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Arctic Sovereignty: Eyeball-to-Eyeball

WASHINGTON (UPI) — Two Canadian representatives Monday got down to "fine particulars" in talks with American officials on the simmering dispute over regulation of shipping in the Arctic Ocean.

The United States is concerned over Canadian legislation enacted this summer which gives Canada power to control navigation within 100 miles of its coast, enabling it to rule the Northwest Passage through which American tankers are expected to bring Alaskan oil to the U.S. east coast.

State department officials said the United States is not opposed in principle to the idea of regulating shipping so as to limit the problem of oil pollution, fears of which prompted the legislation, but it does not want that to be done unilaterally. Washington has proposed an international conference of all interested states.

The continuing series of

talks Monday brought Ivan Head, legislative assistant to Prime Minister Trudeau, and X Allan Beesley, head of the legal division of the external affairs department, to Washington for one day to meet officials of the U.S. departments of state, defence, interior and transportation.

The United States wants an international authority — some sort of regulatory body — to oversee such shipping regulations including rules for construction, navigation equipment and regulations on the time of year that Arctic passages may be used.

The meetings are an attempt by the two nations to work out their differences so they have something to show an international gathering.

← John Alan Beesley

Give giant firms a voice in UN: Ottawa diplomat

By RAE CORNELL
Star staff writer

An External Affairs Department official said last night that because some multi-national corporations "are as rich and powerful as nations," they should perhaps be invited to take part in meetings sponsored by the United Nations.

Alma Beesley, director-general of the department's bureau of legal affairs, said he could see no objection to having industrial empires participate as observers at meetings called to deal with such global issues as environmental protection, the law of the sea and petroleum exploration.

Beesley was speaking at the University of Toronto's medical sciences building. His address on the evolution and role of international law was the fourth in the Leonard Berman memorial lecture series.

OWN VIEWS

In the question period that followed, Beesley stressed that his views were those only of the External Affairs Department, not the federal government.

Big corporations have been invited to participate and cooperate in conferences on the law of the sea, resources exploration and pollution control in fact.

But the world community has to be more responsible in the area of international law, and would be surprised if they were invited to participate in such meetings as that of non-governmental organizations within the UN or its agencies.

Beesley did not single out any organization by name. But examples of multi-national corporations are General Motors, IBM and Texaco of the United States; British Petroleum Chemical Industries and British Petroleum; the Aluminum Company of Canada; and Japan's Toyota motor works.

BIG BUDGETS

IBM operates with a bigger budget than Italy. And the \$12.7 billion annual sales of the British-Dutch-owned Royal Dutch-Shell Group are only \$4 billion less than the annual revenue of the Canadian government.

Beesley, widely recognized as Canada's leading specialist in international law, said there is "no legal or logical reason" for denying business enterprises observer status within UN agencies, which have already recognized both individuals and non-governmental organizations.

After 20 years, time running out for law of sea conference

By Bruce Levett

Canadian Press staff writer

LONDON — Time is running out for the officials and countries attempting to draw up a code of laws governing safeguards and use of the world's oceans.

After 20 years of trying, the United Nations law of the sea conference—meeting this time in Geneva—may have little more than 20 days left to settle its

remaining thorny problems.

"If we don't make major progress at this session, we'll run out of time and major developed countries may pass unilateral legislation authorizing deep-sea mining," says J. Alan Beesley, deputy head of Canada's delegation.

The final session, which began in late March, is scheduled to end shortly after the middle of May.

The many-sided question of how to exploit the rich nodules of ore lying like baseballs scattered across the sea bed is only one of the big issues remaining.

Developing countries wanted the UN to set up an agency to do all the mining and marketing in international waters.

Some developed states wanted the mining and marketing put into the hands of individual countries and industry under a UN licencing arrangement.

Beesley, in a telephone interview from Geneva, said there have been signs of acceptance by "extremists on both sides" for the "middle way" put forward by Canada at the previous session.

Under the Canadian plan, each designated zone would be shared by a UN international body, sovereign states and free enterprise.

"About 90 per cent of the problems attacked by the conference have been resolved," Beesley said. "The remaining 10 per cent are difficult ones."

The best that can be expected from the current session, he feels, is a general agreement on a draft treaty which could lead to a full international treaty.

"The worst would be an inconclusive result or open disagreement."

Open disagreement—such as a split on the seabed mining issue—could divide the conference along north-south lines, with developed countries lined up against developing countries.

The current session in Geneva was marked by a slow start, with a 10-day wrangle over the presidency and "I'm concerned that we haven't made the best use of our time," Beesley said.

The conference is the third in a series that has already produced conventions which, for many

states, have become part of international law.

The first conference met in Geneva in 1958 and drew up four international conventions which are still in force.

The second, in 1960, tackled disagreements over the state of territorial seas and fishery limits, and failed to produce any substantive accord.

Steps leading to the convening of the current third conference—of which this is the seventh session—began in 1967.

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JRM

Subject / sujet

Date 5-4-87 Publication THE FINANCIAL POST

inquiry to be made re press conf
FF
to rob
F. Kennedy
JAB/...

Law of Sea talks turn choppy

AS IF OPPOSITION from the world's superpowers weren't enough of a threat, Canada's position on a long-awaited new international Law of the Sea convention is suddenly under attack from within.

With 10 years of complicated negotiations nearing their intended end this week in New York, Canada faces a summer of internal negotiations over offshore oil and gas control before it can even hope to back a draft treaty next August in Geneva.

With eyes fixed firmly on new offshore petroleum potential, Newfoundland is threatening Supreme Court of Canada action to prevent Ottawa from signing the convention if it includes a currently proposed clause that would require revenues from continental-shelf oil from beyond the 200-mile economic zone to be shared with other, primarily poorer, nations.

As the province's Mines & Resources minister, Leo Barry, put it this week in a Post interview: "We would be able to issue a constitutional challenge to any federal abrogation of Newfoundland's rights."

Though debatable (and St. John's and Ottawa appear now to be heading for a confrontation on the question), Newfoundland's offshore claims pose a ticklish problem for Canada's Law of the Sea negotiators.

For the moment, they've been told by Ottawa to reserve comment on the revenue-sharing clause. That means a postponement of further negotiations on the clause to the scheduled July-August session in Geneva, a session that was expected to include a minimum of dickering.

It's by no means the only complication facing the 150 nations involved in the talks. On the eve of this week's plenary negotiating sessions on the wording of the draft agreement, there were hopes a revised text would be produced for an eventual vote in Geneva. But, according to J. Alan Beesley, Canada's top negotiator, last weekend there remained several issues on which "we're not out of the woods yet."

One, vital to Canada, is the question of ceilings on nickel production. That's a key to a proposed new system of regulated production of seabed resources, and it has been a major factor in Canada's continuing conflict with U.S. negotiators.

Beesley says the recent revival of cold-war tensions in the world has been of no help to Canada in the discussions. In fact, he says, the U.S. and the Soviet Union appear now to have forged an informal alliance on some matters of concern to Canada.

"All I can say is thank God Afghan-

istan didn't happen earlier," Beesley says.

Newfoundland's Barry, after a two-day visit to New York last week, is sympathetic.

"The 'Thank you, Canada' campaign (arising from Canada's aid to the U.S. diplomats in Iran) stops at the steps of the United Nations Building," he says.

Barry acknowledges that his government's resistance to offshore revenue-sharing enjoys little support from other nations with wide continental shelves. The others, he says, are worried that reopening discussions on revenue-sharing could produce a formula for contributions to the poor nations even higher than the 7% now envisaged.

But Newfoundland believes Canada may be the only producing country directly affected by the clause, because only it may turn out to have producible potential beyond the 200-mile zone.

Barry says Ottawa has offered informal assurances the federal government would pay the 7% levy.

If the New York and Geneva talks fail, or should Canada back out of an eventual agreement, the implications could be serious.

A failure could deprive Canada of international recognition of its Arctic Waters Pollution Prevention Act and throw into question its unilaterally declared 200-mile fishing zone.

CC: L O ...
rta to JAB

DEPARTMENT OF EXTERNAL AFFAIRS
MINISTÈRE DES AFFAIRES EXTÉRIEURES

Subject LAW OF THE SEA CONFERENCE
Sujet

Date Friday, Apr. 4, 1980 Publication Los Angeles Times

A Canadian diplomat complained that, despite the Afghanistan crisis, the United States and the Soviet Union have cooperated closely during current U.N. Law of the Sea negotiations—often at Canada's expense. "The difficulty," John Alan Beesley, vice chairman of the Canadian delegation, said, "is that when they agree, they tend to agree on what is of interest to them and the rest of us are not very intimately involved . . ." A five-week round of negotiations ends today.

U.S.-Soviet accords harm Canada's interests in sea-law talks: Envoy

UNITED NATIONS — (CP) — Canadian negotiator Alan Beesley has strongly criticized the steamrolling tactics of the superpowers — the U.S. and the Soviet Union — who often work together at the Law of the Sea Conference at Canada's expense.

Despite the strong public anti-Soviet stance taken by the U.S. Carter administration in the wake of the Soviet invasion of Afghanistan, Beesley says the two countries work closely together such is not the case in the backstage manoeuvres of the Soviet Union and the U.S. at the current session of the UN Law of the Sea.

Beesley aired publicly for the first time in detail some of the troubles the Canadian delegation has faced in dealing with the United States on some controversial sea-law issues.

Many countries, including Canada are uneasy over this disguised U.S.-Soviet operation.

"In areas where the two superpowers appear to be disagreeing with one another, one by one as the session has proceeded, it's become evident that they have identical positions," he said.

"It's been a case of who plays the role of the tough detective and who plays the role of the one who pats the people on the head."

Beesley made clear that he wasn't against such agreement which was a good sign in one way. But it was surprising in the aftermath of the Afghanistan takeover.

The two superpowers are closer together in this session than they have ever been," he said.

In settling a marine scientific research issue, the superpowers gave away a Canadian interest, he said.



ALAN BEESLEY
Canadian negotiator

On the question of ocean ridges in figuring out how far out coastal states would be able to extend their continental margin, the U.S. and the Soviet Union already had negotiated an agreement before consulting Canada, one of the major states with long continental shelves, he said.

He blamed the "gang of five" — the U.S. the Soviet Union, Britain, France and Japan — for putting pressure on the sea-bed negotiators that would change the format for production limits by setting a floor that would guarantee sea-bed miners nickel production of 100 per cent or more during times of poor market conditions.

Strong given 'mandate'

Delegates approve UN pollution plan

From The Canadian Press and The Associated Press
STOCKHOLM — Maurice Strong of Canada said yesterday he has "a mandate to launch a joint endeavor in the field of the human environment."

The secretary-general to the United Nations Conference on the Human Environment made the statement to delegates as they approved the proposed financing and permanent UN machinery to fight world pollution.

With an "action plan" and machinery endorsed, delegates waited for completion of a draft set of principles, the centre of a back-room negotiations last night as the conference prepared to wind up its two-week deliberations tonight.

After Mr. Strong intervened to break a political deadlock early yesterday, the drafting committee working on the declaration on the human environment—the set of principles on which the global fight will be founded—speeded up their article-by-article approval.

But this process slowed last night as some delegates in the committee sought to reopen decisions already reached on some articles.

A delegate said later that at times the Chinese seemed cooperative and at times their speeches turned into tirades as they spoke of "victims of genocide."

Earlier, the machinery and blueprint for a concerted attack on world pollution were virtually completed as the conference gave approval to the triple-tiered permanent structure to direct the fight.

The organization will consist of a 54-country governing council, a secretariat headed by an executive director and a co-ordinating board to cement the efforts of the various UN units and agencies involved.

Mr. Strong, a native of Oak Lake, Man., is expected to be picked by the UN General Assembly as executive director.

All recommendations must be approved by the General Assembly and this probably will be done next fall.

Financing for the secretariat's work will come from a voluntary five-year \$100-million fund to which Canada will contribute between \$5- and \$7.5-million. The United States is providing \$40-million.

Environment Minister Jack Davis, who files back to Canada today, estimated that on a per-capita basis, Canada's contribution will be the largest in the UN. Pledges by

joint Canadian-Chinese operation.

Canadian delegate Alan Beesley, head of the External Affairs Department's legal division, frequently incorporated the Chinese viewpoint in seeking compromise solutions.

This sympathy for the Chinese position apparently paid off. One article in the declaration—which Canada considers vital—calls on countries to be responsible for any actions which result in polluting neighbors. That article, a Canadian delegate said later, was quickly passed by the drafting committee.

The Canadians articles and companion articles the "legal principles." Their adoption by the conference would open a door to the possible extension of international law.

Perhaps for this reason, delegates involved in the drafting were being extra cautious,

to ensure that their countries were not entangled in a network of pledges that might lead to legal commitments.

But the prevailing "good spirit" of debate yesterday indicated, as Mr. Strong predicted, that there would be a declaration brought forward for adoption today in a conference plenary session, although much of the wording in the initial draft may have been changed.

**Environmentmen
urges 10-year
to hunting**

STOCKHOLM (Staff) — A 10-year ban on commercial fishing of whales was approved yesterday at a committee meeting of the UN Conference on the Environment. But the victory for conservationists apparently will not cause Environment Minister Jack Davis to raise the question of prohibiting commercial salmon fishing.

"We won't be bringing up the subject at the conference," Mr. Davis said, "but while I'm here I intend to ask the Swedes why they tolerate Denmark taking about half the salmon caught in the Baltic."

This will be an informal query, however which Mr. Davis probably will make when he visits Swedish salmon hatcheries next week. He said Sweden had the same problem as Canada, with salmon spawning in Swedish rivers and then being netted by fishermen from other countries.

**Goldbloom explains
vote on housing fund**

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Dr. Goldbloom, a Canadian delegate, told reporters that Canada is opposed to a multiplication of international funds. He said the delegation received no mandate from the Canadian Government to go beyond support for the UN environment structure and financing.

The vote showed almost a total polarization between the developed and developing countries.

STOCKHOLM (CP) — Quebec Environment Minister Victor Goldbloom said yesterday the Canadian delegation did not have a mandate to support a proposal by India and Libya that an international fund be established to strengthen national housing programs.

The proposal was adopted by the United Nations environment conference Wednesday in a majority vote of 58 against 15 with 13 countries

NEWS SUMMARY

WORLD

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Whale moratorium

From Page One

the more emotional issues at the environment conference.

Intensive lobbying against whaling countries, chiefly Japan, has been going on for several days. A meeting of whale defenders was held at a communal camp run by the Hog Farm group outside Stockholm. Even conference secretary-general Maurice Strong attended, looking more than ever like a Sandwich East haberdasher with his long sideburns, round face and brilliantiated hair.

The moratorium on whaling still has to be approved by the main conference and by the

UN General Assembly. The Soviet Union, absent from Stockholm because East Germany isn't represented, will probably join Japan in fighting the resolution at New York but it isn't likely to be defeated.

Delegates yesterday were enthusiastically applauding committee members who spoke on behalf of the ban.

If the ban sticks, it will have a considerable economic impact on Japan, which has three large whaling companies. A Japanese estimated last night that a closedown of various related industries would cost perhaps 50,000 jobs. He said Japan catches about 18,000 tons of whale a year.

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ious countries already were reaching a total of more than \$80-million.

In the drafting committee debate on the set of principles, China—bidding itself as the champion of non-industrialized states—contended that there are good and bad wars.

One issue which has been delaying production of the document for four days by the committee, informants said, is a Chinese claim that aggression should be condemned, but that defensive wars and wars of liberation were righteous.

Chinese delegate Hou Hsiang-lin said that China was "making its best efforts to have a good declaration."

Throughout the slow debate on each article of the set of principles, the Canadian delegation acknowledged that it gave the Chinese frequent support to the point where other delegates suspected a

joint Canadian-Chinese operation.

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This sympathy for the Chinese position apparently paid off. One article in the declaration—which Canada considers vital—calls on countries to be responsible for any actions which result in polluting neighbors. That article, a Canadian delegate said later, was quickly passed by the drafting committee.

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Environment meeting urges 10-year halt to hunting of whales

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"Salmon will be one of the subjects that will be discussed at the International Conference on Conservation of Living Resources of the Sea in February," Mr. Davis said. He announced the Vancouver conference in a speech at the Stockholm meeting.

"At that time we'll explain our position on salmon and other issues to our international friends, so they'll have our point of view before the UN law of the sea conference."

Canada was one of the countries that supported the 10-year moratorium on commercial whale fishing.

WHALE — Page 2

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Okamoto is an insanity plea. Okamoto, 24, is murdering 24 persons and wounding 72 at Lod May 30.

Environment parley finds a compromise and survives crisis

By COLIN McCULLOUGH
Globe and Mail Correspondent
STOCKHOLM — The United Nations Conference on the Environment came dangerously close to flying apart late yesterday but finally stood itself as weary delegates reached unanimous but shaky agreement on re-examining one of the conference's key documents.

Whether the danger point has been passed will become apparent today when all the nations present will have an opportunity to suggest changes or amendments to the draft declaration on the human environment. It contains broad principles governing the world environment that were put together after a year and a half of work by the conference's preparatory committee.

The crisis arose when China proposed that an ad hoc committee be established to allow all countries to give their views on the declaration. But the document was a fragile compromise about which even the 27-nation preparatory committee that wrote it, including Canada, had many reservations.

As the Yugoslavian delegate put it: "To make changes will open Pandora's Box. Every country will have amendments it wants to make."

Last night, delegates were still uncertain why China had proposed an ad hoc committee, later changed to a working committee by an Iranian amendment. The proposal would not only disrupt the conference's tight working schedule but also jeopardize hopes that the world's pollution problems could be solved on a global basis.

There are two chief reasons offered for China's action.

First, discontent among the developing nations has been evident for some time, with many of them convinced the conference had been called by wealthy nations that had become wealthy by creating pollution and now wanted to solve the problem at the expense of economic progress by poorer nations.

China served as the spokesman for this discontent and in the process became the leader of Third-World nations for the first time in the UN forum.

Second, the Chinese themselves have reservations about the declaration and feel they should have an opportunity to give views now since they weren't members of the United Nations when the preparatory committees were formed for the conference.

The working committee, in effect the plebiscite under a different name, will meet in a closed session starting this morning and intends to have the declaration completed for presentation on Tuesday, the day it was officially to have been ready.

Whether this will happen will depend in part on whether China has real influence among the developing nations and indeed wants the declaration to be approved. The United Kingdom, the United States and many other countries are prepared to submit their own amendments if, as one delegate said privately, "any delegation starts the ball rolling."

The working committee may take some steam out of

the controversy and, indeed, had been suggested by Canada when it became apparent that some countries were prepared to make amendments to the declaration.

Responsibility for the policy is shared by the Secretary-General, the Executive Director of the Economic and Social Council, the Secretary-General of the United Nations, and the Secretary-General of the United Nations Environment Programme. The Secretary-General of the United Nations Environment Programme is the Secretary-General of the United Nations Environment Programme.

The declaration has no legal binding force," he reminded delegates, "and countries will have ample opportunity to safeguard their national positions when making treaties."

He said Canada would not propose amendments and that it was obvious that every state needed the main principles of the document—that every nation has a duty not to pollute another nation or the atmosphere or waters beyond its jurisdiction and that they should pay compensation for pollution they create and inform other countries of pollution developments.

The document was a delicate balance between conflicting interests and was painfully negotiated. Any delay that disturbs that balance will be a heavy responsibility on those who cause it.

One possible delay was only narrowly avoided. Tunisia had suggested an amendment that would have involved choosing a committee from countries representing different areas of the world.

It was clear that, given UN practice, this alone would have been taken days to settle. Tunisia finally withdrew the amendment.

The Chinese delegate said: "Consultation and solidarity is especially important among developing countries. China has a positive attitude toward consultations, and I suggest further consultations among various delegations to find a solution."

This perhaps implied that China was willing to go along with Canada's compromise proposal of adding interpretations to the original declaration, but at times nobody seemed certain of what anybody else meant.

At one point, the Uruguayan delegate demanded that a vote be held and the Iranian delegate promptly demanded what the plebiscite was supposed to vote on. No answer was forthcoming, and the Uruguayan delegate returned to the podium to say: "We're ready to vote for any sort of group that can solve this problem. We haven't got time to waste on further discussion of what we should discuss. We can't erase with one hand what we have written with the other hand."

His passionate declaration may have seemed somewhat incoherent, but delegates knew what he meant. The fact that all they all agreed it was proper and democratic for nations to speak on the declaration, despite all the preparatory work that might be made useless, was an optimistic sign that the conference may yet take the first step to solving man's environmental and political problems.

DEPARTMENT OF EXTERNAL AFFAIRS
 MINISTÈRE DES AFFAIRES EXTÉRIEURES

SSEA SCAN FLO

Subject
 Sujet

Los puestos

Date 26-4-78

Publication LE DEVOIR

Droit de la mer

DEPT ST J, JEAN

Le Canada souhaite un contrôle des "pollueurs"

GENÈVE, (d'après AFP et Reuter) — Le Canada a demandé hier à la conférence de l'ONU sur le droit de la mer d'autoriser les Etats côtiers à inspecter les navires lorsqu'il y a de bonnes raisons de croire qu'il existe un danger imminent de pollution grave. Puisant explicitement réfé-

rence à la catastrophe de l'Amoco Cadiz, M. Alan Beesley a demandé que l'on mette l'accent sur l'aspect préventif plutôt que sur l'aspect répressif des pouvoirs accordés aux Etats côtiers. Il a également souhaité une réglementation plutôt qu'une interdiction, et la clarté plutôt que l'ambiguïté.

M. Beesley a enfin regretté que l'on n'envisage aucune mesure préventive, même s'il existe des raisons sérieuses de croire qu'une pollution importante est imminente et à demander un accroissement des droits des Etats côtiers.

Par ailleurs, M. Shirley Amerasinghe, président de la conférence sur le droit de la mer, a lancé un avertissement aux pays participants, disant que la conférence était vouée à l'échec s'ils ne montraient pas un plus large esprit de compromis.

La conférence, maintenant dans sa 36 semaine alors que huit sont prévues, est arrivée "à une situation d'une extrême gravité qui exige des concessions de toutes les parties", a dit M. Amerasinghe.

La session actuelle est la septième depuis l'ouverture de la conférence il y a cinq ans pour élaborer une législation internationale régissant l'exploitation des océans et assurant aux pays n'ayant pas d'accès à la mer une part équitable des bénéfices.

Elle était considérée comme cruciale par la plupart des délégués au moment où des compagnies minières, américaines, ouest-allemandes et japonaises, notamment, désirent entreprendre l'exploitation de gisements de cuivre, nickel, cobalt ou manganèse dans le sous-sol marin. Cependant les trois premières semaines se sont entassées dans des querelles de procédure à propos de la présidence. M. Amerasinghe devait-il la conserver bien qu'il ait été retiré de la délégation du Sri Lanka par le nouveau gouvernement arrivé au pouvoir dans son pays en novembre dernier? Cette question ayant été réglée, par le maintien de M. Amerasinghe

au fauteuil présidentiel, la conférence n'a fait aucun progrès sur aucune des questions importantes en discussion.

"Le prix du succès est un compromis équilibré, le prix de l'échec est un aigre conflit", a déclaré le président Amerasinghe. "J'en appelle à tous les délégués de négocier sérieusement. Ce n'est pas le temps, c'est la volonté qui manque."

Au cours de la brève séance plénière hier, M. J.S. Waribha, chef de la délégation tanzanienne, a déclaré qu'il paraitrait désormais improbable que la conférence puisse rediger le traité escompté sur le droit de la mer. "Le cynisme et l'apathie sont la règle," s'est plaint le délégué tanzanien.

DEPARTMENT OF EXTERNAL AFFAIRS
 MINISTÈRE DES AFFAIRES EXTÉRIEURES

SCAN FLO
 LOS DELNY

Subject
 Sujet

Date July 9, 1977

Publication

The Chronicle Herald



Sc
 Prototype treaty ^{FL}
 unveiled ^{LOS} ^{DL}

We'll know within a few days — July 13 seems a likely date — just how much progress has been made in the United Nations Law of the Sea Conference in New York this summer.

That's the time, according to Canada's top sea law bargainer, Allan Beesley, that the "prototype treaty" on man's future uses of the oceans will be unveiled for public viewing.

In a telephone interview from New York yesterday, Mr. Beesley told this correspondent that the writing of the draft treaty means a potential breakthrough in the long, arduous negotiations which, for some years, have occupied the attention of delegates from the more than 150 states within UN membership.

It is "potential" in the sense that what will be produced out of the current talks at UN headquarters, is really a suggested plan. It is being prepared by the chairmen of three major committees, with the help of Mr. Beesley, Dr. Hamilton Amerasinghe, of Sri Lanka, the chairman of the LOS conference, and Dr. Kenneth Rattray, of Jamaica, the rapporteur-general. The committee chairmen are Paul Enge, of Cameroon; Sr. Andres Aguilar, of Venezuela; and Alexander Yankov, of Bulgaria.

The draft treaty is really a refinement of the so-called "single negotiating texts" drafted in Geneva in 1975, and revised last year in the sessions at New York.

The texts formed a broad outline of what the chairmen believed ought to be in a treaty, but they did not meet with full delegate approval.

Now there is the rewrite coming.

Mr. Beesley, soon to leave his Ottawa job as assistant undersecretary of state for external affairs, to take up a new job as ambassador to Australia, says there is no guarantee the prototype will be approved either.

But there is hope because, he says, there is a better mood at the conference than ever before.

The delegates, he says, arrived in New York in May to resume the debate in a mood of willingness to negotiate. There was not so much of the traditional posturing and speech-making.

Countries like those in the so-called Group of 77 — a mixture of underdeveloped, landlocked, economically disadvantaged states, and others with limited shorelines, appeared to mellow this summer from hard and fast positions which help block the road to international agreement.

It is because the conference has set for itself such high targets of achievement that the progress has been so slow.

What is being sought is a treaty to govern such things as fisheries, undersea mining, undersea defence agreements, pollution control, navigational regulation standardization, the redrafting of territorial seas, management of resources, rights of passage through straits and shared-rights waters, and so on.

The delegates opted for one single treaty, covering the whole spectrum. There has been some thought that the world might have been able to secure treaties on one aspect or the other, but the UN says it wants a complete-package treaty, not a series. There are several sticky points still unresolved.

For example, there is the dispute about undersea mining — how extensive it should be, how the profits will be shared as between coastal state, and landlocked country. There is the question about loss of national sovereignty if management of the resources is placed in the hands of a single new world agency. There is concern about environmental protection.

In the last connection, Canada is far more rigid about the need for environmental harmony than are many countries of the world. Canada's Arctic, for example, is so environmentally sensitive, that passage of ships through the northern lands and channels is controlled to an extent greater than almost any other part of the world.

DEPARTMENT OF EXTERNAL AFFAIRS
MINISTÈRE DES AFFAIRES EXTÉRIEURES

Subject UN - LAW OF THE SEA
Sujet

Date April 13, 1978

Publication Ottawa Citizen

Sea law talks bogged down

GENEVA (Reuter) — The United Nations sea law conference, in the third week of a seven-week session here, is still bogged down in procedural wrangling and the sea is scarcely being mentioned.

Canadian delegate J. Alan Beesley told reporters he was disgusted with the conference's lack of progress and warned delegates that the world expected action from the meeting.

Conference President Shirley Amerasinghe of Sri Lanka warned delegates Wednesday they are making

The Citizen, Ottawa, Thursday, April 13, 1978, Page 33

the conference look ridiculous and endangering its future.

Elliot Richardson, the U.S. special envoy, packed up and went back to Washington until next week after criticizing delegates wrangling over the wording of agenda items.

Before the conference started last March 28, it was widely seen as a make-or-break effort to set international rules on how to share fairly oil, mineral and other riches in the world's oceans.

The conference started five years ago and the present session is the seventh. Many observers here believe the present session could be the last chance to set international guidelines, with Western nations poised to start extensive mining of the oceans.

Beesley told reporters Canada believed the conference could not remain indifferent to events such as the recent Amoco-Cadiz oil tanker shipwreck which polluted large areas of the French Coast.

DEPARTMENT OF EXTERNAL AFFAIRS

MINISTÈRE DES AFFAIRES EXTÉRIEURES

SSEA SCAN FPR MIN BEESLEY

FLO FLM FLP UNO UNP

Subject

Sujet

Date 2-4-80

Publication THE GLOBE AND MAIL

Floors and ceilings

BY GEOFFREY STEVENS

OTTAWA

Canada is in serious trouble as the penultimate session of the United Nations Law of the Sea Conference moves to a close in New York tomorrow.

The issue is one which has been discussed in this space from time to time over the past few years — the minor of nickel from the manganese nodules of the international deep seabed. Canada, still the world's largest nickel producer, is desperately anxious to protect its mines (and the jobs that go with them) from the potentially destructive competition of seabed mines. The Canadian concern is shared by other land-based mineral producers, including Guatemala, Cuba, Indonesia, Zambia, Zaire and Australia. Against them is ranged a group of the world's largest mineral consumers, disparagingly described by Canadian diplomats as the "Gang of Five" — United States, Soviet Union, France, Britain and Japan. These nations are anxious to get on with exploitation of the seabed.

The consumers seek a high production floor (to protect their investment in seabed mines) plus a high production ceiling. The producers, led by Canada, seek a low floor and a low ceiling.

This is, inevitably, an oversimplification. Straightforward concepts of floors and ceilings are overwhelmed by such intricacies as "trend line values", "linear regression of logarithms", "stepped tonnages" and "crawling splits".

Anyway, none of this is new. What is new is a revised production control formula which is emerging in the closing days of the New York meeting. It has rendered members of the Canadian delegation simultaneously blank with incomprehension and white with rage.

The new formula is the work of the "Nandan Group" — so known for its chairman Satya Nandan, who in real life is the Ambassador of Fiji to the European Economic Community. The "Nandan Group" is a spin-off of the "Group of 21", which, in turn, is an informal subcommittee of Committee One, the conference body dealing with seabed issues.

(That the "Nandan Group", with 30 members, should be larger than its immediate parent, the "Group of 21", makes perfect sense to any aficionado of the Law of the Sea.)

What the "Nandan Group", of which Canada is member, has done is to rewrite a draft treaty article which sets out a production formula over which Canada and the United States had been at loggerheads. If I understand the revised formula, the "Nandan Group" is proposing a production ceiling with a built-in floor. But both the ceiling and the floor seem, I think, to slide. It looks as though, depending on world demand, the floor could slide through the ceiling.

If (again) I understand it, the most contentious part is this: "If the annual rate of trend-line increase so derived is less than 3 per cent, the trend lines used to find the ceiling shall instead be derived by projecting a new trend line based on the original trend-line value for the first year of the relevant 15-year period increasing at 3 per cent annually."

In other words, I think, if world demand for nickel were increasing by less than 3 per cent per year, seabed nickel producers would be able to take up all of the increase in demand, and then some. (The U.S. Bureau of Mines projects that demand will rise by between 2.2 and 3.8 per cent annually.) Three per cent is within the range of acceptability by the United States. It is not acceptable to Canada (which wants a lower figure).

Elliot Richardson, the head of the U.S. delegation, says the protection for the Canadian nickel industry is "almost iron-clad". J. Alan Beesley, the head of the Canadian delegation, disagrees, vehemently. U.S. officials question whether Canada, the most extreme country on this issue, can count on continued support from other land-based producers

There's the crux. If Canada can't find the votes to defeat the formula at the final session in Geneva this summer, does Ottawa ratify a treaty which contains a clause it says could destroy one of the country's most important industries?

Subject

Date 5-4-80

Publication

Canada raps sea steamroller

UNITED NATIONS (CP) — Canadian negotiator Alan Beasley has strongly criticized the steamrolling tactics of the superpowers who often work together at the Law of the Sea Conference at Canada's expense.

Despite the strong public anti-Soviet stance taken by the Carter administration in the wake of the Soviet invasion of Afghanistan, Beasley says such is not the case in the backstage manoeuvres of the Soviet Union and the U.S. at this current session of the UN Law of the Sea.

Beasley aired publicly for the first time in detail some of the troubles the Canadian delegation has had in dealing with the United States on some controversial sea law issues.

Many countries, including Canada are uneasy over this disguised U.S.-Soviet operation.

"In areas where the two superpowers appear to be disagreeing with one another, one or the other as the session has proceeded, it's become evident that they have identical positions," he said.

"It's been a case of who plays the role of the tough detective and who plays the role of the one who pats the people on the head."

WAS GOOD SIGN

Beasley made clear that he wasn't against such an agreement which was a good sign in one way. But it was surprising in the aftermath of the Afghanistan takeover.

The two superpowers are closer together in this session

than they have ever been," he said.

In settling a marine scientific research issue, the superpowers gave away a Canadian interest, he said.

On the question of ocean ridges in figuring out how far out coastal states would be able to extend their continental margin, the U.S. and the Soviet Union already had negotiated an agreement before consulting Canada, one of the major states with long continental shelves, he said.

He blamed the gang of five — the U.S., the Soviet Union, Britain, France and Japan — for putting pressure on the seabed negotiators that would change the format for

production limits by setting a floor that would guarantee seabed miners nickel production of 100 per cent or more during times of poor market conditions.

CONFERENCE ENDS

Meanwhile, the conference ended a five-week session Friday with progress reported in a number of key areas. Committees and negotiating groups reported progress were:

—Principles for operating

the deep seabed mining system and its financing.

—A definition of the sea shelf.

—Rules governing maritime scientific research by foreign vessels on a state's continental

shelf and its Exclusive Economic Zone.

The next session will be held in Geneva from July 28 to Aug. 28, when the aim is finally to complete work on a sea law convention.

The locale shifts again

By GEOFFREY STEVENS

OTTAWA

The locale is forever shifting. Caracas in 1974. Geneva in 1975. New York in 1976 (twice). Back to Geneva at the beginning of this month for a round of informal meetings organized by Jens Evensen, a minister in the Norwegian Cabinet. Back to New York this May for a crucial session of the "Group of 77" developing nations, to be followed by the fifth working session of the full United Nations Law of the Sea Conference.

If the diplomats involved were as adept at solving substantive issues as they are at juggling airline flights and hotel reservations, the world would have had a Law of the Sea treaty long ago. As it is, we'll have to wait until May to see whether the "Evensen Group" meetings in Geneva this month produced enough flexibility and fresh thinking.

The Evensen Group normally has 40 members; this time, however, 70 to 80 countries sent delegates. For two weeks the diplomats concentrated on one broad subject—the development of the minerals and petroleum in the international deep seabed. These discussions were "successful"—meaning that they ended with some hope, if not optimism, that compromises can be reached on the seemingly insoluble seabed issues.

For the first time, it appears as though the members of the European Economic Community will accept a U.S. financing proposal. Under this arrangement, the developed countries would put up the money to enable the proposed international Seabed Authority (to which all countries would belong) to launch its own direct exploitation of the manganese nodules of the seabed. (In return the Authority would permit private consortia from the developed nations to begin seabed mining.)

On the other side, there seem to be two divergent sentiments at work within the Group of 77. One is that any scheme which is acceptable to the developed world cannot be sufficiently revolutionary for many developing nations to embrace. Against this is a sentiment that it is not in the long-term interest of the developing world to remain wedded indefinitely to doctrinaire positions.

How these contradictory sentiments shake down will depend in

large measure on more specific proposals from countries which are anxious to get started in seabed mining.

Are the developed countries prepared to put up a sufficiently large proportion of the start-costs to enable the Authority to get at least one major mining operation underway at about the same time that private enterprise starts? In addition, arrangements would have to be made for the developed countries to transfer their seabed technology to the Authority, because money is useless without know-how.

Many of the developing countries are still holding out for a system under which all seabed mining would be done by the Authority (in other words, no role for private enterprise). The United States favors a system of "parallel access". A mining consortium would approach the Authority with two tracts of ocean floor. The Authority would reserve one for its own use and licence the company to develop the other. A variation, which might make "parallel access" more acceptable, would enable the Authority to hold a minority interest in the tract being mined by the consortium, and perhaps the consortium to retain a minority interest in the tract reserved by the Authority.

To overcome suspicions among the developing countries, the Americans have suggested that whatever seabed regime is adopted be subject to review after about 25 years. The problem here is that developing countries do not want certain fundamental principles to be part of any review.

Finally, the issue of production controls must be resolved. The scheme proposed by the United States would impose not so much a ceiling as a floor. This concerns Canada which seeks to protect its land-based nickel industry. It also worries poorer countries which are developing their own nickel and copper resources. There is a suspicion, a fear, that the United States, Japan, Soviet Union and some European countries will undercut land-based producers by subsidizing seabed mining so as to gain new mineral reserves for strategic purposes.

All of these problems, unfortunately, are more complicated than hotel or airline reservations.

Fishing zones: Canada's biggest issue with U.S.

BY JOHN PICTON

WASHINGTON

THE TALK in the ante rooms at the U.S. State Department these days is about fishing zones. For four weeks, with barely a two-hour daily break for lunch, the talkers have been attempting to negotiate fishing boundaries between Canada and the United States.

These negotiators (Canada is represented by Ambassador to the United States Jake Warren and J. A. Beesley, assistant undersecretary of state) for both sides argue principle and international law, debate historic fishing practice, pursue intricate detail on fish stocks and map co-ordinates and catch quotas.

But neither side is prepared to give up a single degree of latitude or longitude in its claims of ocean title—and for reasons these representatives are not even discussing.

Minerals involved

For although their subject is fishing grounds, there is a simultaneous dispute between the two countries—being discussed in periodic meetings by other groups of officials—over maritime boundaries, with all that implies for future underwater mineral development.

Both debates involve national sovereignty and jurisdiction, subjects that have become hypersensitive in political circles in recent years.

And although both countries have said the fishing-zones issue is intended to be "without prejudice to negotiations with neighboring states concerning the delimitation of the maritime boundaries," it would be imprudent diplomatically to give concessions in one round of talks and then try to win them back in the other.

tending its fisheries limits, Canada said it was making the move "in light of the crisis situation pertaining in the fisheries off Canada's coasts".

It was a move for which Canadian fishermen — particularly on the East Coast — had for long fought, given the decline in their catch in recent years due to over-fishing.

Lately, it has been estimated, foreign countries have been operating about 800 fishing vessels off Canada's East Coast, compared with the 200 being operated by Canadian companies.

The fishing industry has been providing about 70,000 jobs in the Atlantic region, an area where the unemployment rate has been higher than 15 per cent.

Yet, so bad has the over-fishing become that processing plants in Newfoundland, able to handle a billion pounds of fish a year, have been reported working at 40 per cent of capacity.

Under a series of bilateral agreements that have been negotiated, the Soviet Union, Norway, Spain, Portugal and Poland are being given quotas within the 200-mile fishing limit based on catches that are said to be "surplus to Canada's needs".

Fishing boats from these countries, which will have to be licenced by Canadian authorities, will lose their licences if they are caught violating Canada's new and extensive regulations.

In addition, trawlers can be impounded for varying periods, and a captain can face penalties of up to two years in jail and a fine of up to \$25,000.

At the time Canada's new fisheries regulations came into force, more than 100 permits had already been issued.



Newfoundland fishermen haul in their catch of cod. Overfishing by foreign crews has hurt the Newfoundland fishery.

posed co-operative fishing ventures.

Canadian Fisheries Minister Rouse LeBlanc has said any such ventures must be temporary, of benefit to Canadian industry and fishermen, aimed at catching fish that otherwise would not be caught by Canadians, and must teach Canadians new techniques.

However, there still was a storm of protest in Newfoundland when a joint venture with West German interests was announced to catch 6,000 metric tons of cod from Hamilton Bank off Labrador.

The bank area has seldom been fished by Canadians because of ice problems there and because of the availability of fish closer to home.

Ottawa's rationale in allowing the venture was to encourage larger fishing vessels to try the area, that it would harvest fish that Canadians nor-

ders can apply to a nation's own fishermen.

For the West Coast, Canadian and U.S. officials are attempting to negotiate a separate salmon treaty while trying to agree on a comprehensive fishing agreement.

This separate treaty would replace the existing Fraser River Treaty which came into effect in 1937. Under it, pink and sockeye salmon stocks from the Fraser River are divided equally between Canada and the United States although the entire river system is in British Columbia.

Each country is required to provide matching funds to conserve and manage the salmon stocks. But Canada maintains it is getting a raw deal because, after all, the fish originate in Canadian waters and because the treaty has cost Canada a great deal in

and opposite continental shelves is vague, and Canadian and U.S. negotiators have little option but to hammer out an agreement themselves.

Put simplistically, Canada favors a line out to sea from existing land boundaries that would be equidistant between Canadian and U.S. territory.

The Canadian proposal would give Canada jurisdiction over about a third of Georges Bank, a rich fishing ground.

The United States says the bank is a natural prolongation of U.S. territory and, therefore, claims the whole area.

In 1969, in a dispute between West Germany, Denmark and the Netherlands involving lateral boundaries, the World Court said that such agreements must be based on "equitable principles," taking into account the unity of mineral deposits, the contours of an underwater shelf and the princi-

for reasons these representatives are not even discussing.

Minerals involved

For although their subject is fishing grounds, there is a simultaneous dispute between the two countries—being discussed in periodic meetings by other groups of officials—over maritime boundaries, with all that implies for future underwater mineral development.

Both debates involve national sovereignty and jurisdiction, subjects that have become hypersensitive in political circles in recent years.

And although both countries have said the fishing-areas issue is intended to be "without prejudice to negotiations with neighboring states concerning the delimitation of the maritime boundaries," it would be imprudent diplomatically to give concessions in one round of talks and then try to win them back in the other.

The result is that the fishing talks, at least psychologically, are being viewed by the participants as all-encompassing.

Combined, these issues represent the most contentious ones outstanding between Canada and the United States.

When the long-established land boundary was negotiated, maritime boundaries were hardly looked at by negotiators who did not see the need for, or the potential of, having offshore areas of demarcation.

It has taken the depletion of fish stocks and a dramatic decline in intrinsic fuel reserves to emphasize the need for such boundaries.

Canada put an edge to this need when, on Jan. 1 this year, it extended the country's fisheries management zone to 200 miles from the previous 12 miles.

The United States will extend its fishing territory to 200 miles on March 1; maritime nations in the European Economic Community have already done so.

On the East Coast, Canada's new zone extends from a point midway between Canada and Greenland (which is Danish territory) to a point in the Gulf of Maine at the entrance to the Bay of Fundy, bringing an additional 502,000 square miles of ocean under Canadian jurisdiction.

On the West Coast, the extended area encompasses a 128,000-square-mile rectangle stretching from the tip of Vancouver Island to a point north of the Queen Charlotte Islands.

When a 200-mile fishing zone is added in the Arctic, that will add another 420,000 square miles of sea—although there is no commercial fishing in that area at the present time.

Announcing last year that it was ex-

planned, able to handle a million pounds of fish a year, have been reported working at 40 per cent of capacity.

Under a series of bilateral agreements that have been negotiated, the Soviet Union, Norway, Spain, Portugal and Poland are being given quotas within the 200-mile fishing limit based on catches that are said to be "surplus to Canada's needs".

Fishing boats from these countries, which will have to be licensed by Canadian authorities, will lose their licenses if they are caught violating Canada's new and extensive regulations.

In addition, trawlers can be impounded for varying periods, and a captain can face penalties of up to two years in jail and a fine of up to \$25,000.

At the time Canada's new fisheries regulations came into force, more than 100 permits had already been issued.

Suspicious of quotas

Some spokesmen for the fishing industry in Atlantic Canada, who had been advocating a complete ban on foreign fishing within a 200-mile limit, are suspicious of the quota system. They also are uneasy that an agreement has not yet been negotiated with the French islands of St. Pierre and Miquelon, south of Newfoundland.

They do not want to adopt a median line approach toward St. Pierre and Miquelon because then these French possessions would control much of the rich fishing grounds in the area, out of proportion to the size of the islands.

East Coast fishermen also are uneasy about talk in Ottawa of pro-

Newfoundland fishermen haul in their catch of cod. Overfishing by foreign crews has hurt the Newfoundland fishery.

posed co-operative fishing ventures.

Canadian Fisheries Minister Romeo LeBlanc has said any such ventures must be temporary, of benefit to Canadian industry and fishermen, aimed at catching fish that otherwise would not be caught by Canadians, and must teach Canadians new techniques.

However, there still was a storm of protest in Newfoundland when a joint venture with West German interests was announced to catch 6,000 metric tons of cod from Hamilton Bank off Labrador.

The bank area has seldom been fished by Canadians because of ice problems there and because of the availability of fish closer to home.

Ottawa's rationale in allowing the venture was to encourage larger fishing vessels to try the area, that it would harvest fish that Canadians normally would not catch, and that it would teach Canadians how to fish under the difficult conditions there.

Objections to the scheme highlighted the expectations that East Coast fishermen had of the 200-mile declaration.

They were incensed because the Fisheries Department had withdrawn all quotas from some offshore areas where fish stocks were considered to have been seriously depleted.

"Most governments are unwilling to accept a limitation of their fishing effort until a resource is severely depleted for fear that other nations will reap the benefit of their forbearance," a report written for the Canadian-American Committee said a few years ago.

It left unsaid that the same condi-

tions can apply to a nation's own fishermen.

For the West Coast, Canadian and U.S. officials are attempting to negotiate a separate salmon treaty while trying to agree on a comprehensive fishing agreement.

This separate treaty would replace the existing Fraser River Treaty which came into effect in 1837. Under it, pink and sockeye salmon stocks from the Fraser River are divided equally between Canada and the United States although the entire river system is in British Columbia.

Each country is required to provide matching funds to conserve and manage the salmon stocks. But Canada maintains it is getting a raw deal because, after all, the fish originate in Canadian waters and because the treaty has cost Canada a great deal in indirect costs—such as in pollution control and in forfeiting the possibility of developing hydro-electric projects in the Fraser River system.

Uneconomic plan

It has been established that it would be uneconomic to build fish ladders around proposed dams.

In turn, the United States is reluctant to give up what it considers historical fishing rights.

Figures relating to the benefits explain why.

Between the signing of the treaty in 1937 and June, 1973, the Canadian and U.S. governments each contributed \$8.3-million toward the direct cost of operating the fishery. During that period, U.S. fishermen harvested pink and sockeye salmon of Fraser origin worth \$150-million.

And, ever since it was discovered in the 1960s that Alaskan net fishermen, working close to the U.S. coast, were catching significant numbers of salmon bound for northern British Columbia, there has been a simmering dispute over the means of reducing the capture by nationals of one country of salmon spawned in the other country.

Then there is the Other Dispute, the one over latest boundaries, with their effects on offshore exploration for oil and natural gas.

Here, the most problematical area of discussion, the one that suggests the most immediate potential for riches, given offshore oil and gas, is how to divide the waters off the East Coast in the Gulf of Maine.

However, the Beaufort Sea holds the promise of hydrocarbon discoveries. Other contentious areas: the Strait of Juan de Fuca and Dixon Entrance in Hecate Strait.

Since existing international law dealing with the partition of adjacent

and opposite continental shelves is vague, the Canadian and U.S. negotiators have little option but to hammer out an agreement between themselves.

Put simply, Canada favors a line out to sea from existing land boundaries that would be equidistant between Canadian and U.S. territory.

The Canadian proposal would give Canada jurisdiction over about a third of Georges Bank, a rich fishing ground.

The United States says the bank is a natural prolongation of U.S. territory and, therefore, claims the whole area.

In 1969, in a dispute between West Germany, Denmark and the Netherlands involving lateral boundaries, the World Court said that such agreements must be based on "equitable principles," taking into account the unity of mineral deposits, the contours of an underwater shelf and the proportion of a disputed area awarded to each party.

The court added that, with regard to the contours of a shelf, it did not want a median line to divide an area that was a "natural prolongation" of only one nation, saying that there should be a "balancing up of all such considerations."

Based on this and earlier rulings, a group of commentators opined that such decisions enable nations "to rationalize a limitless number of circumstances so that the seemingly clear median-line principle is considerably weakened."

But there are precedents for a median-line concept of partition.

The Anglo-Norwegian division of the North Sea follows a line of equidistance, ignoring a trench close to the Norwegian coast.

Follows principle

Likewise, an agreement separating the seabed between the Canadian Arctic archipelago and Greenland also follows the median-line principle and disregards an undersea trench (which would have given a larger share of the seabed to Denmark).

Canada began issuing exploration permits for drilling on Georges Bank in 1964—that part of the bank that would be Canadian under Canada's proposed boundary line. It was not until 1969 that the United States objected, in a diplomatic note.

Why did it take five years for such a reaction? Perhaps it was the result of work carried out on the bank by the U.S. Geological Survey in 1968 which, perhaps, suggests that the bank holds good oil and gas potential.

And Canadian and U.S. officials have such considerations very much in mind when they supposedly are talking about fishing zones.



Sea conference vital to Canada

By John H. Walker

Special to Post-Newsweek

Canada's real stake in the Law of the Sea Conference hangs in the balance as the United Nations gathering moves to second stage this week.

Canada, as the world's top producer of nickel, is vitally concerned about production controls and access regulations established in any world treaty regulating the international deep seabeds of the ocean.

Canada, as one of the most active leaders in drafting a proposed global law governing the use of the sea, is extremely anxious to see a breakthrough in drafting the seabed portion of such a treaty, because that in itself would probably lead to a resolution of all the other major issues which are holding up completion of this complex and revolutionary "constitution of the ocean."

But at the end of three weeks of concentrated negotiations, the first yet held on the seabed section, a final draft text has not been produced. Instead two compromise texts are being circulated at the United Nations this week, and neither is winning the plaudits of the major power groups struggling over exploitation of seabed mineral wealth that could be worth \$3,000 billion.

Canada's delegation leader and chairman of the drafting committee, Alan Bewley, said Monday he was not quite so optimistic of success as he had been when the sessions started last month, although he said there had been "incredible accomplishments" in these three weeks in resolving both procedural and substantive issues.

The Americans, the Japanese and the European Community are all unhappy with the compromise texts for a variety of reasons relating to their technologically advanced status in the industrialized world and their concern about giving away too much to the underdeveloped and less technologically advanced Group of 77 nations.

The essential problem in the seabed sector of any proposed treaty is the how, when and who of mining the seabeds, the ocean areas beyond the 200-mile limit that are covered with layers of potato-sized chunks of nickel, copper, cobalt and manganese.

Over the past three years, conference delegates from over 150 countries have worked out a general formula based on the idea that this mineral treasure is "the common heritage of mankind," and should be exploited and shared among all.

They have proposed an international authority to control this and an international "enterprise" to operate the development of such mining.

But the conference battles have been about whether the exploitation should all be done by this international organ or whether there should be "parallel access" to these mineral-rich seabeds, part for five or six states under price, and part for this world enterprise body.

And while the Group of 77 has shown a gradual split in favor of sea-patrol access demanded by most developed countries like the U.S. and Canada, there are still wide differences over the financing of this costly development, about controlling production so as not to hurt present land-based nickel and copper mining, and other technicalities of this unique experiment in international industry.

Canada has an especially big stake in controlling the speed and extent of seabed mining, so that its big nickel mining centres at Sudbury and Thompson, which and its other mining industries are not adversely

A REPORTER AT LARGE

THE LAW OF THE SEA—I



THE Third United Nations Conference on the Law of the Sea, which came to an end last winter after nine years of deliberations, was the largest and most complex international negotiation ever held. It was also, contrary to widely held beliefs about the conduct of nations today, an occasion when nations subordinated some of their desires to a goal of general order and agreement. To many of those involved, it was the most important peacetime negotiation since the creation of the United Nations itself. Even in more optimistic times, it would be little short of remarkable that several thousand people, from more than a hundred and fifty countries, could work for almost a decade on one of the most complex agendas ever devised—which most rational analysis decreed could only fail—compose their differences, and come to a generally accepted agreement. The Law of the Sea treaty, which the conference has written, is after

the United Nations charter itself, and in spite of some flaws, the most far-reaching and potentially influential agreement on the peacetime conduct of nations ever attempted. Yet despite (or perhaps because of) its importance to other nations, and to the United States, which many of those concerned consider the treaty's greatest beneficiary, President Ronald Reagan has rejected the treaty and has committed his Administration to opposing its acceptance by other nations. To bring it into effect, sixty nations must ratify it, and five have so far done this. The President and his Administration have meanwhile made it clear that, while rejecting the treaty, they propose to take all the benefits to this country negotiated in it, but without paying the negotiated price.

THE initial move toward the Third Conference was a series of meetings in 1965 between the United States and the Soviet Union, and prepa-

arations for it began in earnest in 1970, during the Nixon Administration, which had made sweeping proposals for the governance of the seas. The conference, greedy for problems, was to consider almost every conceivable aspect of almost every conceivable question that might be raised by the world's nations concerning the seventy-one per cent of the earth's surface that is covered by oceans and seas, and concerning nations' activities in, on, and over that vast watery region. Formal negotiations began in Caracas, Venezuela, in 1974, but all subsequent negotiating sessions have been held either in New York or in Geneva. Last December, the conference journeyed to Jamaica, the future seat of a future International Seabed Authority, for a signing ceremony. Some sessions involved as many as five thousand people, and some countries had very large delegations; others were able to send but a single delegate, often that country's permanent United Nations

representative. Even very small, land-locked countries, such as Lesotho, usually maintained three delegates, and small coastal countries, like Senegal and Madagascar, sent nine or ten. Venezuela's delegates included six of ambassadorial rank. The United States delegation, one of the largest (there are only a few maritime issues that do not affect the United States), consisted of around forty people in recent years, but there had been, at times, as many as a hundred and ten. The conference had at least eighteen negotiating committees on occasion—several with one or more working groups within them—some or all of which could be meeting at once during a designated morning, afternoon, or evening, or during all three. There were six official languages—English, French, Spanish, Arabic, Russian, and Chinese—and formal debate (in up to four committees at once) received simultaneous oral translation into all languages and overnight written translation and printing of documents. Almost all informal negotiation, however, was carried on in English.

THE conference was the third attempt in fifteen years to cope with the rapidly increasing international problems concerning the uses of the ocean. The First United Nations Conference on the Law of the Sea, held in Geneva in 1958, produced four treaties known as the Geneva Conventions on the Continental Shelf, on the Territorial Sea and Contiguous Zone, on the High Seas, and on Fisheries and Conservation of the Living Resources of the High Seas; it failed, however, to agree upon a specified breadth for a territorial sea or an unambiguous definition of a continental shelf. The Second Conference was convened two years later, in 1960, again in Geneva, to settle the problem of the breadth of every nation's territorial sea, but it failed by a single vote to adopt an agreement. Many of the problems that were to be thrashed out during the Third Conference were so urgent, and many of the participants were so strongly committed to certain

objectives, that it was said by some that the United Nations itself would be gravely shaken if the conference should fail. The conference came to be regarded as a test of whether large-scale meetings involving many countries could find solutions to critical problems. The Law of the Sea conference was not a legal conference in the same sense that, for instance, the 1969 Vienna Conference on the Law of Treaties—which was devoted to international definitions and distinctions—was. Rather, it was a debate over resources, a conference on property and ownership. It might, more informatively, have been titled the United Nations Conference on the Uses and Ownership of the Ocean and Its Resources. It was a conference on food, on oil, on energy, on minerals, on preservation of the environment, on freedom of navigation. It was a forum to right the wrongs done to the developing countries, and they brought to its early years the rhetoric of what had become known as the New International Economic Order and of the North-South dialogue. Along the way, it was a kind of constitutional convention for a world administration for the seabed. It devised new ways of conducting, and making decisions at, international gatherings, and became a

model for other large assemblages of countries seeking to deal with complex problems. Its aim was to bring order and law where none existed or where customs were no longer respected and countries had begun to squabble. It dealt with such traditional and relatively straightforward matters as piracy, smuggling, and freedom of navigation on the high seas, on which there was little disagreement; and with hotly disputed ones, like the demarcation between the high seas and national waters, free passage through straits and through the waters of archipelagoes, pollution from ships passing a country's shores, and custody over resources, including food supplies and energy. The list of issues before the delegates was stupendous, and the final statements resolving them will ultimately constitute, in effect, the largest body of international law ever to be codified. The major problems, on which the delegates had to agree, numbered over a hundred, but any number of lesser issues, from the preservation of whales to the custody of antiquities, were also resolved, though they would not have halted the conference if they had not been. When this conference began work, experts predicted imminent failure; there were so many issues and so many delegates that the demands



"A likely story!"

were, as one political scientist wrote eloquently, "quite beyond the competence of human beings to manage." Another argued persuasively that the expectations of so many delegates on such a big agenda insured that the conference would fail. But instead, in the end, the number of delegates and the number of issues appeared to form a critical mass that overcame disagreement. Countries have never welcomed restraints on their freedoms, but the conference made steady, if intermittent, progress on a mountain of laws that the countries themselves would be subject to, including provisions to insure their compliance. Among them were a hierarchy of new international courts to rule on disputes and other machinery for settling disagreements. These alone are of more value to the United States than seabed minerals, as former Representative Paul McCloskey, Jr., of California, said recently.

In August, 1980, after the eighth and ninth sessions—in New York and in Geneva—it was announced by Hamilton Shirley Amerasinghe, of Sri Lanka, who served as the conference's president from 1973 to 1980, and, independently, by the heads of various delegations, including the head of the United States delegation, Ambassador Elliot L. Richardson, that agreement had been reached on all major issues that the conference had been grappling with since its start. There was still a good deal of legal housekeeping to do; a few subsidiary and procedural matters had to be resolved; and then there were the concluding steps of formalization and adoption. There were some agreements with which Washington was known to be dissatisfied, and it was expected that the United States would ask for improvements in these, but most delegates were ready to declare the conference a success. Some of the most acute problems had been settled several years earlier, including some that had defied previous efforts over many decades. The success of the conference thus far, said Richardson, who served as our chief delegate from 1977 to October of 1980, proved that a world of over a hundred and fifty countries could reach long-range solutions to complex problems. No small group of nations acting on its own, he said recently, could deal with any of the truly serious problems of the foreseeable future. For other delegates, the success of the conference meant the acceptance of law—law that, as it

happens, was Western in outlook. "The new law is a better law than the old system that it replaces—or than the absence of any law at all, which it also replaces in many areas," Ambassador Keith Brennan, of Australia, said not long ago. "The old Law of the Sea began to break up because of its inherent inequity. Beyond three miles, it was 'first come, first served,' and wealthy countries could sail thousands of miles after a resource, while poorer ones could not—though they were just

THE CLEAR DAY

Sunlight gathers in the leaves, dripping
Invisible syrups. Long afternoons
Have been reduced to this significant
Table, melodious ice cubes shaken in
A blue tumbler, lazily tipped vermouth
And a hand measuring it, a propped elbow,
A languid eye, while a reflection on
A leaf turns into everything called summer.
The heat haze ripples through the faraway
Gardens of strangers, acquaintances, of those
I can put a face to. With my eyes shut,
Squeezing the soft salts of their sweat, I see
Beyond my body, nerves, cells, brain, and leisure.
Blue coastal persons walk out of the haze.
They have outflown the wind, outswum the sea.
I think, and feel, and do, but do not know
All that I am, all that I have been, once,
Or what I could be could I think of it.
These blue pedestrians bruise the edge of me
To a benign remorse, with my lessons.
With my eyes shut, I walk through a wet maze
Following a thread of sounds—birdsong in
Several cadences, children, a dog-bark,
The traffic roaring against silence as
A struck march drowns it out, simple tunes of
An amateur pianist, a vulgar shout,
A bottle tapped against a thirsty glass,
The burst of its pouring, and the slip
When the chilled glass wets a wet lower lip.
I could not guess at what the pictures are
In the eyes of a friend turned round to watch
Shrub shadows dapple a few yards of lawn
As his smoke clings to his thoughtful posture.
Tonight, I will look out at the dark trees,
Writing this in the muddle of lost tenses
At an o'clock of flowers turned colorless,
Listening to the small breeze puff against
Little branches, and with my eyes shut hear
The soft collapse of grasses into sleep.
Then, as always, the soul plays over mind
With radiantly painful speculations,
Presenting the clear day, and as I wait
For the ghost of the woman who haunts me
I will sieve through our twenty years, until
I almost reach the sob in the intellect,
The truth that waits for me with its loud grief,
Sensible, commonplace, beyond understanding.

—DOUGLAS DUNN

as free to. Some people were not getting a fair share even of fish off their own coasts. Peru was as free to fish off Russia as Russia was to fish off Peru, but somehow never did. The new law is a fairer one than what previously applied. Morally, it is vastly superior."

The agreements made at the conference will bring greater order, security, and certainty to international activities on the ocean, and, indeed, they are already doing so, because many of the countries that accepted primary agree-



ments have already begun putting them into effect, even before accepting the treaty as a whole. The conference's chief legal and political accomplishment is the Exclusive Economic Zone, which removed most of the sources of such conflicts over resources and navigation as the Cod Wars between Britain and Iceland. Coastal countries are to have dominion over resources to two hundred miles out from their coasts, and foreign ships may continue to pass through this zone as if on the high seas but without rights to any resources. The conference preserved, and even expanded, the right of freedom of passage in straits, in the face of the increasing claims of coastal states. It adopted rules broader than any before for protecting the ocean environment from pollution by ships and from shore and for protecting all species from overexploitation, with special protection for whales and other marine mammals. It created the first world organization for the management of global resources. It reached the first truly universal agreement on the limits of territorial waters—twelve miles—and of the continental shelf,

replacing a welter of conflicting and inconsistent claims. It produced, at the insistence of the United States and a handful of other countries, agreement on rules for scientific research in coastal economic zones and continental shelves. Finally, it created an elaborate system of compulsory settlement of disputes in order to preserve and strengthen the agreements reached. The enforcement provisions were considered a breakthrough in international agreements.

After the 1980 session in Geneva, the conferees scheduled one more—the tenth—in New York, for March and April, 1981, hoping to end the negotiations. Meanwhile, a month before Ronald Reagan's election, in November of 1980, Richardson, who had supported George Bush in the Republican Presidential primaries, resigned as head of the American delegation and was replaced by George Aldrich, who had been his deputy, and who was also a Republican. (Every chairman of the United States delegation to the Law of the Sea conference has been a Republican except T. Vincent Learson, the former chairman of

I.B.M., who served as chief delegate in 1976.) In late February and early March, after weeks and months of preparation with their home governments, delegates began to assemble in New York for preliminary caucuses before what they thought would be the culminating session, scheduled to open on Monday, March 9th. On that morning, however, the delegates read in the *Times* that during the weekend the Reagan Administration had dismissed Aldrich and half a dozen of his associates from the American delegation. This step was taken without informing other governments, including those of our close allies; the Administration merely issued a routine public statement afterward. One of the men who had been dismissed along with Aldrich didn't know of his dismissal until he opened a paper in the subway on his way to the conference that morning. Even as the decision was made, Aldrich and others had been in New York consulting with other delegates. A few days before, another decision—to keep negotiations open until the Administration completed a review of its policy—had

been announced without previous notice to other governments. The British Ambassador had been handed a report of it as he boarded a plane for New York. The Administration's statement also said that James L. Malone, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, had been appointed to replace Aldrich as chairman of the United States delegation. (He would, as Richardson and Aldrich had, bear the title of Ambassador and become, as Richardson had been, the President's special representative to the Law of the Sea conference.) Now, later on March 9th, Malone told delegates and U.N. officials what most had already feared: that the recently installed Reagan Administration had no immediate plans to negotiate with other countries on any treaty subject.

"A wave of dismay has gone around the world," Ambassador Brennan told me that afternoon. But Ambassador Malone explained that the seemingly imminent close of negotiations had left the new Administration no choice except to blindly accept the treaty as it then existed or to abstain from any further negotiation while conducting a full review of all that was in it. In reality, though, other remedies had been available. A few weeks earlier, as that session approached, some leaders (including Aldrich) saw that the chance of finishing in the spring of 1981 was



BOOTH.

already lost; by March 9th other delegates also knew this. Despite a special session, the conference's drafting committee still had months more work to do, and negotiations could not proceed without a new draft proposal from the United States. If a move to formalize the draft treaty had arisen anyway, several delegates told me, it could have been stopped in a number of ways without the United States' appearing to be involved, and there had been sufficient faith in the final outcome so that they, and others, had been prepared to delay the conference for the sake of the United States.

THE interests of the United States in the Law of the Sea conference were overseen, not always to everyone's satisfaction, by more than a dozen departments and agencies of the government, including the State, Defense, and Energy Departments; the Department of Commerce, including the Maritime Administration and the National Oceanic and Atmospheric Administration; the Department of Transportation, including the Coast Guard (pollution, smuggling, the safety of ships); the Department of the Interior (offshore oil and minerals); the Treasury Department; the Environmental Protection Agency; the National Security Council; the National Science Foundation; and the White House itself—and internal differences over the treaty had from time

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is letter-perfect,
guests keep
coming back.



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President, Helmsley Hotels

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Los Angeles, CA

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I know how you must have felt when you suddenly realized that your husband had forgotten to pack his black tie — just moments before the two of you were to leave for a formal dinner.

I can remember running around San Francisco one night frantically trying to find a cummerbund for my husband, Harry. (To this day, Harry still swears that he packed it.)

So I've learned the hard way that it pays to keep a hotel staff ready at all times to help guests with last-minute little emergencies.

Thanks for your letter and for reminding your husband to return the tie when he was finished with it. Because who knows when that same tie will save someone else's neck.

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AUGUST 1, 1983

to time rivalled those of the conference. (John R. Stevenson, a former Legal Adviser of the State Department, who had been the first head of the United States delegation, often said that the complexities of the U.N. negotiations were like a vacation after negotiations in Washington.) United States policies and positions were agreed on before sessions of the conference, and reviewed after them, at meetings of the Interagency Group (or IG), which was composed of representatives of the departments, and, if need be, complemented by an Interagency Working Group (or WIG), but the few most important decisions were referred to a Senior Interagency Group (or SIG), which was composed of assistant secretaries and officers of equal or higher rank and chaired by a representative of the State Department.

The Reagan transition team did not give the Law of the Sea office in the State Department any guidance on the policies it favored, so in January, 1981, Ambassador Aldrich began to prepare an options paper developing what he considered prudent policy, and this was presented to the IG late in the month. Only a few people in the new Administration were at all familiar with the conference or with the text it was drafting, and most of the IG representatives had no instructions. Aldrich proposed that the Administration should seek to extend negotiations while it conducted a policy review—as previous Administrations had done on taking office—and then adopt its own policy, since there was not time to learn the issues before the session began. In several years at the conference, Aldrich, as Richardson's second-in-command, had quietly negotiated a number of practical agreements—in some cases, after highly convoluted negotiations—to which previous IGs had given their blessing. The members of the new IG, however, decided to make an exhaustive review of the issues before the conference and to oppose formalization of the conference's draft treaty at the spring session—that is, at the scheduled end of negotiations. Ambassador Aldrich told a few delegates that the United States wished to postpone formalization until the Administration could familiarize itself with the issues, and began enlisting, with a minimum of commotion, their support for the postponement. "Some of us had realized as the session approached that the conference was not going to finish its work in this session by any stretch of the imagina-

THE NEW YORKER

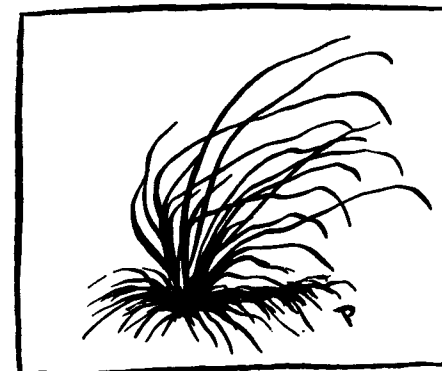
tion," one State Department official said later, "and even if it came close the chairman of one of the committees could hold things back so there would have to be another session. Not only would it have been easy for us to prevent formalization without walking out of the conference, it would have happened as a matter of course." After the meeting of the IG, a meeting of the SIG could not be convened until Monday, March 2nd. On that date, the SIG met and endorsed the decisions of the IG to begin a review and to prevent formalization, but the chairman of the SIG, William P. Clark, then Deputy Secretary of State, was determined that a press release announcing these decisions should be issued as well, and the meeting was devoted chiefly to agreeing on a text for the release. (Clark, who is now the national-security adviser, had been a justice of the Supreme Court of California and was an old colleague of the President's; during his confirmation hearings before the Senate, several weeks earlier, he had said that he didn't know very much about foreign policy.) Judge Clark—as he was called—was adamant that the only way to proceed was by an official release. A lawyer in the State Department said later, "In effect, what we were saying was 'We're going to go ahead and make agreements with you guys and we'll expect you to honor your side, but we won't make up our minds about whether we'll honor our side until sometime later on.'"

During the rest of the week, criticism of that decision came both from the conference, where it was portrayed as an attempt to dictate to other countries, and, it was said, from the White House. During that week, too, James Malone renewed efforts he had been making since his appointment as Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs to bring the Law of the Sea office, which had been under the authority of a more senior official, into his bailiwick—a move that, opponents argued, would politicize Law of the Sea decisions. On Thursday, March 5th, a Washington lawyer named Leigh S. Ratiner, who was an adviser to Malone, went to New York and asked Aldrich to put him on the United States delegation. (During the previous few years, Ratiner, as a lobbyist for a mining company, had been called the single most effective influence in arousing congressional hostility to the Law of the Sea treaty. Before that, however, in 1970, he had helped

to write a United States draft treaty, and had served as chief negotiator on seabeds from 1972 to 1976.) Aldrich refused. On Friday, Clark made the decision to dismiss Aldrich and place the Law of the Sea office under Malone. On Saturday, he told Aldrich this, saying that the Administration wanted "a clean break with the past."

DELEGATES from some friendly or allied countries asked privately for assurances for their governments. The ambassador of one Western nation told me, "We were informed that the United States would not negotiate during the session, that the United States would not negotiate at another session, later in the year, were one to be held, and that the delegation could not say that the United States would support any of the agreements made, or the conference itself." Those who had sided with the United States in dozens of debates during the conference found themselves, as far as they could tell, abandoned.

Foremost in many delegates' minds were various actions in the seven weeks since the Reagan Administration had taken office. During that time, the SALT II agreements had been shelved; the Senate, scarcely a week earlier, had expressed opposition to a fisheries treaty with Canada that had taken some years to negotiate; and several other pending bilateral agreements, including one with Cuba concerning the Straits of Florida, had been set aside. The United States, delegates recalled, was among the nations that had initiated the Law of the Sea conference. It had supplied many of the ideas embodied in the draft treaty, and some of the provisions that were now being criticized had been accepted by the Nixon and Ford Administrations. No country had got everything it wanted at the conference; every country would have preferred to get more and give up less. The United States had achieved most of its objec-



AMONG the pressing reasons for completing action on the treaty was to finally settle the matter of each country's sovereignty over its adjacent waters. Since the Second World War, almost every coastal nation in the world has claimed some degree of ownership or control of adjacent waters, once classified simply as part of "the high seas." Some countries have seized or fired on ships that have con-

tives, and was one of the countries that had gained the most. (According to studies by the Office of the Geographer of the United States and by others, the United States was the largest single beneficiary, in terms of territory and resources, under the provisions so far negotiated.) The ambassador of a prosperous European country asked me, "How can other countries continue to negotiate with the United States if you go back on agreements that were made in good faith? How can the rest of the world still trust the United States? It now takes years to resolve important problems. How can we even begin, and why should we make compromises, if the United States changes its mind at the end?"

Various settlements reached at the conference have been bitterly criticized at one time or another by virtually every country involved. Many delegates expressed fear that the withdrawal of the Reagan Administration would prompt other countries to reassess their support and renew old grievances. In the succeeding years, however, the Administration's opposition has not been matched by that of any country. Nearly all the countries have expressed readiness to endorse the treaty in its present form, but a few have played a waiting game. Several European countries were not averse to some of the Administration's ideas but remained wary of the United States because of its way of doing business. On the whole, leaving the negotiations was less effective than threatening to leave would have been. The Administration taught the conference that it could go on without the United States. A quieter approach might have encouraged some countries to agree with our viewpoint, whereas, faced with the departure of the United States, governments that had been critical of the treaty now supported it. The Administration was left isolated while other countries evolved a plan to complete the treaty without the United States.

tinued to use those waters and planes that flew over them. In several cases, warships have been sent out. In 1980, Cuban planes strafed a Bahamian fishing vessel. A few years earlier, Argentina fired upon a Russian vessel. British and Icelandic warships harassed one another during the nineteen-sixties and seventies, and French and Brazilian Navy ships clashed in the "lobster war" of 1963. American tuna boats have been seized by Ecuador during the past thirty years; French shrimp boats have been seized by Brazil; and a few years ago two American tuna boats were seized by Costa Rica, though they were not actually fishing. The United States has seized Soviet and East European fishing ships off New England and Japanese ships off Alaska. In 1967, two United States Coast Guard icebreakers in the Arctic were forced to turn back by Soviet authorities. In 1968 and 1975, the American ships Pueblo and Mayaguez were seized by North Korea and Cambodia, respectively, after entering waters claimed by those countries. In August of 1981, American fighter planes shot down two Libyan planes that had fired on them because they were in airspace over waters claimed by Libya.

Prior to the signing of the treaty, more than ninety countries, including the United States, claimed control over fishing as far as two hundred nautical miles from their shores. Canada and the Soviet Union have regarded much of the Arctic as special areas subject to their jurisdiction. Canada, citing the risk of pollution, which has been seen as a growing threat by most countries, enacted a law that could, for instance, deny oil tankers the right of innocent passage. ("Innocent passage" is the right of foreign ships to cross a country's territorial sea. To be "innocent," passage must be made expeditiously, without stopping, without the launching of aircraft or any other military device, and without leaving or boarding cargo or people contrary to the security of the coastal state.) While some countries came to the conference claiming rights only to fish or other resources, a number claimed total sovereignty over waters out to twelve, fifty, a hundred, or even two hundred miles offshore. Indonesia, the Philippines, Fiji, and other island nations claimed their interisland waters as their archipelagic waters. Three-mile sovereignty, traditional in European maritime law, is now claimed by less than half the number of coun-

tries that claimed it thirty years ago—twenty-one as opposed to forty-five; and while the number of countries in the world has more than doubled, those claiming twelve miles or more has risen from three to a hundred and seven. Fourteen countries assert that their borders and territorial waters extend two hundred miles out to sea. By 1978, only three countries made no territorial or economic claim whatever beyond three miles: Bahrain, Jordan, and Singapore.

Countries have generally claimed some part of the seas beyond their shores as part of their territory, for fishing and as a zone of protection to be patrolled against smugglers, warships, and other intruders. Countries with interests abroad have tended, with a few conspicuous exceptions, to see unrestricted oceans as a matter of higher morality. The Romans believed that the seas were for all. (The Emperor Antoninus said grandly, "I am the master of the land, but the law is the master of the sea.") Venice, however, claimed sway over the entire Adriatic, and England—before it became a worldwide sea power—claimed dominion over the North Sea. In the fifteenth century, Spain and Portugal divided the oceans of the world—which they had pioneered in exploring—between them, the Spanish taking the western Atlantic and the Pacific, the Portuguese the South Atlantic and Indian Oceans.

While these two nations were not able to maintain their grand scheme, the Dutch East India Company, which would have been cut off from the East Indies if the Portuguese had made good their claim there, was goaded into commissioning what is still the classic argument for an unrestricted ocean. A Dutch legal scholar named Hugo de Groot—or Grotius, as he signed himself—pragmatically argued as a basic principle, in "Mare Liberum," that a country could claim ownership only of what it could readily defend and control. Beyond that, he wrote, the ocean—the high seas—was "*res communis*," the



common property of all. "Is it not vastly more just," he wrote, "that the benefits . . . from the enjoyment of common things should be given to the entire human race rather than to one nation alone?"

As long as there was nothing in the ocean to take except fish, and as long as the supply of fish seemed inexhaustible, this doctrine appealed to a growing number of countries. They did not always see eye to eye, though, on how much they could defend and control. In the seventeenth century, some countries agreed on a territorial sea whose width, sensibly, was the range of a cannon shot; others held out for a wider zone. A compromise of one marine league—about three nautical miles—became common in the eighteenth century. In the nineteenth century, freedom of the seas became an article of belief, with the help of British philosophers who argued that it was a natural principle allied to *laissez-faire*. A three-mile limit was generally adhered to until 1911, when Russia claimed six miles, with a six-mile fishing zone beyond. After the Russian Revolution, the distinction was eliminated, along with others, and since then the Soviet territorial sea has been twelve miles.

Fishing rights were a major source of conflict among countries, including the United States, during recent decades. Through the fifties, sixties, and seventies, large foreign fleets hovered almost continuously off various coasts throughout the world, including those of New England and Alaska; local fishermen complained vigorously that the foreign ships took more fish than they themselves could, and deprived them of catches. Overfishing depleted fish stocks, and some species disappeared from certain areas, while others, like haddock, were reported to be all but extinct. The fleets were East German, Japanese, South Korean, French, Polish, American, and—numerically the largest—Russian. One knowledgeable conference delegate observed that a chief cause of the Law of the Sea conference was the persistent failure of the Russian wheat crop. A 1965 study quoted research done in Russia in the early nineteen-fifties that showed that fishing could produce a given amount of calories in a third of the man-hours it took to produce the equivalent amount of calories in beef. Russian fleets of factory ships (for processing fish) and catching ships showed up first off Canada, in 1956, then off New England, West Africa,

and Argentina, and in the Pacific edged down from the waters off Alaska to the waters off the Pacific Northwest and California. In the early seventies, the Russians caught an estimated eleven per cent of all the fish taken in the open ocean, and Russian ships had more than half the total tonnage of all the fishing fleets in the world. (Japan was second in tonnage, with ten per cent.) The quantity of fish being caught around the world had increased more than fourfold in twenty-five years—from sixteen million tons a year to sixty-nine million. "Fishing and pollution are all that our politicians want to talk about," a French delegate lamented during the conference. "For us, the ocean has become a curse."

Between 1947 and 1952, Peru, Chile, and Ecuador claimed fishing rights extending as far as two hundred miles off their coasts, and began to seize American tuna boats that continued to fish in their waters. The seizures aroused high indignation in American ports; some fishermen, and some congressmen, demanded that destroyers be sent to South America with the tuna boats. The United States protested to the three governments over the seizures, but Peru and Ecuador only stepped up their claims to total sovereignty. An attempt to bring the Peruvians into line by stopping foreign aid was abandoned after United States military attachés were expelled from Peru. The best that could be done to protect American fishermen was to set up a federal fund for ransoming tuna boats.

In the early seventies, the so-called Cod Wars, between Britain and Iceland, showed what international relations at sea could come to, even between friendly, allied nations. When British fishermen demanded that gunboats accompany them to the waters off Iceland—where they had fished for eight hundred years—because Icelandic patrol boats were now seizing their fishing trawlers, the gunboats were sent. British and Icelandic vessels rammed each other more than a dozen times during a few weeks early in 1973. After the Cod Wars, there was little doubt that a determined small country could maintain almost any claim off its own shores; and there wasn't much future left for fishing in distant waters. Britain later agreed to limit both the number of boats sent to fish off Iceland and the size of their catch. In 1974, the International Court of Justice decided that an agree-

ment the two countries had made earlier legally prevented Iceland from enforcing its claim against Britain. But by implication Iceland was entirely within its rights in enforcing its fishing limits against other countries.

There was no general legal barrier to countries' setting fishing boundaries as far out in the ocean as they pleased.

The United States, which has been bedevilled by foreign claims to offshore resources, was the first to make such claims in recent years. In September, 1945, President Harry S. Truman signed two proclamations announcing that the United States considered itself the proprietor of the resources of the continental shelf out to a depth of one hundred fathoms, or six hundred feet, and calling for cooperation in the conservation of fish. President Franklin D. Roosevelt had been concerned as early as 1938 about overfishing of salmon off Alaska by Japanese ships. Roosevelt's instinct was to preserve resources for the benefit of Americans, and during the war, when offshore oil was added to his concerns, he warned in a memo that as things then stood the Gulf of Mexico could be drilled by European countries.

What have come to be known as the Truman Proclamations were major precedents for other countries' claims. New nations created from colonial territories followed the example of Peru and Ecuador, and rejected the traditional three-mile-limit laws. ("The South Americans do feel they invented the new Law of the Sea," one delegate told me.) Once this practice began, the claims grew steadily larger and more numerous. Countries claimed rights over research and pollution control, along with those over fishing. During the six years from 1967 to 1973, eighty-one countries made a total of two hundred and thirty claims extending their boundaries farther into the ocean. The foreign offices of maritime nations feared that there might be almost unlimited claims on the oceans, resulting in the seizure of ships and the restriction of other activities in waters once classified as international. For Washington, whose strategic defense plans depended on continuing unhindered movement of submarines, the prospect was of so much concern that in the spring of 1979 Navy ships were ordered to sail in such newly claimed waters whenever possible, on the principle that a right of way could



be maintained by being used. All attempts to stop what had become known in Washington as "creeping jurisdiction" failed until the present conference undertook to deal with the matter.

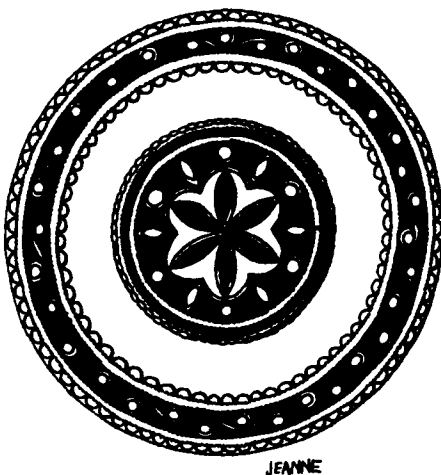
In addition, some countries began to claim proprietorship over straits bordering their shores. The Straits of Gibraltar, Malacca, Singapore, Hormuz, Tiran, and more than a hundred others were broad enough so that there could be a strip of international water down the middle as long as the adja-

cent countries claimed only the three-mile offshore limit, but they were too narrow to leave uninterrupted international waters when those powers each claimed twelve miles. In 1973, in a striking proof of the seriousness of such claims, Egypt declared the Strait of Tiran—the opening of the Gulf of Aqaba into the Red Sea, on which the Israeli port of Elath is situated—closed to Israeli ships and to ships of any country which were bound for Israel. The war that followed was ultimately settled by a treaty guaranteeing passage through the Strait.

While the United States has ports on two oceans, many other countries are less fortunate, among them the Soviet Union, most of whose major ports are on seas—the Baltic, the Black Sea, the Sea of Japan—from which ships must pass through straits to reach the ocean. (Some strategists have suggested that it would be a good thing if the Soviet Union were bottled up by the territorial waters of other countries, but the Soviet Union could scarcely be expected to accept the situation forever, and, accordingly, would try to bring the countries controlling these straits under its dominion.) Many smaller countries, too, both developed and developing, could be blockaded: all the countries with a single Mediterranean coast, and those depending on passage through the Baltic, the North Sea, or the Caribbean. The prospect of more and worse Cod Wars appalled many of the diplomats at the conference. "If you resort to force, you have to be willing to follow it to its logical end," one said. "The large countries are all at a moral disadvantage in confrontations with the little ones, and they're just as eager for a settlement." In early 1967, the United States and the Soviet Union proposed to other member countries of the United Nations that another international con-

ference be held, this one to deal specifically with the entangled issues of straits, overflight, the width of territorial waters, and fisheries. "The Soviets had suggested that the right moment might have come to settle the limits of the territorial sea at twelve miles," a State Department official who was involved in the talks recalls. "Later, they sent a group over for talks. It was on quite a high level. We pointed out that if you reached such a settlement there were a hundred and sixteen straits less than twenty-four miles wide which would cease to be international waters, and we suggested that you really couldn't expect a solution without some resolution on fisheries—which were the cause of all the trouble in the first place—to sweeten the pill. We had a few more meetings, and then agreed to send people to talk to the other governments to see what their reactions would be."

THE most complex single issue ultimately taken up by the Third Conference—though of less importance to most countries than the issue of straits; the issue of the Exclusive Economic Zones (E.E.Z.); and the issue of the exact definition of the continental shelf—was the question of mining (or dredging) the deep ocean floor for various minerals that in recent years have been discovered there in enormous quantities. These exist most abundantly in the form of nodules—roundish lumps several inches in diameter—that contain mixtures, in varying proportions, of over two dozen minerals, of which manganese, nickel, copper, and cobalt are of primary commercial interest. Both developed and developing countries at the conference were still at odds over these minerals years after the issues of straits, the E.E.Z., and the continental shelf had been agreed on. In 1967, the Ambassador from Malta, Dr. Arvid Pardo, made a historic speech in the Political Committee of the General Assembly of the United Nations. He said that there was vast wealth in the seabed. He mentioned gold- and silver-rich muds and brines that had recently been found on the floor of the Red Sea. He said that on the Pacific Ocean floor alone there was enough copper to last the world for six thousand years at current rates of consumption, compared with forty years' supply on land; enough nickel for a hundred and fifty thousand years, compared with a century's worth on land. (Pardo's



figures came from John Mero, a visionary California engineer, whose articles and lectures had caused a stir in oceanographic and mining circles.) Pardo told his fellow-delegates that these nodules were no longer just "a curiosity," as they had been, because of the depth where they occurred (an average of fifteen thousand feet), but could be mined with existing technology. He added that the technology also existed for putting military equipment on the seafloor and submarine depots on the peaks of seamounts. Pardo reminded the delegates that jurisdiction over the seafloor was ambiguously covered by the Geneva Convention on the Continental Shelf. The treaty conference had been unable to reach agreement on how far off their shores countries should be able to claim or annex the resources, and had fallen back on an expedient compromise based on technology. Article One of the Geneva Convention says that countries may own the resources of the continental shelf off their shores out to a depth of two hundred metres (six hundred and fifty feet) "or, beyond that limit, to where the depth of the . . . waters admits of the exploitation of the natural resources of the said areas."

By the time Pardo spoke, scientists had drilled the seafloor at depths of fifteen to twenty thousand feet, and mining companies were confident of their ability to recover nodules from those depths—enough, under the 1958 Geneva Convention, to sustain a country's claim all the way across an ocean. "That's almost free license," Pardo told me some time after he had made this speech. "We could see a scramble like the one for land in Africa in the last century." In the speech, he had called on the United Nations to make the ocean floor "the common heritage of mankind." The General Assembly created, first, an ad-hoc and, after a

year, a permanent Seabed Committee to study the matter, and in a few years this group grew from thirty-five members to ninety-one. "The common heritage of mankind" became a rallying cry for the Third World countries, for they saw the mining of the seafloor as a path toward economic progress for them which would not take anything from anyone else. The expectations of at least some of the developing countries were extremely high. Several years ago, one of India's delegates proposed a standard fee of sixty million dollars for each mining project. Western, and especially American, mining companies, on the other hand, attacked the concept of "the common heritage" on the ground that it smacked of socialism, welfare, and free lunch, and threatened to make risky projects impossible. The concept of the common development of seabed wealth had been extolled a year before Pardo's speech, and in similar words, by as ardent a socialist as President Lyndon Johnson. In a speech on July 13, 1966, Johnson had said, "Under no circumstances, we believe, must we ever allow the prospects of rich harvest and mineral wealth to create a new form of colonial competition among the maritime nations. We must be careful to avoid a race to grab and to hold the lands under the high seas. We must insure that the deep seas and the ocean bottoms are, and remain, the legacy of all human beings."

In the spring of 1970, the United States presented a draft treaty on the seabed at the United Nations. President Nixon said, in an accompanying statement, "The International Seabed Area would be the common heritage of mankind, and no state could exercise sovereignty or sovereign rights over this area or its resources." The United States draft treaty, or Nixon proposal, as it is also called, resembled the present Law of the Sea treaty in several fundamental ways. It proposed to place the seabed in the hands of an International Seabed Authority, with members from every country, which would oversee operations and collect royalties for distribution to developing countries. The draft treaty also made the continental margin between the seabed area and a depth of six hundred metres a "trusteeship zone," where coastal states would manage oil and gas operations on behalf of the international community. For the developing countries, this would have been a far more generous portion of the seabed than all but one or two of them get under the

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present treaty. The developing countries themselves rejected the United States draft treaty, partly because its use of the term "trusteeship" evoked the wounds of the colonial period, and partly out of general distrust.

On December 17, 1970, the nations of the General Assembly, including the United States, in a vote of a hundred and eight to zero, with fourteen Eastern-bloc countries abstaining, proclaimed the seafloor "the common heritage of mankind." (The Eastern-bloc countries subsequently changed their votes to support the motion.) In an earlier vote, over the opposition of the United States and other industrial countries the General Assembly had declared the seabed off limits to economic exploitation until the adoption of a treaty. At the same session, the General Assembly made the decision to convene a conference on the governing of the seabed, and the accompanying decision to treat both the seabed and traditional Law of the Sea problems in a single conference—a decision that most developing countries and smaller Western ones strongly supported—was concurred in by the major maritime countries (which had previously favored an approach they called "manageable packages"). The Seabed Committee was made a preparatory group for the treaty conference.

ONE of the reassuring, and even pleasurable, aspects of the Third Conference, after it got under way, was the regularity with which ideological postures and alliances foundered on geographic realities. In the first weeks of the opening negotiating session, at Caracas, in June, 1974, the delegate from Algeria said, in an emotional speech, that although Algeria believed that it had nothing to gain or lose itself from an agreement on navigation and fisheries, it would nonetheless lend all its efforts to benefit its brother developing nations. Within a year, Algeria was embroiled in a bitter dispute with Morocco, which threatened to cut off access to the Strait of Gibraltar, and Algeria was suddenly very much concerned that the conference insure that straits not fall wholly under the control of the countries bordering them. In another speech at Caracas, Patrick Robinson, a delegate from Jamaica, made an eloquent plea for realism among the delegations, and observed wryly, "It is this, as it were, defiance of a country's ideological views by nature which makes the problem of the Law of the Sea so intractable."

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ble." Political and ideological alliances proved unable to hold together through the conference: hostile countries were forced into alliances by common interests, and traditional allies found themselves opposed on many issues. Attempts to use the conference to settle old scores failed. In the matter of fishing off foreign coasts, the Soviet Union and South Korea generally saw eye to eye. The interests of Israel, Iraq, and Algeria on the question of passage through straits were so similar that every Arab attempt at a formula that would exclude Israel from the Strait of Tiran also could be applied to Iraq and the Persian Gulf, and was thus opposed by Iraq. Castro's Cuba, which exports nickel ore, and Chile, a right-wing dictatorship that exports copper, took similar positions on production limits on seafloor mining. The United States and the Soviet Union were in agreement on freedom of navigation—passage through straits and other issues. Although the two delegations tried not to show it, this community of interest was unmistakable. "The U.S. and the Soviets are in cahoots!" a scholar exclaimed during one session. (Until the start of the Reagan Administration, the United States and Soviet delegations met before each session to discuss any differences they might have; later, they stopped doing this because the Russians strongly disapproved of the Reagan Administration's negative views on the conference.) Some countries, on the other hand, have long had conflicting interests within themselves. The United States as a maritime power has supported freedom of navigation, while as a coastal state it has tried to protect its own great, undeveloped fishing resources. (A thoughtful delegate remarked at one session that the United States was really the largest underdeveloped country in the world.) The Soviet Union showed signs during the conference of a comparable quandary over protecting its own coast and freely navigating the coasts of others. Canada is the largest producer of nickel in the world, but Canadian corporations belong to seabed-mining consortia, one of whose chief products would be nickel. India, one of the most radical, and demanding, of the developing countries, was allied with Australia, New Zealand, Canada, Norway, Ireland, Great Britain, and the United States in the so-called Wide-Margin-States Group, or the Mar-

gineers, all of which lay claim to very broad continental margins—extending, in some cases, six hundred miles off their coasts—because the continental margins might contain oil and gas.

The conference was full of groups drawn together by a single issue; most of them began to coalesce after the conference began. Many of them were identified only by the number of members they had—the Group of Five, the Group of Twenty-two, the Group of Twenty-nine, the Group of Thirty-eight, the Group of Fifty-eight, the Group of Seventy-seven—but they also included the Margineers, the Like-Minded Group, the Territorialists, the Coastal States, the Distant-Water-Fishing States, the Straits States, the Land-Based Producers, the Archipelagic States, and the Land-Locked and Geographically Disadvantaged States (or, in conference shorthand, the LL/GDS). These groups served a vital purpose in keeping the conference away from ideological confrontation.

The Group of Five was made up of Great Britain, France, Japan, the United States, and the Soviet Union. It affected a certain secrecy about itself, which was designed to save the Communist delegates the embarrassment of public association with the capitalists, and also to allow for the remaining major industrial country to be excluded, because the Soviet Union would not accept one Germany without the other. (There was some irritation when the chief Canadian delegate, Ambassador J. Alan Beesley, called it "the Gang of Five," and identified the membership at a press conference.) The activities of the Group of Five were never formally announced, but their common interests were navigation, commerce, freedom to attack one another and defend themselves against such attacks, and the arrangements for seafloor mining and for marketing the metals so produced. Often opposing the Group of Five on seabed matters was the Group of Seventy-seven—in many ways the most interesting and influential group in the conference. The Seventy-seven, which was composed of the Third World countries of Asia, Africa, and the Americas, ultimately actually had a hundred and nineteen members, representing a large majority of those at the conference. The group was held together mainly by its concern with economic



matters, most notably the elaborate arrangements for the disposition of "the common heritage." Like the Group of Five, the Group of Seventy-seven functioned outside as well as within the conference. It began in the mid-sixties, came to flower during meetings of UNCTAD—the United Nations Conference on Trade and Development—and emerged as a factor in the Law of the Sea conference in 1974. In matters involving the seafloor, the members of the Group of Seventy-seven were far from homogeneous, and on non-seabed issues the Seventy-seven had no unity at all. The dozen poorer countries in which conventional mining was an important industry—and in particular those, like Zaire and Zambia, which stood to lose their main source of income if seafloor mining was successful—scarcely shared other undeveloped nations' enthusiasm for it. The Seventy-seven's leaders often had to use great skill to keep the members in line. The group was sometimes accused of being extremely radical, but from the start its chairman, who was elected annually, came from a country whose outlook was regarded as basically moderate—Honduras, Uganda, Fiji, Colombia—and not from one of the countries considered both more radical and more influential, such as Algeria, India, Sri Lanka, Libya, Madagascar.

The successful claims of the Coastal States group created a new category of country in the world—the Geographically Disadvantaged. Over ninety per cent of the world's good fishing grounds are within two hundred miles of shore, in the Exclusive Economic Zones that the treaty defines for the coastal nations. Countries that have short or crooked coastlines, or face on narrow seas, have, under the treaty, only a meagre share of the ocean and its resources. Singapore, Rumania, Poland, and others thus reckon themselves in one degree or another eched out of their fair portions. Fishermen from Trinidad and Jamaica, for example, fished for years in waters that are now in the economic zone of another country. Together, the Land-Locked and the Geographically Disadvantaged States—there were fifty-three of them—were nearly a third of the conference: enough to command respect and to stop any vote, though most realized that without a treaty they would get even less than they would with one. Two very bitter negotiations dealt with the special woes of the Land-Locked and Geographically Disadvantaged States:



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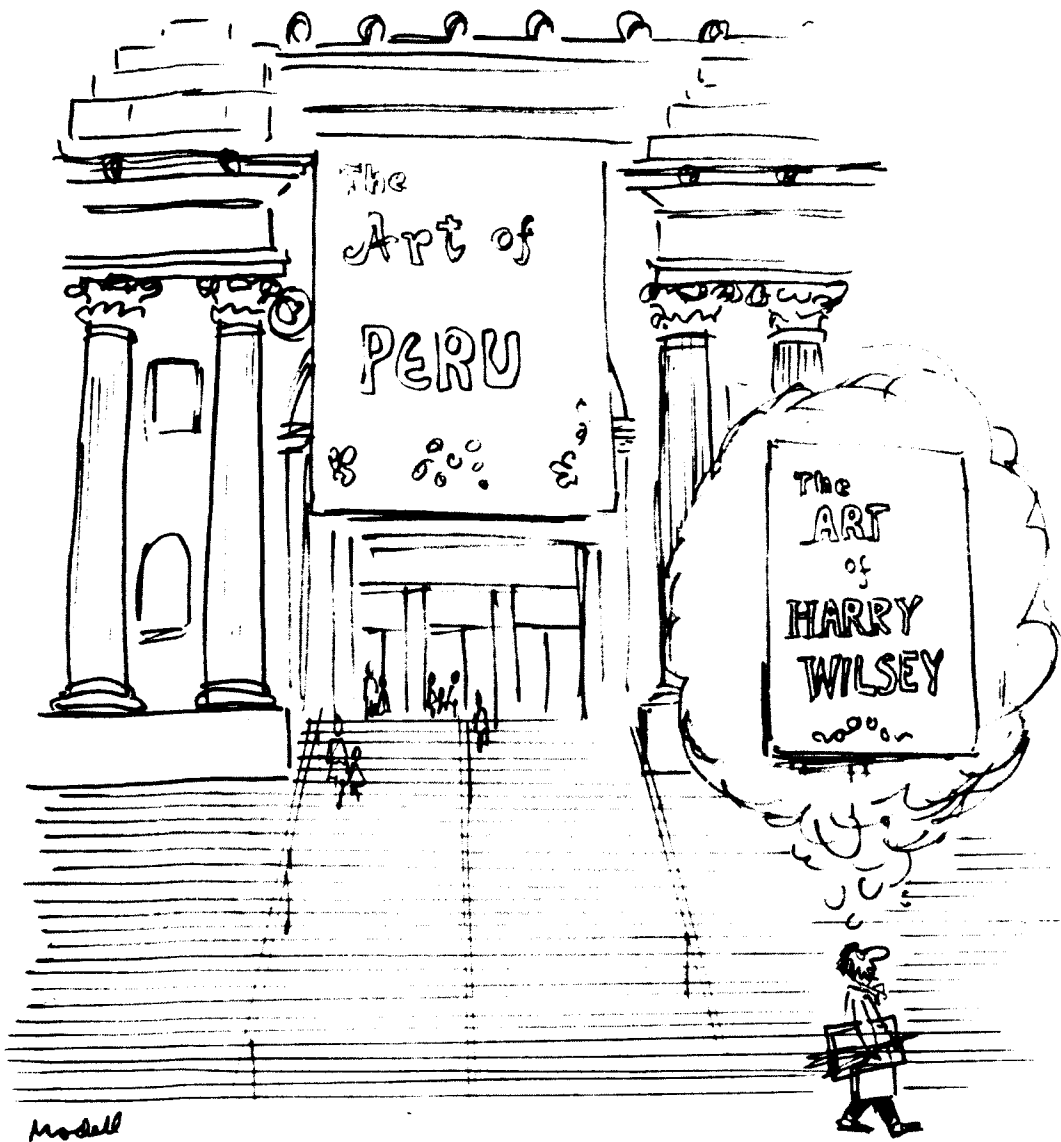
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Conference.) The conference haggles over the text for a period of weeks and then, if all goes well, signs it. The Third Conference began with no draft text. After two rounds of negotiations in 1975, it adopted a provisional negotiating text, which it expanded and revised throughout its life. When it completed the Law of the Sea treaty early last year, it had reached the point at which most treaty conferences begin. Though it was nine years approaching that point and was the longest-sitting international conference on record, still, some delegates observe, its progress, from the first, tentative sittings of the ad-hoc Committee on the Peaceful Uses of the Seabed, in 1968, to the signing of the finished treaty, in 1982, does not compare badly with, for example, that of the United Nations Treaty on Human Rights, for which preparation began in 1948 and which was concluded in 1966. The nature of the conference was determined by a critical vote in the General Assembly in 1967, which referred the preparation for the conference

the end they received supplementary rights to fish when a coastal country took a smaller catch than it might, and in addition it was agreed that fishery disputes would be subject to conciliation by a special panel.

The Group of Twenty-two and the Group of Twenty-nine were supporters, respectively, of criteria of "equidistance" and of "equitable principles" in the drawing of boundaries between the oceanic zones adjoining individual countries. Since the countries of the world—including the United States under the Reagan Administration—have agreed to the two-hundred-mile economic zone backed by the Coastal States, a difference of less than a degree in the orientation of a boundary between any of them drawn from the shore to a point two hundred miles or more out could cause a considerable amount of fish-rich water or oil-rich ocean bottom to change hands. The United States, though it was not a

member of either group, supported "equitable principles" (among which can be counted natural features of topography and historic use), while Canada preferred the rule of equidistance, which would give it a large share of the Georges Bank fishing grounds and potential oil leases there. Ultimately, the problem was resolved in one of the three committees in which the conference's main questions were considered.

THE conference was in many ways highly unconventional. "This is the worst treaty conference there ever was in the whole world!" a distinguished old-school diplomat exclaimed during one of the final sessions. It is customary for treaty conferences to begin with a draft text of the treaty to be signed, prepared by a team of lawyers. (The U.N.'s International Law Commission worked for seven years on the draft for the First Law of the Sea

to the Assembly's Political Committee instead of, as was usual, to the International Law Commission. It seems unlikely to many delegates that the conference could have succeeded any other way. Later, having decided to include all issues of the sea, the conference evolved what the negotiators referred to constantly as "a package deal." The result was an intricately interlocking web of compromises, in which every country or group of countries gained something and lost nothing intolerable (or not as much as it would lose with no treaty), and which, taken all together, no country could afford to reject. Delegates sometimes joked depreciatingly about their "house of cards." A different analogy, offered by one of the older delegates, was that of a stone arch laid without mortar, whose parts must be supported until the last stone is in.

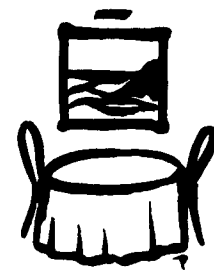
Sometimes it seemed that the "package deal" was being made by burying

delegates' objections in mountains of paper. Every proposal of every country in every committee at every session of the conference (there were more than a thousand proposals made at Caracas in one committee alone) was printed in every official conference language and distributed. In 1975, the chairman of each of the three committees dealing with the three major substantive issues on the conference's agenda—the Seabed, Traditional Maritime Law, and Pollution and Scientific Research—with the aid of an informal plenary committee on dispute-settlement procedures, was authorized to produce a Single Negotiating Text, or S.N.T. The S.N.T.s were a turning point in the conference, because in order to change them governments had to come up with an alternative more acceptable to the conference. The S.N.T.s were revised the next year and became R.S.N.T.s, or Revised Single Negotiating Texts. In July, 1977, they were revised further and combined into an I.C.N.T., or Informal Composite Negotiating Text, which looked more like a treaty. The I.C.N.T. Revision 1 appeared in 1979, Revision 2 in 1980. The conference decided to make the informal text formal in the summer of 1981, and in 1982, after a hundred and nineteen delegates had signed it, they took it home for ratification.

The negotiations and revisions of the text evolved by consensus, without direct votes. In eight years, the conference did not vote, whether by roll call or ballot, secret or otherwise, on a single one of the issues it was convened to resolve. Some delegates think that every agreement that was reached, if put separately to such a vote, would have been defeated. Only last year, when the conference adopted its text, was there a demand for a vote on the whole text, made by the United States. The count was a hundred and thirty in favor, four against, and seventeen abstentions. As the conference used it, consensus was a way of making moderately unpalatable arrangements easier to swallow. It was a sort of tacit approval granted by waiving disagreement. At an embassy reception about halfway through the session, a delegate described with admiration a colleague's performance as chairman in a meeting that afternoon: "At the end of the afternoon, in which not one good word had been said about the matter

we were discussing, he said, 'If there are no objections, the proposed text is adopted.' Suddenly everyone fell silent, and it was adopted. I would not have had the courage."

The system of consensus put great strains on the chairmen of the different committees and working groups, but it also gave great latitude for improving agreements to those negotiators who were sufficiently able and sufficiently trusted. "The people who count most in the conference are the brightest and the straightest," Ambassador Richardson once told me. Delegates considered fairness and honesty the most important qualities in their colleagues, and those who possessed them were in the best positions to influence the conference. The closely balanced agreements that the delegates accepted could not have been made without trust. "You want to know exactly—and a chairman, especially, must know—what most worries people and try to solve it," a delegate said during the conference. Through the years of annual or semiannual meetings, many delegates came to know and trust each other not only personally but in negotiation. Moreover, because of the number of issues and the vagaries of geography, delegates who were bitter opponents in one negotiation found themselves loyal allies in another. "It has reduced the usual East-West, North-South confrontations," another delegate remarked. In this respect, the influence of the conference has spread to other international meetings; delegates to those report that there is less confrontation and better progress toward agreement when other Law of the Sea people are present.



the delegates usually voiced at most a limited approval, reserving their best oratory for their misgivings and reservations. Not only were the delegates looking for the best "package deal" for their countries but they were under instructions from their governments, and so could concede nothing without making some show of a struggle. Some delegates worked under more severe restraints than others—nor were all the restraints equally wise. The Soviet delegates sometimes appeared obtuse—though they were known to be anything but that—when

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"Hear that, folks? They do! How 'bout that!"

they were probably only unable to deviate from home-office instructions. One Third World delegate would argue passionately against an agreement and then leave the room before it was brought to consensus. The private negotiations were unrecorded, and the public meetings often sounded divisive and confrontational. Thus, the differences between agreement and hostility were not always self-evident.

ON the morning of March 3, 1980, President Amerasinghe called to order the first plenary meeting of that year's session in New York. An impressive, white-haired figure, with an aquiline nose and hooded eyes, Amerasinghe always wore a well-cut suit and usually had a fresh rosebud in his buttonhole. That morning in March, he was seated in the middle of a wide, low stage in one of the U.N.'s largest conference rooms, with Bernardo Zuleta, the Under Secretary-General for the Law of the Sea conference; David Hall, its executive secretary; and a half-dozen staff members on either side. Amerasinghe and the others faced the several hun-

dred assembled delegates, who were seated behind desks in wide semicircular rows, one delegate from each nation at the desk and one behind him. The gallery on the right side of the hall was packed with observers, and more members of delegations filled the aisles behind the principal delegates. Amerasinghe had led the ad-hoc preliminary committee on the seabed since 1968. He had led the conference through its first organizational meeting, in 1973; through the first negotiations in Caracas; and through a number of subsequent crisis points that many observers had thought it could not survive. While some delegates criticized his understanding of negotiating details, he had proved himself a master of the architecture of negotiation and, as a chairman, had shown the ability to formulate ideas in ways that did not offend any side and were usually accepted. During the ninth session, he wrote a preamble for the treaty which drew universal admiration for treading a fine line between too broad a statement of principle and one that was too narrow. Delegates have pointed out that he could state a very

their sincerest and best efforts to the difficult negotiations ahead, and reminded them of the strict schedule they had set themselves at the end of the previous session. He also noted the absence of the chairman of Committee Two (the committee dealing with traditional maritime law), Ambassador Andrés Aguilar, of Venezuela, who was one of a group of distinguished diplomats accompanying Secretary-General Kurt Waldheim to Teheran to try to negotiate the release of the United States hostages there. In fact, the work of Aguilar's committee was nearly over, and on his return it took only a few meetings to finish it. President Amerasinghe also acerbically noted the absence, for unexplained reasons, of Ambassador Paul Bamela Engo, of Cameroon, the chairman of Committee One (which dealt with the seabed). This absence was keenly felt, because most of the conference's remaining unresolved issues were in that committee. Only Ambassador Alexander Yankov, then the permanent representative of Bulgaria to the United Nations, who was the chairman of Committee Three (pollution and sci-

shaky position so authoritatively that there was no dissent, and that while it was not always clear what he had said, he was sufficiently trusted that it did not matter. He was also known for an acid tongue and a fast gavel; few delegates liked to cross him. Once, when Amerasinghe rejected a Soviet proposal, the Soviet ambassador threatened to lobby against the decision; Amerasinghe quickly replied that in that case he would break up the conference and insure that the Russians were blamed. The subject was not raised again. A wily parliamentarian, at the end of a session he sometimes incorporated into the conference texts compromises that all sides denounced. Because they were disliked by all, he said blandly, these provided an improved basis for negotiation. Amerasinghe's death, at the end of 1980, was regarded as a severe loss to the conference.

Now, in his opening remarks, Amerasinghe exhorted the delegates to bend

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entific research) was present and, like President Amerasinghe, ready to begin work.

The conference was shaped by personalities, and the three committee chairmen, in particular, had great power to mold negotiations. Among the brilliant and able Latin-American diplomats, the suave, reserved Aguilar was considered one of the best. He was chairman of the Inter-American Commission on Human Rights of the Organization of American States, and during the dictatorship of Perez Jiménez in Venezuela he had signed a human-rights petition and spent two weeks in jail. Aguilar was precise, authoritative, and usually immovable. Perhaps more than anyone else at the conference, he was regarded as having the ability to hear innumerable conflicting claims and emerge with a position that everyone could accept. Some delegates thought of him as the ideal chairman of such an important committee, but he was thoroughly resented by many of the delegates from the Land-Locked and Geographically Disadvantaged States, who suggested that if he had not been from a coastal nation the coastal nations would have made fewer gains at the expense of the LL/GDS. (As chairman, however, Aguilar accepted a text that his own government rejected, and as a result Venezuela has thus far declined to sign the treaty.)

Paul Bamela Engo, the chairman of the committee covering seabed matters, was one of the most powerful men at the conference, and its most colorful figure, whether occupying the chair or sweeping along the corridors wearing native robes—a huge man with a deep, rumbling voice that could command even the largest U.N. conference hall. He affected to be unconcerned about the anger he occasionally aroused as chairman or the enemies he made. The seabed issues made the slowest progress of any in the conference, partly because they were the newest ones, and so there was little relevant experience and few strong national interests to guide the negotiators. Engo, though he himself was from one of the developing countries that had set their hopes on the concept of the wealth of the seabed as "the common heritage," had to preside over compromises of those hopes; and, not being in control of the Group of Seventy-seven, he was unable to differ with it, another official of the conference has said. Yet the power that the committee chairmen had was demon-

strated in the summer of 1977, near the end of the sixth session, in New York, when Engo worked the entire conference into a froth. After disappearing for six days, Engo introduced, entirely on his own authority, a number of critical changes into the negotiated text produced by his committee—without consulting either Jens Evensen, of Norway, who was the chairman of the subcommittee in which the text was written, or more than a few friends among the delegates. Incensed delegates from industrial countries—Ambassador Richardson publicly denounced Engo's behavior—claimed that the tables had been turned on them, so that they were in a weaker negotiating position than the Seventy-seven. Engo now concedes, mildly, that this is just what he meant to do. A few delegates subsequently recognized that Engo had seen some implications that others had not, and that his instinct that the text, however it was negotiated, would not have been ratified by the developing countries in its existing form may have been right; but still the delegates resented his methods. Engo's changes affected the conference thenceforward and were generally agreed to have delayed it by about two years. Following this incident, the conference changed its procedures, to prevent such a thing from happening again. The standards for an acceptable agreement were written in a document that the delegates often referred to as "sixty-two stroke sixty-two"—officially, the conference's Document A Conf 62/62. According to 62/62, a committee chairman could put new words in the working text only if they were produced by consensus, or—in the event that they were his own words—were approved by consensus. The document also identified seven of the conference's most intractable problems and established new negotiating groups, or subcommittees, to deal with them—four groups from Committee Two (traditional maritime law) and three from Committee One (the seabed); two more groups were later added, along with a supervisory subcommittee on all seabed issues.

Despite the absence of two of their chairmen at the 1980 session, the delegates did their best to follow President Amerasinghe's exhortations, and the first week had its interesting moments, with the United States walking out of one negotiation, and a full-fledged confrontation between the Mar-

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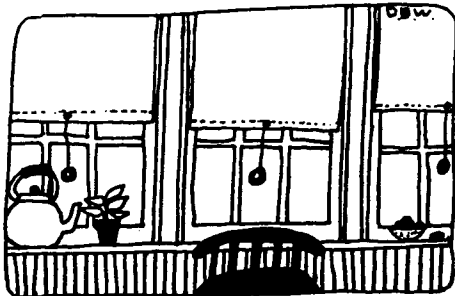
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roduced by Chairman Aguilar into Committee Two in the summer of 1980, at the end of the eighth session. Together, the two formulas provided that coastal countries could claim the shelf out to two hundred miles—or to sixty miles beyond the foot of the slope, or to a point where the depth of sediments was one per cent of the distance from the foot of the slope, as long as these measurements did not extend more than three hundred and fifty miles from the coast, or were not more than a hundred miles beyond the twenty-five-hundred-metre isobath. Hardly had the Biscuits Formula been inserted into the conference's revised text when a loophole was discovered—turning the biscuits, one observer noted, into doughnuts. It was feared that certain countries, including Iceland and Portugal, that abut on the huge submerged mountain chain called the Mid-Atlantic Ridge could not be prevented from claiming the ridge itself, and so adding many extra hundreds—perhaps thousands—of miles to their continental margins.

In December, 1979, between the eighth and ninth sessions, there had been a proposal that set an absolute cutoff on margins of three hundred and fifty miles, and provided an explicit ban on claims to oceanic ridges, though claims for "spurs, caps, plateaux, banks, and rises" that were natural extensions of a continent would be allowed. The Soviet Union was reported to be satisfied by this compromise, but some of the Margineers, including the United States, were not, because in their margins were natural extensions that the nautical charts called ridges. At a meeting with the Margineers on March 5, 1980, at the opening of the ninth session, Ambassador Kolosovsky therefore said that the Soviet Union would not accept this compromise if the ban on ridges was deleted. He would not move from this position, nor would the Margineers move from theirs, and through that week, and the two following, neither side would modify its stand. Puzzled by Kolosovsky's intransigence, the Margineers attempted, through intermediaries, to ask the Russians why they would go along with "spurs, caps, plateaux, banks, and rises," and not "ridges." Several meetings were held, but the two sides remained unyielding into the fourth week of the conference, by which time some delegation assistants were speaking, with mordant humor, of having to have all government charts reissued

with the term "ridge" changed to "rise." One Margineer delegate said, "We believed that we were on good ground standing pat as long as the Russians didn't explain why, but they never did make it clear, except that there are some very long ridges."

With the return of Andrés Aguilar to the conference from Teheran, the logjam on margins and ridges was quickly broken. After an initial meeting of the negotiating group, at which Ambassador Brennan, of Australia, earnestly defended the Margineers' position, and the existing text, as a generous concession, Aguilar discussed the issue privately with some delegates. If the Margineers had expected any sympathy, they were disappointed. At the end of the week, Aguilar suggested to a group of the Margineers—including F. Mahon Hayes, of Ireland (the Margineers' chairman); Brennan; S. P. Jagota, of India; Ambassador Beesley, of Canada; and Thomas Clingan, of the United States—that they find a way to compromise with the Soviet Union along the lines of the rejected December proposal. He said, in effect, that they were a small group that stood to profit greatly from the Biscuits Formula, despite protests from the African and Arab groups and the LL/GDS, and that the Soviet Union might well, in an open meeting, stir up enough trouble to undo the Biscuits agreement, leaving them with less than they had. During the fourth week, the Margineers tinkered with the earlier proposal, and some changes were presented to the Russians. On Thursday of that week, Hayes and Kolosovsky met with Aguilar and agreed on a deal. On Friday, Committee Two met, and Chairman Aguilar announced a compromise on the limits of the continental margin with respect to oceanic ridges and other elevations. Hayes and Kolosovsky expressed cautious approval, and other countries spoke in support. In expressing the approval of the United States, Ambassador Richardson gracefully conceded that the Chuchki Rise, between Alaska



and Siberia, was not a ridge. The Soviet Union did not dispute him. Algeria, speaking for the Arab countries, called the new agreement a rejection of consensus and a breach of faith, granting more to the Margineers than the Biscuits Formula had.

THE seabed offered the most persistently troublesome set of problems in working out the treaty, and repeatedly brought the conference to the edge of self-destruction. Some of the ablest people at the conference struggled over these problems, and a few rising reputations were stopped dead before them. From the beginning, the seabed was more than just an issue. It was a vision—"the common heritage of mankind." A leader in the conference spoke of the seabed as affording a chance for small countries to participate in the mainstream of the twentieth century. And it afforded a chance to create a cooperative world project. For industrial countries, the seabed was a new source of useful metals, which they might no longer have to import on so large a scale. Only the industrial countries (and, more recently, India) have had the technology for seabed mining—a fact that has sometimes been equated with an exclusive right to mine. What the industrial—or any other—countries do not have is a clear legal right to reserve claims in the deep sea from use by others. In customary international law—at least since the time of Grotius—the fisherman owns the fish he catches; similarly, the deep-sea mining company would own the nodules it recovered. Mining companies on land, however, ordinarily expect to get exclusive mineral rights to the area they are going to mine for at least several decades, while fishermen have never been able to set aside an area of the fishing grounds for their own exclusive use. It is widely held that there is no legal basis for claims in the sea, nor is there any authority to grant them—except, if it is ratified and comes into force, the Law of the Sea treaty, which would create, for that purpose, an International Seabed Authority, which could grant leases to private industry or could mine through its own subsidiary, called the Enterprise. The Declaration of Principles of 1970, which for most countries is an article of belief, declared that the seabed and its resources were "the common heritage of mankind"—and not the property of any country or corporation. To the rest of the world, it seemed hypo-

critical for the industrial countries to monopolize the fish of the oceans under the cover of freedom of the seas, and approaching seabed mining on the same basis was apt to be met with little more tolerance.

Though the seabed was the issue that engendered, at different times, the most rancor and the most idealism, it was of secondary importance to almost all delegations—the first priority being the issues of coastal resources and navigation in Committee Two. Heads of delegations were rarely, if ever, seen in seabed meetings during the first years of the conference—or not until after those other issues were generally agreed upon, in 1977. (Amerasinghe found it necessary, in 1976, to write to all heads of delegations asking them to give more attention to the seabed.) Yet the seabed negotiations were a proving ground for the most competent and most ambitious junior members of delegations.

Deep-sea mining, the only seabed activity now being considered, was still a hypothetical activity during the Third Conference, and no one has yet done any—at least, not on the scale on which the mining companies propose to do it. Mining will take place at a depth of more than fifteen thousand feet of open ocean, a thousand miles from land. Mining ships are expected to remain on station five years at a time, working without a stop, and to transfer the seabed minerals they bring up to auxiliary vessels. (They will, of course, require brief periods in port for maintenance.) The most positive endorsement of such an operation is probably the continued interest of companies that in the past two decades have been organized into mining consortia. If all goes well, the income from mining may be substantial, though it will not come close to that from offshore oil, whose disposition the conference agreed upon without the ill-feeling and passion that mining aroused. As for the strategic value of the metals, which has been estimated beyond strict truth, it does not compare to the strategic value of straits, the rules for which—troublesome as they threatened to be before the conference opened—were settled with relative ease.

There are at present four consortia, composed of some forty companies from eight countries, and four national corporations that have developed seabed-mining techniques and pro-

known firms involved are Kennecott, Lockheed, U.S. Steel, International Nickel, Royal Dutch Shell, and Union Minière, of Belgium. Some consortia will operate independently, but others, according to their countries' delegates, may prefer entering into joint ventures with the Enterprise, hoping to reap some benefits from being sponsored by the Authority and flying its blue U.N. flag. To observers of the conference and its participants, it seems possible that the treaty could be ratified within five or six years, or by 1988 or 1989; the Authority could then open for business by 1990, and the first ship or two might set out within the next year to start mining the seabed. But it is more likely to be several decades before metals markets, which are now so glutted that mines have closed or reduced production all over the world, supply the incentive for full-scale production.

Manganese and iron are the most common elements in the nodules. If manganese is produced, a single mining project reportedly would satisfy most of the manganese needed by this country for steelmaking, and so only a few of the companies involved in seabed mining plan to recover it. All the companies, however, would refine nickel, copper, cobalt, and perhaps, eventually, molybdenum and vanadium. The area most abundant in nodules is in the Pacific, between two deep-sea fracture zones called Clarion and Clipperton. Nodules there have the highest known concentrations of nickel, copper, and cobalt—a total of two to three per cent. The nodule area stretches almost the distance from Baja California to Hawaii, and several hundred miles to the south. It is estimated that there are enough nodules there for anywhere from half a dozen to thirty full-scale mining projects, each lasting twenty years. (The estimates depend in part on the effectiveness of the equipment; better equipment would allow more profits.) Thereafter, mining companies would have to content themselves with more scattered nodules, in other parts of the Pacific or in the Indian Ocean. India already has its eye on an area where the nodules have a lower metal content; this would become economical to mine when the better-grade reserves were used up or techniques improved.

When, or if, commercial mining of the seafloor does begin, the vessels and undersea vehicles involved will resem-



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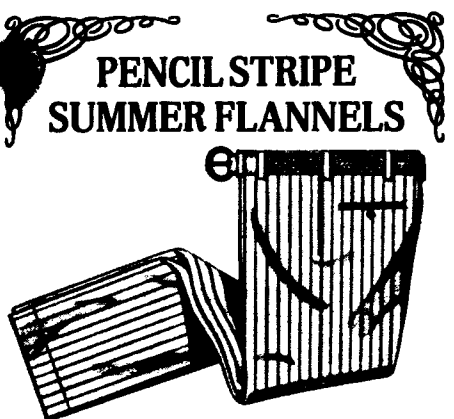
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themselves substantial, that the mining companies have already tried out at sea. (Lockheed, for example, used the six-hundred-foot Glomar Explorer for tests.) A mining ship has a tall derrick amidships, like an oil-well-drilling ship, and, beneath the derrick, a large rectangular well, with doors opening at the bottom, which oilmen call a "moon pool." In some ways, mining the seafloor will resemble sending a probe to another planet. It will take upward of five days for an unmanned mining vehicle lowered from the moon pool to settle among the low, rolling hills of the Clarion-Clipperton zone, from twelve to fifteen thousand feet below the surface of the Pacific. One by one, sections of pipe will be screwed together and onto the vehicle, and divers will attach electric and hydraulic cables to the growing pipeline, until, seen from below, the mining ship will resemble a huge water insect, its long proboscis sucking up the nodules. The people in the control room will rely on television cameras mounted on the mining vehicle for guidance in scanning the horizons of the seabed (where the only light will be the vehicle's own flood-lamps and, perhaps, the dim glow of an occasional passing fish). Lockheed says that its vehicle will be more than a hundred feet wide. In 1980, mining consortia conducted sea trials of their equipment on a reduced scale. Tests by Sedco, a partner in a consortium with International Nickel, discovered that the pipes connecting the ship and the mining vehicle were more easily fractured than had been expected. Ships therefore will not be able to tow mining rigs as large as expected or tow them as fast as expected. The consortia now plan to have two ships to mine each site, instead of one, each ship with its own seabed-mining vehicle. With such equipment, and with other modifications discovered to be necessary during the prototype testing, the rate of financial return, based on estimates in a study by the Massachusetts Institute of Technology, will be nine and a half per cent, compared with a previously anticipated eighteen per cent.

Some mining companies dispute both the need to do seabed mining and the possibility of doing it profitably. The world shortage of minerals, they say, has been exaggerated and misrepresented. A 1976 study of seabed minerals by the Interior Department con-

cluded that land-based sources of manganese were few and were in politically unstable areas; the study failed to mention that Australia was a source of United States imports, although twenty per cent of the imports came from Australia that year. Canadian nickel reserves have been cited as only a twenty years' supply. In mining-industry parlance, however, "reserves" is a measure not of total supply but of what a company has most fully proved and surveyed.

While most of the income from seabed mining will come from nickel, the profitability of seabed mining, according to executives of one metals company that has declined to invest in it, could be overdependent on cobalt. Cobalt is used in heat-resistant alloys and is the most expensive metal on the seafloor. (Cobalt—used in, for instance, jet engines—fetches on the order of eight to fifteen dollars a pound, depending on the state of the market, and has been as high as forty.) According to a 1979 Commerce Department study, nine seabed-mining projects could fill the entire world demand for cobalt. And even if Zaire and other land-based producers of cobalt were to stop mining it to avoid a glut, seabed-mining processes could not help producing it, sending the price lower and lower. Also, people who have run mining companies say that, great as the technical difficulties of seabed mining would be, the operational problems involving the precise scheduling and positioning of ships to haul away the minerals would be even greater.

WHEN the delegates arrived in Caracas in 1974 for the first negotiations of the conference, the developing and the industrial countries had plans for the seabed that were mutually exclusive. The United States now proposed an international agency with very limited powers: it would license corporations or governments to mine the seabed, monitor and control pollution, and distribute mining profits to needy countries. United States delegates called this a "driver's license" approach. The developing countries, for their part, wanted an International Seabed Authority that would control all activities involving the seabed, including marketing the metals, and influencing the prices set for them, with mining to be done entirely under the auspices of its subsidiary,

through service contracts with private companies. The Soviet Union proposed that the seabed be divided among the major nations—an idea that did not produce much response. Compromises between two principal conflicting positions were suggested, the most acceptable one being what came to be called the parallel system. This is the system that has, in fact, been negotiated in the conference during the last several years, and it proposes that the international Enterprise and private enterprise work fifty-fifty on the seabed. Originally proposed by Canada and Australia, this scheme was not accepted by the conference until 1977, after Secretary of State Henry Kissinger had offered a number of compromises in an effort to make a parallel system work. The Caracas session ended after nine weeks, with no agreements. The feelings of the developing countries about the seabed were becoming more radical. Some governments were reported to believe that the Authority's own bureaucracy would absorb any profits. At Caracas, the first discussions were held on the economic effects of seabed mining. The industrial countries argued that all countries would be served by lower prices for seabed metals, but studies by the Secretary-General's office and by UNCTAD suggested that the seabed mining and manufacturing countries would benefit most. Developing countries that produced the metals in question would have competition from seabed supplies, and the effect on their economies might be anything from mildly depressing to catastrophic.

Toward the end of the 1974 session and early in the following one, in Geneva in 1975, various ideologues among the developing-nation delegates made brilliant oratorical expositions of the economic oppression of the small and poor countries of the world by the rich countries and the multinational corporations. Ostensibly, these orations were provoked by several equally ideological lectures, lasting one or two hours each, by Leigh Ratiner—who was then a United States delegate—in which he vigorously defended United States proposals and urged upon his listeners the virtues of free enterprise. Ratiner was working under rigid instructions, so that he could not make any accommodation with the developing countries. It has been suggested that he intended to stir up those countries, and thus alarm his own delegation into trying to get a less

rigid set of instructions. In any event, the United States was more flexible at Geneva that year. In the meantime, there were reactions from several directions. Jens Evensen, who was himself conducting negotiations on one of the most fundamental issues of the conference—navigation—suddenly appeared at the seabed negotiations and denounced the United States delegate and the United States proposals (and a set of almost identical proposals that had been made by Common Market countries) for being "nineteenth-century" in their outlook. What the American delegate demanded was contrary to modern practice in oil and mining concessions, Evensen said. He endorsed the position of the Group of Seventy-seven, which characterized the seabed as an issue dividing rich and poor, and warned that the industrial countries planned to take the lion's share and leave the developing countries a pittance.

The alliance of developing countries on seabed issues had grown steadily stronger in Caracas, and, later, in Geneva—despite internal negotiations that were just as difficult as negotiations with the developed countries—and it continued to hold up against geographical and other differences; it was the only issue at the conference that did. Before the conference, several fundamental changes in international relations had occurred. As has been noted, the so-called East-West rivalry of the United States and the Soviet Union gave way in some areas (such as freedom of navigation) to outright cooperation, and conflicts—economic rather than military—between affluent and poor countries became more insistent. "The North-South confrontation," as these matters were then called collectively (in the course of the conference, the term was modified to "the North-South dialogue"), accompanied the emergence of the developing countries as an independent force. A central factor in the North-South confrontation was known as the New International Economic Order—a theoretical program that would enable the developing countries to get a larger, and presumably fairer, share in economic affairs, in respect to both decisions and profits. Representatives from many countries whose chief exports were raw materials claimed that they were poorly paid for them. For developed countries, the North-South confrontation and an effective coalition of developing countries presented

obvious threats and risks, but there were opportunities as well. With the seabed issues firmly part of the North-South confrontation, negotiations became increasingly doctrinaire and polemical. Each side sought to get its way by influencing Paul Engo, the chairman of the committee on the seabed, while continuing to denounce the other, and the chairman seemed to regard neutrality as being receptive to everyone's arguments. The conference's draft articles on the seabed therefore veered wildly in their bias between the Third World and the United States. In 1975, a small group that included Ambassador Christopher Pinto, from Sri Lanka, who was universally admired for his evenhandedness, and Leigh Ratiner wrote a draft seabed treaty providing for joint ventures between private industry and the Enterprise. Chairman Engo, however, declined to accept it, and produced another draft, essentially setting forth the original position of the developing countries; this draft was included in the committee's Single Negotiating Text but was rejected by the industrial countries. In 1976, Engo created a new, thirteen-member subcommittee to negotiate agreements and pass them on to the full committee for debate and, with luck, approval. The Brazil group—so called because it met in the Brazilian Mission to the U.N.—produced a text on the seabed that was incorporated into the committee's Revised Single Negotiating Text, and was acceptable to the industrial countries. But at the last minute the Brazil group's text was denounced by one of the group's own members—González de León, of Mexico—as merely rubber-stamping material from another source (alleged to be Ratiner), and the R.S.N.T. was fatally tainted. The following 1976 session was so charged with suspicion and mistrust, both of Engo and of the industrial countries, that although Secretary of State Kissinger, like a *deus ex machina*, appeared in person to suggest compromises, no effective negotiation was accomplished. Instead, rhetoric rose to such a pitch that the United States delegates agreed that the conference could not survive another such session. Some of the worst problems concerned the Enterprise. Since the industrial countries insisted that their corporations be allowed to work independently, and not under the prospective Enterprise, the Enterprise was left without capital, know-how, or man-



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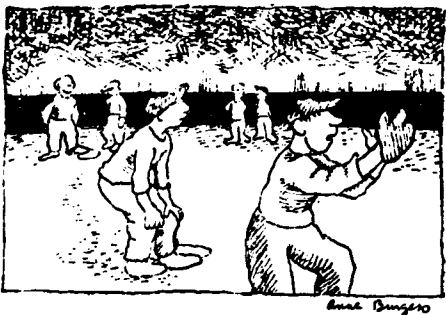
power, and the developing countries were left without the means of participating actively in seabed operations. The assurances of some industrial nations that the technology would be readily available on the open market were received by the Seventy-seven with deep suspicion. Toward the end of the session, the delegate from Tanzania compared the parallel system of independent enterprise and international authority to apartheid. According to delegates from several industrial countries, some companies might, in fact, prefer to work in partnership with the Enterprise when the time came, but they were afraid they would not be able to negotiate a fair contract if they could not invoke the alternative of working independently. The main compromise presented by Kissinger was intended to make the parallel system work by offering support for the Enterprise in return for guaranteed access to the seabed for private consortia from the United States, Britain, Germany, and Japan, and for government mining ventures from France and the Soviet Union.

In 1977, Chairman Engo was persuaded to set up yet another negotiating group, this time under the chairmanship of Jens Evensen. A new text was negotiated in the new group, and it was in this text that Chairman Engo made his own personal changes at the last minute. In 1979, the committee agreed on a basis for a new set of compromises on a workable parallel system, which would give the industrial countries access to seabed minerals and the developing countries a fair share; and in 1980 the package was all but settled upon.

BY the second week of the 1980 session, work had begun to pick up speed in the negotiating groups on the seabed. Francis X. Njenga, the chairman of the first negotiating group, on the regime for seabed mining, coaxed both sides along toward an acceptable middle path. Njenga, who was one of the smartest and one of the youngest men in the conference, kept productive negotiations in progress on the parallel system. Representing the Group of Seventy-seven in this and other seabed negotiations were Alvaro de Soto, of Peru, the coordinator of the Seventy-seven's all-important contact group on seabed matters, and Sergio Martins Thompson-Flores, of Brazil, also a key member of the contact group. As coordinator, de Soto, an elegant figure who hobbled about with

a cane through the whole session, because, he would explain, he had sprained an ankle roller-skating, would bring the Seventy-seven onto common ground on a given issue, negotiate this position with the industrial and other countries, and then return with the results and bring the Seventy-seven to agreement again—sometimes exacting work that he carried lightly. Thompson-Flores, dark-haired, brooding, sometimes explosive, worked (often with de Soto) to splendid effect, and was regarded with caution and respect in negotiations, not only by other delegates but by chairmen as well. (One diplomat ruefully recalled leaving a meeting in company with Thompson-Flores and saying with some satisfaction of a troublesome but important clause that he thought had been spared from deletion, "You won't get that out of the text again," only to receive the quiet reply "I already have.") Representing the United States on seabed matters was Ambassador Aldrich, a professional diplomat, who, in 1972-73, had helped negotiate the Paris peace treaty with Vietnam at the side of Secretary Kissinger. Perennially unruffled and interested, Aldrich, along with Ambassador Richardson and Bernard Oxman, a vice-chairman of the delegation, had given the United States the reputation at the conference of being the least intransigent of the industrial countries and the most ready to explore new ideas.

In the first week, de Soto, speaking for the Seventy-seven, had made several proposals based on the continuing concern of the group, and especially its African members, that when the seabed was opened for operations private companies would have a flying start and leave the Enterprise in the lurch. It had been agreed earlier that the Enterprise should be able to buy the necessary mining technology at fair prices from the companies that controlled the technology; but there was still apprehension among the Seventy-seven that matters would not actually work out that way. The new proposals



were not acceptable to the industrial countries, and Chairman Njenga, issuing a new text of his own, drew the Seventy-seven and some of the more unyielding industrial nations toward less extreme positions.

In the negotiating group on the financial arrangements for seabed mining, the chairman, Ambassador Tommy T. B. Koh, of Singapore, made a few adjustments to a basically completed package. The youthful-looking Koh was one of the most often consulted and most hardworking men at the conference; some delegates considered him its most brilliant member and a future Secretary-General of the United Nations. The major issue in these negotiations, which had once inflamed the Seventy-seven and the mining corporations equally, had simmered down since Koh took over. Previously, India had proposed payments of sixty million dollars apiece to the Authority from each mining project, while the large corporations claimed that the projects would be so marginal that any large payment would push them into insolvency. Koh's negotiations tended to be scholarly. (He had been a law professor, and, at thirty-three, was dean of Singapore University's law school.) Several years earlier, Koh and his staff had found an elaborate computer model of the economics of a seabed-mining project, done at M.I.T., and had begun introducing specific figures and complex economic models into the negotiations. The M.I.T. study showed that it would cost more than three-quarters of a billion dollars to get a seafloor-mining project started and around two hundred and twenty million dollars a year to operate it afterward, under a variety of conditions; the study estimated that a project would pay back its investment in a little over ten years, with profits thereafter ranging from fifteen to twenty-two per cent. During the negotiations, Koh used the computer model to develop a sliding three-level royalty system, which, with a two-per-cent royalty in lean years and a four-per-cent royalty in good years, would produce payments to the Seabed Authority, over the twenty-year lifetime of a mining project, of between two hundred million dollars, for a marginal project, and two billion dollars, for a successful one. The royalties would still be slightly below those in many recent international contracts for the development of various resources.

A third group was chaired by Am-

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bassador Satya Nandan, of Fiji, a rising young diplomat, of whom it was sometimes said that he carried more weight in the conference than delegates from the countries of the European Economic Community, to which he was then Fiji's Ambassador, just as Koh had more influence than the representatives of some nine hundred million Chinese. (He subsequently was appointed Foreign Secretary of Fiji, and now is Deputy Special Representative of the Secretary-General for the Law of the Sea.) Nandan had written the first texts on the Law of the Sea in Committee Two, with Galindo Pohl, a delegate from El Salvador, in the early days of the conference, and he had brought a special conclave of coastal and LL/GDS countries on the bitter issue of fishing rights to an early conclusion in 1979. He was currently trying to bring about an accommodation among similarly touchy countries interested in deep-sea mining—would-be miners, metals importers, current producers of metals, and the Seventy-seven—on how much of the world metals markets seafloor mining should have the option to take over.

While the issue was being dissected in Nandan's group, some participants concluded that much of the resistance to agreements on seafloor mining, often attributed to small, Third World metals-producing countries, originated with Canada. As Nandan's negotiation proceeded, Canada appeared the least willing to compromise. The position of Canada in the conference was unusual. Throughout the negotiations, Canada started many of the initiatives that kept the conference moving. Canada also had a wider range of interests than most of the other countries, and delegates felt that Canada had gained more—as the nation with the longest coastline in the world, as a Margineer, and as a beneficiary of special provisions for ice-covered regions. Now, as the session progressed, and adjustments and compromises increased, Canada was being called on to compromise on several fronts. When Ambassador Beesley, apparently under strict orders, resisted the settlements being offered, other delegates became resentful, feeling that no country gained more or complained more than Canada. Ambassador Beesley, for his part, said during the session, "Canada has never tried to persuade Third World countries that its positions were theirs as

it's been accused of doing. For one thing, they're very suspicious of people who try to do that, and rightly. What Canada has done is present its ideas to delegates who might be sympathetic—this is what every delegate does—and hope they eventually respond."

In a group of legal experts which dealt with the settlement of future seabed disputes, Dr. Harry Wuensche, of East Germany, was guiding delegates toward a delicately balanced compromise that would give mining companies the right to take the Seabed Authority to commercial arbitration over contract disputes. (Disputes involving interpretation of the treaty itself were to be referred to a Seabed Disputes Chamber, which is part of the International

Tribunal for the Law of the Sea, established by the treaty.) Wuensche, a professor of international law from the Academy for Political Science and Jurisprudence in East Germany, has rubbery features and a wide smile, and his integrity was relied on by every delegate involved. Describing the negotiations later, he said, "We had members from many differing legal systems. Sometimes we were a seminar in systems of international law. I—we—learned a lot about other systems. First, I had to hear all points of view and learn the hard points of every delegation. After I heard all points of view, I produced a 'non-paper,' to have something in writing, to make it clearer what were the common points and what were the issues. In the first three weeks, I produced fifteen or sixteen drafts. We agreed, first of all, on principles. On the twenty-first of March, I put to my group only one question: 'Can you live with this draft, or not? We now know all points of view; we have no need to repeat any. Now only those who cannot live with this have the floor—that means a government cannot ratify the convention if this provision is in it. But if you change one comma, it is killed.' Under these circumstances, no one spoke, and I took the gavel. There is only one precondition for a successful negotiation: all sides must feel you are completely fair. They knew that I was not defending national interests."

SHORTLY before the conference's 1980 session opened, a group of the more influential delegates met at the Brussels Restaurant, in New York, at a dinner given by Jorge Castañeda, Mexico's Foreign Secretary, and for



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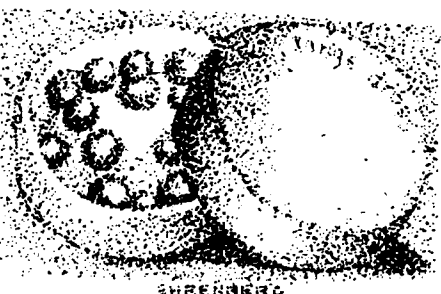
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merly its chief delegate. In view of the great number of important issues to be resolved, and the short time allotted to discussing them, this group decided to meet regularly as an informal steering committee and to attempt to deal quickly with any difficulties that might arise. (The conference had a formal steering committee, called the General Committee, but it was an unwieldy body of forty-eight countries, and did not reflect the sources of power and influence in the conference.) Later known as either "the steering committee" or "the Castañeda group," these delegates and some others, who joined them later, met every Monday and Wednesday evening at six at the Australian Mission. The chairman was Ambassador Brennan, of Australia, a short, cheerful man who, though he was not in charge of any formal negotiations, was trusted by everyone and had worked informally and without credit on solutions to some of the most intractable of the seabed problems.

The negotiating chairmen were Koh, Nandan, Wuensche, and Ambassador Constantine Stavropoulos, of Greece, whose committee on fishery-dispute settlements had concluded its work a year before. A distinguished diplomat, and former general counsel of the General Assembly, Stavropoulos had given the conference its definition of consensus and had persuaded countries to submit to the compulsory use of conciliation in disputes involving their resources. Other members of the group were Joseph Y. Warioba, the Attorney General of Tanzania, who was a tall, gentle, soft-spoken man, an idealist and one of the fiercest opponents of the industrial countries; Jens Evensen; Edward Kanyanya Wapenyi, the ambassador from Uganda; Deputy Foreign Minister Kozyrev and Ambassador Kolosovsky, from the Soviet Union, who were involved in virtually every negotiation of the conference, and were considered by both allies and opponents straightforward and reliable, if occasionally somewhat heavy-handed; Elliot Richardson, George Aldrich, and Bernard Oxman. Kozyrev, solid and heavyset, with a mane of white hair (his special purview was the British Commonwealth and the Middle East), very senior, very experienced, disciplined, thorough, had a quick sense of humor but was very tough. Kolosovsky, tall, thin, urbane, articulate, quick, often forceful, and sometimes apparently anxious, was a full-time delegate to the conference. Richardson, since his appointment, in

1977, had devoted his formidable energies to bringing the conference to a successful conclusion, and had quickly become part of what some delegates called the Club of the Conference. As the representative of a major power, he operated most often behind the scenes, and frequently made proposals through other delegates. Richardson, who has the chiselled good looks of Dick Tracy, is a creator of ornately Byzantine doodles, and occasionally in negotiations, when the United States was stating its position, there was heard in the background, over the delegates' earphones, an unearthly wailing sound, like the song of the humpback whale—the sound of Richardson's felt-tipped pen, doodling. He had the ability to enter any negotiation on the spur of the moment. This conference, he said, was the hardest thing he had ever done. He has compared it to a combination of no-limit poker and three-dimensional chess.

Though all but a few of the negotiations were making steady progress, they were not proceeding fast enough to meet the deadline that the conference had set itself, of ceasing negotiations at the end of the third week in March, 1980, and moving on to debate and formalization of a draft treaty. Some countries had already achieved all that was of importance to them, or, like the Soviet Union, were close to having done so, and were eager to bring negotiations to a close and end the risk that the agreements already reached would start to unravel. Others, including the United States, said they could consider all the agreements that were important to them only if they were given more time. At the meetings of the Castañeda group during the third week, some delegates expressed fears that the conference leadership did not sufficiently appreciate some matters still under discussion, and might try to close off the negotiations if only an agreement was reached on the crucial issue of voting powers in the proposed governing council of the Seabed Authority. Many



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countries would then be caught short. "If we don't keep things open," one chief delegate observed, "we'll find we've been rolled." Following the meetings of the Castañeda group, Brennan met with President Amerasinghe, who agreed that the conference had to be extended. When, on Thursday, March 20th, with only one day left in the period originally allotted to negotiation, the conference's General Committee met to formally consider the problem, the hall was packed, and the air of expectancy increased as the meeting failed to begin until a full hour after the scheduled time. President Amerasinghe finally convened the gathering, announcing that, in the truncated debate that would follow, he would limit countries to ten minutes apiece to say everything they had to say about the treaty as it then stood—and he did, repeatedly reminding delegates of the time, both real and elapsed, during the three days of sessions, morning, afternoon, and night, it took for all those who wished to speak for ten minutes to do so. After Amerasinghe's proposal, only a few countries made formal statements. Ambassador Richardson said that, important as the conference's self-imposed deadline was, the negotiations were its first duty and should not be curtailed. Ambassador Kozyrev agreed to postponement of the negotiating deadline, but said that postponements should not become a habit. Ambassador Wapenyi, of Uganda, speaking for the Seventy-seven, agreed that postponements should not be ad libitum, and rejected the idea of continuing negotiations while debating the draft treaty, because that would undermine consideration of a package deal. Then, there being no objections to the president's proposal, it was adopted by the conference's system of consensus. The postponement and the extension into the next week were accomplished with great cheerfulness, except for a sharp exchange between Amerasinghe and Engo over whether Engo had said he would deliver the report of his committee on Friday or Monday.

MANY dire consequences were predicted, and threatened, at various times should the treaty not be fully ratified, or should one or a few countries reject it: Countries could extend their claims of ownership even farther out to sea than they had already done, and many, perhaps all, could increase their claims to total sovereignty over adjacent waters. Per-

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mission could be required for ships of distant countries to pass through territorial waters on their way to other countries. Tolls could be demanded, especially at straits, and passage could simply be refused (most countries today are well supplied with discouraging short-range missiles); and some countries might take forceful measures to spare themselves such threats. A company that started mining the seafloor in defiance of the treaty or of the conference might find itself or its subsidiaries threatened with an international boycott or seizure of its assets in foreign countries, or, far more likely, it might simply lose bids for contracts for aircraft, oil rigs, and the like to Japanese or European competitors whose governments had accepted the treaty.

By the beginning of the third week, the temperature of the negotiations had risen considerably. Many faces were tense. "It's like a spring that is all wound up," one delegate said. Another described the atmosphere as urgency approaching desperation. Delegates huddled in tight circles in the halls outside the negotiating rooms. By the middle of the fourth week, there was for much of the time an uneasy silence. Negotiation-group chairmen had closeted themselves to write their conclusions, and could not be found; other delegates, too, could not be found. Few people knew what was going on or how much of their positions the chairmen would accept.

Seated behind a negotiating table late in the fourth week of the session, the massive Paul Engo, arms outthrust on either side and hands gripping the table, seemed a magnate of great puissance. His group was negotiating the voting powers for the council of the Seabed Authority. For all the countries, this was the most critical of the seabed issues. By the end of the fourth week, all other negotiations on basic issues had been settled, leaving only this one unresolved. The seabed was to remain the outstanding problem.

—WILLIAM WERTENBAKER
(This is the first part of a two-part article.)

MASTERPIECE THEATRE (CC) (R). First of six parts of "A Town Like Alice," an Australian drama adapted from a novel by Nevil Shute about two World War II POWs who fall in love. In Part I, the two are captured by British rubber planters. With Bryan Brown and Helen Morse (Channel 26 at 9).—TV listing in the *Washington Post*.

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Stockholm talks set guidelines^{G.H.} for attack on world pollution^{June 17}

STOCKHOLM (CP) — The United Nations Conference on the Human Environment adjourned its two-week session last night after adopting a sweeping action plan and declaration of principles.

Without a formal vote, the conference adopted the philosophy, machinery and blueprints for a global attack against pollution.

Delegates loudly applauded passage of the various documents, though the Chinese delegation remained with

arms folded after making an unsuccessful last-minute plea for a delay in passage of a principle calling for a ban on nuclear weapons.

The nuclear article became the last of the 26 principles to be adopted. It called on countries to strive to reach prompt agreement, in the relevant international organs, on the elimination and complete destruction of nuclear weapons and all other means of mass destruction.

The British delegation de-

scribed the declaration on the human environment as the Stockholm charter, with other delegations agreeing that it was the foundation for a determined effort to clean the air, earth and seas for man's survival.

Earlier, China announced a sweeping rejection of the UN environment principles and launched a biting attack, accusing the United States of massacring millions of people in Indochina.

The Chinese delegation launched this blockbuster political attack as the conference plenary session began debating the draft declaration which China refused to support.

Chinese delegate Change Ke said the declaration should have contained China's proposal that the superpowers ban nuclear weapons and pledge never to be the first to use these as well as biological and chemical weapons which the Chinese claim cause world pollution.

The policy declaration had been worked out before the conference opened June 5, but the Chinese insisted on throwing open the prepared text for amendment. A special committee named to consider the proposed changes met 15 times in closed sessions for long and sometimes angry debates on almost every sentence of the declaration.

William Beebley of Canada, head of the external affairs legal division, praised the draft declaration as the first step toward development of environmental law. The declaration contained many concepts, he said, of special Canadian interest. Of particular help was the article calling on countries to co-operate in developing additional laws "regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such states to areas beyond their jurisdiction."

Mr. Beebley played an active role in developing the set of principles.

The restricted set of principles in effect tells the world that "thou shalt not pollute thy neighbor."

It contains proposals such as that countries which cause pollution to neighboring countries should pay damages. But another principle demanding that countries consult with their neighbors before launching projects that might cause pollution was shifted aside in the committee and will land up in the UN General Assembly, where it will likely die.

"If we had to lose one of the three things we were after, we would have preferred to lose the consultation principle," said Robert Shaw, deputy environment minister.

"It is a good, positive declaration," he said.

At June 16

Canada backing of China's views at UN ecology conference paid off

STOCKHOLM (CP) — Throughout the long debate at the United Nations conference on the environment to draft a set of principles to guide a global attack on pollution, Canadian delegates gave the Chinese frequent support to the point where other delegates suspected a joint Canadian-Chinese operation.

Canadian delegate Alan Beesley, head of the external affairs department's legal division, frequently incorporated the Chinese viewpoint in seeking compromise solutions on deadlocked issues.

This sympathy for the Chinese position apparently paid off.

Key article

A key article in the declaration—which Canada considers vital—calls on countries to be responsible for any actions which result in polluting neighbors. That article, a Canadian delegate said later, sailed through the closed door committee. Adoption by the conference would open a door to possible extension of international law whereby these principles might become part of recognized jurisprudence.

It is perhaps for this reason that delegates involved in bargaining over the drafting are being extra cautious, to

ensure that their countries are not entangled in pledges that might lead to legal commitments.

The preamble and articles are likely to include references to such political issues as colonialism and apartheid as well as the atom bomb, all carefully avoided in the original draft.

At each stage in the bargaining there was concern what the Chinese attitude would be. The Chinese were reported to have told the Canadians they wanted to see how the entire document shaped up before they aired their opinion.

Delegates satisfied

In any case the majority of delegates appeared satisfied that the conference had reached many of its objectives. It had the anti-pollution blueprint and the machinery and the pledge of virtually all of its projected five-year \$100 million financing.

All recommendations require approval of the UN General Assembly next fall.

Elated at success so far, Davis serves champagne

Canada seeks compromise on environment principles as Stockholm deadline nears

STOCKHOLM (CP) — Canada is working hard to help bridge a big gap between China and the West in the hope that an acceptable set of principles may emerge for approval by the United Nations Conference on the Human Environment before it ends tomorrow.

As the back-stage crisis continued, Alan Beesley, Canadian representative on the drafting committee, said there is still a good chance of a declaration or set of principles emerging.

"We are trying to get back to the point that Beesley said that China was still berating the 'imperialists' and the 'neo-colonialists' for causing world pollution through their 'plunder'

of developing countries.

Mr. Beesley, head of the External Affairs Department's legal division, is seeking some compromise under which the views of China and other dissidents may be expressed in documentary form without ruining the chances of a declaration which specifically pins responsibility on states for actions which pollute their neighbors.

In addition to China's insistence that the declaration point the finger at "imperialists" for causing world pollution, insertion in the document calling for condemnation of racial discrimination.

Mr. Beesley said the Africans are showing themselves more open to accommodation and he is convinced the apart-

held issue can be handled in a generally acceptable manner.

As the conference moved toward its scheduled deadline, the concentration of most delegations was on the declara-

tion. A UN "action plan," which is to form the operational part of the global attack against pollution, seemed to be winning ready acceptance though there were reser-

vations expressed by delegations on specific issues to indicate they want a free hand should the programs lead to law-making conferences.

Environment Minister Jack

Davis observed that the action plan refers to states being responsible for their pollution but he still wanted that point expressed in the declaration or set of principles. He described these as "legal" principles, though the declaration will not be binding in law.

Mr. Davis's goal, however, is that the principles—once declared—may open the road to new international law.

Conference president Ingemund Bengtsson of Sweden said he is optimistic that a declaration will emerge. He

has called on the drafting committee to present its report to the plenary session today.

Meanwhile, Mr. Davis yesterday was feeling elated with Canadian achievements at the conference.

Serving champagne to the press, he said it was not a premature celebration because two-thirds of the key Canadian proposals for the action plan had been approved.

Virtually all of the propos-

als dealing with marine pollution had been approved without significant change. And three important points dealing with the protection of the interests of coastal states, which had fallen by the wayside at the Ottawa marine conference last year, had been revived for consideration at 1973 conferences, including the all-important law-of-the-sea meeting where marine laws may be strengthened.

"Taken together, they represent a basis for the future development of international law for the preservation and

enhancement of environment," said.

One major disappointment to the minister is that the conference did not make a call for global environmental standards which would have to meet international approval.

But he said the United States is adopting Canadian anti-pollution standards, new pulp-and-paper mills predicted that gradually countries would accept standardized environmental grades.

China fails

From page one

"is at the heart of our troubled turbulent world."

Amid the general acclamation, there was evidence that the conference had met failures. In addition to China's criticism, there was evidence that some other countries had reservations and objections about specific measures endorsed.

One of the most controversial was the conference decision to call for agreements through specific international institutions for elimination and complete destruction of nuclear weapons.

China claimed this principle didn't go far enough. All means of weapons of destruction including biological and chemical weapons should be abolished and the super powers should renounce the use of such armaments. Their chief Chinese delegate Chang Ke launched into a bitter attack against U.S. military action in Indochina, claiming that the Americans were responsible for the deaths of millions of innocent lives.

The American delegates remained silent, a tactical move which may have been instrumental in the overwhelming majority of the 118 countries turning to other matters.

In the end, the conference adopted all the measures before it without a formal vote. President Ingemar Bengtsson of Sweden swept program after program under the banner with his announcement that he could see no objections from his side.

This is a UN measure which

can claim unanimous approval of the measures.

But the Chinese mood of non-cooperation was evident. It heaped abuse not only on the U.S. but also on Japan and New Zealand which had initiated the conference action to consider a call against atmospheric tests of nuclear weapons.

The Canadian delegates were even more enthusiastic than Strong about the conference achievements. Delegates Alan Beesley of the external affairs department found in the declarations a basis for an expansion of international law on the environment. The principles had incorporated almost everything Canada wanted.

The biggest achievement was the doctrine that a country is responsible for actions which pollute its neighbors and should pay compensation. Another important principle — that countries should consult with their neighbors before launching projects which may cause international pollution — fell by the wayside.

Here is how Strong summed up some of the major conference achievements:

— Approval of the substance of an ocean dumping convention likely to be completed before November.

— Moves to curtail dramatically emission into the atmosphere of chlorinated hydrocarbons and heavy metals.

— An worldwide program involving regional and global networks of stations to check immediate and long-term air pollution changes.

— Plans to improve research to improve assessment of the state of climatic change.

— A global program to ensure genetic resources are protected for future generations.

— Expanded work on conventions for protecting the world's natural and cultural heritage.

Dozens of other projects will form part of the work of a permanent UN environment structure likely to be approved by the General Assembly next fall.

But Strong isn't waiting for formal approval. With the increasing speculation that he likely will be named executive director of the new UN secretariat, the Canadian and other international delegates are taking immediate action through implementation of existing UN laws.

He noted that the latest concentration of world publicity will impress governments with the public desire for continued movement. He likely will continue to encourage as many non-government agencies and organizations to press governments for national action to breach barriers "between those who make the official decisions and those who are affected by such decisions."

"If we do that," he told the closing conference session, "we may well have a more far-reaching impact on the affairs of planet earth than any of the more technical decisions we have reached in the course of the conference."

New envoys named to 17 foreign posts

External Affairs Minister Mitchell Sharp today announced 17 new appointments within the Canadian foreign service.

The appointments include the first resident high commissioner to Bangladesh.

The appointments, including nine new ambassadors, four consuls general and four high commissioners, will take effect in the course of the next few months.

Appointees are:

Robert McDouall Adams, 44, of Ottawa, at present assistant deputy minister (immigration) in the department of manpower and immigration, to be consul general in San Francisco, California. He succeeds J. E. Nutt who is returning to Ottawa.

* Allan Bessley, 45, of Victoria, B.C., at present director general of the bureau of legal affairs, to be ambassador to Austria, permanent representative to the United Nations Industrial Development Organization and permanent representative to the International Atomic Energy Agency. He succeeds N. F. H. Davis who is returning to Ottawa.

Georges René Walsh, 57, of Montreal, at present director general of the bureau of personnel, to be ambassador to Spain. He succeeds J. E. G. Hardy who is returning to Ottawa.

Michael Norman Bell, 52, of Vancouver (B.C.), at present director of the Latin American division, to be ambassador to Cuba. He succeeds Mr. K. C. Brown who is returning to Ottawa.

Frank B. Clark, 55, of Dryden, Ont., formerly of the trade commissioner service and now charge d'affaires in Manila, to be

Canada's first ambassador to the Philippines.

Jean-Louis Delisle, 61, of Quebec City, at present director of the academic relations division, to be consul general in Boston, Massachusetts. He succeeds J. F.-X. Houde whose appointment as consul general in Marseille is announced below.

Ormond Wilson Dier, 54, of Vancouver (B.C.), at present director of the Caribbean division, to be high commissioner to Guyana. He succeeds J. A. Stiles whose appointment as ambassador to Korea is announced below.

Robert Elliott, 44, of Ottawa, formerly director of the Middle Eastern division and at present on the bicultural program in Quebec City to be ambassador to Algeria. He succeeds Mr. Christian Hardy who is returning to Ottawa.

Klaus Goldschlag, 51, of Ottawa, at present director general of the bureau of Western Hemisphere affairs, to be ambassador to Italy and high commissioner to Malta. He succeeds Benjamin Rogers whose appointment as chief of protocol was announced earlier.

Harry J. Howe, 56, of North Sydney, B.C., now consul and senior trade commissioner in Sydney, Australia, to be Canada's first consul general in Atlanta, Georgia.

Joseph François-Xavier Bouché, 54, of Quebec City, now consul general in Marseille. He succeeds Eugene Bouchard who is retiring.

R. Harry Jay, 53, of Lachine, P.Q., at present director general of the bureau of United Nations affairs, to be ambassador to Sweden. He succeeds Miss M. M. Mearns who will be a university visitor at Dalhousie University.

Miss Myrtle Alison Macdonnell, 54, of Mississauga, Ont., at present director of the United Nations political and institutional relations division, to be high commissioner to Ceylon and Sri Lanka. She succeeds R. M. Macdonnell who died recently.

Robert W. McLennan, 48, of Ottawa, of the Canadian International Development Agency and at present on executive development leave at Oxford, England, to be Canada's first resident high commissioner to Bangladesh.

Lawrence A. E. Smith, 43, of Ottawa, at present director of the aid and development division, to be Canada's first high commissioner to Barbados.

John Alexander Stiles, 55, of Ottawa, formerly of the trade commissioner service and now high commissioner to Guyana, to be Canada's first ambassador to Korea.

Paul Tremblay, 58, of Quebec City, at present associate under-secretary of state for external affairs, to be ambassador to the Holy See. He succeeds J. E. Robbin who has retired.

Wiener Zeitung, Sept 7/73

Überreichung von Beglaubigungsschreiben

Bundespräsident Franz Jonas empfing am Donnerstag den neuernannten Botschafter der Republik Italien Dr. Andrea Cagiati, der von Botschaftsrat Sergio Cattani, Botschaftsrat Corrado Taliani und Militärattaché Oberst Ernesto Tetamo begleitet war, und im Anschluß den neuernannten Botschafter von Kanada John Alan Beesley, der von Botschaftsrat Thomas C. Hammond, Botschaftssekretär Warren M. Maybee und Attaché Murray A. Oppertshausen begleitet war, zur Überreichung ihrer Beglaubigungsschreiben. Die Botschafter wurden von Kabinettsvizedirektor Dr. Korab feierlich eingeholt. Bei ihrer Ankunft schritten die Botschafter unter den Klängen des Präsentiermarsches eine Ehrenkompanie des Bundesheeres ab. Bei der Überreichung der Beglaubigungsschreiben waren Bundesminister für Auswärtige Angelegenheiten Dr. Rudolf Kirchschläger und Kabinettsdirektor Dr. Trescher anwesend. Als die Botschafter die Burg verließen, ertönten die italienische bzw. die kanadische und die österreichische Hymne.

Canada's new Ambassador for Disarmament

The Deputy Prime Minister and Secretary of State for External Affairs, the Honourable Allan J. MacEachen, announced on October 21 that J. Alan Beesley, Q.C. has been appointed Ambassador for Disarmament. Mr. Beesley, who will reside in New York, is replacing Mr. Arthur Menzies who has retired. In the course of his career, Ambassador Beesley has been involved with arms control and disarmament issues relating to non-proliferation and the military uses of the seabed.

The establishment of the position of Ambassador for Disarmament, announced in the Speech from the Throne two years ago, reflects the importance the Government attaches to international efforts to negotiate verifiable agreements on arms control and disarmament. As Ambassador for Disarmament, Mr. Beesley will represent Canada at certain international meetings concerned with arms control and disarmament including the First Committee of the UN General Assembly and the UN Disarmament Commission. He will also be the chief liaison point for Canadian non-government organizations and individuals outside of Government interested in arms control and disarmament. In this capacity he will undertake speaking engagements across Canada to explain Canadian positions on arms control and disarmament and the work of international forums in which he represents Canada.

Ambassador Beesley, originally from British Columbia, joined External Affairs in 1956, after practising law for five years. His previous ambassadorial posts include Austria, with accreditation as



Ambassador J. Alan Beesley

Permanent Representative to the International Atomic Energy Agency (IAEA) and to the United Nations Industrial Development Organization (UNIDO) and as High Commissioner to Australia with accreditation to Papua, New Guinea, Solomon Islands and Vanuatu. In Ottawa he has been Assistant Under-Secretary of State for External Affairs and has served twice as Legal Advisor to the Department. He has also been Special Advisor to the Secretary of State for External Affairs on the Law of the Sea. He held the post of Canadian Ambassador to the Law of the Sea Conference in New York, until the Signing Ceremony in December 1982.

Disarmament Week — October 24-30, 1982

UN Disarmament Fact Sheet 24, Disarmament Week, states that the main aim of activities during the Disarmament Week "should be to increase the flow of objective, factual knowledge about the armaments situation to a wider public audience and to create an informed public opinion in favour of disarmament." In the words of the Secretary-General of the United Nations, the public "must be actively interested in current negotiations, if they are to produce results."

Of the various roles for participants in Disarmament Week activities, "Governments might consider supplying information to the public about their own policies and initiatives relating to efforts to end the arms race. Governments could

also use the occasion of Disarmament Week to give prominence to official policies and programmes relating to disarmament goals, for example, through statements reaffirming support for the disarmament objective." Non-governmental organizations could generate involvement and participation by the public "through a variety of programmes and activities including publications, seminars, conferences, meetings, film shows, photo and art exhibits and public rallies. Non-governmental organizations and concerned individuals could furthermore encourage governments to implement the decisions of the United Nations General Assembly as expressed, foremost, in the Final Document of the first special

session devoted to disarmament."

The Government participated actively in Disarmament Week activities. The Deputy Prime Minister and Secretary of State for External Affairs, the Honourable Allan J. MacEachen, issued a special statement on the occasion of Disarmament Week. The Ambassador for Disarmament, Mr. J. Alan Beesley, was the main speaker at an interschool conference, "Thinking and Deciding in the Nuclear Age", organized by the Toronto Board of Education. Mr. D.L.B. Hamlin, Director of the Arms Control and Disarmament Division, spoke to the Canadian Study Group on Arms Control and Disarmament in Toronto during Disarmament Week, while Mr. B.J. Cherkasky of the Division was the keynote speaker at the 31st International Peace Garden Conference at Boissevain, Manitoba. Department of External Affairs and Department of National Defence representatives also participated in various other activities. Copies of the *Disarmament Bulletin* and Statements and Speeches on arms control and disarmament issues were provided to interested groups and a contribution of \$4,000 was made to Project Ploughshares and World Conference on Religion for Peace, (Canada) for their joint national programme of activities which included speakers, public displays, film and slide showings. Speakers included Ms. Swadesh Rana and Mr. Proslav Davinic of the UN Centre for Disarmament; Mr. Linus Pauling, Nobel Peace Laureate; Dr. Norman Alcock, founder of the former Canadian Peace Research Institute; and the Rt. Rev. Clarke MacDonald, Moderator of the United Church of Canada. Many other groups, contributed to the success of the events and activities held during Disarmament Week across the country.

(United Nations *Disarmament Fact Sheets* may be obtained from the United Nations Association in Canada, Suite 808, 63 Sparks Street, Ottawa, Ontario, K1P 5A6.)

The CSCE and Disarmament

Most people think of the Madrid Meeting of the CSCE, which began on November 11, 1980, as being concerned exclusively with human rights.

In fact a large part of its work concerns setting the terms of reference for a Conference on Confidence — and Security — Building Measures (CSBMs) and Disarmament in Europe. The purpose of the first stage is to promote greater openness and thereby prevent surprise

To Ensure a Sustainable Future

The international debate about a "sustainable future" is just beginning. Canada has already held a number of regional conferences to educate people about the emerging ideas around the process of sustainable development, and several international meetings are planned.

In March 1990, Vancouver will be the site of a trade fair and conference on techniques for doing business in ways that are less environmentally destructive. It is called GLOBE 90, Global Opportunities for Business and the Environment.

The Brundtland Commission also suggested a world conference on sustainable development in 1992, an idea which has been endorsed by the United Nations. The United Nations General Assembly is expected to confirm this fall that the meeting, to be called the UN Conference on Environment and Development, be

held in 1992. The UN is also expected to agree on a location and agenda.

Last fall at the United Nations, Prime Minister Mulroney announced that Canada would create a world centre to promote internationally the concept of sustainable development. The centre is to be established in Winnipeg with both government and private funding.

In the future, each country must develop strategies for adapting its development to fit with the ecological realities of the world. All must find business practices and lifestyles that are at least environmentally neutral and preferably environmentally friendly.

In Canada, a National Task Force on Environment and Economy recommended that this country develop a conservation strategy to "ensure that we preserve genetic diversity and maintain essential ecological processes and life support systems."

The challenge ahead will be to turn ideas into plans and plans into action.

Canadian Environmental Advisor Appointed

Alan Beesley, a former special advisor to the External Affairs Minister on the Law of the Sea, has been appointed Canada's special advisor on environmental affairs. Mr. Beesley has worked with nearly every special agency of the United Nations and most of the UN General Assembly committees. An Officer of the Order of Canada, Mr. Beesley holds the honorary doctorate in Environmental Studies and is a recipient of the Outstanding Public Service Award. He was most recently a Visiting Professor at the University of British Columbia law school.

Mr. Beesley has also served as Canada's Ambassador to Disarmament and as Canada's Ambassador and Permanent Representative to the General Agreement on Trade and Tariffs for four years. He has also been Canada's representative on the International Atomic Energy Agency and the United Nations Industrial Development Organization.

Mr. Beesley has also represented Canada in a wide variety of United Nations conferences in New York and Geneva for over 25 years.



Sylvie Gauvin



Giansanti - Sigma

Mr. Beesley was Special Advisor to the External Affairs Minister on the Law of the Sea, headed Canada's Law of the Sea Delegation, and served five years as Ambassador to the Law of the Sea Conference. His involvement in environmental concerns goes back to 1962 when he headed Canada's environmental delegation to the United Nations Conference on the Law of the Sea in Geneva in 1966, where he will serve until 1991. Mr. Beesley has continued to be actively involved in the development of international law.

On the left, J. Allan Beesley, Canada's special advisor on environmental affairs.

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\$28 million committed by Canada to food program

OTTAWA, June 17 (AP) — Prime Minister Trudeau announced today that Canada will commit \$28 million over the next five years in a tripartite training program aimed at increasing Third World food production.

Canada shares the growing concern of the international community attaches to global food problems and welcomes the high priority being accorded to the agricultural sector in the development plans of developing countries.

Trudeau said the \$28 million is being committed to a program of technical assistance and training in the field of food production.

"This is the first of a series of \$28 million grants in the world's poorest

countries. It is a distressing reminder of the work that is yet to be done," he said.

Trudeau's plan calls for the creation of a new international centre for ocean development with a budget of \$20 million over the next five years.

The centre will focus on research, training and technical cooperation to help poor countries increase food production from the sea and to take advantage of new harvesting rights expected to be granted under stalled Law of the Sea negotiations.

See \$28 MILLION page 2

He said Canada will develop about 4 per cent of its land in food and agriculture — about 65 million acres over the next 20 years — from which to produce 20 per cent of the world's food.

He said that Canada has already made a commitment to \$200 million in short-term food loans with a promise to ship 600,000 tonnes of cereal foods a year to countries suffering from severe shortages.

But he said that over the longer term, local production will be the key to the food-security problems of developing countries.

The new programs he announced are aimed at helping increase local food production through development of food-production strategies for individual countries.

Canadian officials said the program involves attempting to convince some farmers to abandon traditional crops and to grow to new ones that would give them a better yield and higher production.

It would also involve passing along results of research showing how to increase yields through the right combination of soils, seeds and fertilizers.

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The program will stress getting new information about agriculture to women who make up about 50 per cent of the agricultural work force in poor countries.

Increasing Canada's contribution to the Commonwealth fund for technical cooperation in food and agriculture over the next three years by \$2.5 million to \$5 million. Canada had planned to contribute \$2.5 million a year to the fund.

Trudeau said the new initiatives are part of an over-all shift in the pattern of Canada's foreign aid away from massive development projects such as hydro dams and railways.

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Our unpredictable times

Sometimes we get so busy just trying to keep up with the flow of the news that we miss its symbolism and significance. Events that seemed impossible or highly unlikely go by almost unappreciated.

For one example, the assassination of Egyptian President Sadat produced a White House meeting between three former presidents and the present one that seemed to say something about the healing power of such a tragedy and the nature of the American system and society.

AND THAT WAS followed by an equally historic flight to Sadat's funeral aboard Air Force One, the same plane that has carried all of them on hundreds of trips, and the same one in which the body of President Kennedy came back to Washington after his assassination in Dallas. That day also saw Lyndon Johnson sworn into office aboard that plane, a scene that both dramatized the tragedy and the continuity of the presidency.

The interplay of history and fate on the flight to Cairo was noted by Washington Post reporter Haynes Johnson who wrote:

"In death Anwar Sadat of Egypt seems to have accomplished what

America has been unable to achieve in much of its recent political past. His funeral provides a unifying theme that eases the sense of failed presidencies that have afflicted the United States for a generation."

IN ANOTHER WAY, there is the significance of Peking observing today's 70th anniversary of the 1911 Chinese revolution, the "Double Ten" day that is the traditional holiday of the Nationalist regime on Taiwan.

Not only that, the Chinese Communist Party invited Taiwan President Chiang Ching-kuo and other Nationalist leaders to visit the mainland, and to let Chiang bring with him the remains of his father, Chiang Kai-shek, to be buried in the family cemetery in accord with Confucian custom.

If that has heavy political overtones, it is still remarkable both as an event that would have seemed impossible a few years ago and as one which says something about the nature of change in our lives.

It may not always be a great world we live in, but it certainly can be an interesting and unpredictable one.

What fate for Natatorium?

The Waikiki War Memorial Natatorium continues to attract suggestions for its future as it attracts graffiti: in abundance and variety.

Ideas range from tearing it down and leaving only sand to development by private interests into an "educational, scientific and recreational complex" including the Waikiki Aquarium.

FEW NOW REMEMBER first-hand World War I (to whose 193 Hawaii dead the memorial is dedicated), but some feel that to destroy the monument would dishonor patriots.

Some would demolish the pool and leave only the ornate (one architect called it "ridiculous") Beaux Arts arch. And there are others who say a Pacific resort like Hawaii is incomplete without a calm saltwater pool; they would restore the Natatorium to the glory (and, they hope, the popularity) it once knew.

Still others note that even in its present decay (and despite its official closing), the Natatorium provides a place in the sun for volleyballers, fishers, sun-bathers and a few perhaps foolhardy souls swimming illegally. Oh, yes, there are also graffiti writers and even less-savory types around.

THE NATATORIUM issue has

been around at least since Mayor Neal Blaisdell's day when its decline was already a matter of concern. Periodically it has aroused controversy when someone tried to do something about it.

In the last legislative session the state Senate wisely initiated resolutions to study future plans and possible uses for the Natatorium and nearby Aquarium. Now, as part of the study, the Department of Land and Natural Resources is holding a public meeting at 7:30 p.m. on October 19 at the Aquarium (and receiving written testimony through November 2).

Public opinion must be a big factor in the use of the Natatorium's valuable waterfront. And among other considerations are congestion and parking problems in Kapiolani Park and suggestions that the Aquarium be moved, perhaps to Moku Island, Kawaiahae Basin or the Aloha Tower complex.

BUT THE PROCESS is finally under way to resolve the Natatorium's future, an important but deeply serious question. There is no perfect answer but a considerable challenge in finding a good one. The opportunity to have a say in it should not be missed.

Commonwealth to Cancun

It is always something when you gather the leaders of more than 40 nations representing one-quarter of mankind, as was the case again at the Commonwealth Heads of Government Meeting which concluded Wednesday in Melbourne, Australia.

One major result was a polite message to President Reagan and the United States on relations between rich and poor countries before this month's North-South meeting in Mexico on that subject.

THE EIGHT-DAY meeting ended in the shadow of the assassination of Egyptian President Sadat. The shock of that gave prominence to the Commonwealth's call for a lasting Mideast settlement that recognized "the rights of the Palestinian people."

And, as anticipated, considerable attention was also given to the problems of southern Africa by this association of Great Britain and nations that were formerly British colonies.

But more important for now, perhaps, were several economic proposals. Leaders said they were meant to present a critical view of Reagan administration ideas on rich-poor nations' relations that stress unilateral aid at modest levels.

The final communique called for "global negotiations" under United Nations auspices on international economic development matters. There were also calls for establishment of a World Bank energy affili-

ate, conclusion of the Law of the Sea Convention, and "immediate and effective action" on North-South issues.

IN THAT REGARD, the Commonwealth message is seen as a prelude to the North-South summit later this month in Cancun, Mexico. Among the 22 world leaders attending will be eight from the Commonwealth conference carrying its message, and President Reagan, who in his World Bank speech set a tone of lowered expectations on aid to developing countries. He also called for more reliance on "the magic of the marketplace."

The conference was not hostile to Reagan's free-market approach to economic issues. It recognized a role for private capital in the development of Third World countries and a need for more self-reliance.

But it did reflect doubts that the free market alone can solve all the problems of such countries, say more than foreign aid can do the job by itself.

INDEED, with the world in a recession that hits developing countries hardest, and with perhaps 800 million people living in abject poverty, the message is that there must be substantial help from as many directions as possible.

The hope is that will be the message from Melbourne that will go to the Mexico meeting.