

THE LAW OF THE SEA CONFERENCE: ISSUES IN CURRENT NEGOTIATIONS

Lewis M. Alexander

As all of you are probably aware, the 10-week-long Caracas session of the Third Law of the Sea Conference was recently concluded. One hundred and thirty-seven delegations were at the Conference, representing 90 percent of the independent states of the world. All types of countries were in attendance—coastal states, landlocked, shelf-locked, island states, archipelagos, straits states, and states through which landlocked countries must transit to obtain access to the sea. There was also, of course, the familiar dichotomy of developed and developing countries.

No tangible progress was made at Caracas toward the conclusion of a new Law of the Sea Convention. No articles of the new Convention were adopted; no formal votes were taken on substantive issues; and no declaration of principles emerged from the proceedings.

This is hardly surprising, not only in view of the number and diversity of countries attending, but also because of the complexity of issues involved in the new Convention. For many delegations the decision matrix presented to them was little short of bewildering. In their opening statements at the early plenary session, a number of countries pointed out the need for a "package" arrangement, in which one country or group of countries would make concessions on certain issues in order to win support for other issues. But the conditions under which such trade-offs might be made never seemed to coalesce. Moreover, highly complex issues such as liability provisions for tankers of the price-setting functions of the proposed Seabed Authority were sometimes looked upon as great-power ploys to divert the attention of the less

developed countries from their more immediate objectives. The solidarity of the so-called "Group of 77" developing states (which, in reality, now has 103 members) was often strained, and some less developed countries suspected the maritime powers of exacerbating these strains by pointing out to certain of the less developed countries how much their real-world ocean interests differed from those of their neighbors. For example, many of the developing landlocked states were insisting on their rights to benefit from the fisheries resources off their neighbors' coasts (a right which had been supported by a recent declaration of the Organization for African Unity). But adjacent coastal states, as, for example, Tanzania, while agreeing to this in principle, were sobered by the facts; first, that they have only limited fisheries resources in their coastal waters; second, that they may be bordered by two or more landlocked nations (Tanzania has five such neighbors); and third, that most of the landlocked countries have a number of coastal neighbors and thus the potential for sharing in the resource development of several offshore zones. How would the allocation of economic zone resources then be worked out? The United States and Canada, I might note, have no landlocked neighbors to worry about.

I emphasize this problem of access to the sea and its resources because it points up so clearly one of the divisive elements within the Third World bloc—and within geographic groupings of the less developed countries, such as the Latin American, African, and Arab blocs. The many pressures for and against bloc solidarity were superimposed on the already complex issues of the individual states' ocean interests, leading one to speculate as to just what the processes will be whereby individual delegations decide on how to cast their votes—when the time for vote casting finally comes.

There was something of a built-in resistance to decisionmaking at Caracas in that no deadlines existed for voting. Everyone knew there would be at least one follow-up session next summer, and indeed one has been scheduled for Geneva next 17 March to run until early May. Add to this the facts; first, that the delegates had before them at the opening of the Conference no single draft text with which to work; and second, that the voting procedures themselves are extremely cumbersome. The chairman of the Conference must officially find, for every issue voted on, that no consensus is possible before a vote—based on the principle of a two-thirds majority of Conference participants—can take place.

So far as the law of the sea issues themselves are concerned, I have arbitrarily arranged them into 12 items and combined them under certain headings. My intent is to consider each of the 12 in terms of the problems involved, the U.S. position as presented at Caracas, and of the interests of other countries in the issue. And before I begin, one caveat is necessary. Although I attended the Conference for a time this past summer as an adviser (or "expert" as we were termed) with the U.S. delegation, my remarks today should in no way be construed as reflecting official U.S. policy. I speak only as a private citizen.

Now first, a rundown on the 12 issues.

Under the general heading of "Zonal Arrangements" are three topics: *the territorial sea, the economic zone, and limits to seabed jurisdiction.*

A second general heading is "Traditional High Seas Freedoms" and includes *freedom of navigation, freedom of fishing, and freedom of scientific research.*

Under the third heading, "Environmental Protection" is only one issue—*establishing and enforcing pollution control measures.*

Issues eight and nine come under the

title "Exploiting Seabed Resources." Number eight is *The International Seabed Resources Authority*, and nine is *revenue sharing on the outer continental margin*.

Another general heading is "Dispute Settlement Arrangements" and contains only the one issue, *criteria and machinery for handling international disputes*.

The last two issues involve "Regional Arrangements." First, there are what I would call *mutual benefit systems*, such as regional fisheries or pollution control agreements. Then there are *compensatory arrangements* which are designed to benefit the geographically disadvantaged states.

In establishing my list of 12 issues, I do not mean to imply that they are all of equal complexity. And someone else, in looking over the list of some 100 topics the Conference is supposed to deal with, might come up with a different grouping of subjects. But this listing is intended only to serve as a means of organizing a lot of complicated material into a manageable form.

One point should be noted early on. The delegates to the Third Law of the Sea Conference are not working in a vacuum. There exists already a body of rules and regulations on the public order of the oceans, which was hammered out at the First Law of the Sea Conference in 1958 and which has been modified somewhat by subsequent court decisions and by state practice. Although some of the more extreme delegates have declared the 1958 Conventions to be obsolete and of another era, these Conventions nevertheless provide the base upon which the new Law of the Sea is to be built. Unless and until the Convention articles are superseded and/or formally renounced by most of the world community, they would appear, according to most authorities of which I know, to remain in force.

Let us start now with the first issue, *the territorial sea*. Two sets of problems

are involved here: the breadth of the territorial sea and the baselines from which the breadth is measured. Most states of the world now favor 12 miles for the breadth of the territorial sea, even though by such action most of the international straits of the world are closed off by territorial waters. About half of the coastal countries of the globe now adhere to 12 miles. The United States has announced its willingness to support the 12-mile principle, providing satisfactory arrangements can be worked out on the question of transit (or passage) through international straits. But some 10 countries, most of them in Latin America, claim a 200-mile territorial sea and have indicated no willingness to reduce this distance to 12 miles, even if a new Convention came into force. One problem seems to be to prevent other states from going to a 200-mile limit before a new treaty is signed and ratified.

The baseline delimitation question was, to some extent, resolved in the 1958 Convention, but there remain problems such as historic waters, atolls, drying rocks and reefs, artificial structures, and other topics not covered adequately at the First Law of the Sea Conference. And there is the problem of archipelagos—a topic now recognized as a separate and distinct issue which must be dealt with apart from the question of islands. One problem here concerns delimitation; in all cases can the archipelagic state connect its outermost islands and drying rocks with straight baselines (regardless of the distances and extent of waters involved) and from these baselines measure seaward its territorial waters? What of mainland states, such as Greece and Canada, which have offshore archipelagos? Can the islands as a group be closed off here, as in the case of midocean situations? Should archipelagos still under colonial rule, such as the Cook Islands and the New Hebrides, be closed off by straight baselines the same as for independent states? The

United States, here as in other cases of baseline delimitations, has tended to follow a somewhat cautious and conservative approach.

Perhaps more important than the delimitation details is the question of passage by foreign vessels through archipelagic waters. One suggestion is that the archipelagic state establish sealanes through its interisland waters. Within these lanes both commercial and military vessels would have transit rights, although some states have suggested that these rights extend only to commercial vessels. The United States would favor the principle of unimpeded passage through such sealanes, including overflight and the passage of submarines submerged.

A related topic is that of the contiguous zone. In the past this zone has existed between the outer limits of the territorial sea and 12 miles from shore. Within it the coastal state has the right to prevent infringement of its customs, fiscal, sanitary, and immigration laws. If all states go to a 12-mile territorial sea, is the contiguous zone concept still necessary? Some states favor applying it to a zone seaward of the 12-mile limit, but to this the United States is opposed.

Beyond the territorial sea will be an economic zone, extending to a maximum distance of 200 nautical miles from shore. If a 12-mile territorial sea were adopted by all countries, the maximum breadth of the zone would, of course, be 188 miles. Most states agree that within the economic zone there will be freedom of navigation and overflight (although they do not mention the passage of submarines submerged) and freedom to lay underseas cables and pipelines.

The United States has indicated its willingness to support the economic zone concept, providing "correlative coastal state duties" are accepted. In his speech of 11 July, Ambassador Stevenson, head of the U.S. delegation, suggested that the coastal state rights

include "full regulatory jurisdiction" over the exploration and exploitation of economic zone resources, but 4 weeks later, the U.S. Draft Articles on the Economic Zone mentioned the "sovereign and exclusive rights" of the coastal state to explore and exploit these resources. Among the "correlative coastal state duties" which the United States seeks to obtain are the prevention of unjustifiable interference with navigation, overflight, and other nonresource uses and compliance with international environmental obligations. We also seek full utilization of fisheries resources in the coastal economic zone, freedom of scientific research there, and flag-state enforcement of pollution control measures. These duties will be considered in more detail later.

If a 200-mile exclusive economic zone were adopted worldwide, some 37 percent of the world ocean would be closed off within national limits. Several countries would acquire large areas (the United States alone would receive 2.2 million square miles of ocean space), but many states would get little or no additional territory. Thus the rationale for "compensating" the landlocked and other geographically disadvantaged states by permitting them to share in the benefits derived from resource utilization in their neighbors' economic zones. Some of the disadvantaged at this time claim rights only to the living resources of neighboring zones; others want to share also in the exploitation of nonliving resources, particularly oil and natural gas.

A special delimitation problem for the 200-mile zone relates to islands. Any naturally formed area of land above water at high tide is an island entitled to its own territorial sea. Will it also be entitled to a 200-mile economic zone? If so, a single midocean rock might have surrounding it an economic zone which closes off 125,000 square nautical miles of ocean. On this question of economic zones about islands,

the United States has not declared its position one way or the other.

Beyond the 200-mile economic zone of certain countries there may still exist portions of the continental margin. In some instances the shelf itself may extend more than 200 miles from shore. In other cases only the continental slope and/or rise may continue so far from land. The United States and several other states have suggested that national control over the resources of the seabed and subsoil should extend either to 200 miles off shore or to some alternative limit on the seabed, for example, the 3,000-meter isobath, whichever gives to the coastal state the greatest amount of seabed areas. No specific criterion for fixing this outer limit, beyond the 200-mile boundary, has been specified by the United States. Probably it would be based on some depth criterion; the two depth figures most often cited are 2,500 and 3,000 meters. The isobath selected might provide a very general basis for the boundary location, with straight lines joining fixed geographic coordinates marking the precise boundary position. Obviously the greater the area of seabed under national jurisdiction, the less will remain as the "common heritage of mankind." Extending coastal state jurisdiction over seabed resources to 200 miles and/or the outer portion of the continental margin would mean that the hydrocarbon resources of the ocean floor would, for all practical purposes, be lost to any International Seabed Authority.

According to the U.S. Draft Articles of this past summer, the coastal state's sovereign rights over the Continental Shelf are restricted to the purposes of exploring and exploiting its natural resources. Other uses of the seabed beyond territorial limits by member states of the international community presumably are not affected by these coastal state rights.

One problem common to all three zonal issues mentioned so far is the

delimitation of boundaries between opposite and adjacent zones. What weight shall be given to uninhabited islands and rocks located close to a proposed boundary? What of islands in dispute between countries; how can they be taken into consideration in determining limits? Under what conditions can recourse be had to "special circumstance" situations? Such questions have existed in the past, and in a few areas, such as the North Sea and the Persian (or Arabian) Gulf, they have been resolved. But soon delimitation problems may be magnified through the establishment of the extended economic zone beyond territorial limits.

We come now to the general heading "Traditional Freedoms of the High Seas," and the first of these is *freedom of transit*. So far as territorial waters are concerned, the right of innocent passage is guaranteed in the 1958 Geneva Convention. Passage is innocent so long as it is not prejudicial to the peace, good order, or security of the coastal state. But some people claim that the determination of "innocent" and "non-innocent" passage can become a subjective matter. Take, for example, vessel-source pollution standards. A coastal state may claim that foreign vessels which do not observe the coastal state's pollution control regulations are endangering the state's interests; hence, passage by such vessels is not innocent. Or, a coastal state may assert that transit through—or overflight of—its territorial waters by the military craft of certain foreign powers endangers its security and thus is not innocent. Which brings up the problem of straits.

The United States favors unimpeded passage through straits used for international navigation. Passage includes the movements by surface vessels—both commercial and military—by aircraft and by submerged submarines (although through some straits, such as Malacca, passage submerged is highly dangerous, if not impossible). The United States is

willing to accept obligations so far as taking reasonable measures to insure against vessel-source pollution in straits and to in no way interfere with the internal security of states bordering the transited strait.

There are many variations on this theme. Some countries distinguish between straits connecting two parts of the high seas with one another and those connecting the high seas with territorial waters; only in the former situation, according to these proponents, would freedom of transit be guaranteed. There are states which want prior notification and a constant requirement for the passage of military vessels through international straits; there are others which balk at the submerged submarine concept. Perhaps only a selected number of straits should be designated as coming under the regime of unimpeded passage. Here is an issue with which only a relatively small number of states are directly involved (those bordering on the affected straits and those seeking passage through them), but an issue with strong emotional overtones and the potential for conflict between the developed maritime and many of the developing non-maritime countries.

Another traditional freedom of the high seas is fishing. But in the economic zone the coastal state will have jurisdiction over living resources. The United States has suggested that within its economic zone the coastal state has the duty to conserve these resources. More important, perhaps, the United States has joined with several other countries in supporting the "full utilization" principle; that is, if the coastal state is unable to harvest the full fisheries potential in its economic zone, it is obligated to permit foreign fishermen to come in and exploit the unutilized species. This is a worthy concept; without it the total world catch might decline as coastal states fail to harvest the full potential within their economic

zone. It is estimated that over 90 percent of the world fisheries catch is taken within 200 miles of shore.

But what body is to set the "optimal yield" for a given economic zone—that is, the total allowable catch per year according to biological, economic, and other considerations? It is the difference between the coastal state's harvest potential and this optimal yield figure which foreign fishermen are to exploit. And who will set the priorities for determining which foreign fishermen will be permitted to harvest the unutilized stocks, and what fees or royalties they will pay to the coastal states for the privilege of such exploitation? These seem the type of questions for international dispute settlement machinery to handle.

The United States has suggested that for highly migratory species such as tuna an international organization should control exploitation, even in the coastal states' economic zones. And in a move away from high seas freedoms, the United States has suggested that the coastal state retain control over anadromous species (particularly salmon) which in their early life cycle inhabit its rivers. These fish move down to the oceans for most of their mature life, before returning to the rivers to spawn and die. Coastal state control over the harvesting of such species would be retained no matter where in the ocean such fish move to during the salt water phase of their cycle. Such an arrangement currently exists in the Northeast Pacific under a treaty involving the United States, Canada, and Japan.

Freedom of scientific research is an issue on which the United States has few supporters. We are willing to carry out certain obligations, including prior notification of the intent to carry out research in a foreign state's economic zone, permission for scientists from the coastal state to participate in the research project, and open publication of the research results. But we balk at the

suggestion of a consequent requirement to seek permission for research beyond territorial limits; first, because of the possibility that a coastal state will withhold consent for capricious reasons; and second, because of the interminable delays which have often been experienced in acquiring permission (or being denied it) for U.S. vessels to carry out research involving foreign states' continental shelves. My own guess is that the principle of freedom of scientific research in foreign states' economic zones may turn out to be one of the casualties of the Third Law of the Sea Conference.

Next is *environmental protection*. How will vessel-source pollution control standards be established and enforced in a coastal state's economic zone? One point of view is that these matters are coastal state prerogatives and, indeed, that it might be possible for less developed countries to set up a system of double standards—one for the vessels of developed countries which use the coastal state's ports and/or pass through its national waters, and a more liberal set of requirements for ships of the coastal state itself and perhaps those of its neighbors. Countering this is the viewpoint that internationally agreed upon standards should be put into force (the standards to be set by the Inter-Governmental Maritime Consultative Organization or some like body) and that enforcement of the standards should be primarily the responsibility of the flag state. If a U.S. vessel, for example, were found to be in violation of the international standards off the coast, say, of a West African state, the offense would be a matter for the United States to handle. Only in cases where a direct disaster threatens the coastal nation or if the flag state has proven itself to be consistently unable or unwilling to police its own ships would the coastal state be entitled to step in and, on its own, enforce the environmental standards.

Between these two extremes are all manner of positions. Can the coastal state, for example, adopt in its economic zone, pollution-control standards which are more severe than those set by an international body? Are government vessels, including warships, immune from a state's pollution-control regulations? How will liability provisions be enforced? Should there be an international liability to take care of incidents such as the *Torrey Canyon* disaster? Environmental protection is one area in which many delegates often found themselves way over their heads so far as arguments over jurisdictional problems were concerned.

The same might be said for the next issue—the *International Seabed Resources Authority*. Nearly everyone agrees that the resources of the seabed beyond the limits of national jurisdiction are the common heritage of mankind and that a portion of the revenues derived from their exploitation should go to an international fund to be distributed to the nations of the world, particularly the developing states. But at this point, agreement ends. Let me suggest just a few of the contentious issues:

- Will the Authority exploit the seabed minerals itself or license individual companies and states to carry out the exploitations? (The United States favors the licensing arrangements.)

- Will the Authority be permitted to regulate rates of exploitation and/or to fix prices in order to stabilize the minerals market and prevent undue hardships to the economy of land producers of copper, nickel, cobalt, and manganese? (The United States is against production and price controls.)

- How will the Authority be governed? What states will be represented on the governing bodies?

- How will decisions be made as to allocation of the international funds? Will a portion of these funds be set aside to run the Authority itself?

● How will the danger of pollution from seabed exploration and exploitation be handled?

Some experts contend that no appreciable revenues will be forthcoming from seabed mineral exploitation during the decade of the 1970's. It is the developed countries which initially carry out that exploitation. If the rules and regulations on seabed development are perceived by them as being too onerous, will the developed states ignore international procedures and go ahead unilaterally with their exploitation? For some observers of the Third Law of the Sea Conference, this appears to be a very real possibility.

A related and, in my table of organization, a separate issue is that of revenue sharing from mineral exploitation on the outer continental margin. This is pretty much an exclusive U.S. initiative. Several years ago the United States suggested the creation of a "Trusteeship Zone" on the continental margin beyond the 200-meter isobath. In this Trusteeship Zone, which extended seaward to the international area, the seabed would be under international control, but only the coastal state or its lessee could explore and exploit the resources. Although the Trusteeship Zone concept seemed to have something in it for everyone, it received little support.

Now the United States suggests that the coastal state have jurisdiction over the outer continental margin's resources but that a portion of the revenues derived from resource exploitation beyond the 200-meter isobath or the 12-mile territorial limit (whichever is farthest from shore) be turned over to the international fund. There are two advantages to this proposal. First, it provides that some funds will become available to the International Authority in the near future (as soon as the oil companies, which are now exploiting offshore in a maximum of about 400 feet of water, move to depths beyond

656 feet); second, it ensures that some portion of the revenues from hydrocarbon exploitation on the outer continental margin will get to the international fund. Surprisingly, this U.S. initiative has also met with little support—either from developed or developing states.

Arrangements for Dispute Settlement, the 10th of my 12 issues, is very much up in the air. The United States strongly supports compulsory settlement of disputes—an interesting development inasmuch as we have never, I believe, taken an international dispute in which we were involved for settlement by the International Court of Justice.

Most of the U.S. draft proposals have in them compulsory dispute settlement provisions. But many countries are wary of this approach. The decisionmakers in the settlement process will tend to be from the developed states. The costs of going to such a tribunal will be difficult for poor countries to sustain. The number of disputes requiring tribunal action may become overwhelming. Rather than negotiate seriously, developed states may elect to try the tribunal route to settlement. Here is an issue the outcome of which I have a hard time visualizing. It is my understanding that no one of the three Committees at Caracas became involved this past summer in the dispute settlement problem.

Since I have mentioned the three Committees, let me elaborate. At the Caracas Conference there was, first, a plenary session for about 3 weeks during which the Rules of Procedure were adopted and delegations were given a chance to present their countries' views. About 115 delegations availed themselves of this opportunity. By the time this plenary session was ending, meetings were beginning of the three Committees. These three were modeled on the Subcommittees of the Seabed Committee which met six times,

alternatively in New York and Geneva, from 1970 through 1973.

Committee I was concerned with the international seabed area and with the Authority which was to be set up to manage it. The Committee made no tangible progress whatever at Caracas. The United States adopted a hard-line position on the Authority and held to it. Committee III handled Pollution Control, Scientific Research, and Technology Transfer. It also made little progress, although the diverse views on research were narrowed down to four alternatives, ranging from the "absolute freedom" of the Soviets to the "absolute control" of the Group of 77.

Committee II, which concerned itself with fisheries, straits, economic zones, and other jurisdictional problems, was under the able leadership of Andres Anguilar of Venezuela. While it probably had the most complex problems of any of the three Committees, it also made the most progress. Ambassador Aguilar was able to reduce national positions on a whole host of issues to a series of three or four alternatives for each topic and to pave the way for serious negotiations on these issues next summer.

The last two issues of my outline come under the heading "Regional Arrangements." These involve a bit of crystal-ball gazing. Multistate regional arrangements to date have been very limited in scope. There are, for example, certain international fisheries organizations, but decisive action within the framework of many of these is subject to the unanimous consent of the parties concerned. There are bilateral and multilateral agreements (as, for example, the Baltic Sea Pollution Control Agreement recently concluded), but even these tend to be limited in extent and to involve long-established developed countries. Yet, should there fail to be a global Convention on the new Law of the Sea in 1975 (or perhaps 1976), recourse may be necessary to

regional agreements—at whatever level agreements can be arranged.

One type of such arrangement would be exclusionary in nature; exclude non-littoral fishing vessels from the Andaman or East China Seas; keep out noncoastal military ships from the Baltic or the Sea of Okhotsk. Such arrangements cost little to the states of the region. But how about situations in which the littoral states invest something in the future of their common offshore waters? They might enact common pollution control regulations. They might have a common approach to fisheries conservation and management. They might contribute to a regional fund for improving navigational facilities or eliminating shipping hazards. Such moves would be particularly appropriate for enclosed or semi-enclosed seas. These conditions correspond to what I referred to earlier as "mutual benefit" systems. Within semi-enclosed seas, littoral states might agree on some mechanism for settling mutual boundary delimitation issues in offshore waters and for handling other types of disputes involving the marine environment.

In contrast with this are what I would term "compensatory arrangements." And here I confess to being way out of my depth. It is one thing for Tanzania to grant port facilities at Dar es Salaam for copper shipments from Zambia; it is another to give equal rights to the companies of Malawi, Burundi, Rwanda, Uganda, and Zambia to share in the development of Tanzania's economic zone resources. Pakistan has closed the use of the port of Karachi to Afghanistan because of border difficulties. Lesotho is entirely dependent on the apartheid-oriented regime of South Africa for its access to the sea. Bolivia must depend on the vagaries of Chilean politics for permission to use the port of Arica. Who, I ask myself, is really going to agree, as a matter of universal policy, to the principle of compensatory

arrangements for landlocked and other geographically disadvantaged states? Here is a concept which may require decades to work out satisfactorily. It is difficult enough to win approval of the principle of access to the sea for landlocked countries. Much more difficult will be the task of gaining support for the concept of access by a disadvantaged state to the resources of another country's economic zone.

Having covered, albeit briefly, the principal topics at Caracas, let me now make a few general observations on the Conference as a whole.

First, what are the prospects for some sort of Convention emerging from the Third Law of the Sea Conference?

As I noted earlier, one of the roadblocks to any conclusive action in Caracas was the absence of deadlines. There were almost no serious concessions made, despite the talk of a "package" solution. But if the timetables hold (and we do not go on to a 1976 meeting in Africa or Asia—or as *The New York Times* facetiously noted, of meetings in Pnom Penh, Ulam Bator, and finally, of all places, Philadelphia!), then Geneva next spring is where agreement—if it is to be reached at all—must be concluded. And despite all the complexities and uncertainties, it is possible that what some observers say is true—namely, that the delegations from the major powers (including the United States) have instructions from their governments to bring home an agreement from the Third Law of the Sea Conference, and they will therefore work hard to meet this requirement.

It may be only a partial agreement on some items. And it may take years for even these agreements to be ratified and to come into effect. Thus we are faced with a protracted period in which interim arrangements may be necessary. Due to time limitations, I shall not dwell on such arrangements, other than to note that they will have both international and domestic implications—

witness the impatience of some groups in the United States to proceed with the 200-mile fisheries zone and deep sea mining bills rather than to wait for international action on these issues.

My third and last point is, What might the United States expect to achieve in the way of its own special interests from the Conference?

Here, I feel, we have to consider certain alternatives, one of them being that the United States might not sign and ratify certain provisions of any agreed Convention. I think we may lose on the freedom of scientific research issue, on international control of highly migratory species, and perhaps on the issue of full utilization of fisheries in the economic zone. If we continue to maintain a hard line regarding the Seabed Resources Authority, we may find ourselves isolated there as well, and I have heard it said we might find it impossible to sign and ratify the type of final agreement on this issue which proves acceptable to a majority of the world's states.

On three items, I just do not know. I think it will be extremely difficult for us to get general acceptance of compulsory dispute settlement, and I have no knowledge as to what our fall-back position on this might be. We may also be hard pressed on the pollution control issue. Certainly we may have to compromise somewhat on the rules setting and rules enforcing procedures, but there is also, it seems to me, the possibility (as might also be the case with compulsory dispute settlement) that these items could be kept aside for some future deliberations rather than being embodied in a 1975 convention.

Finally—of particular interest to you here—is the question of passage through straits. My own feeling for this is contained in two observations. First, there are only a limited number of countries directly involved in this controversy. If it can be kept from becoming an absolute article of faith on the part of the

less developed countries (and of Spain) and considered in terms of its own merits and of the countries it affects, then some solution may be possible. Second, there are, I believe, only a limited number of straits involved in the problem—particularly in terms of military ships and aircraft. Again, the number of players can be narrowed considerably and trade-offs may be possible, involving not 100-plus countries, but perhaps half a dozen or so.

If one examines the Law of the Sea negotiations in detail, one finds two categories of participants. One are the interest groups, geographic blocs, and other expressions of multistate solidarity. Second are the ocean interests of the individual states themselves—their access to the sea and its resources, their investments in marine-related activities, their dependence on the sea for food, income, security, or employment opportunities, and their general relations with their neighbors or other relevant countries. Remember, any state's ocean policies are but a part of their total national policies. If a state has generally poor relations with one or more of its neighbors, it can hardly be expected to

cooperate closely when it comes to ocean issues.

Since the close of the Caracas session, the press has been not altogether favorable. Of what use, it is asked, were the preliminary Seabeds Committee meetings in New York and Geneva if nothing tangible came out of 10 weeks of high living in South America? What can we expect from the money that will be spent at Geneva next spring? Some of the critics, I think, are unduly harsh. Nearly 50 new delegations were at Caracas which had not been represented previously on the Seabeds Committee. There was an enormous educational process necessary in Venezuela, and despite the absence of tangible agreements, many of the delegations—according to some observers—are a lot closer to negotiating positions as a result of last summer's experience than they were several months ago. But my optimism declines when I speculate on the fact that only 6 weeks or so are allotted next spring for concluding a new Law of the Sea Treaty. And I am thankful that the title assigned to me for this talk was "Issues in Negotiations" rather than "The Consequences of No Agreement at All."