Recent Developments in the Law of the Sea V: A Synopsis

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Recent Developments

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INTRODUCTION

Each year, as part of the San Diego Law Review's symposium on law of the sea, a student article is dedicated to a synopsis of recent events in the field. The function of such an article is to provide the reader with a broadly circumscribed report of recent developments presented under the topic headings of conservation, fishing, pollution, seabed resources, shipping and sovereignty. The scope of the material precludes any protracted subjective analysis. As such, the traditional analytical approach usually found in law review articles has been supplanted here by a more informal news reporting style. In this manner, however, the reader can expeditiously find an objective report of current developments in the various areas delineated above. This year's compendium covers the period between January 1, 1973 and December 31, 1973. A myriad of sources are represented including the United States Code Congressional and Administrative News, the Environmental Reporter, International Legal Materials, the United Nations Chronicle, the Congressional Record and the New York Times.

CONSERVATION

Senator Says AEC Lacks Capability To Assess Impact Of Offshore Plants: On March 12, 1973, during a Senate Commerce subcommittee hearing, Senator Ernest F. Hollings charged that the
Atomic Energy Commission has neither the capability nor the credibility to consider the environmental impact of offshore nuclear power plants.\(^1\) Senator Hollings proposed legislation (S. 80) which would give the National Oceanic and Atmospheric Administration authority to certify the environmental soundness of the site selection, construction, and operation of offshore artificial structures, including power plants.\(^2\) James T. Ramey, then AEC Commissioner, contended that the AEC had both the authority and capability to adequately regulate and license nuclear power plants, including “any that may be located offshore and embraced by the proposed legislation.”\(^8\) Ramey said that, while the bill would not affect existing AEC authority over offshore plants, it would create possible conflicts and duplication since two separate agencies would be exercising similar authority over the same projects. He concluded by stating that the bill would not provide an appropriate framework for the development of offshore structures.

**First Offshore Nuclear Power Plant Proposed:** The Atomic Energy Commission is presently considering a proposal for the first offshore floating nuclear power plant which would be located off the coast of New Jersey. It is alleged that no environmental nor aesthetic problems would arise from the $1 billion project, and that, in fact, the plant would satisfy the growing demand for power while accommodating the general distaste for locating such an installation in a community.

**Porpoise Tracking by Radio Barred:** During March, 1973, tuna-boats were ordered by the National Marine Fisheries Service in Washington, D.C. to stop all radio tracking of porpoises. It is thought the practice might be illegal under the Marine Mammal Project Act of 1972.

**Sea World Hunt Chafes Ecologist:** In a statement released by Friends of the Earth on March 13, 1973, Sea World, Inc., of San Diego, was charged with the exploitation of legal loopholes in the Marine Mammal Protection Act of 1972. Sea World replied that economic necessity justified its obtaining a “hardship” permit from the National Marine Fisheries Service. The Act, which Sea World said it favors, was passed to stop the slaughter of ocean mammals, many near extinction, for their skins and furs and other parts. The Act has a hardship provision which gives operators of marine parks one year to capture marine mammals because of the sudden shut-off of hunting caused by the Act.

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1. 3 ENV. REP. 1367 (Mar. 16, 1973).
2. Id.
3. Id.
Anchovy Ban Ends: Peruvian fishermen returned to sea on March 6, 1973, after an eight month government-ordered layoff from anchovy fishing. When schools of the fish dwindled sharply in May, 1972, the Peruvian government announced a ban on fishing until further notice.

Nations Launch Ocean Data Plan: In May, 1973, Great Britain, the U.S., Canada and West Germany launched a plan for the exchange of scientific data concerning the state of the ocean. The plan will be managed in much the same manner as are weather reports. The information will be flashed from ship to shore and then to a processing station for use in forecasting sea conditions, wave heights, and the likely effect of the sea on the atmosphere. The four-nation project is one of the first steps in building the Integrated Global Ocean Station System (IGOSS) that is being launched by the Intergovernmental Oceanographic Commission and the World Meteorological Organization. Many other countries are expected to join the project with the hope of eventually extending it to embrace a worldwide project for the monitoring of ocean pollution. To date, four features of the ocean are being studied as part of the pilot project. These are: the sea surface temperature, the thickness of the "surface layer" (to the depth where the ocean's warm "lid" ends)\(^4\) the temperature at a depth of 200 meters and the temperature adjacent to the sea floor.

Ocean Research Agreement Between the United States and the Soviet Union: In June, 1973, four new agreements were signed between the U.S. and the U.S.S.R., one of which was related to oceanographic study. The agreement is a five year accord which elaborates on previous cooperative research by the two nations. It calls for the mutual study of ocean currents everywhere on the planet, biological productivity of the oceans, and research on large-scale ocean-atmosphere interaction. The agreement also provides for continued cooperation in deepsea drilling. A joint Soviet-American committee on cooperation in world oceans studies will be established to carry out the accord and meetings will be held once a year.\(^5\)

Whaling Moratorium Set: On June 28, 1973, the International

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4. The thickness of the warm surface layer is of particular importance to fishermen because of the effect of temperature on fish movement.
Whaling Commission approved a moratorium on the hunting of fin whales in the Antarctic. The moratorium is intended to take effect over the next three years. The Russians and Japanese, who together account for about 85 percent of the annual whale catch, were the only countries to oppose the resolution, sponsored by the United States after its proposal for a ten year moratorium on whaling had been rejected. However, since the 15-member Commission has no enforcement powers, the Russians and Japanese could continue hunting the fin whale.

Quotas on the fin whale in the North Pacific were cut from 650 to 550. The quota for the sei whale in the North Pacific however, will remain at 3,000. The quota for the sei whale in the Antarctic was cut from 5,000 to 4,500. The world-wide quota for the sperm whale will remain the same as last year.

The reductions by the Commission are unlikely to satisfy conservationists who have been calling for a total ten year moratorium. (Such a moratorium would be in line with a resolution adopted by the United Nations Environmental Conference in Stockholm in 1972.)

Key Ocean Study Begun: A $6 million, nine month study of the Pacific Ocean began in mid-August of 1973. The study will be the second phase of Geochemical Oceans Sections Study (GEOSECS). The key aim of the study is to explain the circulation of cold water in the deep oceans in hopes of attaining a better understanding of climatic patterns and long-range weather predictions. The measurements and water samples will be taken from the sea floor to surface at 130 different points in the ocean from the Bering Sea to the Antarctic and from Japan to California. Detailed knowledge of how the oceans mix is also a goal. This will be valuable for assessing the impact of fallout and other pollutants and for understanding conditions that govern the production of marine animals and plants.

Legislation Proposed To Prevent Shoreline Erosion; Senator Hollings of South Carolina introduced a bill authorizing a $6 million, five-year program to develop and demonstrate low-cost means of preventing shoreline erosion of the oceans and the Great Lakes. The bill would call for at least two study sites each on the shorelines of the Atlantic, Gulf, and Pacific coasts, and one site on the Great Lakes. The bill was referred to the Committee on Public Works.

Fish Conservation Bill Introduced in Senate: Alaskan Senator Stevens introduced The Coastal and Anadromous Fish Conservation Act of 1973 on August 3, 1973. The bill, (which was referred to the Committee on Commerce), would provide a method of implementing the so-called “species approach” to fish conservation. Under such an approach, the coastal species of fish would be managed by the coastal state wherever they might be on the high seas off that state. Similarly, the coastal state of origin would manage anadromous species throughout their migratory range on the high seas. In both cases there would be international treaty standards to assure conservation, maximum utilization, and equitable allocation of the fish stocks as well as peaceful and compulsory settlement of disputes.

The bill appears to have been prompted by the decline in the U.S. fishing industry. Not only has employment and exportation declined, but related businesses such as manufacture, sale, and repair of fishing craft are suffering as well. The reason for this decline is two-fold. First, foreign fishing off U.S. coastal waters has greatly increased in recent years. Secondly, since many foreign nations have been extending their territorial fishing zones, U.S. fishing off foreign coastal waters has declined.

Although international cooperation is vital, international competition presently overshadows attempts at such cooperation. Therefore, according to Senator Stevens, interim measures must be taken to insure the conservation of fish until international cooperation can be achieved.

FISHING

United States and Brazil Ratify Shrimp Fishing Agreement: On February 14, 1973, the U.S. and Brazil exchanged notes of ratification which brought into force the Shrimp Fishing Agreement of May 9, 1972. Under the agreement, a shrimp conservation zone was established off the coast of Brazil, reflecting the mutual concern of both countries for the conservation of shrimp resources.8

U.S.-U.S.S.R. Agreements on Fishing Operations and Fisheries Problems in the Northeastern Pacific: In two agreements entered

into in Moscow, on February 21, 1973, the U.S. and U.S.S.R. agreed to cooperate in the protection of fishing gear belonging to fishermen of those countries. Each nation would call upon its officials and fishing industry to prevent damage to the fishing gear of the other when conducting fishing operations in the northeastern Pacific. The agreements call for the marking of permanent fishing gear, notification of their location and manner of use, and further joint research designed to further the development of a more effective and practical method of marking fixed gear. The agreements do not affect the views and rights of the parties with respect to the conduct of fishing operations on the high seas. One of the agreements also deals with problems regarding conservation of fish stocks in the area and sets limitations on the fishing activities of the parties in the northeast region of the Pacific Ocean. Provisions are made for the facilitation of port entry and the prevention of deleterious ocean dumping.\footnote{INT’L LEGAL MATERIALS 551 (1973).}

_Tuna Shortage Crisis Looms as Boats Grow:_ In March, 1973, spokesmen for the fishing industry expressed fears that tuna resources would be rapidly depleted because of the increased number and size of tuna boats. Scientists at the Southwestern Center of the National Marine Fisheries said that this is true for certain species such as yellow-fin, which are most popular with the net-using superseiners. However, they say the threat could be avoided if the industry went after the smaller and more elusive species such as the skipjack.

_Tuna Catching Aid Revealed:_ In a news conference on March 11, 1973, oceanographer Dr. R.A. Barkely proposed a theory to help catch tuna. By using instrumental buoys, fishermen could drastically reduce the present 80%/20% time division between looking for fish and actual fishing time. The scientist predicted that searching time could be reduced by 50%, thereby increasing fishing time threefold. Dr. Barkely’s theory is based on the contention that most mid-ocean drifting objects eventually wind up trapped in what oceanographers call surface conversions or fronts—dissimilar bodies of water with wide variations in temperature which have converged. These fronts attract large concentrations of fish because of the presence of food. Upward welling of water causes an abundance of inorganic nutrients from the ocean floor, thus promoting the growth of photoplankton, which is food for a community of larger organisms. Zooplankton and small fish swim toward the surface to avoid downwelling water. In time, this steady flowing of
water tends to increase the size of the animal community. Tuna are usually found in such a biological community. Various initial tests by Dr. Barkely have been successful and he foresees the use of buoys rigged with radar and radio apparatus. While aware of the fierce competition in the tuna industry, the scientist hopes for cooperation by which all can share in the oceans' wealth through scientific progress.

**Stricter Penalties For Foreign Fisherman Proposed:** On March 26, 1973, Senator Stevens introduced a bill that would amend the Bartlett Act\(^1\) by requiring that all fish on board any unauthorized vessel apprehended fishing in American territorial waters be forfeited.\(^2\) Under current law, only fish actually caught within US. territorial waters need be confiscated, although the present statute does provide a rebuttable presumption that all fish on board were in fact taken within U.S. territorial waters. The proposed bill would replace that rebuttable presumption with a conclusive presumption. Additionally, the bill specifically provides that the monetary value of the fish may be forfeited in lieu of the fish themselves. The bill was referred to the Committee on Commerce.

**Lobster Conservation Act Proposed:** A number of senators from New England states co-sponsored proposed legislation entitled the Lobster Conservation and Control Act of 1973.\(^3\) The proposal would prohibit foreign fishing fleets from harvesting lobster except in conformity with management and conservation standards established by the federal government. In attempting to protect the $35 million a year industry, the bill would extend to the North American lobster the protections from foreign fishing now being granted to other Continental Shelf fishery resources. The proposal, however, would only be an interim measure to provide for effective control of lobster fisheries on the Continental Shelf of the United States until such time as the United States can enter into an appropriate treaty or treaties providing for such control. The bill was referred to the Committee on Commerce.

**Northeast Fisheries Face Depletion of Fish:** At the Northeast Fisheries Conference held in early May, 1973, it was noted that

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the U.S. fishing industry in the northeast was suffering from a depletion of fish due to overfishing by foreign competition. It was asserted that the American government should call for an agreement at the forthcoming Law of the Sea Conference that would give foreign fishermen the right to take only "surplus" fish. The allegation that fish are being depleted in the Northwest Atlantic was supported by an earlier Woods Hole Oceanographic Institute report.

Peruvian Government Expropriates Fishing Industry: On May 9, 1973, the Peruvian Government of General Juan Velasco Alvarado expropriated the nation's fishing industry. The government, whose declared policy is to be midway between capitalism and communism, stated that fish are "a natural resource and therefore should be in the hands of the state." However, the major reason for the expropriation was believed to be the two year economic crisis brought on by bad weather conditions that has plagued the Peruvian fishing industry. Prior to 1971, the Peruvian fishing industry was one of the largest in the world, supplying 45 percent of the world's fishmeal products.

This expropriation will have severe repercussions for U.S. companies which hold about one third of the industry; an interest valued at $10 million. The new ruling sets up a state enterprise called "Pescaperu" that is to manage the entire industry. There was an initial, but not necessarily permanent, compensation policy of awarding 10 percent of the evaluation of the shares of a company, the remaining compensation to be awarded by ten year bonds. But the evaluation, in light of the debts of the industry, may not prove very fruitful for fishing industry investors.

U.S.-Soviet Fisheries Agreement Signed: On June 21, 1973, the United States and the Soviet Union signed a bilateral fisheries agreement broadening and extending through December 31, 1974, an agreement concluded December 11, 1970, concerning fishing operations in ocean areas off the Atlantic coast of the United States. The new agreement contains provisions to further conserve stocks of fish of mutual concern, to enhance the exchange of scientific information with respect to these stocks, to minimize fishing gear conflicts between vessels of the two countries and to facilitate the settlement of claims, and to provide opportunities for periodic discussions of problems of mutual concern between representatives

13. The five largest U.S. companies engaged in fishmeal processing in Peru are; Gold Kist of Atlanta, International Protein of New York, Star Kist, Cargill Peruana, and Gloucester Peruvian.
of the appropriate fisheries authorities of the two governments and fishermen's organizations. Also included in the agreement is a voluntary scheme of joint inspection between the U.S. and the Soviet Union to help insure that the provisions are enforced. In addition, a protocol to the agreement makes available fisheries claims boards to consider claims voluntarily submitted by either side and to attempt to conciliate the parties on the basis of fact finding.\textsuperscript{14}

\textit{Tunaboats Shift Toward Other Flags}: Throughout 1973 there were growing signs that the U.S. tuna fishing fleet was abandoning this country to fish under foreign flags. The failure of the U.S. government to protect tunaboats and the tuna fishing interest was cited by industry officials as the primary reason for the predicted moves. The fishermen allege that the U.S. tunaboats are under regulations that boats from other countries do not have to contend with. Their specific objections boil down to three contentions. First, the U.S. government has failed to provide for significant protection for fishermen against seizures by foreign countries, notably, Ecuador and Peru. Second, the U.S. government has failed to use existing embargo remedies to force other countries to observe tuna conservation restrictions. Thirdly, the fishermen point to what they deem unfair restrictions on U.S. tuna fishermen that give foreign fishermen an advantage. Specifically, the Marine Mammal Protection Act which restricts only U.S. fishermen from catching tuna which travel in schools with porpoises.

During the past seven years 20 tunaboats registered in this country transferred their operations to fish under other flags. Furthermore, tuna industry informants said that there is much interest on behalf of many other tuna fishermen in doing the same things. This has led many experts to predict a big swing from U.S. flag to foreign flag tuna fishing. (Most of the 20 tunaboats that have shifted to foreign flags have registered in Mexico, although some have registered in Panama, Costa Rica, and other countries.) As a deterrent to those boats changing flags, the American Tunaboat Association asked the House Committee on Merchant Marine and Fisheries to see that laws which could put the U.S. tuna fishing fleet in a more favorable position be passed and enforced.

\textsuperscript{14} 12 \textsc{Int'l Legal Materials} 1032 (1973).
Magnuson Introduces Legislation To Carry Out International Conventions: A bill to carry out the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on Establishment of an International Fund for Compensation for Oil Pollution Damage (S. 841) was introduced by Senator Warren G. Magnuson, Chairman of the Senate Commerce Committee, on February 8, 1973. S. 841 would incorporate into domestic law provisions embodied in the two conventions to establish a regime for prevention of and compensation for oil pollution damage from tankers.

Title I of the proposed Oil Pollution Compensation Act would execute provisions of the Civil Liability Convention by making a tanker owner strictly liable to governments and private persons for oil pollution damage in U.S. territory or in the territory of any other nation party to the Convention. An owner may limit his liability to $144 per ton or $15.12 million, whichever is less, by establishing a fund in the amount of his liability limit in the appropriate court.

Title II of the proposed Act would execute the provisions of the Compensation Fund Convention by making the fund strictly liable up to $32.4 million per incident for oil pollution damage insofar as that amount exceeds applicable limits in the Civil Liability Convention and for the entire amount in respect of certain incidents of damage where the owner may avail himself of a defense under that convention. Title II also would provide for indemnification by the fund of a portion of the liability of the owner under the Liability Convention.

Marine Survey Warns Of Widespread Oil, Plastic Contamination In Open Seas: Almost 700,000 square miles of open sea from Cape Cod, Massachusetts, to the Caribbean are contaminated by oil probably jettisoned from ship bunkers, Dr. Robert M. White, head of the National Oceanic and Atmospheric Administration, stated on February 13, 1973. According to Dr. White, the oil is becoming part of the marine habitat, contaminating larval fish and their food at the bottom of the food chain, up to new born blue marlin, tuna, and other priced game and commercial species.

Water Pollution Control Funds Released: In early May, 1973 Judge Oliver Gasch of the U.S. District Court for the District of Columbia, ordered the federal government to make available to the states $6 billion for water pollution control. The release of these funds brings federal funding up to the full amount authorized by Congress in 1972.

President Nixon had refused to allow the Environmental Protection Agency to make the funds available stating earlier in the year that he believed “more funds would not speed up progress toward clean water, but merely inflate the cost while creating substantial fiscal problems.” As a result, the City of New York brought suit against the EPA to allot $5 billion for the fiscal year 1973 and $6 billion for the fiscal year 1974, as appropriated under the Federal Water Pollution Control Act Amendments of 1972.

EPA Reports New Ocean Dumping Regulations: On May 16, 1973, the Environmental Protection Agency, pursuant to authority granted under the Marine Protection, Research, and Sanctuaries Act of 1972 banned the dumping of eight substances in the ocean and listed dozens more that may be dumped only with “special care.” Simultaneously, the Agency approved 118 ocean dumping locations including sites for the disposal of toxic materials, wastes containing arsenics, and “conventional munitions.” Under no circumstances, however, would dumping permits be issued for disposal of high-level radioactive wastes, radiological chemicals, biological warfare materials, or any substances whose environmental impact is unknown or persistent.

Additionally, the Agency prohibited the dumping of materials containing more than a trace of concentrations of mercury, cadmium, oils, and organic compounds containing chlorine, organohalogens, and the pesticide DDT. “Special care” must be used in the ocean dumping of a wide variety of substances containing lead, copper,
beryllium, chromium, nickel, selenium, zinc, and vanadium.\textsuperscript{21}

Although most of the 118 approved locations were designated for disposal of such materials as dredging wastes, mud, sand, and chemical wastes, the Agency cautioned that even seemingly harmless waste materials could be dumped in large quantities only if it was controlled so as to prevent possible environmental damage.

\textit{Radioactive Pollution}: On June 12, 1973, Herbert L. Volchok of the Atomic Energy Commission said that the total amount of the radioactive pollution of the oceans is negligible at this time and he emphasized that the total ocean content of radioactive pollutants contributed by nuclear tests is about 1,000 times less than the radioactivity occurring naturally in the oceans or created by weapons testing.\textsuperscript{22} Based upon predictions of the growth rate of nuclear power plants, Volchok predicted that the amount of pollutant from related operations could increase from 100 to 1,000 times. However, he noted that technological advances in waste management made it reasonable to assume that pollution would not increase "very much."\textsuperscript{23}

\textit{Report Criticizes Regulation Of Oil Spills}: On July 7, 1973, Congressman Henry S. Reuss released a general accounting report which criticized the Interior Department's regulation of offshore oil operations aimed at preventing discharges.\textsuperscript{24} In releasing the report, which was prepared at his request, Ruess stated that, although it had been four years since the disastrous Santa Barbara spill, the Interior Department still had shown great reluctance and ineptitude in enforcing its laws and regulations against the oil industry.\textsuperscript{25} In support of this line of criticism, the report found that from March, 1971, to February, 1972, 26 spills totalling about 9,600 barrels were reported in an area of the Gulf region near several wildlife refuges. The spills cost federal agencies over $600,000 for administrative expenses, yet, in spite of these factors, the Geological Survey determined that no enforcement proceedings were warranted.\textsuperscript{26}

The GAO report recommended strengthening the Department's program in several respects.\textsuperscript{27} The Secretary of Interior should require the Geological Survey, which is responsible for regulating

\textsuperscript{21} Also included in this special category were cyanides, fluorines, organosilicon compounds, chlorine, and radioactive wastes generally.
\textsuperscript{22} 4 Env. Rep. 223 (June 15, 1973).
\textsuperscript{23} Id.
\textsuperscript{24} 4 Env. Rep. 432 (July 13, 1973).
\textsuperscript{25} Id.
\textsuperscript{26} Id. at 433.
\textsuperscript{27} Id. at 432.
the offshore operations, to emphasize the need for personnel in the Gulf Coast region to enforce actions for violations. In addition, the Secretary should consider the halting of operations subsequent to violations, so as to encourage prompt correction of deficiencies. The report, noting that at the present time the Geological Survey has no written policies on the frequency of inspections for the drilling of new wells, also recommended that the Department require the Survey to establish a realistic policy on how frequently each type of offshore operation must be inspected, considering the resources available and the risks of oil spills. Only half of the 50 wells started in fiscal 1972 were inspected during the drilling operation and only a few of these wells were inspected as required when production began.

Proposed EPA Regulations Concerning Oil Spill Prevention: On July 19, 1973, the Environmental Protection Agency proposed regulations whereby operators of onshore and offshore oil handling facilities would be required to prepare oil spills prevention, control, and countermeasure plans.28 The regulations would be applicable to all facilities that could “reasonably be expected to discharge oil into U.S. navigable water,” specifically including refineries, industrial users, fuel oil dealers, drillers, and operators of bulk plants.29 Facilities would be required to meet minimum standard guidelines set forth either in the EPA regulations or state regulations, whichever are more stringent. The minimum standard guidelines would include requirements for dikes, walls, bulk storage tanks, drainage systems for onshore facilities, and floating booms or fences for offshore facilities. Noncompliance with the proposed regulations would result in a possible $5,000 fine for each day that a violation continued.

President Confers Powers to EPA Administrator: President Nixon, under the authority vested in his office by the Federal Water Pollution Control Act,30 empowered the Administrator of the EPA to determine at what times, locations, and conditions, the discharge of oil and other hazardous material will endanger the public health and welfare. Concomitantly, the EPA Administrator was given the power to seek appropriate court action to secure the nec-

29. Id.
necessary relief in abating such actual or threatened discharges of environmentally hazardous substances.

The August 7, 1973, Executive Orders also empowered the “Secretary of the Department in which the Coast Guard is operating”31 to likewise secure judicial relief in abating hazardous discharges. Furthermore, the Secretary of such Department will have the authority to inspect cargoes of oil and hazardous substances. The Coast Guard itself will now be the “appropriate agency” for the purpose of receiving notices of discharge of oil or hazardous substances as required by the Federal Water Pollution Control Act.32

Santa Barbara Oil Spill Suit Decision: On September 20, 1973, the U.S. Court of Appeals for the Ninth Circuit held that there were no grounds for recovery under state or federal law for interference with private navigational rights in the Santa Barbara Channel caused by the 1969 oil spill.33 The Court found that federal maritime tort law applied and that under that law loss of use of a private pleasure boat is not a compensable item of damages. The Court also held that it need not decide whether Askew34 was authority for applying state law to shore to ship pollution, because there is no right under California law to recover for damage to private navigational rights of the type asserted.

DOMESTIC—STATE

Senate Bill Proposes Greater State Control Over Offshore Construction: A bill to amend the Federal Water Pollution Control Act to give coastal states control over environmental threats originating in the oceans was introduced on January 4, 1973, by Senator Williams of New Jersey.35 The bill, which would amend Title IV of the Act, would require federal agencies considering construction, licensing, or approval of any facility beyond the territorial sea of the U.S. to submit a detailed report to the Environmental Protection Agency. The EPA would then forward the report to the governor of each adjacent coastal state which might be adversely affected by pollution from such a facility. Those governors would have 90 days to evaluate the report. If a governor disapproved it, the facility would not be licensed or constructed. Clearly, this legislation would provide the coastal states with meaningful control over environmental threats which originate in the ocean. The bill was referred to the Committee on Public Works.

State Says Shellfish Waters Face Pollution Crisis: On March 25, 1973, state environmental protection officials warned that New Jersey's coastal waterways faced a water pollution crisis. One quarter of its shellfish waters have been condemned and another 25 percent are threatened with similar condemnation. The crisis would have a major impact on the national shellfish industry since New Jersey produces one fourth of the country's supply of clams and oysters.

The Commissioner of the State Department of Environmental Protection has resorted to imposing building bans and obtaining court orders compelling shore communities to construct modern sewage treatment facilities.

Supreme Court Upholds Florida Law On Strict Liability For Oil Spills: Florida's 1970 law imposing strict liability for onshore and offshore facilities and vessels for cleanup costs and damages resulting from oil spills was upheld April 18, 1973, in a unanimous decision by the U.S. Supreme Court.36

The Florida Oil Spill Prevention and Pollution Control Act was declared unconstitutional December 10, 1971, by the U.S. District Court for the Middle District of Florida. The district court ruled that the Florida statute violated the federal government's exclusive admiralty and maritime jurisdiction and was in conflict with the federal Water Quality Improvement Act.37

In reversing the district court, the Supreme Court held that no statutory or constitutional impediment prohibited Florida from establishing any requirement or liability concerning the impact of oil spills. Justice William O. Douglas, in presenting the opinion of the Court, said that it was clear that the Federal Water Quality Improvement Act did not preclude state regulation. The Court did not decide the question of whether the amount of costs Florida could recover for an oil spill are limited to those specified under federal law. It was sufficient, the Court said, to hold that there is room for state action in cleaning up its waters and recouping its costs, at least within federal limits pertaining to vessels.

37. For background information relating to a comparison of the state statute and the federal act, see Recent Developments in the Law of the Sea IV: A Synopsis, 10 SAN DIEGO L. REV. 559, 576 (1973).
The Court went on to note that since the Congress dealt only with clean up costs in the Water Quality Improvement Act, it left the states free to impose "liability" in damages for losses suffered both by states and by private interests.

Oil Spill Suit: On April 26, 1973, the U.S. District Court for the District of Maine ruled that the State of Maine is entitled to sue on behalf of its citizens to recover monetary damages for harm caused by an oil spill in Casco Bay.\(^3\)\(^8\) The ruling came during litigation concerning a July 1972 spill of 100,000 gallons of oil into the bay by the tanker ship \textit{Tamano}.\(^3\)\(^9\) The present ruling involved a suit brought by the state to recover damages for property owned by the state itself, to recover for costs incurred during cleanup of the spill, and to recover on behalf of all the state's citizens for damages to the natural resources of the bay. The \textit{Tamano} defendants asserted that Maine lacked a sufficiently independent interest in the coastal waters to permit it to sue as \textit{parens patriae}. The Court noted, however, that it was clear that Maine had an independent interest in the quality and condition of her coastal water.\(^4\)\(^0\) Judge Gignoux also rejected the defendants' claim that permitting the state to sue might subject them to a risk of double damages. This is because Maine was asserting claims independent of the titles of its citizens, and any damages that might be claimed by Maine citizens individually or as part of class could be excluded from any recovery by the state.

Supreme Court Rejects Appeal Of Maine Oil Spill: On November 19, 1973, the U.S. Supreme Court dismissed, for want of a substantial federal question, the appeal by the American Oil Company and the Portland Pipe Line Corporation from the June 4, 1973, decision of the Maine Supreme Judicial Court in \textit{Portland Pipe Line} v. \textit{Environmental Improvement Commission}.\(^4\)\(^1\) In that decision, the State court had upheld the Maine statute imposing a half-cent a barrel oil transfer fee on the operators of oil transfer facilities to finance an oil spill cleanup and compensation fund. The statute also imposes upon such operators absolute and vicarious liability for oil spills caused by carriers destined for terminal facilities.

\textbf{INTERNATIONAL}

Deep Sea Dumping Raises Questions: On April 7, 1973, scientists

\(^3\)\(^8\) \textit{4 ENV. REP.} 68 (May 11, 1973).
\(^4\)\(^0\) \textit{4 ENV. REP.} 68 (May 11, 1973).
\(^4\)\(^1\) \textit{4 ENV. REP.} 1237 (Nov. 29, 1973).
at the Woods Hole Oceanographic Institute said that garbage dumped in deep ocean will probably degrade so slowly that one day large quantities could float up undecayed and contaminate seas and beaches. Organic compounds such as starches, sugars, proteins and fats take 100 times as long to degrade in deeper pressurized conditions than at the same temperature at sea level. Senior scientist Holger W. Jannasch recommended that if offshore dumping is necessary, it should be done in shallow water so it can decompose in a more controlled manner.

Contamination of Fish in Viet Waters Laid to U.S. Defoliants: Two Harvard biochemists have found that a component of a defoliant chemical used by the U.S. has contaminated fish and shellfish in Vietnamese coastal waters, thereby posing possible long-term hazards for humans. Approximately 45,000 tons of dioxin, a toxic defoliant, were dumped in river drain areas of Vietnam between 1969-70.

Pollution Laws Threaten World Trade, According To NPC Law Of The Sea Study: Various safety and pollution control regulations by coastal nations threaten to impede commercial navigation, especially that of petroleum tankers, the National Petroleum Council said in a report released May 10, 1973, on the “Law of the Sea—Particular Aspects Affecting the Petroleum Industry.” NPC recommended a right of unimpeded navigation for commercial vessels on the high seas, through straits used for international navigation and in territorial waters, subject only to compliance with internationally agreed safety standards. These standards should include ship design and construction, pollution prevention, and international standards to accommodate “other uses,” the report added. NPC recommended that territorial seas of coastal states not exceed 12 miles, and that coastal nations be authorized by an international law of the sea convention to determine compliance with international navigation standards such as adherence to prescribed safety lanes in limited areas adjacent to their coasts. Any unresolved disputes between a coastal state and a vessel owner should be settled in accordance with procedures established under the sea law convention, the Council added. The report stated that it is necessary to provide a stable investment climate for off-

shore petroleum exploration and production and recommended a series of provisions whereby an agreement between a state and an operator in a seabed area, or an agreement with an international organization, would be binding on both parties. According to the report there should be full compensation for any expropriations of investments in a seabed area, and disputes concerning an investment should be resolved by procedures under the international sea law convention.

**U.S., Soviet Scientists Sign Accord To Work On Ocean Pollution Problems:** An agreement to work together to solve ocean pollution problems was signed May 26, 1973, by Soviet and American scientists. 43 The agreement is the first step in carrying out the U.S.-U.S.S.R. agreement for cooperation in environmental protection that was signed May 23, 1972, in Moscow. 44 Twenty areas for joint research efforts were listed in the agreement, including investigation into the effects of oil, mercury, toxic chemicals, and radioactive substances on marine systems; the effects of pollutants on fish disease and problems associated with ocean dumping; solid waste disposal; dredging operations; and industrial contamination. The agreement also provides for monitoring strategies to be employed by the two countries. Part Three of the agreement calls for the exchange of students, scientists, and consultants, as well as the institution of symposia to discuss findings. Part Four deals with the exchange of formalized information such as books and reprints.

**International Clean Oceans Committee May be Formed:** The 18-nation council of the Intergovernmental Maritime Consultative Organization, a U.N. agency concerned with maritime and shipping matters, voted on June 6, 1973, to form an expert group to consider a U.S. proposal for an international watchdog committee to formulate measures to prevent marine pollution and to insure that such measures are rigorously enforced.

**Initial Meeting of United Nations Environmental Programme:** The U.N. Environmental Programme opened its initial meeting in Geneva on June 12, 1973. The Environmental Programme, headquartered in Nairobi, is a 58-nation governing council created by the U.N. to coordinate international environmental activities. Supplementing its coordinating activities, the body has an adjunct organization entitled the United Nations Environment Fund to

43. 4 Env. Rep. 166 (June 1, 1973).
44. See also, Recent Developments in the Law of the Sea IV: A Synopsis, 10 San Diego L. Rev. 559, 585 (1973).
further selected international environmental projects. This is the group to which President Nixon pledged $40 million, on a matching basis, toward a five-year budget of $100 million.\footnote{See Recent Developments in the Law of the Sea IV: A Synopsis, 10 SAN DIEGO L. REV. 583, 584 (1973).} One innovation of the Environmental Programme that was discussed was a “worldwide environmental switchboard.” This would be a computerized referral service that would designate information sources throughout the world concerning environmental problems.

**Conference On The Pollution Of The Mediterranean:** Composed of delegates from most of the major cities bordering the Mediterranean, the first international conference on the pollution of the Mediterranean Sea was held in early June, 1973. The delegates agreed upon the “Beruit Charter” which calls for the establishment of a permanent committee that would draft an international antipollution code for cities around the Mediterranean. The Conference called for a study of the possibility of creating a Mediterranean environmental fund. Progress on the proposals will be reported at the next conference to be held in Palermo, Sicily, Italy in 1974.\footnote{46. There have been predictions that the Mediterranean would be a “dead sea” by the year 2000 unless something is done to halt pollution. For example, off the coast of Italy alone over 200 tons of toxic titanium soaked mud, 178 tons of phosphorous, and 44 tons of nitrogen are dumped daily. In addition to oil spills, one billion tons of untreated waste are dumped into the waters annually.}


The 1969 amendment is stricter than the original Convention in terms of prohibiting intentional discharges of oil and oily wastes from vessels. Further, it eliminates the “prohibited zone” concept under which intentional oil discharges were prohibited in zones approximately 50 miles from the nearest land but only discouraged in the open sea beyond these zones. The new law, following the
The first 1971 amendment, which is incorporated into the new law, redefines the Great Barrier Reef off Australia as a “land” area, which amounts to prohibiting oil or oily mixture discharges from vessels within 50 miles of this reef.

The second and major 1971 amendment sets new construction standards for oil tankers. The new law, following this amendment, establishes that every tanker to which the Convention applies must be constructed according to Annex C of the Convention. Annex C establishes construction requirements on the basis of the length, width and draft of the vessel. In general, these new construction standards would limit the potential loss of oil from a tanker following a collision or a grounding.

Since the Convention is not self-executing, each nation which is a signatory party is responsible for independent enforcement. To carry out this responsibility the new law provides for sanctions not included in any of the amendments to the Convention. One will increase the maximum fine for a criminal (willful) violation to $10,000 and another authorizes a new civil penalty of $10,000 for a negligent discharge. As an added sanction, a tanker can be denied access to any port or terminal maintained by a nation which is a signatory to the Convention unless such vessel carries a valid certificate attesting that it complies with these new construction standards or that such standards are inapplicable.

Pollution Convention Concludes: On November 2, 1973, the International Convention for the Prevention of Pollution from Ships was concluded at a 79-nation conference in London. The agreement, which requires ratification before it enters into force, strengthens previous international efforts to combat ship-caused oil pollution. It extends similar regulatory principles to cover most other noxious substances and operational and accidental discharges. Enforcement will be by the nations involved in pollution incidents and, in addition, the nations that ratify the Convention will pledge to write into their statutes regulations of sufficient strength to deter violations.

Although the agreement carries weaker enforcement provisions than were sought by the U.S., Environmental Protection Agency Administrator Russell E. Train, chief U.S. delegate, called the con-

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49. 4 Env. Rep. 1159 (Nov. 9, 1973).
50. Id.
ference “highly successful.” Train added that the Conference was a historic milestone in the control of marine pollution. The new accord supersedes a 1954 Oil Pollution Convention. Its controls on operational oil discharges are based mainly on the 1969 amendments to the 1954 Convention.

A number of regulations in the 1973 Convention will have serious effects on the way many substances are transported by ship. Some of the major provisions include the following:

(1) New oil tankers of more than 70,000 dead weight tons should be provided with segregated ballast tanks of sufficient capacity so that the tankers can operate ballast without putting ballast water into the cargo oil tanks. Double-bottom tanks, however, are not required.

(2) All oil discharges from ships within 50 miles of land are prohibited.

(3) Five enclosed seas have been designated as “special areas” in which all oil discharges are prohibited, except by very small ships. The five areas are the Mediterranean, Black, Baltic, and Red Seas, plus the Persian Gulf (including the Sea of Oman).

(4) Discharges by vessels carrying bulk liquids are controlled according to the amount of damage the liquid substances could cause to the marine environment.

(5) New regulations have been aimed at preventing pollution by harmful substances carried by sea in packaged form or in freight containers, portable tanks, or road and rail tank cars.

(6) Other regulations relating to prevention of pollution by sewage and garbage from ships.

(7) Oil tankers will be required to carry a “black box”—equipment that can automatically monitor oil outflow to insure that the discharge limitations are not exceeded.

(8) New tankers will be required to meet subdivision and damageability requirements so that they can survive after collision. The Convention will enter into force when it has been ratified by 15 nations. This is expected to take several years at least.

51. Id. at 1160.
Whereas the Convention is comprehensive in expanding the range of pollution-causing substances that are subject to international control, Conference officials acknowledged that the Convention is limited in its practical application. Pollution in mid-ocean will be almost impossible to detect or regulate, delegates agreed.

The Convention faces enforcement on two principles—the requirement that a nation whose flag a ship flies must punish all violations by that ship, and the right of a nation's port authority to look for and punish violations off that nation's coast. Nations whose coasts are harmed by ships violating the Convention must either prosecute the ships themselves or refer the violations to the flag state for prosecution. Nations that ratify the Convention must apply its provisions to nations that do not ratify it, lest a nation obtain competitive advantages by not ratifying. Nations may take action outside their territorial waters to prevent damage to their coastlines from maritime casualties. Disputes arising under the Convention will be arbitrated on a compulsory basis. The U.S. and other nations had sought wider-ranging enforcement provisions such as rules providing that a ship which polluted anywhere in the world be liable for punishment from the nation whose flag the ship flies, a nation into one of whose ports the ship sails after causing the pollution, or a nation along whose coast the ship passes after causing the pollution.

Ocean Dumping Convention Approval Recommended By Department Of State: The Department of State issued an environmental impact statement on Senate ratification of the Convention on Ocean Dumping concluding that the action is necessary to insure the success of international marine environmental protection. The Convention was signed by the U.S. and 27 other nations on December 29, 1972. It established international standards for ocean-dumping regulations.

According to the impact statement, 48 million tons of waste materials were dumped in the oceans in one year by U.S. sources alone. Ocean dumping poisoned marine life, depleted the oxygen supply, changed or obliterated marine habitats and destroyed or depleted human food sources. Recreational and aesthetic uses of coastal areas also were disrupted, according to the statement.

As alternatives to the proposed ratification, the State Department considered U.S. reliance on domestic laws or the expansion of the Convention to cover additional sources of pollution. The

Department rejected both alternatives because they would jeopardize the success of an international agreement which the United States took a prime role in developing.

On February 28, 1973, this Convention was transmitted from the President to the Senate. President Nixon, in his letter of transmittal, said that “international concern for protection and effective management of our oceans has been growing in recent years,” and that the Convention will “provide a significant and successful step in the international control of marine pollution.”

Sea Pollution Tests Planned: On November 11, 1973, the University of California's Scripps Institute of Oceanography announced that scientists would deliberately contaminate sea water in huge underwater “test tubes” in a long-term international project to study the effects of pollution on marine life. The Institute disclosed that on the basis of certain factors, the site of the project would be the Saanich Inlet off Vancouver Island, B.C. The Inlet is sheltered so that the tubes or enclosures would not be buffeted and it has a relatively high population of plankton. In addition, the Inlet has a relatively low pollution level and since it has been studied before, it affords an opportunity for comparison. The study will continue for six years at a cost of $6 million, and will probably be extended another four years.

SEABED RESOURCES


Under the proposal, the Secretary of the Interior would evaluate the impact of mineral exploitation on sealife and the ocean ecology. In addition, the study would evaluate the impact of this exploitation on the shorelines of the U.S. As part of the study, the Secretary would also consider whether to ban all mineral development in the sea occurring within 100 miles of the coast. The bill would

56. Id.
require that the finding of such studies be reported to Congress within two years of the bill's date of enactment.

The area to be covered extends from the Canadian border to the Georgia-Florida boundary and eastward from the coast of the U.S. to the edge of the Continental Shelf. The bill would prohibit the issuance of any mineral leases on any of these submerged lands for a period of at least one year following the submission of the study report to Congress. Such a one year interim period should provide sufficient time for the public to debate fully the findings of the Secretary. The bill was referred to the Committee on Interior and Insular Affairs.

Rich Oil Deposits Indicated Off Long Island and New Jersey: It was announced by the U.S. Geological Survey on April 11, 1973, that sedimentary deposits with oil-bearing potential as rich as that off Louisiana, Texas and California have been found 30-50 miles off Long Island and New Jersey.

Progress In Recovering Oil In Frozen Regions: During mid June, 1973, a patent was granted for the forming of "ice islands" to recover oil in the Arctic and Antarctic. The patent involves an oil drilling barge that can be moved to an offshore oil drill site during a thaw and allowed to be frozen in at the onset of winter. Circular walls are built around the barge and water is pumped in and frozen. The pumping and freezing are repeated until the walls sink to the ocean bottom. The barge thus serves as a drilling platform and oil exploitation can be continued during freezing temperatures.

Legislation Introduced To Set Standards For Underwater Research: On July 11, 1973, Senator Hollings introduced a bill to aid and encourage underwater research by providing for standards for underwater research facilities. It would provide, for the first time, specific technically oriented standards for all civilian underwater research facilities financed directly or indirectly with federal funds. The bill was referred to the Committee on Commerce.

Unlike much legislation enacted in the name of safety which results in a stifling effect on the industries involved, this new proposal allegedly would not unduly burden the emerging oceanographic research industry. The bill attempts to avoid broad requirements which are laid out in a general fashion and do not contemplate the effect on the oceanographic research industry.

Under the proposal, the Secretary of Commerce would be called

upon to prescribe minimum standards of human safety for the use, occupation, inhabitation, maintenance and construction of underwater research facilities. Additionally, an Underwater Research Facilities Safety Advisory Board, composed of representatives of various departments and agencies, would be formed to provide technical assistance and guidance to the Secretary of Commerce in the prescription of safety standards for underwater research facilities.

**U.S. Proposes Treaty Clause That Would Protect Underwater Investments:** The U.S. has proposed an international law that would protect underwater oil and mining investments from the kind of contract breaking that Arab oil producing countries have recently been inflicting on American companies. The proposal was put before a U.N. committee that met in Geneva, Switzerland, in early August, 1973. The current proposal would rule out expropriations and would provide the U.N. with the right to block foreign sales of oil or other commodities produced from expropriated holdings.

**Revenue Sharing From Outer Continental Shelf Leases Proposed:** In early September, 1973, Alaska’s Senator Stevens proposed a bill to provide for revenue sharing from Outer Continental Shelf leases of oil, gas, and other minerals. The bill would distribute the royalties from the Outer Continental Shelf lands by giving adjacent coastal states 50 percent, the U.S. Treasury 25 percent and 25 percent to the rest of the states. (Federal public lands producing royalty revenues already require royalty revenue distribution to the state on which the lands are located.)

The justification for such revenue sharing is that, although these minerals are located within federal lands—the Outer Continental Shelf—the adjacent state provides considerable governmental services to the industries and people engaged in exploration and production. Such state governments must incur substantial expenses in connection with these activities, yet they receive no share of the royalties. Mineral exploration, it is argued, whether it be from federal public lands or Outer Continental Shelf lands, is really a cooperative venture with private industry, state, local, and federal governments. Thus, because federal royalties are deposited

in the general treasury, the adjacent coastal states must bear an unfair burden. This bill would allegedly provide a fair and easily administrable formula for sharing such royalties. It was referred to the Committee on Interior and Insular Affairs.\textsuperscript{61}

\textit{Newly Discovered Pacific Floor Riches To Be Mined}: Billionaire Howard Hughes has begun plans for an offshore base to recover thousands of tons per week of copper, nickel, manganese and cobalt from the floor of the Pacific. The mineral nodules, formed by precipitation of metal ions in the water, carpet areas of the ocean bed in concentrations of 50,000 tons per square mile, with the best-known grades in a triangle between Southern California, Hawaii, and Panama. While the technological devices to be used are reputed to be quite sophisticated, the effect the mining will have on ocean ecology is still unknown.

\textit{New Tax Law For Continental Shelf Areas}: To clarify the substantial confusion regarding the taxing of activities on the continental shelf, Congress has amended the Internal Revenue Code of 1954.\textsuperscript{62} The major change provides that if one is engaged in offshore oil drilling activities in the continental shelf of a foreign country, and that foreign country exercises taxing jurisdiction over that portion of the continental shelf, then the individual will be treated as being employed in the foreign nation. Furthermore, if the activity is even “related” to the exploitation of oil in a foreign area of the continental shelf, then the amounts paid to the individual will be treated as derived from sources within the foreign country.

The new rules make it clear that “related activities” will be liberally construed. For example, such activities as medical practice at an oil drilling platform, or the activities of a cook aboard a ship which is engaged in exploiting oil resources, will be treated as deriving compensation from without the U.S.

\textit{Developments In The Santa Barbara Offshore Drilling Controversy}: In November, 1973, California state experts for the State Lands Commission recommended that California terminate its offshore drilling moratorium. Citing the need for additional oil supplies, the state experts stated that strictly controlled drilling would be safe, although “there is always some small risk of an oil spill

\textsuperscript{61} A similar bill was proposed in the House in late June. See H.R. 9132, 93d Cong., 1st Sess. (1973).
inherent in offshore oil operations.” The proposal to end the drilling ban on the state leases was unveiled by Controller Flournoy. Mr. Flournoy stated that there would be no haste in lifting the ban in spite of the energy crisis.

On December 11, 1973, all three members of the State Lands Commission voted to permit controlled resumption of offshore oil drilling in the Santa Barbara Channel. Controller Flournoy, Chairman of the Commission, commented that California’s offshore drilling standards were the toughest in the world and could and should be adopted by the federal government if it was contemplating such drilling. The state’s regulations require special casing around the drill holes, special valves to control oil and gas flow, and immediate availability of containment equipment in case of a spill. The December decision will allow oil firms to resume drilling on a well by well basis, but only from existing offshore platforms. The Commission has jurisdiction over tidelands up to three miles offshore. Beyond that point the federal government controls offshore oil leasing and drilling.

At the federal level Senator Alan Cranston of California introduced a bill designed to resolve the controversy over whether environmental considerations necessitate the suspension of oil and gas drilling in the Santa Barbara Channel. The bill allegedly would provide a fair and balanced solution that would encompass environmental safeguards without precluding future development of the substantial oil and gas reserves in the Santa Barbara Channel. The proposal would designate the portion of the Outer Continental Shelf in the Santa Barbara Channel as the “Santa Barbara Channel Federal Energy Reserve.” All production of oil and gas on the leases within the reserve, except for the three that are currently producing, would be suspended until offshore extraction technology is developed that would insure maximum environmental protection. The suspension of oil production could be terminated in only three ways: first, affirmative findings by the Secretary of the Interior that a number of conditions specified in the bill have been met; second, a subsequent act of Congress; or third,
authorization by the President pursuant to an Executive Order declaring a national emergency and requiring the development of the oil and gas within the reserve.

The new proposal would not prohibit continued exploration for, and identification of, oil and gas reserves on existing leases in the Channel. If and when oil is found on any lease, production automatically would be suspended in the Federal Energy Reserve until environmentally sound technology has been developed and proven. The bill was referred to the Committee on Interior and Insular Affairs.

On November 27, 1973, the Ninth Circuit ruled that the continued suspension of drilling ordered by the Secretary of the Interior was proper and not arbitrary, capricious or an abuse of discretion. Gulf Oil had challenged the order of the Secretary and sought immediate drilling permits and lease extensions.64

**Exploratory Test Drilling On Atlantic Outer Continental Shelf Postponed:** Although President Nixon has directed the Secretary of the Interior to increase the sale of gas and oil leases for the Outer Continental Shelf, the start of exploratory test drilling into possible oil-bearing deposits on the Atlantic Outer Continental Shelf has been postponed for at least a year. The postponement was a result of an order by the President calling for further study of the environmental impact of such exploration. Environmentalists have contended that such drilling has caused oil spills and contamination in the past.

The study, which is a broader impact statement than was previously considered, will be conducted by the Council on Environmental Quality and will consider the entire range of potential development of the resources of the offshore Atlantic coast.65

**President Nixon Calls For Increased Production of Fuels From Outer Continental Shelf:** On April 18, 1973, in what was clearly a response to the growing “energy crisis” in the U.S., President Nixon announced in a special message to Congress,66 that in order to increase production of conventional fuels, the sale of oil and

64. Gulf Oil v. Morton, Secretary of the Interior, (72-2449; Nov. 27, 1973, 9th Cir.).

65. The existence of sedimentary deposits with oil bearing potential in the Baltimore Canyon, beginning as close as 30-50 miles due south of Montauk, Long Island, New York, was disclosed recently by the Department of the Interior. This area has been considered most promising in terms of commercially viable energy deposits.

gas leases on the Outer Continental Shelf would be increased. It was forecast that the annual acreage leased on the Outer Continental Shelf would triple by 1979, and that by 1985 such an accelerated leasing rate could increase annual energy production by 1.5 billion barrels of oil (approximately 16 percent of our projected oil requirements for that year). Specific areas slated for the increased sale of leases included the Gulf of Alaska, the Gulf of Mexico, and the Outer Continental Shelf beyond the Channel Islands of California. At the same time it was announced that the suspension of 35 leases in the Santa Barbara Channel would be continued.

One of the central concerns in bringing such resources into production has been the threat of environmental damage. It was noted, however, that new techniques, regulations, and standards, as well as new surveillance capabilities will enable the government to reduce and control environmental danger. The President assured environmentalists that no drilling would be undertaken in any of the areas delineated above until the environmental impact of such drilling was determined. Mr. Nixon also promised that legislators, governors, and citizens of the area would be consulted in this process.

Again stressing the importance of expanding our domestic energy resources President Nixon, on September 10, 1973, ordered the Department of the Interior to triple the leasing schedule along the Outer Continental Shelf. He also directed the Council on Environmental Quality to study the feasibility of extending Outer Continental Shelf leasing to the waters off the Atlantic Coast and the Gulf of Alaska. Additionally, the President submitted legislation to Congress that would cancel oil leases in the Santa Barbara Channel in order to create a National Energy Reserve in that area. Under such legislation, oil from Naval Petroleum Reserve No. 1 in California would be substituted for the oil off Santa Barbara and the proceeds from that production would be used to meet the expenses of exploring other potentially vast oil and gas reserves in Naval Petroleum Reserve No. 4 in Alaska. This legislation allegedly would permit the U.S. to maintain momentum in exploration and development, while at the same time remove the threat of oil spills as a result of the unique geological formations off the
Southern California coast.\textsuperscript{67}

\textit{United States To Allow Oil Drilling In The Gulf of Mexico}: On October 17, 1973, it was reported that the United States is preparing to open the eastern Gulf of Mexico to oil exploration to boost domestic production. The report noted that the Interior Department planned to permit offshore drilling despite environmentalists' warnings that oil spills could ruin beaches that attract tourists. The U.S. Geological Survey expressed the belief that the area has between two and three billion barrels of oil with production potential of up to 590,000 barrels daily. The Interior Department indicated that it would accept oil company bids in December of 1973, for drilling rights on more than 800,000 acres of the Gulf off the Florida, Mississippi and Alabama coasts. Several members of Florida's congressional delegation have appealed to President Nixon to halt the leasing, but he has not intervened.

\textit{Oil Sought Off Spain}: In January, 1973, seven international oil groups submitted bids for exploration in the Mediterranean off the northeast coast of Spain. While other offshore areas are being explored, the area covered by the bids was particularly promising because of a 1970 Shell discovery presently producing 30,000 barrels a day. Shell, Esso and Signal Oil are also searching along Spain's North Atlantic coast and Shell is exploring in the Bay of Cadiz off the southwest coast of Spain.

\textit{Legislation on State Coastal Mineral Rights Proposed}: A bill proposed in the House in February, 1973, would grant to each coastal state mineral rights in the subsoil and seabed of the Outer Continental Shelf extending to a line which is 12 miles from the coast of such state.\textsuperscript{68} The bill was referred to the Committee on the Judiciary.

\textit{Utilities to Search Ocean for Natural Gas Supplies}: Twenty-nine natural gas companies in 20 Eastern states announced plans in April, 1973, for a joint search for natural gas along the Atlantic coast. Known as the Atlantic Action Program, the group hopes to find natural gas in the continental shelf, particularly off the New England and Mid-Atlantic coasts.

\textit{Groups Discover Oil in North Sea}: On January 17, 1973, an oil discovery was made in the British sector of the North Sea by the Occidental Petroleum company, operating for a group of United States, British and Scottish oil concerns. The discovery, which was made 100 miles off the Scottish coast, has been named the Piper

\textsuperscript{67} 9 U.S. CODE CONG. & AD. NEWS 3283, 3284 (1973).
\textsuperscript{68} H.R. 3506, 93d Cong., 1st Sess. (1973).
Field. The new well encountered productive sand at depths below 7,600 feet. High quality crude oil of 37 degrees flowed at the rate of 3,629 and 5,217 barrels a day respectively in production tests.

In early December, an Oslo newspaper reported that oil firms had found “unexpected great oil reserves” in Norway’s sector of the Ekofisk field in the North Sea. The newspaper Aftenposten said that the “sensational” drilling result—for which there was no official confirmation—had been obtained in the Northwest-Tor field, which earlier had been regarded as not holding great promise. Drilling was continuing, it added, and it was already clear that daily production figures would greatly exceed earlier estimates.

SHIPPING

Bill Seeks Traffic Control For Ships: Legislation which would establish a marine traffic control program in Los Angeles, San Diego, and other major California harbors has been introduced in the California Assembly. Introduced by Assemblyman Willie L. Brown Jr., the bill would create a state agency charged with managing deep craft marine traffic in California ports. Ships would be required to maintain radio contact with shore-based controllers who would direct them in narrow waters by electronic means.

Effort To Lift Soviet Ship Ban Fading: On November 23, 1973, San Diego Port director Don L. Nay stated that attempts to lift a federal ban on Russian ships calling at the port of San Diego to receive or discharge cargo have been steadily fading. According to the U.S. Department of State, Soviet ships are prohibited in San Diego because of secret U.S. Navy work that goes on there. San Diego is the only port on the West Coast with such a ban and one of three ports in the nation that are not open to Russian shipping. The only other ports in the U.S. now that are closed to Russian shipping are Norfolk, Virginia, and Charleston, South Carolina.

Although Congressman Lionel Van Deerlin noted that the Port of San Diego could be processing about 8,000 tons of cargo a month if Soviet shipping could come here, he disclosed that the federal Office of Port Security in Washington, D.C., told him that there was little likelihood as to a change in the status of San Diego.
in the immediate future. Van Deerlin and Nay stated that the official objection to San Diego being opened was because of undersea electronic work, and not because of what might be visible. Van Deerlin concluded by stating that he did not plan any further action in the immediate future to try and get the State Department to change its mind about San Diego's port status.

**Nuclear Vessel Incentive Support Program Proposed:** Senator Magnuson of Washington proposed legislation in June, 1973, that would provide incentive support on a pay-back principle for the first several competitive nuclear-power merchant ships to be built in U.S. shipyards and owned by U.S. operators. The legislation would help U.S. shipbuilders and ship operators capitalize on nuclear power as a means of rebuilding the U.S. merchant fleet.

Specifically, the bill provides for incentive support payments by the Secretary of Commerce to cover such portion of the construction cost differences arising from the use of nuclear propulsion units. Repayment would be accomplished by a recapture of a percentage of each vessel's annual net operating income. The bill was referred to the Committee on Commerce.69

**Superports:** Perhaps the foremost issue regarding ocean shipping concerns the feasibility of large offshore oil terminals, commonly referred to as "superports." The ostensible advantage of having such large transshipment terminals is to expedite large quantities of oil at a minimum cost to both the environment and the pocketbook.70

Allegedly, deepwater ports reduce the risk of collision and grounding. Studies by the Council on Environmental Quality indicate that considerably less pollution will ensue by the use of fewer but larger tankers at deepwater ports because the use of greater numbers of smaller and medium size ships involves an increased collision potential.

President Nixon has supported the possibility of superports. In a message to Congress regarding "Energy Resources", the President called for legislation that would permit the Department of the Interior to issue licenses for deepwater ports beyond the 3-mile limit. (Although the development of ports has been the province of the state and local governments, they cannot issue licenses beyond the...

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3-mile limit). Such federal licensing, however, would be contingent upon a full and proper evaluation of the environmental impact and would provide for strict navigation and safety, as well as proper land use requirements. In addition to citing the reduced costs and reduced environmental damage potential, the President warned that if such ports are not developed, both U.S. and foreign oil companies will use transshipment terminals in the Bahamas and Canada. The U.S. will thus lose the jobs and capital that such superports could generate.

Predictably however, there has been much controversy over the possible environmental ramifications of such large transshipment terminals. For example, a proposal to built a superport and oil refining complex off the coast of Puerto Rico has met opposition from environmentalists and pro-independence groups. The port, as presently planned, would be capable of transshipping a million barrels of crude oil daily to U.S. ports and refining an additional 600,000 barrels. As conceived by the Puerto Rican Economic Development Administration, the superport would be constructed on Mona Island, a 14,500 acre uninhabited island midway between Puerto Rico and the Dominican Republic. This superport could thus receive supertankers from oil producing nations of the Persian Gulf and then transship the oil to smaller tankers capable of entering existing east and Gulf Coast ports. The advocates of the port further contend that the northwestern location of the planned port—where ocean currents and prevailing winds flow away from the island—would reduce risks to the environment.

However, the proposal has encountered stiff opposition from Puerto Rico's small, but highly vocal, pro-independence movement which has charged that the federal government is pushing Puerto Rico into building the superport because of a desire to avoid environmental hazards along the mainland coast. This opposition culminated in a political protest to the U.N. on June 6, 1973, in which leaders of the Puerto Rican independence movement asked the U.N. Committee on Decolonization to help block the undertaking. The Committee agreed to have a subgroup study the matter.

New Jersey rejected a proposal to build superports off its coast when it met similar opposition. In early January, 1973, Governor Tom Cahill rejected as “unacceptable” a proposal by the Army
Corps of Engineers to construct a deepwater oil superport in coastal waters off New Jersey. After public hearings the Corps had suggested a site 13 miles off the coast, but the Governor and other state officials labeled the proposal as potentially the “greatest disaster in New Jersey history.” This is because of potential oil spills which could prove disastrous to the state’s wetlands. Thus, Cahill concluded that “environmental and social implications outweigh the benefits.” While Congress and the President could override the Governor’s opposition, this appears highly unlikely.

On the other hand, in early June, 1973, the Delaware State Senate gave its approval to a bill providing for a $97,000 study for the construction of a large offshore terminal in Delaware Bay. The bill passed by a vote of 12 to 8 over strong objections by some environmentalists who contended that previous studies, laws, and legal opinions all indicate that such a facility should not be built off the state’s coast. The Delaware Bay has frequently been mentioned as a prime site for an offshore oil terminal that would serve oil tankers too large to enter existing ports in this country.

While Congress has shared the same enthusiasm over the possibility of superports that the Nixon Administration has, it has evinced a concern over potential environmental damage.

South Carolina’s Senator Hollings has proposed a bill that would amend the Ports and Waterways Safety Act so as to require an environmental certification from the National Oceanic and Atmospheric Administration prior to the construction or operation of large-scale offshore facilities. The criteria for certification would include need, effect on marine and wildlife resources, effect on oceanographic currents and shores, and effect on navigation. The bill would thus make environmental considerations co-equal with economic and technical factors in the planning, construction and operation of offshore structures. The bill was referred to the Committee on Commerce.

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72. See also, 4 U.S. Code Cong. & Ad. News 885, 884 (1973), concerning President Nixon’s proposal.

In describing deepwater terminal projects, Wm. Read, president of Loop Inc. stated that certain factors must be considered in the designing of a deepwater oil terminal if minimum environmental impact is to be achieved. Read noted that some of these factors include the location of facilities, the design of safety factors, the protection against abnormal conditions such as hurricanes or human error, the containment and treatment of normal effluents such as waste water and sewage, the design of monitoring systems and emergency reaction plans, and the design of methods to isolate and control spills.
Other bills proposed in Congress include two that would authorize the Secretary of the Interior to regulate the construction and operation of deepwater port facilities. The bills were referred to the Committee on Interior and Insular Affairs. In the interim period before these and other bills are voted upon, Congress has been hearing much testimony concerning superports.

Russel E. Train, Chairman of the Council on Environmental Quality, told a House Public Works subcommittee on June 2, 1973, that careful development of deepwater ports to serve supertankers will help alleviate the energy shortage and minimize environmental impacts. He further stated that legislation concerning deepwater ports is needed because increasing amounts of oil are being imported to the U.S. in supertankers and almost no U.S. harbor has the capacity to receive and unload such large supertankers. The only major port that can currently handle supertankers is Seattle, although deepwater inshore locations also exist on the Maine coast.

Train then testified that one of the most serious risks associated with offshore deepwater port facilities is the potential for a large-scale oil spill. However, it is his belief that deepwater ports would reduce the probability of grounding of a supertanker and decrease the risk of collision with other vessels that might occur in a narrow, shallow, natural channel. The use of pipelines to pump the oil from the offshore port to the shore would also minimize the possibility of a spill. Additionally, Train believes that offshore ports serving supertankers would encourage development of shore-based petro-chemical industries which would in turn require new housing, transportation, schools, electric power and recreational facilities. He also believes that the actual construction of the port would only minimally disturb marine life, particularly when viewed in comparison to the disruption which would be caused by the extensive dredging of existing port facilities in order to accommodate the supertankers. "Based on studies conducted for the Council by the U.S. Coast Guard, it appears that creating superports in the U.S. carries a lesser risk of oil spill damage than does transshipping oil from foreign ports," Train concluded.

74. 4 ENV. REP. 274 (June 22, 1973).
In agreement with Train was Brigadier General James L. Kelly, deputy director of civil works, Army Corps of Engineers. Kelly told a joint hearing of the Senate Committees on Commerce, Interior, and Public Works that offshore deepwater ports receiving oil from supertankers would generally reduce possibilities of oil being spilled directly into estuaries and marshes. Using supertankers would decrease the number of operating ships and reduce the chances of collisions, groundings and spills during transfer operations. His conclusions favoring the development of offshore deepwater ports were based on Corps studies that examined the construction of such ports along the Gulf, west, and north Atlantic coasts.

In response to questions from Committee members, Kelly said it would be the Corps' policy to disapprove license applications for deepwater ports and attendant pipelines if a state objected to construction. However, he declined to recommend that such veto power be included in the Administration bill on the grounds that "overriding national security interests" might dictate the construction of a facility where a state might not want it.

Additional support for superports came from EPA Deputy Administrator John Court who told the House Merchant Marine Committee that deepwater port facilities are the best means of meeting U.S. demands for oil imports. He called the offshore deepwater port facility a "compelling alternative" to increasing the number of vessels entering U.S. ports. Court also stated that the construction of such ports would decrease tanker traffic in already congested harbors and would reduce potential risks of collisions and oil pollution. Such offshore facilities would also be able to accommodate the new supertankers.

In one of the sharper attacks directed at the effort of the government to research the deepwater port issue, the Center for Law Policy commented that the Interior Department's environmental impact statement on deepwater ports is "inadequate" and designed primarily to justify their development. The comments criticized the Department's draft impact statement on the proposed Deepwater Port Facilities Act of 1973. According to the Center, the draft failed to adequately inspect critical policies regarding the environment, the economy, and the energy situation. It was further charged that oil import projections used by the Interior Department to justify the need for deepwater ports were not adequately

76. 4 Env. Rep. 355 (July 6, 1973).
substantiated and did not take into account alternative sources of supply. The Center said that the statement failed to provide for a detailed analysis of comparative environmental costs and benefits of these alternatives.

SOVEREIGNTY

**O.A.S. Inter-American Juridical Committee Resolution on the Law of the Sea:** On February 9, 1973, the Inter-American Juridical Committee of the Organization of American States passed a unanimous resolution recognizing an absolute jurisdictional territory of 12 nautical miles for coastal states. In addition, jurisdiction of 200 miles was also adopted, subject to limitations as to allowing maritime and air travel. Regulation of marine environment, exploration, exploitation and scientific research remained in the coastal state.\(^\text{78}\)

**Offshore Facilities Legislation Proposed To Foster Federal-State Cooperation:** In an effort to give states more control over certain offshore facilities, two bills were proposed in Congress early in 1973. The bills would require not only approval by Congress, but by the adjacent coastal state as well, for the construction and maintenance of such offshore facilities as ship docking and electric power generation. The federal agency involved would have to submit a report to the state and Congress delineating any possible environmental ramifications of such facilities.\(^\text{79}\) The bills were referred to the Committees on Public Works.

**Lobster Dispute Between Maine and New Hampshire Culminates In Lawsuit:** In May, 1973, two New Hampshire lobster trappers were arrested by Maine officials for allegedly engaging in illegal lobster trapping activities in the State of Maine. Maine claims that the boundary line between itself and New Hampshire is the one shown on the 1956 U.S. Geological Survey Chart. New Hampshire, however, bases its claim on a 1740 boundary line. That boundary would be a straight line running between the mouth of Portsmouth Harbor and the Isle of Shoals, rather than the more southerly crooked line claimed by Maine.

In early June, 1973, New Hampshire filed suit against Maine in the U.S. Supreme Court to settle the marine boundary dispute.

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\(^{78}\) 12 INT’L LEGAL MATERIALS 711 (1973).

The disputed area is deemed to be of significant importance to the lobster trapping industry.

**Soviet Ship Seized By United States Marshals:** On September 8, 1973, U.S. marshals seized the Russian ship Belogorsk as part of a $97,000 suit filed by a Boston lobster firm against the Soviet Union. The suit, by Deep Ocean Products Co. charged that the Belogorsk was part of a 30-boat Soviet fleet, which in 1971, off the Continental Shelf, cut 16 of the Boston company's lobster lines. At the time of the suit, the Belogorsk had been working with the National Marine Fisheries Service at Woods Hole in a study of the fish population of the northwest Atlantic.

The suit was filed in the U.S. District Court for Massachusetts against the Soviet Union and against Sovryflot, the Russian national fishing corporation. U.S. District Court Judge G. Joseph Tauro issued an order to seize the vessel and pursuant to this order, deputy U.S. Marshal Richard Bigelow served the seizure papers on Captain Vladimir Zuev. Bigelow said that marshals have orders not to let the vessel leave port without authorization by the court. However, he noted that the marshals had no authority over the boat's 63 crew members who could come and go as they pleased.

**Two Japanese Ships Boarded, Fishing Halted:** The U.S. Coast Guard stationed in Boston reported that in late May, 1973, it boarded one of two Japanese fishing vessels that were illegally fishing for lobsters off the New England coast. The incident occurred 110 miles southwest of Cape Cod after the two Japanese vessels were sighted with lobster and crab pots. The catch found on board included lobsters and deep sea bed crabs which are both specified by treaty as a U.S. resource and thus cannot be taken by foreigners. The catch was returned to the ocean and details of the incident were reported to the Japanese government.

**Sea-Law Tribunal Proposed By The U.S.:** On August 22, 1973, the U.S. proposed the creation of an international tribunal on law of the sea to insure prompt and peaceful settlement of disputes over use of the oceans. The proposal was included in a projected treaty by which the United Nations hopes to install a universally accepted rule of law for the nearly three-fourths of the world's surface that is covered by the sea. The treaty will be presented at the Conference on Law of the Sea presently scheduled for the summer of 1974.

The U.S. plan would not preclude the settlement of a dispute by the countries involved by direct negotiation, arbitration or other arrangements. But in the absence of an accord, any country in-
involved in a dispute over the projected law of the sea could refer the issue "at any time" to the proposed tribunal. The tribunal's decisions would be binding.

The U.S. did not attempt to say precisely how the proposed tribunal would be established or function. However, it did stipulate that the tribunal's members were to be "lawyers of recognized competence in law-of-the-sea matters" who would be nominated and elected in the same way as the justices of the International Court of Justice at the Hague. The U.S. draft would have the tribunal handle "expeditiously" all disputes of "urgent character." The tribunal would be empowered to issue "binding interim orders" to minimize damage to any party to a dispute pending a final decision.

South Koreans On Alert In Sea Dispute: On December 1, 1973 South Korea, by placing its forces on full alert, affirmatively responded to a North Korean claim to waters around five South Korean Island groups in the Yellow Sea and warning that it would attack South Korean ships sailing in the area without permission. According to U.S. military authorities, this dispute is the first territorial disagreement between South and North Korea since the Korean War ended in 1953. The United Nations Command (UNC), which has operational control over the islands, immediately rejected the North Korean claim and stated that the waters and the islands were under South Korean jurisdiction.

The islands are South Korean military outposts overlooking the sea adjacent to the western extension of the military demarcation line. Located about 75 to 130 miles west of Seoul, the islands are scattered in an area leading to Haeju, a major North Korean freeport for foreign ships, and it is believed that the North Koreans are seeking freer navigation for foreign vessels and its naval ships in the area. North Korean General Kim Pung Sop claimed that the islands were in North Korean territorial waters and demanded that all South Korean vessels sailing in the area seek advance approval from North Korean authorities. He warned that the North Koreans would retaliate if South Korean ships did not comply with their demand.

South American Fishing Boat Seizures: The past year again saw a great deal of activity in the troubled waters off various South
American countries. In February, 1973, Argentina adopted a 200-mile offshore territorial zone. This claim will not directly affect U.S. tuna boats since very few U.S. boats go there to fish. However, the American Tunaboat Association expressed concern over the development because it highlighted the growing practice of South American countries making territorial claims that far at sea.

In June, 1973, Brazil seized two U.S. and two Japanese shrimp boats. The captains were charged with fishing without proper documentation in violation of Brazil's proclaimed 200-mile fishing limit. The boats were released one week later after paying heavy fines.

On January 20, 1973, a U.S. tuna boat was seized by the Ecuadorian Navy, some 60 miles from the Ecuadorian mainland. The boat was released after satisfying fines levied by the Ecuadorian government. In early February, 1973, Ecuador seized three more U.S. tunaboats. The boats were seized some 500 miles from the mainland but were within 200 miles of the Galapagos Islands, owned by Ecuador. Ecuador claims a 200-mile fishing boundary off its possessions. The U.S. State Department sent a special agent to the islands to handle the case. After paying fines of nearly $220,000 the boats were released one week after their initial seizure. The fines were reimbursed by the U.S. government.

While other South American countries have been seizing foreign fishing boats for some time, Peru, until 1973, had never done so. In 1973, however, Peru seized some twenty-one foreign boats, all but one being U.S. All the seizures took place in January and were carried out by Peruvian naval units to enforce that country's disputed 200-mile fishing limit. According to the American Tunaboat Association, the Peruvian forces tried to seize the captains of the boats but finally accepted crewmen as substitutes when the captains re-

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80. The current tuna wars in Latin America began in 1952 when Ecuador, Peru and Chile subscribed to the "Declaration of Maritime Zone" in which they said that they would enforce a 200-mile sovereignty limit at sea. Hundreds of tunaboat seizures followed the 1952 declaration and the U.S., under the Fishermen's Protective Act of 1954, has paid millions of dollars in fines for the tuna fishermen. Most of the money has gone to Ecuador, which claims that it must enforce the 200-mile limit to protect its primitive fishing fleet. It has been speculated that the action might be part of a larger Latin American effort to whip up emotions against the U.S. before the upcoming Law of the Sea conference. The State Department's attitude is that this is a matter that must be resolved through negotiations. It supports the present policy of not purchasing Latin American fishing licenses, but instead, using government appropriations to pay the so-called fines. Recent suggestions that military escorts be used to protect U.S. boats have met with very little political support because of the propaganda value such action would have for Latin American ations.
fused to go. Peru denied this "hostage claim" but rather asserted that each captain was allowed to send one crewman aboard a faster Peruvian vessel so as to get to port ahead of their own boats. The Peruvian government will end this practice because of the possible misunderstanding that the men were being held as hostages. The twenty-one boats paid fines of over $600,000, based upon the weight of the vessels, not on the amount of tuna they can carry. The U.S. government, which discourages fishermen from recognizing the 200-mile limit, reimburse the tunaboat operators.

In addition to formal protests over the seizures, the U.S. placed military sales to Peru under review to meet a congressional statute requiring such sales be suspended in case of boat seizures by a nation more than twelve miles from its coast.

Iceland And Great Britain; A Year of Conflict Ends in Agreement: Throughout most of 1973, the Cod War between Iceland and Great Britain repeatedly flared into open conflict. Incidents involving the cutting of British trawling lines, the ramming of Icelandic gunboats and British trawlers, and the firing of live shells near British boats continued to be a common occurrence. To make matters worse, early attempts by both countries to settle the dispute were futile and the prospects for a future agreement seemed dim at best.

On September 11, 1973, in response to the worsening of the dispute, Iceland declared that she would break diplomats ties with Britain if British ships continued to ram Icelandic ships. While under pressure from the North Atlantic Treaty Organization, to which both countries belong, Britain, on September 20, agreed to withdraw its gunboats from the disputed water around Iceland. In addition, the premier of Iceland accepted the eleventh-hour offer by his British counterpart, Edward Heath, for talks in London to discuss the matter.

In the early part of October, the prime ministers of both countries began discussions with hopes of reaching an agreement concerning the 14-month-old fishing dispute between their two coun-

81. For background materials relating to the incident see, Recent Developments in the Law of the Sea IV: A Synopsis, 10 SAN DIEGO L. REV. 559, 596-7 (1973).
tries. Finally, on October 15, 1973, British officials reported that the prime ministers of both countries had agreed to a basis for settling the two countries' dispute over rights in the Iceland fishing zone. When endorsed by the two governments, the agreement would provide for limitation of Britain's fishing effort in the 50-mile fishing zone.

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