

Launch of

The Law of the Sea – The Role of the Irish Delegation at the Third UN Conference

Remarks of the Tánaiste and Minister for Foreign Affairs & Trade, Eamon Gilmore, T.D.

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Mr. President and members of the Royal Irish Academy,

Distinguished guests,

As the Foreign Minister of a country for which, historically, the sea and its resources have been so important, it gives me particular pleasure to launch Mahon Hayes' new book here this evening. Mahon has produced an important and fascinating account of the long and complex negotiations that led to the conclusion in 1982 of the United Nations Convention on the Law of the Sea, one of the most significant global treaties of the past century. I wish to thank the Royal Irish Academy for hosting this evening's event and to commend both the Academy and NUI Galway for their initiative in bringing Mahon's account to publication and to the wider audience it deserves.

Many of you will know that Mahon has been one of Ireland's most distinguished international lawyers and diplomats. Among a number of different roles he has served as Legal Adviser in the Department of Foreign Affairs and as Ambassador and Permanent Representative of Ireland to the United Nations, both in Geneva and in New York, as well as being the only Irish person ever elected to the United Nations' International Law Commission. He was also a key member of the Irish delegation throughout the near ten years of negotiations required to produce the Law of the Sea Convention. He was therefore uniquely placed to write the account of those negotiations and, if I may say so, he has done it extremely well.

The book raises two matters in particular I wish to mention this evening. The first is the vital importance, for a small country such as Ireland, of internationally agreed rules of conduct among states.

Many people may be unaware of the significance of the Law of the Sea Convention and how it regulates all activities in, on or under the world's oceans. The oceans and seas around us serve many functions – as transport routes, fishing grounds, a source of oil and other natural resources. In Ireland's case the ocean brings warm air and a temperate climate that belies our location on the globe. Nowadays we are actively seeking ways of harnessing the energy of its waves and currents. But the world's seas and oceans have also been used for less enlightened purposes – as dumping grounds, for instance. The enormous improvements in technology, particularly since the Second World War, meant that human activity on the seas, much of which had historically been confined to coastal areas, could now extend far out into the oceans. The rights and duties of states were often either outdated or unclear, and the potential for conflict had increased significantly. Moreover, by the 1960s it was widely acknowledged that the oceans' resources were not infinite – and in some extreme cases were already nearing exhaustion - and the view that anything could be harmlessly dissolved in the sea had been widely discredited.

It was clear that new, comprehensive, global rules were essential – on the extent of coastal state jurisdiction, freedom of navigation, protection of the marine environment and the exploitation of the oceans' resources. The first two United Nations Conferences on the Law of the Sea had either failed to meet the challenges posed by new technologies or their outcomes had failed to command the support of the majority of states.

The Third Law of the Sea Conference was convened in 1973. In addition to specific matters of national interest, as a small country Ireland had an overriding interest in ensuring that the Conference ended in a broadly accepted agreement. Given the huge variety of competing interests represented at the Conference agreement was by no means assured. The most powerful states may be prepared to continue to operate in the absence of agreed rules and still feel confident that their interests can be protected to some extent, but this is seldom if ever a prudent course for smaller states.

At the Conference therefore Ireland had to work not just to promote its own interests but also to help build consensus on the overall package, elements of which were not of direct concern to us. This would entail complex negotiations on a wide range of issues with a very large number of participating states representing different and often competing interests.

And this is the second issue I wish to mention this evening. Mahon's book provides a unique insight into how such an important global treaty is actually negotiated. While it is written from the perspective of Ireland and the Irish delegation, the challenges facing all negotiators are similar: they must identify and prioritise national interests, seek political guidance and direction, assemble a team with sufficient diplomatic, legal and technical expertise and experience, forge alliances with other delegations and work to facilitate consensus. The book is therefore an invaluable primer for anyone involved in international negotiations.

Although the Conference took more than nine years, agreement on a Convention was eventually reached. It has 320 Articles and 9 Annexes. It was a significant achievement of diplomacy and has made an enormous contribution to reducing conflict and tension between states in their activities at sea. From Ireland's perspective it was a tremendous success.

As is clear from Mahon's account, the Irish delegation was highly active throughout the negotiations on a wide range of issues. Ireland is particularly associated with the continental shelf. The relevant provision of the Convention is based on a proposal known as the 'Irish amendment.' The 'Irish' or 'Gardiner' formula is one of two methodologies laid down by the Convention to establish the location of the outer limits of a state's continental shelf. It is named for Piers Gardiner, a geophysicist and the member of the Irish delegation who devised it (who I'm glad to say is with us this evening).

Ireland continues to benefit from the work done by its delegation at the Law of the Sea Conference. The rock of Rockall is irrelevant and has long ceased to be a contentious issue. Ireland's continental shelf is approximately 10 times larger than its land territory. The 'Irish formula' has been successfully used to help extend the State's continental shelf by 39,000 square kilometres in the area of the Porcupine Bank. Together with France, Spain and the UK we have jointly extended our shelves by an additional 80,000 square kilometres in the Celtic Sea and Bay of Biscay. We continue to work to extend the shelf in the North East Atlantic Ocean.

Mahon's book demonstrates how states can protect and promote their interests through patient and wise diplomacy. It is an insider's account that provides a unique insight into the international law-making process at the United Nations and other international organisations and whose objective is to settle rules for the mutual benefit of all states. In writing it he has done us a great service.