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- A faint, light blue background illustration of a sailing ship with three masts and a large white sail, sailing on a sea with stylized waves. The ship is positioned in the upper half of the page, and the waves extend across the bottom half.



Constitution of the Sea Brings Order to the Oceans

The United Nations Convention on the Law of the Sea – more than 10 years in the making, now 20 years old, and fast approaching universal participation — is perhaps one of the most significant but less recognized 20th century accomplishments in the arena of international law. It established for the first time one set of rules for the oceans, bringing order to a system fraught with potential conflict. Its scope is vast: it covers all ocean space, with all its uses, including navigation and overflight; all uses of all its resources, living and non-living, on the high seas, on the ocean floor and beneath, on the continental shelf and in the territorial seas; the protection of the marine environment; and basic law and order.

The Convention, often referred to as the “constitution of the sea”, is based on the all-important idea that the problems of the oceans are closely interrelated and must be addressed as a whole. Early on in the negotiating process, and possibly key to its success, it was agreed that the treaty must be taken as a whole, not bartered and argued piece by piece. And thus it was adopted on 30 April 1982. Today it is one of few international agreements that almost all countries abide by in practice, even those that are not States parties.

The Convention was opened for signature on 10 December 1982 in Montego Bay, Jamaica, when a record number of States, 119, signed on. Today, there are 137 States Parties plus the European Community. Several States that had previously found some provisions problematic are now taking steps for future ratification or accession. The United States of America has publicly stated its intention of becoming a State Party as soon as possible.

To honour the occasion of its 20th anniversary, the United Nations General Assembly has decided to hold two days of commemorative meetings on 9-10 December 2002, when many important people instrumental in the negotiations and adoption of the Convention will be honoured.

Some key features of the Convention:

Territorial seas

- ◆ Coastal States have sovereignty over their territorial seas, which they can establish up to a limit of 12 nautical miles. Foreign vessels are allowed “innocent passage” through those waters.

Exclusive economic zones

- ◆ Coastal States have sovereign rights in a 200-nautical-mile exclusive economic zone (EEZ) for the use of living and non-living natural resources. (Ninety per cent of the world’s fisheries fall within coastal State jurisdictions.)
- ◆ Coastal States are responsible for managing living resources and for protecting the marine environment.

Continental shelf

- ◆ Coastal states have sovereign rights over their continental shelf, their national area of the seabed, for exploring and exploiting its non-living resources. The shelf extends at least 200 nautical miles from the shore. States may claim more under certain circumstances.
- ◆ Where the shelf extends beyond 200 miles, coastal States are to share with the international community part of the revenue they may derive from those resources.



Rights of navigation, passage, overflight and freedom of the seas

- ◆ In addition to the right of innocent passage in the territorial sea, ships and aircraft of all countries are allowed “transit passage” through straits used for international navigation; States bordering the straits can regulate navigational and other aspects of passage.
- ◆ Land-locked States have the right of access to and from the sea and enjoy freedom of transit through the territory of transit States.
- ◆ In EEZs, all States have freedom of navigation and overflight, as well as freedom to lay submarine cables and pipelines.
- ◆ All States enjoy the traditional freedoms of navigation, overflight, scientific research and fishing on the high seas. They are obliged to adopt, or cooperate with other States in adopting, measures to manage and conserve living resources.

Settlement of disputes

- ◆ The Convention provides for a binding and comprehensive system for the settlement of disputes.

To address problems caused by pollution from land-based activities, more than 100 countries in 1995 adopted two international documents: the Washington Declaration on the Protection of the Marine Environment from Land-based Activities, and the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA). The latter addresses the impacts of land-based activities on the marine and coastal environments, covering issues such as contaminants, the physical alteration of marine and coastal environments, sources of pollution, the protection of habitats critical for endangered species, and the protection of ecosystems such as breeding and feeding grounds.

In addition, the World Bank, through the Global Environment Facility (GEF), has in place programmes to reduce pollution due to non-treated sewage, as well as initiatives to reduce nitrogen pollution.

Marine Resources

AN OCEAN OF RICHES

In addition, policy makers should adopt a precautionary approach and be guided by sustainability indicators when assessing the size of allowable fish catches.

While the Convention on the Law of the Sea has been the centrepiece in focusing attention on the need for responsible fishing practices, other international legal instruments aimed at ensuring the long-term sustainability of fishery resources also play an important role. These include the 1995 United Nations Fish Stocks Agreement, the 1993 FAO Compliance Agreement and the 1995 FAO Code of Conduct for Responsible Fisheries and its related international plans of action. The plans of action address the management of fishing capacity; the prevention of illegal, unregulated and unreported fishing; the reduction of incidental catch of seabirds in longline fisheries; and the conservation and management of shark populations.

Oil, Gas and other Minerals

Marine minerals have been estimated to generate nearly \$1 trillion every year. These valuable minerals, which include offshore oil and gas, gold, tin, diamonds, sand and gravel, can be found both within and beyond the limits of national jurisdiction.

Resources within National Jurisdictions

Within national jurisdictions, the offshore oil and gas industry has been growing at a remarkable pace. Worldwide, offshore oil production grew from about 13,500 million barrels per day in the early 1980s to about 18,600 million in the mid-1990s, an increase of 37 per cent. In the same period, offshore gas production increased by 27 per cent, from about 28,300 to 35,900 million cubic feet per day. Today, offshore oil production accounts for about 30 per cent of total world oil production, while the share of the offshore gas industry in world gas production is about half.

In recent years, due to increasing world demand for oil and gas, offshore exploration and development have shifted to new frontiers where little research and discovery had taken place in the past. As a result, four areas — the Gulf of Mexico, the North Sea, and offshore West Africa and South-East Asia — have become the focus of exploration and development activity.

Beyond the traditional sources of oil and gas, the oceans hold the promise of new and potentially enormous sources of energy. The recovery of frozen compounds of methane gas (i.e. methane hydrates), of which huge deposits can be found at 600 to 1,500 feet below the ocean floor on continental margins throughout the world, is a particularly promising area of research. These ocean-floor deposits could be of tremendous value as scientists estimate that they contain twice the amount of organic carbon as all recoverable and non-recoverable oil, gas and coal deposits on Earth combined.

Resources beyond National Jurisdictions

The Convention on the Law of the Sea designated marine minerals on the seabed beyond national jurisdiction as the common heritage of mankind, to be explored and exploited for the benefit of humanity as a whole. These mineral resources are administered by the International Seabed Authority, an international organization established on the basis of the Convention, which allows both public and private enterprises, as well as collective mining consortiums, to apply for permission to mine the seabed.

Deep seabed mining, while holding enormous promise, is extremely challenging. It has been compared to standing atop a New York City skyscraper on a windy day, trying to suck up marbles off the street below with a vacuum cleaner attached to a long hose. Mining takes place at a depth of more than 15,000 feet of open ocean, thousands of miles from land, making it a risky and extremely expensive endeavour. Keeping a steady ship position, since a vessel cannot anchor five kilometres above the sea floor, and making sure that the pipe used for extracting the minerals does not snap or that the recovery vehicle is not lost or permanently stuck on the ocean floor, are among the many difficulties involved in developing the technology for commercial exploitation.

Today, twenty years after the adoption of the Convention, exploration contracts for the mining of polymetallic nodules — which contain a number of important metals such as nickel, copper and cobalt — in the international seabed area have been issued to seven pioneer investors. Consideration is being given to allowing the exploration and exploitation of two other types of minerals — polymetallic sulphides and cobalt-rich crusts. In this context, the International Seabed Authority is taking into consideration the environmental concerns arising from the growing interest in developing marine mineral resources in the international seabed area.



Crimes at Sea

PIRACY AND SMUGGLING ON THE RISE

On the world's oceans, piracy and armed robbery are on the rise. So is smuggling — especially of migrants and drugs. Among the most widespread and serious at sea, these crimes are often masterminded by organized criminals who take full advantage of weaknesses in law enforcement on the oceans. In some areas, they have



Human Cargo — The Smuggling of Migrants

The international shipping industry is an attractive and very lucrative mode of operation for criminals engaged in the smuggling of migrants. In fact, this trade in human cargo has become so profitable that many organized crime groups have chosen to refocus their smuggling operations away from drugs to human beings.

The smugglers prey on the desperation of migrants who are driven by poverty, the lack of opportunity and political and social violence in their countries of origin to risk everything in the hope of a better future. To maximize profits, the smugglers show little regard for human lives, hiding as many people as they can fit into sealed containers or in the hold of ships, which are often barely seaworthy. With few options, the migrants entrust their lives to the smugglers, who further victimize them by charging exorbitant fees and gambling with their lives. The migrants are often deceived about their country of destination, and are sometimes forced to engage in criminal activities upon their arrival in order to reimburse the criminals for expenses incurred. Women and children, in particular, are often enslaved.

While no exact figures are available, it is believed that the smuggling of migrants is on the rise. In an effort to better understand the extent of the problem, the Maritime Safety Committee of the IMO has established a reporting procedure to encourage governments and international organizations to report all unsafe practices associated with the

was put to a vote. The vote, which took place at United Nations Headquarters in New York, marked the end of over a decade of intense and often strenuous negotiations, involving the participation of more than 160 countries from all regions of the world and all legal and political systems.

The Convention was adopted with 130 States voting in favour, 4 against and 17 abstaining. Later that same year, on 10 December, the Convention was opened for signature at Montego Bay, Jamaica, and received a record number of signatures — 119 — on the first day.

The United Nations Convention on the Law of the Sea entered into force on 16 November 1994, one year after it had reached the 60 ratifications necessary. Today the Convention is fast approaching universal participation, with 138 States, including the European Union, having become parties.

The Convention is supplemented by two agreements dealing respectively with Seabed Mining and Straddling and Highly Migratory Fish Stocks.

Timeline

- 1958 The First United Nations Conference on the Law of the Sea is convened.
- 1960 The Second United Nations Conference on the Law of the Sea is convened.
- 1968 The Committee on the Peaceful Uses of the Seabed and the Ocean Floor beyond the Limits of National Jurisdiction is established.
- 1970 The General Assembly adopts the Committee's Declaration of Principles and decides to convene the Third United Nations Conference on the Law of the Sea.
- 1973 The Third United Nations Conference on the Law of the Sea opens.
- 1975 The first draft of the Convention on the Law of the Sea is submitted to delegations for negotiations.
- 1982 The Convention is adopted by the Third United Nations Conference on the Law of the Sea.
- 1982 The Convention is opened for signature at Montego Bay, Jamaica.
- 1994 The Convention enters into force.
- 1995 The International Seabed Authority becomes operational.
- 1996 The International Tribunal for the Law of the Sea becomes operational.
- 1997 The Commission on the Limits of the Continental Shelf holds its first session.

Three New International Bodies are Born

Having declared the seabed beyond the limits of national jurisdiction (the “Area”) the “common heritage of mankind”, the Convention established the International Seabed Authority to organize and control activities in the Area, particularly with a view to administering its resources. The Authority, which has its headquarters in Kingston, Jamaica, came into existence in 1994 when the Convention entered into force, and became fully operational as an autonomous international organization in June 1996. Disputes that arise over seabed activities are arbitrated by an 11-member Seabed Disputes Chamber set up by the International Tribunal for the Law of the Sea.

The Tribunal was created by the Convention to settle disputes that arise out of its interpretation or application. The Tribunal, which has its headquarters in Hamburg, Germany, became operational in October 1996, two years after the Convention came into force.

A third international body established by the Convention, the Commission on the Limits of the Continental Shelf, held its first session in June 1997. The purpose of the Commission is to facilitate the implementation of the Convention with respect to the establishment of the outer limits of the continental shelf beyond 200 nautical miles. The Commission makes recommendations to coastal States on matters related to the establishment of these limits.

Reflections for the Future

Various developments in the area of ocean affairs and the law of the sea can be foreseen in the coming years.

New advances in technology have allowed humankind to go further offshore and deeper into the oceans. Life on the seabed, which was once thought of as existing only in the shallow waters of the continental shelf, has now been found at depths of more than 4,000 feet. For example, microorganisms living around and nourished by deep-sea vents (“smokers” that form when two oceanic plates pull apart and erupting lava replaces the

be reduced through the development and use of more selective, environmentally safe and cost-effective fishing gear and techniques, as well as through better enforcement of fishing regulations. States should also ensure that vessels flying their flag do not engage in illegal, unreported and unregulated fishing, and for this purpose should take measures to implement the FAO International Plan of Action to Prevent, Deter and Eliminate IUU Fishing. The role of subregional and regional fisheries organizations should be strengthened to ensure effective conservation and management of high seas fisheries resources.

Many of the problems facing the international community today, and those likely to linger in the future, transcend national borders and can only be countered effectively by nations acting in concert at the national, regional and global levels.

As for jurisprudence on the law of the sea, it will certainly continue to be developed and exert an influence on State practice as the International Tribunal for the Law of the Sea ensures the uniform interpretation and application of the Convention.

New discoveries, advancing technologies, problems related to fisheries and other uses of the sea, and other developments may require the adoption of new legal instruments. The Convention will remain a dynamic instrument and a point of reference for the legal norms that may be needed at the global, regional or national levels to deal with the countless issues on oceans and seas and their governance. One can be sure that, whatever emerging issues the international community will face in the future, the Convention will provide the necessary legal framework for the steady evolution of the law of the sea.

Facts and Figures about the Oceans

DID YOU KNOW?

- ◆ Oceans cover almost three-quarters of the Earth's surface, comprise nine-tenths of its water resources and are home to over 97 per cent of all life.
- ◆ The bulk of all international trade, approximately 90 per cent, is transported by sea.
- ◆ The combined value of ocean resources and uses is estimated to be about \$7 trillion per year. Fish and minerals, include a bulk of all international trade.

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- ◆ The three greatest threats to the world's oceans, as identified by the Global Environment Facility, are pollution from land-based sources, overexploitation of living marine resources, and physical alteration or destruction of marine habitats.
 - ◆ Land-based sources are responsible for 80 per cent of the pollution of the oceans and affect the most productive areas of the marine environment.
 - ◆ Dumping of wastes and other matter accounts for 10 per cent of pollutants in the oceans.
 - ◆ The greatest threat to the marine environment from shipping activities arises from the introduction of harmful alien species into new environments through ship ballast water.
 - ◆ Ocean pollution is estimated to cause some 250 million cases of gastroenteritis and upper respiratory disease every year, costing societies worldwide about \$1.6 billion a year, according to a recent study sponsored by the United Nations Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) and the World Health Organization (WHO).
 - ◆ The consumption of uncooked sewage-contaminated shellfish causes some 2.5 million cases of infectious hepatitis each year, at a cost of approximately \$10 billion annually, according to the GESAMP/WHO study.
 - ◆ The global average sea level has risen by 10 to 25 centimeters over the past 100 years. Models project that sea levels will rise another 15 to 95 cm by 2100 (with the "best estimate" at 50 cm).
 - ◆ More than half of the world's population lives near the sea at a density twice the global average, exposed to the threats of floods, storms, sea level change and coastal erosion.
 - ◆ It is estimated that approximately 27 per cent of coral reefs are at high risk of degradation due to direct human impact and the effects of climate change. It is predicted that a further 50 to 60 per cent of the world's reefs may be destroyed within the next 30 years unless urgent measures are taken.
 - ◆ From 1984 to June 2002, 2,678 incidents of piracy and armed attack were reported to the International Maritime Organization (IMO). Of these, 171 were reported in the first six months of 2002, with 370 in 2001 and 471 in 2000. In 2000, according to reports received by IMO, 72 crewmembers were killed by pirates and armed robbers at sea, 129 were wounded and 5 were reported missing.
 - ◆ 276 incidents of migrant smuggling, involving 12,426 migrants, were reported to IMO from the end of 2000 to 30 April 2002.
 - ◆ On 30 April 1982, the United Nations Convention on the Law of the Sea was adopted by the United Nations General Assembly with 130 States voting in favour, 4 against and 17 abstaining. Later that year, on 10 December, the Convention was opened for signature at Montego Bay, Jamaica, and received a record number of signatures — 119 — on the first day.
 - ◆ The Convention on the Law of the Sea entered into force on 16 November 1994, one year after it had reached the 60 ratifications necessary. The Convention is fast approaching universal participation, with 157 signatures and 138 States, including the European Union, having become parties to it.



STATUS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

Since the adoption of the Convention in 1982, the legal regime it established has reached practically universal acceptance. Today, the international community is only a small step away from reaching the goal of universal participation. The adoption in 1994 of the Agreement relating to the implementation of Part XI of the Convention, which offered a legal and political solution to the problems related to seabed mining, opened the way to an increased pace of ratifications and accessions to the Convention. Shortly after the Convention entered into force on 16 November 1994, there was a significant increase in the number of new parties.

The Division for Ocean Affairs and the Law of the Sea, of the United Nations Office of Legal Affairs, serves as the secretariat of the Convention. It promotes better understanding of the Convention and the two implementing Agreements, in order to ensure their effective implementation.

Statistics show that, out of 152 coastal States, only 31 are not yet parties to the Convention. Sixteen out of 42 landlocked States also joined the group of States parties. Total participation, including the European Community, thus stands at 138 (see Table 1). In the regions, the situation is as follows:

In Africa, there are 53 States, out of which 38 are coastal States. Thirty-eight African States are parties, including five landlocked States. In Asia and the Pacific, there are 60 States, out of which 50 are coastal States. Forty Asian and Pacific States are parties, including 3 landlocked States. In Europe, there are 46 States, out of which 31 are coastal States. There are 33 States parties from this region, including 6 landlocked States, as well as the European Community. In Latin America and Caribbean, there are 33 States, out of which 31 are coastal States. Twenty-seven Latin American and Caribbean States are parties, including two landlocked States. In North America, the United States and Canada, although not yet parties, accept the Convention as reflecting customary international law, and both are its strong supporters.

A number of non-States parties have already started their constitutional processes leading to their acceptance of the legal regime established by the Convention.

At the level of State practice, most of the coastal States have adjusted their maritime claims to be in conformity with the provisions of the Convention. One hundred and forty-four States now claim a territorial sea of 12 nautical miles or less, as allowed by the Convention, with only a few States still claiming a territorial sea in excess of 12 nautical miles. Sixty-six States have established a contiguous zone. The rapid pace and large degree of acceptance of the regime of the Convention has also been demonstrated with proclamations by 110 States of an exclusive economic zone, one of the most innovative concepts of the Convention. A number of States are preparing a submission to the Commission on the Limits of the Continental Shelf, created by the Convention, in order to establish their continental shelf beyond 200 nautical miles.

It can be said that overall State practice complies largely with this major international instrument, the importance of which, 20 years after its adoption, is ever increasing. This is also shown by the annual discussions on the oceans and the law of the sea in the United Nations General Assembly.



List of parties to the Convention, with the date of ratification or accession
(Status as of 10 November 2002)

1. Algeria (11 June 1996)
2. Angola (5 December 1990)
3. Antigua and Barbuda (2 February 1989)
4. Argentina (1 December 1995)
5. Australia (5 October 1994)
6. Austria (14 July 1995)
7. Bahamas (29 July 1983)
8. Bahrain (30 May 1985)
9. Bangladesh (27 July 2001)
10. Barbados (12 October 1993)
11. Belgium (13 November 1998)
12. Belize (13 August 1983)
13. Benin (16 October 1997)
14. Bolivia (28 April 1995)
15. Bosnia and Herzegovina (12 January 1994)
16. Botswana (2 May 1990)
17. Brazil (22 December 1988)
18. Brunei Darussalam (5 November 1996)
19. Bulgaria (15 May 1996)
20. Cameroon (19 November 1985)
21. Cape Verde (10 August 1987)
22. Chile (25 August 1997)
23. China (7 June 1996)
24. Comoros (21 June 1994)
25. Cook Islands (15 February 1995)
26. Costa Rica (21 September 1992)
27. Côte d'Ivoire (26 March 1984)
28. Croatia (5 April 1995)
29. Cuba (15 August 1984)
30. Cyprus (12 December 1988)
31. Czech Republic (21 June 1996)
32. Democratic Republic of the Congo (17 February 1989)
33. Djibouti (8 October 1991)
34. Dominica (24 October 1991)
35. Egypt (26 August 1983)
36. Equatorial Guinea (21 July 1997)
37. European Community (1 April 1998)
38. Fiji (10 December 1982)
39. Finland (21 June 1996)
40. France (11 April 1996)
41. Gabon (11 March 1998)
42. Gambia (22 May 1984)
43. Georgia (21 March 1996)
44. Germany (14 October 1994)
45. Ghana (7 June 1983)
46. Greece (21 July 1995)
47. Grenada (25 April 1991)
48. Guatemala (11 February 1997)
49. Guinea (6 September 1985)
50. Guinea-Bissau (25 August 1986)
51. Guyana (16 November 1993)
52. Haiti (31 July 1996)
53. Honduras (5 October 1993)
54. Hungary (5 February 2002)
55. Iceland (21 June 1985)
56. India (29 June 1995)
57. Indonesia (3 February 1986)
58. Iraq (30 July 1985)
59. Ireland (21 June 1996)
60. Italy (13 January 1995)
61. Jamaica (21 March 1983)
62. Japan (20 June 1996)
63. Jordan (27 November 1995)
64. Kenya (2 March 1989)
65. Kuwait (2 May 1986)
66. Lao People's Democratic Republic (5 June 1998)
67. Lebanon (5 January 1995)
68. Luxembourg (5 October 2000)
69. Madagascar (22 August 2001)
70. Malaysia (14 October 1996)
71. Maldives (7 September 2000)
72. Mali (16 July 1985)
73. Malta (20 May 1993)
74. Marshall Islands (9 August 1991)
75. Mauritania (17 July 1996)
76. Mauritius (4 November 1994)
77. Mexico (18 March 1983)
78. Micronesia (Federated States of) (29 April 1991)
79. Monaco (20 March 1996)
80. Mongolia (13 August 1996)
81. Mozambique (13 March 1997)
82. Myanmar (21 May 1996)
83. Namibia (18 April 1983)
84. Nauru (23 January 1996)
85. Nepal (2 November 1998)
86. Netherlands (28 June 1996)
87. New Zealand (19 July 1996)
88. Nicaragua (3 May 2000)
89. Nigeria (14 August 1986)
90. Norway (24 June 1996)
91. Oman (17 August 1989)
92. Pakistan (26 February 1997)
93. Palau (30 September 1996)
94. Panama (1 July 1996)
95. Papua New Guinea (14 January 1997)
96. Paraguay (26 September 1986)
97. Philippines (8 May 1984)
98. Poland (13 November 1998)