

The Law of the Sea: What Lies Ahead?

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Edited by
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OPENING CEREMONIES

OPENING CEREMONIES

Thomas A. Clingan: It is my great pleasure to call to order the Twentieth Annual Meeting of the Law of the Sea Institute, cosponsored this year, I'm proud to say, by the University of Miami and its Law School. I would first like to introduce to you President Edward T. Foote of the University of Miami.

Edward T. Foote: Good morning. I take particular pleasure in welcoming this conference to a great and fascinating international city. You come from some fifteen to twenty nations, I understand, and some of you may be here for the first time. I note that this is the twentieth conference and I suggest to you that in the twenty years that this conference has been in existence, this city where you now meet has changed from a sleepy, small resort village -- I'm exaggerating only slightly -- to an extraordinarily important international hub of commerce, trade, ideas, culture, not only between North and South America but for the entire world. I welcome you also on behalf of the University of Miami. We're celebrating our sixtieth anniversary this year. We are now the largest private research university in the southeastern United States and, we like to think, one of the best with 1400 full-time faculty members and 13,000 students from 107 countries all over the world. Of those 1400 faculty members approximately one-third are doing international work, including work with the oceans.

I deeply believe that the work that you are doing is of the utmost importance for the future of our planet. I'm a layman -- it's worse, I'm a lawyer -- but you don't have to be trained in the oceans to understand the immense significance of what brings us together. I hope you have an outstanding conference, and I hope very much that you enjoy our town and the hospitality of our university. Welcome again.

Thomas A. Clingan: Thank you very much, Mr. President. And now please meet Mary Doyle, my immediate boss, the dean of the Law School.

Mary Doyle: Imagine being Tom Clingan's immediate boss. I hadn't thought of myself like that before. It is a very special pleasure for me on behalf of the University of Miami School of Law to welcome you to the Twentieth Annual Conference of the Law of the Sea Institute. Our law school is honored to cohost this meeting, bringing together as it does so many distinguished lawyers, scholars, and public officials from across our country and from around the world. It is entirely appropriate for the Institute to convene in Miami, this beautiful and exciting international city located not so much by the sea as in the sea and, in some millenia, under the sea, I think. The University of Miami and its School of Law have established important programs for the study of the oceans, as you may know. The law school has for years provided a range of course offerings in maritime law, including the law of the sea, and we are one of the few law schools in America that offer a graduate degree in ocean and coastal law. Our faculty boasts the presence of Professors Tom Clingan and Bernard Oxman, internationally known through their scholarly work and by their years of important involvement in the negotiations toward adoption of a new Law of the Sea Convention. As you know, both Professors Oxman and Clingan serve on the Executive Board of the Law of the Sea Institute.

Speaking of Ambassador Clingan, I would like to take this chance, on behalf of all the participants in the conference, to commend him for his excellent work in putting together the program. The program covers a wide range of topics of both immediate and enduring interest from piracy -- always fascinating -- to pollution. It is certain to provide a lively and informative few days. I am also glad to note that two of our faculty, Professor Oxman and Professor Irwin Stotzky, will be delivering papers at the conference. And finally, I want to thank Ruth Martin, Executive Administrator of our Law Center, for her efforts in helping to organize this conference. Again, *bienvenidas a Miami*, have a wonderful time here, and a productive and enjoyable meeting.

Thomas Clingan: Thank you very much, Dean Doyle. Now I want to introduce executive director, John P. Craven.

John P. Craven: President Foote, Dean Doyle, Ambassador Clingan, we thank you very much and we're delighted to be in this splendid environment for this twentieth conference. As I look around, I believe that I've had the opportunity to be involved with you all over a period of twenty years, and you all look as young as you did twenty years ago. But each time we have met in a different ocean and a different world, and the reason we have done so is because we have believed, quite correctly, that although there's a unity to the ocean, there's a difference in each ocean of the world. In the past, when we have arrived at our destination, most of us have immediately gone down to the waterfront or to the beachfront to sample the nature of the ocean, to observe the surf. Or in San Francisco to observe the fog, or in Kiel to observe the *meer stille*, the still ocean. We have found that there is a difference in each ocean, and that difference is reflected in the use of each ocean and the problems associated with each ocean. We were tempted to name this conference "Miami Vice," but we changed it to "Miami Nice" because we recognize as we come down here that the problems of the Caribbean are different from the problems elsewhere. Instead of a poem you're going to get an epigram. It summarizes my feeling about the character of the ocean and its relation to the law of the sea.

The sound of the sea
El sonido del mar
Le bruit de la mer
Mira more del mare
Hov grussit
Umi no oto
The sound of the sea
Is the language of the sea
Es el language del mar
La lingua
Hov sprach
The lingo.
And the language of the sea
Is the law of the sea
Es el derecho del mar
Le droit, hov drecht
Il directo, el derecho
Umi no oto kai yoho
Umi no koto ba.

Thomas Clingan: Thank you very much, John. We look forward to this every year, as you know.

Now it's my pleasure to add my words of welcome in my capacity as program chairman as well as presiding officer of the Law of the Sea Institute. I want to say a word or two about both the program and the Institute.

We've tried to develop a program for you that has appeal from a number of different perspectives. Miami's location and its intimate relationship to the sea suggested certain of the topics that we have selected for discussion. In particular, the panels concerning the interdiction of drugs and aliens at sea and violence at sea have relevance to our community as well as to the broader international community. While piracy has in years past conjured up visions of Hollywood extravaganzas, more recent events have caused such issues to re-emerge and capture global attention. Terrorism at sea is no longer merely an historical phenomenon.

A different perspective is brought to bear in our discussion of issues related to the Southern Ocean and the Antarctic. This certainly may seem to be a rather strange topic for us to be discussing in our subtropical climate, but it is a topic of considerable timeliness and relevance for international resource management, and therefore we thought it was important to discuss it here. Interested nations are actively engaged in seeking resolutions to problems of mineral resource management in a manner that will preserve the beneficial aspects of the Antarctic Treaty, and we'll hear more of that later in the program.

Finally I would like to draw attention to the general theme of this meeting, "The Law of the Sea: What Lies Ahead?" In order to address that question, we will have to consider how well the existing legal regime is working and how well we can expect it to work in the future. To this end we will be considering issues related to self-defense in various contexts -- that is, the extent to which the rules of law of the sea affect mobility, naval and otherwise, and hence the balances of power. We will also discuss the management of transboundary resources and how well the concept of the exclusive economic zone seems to be evolving. These issues take on a special significance in the light of the legal and economic realities in the wake of the recently completed Third United Nations Law of the Sea Conference and the stark reality of the fact that several important countries, including the United States, are not signatories to the resulting Convention. Our final panel on dispute settlement with and among non-parties to the Convention is designed to focus on such problems. We shall examine what mechanisms, if any, are available to resolve disputes between states who become parties to the Treaty and those who do not.

In all, we feel that the program, while it is intensive, will provide, if not answers, at least the correct questions looming on the horizon that will need our attention in the coming years.

Now a word about the Law of the Sea Institute. As you know, this is the Institute's twentieth annual meeting. Similar meetings have been held in capitals and important cities in many parts of the world in an attempt to incorporate different regional views into our deliberations. The proceedings of this conference will join an imposing list of publications that are recognized as authoritative and stimulating. These meetings and their proceedings represent the major focus of the work of the Institute, to provide an open and varied forum for the elaboration of points of view. The Institute's meetings are interdisciplinary in nature, as must be obvious from the varied backgrounds of our panel

speakers this week. We believe that this broadly based form of communication is essential to the formulation of workable rules for ocean usage. I hope that those of you for whom this is a first experience with the Institute will find it a valuable one and that you will wish to join us in future activities promoting world public order of the ocean.

In closing, let me also observe that Miami is indeed an appropriate setting for this year's meeting. Not only does southern Florida have a rich maritime tradition but it is a major home port for a number of substantial cruise lines as well as commercial vessels. I certainly must add, on the academic side, that I'm happy to note the University's leadership role. At the University of Miami we have one of the finest marine schools in the country, training marine scientists in a wide variety of disciplines. In addition, the Law School for years has trained lawyers with specialties in the law of the sea and coastal zone management. These are but two of the reasons why the University of Miami can truly hold claim to being a global university. It is thus a distinct pleasure for me to add these words of welcome, and I hope this will be a memorable meeting.

PART I:
INTERDICTION AT SEA

