

MEXICO'S POSITION RELATIVE TO LAW OF THE
SEA ISSUES IN THE GULF
AND CARIBBEAN

APPROVED:

C Richard Ball

Steve M. Nease

John B. Regnell

Wesley M. Micks

Rudolph L. Lomeny
Dean of the Graduate School

PREVIEW

MEXICO'S POSITION RELATIVE TO LAW OF THE
SEA ISSUES IN THE GULF
AND CARIBBEAN

by

ELOISO DE AVILA, JR., B. A.

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MEXICO'S POSITION RELATIVE TO LAW OF THE
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This research will analyze Mexico's position on Law of the Sea (LOS) issues in the Gulf of Mexico and the Caribbean. The specific LOS issues that will be examined are the issues of the territorial sea, the exclusive economic zone (EEZ), living and non-living resources, straits passage, marine pollution, tourism, transfer of technology, and LOS treaties or regional cooperation. This will be done by tracing and analyzing Mexico's involvement and history relative to these issues. The paper will then close with a prediction as to Mexico's role in LOS issues in the Gulf and Caribbean.

Before formally delving into the issues, one point needs to be stressed. In doing this research, one theme continually surfaced. Mexico is very pragmatic. Although she espouses Third World principles, she desires to become more industrialized/developed, i.e., be more like the United States. Because of the importance of this theme, this paper will also attempt to show how Mexico's pragmatism influences all present-day LOS issues involving her in the Gulf and Caribbean. It will be detailed how Mexico's Third World alliances,¹ her newly found oil reserves,² and her pragmatism

put her in a peculiar position in world affairs.

By way of introduction, it is important to briefly sketch the historical development of the Law of the Sea. For a long time the Law of the Sea was stable and generally accepted. It was characterized by "freedom," meaning essentially non-regulation and laissez-faire.³ It is not that way any more. There are now claims by coastal states to exclusive rights in more and more of the sea for more and more purposes. In addition, as distant-water fleets increase activities, the problems of straits passage enclosed by territorial sea claims, etc., arise and with these problems also arises the need for consistent viable rules in Law of Sea.⁴

THE TERRITORIAL SEA

As regards the issue of the territorial sea, Mexico since 1967 recognizes a limit of twelve nautical miles for territorial waters. The twelve-mile territorial sea is considered of significant importance in that Mexico has incorporated it into its Constitution.⁵ Thus the claim to a twelve-mile territorial sea can be considered to be somewhat permanent although at various times in Mexico's history it was recognized at nine miles (1848), three miles (1902), and nine miles again (1935).⁶

THE EXCLUSIVE ECONOMIC ZONE (EEZ)

The next issue to be discussed is the issue of the exclusive economic zone (EEZ). Because it is so intertwined and related to other issues, the exclusive economic zone, hereafter referred to as EEZ, will be discussed simultaneously with the issues of living and non-living resources (fish and minerals/oil) and control of the seabed. In addition, in keeping with the theme of this paper that Mexico is in a unique position in the world (a developing nation with an opportunity to become one of the "haves" through the exploitation of its oil reserves), Mexico's position and interaction in the Group of 77 will also be discussed.

The exclusive economic zone currently recognized by Mexico to be an area extending 200 nautical miles from its shoreline⁷ is a relatively recent concept endorsed by her. Mexico voted in favor of the Lima Declaration in 1970 which laid the basis for a patrimonial sea.⁸ Then in 1972, in Santo Domingo, President Echeverria proposed the doctrine of what he then referred to as "patrimonial waters." At the meeting, Mexico was one of the proponents of the resolution which was passed establishing a "zone of special jurisdiction up to 200 miles."⁹ In so doing, however, he mentioned that due consideration would be given the developing countries with adjacent waters to those countries making such claims.¹⁰ The Santo Domingo Declaration called for a patrimonial sea in

which coastal states would have jurisdiction with respect to resources contained within the EEZ extending 200 nautical miles from the shoreline of the coastal state. In 1976, an amendment was added to Article 27 of the Constitution of Mexico which established an exclusive economic zone of 200 miles.¹¹ The 200 miles would be drawn from the baselines from which the breadth of the territorial sea is measured.

The question to ask at this point is what is the significance of the 200 mile exclusive economic zone. To answer this question, the position of the Group of 77, of which Mexico is a member, must be considered.

In January, 1975, then-President Echeverria of Mexico issued a declaration which was passed by the United Nations proclaiming for the Group of 77 the right "to nationalize, expropriate or transfer ownership of foreign property with the question of compensation. . .settled under the domestic law of the nationalizing State."¹² What the developing countries were thus saying was that they were taking the offensive in two principal ways: by warning multinational corporations that they operated at the will of sovereign states, and by threatening to control primary commodity prices through cartel action. The Group of 77 thus was a coalition based on an assumed commonality of interests of all "have-nots" against all "haves."¹³

With a basic understanding of what the Group of 77 is, we can go on to examine how the Group has influenced the