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24 March 1981

... FBIS 40TH YEAR 1941-81 ...

Worldwide Report

LAW OF THE SEA

(FOUO 1/81)

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JAPAN

JAPAN CRITICAL OF U.S. LAW OF SEA POSITION

OW092253 Tokyo TOKYO SHIMBUN in Japanese 6 Mar 81 Morning Edition p 5

[Editorial: "The Law of the Sea Conference and the U.S. Position"]

[Text] The 10th session of the Third UN Law of the Sea Conference is scheduled to open in New York on 9 March. In this connection, the Reagan administration on 4 March expressed its position vis-a-vis the informal draft of the law of the sea treaty and instructed its delegation to the conference to reject a compromise on the draft at the coming session.

The informal draft was approved--except for a few points--by a consensus of the approximately 150 countries represented at the preceding session last August after 8 years of bargaining. It was also tentatively agreed at that session that the 10th session would become the concluding session in all but name by upgrading the informal draft treaty to a formal draft, and that a conference would be held in Caracas, Venezuela, this fall to adopt that draft treaty.

Even considering the government changeover in the United States and the resignation of the U.S. delegate to the conference in the intervening period, we must say that it is regrettable that the U.S. Government has announced such a rigid stance on the eve of the 10th session. The stance, unless modified, is unacceptable.

During the presidential election campaign, the Republican Party claimed that the Carter administration's attitude toward the Law of the Sea Conference conflicted with U.S. national interests. It must also be pointed out here that various points of agreement reached at the past session, when viewed from a strictly legal standpoint, are not strictly binding to the United States. Nevertheless, world public opinion demands the early adoption of a law of the sea. Inasmuch as U.S. opposition virtually precludes the passage of a law of the sea treaty, we cannot but hope that the U.S. Government will behave more prudently.

Apparently, the question of deep-seabed development gives the United States the greatest concern as it affects the U.S. interests the most. The informal draft treaty has all provisions which concern the sea, such as those on territorial waters, economic zones, continental shelves and the prevention of pollution. All of these issues have been resolved except for some aspects of the deep-seabed development question. The North and the South have been at loggerheads over the question of deep-seabed development and the problem remains unsettled.

It is now possible to collect manganese nodules that lie on deep-seabeds under the high seas, thanks to the development of science and technology. However, if left to free competition, the collection of those nodules will be monopolized by the major industrial nations which have the necessary technology and capital. This, in turn, will further

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widen the gap between North and South. For this reason, the developing nations strongly demanded that those nodules be developed by a single international agency. The major industrial nations, the United States in particular, countered this demand by enacting domestic legislation designed to unilaterally develop deep-seabed nodules. At one time this threatened to rupture the Law of the Sea Conference. In the end, however, a compromise was reached that would permit twin development by an international agency and private enterprise. Nevertheless, concerned U.S. firms have a deep-rooted complaint that the proposed arrangement lacks sufficient guarantees for protection of their interests.

In view of this background, there is an element in the Reagan administration's latest move that is--to some extent--understandable.

Nevertheless, should the conference be ruptured due to a violent clash between North and South, an "age of lawlessness in the sea" would be unavoidable. In this event, incalculable consequences would arise that would affect the whole gamut of North-South relations. That is why we want the United States to be flexible and broad-minded.

The developing nations are bound to be angry at the new U.S. move and stiffen their attitude. However, if the world fails to adopt a treaty and to establish an international agency, competition for development by sheer force would ensue, with the result that the developing nations would lose everything. We hope the developing nations will make a flexible response.

In some quarters in our country, particularly in business circles, there seems to be a move to fall in step with the United States. However, from the point of view of our overall national interest, Japan should strive for the early passage of a law of the sea treaty. It should exert efforts to serve as a bridge between North and South and as an agent to bring the conference to success.

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JAPAN

PAPERS ASSESS U.S. STAND IN LAW OF SEA PARLEY

'YOMIURI SHIMBUN' Comment

OW111243 Tokyo THE DAILY YOMIURI in English 10 Mar 81 p 2

[YOMIURI SHIMBUN 9 March editorial: "Sea Law Conference"]

[Text] The Reagan administration has foiled the efforts so far made for an international consensus on a draft of a new law of the sea treaty and the U.S. will surely come under criticism for this at the 10th session of the third UN Law of the Sea Conference opening in New York Monday.

The eight-year old conference has had several difficult moments. It has witnessed a strong clash of national interests on such issues as territorial waters, international straits, continental shelf, economic zones and ocean pollution. In particular, the North-South confrontation over ways to develop deep seabed resources caused the conference to be deadlocked several times.

All the participating countries, however, shared the conviction that creation of a new ocean regime under a new international law of the sea should come first. Japan has made consistent endeavors for an early settlement of the negotiations, and rightly so.

On the knottiest issue of deep seabed development, a compromise was reached at the resumed ninth session last year. Accordingly, the 10th session was expected to be the last. Arrangements had been made to promote the informal draft of the law of the sea to a formal document at the 10th session and then adopt the treaty in Caracas in autumn.

The Reagan administration disrupted this procedure, reportedly because the system for development of the deep seabed is excessively favorable to developing countries and the interests of private American enterprises cannot be protected. President Reagan is opposed to external meddling in the operation of private companies. His domestic economic policy is based on this conviction.

From this viewpoint, the system for deep seabed development contains some severe restrictions on the activities of private enterprises. Japanese companies concerned say that under such curbs there can be almost no benefit in deep seabed exploration. This is true because the developing countries, which believe that deep seabed resources are the common property of mankind, are obsessed with the thinking that private companies that will undertake development projects should not be allowed to make any profit.

It does not follow, however, that we approve of the Reagan administration's action. Reagan is free to steer the U.S. domestic economic policy based on his philosophy but he cannot apply this to exploration of deep seabed resources.

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If the Reagan administration seriously intends to torpedo the development system already agreed upon and work out a new system and push it through the conference, the developing countries will react strongly, thus jeopardizing the conference itself.

In view of the present supply-demand situation for resources, development of deep seabed resources is not a very urgent task. Certainly, it is important to protect the interests of private companies engaged in deep seabed development, but no retrogression should be permitted in efforts to forge a new ocean regime.

President Reagan has repeatedly promised that he would hold consultations with U.S. allies. Now he should honor this pledge. If he tries to exert his will, the trust the U.S. allies place on the President will be marred.

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'MAINICHI' Editorial

OW101219 Tokyo MAINICHI DAILY NEWS in English 9 Mar 81 p 2

[Editorial: "Law of Sea Conference"]

[Text] Prospects have dimmed somewhat for success in the Law of the Sea Conference, which had been expected in its six-week round of negotiations opening in New York on Monday, due to the changed climate in Washington.

The conference, a 150-nation U.S.-sponsored group, has been trying hard for more than seven years to reach agreement on establishing a new set of international laws governing access to the sea lanes and rights to exploit the minerals and other resources of the oceans. After many twists and turns, it finally succeeded, in last year's session, to map out a rough but complex treaty draft containing 320 clauses.

The Reagan administration, however, responding to pleas from U.S. mining interests, decided to block an early conclusion of the almost completed conference pending the outcome of a policy review--a review which may result in a new U.S. position on seabed mining that would undercut compromises proposed or approved by previous administrations.

The new U.S. posture toward the conference, however, does not come as a complete surprise in view of the dramatic policy shift in the Reagan administration since its inauguration in January, especially toward developing countries.

However, we must not forget the fact that, as said earlier, the conference, in which nearly all the countries in the world are involved, has finally reached agreement on a draft treaty after many years of hard bargaining.

Only the earnest desire of conference participants, once harassed by global disorder caused by the setting up of 200-nautical-mile economic zones, to establish a new international maritime order has made the accord possible. This desire is particularly strong in regard to exploring and mining the seabed rich with precious minerals such as manganese, cobalt, nickel and copper--resources which are considered to be "the common heritage of mankind."

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Thus all the nations are unanimous in agreeing to refrain from engaging in a race to mine the seabed, after learning a lesson from the bitter experiences of the colonial days in the 19th century.

We are inclined to believe that the new U.S. Administration is willing to risk losing important gains achieved in past conference sessions--a challenge which will surely draw strong opposition from the developing countries. But there is no knowing what will result in view of the strong criticism in the U.S. over what some consider many unnecessary compromises in the past, especially on deep sea mining into which major American corporations have already poured hundreds of millions of dollars for research and preliminary exploration.

Last summer's national platform of the Republican Party, responding in part to pleas from mining interests, charged that the law of the sea negotiations "have served to inhibit U.S. exploration of the seabed" while "concern has been lavished" on Third World nations.

A State Department official, testifying before a recent Senate Foreign Relations subcommittee, has urged the government to seek an international guarantee to protect the rights of American mining interests engaging in seabed exploration. He also emphasized that such guarantee must be gained "at all cost." The administration is also of the opinion that the rights of American corporations which have or will initiate seabed mining projects with enormous amounts of money should be protected even after the law of the sea treaty takes effect.

Against this background, the U.S. is expected to push hard for winning such a guarantee at the New York conference.

This new U.S. strategy, which seems to favour U.S. interests, may have some relation to the new Washington policy on extending aid to developing countries. The new policy calls for extending such aid on a bilateral and selective basis, whether or not the recipient country is friendly to the U.S., rather than through international financial institutions.

Currently, the U.S. is virtually the only country in the world which is capable of developing the deep seabed. This means, in turn, that global expectations pinned on it in this respect are great. We hope the Reagan administration, living up to these expectations, will do its utmost to realize an early establishment of treaty.

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JAPAN

GOVERNMENT TO ENACT LAW PROMOTING SEA-BED MINING

Tokyo THE JAPAN ECONOMIC JOURNAL in English 20 Jan 81 p 4

[Text]

The Government intends to enact a deep-sea ore resources law in an attempt to allow Japanese mining and other companies to join manganese nodules prospecting. Both the U.S. and German Governments passed similar laws in 1980 to lay the legal foundation for awarding mining rights for prospecting purposes.

The Japanese law was likely to feature mutual prospecting with, say, U.S. firms, and obligation of environmental impact studies prior to development. Developing countries tend to harbor hostility toward such laws so that the Japanese Government intends to adopt its law as a "temporary measure" until the creation of an international deep-sea rule.

The U.S. version is also intended to prompt the investment in manganese nodules development — until the United Nations ocean pact takes effect. The U.S. favors the mutual prospecting, proposing mutual guaranteeing of companies' investments. Washington is seeking other governments to adopt similar laws, with Bonn already following suit. Britain and France are

reportedly trying to come up with similar legal measures.

The Tokyo Government will try to submit the lawbill to the current Diet session. Although no single firms here are capable of developing manganese nodules, several groups intend to launch their activities, including the Sumitomo and Mitsubishi groups. Once they become competent enough to start development, their projects will be approved by the Government under the envisaged law.

It will explicitly state that the whole law is a temporary measure in light of the developing countries' argument that the deep-sea resources are the common asset of all countries. The United Nations will not come up with its rule until about 1988.

Manganese nodules, existing 5,000 meters deep, contain valuable metals, such as nickel, copper, cobalt, manganese and titanium. The Pacific alone contains an estimated 16.4 billion tons of nickel and 5.8 billion tons of cobalt — the metals that Japan has to import.

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MEXICO

BRIEFS

DELEGATE OUTLINES POSITION--Mexico City, 4 Mar (PL)--During the sessions of the Third Law of the Sea Conference, Mexico will ask for an agreement on the exploitation and exploration of seabeds outside national jurisdictions. Alonso Gomez Robledo, head of the Mexican delegation to the conference, said if this is not done there is the risk that some industrialized countries will unilaterally begin exploiting marine resources, which have been declared a common heritage of mankind by the UN General Assembly. The Mexican delegation will defend these principles during the conference to be held in New York from 9 March to 24 April. The exploitation of seabeds has become one of the most controversial topics at international forums and attempts are currently being made to create an international body to regulate the exploitation of the seabeds. [Text] [PA051717 Havana PRELA in Spanish 0013 GMT 5 Mar 81]

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WESTERN SAHARA

LIBYA POSSIBLY BEHIND POLISARIO SHIP BOARDING

Paris JEUNE AFRIQUE in French 17 Dec 80 p 43

[Article by Abdelaziz Dahmani]

[Text] Once upon a time in Mauritania there was a retired policeman, Sid Ahmed Ould Aida, a scion of the emiral family of Adrar; one fine day he left his native Adrar for Nouadhibou, the Mauritanian fishing port. He bought a boat, which he called the "Toungad" from the name of a famous palm grove in Adrar. He also hired 20-odd sailors. Twelve of them (six Senegalese, four Mauritanians and two Spaniards) were aboard the Toungad in mid-October 1980 when it was attacked at sea by a Zodiac Mark V inflated raft armed with a machinegun and lighter weapons.

Funny Story

The crew were taken prisoner and the boat towed to a beach where, once it was ashore, it was riddled with bullets while the motor was taken out and tossed into the water. The guerrilla warriors of the POLISARIO Front who have been attacking watercraft along the Saharan Coasts since 1976 have never attacked with such anger.

They have furthermore been selective attacks. No Soviet boat or any boat carrying the flag of one of the Eastern European countries has been bothered any more than Japanese fishermen have been. The principal victims up to now have been the Portuguese and the Spaniards. In this hunting scene, only one South Korean boat for which the POLISARIO, in an unique example, asks a huge ransom.

Most of these incidents have made some noise in the press and have provoked some official reactions. Nothing of all of that, at least as far as we know, for the "Toungad" of Sid Ahmed Ould Aida. It is true that the affair seems to mix political strategy and tribal relations. An old quarrel between Reguibets of the north and the family of the Ould Aida of Adrar--Sid Ahmed had even criticized the Algiers agreement of 5 August 1979 so well that he then spent several days in prison.

For the disabling of his boat in mid-October, our policeman who became a fisherman addressed himself to the authorities of Nouadhibou, asking for Nouakchott to take steps to free his crew. Reply: he was wrong to accuse the POLISARIO Front.

It is true that at that moment no one was absolutely sure and that the empty packages of Algerian cigarettes found along the side of the wreck looked more like a provocation than a proof. And behold: 20 days later the sailors were set free,

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right in Zouerate. They declare and affirm that they were held by the POLISARIO Front in the northern part of Mauritania.

Sid Ahmed Ould Aida has made his accusation again and he has met members of the government: he wants an indemnity. Once again, without success. They even allow it to be understood that his boat was fishing illegally in Saharan waters. Which he gives the lie to with his last ounce of energy.

But this funny story was not finished. Many Mauritanian cadres have stated out loud: "There we were working in our own country..." There were also some eddies inside the DMSN [Military Committee for National Salvation] where Captain Ahmed Ould Aida, cousin of Sid Ahmed and inspector of the National Guard, represents the population of Adrar...After many discussions, it was decided that expenses would be reimbursed by the SMAR [Mauritanian Company for Insurance and Reinsurance].

Not Discouraged

However, Sid Ahmed Ould Aida was advised not to go back to fishing again off Nouadhibou...The affair has not however discouraged other Mauritanians from proceeding to that sector. A Mauritanian-Libyan Company has just been created...in Les Palmas, dependent on a Hispano-Libyan mother Company.

With this nuance it has almost received the blessing of the POLISARIO Front and it will not only engage in fishing, but also in transport between the Canaries and Nouadhibou. A new line of resupply independent...of Algeria.

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