

Mexico's Concept of the Patrimonial Sea

HECTOR MEDINA NERI
Undersecretary of Fisheries
Department of Industry and Commerce
Mexico, D.F., Mexico

Current advances in technology and fishing intensity, coupled with the ever increasing world population, have created one of the most disturbing problems of our times for most countries. This problem is the imperative need of developing countries to significantly increase the production of high value protein foods from the ocean to satisfy the constantly growing world demand and to prevent a greater deficit that would prove ruinous to their economic and social structure.

You, no doubt, are aware that Mexico has registered rapid development in both these areas and consequently is one of the nations most greatly affected by the problem. With this in mind and recognizing the strong sentiment of several of the Latin American countries in extending their maritime jurisdiction to 200 miles, we feel the necessity to propose the concept of the Patrimonial Sea as a means whereby coastal states may exercise sovereignty and control over the resources of the sea and may regulate the exploration, exploitation and conservation of all living and non-living elements of the seabed and its subsoil within its patrimonial sea and also combat and prevent the common menace — pollution.

The policy of our President, to the effect that Mexican waters should become a source of work, food and progress, is well known. Our Constitution provides that the exploitation of the natural resources should serve as a vehicle for an equitable distribution and protection of the common wealth.

The Secretary of Industry and Commerce, through the Undersecretary of Fisheries, has always upheld, in all international treaties in which he has participated, Mexico's concept, demanding recognition of the preferential rights of the coastal states to the resources of the sea within their adjacent waters and the freedom to dispose of these resources in a manner favorable to their economic development, for acquisition of food with high protein content and to obtain foreign exchange for industrial development.

Our idea of an equitable and true social justice, as declared by our President, is that highly developed countries should meet their needs for seafood by purchasing processed products from coastal developing countries, contributing to their progress, to their sound economy and, consequently, to "Peace."

Mexico's conception of this issue has been clearly defined on several occasions in recent months, in that all countries should recognize and respect the right of any nation to dispose freely of its natural resources without any external coercion. However, we must realize that these important problems require the creation of a new structure to conform to the current needs of developing nations. The preservation and replenishment of those species that have been overexploited and are near possible depletion claims immediate and adequate attention to ensure future supplies. We are firmly convinced that the rules of the

past and of today are not adequate to regulate present conditions. A change is imperative.

The time has come when maximum utilization of the resources of the sea under proper administration has become compulsory, because the unlimited exploitation of numerous species has brought them to the verge of extinction. The activity of fishermen from distant areas in the waters adjacent to developing coastal countries unjustly limits their potential for economic advancement and constantly causes international friction. Mexico views with sympathy the efforts, verging on severe conflict, of sister countries to establish a 200-mile territorial limit. Without detriment to these aspirations, Mexico will strive, at the 1973 United Nations Conference on the Law of the Sea, to obtain juridical recognition, through a world convention, for a Patrimonial Sea extending up to 200 miles, over which the coastal countries will exercise exclusive preferential rights over fishing and in general over all its marine resources. Irrespective of legalities, one of the primary concerns of the U.N. should be the best possible economic use of the resources of the seas to aid all nations. This is of special interest to developing countries not only because they will find food in the oceans required for their growing populations but because the exploitation of these resources, living or mineral, may constitute a powerful instrument for their development.

To the above we must add the issue relating to the continental shelf. The conference held in Geneva in 1958 granted coastal states sovereign rights to their seabed, subsoil and resources of the shelf, to a depth of 200 meters or to that depth which may be exploited. This decision is a clear indication of the necessity of the coastal states to extend the limit of their Patrimonial Sea.

The urgent need for this change is applicable not only to the developing nations; right here in the United States groups of fishermen have made statements in favor of this change. Let me mention the resolution adopted by fishermen and their representatives attending the Annual Fishermen's Forum held on February 26, 1972, at Point Judith, Rhode Island, where it was resolved to officially request the United States government to extend its fisheries jurisdiction to 200 miles. Also, the recent 102nd Convention of the American Fisheries Society held at Hot Springs, Arkansas, September 10, 1972, resolved to encourage the governments of the United States, Mexico and Canada to favor the extension of their fisheries jurisdiction to 200 miles at the Law of the Sea Conference to be held in Geneva in 1973.

In view of the above we deem it advisable to refer to the Declaration of Santo Domingo, approved at the Meeting of Ministers of Foreign Relations at the Specialized Conference of Caribbean Countries on the Problems of the Sea, held on June 7, 1972, in anticipation of the 1973 United Nations Geneva Conference, and which follows:

DECLARATION OF SANTO DOMINGO

Recalling: That the International American Conference, held in Bogota in 1948, and in Caracas in 1954, recognized that the peoples of the Americas depend on the natural resources as a means of subsistence, and proclaim the

right to protect, conserve and develop these resources, as well as the right to ensure their use and utilization.

That the principles of Mexico on the legal regime of the sea which were adopted in 1956 and which were recognized "as the expression of the juridical conscience of the continent" and as applicable, by the American States, established the basis for the evolution of the Law of the Sea which culminated, that year, with the annunciation by the specialized conference, in the capital of the Dominican Republic, of concepts which deserved endorsement by the United Nations Conference on the Law of the Sea, Geneva 1958.

Considering: That the General Assembly of the United Nations, in its Resolution 2750 (XXV) decided to convoke in 1973 a Conference on the Law of the Sea and recognized "the need for early and progressive development of the Law of the Sea."

That it is desirable to define, through universal norms the nature and scope of the rights of States, as well as their obligations and responsibilities relating to the various oceanic zones, without prejudice to regional or sub-regional agreements; based on the said norms.

That the Caribbean countries on account of their peculiar conditions, require special criteria for the application of the Law of the Sea, while at the same time the coordination of Latin America is necessary for the purpose of joint action in the future.

That the economic and social development of all peoples and the assurance of equal opportunities for all human beings are essential conditions for peace.

That the renewable and non-renewable resources of the sea contribute to improve the standard of living of the developing countries and to stimulate and accelerate their progress.

That such resources are not inexhaustible since even the living species may be depleted or extinguished as a consequence of irrational exploitation or pollution.

That the Law of the Sea should harmonize the needs and interests of States and those of the international community.

That international cooperation is indispensable to ensure the protection of the marine environment and its better utilization.

That as Santo Domingo is the point of departure of the American civilization, as well as the site of the first Conference of the Law of the Sea in Latin America in 1956, it is historically significant that the new principles to advance the progressive development of the Law of the Sea be proclaimed in this city. Formulate the following declaration of principles.

PATRIMONIAL SEA

(1) The coastal state has sovereign rights over the renewable and non-renewable natural resources, which are found in the waters, in the seabed and in the subsoil of an area adjacent to the territorial sea called the Patrimonial Sea.

(2) The coastal state has the duty to promote and the right to regulate the conduct of scientific research within the Patrimonial Sea, as well as the right to adopt the necessary measures to prevent marine pollution and to ensure its sovereignty over the resources of the area.

(3) The breadth of this zone should be the subject of an international agreement, preferably of a worldwide scope. The whole of the area of both, the territorial sea and the Patrimonial Sea, taking into account geographic circumstances, should not exceed a maximum of 200 nautical miles.

(4) The delimitation of this zone between two or more States, should be carried out in accordance with the peaceful procedures stipulated in the charter of the United Nations.

(5) In this zone ships and aircraft of all States, whether coastal or not, should enjoy the right of freedom of navigation and overflight with no restrictions other than those resulting from the exercise of the coastal State of its rights within the area. Subject only to these limitations, there will also be freedom for the laying of submarine cables and pipelines.

CONTINENTAL SHELF

(1) The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

(2) The continental shelf includes the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where of the superjacent waters admits the exploitation of the natural resources of the said areas.

(3) In addition, the States participating in this Conference consider that the Latin American delegations in the Committee on the Seabed and Ocean Floor of the United Nations should promote a study concerning the advisability and timing for the establishment of precise outer limits of the continental rise.

(4) In that part of the continental shelf covered by the Patrimonial Sea the legal regime provided for this area shall apply. With respect to the part beyond the Patrimonial Sea, the regime established for the continental shelf by international law shall apply.

INTERNATIONAL SEABED

(1) The seabed and its resources, beyond the Patrimonial Sea and beyond the continental shelf not covered by the former, are the common heritage of mankind, in accordance with the declaration adopted by the General Assembly of the United Nations in Resolution 2749 (XXV) of December 17, 1970.

(2) This area shall be subject to the regime to be established by international agreement, which should create an international authority empowered to undertake all activities in the area, particularly the exploration, exploitation, protection of the marine environment and scientific research, either on its own, or through third parties, in the manner and under the conditions that may be established by common agreement.

HIGH SEAS

The waters situated beyond the outer limits of the Patrimonial Sea constitute an international area designated as high seas, in which there exists freedom of navigation, of overflight and of laying submarine cables and pipelines. Fishing in

this zone should be neither unrestricted nor indiscriminate and should be the subject of adequate international regulation, preferably of worldwide scope and general acceptance.

MARINE POLLUTION

(1) Is the duty of every State to refrain from performing acts which may pollute the sea and its seabed, either inside or outside its respective jurisdictions.

(2) The international responsibility of physical or juridical persons damaging the marine environment is recognized with regard to this matter the drawing up of an international agreement, preferably of a world wide scope, is desirable.

REGIONAL COOPERATION

(1) Recognizing the need for the countries in the area to unite their efforts and adopt a common policy vis-a-vis the problems peculiar to the Caribbean Sea relating mainly to scientific research, pollution of the marine environment, conservation, exploration, safeguarding and exploitation of the resources of the sea.

(2) Decides to hold periodic meetings, if possible once a year, of senior governmental officials, with the purpose of coordinating and harmonizing national efforts and policies in all aspects of oceanic space with a view to ensuring maximum utilization of resources by all the peoples of the region.

(3) The first meeting may be convoked by any of the States participating in this Conference.

Finally, the feelings of peace and respect for international law which have always inspired the Latin American countries, are hereby reaffirmed. It is within this spirit of harmony and solidarity and for the strengthening of the norms of the inter-American system, that the principles of this document shall be realized.

The present declaration shall be called: "Declaration of Santo Domingo."

Done in Santo Domingo de Guzman, Dominican Republic, the ninth day of June, nine thousand nine hundred and seventy-two (1972) in a single copy in the English, French and Spanish languages, each text being equally authentic. Mexico participated and is a subscriber to this Convention.