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“The World Ocean in Globalization: Challenges for marine regions”

- an International conference on
Marine Affairs and the Law of the Sea
organized by the Fridtjof Nansen Institute
and held in Oslo 21-23 August 2008

1. BACKGROUND: RATIONALE AND TIMING

Following on the adoption of the United Nations Convention on the Law of the Sea in December 1982, the Fridtjof Nansen Institute (FNI) co-organized in 1983 a conference of the Law of the Sea Institute, held in Oslo.¹ More than a decade later, on 16 November 1994, the Law of the Sea Convention entered into force. To discuss early experiences in the implementation of the Convention, on the occasion of the UN-declared ‘International Year of the Ocean’, the FNI organized in 1998 another major international conference, on *Order for the Oceans at the Turn of the Century*.²

Today, the UN Law of the Sea Convention has 155 parties and is widely accepted as an established legal and policy framework for the oceans. It is now 25 years since the Convention was adopted – an anniversary that can serve as a good occasion to assess the state of affairs that the Convention is aimed at regulating.

There is one other important anniversary on the horizon. It will soon be 400 years since *Mare Liberum* (‘The Free Sea’), a treatise written by Hugo Grotius, establishing the foundations for the development of today’s law of the sea, was published by Elzevier in the spring of 1609. Two high seas freedoms – freedom of navigation and freedom of fishing – were articulated in Grotius’ pioneering treatise. Based on the circumstances and knowledge of that time, it was argued in *Mare Liberum* that the seas are free for trade to all, and that it is likewise free for all to fish in the seas, since – in contrast to the resources on land and in rivers – fishing at sea can be unlimited.

As long-standing customary law, the two traditional high seas freedoms – of navigation and fishing – became codified through a series of international conventions. Also the 1982 UN Convention on the Law of the Sea is built on these foundations developed through intervening centuries, while also maintaining a careful balance between the rights of flag states and the rights of coastal states.

Today, nearly 400 years after Grotius’ times, we have come to recognize that nature does limit the ways and extent for the use of the seas and oceans, and their resources. In that respect, limits to freedoms have increasingly become scientifically documented. Possibly more alarming scientific evidence about the state of the oceans and marine resources has been acquired in the 25 years that have passed since the adoption of the UN Law of the Sea Convention, than in the preceding four centuries since the publication of *Mare Liberum*.

Moreover, various aspects of globalization – affecting also on the use of the seas – have likely had more impact on the state of the marine environment and resources in the past quarter-century than all human activities have had in the entire span of human history before.

Against this backdrop, the FNI recognizes the renewed need for a broad discussion of the law of the sea. That is the underlying rationale for convening the international symposium described here. It would provide an independent and qualified forum for the exchange of views, analyses and comments on challenges for seas and marine regions, and their resources, in the face of increasing globalization.

2. SCOPE AND SUBSTANTIVE CONTENT FOR THE CONFERENCE: ADDRESSING KEY CHALLENGES AND RESPONSES

The Conference programme will have three thematic foci:

- challenges posed by globalization
- interaction between global and regional responses
- potential of information/data technology advances.

Through those, we intend to address two key issue-areas on which the Conference would focus: *high-seas fishing* and *international navigation*. Not only have those been the traditional uses of the seas for centuries; they have also experienced major changes due to technology developments and globalization trends of our time. Many constraints on the use of seas and oceans have gradually begun to disappear with increasing globalization. That in turn has opened several *outstanding problem-areas*.

The need to ensure sustainable fishing has today become more important than ever before, due to the precarious state of many fish stocks. As to *high-seas fishing*, especially the problem of illegal, unregulated and unreported (IUU) fishing has over the past decades become one of the most complex and difficult issues of ocean governance. Also little-known fish species such as Patagonian toothfish, or those only recently discovered like deep-sea Orange roughy, now easily find their way to markets world-wide. Considerable proportions of such catches originate in IUU fishing. In response, recent years have seen dynamic regulatory developments. Several regional fisheries bodies have responded by adopting new and progressive measures to combat IUU fishing. At the global level, important documents have been adopted, and various regulation and measures have been passed at national levels as well. Despite all this, IUU fishing is still on the rise in many areas. This is especially the case with lucrative IUU fishing for valuable fish stocks, conducted with a view to international trade. Why is there a discrepancy between the purpose of the current regulation and the problem at hand? What can be done to combat IUU fishing more successfully?

Around 90 per cent of world trade is today transported by *international shipping*. However, as to the impact of shipping on the marine environment in various regions, problems less obvious at the time when the Law of the Sea Convention was adopted have since emerged as crucial. Introduction of alien, potentially invasive species from one marine environment into other, by vectors such as ballast water and ship fouling, while technically not understood as ‘marine pollution’ under the Convention, have given rise to major concerns. As to ballast water, globally agreed solutions are contained in the IMO-adopted Ballast Water Convention (2004) – which

also foresees that additional, more stringent measures can be adopted in areas, or regions, facing special problems.

Access to marine and sea-bed genetic resources, and important issues related to *bioprospecting* in these areas – such as benefit sharing, patent law implications and similar – of crucial importance today, have all emerged after UNCLOS III was held.

The intensification of ship traffic, especially tanker transport of oil and other hazardous cargo, and changes in both the volume and the nature of maritime traffic in some regions are also cause for concern. The Eurasian space has witnessed major changes since the dissolution of the Soviet Union, which led to the creation of a number of independent states in the oil-rich Caspian region. And in the late 1990s, Russia itself re-emerged as the world's second-biggest (after Saudi Arabia) oil exporter. Competing priorities have led to new overseas export projects, some of which are already in operation, such as the recently (July 2006) inaugurated large-capacity Baku-Tbilisi-Ceyhan oil pipeline. Important developments are underway not only in the Mediterranean, where over a quarter of the world's oil is transported every year, but also in the Baltic Sea and in other seas surrounding Europe.

Responses to many of those problems, involving global drivers and regional concerns, are found in the *interface* between global and regional regulatory level. One example is the emergence of the Particularly Sensitive Sea Area (PSSA) concept as politically salient. While several regional initiatives by EU countries have been granted PSSA designation in seas surrounding Europe, these require global acceptance through the International Maritime Organization.

More complex regional responses to the uses of the seas and marine resources are currently being developed within the EU, in the context of its development of a Maritime Policy integrating various sectors. This, along with the regionalization of the 'European seas', represent the main elements behind the emerging EU Marine Strategy directive.

Finally, we note one other contemporary development of magnitude: the impact of *technological advancement*, not least in the field of information and communications technology, and its potential for improving the effectiveness of marine conservation and protection regulation. Technological devices hardly imaginable a quarter century ago are today in almost daily use. For instance, the effectiveness of fishery regulations can be facilitated by satellite-based vessel monitoring systems. And information technology through swift exchange of data may harbour significant potential for discovering and responding to regulation fraud. There are also good possibilities for limiting the major form of oil pollution from ships – routine, operational oil spills – by new solutions that link data-collection devices (such as specialized satellite imagery, Automatic Ship Identification systems, and the like) with legal mechanisms.

3. TIME AND VENUE

The conference will be held in Oslo 21-23 August 2008 (Thursday-Saturday), in Telenor EXPO's conference facilities at Fornebu, close to the Fridtjof Nansen Institute and a 5-minute walk from the recommended accommodation in Radisson SAS Park Hotel.

4. PARTICIPANTS

Main profiles will include:

- scholars in international law and international relations, marine economy and management, as well as technical and natural sciences;
- policy- and decision-makers in states and international organizations (especially the EU, UN, IMO, FAO, regional fisheries organizations);
- industry: fisheries, shipping, oil; also international industry associations;
- relevant non-governmental organizations.

In addition, we will encourage wide-range media coverage of the Conference.

5. ORGANIZING INSTITUTION

The Fridtjof Nansen Institute will act as the organizing institution for the Conference. The Institute has a long tradition of studies on marine affairs and the law of the sea, and has specialized expertise in such specific areas as fisheries issues, maritime transport and marine environmental protection, bioprospecting and patent rights. The FNI also has particular regional expertise on the Barents Sea, North-east Atlantic, the Southern Ocean and the Mediterranean/Adriatic Sea.

To ensure adequate contributions from several other regions, contacts on cooperation towards the Conference have been established with governmental institutions in Chile and New Zealand, as well as with the Law of the Sea Institute of Iceland and the Law of the Sea Institute at the University of California at Berkeley, USA.

6. PUBLICATION PLANS

The Conference is envisaged to result in several main types of publications:

- *executive summaries* of conference papers, to be available at the opening of the Conference, and widely distributed also to non-participants;
- a *book volume published by an international publishing house*, integrating edited presentations at the Conference in a thematic structure;
- publication of selected conference presentations as *articles in international journals*.

In addition, the FNI has established an internet *webpage* for the Conference (www.fni.no/conference/), which will up until the conference be considerably expanded to include key findings, news, links to the participating institutions and other important ocean affairs and law of the sea websites, etc.

NOTES:

¹ The conference was held in July 1983. For proceedings of that conference, see A.W. Koers and B.H. Oxman (eds.), *The 1982 Convention on the Law of the Sea*, Proceedings of the Law of the Sea Institute Seventeenth Annual Conference, Co-sponsored by the Fridtjof Nansen Institute, July 13-16, 1983, Oslo, Norway. The Law of the Sea Institute, University of Hawaii: Honolulu, 1984.

² The conference was held in Oslo, in August 1998. Conference outcomes were edited and published in D. Vidas and W. Østreng (eds.), *Order for the Oceans at the Turn of the Century*. Kluwer Law International: The Hague/London/Boston, 1999.