

Now, a Draft Sea Law Treaty—But What Comes After?

A second round of international negotiations which ended on 10 May fell far short of producing a treaty to bring order to ocean law. But the 8-week Law of the Sea Conference in Geneva did produce a draft treaty which U.S. officials say is "in the ball park" of what the United States had hoped to achieve.

A remaining stumbling block is the draft treaty's proposal that seabed resource development be controlled by an International Seabed Authority. This group would be controlled, in effect, by developing countries, since they vastly outnumber developed countries, and it would make decisions by a two-thirds vote. The number of countries likely to have the technology to mine the seabed is barely a handful.

The draft, released the day the meeting ended and written by the chairman of the three working committees, was not voted on by the participating nations. The diplomats term the document an "informal single negotiating text" and consider it a starting point for the third round of talks. These will take place in New York next March. U.S. officials say that the compilation of such a single document—in contrast to the previous situation in which there were multiple wordings of every proposed rule—is itself a major achievement.

Time, however, is becoming an important element in the law of the sea negotiations, as it may take both the New York meeting and a fourth one in 1977 before a final treaty emerges. With this in mind, the conference president, Hamilton S. Amerasinghe of Sri Lanka (formerly Ceylon), issued a "fervent appeal" for all nations to refrain from actions that would jeopardize the eventual conclusion of a treaty. This was a none-too-veiled reference to the United States and the U.S. Congress, where legislation is being considered that would authorize U.S. mining companies to begin ocean ventures immediately. Congress is also considering fishing bills which, by extending national jurisdiction over fish stocks to 200 miles from shore, could provoke confrontations with Soviet and Japanese fishing fleets that would further hinder negotiations.

The draft treaty would set two international rules which were almost foregone conclusions by the end of the Geneva session: The limits of all nations' territorial waters would be extended from 3 to 12 miles offshore, and coastal states would be allowed to establish an "economic zone" of jurisdiction extending at least 200 miles offshore.

Transit rights. The draft also gives the United States in substance what it sought for military purposes, namely the right to pass through international straits. Since the 12-mile limit would close off some 116 straits which are now open to international traffic and considered strategically crucial, some ambiguity remains about what rules the nations bordering these straits can enforce on traffic passing through them.

Pollution. The draft treaty would set standards by international agreement on activities from ocean dumping to ship construction. The United States had favored this, arguing that if the job were left to coastal states, an impractical patchwork of conflicting standards would result. Enforcement out to 200 miles would be left to the coastal states. On the open ocean, it would be the job of the International Seabed Authority.

Controls on research. The draft treaty would not require research vessels to obtain coastal states' consent for "fundamental" research projects performed off their shores. But it would require consent for research that is "related to the resources of the economic zone or the continental shelf." In addition, as was anticipated, states sponsoring the research must

offer scientists or observers from the coastal state the chance to participate in the research. Data and findings must be made available to the coastal state (*Science*, 8 June 1973).

The International Seabed Authority would have to be notified before research could be conducted in the open ocean; it would also be authorized to conduct its own research.

Technology transfer. Developing nations at the conference outnumber developed ones by over 2 to 1. Not surprisingly then, the draft treaty provides for technology transfer of marine scientific know-how from developed to less developed countries. The draft says that all nations shall "promote the development of marine scientific and technological capacity of developing states" as well as landlocked states and those with limited access to the sea. This promotion would take the form of international cooperative programs, hiring of personnel from less developed countries for the technical staff of the international authority, and regional marine science centers.

Deepsea mining. No consensus exists here and U.S. officials make no bones about their unhappiness with the deepsea mining provisions. The International Seabed Authority could conduct the deepsea mining operations, or it could contract with states to have it done. Constituted so that the developing countries have a clear majority vote in both its assembly and its council, the authority is also instructed to note the negative impact deepsea mining could have on countries that are heavy exporters of minerals.

Ironically, the revelation that the ocean mining ship *Glomar Explorer* was really a cover for U.S. intelligence activities may ease the way for eventual negotiation of a seabed authority more acceptable to the United States. The story broke during the meeting, and incensed some delegates already suspicious of U.S. spying under the guise of research. But it may have been a relief to other delegations who assumed that the *Glomar Explorer* was actively mining the ocean bottom and hence felt pressured to enact some form of controls.

Now that the Geneva meeting is over, the ocean law issue will bounce into Congress' court. There, a major piece of legislation on fishing that will extend U.S. jurisdiction over fish stocks to 200 miles offshore has a good chance of passing this session. The bill's particulars are compatible with the fishing provisions of the "economic zone" articles in the draft treaty. However, throughout the meetings, the U.S. negotiators have urged other countries not to take any unilateral actions until after a final treaty emerges. The picture will change, obviously, if the United States takes unilateral action itself.

The fishing bill would benefit a substantial segment of the country's fishing industry; on the other hand, the deepsea mining bill would aid only those three companies actively engaged in ocean mining development: the Hughes interests (who maintain they are still working on ocean mining, intelligence cover or no); Tenneco's Deepsea Ventures, Inc. (which last year announced a claim in the Pacific); and, to a lesser extent, Kennecott Copper Corp. Conceivably, the bill could pass the Senate this session, an event which would have considerable impact on the already polarized seabed negotiations when they resume in March. Says one official, "It would be like two people standing there ready to fight and one of them throws the first punch." Until March, then, on several legislative fronts, Congress will have to decide what the chances are that the new draft treaty will turn into a real one.

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