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Oil Spill Liability

The United States Congress continues to deliberate on companion bills which would provide exceptions to the Limitation of Liability Act[1] for vessels which spill oil into United States waters. The House Bill, H.R. 6803, was passed by the House by a 332 to 59 margin on September 12, 1977. The Senate version of the bill, S. 2083, is still before the Senate Committee on Environment and Public Works. Both bills would make the owner and operator of a vessel or facility strictly liable for damages ensuing from an oil spill or threatened oil spill. Recoverable damages would include those resulting from the destruction or loss of use of real or personal property or natural resources, the loss of profits or earnings resulting from this destruction, and for government units, the loss of tax revenues caused by this destruction. Also recoverable are basic removal and clean-up costs. This Act would replace those sections of the Federal Water Pollution Control Act (FWPCA)[2] which now govern oil spill liability.

Acts of war, hostilities, or natural phenomena of an exceptional and inevitable character, will provide complete defenses against liability under the new bill. The gross negligence or willful misconduct of a particular claimant provides a complete defense against that claimant, and the ordinary negligence of a particular claimant will give rise to a comparative negligence regime. Third party defenses are only effective up to the proportion of fault attributable to the third party. Unlike the provisions of the FWPCA, a third party defense is unavailable when the third party is under a contractual relationship with the vessel operator.

Both bills provide upper limits of liability. H.R. 6803 imposes an absolute upper limit of $30 million, based on a rate of $300 per gross ton. This provision would subject all vessels larger than 10,000 gross tons to the maximum liability. Thus, a 100,000 ton tanker would have the same liability exposure as a ship of only 10,000 tons. The costs of insuring against this contingency are likely to squeeze the operators of the smaller, self propelled tankers and off-shore barges. Tankers smaller than 834 tons would be liable for damages of up to $250,000, regardless of their size. Inland oil-carrying barges and vessels not engaged in the transport of oil in bulk would be liable for as much as $150 per gross ton.

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1. 46 U.S.C.A. §§ 181-189.
2. 33 U.S.C.A. § 1251 et. seq.

Notwithstanding these ceilings on liability, *all* limits are removed in three situations: (1) The spill is caused by gross negligence or willful action within the privity of knowledge of the vessel's owner; (2) the spill is caused by a gross or willful violation of the applicable safety, construction or operating standards or regulations of the federal government; and (3) the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible federal official in executing clean-up activities. The first two situations have been extensively litigated and defined under the 1851 Limitation of Liability Act.[3]

The proposed legislation, in addition to providing for private liability, would also authorize the formation of a $200 million fund from which the federal government would compensate the victims of oil spills as well as pay for clean-up costs. This fund would be created through a tax on oil carried by vessels. Thus the limits on private liability would not preclude private, state and municipal recovery of oil spill damages.[4]

In other legislative developments Senate bill S. 682, Senator Muskie's bill proposing a 200 mile pollution control zone of United States jurisdiction, has passed the Senate but it has been stalled in the House. The United States Department of State strongly opposes such unilateral action by the United States because such an act may give other nations an opening to impose inconsistant or conflicting restrictions on vessels passing within 200 miles of their coasts. This, it is claimed, would be detrimental to the real interests of the United States, which lie in preserving the custom of innocent passage in the territorial seas and free navigation of the high seas and exclusive economic zones. Article 212 of the Informal Composite Negotiating Text (ICNT) of the Law of the Sea Conference would prohibit unilateral state action along the lines of the Muskie bill. Article 212 requires states desiring pollution protection for their coasts to resort to the international commissions set up to regulate marine commerce. While not specifically mentioned, the organization which currently plays that role is the Intergovernmental Maritime Consultative Organization (IMCO). This provision is designed to replace haphazard unilateral action with consistant and commercially manageable international rules governing the construction, operation and manning of vessels. Any state may, nonetheless, impose more stringent standards on vessels flying its flag. It should be noted that article 235 of the ICNT permits unilateral action to preserve the environment of ice-covered areas. Canada had previously enacted such a provision applicable within 100 miles of its shores in areas above 60° N latitude.

3. *See generally*, Gilmore and Black, Law of Admiralty, at 818-957.
4. J. Comm., Sept. 26, 1977, at 36.

Tanker Safety

A series of proposed tanker safety measures were discussed at a recent meeting of various IMCO committees. The representatives of 36 nations were concerned with the international effects of proposed United States rules on tank vessel construction and operation.

The committees discussed proposals which would require all new tankers to have segregated ballast tanks, thereby minimizing the need for the contamination of seawater by the discharge of dirty ballast water into the ocean. Currently the ballast water, needed to stabilize the tankers while they are steaming empty, is carried in the same tanks used for the carriage of oil. While most tankers now engage in operational practices designed to minimize the oil content of the ballast water when it is pumped into the ocean, segregated tanks would avoid the problem altogether. However, the installation of segregated ballast tanks reduces the carrying capacity of the vessel. It was proposed that the segregated tanks be "distributed defensively" to protect the integrity of the cargo tanks in the event of a collision or grounding. This, it is hoped, will preclude the need for double bottoms. Current United States proposals would require that all tankers of over a specific tonnage carry segregated ballast, and that all new tank vessels of over 20,000 deadweight tons be fitted with double bottoms. Double bottom construction entails a separation of the vessel's hull from the bottom of the cargo tanks. In theory, at least, a rupture of the hull would not cause an immediate spill of the oil from the tank above the rupture.

Other proposals before the IMCO committees include the required installation of gas-inerting systems to reduce the danger of explosions and fires, the promulgation of regulations on tank cleaning using sprays of crude oil rather than water to dislodge accumulated sludge, and a new program of scheduled and unannounced inspection of tankers and other cargo vessels.[5]

Icebergs

Prince Mohamed Al Faisal of Saudi Arabia sponsored a four day conference, held in October 1977, "on the use of icebergs for fresh water". The featured item of the conference, which drew substantial press attention, was a 4000 pound iceberg from Alaska, reportedly of dimensions suitable for storage in the Iowa State University Student Union freezer. Notwithstanding the amusing overtones of the conference, Prince Faisal is serious about the concept. The Prince, who has a background in saline water conversion, believes he can get his iceberg proposal going in three to five years. Iceberg Transportation Co. International Limited, the Prince's firm, has commissioned Cicero, a French engineering company, to study the prospect of towing Antartic icebergs to the Port of Jeddah on the Red Sea.

5. *Id.*, Oct. 25, 1977, at 1.

John Breaux, chairman of the House Oceanography Subcommittee, believes the project may indeed be feasible. He cited a Congressional Research Study indicating that icebergs might be delivered to southern California at a cost of about $30 per acre-foot. This compares with conventional desalinization costs of $100 or more per acre-foot.

On the other hand, Henri Bader, former director of the U.S. Army Cold Region Research and Engineering Laboratory, indicates that there are a number of unresolved problems. These include the unknowns involved with the thermodynamics of the melting of ice while in contact with moving water, the problems of converting a large floating berg into freshwater delivered on land and the problems associated with violent storms.[6]

Deep Sea Mining

Elliot Richardson, United States Ambassador to the United Nations Law of the Sea (LOS) Conference, told the Senate Committees on Energy and Commerce that the Carter Administration would support unilateral legislation establishing a domestic regime for sea bed mining. Such legislation, he said, would be needed whether or not an LOS Treaty is concluded. Mr. Richardson emphasized that mining legislation passed by Congress would be automatically superseded by any treaty ratified by the Senate, at least to the extent to which it conflicted with such a treaty. However, the Administration, he testified, firmly opposes any provision whereby the United States Government would insure the investment in seabed mining against "injury suffered by virtue of entry into force, with respect to the U.S., of an international agreement."[7]

Richardson, in a lecture given at the University of Miami School of Law, stated that the text of the current draft of the LOS treaty, the ICNT, was unacceptable in its provisions for deep sea mining. He indicated that this portion of the draft, which was prepared by Paul Engo of the Cameroon, did not accurately reflect the negotiations that had gone on in that area. The United States will seek, during informal conferences before the March session in Geneva, to establish a negotiating base on which to restructure this section into an acceptable form.

Addressing the prospect that no LOS treaty will be signed, Richardson stated that any mining done under United States unilateral legislation would be deemed an action under the high seas regime and therefore would not be based on a territorial claim to the sea bed. Any nation that has not entered into a reciprocal agreement with the United States would be free to operate in the same area.[8]

6. Ocean Science News, Oct. 17, 1977, at 5.
7. *Id.*, Oct. 10, 1977, at 2.
8. Slip Sheet, Oct. 26, 1977, at 1.

In other Law of the Sea developments, Jens Evensen, the Norwegian who has in the past played a role as a compromiser in the LOS conference, made an apparently unsuccessful attempt to bring together a small number of concerned nations to discuss alternatives to the current ICNT provisions on deep sea mining. There has been some hope that an intersessional meeting might arrive at a satisfactory compromise on this issue, which currently constitutes the major stumbling block to a successful treaty. While Evensen had invited the chairmen of the Second and Third Committees, the chairman of the First Committee, Paul Engo, was not invited. The small number of nations invited apparently stirred up resentment among those not invited. The latest reports indicate that while Evensen's approach is stalled, proposals continue to be made for an intersessional meeting to be held in either January or February, probably in New York City. There is at least a remote possibility that a compromise could be reached in which the Engo draft would be scrapped in favor of a draft to be authored at the proposed intersessional conference.[9]

In a related development, the Interior Department has proposed several amendments to the Deep Ocean Mining Bill (S.2053). These would require the submission of a "work plan" by a consortium when it applies for a license. The plan would include details of the areas to be explored, the mining methods to be used, any development and testing of mining systems to be carried out, the means used to develop environmental safeguard and monitoring systems, plus a complete schedule of planned expenditures. The consortium would have to pay a "reasonable" administrative fee, designed to cover the costs of processing the application and preparing an environmental impact statement for the mining program.

The Interior Department, in a letter to the Senate Commerce and Energy Committees (which are jointly considering S.2053), notes that it has not made any recommendations in the following areas: (1) Whether Commerce or Interior will be the agency to regulate deep sea mining; (2) whether Commerce, Interior or the Environmental Protection Agency will establish environmental mining constraints; (3) whether, or to what extent the vessels involved in operations will be required to be United States flag vessels; (4) whether the bill will require an anti-trust review; (5) what the tax and customs treatment of the minerals will be; (6) whether any changes should be made in the definition of a United States citizen as it appears in the proposed legislation; and, (7) what provisions there should be for the adjudication of terms and conditions imposed in the mining permits and licenses.[10]

9. Ocean Science News, Oct. 31, 1977, at 4, Nov. 7, 1977, at 2.
10. *Id.*, Oct. 17, 1977, at 1.

Oil Leases

The Interior Department notified Northeast coastal states that it intends to offer for sale, leases on 1.17 million acres 50 to 187 miles off Nantucket Island, in January 1978. The Department estimates that the lease area contains approximately .15 to .53 billion barrels of oil and 1.0 to 3.5 trillion cubic feet of gas.[11]

The Bureau of Land Management (BLM) has called for nominations and comments on a proposed offshore oil and gas lease sale tentatively scheduled for November 1979 on 19,767,715 acres of the Blake Plateau off the coasts of North and South Carolina, Georgia and Florida. The sites range from 31 to 185 miles offshore in waters between 155 and 3000 feet deep.

The BLM is also seeking negative nominations (tracts that should be witheld from bidding) from other federal agencies, state and local governments, environmental organizations, educational institutions and the general public.[12]

In another program, the BLM and the United States Geological Survey (USGS) are accepting comments on proposals designed to help states plan for the near-shore and on-shore impacts of outer continental shelf operations. Under the BLM program, the Bureau would provide "affected" states with an index of "all relevant actual or proposed Interior Department programs, plans, reports, environmental statement, lease sale information, and any other similar type of relevant information."

All information available to the public under the Freedom of Information Act will be made available, and other information may be provided if the Bureau is convinced that the data will be held in confidence by the state. The names of the companies would be deleted from data given to the states concerning industry interest in specific tracts.

The USGS would require companies conducting exploratory, development or production operations to submit "all data and information obtained or developed as a result" of these operations. From this information the USGS would, after analysis and interpretation, make the resulting data available in summary form to states and local governments. These summaries would include estimates of oil and gas revenues, the size and timing of development, the location of pipelines and the nature and location of related onshore facilities.[13]

11. J Comm., Oct. 6, 1977, at 32.
12. Coastal Zone Management, Oct. 5, 1977, at 3.
13. *Id.*, Sept. 28, 1977, at 2.

North Sea Oil

Norwegian authorities on October 16, 1977, ordered an indefinite halt in production from the Ekofisk field operated by Phillips, two days after the Norwegians released an official report placing the blame on the April blowout from the Bravo platform on Phillips. The April blowout cost an estimated $75 million in lost production, $2 million in spilled oil and $5.5 million in clean-up costs.

More significantly, the blowout triggered a new round of strict government regulations that will add to the expense of producing oil. Norwegian regulations concerning safety and living conditions of offshore oil workers are expected to cause pressures for similar standards in Great Britain and on the east coast of the United States. It now appears that given cost overruns and new expenses brought on by government rules, and given the current downward revision of estimated North Sea reserves, the net returns from North Sea oil will be smaller than previously anticipated. At the Ekofisk field, for instance, production will only reach 127 million barrels this year, as opposed to a hoped-for 207 million barrels. It is now estimated that peak production on the Norwegian shelf will not be reached until 1984.[14]

The Panama Canal Treaties

The United States of America and the Republic of Panama signed, in Washington, D.C., the new Panama Canal Treaty[15] and the accompanying Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.[15] The treaties were ratified by Panama in a special plebescite held in October of 1977. Ratification by the United States requires the approval of two thirds of the Senate. There is considerable opposition to the treaties within the Senate and amongst the American public.The Senate is not expected to act rapidly.

The first document, the Panama Canal Treaty, deals with the operation of the canal from ratification until noon on December 31, 1999. On that date the Neutrality Treaty would enter into force. Much of the debate within the United States centers over the provisions of this second treaty.

The Panama Canal Treaty acknowledges the sovereignty of the Republic of Panama over the Canal Zone[17] and "grants to the United States of America, for the duration of this Treaty, the rights necessary to regulate the transit of ships through the Panama Canal, and to manage, operate,

14. Barrons, Oct. 17, 1977, at 9.

15. Panama Canal Treaty, Sept. 7, 1977, United States-Panama.

16. Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, Sept. 7, 1977, United States-Panama.

17. Panama Canal Treaty, Sept. 7, 1977, United States-Panama, art. I, § 2.

maintain, improve, and protect and defend the Canal."[18] The Unites States is given overall rights of operation of the Canal through a United States Government agency to be called The Panama Canal Commission,[19] which shall replace the Panama Canal Company and the Canal Zone Government.[20] Although the Commission is to be a United States agency in name, until December 31, 1989 a Panamanian national is to be appointed to the position of Deputy Administrator. Thereafter a Panamanian national shall be the Administrator while an American shall be Deputy Administrator.[21] This Commission shall operate the canal and ancillary works, but shall have no authority to provide other commercial services of the sort now provided by the Panama Canal Company. These prohibited activities include, *inter alia,* wholesale and retail food sales, operation of movie theatres and recreation areas, laundry services, private auto repairs, sales of petroleum, lubricants and water to vessels transiting the canal, provision of public marine transportation, the operation of schools, post offices, commercial pier and dock services, and generally any commercial activity not strictly related to the management, operation or maintenance of the canal.[22].

On the other hand, the Commission is given the authority to provide noncommercial transportation on canal waters, meteorological and hydrographic services, industrial security services, telecommunications, non-commercial vessel repair, sanitation and health services, electric power, water purification and marine salvage services.[23] The Republic of Panama will provide police services, fire protection, street maintenance, street lighting, street cleaning, traffic management and garbage collection, and shall be reimbursed by the Panama Canal Commission in the sum of $10,000,000 per year. This payment shall be re-examined every three years and adjusted for rising costs and inflation.[24] Panama will also take over general governmental functions such as customs services, postal services, courts and licensing.[25]

There shall also be established a Panama Canal Consultative Committee, composed of an equal number of high level representatives of both states, whose function shall be to advise on general policy matters, including tolls, employment practices, the training of Panamanian nationals, as well as on international policy questions.

The United States is charged with a primary defense responsiblity, but the two nations shall co-ordinate their military efforts through a Combined

18. *Id.*, art. I, § 2.
19. *Id.*, art. III, § 3.
20. *Id.*, art. III, § 10.
21. *Id.*, art. III, § 3(c).
22. *Id.*, Annex.
23. *Id.*
24. *Id.*, art. III, § 5.
25. *Id.*, art. III, § 6.

Board with equal representation by senior military officials. The United States pledges not to maintain a peacetime force in Panama any larger than that in the Canal Zone immediately prior to the entry into force of this treaty.[26]

All the United States nationals in Panama shall abstain from any political activity or intervention in the internal affairs of Panama.[27] The entire canal area shall be under the Panamanian flag, which shall always occupy the position of honor. The United States flag may be flown at various installations, but always alongside the flag of Panama.

The United States may appoint up to 20 officials to the Panama Canal Commission who shall enjoy diplomatic immunity. In addition, agencies and instrumentalities of the United States operating pursuant to the treaty shall be immune from Panamanian jurisdiction, and their official archives and documents shall be inviolable.[29] Otherwise, the laws of Panama shall apply, except that a 30 month transition period will be provided to allow businesses and persons to conform to Panamanian licensing procedures. During this period, the criminal and civil laws of the United States shall apply concurrently with those of Panama in the areas made available for the use of the United States. For the transition period the United States shall retain police authority in its areas and installations, and shall have the primary right to exercise criminal jurisdiction but may not exercise jurisdiction over new civil suits, although they may dispose of any pending actions.[30]

The United States has agreed to reduce the number of United States nationals employed on the Panama Canal by 20 percent by the end of five years, and to rotate United States citizens hired after the treaty enters into force in and out of Panama in no more than five years. These provisions are clearly aimed at reducing the population of "Zonians" in Panama. The United States also agreed to prefer Panamanian applicants over Americans with equivalent skills, and to undertake a training program for the benefit of Panamanians in order to qualify them for positions with the Canal Commission.[31]

The two parties commit themselves to study the feasibility of a sea level canal, and the United States agrees that it will not negotiate to build any new inter-ocean canal in third states unless Panama gives its assent. Panama grants to the United States the right to add a third lane of locks to the

26. *Id.*, art. IV.
27. *Id.*, art. V.
28. *Id.*, art. VII.
29. *Id.*, art. VIII.
30. *Id.*, art. XI.
31. *Id.*, art. X.

Canal, reserving a veto over the use of nuclear excavation in construction of this lane. The parties also agree to respect the natural environment and to form a Joint Commission on the Environment which shall recommend ways to avoid or mitigate adverse impact resulting from Panama Canal operations.[32]

The United States agrees to transfer to Panama without charge, all real property and improvements not within the land and water areas made available for United States use, with certain exceptions. The United States also agrees to pay Panama $0.30 per Panama Canal net ton of the tolls collected, plus an inflation adjustment, a fixed annuity of $10 million per year out of operating revenues and up to $10 million per year out of the profits of the Panama Canal Commission. It is estimated that the total payments will amount to some $80 million annually. The United States now pays $2.6 million per year for use of the canal. It is likely that ratification of this treaty will result in higher canal tolls to pay for these higher use fees.[33]

The second document, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, is to take effect upon the expiration of the Panama Canal Treaty. The treaty declares that the canal shall be "permanently neutral." This neutrality is tempered by the declaration that warships and auxiliary vessels of the United States and Panama "will be entitled to transit the Canal expeditiously."[34] A recent joint statement by President Carter and President Hector Torrijos indicated that under this provision, American warships would be entitled to go to the head of the line and be given priority in transiting the canal.

Generally, the canal shall be open to vessels "of all nations on terms of entire equality," and warships may transit without being subject to inspection, search or surveillance other than that necessary for admeasurement and ensuring the satisfaction of reasonable health, safety and navigational standards.[35]

Fisheries Developments

Under the authority of the Fisheries Conservation and Management Act,[36] the National Marine Fisheries Service has announced the 1978 schedule of fees to be charged foreign flag fishermen working in the United States exclusive fisheries management zone. The fee schedule, which will change little from 1977, will be based on the product of 3.5 percent of the 1976 United States ex-vessel price of the fish times the quantity allocated to

32. *Id.*, Art. VI.

33. J. Comm., Sept. 12, 1977, at 36.

34. Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, Sept. 7, 1977, United States-Panama, art. VI.

35. *Id.*, art. II, art. III, § 1(c), Annex A (G).

36. 18 U.S.C. §§ 1801-1882.

each nation. The United States also imposes a fixed annual fee of $1.00 per gross registered ton (GRT) for each fishing vessel; a fee of $0.50 per GRT up to a maximum of $2500 for support vessels which process fish; and a flat fee of $200 for each additional support vessel.[37]

It is also reported that the regional fisheries councils set up to regulate foreign fishing under the Fisheries Conservation and Management Act will reduce foreign fish quotas by a total of 93,000 metric tons. This represents a 5 per cent reduction from the 1977 levels. Major cuts will take place in quotas for Atlantic herring, reduced from 22,000 tons to 3000 tons, and red and silver hake, reduced from 120,000 tons to 73,000 tons. It is also reported that the allowed foreign take of mackeral will be halved.[38]

The United States does not appear to be shifting its position on the current import embargo on certain yellowfin tuna caught with purse seines. The embargo was recently extended until the end of 1977 on all yellowfin tuna taken by vessels using purse seines in the eastern tropical Pacific Ocean. Four nations have complied with United States standards and are exempt from the embargo: Canada, Mexico, Ecuador and the Netherlands Antilles. Panama, Costa Rica, and Nigeria have indicated their intent to comply. The other nations affected, Bermuda, Peru, Senegal, Spain and Venezuela have not yet indicated to the National Marine Fisheries Service what position they intend to take regarding compliance.[39]

Mexico and Costa Rica are making an attempt to negotiate a new tuna convention which would provide preferences in allocations of tuna based on the amounts historically caught within 200 miles of each coastal state. Specifically, the Mexicans requested that the Inter-American Tropical Tuna Commission increase their allocation from 13,000 to 25,000 tons. Costa Rica sought an increase of from 6,000 to 25,000 tons. The two nations also formally announced their intentions to withdraw from the Commission, but no official notifications have yet been received in Washington. These new demands would cut into the current United States catch of tuna. However, it is not clear whether the withdrawal announcement was made as a bargaining ploy or whether the two nations intend to regulate unilaterally the yellowfin tuna fishery off their coasts.

It appears likely that the National Marine Fisheries Services amendments to the 1978-1980 porpoise regulations will be accepted. The proposed regulations, first published in the Federal Register on July 20, 1977, call for sharp limits on the number of porpoises that can be killed by the tuna industry incidental to their tuna catch in the eastern tropical Pacific Ocean. The porpoise kills would be limited to 51,940 in 1978, 41,610 in 1979, and

37. 42 F. R. 54588, 1977.
38. J. Comm., Sept. 20, 1977, at 1.
39. 42 F.R. 54294, 1977.

31,150 in 1980. Although the tuna industry is extremely unhappy with these figures, the United States Tuna Foundation will finally turn over the dedicated research vessel it had promised the National Oceanographic and Atmospheric Administration under a $1.6 million dollar program to further develop and advance porpoise release techniques.[40]

In other Pacific Ocean developments, the ten nation South Pacific Forum has announced their intention to set up a 200 mile fishing and economic zone effective March 31, 1978. The member nations include New Zealand, Australia, Fiji, Papua New Guinea, Cook Islands, Tonga, Nauru, Nuie, Western Samoa and the Gilbert Islands. This 200 mile zone would close large areas of the Southern Pacific Ocean to foreign fleets, although it is questionable whether the smaller states would be able to police their zones adequately.

The South Pacific Forum has also decided to allow nonmember nations the right to participate in a proposed regional fisheries agency. United States dominion over American Samoa might lead to American participation. There is, however, at least one obstacle to United States participation. Current American fisheries laws do not recognise the right of individual nations to subject highly migratory species such as tuna to a 200 mile fisheries regime. The Forum, on the other hand, does intend to regulate tuna fishing.

New Zealand has also announced its intention of concluding a reciprocal agreement with Japan whereby New Zealand beef would be guaranteed access to the Japanese market in return for Japanese fishing rights in New Zealand's exclusive fisheries zone. Papua New Guinea is reportedly seeking a similar arrangement for its mineral and wood products.[41]

40. Ocean Science News, Nov. 7, 1977, at 2-3.
41. J. Comm., Sept. 12, 1977, at 7.