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The USSR: Ocean Use and Ocean Law

by

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## INTRODUCTION

This paper is an attempt to illustrate the stance of the Soviet Union in the law of the sea debate in light of soviet ocean activities. The paper has two sections. First, it examines the range of Soviet ocean activities. The considerable extent of Soviet ocean use underscores the importance which the Soviet Union places on the law of the sea debate and its consequent active participation in the process of international negotiation. Second, the paper considers the published record of the Soviet Union in the United Nations seabed debate. In seven years of debate the United Nations General Assembly and the Ad Hoc and Permanent Seabed Committees and Sub-Committees have generated a considerable body of documentation reflecting the public policy of over one hundred States concerning the law of the sea. Soviet expressions of opinion alone cover more than five hundred pages of documentation. Specific Soviet positions can be considered within two general preferences: the protection of traditional freedoms of the high seas and opposition to ocean control by either coastal States or by an independent international ocean authority. The paper shows how these preferences and the specific Soviet negotiating positions defend and promote the maritime interests of the Soviet Union.

## SOVIET OCEAN USE

Traditionally, the Russian State has never been regarded as a great maritime actor. Rather, even as recently as 1970, the President of the United States contrasted America and the Soviet Union as a "sea power" and a "land power" respectively.<sup>1</sup> Today, however, the USSR is not only a land power, but one of the world's foremost sea powers by virtue of her activities in five areas: naval use, merchant shipping, fishing, exploitation of non-living ocean resources, and oceanological research and development.

### Naval Activities

For the greater part of its history, the Soviet Navy was essentially a defensive force which rarely ventured far from home waters. By the mid-1960s crucial decisions had been made by the political leadership to convert the Navy into an 'ocean-going fleet' and 'an offensive type of long-ranged armed force.'<sup>2</sup> The results have been impressive, the editor of Jane's Fighting Ships in 1971 characterized the Soviet Navy as "the super-navy of a super-power."<sup>3</sup> Her operational forces consist of approximately 100 nuclear submarines, 245 conventional submarines, two helicopter carriers, about 30 cruisers and frigates, 190 destroyers and escorts, 100 amphibious warfare ships, and 650 patrol craft. While generally smaller than American ships of comparable type the Soviet ships are often younger and equipped with more efficient weapon and propulsion systems.<sup>4</sup>

The commander-in-chief of the Soviet Navy has given three reasons to explain the build up. First, there was a perception that the Soviet

Union was increasingly vulnerable to direct ocean attack:

If the earlier and primary threat to the safety of our country had been posed by the continental powers, the military strengths of which had been primarily drawn from their ground armies, after World War II the socialist camp was faced by the armed forces of the aggressive military blocs, headed by the traditional naval powers.<sup>5</sup>

Second, "every social-economic system has built up...navies... corresponding to its economic and technical capabilities."<sup>6</sup> The economic and technical growth of the Soviet Union since the Second World War made a great Navy possible. Third, and finally, the development of naval power was a worthy reflection of the USSR's "political importance as a great power."<sup>7</sup>

What are the missions assigned to the Navy? How does or how might the USSR use naval power in the oceans? The most significant mission is strategic deterrence. Especially since the deployment of the Yankee class ballistic missile submarine in 1968, and more recently with the Delta class, the Soviet Union has created a very credible long-range underwater launched nuclear retaliatory capability. The Soviet Navy has approximately 35 Yankee and Delta class submarines with the missile carried by the Yankee having a 1300-1500 nautical mile range and that carried by the Delta a 4000 nautical mile range.<sup>8</sup> The range of the Delta's missile allows that boat to be used very effectively in Soviet contiguous waters so that it need not venture out into the open ocean. Under the SALT I agreements the USSR is permitted up to 62 modern boats such as Yankees and Deltas, carrying as many as 940 missiles.

If deterrence should fail or, if for any reason the Soviet Union should go to war, the Soviet Navy can be expected to engage in offensive and defensive activities aimed at defeating the enemy. These activities could range from nuclear ballistic missile attack and attack upon enemy ships to coastal defense in support of Soviet ground forces.

In peacetime the Navy has a number of specific missions associated with the long-range projection of visible Soviet power. First, Soviet naval power is employed to support Soviet friends or allies, especially against the activities of so-called "military adventurists."<sup>9</sup> Numerous examples might be mentioned.<sup>10</sup> Among them is the build-up to 90 ships in the Mediterranean during the 1973 "Yom Kippur" War, exceeding the American build-up (60 vessels) in number of ships though not in firepower or capability. In 1971 the Soviet Union dispatched two anti-carrier task groups to the Indian Ocean during the Indo-Pakistan crisis to counter the two British and American carrier task forces sent to those waters. And since December 1970 the Soviet Union has maintained a naval patrol off the coast of Guinea to discourage Portugal from repeating

its November 1970 incursion from its neighboring colony into Guinea. A second peacetime mission is the winning of friends through good will visits and business calls. In May 1971 the Soviet Union sought to befriend the new president of Sierra Leone, Siaka Stevens, who badly needed recognition of his regime's legitimacy. A Soviet Kashin class frigate visited Freetown serving as a visible demonstration of Soviet support for Stevens. A similar visit in 1970 bolstered the government in Somali. A third peacetime mission is traditional gunboat diplomacy whereby a stronger naval power uses or threatens to use limited naval force in order to gain concessions from a weaker state. In February and March of 1969 the Soviet Union engaged in a classic display of such diplomacy. Three Soviet combatants lingered off the coast of Ghana at a time when the Soviet government was pressuring the Ghanaians to release two Soviet fishing trawlers held since October 1968. The trawlers were released shortly after the Soviet naval vessels arrived.

A final mission would be coordination of military uses of the seabed. It is probable that the Soviet Navy would be the agency responsible for this activity. The Soviet Union and the United States have reached agreement on forbidding emplacement of fixed weapons of mass destruction on the ocean floor beyond a twelve-mile limit. This agreement does not, however, apply to listening devices used for tracking submarines. It has been reported that the USSR is less dependent upon such devices than the United States.<sup>11</sup> They have certainly shown themselves to be sensitive about the fact or prospect that such devices may pose a threat to their ballistic missile submarines<sup>12</sup> Past Soviet proposals that such devices be banned altogether have not been agreed to by the United States.

#### Merchant Marine Activities

The growth of the Soviet merchant fleet from one of modest size and capability in the early 1950s to one of the largest and most versatile today is quite remarkable. The following table illustrates the growth of the Soviet merchant marine, 90% of which is reported as having been renewed over the last decade:<sup>13</sup>

<u>Year</u>	<u>Number of Ships</u>	<u>D.W.T. (millions)</u>
1950	432	1.8
1958	774	3.8
1965	1345	9.5
1968	1442	11.0
1972	2079	15.0

Table I14  
Merchant Marine Growth

In 1972 the Soviets ranked third in number of ships and seventh in dead weight tonnage. The target for merchant marine expansion during the current Five-Year Plan (1971-1975) is five million D.W.T.<sup>15</sup>



Two main reasons underlie Soviet development of their merchant fleet. The first reflects a sharp increase in Soviet foreign seaborne trade and a corresponding decrease in the percentage of that trade carried in Soviet bottoms. The following table illustrates both the absolute increase in Soviet foreign seaborne trade and the fluctuations in percentage of that trade carried aboard Soviet ships:

<u>Year</u>	<u>Seaborne Trade (millions of tons)</u>	<u>Percentage on Soviet Ships</u>
1950	8.3	72
1958	26.6	55
1959	34.8	47
1962	66.9	37
1965	91.8	50
1970	121.3	56

Table II 16  
Seaborne Trade

This table shows that, as Soviet foreign seaborne trade increased very markedly, so did Soviet dependence on foreign shipping at least until 1962. This situation was considered to be unsatisfactory since it meant reliance on Western Capitalist fleets. Hence decisions were made to build up the Soviet merchant marine. As the Minister of the Merchant Marine put it, this expansion "allowed our external trade to abandon political and economic dependence on the capitalist fleet..."<sup>17</sup> The decisions to expand were made in the 1950s and, as illustrated by Table II, began to have their intended effects in the mid-1960s.

A second major factor underlying the Soviet expansion is the concern to conserve and acquire foreign exchange reserve assets. The Soviet ruble is neither convertible nor accepted as payment for international accounts. Hence the Soviet Union must obtain foreign currencies through the sale of gold or through offering Soviet goods and services to buyers abroad. By utilizing Soviet ships, they save foreign exchange which would otherwise probably go to a Western company. They also utilize their fleet as a means of building up chronically depleted foreign exchange assets by hiring out their vessels to non-Russian trading concerns. According to one study, the Soviet net gain in foreign exchange reserves from the use of their merchant fleet was 578 million rubles in 1970, up from 170 million rubles in 1965.<sup>18</sup> This makes the merchant marine one of the chief sources of hard currency for the Soviet Union.

### Fishing Activities

For all practical purposes, the Soviet Union had no high seas fishing fleet until after World War II. But by 1967 it had acquired the "world's largest national fleet of fishing and associated vessels."<sup>19</sup> Today the Soviet fishing fleet numbers about 3700 fishing boats of over 100 G.R.T. These ships constitute more than one-fourth of the world

total and more than one-half of the world tonnage.<sup>20</sup> They cruise for up to nine months, traveling all over the globe. Since 1967 their catch has been the third greatest in the world, behind only Japan and Peru, and totals some 11 percent of total global fishing. The present Five-Year Plan projects a 47 percent increase in output of food fish products by 1975 and makes provision for reinforcing the fishing fleet and associated activities such as ship-repair facilities and ocean-fishing ports.<sup>21</sup>

The main reason underlying Soviet development in this area is the need for protein foods. The Soviet Union has had recurrent problems in the fields of agriculture and animal husbandry. Fish products help take up the slack and provide some one-third of the animal protein found in the Soviet diet and one-fifth of all protein.<sup>22</sup>

A small proportion of the Soviet catch (about 4 1/2 percent in 1971) is exported; some to the East European states and some to the developing countries. Exports to the latter constitute part of the Soviet Union's foreign aid program. The USSR has also provided the developing countries, such as India, Ceylon, Ghana, Nigeria, Senegal, Peru, with aid for building and up grading their own fishing industries. In return the Soviet Union often receives off shore fishing and landing rights.<sup>23</sup>

#### Exploitation of Non-living Resources

Actual Soviet exploitation of the nonliving resources of the continental shelf and deep seabed is modest but compares favorably with activities of other nations. This sort of activity is relatively new for all states and is dependent upon the development of adequate techniques and the accumulation of adequate knowledge. The latest Five-Year Plan specifically emphasized the need

to develop prospecting and exploratory work in the coastal shelf zones of seas and oceans with a view to finding promising underwater deposits of petroleum and gas and to expand the study of offshore alluvial deposits of gold, tin, and other mineral ores. <sup>24</sup>

A "long-term programme for the planned development of the Continental Shelf" of the USSR coasts has already been drawn up.<sup>25</sup>

Actual on-going exploitation of oil and gas from beneath the seabed has been conducted by the Soviet Union since 1949 when oil was first secured from the Caspian Sea. Since then drilling has been conducted in the Baltic, Kara, and Barents Seas, in Perchorskaya Bay, and in Far Eastern waters. Exploitation has been planned in the near future for the offshore areas of the Kamchatka Peninsula and northeast Sakhalin.<sup>26</sup>

Mineral resources have also been taken from the sea. In 1969

it was reported that the Soviets had dredged manganese from the Pacific floor and surpassed all others in this endeavor.<sup>27</sup> They have conducted small-scale operations for obtaining fertilizer from the waters in the Crimean region and established an organization for extracting titanium from the sands underlying the Baltic coast.<sup>28</sup> In addition, explorations have already uncovered iron ore deposits beneath the Baltic, Black, and Azov seas; manganese in the Baltic, and tin in the seas along the northeast coasts of the Soviet Union.<sup>29</sup>

### Oceanological Activities

Soviet oceanological efforts are widespread, diverse, and strongly supported by the government.<sup>30</sup> Government-sponsored oceanological activities did not really begin until 1921, and these were generally restricted to waters not far distant from Soviet shores. In 1957-58 two events occurred which signalled a quantum jump in Soviet oceanological research capabilities. The first was the mounting of the largest oceanological research program to be associated with the International Geophysical Year. The second was the launching of the Michail Lomonosov, the first of a sizable number of large, first-rate, oceanological research ships. These have allowed the Soviet Union to engage for the first time in extended long-range distant oceanographic research.

By 1964 the Soviet oceanological fleet had grown to the same size as the American fleet. In 1970 it was made up of approximately 200 vessels which displaced about 320,000 tons. By comparison, the American oceanological fleet only displaced 180,000 tons. In addition, the Soviet Union has developed underwater research laboratories.

The 1971-1975 Five-Year Plan emphasized the "development of scientific work on oceanography...for the elaboration of problems of the broader and more rational utilization of...the resources of the seas and the ocean [and] the elaboration of scientific principles of the protection and transformation of nature for the purpose of improving the natural environment surrounding man."<sup>31</sup> Soviet oceanological activities aimed at the elaboration of the aforementioned problems and principles are so many and various that only a few rather general remarks about them can be made here.

Concerning problems relating to the utilization of ocean resources, both living and non-living, the work of oceanological agencies usually entails locating the resources, be they fish or mineral, near to or far from the Soviet Union, and aiding in the development of the techniques and equipment necessary to exploit them.<sup>32</sup> As for "principles" relating to the environment, the Soviet Union seems most concerned with oil pollution and with the dumping of industrial wastes and radioactive contaminants in the ocean.<sup>33</sup> Among their research activities, Soviet oceanologists have studied the effects of pollution on marine life and also the extent to which pollutant wastes may spread from the point of original pollution.<sup>34</sup> Work by oceanologists in this area is part of what seems to be relatively recent but generally increased concern

on the part of the Soviet Union with the whole problem of environmental control and pollution. It has been claimed that Soviet annual expenditures in this area have "more than doubled in the last five year period."<sup>35</sup>

Soviet oceanologists focus not only on problems and principles of ocean resources and environmental impact. They also serve the needs of other agencies. The merchant marine is assisted, for example, through the determination of wind and current conditions throughout the world. Such information is then included in navigational charts and aid-to-navigation publications utilized by the shipping industry. Oceanologists drop and maintain unmanned buoy stations which take measurements of currents, temperature, salinity, etc., to aid meteorological services. These measurements provide important data for weather forecasting and the development of ocean weather forecasting techniques. <sup>36</sup>

Soviet oceanology is also in the service of the Navy for which it performs at least two major functions. The first is gathering intelligence about foreign naval movements and operations. The second is generating data useful for anti-submarine warfare. The chief shipborne anti-submarine warfare detection device is sonar, which relies on the propagation of sound through water. Sound waves in water are strongly affected by factors such as salinity and temperature layers which cause the waves to bend. Soviet oceanologists obtain the necessary data for predicting what salinity and temperature layers are likely to exist in specific parts of the ocean at specific times of the year. This information is of considerable value both in detecting enemy submarines and in protecting Soviet submarines.<sup>37</sup>

\* \* \* \* \*

There is a common pattern to Soviet ocean use developments. It is one of important decisions being made, mostly in the first and second decades after World War II, to increase vastly ocean activities. These decisions constituted responses to a variety of felt needs and perceived opportunities and have resulted in the Soviet Union becoming a great maritime power. The USSR boasts one of the world's two strongest navies, the world's third most numerous merchant marine, the world's third most productive fishing fleet, an ongoing program for nonliving ocean resource exploitation, and one of the world's largest oceanological efforts. These facts are reflected in the legal positions of the Soviet Union in the law of the sea debate.

#### SOVIET OCEAN LAW

The discussion of Soviet ocean activities indicates the important uses which the USSR makes of the seas. The Soviet Union benefits greatly from the legal status quo in the oceans because traditional freedoms of the high seas, while they theoretically open the oceans to all, in practice open the oceans to those States with a capability of using them. The USSR is a State with an exceptional maritime capability. More than most nations, the Soviet Union stands to lose by the emergence

of a new ocean legal order which would replace high sea freedoms with control by either coastal States or an independent international ocean authority. On the other hand, States without the potential of the Soviet Union or the other maritime powers to use the oceans support restrictions on high seas freedoms, freedoms which do not serve them because they do not have the means naval, economic, or technological to compete with the developed states. The Third World countries, therefore, favor, in general, some form of coastal State or international ocean control which would give them the benefits of ocean use without having to compete directly with the navies, merchant fleets, fishing fleets, technologies, and oceanologists of the maritime powers.

The Soviet Union did not inaugurate the law of the sea debate. It has, generally, viewed proposals to change the legal status quo with suspicion and often with direct opposition. The Soviet Union has not, however, been inflexible. The USSR has molded and remolded its policy in an attempt to remain at least within shouting range of the opinion of Third World states which so predominate numerically in the United Nations. But the final answer to law of the sea issues does not lie solely in majority opinion. Without the consent of the great maritime powers, even two-thirds of the world's states would be insufficient to enforce a new international legal order. Thus, the Soviet Union has a weight in the United Nations seabed debate much heavier than the votes which she can muster in the General Assembly, or at a law of the sea conference. The great maritime powers cannot write ocean law without the votes of the Third World and the Third World needs, at least, the grudging acceptance of the great maritime powers.

Soviet policy reflects this relationship between the great powers and the developing nations. Fundamentally, Soviet ocean law policy aims to protect Soviet ocean use in two interrelated fashions. First by proposing new rules of international law which would protect freedoms of the high seas. And second, by opposing or modifying proposals which would put the oceans under coastal State control or the authority of an international regime.

#### Protection of High Seas Freedoms

High seas freedoms of navigation, exploitation, and research are, of course, crucial to the Soviet Union. Restrictions on navigation could limit the mobility of Soviet submarines - both those that seek to attack enemy ships and that serve as ballistic missile platforms although the Delta ballistic missile submarine could avoid some of those problems because of its long-range missile. They could impair the ability of the Soviet surface naval fleet to maneuver close to foreign shores to support friends, or to deter enemies. Restrictions on navigation might subject the Soviet merchant fleet to foreign regulation, perhaps even foreign tolls. An end to privileges for freedom of exploitation would be a serious blow to the Soviet fishing fleet and to the Soviet diet. It might mean less freedom to exploit deep-sea resources such as manganese

nodules. And limitations on the freedom to research could cripple the Soviet oceanological effort and adversely affect that effort's economic, naval, and meteorological beneficiaries.

At first, in the United Nations debate the Soviet Union seemed unwilling to accept any limitations on high seas freedoms:

...the formulation of legal rules governing the activities of States with respect to the use of the seabed should be based on existing principles of international law; it should not restrict the principle of freedom on the high seas and other rights enjoyed by States under the international rules now in force.<sup>38</sup>

But, as the challenge to the traditional rules of the high seas became more determined and as majority opinion clearly began to support significant changes, the Soviet Union was willing to accept some "progressive development" without relinquishing her championships of high seas freedoms as elaborated in the Convention on the High Seas written in Geneva:

The Soviet Union supported the norms of international law governing ocean space, in particular those contained in the Geneva Conventions of 1958. It was convinced that the progressive development of international law must take place on the basis of generally accepted norms and principles, through agreements which took into account the interests of all countries and not through unilateral action by individual States or groups of States.<sup>39</sup>

By "progressive development" the Soviet Union means to improve rather than "scrap" existing law of the sea.<sup>40</sup> Three areas of improvement have emerged from the presentations of the Soviet delegation in the seabed debates: first, the need to limit territorial seas to 12 miles; second, the need to strictly define the legal extent of the continental shelf; and, third, the need to assure freedom of transit through international straits. All of these proposals improve existing law by, in effect, explicitly defining that territory governed by the Convention on the High Seas which guarantees high seas freedoms.

According to the draft article which the Soviet Union presented in 1973, the traditional Russian territorial sea of 12 miles would be the maximum allowable:

... each State shall have the right to establish the breadth of its territorial sea at no more than 12

nautical miles measured in accordance with the provisions of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone.<sup>41</sup>

Maximum claims to the continental shelf would be to 500 meters or 100 nautical miles, whichever was greater:

- 1) The outer limit of the continental shelf may be established by the coastal State within the 500-metre isobath.
- 2) In areas where the 500-metre isobath referred to in paragraph (1) hereof is situated at a distance less than 100 nautical miles measured from the baselines from which the territorial sea is measured, the outer limit of the continental shelf may be established by the coastal State by a line every point of which is at a distance from the nearest point of the said baselines not exceeding 100 nautical miles.
- 3) In areas where there is no continental shelf, the coastal State may have the same rights in respect of the sea-bed as in respect of the continental shelf, within the limits provided for in paragraph (2) hereof.<sup>42</sup>

Adoption of principles strictly limiting the claims which coastal States could make to territorial waters or to jurisdiction over the continental shelf would, of course, preserve the freedoms of the high seas in the vast majority of ocean space. But universal acceptance of 12-mile territorial waters would endanger the status of over 100 international straits, including ones as vital to the Soviet Union as Gibraltar and Malacca. International straits under contemporary international legal rules are governed by the notion of "innocent passage." But innocent passage is insufficient to protect Soviet ocean uses because it does not provide for the passage of submerged submarines, nor for the overflight of aircraft, nor, according to some interpretations (among them the traditional Soviet view) for the passage of warships without notice. As the plight was explained by the Soviet delegation:

...it was hardly possible to claim that a regime of innocent passage would suffice for international straits. Experience in recent years had shown that the regime was sometimes interpreted in different ways; it might result in attempts by States to obstruct freedom of navigation. In practice, control of those important straits would be in the hands of a small group of States,

which would be prejudicial not only to international navigation but also to the entire international community.<sup>43</sup>

Accordingly, to protect Soviet naval and air activities the Soviet Union proposed draft articles in 1972 providing for free transit through straits:

In straits used for international navigation between one part of the high seas and another part of the high seas, all ships in transit shall enjoy the same freedom of navigation, for the purpose of transit through such straits, as they may have on the high seas...

In the case of straits over which the airspace is used for flights by foreign aircraft between one part of the high seas and another part of the high seas, all aircraft shall enjoy the freedom of overflight over such straits as they have in the airspace over the high seas.<sup>44</sup>

The Soviet draft articles further provide for the establishment, if desired, of transit corridors by the coastal State and for guarantees that the transiting ships and planes would not endanger the security, safety, or environment of the coastal State.<sup>45</sup> If the Soviet straits proposal were adopted, the naval interests of the USSR would benefit. Russian submarines could pass through international straits without surfacing and disclosing their movement. Russian surface warships could pass without giving notice. Russian aircraft would also be assured free transit.

In defending the traditional freedoms of the high seas and in suggesting restrictions on coastal State control of territorial seas, the seabed, and international straits, the Soviet Union is in a "conservative" position, more in tune with the western capitalist States than with the developing countries. Throughout the United Nations law of the sea debate the Soviet Union has felt obliged to defend its "revolutionary" tradition even while supporting "conservative" law:

...the USSR, faithful to its revolutionary and democratic traditions, was opposed to all that was outmoded and reactionary in international relations...

On the other hand, his country had



no intention of doing away with  
 established concepts of international  
 rules which it considered to be of use<sup>46</sup>

The "established concepts" still "of use" include, of course, the traditional freedoms of the high seas. But, the utility of these freedoms cannot be appreciated by developing States who are the real "revolutionaries" in this debate, as much as they can be by the Soviet Union and other conservative maritime powers. For example, the freedom to research has been hotly disputed in the United Nations. The capability to conduct oceanological research is largely restricted to a few developed States. Developing countries have expressed their fears that oceanological research will benefit the developed States which would use the data collected by their scientists for their own military and economic purposes. The Soviet Union, as an oceanological and conservative leader, defends the right to research:

In view of the importance of expanding marine scientific research, attempts to deny or limit the freedom of scientific research in the world ocean were completely unjustified. Any such limitation would be a step backward and highly detrimental to the interests of the world community.<sup>47</sup>

But, freedom to research is of no use to a State with limited capabilities. Similarly, freedom to navigate is not useful to a small and weak navy or a small or nonexistent merchant fleet. Freedom to exploit is not useful for States with inefficient and technologically backward fishing fleets and means for mineral and hydrocarbon exploitation. With her extensive capabilities, it is logical that the USSR is a devoted defender of the traditional legal rules for the oceans. But other States are unwilling to sanction the broad preservation of the high-seas freedoms as proposed by the Soviet Union and instead support innovations which would give the rights to profit by ocean use not to States on the basis of capability but on the basis of length of coastline or relative poverty or some combination of the two. Thus, besides protecting and improving high-seas freedoms, the Soviet Union has had to resist those claims which would transform the ocean's traditional legal order.

#### Opposition to Extensive Coastal or International Regimes

During the seabed debate, the Soviet Union has opposed "the trend to adopt unilateral decisions in the matter of the limits of the territorial sea."<sup>48</sup> "Unilateral decisions" refer to national claims going beyond the limits proposed by the Soviet Union, especially the 12-mile territorial sea limit, and would include relatively old claims like those of some of the Latin American States to a 200-mile territorial sea. In large measure, the Soviet proposals to provide for strict definitions of the territorial sea and the continental shelf are a result of their concern that without strict limits, coastal States will carve up the oceans into numerous national ocean "lakes." Extensions of coastal State jurisdiction

would destroy the freedoms of the high seas by reducing the extent of the high seas themselves.

Many of the claims to enlarged coastal State control have been made on the grounds that the developing coastal States deserve a special share of ocean resources because of their poverty. The delegation of the USSR has resisted the notion that such claims against developed States are justified as regards the socialist bloc:

During the discussion a number of representatives had referred to rich and poor States--without making any distinction between the rich States--and had asserted that the latter had become rich by exploiting other peoples. Such an approach misrepresented the true situation. The Socialist States, whose national wealth had been created by the labour of their peoples, could not be placed on the same footing as the imperialist Powers whose wealth had been obtained by exploiting colonies. 49

Rather, according to the Soviet Union, the former colonial powers and the capitalist countries were the ones with a "responsibility" for the backwardness of the Third World nations and were, thus, responsible for giving the developing states special preferences or income supplements.<sup>50</sup> It would be unfair to restrict the activities of the socialist countries in the world oceans to make up for the previous foul play and exploitation of the colonial and imperialist powers. This position attempts simultaneously to support the claims of the Third World states to a special share of world resources while rejecting the principle that the developing countries have a right to take that special share, in part, from ocean resources.

The Soviet Union has voiced its opposition to the proposal that coastal States be permitted to establish economic zones of up to 200-miles into the oceans:

Some States were seeking to permit the coastal State to set its own limits for the economic zone. Such a proposal would create chaos in the delimitation of the high seas and was clearly motivated by political and hegemonistic aims.<sup>51</sup>

The USSR does not oppose 200-mile economic zones because they would include non-living resources; the Soviet proposal for the continental shelf grants coastal States most of these seabed resources already. Rather, the Soviet Union fears that economic zones, established ostensibly to control ocean resources, will "creep" and become zones of political control as well. Political jurisdiction could mean restrictions on the maneuverability of the Soviet Navy, merchant marine, and oceanological establishment, a possibility stoutly to be resisted.

Even economic zones which did not "creep" would endanger Soviet ocean use by withdrawing the world's most productive fishing waters from the high seas and putting fishing resources within coastal State jurisdiction. Considering the dependence of the USSR upon its distant water fishing fleet, it is no surprise that Soviet opposition to economic zones has been based upon the need to fully exploit world fisheries:

If claims to exclusive rights over extensive off-shore regions of the high seas were admitted, a huge quantity of food resources would be lost...Mineral resources remained where they were indefinitely, but fish only lived for a short period, and, if they were not caught, eventually they died. With a large proportion of the world's population starving, it was wrong to waste any of the available resources of fish. 52

The Soviet Union has complained that the establishment of economic zones "would in practice mean the end of technically well-equipped and very economically run deep-sea fishing, and its replacement by small fleets of coastal tramp vessels." 53 The Soviet Union, is, of course, responsible for a good deal of "technically well-equipped and very economically run deep-sea fishing" and naturally resists restrictions on her fishing fleet. Whether the Soviet Union makes a significant contribution to feeding the world's starving population as a result of her more advanced fishing methods is doubtful since only 4 1/2 percent of her catch is exported. Rather, the Soviet Union is attempting to safeguard her own fishing investment and food supply.

The USSR has however, recognized the need to make some concessions on the fisheries question. The Soviet delegation has often expressed its willingness to agree to certain preferential fishing rights for coastal States:

...some States consider that if the territorial sea were fixed at twelve miles, the coastal States might have to receive some special fishing rights beyond the limits of the territorial sea in contiguous areas. The Soviet Union fully understands the importance of that matter and is ready to seek for its just and correct solution. 54

The solution which the Soviet Union proposes is contained in its 1972 draft article on fishing. The draft article provides that a developing coastal State can reserve a share of the catch of all species off its waters equal to that which it can catch with its own vessels. A similar provision assures coastal States of any sort a share of anadromous species equal to the total spawning in the coastal State's waters and up to the capability of the coastal State to exploit that share. Implicitly,

the proposal excludes any preferential fishing rights for developed coastal States in nonanadromous species. This would preserve the fishing status quo in the most important Soviet fishing waters which lie off the United States, Canada, and Western Europe.<sup>55</sup>

According to the Soviet fishing proposal, the maximum possible catch and the allocation of remaining shares of that total catch will be determined by regional fishery organizations or, where such organizations do not exist, by agreement between coastal and fishing States.<sup>56</sup> Many coastal States are suspicious of such arrangements. Regional fishery organizations are notoriously weak, unable to enforce their decisions. Ad Hoc agreements depend upon the willingness of fishing States to restrict their catch, a willingness not often demonstrated in practice. Largely, the Soviet proposal protects the USSR fishing effort by precluding the establishment of effective means for controlling Soviet fishing without Soviet consent.

The Soviet preference for international cooperation instead of coastal State jurisdiction extends to environmental problems as well as fishing problems. The Soviet draft articles on the marine environment provide for special international or regional legal regimes outside territorial waters (presumably held at the 12-mile limit). The necessary "rules and standards" for preventing marine pollution beyond the territories should result from inter-State cooperation.<sup>57</sup>

Although the above articles provide for the possibility of regional solutions, the USSR has consistently opposed regional maritime regimes with participation based on geographical proximity alone.<sup>58</sup> Such regional regimes would, of course, exclude the Soviet Union from rule-making in most areas. Instead, it has been an important Soviet principle that all States should have the right to consent to changes in the law of the sea and the Soviet delegation has been a proponent of reaching ocean decisions by consensus rather than by majority vote or by a supernational organization. Characteristic of the Soviet position was its long and vocal support of the Inter-governmental Oceanic Commission as the proper means for deciding questions of ocean use.<sup>59</sup>

The special advantages of the IOC were not only that it boasted a Russian director, but that it worked on a basis of coordinating national oceanic efforts rather than directing them, that it was a forum for co-operation rather than an effective means of international decision-making. The continued Soviet praise for the IOC as a means or a model for an oceanic regime failed to elicit Third World or western support. Instead, the Soviet Union increasingly realized that most of the world's States were in favor of some new form of supernational oceanic authority.

The notion of a new international ocean organization was, at first, hotly disputed by the Soviet delegation:

The establishment of a legal regime did not necessarily presuppose establishment of any machinery...the future legal regime would take the form of an international agreement.<sup>60</sup>

We do not believe that this (supernational) type of an international type of machinery is necessary and would vote against any proposal for concentrating attention on this type of international machinery.<sup>61</sup>

Opposition to an international regime based on supernationalism was a result of several causes. As expressed in Soviet policy statements the regime was, as above, unnecessary. Further, the Soviet delegation voiced the fear that an international authority would be dominated by the "capitalist monopolies or a few imperialistic powers."<sup>62</sup> Most important, however, was the fear that an international authority would restrict traditional freedoms of the high seas and, thus, restrict Soviet ocean activities. Accordingly, as pressure grew to establish some form of international authority, the Soviet Union responded by insisting that the powers of that organization be strictly limited so as not to infringe traditional freedoms:

The treaty should be based on the principle that the sea-bed was open to use, exclusively for peaceful purposes, by all states without discrimination...

There should be an article stating specifically that the provisions of the treaty did not affect the legal status of the superadjacent waters or air-space of the sea-bed.<sup>63</sup>

In addition, the Soviet Union has proposed that the international regime's executive board reach decisions only on the basis of consensus.<sup>64</sup> This would ensure that each bloc including the Soviet bloc, would have an effective veto over organizational decisions. The USSR has been willing to support an authority which would be empowered "only to coordinate the activities of States and not to direct them."<sup>65</sup> Thus, the Soviet Union would always be in a position to forbid decisions which might restrict her ocean activities by limiting high seas freedoms. This is the same philosophy underlying Soviet willingness to participate in regional fishery organizations; permit an international organization to govern ocean use if the Soviet Union maintains an effective rein on the organization's ability to reach decisions.

In only one area has the USSR been the proponent and not the opponent of legal controls which would restrict high freedoms. The delegation of the Soviet Union has been a long-time supporter of the prohibition of all military uses of the seabed, not just for the emplacement of weapons of mass destruction as already proscribed by treaty:

...a treaty defining the basis for the peaceful use of the sea-bed and

its sub-soil should include a provision of principle declaring the impermissibility of using the sea-bed and the ocean floor, and the sub-soil thereof, for military purposes.<sup>66</sup>

The special deviation from the general Soviet position can be explained by reference to the reported lead held by the United States in deploying underwater antisubmarine detection devices. A provision banning 'all' military purposes would include the listening devices which are not now encompassed by the peaceful uses of the seabed treaty. The adoption of this proposal would mean greater security for Soviet submarines and the nuclear deterrent of the USSR.

#### CONCLUSION

The negotiating stance of the Soviet Union in the law of the sea debate is a faithful reflection of Soviet ocean use rippled in contentious waters. As one of the world's greatest beneficiaries from the traditional rules of international legal order of the oceans, the Soviet Union is reluctant to alter those rules. The USSR attempts to protect the freedoms of the high seas which are so useful to her strategic, economic, and research activities. Proposed new rules implementing maximum limits to territorial seas and continental shelves and establishing free transit through straits improve the status quo. On the other hand, proposals for increased coastal State jurisdiction or for the creation of a supernational international oceanic authority tend to imperil Soviet use of the oceans and are resisted. Instead of enlarged territorial seas, economic zones, or regional control, the Soviet Union suggests preferential fishing rights and environmental regulations to be agreed upon by consensus with all concerned States, including the Soviet Union. When faced with proposals for an international oceanic regime the Soviet response is, first, to suggest cooperation instead of direction, second, to restrict the authority of the regime, and third, to insist upon consensus in decision-making. All of these positions go towards protecting the interests of the Soviet Union, one of the world's great maritime powers and a defender of traditional law of the sea.

## NOTES

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Yegorov, op. cit., p. 15. Concerning emphasis placed on development of the merchant marine at the latest CPSU Party Congress (1971), see A.N. Kosygin, "Report on the 24th Party Congress Directives for the 5-year Plan for the Development of the USSR National Economy for 1971-1975" as found in U.S. Department of Commerce, Joint Publication Research Service, 24th Congress of the Communist Party of the Soviet Union: Stenographic Report (December 20, 1971), IV, 35 and "The 24th CPSU Congress Directives for the 5-Year Plan for the Development of the USSR National Economy for 1971-1975" as found in Ibid, V, 81.

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