5-1-1973

A Harbinger: The Senkaku Islands

Thomas R. Ragland

Follow this and additional works at: https://digital.sandiego.edu/sdlr

Part of the Law of the Sea Commons

Recommended Citation
Available at: https://digital.sandiego.edu/sdlr/vol10/iss3/11

This Note is brought to you for free and open access by the Law School Journals at Digital USD. It has been accepted for inclusion in San Diego Law Review by an authorized editor of Digital USD. For more information, please contact digital@sandiego.edu.
A HARBINGER: THE SENKAKU ISLANDS

Those persons interested in how international law is created in an era distinguished by the division of the world into geopolitical sectors, those curious as to the influence exercised by immense industrial enterprises with regards to the formulation of international principles, and those who care about what international law ought to be, would do well to discover what has been happening to the body of law governing the exploitation of the seabed’s natural resources.

In part due to technological advances, compounded with the demand for natural resources, existing international legal precedents and the once ubiquitous attitude of “winner take all” have come to be seriously questioned, perhaps more so now than in any previous epoch. Many nations view this critical situation with great expectation. Several states have switched from passive onlookers to active participants in a struggle for sovereign rights to oceanic natural resources, particularly hydrocarbons. The Senkaku Islands dispute, as well as attendant problems, serves as an excellent example of maritime conflict, both accentuating the failure of international efforts to achieve a solution and also demonstrating the inadequacies of current international law. There is no indication that science and technology will halt its swift march forward. If international law is to be effective, it must proceed apace.

THE SENKAKUS ISLAND DISPUTE: A SYMPTOM OF AN INTERNATIONAL DILEMMA

An air of genuine distrust envelops the sovereign states that surround a previously little known or cared about group of islands called the Senkakus by the Japanese, or Tiao-Yu-Tais\(^1\) by the Chinese. The national powers laying claim to the Senkakus are Japan, the People’s Republic of China and The Republic of China. This flurry of claims was prompted by the discovery of approximately

---

1. For purposes of this article the islands will be referred to as the Senkaku Islands. This should in no way reflect upon the claims of the competing sovereigns.
fifteen million tons of petroleum deposits by the United Nations Economic Commission for Asia and the Far East. These previously obscure islands have been thrust before the eyes of the entire world. In September, 1970, one year after the confirmation of petroleum deposits on the Senkaku Islands, the first overt territorial dispute between Japan and the People's Republic of China was caused by Japan's asserting military control over the islands. This action was taken by means of the Ryukyu Security Forces, a prefecture of Japan, claiming the islands as part of the Ryukyu chain and driving off the Chinese fishermen who used them as fishing grounds.

Shortly thereafter, the Japanese government received a loan of $155,000 from the United States for the construction by the Ryukyu government of a weather station on one of the islands, Minamikojima. Until 1970, Japan and The Republic of China had been carrying on a private quarrel over the islands, while Peking had watched silently as a bystander. The silence was broken on Dec. 5, 1970 when Radio Peking announced the People's Republic claim to the islands.

Currently, the dispute over the uninhabited islands raises two questions: (1) which state holds sovereignty over these islands, and (2) which state holds the right to the natural resources of the seabed in the vicinity of these islands? Any determination as to the legitimacy of the various national claims necessarily involves an examination of complex and divergent legal principles. The discussion herein will suggest solutions and offer viable alternatives to present law that could be implemented, resolving the existent controversy and serving as an example for future conflicts. A comparison will be made between this East China Sea dispute and the North Sea Cases, decided by the International Court of Justice in 1969.

According to the 1958 Convention on the Continental Shelf, the drafters and signatories agreed in Article I that (1) the term "con-
tinental shelf” is used as referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent water admits of the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coast of islands, and in Article II that (2) the coastal state exercises control over the continental shelf and sovereign rights for the purpose of exploring and exploiting its natural resources.

The Senkaku Islands lie on the edge of the continental shelf extending from mainland China, who, not being a signatory of the Convention, is unable to assert a claim under the above quoted provisions. Japan is in a similar position in that she has not ratified the treaty and is therefore unable to invoke Article VI which supports her position:

Where the same continental shelf is adjacent to the territories of two adjacent states, the boundary of the continental shelf shall be determined by agreement among them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest point of the baselines from which the breadth of the territorial sea of each state is measured.6

One explanation for the intense interest in the East China Sea was voiced by Mr. Barry Weisberg of the Bay Area Institute in San Francisco:

Ecologically, Southeast Asian crude oil is important because of its extremely low sulphur content—less than two-thirds of one percent. The Administration is contemplating a tax on the sulphur content of fuel, and there is thus a reason for the industry to call the low-sulphur fuels “sweet”.

This event (oil rush in the West Pacific) will no doubt shape the destiny of the entire Pacific Basin. Petroleum today represents 70 per-cent of all U.S. investments in Third World Nations. This explains the statement by the Washington Post on October 4, 1969: ‘What happens in the board rooms of Standard Oil or Gulf may be of more interest and more permanent consequence to our country than what happens on the seventh floor of the State Department.’7

The present dispute will have repercussions not only in the economic sphere but also on the maintenance of world peace. Altogether, five governments are involved in this dispute: the Taiwan government, the Peking government, the Tokyo government, the Ryukyu government, and the United States government. Since, in effect, both the Taiwan and Peking governments are claiming the

6. Id. at Article IV, paragraph 2.
islands for the Chinese people, (Of course the animosity between these two governments is recognized, nevertheless, both governments adhere to the position that they represent the Chinese national interests, in toto. Historically, both governments assert their claims by reference to very much the same set of facts.) and the interests of the Tokyo and Ryukyu governments are identical, these four parties may be conveniently grouped under two separate fronts for an examination of the historical aspects of the claims to the Senkakus. The reasons offered by each front to support its claims are summarized below, and the attitude of the United States government is briefly outlined before an attempt at analysis is made.

The Chinese Claim

1) Historically, the Senkakus were mentioned in Chinese texts as early as 1403. Since their discovery, the islands were important to the Chinese as a refuge for their fishermen from frequent storms in the area. They built rudimentary cart-tracks, sheds, and a pier. They continued this operation without lengthy interruptions until 1970. 2) The islands are situated on the edge of China's continental shelf approximately one hundred and eighty-seven miles from the mainland and ninety-five miles from Taiwan. 3) The northeasterly current in the East China Sea has made the islands a natural ground for fishermen coming from the direction of Taiwan. 4) The domestic administration of the Japanese government (the cabinet) prior to 1945, placed the islands under the Taipei prefecture, rather than the Okinawa prefecture, as it was an infrequent

9. Id.
10. Sheng Fung Hsiang Sung, 1403, a record of voyages between China proper and the Ryukyus described a journey to the Senkakus.
12. See note 8 supra, at 1.
14. Chung-yang jih pao (Sept. 8, 1970): According to Mr. Tse She-ko, Director of the Chilung Fisheries Association, there was a dispute in 1940-41 between the Taipei Prefecture and the Okinawa Prefecture over the administrative rights to the fishing grounds around the Senkakus.
occurrence for fishermen to cross the Okinawa trough to work the waters around the Senkakus. In 1958, fishermen from the Ilan district, in northeastern Taiwan, brought home 12,000 tons of mackerel totalling seventy million dollars in value. In recent years, about 300 boats from Suao (in the Ilan district) have utilized the Senkaku fishing grounds, and the products they took home supported local canning factories.15

Considering the economic and geographic factors, the Nationalist Chinese have solidified a strong claim to the islands. Nevertheless, until the oil deposits were discovered both Chinas had allowed the islands to be included in the U.S. Civil Administration of the Ryukyu Islands, apparently to avoid what at face value would have been a meaningless conflict.

The Chinese people have been closely related to the islands, maintaining continuous contact with them; they have established an economic dependency thereon and have the earliest claim historically, thus solidifying a well established basis for their assertion of sovereignty.

The Japanese Claim

The first reference in historical texts or government documents authenticating a Japanese claim to the Senkakus was in 1884,16 several centuries after the Chinese discovery.

After the prefect of Okinawa learned of the 1884 “discovery”, he applied to the Tokyo government for permission to administer the islands. The Japanese government, not wishing to jeopardize the negotiations already underway with China concerning the Ryukyu islands, postponed the issue. The application was renewed in 1890 and again put off. It was not until 1895 on the eve of Japan’s victory in the Sino-Japanese War that the application was finally accepted at a cabinet meeting of the Japanese government.17 Japan should not have delayed her outright claiming of the Senkakus until victory was assured. By her delay, Japan implied that the Senkakus were in truth Chinese territory. In the negotiations following the war, the islands were not mentioned, not even in the parti-

The dispute was carried to the Tokyo Supreme Court. After an investigation lasting for a year, the court decided in favor of Taipei. Since then, fishing permits to the area must be obtained from the Water Products Association (which later developed into the present Chilung Fisheries Association) in Cheelung.

16. See note 6 supra.
tion plan suggested by former President Ulysses S. Grant, who served as an advisor in the settlement talks.

In the comprehensive and detailed Atlas and Dictionary of Place Names in Japanese Territory published by the Geographical Society of Japan in 1939, the Senkakus are not mentioned. Nor did these islands appear in other Japanese atlases or government reports. No Japanese notice of this archipelago is found beyond their 1895 claim, until after World War II, when the term "Senkaku Gunto" began to appear in Japanese publications.

The Senkaku Islands do not form part of the Ryukyu chain, but rather mark the outermost limit of the continental shelf extending from mainland China. They lie 100 miles away from the Yaeyamo-Mikado group, and about 240 miles from Okinawa Gunto. They are separated from these islands by the Okinawa Trench over 2000 meters deep. As fishermen from Okinawa have had to sail against the flow of the East China Sea current to reach the Senkaku fishing grounds, the number of those taking out permits for this area has been relatively low. Judging from an historical and economic standpoint, the Japanese claim lacks the quality and quantity of recorded information assimilated by the Chinese. Yet, Japan's settlement offer for the conflict raises important considerations.

The Japanese have proposed the equidistance principle for settling this argument, and this necessitates an analysis of the North Sea Cases decision to avoid the misapplication and misinterpretation of that principle as effected by the Federal Republic of Germany in support of her position.

THE NORTH SEA CASES

The decision rendered in the North Sea Cases is surely one of the most interesting and controversial judgments in the history of the International Court of Justice. The court was forced to formulate

19. Ming-pao yueh-k'an, supra note 15 at 81.
20. See, e.g., The Annual Report of the Production of the Okinawa Prefecture; The 1965 Survey Report of the Temporary Sitation of the State, the geological map of the Yaeyamo Gunto, and Statistics of the Ryukyus, Dist. DEP'T OF THE YAEYAMO GUNTO.
21. 24 ENCYCLOPEDIA BRITANNICA 69 (1940).
22. See Ming-pao yueh-k'an, note 14, supra.
certain principles of general equity as applicable to the delimitation of the continental shelves between three coastal states. Involved directly as claimants were the Federal Republic of Germany, the Netherlands, and Denmark with Belgium, France, and Great Britain involved to a lesser extent due to their locations.

The Netherlands and Denmark proposed that the *equidistance principle* control any settlement to which the Federal Republic of Germany objected. The equidistance line as drawn by Denmark and the Netherlands would have allotted to these two countries areas outside a larger triangle than that drawn up for the Federal Republic of Germany. The areas lying between the inner and outer triangles formed the point of contention among the parties.

Germany did not contest the accuracy of the proposed line, provided that the *equidistance principle* was the correct formula to be applied. However, it contended that:

(a) the equidistance principle as laid down in Article VI of the Continental Shelf Convention, was not applicable against the Federal Republic, which had not ratified the convention, and that
(b) in the absence of any treaty provision applicable to the situation, it would be inequitable to apply the equidistance rule, since its effects would be to pull the line of the Continental Shelf boundary inward, in the direction of the strongly concave coastline of the Federal Republic. By contrast, outwardly curving coasts, such as the Netherlands and Denmark have to a moderate extent boundary lines if drawn on an equidistance basis to leave the coast on divergent courses, thus having a widening tendency on the area of Continental Shelf off that coast.\(^{23}\)

The Federal Republic also argued that the agreement made between Denmark and the Netherlands on the basis of the *equidistance principle* was *res inter alios acta*, and not binding upon third parties. The parties with these differences in mind submitted the dispute to the court.

Three particularized issues were dealt with by the court. Initially, the Continental Shelf Doctrine was examined to determine its influence on international law, its acceptance by all states (either in whole or in part) to determine its proper application to the present situation, and to decide if the parties were bound by agreement or treaty as to this subject. Whether or not Article VI or the *equidistance principle* should be dispositive was the major procedural question before the court.

Secondly, as was propounded by the Federal Republic, should the *fair and equitable share* approach have been implemented? This would have resulted in the countries receiving equal shares accord-

---

23. Convention of the Continental Shelf, note 5 *supra*, at Article VI.
ing to the length of one’s coastline. According to the German interpretation of equity, she would receive the largest share as she had the longest coastline.

Thirdly, in the absence of an agreeable legal formula, should the court have announced its own principle of delimitation, supplanting the equidistance and fair share theories? As in that instance, and also in the Senkaku situation, the parties involved were neighbors sharing similar interests in the exploitation of the shelf area.\textsuperscript{24}

The court dwelt briefly on the degree of acceptance in international law of the Continental Shelf Doctrine, finding it sufficient merely to state:

\begin{quote}
the rights of the coastal state in respect of the area of continental shelf that constitutes a natural prolongation of its land territory into and under the sea exist ipso fact\(\text{a} \text{o}\) and \textit{ab initio}, by virtue of its sovereignty over the land, and as an extension of it in an exercise of sovereign rights for the purpose of exploring the sea-bed and exploiting its natural resources.\textsuperscript{25}
\end{quote}

Since the enunciation of the Truman Doctrine on the Continental Shelf,\textsuperscript{26} very few persons have seriously challenged the continental shelf as an extension of the coastal states boundaries. Ratifiers and nonratifiers of the convention, such as the Federal Republic, have accepted it with a very limited \textit{fiat}, attempting only to interpret it to their own advantage.

From its inception in 1945, the Truman Proclamation became the basis for numerous international and national treaties and pacts.\textsuperscript{27} Thirteen years after its enunciation it served as the basis of a multilateral treaty, and twenty-eight years later it is established international law.

The shrinking of the globe by technology has brought almost all world powers to a common interest in the resources of the oceanic expanses, but conflicts such as the North Sea and Senkaku disputes force the consideration of new concepts that may become the

\textsuperscript{24} The following presentation is not strictly in accordance with the sequence or manner of the Court’s reasoning, but does not seem to be at variance with it.


\textsuperscript{26} Proc. No. 2667, Policy of the United States with Respect to the Natural resources of the Subsoil and Seabed of the Continental Shelf, 3 C.F.R. § 67 (1945).

standards of international law. Underlying these conflicts concerning oceanic resources is the basic question of whether international freedoms will be replaced by extensions of national sovereignty, or whether there will be an international attempt to define certain limits for boundaries and to pool an area’s resources for common development.

The International Court’s Decision: Equity, Custom, and Injustice

The International Court of Justice adopted the position that the Doctrine of the Continental Shelf is a universal proposition to be treated as a “natural” extension of territorial sovereignty. A novel balancing of equality with equity lies within the court’s delimitation of the North Sea. In light of Article XXXVIII, paragraph 2, of the statute, the court fashioned its own concepts of equity. In his dissenting opinion Judge Tanaka identified the process followed by the majority:

... the Court's answer amounts to the suggestion to the parties that they settle their dispute by negotiations according to ex aequo et bono (according to equity and conscience) without any indication as to what are the applicable principles and rules of international law... about which the parties did not request an answer...

The court, instead of rendering a declaratory decision based upon the existing corpus of international law, opted for a de facto legislative determination. Although this was not entirely unwelcome, it was not in fulfillment of the court’s juridical duty.

The court wisely sidestepped the Federal Republic’s approach that proportionality be given according to the size of the continental shelf and length of the respective coastlines. However, it accepted the Federal Republic’s criterion of “just and equitable,” thereby rejecting the equidistance arguments of the Dutch and Danes. What the court effectuated was an apportionment of the as yet undelimited area of the North Sea. The Truman Proclamation was stripped of its modern efficacy by the court’s decision, as were the positions expressed in the Continental Shelf Convention. The court’s interpretation of equity stood as a model for settling international disputes of this nature. The equitable criteria applied is the conclusion that the court rendered a decision outside the existing body of international law, and only one benefit can be de-

28. I.C.J. Rep. 3; see J. Tanaka’s dissent for full discussion of this point.
29. See note 27 supra, at 234.
30. Id.
31. Id., at 235, 238.
rived from its holding. To wit, individual disputes cannot be settled according to standards from the past, but rather a need exists for the creation of international law to be administered by a common court for all nations.

The court appeared to succumb to the same fallacies that vitiate so many theories of natural law; elevating a particular system of values into an absolute. As stated earlier, the Doctrine of the Continental Shelf as an extension of territorial sovereignty was accepted as a universal standard. To say that a nation's sovereignty ends with the two-hundred meter shelf depth is "natural law," and is extremely illogical. It is not uncommon for a country to have a two thousand meter trench within three miles from its shore-line. Neither the importance nor the principles of the Doctrine of the Continental Shelf can be judged by any criteria of "natural law." It is a standard that was temporarily useful for lack of a more viable alternative, but it needs reinterpretation in light of the increasing importance of the seas' natural resources. It seems highly unlikely that the pooling of resources of the continental shelves under an equal-share policy for all nations would do anything but promote peace and cooperation among nations.

The importance of "neighborliness" was stressed throughout the court's analysis. Common interests in the possible exploration and exploitation of the continental shelf of the North Sea by the parties involved in this dispute and other countries not represented was of major importance to the court.32 As is the problem in the Senkaku situation, the question was who would share in the exploitation of the North Seas continental shelf, particularly in view of its undelimited and potentially overlapping areas. This troubled the entire court, with Judge Jessup commenting upon that point several times, but the court refrained from setting forth any recommendations in this regard. Although not specifically called upon to do so, the court had the opportunity to enunciate a test for exploitation of continental shelves. However, this opportunity was ignored. In view of the similar questions now raised in the East China Sea dispute, such a test would have been a sound starting point for development of needed international standards.

To have taken the North Sea as a unit, or to take the East China
Sea as a unit, and vest the interests of the coastal states in a joint intergovernmental entity which would administer and distribute the resources of the continental shelf according to valid international criteria, would be marked progress towards an eventual solution of this type of dispute.

The court allowed dated doctrines to control the scope of its considerations but adopted a novel and questionable standard to reach a decision, without resolving the crucial issue of how the areas of the continental shelf are to be controlled for exploitation. The landlocked countries, whether admitted to a community of nations or not, should be able to share in the wealth lying beneath the ocean floor. Countries such as Norway, scarred by a deep undersea trough, should not be denied a share of the sea’s resources. Countries should be able to base restricted claims on island extensions of their continental shelf boundaries. The inequities of nature have for centuries made some countries rich and others poor, and the possibility of a community of nations sharing equally in the natural wealth warrants earnest considerations as this earth draws closer together in the age of technology and “future shock.”

The Lesson of the North Sea Cases

The decision reached by the International Court of Justice demonstrates the impossibility of an equitable allocation of the sea's resources—at least on the basis of competing sovereignties. In short, the court affirmed the existence of an ipso jure right of the coastal state to the continental shelf as such, without the specific attributes and limitations spelled out in the Geneva Convention. The court proceeded to reject the contention that the equidistance principle as involving a rule that is part of the corpus of international law; and, like other rules of general international law is binding on all countries automatically and independently of any specific assent, direct or indirect, given by the countries involved. The parties before the court were left with a novel delimitation which was neither based on existing principles of international law nor defined according to criteria that could serve to settle future disputes. Certainly this must not be repeated in the Senkaku dispute. This conflict must be seized upon to provide a model for settlement of similar future conflicts.

Now in the Senkaku dispute there exists an opportunity to establish definite horizontal or vertical delimitations of the continental shelf, supplanting the “grab-bag” situation perpetuated by Article I of the Convention on the Continental Shelf. Novel environmental and international promises loom on the horizon and they
are not governed by any clear existing standards. Unlike an earlier day, due in part to the existence of the United Nations and instantaneous communication, all of today's nations discern an opportunity to influence the drafting of future international principles. But they have not yet localized with any exactitude where their interests lie. The Senkaku dispute is an excellent opportunity to establish a legal regime that will determine and finalize the respective rights of all nations as to those matters of concern here. There is now a permanent Committee on the Peaceful Uses of the Seabed and the Ocean Floor.\(^3\) Conceptualizations of problem-solving and therapeutic regulations, designed to encompass present and foreseeable technology, are now possible in that at least some remedial machinery has been established. Whether the international community will act remains an unresolved dilemma.

Questions as to how far the exclusive rights of the coastal states should extend, or whether exclusive rights should even exist beyond national waters, remain unanswered. Previously it seemed enough to give the coastal states sovereign rights as to maritime resources within approximately the area contemplated by President Truman when he launched a modern reinterpretation of the continental shelf. Nations whose coasts drop abruptly have been given minimal seabed areas, yet there is no purpose in alienating them from other nations in this era of increased world interdependency. Few, if any, of the coastal states realize at this point in time, the consequences of equal-sharing in all natural oceanic resources beyond set continental limits.

Nations such as Japan are rapidly becoming aware of the acute importance of rights to this undefined seabed region. Their need for additional petroleum resources and other pelagic products is reflected by their tremendous import totals. For example, Japan because of economic expansion in the last decade, should have a strong interest in the adoption of a seabed regime that would guarantee her a share in the East China Sea deposits; this position may not be reflected by her adoption of an "all or nothing" position relating to the Senkakus.

The coastal states have as yet failed to discern how an interna-

---

tional authority could improve their seabed interests in fishing, navigation, recreation, scientific research, commercial transportation, and military defenses. Only the attractive offers of the petroleum companies for immediate wealth has captured their undivided attention.

The Interests of the Petroleum Industry

The United States has been in the forefront of those seeking a solution to these global problems, but the internal dissension among the National Petroleum Council, as well as opposition from scientists and ecologists, has previously hindered the implementation of anything more powerful than a "settle it among yourselves" standard. It is difficult to call this a negotiating position. The National Petroleum Council supports a laissez-faire view that there is no urgency to develop a new maritime legal regime, since for the foreseeable future any exploration can be carried out by means of mutual agreements among the parties. Future discussion should aim at exploration and exploitation standards determined by agreement among nations and procedures for the international recordation and publication of claims, under an empowered supervisory regime. As will be discussed later, the United States government has indicated an interest in seeing some sort of international controls on seabed exploitation and exploration.

The Convention of the Continental Shelf has been subject to interpretation and criticism from many sides. Opposing parties usually differ as to the point of whether the definition of the shelf is subject to their own or international interpretation. The supporters of a wide shelf propose that the sovereignty of submarine areas adjacent to the coast be dependent upon the technological capabilities of the nations to utilize and explore the depths "adjacent", thus eliminating the two-hundred meter isobath limitation. Proponents of a narrow interpretation as well as the framers of the Con-

34. An excellent example of this can be found in the vigorous debates that led to the 1968 Joint Report of the Sections of Natural Resources Law, International and Comparative Law, and the Standing Committee on the Continental Shelf Issue, and to the subsequent 1969 modifications in this report which introduced refinements of shading but did not change the ultimate conclusion of the joint Report, which broadly supports that of the National Petroleum Council.

35. See, e.g., Henkin, Editorial Comment, 63 AM. J. INT'L L. 504 (1969); Finlay, The Outer Limits of the Continental Shelf: A Rejoinder to Professor Louis Henkin, 64 AM. J. INT'L L. 42 (1970); Henkin, The Outer Limit to the Continental Shelf; A Reply to Mr. Finlay, 64 AM. J. INT'L L. 62 (1970).

vention were not of this view. However, as seen in the words of Dr. Garcia-Amador, Chairman of the International Law Commission:

the words "adjacent to the coastal state" in this proposal placed a very clear limitation on the submarine areas covered by this article. The adjacent areas ended at the point where they slope down to where the ocean bed began, which was not more than 25 miles from the coast.37

Furthermore, the International Court of Justice stated "that by no stretch of the imagination can a point on the continental shelf situated a hundred miles, or even less, from a given point, be regarded as 'adjacent' to it."38 This test of adjacency was purportedly designed to place reasonable limitations on the extent of coastal state jurisdiction. Yet, as the prospective capabilities to exploit any depth of water come closer to being a reality, the arguments on both sides increase in intensity39 as well as alacrity.

The oil companies interpret the "adjacency clause" in the light of the Inter-American Specialized Conference on Conservation of Natural Resources held at Ciudad, Trujillo in March of 1958, at which the representatives of twenty nations, including the United States, met to analyze the continental shelf dilemma. Therein, it was resolved that the continental shelf is the:

... continental and insular terrace, or other submarine areas, adjacent to the coastal state, outside the area of the territorial sea, and to the depth of 200 meters or, beyond that limit to where the depth of the super-adjacent waters admits of the exploitation of the natural resources of the sea-bed and the sub-soil, appertain exclusively to that state and are subject to its jurisdiction, and control.40

This position was incorporated almost in its entirety in the Geneva Convention on the Continental Shelf in 1958, setting forth the conditions that must be met for the submarine areas to constitute a part of the Continental Shelf. The former convention reiterated the "adjacency areas", the "exclusivity standards", the "submarine areas", and "exploitability concepts" as propounded by the oil concerns, so as to confirm coastal state jurisdiction "from the coastline

39. See note 35 supra.
40. Final, Act, Inter-American Specialized Conference on Conservation of Natural Resources; The Continental Shelf and Marine Waters, at 13 (1956).
to the abyssal ocean floor." Obviously, this point was of particular importance to several of the Latin American countries because of the incisive manner in which a considerable portion of their continental margins drop off to the ocean floor at a distance relatively near the coastline.

Petroleum industrial interests aver that coastal states may claim as continental shelf the seabed without regard to depth (as long as it is in the continental borderland), the continental slope, and at least the whole submerged portion of the continental rise; in other words, the whole submerged land mass down to the deep ocean basin. Definitionally that includes, or impliedly includes, the entire submerged land mass no matter how far from the coast it may extend. Apparently this position is rationalized by the belief that these areas will be the scene of exploitation in the near future. Yet no allowances are made for shelf-locked states, landlocked states, and states not participating in the exploitation of a specific seabed area. No rationalization whatsoever can sustain the supposition that such an obviously self-serving proposition will engender goodwill and unity among nations.

Non-participating foreign states are virtually precluded from the continental shelf areas, unless in the words of Article II, paragraph 2, of the Geneva Convention, the "express consent" of the coastal state is obtained. Such a conclusion perpetuates the "grab-bag" competition that would allow the coastal states to have exclusive rights to about 24% of the ocean floor. This situation becomes even more critical when it is recalled that if a foreign state claimed that some area was beyond the exploitable limit, it could not then exploit anything it discovered for that would destroy its claim that exploitation was not possible and prove the right of the coastal state to exclude it. To put it in a different way, another state may not explore such questioned waters because it has no sovereign rights therein, and for that matter neither does the coastal state have a right of exploitation there.

Even if the argument is made for excluding others from mineral or other natural resource exploration, the coastal state still cannot
claim an area as continental shelf until it is exploitable, an important distinction in view of other rights that coastal states have, and have begun to claim. Coastal states can now assert the authority to regulate navigation or scientific research; seemingly they also may extend their legal jurisdiction to encompass other transpirations that may have some relevance to the adjacent continental shelf area or a national interest. Furthermore, military or other facilities for national defense may be situated on the continental shelf by the adjacent coastal state.

**Parties With Significant Interests**

The National Petroleum Council and Latin American countries agree that the legal shelf extends only to "submarine areas adjacent to the coast." But to them this includes the entire submerged continental mass, no matter how far it extends (even though Peru and others recognize the 200-meters isobath). Let it be emphasized that this is the crux of the issue. One position is that the submerged land mass is *ipso facto* continental shelf, while the better view seems to be that only so much of it as is "adjacent", within *some maximum distance* from the coast, can be claimed as continental shelf. Perhaps, too, a coastal state cannot claim "too far" beyond its geological shelf, where there is a substantial geological shelf.

An additional reason for not adhering to the geological concept of the continental shelf is the Persian Gulf where the depth never reaches 200 meters. This situation should not be disregarded as irrelevant as was done by the National Petroleum Commission. The potentiality of an international dispute over natural resource exploitation cannot be so readily dismissed. While only an isolated instance, it further points up the need for a legitimate marine authority.

**The Petroleum Industry's Argument**

The petroleum industry builds its case on the Ciudad Trujillo resolution; using this statement as a basis for interpreting the 1958

45. There are some countries, such as those contiguous to the Persian Gulf and North Sea, which do not have, per se, a continental shelf as the depth never drops below 200 meters. See *The Legal Status of the Continental Shelf of the East China Sea*, note 13, *supra*, at 809.
Convention to their own ends. In reality, it does not support such interpretation. It makes much of the fact that the resolution reflects the principle of “equitable treatment” for countries with little geographical shelf. But surely, that does not support the industry's position, and indeed would rather support the contrary. There is “equitable treatment” if all states can exploit only in areas “adjacent to a limited mileage” from their coast. And giving all states the complete submerged land mass will give some states very little if they have little submerged land mass.

One point worth mentioning is the omission of the description “continental terrace” from the Geneva Convention’s doctrine, as had been announced in Ciudad Trujillo. The reason for such an action is clear, in that those who supported its inclusion in Geneva intended the entire submerged land mass to be considered as part of the “terrace”. This is in contrast to Ciudad Trujillo, where “terrace” was used to mean only that part of the submerged land mass that forms the shelf and slope.46

It is generally known that some of the Latin American countries have for many years asserted claims to 200 nautical miles of territorial sea. They may well continue to do so, despite widespread condemnation by other nations, as long as the community of nations fails to provide them with alternative means of asserting exclusive fishing rights beyond the 12 mile limit. To have injected this issue into the discussions of the Continental Shelf Convention would have doomed those discussions to a similar fate shared by efforts to reach international agreement on the width of the territorial sea. Yet, in light of the frequent 1971-73 “seizures” of U.S. fishing boats by Peru for violating her 200 mile territorial limit, there exists additional support for a maritime regime empowered to settle such conflicts.

In contrast to the petroleum situation, the U.S. fishing industry does not have the technological edge on Latin America so as to be able to negotiate for controlled exploitation on their own terms. Also, the U.S. fishermen do not have as strong a lobby in Washington, D.C. as the petroleum industry, which reduces their chances of having the federal government hasten to negotiate a settlement of the problem.

In summary, the legislative history of the National Petroleum Council, in its series of reports dating from 1950 to the present, reflects an interpretation which would give the legal shelf an exten-

46. 1956 I.L.C. Yearbook (I) 131.
sion out to the 500 meter isobath when that area became “exploitable”, or perhaps to any seabed “adjacent” to a coastal state.

Arthur Dean, the Chief of the United States Delegation to the Geneva Conference that adopted the Convention, spoke out against the uncontrolled extension of exploitation by coastal states, recognizing that by its terms, the Convention “applies only to geological continental shelves.” Mr. Dean also went on to approve the “exploitation” made possible by technological advances, but only insofar as it agreed with the tenor of the Ciudad Trujillo Conference.

It is of extreme importance to note the distinction between the National Petroleum Council’s report and the conclusion of the International Law Council’s report. In the former, a “departure” from the strict geological concept of the continental shelf was advocated to exploit the natural resources of the sea-bed in adjacent waters to whatever depth was practicable. Certain authorities are cited justifying such a position, but close analysis of these sources reveals that such a course of action is possible by the terms of the Geneva Convention on the Continental Shelf, but strongly discouraged. For it was not the intent of the Convention to set a “forever” standard, but only what was needed in 1958.

The latter asserted that the Convention was intended to apply also to areas that geologically were not continental shelf at all, like the Persian Gulf; there being no continent and no geological shelf, the geological shelf was obviously not relevant. But as to the seabed off the continental coasts, where there exists a continental shelf, the framers adopted the “geographical test for the continental shelf” as the basis for the juridical definition of the term. The “nearness” of the area of exploitation was sufficiently reinforced to the extent that there can be little room for doubt as to the Convention’s intent.

The Consequences

If the United States is willing to seek a revision of the existing

51. See note 47 supra at 248.
Convention interpretation and to expand its shelf restrictions, the National Petroleum Council has emerged triumphant. However, the consequences are in doubt. We should have something more lasting than “equitable decisions” based on the North Sea Case decision. One view is that the overall interests of the United States would be best served by a subordination of its mineral interests to other considerations and a preparation:

- to seek a modification of the Convention on the Continental Shelf
- that would redefine the shelf narrowly, say the 200 meter depth with a minimum shelf for all nations X miles wide, and possibly a buffer zone beyond the shelf. Formal redefinition could be abandoned if “self-restraint” is working, or if studies for a complete revision of the law of the sea are progressing.

Yet, this too seems to a certain extent to be unrealizable in today's world atmosphere. One has only to look at the situations in the Middle and Far East, or even in Latin America, to appreciate the complexity and seriousness of the political picture. Perhaps the nations involved could follow the lead of China, Russia, and the United States if they are to lay the groundwork for an international seabed regime. The Senkaku dispute offers an immediate opportunity to discern an answer. The consequences of such a possible redefinition of the continental shelf would be to promise to benefit our friends and our enemies, rich nations and poor ones, the petroleum and other mineral industries, and the world economy generally.

As perceptive observers have noted, the accepted extension of national jurisdiction at sea for one purpose tends to become jurisdiction for other and all purposes. If that is, or is likely to be the case, the proposed broad shelf is a move towards control and eventual sovereignty by coastal states over one quarter of the seas. Inevitably, this would hinder the freedom of the seas for scientific research, fishing and navigation. It would raise serious problems, in particular for the United States and Russia, whose security is deemed dependent upon free-moving submarines supported by various military equipment deployed throughout the seas including the “coastal areas” of other “friendly” states.

The President's Commission on Marine Science and Engineering

---

52. It is impossible to estimate at this time what proportions of the resources beyond the 200-meter isobath will be ultimately recoverable, but their prospective future importance in the United States is so important that the Department of the Interior has gone on record as favoring, from the natural resources point of view, the assertion of U.S. jurisdiction over the entire continental shelf margin. Henkin, Law for the Sea's Mineral Resources, CLEARINGHOUSE FOR FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION, PB-177-725 (1967).
recently issued its report53 which rejects the position of the National Petroleum Council and proposes a narrow shelf, ending at the 200 meter isobath. It proposes an "intermediate zone" in which the coastal states would have the exclusive right to exploit resources, subject to a regime that is to govern all the seabed beyond national jurisdiction. The "intermediate zone" is an interesting compromise. It reduces the threat to the freedom of the seas and the competing uses that inhere in giving the coastal state full sovereignty over the resources of the area like that which The People's Republic of China, the Republic of China, and/or Japan will enjoy upon resolution of the Senkaku question. This "intermediate zone" responds to the fears of states that might be uncomfortable about major foreign installations too close to their coasts. But the intermediate zone proposed by the Commission would extend out to the 2,500 meter isobath or 100 miles from the coast, whichever is farther. However, that may have domestic political advantages in that it looks enough like the Petroleum Council's proposal as to effectuate the same end, and would in fact mean that the oil companies would deal with coastal state governments as under their proposals. But even the "intermediate zone" concept has some dangers for the freedom of the seas, and there seems little reason for a buffer zone of that size. Yet, there are several companies that have already invested millions of dollars in developing the recovery technology that could be utilized in an "intermediate zone." The politico-legal risks are regarded as similar to those of offshore petroleum operations.54

Sensing the urgency of the seabed situation, the United Nations General Assembly established the Ad-Hoc Committee to study the elaboration of legal principles.55 The Committee has become permanent, and the developing nations have come to regard the seabed as a source of extremely large future revenues which could be utilized through an international regime, provided that the area was not appropriated for the sole use of "coastal" or technologically advanced nations.56 Another resolution widely discussed by the

member nations declared that, as is advocated herein, no activity should be undertaken to exploit resources of the seabed beyond present national lines of jurisdiction, and no claim to any part of that area, or its resources, should be recognized.\textsuperscript{57} In a later resolution a timetable was set requesting the Secretary-General to submit a further report on machinery for a seabed regime to the Seabeds Committee. This request was complied with, and the answering resolution emphasized a powerful international regime given extremely wide powers in conformity with the tenor of Resolution 2574C.\textsuperscript{58} Surprisingly enough, there was no opposition to this resolution, although at that time (1970), The People's Republic of China had not yet been recognized and admitted to the U.N.

**THE NIXON TREATY DRAFT**

On May 23, 1970, President Nixon made an announcement of United States ocean policy, putting forth the principles embodied in the U.N. resolution on an international regime and suggesting a separate territorial sea convention.\textsuperscript{59} The State Department, at the request of the chief executive, prepared a draft on the subject, submitted it to a number of interested parties, and presented it to the Seabed Committee. Whatever else may be said about President Nixon's involvement in this seabed situation, his proposals are a most ingenious attempt to compromise between the clashing interests\textsuperscript{60} within the United States. Nixon's order for the preparation of a Treaty, comprised of 77 articles and voluminous appendices, provides a full mineral regime for the seabed and must be regarded as a major contribution to international law.

**The Treaty: A Description**

The draft, as presented, laid out an International Seabed Area (ISA)\textsuperscript{61} bounded on the landward side by the 200-meter mark,

\begin{itemize}
  \item \textsuperscript{57} G.A. Res. 2574D (XXIV) (1970). Commented on in Auburn, *Deep Sea Mining*, A.B.A.J..<br>
  \item \textsuperscript{58} G.A. Res. 2574C (XXIV) (1970). Reading in part "... it requests the Sec'y-General to prepare a further study on various types of international machinery particularly, a study covering in depth the status, structure, functions, and powers of an international machinery, having jurisdiction over the peaceful uses of the seabed ... including the power to regulate, coordinate, supervise, and control all activities relating to the exploration and exploitation of their resources ... ."
  \item \textsuperscript{60} An excellent example of this can be found in the vigorous debates that led to the 1968 Joint Report of the Sections of Natural Resources Law, International and Comparative Law, supra at note 34.
  \item \textsuperscript{61} See note 59 supra at 1048.
\end{itemize}
which also will be the seaward boundary on the continental shelf. This area, stretching over the entire seabed and its subsoil, will be overseen by the international community, and not be subject to national appropriation. Imposed between the 200-meter mark and an undetermined line beyond the base of the continental slope, there will be an International Trusteeship Area (ITA).62 In this area, the coastal state will be allowed to license mineral exploitation and exploration, submitting between fifty and sixty percent of the revenue to the International Seabed Resource Authority (ISRA).63 Licensing for all other areas of the high seas outside the ITA would be controlled by the ISRA, who would not, apparently, take a direct part in the exploration or exploitation. The revenue generated would be used for the benefit of the international community-at-large, with particular considerations for distribution based on the economic needs of developing countries ratifying the pact. Guidelines for percentage allocation are not made, which will be a major problem to be faced. The ISRA would consist of an Assembly, Council, three commissions, and a Tribunal.

Several other problems are inherent in the Draft, principally the lack of delineation between the seabed and the high seas. According to the wording of the article, the ISA consists of “all areas of the seabed and subsoil of the high seas.”64 It will be necessary to define whether the seabed includes the subsoil within the ISA, and at what point the high seas begin. But these are minor considerations relatively unimportant when compared to the question of who will emerge with the resources beneath the Senkakus and any other similarly situated islands.

Under Article 2(1) no state may claim sovereignty over the resources of the ISA. Revenues must be used “to promote exploitation of mineral resources of the seabed.” To alleviate additional problems, “and the subsoil” should be tacked on for clarity. The Draft made no provisions for the problem highlighted in the Republic of Germany’s brief on the North Seas Cases, concerning the coastal countries blessed with convex coastlines. The International Court’s decision lends some aid in solving such a problem, but the draft convention was silent on that point.65

62. Id., at 1053.
63. Id., at 1055.
64. Id., at 1048.
65. Id., at 1055.
The 1958 Convention declared that the coastal state exercised sovereign rights for the purpose of exploration and exploitation of natural resources, and no state could assert sovereignty over the ISA or the resources found therein, nor any right, title, or interest except under the Convention. However, the Draft, even though it contained extensive licensing provisions, did not vest titles to the extracted minerals in the extractor. According to Article 2(2) the materials extracted would remain res communis after extraction. The contracting parties have jurisdiction and responsibility over activities conducted in the ISA under their authority or direction. In particular, they may exercise civil and criminal jurisdiction over the licensees in the ITA. Hopefully, this would provide control of waste, dumpage, spillage, or other pollution of the seas. Although the coastal state would have no greater rights in the ITA off its coast than any other contracting party (except as provided by Chapter III), the effect of that chapter together with Appendix C is to give the coastal state extensive, if not complete control, over the licensing of the exploration and exploitation of minerals and other natural resources. In order to effectively apply these broad powers, the terms “sovereign” and “sovereign rights” in the Draft must be construed.

The Evident Weaknesses in the U.S. Proposal

It is apparent that even in its strictest interpretation, Article 2 includes a large concession on the part of the United States. As was pointed out by members of the Senate Special Subcommittee on the Outer Continental Shelf, the United States could not accept Article 2 unless a sizeable majority of other coastal states agreed to follow suit. Without this quid pro quo, other nonratifying countries could renounce the Draft, leaving the United States bound to honor its terms. This assurance appears weak in view of the number of countries that chose not to ratify the 1958 Law of the Sea Convention, including both Chinas and Japan. Another stumbling block is the submission by the United States as to which countries must sign the agreement to make it effective. For example, Peru, the world’s leading fishing country, presently with a 200-mile limit,

66. Id., at 1048.
67. Id.
68. In the words of the Senate Special Subcommittee on the Outer Continental Shelf, “An elaborate labyrinth of legal rules and procedures exists.” Id.
69. Id., at 1050.
70. Id., at 1054.
71. Id., at 1078.
would clearly have to be a signatory. Also Canada, as she seeks
to execute the Arctic Waters Pollution Prevention Act, restricting
merchant shipping and naval traffic through the Northwest Passage
would be a necessary signator. Other nations would include
Russia, France, and Great Britain.

As no state can claim title or assert sovereignty over any part of
the ISA under Article 2, the trust concept espoused for the ITA
would apply there also, to comply with the meaning contemplated
by the General Assembly. It would only be speculation to guess
as to the judicial import of this concept, but it can be interpreted
as involving a trust administered by the ISRA, with the beneficiary
being all nations. In this way, legal title might be vested in the
ISRA without violating the terms of the Draft Convention.
Whether or not this principle can be successfully applied to areas
of doubtful sovereignty remains to be seen. If the People's Repub-
lic of China, Japan, and the Republic of China consent to such an
official body settling the Senkaku dispute, the precedent would be
established for future problems of this nature.

These three countries would have to be willing to renounce their
disputed and existing rights, by ratifying Article 2 of the Draft
Treaty, to achieve this result. At this point it seems difficult to
imagine Peking recognizing Taiwan, or vice versa, as an interested
coastal state and applying to the other for a license to explore or
exploit the Senkaku deposits.

*Alternative to the Draft Treaty*

The introduction of a genuine "withdrawal clause" modeled on
the Antarctic Treaty would attract some countries to accept such
a Draft Treaty as they would not then feel locked-in without any
recourse. Yet, it would have to be set forth so as to be acceptable
to all states with common interests in any given area. It would be
an unnecessary risk to exclude the existing claims, and accept only
controversies that develop in the future. This is not advisable as
there are already several disputes in various stages of development
that will need resolution in the near if not immediate future, for

---

72. Id., at 1048; see also F. Zegers (Chile), U.N. Press Release SB/31
example that between Peru and the United States over fishing rights, or between Canada and shipping companies flying various flags of convenience.

Such an alternative approach would mean that state's rights would only be modified to the extent that the countries were willing to accept. It does not seem feasible to have a clause freezing existing rights without at the same time conceding that third parties might like to participate, if the decision rendered were to be dispositive of the dispute. Clearly, there is a problem here, and one can see how the draftsmen of the Truman and Nixon Proclamations were driven before it. The Draft Treaty may not be thought to have much future in another respect, and that is in reference to any maritime state with an economy dependent on resources found within the continental shelf margin which will be outside the sovereign boundaries delimited.

It is highly unlikely that the present Draft Treaty offers much more than an abstract solution to this complex seabed problem. The Nixon attempt at legislation would most certainly require a large and very influential number of nations such as the People's Republic of China, Great Britain, France, Russia, Peru, Japan, and the United States behind it before it would succeed. Moreover, the Draft Treaty needs a delimited territorial-sea section to settle the existing boundary dispute. The Latin American countries, principally Peru and Chile, will definitely not accept a standard less than two-hundred miles unless their ideological brothers ratify the Draft Treaty.

A true "intermediate zone" could have various advantages for guaranteeing landlocked countries an opportunity to explore and exploit areas of the seabed, while bringing in revenue for the coastal state licensing such endeavours. A proposal such as this runs into the danger of polarizing uncooperative coastal states that are intent upon maintaining the status quo. The odds against such a Treaty's adoption seem insurmountable, but positive incentives can make it possible, especially today when no one country is entirely self-sufficient.

The fact that this disputed area comprises two very different sectors need be clear from the outset: the area in which the coastal state has present and existing exclusive rights, and the area beyond in which no state has exclusive rights. As far as seabed resources are concerned, there is something of a legal vacuum.

In regard to the latter area, there is every reason why a seabed treaty might delineate certain limits and boundaries, and an inter-

688
national seabed authority apply the necessary principles to decide respective national rights therein. This is the spectre of the future. Yet, it is wise to heed Professor Henkin's words that: "new law for the deep sea is law for a long future... and should not be made too fast or too early."\(^7\) The seabed and its subsoil is clearly an area being sought, and necessarily an area to be safeguarded for future generations. Apparently the present situation is such that treaty proposals are justifiable in theory, but these principles are not often ratified and upheld. There can be great value in treating the Senkaku dispute as a harbinger of controversies to come, serving as a vehicle for clarifying the suitable remedial authority, offering a variety of options to nations at odds, and allowing for the creation of permanent international resolutions for those all too frequent global dilemmas.

**THE SENKAKUS**

In the present case, the area sought to be defined is only a small group of islands, but at stake are oil deposits vital to 1) Japan's industrial progress, 2) the People's Republic of China's posture as a world power, and 3) at least to some extent the continued existence of the Republic of China as a national entity.

If a new international regime is to be at all viable, then for economic as well as political reasons, it must be able to weigh the respective claims put forth, and impartially render a decision that will not deprive any of the nations of their sovereign integrity.

As can be drawn from the North Sea Continental Shelf Case, the methods proscribed for deciding shelf boundaries are only binding on ratifying countries. Among the parties involved in the Senkaku dispute, only the Republic of China has ratified the Convention.\(^7\) Japan and the People's Republic of China are not signatory parties to any common international maritime pacts.\(^7\) While Taiwan and Tokyo have accepted the authority of the International Court of Justice, Peking has not and does not seem likely to, which means

\(^7\) Henkin, *Changing Law for the Changing Seas*, The Uses of Seas 96 (Gullion, ed. 1968).
\(^7\) The Legal Status of the Continental Shelf of the East China Sea, *supra*, note 13 at 807.
\(^7\) *Id.* at 796, 802, 807.
that there is no existing agreement that could be invoked to draw the three nations together to reach a settlement.

Under the present international boundary criteria\(^{77}\) a resolution of the dispute could be reached. Not one of the three nations is able to draw baselines that would include the Senkakus within its national boundaries. Taiwan, only ninety-five miles away is geographically the closest, but this is of little assistance.

The Senkaku archipelago does not have any islands linking the locale to another sovereign. While Japan and the Republic of China are able to document historical claims based on continued use, fishing grounds, treaty rights, or prior assertions of territoriality, these are not so significantly important as to solidify one nation's claim to the detriment of any of the other interested parties.

It is indeed doubtful that the People's Republic of China can base its claim on fringe islands\(^{78}\) off its coastline without making a stronger showing of either usage, or developing her argument in regards to an extended territorial limit to include the Senkakus. Most of the existing documentation\(^{79}\) weighs heavily against The People's Republic claim of Dec. 3, 1970. At best, what can be argued is a claim of interest due to the proximity of the Senkakus to her coastline, a hundred and twenty miles away.\(^{80}\)

Japan asserts a claim to the Senkakus based upon her historical discovery of the islands, her claim subsequent to the Sino-Japanese War, and the United States administration of the islands as one of Japan's territorial possessions. Yet, the treaty, concluded at the end of the Second World War, surrendered the Japanese possessory interest, yielding the islands to Taiwan as the apparent owner, but to which Taiwan has recorded no official claim until just recently.

The Republic of China, due to her historical documentation, political conditions, and economic interests, stands to gain or lose the most in this dispute. If a decision were rendered awarding the Senkakus to one of the other claimants, it would signal another defeat for Chiang Kai Shek's government. Then again, if Taiwan were to emerge with sovereign rights to the islands, her existence as a power in the Far East would be assured for some time to come.

The soundest course of action is the submission of this controversy to an international maritime regime. If such an entity as the Draft Treaty's ISRA is not in existence to accept jurisdiction of

\(^{77}\) Id. at 797.
\(^{78}\) Id.
\(^{79}\) Id. at 801.
\(^{80}\) Id. at 790.
such a dispute, it should be created. Without such an authority, the parties can either settle it amongst themselves, a rather unlikely possibility, or submit the question to the International Court of Justice for another "equitable" decision, a great risk in view of the North Sea's judgment. Such a choice would indeed be welcomed by the petroleum industry, waiting impatiently to launch into their projected exploitation of the East China Sea, and leaving only a marginal share of the anticipated revenue for the authorizing nation.

CONCLUSION

The trusteeship concept for the international community, involving all resources mineral and otherwise, would advantageously lend itself to application in the Senkaku dispute. All three powers would derive mutual benefits from such an exploitation of the oil deposits found there. To exclude one or the other or all three from sharing these resources would effectuate a grave injustice, but to create a regime capable of implementing the trusteeship concept would give vitality to Roger Revelle's statement:

Agreement on these principles and on creation of an international regime to secure them depends largely, although by no means entirely on the United States. It is to be hoped that our government and people will be farsighted enough to see that their own long-range interests (as well as the three parties herein) lie in a generous approach to the new age of the oceans. 

The Senkaku Island dispute illustrates the impossibility of allocating the seas resources according to existing international law among competing sovereignties. It underlines the urgent necessity of an international regime with a global perspective which would safeguard the resources of the seabed outside a limited area as the heritage of mankind, not of a limited number of coastal and technologically advanced states.

THOMAS R. RAGLAND

so people from other jurisdictions can visit, results rather than read about "what should"
k. The emphasis here is on encouraging the content of the material to be learned by the project was started as the
people to form and construct themselves. LEAA discretionary funds have been earmarked for San Jose and San
Co., support these demonstrations. These funds are used to support these demonstrations. These funds are used to
emphasize the need for LEAA discretionality and demonstrations. These funds are used to
made available to support these demonstrations. These funds are used to support these demonstrations. These funds are used to
jurisdictions and should not be used for "upgrading."
In the criminal justice system up to standard.
and we hope will continue to support the reduction of crime in Santa Clara County so that both interests can be served.

Like the pilot, AA, these monies are to be used to reduce crime. They are to be used for "upgrading."

Methadone Treatment

A Methadone Treatment and Rehabilitation Program was the first of these pilot demonstration grants cousin of the impact of the program. The purpose of the research-demonstration question is to determine the early property crime. Fifty monies through.

will eventually provide maintenance for approximately 1,000 hr care. As saturating the programCareful reduction of the social impact of the program. This is done by reducing the need and through Stanford University, the education component of this program's purposes, sets this program apart from programs throughout the country.

note 7.
Methadone Treatment and Rehabilitation Program Discretionary Grant # 71-DF-679.

Printers of SAN DIEGO and other fine LAW REVIEWS