

a) PROCLAMA TRUMAN SULLA PIATTAFORMA CONTINENTALE

Presidential Proclamation No. 2667

28th September, 1945

"Policy of the United States with Respect to the Natural Resources of the Subsoil and Sea Bed of the Continental Shelf".

Whereas the Government of the United States of America, aware of the long range world-wide need for new sources of petroleum and other minerals, holds the view that efforts to discover and make available new supplies of these resources should be encouraged; and Whereas its competent experts are of the opinion that such resources underlie many parts of the continental shelf off the coasts of the United States of America, and that with modern technological progress their utilisation is already practicable or will become so at any early date; and

Whereas recognized jurisdiction over these resources is required in the interest of their conservation and prudent utilisation when and as development is undertaken; and

Whereas it is the view of the Government of the United States that the exercise of jurisdiction over the natural resources of the subsoil and sea bed of the continental shelf by the contiguous nation is reasonable and just, since the effectiveness of measures to utilise or conserve these resources would be contingent upon cooperation and protection from shore, since the continental shelf may be regarded as an extension of the land mass of the coastal nation and thus naturally appurtenant to it, since these resources frequently form a seaward extension of a pool or deposit lying within the territory, and since self-protection compels the coastal nation to keep close watch over activities off its shores which are of their nature necessary for utilisation of these resources;

NOW THEREFORE I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to the natural resources of the subsoil and sea bed of the continental shelf.

Having concern for the urgency of conserving and prudently utilizing its natural resources, the Government of the United States regards the natural resources of the subsoil and sea bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States as appertaining to the United states, subject to its jurisdiction and control. In cases where the continental shelf extends to the shores of another States, or is shared with an adjacent State, the boundary shall be determined by the United States and the State concerned in accordance with equitable principles. The character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected.

b) CONVENZIONE SULLA PIATTAFORMA CONTINENTALE

(Ginevra, 29 aprile 1958)

ART. 2

1. Lo Stato costiero esercita sulla piattaforma continentale diritti sovrani ai fini della sua esplorazione e dello sfruttamento delle sue risorse naturali.
2. I diritti di cui al paragrafo 1 di questo articolo sono esclusivi, nel senso che se lo Stato costiero non esplora la piattaforma continentale o non procede allo sfruttamento delle sue risorse naturali, nessun altro potrà svolgere tali attività, o avanzare rivendicazioni sulla piattaforma continentale, senza il consenso espresso dello Stato costiero.
3. I diritti dello Stato costiero sulla piattaforma continentale non dipendono dalla occupazione, effettiva o nominale, o da un proclama espresso.
4. (...)

c) PROCLAMA TRUMAN SULLE ZONE DI PESCA

Presidential Proclamation No. 2668
28th September, 1945

"Policy of the United States with Respect to Coastal Fisheries in Certain Areas of the High Seas"

Whereas for some years the Government of the United States of America has viewed with concern the inadequacy of present arrangements for the protection and perpetuation of the fishery resources contiguous to its coasts, and in view of the potentially disturbing effect of this situation, has carefully studied the possibility of improving the jurisdictional basis for conservation measures and international cooperation in this field; and

Whereas such fishery resources has a special importance to coastal communities as a source of livelihood and to the nation as a food and industrial resource; and

Whereas the progressive development of new methods and techniques contributes to intensified fishing over wide sea areas and in certain cases seriously threatens fisheries with depletion; and

Whereas there is an urgent need to protect coastal fishery resource from destructive exploitation, having due regard to conditions peculiar to each region and situation and to the special rights and equities of the coastal State and of any other State which may have established a legitimate interest therein;

Now therefore, I, Harry S. Truman, President of the United States of America, do hereby proclaim the following policy of the United States of America with respect to coastal fisheries in certain areas of the high seas;

In view of the pressing need for conservation and protection of fishery resources, the Government of **the United States regards it as proper to establish conservation zones in those areas of the high seas contiguous to the coasts of the United States wherein fishing activities have been or in the future may be developed and maintained on a substantial scale. Where such activities have been or shall hereafter be developed by its nationals alone, the United States regards it as proper to establish explicitly bounded conservation zones in which fishing activities shall be subject to the regulation and control of the United States. Where such activities have been or shall hereafter be legitimately developed and maintained jointly by nationals of the United States and nationals of other States, explicitly bounded conservation zones may be established under agreements between the United States and such other States, and all fishing activities in such zones shall be subject to regulation and control as provided in such agreements.** The right of any State to establish conservation zones off its shores in accordance with the above principle is conceded, provided that corresponding recognition is given to any fishing interests of nationals of the United States which may exist in such areas. The character as high seas of the areas in which such conservation zones are established and the right to their free and unimpeded navigation are in no way thus affected.

d) DICHIARAZIONE SULLA ZONA MARITTIMA

(CILE, ECUADOR., PERU', Santiago del Chile, 18 AGOSTO 1952)

1. Governments have the duty to secure their nations with the necessary conditions for their subsistence and offer them the means for their economic development.
2. As a result, it is Governments' duty to care for the conservation and protection of their natural resources and regulate their utilization, in order to obtain the best advantages for their respective States.
3. Therefore, it is also their duty to avoid that the exploitation of such resources, beyond the reach of their jurisdiction, endanger the existence, integrity and conservation of such resources in detriment of the people who, due to their geographic position, possess irreplaceable sources of subsistence and vital economic resources in their seas.

Considering the above, the Governments of Chile, Ecuador and Peru, with the firm intention to conserve and secure the natural resources existing in the zones of the sea bathing their coasts for the benefit of their respective nations, declare:

DECLARATION:

- I. The **geological and biological factors** which shape the existence, conservation and development of the marine fauna and flora in the waters bathing the coasts of the declaring States, **renders the former extension of the territorial sea and the adjacent zone insufficient for the conservation, development and utilization of such resources**, in respect of which the coastal States have rights.
- II. As a result of these facts, the Governments of Chile, Ecuador and Peru **declare each State's exclusive sovereign rights and jurisdiction over the sea bathing their respective coasts, up to a minimum distance of 200 nautical miles from such coasts**, as part of their international maritime policy.
- III. Exclusive sovereign rights and jurisdiction over the aforementioned maritime zone, also includes exclusive sovereign rights and jurisdiction over their respective soil and subsoil.
- IV. As to the insular territory, the 200 mile zone shall apply to the outline of an island or group of islands. If an island or group of islands of a declaring State were to be located less than 200 nautical miles from the general maritime zone appertaining to another declaring State, the maritime zone of such island or group of islands shall be limited by the parallel of the point at sea reached by the land border of the respective States.
- V. This Declaration is without prejudice of the necessary limitations to the exercise of sovereign rights and jurisdiction established by International Law in favour of innocent and harmless passage through the zone indicated for vessels from every nation.
- VI. The Governments of Chile, Ecuador and Peru express their intention to subscribe agreements or conventions for the application of the principles set forth in this Declaration, where general rules shall be established to regulate and protect hunting and fishing within their respective maritime zone and to regulate and coordinate the exploitation and utilization of any other by-product thereof of common interest.

E1) DICHIARAZIONE ALLA STAMPA DEL PRIMO MINISTRO TRUDEAU, riguardanti la legittimità del “Arctic Waters Pollution Prevention Act”, 7 aprile 1970

“The position we take is that international law that now stands does not sufficiently protect countries on the pollution aspect of international waters. And it is important for Canada to take steps in this area to help international law to develop. (...) **where no law exists, or where the law is clearly insufficient, there is no international common law applying to the Arctic seas, we’re saying somebody has to preserve this area for mankind until international law develops.** And we are prepared to help it develop by taking steps on our own and eventually, if there is a conference of nations concerned with the Arctic, we will of course be a very active member in such a conference and try to establish an international regime. **But, in the meantime, we had to act now.**”

E2) NOTA DI PROTESTA DEGLI STATI UNITI ALLA LEGISLAZIONE CANADESE

“International Law provides no basis for these proposed unilateral extensions of jurisdictions on the high seas, and the United States can neither accept nor acquiesce in the assertion of such jurisdiction. We are concerned that this action by Canada if not opposed by us, would be taken as precedent in other parts of the world for other unilateral infringements of the freedom of the seas. (...) the United States cannot accept these unilateral jurisdictional assertions and we have urged the Canadian government to defer making them effective while cooperating in efforts promptly to reach internationally agreed solutions”

E3) REPLICA DEL CANADA ALLA NOTA DI PROTESTA STATUNITENSE

“The Canadian government cannot accept, in particular, the view that international law provides no basis for the proposed measures (...) **It is a well-established principle of international law that customary international law is developed by state practice.** Recent and important instances of such practice of the law of the sea are, for example, the Truman Proclamation of 1945, proclaiming United States jurisdiction over the continental shelf and the unilateral establishment in 1966 by the United States of exclusive fishing zones. (...) The Canadian Government has long been concerned about the **inadequacies of international law in failing to give the necessary protection to the marine environment** and to ensure the conservation of fisheries resources. (...) In these circumstances the Canadian Government is not prepared to await the gradual development of international law, either by other states through their practice nor through the possible development of rules of law through multilateral treaties.”

Convenzione delle Nazioni Unite sul diritto del mare (Montego Bay, 16 dicembre 1982)

PARTE V ZONA ECONOMICA ESCLUSIVA

Articolo 55 Regime giuridico specifico della zona economica esclusiva

La zona economica esclusiva è la zona al di là del mare territoriale e ad esso adiacente, sottoposta allo specifico regime giuridico stabilito nella presente parte, in virtù del quale i diritti e la giurisdizione dello Stato costiero, e i diritti e le libertà degli altri Stati sono disciplinati dalle pertinenti disposizioni della presente convenzione.

Articolo 56 Diritti, giurisdizione e obblighi dello Stato costiero nella zona economica esclusiva

1. Nella zona economica esclusiva lo Stato costiero gode di:

a) **diritti sovrani sia ai fini dell'esplorazione, dello sfruttamento, della conservazione e della gestione delle risorse naturali, biologiche o non biologiche**, che si trovano nelle acque soprastanti il fondo del mare, sul fondo del mare e nel relativo sottosuolo, sia ai fini di altre attività connesse con l'esplorazione e lo sfruttamento economico della zona, quali la produzione di energia derivata dall'acqua, dalle correnti e dai venti;

b) giurisdizione conformemente alle pertinenti disposizioni della presente convenzione, in materia di:

i) installazione e utilizzazione di isole artificiali, impianti e strutture;

ii) ricerca scientifica marina;

iii) **protezione e preservazione dell'ambiente marino**;

c) altri diritti e doveri previsti dalla presente convenzione.

2. Nell'esercitare i propri diritti e assolvere i propri doveri nella zona economica esclusiva conformemente alla presente convenzione, lo Stato costiero tiene in debito conto i diritti e doveri degli altri Stati, e agisce in modo coerente con la presente convenzione.

3. I diritti enunciati nel presente articolo relativamente al fondo del mare e al suo sottosuolo, vengono esercitati conformemente alla parte VI.

Articolo 57 Larghezza della zona economica esclusiva

La zona economica esclusiva non si estende al di là di **200 miglia marine** dalle linee di base da cui viene misurata la larghezza del mare territoriale.

PARTE XII PROTEZIONE E PRESERVAZIONE DELL'AMBIENTE MARINO

Articolo 234. Aree coperte dai ghiacci

Gli Stati costieri hanno il diritto di adottare e applicare leggi e regolamenti non discriminatori **intesi a prevenire, ridurre e tenere sotto controllo l'inquinamento marino provocato dalle navi in aree coperte dai ghiacci entro i limiti della zona economica esclusiva**, dove condizioni climatiche particolarmente rigide e la presenza di ghiacci per la maggior parte dell'anno ostacolano o determinano condizioni di eccezionale pericolosità per la navigazione e l'inquinamento dell'ambiente marino provocherebbero gravi danni o scompensi irreversibili all'equilibrio ecologico. Tali leggi e regolamenti debbono tenere in debito conto le esigenze della navigazione, nonché la protezione e la preservazione dell'ambiente marino, sulla base della documentazione scientifica più affidabile di cui si disponga.