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Ocean Research in Hot Water

President Reagan's recent decision not to sign has foreclosed, for now, U.S. approval of the Convention on the Law of the Sea. Only three other countries joined in opposition, while 130 countries approved the treaty on 30 April 1982. After drafting changes, the treaty will be open for signature this December. Most nations are expected to ratify it.

It is widely agreed, and indeed has been acknowledged by the President, that apart from the deep seabed mining provisions to which he objects, most of the treaty serves U.S. interests. Despite earlier fears that treaty restraints on research would be crippling, the research provisions are tolerable if administered fairly. The new regime requires the consent of coastal states for research in areas under their jurisdiction, including a 200-mile exclusive economic zone, and the treaty contains principles and procedures to govern the conduct of research in such areas.

Continued access to this 200-mile zone is vital to oceanographers. The circulation there is dominated by the coastal boundary and the shallow depth of the shelf. More than 95 percent of the world's marine fish catch comes from within 200 miles of the shore. About one-fifth of the world's total oil and gas production is from this zone. Both the oceanic processes characteristic of the zone and the level of human activity there place heavy requirements on scientific investigation. This is true for all countries, rich and poor.

The interests of U.S. oceanographers are not limited to domestic waters. Some important phenomena—for example, strong monsoons as in the Arabian Sea—are not available for study nearby. More commonly, comparative study of processes more sharply developed elsewhere gives insight into how they work; an example is the comparison of upwelling off Oregon, Mauritania, and Peru. For such reasons, U.S. research vessels have spent as much as half their time working in regions that are now under the jurisdiction of other countries.

Without U.S. approval of the treaty, the State Department has been unwilling to seek clearance from other governments beyond the unrealistically narrow limits traditionally accepted by the United States. While that position has created difficulties for some research projects, heretofore it could be understood as part of the negotiating process. But now the negotiations on this part of the text are finished, and continuation of the position places U.S. marine science in a most unfortunate predicament. A coastal state that follows procedures spelled out in the treaty will require that requests for research clearance be processed through official channels. But use of those channels will be denied to American scientists. Thus we face an indefinite period when the State Department may be as big an impediment to U.S. ocean research as restrictions imposed by other countries.

Apart from a reversal of the U.S. position, it appears to be possible to remedy the situation. Adoption of national legislation subjecting foreign research to U.S. jurisdiction in a 200-mile zone would permit the United States to recognize similar jurisdiction elsewhere. Bilateral or multilateral agreements might secure access for U.S. research. The United States might explicitly accept the validity of coastal states' claims of jurisdiction over research within the 200-mile zone, to the extent that the claims are consistent with the convention, and might then seek clearance for such research by U.S. nationals.

The last is by far the best approach. The first is overkill, establishing a control over foreign science that we have never sought and do not need. Negotiation of a myriad of special agreements would be awkward and time-consuming. Simple acceptance of jurisdiction, however, would jeopardize no U.S. interests and would free us to get on with studying this vital region of the world ocean. Whatever action is taken, it will most effectively facilitate marine scientific research if it complies with the Convention on the Law of the Sea, which is now expected to become law for the rest of the world.—WILLIAM T. BURKE, EDWARD L. MILES, and WARREN S. WOOSTER, *Institute for Marine Studies, University of Washington, Seattle 98105*