

D. Communications by States

United Kingdom of Great Britain and Northern Ireland and the United States of America

Text of a joint demarche undertaken by the United Kingdom of Great Britain and Northern Ireland and the United States of America in relation to the law of the Dominican Republic number 66-07 of 22 May 2007, done on 18 October 2007¹

The Embassies of the United Kingdom of Great Britain and Northern Ireland and the United States of America present their compliments to the Ministry of Foreign Affairs and refer to Law No. 66-07 of May 22, 2007, by which the Dominican Republic;

- a) declared itself an Archipelagic State,
- b) drew straight baselines connecting a number of turning points on certain banks and keys,
- c) claimed certain bodies of waters as internal waters and others as historic bays,
- d) sets out the coordinates of the outer limits of its claimed exclusive economic zone (EEZ),
- e) purported to limit the right of innocent passage through its archipelagic waters and territorial sea (and overflight) to those ships and aircraft not carrying cargoes of radioactive substances or highly toxic chemicals,
- f) does not recognize the right of archipelagic sea lanes passage, and
- g) claimed rights over old shipwrecks within its EEZ.

Archipelagic States

The Embassies recall that articles 46 and 47 of Part IV of the United Nations Convention on the Law of the Sea (the Convention) establish the criteria by which a State may be considered an archipelagic State and may draw archipelagic baselines. One of those criteria is that the turning points of straight archipelagic baselines may only join the outermost islands and drying reefs of the archipelago, and may not be drawn to or from low-tide elevations except in two enumerated circumstances.

The information available to the governments of the United Kingdom and the United States do not show that the turning points set out in Law No. 66-07 are all above water at high tide, or that they qualify for either of the exceptions in article 47, suggesting that they do not qualify as turning points under article 47, paragraph 1, of the Convention, and that the Dominican Republic does not meet the other requirements of article 47 to be an archipelagic State.

The governments of the United Kingdom and the United States would be grateful if the Ministry could provide to their Embassies documentation regarding the status of these turning points as islands or drying reefs that are above water at high tide, or that they otherwise meet the requirements of article 47.

Navigational rights

If the Dominican Republic qualifies as an archipelagic State, which the governments of the United Kingdom and the United States do not accept, the Embassies note that Articles 11 and 12 of Law No. 66-07 do not recognize the right of archipelagic sea lanes passage set out in article 53 of the Convention. The Embassies would be grateful if the Dominican Republic would clarify this.

Whether or not the Dominican Republic qualifies as an archipelagic State, the governments of the United Kingdom and the United States cannot accept as being consistent with the law of the sea the limitations on the

¹ Transmitted through letter dated 13 March 2008 from the United Kingdom Permanent Mission to the United Nations addressed to the Legal Counsel of the United Nations.

exercise of innocent passage set out in article 12 of Law No. 66-07. All ships, regardless of cargo, means of propulsion, or armament, enjoy the right of innocent passage through the territorial sea.

Exclusive Economic Zone (EEZ)

The Embassies note that article 14 of Law No. 66-07 sets out a series of coordinates purporting to delimit the outer limit of the Dominican Republic's EEZ. The Embassies note that portions of the claimed EEZ impinge on the rights of the United Kingdom in respect of the Turks and Caicos Islands and of the United States in respect of Puerto Rico.

The Embassies further note that the paragraph following article 14 appears to claim rights to old shipwrecked vessels in its claimed EEZ, rights which are not accorded to coastal States in Part V of the Convention.

Internal waters and historic bays

The Embassies also note that articles 6 and 7 of Law No. 66-07 claim certain bodies of waters as internal waters and historic bays. Pending examination of those claims, the governments of the United Kingdom and the United States cannot accept these claims as valid under international law.

Reservation of rights

Accordingly, the governments of the United Kingdom and the United States reserve their rights and those of their territories and citizens.