

## The New Law of the Sea: Selected and Edited Papers of the Athens Colloquium on the Law of the Sea, September 1982, Edited by Christos L. Rozakis and Constantine A. Stephanou

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## BOOK REVIEW

**THE NEW LAW OF THE SEA: SELECTED AND EDITED PAPERS OF THE ATHENS COLLOQUIUM ON THE LAW OF THE SEA, SEPTEMBER 1982.** Edited by Christos L. Rozakis and Constantine A. Stephanou. Amsterdam and New York: North-Holland, 1983, pp. xiv, 354. \$47.75.

Since the ceremonial signing of the United Nations Convention on the Law of the Sea on December 10, 1982 in Montego Bay, Jamaica, the outpouring of professional literature on the Law of the Sea has continued unabated. This particular volume has three characteristics which distinguish it from most of the rest of the anthologies, proceedings of meetings and special issues of journals. First, the Athens Colloquium was held immediately after adoption of the Convention by UNCLOS III, the Third United Nations Conference on the Law of the Sea, and some of the papers were appropriately edited and updated immediately after the signing ceremonies. It may therefore serve as a kind of benchmark against which subsequent analyses, based on years of experience with the Convention, may be measured. Second, the authors, all Europeans, constitute a virtual "all-star cast," including some true luminaries in the development and analysis of the new Law of the Sea. Finally, each of the four parts of the book contains at least one paper on some distinctive aspect of the subject, or an area not commonly covered in the literature.

Nicholas Valteos' introductory essay presents a brief overview of the history of the Law of the Sea, UNCLOS III, and the Convention, useful for readers unfamiliar with the subject. Part One contains three papers on UNCLOS III: on its historical background by Constantine Stavropoulos, on negotiating principles and techniques in the Conference by Giuseppe Barile, and on its impact on customary law by Budislav Vukas of the University of Zagreb. Of the three, the last is by far the most substantive, erudite and original. Some of Vukas' conclusions are open to dispute, such as his assertion that the 1970 UN Declaration of Principles on the seabed "had become general customary law prior to the start of UNCLOS III" (p. 36), and his optimism about a rapid entry into force and wide acceptance of the Convention. Nevertheless, his views are soundly based and carefully presented. Vukas' paper is a valuable contribution to an overall analysis of the Convention.

Part Two deals with sovereignty and jurisdiction under the Convention. Its six papers cover straits, the contiguous zone, the Common Fisheries Policy of the European Communities, equity in the Convention, delimitation of the exclusive economic zone and the continental shelf, and an historical view of delimitation of the continental shelf. The paper on the contiguous

zone by Constantine Economides is an interesting addition to the meager *corpus* of literature on the subject, amounting to not more than about a dozen items, of which the best known are by Accioly,<sup>1</sup> Masterson,<sup>2</sup> Ibler,<sup>3</sup> and O'Connell and Shearer.<sup>4</sup> The piece on equity by Krateros M. Ioannou contains some scarce material on recent applications of the concept of equity and interesting interpretations—*e.g.*, "Equity in the law of the sea has become an excuse for a series of misjudgments. Contrary to what has been alleged, this concept has been used to 'refashion' both geography and logic." (p. 105) The papers by Jens Evensen and Christos L. Rozakis on delimitation offer, however, the most unusual and valuable approaches that this reviewer has seen in years to this very difficult problem. Evensen, for example, analyzes recent cases in considerable detail and observes, "One should not disregard that the Economic Zone concept has a dual purpose. It is partly a Continental Shelf concept." (p. 149) Rozakis, on the other hand, focuses on the political process that led to the development of rules on shelf delimitation and emphasizes "socio-economic protection" of States, "social rights" and "social expectations." These two papers merit very careful reading and rereading.

Part Three covers international maritime areas in the Convention. Jean-Pierre Quénedec, René-Jean Dupuy, and E.D. Brown write on the peaceful use of the high seas, the common heritage principle and deep-sea mining, respectively. While all contain interesting and useful material, that by Brown is unusually comprehensive and thoughtful. The really novel piece in this section is "A European Perception of the Attitude of the United States at the Final Stage of UNCLOS III with Respect to the Exploitation of the Deep Sea-Bed," by Constantine A. Stephanou. This is a detailed and dispassionate, point-by-point analysis of the Reagan administration's objections to the draft treaty and of its refusal to sign the final product, even though it included a number of concessions to the Reagan position. It, too, deserves considerable attention.

The final part is concerned with dispute settlement under the Convention. It contains only two papers. In the first, W. Riphagen of the Netherlands presents an overview of the subject, pointing out, primarily, potential problems which could well arise out of a variety of provisions. In the second, Swiss professor Lucius Cafilisch concentrates on the International Sea-

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1. Accioly, *La Zone Contigue et le Droit de Poursuite en haute-mer*, in MELANGES EN L'HONNEUR DE GILBERT GIDEL 1-14 (no date).

2. W. F. MASTERSON, JURISDICTION IN MARGINAL SEAS: WITH SPECIAL REFERENCE TO SMUGGLING (photo. reprint 1970).

3. Ibler, *The Contiguous Zone*, 3 ZBORNİK ZA POMORSKO PRAVO 11-70 (1955).

4. D. P. O'CONNELL, THE INTERNATIONAL LAW OF THE SEA (I. A. Shearer ed. 1982).

bed Area. While Cafilisch's piece is somewhat more detailed than Riphagen's and equally prescient about potential problems, it concludes with a laudable and wholly credible list of the very real innovations in the treaty's dispute settlement mechanisms which, if duly implemented, could, in the opinion of this reviewer, contribute to a dramatic and beneficial revolution in international law. Cafilisch summarizes "the very real achievement attained" in this manner: "The comprehensiveness of the system, its compulsory nature, its provisions on judicial review and, above all, the original way in which it deals with contractual disputes, *i.e.*, issues arising in the 'grey zone' situated on the borderline between public international law and international trade law . . . cannot be overrated." (p. 330) Many elements of this system, in fact, could usefully be applied in other areas of international relations to the great benefit of the world community.

The book naturally has some flaws. The index could be more detailed and the computer-generated type is rather hard on the eyes; there are some weak papers and some important gaps. It is not suitable as a textbook, though with proper supplementary material it could be used as such by an instructor thoroughly familiar with the subject. Moreover, it is not an introduction to the field for a novice. As a reference book, however, or as an addition to the collection of a specialist, it is well worth the price, if only for the papers highlighted in this review.

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