

PRIORITY

(Security Classification)

FOREIGN SERVICE DESPATCH

*Ecuador* 399.731/2-1158  
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FROM : Embassy QUITO

557  
DESP. NO.

TO : THE DEPARTMENT OF STATE, WASHINGTON.

February 11, 1958  
DATE

REF : Embassy Tel. No. 463, Feb. 11, 1958.

*P-1 DIC-1 USUN-1 U/FW-2*

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	REC'D 2/15	INFORMATION OTHER
		RM/R-2 REP-2 IRC-8 ARA-4 E-4 ICA-10 IG-4 CIA-12 IN-7 AG-8 COM-10 TR-3 NAVY-3 USIA-10

SUBJECT: Ecuadoran Position on Law of the Sea.

JHS-1

As previously reported by telegram, the Embassy today received an Aide Memoire from the Ecuadoran Foreign Office summarizing the Ecuadoran position on the Law of the Sea. This position has been reached in a series of conversations held in Quito between representatives of Ecuador, Peru and Chile in preparation for the Geneva Conference. The Spanish text of the Aide Memoire is enclosed. Following is an informal English translation:

"The action of the Ecuadoran delegation to the Conference on the Law of the Sea will hinge on the following fundamental criteria:

1) The special interest of the coastal State in the maintenance of the productivity of the living resources in any part of the high seas adjacent to its territorial sea defined in Article 54 of the International Law Commission, and the consequent right to adopt unilateral conservation measures founded on scientific criteria and subject to scientific arbitration as established in Article 55 of the Commission, are considered insufficient in certain cases such as that of the Southern Pacific countries. Therefore, Ecuador will seek at Geneva not only international recognition of the preferential and unconditional right of the coastal State to dictate unilaterally conservation measures in a zone of the sea adjacent to its territorial waters, but also a special right to the resources of such zone, under which right exploitation by nationals of any state could be carried out only on the conditions established by the coastal State.

2) There is a relationship between the questions of liberty and right to fish and the conservation of the living resources and the question of the determination of the width of the territorial sea. If, in the first of these questions, due recognition is obtained at Geneva of the special right of the coastal State to the resources of the zone adjacent to its territorial sea and the consequent right to exploit and regulate fishing in the said zone, the subject of the width of the

J.F. Fishburne:elh  
REPORTER

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territorial sea would be of minor importance for the States that seek the establishment of the rights of the coastal State in the zone adjacent to its territorial waters.

2. The memoranda submitted by the Embassy of the United States have been studied carefully by the Ministry of Foreign Affairs of Ecuador and the reaction to them of the Ecuadoran delegation to Geneva will be defined in the light of the principles expressed above. The delegation has instructions to maintain the closest contact with the delegation of the United States of America at Geneva.

3. As for the theory of abstention as a conservation procedure in certain circumstances, the Foreign Ministry of Ecuador considers it interesting for situations outside of the adjacent zone in which the special right of the coastal state is to be established and in any case believes it would be useful to go deeper into the study of this procedure in order to determine its scope with precision."

It would appear from the above that Ecuador might be prepared to support the United States' position on the 3-mile limit if the United States would agree to the position of Ecuador, Peru and Chile on the rights of the coastal State over the resources of the waters adjacent to the territorial sea.

For the Ambassador:

*John I. Fishburne*  
 John I. Fishburne  
 Counselor of Embassy for  
 Economic Affairs

Enclosure: *att m. m.*

Aide Memoire in Spanish,  
 dtd. Feb. 10, 1958.

cc: Ecuadoran Desk  
 Amcongen Guayaquil  
 USOM, Quito  
 Amembassy LIMA  
 SANTIAGO

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La acción de la Delegación del Ecuador en la Conferencia sobre el Derecho del Mar girará alrededor de los siguientes criterios fundamentales:

1) El interés especial del Estado ribereño en el mantenimiento de la productividad de los recursos vivos en cualquiera parte del alta mar adyacente a su mar territorial definido en el artículo 54 de la Comisión de Derecho Internacional y el consiguiente derecho de adoptar medidas unilaterales de conservación fundadas en criterios científicos y sujetas a arbitraje científico que establece el artículo 55 de la Comisión, se consideran insuficientes en ciertos casos como el de los países del Pacífico Sur. En tal virtud el Ecuador buscará en Ginebra no sólo el reconocimiento internacional del derecho preferente y no condicionado del Estado ribereño de dictar unilateralmente medidas de conservación en una zona de mar adyacente a su mar territorial, sino también un derecho especial a los recursos de dicha zona, derecho en virtud del cual la explotación por nacionales de cualquier Estado podría realizarse sólo en las condiciones que establezca el Estado ribereño.

2) Existe relación entre las cuestiones de libertad y derecho de pesca y conservación de los recursos vivos y la cuestión de la determinación de la anchura del mar territorial. Si en las primeras se obtuviere en Ginebra el debido reconocimiento del derecho especial del Estado ribereño a los recursos de la zona adyacente a su mar territorial y del consiguiente derecho de explotar, reglamentar y fiscalizar la pesca en dicha zona, el asunto de la anchura del mar territorial revestiría importancia menor para los Estados que buscan el establecimiento de los derechos del Estado ribereño en la zona adyacente a su mar territorial.

2. Los memorandums sometidos por la Embajada de los Estados Unidos han sido estudiados cuidadosamente por el Ministerio de Relaciones Exteriores del Ecuador y la reacción a ellos de su Delegación a Ginebra se definirá a la luz de los principios arriba expuestos. La Delegación tiene instrucciones de mantener en Ginebra el más estrecho contacto con la Delegación de los Estados Unidos de América.

3. En lo que respecta a la teoría de la abstención como procedimiento de conservación en determinadas circunstancias, la Cancillería del Ecuador lo considera interesante para situaciones fuera de la zona adyacente en la que se pretende establecer el derecho privativo del Estado ribereño y, en todo caso, cree útil que se profundice en el estudio de este procedimiento a fin de precisar su alcance.

Quito, a 10 de Febrero de 1958

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