consequently, if it is understandable that countries with closed seas adopt a maximum breadth of 12 miles for their territorial seas, in the case of states with open sea it is reasonable that they might establish territorial seas of up to 200 nuatical miles, determining some internal limit dividing the 200 miles in two sectors. In the first sector foreign ships would be subject to "innocent passage" concept. In the second sector, the foreign vessels would enjoy freedom of navigation, overflight and laying of submarine cables and pipelines.

[132]Taken from New Direction in the Law of the Sea, ed. by S. Houston Lay (N.Y.: Oceana Publications, Inc., 1973), I Documents.

[133]E. Ferrero, El Peru, p. 142.

[134]Ministerio, Instrumentos, pp. 315-317.

[135]Ibid., pp. 321-322.

[136]Illanes, El Derecho del Mar, p. 37.

[137]Ibid., p. 37.

[138]Winston Conrad Extavour, The Exclusive Economic Zone (Geneve: Institut Universitaire de Hantes Etudes Internationales, 1978), p. 176.

[139]John Norton Moore, Commentary, Law of the Sea: Caracas, p. 5. See also Orrego, "Regional Approaches," p. 80.

[140]Ibid., p. 6.

[141]Schreiber, Respuesta a los planteamiento, p. 7.

[142]Robert D. Hodgson, Law of the Sea: Caracas, p. 184.

[143]Dupuy, Law of the Sea, p. 22.

[144]See the analysis of this aspect in Chapter Four.

[145]Conrad, The Exlusive Economic Zone, p. 177.

[146]Ibid., p. 177.

[147]Convencion Sobre el Derecho del Mar, Working Paper 1 (7 Junio 1982), Committee of Redaction.

[148]United Nations Press Release, SEA/514 (10 December 1982).

[149]Entity that will govern the natural resources of the seabed beyond the national jurisdiction.

[150]U.N. Press Release, p. 11.

[151]Ibid., p. 13.

[152]Boletin de Prensa de Naciones Unidas, SEA/498, 3 Diciembre 1982, p. 7.

[153]Carta de fecha 28 de Abril de 1982 dirigida al Presidente de la Conferencia por los representantes de Colombia, Chile, Ecuador y Peru, UNCLOS III, 19 Periodo de Sesiones, New York.

[154]The information included in this study is taken from government publications and the author of this thesis assumes total responsbility for its interpretations.

[155]See Article 2 of the Convention in R. Ferrero, Derecho Internacional, p. 80.

BIBLIOGRAPHY

Books and Pamphlets

Aramburú, Andrés M. La Costumbre y la Delimitación de los Espacios Maritimos en el Contente Americano. Publicado por la Revista de Derecho y Ciencias Politicas, Lima, 1974.

Bowett, D.W. The Law of the Sea. Manchester, U.K.: Manchester University Press, 1967.

Brook, David (Ed.). Search for Peace. New York: 1976.

Brittin, Burdick and Watson, L.B. International Law for Seagoing Officers. Annapolis: U.S. Naval Institute, 1960.

Colombos, John. The International Law of the Sea. London: Longmans, Green & Co., Ltd., 1959.

Conrad, Extavour, Winston. The Exclusive Economic Zone. Geneve: Institut Universitaire de Hantes Etudes Internationales, 1978.

Dupuy, Rene. The Law of the Sea: Current Problem. The Netherlands: A.W. Sijhoff-Leiden, 1974.

Fenwick, Charles. International Law. New York: Appleton-Century-Crofts, 1965.

Ferrero, Eduardo. El Peru y las 200 Millas. Lima: Fondo Editorial, 1979.

Ferrero, Raúl. Derecho Internacional. Tomo I. Lima: Ediciones Peruanas, 1966.

García, Bedoya, Carlos. Politica Exterior Peruana. Lima: Mosca Azul Editores, 1981.

Grotious, Hugo. Freedom of the Seas. New York: Oxford University Press, 1916.

Henkin, Louis. How Nations Behave. Great Britain, 1968.

Hollick, Ann. U.S. Foreign Policy and The Law of the Sea. Princeton, N.J.: Princeton University Press, 1981.

Miles, Edward; Christy, Francis; Clingan, Thomas; King, John; and Gary, H. (Eds.). Law of the Sea: Caracas and Beyond. Cambridge: Ballinger Publishing Company, 1975.

Illanes, Javier. El Derecho del Mar y sus Problemas Actuales. Buenos Aires: Editorial Universitaria, 1974.

Kaplan, Morton A and Katzenbach, Nicholas B. Las Fuentes Politicas del Derecho Internacional. Mexico, 1965.

Lecaros, Fernándo (Ed.). Visión de las Ciencias Histórico Sociales. Lima: Retablo de Papel Ediciones, 1976.

Orrego, Francisco Vicuña. Regional Approaches to the Law of the Sea. Airlie, Virginia: National Science Foundation, 1974.

Ronning, Neale. Law and Politics in Interamerican Diplomacy. New York: John Wiley and Sons, Inc., 1963.

Smetherman, Bobbie and Smetherman, Robert. Territorial Seas and Interamerican Relations. New York: Praeger Publishers, 1974.

Szekely, Alberto. Latin America and the Development of the Law of the Sea. Volumes I and II. New York: Oceana Publications Inc., 1976.

Valencia, Luis. Ecuador y las 200 Millas. Quito: IGPH, 1977.

Verdross, Alfredo. Derecho Internacional Público. Madrid: Biblioteca Juridica Aguilar, 1974.

Von Glahn, Gerhard. Law Among Nations. New York: The Macmillan Co., 1981.

Walsh, Don (Ed.). The Law of the Sea. New York: Praeger Publishers, 1977.

periodicals, Journals and Reports

Allen, Edward. "Freedom of the Sea." The American Journal of International Law, 60 (4), October 1966, pp. 814-816.

Carlisle, Geoffrey. "Three Mile Limit: Obsolete Concept?" United States Naval Institute Proceedings, Vol 93, February, 1967, pp. 24-33.

Freeman, R.D. "Possible Solutions to the 200 Mile Territorial Limit." International Lawyer, Vol. 7, April 1973, pp. 387-395.

García, Amador, F.V. "The Latin American Contribution to the Development of the Law of the Sea." American Journal of International Law, 68, January 1974, pp.33-50.

Garcia Belaúnde, Domingo. "El Mar en el Debate Constitucional." Revista de la Academia Diplomática del Perú, N19-20, Enero-Diciembre 78-79.

Garcia Sayán, Diego. "Mare Nostrum." Caretas, N550, Lima, 10 de Noviembre de 1978.

Kent, H.S.K. "The Historical Origins of the Three-Mile Limit." The American Journal of International Law, Vol. 48, January 1954, pp. 537-553.

May, Carl, Beverly. "Latin American Laws Affecting Coastal Zones." Lawyer of the Americas, Vol. 10, Spring 1978, N1, Coral Gables.

Moseley, Michael E. and Mackey, Carol. "Chan Chan, Peru's Ancient City of Kings." National Geographic, Vol. 143, No. 3, March 1973, pp. 318-345.

Ruiz Eldredge, Alberto. "Elguera y las 200 Millas." Punto. No. 33, 29 Enero 1982.

Sánchez, Luis Alberto. "El Mar otro protagonista." Caretas, N697, 17 de Mayo de 1982.

Ulloa, Alberto. "El Nuevo Derecho del Mar." Biblioteca de Cultura Peruana Contemporánea. Lima: Ediciones del Sol, 1963.

Vasquez, Alfredo. "La Declaración de Santo Domingo y la Evolución de Derecho del Mar." Revista Peruana de Derecho Internacional, N70, Lima, 1975.

Willy Brandt Commission. North South: A Program for Survival, Cambridge, 1980.

Public Documents, Interviews and Speeches

Arias-Schreiber, Alfonso. "Exposición sobre la Tesis de las 200 Millas en el Colegio de Abogados de Lima." Speech. Lima, 19 de Mayo de 1982.

Arias Schreiber, Alfonso. "Replica al Doctor Julio Vargas Prada en el Colegio de Abogados de Lima." Speech. Lima, 20 de Mayo de 1982.

Arias Schreiber, Alfonso. "Respuesta a los Planteamientos contenidos en el Estudios del Doctor José Luis Bustamante y Rivero sobre el tema. "El Mar Territorial de las 200 Millas." Lima, 12 de Octubre de 1982.

Bakula, José Miguel. "La Declaración de Santiago y el Nuevo Derecho del Mar." Panorama sobre el Nuevo Derecho del Mar. Dirección General de Intereses Maritimos del Perú. Lima, 1981.

Bakula, José Miguel. El Dominio Maritimo del Perú. En Boletin Informativo No. 1975 del Ministerio de Relaciones Exteriores del Peru. Lima, 2 Enero 1979.

Ferrero Costa, Eduardo. "Las 200 Millas y la Conferencia del mar." Ministerio de Relaciones Exteriores del Perú. Boletin Informativo No. 2112, 18 Marzo 1982.

Ferrero, Raúl. "Conferencia sobre la tesis peruana de las 200 millas." Speech. Revista Peruana de Derecho Internacional., No. 70, Lima, 1975.

United States Presidential Proclamation. "Proclamation Number 2667 with respect to the Natural Resources of the Subsoil and Seabed of the Continental Shelf." Federal Register, Vol. 10, Washington, D.C., 28 September 1945.

_____. "Proclamation Number 2668 with respect to Coastal Fisheries in Certain Areas of the High Seas." Federal Register, Vol. 10, Washington, D.C., 28 September 1945.

United Nations Press Release. Department of Public Information. Press Section United Nations (SEA 514), "Nine Years United Nations Conference on the Law of Sea Ends with Signing of Convention by 119 Delegations." 10 December 1982.

_____. Boletin de Prensa de N.N.U.U. (SEA/498), 3 Diciembre 1982.

_____. Convención sobre el Derecho del Mar. Working Paper 1, Comité de Redacción, 7 Junio 1982.

National Commission of Foreign Investment and Technology. "Peru: Background Information." Lima: Merril, Lynch, White, Weld Capital Market Group, 1982.

Boletin de Prensa de las Naciones Unidas. UNCLOS III, 11 Periodo de Sesiones, Nueva York. Carta dirigida al Presidente de la Conferencia por los Representantes de Colombia, Chile, Ecuador y Peru, 28 Abril 1982.

Ministerio de Relaciones Exteriore del Perú. Instrumentos Nacionales e Internacionales sobre el Derecho del Mar. Lima: Edit. "El Cid," 1971.

_____. Exposiciones Oficiales sobre el Nuevo Derecho del Mar. Lima: Ed. "El Cid," 1972.

_____. Declaración de la Delegación del Perú al adoptarse el Proyecto de Convención sobre el Dorecho del Mar. Boletin Informativo RR.EE., No. 2119, 6 Mayo 1982.

Occasional Papers

Oxman, Bernard H. "A Summary of the Draft Convention on The Law of the Sea." This summary was presented at the Law of the Sea Seminar sponsored by the School of Law at the University of California, Berkeley, February, 1982.

Newspapers

_____. "Leadership Sees Completion of Law of Sea with Treaty." Diplomatic World Bulletin, Vol. 12, No. 4, March 1-8, 1982.

Garcia Sayán, Diego. "La Palabra de Enrique García Sayán." La Prensa, Lima, 3 Noviembre 1978.

Thesis

Zendejas, Margaret. "The United Nations and the Law of the Sea." San Francisco State University, San Francisco, July 1974.

APPENDIX

PRESIDENTIAL DECREE NO. 781. ESTABLISHING 200 MILES OF SOVEREIGNTY AND JURISDICTION

The President of the Republic,

Considering:

That the continental submerged shelf forms one entire morphological and geological unit with the continent;

That the shelf contains certain natural resources which must be proclaimed as our national heritage;

That it is deemed equally necessary that the State protect, maintain and establish a control of fisheries and other natural resources found in the continental waters which cover the submerged shelf and the adjacent continental seas in order that these resources which are so essential to our national life may continue to be exploited now and in the future in such a way as to cause no detriment to the country's economy or to its food production;

That the value of the fertilizer left by the guano birds on the islands off the Peruvian coast also require for its safeguard the protection, maintenance and establishment of a control of the fisheries which serve to nourish these birds;

That the right to proclaim sovereignty and national jurisdiction over the entire extension of the submerged

shelf as well as over the continental waters which cover it and the adjacent seas in the area required for the maintenance and vigilance of the resources therein contained, has been claimed by other countries and practically admitted in international law (Declaration of the President of the United States of 28 September 1945; Declaration of the President of Mexico of 29 October 1945; Decree of the President of the Argentine of 11 October 1946; Declaration of the President of Chile of 23 June 1947);

That article 37 of the State Constitution establishes that all mines, lands, forests, waters and in general all sources of natural wealth pertain to the State, with the exception of rights legally acquired;

That in fulfilment of its sovereignty and in defence of national economic interests it is the obligation of the State to determine in an irrefutable manner the maritime domain of the nation, within which should be exerted the protection, maintenance and vigilance of the aforesaid resources;

With the advisory vote of the Cabinet:

Decrees:

1. To declare that national sovereignty and jurisdiction can be extended to the submerged continental or insular shelf adjacent to the continental or insular shores of national territory, whatever the depth and extension of this shelf may be.

2. National sovereignty and jurisdiction are to be extended over the sea adjoining the shores of national territory whatever its depth and in the extension necessary to reserve, protect, maintain and utilize natural resources and wealth of any kind which may be found in or below those waters.

3. As a result of previous declarations the State reserves the right to establish the limits of the zones of control and protection of natural resources in continental or insular seas which are controlled by the Peruvian Government and to modify such limits in accordance with future changes which may originate as a result of further discoveries, studies or national interests which may arise in the future and at the same time declares that it will exercise the same control and protection on the seas adjacent to the Peruvian coast over an imaginary parallel line to it at a distance of 200 (two hundred) nautical miles measured following the line of the geographical parallels. As regards islands pertaining to the Nation, this demarcation will be traced to include the sea area adjacent to the shores of these islands to a distance of 200 (two hundred) nautical miles, measured from all points on the contour of these islands.

4. The present declaration does not affect the right to free navigation of ships of all nations according to international law.

AGREEMENTS BETWEEN CHILE, ECUADOR AND PERU, SIGNED AT THE FIRST CONFERENCE ON THE EXPLOITATION AND CONSERVATION OF THE MARITIME RESOURCES OF THE SOUTH PACIFIC, SANTIAGO, 18 AUGUST 1952

(a) Declaration on the Maritime Zone

1. Governments are bound to ensure for their peoples access to necessary food supplies and to furnish them with the means of developing their economy.

2. It is therefore the duty of each Government to ensure the conservation and protection of its natural resources and to regulate the use thereof to the greatest possible advantage of its country.

3. Hence it is likewise the duty of each Government to prevent the said resources from being used outside the area of its jurisdiciton so as to endanger their existence, integrity and conservation to the prejudice of peoples so situated geographically that their seas are irreplaceable sources of essential food and economic materials.

For the foregoing reasons the Government of Chile, Ecuador and Peru, being resolved to preserve for and make available to their respective peoples the natural resources of the areas of sea adjacent to their coasts, hereby declare as follows:

(I) Owing to the geological and biological factors

affecting the existence,conservation and development of the marine fauna and flora of the waters adjacent to the coasts of the declarant countries, the former extent of the territorial sea and contiguous zone is insufficient to permit of the conservation, development and use of those resources, to which the coastal countries are entitled.

(II) The Governments of Chile, Ecuador and Peru therefore proclaim as a principle of their international maritime policy that each of them possesses sole sovereignty and jursidiction over the area of sea adjacent to the coast of its own country and extending not less than 200 nautical miles from the said coast.

(III) Their sole jurisdiction and sovereignty over the zone thus described includes sole sovereignty and jurisdiction over the sea floor and subsoil thereof.

(IV) The zone of 200 nautical miles shall extend in every direction from any island or group of islands forming part of the territory of a declarant country. The maritime zone of an island or group of islands belonging to one declarant country and situated less than 200 nautical miles from the general maritime zone of another declarant country shall be bounded by the parallel of latitude drawn from the point at which the land frontier between the two countries reaches the sea.

(V) This Declaration shall not be construed as disregarding the necessary restrictions on the exercise

of sovereignty and jurisdiction imposed by international law to permit the innocent and inoffensive passage of vessels of all nations through the zone aforesaid.

(VI) The Governments of Chile, Ecuador and Peru state that they intend to sign agreements or conventions to put into effect the principles set forth in this Declaration and to establish general regulations for the control and protection of hunting and fishing in their respective maritime zones and the control and co-ordination of the use and working of all other natural products or resources of common interest present in the said waters.

TABLE A

LIMITS OF TERRITORIAL SEAS, FISHING ZONES AND ECONOMIC ZONES

State	Territorial Sea	Fishing or Fishery Zone	Exclusive Economic Zone	Other
Albania	15 mi (1976)			
Algeria	12 mi (1963)			
Angola	20 mi (1976)	200 mi (1976)		
Argentina	200 mi (1967)			
Australia	3 mi (1978)	200 mi (1979)		
Bahamas (The)	3 mi (1878)	200 mi (1977)		
Bahrain	3 mi			
Bangldesh	12 mi (1974)		200 mi (1974)	
Barbados	12 mi (1977)		200 mi (1978)	
Belgium	3 mi	Up to the median line (1978)		
Benin	200 mi (1976)			
Brazil	200 mi (1970)			

Table A, cont.

State	Territorial Sea	Fishing or Fishery Zone	Exclusive Economic Zone	Other
Bulgaria	12 mi (1951)		200 mi (1977)	
Burma	12 mi (1968)			
Cameroon	50 mi (1974)			
Canada	12 mi (1970)	200 mi (1977)		
Cape Verde	12 mi (1978)		200 mi (1978)	
Chile	3 mi	200 mi (1952)		
China	12 mi (1958)			
Colombia	12 mi (1970)		200 mi (1978)	
Comoro Islands	12 mi (1976)		200 mi (1976)	
Congo (People's Republic)	200 mi (1977)			
Costa Rica	12 mi (1972)		200 mi (1975)	
Cuba	12 mi (1977)		200 mi (1977)	
Cyprus	12 mi (1964)			
Djibouti (Rep of)	12 mi (1971)		200 mi (1979)	
Dominica	3 mi			
Dominican Rep.	6 mi (1967)		200 mi (1977)	
Denmark	3 mi (1966)	200 mi (1972)		

Table A, cont.

State	Territorial Sea	Fishing or Fishery Zone	Exclusive Economic Zone	Other
Ecuador	200 mi (1966)			
Egypt, Arab Rep.	12 mi (1958)			
El Salvador	200 mi (1950)			
Equatorial Guinea	12 mi (1970)			
Ethiopia	12 mi (1953)			
Fiji	12 mi (1976)		(200 mi)*	
Finland	4 mi (1956)	12 mi (1975)		
France	12 mi (1971)		200 mi (1977) Except Mediterranean	
Gabon	100 mi (1972)			
Gambia (The)	12 mi (1969)	200 mi (1978)		
German Dem. Rep.	3 mi	Up to median line (1978)		
Germany, Fed. Rep..	In accordance with international law	200 mi (1977)		
Ghana	200 mi (1977)			
Greece	6 mi (1936)			
Grenada	12 mi (1978)		200 mi (1978)	

Table A, cont.

State	Territorial Sea	Fishing or Fishery Zone	Exclusive Economic Zone	Other
Guatemala	12 mi (1934)		200 mi (1976)	
Guinea	200 mi (1965)			
Guinea-Bissau	12 mi (1978)		200 mi (1978)	
Guyana	12 mi (1977)	200 mi (1977)		
Hati	12 mi (1972)		200 mi (1977)	
Honduras	12 mi (1965)		200 mi (1951)	
Iceland	12 mi (1979)		200 mi (1979)	
India	12 mi (1967)		200 mi (1977)	
Indonesia	12 mi (1957) straight baselines surrounding archi-pelago		200 mi (1980)	
Iran	12 mi (1959)	Outer limits of the superjacent waters of the continental shelf. Median line in the Sea of Oman (1973)		
Iraq	12 mi (1958)			
Ireland	3 mi (1959)	200 mi (1977)		

Table A, cont.

State	Territorial Sea	Fishing or Fishery Zone	Exclusive Economic Zone	Other
Israel	6 mi (1956)			
Italy	12 mi (1974)			
Ivory Coast	12 mi (1977)		200 mi (1977)	
Jamaica	12 mi (1971)			
Japan	12 mi (1977)	200 mi (1977) (Provisional)		
Jordan	3 mi (1943)			
Kampuchea	12 mi (1969)		200 mi (1978)	
Kenya	12 mi (1969)		200 mi (1979)	
Kiribati	3 mi (1878)	200 mi (1978)		
Korea, Dem. People's Rep.	12 mi		200 mi (1977)	
Korea, Rep. of	12 mi (1978)	20-200 mi (1952-54)		
Kuwait	12 mi (1967)			
Lebanon		6 mi (1921)		
LIberia	200 mi (1976)			
Libya	12 mi (1959)			
Madagascar	50 mi (1973)			

Table A, cont.

State	Territorial Sea	Fishing or Fishery Zone	Exclusive Economic Zone	Other
Malaysia	12 mi (1969)		200 mi (1980)	
Maldives Islands	Territorial Limits defined by geographical coordinates (approx. 3-55 mi)		Areas defined by geographic coordinates (1976)	
Malta	6 mi (1971)	24 mi (1978)		
Mauritania	70 mi (1978)		200 mi (1978)	
Mauritius	12 mi (1970)		200 mi (1977)	
Mexico	12 mi (1969)		200 mi (1976)	
Monaco	12 mi (1973)			
Morocco	12 mi (1973)	70 mi (1973)	(200 mi)*	
Mozambique	12 mi (1976)		200 mi (1976)	
Namibia	3 mi	12 mi (1964)		
Nauru	12 mi (1971)		200 mi (1978)	
Netherlands	12 mi*	200 mi (1977)		
New Zealand	12 mi (1977)		200 mi (1978)	

Table A, cont.

State	Territorial Sea	Fishing or Fishery Zone	Exclusive Economic Zone	Other
New Zealand Dependent Territories				
- Cook Islands	12 mi (1978)		200 mi (1978)	
- Niue	12 mi (1978)		200 mi (1978)	
- Tokelau	12 mi (1978)		200 mi (1978)	
Nicaragua	3 mi	[illegible] (1979)	200 mi (1980)	
Nigeria	12 mi (1967)		200 mi (1978)	
Norway	4 mi (1812)		200 mi (1977) (Economic Zone)	
Oman	12 mi (1977)	200 mi (1977)		
Pakistan	12 mi (1966)		200 mi (1976)	
Panama	200 mi (1967)			
Papua New Guinea	12 mi (1978)		[illegible] 1978	200 mi 1978 (offshore waters)
Peru				Sovereignty and jurisdiction over the sea, its soil and subsoil up to 200 mi (1947)
Philippines	In accordance with treaties of 1898, [illegible] 1900 and 1930. Straight baselines surrounding archipelago (1961)		200 mi (1979)	

Table A, cont.

State	Territorial Sea	Fishing or Fishery Zone	Exclusive Economic Zone	Other
Poland	12 mi (1977)	Up to median line (1978)		
Portugal	12 mi (1977)		200 mi (1977)	
Qatar	3 mi	Outer limits of the superjacent waters of the continental shelf. (1974)		
Romania	12 mi (1951)			
St. Lucia	3 mi (1878)			
St. Vincent	3 mi (1878)			
Sao Tome	12 mi (1978)		200 mi (1978)	
Saudi Arabia	12 mi (1958)	Outer limits of the superjacent waters of the continental shelf (1974).		
Senegal	150 mi (1976)	200 mi (1976)		
Seychelles	12 mi (1977)		200 mi (1977)	
Sierra Leone	200 mi (1971)			
Singapore	3 mi (1878)			

Table A, cont.

State	Territorial Sea	Fishing or Fishery Zone	Exclusive Economic Zone	Other
Solomon Islands	12 mi (1978)	200 mi (1978)		
Somali Dem. Rep.	200 mi (1972)			
South Africa	12 mi (1977)	200 mi (1977)		
Spain	12 mi (1977)		200 mi (1978) (except Mediterranean)	
Sri Lanka	12 mi (1971)		200 mi (1977)	
Sudan, The	12 mi (1960)			
Surinam	12 mi (1978)		200 mi (1978)	
Sweden	4 mi (1779)	200 mi (1978)		
Syrian Arab Rep.	12 mi (1964)			
Tanzania	50 mi (1973)			
Thailand	12 mi (1966)			
Togo	30 mi (1977)		200 mi (1977)	
Tonga	Territorial limits defined by geographic co-ordinates 173°-177W and 15° - 23° 30'S (1887)			
Trinidad and Tobago	12 mi (1969)			

Table A, cont.

State	Territorial Sea	Fishing or Fishery Zone	Exclusive Economic Zone	Other
Tunisia	12 mi (1973)			
Turkey	6 mi (1964)	12 mi (1964)		
Tuvalu		200 mi (1978)		
U.S.S.R.	12 mi (1909)	200 mi (1976) (Provisional)		
United Arab Emirates	3 mi (12 in the case of Sharga)			
United Kingdom	3 mi (1878)	200 mi (1977)		
U.K. Dependent Territories				
- Antigua	3 mi (1878)			
- Bermuda	3 mi (1878)	200 mi (1977)		
- Belize	3 mi (1878)	12 mi (1976)		
- British Virgin Islands	3 mi (1878)	200 mi (1977)		
- Cayman Islands	3 mi (1878)	200 mi (1977)		
- Hong Kong	3 mi (1878)			
- Montserrat	3 mi (1878)			
- Nevis, Anguilla	3 mi (1878)			
- Pitcairn Islands	3 mi (1878)	200 mi (1980)		
- St. Kitts	3 mi (1878)			
- Turks and Caicos	3 mi (1878)	200 mi (1978)		
United States of America	3 mi (1793)	200 mi (1977)		
- Northern Marianas	3 mi	200 mi (1978)		
- Micronesia	3 mi	200 mi (1979)		

Table A, cont.

State	Territorial Sea	Fishing or Fishery Zone	Exclusive Economic Zone	Other
Uruguay	200 mi (1969)			
Vanuata	3 mi	[illegible]	200 mi (1978)	
Venezuela	12 mi (1956)		200 mi (1978)	
Viet Nam	12 mi (1977)		200 mi (1977)	
Western Samoa	12 mi (1977)		(200 mi)*	
Yemen Arab Rep.	12 mi (1967)			
Yemen People's	12 mi (1970)		200 mi (1978)	
Yugoslavia	12 mi (1979)			
Zaire	12 mi (1974)			

* Legislation enacted but pending entry into force.

Note: The information contained in this publication is taken from official or other reliable sources. It does not imply the expression of any opinion whatsoever on the part of the Food and Agriculture Organization of the United Nations concerning the legal or constitutional status of any country, territory or sea area or concerning the delimination of frontiers. Nor must it be construed as an official declaration by any government of its claim over any sea area or as constituting an implied or explicit recognition by any government of the claim of any other government over any such sea area.

Source: Legislation on coastal state requirements for foreign fishing-Legislative study No. 21, FAO, Rome, 1981.

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Peru

Extension claimed: 200 miles soveriegnty and jurisdiction (Economic Zone)

Year: 1947

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS			
CZ			
EZ	Peru will exercise control and protection of nat. resources on the sea adjacent to the Peruvian cost (over the area covered between the coast and the imaginary parallel line to it at a distance of 200 nautical miles.	Social and economic. Protection nat. resources in sea. It doesn't affect the right to free navigation of ships according to international law.	agreement
PS			
FZ			
CS	National sovereignty and jurisdiction over CS, whatever the depth and extension of the shelf.	Economic reasons. Peru's main concern was the protection of the nat. resources in the CS and the fertilizers left by the guano birds on the islands.	agreement
O			Note Peru did not sign the convention. There is disagreement with Peruvian civil aeronautic law of 1965 that establishes exclusive sovereignty over air space above maritime belt of 200 miles.

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Guatemala (G.)

Extension claimed: 12 TS

Year: 1940

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	The territorial waters extend 12 nautical miles reckoned from the low water mark.	Administration, security, conservational and economic. The government of G. requires license to the aliens who want to fish within its TW.	In agreement
CZ			
EZ	1976 G. establishes an EEZ "to two hundred nautical miles measured from the baseline from which the T. Sea is measured.	Social economic, and conservational	Agreement
PS			
FZ			
CS	1949 all deposits within the land or sea boundaries of G. up to the extremity of the continental shelf be the property of the nation.	Economic	Agreement
O			Note Guatamala did not sign the treaty.

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Chile

Extension claimed: 200 miles FZ

Year: 1947

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS			
CZ			
EZ			
PS			
FZ	Proclaim sovereignty within a fishery and protection of hunting zone of 200 miles. this declaration doesn't affect the freedom of navigation in high seas.	Social, economic, and conservational.	Agreement
CS	In 1947. The Chilean government proclaimed national sovereignty over its CS.	Social and economic.	Agreement
O			Note Chile signed this treaty.

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: El Salvador

Extension claimed: 200 TS

Year: 1950

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	The adjacent sea to the coast with the extension of 200 nautical miles and includes the air space the subsoil and the continental shelf.	Enforce law, security and control. Economic conservational.	disagreement in the extension of TS. The convention established 12 miles of TS. However there is agreement in the economic, conservation and control elements established in the 200 economic exclusive zone adopted in the Law of the Sea.
CZ			
EZ			
PS			
FZ			
CS			
O			Note El Salvador did not sign the treaty.

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Venezuela (V)

Extension claimed: 12 TS

Year: 1956

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	V exercises sovereignty over adjacent waters, soil and subsoil within 12 nautical miles.	security and economic	agreement
CZ	3 miles beyond the outer limit of the TS for the purposes of maritime control and vigilance (1956)		agreement
EZ	1978 V established 200 miles of EEZ	economic, social and conservational	agreement
PS			
FZ	Exploration and exploitation of fixed fishing grounds in the continental shelf shall be subject to prior authorization and control of the National Executive (1956)		agreement
CS	seabed and subsoil to a depth of 200 mi. or beyond to where depth admits of exploration of the resources of the seabed. (1956)	economic and soil	agreement
O	fishery conservation zone outside the TS and CZ the state shall determine the maritime zone over which it shall exercise its authority and be responsible for the development, conservation and rational exploration of the living resources.		agreement. Note V did not sign the treaty because she didn't accept articles regarding delimitation of marine and submarine areas among states with adjacent coasts.

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Honduras (H)

Extension claimed: 12 TS

year: 1965

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	"Also belonging to It subject to its jurisdiction and control are the subsoil, the air space, the TS the soil and subsoil of the subm marine platform, continental and insular shelf and other submarine ares adjacent to its territory."	supervision of the state, security	agreement
CZ			
EZ	Decree of 1951 declares the "protection and control of the state" over the 200 mile zone.	economic	agreement
PS			
FZ			
CS	200 mis or to where depth admits of exploitation (1965)	economic. Exploitation of natural resources located in the CS	agreement
O			Note H. signed the treaty.

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Nicaragua

Extension claimed: 200 miles exclusive fishing zone

Year: 1965

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	the national territory extends between the Atlantic and Pacific Oceans and the Republics of H. and C. Rica It also comprises the adjacent islands, the subsoil, the TW, the CS, the submerged founda-	law application, security	there is not disagreement
CZ	tion, the air space and the stratosphere. Such frontiers as may not yet be determined shall be fixed by treaties and by law.		
EZ			
PS			
FZ	1965 N. government establishes a "National Fishing Zone" of 200 mi. inorder to insure national exploitation and conservation of the resources.	social, economic, and conservational	agreement
CS	1950		
O			Note N did not sign the convention

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Ecuador (E)

Extension claimed: 200 TS

Year: 1966

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	ships not bound for an Ecuador port may not come within 3 miles of the coast. E considers TS to a breadth of 200 miles in which claims sovereignty and jurisdiciton according to principles established in Santiago Declaration signed with Peru and Chile in 1952.	security, defense and to supply of he needs of the population	Disagreement However, regarding the EEZ adopted by the treaty E stated that "recognition of coastal state sovereignty over the resources of the zone and CS had been an important conquest by those states"
CZ			
EZ			
PS			
FZ	Under certain conditions foreign vessels may be permitted to fish in Ecuador's territorial sea (requirement fo license)	social and economic. conservation	
CS	200 meters, including the conservation of resources (1951) "is considered to comprise the submerged land, contiguous to continental territory which is covered by not more than 200 meters of water"		
O			Note E did not sign the treaty. E supported during the conference the concept of 200 miles of TS and stated that maritime space in the Convention didn't give a favorable condition to the E archipelagoes

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Dominican Republic (DR)

Extension claimed: 6 TS

Year: 1967

Key

TS: Territorial Sea CZ: Contigous Zone
EZ: Economic Zone PS: Patrimonial Sea
FZ: Fishery Zone CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS			
CZ	in a zone extending 6 miles from the outer limit of the TS, the powers of jurisdiction and control necessary for preventing contraven tion of DR legislation governing public health, revenue & customs	enforce national law and regulations	agreement
EZ	1967. This shall extend in the direction of the high seas up to 200 nautical miles measured from the baselines from which the breadth of the territorial sea is measured 1977	social economic and conservational	agreement
PS			
FZ	12 (1967)		
CS	200 meters of to where depth admits of exploitation 1967	economic	agreement
O	fishery conservation zone in a zone extending 6 miles from the outer limit of the TS the powers of jur isdiction and control necessary for the protection and conservation of fisheries and other natural resources of the sea 1967		agreement Note DR signed the L. of the Sea treaty.

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Argentina

Extension claimed: 200 miles of TS

Year: 1966

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	Argentina's sovereignty extends over adjacent sea to its territory for a distance of 200 nautical miles measured from the line of lowest tide except in the cases of S. Martin, Nuovo and S. Jorge Gulf.	econmoic: protection of the living and non living nat. resources	disagreement with the extension of TS however the reason for claim 200 miles, TS is coincident with EEZ adopted in Law of Sea Treaty.
CZ			
EZ			
PS			
FZ			
CS	A sovereign claim includes the areas of CS and extending where the waters reach a depth of 200 meters or beyond that limit to where depth of superjacent waters admits exploitation of resources		Disagreement regarding the A claim of sovereignty over epicontinental sea
O	- -		Note A did not sign the treaty because it is against Resolution III regarding protection of the rights of people in a territory not independent.

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Panama (P)

Extension claimed: 200 TS

Year: 1967

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	P sovereignty will extend to 200 TS and to the seabed subsoil and air space.	social, economic and conservational. security and defense of the interoceanic route of Panama canal (P share the principles and purposes of the Santiago Dec.	Disagreement with the extension T. sea
CZ			
EZ			
PS			
FZ			
CS			
O			Note P signed the treaty

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Mexico (M)

Extension claimed: 12 TS

Year: 1969

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	The territorial sea to a distance of 12 miles in accordance with the provision of the political constitution of the United Mexican States the laws derived from it and international law	security and supervison	agreement
CZ			
EZ	1976 "The nation shall exercise the rights of sovereignty and the jurisdiction determined by the laws of congress in an EEZ" of 200 miles measured from the baseline from which the TS are measured	social and economic	agreement
PS			
FZ	1945 Mexico claimed its rights to preserve fishing resources. Didn't mention any distance	social and economic	agreement
CS	1945 Mexico claims sovereignty over the resources in the CS	economic preservation for people living coastal state	agreement
O	- -		Note M signed Law of the Sea Treaty regarding the adoption of the EEZ M saw the rights of coastal states over the resources as part of the permanent effort to secure full exercise of sovereignty over their material resources.

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Uruguay

Extension claimed: 200 TS

Year: 1969

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	Right of innocent passage in inner 12 miles. Full freedom of navigation in outer 188 miles Full freedom of overflight. The sovereignty of U extends to 200 miles of TS air space over its TS and over the sea bed and subsoil	national interest. social and economic promotion of development	disagreement with the extension of TS adopted in the treaty
CZ			
EZ			
PS			
FZ	fishing in the outer 188 miles by foreign vessels may be permitted under certain conditions		agreement
CS	200 meters or to where depth admits of exploitation	exploration and exploitation of natural resources	agreement
O			Note U signed the treaty

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Brazil (B)

Extension claimed: 200 miles of TS

Year: 1970

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	The B TS extends to a breadth of 200 miles B sovereignty extends to air space over TS and to the sea bed of the TS	Economic security defense of the state and conservation al	disagreement with the extension of TS
CZ			
EZ			
PS			
FZ			
CS	1950 Express is hereby taken that the underwater shelf, where it corresponds to the continental and insular territory of B is an integral part of that same territory under the jurisdiction and exclusive dominion of B.		agreement
O			Note B signed the treaty

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Jamaica (J)

Extension claimed: 12 TS

Year: 1971

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	The territorial sea of J is extended to 12 nautical miles	It follows the regulations of the convention of the T. Sea and contiguous zone, Geneva convention, 1958	agreement
CZ			
EZ			
PS			
FZ			
CS			
O			Note J signed this treaty

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Costa Rica (CR)

Extension claimed: 12 territorial sea

Year: 1972

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	The state exercises complete sovereignty over its TS for a distance of 12 miles from the low-water line along its coasts its continental shelf and its insular sill according with the priciples of international law	order, security and defense this extension is the one that "has now the broadest adherance of a larger number of states which reveals that it corresponds to an accepted principle of international law.	agreement
CZ			
EZ	CRs state expercises "special jurisdiction" over the seas adjacent to its territory for an extent of 200 miles from the aforesaid line(1975)	social, economic and conservational	agreement
PS	decree 2204 (1972) CR exercises "special jurisdiction" over its 200 miles of patrimonial sea	social, economic and conservational	agreement
FZ			
CS	200 (1949) national sovereignty over all of the submarine continental shelf whatever its depth and right of Cr over all mineral resources		
O			Note CR signed the treaty CR said it was already applying its law requiring license fees for vessels fishing for highly migratory species such as tuna

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Haiti (H)

Extension claimed: 12 miles TS

Year: 1972

Key

TS: Territorial Sea CZ: Contigous Zone
EZ: Economic Zone PS: Patrimonial Sea
FZ: Fishery Zone CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	The T Sea of H extends to a distance of 12 marine miles from the Islands adjacent to the Republic	national interest	agreement
CZ			
EZ	H decides to extend "its exclusive economic zone to 200 marine miles from the baselines from which the territorial sea is measured" 1977	economic and conservational	agreement
PS			
FZ			
CS			
O			Note H signed the Law of the Sea treaty

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Cuba

Extension claimed: 12 mile TS

Year: 1977

Key

TS: Territorial Sea CZ: Contigous Zone
EZ: Economic Zone PS: Patrimonial Sea
FZ: Fishery Zone CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	"The T sea of the Republic of Cuba shall have a breadth of 12 nautical miles measured from the baseline determined in the present Legislative decree"	security and defense	agreement
CZ	12 miles customs zone from the high water mark 1942		agreement
EZ	1977 this established on the zone adjacent to its territorial sea up to a distance of 200 nautical miles	social, economic and conservational	agreement
PS			
FZ			
CS			
O	Fishery Conservation Zone legal administrative or technical measures necessary for the protection and conservation of the marine resources in the high sea contiguous to the Cuban territorial sea 1955	economic and conservational	agreement Cuba signed the treaty

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Bahamas

Extension claimed: 200 miles FZ

Year: 1977

Key

TS: Territorial Sea CZ: Contigous Zone
EZ: Economic Zone PS: Patrimonial Sea
FZ: Fishery Zone CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS			
CZ			
EZ			
PS			
FZ	Bahamas established in 1977 200 miles of exclusive fishery zone in which the state has sovereign rights and exclusive authority for the purpose of exploring and exploit in fishery resources	social, economic and con servational	agreement
CS	The seabed and subsoil of the submarine areas adjacent to the coasts but outside the sea of the B to a depth of 200 mis.		agreement
O			Note Bahamas signed this treaty

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Colombia (C)

Extension claimed: 12miles of TS

Year: 1978

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	The sea "over which it exercises full sovereignty extends beyond its continentaland insular territory and its external waters up to the breadth of 12 nautical miles"	control	agreement
CZ	control for the purposes of maritime vigilance national security and protection of national interests in zone up to 12 miles from the coast	enforce national law	agreement
EZ	c. established adjacent to TS an exclusive economic zone whose outer limit extend 200 miles in the zone C exercises sovereign rights for the purpose of exploring exploiting conserving and managing natural	economic. conservation	agreement
PS	resources.		
FZ			
CS	C sovereignty extends to the CS for the purpose of exploring and exploiting nat resources.	economic	agreement
O			Note C signed the treaty

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Guyana

Extension claimed: 12 miles TS

Year: 1977

Key

TS: Territorial Sea CZ: Contigous Zone
EZ: Economic Zone PS: Patrimonial Sea
FZ: Fishery Zone CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	The sovereignty of G extends to the T sea of 12 miles and to the seabed and subsoil underlying and the airspace over such sea 1977	economic security and protection of national interests	agreement
CZ			
EZ			
PS			
FZ	It is established fishery zone beyond and adjacent to TS and bounded on its seaward side by the line every point on which is 200 miles from baseline 1977	economic and social. Regulation of fishing activities	agreement
CS	Is a prolongation of the land territory of G to the outer edge of the continental margin or to a distance of 200 miles from the base line in which it has full and exclusive sovereign rights	Conservational, and economic	agreement
O			Note G signed the treaty of the Law of the Sea

TABLE B

COMPARATIVE STUDY OF THE LATIN AMERICAN COUNTRIES' POSITIONS REGARDING RELEVANT CATEGORIES IN THE INTERNATIONAL LAW OF THE SEA TREATY SIGNED IN DECEMBER 1982

Country: Surinam (S)

Extension claimed: 12 miles of TS

Year: 1978

Key

TS: Territorial Sea
EZ: Economic Zone
FZ: Fishery Zone
CZ: Contigous Zone
PS: Patrimonial Sea
CS: Continental Shelf
O: Others

CATE-GORIES	DEFINITION	REASONS FOR CLAIM	CONSENSUS IN THE LAW OF THE SEA TREATY
TS	The sovereignty of S is extended beyond its territory and is internal waters to a belt of sea of 12 miles	control and supervison according to international law	agreement
CZ			
EZ	S esteatblishes 200 miles of economic zone in which it has sovereign rights for the exploration,exploitation,conservation,and management of the national resources. 1978	economic and conservational	agreement
PS			
FZ			
CS			
O			Note Surinam signed Law of the Sea treaty

81929

RONCAGLIOLO
HIGUERAS

THE
PERUVIAN
POLICY
REGARDING
TERRITORIAL
SEA AND
EXCLUSIVE
ECONOMIC
ZONE