

**HISTORIC BAYS OF THE MEDITERRANEAN
A CONFERENCE SPONSORED BY SYRACUSE
UNIVERSITY AND THE UNIVERSITY OF PISA**

FOREWARD

On every continent, and since time practically immemorial, nation states have invoked the phrase "historic bays" to assert sovereignty over waters which would otherwise be part of the high seas. The principle of the "historic bay" is universally accepted. States which have traditionally exercised unchallenged sovereignty over partially enclosed coastal waters are generally recognized in international law as being entitled to consider those waters as internal to their territories. The Chesapeake and Delaware Bays, for example, are considered as being within the territory of the United States, and a suggestion to the contrary would be vigorously opposed by any American administration. Shark's Bay off the coast of Western Australia, Hudson's Bay, the Gulf of Fonseca off Western Honduras, the Gulfs of Tunis and Gabes, the Gulf of Riga, and the Bay of Setubal on the coast of Portugal, offer examples of waters whose special status has in one form or another received international recognition. But though the principle is established, the definition of an historic bay has proved intractable and elusive.

The Office of Legal Affairs of the United Nations Secretariat has twice sought to define and authoritatively to describe historic bays (in U.N. Doc. A/CONF. 13/1, 1957, and U.N. Doc A/CN. 4/126, 1960) with little success, or indeed influence over academic opinion and diplomatic practice. The United Nations 1982 Convention on the Law of Sea (art. 10, para. 6) refers to historic bays without offering a definition, stating only that "so-called historic bays" are an exception to the rule that a bay in general should have straight baselines of no more than twenty-four sea miles.

The decision as to whether a bay is "historic" and what special rights a contiguous state should be able to exercise carries obvious strategic, political and economic implications. Libya's authority over the Gulf of Sirte, for example, has been a source of dispute and actual armed conflict with U.S. naval forces in the area. Norway's fishing rights in its wider fjords have been the subject of diplomatic protests and finally a decision favorable to Norway by the International Court of Justice. And jurisdiction over the Gulf of Fonseca, between Nicaragua and El Salvador, could be of enormous

significance to the United States involvement in that area.

The bays of the Mediterranean present problems of particular interest to the international legal community. The Gulf of Taranto, the Gulfs of Tunis and Gabes, the Bay of El Arab and the Gulf of Sirte have been claimed as historic bays with varying degrees of success and on the basis of different — even contradictory — legal arguments.

What bearing should the exigencies of states' so-called vital interests have on the denomination of a bay as exclusive on historic grounds? What rights are conferred by the declaration that a bay is "historic?" Are its waters governed by the regime of the territorial sea, allowing innocent passage for alien ships, or is more extensive authority implied? Or should different regimes apply to different waterways?

To discuss these and related issues a conference was held at Lubin House, the Syracuse University Center in New York City, October 12-13, sponsored by the University of Pisa and Syracuse University and organized by Professor Natalino Ronzitti of the Institute for International Law at Pisa and Professor L.F.E. Goldie of the College of Law at Syracuse. Scholars, United Nations officials, private attorneys and officials from the Departments of State and Defense were present, and the conference thus offered a wide range of viewpoints. The organizers hope that this Symposium will serve to further debate on issues of growing importance to the international legal community.

A formal agreement of cooperation between Syracuse University and the University of Pisa was signed in 1981 by Chancellor Melvin A. Eggers and Rettore Magnifico Ranieri Favilli. The agreement has resulted in faculty exchanges and cooperative research in a wide variety of disciplines, from physics and other scientific areas of inquiry to engineering, business administration, social sciences, art and architecture. Cooperation in the field of international law is yet another result of this unusually productive and rewarding relationship. We at Syracuse University are most gratified to be closely and usefully associated with this distinguished sister institution, and particularly appreciate the contribution made to the present undertaking by Professor Ronzitti and his colleagues at the Institute for International Law.

Goodwin Cooke

Ambassador (retired)

Syracuse University

The Mediterranean Basin



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Figure 1

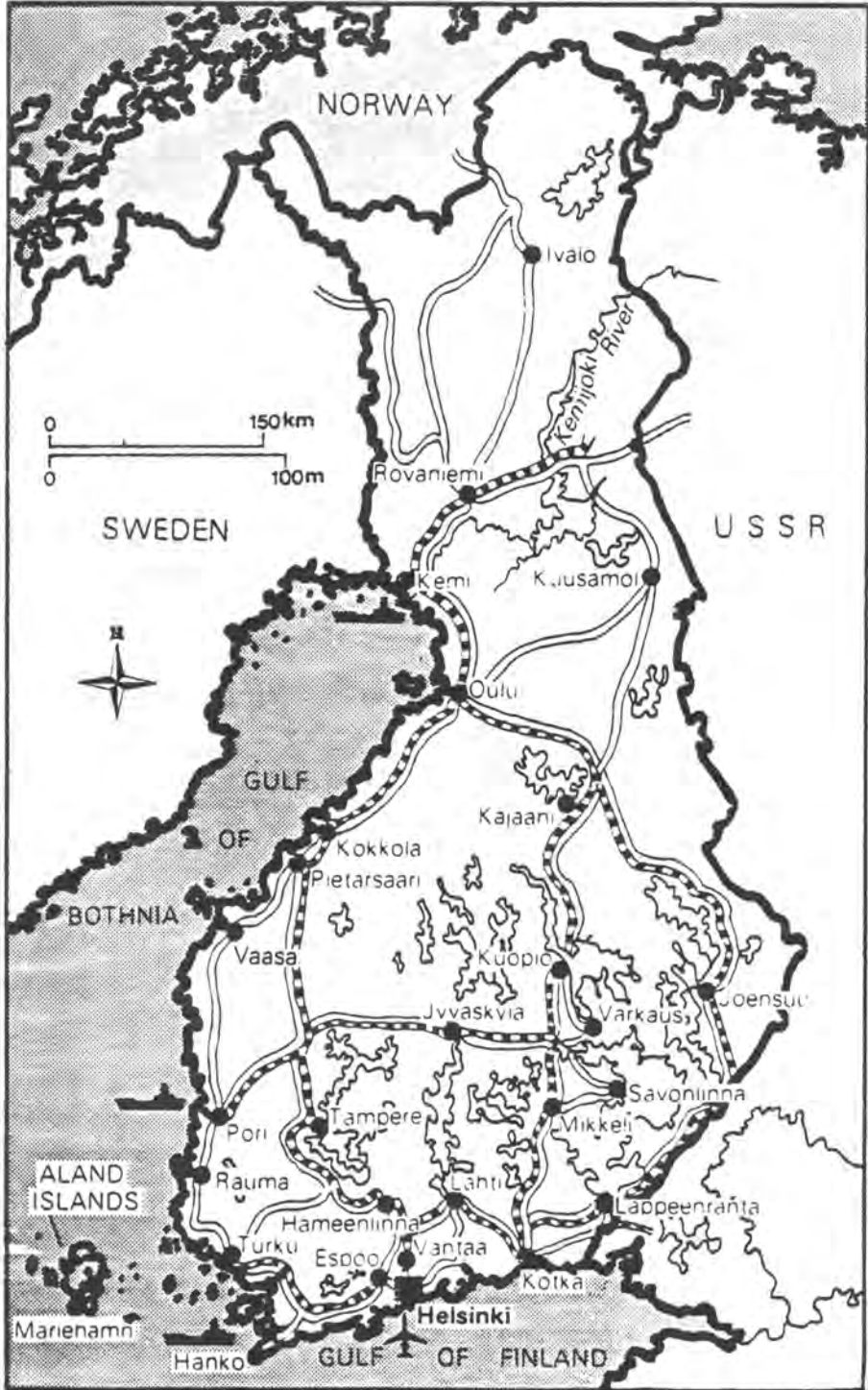


Figure 2

FINLAND