

Legal Status of Enclosed and Semi-Enclosed Seas

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The issue of enclosed and semi-enclosed seas is related with many other topics of the law of the sea and subject to controversy of ideas and claims. A number of criteria were suggested to qualify a sea area as enclosed and semi-enclosed sea. According to a prominent writer, there are 26 seas all over the world which fits to this concept. They altogether compose 7 % of the total water area of the world oceans and 55 % of the global continental shelf. One quarter of the global commercial fisheries catch comes from these 26 seas and several of these seas have a high unutilised potential. Many of the major world ports are located in and most of the major world shipping routes, at least at some point pass through these seas. Forty "strategic" international straits of the world connected with these semi-enclosed group.

Given their importance, the enclosed and semi-enclosed seas were included in the agenda the Third United Nations Conference on Law of the Sea. It was the first time for this issue, to be discussed by the states on global basis. During the proceedings of the second committee of the Conference, divergent views were expressed and draft articles were submitted by the participating states. Though fall behind the proposals of the states, enclosed and semi-enclosed seas at least by definition, now among the applicable rules of positive international law. The legal status of enclosed and semi-enclosed seas were formulated by two subsequent articles: article 122 provides the definition where article 123 regulates the principle of cooperation of littoral states in connection with living resources, preservation of the marine environment and scientific research. The status created for enclosed and semi-enclosed seas, by this Convention may be seen as reflecting a move away from "laissez-faire" principle towards cooperation and flexibility. The regulation of enclosed and semi-enclosed seas in a universal convention, is also a sign of approval of these seas as "special circumstances" with regard to other parts of the world oceans by the international community, as well as a positive example of "gradual development of international law". Now the international community of states should find more advanced formulations to move towards more efficient legal models for cooperation.

The purpose of this paper is to make an analysis of the concept of enclosed and semi-enclosed seas from a legal point of view and to make an overall evaluation of the existing models created for the protection of these basins, under the leadership of United Nations Environmental Programme.