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THE OCEANS

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Recent developments in Ocean Law in the Americas involve action by all levels of government with regard to both coastal and deep ocean problems. In the United States, the state of Florida has enacted legislation to enable the conduct of sea farming under rules and guidelines to be elaborated by the Cabinet. This aquaculture legislation is believed to be the first example in the world of a state providing for the exclusive use of the water column for the commercial cultivation of marine animals.

Enforcement and sanctions of the law of the sea were also invoked. At the request of the captain of a German freighter, the *Helga Witt*, a United States Coast Guard cutter boarded it, arrested five armed mutineers and returned them and the ship to the control of the captain.

NAVIGATION

The United States tanker, *Manhattan*, forged a passage through ice in September from the East coast of the United States through the Northwest Passage around the mainland of Canada to Point Barrow in Alaska. The purpose was to test the commercial feasibility of the sea route for transport of oil and gas produced from the recently discovered field in Alaska's North Slope. However, the vast proven supplies of other minerals in the Canadian and Alaskan arctic, and the possibility of a shorter passage for some world trade routes, make this voyage one of greater significance.

After concern which had been expressed earlier in the Canadian legislature regarding jurisdiction over these waters (Canada claims sovereignty to all the lands in a segment to the North Pole), the senior legislative official concerned with Northern development boarded the *Manhattan*. The purpose of his visit was to "show the Canadian flag," and he stated the concern of his committee over the danger of possible oil pollution during passage in Canada's territorial sea.

TERRITORIAL SEAS IN THE AMERICAS

The Trinidad and Tobago government decided in June to extend its territorial sea from three miles to twelve miles. Provisions of the

legislation which was introduced contemplate negotiations with Venezuela regarding the access and transit of vessels of both countries in an area where these territorial waters and those of Venezuela converge. It was reported that the purpose of the legislation was to regulate the exploration and exploitation of seabed resources. The decision of Venezuela last year to establish a twelve mile territorial limit may have affected this decision to extend the adjacent Trinidad and Tobago territorial sea rather than rely solely upon the concept of the continental shelf to assert an interest in seabed mineral resources.

In September Mexico became an additional American state to claim sovereignty over a twelve mile territorial sea. Despite some diplomatic pressure to go along with the South American countries which assert a two hundred mile territorial sea jurisdiction, Mexico selected the more reasonable course. A twelve mile territorial sea would cover the richest fishing grounds in the Gulf of Mexico and along its Pacific coast. This claim will particularly affect the access of foreign fishing fleets to the upper regions of the 1,000 mile long Gulf of California which separates the Baja California Peninsula from the mainland of Mexico.

THE CONTINENTAL SHELF

Oil and gas exploitation of the continental shelf, which had led to the spill of oil in the Santa Barbara incident in the United States, has been followed by the imposition of strict guidelines and rules by the Department of the Interior for offshore drilling. The rules as adopted provide for:

1. full consideration for all environmental factors, including aquatic resources, esthetics and recreation value, before a decision on leasing is made;
2. strict technical requirements for the drilling of wells, casing and cementing so as to prevent spills;
3. prior review and approval by the Interior Department of plans to avoid pollution, well blow-outs and leakage;
4. frequent testing of blow-out prevention devices.

In the United States a suit by the Federal Government against the 13 Atlantic coastal states of the United States is testing before the Supreme Court the claims of these states to exercise jurisdiction over the mineral resources of the continental shelf of the United States beyond the territorial sea limit. The decision in the case of the *United States v. California* (1946) is being relied upon by the Federal Government to assert

that the states within the United States federal system do not exercise jurisdiction over these resources. Simultaneous with the litigation there are congressional discussions of proposals to allocate revenues from continental shelf leasing between the Federal Government and the coastal states.

FISHERY RESOURCES

In August there were negotiations between the United States and Chile, Ecuador, and Peru in Buenos Aires regarding the 200 mile territorial sea claims by those countries. With some hope of a solution to the conflicting claims, which have resulted in 88 United States tuna boats being seized and fined since 1960 by Ecuador and Peru, the United States sent a delegation which included senior government officials and industrial representatives. The formal conference discussions were not conducted in public and covered a broad range of issues, including conservation, technical cooperation, tariff barriers for fish products, and research on the Humboldt Current, as well as the territorial sea claims. Conservation was a key issue on which there was some possibility of achieving a compromise, as a multilateral arrangement on conservation could permit the introduction of formulas which would ameliorate the conflict. The meeting ended five days ahead of schedule when it became apparent that the conferees could not reach a solution. Yet, the approach of direct negotiation was a useful procedural step and another conference is planned for sometime later this year.

Caribbean countries involved in the United Nations Fishery Project will meet in early 1970 to discuss a regional fishery organization. This decision was one of the major results of the recent meeting in Barbados, and it is anticipated that the project would come into being when the present United Nations Development project expires in 1971.

Canada has proclaimed baselines for the territorial sea on its West Coast, including the seaward coasts of Vancouver Island and Queen Charlotte Islands. The Fishery Association of British Columbia, which is unsatisfied with the proclamation, has asked that straight baselines be drawn closing Queen Charlotte Sound and Dixon Entrance. This would involve long closing baselines and encompass large sea areas now open to international fishing.

Two Russian fishing trawlers were seized in August by the Canadian government for fishing within the twelve mile limit of Vancouver Island, and, after paying fines, sailed for home rather than rejoin their fishing fleet.

In June, Poland and the United States made a bilateral agreement which provided for expansion of research on species of mutual interest and exchanges of scientists and data, a closed season and a ban on hake and other species in certain areas on the United States' mid-Atlantic coast, specified unloading and transferring areas within the United States nine mile contiguous fishing zone, and certain other steps.

Upon the ratification of Spain in March the International Convention for the Conservation of Atlantic Tunas, which was drafted in Rio de Janeiro in 1966 under the auspices of the Food and Agriculture Organization of the United Nations, came into effect. This treaty aims at the scientific management of the heavily fished tuna stocks of the Atlantic Ocean. The countries which are parties to the convention, are the United States, Japan, the Republic of South Africa, France, Canada and Spain.

RESOURCES OF THE DEEP OCEAN FLOOR

In the United Nations Seabed Committee meeting in March the Legal Subcommittee was unable to state a consensus or to make a report, while the Economic and Technical Subcommittee proceeded to consider certain features of possible future deep ocean floor regimes during discussion of the means for achieving economic objectives. The failure of the Legal Subcommittee to agree on a report challenged the viability of the United Nations discussions and their relevance to developing law for exploitation of deep ocean floor resources and for boundary with states jurisdiction over the continental shelf. During the summer of 1969 an Informal Drafting Group composed of some members of the Legal Subcommittee (which is a committee of the whole Seabed Committee membership) met in New York in a series of consultations to discuss the various formulations which were presented on legal issues. This group included representatives of Brazil, India, Libya, Norway, the U.S.S.R., and the United States. The issues it considered were: legal status of the deep ocean floor, applicability of international law (including the United Nations Charter), reservation exclusively for peaceful purposes, beneficial use of resources for mankind and particularly the developing countries, freedom of scientific research and exploration, and pollution and other hazards. The Group listed the elements of the various formulations which had been proposed on each of these issues.

During the August meeting of the Seabed Committee, the Economic and Technical Subcommittee engaged in general debate on the Secretary General's report on administrative and organization arrangements to exercise jurisdiction over the ocean floor, but took no concrete action. The Legal Subcommittee met during the entire session and, using the report

of the Informal Working Group as a basis, discussed legal principles seriatim. The report of the Legal Subcommittee covering its March and August meetings recounts the discussions generally. The important development, however, is a short addendum to the report entitled part "(9) synthesis." This brief supplementary report states merely the areas of agreements and disagreements among the members on the formulations which were considered. The "synthesis" statement, without indicating endorsement by the Legal Subcommittee, noted that the following areas of agreement exist:

1. that the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, shall not be subject to national appropriation by any means and that no State shall exercise or claim sovereignty or sovereign rights over any part of it. (But there was no agreement as to the inclusion in the draft that no one may acquire property rights over any part of the area by use, occupation or any other means.);
2. that there are principles and norms of international law which apply to the sea-bed and ocean floor and subsoil thereof beyond the limits of national jurisdiction;
3. that the sea-bed and ocean floor shall be reserved exclusively for peaceful purposes. (There was, however, no agreement on the geographic limits of application of this principle or to the scope of the prohibition of activities);
4. the need for the establishment of a regime for the seabed and ocean floor and governing the use of the resources for the benefit of mankind irrespective of the geographical location of States and taking into account the special interests and needs of the developing countries;
5. freedom of scientific research in this area shall be assured to all without discrimination and States should promote international cooperation in the conduct of scientific research and not interfere with fundamental scientific research carried out with the intention of open publication;
6. reasonable regard for the interests of all States and non-infringement of the freedoms of the high seas and no unjustified interference with the exercise of those freedoms;
7. necessity for the adoption of appropriate safeguards against the dangers of pollution and the adoption of appropriate safeguards to protect the living resources of the marine environment as well as of safety measures concerning activities in the area.

OCEAN LAW INSTITUTE

The first meeting of an Institute of Ocean Law will be held at the Sheraton Four Ambassadors Hotel in Miami December 10-12, 1969. The three-day program will cover coastal zone law, certain problems of national organization and policy, and mineral and fishery problems. The speakers and panels will concentrate on the practical problems of the user. Further information may be obtained by writing the Law Center, University of Miami.