A NEW REGIME FOR THE OCEANS

Shigeru Oda
Professor of International Law, Tohoku University

Douglas M. Johnston
Professor of Law, Dalhousie University

Johan Jørgen Holst
Director of Research, Norwegian Institute of International Affairs

Ann L. Hollick
Executive Director, Ocean Policy Project, Johns Hopkins University

Michael Hardy
Legal Adviser, Commission of the European Communities
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I. THE OCEANS IN GLOBAL PERSPECTIVE

A. INTRODUCTION

For over three hundred years, up to the mid-20th century, it was generally agreed that international interest in the seas was best served through a highly permissive regime which extended over the vast expanse of the world's oceans outside narrow territorial limits. Open and unimpeded use of the ocean was deemed to be justified by virtue of a widely shared need to secure navigation, in particular for the purposes of international trade. The fish in the sea were believed to be virtually infinite in variety and supply, their self-renewal assured by the bounty of nature. The vital environmental functions of the oceans were neither threatened nor understood. In the immense areas of the high seas restraints on passage and fishing were minimal and the only legal system available to regulate life on board was that of the state whose flag was flown. In the traditional perspective the key concept was freedom.

Today, modern technology has made possible a much more intensive use of the sea. The volume of world shipping, on which the great bulk of goods entering international commerce is carried, has grown rapidly: Merchant tonnage nearly quadrupled between 1951 and 1971. The military use of the oceans has increased in importance, with the development by the United States and U.S.S.R. of powerful long-range naval capabilities. The fish in the sea — the source of approximately ten per cent of the world's protein — have been exploited at a growing rate, from 16 million tons in 1950 to 60 million tons in 1970. The deposits of oil and gas beneath the offshore continental margin now account for approximately twenty percent of world production and the proportion is expected to rise to about a quarter by 1980. The polymetallic nodules, containing nickel, copper, cobalt and manganese, which lie on the deep oceanic bed, mainly in the Pacific, are close to being commercially exploitable. The oceans are, in addition, increasingly the receptacle for man-made wastes. Land-based activities are the source of by far the greatest amount of marine pollution, but environmental damage may result from ship operations, from accidents in which cargo is released, or from offshore oil exploitation. To these major ocean uses others could be added — for example, those related to tourism and recreation, the conduct of marine scientific research, the harnessing of tidal or thermal energy, and the possible transfer of industrial processes to offshore sites.
Of particular significance is the speed with which these various uses of the ocean have developed and grown over the last twenty years, and indeed within the last ten years. The rate of technological advance has been rapid, ranging from the development of giant tankers and the capacity to drill at greater depths, to the ability to track fish stocks and to capture them in quantities such as to imperil the ability of the stock to reproduce. Changing economic conditions have been such as to encourage development and use of this new technology and overall expansion of ocean activities. This overall expansion has occurred against the background of increasing prosperity in the Northern hemisphere and the overall rise in world population, more concentrated in coastal regions.

Governments have found themselves under increasing public pressure to maximize their position for the benefit of their inhabitants — to safeguard fishing catches, to expand national limits over mineral resources, and to protect the marine environment. At the same time, they have been faced with the realization that few of their ambitions for more intensive use of the seas can be totally assured by individual national means, and that frequently national action to advance one interest would be detrimental to another interest, if other states reacted by taking similar or countervailing measures.

The pattern of developments has created a tension between the notion of freedom, as contained in traditional law, and a growing recognition that the entire expanse of hydrospace must be brought under new and sophisticated forms of control and regulation. Expressed in economic terms, the problem may be represented as the passage from the assumptions of a free and apparently inexhaustible common property resource to one commanding a scarcity rent; and efficient use of the oceans requires limiting access to those willing to pay this rent. Politically, the problem has been one of allocation and management: How should ocean resources be divided and a more effective use of the marine environment achieved? A steady trend has shown itself over the last thirty years towards the establishment of much more extensive claims to national jurisdiction by coastal states. Almost invariably these claims have been accompanied by statements asserting or implying the claimant’s right to exercise special or exclusive authority over economic activities in the offshore areas, now characterized as an extension of its land economy. The risk exists of unrestrained, or unrestrained, nationalism in ocean matters, side by side with recognition that the extent and multiplicity of national interests cannot in fact be adequately secured without recourse to multilateral or regional efforts — that, if only out of self-interest, regard must be paid to international considerations.

B. THE OCEANS AS A SUBJECT OF INTERNATIONAL NEGOTIATION

Repeated attempts have been made to resolve these tensions and conflicting claims, notably by means of successive efforts at negotiation within the United Nations framework. The First United Nations Conference on the Law of the Sea, held in 1958 in Geneva, led to the adoption of four conventions incorporating much of the customary law, as well as embodying a number of transitional steps away from the traditional regime of freedom. The Second Conference in 1960 was an unsuccessful attempt to resolve some outstanding issues. The Third United Nations Conference on the Law of the Sea (UNCLOS III), which began its substantive work in 1974 in Caracas, is the latest phase of international negotiations and provides the essential background to any current discussion of the subject.

The most prominent feature of UNCLOS III has been the movement towards a major extension of national jurisdiction over ocean resources. The basic division of traditional law has been between “territorial seas,” a narrow band of waters in which the coastal state has sovereignty, and “high seas,” the uses and resources of which are available to all. The 1958 Conference authorized the extension of the sovereign rights of the coastal state over the resources of the continental shelf, which some states had already asserted in national legislation. At UNCLOS III there has been widespread support for creating a 200-mile “economic zone” in which the coastal state concerned would have special or exclusive rights with respect to all resources. In other words, the waters of the “economic zone” would be placed under the same basic regime as the continental shelf below, and control over continental shelf resources would be extended to 200 miles, and probably, where it extends beyond 200 miles, to the edge of the continental margin. Economic zone rights would include the exercise by the coastal state of extensive powers as regards the prevention of marine pollution and the regulation of scientific research. While the detailed application and precise extent of the rights of the coastal state within the zone have yet to be determined and constitute indeed the main item of current negotiations, the general notion has already gained wide acceptance. The full force of the proposal may be appreciated when it is recalled that most fish stocks — indeed, in the region of 80 per cent of those now exploited — are to be found in the relatively shallow waters within 200 miles of the coast, that virtually all oil and gas deposits now exploitable are situated within the continental margin, and that most shipping — the ocean activity most affected by pollution measures — takes place
in the crowded areas round the coast. While the trend in favor of national control is therefore understandable, it raises a chain of questions as regards the balancing of national and international interests.

The movement towards increased national control over ocean resources has been accompanied by a counter-tendency as regards the "international" area. It is proposed that the deep ocean floor beyond the seaward limits of the economic zone be deemed to fall under a new jurisdictional concept — the "common heritage of mankind." The exploitation of the mineral resources of this international area, essentially the nodules lying on the oceanic seabed, would be controlled by a new body, the International Seabed Authority. The negotiations on the establishment of such an Authority raise a series of issues: the choice of operators and the regulatory framework to be adopted, the effect of exploitation on land-based producers of the commodities involved, and the system of political controls to be incorporated in the proposed Authority. The demands of resource management, the pressure for equitable distribution of the benefits of the "common heritage," and other political factors are thus closely interwoven. It is also possible that other uses of that area, such as environmental protection and scientific research, may to some extent be brought under the same regime and that the Authority's jurisdiction may be gradually extended upwards through the superjacent water column to the surface.

C. THE GLOBAL PERSPECTIVE

These proposals for modifying the freedom of the high seas have been made at a time in history when three non-legal perspectives have been brought to bear on the ocean in a newly urgent way — those of economics, politics and ecology.

From the economic point of view, the ocean is essentially a "resource." This term is used to refer not only to the specific living and non-living resources found in the seas and seabed, but more widely to virtually all uses of the ocean. One beneficial result of this perspective is to underline the scarcity factor and thus to encourage more accurate estimates to be made of the costs of alternative ocean uses. Even more important, the economic approach has placed appropriate emphasis on the need for tighter concepts and objectives in the management of marine resources. Proper economic management of the world's fisheries, for example, would require limiting access and restricting fishing techniques in such a way as to maximize economic returns. No single formula can be advocated as a conservation objective, however, because of the wide variability in the stock composition of the world's fisheries.

At one extreme, some fisheries consist only of one species of commercial significance; yet there are many more, at the other extreme, that are composed of dozens of species whose interactions must be taken into account for purposes of effective management. The economic approach to ocean management tends, then, to reflect awareness of the importance of the level and scale of organization as factors in resource management. It reflects skepticism regarding the potential effectiveness of fishery conservation solely at the national level.

Political perspectives have been highly conspicuous throughout the law of the sea negotiations. The degree of politicization now prevalent has complicated UNCLOS III enormously, drawing out the processes of alignment, consultation and pre-negotiation. The United Nations as a political system has had great difficulty in coping with the law of the sea: The operating structure of regional groups has little or no relationship to the interests of individual member states as entities engaged in ocean activities. It has only been by a process of reiterated politicization of the issue — rather than looking to immediate individual circumstances — that the Third World has been able to maintain its unity. The developing states, both coastal and non-coastal, have used UNCLOS III negotiations as one of several arenas for asserting a new set of rights and prerogatives and for demanding concessions from the developed states. Some have mixed appeals to a sense of obligation with charges of historic injustice, showing that in their eyes the concept of international interest is virtually inseparable from that of the "new morality" in international relations. Accordingly, for many states the UNCLOS III issues have symbolic value in the context of North-South relations beyond the immediate practical benefits that might be achieved. Where unity among developing countries has not been fully maintained, the range and complexity of the issues involved have frustrated rapid progress. Many states have focussed on the complex of issues with a narrow and short-term interpretation of national advantage.*

The concept of a 200-mile economic zone is particularly problematical from the point of view of global equity. The institution of such zones will amount to a virtual appropriation to national jurisdiction of one-third of the present high seas, a surface area roughly equivalent to the total land mass of the earth; in other words the size of the area which states have to administer will double. A striking feature of this appropriation is that nearly half (46 percent) of the ocean area

*For example, most coastal states espousing the concept of an exclusive economic zone have understandably made light of their limitations in resource management and environmental protection.
thereby enclosed will go to high income countries (Canada, the United
States, Australia, New Zealand, Japan, some European countries, the
U.S.S.R. and South Africa) which contain less than a quarter of the
world's population. Just over half of the area will go to the poorer
countries, which have over three quarters of the world's inhabitants.
These distributional consequences are likely to be skewed even further
in that it is the developed countries which have the skills and capital
to develop their zones. Thus from the perspective of global equity the
movement toward national appropriation hardly serves the objective of
international economic and social justice. Nor will the benefits to be
derived by the world community from the international seabed area be
such as to counterbalance this tendency.

From an environmental perspective the sea is a complex of inter-
locking ecological systems, both human and natural. Now that more
has been learned about the ocean environment, many marine scientists
agree that its life forces, and consequently its vital contribution to the
biosphere as a whole, are at risk; though it is also agreed that the process
deterioration can still be checked. Because the marine environment
cannot be managed scientifically in a random or piecemeal manner, the
scientists regard it as obvious that environmental norms, standards and
institutions should be devised and supported at various levels, not least
the global level. A special effort should be made at regional levels to
apply particularly rigorous controls to those areas which are the most
seriously polluted or the most vulnerable to catastrophic spillages.

The perspectives of international society can be described, then, in
a variety of ways. The global interest in proper management of the
oceans derives from the scarcity of living and non-living resources, from
problems concerning the world distribution of income and equity in the
use of marine resources, and from the need to foster the sense of belonging
to a single human society. There is a strong global interest in conserva-
tion and more effective exploitation of the world's fish resources in a
protein-short world, in maintenance of freedom of navigation, in
avoidance of widely-dispersed pollution, and, not least, in the disposition
of any net income arising from the exploitation of ocean resources, no
matter where it takes place. The global perspective might call for
extending the United Nations' notion of a "common heritage" from
ocean minerals to encompass all ocean resources and uses.

The following paragraphs are intended to indicate what ocean
management in four key areas — navigation, fishing, oil and mineral
extraction, and environmental management — might look like from a
predominantly global perspective. It should be emphasized that this
section is not intended to be limited by "present realities," but is con-
cerned instead with outlining an "idealized" system from a global point
of view. We recognize that major obstacles to the implementation of the
models suggested are rooted in the nature of international society. The
UNCLOS III negotiations reflect the current state of international
society. Even if these negotiations are successful, which cannot be
predicted with confidence, they will yield results different from those
suggested in the following paragraphs. We believe, however, that the
global perspective offered here provides a useful point of reference for
judging the different approaches now being taken at the Conference.
Such a perspective also helps measure the degree to which those ap-
proaches, even if adopted, would leave certain issues unresolved, neces-
sitating further negotiation to produce supplementary bilateral or regional
arrangements.

1. Navigation
The maintenance of the smooth flow of international commerce is of
importance to all countries. There is a universal interest in preserving
and developing internationally agreed rules governing freedom of
passage and the responsibility of shippers. There should be a sharing of
coastal state and international responsibility for the management of
traffic in congested areas, which will grow in number. The financial
burden of such management should be shared by all interested parties
and not carried solely by the coastal state. There should be strict liability
requirements for pollution from ships, and special anti-pollution regula-

*Technological developments likely over the next decade or so will affect marine
transportation and its management. 1) After a full of several years in the construc-
tion of super-tankers and ultra-large cargo carriers, a resurgence is anticipated
with a probable return to the trend for larger ships in the category of 300,000 to
500,000 tons. This development would depend on the completion of deep water
mooring facilities now being planned. 2) The development of terminal facilities
and ships for the carriage of liquid natural gas will continue. Plans are already
on the drawing boards for a number of pre-stressed concrete conventional barges
on which the highly hazardous liquefaction of natural gas could take place off-
shore. A significant capability is likely to exist by about 1985. 3) The economic
feasibility of large submarine tankers (towed, conventionally-powered and nuclear-
powered) for the carriage of bulk liquid cargoes has been demonstrated in various
studies. The high investment which is required, however, is such as to necessitate
a major decision of the government of a major industrial state. 4) A number of
sophisticated factory ships and ship-based industrial plants (e.g., for chemical
processing) have already been completed. This trend will probably be accelerated
in the next decade, perhaps encouraged by the unused shipyard capacity resulting
from the temporary surplus of giant tankers and cargo carriers. 5) A number of
lesser technical developments in marine transportation will mature in the next
decade, including precise navigation on the high seas and ship-to-shore communi-
cation via satellite.
tions might be imposed by coastal states within the framework of environmental management discussed below.

2. Fisheries

Many of the world's present fisheries are threatened with over-exploitation. Under the traditional laissez-faire approach, there has been a reduction of fish stocks accompanied by an increase in the cost of fish to consumers and a decline in net earnings. The existing international fishing commissions lack enforcement powers and operate chiefly as arenas in which bargaining can take place over the allocation of catches. The alternative to this system being espoused in the law of the sea negotiations is the extension of the system of national control out to sea by means of a 200-mile zone. Under this alternative, most ocean resources would be distributed in a largely arbitrary way, in which some states (including several which are already relatively prosperous) would benefit much more than others. Moreover, adequate conservation measures could not be easily established. From a global viewpoint, looking at the situation de novo, it would be better to take as the point of departure the biological factors regarding the different species — and to create the necessary regulatory and allocatory systems around those facts. Arrangements would be devised on the basis of distinguishable fishing grounds (by species or groups of species, on a regional or wider basis as appropriate). All interests would be represented within the institutional framework, special weight being given to the coastal states concerned or those which already have interests in the particular fishery. These agencies would, on the one hand, provide rational management (i.e., the assembly of scientific data and their application to the determination of optimum yields, and limitations, where necessary, on access and on certain forms of fishing gear) and, on the other, determine how the total permissible catch would be allocated among the potential groups of fishermen. The difficulty of deciding how the catch should be allocated would obviously be very great, as indeed it is at present. With the task of rational management taken out of purely national hands, there would at least be some assurance that stocks would be maintained. As regards allocation, which would remain the central issue for participating interests, determination of the economic cost of fishing (defined as the most efficient way of catching the fish species and bringing it to shore) would have to be balanced against the social and manpower problems involved — the question of which particular human groups (whether states or groups within a state) should be engaged in the activity in the region in question. Regard would need to be paid to the situation of subsistence fishermen and to areas where alternative employment possibilities are not available, as well as to the possibility of negotiating phasing-out periods in certain instances. Having regard to the extreme difficulties involved in the process of allocation, it is worthwhile emphasizing that if any fishery currently over-exploited does come under economically sound management, there are bound to be very substantial revenues generated. The Food and Agriculture Organization, and other bodies within the United Nations family, would be responsible for providing general guidance for conservation and proper management, and for ensuring sufficient coordination between the various institutions, so that the overall structure operated efficiently, and was seen to be a coherent system.*

3. Oil and Mineral Exploitation

The 1958 Continental Shelf Convention already establishes the rights of coastal states to exploit minerals on or under the continental shelf to a depth of 200 meters or beyond to the limits of exploitability in adjacent waters. A global perspective would limit unrestricted national rights of exploitation to a fixed portion of the continental shelf, the narrower the limit the greater the volume of resources and revenue available for international purposes. Exploitation of the resources beyond the coastal state limit on the continental shelf would be undertaken on behalf of the international community and be subject to payment of royalties to an international authority. The coastal state would exercise managerial authority in an intermediate zone between its economic zone and the international seabed area on an equal and non-discriminatory basis. Access to mineral exploitation would not be restricted except when necessary to protect the environment, for reasons of conservation, or to reduce interference with other uses of the ocean. Beyond the intermediate zone an International Seabed Authority would be vested with the

*Fisheries technology continues to change in ways which affect management issues. Over the years, ocean fishing has remained essentially a hunting activity. Recently, however, with the use of spotter aircraft and increasingly sophisticated sounding techniques, the process of search has been greatly improved. With heavier and more expensive equipment the capacity for catching fish through trawling and seining has been significantly enlarged, and this is linked with the development of factory ships on which large catches can be stored and processed. These changes in search and catch techniques put ever greater pressures on existing stocks of fish. In the not-too-distant future it may become possible to track schools of fish on a regular basis and to catch them when they are outside specified geographical jurisdictions, making it necessary to view the fish stock as the appropriate unit for regulation (rather than an arbitrary geographic area). In time, hunting techniques may evolve into methods of herding, and it may become feasible to lure certain stocks of fish outside their original areas, thus raising further problems as regards systems of regulation and allocation. It is not possible to fix a reliable estimate as to when these developments may occur.
authority to manage the exploitation of resources on the seabed. This authority would be exercised on the same basis as that of the coastal state in its intermediate zone. Royalties on oil and mineral resources are potentially very large and further thought would have to be given to the best means of mobilizing these royalties for economic development. A possible solution would be to channel them through the World Bank Group and existing regional development banks.*

4. Environmental Management

Where waste disposal and other sources of pollution affect many nations there is clearly an international interest in regulating pollution. Indeed

*Changing technology is encouraging increased economic activity in offshore areas and in the deep sea. The development of semi-submersible oil rigs, offshore storage facilities, offshore terminals and other sea-based appurtenances of oil and gas exploitation will continue, though it may abate somewhat in about five years when the major fields, already discovered, begin to mature. Industry may then wish to turn to offshore extraction of sands, gravel, mineral sands, etc., as an outlet for its construction capability. The significant development in offshore technology is the ability to construct enormous pre-stressed concrete floating or quasi-floating stable storage facilities. Built without the need for a shipyard per se, these large volume, low-cost-per-unit volume structures can fulfill a multitude of offshore functions not limited to the storage and processing of oil. The lead time from design to construction in this area has been relatively short (five years). It is highly probable that these structures will proliferate for various forms of offshore processing. Since much of the manganese nodule processing will be energy- and chemical-intensive, it is likely to take place eventually on stable platforms at sea, leading possibly to the construction of fairly large artificial islands. A concomitant to the large stable floating platform is the development of stable work and transportation ships. The key development in this regard is the SWATH (Small Waterplane Twin Hull) — or the SSP (Semi-submerged Platform) ship. Such craft will be able to travel at a high speed and be stable in heavy seas, albeit at a reduced payload. The substitution of these craft for helicopters or conventional work boats is likely to accelerate the growth of offshore facilities.

A number of offshore power plant concepts have been proposed or initiated. The most advanced are the floating nuclear power plants now under development. Capital investment constraints have been the major limitation here and it seems evident that some national or international effort will be required if such facilities are to become a serious option in the next decade. Environmental and safety considerations would, of course, constitute important factors in such initiatives. A number of studies indicate the technical and economic feasibility of offshore floating coal-burning power plants as a substitute for land-based counterparts. The lead time for design and construction would be much shorter than for nuclear power plants and the initial investment costs would be much lower. It is possible that a substantial number of such plants will exist by around 1985-1990. A more distant possibility is the development of OTEC (Ocean Thermal Energy Conversion) plants for the fuelless extraction of solar energy from the sea. The most optimistic date for a prototype is 1981 and the economic feasibility of such plants is in serious doubt. The probability that other than experimental prototypes will exist in the next two decades must be deemed low.

there is a global interest in the preservation of the ocean environment as a whole. However, the principal impact of waste disposal in the oceans is on coastal states in the vicinity of the disposal. Since run-off from the land is the main source of marine pollution, coastal states should be permitted to establish whatever level of overall pollution control they deem appropriate for their circumstances and values. General international standards are obviously needed to govern waste disposal in the open seas, especially for those forms of waste that are long-lived and travel long distances. It also seems necessary, in the global perspective, to have a worldwide network of (preferably harmonized) national legislation for pollution prevention and control. International standards would, for example, require that such national measures should be nondiscriminatory in application, both between ships of different nationalities and between foreign shipping and domestic polluters on land. Since only one-fifth of pollutants in the ocean comes from ships, to focus anti-pollution requirements on ships alone is to slight the interests of the international community (by increasing shipping costs) with little gain in reduction of total pollution. It would be desirable that each coastal state's anti-pollution requirements for shipping be kept in line, so far as possible, with its anti-pollution requirements for run-off from land, making due allowance for the different types of pollution involved. It would be contrary to the international interest to permit the use of anti-pollution control as an instrument for objectives other than control of pollution.
II. THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

A. THE EXISTING LAW

The existing law of the sea consists of customary rules and of the four conventions drawn up at the First United Nations Conference in 1958. In their territorial sea, states have sovereignty, the same plenitude of exclusive rights as they have over land, including control over the superjacent airspace. The sole exception to the principle of exclusive control by the coastal state is that foreign vessels have the right of innocent passage, namely, the right to proceed through territorial waters for the purposes of ordinary navigation, whether or not they are going to the ports of the coastal state concerned. The 1958 Territorial Sea Convention did not fix the outer limit of the territorial sea but 12 miles was the maximum width widely advocated and most states have now come to accept this limit.

In the high seas beyond the territorial sea, all states may exercise the freedoms recognized in the 1958 High Seas Convention: freedom of navigation, freedom of fishing, freedom of overflight and freedom to lay submarine cables and pipelines. These freedoms, and others recognized by the general principles of international law, may be exercised by all states, coastal and non-coastal states alike, with "reasonable regard" to the interests of other states. The assumptions of the High Seas Convention are of a boundless universe, where all may prosper without need for payment or regulation other than as the flag state may impose with respect to its own vessels.

The 1958 Fisheries Convention, the least successful of the four, was a moderate move towards permitting coastal states to regulate the fishing of stocks round their shores, essentially from the standpoint of conservation. Fishing on the high seas has continued to be governed by the principle of laisser-faire "first capture" subject to bilateral and multilateral quota arrangements, mostly negotiated within the framework of regional fishing commissions.

The 1958 Continental Shelf Convention granted coastal states sovereign rights over the submarine areas or "continental shelf" outside the territorial sea for the purpose of exploring and exploiting the natural resources located there. This instrument has been widely accepted and the main question outstanding has been the geographical extent of states' rights. The 1958 Convention gives an open-ended definition. It declares that states have sovereign rights to a depth of 200 meters or beyond that limit "to where the depth of the superjacent waters admits of the exploitation of the natural resources" of the submarine area.

The four 1958 Conventions, though widely regarded at the time of their adoption as a great advance in international law-making, thus left three major problems unresolved: the width of the territorial sea, the outer limit of the continental shelf, and the arrangements to be made as regards the allocation and conservation of fish stocks. Nor did the Conventions incorporate a process or institution whereby their provisions could be continuously adjusted to deal with changing circumstances. The Second United Nations Conference was held in 1960, principally to reach agreement on the width of the territorial sea. The effort failed, although a proposal for a six-mile territorial sea and a six-mile fishing zone beyond came very close to adoption.

B. THE CONFERENCE FRAMEWORK AND PROCESS

Following a lengthy period of preparatory discussions beginning in 1968, the Third United Nations Conference on the Law of the Sea (UNCLOS III) was convoked in December 1973. The decision to begin the Conference was taken in the absence of any agreed draft articles and after the agenda had been expanded to include virtually all aspects of the law of the sea. The Conference has held two substantive sessions, one in 1974 (Caracas, 20 June - 29 August) and one in 1975 (Geneva, 17 March - 9 May), and a third session is scheduled to open in New York in March 1976. There has been a marked contrast between the slow process of international decision-making and the steady pace of technological development. The years 1968-1975 have furthermore witnessed a considerable change in the international climate and in the relative weight of the major political forces.

UNCLOS III constitutes an ambitious attempt at law-making through worldwide negotiation. Whereas the 1958 Conventions were based largely on existing customs and activities, the present conference is intended to make and recast the law on a much wider scale. The goal of producing a comprehensive law-making treaty may indeed prove to be beyond reach and the negotiators may yet need to change course and limit their agreement to certain general principles or adopt several treaties covering different parts of the subject matter, supplemented in either case by further measures at bilateral or regional levels. The size of the conference (attended by some 140 delegations), the length of the agenda, the different degrees of importance attached by groups of states to individual items, and the observation of the principle of consensus, have together made it difficult to reach the stage of serious bargaining and the construction of packages of adjusted compromise.
The alignment patterns of the East-West conflict have not played a significant part in determining the divisions at UNCLOS III. The U.S.S.R. and the United States have in fact adopted very similar positions on some of the major issues. They are both global powers with strong interests in unimpeded access to resources and maritime thoroughfares. They have preferred to discuss questions relating to their conflicting strategic interests elsewhere, among themselves, and to pursue parallel policies at the Conference aimed at maintaining freedom of naval mobility.

The main driving force at the Conference has been the movement towards increased coastal state jurisdiction. The acquisitive claims of the coastal states have been accepted in large measure by a majority of delegations. The concept of the 200-mile exclusive economic zone* appears to have received legitimacy through UNCLOS III, irrespective of whether or not the concept is finally approved in treaty form. Considerable disagreement nevertheless prevails over the precise extent of the coastal state's rights within the zone. The coastal countries, with many spokesmen from developing countries, have tended to assert extensive claims, while the developed maritime powers have taken the lead in stressing the dangers of creeping sovereignty which gradually would exclude outsiders from access to a large portion of the oceans. The issue cannot however be accurately characterized solely in terms of a conflict between the interests of developed and developing countries. Provisions amounting to full territorialization of the zone, for which some Latin American countries have argued, would in all probability cause Third World solidarity to break down over the difference of interest between coastal and non-coastal states, unless, at the minimum, sharing arrangements were made on a regional basis. Indeed, developments in this direction would in all likelihood have a cementing impact on the 48 landlocked and geographically disadvantaged states (most of them developing countries) which on substantive issues command the votes of a blocking minority.

The most significant areas of disagreement, besides those related to the content of coastal state rights in the economic zone, concern the deep seabed regime, and the conduct of scientific research. The dispute on this last point has been between coastal states that have wished to make scientific research conducted in the economic zone subject to the consent of the coastal state, and those that, like most of the Trilateral countries, have sought to maintain the right to conduct research subject to internationally agreed obligations.

The debate concerning the deep seabed regime, more than any other item on the agenda, reflects both an ideological conflict between the rich and the poor countries and substantive differences of interest. The developing countries insist that the proposed International Seabed Authority (ISA) should control directly all seabed mining and ultimately become the exclusive operator. The developed countries, particularly the United States, Japan and most of the European Community countries, have insisted on security of access. A primary issue of contention between producing and consuming countries has been the authority of the ISA to impose production and price controls for purposes of protecting the interests of mineral producers on land. Thus the conflict between high technology countries and the developing countries in regard to the deep seabed regime is linked to the broader conflict over the reorganization of the international system and the creation of a new economic order.

C. THREATS TO THE CONFERENCE

The complex and protracted nature of UNCLOS III has produced more than the usual amount of frustration associated with contemporary conference diplomacy. Many states believe they stand to gain a great deal from the legal regimes under discussion and their governments are under pressure to fulfill the expectations raised as regards rights to resources. The frustrations involved give rise to two kinds of threats to the Conference: first, that a substantial number of influential states will, in their exasperation, resort to some form of unilateral action, thereby destroying the incentive to continue the pursuit of universal solutions; secondly, that one or more groups of like-minded governments may decide not to wait for the end of the global treaty-making process and resort instead to multilateral arrangements amongst themselves, thereby inviting retaliatory treaty-making by other states. In either case, the world would be saddled with two or more incomplete and incompatible treaty systems purporting to govern important ocean uses.

The first of these dangers is the more immediately evident. Indeed several nations since the opening of UNCLOS III have already had recourse to one form of unilateral action, namely, the enactment of national legislation establishing 200-mile fishing or economic zones. Pressures for legislation of this kind are growing from month to month in Trilateral fishing countries like the United States, Canada, Britain and Norway. The precarious balance of political power in several Trilateral states gives added leverage to regions and groups representing special interests. Until now the governments in these countries have withstood the pressures for unilateral action, but if one gives way, the others are

*The outer limit of the zone would be 200 miles from the baselines from which the territorial sea is measured. Assuming a twelve-mile territorial sea, the zone as such would thus be 188 miles in width beyond the territorial sea.
likely to follow suit. The situation has been graphically described by The Times of London (May 27, 1975):

Like athletes, the maritime countries stand at the ready, warily watching each other, some wanting to anticipate the starter's pistol — which they know will not go off — but each prepared to join the chase as soon as one of the others makes a break.

In addition to national legislation creating extended coastal zones, some of the technological powers may be tempted, under domestic pressure, to authorize new corporate initiatives in deep ocean mining. This would defy repeated resolutions by the United Nations General Assembly calling for a moratorium on such activities, but would allegedly still be permissible under the laissez-faire principles embodied in the old law of the sea. Other states may be tempted to exercise extended enforcement powers in waters still regarded as belonging to the regime of the high seas, for example for the purposes of pollution prevention. Not all such unilateral measures would necessarily and automatically be subversive of future attempts to organize ocean management in the interest of the world community. Much would depend on the manner and timing of the initiatives. There is a serious prospect, however, that a few relatively moderate initiatives could trigger a chain reaction among an increasing number of frustrated or resentful states, and that some of these actions would constitute grave deviations from the spirit or the letter of the conference drafts upon which the hopes for universal consensus rest.

The other source of danger to UNCLOS III is that of competitive treaty-making on the part of groups of disenchanted states. It is conceivable, for example, that a simple majority of nations at the Conference, unable to obtain a two-thirds vote for a particular version of the economic zone proposals, might proceed to legitimize a zone of that kind among themselves outside the forum of UNCLOS III. It is equally possible that a large majority, unable to secure more or less universal support for a comprehensive treaty, might nevertheless decide to conclude a limited instrument of that kind, which some of the disident minority might feel unable to accept, preferring to stick to existing law. The probability of either of these dangers emerging is heightened if a cleavage of opinion develops at UNCLOS III on the legal or even symbolic significance of the single negotiating text prepared in May 1975 during the Geneva segment of the negotiations. Even though this text was understood at the time of drafting to have no binding effect on the delegations and to represent only a basis for discussion, different opinions are likely on the extent to which it reflects an emerging consensus on key issues.

D. THE SINGLE NEGOTIATING TEXT

In order to overcome the inability of the Conference to arrive at a common starting point for negotiations, the chairmen of the three main committees were asked at the Geneva session in the spring of 1975 to prepare a three-part "Informal Single Negotiating Text" (SNT), covering the topics assigned to their committees. The principal source for the content of these texts was the work which had been done in various informal groups. Whereas the discussions in these groups had led to a measure of agreement on some issues, or at least to the emergence of a main trend, this was far from being the situation on all issues, and even where broad principles had been established there was still disagreement as to the terms and conditions under which those principles were to be implemented. In consequence the SNT constitutes an uneven mixture: in those areas where there is a measure of agreement, the text either suggests a specific application or has recourse to language broad enough to permit different interpretations; in some instances the text proposes solutions even though it is clear that important groups of countries may find these hard to accept. Thus, while the SNT broke a procedural deadlock, it cannot provide an instant solution to the major substantive issues. It will, nevertheless, play a central, and indeed probably dominant, role in shaping the outcome of the Conference. The remaining part of this chapter is a summary of the main contents of the single negotiating text on the principal topics.

1. Navigation

There is general agreement in UNCLOS III that the territorial sea should extend out to twelve miles from the baselines. Within the territorial sea, all vessels maintain the right of innocent passage. According to the SNT "passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State." The coastal state is prevented from interrupting or hampering innocent passage and may not levy charges on passage through the territorial sea, except on a non-discriminatory basis for specific services.

Since some 120 international straits will be overlapped by a twelve-mile territorial waters regime, it has been a major objective of the maritime powers to ensure continued unimpeded passage through such straits. Some straits states have sought to limit the right of navigation to innocent passage, thereby requiring submarines to travel on the surface and aircraft to receive permission for overflight. The SNT accommodates the views and interests of the maritime powers in providing for the right of transit for all ships and aircraft.
While freedom of navigation through the economic zone is maintained, this is subject to the exercise by the coastal state of regulatory powers, in particular with respect to pollution (dealt with further in the section below on the marine environment). Increasing resource-related activities in the economic zone will in any case increase the need to regulate traffic so as to avoid conflicts over uses of the sea.

A further concept to which the Conference has given legitimacy is that of archipelagic waters, defined as the waters enclosed by the straight baselines joining the outermost islands and drying reefs of an archipelagic state; such waters are thus distinct from the economic zone surrounding the archipelago. Considerable disagreement exists as regards the length of baselines permitted in determining archipelagic waters and with respect to the ratio of land to water within the baselines. Having regard to the large expanse of presently open seas thus enclosed, in some instances (most notably Indonesia) of major significance for international navigation, it is important that ships of all states should be accorded the right of innocent passage through archipelagic waters.

Both coastal and archipelagic states are given regulatory power to designate special sealanes and to prescribe traffic separation schemes within territorial and archipelagic waters. Increased recourse to the establishment of such schemes will certainly be a feature of the future pattern of marine transport.

Although the Conference does not deal with military matters as such, the regulations with respect to navigation have implications as regards security issues. Some of the controversy over the extent of coastal state sovereignty in the economic zone is connected with the interest of the major naval powers in freedom of access and transit for naval forces, and in the possibility of installing underwater listening devices. For reasons of geography the U.S.S.R. would be much more constrained in terms of its naval operations than the United States should navigation through international straits be limited to innocent passage. The increased range of submarine-launched ballistic missiles will make the United States deterrent less and less dependent on passage through international straits. The major exception would be Gibraltar, but the presence of United States strategic missile-carrying submarines in the Mediterranean is important primarily for political symbolic reasons, rather than for strategic purposes. Presumably, ad hoc arrangements could be made with the littoral states independent of the international legal regime. The major constraint on American naval power would be on the rapid projection of surface naval power into a conflict area. The issue of overflight rights could also be important in certain contingencies.

The question should be posed in this connection whether it would be in fact in the interest of the littoral states to be in a position to make decisions with respect to the passage of great power naval forces. Such a position could involve them in conflicts which otherwise might not extend to their shores. It should nevertheless be noted that the development of precision guided munitions is likely to improve significantly the capability of coastal states to deny even powerful naval forces passage through straits.

2. The Exclusive Economic Zone

The SNT establishes the principle of a 200-mile exclusive economic zone. Within the zone, the coastal state is accorded “sovereign rights” to exploit and manage natural resources, “exclusive rights and jurisdiction” over artificial islands and installations, “exclusive jurisdiction” over all other activities pertaining to economic exploitation of the zone (such as production of energy from the water) and over scientific research, and “jurisdiction” with regard to the preservation of the marine environment. Subject to the relevant provisions of the present convention all states shall enjoy “the freedom of navigation and overflight and of the laying of submarine cables and pipelines” within the zone.

As regards fisheries, although coastal states are granted overall sovereign powers, they are under obligation to conserve stocks and to promote optimum exploitation by allowing other states access, subject to payment of a fee or other arrangement, to the portion of the allowable catch which exceeds their own harvesting capacity. The articles on anadromous species (e.g. salmon) give regulatory powers to the states in whose fresh waters the anadromous fish originate. It did not prove possible to reach agreement on highly migratory species such as tuna and swordfish during the Geneva session, and the SNT limits itself to a vague prescription of cooperation between coastal states and other states harvesting such species through appropriate international organizations.

The SNT provisions for accommodating the interests of landlocked states in the economic zones of adjoining coastal states are equally vague. Such states are accorded the right to participate in exploitation of fishing resources of these zones “on an equitable basis,” taking economic and geographic circumstances into account. The terms of this participation, however, are not spelled out but are left to be negotiated bilaterally or regionally.

According to the SNT, coastal states may exercise sovereign rights over the continental shelf for the purpose of exploring or exploiting its natural resources. The continental shelf is defined as the natural prolongation of land territory to the outer edge of the continental margin or
out to 200 miles from the baselines, whichever is the furthest. The exclusive right of the coastal states to the exploitation of oil and gas on the continental margin beyond 200 miles, however, remains a controversial issue. As a possible compromise it is stipulated that the coastal states shall pay a royalty (unspecified) on extraction from the continental margin beyond 200 miles.

3. The International Seabed

The provisions of the SNT in regard to deep sea mining constitute perhaps the most controversial group of issues for further negotiations. The text has in large measure been structured in accordance with the interests and expressed wishes of the “Group of 77,” which at UNCLOS III includes some 104 countries. The draft articles derive from the agreed premise that the deep sea area and its resources are the common heritage of mankind. The SNT provides for the establishment of an International Seabed Authority, comprising an Assembly, a Council, a Tribunal, an Enterprise and a Secretariat. Activities in the deep seabed area shall, according to the SNT, be conducted directly by the Authority. However, provisions are made for the conclusion of service contracts and the establishment of joint ventures with individual operators in order to carry out exploration and exploitation. The Authority is to avoid discrimination in granting concessionary rights, but it is explicitly stated that special consideration for the interests and needs of the developing countries is not to be regarded as discrimination. The Authority is furthermore expected to ensure an equitable sharing of benefits derived from deep seabed mining and to further the transfer of technology to developing countries. Particular attention has been devoted to the need to protect the economic interests of the land producers of the minerals contained in manganese nodules, and the SNT explicitly grants the Authority the powers to determine the extent of the area to be exploited as well as the rate of exploitation. Provisions are made for protective measures, such as integrated commodity arrangements and buffer stock arrangements. The United States has made clear its position that the Authority “should not have the power to control prices or production rates.” It remains to be seen whether some compromise formula can be found which might satisfy the dominant interests involved.

The extent to which deep seabed mining would have an adverse economic effect on mineral exporting countries is hard to assess due to the technical and economic uncertainties involved. Some United Nations studies indicate that nodule mining will increase total supplies only minimally over the next ten years in the case of copper (1-2 percent in 1985), somewhat more with respect to manganese (8-16 percent) and nickel (14-29 percent), and substantially in the case of cobalt (33-66 percent). In 1972 the developing countries accounted for only 13 percent of the world’s total nickel production, but their share has been growing. Only one developing country (Gabon) is dependent on manganese exports. The cobalt producers include developing countries like Zaire, Zambia, Cuba and Morocco. It has been estimated that the developing countries’ export earnings from the four minerals in question — which are roughly $2 billion per annum at present and which will probably double over the next decade — could be $300-400 million lower in 1985 than would be the case in the absence of seabed mining.

4. The Marine Environment

The SNT from the Third Committee establishes the principle that “States have the obligation to protect and preserve all the marine environment.” A broad consensus has emerged on the monitoring and assessment of land-based pollution as well as on provisions about ocean dumping and continental shelf pollution. Vessel-source pollution has been the major obstacle to general agreement.

As regards land-based pollution, the SNT stipulates that states shall establish national rules and regulations and that they shall endeavor to harmonize their policies as well as to establish global and regional rules and standards. Similar attempts at coordination and rulemaking are envisaged in regard to the control of pollution from continental shelf activities and as regards the dumping of wastes. Within an unspecified zone the coastal state is to have the exclusive right to regulate dumping. With respect to vessel-source pollution the SNT provides that “States, acting through the competent international organization or by general diplomatic conference, shall establish as soon as possible and to the extent that they are not already in existence, international rules and standards for the prevention, reduction and control of pollution of the marine environment from vessels.”

It seems likely that the Inter-Governmental Maritime Consultative Organization (IMCO) will be the principal organ in this connection. Flag states are obliged to establish laws and regulations which are at least as stringent as the international standards. Coastal states may establish special laws and regulations for the protection of the marine environment on a non-discriminatory basis in areas where pollution might cause “irreversible disturbance of the ecological balance.”

The effective enforcement of rules and standards for preventing pollution is entrusted to the flag state. The port state and the coastal state
are also accorded a right of enforcement, however, as regards vessels voluntarily within their ports or territorial waters. The coastal state may inspect and arrest vessels for violations committed within the territorial sea and take judicial action if the flag state fails to institute proceedings for the offense. The coastal state may also request information and, in the case of flagrant violations, board a vessel for inspection when there are reasonable grounds for believing that it has discharged in violation of international rules and standards within an as yet unspecified area (probably to be commensurate with the economic zone).

That steps should be taken to deal with serious pollution is widely agreed. Shipping interests are concerned however lest anti-pollution enforcement provisions be applied in ways that impede or harass navigation. The fact that provisions to protect the marine environment will probably remain general in any treaty likely to emerge, leaving the details of regulation and enforcement to coastal states, may result in a diversity of separate regulations to which shippers will have to conform. The traditional freedom of navigation, including the right of innocent passage, might thus be considerably compromised. There is the need, however, to assure that nations will be empowered to introduce measures sufficiently strong to protect the coastal environment. A balanced solution to this problem would thus require that national measures relating to shipping conform to international norms and standards.

5. Marine Scientific Research
The SNT lays down the premise that all states have the right to carry out scientific research. Such research shall be for peaceful purposes only and be conducted in such a way that it will not unduly interfere with other legitimate uses of the sea. The dispute at UNCLOS III has chiefly revolved around the issue of coastal state consent to scientific research within the economic zone. Marine scientists and geologists fear that the requirement for prior consent may unduly impede important scientific works, in a period in which new evidence on the structure and internal motion of the earth is being drawn increasingly from beneath the sea. Their apprehensions concerning arbitrary denial of access are reinforced by experience of the last decade with respect to research on the continental shelf, where access frequently has not been granted despite the stipulation in the 1958 Continental Shelf Convention that permission to do research would normally not be withheld. Coastal states on the other hand, particularly developing states, have insisted that consent is a necessary adjunct to their control over resources, since research will often generate knowledge on the availability of exploitable resources. There is the further consideration that research may also have military implications. On both grounds there has been a demand for close surveillance of research activity and access to the results. The SNT from the Second Committee establishes the need for coastal state consent in the economic zone, but provides also that such consent shall not normally be withheld. The text from the Third Committee, on the other hand, emphasizes only the obligation of researchers to respect the rights of the coastal state; research "related to the living and non-living resources of the economic zone and the continental shelf shall be conducted only with the explicit consent of the coastal State."

States are obliged to promote the development and transfer of marine sciences and technology. The most important measure which the SNT provides for in this connection is the establishment of regional marine scientific and technological centers in cooperation with the International Seabed Authority.

1UN Docs. A/CONF. 62/WP 8, Parts 1 (7 May 1975), II (7 May 1975) and III (6 May 1975).
2Ibid., Part II, Art. 16, para. 1.
3Ibid., Part II, Art. 45.
4Ibid., Part II, Art. 47.
5Ibid., Part II, Art. 57, para. 1.
6Secretary of State Henry A. Kissinger in his address to the American Bar Association, Montreal, 11 August 1975.
10Ibid., Part III, Protection and Preservation of the Marine Environment, Art. 20, para. 1.
11Ibid., Part III, Protection and Preservation of the Marine Environment, Art. 20, para. 5.
12Ibid., Part III, Marine Scientific Research, Art. 21. Scientific research in the international seabed area is dealt with in the text from the First Committee. See ibid., Part I, Art. 10. In territorial seas, the SNT accords coastal states the exclusive right to conduct and regulate research.
III. TRILATERAL INTERESTS AND PERSPECTIVES

The outcome of the Third United Nations Conference on the Law of the Sea will have a major impact on the international setting within which Trilateral nations operate in the coming decades. The overriding concern of UNCLOS III is with ocean resources and the most notable result of that Conference is likely to be the enclosure within national jurisdiction of the great bulk of the resources now exploitable. Depending upon their geographic circumstances, some Trilateral countries will benefit more than others from this enclosure. Those that are already well-endowed in terms of resources, island possessions, and lengthy coastlines will acquire more resources and ocean space than the rest. Similarly, on a global basis, the Trilateral nations, proportionate to their size, benefit more from territorial extensions than does most of the developing world. Relatively fewer Trilateral countries are geographically disadvantaged than is true for the world as a whole.

Despite these geographic circumstances, the majority of Trilateral nations have not favored the extension of national jurisdiction offshore, and only recently have some Trilateral nations acquiesced in the widespread support for economic zones of 200 miles.* Trilateral nations will not only benefit from such extensions; they will also be better able than most to cope with the difficulties attendant upon acquiring vast new areas. Problems that are already apparent include boundary disputes, enforcement of national and international regulations, and the exacerbation of divisions within nations between coastal regions and central governments. Wise management of newly acquired ocean resources will be difficult at best for Trilateral nations and is likely to be even more problematic for developing nations. Areas posing special problems and requiring cooperative approaches include semi-enclosed seas such as the North Sea, the Mediterranean and the Yellow Sea, as well as similar areas elsewhere of concern primarily to developing countries, such as the Caribbean and the West African bight.

The perspectives of individual Trilateral countries toward the use and management of the ocean's resources are influenced by a variety of factors: geographical situation, dependence on ocean resources, alternative land-based sources of supply, historical orientation to the oceans, domestic interest groups, political relations with neighboring states, and the like. These different perspectives influence the policies pursued with regard to main topics under consideration at UNCLOS III, namely jurisdiction over offshore zones (including fishing), deep sea mining, navigation and vessel-source pollution. The policies, and the reasons behind these policies, are considered below.

A. THE EXCLUSIVE ECONOMIC ZONE

1. Minerals

According to their circumstances, Trilateral countries have adopted different positions on the question of the establishment of a 200-mile economic zone. As an island nation with island dependencies, Japan has a lengthy coastline compared to its land mass. Despite its proximity to the mainland, Japan would rank seventh among coastal nations benefiting from 200-mile extensions and would acquire 4.5 percent of the worldwide economic zone. (See Table 1). Moreover, potentially rich oil

TABLE 1.
AREA GAINED BY TRILATERAL COUNTRIES UNDER VARIOUS DEFINITIONS OF THE ECONOMIC ZONE
(in square nautical miles)

<table>
<thead>
<tr>
<th>Country</th>
<th>Economic Zone to 200 Naut. Miles</th>
<th>Economic Zone to Edge of Cont. Margin (3000 m. depth)</th>
<th>Coastal Length (naut. miles)</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States*</td>
<td>2,222,000</td>
<td>826,600</td>
<td>11,650</td>
</tr>
<tr>
<td>Canada b</td>
<td>1,370,000</td>
<td>1,240,000</td>
<td>11,129</td>
</tr>
<tr>
<td>Japan</td>
<td>1,126,000</td>
<td>440,900</td>
<td>4,842</td>
</tr>
<tr>
<td>Norway</td>
<td>590,500</td>
<td>463,700</td>
<td>1,650</td>
</tr>
<tr>
<td>United Kingdom*</td>
<td>274,800</td>
<td>281,800</td>
<td>2,790</td>
</tr>
<tr>
<td>Italy</td>
<td>161,000</td>
<td>160,000</td>
<td>2,451</td>
</tr>
<tr>
<td>Ireland</td>
<td>110,900</td>
<td>84,100</td>
<td>663</td>
</tr>
<tr>
<td>France a</td>
<td>99,500</td>
<td>75,800</td>
<td>1,373</td>
</tr>
<tr>
<td>Netherlands a</td>
<td>24,700</td>
<td>24,700</td>
<td>198</td>
</tr>
<tr>
<td>Denmark c</td>
<td>20,000</td>
<td>20,000</td>
<td>686</td>
</tr>
<tr>
<td>Belgium</td>
<td>800</td>
<td>800</td>
<td>34</td>
</tr>
<tr>
<td>Luxembourg</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>World Total</strong></td>
<td><strong>25,279,300</strong></td>
<td><strong>13,738,200</strong></td>
<td><strong>181,379</strong></td>
</tr>
</tbody>
</table>

*Trilateral states have likewise tended toward more limited territorial sea claims. In 1973, before UNCLOS III, eight of the twelve coastal Trilateral countries still had territorial sea claims of only three miles. Norway claimed four miles, and Italy six. Only Canada (in 1970) and France (in 1971) had moved to twelve miles.

a. excludes possessions  
b. excludes Hudson Bay  
c. excludes Greenland and the Faroes

fields have been discovered beneath the Yellow and East China Seas and are estimated to be among the world’s ten largest deposits. Japan has proposed that the coastal state have the right to establish a coastal seabed area to a maximum distance of 200 nautical miles from the baselines. Coastal state rights in the area would be limited to exploring and exploiting mineral resources. Where states are adjacent or opposite to one another, delimitation would be by agreement and would take the equidistance principle into account. Due to the existence of a major trench off its shores, Japan does not fare as well under an extension of jurisdiction to the outer edge of the continental margin (440,900 square nautical miles) as to a 200-mile seabed zone (1,126,000 sq. n. miles).

Canada fares well under both a 200-mile economic zone (it would rank fifth among coastal nations, with 5.4 percent of the worldwide zone) and an extension to the edge of the continental margin (second among coastal states with 9.0 percent of the world’s margins), and has claimed both. Mineral potential off Canadian shores is estimated at 59.6 billion barrels of recoverable oil and 457.2 trillion cubic feet of recoverable gas. Although Canada’s preoccupation with its continental margin is relatively recent, it is now a strongly held interest and Canada has been extremely active at UNCLOS III in pressing for coastal state jurisdiction over the margin beyond 200-mile zones.

Norway, like Canada, has pressed for a 200-mile economic zone (acquiring 2.3 percent of the global economic zone, placing Norway eleventh among coastal states acquiring offshore territory) and jurisdiction to the outer edge of the continental margin (under which Norway ranks eighth). In delimiting offshore boundaries Norway has supported a median line and equidistance approach. Presently unresolved are Norway’s continental shelf boundary with the Soviet Union in the Barents Sea and the status of the continental shelf surrounding the Svalbard (Spitsbergen) archipelago. Norway has concentrated its oil exploration in the North Sea south of the 62° N. latitude. Confirmed reserves on Norway’s North Sea shelf are 750 million tons of oil and 750,000 million cubic meters of gas. The estimated total reserves are 1-2 billion tons of oil and 1-2 trillion cubic meters of gas.

Member states of the European Community do not benefit uniformly from extensions of jurisdiction over offshore resource zones and continental margins. While the United Kingdom has supported a 200-mile zone plus seabed jurisdiction to the outer edge of the continental margin (which would also be favorable to Ireland), Belgium, Germany, Luxembourg and the Netherlands have jointly pursued a policy of limiting coastal state extensions of jurisdiction. Together with a number of landlocked and shelf-locked states, the latter countries have proposed the creation of regional zones, revenue-sharing from the mineral resources of the zone, and participation for landlocked and other geographically disadvantaged states in the exploitation of living and non-living resources in the zones of adjacent and nearby coastal states. France and the United Kingdom have a number of island possessions which they wish to see accorded the same jurisdiction as other land territories. Denmark similarly takes the Faroes and Greenland into account in its attitude to a 200-mile zone. Without them Denmark would acquire an area of only 26,000 square nautical miles under either a zonal or margin delimitation due to the presence of nearby states. Italy, like Denmark, acquires less than a full 200-mile zone due to the proximity of neighboring states. Oil prospects of EEC countries are affected.

### Table 2.

<table>
<thead>
<tr>
<th>Country</th>
<th>Oil (in billions of barrels)</th>
<th>Natural Gas (in trillions of cubic feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>100-1,000</td>
<td>1,000-10,000</td>
</tr>
<tr>
<td>Canada</td>
<td>10-100</td>
<td>10-100</td>
</tr>
<tr>
<td>Norway</td>
<td>10-100</td>
<td>10-100</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>10-100</td>
<td>10-100</td>
</tr>
<tr>
<td>Netherlands</td>
<td>1-10</td>
<td>10-100</td>
</tr>
<tr>
<td>Italy</td>
<td>1-10</td>
<td>10-100</td>
</tr>
<tr>
<td>Fed. Rep. of Germany</td>
<td>1-10</td>
<td>1-10</td>
</tr>
<tr>
<td>Denmark</td>
<td>1-10</td>
<td>1-10</td>
</tr>
<tr>
<td>Belgium</td>
<td>1-10</td>
<td>1-10</td>
</tr>
<tr>
<td>France</td>
<td>1-10</td>
<td>1-10</td>
</tr>
<tr>
<td>Japan</td>
<td>1-10</td>
<td>1-10</td>
</tr>
<tr>
<td>Ireland</td>
<td>0.1-1</td>
<td>1-10</td>
</tr>
</tbody>
</table>

Note: “Potential resources” are quantities of crude oil and natural gas that are believed to be present in sedimentary rocks in areas that have not been explored or only partly explored. The use of a specific quantity is avoided to prevent any implication of a misleading degree of precision, accuracy, or certainty of the estimate.

by size of the continental shelf to be acquired in the North Sea, the major area of promising activity. Total reserves of the whole North Sea are estimated to be around 40 billion barrels.

United States policy with regard to offshore jurisdiction has been characterized by extensions of jurisdiction, followed by a sharp policy reversal in 1970, with a subsequent return to a policy of expanding jurisdiction. Like Canada, the United States fares well under either a 200-mile zone (ranking first among coastal nations with 8.8 percent of the worldwide zone) or the extension of jurisdiction to the edge of the margin (ranking fourth, with 6.3 percent of the world’s margins). The United States also has abundant offshore reserves of petroleum, estimated at 144 billion barrels of oil and 822 trillion cubic feet of natural gas. The temporary United States policy reversal in 1970, therefore, was not due to lack of interest in offshore resources but rather represented an effort to create an international seabed regime that would not be detrimental to freedom of navigation. Since then United States policy has reverted to the expansion of offshore jurisdiction and the United States has expressed support for a 200-mile economic zone (including fisheries) extending, as regards mineral resources, to the edge of the continental margin. Within the economic zone the United States proposes five international features: no unjustifiable interference with other uses of the area, international pollution standards, guarantees of investments, compulsory settlement of disputes, and revenue sharing.

2. Fisheries

Trilateral nations harvest roughly one-third of the total world fisheries catch. Fisheries questions at issue among Trilateral countries fall into two principal categories: (1) policy differences between Japan on the one hand and the United States and Canada on the other, particularly in the Northeast Pacific; and (2) differences among states fishing in the North Sea and Northern Atlantic. The fisheries off North America are some of the most valuable in the world, and United States and Canadian fishing off the shores of other nations is limited. These two countries have therefore supported a combined species approach and a 200-mile coastal state resource zone. According to their proposals the coastal state would have exclusive rights to fisheries within 200 miles of the shore, but would allow foreign nationals to fish for that portion of the stock not harvested by the coastal state. Anadromous species (notably salmon) would be reserved exclusively to the country of origin and highly migratory species would be governed by international regulation.

Japan, on the other hand, does a substantial portion of its fishing off North America. Distant water and offshore fisheries account for 50 percent by weight and value of the Japanese catch. These are primarily large-scale, technologically intensive fishing operations. If 200-mile zones are established on a global basis, Japan might lose about half of its ten million ton annual catch. The areas of greatest loss would be in the Northern Bering Sea, the Sea of Okhotsk, the Northwest Sea of Japan and the East China and Yellow Seas. Fifty to sixty percent of the annual protein conformed in Japan is from fish. Japan does not wish to accept a 200-mile fishery zone unless it is carefully defined and has proposed instead that developing coastal states be given preferential rights to offshore fisheries, up to a certain percentage of the allowable

<table>
<thead>
<tr>
<th>Country</th>
<th>Catch (in thousands of metric tons)</th>
<th>Value of Landings (in thousands of US dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>World Total</strong></td>
<td>65,700.0</td>
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<tr>
<td><strong>Trilateral Countries</strong></td>
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<tr>
<td>Japan</td>
<td>10,701.9</td>
<td>2,049,184.0b</td>
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<td>Norway</td>
<td>2,974.5</td>
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<td>2,669.9</td>
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<td>1,151.6</td>
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<tr>
<td><strong>Other Leading Countries</strong> (catches over 2000 thousand metric tons)</td>
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<td>China</td>
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<td>Peru</td>
<td>2,299.3</td>
<td>85,940.0</td>
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a. includes inland catches  b. 1972 figure  c. FAO estimate

catch. Japan agrees with the United States and Canada on the need for international regulatory commissions for highly migratory species but opposes reserving anadromous species to the host state. Instead, Japan recommends regional intergovernmental arrangements to conserve and manage salmon.

The difficulties over fishing among European states, in particular those bordering the North Sea, arise in large part from the complex fishing pattern that has arisen over the years. Most states are engaged in coastal fishing, in so-called middle-water fishing, and in distant-water fishing. Traditionally the last of these has been the most important, at least for the United Kingdom, France and Germany, but the pressure from coastal states—primarily represented in this context by Iceland and Norway—to extend their limits, rising fuel costs, and the movement at UNCLOS III to establish 200-mile economic zones, have made it necessary to reconsider how fishing in the North Sea and North Atlantic is to be conducted in the future.

Norway has adopted a straightforwardly “coastal state” approach to fishery jurisdiction issues. The fifth largest fishing nation in the world, Norway takes three-quarters of its catch within 50 miles of the shore. The Norwegian government is in the process of negotiating towards a 200-mile fisheries zone, but it is on record as opposing unilateral action prior to the 1976 UNCLOS session. Norwegian proposals at UNCLOS III favor extensive regulatory power for the coastal state.

So far as the EEC states are concerned, the situation is more complex. At the Caracas session these countries (with the exception of the United Kingdom) submitted a set of draft articles based on the idea that the coastal state should have preferential (i.e. non-exclusive) rights within an unspecified area of coastal waters, with regional or sectoral organizations playing a role in the determination of the maximum sustainable yield and in the allocation of the catch. The position of the United Kingdom was strongly influenced by the division of its fishing activities between inshore and distant-water fishing and, as regards relations with its Community partners, by the provisions of the EEC common fisheries policy. The United Kingdom expressed support at the Caracas and Geneva sessions for a 200-mile zone (being relatively favorably placed — by comparison with the Federal Republic, the Netherlands and Belgium, for example — to make such an extension), indicating that it saw itself becoming a state which fishes mainly in the zone round its coast. The EEC common fisheries policy consists of a market organization for fish products on the one hand, and a so-called “structural” provision on the other. Under the second, subject to limited derogations in favor of coastal fishermen, there is a right of equal access for all EEC fishermen in waters under the sovereignty or jurisdiction of the various member states. While adopted at a time when national fishing limits did not extend beyond 12 miles, it would mean that if the EEC states were to extend their limits, the waters would be shared. The United Kingdom has raised the question of the adaption of this policy, to take account of the extent of the changes now likely to take place as regards fishing in what were formerly open seas. As matters stand at the time of preparation of this report, it is clear that a more elaborate and developed fishing regime will be required for European waters than the Law of the Sea Conference is likely to produce.

B. THE INTERNATIONAL SEABED

Most of the Trilateral countries have the technological capability to engage in mining of deep sea manganese nodules regardless of an international authority. A foremost consideration in their policies toward a seabed regime beyond national jurisdiction has been supply and demand for constituent metals of manganese nodules: nickel, copper, cobalt and manganese. Japan is the most dependent on external sources, importing 90 percent of its manganese and copper, and all of its cobalt and nickel. The EEC states are also major importers of the metals in question, importing one-fifth of the world trade of nickel, one-fourth of copper, two-thirds of cobalt and one-fourth of manganese. The United States is a net importer of each of these minerals; in 1973 it imported 82 percent of its manganese, 95 percent of its cobalt, 65 percent of its nickel and 5 percent of its copper. Canada, on the other hand, is a net importer of manganese only (valued at $5 million in 1972). Canada ranks fifth in world mineral production and produces 38.1 percent of world nickel, 10.7 percent of world copper, and 7.5 percent of world cobalt. Norway is a net importer of copper and nickel, imports all of its manganese, and uses a negligible amount of cobalt, which it produces itself.

Trilateral Commission nations are pursuing their interests in deep sea mining in two different and sometimes inconsistent ways: (1) through consortia arrangements among their respective mining firms and (2) through government proposals at UNCLOS III. The first joint venture, Ocean Resources, Inc., was formed in 1970 and now includes twenty-five companies. In January 1974, six firms announced a joint venture with $50 million earmarked to work on prototype equipment. They included Kennecott Copper of the United States, Rio Tinto Zinc Corporation and Consolidated Gold Fields, Ltd. of Britain, Japan's Mitsubishi Corp. and Canada's Noranda Mines. Later in the year the United States firm Deep Sea Ventures of Tenneco, Inc. joined with three Japanese
trading companies, Nichimen Co. Ltd., C. Itoh and Co., Ltd., and Kanematsu-Gosho Ltd., and subsequently with the United States Steel Corporation of Pittsburgh and Union Minière of Belgium. This group has programmed over $20 million to develop its own ocean mining system. International Nickel Co. of Canada has also announced a joint venture with Japanese and European partners who calls for an estimated $35 million to be spent on developing mining systems. Société le Nickel and Pechinay Ugine Kuhlmann of France are negotiating to form a consortium, as are Metallgesellschaft and several other German companies.17

While private firms have been pressing ahead with plans for deep sea mining, their governments have adopted a variety of policies at the Law of the Sea Conference. As a major producer of nickel, the Canadian government has sought a licensing system for the deep seabed regime that includes production controls and marketing and distribution mechanisms.18 Canada has also tried to adapt her approach to the “enterprise system” (in which the Authority would engage in direct exploitation) supported by a large number of developing and mineral-producing nations. Similarly Norway has been willing to delegate regulatory powers to an international authority. The United States, on the other hand, has proposed a seabed regime designed to spur mineral production.19 With United States firms having the most advanced mining technology, the government has proposed international machinery that would issue licenses on a first-come first-served basis combined with incentives such as low royalties and work requirements for mining a site. The Japanese Government also proposes a licensing system, but to avoid a situation in which one or a few nations select all the choice mining sites, Japan proposes delays in selection of contractor bids. In the event of competing bids, Japan suggests that the Authority should select among the national contractors according to the number of contracts each proposer has already received and according to international mineral resource import needs. If unable to select a contractor, the area would be auctioned to the highest bidder. At the Caracas session, the E.E.C. countries, except for Ireland, adopted a joint position on deep sea mining.20 They favored a modified licensing system with basic conditions for operators being specified in the Convention and, like the Japanese, sought to restrict the number of contracts that any single nation might receive from the International Authority.

C. NAVIGATION AND REGULATION OF VESSEL-SOURCE POLLUTION

The majority of Trilateral countries are either maritime states or are heavily dependent upon international commerce. Of particular concern to many is the transport of petroleum supplies. Japan, for instance, imports 99 percent of her petroleum by ship and is perhaps the most dependent on maritime commerce of the Trilateral countries. In addition, Japan is a major ship-building nation, launching around 48 percent of world ships in 1972. Ship sales account for more than 7 percent of export earnings and about 50 percent of Japan’s trade is carried in domestic bottoms. As a result of her maritime orientation, Japan opposes any restrictions on navigation that might adversely affect maritime commerce. Japan has a three-mile territorial sea and supports a limited

<table>
<thead>
<tr>
<th>Country</th>
<th>Ship Tonnage (millions of gross tons)</th>
<th>Number of Ships (all kinds)</th>
<th>Oil Tankers (millions of gross tons)</th>
<th>Number of Tankers</th>
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<tbody>
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<td>150.06</td>
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<td>6.94</td>
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<td>2.16</td>
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<tr>
<td>Ireland</td>
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<td>0.01</td>
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<tr>
<td>Luxembourg</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Leading Countries (over 10 million gross tons total)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liberia</td>
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<td>41.58</td>
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<tr>
<td>Greece</td>
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<td>2743</td>
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<tr>
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<td>13.7</td>
<td>2418</td>
<td>5.53</td>
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</tr>
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but unambiguous right of transit for ships in international straits. Any special regimes for archipelagoes should not hamper international navigation. On the other hand, Japanese islands are separated by straits and Japan seeks to protect its coastal interests through coastal state enforcement of international regulations to avert shipping accidents and vessel-source pollution.

Among the Trilateral nations, Canada has gone the furthest in pressing for the coastal state’s right to qualify the right of navigation through adoption and enforcement of anti-pollution regulations. Canada has neither an extensive merchant fleet nor a large navy although it is a major trading nation and 25 percent of its exports are carried by sea. In 1970, Canada extended its territorial sea to twelve miles and established pollution control zones and extensive fishing zones, despite United States protests. Canada has, moreover, indicated its support for the regime of innocent passage in all straits covered by a twelve-mile territorial sea, taking special pains to note that the Northwest Passage is not an international strait.1

The majority of Trilateral nations have supported minimum coastal state restrictions on navigation, both as regards unimpeded passage through international straits and flag state enforcement of international and regional pollution regulations, coordinated with port state rights of inspection. The United States, Japan, Norway and the majority of E.E.C. states have pursued these policies for a variety of reasons.

The United States is a major maritime power with what it perceives to be global interests. The government places high priority on its deterrence strategy and on naval mobility to facilitate that strategy. Although lacking an extensive commercial fleet operating under its flag, the United States is a major trading nation and is particularly dependent — at least for the next half decade — on increasing imports of petroleum. In addition to protecting shipping lanes, naval mobility to influence local conflicts is another aspect of the perceived United States interest in maintaining order.

While Norway has a coastal orientation as regards fishing and oil and gas resources, it is the fourth largest merchant shipping nation in the world by tonnage and has had a long seafaring tradition. Norway has therefore sought to limit coastal state powers over straits transit and pollution regulation where these might restrict navigation. Japan and the majority of E.E.C. states, as major shipping nations, have likewise sought to protect their navigational interests along closely similar lines.

The Federal Republic of Germany, together with Belgium, Luxembourg, the Netherlands and eighteen other landlocked and shelf-locked nations have submitted articles proposing territorial seas up to twelve miles be carefully defined in terms of baselines and in terms of their effect on nearby states. The nine E.E.C. countries have moreover submitted articles recommending additions to the 1958 Convention on the High Seas. These articles would propose more stringent obligations on flag states with regard to ships flying their flags. The obligations would include a register of shipping, survey of the vessel, and inquiry into incidents. The flag state would be required to conform to international standards as concerns Manning the vessel, use of communications, construction and seaworthiness.

2Offshore drilling to the end of 1973 was insufficient to estimate reserves. Of 80 holes off the east coast, no commercial oil or gas field was confirmed. Canada, House of Commons, Standing Committee on External Affairs and National Defence, Minutes of Proceedings and Evidence, Issue No. 27, December 12,1973, pp. 39, 82.
4St. meld. nr. 81 (Norwegian Parliamentary Report No. 81), 1974-75.
13See Articles 100 and 101 of the Act of Accession adopted by the European Community in connection with entry into the Community of Denmark, Ireland, and the United Kingdom.
IV. PROSPECTS FOR THE OCEANS

A. IMMEDIATE PROSPECTS

The single negotiating text produced in May 1975 deals primarily with the allocation of legal jurisdiction over ocean areas and uses, and reflects the predominantly coastal orientation that has characterized UNCLOS III. It is the main, if not indeed the sole, product of the law of the sea deliberations to date and, while formally not binding on participating nations, may be expected to play a decisive role in upcoming negotiations. The single negotiating text gives accordingly some idea of the final outcome of the Law of the Sea Conference — not a complete idea, for it has yet to undergo the process of scrutiny in the contentious atmosphere of the Conference — but an image, subject to a series of qualifications, of the conditions under which maritime uses and the exploitation of ocean resources are likely to be conducted in the future. Ambitious though the text is, it does not cover all aspects of ocean activities and it may be useful therefore to call attention to some of the important matters that fall largely outside its scope.

One aspect which is not dealt with is that of the general, non-navigational conditions of maritime transport. Besides the long-standing problem of flags of convenience, a strong movement is underway, consolidated in the 1974 UNCTAD Convention on a Code of Conduct for Liner Conferences, to secure to the exporting state, particularly when it is a developing country, the movement of goods under its flag — a trend in favor of flag preference in short, in place of the traditional free, though not unstructured, market in the provision of shipping services. This movement is not confined to non-industrialized countries; pressure exists in the United States to require a percentage of officially generated commerce to be carried by national flag vessels. The growth of the merchant fleets of states other than Trilateral countries (which constitute, by and large, what are termed the traditional maritime powers) has indeed advanced considerably in recent years, as witnessed by the rapid expansion of Soviet merchant tonnage; and this example is likely to be followed by a range of new medium powers, e.g., the newly rich Arab states, Iran, some East European countries, some West African states, India, and Brazil. This movement, similar to the creation of national airlines, is likely to lead to excess capacity and over-capitalization, although it may cause a wider number of countries to become more acutely aware of the importance of unimpeded freedom of maritime transit.
Secondly, the Geneva text takes relatively little account of expected technological developments, except, at least by implication, in the provisions relating to the International Seabed Authority. Most of the anticipated technological advances relate to activities to be conducted within the areas under national jurisdiction and may therefore fall largely under the residual supervision of the coastal state, but the problem of adjudicating between conflicting uses in the congested areas near the coast may be expected to raise a series of difficult issues not only nationally but at regional and international levels as well. In defense of the attitude taken in the single negotiating text it may be said that the majority of technological developments now foreseeable are likely to require particular rather than necessarily global solutions, at least for a considerable period to come.

To this generalization two main qualifications should be added. First, the administrative and regulatory part of the future regime for the deep seabed will need to be periodically adjusted to developments in the exploitation and processing of seabed minerals, and indeed the text now proposed makes some provision for this requirement. There is in this area then a process whereby changes can be made in the light of technological improvements, even though the solution proposed — to adjust the regulatory mechanism as techniques progress — runs counter to the objective pursued by the majority of Trilateral countries of specifying operational conditions so far as possible in advance, in order to provide secure conditions for the operators called upon to invest their capital and know-how in an untried activity. Second, if indeed it should become possible to establish the exact identity of origin of different fish stocks — not merely of anadromous species but of those spawned at sea — the approach to fisheries management now advocated, based on allocation of particular areas, would need to be reconsidered. It should be stressed, however, that no accurate prediction can be made as to when, and if, this development might take place. The major inadequacy of the present approach to fisheries management, as has already been pointed out, is that a system of predominantly national controls cannot function effectively over the long term when the same stock is being fished elsewhere, under a different regulatory system.

The use of the oceans for military purposes also falls largely outside the scope of the Geneva texts. The overreaching strategic considerations of the U.S.S.R. and the United States have, by mutual agreement, continued to be dealt with elsewhere, although the efforts both governments have made to maintain naval mobility have been reflected in the text. The new family of precision guided weapons may however produce a considerable change in the character of military operations at sea; there may be a reduction in the value of “massive” naval strength and small powers may be able to inflict considerable damage on others seeking to disturb their maritime “rights.”

A much more general consideration concerns the economic conditions for the development of the 200-mile economic zone. Sovereign jurisdiction over a resource such as fish or seabed minerals is not the same as exploitation of the resource. Exploitation is likely to require large amounts of capital and the application of specialized knowledge. While in many cases these necessary inputs will be available on the world market, in other cases the assistance of those directly in possession of the capital or, more especially, the knowledge may be needed.

The world fishing industry today probably has too much capital devoted to it, and improved regulation of world fisheries could render the ships and gear now devoted to fishing even more redundant. At the same time, technological improvements in tracking, harvesting, and processing fish have increased both the capital and the technical skills required for efficient fishing. On balance, the calls of fishing on new capital will be relatively modest, but in many cases efficient exploitation of a stock may well result in the hiring of “foreign” fishing fleets.

Seabed mining and offshore oil extraction, in contrast, will require enormous amounts of capital. Not only will these industries expand rapidly — in the former case from virtually nothing — but the capital costs per unit output are large and growing. While a typical well in the Middle East requires an investment of about $250 per daily barrel of productive capacity, the capital cost for equivalent offshore extraction in the North Sea is closer to $6,000, and some estimates run as high as $8,000. Movement into deeper water may require even higher capital expenditures. The technical requirements for such extraction are also more demanding. In many instances, therefore, the actual exploitation of resources will remain in the hands of the relatively few firms (including some national firms) that command the requisite capital and knowledge, and “ownership” of the resource will involve mainly regulation of the volume of output and extraction of royalties. The great majority of coastal states have not yet begun to grapple with this question of how, in specific terms, the 200-mile economic zone is going to be developed.

Turning from consideration of the single negotiating text to the question of the outcome of the Conference itself, one hypothesis is that the Conference will prove successful, “success” being defined as the adoption by the end of 1976 (or, at the latest, early in 1977) of a text acceptable to all major states or groups of states. On the basis of the experience of the Conference so far, the chances of this being achieved cannot be rated very high, but it would be unreasonable to discount
them altogether. The states opposed to the single text, or to parts of it, will have had almost a year in which to reflect on the alternatives; in a decentralized world, the alternative possibilities may well prove to be even less advantageous, thus providing an impetus for final — if in some cases reluctant — agreement.

A somewhat more likely course — with all the variants and subvariants that the pressure of time and the ingenuity of diplomacy may produce in actuality — is that the Conference session in the spring of 1976 will make some progress but not enough to resolve all difficulties. A further session may then be held in 1976. As time stretches out to the end of 1976 and into 1977, more and more states, in the Northern as well as in the Southern hemisphere, may be unable to resist the pressure to extend their limits to 200 miles and to establish fishing — or more ambitious — zones. So far as the control of resources is concerned, such action, whatever its demerits from the standpoint of ideal global equity, would be relatively effective as a means of satisfying immediate national aims, and could be presented as being based on the work of the Conference to date. The long-term adequacy of the results as regards fishing resources would depend on the particular circumstances of relevant fish stocks in relation to the various “national” fishing pools: Conservation of the stock and operation of the fishing industry at economic levels would require coordination of national plans on a bilateral or wider, normally regional scale. The principal dangers of such unilateral action, apart from those relating to conservation and existing patterns of fishing, are two-fold: freedom of navigation would be threatened, as controls extended for one purpose (resource allocation) are used for another; and extensions may not stop at 200 miles but, by a series of arguments (contingency, traditional rights, special circumstances) proceed further, until virtually all the oceans are under national sway.

These perils appear to have a sufficient touch of possibility to be taken seriously, and will be amongst the factors that governments have in mind as they enter the next session of the Conference. Trilateral countries, with their heavy dependence on overseas trade, would be particularly affected if these developments were to take place in their most aggravated form. It would be unlikely that navigation would, in practice, be suddenly and gravely hampered throughout large areas of the globe; the more probable course would be the creation of local problems and incidents involving delays and complaints. Even as regards threats to existing fishing grounds, arrangements could be made, if at a price, to maintain access. The fact that the state extending its limits may wish to export its fish products and in any case will usually lack the means to police the area effectively may cause a note of caution and compromise to enter into bilateral and regional negotiations, difficult though these will be. So far as the possibility of indefinite expansion, or of expansion beyond 200 miles, is concerned, relatively few states would actually be able to make such extensions in the near future or have a real interest in doing so; beyond a certain distance from the coast counter-balancing forces (both those operating within a country and internationally) start to come into play. It would be reasonable to assume however that a breakdown of the Conference, in the sense of failure to achieve any result, would eventually lead to a number of national extensions beyond 200 miles, in respect of living resources or minerals.

The issue of unilateral measures also needs to be considered in relation to the resources involved. The countries most likely to be motivated to make claims in order to exploit manganese nodules beyond 200 miles are Trilateral countries. Their interests as mineral consumers would have to be balanced against their interests in other uses of the sea (such as navigation, both military and otherwise) and, more generally, in their attitude to the rest of the world, in particular the developing countries. While a system of 200-mile zones could be established if the Conference did not reach a formally successful conclusion at an early date, this is not the case, at least not to anything like the same degree, as regards the international seabed, the most clearly North-South issue before the Conference. Looked at purely in isolation, the small number of potential operators would enable international seabed activities to be conducted for a considerable period without international regulation. The political cost to Trilateral countries, however, would be high. The Third World would rally against any such move — for all that they may be held to have helped provoke it by the reluctance of some of their spokesmen to compromise — and the present conflict of interests over the future of the international seabed would become implanted as a more or less permanent ideological issue. While this might be regarded as merely an addition to an already lengthy list, this particular conflict would not appear to be worth the price to be paid, on the one hand as regards the probable political outcome, and, on the other, as it would constitute a serious loss through the curtailment of the possibility which the international seabed offers of making a significant step forward in the organization of international society. The notion of running, collectively, approximately one half of the globe — albeit under water — is a unique prospect; no other aspect of the current scene offers so tantalizing a possibility for long-term gain. The International Seabed Authority has a value as a symbolic instrument, as a model for the future, which does not exist elsewhere amongst the other topics before the Conference, and which unilateral action would make much more difficult to obtain.
In the absence of a global treaty, or even if a treaty based on the single negotiating text were to emerge, there would in any case be many local issues outstanding: Maritime boundaries between adjacent and neighboring states will require many years to settle, and quarrels over resource allocation in particular areas may be anticipated, irrespective of whether or not a general treaty is concluded. If the treaty, as has been proposed, contains a dispute settlement procedure, it would provide a framework for the resolution of such bilateral and regional differences, and there can be no doubt that a solution via a treaty acceptable to all major states and groups of states would be the best outcome from the standpoint of Trilateral countries.

B. A LONGER VIEW

Before concluding this report and setting out the Task Force’s recommendations it may be useful to attempt to give some tentative forecast — despite the difficulties involved — of the state of ocean affairs at a somewhat more distant date, such as one or two decades ahead. With current developments in mind, it is possible to foresee the emergence of a regulatory system for the oceans which will resemble a mosaic consisting of the following components:

• an incomplete codification of general principles reflecting mainly the ethic of the developing countries, in the form of treaties, declarations and resolutions adopted at the universal level of international organizations;

• a proliferation of dissimilar regional (and sub-regional) arrangements and treaty systems in different parts of the world, reflecting an uneven rate of regional development, and diverse interpretation and application of the global principles; and

• increased recourse to analogies drawn from non-marine principles of international economic and environmental law.

The prevailing feature of this emerging legal system will be its flexibility or plasticity, as well as its uncertainty. Almost regardless of the outcome of UNCLOS III, the recent and present period of law-making is likely to be looked back upon from around the year 2000 as one of great legal change which culminated in a loosely conceived framework of broad principles and concepts. Whereas in the past there was relatively little international law relating to the oceans, but much of it was embodied in fairly hard-and-fast rules, the law which is now emerging is more ambitious in its scope, but cannot, it would appear, yet be formulated in detailed, universal terms. Put in another way, it seems best to assume that all nations will have to learn how to share nationally apportionable resources in an equitable and efficient manner through a period of trial and error — by experience in short — before the majority will be prepared to trust a written code of universally applicable specific, relatively complex, rules of law.

The significance of this for the future of the oceans may be assessed in the light of four main criteria: the minimalization of conflict; effective resource management, the maintenance of transport and communication; and adequate environmental protection. As regards the first, it seems advisable to anticipate a period of increasingly frequent and bitter conflicts over marine-related issues. One is virtually compelled to predict decades of inevitable, if not usually major, conflicts of this kind, shaped by the moral and political imperatives of our time. There is certainly little comfort in the history of border disputes between nations on land or in the history of wealth allocations within national societies. In some cases the stakes may be so high that legal disputes over marine issues between otherwise relatively friendly states will escalate into serious conflict, perhaps for the first time in their history. In other cases states accustomed to confrontations between each other on other issues will find in ocean management problems further cause of hostility, even to the point of serious violence. While it is difficult to envisage the precise impact of multinational corporations in this scenario of projected ocean conflicts, it is evident that the major role which these entities are likely to play in ocean development will create fresh problems as states and organizations search for an adequate operational framework. The coming emergence of the corporate phenomenon in the oceans underlines the inadequacy of a purportedly comprehensive approach to treaty-making in the law of the sea which is confined almost exclusively to relations between national states.

While there is frequent talk of “rational” resource management, the content behind this principle has yet to be fully established. It seems clear that in practice we are already into an era of trial and error in most areas of resource management, not least in that relating to marine resource management. The expected extension of coastal state jurisdiction out to 200 miles will give rise to a series of social and economic issues, and the task confronting communities, national and international alike, will be to relate “rational management” to political demands. How fast should offshore oil resources be exploited for example? Or manganese nodules? In the case of fishing, it might make sense in some societies to develop the industry in a highly uneven way, with a certain segment dependent on new capital investments in advanced forms of fishery technology to be applied far out to sea, while other segments close to shore remain dependent on simpler methods. In other countries it may be
more desirable to have a more uniform pattern of fishing techniques throughout the national zone. What we should expect — or hope — then is that some coastal states will eventually develop particular solutions that meet their own chief purposes, at least for a period of time, and that any economic loss in the global perspective may be offset by commensurate gains in social stability. Other states, and these will probably be the majority, are likely to find after various errors of commission and omission that their best interest lies in sharing their management systems with neighboring, adjacent, and other states. Flexibility in the system of legal norms and procedures would in such circumstances prove conducive to the making of appropriate institutional adjustments. The less “sovereign” the type of language employed in describing the coastal state’s management in its zone, the smoother these transitions and adjustments would be.

Ocean space will certainly continue to be of primary importance for the maintenance of international transport and communications. Present trends suggest that transportation systems based on high technology will be devised, related to developments in the patterns of world trade. The increased volume of world commerce will require more specialized forms of ocean transport, linked with enlarged port facilities, a considerable number of which will be situated offshore and incorporate industrial processing plants. The attitude of developing states to shipping issues may be expected to evolve as they are drawn into the development of shipping lines and harbor facilities. Here, as elsewhere increased recourse will be had to joint or regional ventures.

Fourth, and last, it is predicted that environmental protection will continue to be the focus of serious attention. By the end of the 1980s global normative development and standard-setting with respect to vessel-source pollution will have been accomplished to the satisfaction of most governments, chiefly through the work of IMCO and UNCTAD, and a host of more rigorous requirements will have emerged in bilateral and regional agreements. In the case of land-based pollution of the ocean, progress will be slower, confined mostly to bilateral and regional arrangements in the more affluent regions of the world.


2 Some claims in respect to oil and gas resources have in fact already been made beyond 200 miles, either on grounds of the “natural prolongation” theory or under the doctrine of acquired rights as applied to the provisions of the 1958 Continental Shelf Convention.

V. RECOMMENDATIONS*

The recommendations of the Task Force on the Oceans attempt to bridge the gap between the long-range perspective on management of the oceans and the short-term policy orientation of the Law of the Sea Conference. The context for our recommendations — and the premise on which they are based — is that an international agreement on ocean problems is preferable to unilateral action, if a satisfactory international agreement can be achieved in a timely way.

Unilateral Action

We therefore recommend that Trilateral nations should not proceed unilaterally in 1976 to extend offshore jurisdiction over marine resources or to commence mining in the deep seabed. We urge instead continued international efforts to achieve agreement.

The Task Force recognizes that in the absence of a prompt international agreement coastal states will proceed to extend jurisdiction in offshore areas as well as to engage in deep seabed mining. If such unilateral actions become unavoidable, the Task Force urges that they be taken on a transitional basis in anticipation of ultimate international agreement.

With regard to unilateral extensions of jurisdiction over offshore areas, coastal state action should be postulated on a continuing international interest in the area. The coastal state should recognize that the resources of the zone would be managed as a trust for the international community. Measures taken by coastal states should incorporate provisions for orderly resource management and the payment of royalties for international purposes, and should not extend to the exercise of political sovereignty.

Unilateral action in deep seabed mining will accentuate the conflict between developed and developing states and further undermine the concept of the common heritage of mankind. If seabed mining should, nonetheless, commence in the absence of international agreement, it should not be such as to prejudice the future evolution of an International Seabed Authority.

* Individual members of the Task Force do not necessarily agree with each of the recommendations.
The following recommendations relate to the substance of a satisfactory international agreement. They assume that the coastal state will have economic jurisdiction in a 200-mile zone.

**Continental Shelf**
Believing that an expansive definition of the continental shelf benefits those states that are for the most part already well-endowed with natural resources or otherwise relatively prosperous, the Task Force recommends that the national continental shelf be limited to 200 miles and not include those parts of the continental margin extending beyond 200 miles. Within the area from the outer limit of the territorial sea to the distance of 200 miles, wealthy coastal states should reserve a generous portion of their royalties, such as one half, for international purposes. A less generous approach to revenue-sharing, but one which still maintains the principle of revenue-sharing from national zones, would involve sharing only beyond the depth of 200 meters. An even less attractive alternative would be to limit revenue-sharing to those areas of the continental margin extending beyond 200 miles.

**International Seabed**
Exploitation of the area beyond national jurisdiction should be undertaken on behalf of the international community and be subject to the payment of royalties to an International Seabed Authority. The Authority should be vested with responsibility for managing the exploitation of seabed mineral resources. It should have full powers as regards licensing and technical regulation of seabed mining. Efforts should continue to negotiate a compromise between the divergent views of developing and industrialized states. The creation of appropriate arrangements for joint ventures offers a possible avenue for settlement. The decision-making structure of the Authority must be such as to encourage agreement and avoid majority usurpation of power. Royalties not utilized in the operation of the Authority should be reserved for internationally agreed purposes.

**Fisheries**
Marine fishing involves issues both of allocation and conservation. Since a number of important fisheries extend into the ocean beyond a 200-mile zone and most stocks are to be found in adjacent zones, regulatory regimes established on a national or E.E.C. basis should be augmented by international management bodies set up for each distinguishable fishing ground and related to particular species or interacting groups of species. All fishing interests could be represented in these bodies, with special weight given to the coastal states, or grouping of states in the case of the E.E.C., in whose economic zones the species are found. The Food and Agriculture Organization should provide general guidance to ensure coordination of the work of the various agencies within a coherent global system of fisheries management. For efficient utilization, access to fisheries must be regulated, and this might best be done, both for areas beyond 200 miles and for areas not fully exploited by residents of the coastal state, by charging licensing fees. These fees should be prorated between the coastal state and the regional authority, and the latter share should be used for management of the fishery, scientific research, and other internationally agreed purposes.

**Development Assistance**
Economic assistance for developing countries, particularly for the poorest among them, should be the primary purpose to which international revenues generated through the above recommendations are directed. These revenues might be channelled through World Bank institutions and existing regional development banks.

**Maritime Traffic**
The Task Force urges that maritime traffic should be encouraged and its free movement on the oceans promoted to the fullest extent possible. In areas where traffic congestion is or will become acute, coastal state and international responsibilities must be spelled out for the management of vessel traffic. Financial and operational responsibilities for such management must be shared by all interested parties. Traffic control systems should be instituted in highly travelled waters.

**Pollution Control**
National and regional controls over land-based sources of marine pollution should be strengthened and so far as possible harmonized, due allowance being made for the fact that the volume of waste materials and the absorptive capacity of the natural environment vary substantially in different parts of the globe.

International standards should be developed relating to vessel-source pollution. National measures should be non-discriminatory in their application to ships within areas of national jurisdiction. Stringent liability requirements should be established, particularly for ecologically vulnerable areas.
Scientific Research
In view of its importance for the understanding of fundamental aspects of the human environment, the freedom to conduct scientific research designed to increase knowledge of the marine environment should be maintained. The results of research should be disseminated as widely as possible.

Settlement of Disputes
It is important for world order that disputes arising out of ocean uses and delimitation of management zones be settled amicably. Effective settlement procedures may constitute one of the serious losses in the event that the current treaty-making effort should fail. Appropriate institutions for dispute settlement may include conciliation panels, arbitral tribunals, and, possibly, a Law of the Sea Tribunal. All countries should make a solemn commitment to submit disputes which cannot be settled by negotiation to such procedures and to accept the outcome. Special panels should be established for the adjudication of disputes with respect to fisheries, pollution and scientific research.
SUMMARY OF THE REPORT OF
THE TRILATERAL TASK FORCE ON THE OCEANS

A New Regime for the Oceans

The use of the seas has greatly intensified in recent years. The tonnage of merchant shipping nearly quadrupled between 1951 and 1971. The world catch of fish, the source of some 10 percent of the world’s protein, also quadrupled in the same period. New uses of the seas, spurred by technological development, have grown rapidly. Offshore oil and gas deposits, scarcely developed a few decades ago, now provide some 20 percent of world production. The polymetallic nodules on the seabed could meet much of future world demand for nickel, copper, cobalt, and manganese.

These developments have created a tension between the traditional law of the sea, based on the notion of freedom, and a growing recognition of the need for more sophisticated regulation. However, in addition to complex technical and economic problems connected with the management and allocation of ocean resources, governments face strong domestic political pressures to exert more extensive national jurisdiction offshore.

For many years governments have sought to resolve these tensions and claims through international negotiations under United Nations auspices, described in Chapter II of the report. The most prominent features of the current phase of these negotiations (the Third UN Conference on the Law of the Sea [UNCLOS III]) have been accelerated movement towards a major extension of national jurisdiction over ocean resources by means of a 200-mile exclusive economic zone; and support for an International Seabed Authority to administer mineral resource exploitation on the seabed beyond national jurisdiction.

The report describes the global interest in rational management of the oceans and in related issues of equity in the use of ocean resources. These global perspectives suggest the outlines of an “ideal” regime of ocean management, which is a useful point of reference for judging the course of UNCLOS III.

Agreement at the Conference is by no means assured. Unilateral actions by frustrated nations or competitive regional treaties could undermine the prospects for the Conference and lead to increasing conflicts over oceans matters. Even an agreed Conference outcome would leave a number of important issues outstanding.

Many of the Trilateral countries are among those which would
benefit most from 200-mile economic zones. Advanced industrial nations would also be better able than others to develop and manage these large new areas under their jurisdiction. Despite this, the majority of Trilateral nations tended not to favor the extension of national jurisdiction offshore, though there have been important differences within the Trilateral group. Chapter III of the report describes the positions of the Trilateral countries on the principal issues involved.

The recommendations of the Task Force attempt to bridge the gap between the longer-term, global perspective on oceans management and the short-term policy orientation of UNCLOS III. They are as follows:

- Trilateral countries should not unilaterally extend offshore jurisdiction over marine resources or commence deep seabed mining in 1976. If such actions become unavoidable, they should be taken on a transitional basis in anticipation of ultimate international agreement.
- National continental shelf jurisdiction should be limited to 200 miles, with international sharing by wealthy coastal states of a generous portion (such as one-half) of royalties derived from resource exploitation in this zone but beyond the territorial sea. Less generous alternatives are also offered.
- An International Seabed Authority should manage exploitation of seabed resources beyond the 200-mile limit. In addition to having full powers to license and technically regulate seabed mining, the Authority might engage in joint ventures. Royalties not used in the operation of the Authority should be reserved for internationally agreed purposes.
- Coastal state (and E.E.C.) fishery regimes should be augmented by international management bodies for each distinguishable fishing ground, with general coordinating guidance from FAO. All fishing interests should be represented in these bodies with special weight given to coastal states. Some fees from licensing arrangements should be internationally shared.
- International revenues generated from the above should be used to provide economic assistance for the poorest developing countries.
- Maritime traffic should be encouraged, with coastal state and international responsibilities spelled out for traffic management and pollution control.
- Freedom of scientific research to increase knowledge of the marine environment should be maintained.
- Appropriate institutions for dispute settlement should be established and all states should make a solemn commitment to submit disputes not settled by negotiation and to accept the outcome.

The Trilateral Process

PreliminaryFeasibility Study
In late 1973 and early 1974, prior to formation of the task force, Ann L. Hollick conducted a study for the Trilateral Commission of the feasibility of proceeding with an oceans report. Consultations with about fifty individuals in the trilateral regions were conducted in preparation of this preliminary study.

Task Force Report
The report which follows is the joint responsibility of the five rapporteurs of the Trilateral Task Force on the Oceans. Richard N. Cooper, although not a rapporteur, has worked as an integral part of the core group. The task force has drawn on a number of consultants, all of whom spoke for themselves as individuals and not as representatives of any institutions with which they are associated. Those consulted by the task force included the following:

Eivind Berg, Norwegian Shipowners Association
Robert R. Bowie, Professor of International Affairs, Harvard University
Zbigniew Brzezinski, Director of the Trilateral Commission
John P. Craven, Dean of Marine Programs, University of Hawaii
George S. Franklin, North American Secretary, The Trilateral Commission
Richard N. Gardner, Professor of Law and International Organization, Columbia University
J. A. Gulland, Fisheries Department, Food and Agricultural Organization of the United Nations
Charles B. Heck, Assistant to the Director, The Trilateral Commission
Karl Kaiser, Director of the Research Institute of the German Society for Foreign Policy
Masataka Kohsaka, Professor, Faculty of Law, Kyoto University
Takeo Kurita, Science and Development Department, Japan Federation of Economic Organizations (Keidanren)
Christopher Makins, Deputy Director, The Trilateral Commission
Sivert Overaas, Norwegian Shipowners Association
Hisashi Owada, Director of the Treaties Division, Japanese Ministry of Foreign Affairs
Gerard C. Smith, North American Chairman, The Trilateral Commission
Tadashi Yamamoto, Japanese Secretary, The Trilateral Commission
SCHEDULE OF TASK FORCE ACTIVITIES:

June 25-26, 1974 — Executive Committee of Commission, meeting in Brussels, considers report on the feasibility of an oceans study and authorizes establishment of task force.

October 4 — Johnston, Hollick and Cooper meet in Boston for preliminary consideration of task force concerns.

November 4-5 — Rapporteurs (except Hardy) and Cooper meet in Tokyo to outline task force concerns and meet with Japanese consultants.


February 21-23 — Rapporteurs and Cooper meet in New York City with Brzezinski and a few other consultants to consider outline of report and first drafts of inputs.

April 26-28 — Rapporteurs and Cooper meet in Geneva to complete interim report.

May 30 — Holst presents interim report to plenary meeting of Trilateral Commission in Kyoto.

June - August — Rapporteurs prepare inputs into final report.

August 22-25 — Rapporteurs and Cooper meet in Oslo to develop final report.

Early September — Full draft of final report completed.

October 17 — Draft report discussed at meeting of North American Commissioners in New York City.

December 1 — Draft report discussed at Executive Committee meeting in Paris.

December 2 — Rapporteurs and Cooper meet in Paris to make final revisions in report.

The Authors

SHIGERU ODA is Professor of International Law at Tōhoku University in Sendai, and a Special Assistant to the Japanese Minister for Foreign Affairs. Born in 1924 in Japan, Professor Oda received his law degree from the University of Tokyo in 1947. He joined the Tōhoku University faculty in 1953, after further studies at Yale University (LL.M., 1952; J.S.D., 1953). Professor Oda is a leading Japanese authority on law of the sea issues. He was part of the Japanese delegation to the First and Second United Nations Conferences on the Law of the Sea, in 1958 and 1960; and also was associated with the Japanese delegation to the United Nations Seabed Committee (1968-73), which led into the current Third Conference on the Law of the Sea. He was one of the Japanese representatives at the Caracas session (1974), and the legal counsel of the Japanese delegation at the Geneva session (1975). Professor Oda has served on many oceans-related expert groups in a number of international organizations. Among his published works in English are *International Control of Sea Resources* (Sijthoff, 1963); *International Law of the Resources of the Sea* (Hague Academy of International Law, 1969); and *International Law of Ocean Development*, 2 volumes (Sijthoff, 1972 and 1975), along with a number of related books and articles in Japanese. Professor Oda was elected Associé of the Institut de Droit International in 1969, and an honorary member of the American Society of International Law in 1975.

DOUGLAS M. JOHNSTON is Professor of Law at Dalhousie University in Halifax, Nova Scotia, and a well-known scholar on the law of the sea. His first book-length work in this area was *The International Law of Fisheries: A Framework for Policy-Oriented Inquiries*, published by Yale University Press in 1965. The most recent is an edited collection of studies entitled *Marine Policy and the Coastal Community: Studies in the Social Sciences*, due to be published in the Spring of 1976. Since emigrating in 1955 from Scotland, where he was born, Professor Johnston has held teaching and research appointments at a number of institutions in North America: the University of Western Ontario, Louisiana State University, Harvard Law School, the New School for Social Research, the University of Toronto, and Dalhousie University. For a number of years, he was Director of the China Programme of the Canadian Institute of International Affairs in Toronto, and recently he

*Subsequent to completion of this task force report, Professor Oda was elected to the International Court of Justice.*
has been adviser to the Canadian government on international marine and environmental affairs. He is a member of the Executive Board of the Law of the Sea Institute, and this year was elected Fellow of the World Academy of Art and Science.

JOHAN JØRGEN HOLST* has been Director of Research at the Norwegian Institute of International Affairs since 1969. Born in 1937 in Oslo, he graduated in Russian from the Norwegian Army Language School and received an A.B. in Government from Columbia University (1960). He earned a Magistergrad in Political Science at the University of Oslo (1965). Mr. Holst has been a research associate at the Center for International Affairs, Harvard University (1962-63), the Norwegian Defense Research Establishment (1963-67) and the Hudson Institute, New York (1967-69). In the spring of 1970 he was visiting professor in the Chair of Strategic Studies, Carleton University, Ottawa. In 1972 he was appointed Acting Director of the Norwegian Institute of International Affairs. Mr. Holst is a member of the Council of the International Institute for Strategic Studies, the foreign policy council of the Norwegian Labour Party, the executive council of the European Movement in Norway and the Advisory Council on Arms Control and Disarmament of the Norwegian Government. He has lectured widely in Europe and North America. His publications include Norsk sikkerhetspolitikk i strategisk perspektiv I - II (Norwegian Security Policy in Strategic Perspective), Oslo, 1967; Why ABM? Policy Issues in the Missile Defense Controversy, New York, 1969 (editor and co-author); Five Roads to Nordic Security, Oslo 1973 (editor and co-author); and Oljen i sikkerhetspolitikken (Oil in Security Policy), Oslo 1975. He is the editor of the Nordic journal Cooperation and Conflict.

ANN L. HOLICK is Associate Professor of International Law and Organization and Executive Director of the Ocean Policy Project at Johns Hopkins University’s School of Advanced International Studies in Washington, D. C. She received her M.A. in International Relations (1966) and Ph.D. in Political Science (1971) from Johns Hopkins University. Professor Hollick has served as a Research Fellow in Foreign Policy Studies at the Brookings Institution (1970-71) and as a Staff Member of the U.S. Senate’s Committee on Foreign Relations (1971-72). She is an Advisor to the U.S. delegation to the United Nations Seabed Committee and has been a consultant to the Ocean Affairs Board of the National Academy of Sciences. Professor Hollick’s publications include New Era of Ocean Politics (1974, co-author); “United States Vietnam Policy: The Kennedy Commitments” (Committee Print, Committee on Foreign Relations, United States Senate, 1972); “Seabeds Make Strange Politics,” Foreign Policy, Winter 1972-73); “Canadian-American Relations: Law of the Sea” (International Organization, Autumn 1974). and other articles on American foreign policy and aspects of the law of the sea. During the current academic year, she will be engaged in research at Harvard University’s Center for International Affairs and at the Woodrow Wilson International Center for Scholars of the Smithsonian Institution.

MICHAEL HARDY is Legal Adviser, Commission of the European Communities. Mr. Hardy was previously Senior Legal Officer in the Office of Legal Affairs of the United Nations, 1960-73; Legal Adviser, Government of Nepal, 1968-69; and Assistant Lecturer, Manchester University, 1958-59, and King’s College, University of London, 1959-60. M.A. (Oxford), L.L.M. (Cambridge). Barrister-at-Law. Author of various legal works, including studies on oceans issues.

RICHARD N. COOPER* (Special Consultant) is Frank Altschul Professor of International Economics at Yale University, where he recently served as Provost (1972-74). Born in 1934, Professor Cooper received his B.A. from Oberlin College (1956), his M.Sc. in Economics from the London School of Economics, and his Ph.D. in Economics from Harvard University (1962). He served as Senior Staff Economist on the Council of Economic Advisers in 1961-63, and as Deputy Assistant Secretary of State for International Monetary Affairs in 1965-66. Professor Cooper is the author of The Economics of Interdependence (1968) and co-author of Britain’s Economic Prospects (1968), as well as of numerous articles on economic matters. During the current academic year, he is on research leave from Yale at the Center for Advanced Study in the Behavioral Sciences at Stanford University.

*Subsequent to completion of this task force report, Professor Cooper was appointed U.S. Under Secretary of State for Economic Affairs.