# Marine Environment Jurisdictional Issues: Coastal States

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It is a great honor for me indeed to be able to participate in this most prestigious conference, organized jointly by the University of Virginia and the University of Stockholm. Before starting out I would like to take a minute to sincerely thank the organizers for having invited me, and especially Professor Said Mahmoudi for his kind invitations, which brought me to Stockholm more than once during the last couple of months.

The celebration of the thirtieth anniversary of the adoption of the Stockholm Declaration of the United Nations Conference on the Human Environment fully deserves the special attention attributed to it by the present conference.[1] The Declaration is generally considered to be the first document that expressed a general concern for environmental protection,[2] and has been labeled as the "mother of all environmental declarations."[3] As far as the law of the sea is concerned, it laid the foundation for the principles later to be enshrined in the United Nations Convention on the Law of the Sea,[4] particularly in its Part XII (Protection and Preservation of the Marine Environment). The importance of this part of the 1982 Convention, which contains some rather innovative provisions, has been described in the following way: "[N]o other part of the Convention differs so radically from the Geneva Conventions of 1958 or more fully exemplifies an altered sense of priorities."[5]

The topic given to me, namely the coastal state perspective, fits perfectly into this framework. Given the rather limited timeframe allotted to each of us, I would like to narrow the topic even further to vessel-source pollution. This choice is determined by about ten years of research conducted in the area in the framework of the Committee on Coastal State Jurisdiction Relating to Marine Pollution of the International Law Association,[6] where the present author served as rapporteur.[7] Instead of saying nothing about everything, I prefer to say at least something about coastal state jurisdiction in the area of vessel-source pollution. In this particular area, enhanced coastal state competence in offshore maritime areas is indeed one of the main innovations introduced by the 1982 Convention. The aim of my presentation today is to highlight some of these fundamental changes and relate them back to the 1972 Stockholm Declaration in order to fully appreciate the developments, which the latter has triggered in this domain.

I will first try to pinpoint some of these fundamental changes introduced in the area of coastal state jurisdiction with respect to marine pollution. A

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*The Stockholm Declaration and Law of the Marine Environment, 287-298*

distinction will be made here between the pre- and post-Stockholm Declaration period. Secondly I will pay particular attention to one of the major conclusions put forward by a decade of work of the ILA Marine Pollution Committee (1991-2000), namely the rule of reference system as a method of progressively developing international law in the area. This approach appears to be appropriate, given the fact that the exact legal natures of the principles contained in the Stockholm Declaration have themselves given rise to a very lively debate in the specialized literature. After highlighting the progressive development of international law undertaken by both these documents as well as the delicate problems arising as a result of such development when related to the contemporary sources of international law, some general conclusions will be drawn.

## DISTRIBUTION OF COMPETENCE IN THE PRE- AND POST-STOCKHOLM ERAS[8]

In the area of vessel-source pollution, the pre-Stockholm period is characterized by the so-called OILPOL Convention.[9] The latter confirms unconditionally the exclusivity of the flag state, even though some concerns about such an approach were aired during the diplomatic conference leading up to it.[10] It contained no provisions on coastal state competence with respect to enforcement against foreign ships. It did provide some port state competence in this respect, even though the latter was not obligatory.[11]

Immediately in the wake of Stockholm Conference the Convention for the Prevention of Pollution from Ships was adopted.[12] It was later supplemented by a protocol of 1978.[13] The port state jurisdiction incorporated in MARPOL 73/78, allowing for the inspection and even detention of foreign vessels, remained a mere possibility.[14] Coastal states, on the other hand, received compulsory prescriptive and enforcement jurisdiction with respect to foreign ships in their territorial seas.[15] The latter could be effected either by instituting legal proceedings or forwarding the files of the case to the flag state.[16] The mandatory nature of this latter system brought the convention beyond existing customary law at that time.[17] The conclusion remained, however, that the flag state retained a quasi-monopoly on enforcement powers.[18] Coastal states were therefore often left in the cold with very little hope for redress, even if a polluting ship had been caught red-handed—usually at considerable expense to the coastal state.[19]

One had to wait for the 1982 Convention to witness some fundamental changes in this respect. For the first time a true port state jurisdiction saw the light of day,[20] radically broadening the enforcement powers which had existed until then.[21] Coastal states also received a well-defined and enlarged jurisdiction relating to prescriptive as well as enforcement competence, especially with respect to the exclusive economic zone.[22] Since both of these novelties detracted

from the well-established principle hitherto in operation, namely the exclusive competence of the flag state, it should not come as a surprise that the articles in question are carefully drafted and rather complex in nature.[23] Though some authors have even gone as far as submitting that flag state jurisdiction has been dethroned by the coastal state,[24] the fact remains that a first detailed analysis of state practice in this respect demonstrates that coastal states still appear hesitant to make effective use of this new competence granted by the 1982 Convention.[25]

## PROGRESSIVE DEVELOPMENT OF INTERNATIONAL LAW AND ITS SOURCES

The 1972 Stockholm Declaration stirred up heated debate in the legal literature as to its exact legal nature. Formally, it represented the outcome of a United Nations Conference and was adopted by a vote of 103/0/12.[26] Substantively, it was a rather unusual document. G. Palmer described it as follows:

> In some respects the declaration was a masterpiece of international drafting. It wove the politics and the principles together in a web so tight it would not unravel. The preambular language was uplifting, and the declarations of principles ringing; but they marched together in matched pairs. The declaration was also a wish list of items that were inconsistent with one another and the overall result was to some extent intellectually incoherent.[27]

No wonder that the exact legal status of such a document gave rise to differences in the legal literature. Most contemporary authors classify it as so-called soft law. Even though strictly speaking the principles contained in it are not legally binding, they nevertheless do tend to influence the behavior of states. In his latest textbook on international law, A. Cassese puts it as follows: "They are much less than binding legal rules but much more than simple desiderata of individual States or organizations."[28] In a recent book on environmental law, F. Morrison comes to a similar conclusion based on the concept of soft law: "They are neither specific enough nor authoritative enough to establish a firm legal rule, yet they articulate a kind of obligation for the members of the international community."[29]

More extreme positions can be found as well. It might suffice in this respect to refer to two authors who published in one and the same authoritative international law journal during the early 1980's. On the one hand, J. Charney stated in an article on the relationship between technology and international negotiations that conferences such as the 1972 Stockholm Conference constituted a more promising vehicle for law development than, for instance, General

Assembly resolutions.[30] This statement fits into the larger idea of "universal law" as further developed by this author in several of his writings. On the other hand, however, P. Weil qualifies the 1972 Stockholm as a "non-normative act" possessing "sublegal value" which is neither soft nor hard law for it is "simply not law at all."[31] In other words, according to this author, such declarations have even less persuasive force than resolutions of the General Assembly.[32]

During the work of the ILA Marine Pollution Committee, which had taken the position that no new general international convention amending or replacing the 1982 Convention was necessary and which therefore concentrated its efforts on suggesting basic rules of interpretation followed by commentaries,[33] a problem of sources arose. The latter related to the so-called rules of reference found in the 1982 Convention with respect to vessel-source pollution, namely "generally accepted international rules and standards" and "applicable international rules and standards." The former is usually encountered with respect to prescriptive provisions in the 1982 Convention relating to coastal and flag states, but never with respect to port states. The latter concept concerns enforcement provisions relating to coastal, flag and port states indiscriminately.

It appears appropriate here to refer back to a number of conclusions of the ILA Marine Pollution Committee in this respect. First of all, Conclusion No. 2, entitled "The Meaning of the Concept of Generally Accepted International Rules and Standards," can be mentioned. It states:

> Based on the drafting history of the notion of generally accepted international rules and standards, as it first appeared in the 1958 Geneva Convention on the High Seas, the application of this concept to the environmental sphere in the 1982 Convention is believed to retain the same ultimate objective, namely to make compulsory for all states certain rules which had not taken the form of an international convention in force for the states concerned, but which were nevertheless respected by most states. Generally accepted international rules and standards cannot be equated with customary law nor with legal instruments in force for the states concerned. Generally accepted international rules and standards, instead, are primarily based on state practice, attaching only secondary importance to the nature and status of the instrument containing the respective rule or standard.[34]

This conclusion highlights the origin of the "generally accepted international rules and standards" rule of reference, clearly indicating that the ILA Marine Pollution Committee started from the premise that the latter could not simply be read to mean customary or treaty law because if that would have been the ultimate objective of the drafters of the 1982 Convention, they could have easily relied on other, much more simple and widely known reference techniques often

encountered in contemporary agreements. The Explanatory Note attached to this conclusion also emphasizes that the determining factor is the subsequent general acceptance of the concrete rule or standard itself, not of the legal instrument in which it might possibly be incorporated.[35]

Secondly, Conclusion No. 6, entitled "The *Pacta Tertiis* Principle and the Rules of Reference in the 1982 Convention with Respect to Vessel-source Pollution" deserves to be reproduced in full, because it touches the very essence of our present discussion.

> By becoming a party to the 1982 Convention, states *ipso facto* accept the legal technique of law-making by reference inherent in the very notion of generally accepted international rules and standards. This implies, on the one hand, that coastal states that are parties to the 1982 Convention may enact national laws and regulations up to a level not exceeding international rules and standards that are generally accepted. Flag states bound by the 1982 Convention, on the other hand, incur the obligation to prescribe in their national legislation norms that at least reach that same level. The way in which these international rules and standards find expression, as stated in Conclusion No. 2, is only of secondary importance. Even in the hypothesis that the concrete international rules and standards referred to are of a conventional nature, the question whether that state is a party to the convention containing a particular international rule or standard becomes irrelevant for the state in question to exercise prescriptive jurisdiction, as long as that rule or standard is generally accepted. Since, in accordance with Conclusion No. 4,[36] generally accepted international rules and standards are included in applicable international rules and standards for states party to the 1982 Convention, the above submissions also apply with respect to enforcement jurisdiction, be it in an indirect manner. Consequently, flag states, coastal states and port states can enforce concrete international rules and standards that are generally accepted irrespective of the form they have taken. In the hypothesis that a concrete international rule or standard is contained in a convention, it is therefore not only irrelevant whether the coastal state is party to that particular convention in order to prescribe such rule or standard, but it is equally irrelevant for the coastal or port state implementing such a rule or standard whether the flag state of that vessel committing the violation is party to it. This Conclusion does not infringe upon the *pacta tertiis* principle, since the consensual nature of international law is satisfied by the fact that states, party to the 1982 Convention, did agree to accept the rule of reference.[37]

The crucial question here was whether, through this mechanism of rules of reference, non-parties to a particular convention, which contained such rules of reference, could eventually become bound by these conventional provisions to which they had never explicitly consented. The ILA Marine Pollution Committee took a clear position by answering this question affirmatively.[38] By softening the edges of the consent requirement, this mechanism is believed, as one author put it, to bring "the international community one step further on the way to establishing a true legislative function in the field of maritime law."[39] The Explanatory Note attached to this conclusion argues moreover that this method appears to be a most appropriate way to develop the binding nature of international law on non-consenting states, especially if the rules and standards concerned are of a highly technical nature.[40]

Such a system can of course only work properly if the convention, which contains the rule of reference, is widely adhered to. The rules of reference found in the 1982 Convention are therefore believed to provide the international community of states with an appropriate vehicle, firmly grounded in Art. 38 of the Statute of the International Court of Justice, to accommodate the new stresses placed on the system by the many accidents which have happened in this sphere since the striking of the balance between coastal and flag states during the negotiations leading up to the 1982 Convention. Similar rules of reference found in the 1995 Fish Stocks Agreement[41] are unfortunately not that effective for the moment.[42] Indeed, as has already been written elsewhere, the principle contained in that agreement has a similar effect.[43] According to that agreement, access to fishery resources in a particular region of the high seas is restricted to States which either are members of the competent subregional or regional fisheries management organization, or who agree to apply the conservation and management measures to be established by such organization, or in the absence of such regional organization, participate in conservation and management arrangements directly entered into by the interested parties.[44] By becoming a party to the 1995 Fish Stocks Agreement, the reasoning goes, States beforehand consent to accept and implement the measures established through these organizations or arrangement, even though the exact content of these measures is completely unknown to the state at the time it becomes a party to that agreement. A similar line of argumentation can be sustained with respect to another novel provision established by the 1995 Fish Stocks Agreement, according to which ships may be boarded and inspected on the high seas by member states of an existing subregional or regional organization or arrangement, whether or not the flag state of the boarded or inspected vessel is a member of that organization or participant in such arrangement.[45] Even though the 1995 Fish Stocks Agreement has recently entered into force,[46] the apparent unwillingness of some major fishing nations to adhere to it seriously undermines its effectiveness in general, and the novel provisions just discussed in particular, containing similar rules of

reference as those found in the 1982 Convention with respect to vessel-source pollution.

## CONCLUSIONS

What conclusions can be drawn from these cursory remarks? To start with the more general comments first, it cannot be denied that international environmental law has changed drastically during the last couple of decades. The Centre of International Law of the *Vrije Universiteit Brussel* had the privilege to host the Interuniversity Foreign Francqui-Chair 2001-2002.[47] The Chairholder, Professor Emeritus Dermott Devine just delivered his keynote speech on the occasion of the final conference, wrapping up his six months research period devoted to the international regulation of marine living resources and pollution.[48] Addressing specifically the development of marine pollution law during the last half of the twentieth century, he concluded:

> Effectively, in less than 50 years we have gone from virtually nothing to a situation where we have regimes (outline regimes in some cases) covering the major pollution threats.[49]

In a gathering of environmental experts, it is admitted, this first conclusion might not be very revolutionary.

Secondly, the above analysis clearly demonstrates that coastal states have substantially gained in competence as far as vessel-source pollution is concerned. At the same time, however, it must be kept in mind that state practice demonstrates that until now these states have not yet fully applied this new competence in practice.

Thirdly, and this might well be the most daring conclusion of all, it is submitted that the rules of reference, found in this respect in the 1982 Convention, provide an interesting novel technique to develop international law in this highly technical field. As suggested by the Final Report of the ILA Marine Pollution Committee, states should rely more fully on this unique method to soften the edges of the strict consent requirement of contemporary international law. Because the 1982 Convention is quickly approaching the ultimate goal set by its founding fathers, namely to establish an "international treaty of a universal character, generally agreed upon,"[50] this third conclusion takes on a special importance. The high number of countries which are at present parties to the 1982 Convention, as well as their even geographical distribution, made it possible for the Secretary-General of the United Nations in his most recent yearly report on the oceans and the law of the sea to observe that "[t]oday, 20 years after the adoption of the Convention, it is fast approaching universal participation."[51] This convention therefore lends itself perfectly well to an active

use of its rules of reference on vessel-source pollution, especially since the legal construction in question fully respects the *pacta tertiis* principle.

Finally, it is submitted that the chapter on the enhancement of coastal state competence relating to marine pollution has not yet been closed. In an area of law that develops very much by way of reactions to disasters,[52] the lifetime of the Committee witnessed many of them, including the *Erika* disaster on 12 December 1999 at a moment when its Final Report was being prepared.[53] Even though France[54] and the European Community[55] urged a swift response immediately after that particular incident, it took two years for the latter organization to adopt the so-called Erika I package.[56] It appears appropriate to conclude the present contribution by pointing to the Erika II package that is at present still in the pipeline. Besides the proposed establishment of a European Maritime Safety Agency[57] and a European Oil Pollution Fund,[58] the introduction of an obligatory system of black boxes and automatic identification systems on board vessels entering European Union waters is also at present being envisaged.[59] Needless to say, the latter will once again further enhance the competence of the coastal state. A common feature of both packages, however, appears to be the close interplay between the national, European, and international levels in trying to arrive at a generally acceptable compromise. This was already predicted in *tempore non suspecto*,[60] was clearly confirmed by the close interplay between these different levels in the phasing out of single-hull oil tankers, and is now being confirmed with respect to the timing of the introduction of black boxes and automatic identification systems.

## Notes

[1] U.N. Doc. A/Conf.48/14 and Corr.1 (1972). This document was adopted on 16 June 1972. As reprinted in 11 *International Legal Materials* 1416-1471 (1972).
[2] Wolfrum, R., Röben, V., & Morrison, F., "Preservation of the Marine Environment," in *International, Regional and National Environmental Law* (Morrison, F. & Wolfrum, R., eds.), The Hague, Kluwer Law International, p. 225, 226 (2000).
[3] Romano, C., *The Peaceful Settlement of International Environmental Disputes: A Pragmatic Approach*, The Hague, Kluwer Law International, p. 21 (2000).
[4] United Nations Convention on the Law of the Sea, 10 December 1982, 1833 *U.N.T.S.* 3 (entered into force 16 November 1994), available at http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm [hereinafter 1982 Convention]. This document will celebrate twenty years of existence at the end of this year.
[5] Boyle, A., "Marine Pollution under the Law of the Sea Convention," 79 *American Journal of International Law* p. 347, 350 (1985).
[6] Hereinafter ILA Marine Pollution Committee.
[7] The different reports prepared by this committee, as well as 15 country reports on the issue, were recently published. See *Vessel-source Pollution and Coastal State Jurisdiction: The Work of the ILA Committee on Coastal State Jurisdiction Relating to Marine Pollution (1991-2000)* (Franckx, E., ed.), The Hague, Kluwer Law International, 391 pp. (2001).
[8] This section is based on Franckx, E., "Vessel-source Pollution and Coastal State Jurisdiction: General Framework," 24 *South African Yearbook of International Law* pp. 1, 3-9 and 13-26 (1999).
[9] International Convention for the Prevention of Pollution of the Sea by Oil, 12 May 1954, 327 *U.N.T.S.* 3 [hereinafter OILPOL Convention]. This Convention entered into force on 26 July 1958.
[10] Kasoulides, G., *Port State Control and Jurisdiction*, Dordrecht, Nijhoff, p. 111 (1993).
[11] Reference can be made here to Art. IX (2) OILPOL Convention. The verb "may" needs to be stressed for present purposes.
[12] 2 November 1973, as reprinted in 12 *International Legal Materials* pp. 1319-1444 (1973).
[13] 17 February 1978, as reprinted in 17 *International Legal Materials* pp. 546-578 (1978) [hereinafter MARPOL 73/78]. This Conventional System entered into force on 2 October 1983.
[14] Art. 5 (2) MARPOL 73/78. Moreover, if an inspection revealed a violation of relevant discharge norms, a report had to be forwarded to the flag state (Art. 6 (2) *id.*).
[15] It has to be noted that the notion "territorial sea" is not used by MARPOL 73/78, but rather "jurisdiction." Once the exclusive economic zone notion started to emerge, the particular drafting of Art. 9 (3) of that convention made it possible for this new zone to be covered.
[16] Arts. 4 (2) and 6 (3 & 4).
[17] Birnie, P. & Boyle, A., *International Law and the Environment*, Oxford, Clarendon Press, p. 366 (2002).
[18] Kasoulides, G., supra note 10, p. 19.
[19] For a concrete example in this respect, see for instance the Belgian situation as it existed before the establishment of an exclusive economic zone. See Franckx, E., supra note 8, pp. 7-8.
[20] 1982 Convention, Art. 218.
[21] Churchill, R. & Lowe, V., *The Law of the Sea*, Manchester, Juris Publishing, p. 350 (1999). See also Birnie, P. & Boyle, A., supra note 17, p. 376.
[22] 1982 Convention, Art. 211 with respect to prescriptive jurisdiction, and Art. 220 concerning enforcement jurisdiction. Both articles are rather long and complex in nature. For a detailed analysis of these provisions, see Molenaar, E., *Coastal State Jurisdiction over Vessel-Source Pollution*, The Hague, Kluwer Law International, pp. 361-399 (1998).
[23] For a schematic overview of coastal and port state enforcement jurisdiction, see Franckx, E., supra note 8, pp. 31-32 and 33-34 respectively.

[24] Dupuy, P.-M. & Rémond-Gouilloud, M., "La préservation du milieu marin," in *Traité du Nouveau Droit de la Mer* (Dupuy, R.-J. & Vignes, D., eds.), Brussels, Bruylant, pp. 979, 1013-1029 (1985) and by the same authors, "The Preservation of the Marine Environment," in *A Handbook on the New Law of the Sea* (Dupuy, R.-J. & Vignes, D., eds.), Dordrecht, Nijhoff, pp. 1151, 1194-1213 (1999).

[25] Franckx, E., "Exclusive Economic Zone, State Practice and the Protection of the Marine Environment," in *The Exclusive Economic Zone and the United Nations Convention on the Law of the Sea, 1982-2000: A First Assessment of State Practice* (Franckx, E. & Gautier, Ph., eds.), Brussels, Bruylant (2002), forthcoming. This book includes the proceedings of a conference organised in Brussels by the Centres for International Law of the *Université Catholique de Louvain* and the *Vrije Unversiteit Brussel*. Contrary to flag state jurisdiction, which is mandatory, it should be remembered that coastal and port state jurisdiction are permissive in nature.

[26] No roll-call vote was recorded.

[27] Palmer, G., "New Ways to Make International Environmental Law," 86 *American Journal of International Law* p. 259, 266 (1992).

[28] Cassese, A., *International Law*, Oxford, Oxford University Press, p. 383 (2001).

[29] Morrison, F., "The Relationship of International, Regional, and National Environmental Law," in *International, Regional and National Environmental Law*, supra note 2, p. 113, 117. This author continues:

> In its future interactions with other states, a state that has accepted one of these principles will be called upon to justify its position in light of that principle. Even a state that has not expressly accepted a principle will find the terms of international discourse on the topic heavily influenced by the new concept. Thus, the range of possible choices of the state is effectively limited by the new principle. Principles also serve as a touchstone for future decision-making within each state, as well as in the international community. They will reduce international antipathy which might otherwise develop. *Id.*

[30] Charney, J., "Technology and International Negotiation," 76 *American Journal of International Law* p. 78, 92 (1982).

[31] Weil, P., "Towards Relative Normativity in International Law," 77 *American Journal of International Law* p. 413, 442 n. 7 (1983).

[32] This author continues: "Two basically different categories are involved here: for while there are, on the one hand, legal norms that are not in practice compelling, because too vague, there are also, on the other hand, provisions that are precise, yet remain at the pre- or subnormative stage. To discuss both of these categories in terms of 'soft law' or 'hard law' is to foster confusion." *Id.*

[33] "Final Report (presented by the Committee on Coastal State Jurisdiction Relating to Marine Pollution to the London Conference (2000) of the International Law Association)," as reprinted in *Vessel-source Pollution and Coastal State Jurisdiction: The Work of the ILA Committee on Coastal State Jurisdiction Relating to Marine Pollution (1991-2000)* (Franckx, E., ed.), supra note 7, p. 75, 80 (2001) [hereinafter Final Report].

[34] *Id.*, p. 107.

[35] *Id.*, pp. 112-113.

[36] Conclusion No. 4 reads:

> With respect to the enforcement in cases of vessel-source pollution by flag states, port states as well as coastal states, the violations giving rise to such enforcement must be contrary to applicable international rules and standards, i.e. international rules and standards which, at the time of the violation, are operational in the direct relationship between the flag state on the one hand, and the coastal or port state on the other. For parties to the 1982 Convention, as a consequence, generally accepted international rules and standards are included in applicable international rules and standards. *Id.* p 114.

[37] *Id.*, pp. 119-120.
[38] Conclusion No. 6 and Explanatory Note, *Id.* pp. 119-120 and 120-124 respectively.
[39] Tomuchat, C., "Obligations Arising for States Without or Against Their Will," Recueil des Cours, Vol. 241, pp. 195, 352 (1994).
[40] Final Report, supra note 33, pp. 120-124.
[41] Agreement for the Implementation of the Provisions of the Convention Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (U.N. Doc. A/CONF.164/37), 8 September 1995, reprinted in 34 *International Legal Materials* pp. 1542-1580 (1995) (entered into force 11 December 2001) [hereinafter 1995 Fish Stocks Agreement].
[42] The present author already had the opportunity to develop this particular point on the occasion of a lecture on "Fisheries Enforcement on the High Seas" delivered here at the University of Stockholm, Sweden, on 7 April 2002.
[43] Franckx, E., "*Pacta Tertiis* and the Agreement for the Implementation of the Straddling and Highly Migratory Fish Stocks Provisions of the United Nations Convention on the Law of the Sea," 8 *Tulane Journal of International and Comparative Law* pp. 49-81 (2000). See also by the same author "*Pacta Tertiis* and the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation & Management of Straddling Fish Stocks & Highly Migratory Fish Stocks," FAO Legal Papers Online # 8, p. 24 (June 2000), as available on Internet at http://www.fao.org/Legal/default.htm.
[44] 1995 Fish Stocks Agreement, Art. 8 (4).
[45] *Id.*, Art. 21.
[46] See supra note 41.
[47] The Belgian Francqui Foundation provides for the residence of a foreign researcher for six month at a Belgian institution to conduct research in a particular field.
[48] This final conference was held at the *Vrije Universiteit Brussel* on 17 May 2002. For more information on this event, see http://www.vub.ac.be/INTR/ finalconference.htm.
[49] Devine, D., "International Law Regulation of Marine Living Resources and Pollution: Contemporary Issues." Will be published in the proceedings of this conference. Forthcoming 2002.
[50] Declaration of Principles Governing the Sea-bed and the Ocean Floor, and the Subsoil Thereof, Beyond the Limits of National Jurisdiction (adopted by 104 votes in favor, no votes against, and 14 abstentions), General Assembly Resolution 2749 (XXV), 17 December 1970, reprinted in 10 *International Legal Materials* 230 (1970), *sub* 9.
[51] Report of the Secretary-General, *Oceans and the Law of the Sea*, U.N. Doc. A/57/57, 7 March 2002, p. 8, where he moreover stresses that all regions are well represented.
[52] Rosenne, S., "The International Maritime Organization Interface with the Law of the Sea Convention," in *Current Maritime Issues and the International Maritime Organization* (Nordquist, M. & Moore, J., eds.), The Hague, Martinus Nijhoff, p. 251, 263 (1999).
[53] Final Report, supra note 33, p. 79.
[54] See the statement by the French President on 29 December 1999, as discussed in *Le Monde*, 31 December 1999, p. 8.
[55] The Vice-President of the European Commission in charge of transport and energy, stated in this respect: "Il faut saisir l'opportunité que représente la tragédie de l'Erika et donc agir vite pour mieux assurer la sécurité maritime au large des côtes de l'Union." *Le Monde*, 4 March 2000, p. 15 *Le Monde*, 31 December 1999, p. 8.
[56] This package consists first of all of a directive bolstering the existing port state control system (Directive 2001/106/EC of the European Parliament and of the Council of 19 December 2001 amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control), *Official Journal* L 19, 22 January 2002, pp. 17-31), secondly of a

directive amending the existing Community legislation on classification societies (Directive 2001/105/EC of the European Parliament and of the Council of 19 December 2001 amending Council Directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations, *Official Journal* L 19, 22 January 2002, pp. 9-16), and thirdly a regulation aimed at phasing out single-hull tankers from European Union waters (Regulation (EC) No 417/2002 of the European Parliament and of the Council of 18 February 2002 on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) No 2978/94 *Official Journal* L 64, 7 March 2002, pp. 1-5).

[57] Common Position (EC) No 33/2002 of 7 March 2002 adopted by the Council, acting in accordance with the procedure referred to in Article 251 of the Treaty establishing the European Community, with a view to adopting a Regulation of the European Parliament and of the Council establishing a European Maritime Safety Agency, *Official Journal* C 119 E, 22 May 2002, pp. 27-36.

[58] Proposal for a Regulation of the European Parliament and of the Council on the establishment of a fund for the compensation of oil pollution damage in European waters and related measures, *Official Journal* C 120 E, 24 April 2001, pp. 79-82.

[59] Common Position (EC) No 15/2002 of 19 December 2001 adopted by the Council, acting in accordance with the procedure referred to in Article 251 of the Treaty establishing the European Community, with a view to adopting a Directive of the European Parliament and of the Council establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC, *Official Journal* C 58 E, 5 March 2002, pp. 14-31.

[60] Franckx, E., "The Work of the International Law Association's Committee on Coastal State Jurisdiction Relating to Marine Pollution and Its Implications for the Aegean Sea," in *The Aegean Sea 2000* (Öztürk, B., ed.) (Proceedings of the International Symposium on the Aegean Sea 5-7 May 2000, Bodrum, Turkey), Istanbul, Matbaacilik Ltd., pp. 221, 226-228 (2000).