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V. Nageswara Rao

G. A. Messick

B. P. Kuehne

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THE OCEANS

V. NAGESWARA RAO*
GUY A. MESSICK)**
BENEDICT P. KUEHNE)

LAW OF THE SEA CONFERENCE

As the nations of the world prepare for the next Law of the Sea Conference scheduled for March, 1976 in New York, the following significant developments are noted.

United States

(1) In a speech to the American Bar Association Convention in Montreal, August 1975, the U.S. Secretary of State stressed the importance the United States places on the forthcoming Law of the Sea Conference. Dr. Kissinger perceived three major issues. The first is the extent of the territorial sea and the related issue of guaranteed free passage through straits. The Secretary recognized an approaching consensus on a 12-mile territorial sea and said the United States is prepared to accept this formula so long as free passage through straits is guaranteed. The requirement of free passage has been a consistent and unnegotiable position of the United States throughout the negotiations.

The second major issue perceived by the Secretary is the degree of control that a coastal state can exercise in an offshore economic zone beyond its territorial sea. The United States supports a 200-mile economic zone concept as long as the zone remains high seas for all non-economic purposes. Dr. Kissinger noted that thirty percent of the oceans would be under state control if full sovereignty over 200 miles were asserted by all coastal states. In the situation where the continental margin exceeds 200 miles, the Secretary would seek coastal state jurisdiction over the re-

*Reader in Law, Osmania University, India; currently Research Scholar, Nehru University, New Delhi; Fulbright Scholar, School of Law, University of Miami.

**J. D. Candidates, University of Miami.

sources to a precisely defined limit and require the coastal state to share a percentage of the financial benefits with the international community.

In an indirect plea to the Congress, Dr. Kissinger pointed out that unilateral action by Congress to extend exclusive fisheries jurisdiction to 200 miles would be very harmful to the U.S. negotiating position as well as probably initiating unilateral claims by other countries. The U.S. negotiating position would be harmed in two ways. First, the U.S. would have lost its major bargaining "carrot". The U.S. views free passage in straits as critical and is willing to agree to a 200-mile economic zone as a solution to the problems which are cited by other countries to justify their 200-mile territorial sea claims. If the Congress undercuts the Administration and unilaterally invokes a 200-mile economic zone, the Administration has lost a major ingredient in its "package deal".

Secondly, the U.S. negotiating position would be harmed by bringing into question U.S. credibility. The United States has long denounced unilateral claims of such magnitude as contrary to international law, and has consistently argued that only a widely accepted international agreement of a uniform set of standards can give these far-reaching claims legitimacy under international law.

Dr. Kissinger quoted Canadian Prime Minister Pierre Trudeau as sharing the present attitude of the U.S. Administration. Mr. Trudeau said:

Canadians at large should realize that we have very large stakes indeed in the Law of the Sea Conference and we would be fools to give up those stakes by action that would be purely a temporary, paper success.

The Secretary sees unilateral action as a measure of last resort.

The remaining major issue, Dr. Kissinger noted, concerns the international system for the exploitation of the deep seabeds. Modern technology is beginning to have the capability to exploit the resources of the deep seabeds. The Secretary indicated the United States will not accept a new international seabed commission which has sole rights to exploit the seabeds, nor does it desire a race to carve out exclusive domains.

Dr. Kissinger offered a proposal for an international system for the exploitation of the deep seabeds. The proposal envisions an international organization which would set rules for deep seabed mining but would not have the power to control price or production rates. Individual rights

to exploit the deep seabeds would be guaranteed as would fair and impartial adjudication of conflicting interests and security of investments. Countries and their enterprises mining deep seabed resources would pay an agreed portion of their revenues to the international organization, to be used for the benefit of developing countries. The management of the organization and its voting procedures would be weighed to reflect the level of contribution of the participating states. A balanced commission of consumers, seabed producers, and land-based producers would monitor the possible adverse effects of deep seabed mining on the economies of those developing countries which are substantially dependent on the export of minerals also produced from the deep seabeds. The United States is prepared to explore ways of sharing deep seabed technology with other nations and sees the organization as a vehicle for cooperation.

Dr. Kissinger expressed the hope that international agreement would come about before the United States undertook exploitation projects but warned it cannot "indefinitely sacrifice its own interest in developing an assured supply of critical resources to an indefinitely prolonged negotiation." The responsibility for prompt agreement, he noted, is on all nations.

The Secretary stated four other issues found to be important to the U.S. These issues are:

— Ways must be found to encourage marine scientific research for the benefit of all mankind while safeguarding the legitimate interests of coastal states in their economic zones.

— Steps must be taken to protect the oceans from pollution. Uniform international controls on pollution from ships must be established and universal respect for environmental standards for continental shelf and deep seabed exploitation must prevail.

— Access to the sea for landlocked countries must be assured.

— There must be provisions for compulsory and impartial third-party settlement of disputes. The United States cannot accept unilateral interpretation of a treaty of such scope by individual states or by an international seabed organization.

(2) Two bills have been introduced simultaneously in the Senate and the House of Representatives, seeking to extend the offshore fishery jurisdiction of the United States to a limit of 200 nautical miles. Both bills were motivated by a deep concern for protecting the fishery resources off the U.S. coast from predatory fishing by modern foreign fishing

vessels. Thus, while the bill introduced in the House of Representatives (H.R. 200 — “Maritime Fisheries Conservation Act” of 1975) stated that “stocks of fish which United States fishermen depend upon have been the target of concentrated foreign fishing which has increased dramatically during the past decade,” the Senate bill (S. 961 — “Fisheries Management and Conservation Act”) spoke of “increased fishing pressure” and consequent overfishing and depletion. The bills have substantially similar objectives and seek to establish a 200-mile fishery conservation and management zone extending from the outer limits of the territorial sea but measured from the base-lines from which the breadth of the territorial sea was measured. The provisions of both bills apply to all species of fish except the “highly migratory species,” the management of which shall be done in accordance with international fisheries agreements entered into for that purpose. In the case of anadromous fish, however, both bills provide for exclusive U.S. management of those fish throughout their migratory range from fresh and estuarine waters of the U.S. to the high seas. The bills also include the continental shelf fishery resources within the fishery management plan.

However, S. 961 and H.R. 200 differ in certain respects.

(a) Termination:

S. 961 clearly states that its provisions “shall expire and cease to be of any legal effect” on the entering into force of any law of the sea treaty to which the U.S.A. is a party or such other “comprehensive” treaty (Sec. 104). Thus, S. 961 is in fact what it says it is — an emergency interim measure. Though H.R. 200 also declares that it is of interim nature, it does not contain any automatic expiration clause in the event of a multilateral treaty coming into effect. On the other hand, the bill envisages its own continuance. H.R. 200 merely provides that the Secretary of Commerce, in consultation with the Secretary of State “*may promulgate . . . such changes, if any, in the regulations issued pursuant to this Act as may be necessary or desirable to conform such regulations with the provisions of such Convention . . .*” (Sec. 205, emphasis added).

(b) “Highly Migratory Species”:

While both the Senate and House bills contain similar provisions regarding international management of these species and exempt them from U.S. fishery management, they differ in their definition of these species. Sec. 3(15) of S. 961 defines “highly migratory species” as meaning “species of tuna,” but Sec. 3(13) of H.R. 200 is more expansive and

means "any species of fish" of migratory character "including, but not limited to, tuna; but excluding halibut, sablefish and herring."

(c) Fishery Rights of Foreign States:

S. 961 appears to be more restrictive than H.R. 200 in regard to the conditions under which foreign fishing is allowed within the U.S. fishery zone. Sec. 102(a) of S.961 confers discretionary power on the Secretary of Commerce in deciding whether or not to allow foreign fishing. The same Section also restricts foreign fishing within the zone only to anadromous and continental shelf fisheries. Even otherwise, foreign fishing is to be allowed only to the extent that the U.S. cannot or will not harvest the optimum sustainable yield. In determining the allowable catch for foreign fishing, consideration shall be had whether and to what extent the vessels of such nations have traditionally fished in the zone. Also S. 961 insists on a strict principle of reciprocity in allowing fishing by "any" nation (obviously including even a traditionally fishing nation.) The bill would not allow a foreign nation to fish within the U.S. fishery zone unless such nation extends substantially the same fishing privileges to the vessels of U.S.A. in that nation's fishery zones.

Sec. 201 of H.R. 200, however, appears to be more liberal than S. 961 in that the former allows foreign fishing for all species of fish subject to fishery management. The bill does not provide for any negotiated agreement with foreign States regarding fishing in the zone but requires permits to be issued to foreign nations seeking to fish in the zone. Such a foreign nation is required to file an application giving details, *inter alia*, of the nature and capacity of the vessel, its gear and processing equipment, species and tonnage of fish to be caught and the area and period in which fishing will be conducted, etc. The permits may be issued "after taking into account," *inter alia*, any "traditional or historical patterns of fishing" by the applicant State regarding the species of fish mentioned in the application. However, an application for fishing by a foreign nation, tentatively approved by the Secretary of Commerce, together with the Statement of Conditions and Restrictions, is deemed to be an international fisheries agreement within the meaning of Sec. 206 which requires Congressional approval.

(d) Non-Recognition

S. 961 contains a provision for non-recognition of a claim by a foreign nation to a fishery conservation zone beyond 12 miles off its coast, if such a nation does not recognize the traditional fishing activity

of the U.S. vessels in such a zone. Such non-recognition also applies in case a foreign nation fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such a nation is a party to any such agreement.

H.R. 200 does not contain a similar provision regarding "non-recognition" but contains a provision for "import prohibition." Thus, H.R. 200 prohibits import of all seafood products from any country which violates an existing fisheries agreement or refuses to commence negotiations or fails to negotiate in good faith an agreement granting access, on equitable terms, to U.S. fishing vessels engaged in fishing off such a nation's coast.

(e) Fishery Management Mechanics

S. 961 provides for the establishment of seven Regional Fishery Management Councils which prepare plans for fishery management in their respective regions. There is also provision for the constitution of a Fishery Management Review Board to hear appeals from the decisions of the Secretary of Commerce.

H.R. 200 seeks to set up seven similar regional management councils.

Mexico

President Echeverría of Mexico told the General Assembly of the United Nations that Mexico had decided to establish "an exclusive zone" to a distance of 200 miles from its coasts. In the course of a major policy speech, the Mexican President said that this claim implied an affirmation of Mexican sovereignty over the "resources" of the Gulf of California. He also stated that the claim to 200-mile "exclusive" zone did not affect navigation, overflight or the laying of cables in the area.

Iceland

Iceland has extended its "fishery limits" to a distance of 200 nautical miles from the base-lines from which its territorial sea is measured. A Press Release in mid-summer 1975, issued by the Ministry for Foreign Affairs indicated that this extension was in furtherance of the policy established by Law No. 44 of 5 April 1948, according to which all fisheries in the continental shelf area in Iceland, should be subject to Iceland's control. The release pointed out that the 1948 law "has been implemented gradually in view of the progressive development of inter-

national law." It also recalled that "the Icelandic fishery limits were extended to four miles in 1950/52, to 12 miles in 1958/61, to 50 miles in 1972 and to 200 miles on July 15, 1975. The Press release also stated that "the fish stocks in Iceland area can no longer sustain the effort resulting from fishing by foreign nationals and the Icelandic fishing fleet is capable of fully utilizing the fish stocks under scientific management." It is said, however, that Iceland would hold discussions "with other States concerning the establishment of median lines and the application of the new rules, *inter alia* with regard to reciprocal rights."

Answering criticism that the Government of Iceland should have waited for the completion of the work of the Conference on the Law of the Sea and that, by acting as it did in extending the fishery limits Iceland had made the work of the Conference "more difficult," the Foreign Minister of Iceland told the General Assembly of the United Nations on September 29, 1975 that "on the contrary, by adhering strictly to the principles overwhelmingly supported by the Conference, my Government has emphasized its respect for the Conference and it is our conviction that our action, as well as any similar action from other States, rather than hinder the work of the Conference, will promote its success in the near future." (Press Release of 15 October 1975 entitled "The Fishery Limits off Iceland: 200 Nautical Miles" issued by the Permanent Mission of Iceland to the United Nations, p.5)

OIL POLLUTION AND SPILLS

Oil pollution of the oceans continues to present a critical problem to the nations of the world. A study by the Office of Technology Assessment for the U.S. Senate Commerce Committee documents the magnitude of the problem. The August, 1975 study found that the world's tanker fleet dump about one million tons of oil a year into the oceans through normal tanker operations, like washing oil out of the ship's cargo tanks and shifting the ballast at sea. The study went on to say that tankers spill an additional 200,000 tons of oil every year from accidents, such as groundings and collisions. Another 250,000 tons of oil leak into coastal waters when the tankers are drydocked, then wash out with the tides into the sea. The United Nations has recognized the problem and has supported a multinational effort called Integrated Global Ocean Station System, which will endeavor to find out how much oil pollutes the ocean and identify its source. The U.S. National Oceanic and Atmospheric Administration (NOAA) is the first to initiate action on the project. NOAA

has directed its twenty-five ships to monitor and sample oil slicks and to identify the sources of pollution. The NOAA fleet will cover parts of the Atlantic and Pacific oceans, the Gulf of Mexico and the Bering Sea. NOAA has also contracted with the Exxon Corporation to have the Exxon tanker fleet do the same thing along tanker routes from the Persian Gulf to the United States and Japan, and from the North Sea and the Norwegian Sea to the oil-importing countries of Western Europe.

One might ask, once the data is collected, what means are available to reduce oil pollution. The reader is recommended an article by Lucius C. Caffish in 4 *Annals of International Studies* 213-236, 1973, *Institut Universitaire de Hautes Etudes Internationales*, Geneva. A bit off the subject but also of note, the volume contains a fine discussion of Latin America's role in the development of the law of the sea by Ralph Zacklin (*id.*, 31-54.)

A United States District Court has ruled that Coast Guard negligence caused a 100,000 gallon spill of heavy oil in Hussey Sound just outside the Portland, Maine harbor. The spill occurred on July 22, 1972, when the hull of the Norwegian tanker *Tamaro* was ripped by a submerged ledge in the sound. The buoys maintained by the Coast Guard, and which the *Tamaro* used for navigation in darkness and low tide, were off their charted positions as much as 215 feet. The court found that, but for the negligent maintenance of the buoys, the *Tamaro* would not have hit the ledge, and held the U. S. liable for the resulting damages. The *Tamaro's* owners, the Wilhelmsen Lines of Oslo, sustained damages of \$3.5 million in law suits and \$500,000 expenses for repairs. It is likely the owners will recover all or a substantial amount of the \$4 million in damages. The judge has given the parties sixty days in which to reach a settlement. If no agreement is reached, an amount will be determined by the court after a hearing.

The Coast Guard has identified the vessel it believes dumped 40,000 gallons of oil off the Florida Keys in July, 1975. After a four-month search, the tanker was identified as the 42,000 ton Liberian bulker *Garbis*. During the investigation, the Coast Guard inspected the logs of 247 vessels, taking oil samples from the bilges and tanks of most of them and gathering additional samples from the oil spill. It said that resulting tests matched two samples taken from the *Garbis* with three samples taken from the ocean. The *Garbis* became a prime suspect when the Coast Guard learned the vessel made a stop in Miami to purchase a solvent of the type used to clean tanks and lines before travelling to

New Orleans. Although the *Garbis* is a bulker, the Coast Guard believes the quantity of oil indicates the *Garbis* was carrying oil when the incident occurred, approximately ten or twelve miles offshore.

The Coast Guard delayed announcement of its findings until it was sure the *Garbis* was back in U.S. jurisdiction. When the *Garbis* docked in Philadelphia on November 7, 1975, federal marshalls arrested the master who now faces criminal charges for failure to report the discharge, whether accidental or not. He faces a maximum penalty of \$10,000 and up to one year imprisonment. The ship's owner, the Garbis Maritime Corporation of London, has been cited in a civil action and faces a maximum penalty of \$5,000 plus \$367,430 to cover expenses of the six week long shoreline cleanup. This is an important case for the Coast Guard. If their matching techniques are upheld by the court as convincing evidence, enforcement of the U. S. pollution laws will be much easier. Before these matching techniques were used, the Coast Guard had to meet the near impossible burden of having a witness at each violation.

Chilean maritime authorities have revealed that in September, 1975 the Liberian merchant ship *Northern Breeze* ran aground off Quintero, Chile. The impact ruptured both the compartments which were carrying oil and the barrels containing the ship's fuel. The oil spill caused serious contamination of the surrounding area. The negligent navigation by the captain and two pilots was found to be the cause of the spill; they were fined approximately \$9,000.

U.S. OFFSHORE OIL DEVELOPMENT

As energy development continues to be an increasingly valuable commodity, the push for exploration of offshore coastal and continental shelf oil reserves grows stronger. It is unclear which of the competing forces, the energy movement or the environmental concerns, will have the controlling voice in the conflict. The Ford Administration, however, has recently decided to move ahead with the sale of more than a million acres in oil leases off the California coast.

Present guidelines controlling offshore leasing policies are found in the Outer Continental Shelf Lands Act of 1953. The Act has remained virtually unchanged in twenty-two years, leading to what some opponents say are conditions favoring the oil industry above all other concerns, since the initial legislation was principally drafted by the oil companies.

A bill (S.521) which attempts to correct some of the inequities has just recently passed the Senate and is on its way to the House of Representatives.

The White House stance is certain to create controversy between the Federal Government and the States. The California State Coastal Zone Conservation Commission has announced plans to keep a tight rein on future offshore oil development. Generally, the states have jurisdictional authority over the coastal area as defined by the Submerged Lands Act, while the Federal waters extend beyond those limits. California has been attempting a unified approach to offshore development, and currently sees the traditional piecemeal approach as wholly inadequate to meet the state's environmental and ecological needs. It is anticipated that should the Federal government, through the Department of the Interior, go ahead with its proposed oil lease sales, various state agencies (particularly in California) will commence litigation for the purpose of delaying the sale until many heretofore unresolved environmental and economic questions are given further study. California hopes to be able to work with the Federal government in order to formulate policies to protect the coastal area of the state. It is the contention of the coastal states that the Department of the Interior's Bureau of Land Management has failed to consider adequately the environmental impact of offshore development, and that the Department has failed to make its development plans consistent with state programs for protection of the coastal zone. And, in the East Coast of the United States nine oil companies have asked the Department of the Interior to lease 4.4 million acres for oil exploration off the Florida, Georgia, and South Carolina coasts. The proposed lease sale is part of a program to accelerate exploration of the "virgin" areas of the United States' outer continental shelf. These areas are deemed to be the principal hope for discovering large new reserves of domestic oil and gas. Early in 1976, after a series of public hearings and environmental impact statements, Secretary of the Interior Thomas Kleppe will decide whether to hold the sale.

All is not well on the offshore oil development, however. Gulf Oil Corporation recently announced the end of a series of unsuccessful oil hunts in the Gulf of Mexico off the coast of Florida. More than thirty oil companies paid the Federal government \$1.49 billion in 1973 for leasing and drilling rights on more than 500,000 acres in the Gulf off the coast of Mississippi, Alabama, and Florida. Gulf's failure to find any commercial quantities of oil and gas was the fifteenth consecutive dry

hole drilled off the Florida coast in sixteen months, constituting what the industry refers to as the worst disappointment in twenty years of Federal leasing in the Gulf.

COASTAL REGULATION

An increasingly important concern to the coastal states is that of protecting their shorelines and coastal areas in order to preserve their resources and beauty. Haphazard, destructive, and unsightly development along the coast, coupled with what some consider blatant disregard for the coast by the construction of hazardous installations on the continental shelf, have led some states, most notably California, to implement extensive coastal regulations.

In what may become a model for future planning, California is pioneering an experiment involving massive control of future development in a zone five miles wide along the entire state coastline. The objective of this plan is to preserve the coast in its present condition and to improve it as a prime state and national resource. Federal government officials say it is the most comprehensive program yet to emerge from the welter of planning by coastal states.

In attempting to recapture some of its authority over coastal land use, California's focus is on the concentration of development in developed areas, preservation of agricultural land and wetlands, and prohibition of development likely to harm the coastal zone. It is the type of decisive action that many coastal states and nations feel is necessary in order to adequately enhance and protect valuable resources.

MERCHANT SHIPPING

In its first year of operation, the Puerto Rican government is calling its shipping monopoly a success. Puerto Rico Maritime Shipping Authority (PRMSA), the agency created to run the government line, petitioned the Federal Maritime Commission (FMC) for a 15% rate increase, citing the general inflationary spiral. The FMC approved the increase, effective September 21, 1975. The acquisition and consolidation of the three major private lines is still stirring up controversy within the island community. While some see this acquisition as the first in a series of encroachments on private enterprise, which will undermine investor confidence in Puerto

Rico, advocates of the move cite figures of greater efficiency and practicality in the island's transportation lifeline. Projected savings for the period ending September 1976 could reach \$36 million.

Nearby, Cuba is rapidly expanding her merchant marine in order to gain greater independence from foreign companies. In the years since Castro came to power, its merchant fleet has increased nine-fold. In 1975 the fleet is expected to reach 670,000 tons, making it the fourth largest in Latin America. This projection does not include the fishing fleet, which has increased seven-fold since 1959. Official sources plan for a doubling of the merchant marine capacity by 1980. Orders for thirty-five new ships have already been placed with two countries; Japan recently built Cuba's largest ship, a 27,000 ton bulk carrier. Dependence on foreign shipping will be lessened further by Cuban membership in the new multinational Caribbean Shipping Corporation (NAMUCAR).

The final administrative step to place NAMUCAR in operation was taken in San Jose, Costa Rica the first week of December, 1975. Mexico, Cuba, Costa Rica, Venezuela, Nicaragua and Jamaica paid up full memberships; Colombia and Panama are expected to do so in the immediate future. The present timetable calls for NAMUCAR to become operational in the first quarter, 1976.

FISHERIES

The struggle over protection of marine mammals continues to grow. The U.S. Marine Mammals Protection Act, passed in 1972, is getting its first test. According to the National Marine Fisheries Service (NMFS), criminal charges have been filed against two men who allegedly captured twenty-one dolphins in Bahamian waters and sold them for a profit to European and Canadian tourist attractions. Investigators claim that the catch included a nursing female and infant. While the Act is getting its first major legal test, progress within the tuna industry to minimize the slaughter of porpoise has been slow. The drowning of more than 100,000 porpoises a year is incidental to the taking of an important food-fish, the yellow-fin tuna. The NMFS has promulgated its regulations for the 1976 tuna season, which promises a 30% reduction in porpoise mortalities over 1975 (presently estimated at 130,000). Alternate proposals, including absolute quotas and ceilings and 100% observer programs, which were strongly opposed by the tuna industry, will not be established.

The National Whale Symposium, held during the summer, discussed various topics concerning whales. There is growing grass-roots concern in the United States over the slaughter of countless whales by the Soviets and Japanese. Talks among the concerned nations have brought no firm response from the whale-killers. Meanwhile, the Soviet Union has drawn the ire of Peru, which is closely watching the activities of a Soviet whaling factory off the Peruvian coast.

RESEARCH AND DEVELOPMENT

Cayman Trough to be Explored

The U.S. Navy, the National Science Foundation, and the National Oceanic and Atmosphere Administration are funding a large-scale exploration of the Cayman Trough in the northwestern Caribbean Sea. Scientists hope to find evidence concerning the theory that the Cayman Trough marks the boundary between the North American Geologic Plate and the Caribbean Geologic Plate.

The project is to be carried out in three steps. In November, 1975, the Navy survey ship *Wyman* was scheduled to begin high precision mapping of the Trough from the surface.

The plan next calls for three Woods Hole Oceanographic Research Ships to begin exploration in the early part of 1976. These ships include the *Alvin*, a deep diving submersible. The *Alvin* is to carry a pilot and two scientists into the Trough in order to map it in more detail and to collect rock samples. The *Alvin's* dives, which will last from seven to nine hours each, are projected for three two-week periods.

The technology of the mapping will be highly sophisticated. The surface sonar system to be used continuously records ninety simultaneous echo soundings across a band of sea floor that, at typical operating depths, is two miles wide. The sonar system will be coordinated with a navigation system to adjust the soundings for wave action. This adjustment for the pitch and roll of the ship will result in a much more precise map of the Trough. In addition, the *Alvin's* position will be charted by an automatic logging system relative to a network of electronic buoys placed on the sea floor.

The *Alvin* is self-propelled but has a limited range of a few miles and can only descend 12,000 feet of the Trough's 22,000 feet. The researchers hope the Navy's bathyscaphe *Trieste* will join the project as the third step.

The *Trieste* has the capability of reaching the bottom of the Trough, yet its maneuverability is limited. This is one reason why the mapping must be as precise as possible.

Other projects scheduled for the *Trieste* in the near future are a dive into the Middle American Trench, off the west coast of Mexico; exploration of the Blake Plateau off Florida and the nearby sea floor; and the exploration of the Puerto Rico Trench.

Research Improves Fish Production

Global research has given preliminary indications of greater quantities of fish production and yield through various means of scientific development. In wide-ranging experiments, an annual yield of more than nine tons of fish per acre has been achieved in experimental ponds. And, up to 6,000 tons of salmon can be derived from one acre of hatchery by releasing them to the sea, and later recapturing the fish. Concern about general world food problems has led many research teams to look toward the ocean for more and more sources of protein and nutrient supply. A research group at the University of Wisconsin has used chemicals to lead salmon back to a desired location. It has been found that early in development, some fish, especially salmon and chinook, learn the smell of their native river. Having been thus affected, in later life they can pick up at sea the scent of the stream of their birth and return there in order to spawn. Experiments have succeeded in exposing fish with no previous odor-experience to a chemical odor, and through the use of such substances to enhance their return. The experiments have been very successful in increasing recovery of the fish. Scientists have formulated methods to decrease the maturing time of certain fish species, thus accelerating their production. It is anticipated that if research in this field continues to be as successful as in the past, it will be possible to double the world yield of certain kinds of fish.

Underwater Medical Conference

The Second International Physician's Underwater Medicine Program is scheduled to be held January 10-18, 1976 in Curaçao and Bonaire in the Netherlands Antilles. Recognizing the need for greater medical awareness of the problems connected with underwater diving, interested physicians are to attend a series of lectures on advanced diving physiology and medicine.

OCEAN LAW CENTER

A Center for Oceans Law and Policy has been created at the University of Virginia to develop a range of teaching, research, and conference programs focusing on the formulation of national and international policy for the oceans. Its Director, John Norton Moore, is presently Deputy Special Representative of the President for the Third United Nations Conference on the Law of the Sea and Chairman of the National Security Council Interagency Task Force on the Law of the Sea, on leave from the faculty of the University of Virginia School of Law. He expects to continue on a full-time basis with the Department of State until the conclusion of the current negotiations. The Center is being funded by an initial grant from the Henry L. and Grace Doherty Charitable Foundation, Inc., of New York City. Arrangements are under way for the Center to be permanently endowed and to occupy office and research facilities in a new addition to the present Law School building. The Center began preliminary operations on July 1, 1975. Opening ceremonies were held on November 22 in connection with the first meeting of the Center's twenty-nine member Advisory Board.

EDITOR'S NOTE (1): The following comment on the Law of the Sea Conference (New York, March, 1976) was received after the report on The Oceans had been prepared. It was submitted by The Honorable Thomas A. Clingan, formerly Deputy Assistant Secretary of State for Ocean Affairs, who has resumed his teaching duties at the University of Miami School of Law.

As the third substantive session of the United Nations Law of the Sea Conference approaches, the nations involved are conducting a serious and thorough evaluation of the main work product of the Geneva session held in the Spring, 1975. That product was a document entitled the "Informal Single Negotiating Text." At its 55th plenary meeting, the Conference decided to request each chairman of the three main Committees to prepare a single negotiating text covering the subjects entrusted to his Committee. The resulting text presumably takes into account all of the formal and informal discussions conducted within the framework of each committee, or in any way related to it. The text is designed not to prejudice the position of any delegation, and does not represent a negotiated text or

accepted compromise. What it does is to provide a useful basis for future negotiation, eliminating extreme positions, and reducing the areas of disagreement to a point where the negotiations should be more manageable in the future.

The question facing the Conference as it reopens in New York in the Spring, 1976 is whether this single Negotiating Text has sufficiently widespread acceptance to be the basis for future negotiations or whether, on the other hand, it is too divergent from too many national attitudes, and thus unacceptable for such use. The will to negotiate a successful treaty will be reflected in the choice that is made. Should the text be supported for its intended purpose, the Conference will appear to have taken a major step toward a successful conclusion. If, on the other hand, the document is rejected out of hand, then the risk will be high that nations will return to the rigidity of national positions, and the Conference leadership will be hard-pressed to generate new ideas for holding the Conference together and moving it steadfastly toward a successful conclusion.

What if the Conference "fails"? Two things should be kept in mind. First, failure of the Conference in terms of the inability to write a treaty may have consequences for international law far more serious than the mere inability to agree on new substance for the law of the sea. The nations of the world have embarked on a major effort toward structuring a new world order for the oceans—an effort which if successful may carry with it major implications on how international law is made. Clearly, that task was undertaken with the widespread belief that it would be successful. If it is not, there is bound to be widespread gloom among the legal philosophers and fundamentalists concerning whether international law will ever break out of the rudimentary mold it has found itself in since the 16th century.

Second, no matter what happens now it may truly be asked whether the Conference did in fact "fail" in its totality. So many attitudes have been realigned and so many old concepts laid to rest that it is probably impossible that the world could ever return to concepts of ocean usage irrevocably changed. Thus, even if there were to be no substantial, widespread agreement on a law of the sea package by the natural termination of the Conference, it is clear that the Conference would have left an indelible mark upon the law of the oceans. That mark would then have to be given legitimacy through some other method of institutionalization: through bilateral or regional arrangements, or by the painful and time-consuming generation of new rules of customary international law.

In a substantive sense, the Conference has come a long way. Broad consensus seems to be emerging on the creation of exclusive economic zones adjacent to coastal States, extending as far as 200 miles from the baselines from which the territorial sea is measured, for the purpose of exploring and exploiting the natural resources, and perhaps for other purposes as well. Similarly, it seems that the world is ready to accept a twelve mile limit to the territorial sea as a part of an overall, acceptable arrangement for the oceans. Progress seems to be apparent in the negotiations regarding marine pollution. The choices with regard to the conduct of marine scientific research, and their consequences, are more clearly understood. Navigational issues have been carefully worked out almost to conclusion. Many of the fisheries problems are resolved to the point of final polishing, although questions regarding special treatment for certain species based upon their spawning or migratory habits still remain. One of the areas requiring the most work is the international seabed area. There is work yet to be done in defining both the type of legal regime that should pertain beyond the limits of national jurisdiction, and the machinery for implementing it. It is on these issues that there are still wide differences which must be negotiated out.

A final comment upon the substance: the treaty cannot be complete without a full resolution of the problems remaining with regard to the question of compulsory dispute settlement. Clearly, a major treaty of this nature deserves and requires some mechanism for the definition of its terms and the resolution of disputes.

While it is relatively clear that the detailed work yet to be done effectively prevents the conclusion of the Conference by the end of this Spring session, it is equally clear that a treaty, if it is to be seen at all, will emerge within a finite period of time. If the delegations to New York could agree on a second 1976 session, then conclusions of the issues in principle is possible by the end of that year. While this would indeed be an optimistic target, it is not an impossible one, and is one which all delegates should labor diligently to achieve.

EDITOR'S NOTE (2): The following, dated January 15, 1976 and sponsored by the American Society of International Law and the Ford Foundation, was also received after the report on The Oceans had been prepared. It is the third report of the Subcommittee on International Law and Relations of the Advisory Committee on the Law of the Sea. The Committee, established in 1972, is composed of private citizens appointed by the Chairman of the National Security Council Interagency Task Force on the Law of the Sea to "provide adequate representation of the diverse interests involved in the law of the sea." Members of the Committee serve solely in an advisory capacity and the views stated herein do not necessarily represent those of the United States Government. A list of the members of the Committee is found at the end of the report.

THE THIRD UNITED NATIONS LAW OF THE SEA CONFERENCE:
THE CURRENT STATUS AND THE
"INFORMAL SINGLE NEGOTIATING TEXT"

INTRODUCTION. This is the third report of the Subcommittee on International Law and Relations (Subcommittee) made pursuant to a Ford Foundation grant to the American Society of International Law. The grant supports activities of the Subcommittee with respect to the international law of the sea negotiations and the Third United Nations Conference on the Law of the Sea (Conference). The first report consisted of recommendations for research prior to the first substantive session of the Conference. The second report consisted of an account and analysis of the proceedings at the Caracas session of the Conference together with recommendations for intersessional research.

The present report contains a brief introduction setting forth salient data concerning the Geneva session of the Conference, a general discussion of the organizational and procedural aspects of the session, and an analysis of the outcome with particular reference to the "Informal Single Negotiating Text." It concludes with some recommendations for further intersessional research.

I. *GENERAL INFORMATION.*

The third (second substantive) session of the Conference was held in Geneva, Switzerland, from March 17 to May 10, 1975. The session

continued the substantive work begun at the Caracas meeting held from June 20-August 29, 1974. Approximately 140 states participated in the Geneva session. No treaty or treaties dealing with the law of the sea were adopted, however, and in concluding its work the Conference decided to recommend to the General Assembly that a third substantive session be held in New York City from March 29-May 21, 1976, and that the Conference be empowered to then decide whether an additional session will be needed during the summer of 1976.

II. *PROCEDURE.*

Most observers of the Geneva session perceived a greater willingness on the part of most delegates to seriously negotiate and seek compromise solutions. This compared favorably with the rhetorical "position taking" atmosphere which prevailed during the Caracas session. Nonetheless, it was apparent from an early date that it would not be possible to secure the desired treaty during the Geneva session and, indeed, that a target date of late 1976 was as optimistic an outlook as could be found.

There was very limited use at the Geneva session of formal meetings of the Conference or its main committees, and greatly more use was made of working sessions of the main committees and private group meetings such as those of the "Evensen Group," chaired by Mr. Jens Evensen of Norway. The pattern during the early weeks of the session was one of committee or informal group meetings in the morning with afternoons devoted to meetings of informal specialized interest or negotiating groups. There was, in fact, a plethora of such informal groups which, though producing a more practical negotiating atmosphere, created in the case of the Evensen Group some resentment on the part of a few delegations not invited to participate. A table of formal and informal groups active at Geneva, prepared by Ann L. Hollick, is appended to this paper as Annex A.

The negotiations proceeded quite slowly during the first half of the session and, in an attempt to accelerate the process of reaching agreement, Conference President Amerasinghe proposed at one point that negotiations take place in consultative groups based on regional representation. That proposal was rejected, however, and thereafter the existing procedures and organizations were continued. A second proposal by Amerasinghe met with Conference approval. He asked that the chairman and officers of each of the three main committees prepare a single unified negotiating

text to serve as the basis for future negotiating or voting efforts, such texts to take account of the work of the formal and informal groups of the Conference.¹ It was expressly understood that such texts were not to be binding on the delegations, but would provide a single text from which negotiations could further progress.

III. *OUTCOME OF THE GENEVA SESSION*

A. *Substance of the Informal Text*

As a result of the acceptance of Amerasinghe's second proposal, the Geneva session of the Conference produced the "Informal Single Negotiating Text."² The Informal Text consists of three main parts, each being a draft prepared by the chairman of one of the three main committees and dealing with the subject allocated to that committee. In addition there is a draft of articles dealing with compulsory dispute settlement.

It was commonly understood that the Committee I text was largely the work of the chairman of the working group, Christopher Pinto of Sri Lanka, who had been endeavoring to establish a common ground between developing and developed nations by the use of a compromise approach in the "Pinto Paper." The Committee Chairman, Paul Engo of Cameroon, however, extensively rewrote the Pinto draft with the result that it leans far more toward the Group of 77 position than had earlier Pinto drafts. It consists of seventy-five articles dealing with general principles, the seabed authority and its machinery, and questions of finance. The Annex on basic conditions of exploration and exploitation was prepared by Pinto and transmitted by his working group to the main committee. Committee I seems to be the only Conference committee in which agreement is still not within reach. By the end of the session it was clear that there was a mutual distrust between the developed and the developing nations regarding one another's proposals for the operating of the seabed authority and little likelihood of a common meeting ground. The developing countries wish to see the seabed authority as an "Enterprise" controlled by them with the power to discriminate in their favor and to independently develop seabed resources which would be "banked" during the initial years in which mining operations would be conducted by the developed nations. The developed powers, in turn, were distrustful of the fairness with which

¹See U.N. Doc. A/CONF.62/SR.54 (18 April 1975) at 3.

²U.N. Docs. A/CONF.62/WP.8/Parts I, II, and III (6 and 7 May 1975); and SD.Gp/2d Session/No. 1/Rev. 5 (1 May 1975).

such an "Enterprise" would be operated and feared, quite logically, that it could result in an OPEC-like cartel. The issues here are ideological and are connected closely with the drive of the developing countries for a "new economic order" in which the wealth of the developed countries would be redistributed. The powers and structure of the international seabed authority and the methods to be used for the exploitation of the manganese nodules have thus become enmeshed in a larger dispute about a "just" division of the world's economic resources.

The text presented by Galindo Pohl of El Salvador, Chairman of Committee II, consists of 137 articles and covers the territorial sea and contiguous zone, straits used for international navigation, the exclusive economic zone, the continental shelf, high seas, land-locked states, archipelagos, regime of islands, enclosed and semi-enclosed seas, territories under foreign occupation or colonial domination, and settlement of disputes. The basis for this text included a lengthy working paper with alternative articles as well as documents produced by the Evensen Group, the Group of 77, and functional negotiating groups. The text represents a compromise acceptable to some nations insofar as the major principles are concerned, but there are a number of inconsistencies and purely drafting matters which will need to be dealt with in subsequent negotiating sessions. There are also some points about the draft which should raise serious concern among United States Government negotiators (some of these questions are identified in Annex B, prepared by Lewis M. Alexander).

The text for Committee III was the product of the Committee Chairman Alexander Yankov of Bulgaria, his bureau, and the heads of the working groups on scientific research (Colonel Metternich of West Germany) and pollution (José Luis Vallarta of Mexico). It consists of forty-four articles on the marine environment, thirty-seven articles on marine scientific research, and eleven articles on development and transfer of technology. Included in the text are several articles that were actually negotiated in the respective working groups. The working group on pollution produced negotiated articles on monitoring, environmental assessment, standards for land-based sources (with alternative formulations concerning double standards), and pollution from dumping of wastes at sea. The working group on science and transfer of technology issued possible consolidated texts, including some alternative provisions, on the conduct and promotion of marine scientific research, the legal status of installations for marine scientific research, and responsibility and liability.

As a result of some confusion concerning the respective jurisdiction of Committees II and III over pollution from ships in the economic zone, further negotiations will be needed on that subject, and the Evensen Group is likely to consider the matter at its planned intersessional meeting.

The provisions on compulsory settlement of disputes contain four introductory articles followed by two main annexes. Although an attempt was made to arrive at one single negotiating text, various difficulties were encountered resulting in a compromise which proved acceptable to a vast majority of the participating delegations, namely that any contracting party, when ratifying the Convention may choose one of three methods of settlement—arbitration, law of the sea tribunal, or the International Court of Justice. Consequently, when a case is brought against a contracting party it has to be brought before the forum chosen by that party. This solution has the advantage of allowing greater flexibility in the choice of the forum by a particular State; it avoids the imposition on all States of one single method; and it thus provides more respect for the sovereign right of a State to choose the weapon with which it wants to fight its legal battles. Nevertheless, this solution was objected to by delegations which thought that the method they preferred—for instance the International Court of Justice—was so much better than the others that it should be universal. Objections were raised also by those who did not really like the idea of having to accept any procedure leading to a binding decision. Others—the so-called “functionalists”—were willing to accept the idea of binding decision-making for only a few selected areas (e.g., seabed beyond the limits of national jurisdiction, or fisheries, or scientific research, or pollution), but were opposed to it for the remainder of the Convention. A third group, while accepting binding decision-making in principle, argued that in areas under national jurisdiction (internal waters, territorial sea, continental shelf, and economic zone) only national courts should have jurisdiction, except where some important international rights (such as freedom of navigation) were concerned.

B. *Status of the Informal Text*

The political and legal implications of the Informal Text are important. In his report on the Geneva session made to the Commission to Study the Organization of Peace, Prof. Louis B. Sohn observed that:

While the four parts of the text are supposed to represent only the opinions of the chairmen of the various committees who

prepared them, they are in fact based largely on drafts prepared by various working groups and reflect a large measure of consensus. Nevertheless, these texts are not considered "negotiated" or compromise texts, and are merely intended to serve as a basis for the next session of the Conference. . . . Delegations are free to propose further amendments but have been requested to work jointly on them and to prepare composite proposals rather than a mass of unrelated amendments.

Further indication of the political and legal status of the informal texts was given when representatives of the United States Government appeared before Congressional Committees to report on the progress of the negotiations at Geneva. In testimony before the Subcommittee on Fisheries and Wildlife of the House Committee on Merchant Marine and Fisheries on May 19, 1975, Professor John Norton Moore, Chairman of the National Security Council's Inter-Agency Law of the Sea Task Force, stated:

Although the single text is not a fully negotiated or consensus document, it is in important respects, at least in regard to Committees II and III, an indication of an overall package necessary for a satisfactory treaty. . . . Even though it is not a negotiated or consensus text, the preparation of the single text is a significant and necessary step toward a treaty. For the first time, the Conference will be able to focus on a specific text rather than a multitude of alternatives and national proposals. . . . I believe that for the most part, at least for the work of Committees II and III, it also reflects a widely shared view about the nature of the overall package in a manner conducive to the achievement of a realistic and widely acceptable Treaty.

At that same hearing, Deputy Assistant Secretary of State Thomas Clin- gan, of the Office of Oceans and Fisheries Affairs, Department of State, observed that:

The single negotiating text must be viewed as a procedural device providing the basis for further negotiations, and is not a negotiated text or an agreed compromise. It does not affect any nation's national position. . . . Its roots are in the negotiations, and it is not to be seen as arbitrary or without substance. In some areas it reflects shared views.

According to these observations it is fair to conclude that the Informal Text is not binding and has no legal effect. As far as the United States is concerned, Part II does nonetheless reflect essentially what an acceptable ultimate agreement would look like on the subjects with which it deals. Part III also appears to be a negotiated product and, with some modification, may be acceptable to the United States on the subjects with which it deals. Part I is essentially the negotiating position of the Group of 77, the text not reflecting any consensus or compromise at this stage.

Acceptability of provisions by various nations or groups of nations aside, the Informal Text does represent a watershed development in the negotiations since for the first time delegates will have a single provision on each issue to use as the basis for further negotiations. Such "first drafts" or "reports," with regard to any negotiation or subject, often tend to take on a life of their own—that is, they strongly affect and direct negotiations from that point forward, carrying almost a presumption of agreement unless strong objections are voiced, as they have in the case of the Committee I text. Major effort tends to be turned in such situations to fine points of drafting, reconciling conflicting provisions, and to consideration of interpretation of language. It becomes progressively more difficult, as such single texts remain the basis for negotiation, to make major alterations in the substance of significant provisions.

Negotiations on the Informal Text will probably first revolve about attempts by some nations to make major changes in articles or texts with which they are fundamentally dissatisfied. This approach can be expected, for example, on the part of developed nations with respect to the Committee I text, although it does not seem likely that major alterations will be attempted with respect to the Committee II and III texts.

Even if no written agreement is derived from future negotiations, the Informal Text could still play a profound role in the development of customary international law. The portions that have been highly negotiated probably reflect the expectations of most nations and they will tend to conform, in state practice, to the principles set forth in the document. Where there is philosophical divergence, as is the case with the Committee I text, likely national actions can be also expected to follow on from the text — developing nations seeking total control of seabed mining activities, developed nations opposing that approach and authorizing their nationals to engage in such mining activities. Thus, whether the Conference produces a desired treaty or not, the Informal Text may in one sense or another provide a reliable indicator of the future direction of the law of the sea.

IV. *SUBJECTS FOR FURTHER RESEARCH*

As has been done in both earlier reports of the Subcommittee, recommendations for possible further research are set forth in this section. Although such recommendations have in the past dealt with quite specific substantive matters, most of those set forth below deal with procedural matters or assessment of values involved in the negotiations.

1. Has the Conference already served its most useful purposes: clarification of issues, communication of positions on the issues, and an understanding of the linkages among the various issues? In the present context, is unilateral or coordinated multilateral action desirable?

In addressing these questions the alternatives should not be viewed too starkly—to continue with the Conference or walk out of it—but should rather be seen in terms of the various national interests involved on a topic by topic basis. To what extent, for example, has the Conference already become part of an on-going customary law-making process? Does it succeed only if it produces a widely accepted and comprehensive law of the sea treaty or are there other values which can be derived from its continuation? How would unilateral or coordinated multilateral action (particularly 200-mile fishing zones and deep seabed mining authorizations) affect the ability of the Conference to achieve its express objective or alternatives thereto?

2. Which nations' interests would be better served by the adoption of a compromise treaty and which by the development of the law of the sea through customary international law?

Though involving some difficult matters of judgment, such a study would prove extremely enlightening both in assessing the attitudes of particular nations toward the Conference and in judging what future courses of action they might take in the event of a Conference failure. Obviously, such an inquiry would have to be made on a subject by subject basis, though the overall impact of one format over the other should be considered. Such a study would require an identification of interests to be analyzed; differentiation between short, medium, and long term interests; differentiation between narrow, parochial interests and broader interests in world order; likely possible outcomes of the Conference in terms of substantive agreement; and likely scenarios in the event of non-agreement. It would probably be most practical if a quite limited number of key states or groups of states were selected for analysis.

3. What is likely to be the ultimate impact of the philosophical debate on the seabed mining question (Committee I) and how might this apparent impasse be resolved?

Several sub-issues should be addressed in such a study: (1) how pervasive are external influences on the Conference negotiations; (2) specifically, is the question of a seabed mining regime more linked to the question of cartelization of raw materials or to other law of the sea issues; (3) would it be practicable to sever the seabed question from the negotiations; and (4) what would be the relative advantages and disadvantages of approving a treaty based on Parts II and III of the Informal Text, sending Part I back to a revived Seabed Committee of more limited composition.

4. What is the value of the Informal Text?

As noted in this report, such documents tend to take a "life of their own," but the implications of that "life" are uncertain. This issue should be examined both from the standpoint of the Text as leading to accepted written agreement and as affecting customary law development in the event of a Conference failure.

5. From a United States point of view, are the detailed provisions of the Informal Text acceptable as they presently stand? What modifications, if any, would be required to reach that stage of acceptability?

In considering this issue, attention should not only be focused on an article-by-article assessment, but also on general negotiating tactics; that is, what articles might be improved from the United States point of view in terms of sacrifices on other articles. More broadly, which packages of articles might be improved at the expense of other interests? Although it might extend the scope of such an inquiry too far, it would nonetheless be useful to discuss external bargaining elements in such an analysis.

ANNEX A

GROUPS AT LOS-3

(Compiled by Ann L. Hollick)

I. *Official Conference Groups*

Conference (Bureau) General Committee (48 members)

Committee I (Bureau) Working Group (of 50)—Chairman's private consultative groups

Committee II (Bureau) Informal consultative groups (all members—with working groups of smaller sizes for some issues):

1. Baselines Working Group
2. Historic Bays and Historic Waters Working Group
3. Contiguous Zone Working Group
4. Innocent Passage Working Group
5. High Seas Working Group
6. Land-locked and Geographically Disadvantaged Working Group on Access to the sea (8 transit and 5 land-locked)
7. Continental Shelf
8. Exclusive Economic Zone
9. Straits
10. Enclosed and Semi-enclosed Seas
11. Islands
12. Delimitation

Committee III (Bureau) two working groups—Chairman's private drafting and negotiating groups

Credentials Committee

Drafting Committee

II. *Semi-official Negotiation Groups*

Dispute Settlement Group

Juridical Experts (Evensen Group consisting of heads of delegations)

III. *Ad Hoc or Miscellaneous Issue-oriented Groups*

Group of 17—pollution

Group of 5—security and transit

Group of 13—science

Amorphous Group—science

Honduras Group on Continental Shelf

UK/Fiji Group on Straits

IV. *Regional Groups*

African Group—Ivory Coast chairman

Latin American Group—Contacts to Committee I (Rattray) and II (Ajala)

1. Caribbean States
2. Central American States

Asian—Asian group of Group of 77

Arab—separate meetings on each committee

WEO

European Economic Community

East European

V. *Interest Groups*

Group of 77 (Bureau) Kedadi chairman

Committee I—Working Group (Bureau) Contact Group

Committee II—Contact Group (Njenga chairman)

Committee III—Working Group—Contact Group Iraq chairman

Archipelagic States

Oceanic States

Land-locked and Geographically Disadvantaged—48 members (Turkey chairman)

Committee I Working Group (Czechoslovakia chairman)

Committee II—Contact Group questions of Transit

Working Group on Marine Scientific Research (Netherlands chairman)

Land-locked states of Group of 77

Straits States

Territorialist Group

Coastal States (transformed into Evensen Group)

VI. *Luncheon Clubs*

Dredge and Drill

Fishhook

Defense Lunch

Science Club Lunch

ANNEX B

SOME CRITICISMS OF PART II OF THE INFORMAL SINGLE
NEGOTIATING TEXT IN TERMS OF UNITED STATES
OCEAN INTERESTS

(Compiled by Lewis M. Alexander)

1. There is a provision for a contiguous zone beyond territorial limits, up to 24 miles from shore. The U.S. has opposed such a zone on the grounds that it might be taken as a security zone. There is no mention of the zone as a security zone in the text.

2. Within straits used for international navigation there is provision for straits States regulating certain aspects of transit passage.

3. Mention is made in the straits articles of their connecting "high seas or an exclusive economic zone." The U.S. is pressing hard for the status of the extra-territorial waters of the economic zone to be that of high seas.

4. Within the exclusive economic zone, coastal State jurisdiction would extend over scientific research and pollution control and abatement. This is partially negated by provisions in Part III, but it is in Part II.

5. The provisions for internationalization of highly migratory species within the economic zone are extremely weak. Also, whales and porpoises are included in the list of highly-migratory species to be regulated by regional organizations.

6. There are no specifics for fixing the outer edge of the continental margin.

7. There is no mention of a boundary review commission to pass on the suitability of a coastal State's designation of its outer seabed limits, nor is there mention of the permanence of boundaries once fixed or of integrity of foreign investment in seabed resources beyond the economic zone.

8. The International Authority is given the right to determine rates of contribution by developing countries from seabed resource exploitation beyond the economic zone.

9. On archipelagos there was no decision on the percentage of base-lines which could be greater than 80 nautical miles in length, nor on the breadth of the sealanes; and the definition of an atoll is a poor one. By this definition the Bahamas are not an archipelago, since their land/water ratio is greater than 1:1.

10. Under "Islands" there is a provision that rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or territorial sea. The U.K. would probably refuse to ratify such a treaty.

11. Part II retains the reference both to "enclosed" and "semi-enclosed" seas, without distinguishing between them. It also retains the requirement that they be connected with the ocean by a narrow outlet, thereby ruling out a number of otherwise bona fide semi-enclosed seas (e.g., the North Sea and the Gulf of Thailand).

12. The provisions for boundary delimitation between opposite or adjacent continental shelves or economic zones are a step backward from the 1958 Convention in that they make no specific reference to special circumstance situations.

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