

Convention for Preservation of Man's Cultural Heritage in the Oceans

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The advance of technology will shortly permit the excavation and recovery of cargoes, artifacts, and even ships in deep waters. The "Alcoa Seaprobe" and the Deep Sea Recovery Vehicle already have such a capacity. Over extensive areas of coastal seas skin divers have already looted and destroyed a considerable number of ancient wrecks in shallow waters. With the increasing ease of access to deeper waters it may be predicted that this danger will spread. The United Nations Law of the Sea Conference provides a unique opportunity for reaching international agreement on the preservation of this portion of the world's cultural heritage before it can be reached and destroyed. The conference is considering a wide range of topics on the law of the sea and will settle the law for many years to come. It was considered appropriate to prepare a set of principles governing the preservation of the cultural heritage in the oceans beyond national jurisdiction before the projected destruction occurred, in the hope that the conference might consider that such a noncontroversial measure would meet with general agreement. The Council for Nautical Archaeology requested me to draft such principles which have now been adopted by the council. In this article the proposals are outlined with the purpose of promoting scientific discussion and adoption by the conference.

The suggested convention would cover the seabed and subsoil of the oceans beyond national jurisdiction. Nothing in the convention or any rights granted or exercised pursuant thereto should affect the legal status of the superjacent waters. For the purposes of the Continental Shelf Convention, the term

"natural resources" should be deemed to include archeological and cultural artifacts and wrecks not less than 100 years old. The requirement of such a period is specified in order to eliminate the possibility of the convention being applied to the *Andrea Doria*, to nuclear submarines, and to other modern wrecks. The figure [100 years] has not been chosen for any special merit and may be enlarged if so required. The territorial ambit of the convention is prescribed with a view to avoiding any possibility of controversy over territorial seas, archipelagic waters, and economic zones. The proposal would only apply beyond such areas of national jurisdiction. The same aim to gain general acceptance underlies the provision exempting the superjacent waters. It may be noted that reference to freedom of the high seas is deliberately eschewed.

It will be apparent that the principles outlined have been drafted with the purpose of obtaining general consent by omitting any reference to matters that are the subject of controversy at the Law of the Sea Conference. The convention would apply to archeological and cultural artifacts, including wrecks, not less than 100 years old in or on the seabed beyond national jurisdiction. No change is suggested in respect of article 5 of the Continental Shelf Convention, as any such proposal would involve the wider issues of scientific research, which are a matter of considerable contention. For the seabed beyond national jurisdiction scientific research would be covered by the licensing provisions contained in the principles. No attempt is made to deal with the question of rights in the artifacts or wrecks, as this matter has already been the subject of differing views. However, it might be pointed out that such matters could well be the subject of international

negotiation between the interested parties, aided, if they so wished, by the International Association to be proposed. An example of successful resolution of such questions is the Agreement Concerning Old Dutch Shipwrecks signed in 1972 by the Netherlands and Australia.

The extension of the definition of "natural resources" in the Continental Shelf Convention indicates that licensing of activities on the continental shelf would be the responsibility of the coastal state which might, if it so wished, request the assistance of the International Association and fund where appropriate. In the seabed beyond national jurisdiction licensing would be the responsibility of the Director-General of Unesco, who could request the assistance of the International Association. The parties to the convention would meet annually to discuss any matters relevant to the convention and referred to the meeting by any party, the Director-General of Unesco, or the International Association. The meeting would have the power to recommend measures for adoption by parties. This provision is intended to provide sufficient flexibility to deal with future problems as they become apparent. It would be premature to establish a detailed system of licensing procedures at such an early stage.

The convention would grant a measure of recognition either directly, or through liaison with the consultative meetings to the International Association of Nautical Archaeology. The association would be established as a nongovernmental organization consisting of national associations having a proven professional competence in nautical archeology. Its purpose would be to advise and assist national associations, international organizations and, if so requested, governments, in all matters related to the discovery, conservation, and protection of artifacts covered by the convention. The association would, in relation to the convention, be in a position similar (but not identical) to that of Scientific Committee on Antarctic Research with regard to the Antarctic Treaty.

The Director-General of Unesco would administer a fund whose purpose would be to provide assistance in urgent cases of international importance. The Director-General would be empowered to request the advice of

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the International Association of Nautical Archaeology in evaluating requests for the fund's help. On an international scale the monetary requirements of the fund would be insubstantial. In view of the nature of the operations concerned it may be presumed that the fund's contributions could, to a large degree, if not entirely, be offset by income from newspaper, book, film, and television coverage of the work in progress.

The convention would enter into force on the deposit of the tenth instru-

ment of ratification. The Director-General of Unesco or two-thirds of the parties to the convention should be empowered to convene a conference of all members of Unesco at any time after the passing of 5 years from the entry into force of the convention, to consider its revision in the light of technological, scientific, and other developments.

The present century has witnessed the rapid progress of technology which has far outstripped man's ability to control wisely the machines he has

created. The Law of the Sea Conference offers a unique opportunity to preserve the artifacts still hidden in the deep sea. It is hoped that the proposed principles are acceptable to all nations and will offer the means of saving the cultural heritage of mankind in the oceans.

Bibliography

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NEWS AND COMMENT

President Ford: Main Street to Pennsylvania Avenue

When President Nixon nominated Gerald R. Ford for Vice President last fall, the nomination was generally acclaimed by Ford's colleagues in the Congress. But not all concurred in the nomination. For instance, Representative Michael J. Harrington (D-Mass.), though he shared the widely held view that Ford was an honest and decent man, said that Ford had not demonstrated the kind of leadership called for in one who might have to assume the Presidency at a time when the nation had just gone through a decade of "traumatic, convulsive, and divisive" events. Rampant inflation, the energy crisis, public mistrust of government, and unresolved racial conflicts at home and dangerous hostilities abroad—these represented a formidable array of problems which, in Harrington's judgment, required the attention of a leader of proven and extraordinary gifts.

The question Harrington and a few others raised about Ford has been temporarily lost in the enormous relief felt at Richard Nixon's departure from the White House. Ford's reputation for openness and fair dealing clearly has made him the man for this season. Whether he will effectively meet the challenges of the Presidency in all seasons remains anyone's guess. His choice of Nelson Rockefeller for Vice President suggests that, for better or worse, he may be tilting toward the eastern Republican establishment.

Ford has always stood for fiscal re-

straint in the adoption and implementation of domestic programs—but for generous treatment of military programs. During his first week as President, he was behaving true to character. In his address to Congress, Ford said that he would seek a balanced budget next year but that this was no time for "unwarranted cuts in national defense." Later, he issued a statement deploring the \$5.1-billion reduction recommended by a Senate appropriations subcommittee in the \$87-billion military budget proposed for the current fiscal year.

An important clue as to how President Ford will approach environmental issues was contained in a speech prepared by his staff and delivered by one of his closest advisers, Secretary of the Interior Rogers C. B. Morton, at Expo '74 in Spokane on 15 August. In essence, it said that, given human creativity and a "limitless" scientific frontier, economic expansion can be continued without sacrifice of goals of achieving a better environment. It was conceded that there would be some "stretching out of the timetable" of pollution abatement and some "trade-offs" between short-term goals of economic growth and long-range goals of environmental quality. Arguments for zero or slow growth were dismissed as unrealistic and contrary to human nature.

This display of a pro-growth attitude could not have surprised the several scientists in the Grand Rapids, Michi-

gan, area who, during Ford's last year and a half in Congress, served on a science advisory committee that met with him regularly. The environmentalists on the committee found that, while Ford was willing to hear them out, he would not be shaken from his view that their priorities would have to yield to economic growth.

Although some say it is gradually becoming more liberal, Michigan's Fifth Congressional District, which Ford represented for 25 years, has more or less typified conservative midwestern Republicanism. Grand Rapids (population, 198,000) has a diversified industry and a stable economy. The Fifth District population is about 95 percent white, and minority politics have not weighed heavily in district affairs.

After first winning the Fifth District seat in 1948, Ford became well entrenched by faithfully reflecting the district's conservatism and establishing an exceptionally good record of serving—and flattering—his constituents. As for constituent service, he even inaugurated the practice of touring the district in an office trailer each summer to allow constituents to reach him more easily. In his Washington office a Polaroid camera was kept ready so that every visitor could have his picture taken with the congressman.

Ford came to be known by his colleagues, and by close observers of Congress, as an effective and hard-working member of the Defense appropriations subcommittee. Although in no sense an innovator, he performed well within the system as he found it. In 1961, the American Political Science Association conferred on Ford its Congressional Distinguished Service Award.

After winning the chairmanship of the House Republican Conference in