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The Oceans

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THE OCEANS

*Prepared by the
Editorial Staff*

THE CONTINENTAL SHELF

"The dreams . . . must perish, like the lost continent Atlantis, beneath the waves and waters of the sea which constantly submerge the reefs." Thus spoke the United States Court of Appeals for the Fifth Circuit in scuttling the plans of two groups of entrepreneurs who had undertaken to construct a new island nation beyond the three mile limit off the southeast coast of Florida (near Miami). The U.S. Government sought to restrain the construction of the island on two grounds: (1) that construction would be carried out in navigable waters without a permit from the U.S. Army Corps of Engineers, and (2) that the builders were committing a trespass on government property. The Court of Appeals sustained the Government on both counts, citing its "paramount rights" to the continental shelf but admitting that those rights were "something less than fee simple."

Colombian and Venezuelan governmental delegations met in Bogota in March, 1970 to discuss the continental shelf, and specifically its physical limits between the *Guajira* peninsula of Colombia and the archipelago of *Los Monjes* of Venezuela. At stake is an extensive oil reserve which is suspected to be an extension of the Maracaibo reserve. Colombia holds that the shelf should be defined as set forth in the 1958 Geneva Convention; Venezuela's position is that it is not bound by the Convention because it did not subscribe to it. Upon adjournment, the delegations agreed to continue negotiations at a future date.

FISHERIES

Uruguay's recent decision to extend its fishing limits from 12 to 200 miles is more likely to affect Russian fishing vessels than those of the United States, observers in Montevideo report. Unlike Chile, Ecuador and Peru, which have confronted the United States over fishing rights within the 200 mile limit, Uruguay has had no past conflicts with the United States because U. S. vessels do not normally fish in the area. Like neighboring Argentina, which has also extended its fishing limits to 200 miles, Uruguay was mainly concerned with Russian vessels which sought safety in Uruguayan waters when confronted with Argentine naval patrols.

Russian fishing vessels now face fishing problems in Uruguay as this nation becomes increasingly concerned with the marine wealth in the waters off its coast.

A new wave of seizures of fishing vessels by Ecuador and Peru has continued the regrettable dispute regarding the fishing grounds off the west coast of South America. Ecuador seized one vessel from Puerto Rico, two California vessels and two Japanese fishing boats, while Peru seized one California boat. Fines totalling over \$232,000 dollars were paid by the U. S. ships alone. One interesting feature of the controversy concerns the fines paid by U. S. fishing vessels. That is, if the nation imposing the fines does not repay the U. S. Treasury, the U. S. Government is required under existing law to deduct such fines from aid payments to that nation. The subject has other ramifications. Under current U. S. legislation, the Government may prohibit the sale of arms to nations seizing U. S. fishing boats, and recently the U. S. Departments of Defense stated its position on the subject. Concretely, the Department has asked the Congress, through testimony before the House Foreign Affairs Committee, to ease restrictions on foreign military credits and sales to countries that seize U. S. fishing boats in their territorial waters. The testimony was presented during the Committee's consideration of the government's foreign military sales program.

Problems related to fisheries are not confined to the United States and the countries on the west coast of South America. In late February, 1970 Uruguay seized three Argentine fishing vessels for violation of Uruguayan territorial waters, and early in the year reference in Caracas to the possibility of restricting the operation of Trinidadian trawlers off the east coast of Venezuela caused considerable concern in Port-of-Spain. Meanwhile, the fishing industry watches with increased interest the growth of the Cuban shrimp fleet whose projected 300 vessels, operating in the Mexican Gulf and the Caribbean, will match Mexico's fleet of approximately the same number. And, Panama on 10 March issued Executive Decree No. 14 regulating shrimp fishing. Also related to fisheries is the quiet diplomatic maneuvering going on between the U. S. and Mexico concerning Mexican claims to the Upper Gulf of California.

Proposals for setting up a regional fishing industry have been put before technical officers of the Caribbean Free Trade Area (CARIFTA).

The *Servicio Oceanográfico y de Pesca*, the Uruguayan fishing agency, has asked for bids on a terminal building with refrigeration and other equipment capable of processing 30,000 tons of fish annually. Estimated cost is \$2.7 million.

The Chilean *Servicio Agrícola y Ganadero* is to be aided by the UNFAO in an ambitious scheme to promote fresh water fish for food and sporting purposes. A large quantity of Pacific salmon is being imported from the U. S., fresh water crayfish are to be introduced into rivers in Coquimbo and Vallenar, trout are to be raised artificially in southern lakes and a new fish breeding station is to be built at Pullinque in Valdivia.

Colombia's *Instituto de Fomento Industrial* (IFI) is stimulating the flow of domestic capital and foreign lines of credit to develop Colombia's fisheries in the Atlantic and Pacific. Related items of interest are: (1) the formation of a *Consorcio Pesquero Colombiano, S. A* in which the IFI, Esso Investment Company, the National Federation of Coffee Growers, the World Bank, and several Colombian private institutes are participants, and (2) the establishment of a National Fishing Center at Buenaventura to train personnel in modern fishing and operation of ships and equipment.

Concern for fisheries even finds an echo in the building of the projected sea-level canal across the isthmus of Panama. Specifically, would the building of the canal imperil the fishing industries in the Pacific and Atlantic oceans through the invasion of plants and predatory fish? Scientists studying the problem are concerned that the tidal difference between the two coasts would, under certain conditions, tend to wash marine population from one ocean to another thus creating opportunities for unintended migrations and interoceanic dispersal of many species.

CUBAN MARITIME FLEET

A dramatic expansion of Cuba's maritime fleet is resulting from the sale of new vessels to the country by both East and West. Three 20,000 ton tankers with an operational range of 10,000 nautical miles and a cruising speed of 17.4 knots are being built by the USSR; they will be the first such vessel owned by Cuba. Delivery has begun on a fleet of 30 shrimp boats under construction for the island nation in French shipyards. Later this year, Cuba will take delivery of the last two of three 15,000 ton ships built in Sweden. Other new Cuban ships, 21 of which are over 10,000 tons, have been built in East Germany, France, Poland and Spain. As part of a long range expansion program, the Government has announced plans to acquire, in the 1970's, more than 200 ships with displacement of three million tons.

OCEAN EXPLORATION

A Canadian oceanographic expedition which began in November

1969 in Halifax is making a positive contribution to the 1970-1979 international study of the oceans sponsored by the International Oceanographic Commission. Early in January, 1970 the expedition arrived in Buenos Aires; after transiting Cape Horn stops will be made, among others, at Chile and Tahiti. The expedition travels in the oceanographic ship *Hudson* which is due to return to Halifax in October of this year.

The *Glomar Challenger*, the ocean going derrick ship operated by U. S. interests, has completed the Texas to Florida segment of the ship's around-the-world drilling program. The ship is now continuing its drilling operations in the Atlantic.

Miami, Florida was the point of origin in May, 1970 of a 7,000 mile ocean expedition in which scientists from the United States, Russia, Australia, Denmark, France, Japan, Norway, England and West Germany joined forces for still another oceanographic venture. Specifically, the men aboard the U. S. Government's *Discoverer*, seek to solve an important problem — how can the scientific data from different nations be integrated when the instruments and the measuring techniques are different? A secondary purpose of the trip is to obtain information on the "ocean's primary productivity," i.e. the fundamental food web which begins with the action of the sun on tiny floating plants.

THE UNITED NATIONS

U. N. General Assembly Resolution 2574 of December 15, 1969 dealt with major areas concerning the oceans.

The General Assembly, in part A of the resolution, requested the Secretary-General to ascertain the views of the Member States on the desirability of convening at an early date a conference on the law of the sea to review the regimes of the high seas, the continental shelf, the territorial sea and contiguous zone, fishing and conservation of the living resources of the high seas, particularly in order to arrive at a clear, precise and internationally accepted definition of the area of the seabed and ocean floor which lies beyond national jurisdiction, in the light of the international regime to be established for that area.

In part B, the General Assembly noted with interest the work done by the Legal Sub-Committee of the Committee on the Peaceful Uses of the Seabed and Ocean Floor beyond the Limits of National Jurisdiction, in the formulation of principles designed to promote international cooperation, in the exploration and use of the seabed and ocean floor. The Committee seeks to ensure the exploitation of the resources of the sea for

the benefit of mankind, irrespective of the geographical location of States, taking into account the special interests and needs of the developing countries, whether land-locked or coastal. It requested the Committee to expedite its work of preparing a comprehensive and balanced statement of these principles and to submit a draft declaration to the General Assembly at its twenty-fifth session.

In part C, it requested the Secretary General to prepare a further study on various types of international machinery, particularly a study covering in depth the status, structure, functions and powers of an international machinery, having jurisdiction over peaceful uses of seabed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, including the power to regulate, coordinate, supervise and control all activities relating to the exploration and exploitation of their resources for the benefit of mankind as a whole, irrespective of geographical location of States, taking into account the special interest and needs of the developing countries, whether land-locked or coastal.

In part D, the resolution declared that, pending the establishment of an international régime for the exploitation of the seabed and the ocean floor, and the subsoil thereof: (a) States and persons, physical or juridical, are bound to refrain from all activities of exploitation of the resources of the area of the seabed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction. (b) No claim to any part of that area or its resources shall be recognized.

The Seabed Committee continues the preparation of the report sought by the General Assembly in part B of Resolution 2574 discussed above. During its deliberations in March, 1970 in New York, the Committee received, among others, a twelve point list of objectives to guide international regulation of the deep-seabed from the United States. The twelve points are summarized below:

1. To encourage exploration of all seabed resources for practical benefit.
2. To assure that all interested states will have access without discrimination to the seabed for exploration and exploitation, even if not all of them are at first capable of carrying out the work.
3. To encourage scientific research and dissemination of the knowledge gained "to allow all nations to participate in seabed development."
4. To encourage development of such important services as navigation aids, maps and charts, weather information and rescue organization.

5. To provide procedures for the assignment of rights to minerals or groups of minerals under terms that protect the integrity of investments, and to encourage efficiency but discourage racing for claims or holding of areas for speculation.

6. To provide for a reasonable return on risk investment.

7. To provide revenue to benefit international community purposes, taking special account the needs of the developing countries, and to meet the operating expenses of the international body established to administer the international agreement's provisions.

8. To assure that the work will be carried out in a manner that will protect human life, prevent conflicts between users of the seabed, safeguard the ocean environment, avoid irreparable damage, and promote use of sound conservation practices.

9. To cover liability for the costs of damage to the environment or other resources so that damage will be "adequately repaired or compensated."

10. To provide for stability of rules with enough flexibility to change in response to new knowledge and new developments.

11. To provide effective procedures for the settlement of disputes.

12. Overall, to establish an international regime so plainly viable that states will in fact ratify the treaties establishing it."

The position of the United States is that the points enumerated above are general characteristics that must be sought in any agreement. Accord on these objectives is regarded by the United States as a prerequisite before more defined principles can be incorporated in a treaty. The Seabed Committee is scheduled to continue its deliberations in Geneva in August of this year.

POLLUTION

Contamination of the deep oceans by man's waste, pesticides and minerals are causing increasing concern to mankind. Once thought to be a suitable alternative to near-shore dumping and outfalls, hauling of waste materials to the deep ocean is now viewed with apprehension on the basis of studies under way at academic institutions and business corporations. Of particular concern is the possible contamination of the animal and plant life, and particularly the ocean food chain. Scientists believe

that small fish and crustaceans contaminated by human wastes will, in turn, infect the larger fish which devour them. Ultimately, infected fish caught for the market may affect the people who eat them.

Oil spills from tankers and offshore drilling rigs continue to make headlines and to present legal problems. Chadabucto Bay, Nova Scotia; Tampa Bay, Florida, and, the St. Johns River, near Jacksonville, Florida, were subjected to spills from tankers in recent months. A new menace developed when a cluster of oil wells in the Gulf of Mexico, near New Orleans, caught fire and burned out of control for over a month. Attempts to douse the flames with water and blow them out with dynamite met with continual failure and a large oil slick covered the area before the spill was contained. A further problem arose in the Gulf of Mexico through the use of chemicals intended to cause the oil to sink below the surface of the water, i.e., the oil company concerned was accused of using excessive chemicals to the detriment of sea organisms. Still another problem to be considered with regard to the pollution of waters is thermal pollution. A case in point is the suit filed by the U. S. Department of Justice against the Florida Power and Light Company to halt alleged present and future thermal pollution of Biscayne Bay.

To help combat the threat of oil pollution, engineers at a California space-oriented concern have developed a radar-like device that sees through fog and darkness to detect oil slicks on the water. The device weighs less than one hundred pounds and can be carried by light planes used to patrol harbors and coastal waters. This device should help to curb the illegal practice of contaminating the seas which is usually carried out routinely by ships approaching port. Relying only on visual sightings in daylight, the U. S. Coast Guard reported more than 800 instances of contamination last year, but other informed sources estimate that the number of instances may have been as high as 10,000 annually in U. S. waters alone.

It is obvious that technology has not advanced to a point where it can cope with these disasters, and legislators at national and local levels are pushing a flurry of new laws designed to: (1) improve enforcement of bans, and (2) to fix legal liability for cleanup costs. Notable among new laws is the United States recently enacted Water Quality Improvement Act and Canada's House of Commons action to extend pollution controls over Arctic waters 100 miles to sea. The Canadian action brought her into direct conflict with the United States in the manner described below.

THE TERRITORIAL SEA

The opening last summer of the fabled "Northwest Passage" by the U. S. supertanker, *Manhattan*, spurred Lopes of a solution to the problem of providing fuel at modest prices to an energy-hungry world. The historic voyage was stimulated by the discovery of vast oil deposits in Prudhoe Bay, Alaska. To the Canadian Government, however, the route creates a host of new problems, and the most alarming is the possibility of oil spills from oil explorations and from the mammoth supertankers which will ply the Arctic waters.

As previously stated, Canada's concern resulted in proposed protective legislation which would establish shipping safety control zones within an area 100 nautical miles north of Canada's territory. In April, the United States rejected Canada's claim to the extended jurisdiction on the grounds that "the United States does not recognize any exercise of coastal state jurisdiction over our vessels on the high seas and thus does not recognize the right of any state unilaterally to establish a territorial sea of more than three miles or exercise more limited jurisdiction in any area beyond twelve miles." Further, the United States called for an international conference to establish rules governing the passage of ships and the protection of natural resources in Arctic waters beyond national jurisdictions. Lastly, the United States asked the Canadians to withhold making the proposed legislation effective until international accord was reached in the matter, but also expressed its willingness to submit the issue to the International Court of Justice if the Canadian government was unwilling to postpone action. A Canadian move in the United Nations relative to the dispute is of extreme interest; it involves Canada's acceptance of World Court's jurisdiction. Specifically, Canada informed the Secretary General that Canada recognizes the authority of the court but retains jurisdiction over disputes arising out of, or concerning jurisdiction, or rights claimed or exercised by Canada in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the prevention or control of pollution or contamination of the marine environment in marine areas adjacent, to the coast of Canada. Under the United Nations Charter, such statements of recognition of the authority of the International Court of Justice are made by declarations to the Secretary General, who in turn informs the Court and the member nations.

The position of the United States in the above controversy is of interest in view of the February 1970 declarations made by an official of the Department of State at a meeting of the Philadelphia Bar Association. At

that meeting, the Legal Adviser announced that the U. S. would endorse a twelve-mile limit for the territorial sea in a new international treaty, provided agreement could be reached on two disputed issues: (1) a definition of preferential fishing rights for coastal states on the high seas, and (2) provision for freedom of transit through and over (by aircraft) certain international straits which could be closed by the twelve-mile limit in the absence of agreement.

It is also of interest to note that concurrent with the proposal to exercise pollution control, Canada also proposed to extend its territorial waters from three to twelve miles.

The subject of the limits of the territorial is not being ignored in Latin America either. Early this year the Foreign Minister of Panama reaffirmed Panama's position on the 200 mile limit, and Brazil on March 25 extended its territorial waters from 12 to 200 miles from the coast.

The popularity of the subject appears inexhaustible as evidenced by a study recently completed by the United Nations Food and Agriculture Organization. The study — without expressing any opinion over the limits claimed by the different nations — sets forth the positions of 106 countries on the subject. In part, the study reveals that forty countries claim twelve miles; twenty nine claim three miles, and no less than eight — Argentina, Chile, Ecuador, El Salvador, Nicaragua, Panama, Peru and Uruguay — claim 200 miles. As noted previously, Brazil should now be added to the other Latin American nations claiming a 200 mile limit.

SHIPPING RATES

Fear of antitrust liability has deterred the use of joint international through rates by shipping lines, but other opposition to joint rates also developed at a meeting in New York of the Fourth Annual Conference of the U. S. Maritime Management Institute. A joint rate is one which would be established by consultation between different types of transportation companies involved in a shipment; it is a single charge made "from door to door." Transportation company representatives stated that the present flexibility in rate making was to be preferred over a more rigid system of single one-factor rates. Others at the conference, including a U. S. Government representative, proposed consideration of the new type of rates on the basis that they would eliminate costly paper work and offer shippers the opportunity to choose from alternative through rates. One viewpoint was that there would be nothing revolutionary about extending antitrust immunity to such intermodal arrangements.

OCEAN SHOWCASE

The Rosenstiel School of Marine and Atmospheric Science of the University of Miami is cooperating with the International Oceanographic Foundation in the planning of a museum of marine sciences — The Ocean Space Center — to be built on Virginia Key, Florida, a few miles from the University campus. The Center will employ the latest methods of multimedia presentations and mechanical techniques to dramatize the story of the oceans and their importance to mankind, as well as the latest discoveries and scientific research by oceanographers all over the world. Visitors to the Center will be active participants in the exhibits, instead of passive viewers. Visitor involvement is a prime consideration in the planning of the dynamic exhibits which will depart completely from the static type of display usually found in museums.