

CHAPTER I. CONTINENTAL SHELF

1. Brazil

(a) *Decree No. 28,840 integrating into national territory the adjoining part of the continental shelf, 8 November 1950. Diario Oficial, Vol. 89, No. 264 (18 November 1950), p. 16,617. Translation by the Secretariat of the United Nations.*

Whereas the continental shelf contiguous to continents and islands and extending beneath the high seas is in reality submerged territory and constitutes one geographical unit with the adjacent land;

Whereas the need for States to proclaim their sovereignty or dominion and jurisdiction over the area thus added to the national territory has grown with the ever-increasing probability that natural resources will be found there;

Whereas various American States have therefore, by presidential declarations or decrees, affirmed their rights of dominion and jurisdiction or of sovereignty over a part of the continental shelf contiguous to and adjoining (*correspondente*) the national territory (proclamation by the President of the United States of America dated 28 September 1945, proclamation by the President of Mexico dated 29 October 1945, and by the President of Chile dated 25 June 1947; decree by the President of Argentina dated 11 October 1946 and by the President of Peru dated 1 August 1947);

Whereas in such circumstances it is the duty of the Brazilian Government to make a similar declaration in order to protect the rights of Brazil over that part of the continental shelf which adjoins its continental territory and islands;

Whereas the proclamation of Brazilian rights has become urgent and cannot be deferred;

Whereas fishing in territorial waters and on the high seas is governed by national laws and international conventions, and it may be in the interests of Brazil to accede to new conventions or to promulgate new laws on the subject;

Whereas under the terms of the Federal Constitution the President of the Republic is required to protect the integrity of the nation and the internal security of the country, without prejudice to the competence of the Legislative Power;

Now therefore,

the President of the Republic hereby decrees:

Article 1. It is formally proclaimed that part of the continental shelf which adjoins (*correspondente*) the continental and insular territory of

Brazil is integrated into that territory, under the exclusive jurisdiction and dominion of the Federal Union.

Article 2. The utilization and exploration of products or natural resources of that part of the national territory shall be subject in all cases to federal authorization or concession.

Article 3. The rules governing navigation in the waters covering the aforesaid continental shelf shall continue in force without prejudice to any further rules which may be made, especially as regards fishing in that area.

2. Costa Rica

(a) *Political Constitution, 7 November 1949. La Gaceta: Diario Oficial, Vol. 71, No. 251 (7 November, 1949), p. 2069. Translation by the Secretariat of the United Nations.*

Article 6. The State exercises complete and exclusive sovereignty in respect of the air space above its territory and in respect of its territorial waters and continental shelf, in accordance with the principles of international law and the treaties in force.

3. El Salvador

(a) *Political Constitution, 7 September 1950. Diario Oficial, Vol. 149, No. 196 (8 September 1950), p. 3105.*

Article 7. The territory of the Republic within its present boundaries is irreducible. It includes the adjacent seas to a distance of two hundred sea miles from low water line and the corresponding air space, subsoil and continental shelf.

The provisions of the foregoing paragraph shall not affect the freedom of navigation in accordance with the principles recognized under International Law.

The Gulf of Fonseca is a historic bay subject to a special régime.

Note. On 12 December 1950, the United States Government sent a note to the Government of El Salvador, commenting as follows on Article 7 of the Constitution of 1950:

“I am directed to inform Your Excellency that the Government of the United States of America has noted with deep concern the implications of this provision of the Constitution. Under long-established principles of international law, it is universally agreed that the territorial sovereignty of a coastal state extends over a narrow belt of territorial waters beyond which lie the high seas. The provisions of Article 7 would, if carried into execution, bring within the exclusive jurisdiction and control of El Salvador wide ocean areas which have hitherto been considered high seas by all nations. It would in these extensive waters and in the air spaces above supplant the free and untrammelled navigation of foreign vessels and aircraft by such controls as El Salvador, in the exercise of the sovereignty claimed, might apply. This is true despite the disclaimer of the second paragraph of Article 7, since, consequent upon the assertion of sovereignty, freedom of navigation in these areas might be claimed to be a privilege granted by El Salvador rather than based on a right deriving from international law.

“The United States of America has, in common with the great majority of other maritime nations, long adhered to the principle that the belt of territorial waters extends three marine miles from the coasts. My Government desires to inform the Government of El Salvador, accordingly, that it will not consider its nationals or vessels or aircraft as being subject to the provisions of Article 7 or to any measures designed to carry it into execution.” U. S. Department of State Bulletin, vol. 24 (951), p. 24.

4. Honduras

- (a) *Congressional Decree No. 104, amending the Civil Code, 7 March 1950. La Gaceta, Vol. 75, No. 14,055 (16 March 1950), pp. 2-3. Translation by the Secretariat of the United Nations.*

Article 1. Articles 619 and 621 of the Civil Code shall be amended to read as follows:

“*Article 619.* Ownership of all mines of gold, silver, copper, platinum, mercury, lead, zinc, bismuth, antimony, cobalt, nickel, tin, arsenic, iron, chromium, manganese, molybdenum, vanadium, rhodium, iridium, radium, uranium, plutonium, tungsten, sulphur, petroleum, apatite, mepherine, rock salt and nitrates, precious stones, coal and fossilized substances, and any other mines and substances that are defined as national property by the Mineral Code, shall be vested in the State, notwithstanding ownership of the surface of the land in which they may be situated by corporations or individuals. The right, however, shall be granted to individuals to make surveys and excavations on land, by whomsoever owned, for the purpose of prospecting for such mines, and to work and develop them and to dispose of them as owners, subject to the conditions and regulations laid down by the said Code. The development and exploitation of radium, uranium, plutonium, and other radioactive metals, as well as of petroleum resources, shall be governed by special statute.

“Ownership of all natural wealth, existing or that may exist, in its submarine platform or continental and insular shelf, in its lower strata and in the sea space included within the vertical planes rising from its limits, shall also be vested in the State.

“Building and ornamental stone, sand, slate, clay, lime, possilana, peat, loam and other substances shall belong to the owner of the land on which they may be found, subject to the provisions of the Mineral Code.”

“*Article 621.* The adjacent waters, to a distance of 12 kilometers from the low water mark, shall be territorial waters and national property; but the sovereignty of the State shall extend to the submarine platform or continental and insular shelf and the overlying waters, at whatever depth it may be encountered and whatever may be its extent, without prejudice to the right of free navigation in accordance with international law.”

(b) *Congressional Decree No. 25 (approving Presidential Decree No. 96 of 28 January 1950), 17 January 1951. La Gaceta, Vol. 76, No. 14,306 (22 January 1951), p. 1. Translation by the Secretariat of the United Nations.*

*The National Congress
Decrees as follows:*

SINGLE ARTICLE.—Decree No. 96, issued by the President of the Republic in the Council of Ministers on 28 January 1950, is hereby approved in whole and in every part, as follows:

“DECREE No. 96.—By Juan Manuel GALVEZ, Constitutional President of the Republic of Honduras.

“*Whereas* scientific survey has shown that the land mass of the mainland and islands continues into the sea for varying distances and at varying depths, and that such continuation, known as the submarine platform or the continental and insular shelf, forms with the land mass a single morphological and geological unit;

“*Whereas* legal doctrine has acknowledged and international law has declared that the said shelf belongs lawfully to the riparian States, which are entitled to proclaim their sovereignty over it and over the waters covering it, as is shown by the statements of the President of the United States of America on 28 September 1945, of the President of Mexico on 29 October 1945, of the President of the Argentine Republic on 11 October 1946, of the President of the Republic of Chile on 23 June 1947, of the President of the Republic of Peru on 1 August 1947 and by the Legislative Decree of the Founding Committee (*Junta Fundadora*) of the Second Republic of Costa Rica on 27 July 1948;

“*Whereas* the said shelf contains natural riches of inestimable value, such as vegetable plankton, the staple food of marine life, by reason whereof the overlying waters are an inexhaustible source of fish; marine algae producing foodstuffs, fertilizer, potash, bromine, iodine, textiles, etc.; petroleum, and a great variety of other wealth which must be protected as part of the national property;

“*Whereas* for the reasons aforesaid an immediate statement is required setting forth in clear and precise terms the nation’s right to the continental shelf and the waters covering it in both the Atlantic and the Pacific Oceans;

“*Now therefore* the President, in the Council of Ministers,
Decrees as follows:

“ARTICLE 1. It is hereby declared that the sovereignty of Honduras extends to the continental shelf of the national territory, both of the mainland and of the islands, and to the waters covering it, at whatever depth it lies and whatever its extent, and that the nation has full, inalienable and imprescriptible domain over all wealth which exists or may exist in it, in its lower strata or in the area of water bounded by the vertical plane passing through its borders.

“ARTICLE 2. The zone of protection of hunting, fishing and exploitation of the mainland and island waters falling by virtue of this Decree within

the State's jurisdiction shall be delimited in accordance with this declaration of sovereignty whenever the Government shall see fit, and such delimitation shall be ratified, extended or amended as the national interest may require.

"ARTICLE 3. The protection and supervision of the State is hereby declared to extend in the Atlantic Ocean over all waters lying within the perimeter formed by the coast of the mainland of Honduras and a mathematical parallel drawn at sea 200 sea miles therefrom. With regard to the islands of Honduras in the Atlantic, such delimitation shall enclose the zone of sea contiguous to their coasts and extending for two hundred sea miles from every point thereon.

"ARTICLE 4. Subject to reciprocity, this declaration does not deny similar lawful rights of other States, nor affect the freedom of navigation recognized in international law, nor derogate from the rights of sovereignty and domain held by the State of Honduras over its territorial waters".

5. Pakistan

(a) *Declaration by the Governor-General, 9 March 1950. The Gazette of Pakistan, Extraordinary, 14 March 1950, p. 123.*

I, Khwaja Nazimuddin, Governor-General of Pakistan, hereby declare in pursuance of clause (bb) of sub-section (1) of section 5 of the Government of India Act, 1935, that the sea bed along the coasts of Pakistan extending to the one hundred fathom contour into the open sea shall, with effect from the date of this declaration, be included in the territories of Pakistan.

6. Union of South Africa

(a) *Sea-shore Act, 6 April 1935. Statutes of the Union of South Africa, 1935, No. 21, pp. 136-148.*

Section 3. Subject to the provisions of this Act, the Governor-General shall be entitled to exercise full control over the sea-shore of which he is declared by section two to be the owner and of the sea and the bed of the sea within the three miles limit.

. . .

Section 5. The Governor-General may, if authorized thereto by resolution of both Houses of Parliament, and on such conditions as may be set forth in such resolution:

. . .

- (c) Permit the construction or laying on the bed of the sea within the three miles limit of:
- (i) Cables, wharves, piers, breakwaters, sea walls, embankments, jetties, landing-stages or other structures,
 - (ii) Drainpipes or sewers, or
 - (iii) Any work of public utility;

- (d) Permit the removal for industrial purposes of shells from the bed of the sea within the three miles limit;

Section 6. The Governor-General may, if authorized thereto by a resolution of both Houses of Parliament and on such conditions as may be set forth in such resolution, authorize the use of the sea-shore of which he is by section two declared to be the owner or the bed of the sea within the three miles limit for the purpose of any Government undertaking or work.

Section 8. For the purposes of any law which is or at any time has been in force in any part of the Union relating to the exploitation of metals, minerals, precious stones, coal or oil, the sea-shore of which the Governor-General is by section two declared to be the owner and the bed of the sea within the three miles limit shall be deemed to be Crown land; and, in the application of any such law, this section shall be deemed to have been in operation as from the commencement of such law.

Section 10. (1) The Governor-General may make regulations, not inconsistent with this Act—

- (c) concerning the removal from the sea-shore or the bed of the sea within the three miles limit of sand, shingle, rock, stone, shells or seaweed;
- (d) for the prevention or the regulation of the depositing or the discharging upon the sea-shore or in the sea within the three miles limit of offal, rubbish or anything liable to be a nuisance or danger to health;
- (e) concerning the control, generally, of the sea-shore and of the sea and the bed of the sea within the three miles limit;
- (f) prescribing fees for the doing of any act upon or in or in relation to the sea-shore or the bed of the sea or the sea within the three miles limit

7. United Kingdom

(a) British Honduras

- (i) *British Honduras (Alteration of Boundaries) Order in Council, 9 October 1950. Statutory Instruments, 1950; No. 1649.*

Whereas it is desirable to extend the boundaries of the Colony of British Honduras so as to include the continental shelf contiguous to the coasts of the Colony:

Now, therefore, His Majesty, in pursuance of the powers conferred upon Him by the Colonial Boundaries Act, 1895, and of all other powers enabling Him in that behalf, is pleased by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the British Honduras (Alteration of Boundaries) Order in Council, 1950.

2. The boundaries of the Colony of British Honduras are hereby extended to include the area of the continental shelf which lies beneath the sea contiguous to the coasts of British Honduras.

3. Nothing in this Order shall be deemed to affect the character as high seas of any waters above the continental shelf and outside the limits of territorial waters.

(b) Falkland Islands

(i) Falkland Islands (Continental Shelf) Order in Council, 21 December 1950. Statutory Instruments, 1950, No. 2100.

Whereas it is desirable to extend the boundaries of the Colony of the Falkland Islands so as to include the continental shelf contiguous to the coasts of the Colony:

Now, therefore, His Majesty, in pursuance of the powers conferred upon Him by the Colonial Boundaries Act, 1895, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Falkland Islands (Continental Shelf) Order in Council, 1950.

2. The boundaries of the Colony of the Falkland Islands are hereby extended to include the area of the continental shelf being the sea-bed and its subsoil contiguous to the coasts of the Falkland Islands. The boundary of such area shall be from a position on the 100 fathom line 110 nautical miles 023 degrees true from Jason West Cay (the Westernmost of the Jason Islands, latitude 50 degrees 58 minutes South, longitude 61 degrees 27 minutes West approximately), following the 100 fathom line as shown on Admiralty Chart No. 2202B round the northern, eastern, southern and western sides of the Falkland Islands to a position 20 nautical miles 278 degrees true from Jason West Cay, thence by a straight line crossing in its narrowest part the area where the depths are less than 100 fathoms, in a 032 degree true direction for 115 nautical miles to the starting point.

3. Nothing in this Order shall be deemed to affect the character as high seas of any waters above the continental shelf and outside the limits of territorial waters.