CHINA AND THE LAW OF THE SEA

by

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ABSTRACT

Through an examination of the People's Republic of China's policies on the law of the sea (LOS), this thesis proposes to show the extent to which these policies reflected China's general foreign policy objectives and its specific maritime characteristics.

In part I, the determinants of China's LOS policies were examined. From a survey of China's foreign policies from 1949 through 1977, eight objectives were identified as being central to China's foreign relations. Several facets of China's maritime characteristics and its regional maritime disputes were also considered in order to distinguish those characteristics which most likely had an impact on China's LOS policies.

In general, China's LOS policies emerged as a result of its participation in the Seabed Committee (1972-1973) and the first six sessions of the Third United Nations Conference on the Law of the Sea (1973-1977). Therefore, part II of the thesis included a discussion of these negotiations focusing specifically on an in-depth description of China's policies and how they related to the policies of other states.

From the analysis of China's LOS policies, it was found that the Chinese initially presented their positions on most LOS issues early in the seabed Committee meetings. Secondly, the majority of China's LOS statements, especially during the early sessions, reflected broad policy outlines and general principles rather than specific regulations. Thirdly, it was shown that China's foreign policy objectives of maximizing state
control over areas under its jurisdiction, curtailing superpower hegemony, especially that of the Soviet Union, enhancing China's prestige among Third World states, promoting the establishment of a new international legal order, and expanding its contacts with developed as well as developing states all had an impact on China's LOS policies. In addition, China's policies were influenced by its geography, offshore resources, and maritime expertise. It was concluded that China's LOS policies are best explained by reference to China's particular maritime characteristics and the manner in which these characteristics influenced how China pursued its general foreign policy objectives in the LOS issue-area.
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## ABBREVIATIONS

<table>
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<tr>
<td>CCP</td>
<td>Chinese Communist Party</td>
</tr>
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<td>CCDP</td>
<td>Committee for Coordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas</td>
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<tr>
<td>DWT</td>
<td>Deadweight Ton</td>
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<tr>
<td>GDS</td>
<td>Geographically Disadvantaged States</td>
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<td>ICNT</td>
<td>Informal Composite Negotiating Text</td>
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<td>IMCO</td>
<td>Intergovernmental Maritime Consultative Organization</td>
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<td>ISA</td>
<td>International Seabed Authority</td>
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<tr>
<td>ISNT</td>
<td>Informal Single Negotiating Text</td>
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<td>LL</td>
<td>Landlocked States</td>
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<td>LOS</td>
<td>Law of the Sea</td>
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<tr>
<td>n.m.</td>
<td>Nautical Miles</td>
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<td>PRC</td>
<td>People's Republic of China</td>
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<tr>
<td>ROC</td>
<td>Republic of China</td>
</tr>
<tr>
<td>ROK</td>
<td>Republic of Korea</td>
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<tr>
<td>RSNT</td>
<td>Revised Single Negotiating Text</td>
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<td>RVN</td>
<td>Republic of Vietnam</td>
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<tr>
<td>SBC</td>
<td>UN Committee on the Peaceful Uses of the Seabed and the Ocean Floor Beyond the Limits of National Jurisdiction (Seabed Committee)</td>
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UNCLOS II  
Second UN Conference on the Law of the Sea

UNCLOS III  
Third UN Conference on the Law of the Sea
CHAPTER 1

INTRODUCTION

From 1966 to 1969 the People's Republic of China (PRC)* experienced a massive upheaval under the guise of the Great Proletarian Cultural Revolution. The period of the Cultural Revolution had a staggering effect not only on China's domestic policies, but on China's foreign policies as well. During this period, the Chinese recalled all of their foreign ambassadors with the exception of Huang Hua in the United Arab Republic and, for the most part, sealed off their country from the rest of the world. By 1970, the excesses of the Cultural Revolution had subsided. Domestic policies reverted back to the earlier pattern of 1961-1965.¹ China's foreign policies after 1969 also reflected a change from the isolationism of the preceding years. This change, however, was not a reversion to previous policies but the beginning of a new era in Chinese foreign relations.

In the early 1970s the Chinese began to play a more active role in international affairs. They reassigned their ambassadors, increased contacts with foreign states through cultural exchanges, trade, and diplomatic missions, and became actively involved in international negotiations.

*In the following discussion, the People's Republic of China will be referred to as the PRC or China. The Republic of China located on Taiwan will be referred to as either the ROC or Taiwan.
This latter activity was especially pronounced following the October 15, 1971 vote by the members of the United Nations General Assembly to recognize the Peking regime as the official representative of China. This vote marked the entrance of the PRC as a full participating member of the international community.

While the Chinese had been active in regional (Asian) affairs and, to a lesser extent, in relations with other communist and nonaligned states prior to their admission to the UN, they had played only a minor role in multilateral discussions on global issues. Beginning in 1971, the Chinese started to participate more actively in international negotiations on issues about which they had previously said little (e.g., environmental pollution and the law of the sea). Thus, the 1970s marked a turning point in China's foreign relations away from its earlier isolationist policies. It is important, therefore, to learn more about China's foreign policies during this period in order to develop a better understanding of the current and possibly future direction of China's international relations.

There are several possible approaches which could be adopted to study China's foreign relations in the 1970s. Robert North, for example, adopted a survey approach in which he not only described general trends in China's foreign policy over a long period of time, but also discussed historical and ideological factors which influenced these policies.² (Michael Yahuda, King Chen, and Robert Sutter have each adopted approaches similar to North's.³) Secondly, studies of China's foreign policy have concentrated more narrowly on China's relations with groups of states situated in specific geographical regions such as East Asia, Africa, Latin America, and Western Europe.⁴ A third approach adopted by many authors is to discuss all aspects (e.g., diplomatic, cultural, and economic) of China's
relations with a single state. Some of the authors using this approach to analyze China's policies during the 1970s have studied China's relations with the Soviet Union, Pakistan, Japan, Great Britain, and Tanzania.⁵

Fourthly, studies have focused specifically on the impact of individual Chinese leaders, most notably Mao Tse-tung, on China's foreign policy.⁶ Finally, there are studies which focus neither on China's state-to-state relations nor on the influence of individuals on foreign policy but on China's policies vis-à-vis one or more specific issue-areas. One of the most recent and comprehensive studies following this approach is Samuel Kim's study of China's "participation in the United Nations system."⁷ In addition to China's UN policies, an issue which has been the subject of some study is China's strategic policy.⁸ While these five general approaches to the study of Chinese foreign policy are not exhaustive, they do give an indication of the type of work being conducted in this area.

Of the five approaches presented above, the fifth type has been adopted for use in this study. There appears, in fact, to be a gap in the current literature on Chinese foreign policy dealing with single international issue-areas. Therefore, a study following this approach would provide detailed information regarding a previously unexplored area of China's foreign relations. In addition, by focusing in-depth on the development of China's policies regarding one broad issue-area, the factors which led the Chinese to adopt these policies might also become more evident.

Whether or not this approach successfully yields important insights into China's foreign policy or its strategies toward specific questions depends largely on the issue to be analyzed. For the reasons discussed in detail below, the general issue-area chosen for analysis in this study is China's policies on the various aspects of the law of the sea (LOS).
As mentioned earlier, the PRC's admittance to the UN in 1971 paved the way for China to expand its role in international affairs. This expansion occurred not only as a result of China's activities within the UN itself, but also through China's participation in the specialized agencies of the UN and attendance at UN sponsored international conferences. However, the Chinese did not take an immediately active role in all of these organizations. In fact, "the PRC . . . adopted a low-profile and apprentice-like posture in its diplomatic behavior and style in the United Nations." During its first session in the UN (the twenty-sixth session in 1971), the PRC sent representatives to only four of the six main committees of the General Assembly and did not fill the quota for Chinese staff on the Secretariat. The Chinese were also reluctant, at first, to take part in some UN associated activities. They declined an invitation to attend the May 1972 session of the Trusteeship Council and they did not present any nominees for election to the International Law Commission in November 1971 or for the election of new judges to the International Court of Justice in October 1972.

One of the PRC's first major involvements in a UN sponsored international conference was in 1973 when it sent a delegation to the first session of the Third UN Conference on the Law of the Sea (UNCLOS III). Earlier, from 1972-1973, China had participated in the UN Committee on the Peaceful Uses of the Seabed and the Ocean Floor Beyond the Limits of National Jurisdiction (the Seabed Committee or SBC) which established the framework for UNCLOS III.

UNCLOS III developed into one of the largest UN sponsored conferences ever held, with approximately 5,000 delegates attending the first substantive session in 1974. The conference was also massive in terms of the
breadth of issues to be negotiated. According to one author, the conference "represented the most ambitious, extensive, and complex international negotiation in history." Thus, the conference was significant for the Chinese in that it gave them an opportunity to participate in large-scale international negotiations and to negotiate with other states to attain their policy goals. Through these activities, the Chinese gained added experience and recognition in international affairs.

In addition to providing international negotiating experience, the conference was also significant not only to the Chinese, but to all developing states in that it was "a key transitional conference in the process of moving from established international standards to a new international order." During the 1960s many of the newly independent and developing states had begun to question the basic tenets of traditional international law on the basis that they had been established by a few dominant Western states to serve their own interests. Many of the new and developing states viewed these tenets as essentially a product of the colonial era and, hence, not appropriate for contemporary international relations. More specifically, "many developing nations viewed the law of the sea as the classic area in which the rules had been formulated by the Western maritime nations." They viewed UNCLOS III as the forum for restructuring the oceans regime and contributing to the creation of a new international order. The Chinese shared the opinion that

the Conference had a simple choice between the outdated legal regime of the sea based on hegemony and 'a fair and reasonable new law of the sea' as an important part of the establishment of a new international economic order.

Finally, the SBC and the subsequent Law of the Sea Conference were important for the Chinese in that it was not until its participation in
these sessions "that China's position on LOS issues began to take shape." 17

In 1950, the Chinese established regional fishing and security zones; however, these policies were not formulated into a global position on fishing rights until November 1970. 18 The PRC also made its first official declaration of its claim to a twelve nautical mile (n.m.) territorial sea on September 4, 1958. However, the Chinese did not elaborate further on their law of the sea policies at that time. Throughout the 1960's, the PRC's activities on the question of the territorial sea continued to be . . . limited primarily to giving 'serious warnings' to 'American imperialism' for violating the PRC's 'territorial sea.' 19

Thus, beginning in 1972 with their participation in the SBC, the Chinese started to formulate a comprehensive policy on the oceans. The issue of the law of the sea therefore provides a good vantage point from which to study Chinese foreign policy in the 1970s since it allows one to examine a comprehensive set of policies designed to deal with an issue-area on which few statements had previously been made.

In summary, China's participation in the SBC and UNCLOS III was important for the Chinese in that it: (1) broadened their general role in international affairs; (2) established their position on the restructuring of the international system; and (3) led to the formulation of their own policies on the oceans. It was the significance of these factors which led me to choose the law of the sea as an appropriate issue-area for analysis.

A final factor which affected the choice of China's policies on the law of the sea as an appropriate area for study was the fact that it had not been studied previously in any depth. A few articles had been published describing China's position on specific LOS issues such as territorial sea or continental shelf limits; however, these articles did not attempt to
analyze China's overall LOS position. At the time that this thesis was nearing completion, a book length study by Jeanette Greenfield entitled *China and the Law of the Sea, Air, and Environment* was published. Greenfield's study is similar to this one in that she also describes, to some extent, the same policies discussed here. However, in terms of focus the two studies differ substantially. Greenfield's emphasis is on China's LOS policies as they relate to current international law while this study focuses on an analysis of China's LOS policies in terms of China's foreign policy objectives and maritime characteristics.

More specifically, this study is designed to achieve two fundamental objectives. The first objective is to provide a detailed description of China's LOS policies. In fulfilling this goal, the study will also provide information regarding the international bargaining involved in the UNCLOS III negotiations and the strategies adopted by the Chinese during these multilateral discussions.

Secondly, this study attempts to explain why the Chinese pursued certain LOS policies. Specifically, it will focus on how China's general foreign policy objectives as well as its maritime characteristics and regional maritime disputes have influenced the development of the country's LOS policies. Through this detailed discussion and analysis a comprehensive picture of China's LOS policies should emerge which will add to our understanding of general trends in Chinese foreign policy including the impact which domestic (in this case, maritime) characteristics have on its content.

Before describing the general framework of this study, it is first necessary to specify the period to be analyzed. As mentioned earlier, China's participation in the law of the sea discussions began in 1972 with its appointment to the SBC. The Third UN Conference on the Law of the Sea
began in 1973 with an organizational session in New York. The conference has continued through a series of ten sessions with the most recent meeting being held in March 1981. This study, however, will focus only on the negotiations at the first six sessions of UNCLOS III: (1) December 3-15, 1973 in New York; (2) June 20-August 29, 1974 in Caracas; (3) March 26-May 10, 1975 in Geneva; (4) March 15-May 7, 1976 in New York; (5) August 2-September 17, 1976 in New York; and (6) May 23-July 15, 1977 in New York. It is limited to these six sessions for a number of reasons. First, during the preparation of this study, delays in the publication of UNCLOS III documents and secondary analyses of the conference proceedings made 1977 a practical cutting off point. Secondly, and more importantly, with the exception of provisions on a few issues such as seabed mining and the definition of the continental shelf, agreement on most aspects of a comprehensive LOS text had been reached by the conclusion of the sixth UNCLOS III session in 1977. Thirdly, it was during the first six sessions of UNCLOS III that the PRC presented its proposals and expressed its opinions on the major LOS issues. Therefore, a study of negotiations at these six sessions provides a comprehensive picture of China's LOS policies. In fact, the Chinese have not altered their position on any of the LOS issues since 1977.

The following discussion and analysis of China's LOS policies is divided into six chapters. Chapter 1, along with serving as a general introduction to the study, will also include a brief discussion of early attempts to reach an international agreement on the law of the sea. This historical discussion should help to establish the context in which UNCLOS III was convened. In part I (chapters 2 and 3), the factors influencing China's LOS policies will be discussed. These factors are divided into two categories: (1) China's foreign policy objectives; and (2) China's maritime
characteristics and regional maritime disputes. The discussion in chapter 2 will concentrate on the first category of variables while chapter 3 will include the second.

Part II (chapters 4, 5, and 6) will include a description of China's LOS policies as well as an analysis of the rationale behind them. While there were a large number of issues discussed at UNCLOS III, they tended to fall into two general categories: those relating to the seabed beyond national jurisdiction which were dealt with in Committee I and those relating to coastal resource jurisdiction and navigation covered in Committees II and III. Corresponding to this division, chapter 4 will include a discussion of the issues considered in Committee I as well as the negotiations concerning the organizational structure of the conference which were conducted at the first UNCLOS III session. Chapter 5 will deal with the issues negotiated in Committees II and III. The analysis in part II will not only describe China's position on each issue in detail, but also place its policies within the context of the overall LOS negotiations. In order to achieve this, it is necessary to consider the general progression of the negotiations including the positions of other states or groups of states on the main issues. At times, this will mean the discussion of these issues during sessions in which the Chinese, while present, did not verbally participate in the negotiations. (In the discussion of the six UNCLOS III sessions, all of the interventions by the PRC delegates on the major issues will be presented.) Finally, China's policies on the respective LOS issues will be analyzed in terms of the influence which each of the two sets of variables introduced in part I had on these policies.

General conclusions drawn from the findings of this study will be
presented in chapter 6. These will include conclusions regarding China's LOS policies, the factors which influenced these policies, and China's participation in UNCLOS III negotiations. Finally, the significance of the findings will be discussed in terms of what they might tell us about Chinese foreign policy in general.

**Historical Background**

In order to understand the context in which UNCLOS III negotiations began, it is useful to have some background knowledge regarding the development of international negotiations on the law of the sea prior to the most recent conference. The first attempt to codify international law on any aspect of the oceans occurred at the first Conference on the Progressive Codification of International Law held at The Hague in 1930. The objective of this conference was to attempt to codify international law on three subjects, the most important being the regime of the territorial sea. Due to disagreements regarding

1. the breadth of the territorial sea;
2. the right of a state to take measures outside this breadth in an adjacent and contiguous area;
3. the definition of the nature of the rights which states are entitled to exercise over the territorial sea,

the forty-two delegates attending the conference were unable to agree on a territorial sea treaty. However, the conference did result in the preparation of a draft convention on 'The Legal Status of the Territorial Sea' and a resolution that discussions on the issue of the territorial sea should continue.

The first international conference convened exclusively "to examine the law of the sea, taking account not only of the legal but also of the technical, economic, and biological aspects of the problem" was the
1958 Geneva Conference on the Law of the Sea (UNCLOS I). The conference was authorized by the UN General Assembly on February 21, 1957 (Resolution 1105 (XI)) on the basis of a 1956 recommendation by the International Law Commission (ILC). The ILC also submitted draft articles for consideration at the conference and it was these articles which formed the basis for the four conventions eventually adopted. These conventions included:

1. the Convention on the Territorial Sea and the Contiguous Zone (1964);
2. the Convention on the High Seas (1962);
3. the Convention on Fishing and Conservation of the Living Resources of the High Seas (1966); and

The Second UN Conference on the Law of the Sea (UNCLOS II) was convened in 1960 to deal with two issues that had not been satisfactorily resolved in 1958: the breadth of the territorial sea and fisheries jurisdiction. Once again, the eighty-eight state delegations at the conference failed to reach a substantive agreement on these issues.

Following the close of UNCLOS II in 1960, activities concerning ocean use and development shifted significantly from the arena of international negotiations to the national level. Many countries made new and/or expanded claims to ocean jurisdiction while others stepped up their efforts in developing advanced marine technology for the exploration and exploitation of ocean resources. Within the context of the UN, the discussion of ocean issues moved from international conferences to specialized agencies such as the Food and Agriculture Organization (FAO) and the Intergovernmental

*The dates in parentheses are the years in which the conventions became effective by being ratified by twenty-two states.
Maritime Consultative Organization (IMCO).

In addition to these actions, other developments were occurring which would eventually bring ocean issues once again into the forefront of international debate. After 1960, both the number of independent states in the world and membership in the UN increased significantly. For the most part, these countries had had little or no say in the early formulation of ocean law and, as a result, felt it did not represent their interests and aspirations. Therefore, they called for the creation of a new and more equitable ocean regime: one which would move away from the traditional system primarily benefiting developed maritime states to one more beneficial to the developing states.

Secondly, both old and new states began to extend unilaterally their seaward boundaries. Some states, primarily Latin American, claimed a territorial sea limit of 100 nautical miles. Other states extended their jurisdiction for specific purposes, e.g., they established fishing zones beyond their territorial sea within which foreign fishing vessels were prohibited. Canada enacted the Arctic Waters Pollution Act of 1970 which established a pollution zone in which it would set and enforce regulations to curtail vessel source pollution. These states wanted new LOS conventions to legitimize their claims internationally, and other states called for new laws of the sea in order to make maritime regulations more uniform.

Finally, a third development which led to the call for a new LOS conference was the phenomenal advances being made in the field of marine technology. Through these developments, areas of the ocean which had previously been inaccessible, in particular the seabed beyond national jurisdiction, were opened up for exploration and exploitation. Other
developments also brought increased use of the oceans for fishing and shipping which, in turn, led to new problems of conservation and pollution. Therefore, in order to deal adequately with these changes, it was felt that new LOS regulations were needed.\textsuperscript{32}

In summary, following the 1958 and 1960 conferences, many states had become dissatisfied with the existing legal regime for the oceans.\textsuperscript{33} Some countries felt that the traditional ocean regime reflected in the 1958 conventions did not serve their needs and interests while others felt they did not establish the rules necessary to deal with rapidly expanding ocean problems such as pollution.

In an attempt to cope with these problems and to focus international attention on the need for a new ocean regime, Arvid Pardo, Malta's representative to the United Nations, proposed on August 17, 1967 that the General Assembly add a new item to its agenda entitled

\textit{Declaration and treaty concerning the reservation exclusively for peaceful purposes of the sea-bed of the ocean floor, underlying the seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind.}\textsuperscript{34}

In this proposal, Pardo asked the General Assembly to declare the seabed beyond national jurisdiction part of the "common heritage of mankind."

In order to realize this concept, Pardo suggested a treaty encompassing several principles including

- nonappropriation by states, use of seabed revenues primarily to promote the development of poor countries, reservation of the area for peaceful purposes only, and creation of an international agency to assume jurisdiction and to 'regulate', supervise and control all activities therein.\textsuperscript{35}

Pardo's proposal proved to be the major catalyst in the movement towards a new LOS conference. On December 18, 1967, the General Assembly voted to establish an Ad Hoc Committee chaired by Hamilton Shirley Amera-
singehe of Sri Lanka (Ceylon at the time) to study the issues raised by Pardo. The Ad Hoc Committee met from March through August 1968 and focused on two aspects of Pardo's proposal: its legal and economic implications as well as its technical components. By August 30, 1968 the Ad Hoc Committee had adopted a report which was presented to the General Assembly on December 21. Among the four resolutions coming out of this report and later adopted by the General Assembly was one which changed the status of the Seabed Committee from an ad hoc to a permanent committee of the General Assembly.³⁶ The other three resolutions were: the Resolution on Prevention and Control of Marine Pollution (2467B); the Resolution on Study on an Appropriate International Machinery (2467C); and the Resolution on the International Decade of Ocean Exploration (2467D).³⁷

Throughout 1969 and 1970, the members of the Seabed Committee used the same format as the earlier Ad Hoc Committee in "acquiring information, negotiating a declaration of principles, and defining areas of disagreement."³⁸ The major accomplishment of these meetings was to point out the difficulty inherent in considering the various aspects of ocean policy in isolation from one another. For example, it was difficult to discuss exploitation of the seabed beyond national jurisdiction when the limits of coastal state jurisdiction over the seabed and water column had not yet been established.

The growing awareness of the interdependence of ocean issues and the desire of many countries to alter existing norms finally led to the General Assembly's adoption on December 17, 1970 of Resolution 2750C (XXV) which called for a new LOS Conference to be convened in 1973. This conference was to "deal with the establishment of an equitable international régime--including an international machinery--for the area
and the resources of the seabed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, a precise definition of the area, and a broad range of related issues including those concerning the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States), the preservation of the marine environment (including, inter alia, the prevention of pollution) and scientific research."

In addition, the resolution enlarged the Seabed Committee from forty-two to eighty-six members and expanded its mandate, transforming it into the preparatory committee for the new LOS Conference. In fulfilling this function, the committee’s primary task was to delineate all of the issues relevant to the conference and to prepare draft articles on them. In order to distribute its work load, the Seabed Committee set up three subcommittees dealing with: (1) an international regime and organization for the seabed beyond the limits of national jurisdiction; (2) most of the issues traditionally associated with the ocean, e.g., the territorial sea, straits, high seas, and fisheries; and (3) pollution, scientific research, and the transfer of technology. These subcommittees later became the three major committees of UNCLOS III.

In conclusion, the start of UNCLOS III marked the beginning of a new era in the international law of the sea. It opened the way for all countries, developing as well as developed, to have a say in the creation of new regulations for the use of the oceans. For the Chinese, the timing of UNCLOS III also corresponded to a period when China was beginning to expand its contacts with other states. In addition, the issues to be negotiated at the conference presented the Chinese with the necessity to formulate their own comprehensive set of policies on the broad issue-area of the law of the sea. Thus, an examination of China’s subsequent LOS policies should provide useful information regarding the influence which various factors
had on the formulation of China's policies vis-à-vis a specific issue-area. Before such an analysis can proceed, however, it is first necessary to examine several of the variables which may have influenced China's LOS policies. The elaboration of these factors will be the objective of part I.
PART I

DETERMINANTS OF CHINA'S LOS POLICIES
CHAPTER 2

FOREIGN POLICY OBJECTIVES

Before an analysis of China's policies on the law of the sea can be undertaken, it is necessary to establish the context in which these policies were formulated. As with all government policies, both domestic and foreign, China's law of the sea policies were not formulated by a group of individuals in isolation from outside influences. These influences served as either constraints on or impetuses to China's choice of policies and thus formed the context in which they should be analysed. In this study, these contextual variables have been categorized into two general groups: (1) China's foreign policy objectives and (2) China's maritime characteristics and regional maritime policies and disputes. The first category will be discussed in this chapter while the second will be considered in chapter 3.

Prior to discussing the specific foreign policy objectives which the Chinese were pursuing during UNCLOS III (1973-1977), it is first useful to consider briefly the development of China's foreign policy from 1949 through 1972 since these policies and the objectives they served established the historical context for China's subsequent LOS policies. The discussion of China's foreign policy is divided into six sections corresponding to relatively distinct phases in its evolution from 1949 through 1977. The primary focus will be on the identification of China's major foreign policy objectives during each of the six time periods. In discussing these objectives, references will be made to developments in China's foreign
relations and domestic affairs which had an impact on China's foreign policy goals and strategies. Once China's major foreign policy objectives have been identified, it will be possible, in chapters 4 and 5, to analyze China's LOS policies in terms of the extent to which they were the products of these objectives.

1949-1953

At the time of the establishment of the People's Republic of China on October 1, 1949, China's political and economic systems were in chaos. Political organization had been fragmented by the years of turmoil and the economy was suffering under severe inflation. Due to these and other problems, the new Chinese regime required foreign aid in order to begin reconstructing the country. On June 30, 1949, Mao Tse-tung "announced that the Chinese should 'lean to one side' - to the Soviet side."\(^1\) He subsequently traveled to Moscow to negotiate for reconstruction aid. This trip resulted in the signing of a Sino-Soviet Treaty of Friendship, Alliance, and Mutual Assistance which, among other provisions, called for a Soviet economic credit to China and a thirty year military alliance between the two countries.\(^2\) This and other agreements between China and the Soviet Union on minerals, civil aviation, petroleum, and shipbuilding exemplified the close ties which developed between the two countries during the PRC's early years.

This close relationship with the Soviet Union did not prevent the Chinese from establishing diplomatic relations with other states. By June 1950, the PRC government had been recognized by six Asian, seven Western European, and all of the Eastern European socialist states.\(^3\) The trend towards increased international recognition halted rather suddenly with the
outbreak of the Korean War and the February 1, 1951 resolution of the UN General Assembly condemning China as an aggressor and recommending an embargo against it.  

The PRC's involvement in the Korean War began in mid-October 1950 when it sent "volunteers" to aid the faltering North Korean forces. China's participation continued until March 1953 when a truce was finally signed. As a result of the war, the Chinese accomplished several objectives: (1) they preserved their own security by keeping US forces away from the Manchurian border and by helping to secure the existence of North Korea as a friendly communist buffer state; (2) they helped to unify the Chinese people by focusing on a common enemy; (3) they "established China's right to have a voice in the settlement of Asian problems through participation in the peace negotiations;" and (4) they exhibited China's "determination and ability (for the first time in a century) to play a leading role in opposing Western 'imperialism' in Asia." However, China also suffered severe losses as a result of the Korean War. Domestically not only were many lives lost but the war also caused a delay in economic reconstruction. Internationally the Chinese lost any chance they may have had of becoming a member of the UN in the immediate future. They also lost the opportunity to "liberate" Taiwan since both during and after the war it was protected by the US Seventh Fleet.

The focus of China's relations with underdeveloped states changed during the 1949-1953 period. Prior to its entry into the Korean War (i.e., from 1949 to 1951), the Chinese had adopted a militant attitude towards underdeveloped countries in Asia, Africa, and Latin America. This attitude led to a foreign policy which reflected China's "hostility to neutralist Asian and African states who were trying to pursue a 'third road' between
capitalism and communism" through support for armed communist uprisings in such areas as Burma, Malaya, Indochina and the Philippines.9

The Chinese began to temper their relatively aggressive policy in 1951 with the realization that good relations with neutral Asian states "could be a valuable political asset and a restraint on possible American military designs against China."10 China's declining emphasis on armed struggle in the newly independent Asian and African states may also have been precipitated by China's losses in Korea, the failure of communist uprisings in these states, the reluctance of the Soviets to continue to support Maoist uprisings, the increase in the number of US sponsored collective security agreements in these areas, and China's need to concentrate its efforts on domestic economic issues.11 The initial indications of a change in the tone of China's foreign policy came in 1951 with a Sino-Indian trade agreement and in 1952 when a trade agreement with Ceylon was concluded.12 China's policy of peaceful coexistence, however, was not fully evident until 1953 with the Korean armistice and, more significantly, China's acceptance of a settlement in Indochina which fell short of the demands put forward by the Viet Minh.13

1953 also marked the inauguration of changes in China's domestic economic policies. By the end of 1952, domestic economic reconstruction had been largely completed. Using the Soviet economic model as a guide, the Chinese instituted their first Five-Year Plan in 1953 emphasizing the development of heavy industry at the expense of light industry and agriculture. The Chinese were aided in implementing this plan by Soviet loans which were used to buy complete Soviet industrial plants. These plants later "became the core of China's heavy industrial base."14

While the Chinese never explicitly stated their foreign policy
objectives during this period, their goals can be inferred from foreign policy statements and actions. Throughout the 1949-1953 period, China's major foreign policy objectives were centered around China's attempt to maintain its national security. In order to achieve this broad goal, the Chinese pursued a series of more specific objectives. First, the Chinese sought military aid from the Soviet Union in order to build up their armed forces. Secondly, they discouraged the presence of unfriendly states near China's borders. The actions instituted to achieve this goal included China's participation in the Korean War and the establishment in 1950 of coastal security zones within which foreign ships were prohibited. (The establishment of these zones will be discussed in detail in chapter 3.) Thirdly, the Chinese focused on reunifying Taiwan province with the rest of the country. In early 1950, it had appeared that the Chinese were preparing for an amphibious assault on Taiwan. This plan was abandoned in June, however, when the US announced that its fleet would defend the Nationalists on Taiwan.

In addition to objectives associated with maintaining their national security, the Chinese pursued three other foreign policy goals during the PRC's early years. First, one of China's objectives was to promote Maoist style revolutions in newly independent states. The Chinese hoped that such revolutions would result in the establishment of socialist governments in these states. By late 1951, the Chinese appeared to have abandoned this objective in favor of improving their image among neutralist states. By appearing to be more moderate through decreased support for revolutionary movements within foreign states, the Chinese hoped to increase their influence and prestige among the existing governments of newly independent states. Thus, a second Chinese foreign policy objective was to establish
a sphere of influence within the international system by improving relations with Third World countries. Finally, the Chinese sought Soviet economic aid as part of their policy of economic recovery and development.

1954-1957

The second phase in Chinese foreign relations lasted from 1954 through 1957 and was primarily characterized by China's goal of enhancing its international prestige, especially among the newly independent Third World states. Correspondingly, the Chinese moved away from their earlier objective of working towards the instigation of communist revolutions in these states. Internationally, China's status was greatly enhanced early in 1954 when its representatives at the Geneva Conference "played a major role in negotiating the truce formula that led to the division of Vietnam and the incorporation of North Vietnam into the Communist bloc." With regard to enhancing its position vis-à-vis Third World states, "China started to identify its interests with those of Afro-Asian countries, using common experiences with imperialism as a common denominator."

The first tangible expression of China's Third World policy during this period was the Sino-Indian agreement signed on April 29, 1954 in which India recognized China's claim to Tibet. After a second Sino-Indian meeting in June 1954, Prime Ministers Nehru and Chou En-lai issued a statement outlining their Five Principles of Peaceful Coexistence:

1. mutual respect for each other's territorial integrity and sovereignty,
2. nonaggression,
3. noninterference in each other's internal affairs,
4. equality and mutual benefit,
5. peaceful coexistence.

These principles, which were also incorporated into a 1954 agreement between China and Burma, "became a landmark of the era of peaceful coexistence and had a far-reaching impact on Chinese foreign policy."
Another major step for the Chinese in their attempt to improve their image vis-à-vis Third World states came in 1955 at the Asian-African Conference held in Bandung, Indonesia. The Chinese used this conference to gain support from Asian and African states by "disavowing any Chinese intentions 'whatsoever to subvert the governments of its neighboring countries,' or to use overseas Chinese 'to carry out subversive activities.'" Through his careful mediation efforts, Chou En-lai "convinced many of the delegates that he was a reasonable man of goodwill, pursuing a peaceful policy."23

The Bandung Conference was also instrumental for the Chinese in that it gave them an opportunity to establish contacts with African leaders. Specifically, Chou held meetings with Egyptian President Nassar which led to Egypt's recognition of China in 1956 and to China's active participation at the First Afro-Asian People's Solidarity Conference held in Cairo in 1957. Thus, the Bandung Conference "can be taken as marking the beginning of the CPR's transition from the status of an almost purely Asian power to that of an Afro-Asian power."24

Aside from participating in conferences and state-to-state meetings, the Chinese also used economic measures to increase their prestige among developing states. In 1956, the Chinese began a program of economic aid to several noncommunist developing states including Cambodia, Ceylon, Indonesia, Nepal, the United Arab Republic, and Yemen.25

During 1954-1957, as in the previous period, concerns for national security were reflected in China's foreign policy. First, China continued to rely on Soviet assistance in the areas of economic, technical, and military development. (For example, in 1957 the Soviets agreed to aid China in the development of its nuclear weapons program.26) Part of the rationale behind continued ties with the Soviet Union was China's belief that the
Soviet Union was far superior to the US in technology (i.e., "the East Wind prevail[ed] over the West Wind"\(^{27}\)). The Chinese saw this superiority as being reflected in the 1957 test of a Soviet inter-continental ballistic missile and the Soviet launching of the first space satellite.

While the Chinese continued to pursue a policy aimed at Sino-Soviet cooperation, there were indications during this period that the Chinese were beginning to have doubts regarding the suitability of the Soviet Union as a reliable ally. For example, in conjunction with their technological advances, the Chinese felt that

the Soviet Union ought to act accordingly by putting politico-military pressures, which were not expected to eventuate in general war, on the United States, on behalf of China as well as of other segments of the revolutionary camp.\(^{28}\)

However, subsequent Soviet actions did not conform to Chinese expectations. Secondly, Sino-Soviet relations were strained when, during a crisis in the Taiwan Straits, the Chinese felt that the Soviets did not go far enough in supporting them against the Nationalists.\(^{29}\) Finally, Khrushchev's report to the Twentieth Congress of the Communist Party of the Soviet Union in 1956 added to Sino-Soviet tensions. In this report,

Khrushchev's reluctance to provoke the United States and his determination to play an active role in the third world while discouraging Communist insurgency wherever there was a chance for local Parties to come to power by electoral means\(^{30}\)

ran counter to the views held by the Chinese. In addition, Khrushchev's attack on Stalin alarmed Chinese leaders and especially Mao.\(^{31}\)

A second national security objective which was of major concern to the Chinese was the protection of China's borders against American threats. China's perception of an impending threat to its territory was heightened in 1953 when the US expanded its defensive perimeter in Southeast Asia to
include Taiwan, withdrew its prohibition on Chinese Nationalist offensive acts against mainland China, and in early 1954, increased its military aid to the Nationalists. The Chinese were reluctant to take any military action to counter this threat while the Indochina War continued. However, as soon as the Geneva Agreement had been signed, the Chinese stepped up their actions against Taiwan both as a means to undermine US influence along China's border and to attempt to reunify Taiwan with the mainland. Hence for the Chinese,

the reassertion of ... sovereignty over the island was not ... only a question of assuaging national pride, but rather a necessary step to diminish the American threat from a potentially explosive quarter. Therefore, on September 3, 1954 the Chinese began shelling islands offshore of Taiwan in the Taiwan Strait which, in turn, led to increased US aid to the Nationalists. (This shelling began only three days prior to the convening of the Manila Conference to set up the Southeast Asia Treaty Organization whose primary aim was to protect Southeast Asia from Chinese and North Vietnamese subversion or influence.)

The crisis in the Taiwan Strait persisted until April 1955 when the Chinese decreased their pressure on the islands because of some retaliatory threats by Secretary Dulles, Soviet non-support, and a desire to appear in the best possible light at the forthcoming Asian-African Conference in Bandung. At approximately this same time, the Chinese began "a propaganda campaign aimed at the 'peaceful liberation' of Taiwan by means of an agreement with the Nationalists." While signs of tension were beginning to appear in Sino-Soviet relations in the mid-1950s, Sino-American relations appeared to be moving slowly towards less outright hostility. For example, at the Bandung Conference Chou En-lai
publicly proposed that the US and China begin negotiations aimed at decreasing tensions in Asia, especially in the area of Taiwan. As a result, low level negotiations between the US and China began on August 1, 1955 and continued, with interruptions, until higher level contacts were established in 1971. While neither side was willing to modify its position on Taiwan or other fundamental issues during the early sessions, the talks did indicate a slight amelioration in Sino-American relations.  

Finally, during the 1953-1957 time period the Chinese economy was beginning to expand under the First Five-Year Plan. During the plan years, considerable progress was made in heavy industrial development; however, light industry and especially the agricultural sector did not develop as quickly. The institution of these policies, which were essentially based on the Soviet developmental model, had an impact on China's foreign policy in that it necessitated the continuation of economic cooperation with the Soviet Union. 

As summarized by Ishwer C. Ojha, "the friendliness of the years 1954-1957 did not represent any real change in Chinese foreign policy as far as China's national interests were concerned." China's main objective continued to be to preserve its security by allying itself with the Soviet Union and by eliminating the US presence in Asia. An additional aim of the Chinese was to increase their prestige among Third World states through a policy of peaceful coexistence. Thus, they departed from their earlier objective of promoting communist revolutions within these states. Finally, in order to promote domestic economic modernization, the Chinese maintained their objective of relying on Soviet economic aid.
During the 1958-1963 period, China's foreign policy objectives were shaped, to a large extent, by its relations with the Soviet Union. In fact, "growing hostility to Khrushchev and to Soviet 'revisionism' was the main single hallmark of Chinese foreign policy during the early 1960's." In general, China's criticisms of the Soviet Union arose out of "the alleged Soviet tendency to appease American 'imperialism' and not to give active support to anti-'imperialist' revolutionary movements and 'oppressed' countries." As examples of the Soviet Union's appeasement of the US, the Chinese pointed to Khrushchev's actions during the 1962 Cuban Missile Crisis and his signing of the Nuclear Test Ban Treaty in 1963. In the Cuban situation, the Chinese accused Khrushchev of "trying to 'play the Munich scheme against the Cuban people'" while the Soviets "charged that the Chinese had been trying to incite a world war over Cuba." Similarly, the Chinese considered the Test Ban Treaty as evidence that the Soviet Union "preferred accommodation with the United States to preserving the alliance with China."

Specifically, the Sino-Soviet split had an impact on China's objectives relating to its economic and military development and its relations with Third World states. In the fall of 1958, the Chinese instituted a new program designed to increase dramatically agricultural and industrial production. This program referred to as the Great Leap Forward marked a "shift from the Soviet-style FFYP [First Five-Year Plan] to a developmental approach more consonant with Chinese experience and conditions." A major blow to China's industrialization plans came in July 1960 when, due to the deterioration in Sino-Soviet relations, Khrushchev ordered the withdrawal of the 1,390 Soviet technicians in China and the termination of the associated Soviet aid program. As a result of this withdrawal, the Chinese lost access
to Soviet technology and construction on many projects within China was halted only half-completed. In addition, the Chinese were forced to abandon their reliance on Soviet aid for future development projects.

Secondly, the split between the Chinese and Soviets affected the development of China's military capabilities. Whereas earlier the Chinese had looked to the Soviets for military protection, in May 1958 the Chinese announced that they would begin to develop their own nuclear weapons. Earlier in 1958, the Chinese had requested the transfer of nuclear weapons and an appropriate delivery system to China from the Soviet Union. This request, which probably came as a result of the US decision to place tactical nuclear weapons in South Korea, was based on an earlier Soviet agreement to assist China in its nuclear development. However, "Khrushchev responded by pressing what had become a favorite project of his, the placing of most if not all of China's armed forces under 'joint' (really Soviet) control." This arrangement was totally unacceptable to China and resulted in its decision to go it alone. Limited Soviet nuclear assistance to China did continue, however, until mid-1959.

Finally, Sino-Soviet relations had an impact on China's foreign policy objectives relating to the Third World. During the 1954-1957 period, the Chinese had attempted to enhance their prestige among Third World states and, as a result, establish their own sphere of influence in this region. In late 1959 and early 1960, the Chinese saw increased Soviet activity in South and Southeast Asia as an encroachment on their sphere of influence and, therefore, a threat to this objective. In essence, the USSR sought control over communist movements - and also increased influence over nationalist parties and governments - at what was viewed in Peking as the expense of Chinese Communist interests.
An explicit example of this conflict was the Soviet attempt to enhance its influence in India at the same time that Chinese relations with India were deteriorating.

In an apparent contradiction to their objective of increasing China's influence in the Third World, in the late 1950's the Chinese indicated a return to their earlier foreign policy goal of promoting revolution within foreign states. For example, in 1958 the Chinese gave political and military aid to the Algerian National Liberation Front (FLN), the main organization actually engaged in an anti-imperialist movement at the time. (Algeria later became China's center of influence in Africa once the FLN took over the government in 1962.) This renewed interest in revolutionary movements was an early indication of China's intention to challenge Soviet influence in Third World areas outside of Asia. Secondly, according to David Mozingo,

these 'revolutionary' forces, whether led by Communists like Ho Chi Minh or nationalists like Sukarno, began to acquire major strategic importance to Peking once it became clear that a policy based on alignment with Russia and cooperation with the Afro-Asian neutrals could not be manipulated, effectively, to weaken or deter the United States.

Thus, the Chinese also relied on these groups to help prevent the spread of American influence in the Third World.

Finally, throughout the 1958-1963 period the Chinese continued to see the security of China's borders as being threatened. This fear led the Chinese to take a series of steps to deal with the perceived threats. As a result of increased US aid to the Nationalists on Taiwan and of disruptions within China caused by the Great Leap Forward, the Chinese felt that the Nationalists were planning to take advantage of the situation within China to attack the mainland. In order to counteract this threat and
possibly reunify Taiwan with the mainland, the Chinese launched a propaganda offensive against Taiwan in July and began shelling the Nationalist held offshore islands of Quemoy and Matsu a month later. The Chinese eased their pressure on the islands in October when they realized they could not take control over them and that a possibility existed that the Nationalists might stage a retaliatory attack on the mainland. In addition, the US and Nationalists "issued a joint statement strongly implying that the Nationalists would not try to invade the mainland unless the Communist regime collapsed from internal weakness" which placated the Chinese to some extent. It was during this crisis that the Chinese made their first official declaration of a twelve nautical mile territorial sea. (This declaration will be discussed in detail in chapter 5.)

Tension in the Taiwan Strait was again heightened in 1962 when threats were exchanged between Taiwan and the mainland. At this time, the conflict was limited to sporadic aerial fighting and artillery exchanges until, after approximately six months, "the conflict subsided into another prolonged impasse." It

The second perceived threat to China's security occurred along its border with India. The warm reception given to Tibetan refugees in India following the 1959 Tibetan uprising, the aid supplied to Tibetan guerrillas, and the fact that a demarcation of the Sino-Indian border had never been agreed to, set the stage for a border conflict. This dispute did not evolve beyond the stage of border clashes nor was it conclusively settled; it merely died down in late 1959.

The border areas between China and India did not remain quiet for long, however. The dispute flared up once again in 1962 when the Chinese "considered both the security of western Sinkiang and western Tibet and its
prestige" to be threatened following a movement of Indian troops into an area claimed by the Chinese. Therefore, once the Chinese had reinforced their troops in Fukien to deal with the Nationalists, they sent forces into the Indian border areas. After two successful attacks, the Chinese withdrew to their previous border position. While not annexing any new territory, the Chinese maintained control over a disputed area in northeast Kashmir through which they had constructed a military highway in 1956-1957. Thus, they accomplished their goals of enhancing China's prestige at the expense of the Indians and protecting their military highway and thus their border.

In summary, from 1958 through 1963 China's foreign policy goals were influenced, to a large extent, by its deepening split with the Soviet Union. Due to this split, the Chinese were forced to become more self-reliant in terms of their military and economic policies. In addition, the Chinese continued to focus on their earlier objectives of protecting China's borders, reunifying Taiwan with the mainland, and establishing their own sphere of influence within the Third World. Finally, during this period the Chinese began to focus, once again, on supplying aid to national liberation movements abroad, an objective which they appeared to have abandoned or at least substantially toned down during the 1954-1957 period.

1964-1968

During the period from 1964 through 1968, domestic events within China had a significant impact on China's foreign policy. Beginning in 1964, Mao became increasingly concerned not only with the degree to which his policies were being carried out within the Communist Party, but also by the extent to which they were being accepted by individual Chinese.
In order to rectify this situation, a series of mass campaigns, primarily aimed at maintaining an "uninterrupted revolution" in China, were initiated.\textsuperscript{59} By approximately 1965, this series of campaigns developed into what was labelled the Great Proletarian Cultural Revolution which was characterized by the public criticism of leading Chinese Communist Party (CCP) officials and intellectuals and mass demonstrations by young people "to denounce and terrorize those said to be \(\text{Mao's}\) opponents, and to destroy various symbols of 'bourgeois' or 'reactionary' culture."\textsuperscript{60}

The campaigns associated with the Cultural Revolution had a major impact on China's foreign policy from 1966 to 1969. During these years, the Chinese adopted a foreign policy strategy based on the idea "that foreigners, like Chinese, should accept the 'thought of Mao Tse-tung' and support the Cultural Revolution."\textsuperscript{61} This strategy was manifested in several areas. For example, all of China's ambassadors abroad, with the exception of Huang Hua in Cairo, were recalled for political reeducation. (These posts were not refilled until 1969.\textsuperscript{62}) In addition, from the summer of 1966 to the summer of 1967, the Red Guards demonstrated against foreign embassies in China, harassed the crews of foreign ships, created a series of border incidents primarily with the Soviet Union, and conducted violent demonstrations in several foreign countries, most notably Macao, Hong Kong, and Burma.\textsuperscript{63} By September 1967, China was involved in disputes with thirty-two countries.\textsuperscript{64}

As indicated above, China's policies in 1966 aimed at promoting revolutionary movements within foreign states led to serious problems in China's relations with these states. However earlier, in 1964, the Chinese were still actively pursuing their objective of improving relations with
Third World states. From December 1963 to February 1964, Chou En-lai visited ten African and three Asian states in order to: (1) counteract the influence of Great Britain, the US, and the USSR in these areas; (2) decrease support for India in the Sino-Indian dispute; (3) increase China's access to African and Asian markets and resources; and (4) solicit support for the convening of a second Asian-African Conference rather than a second conference for non-aligned countries (the first was held in Belgrade in 1961). In addition, Chou's trip led to further discussions between China and Third World states regarding Afro-Asian economic problems.

In spite of apparent early successes in its Third World policies, China's goal of enhancing its prestige vis-à-vis these countries suffered a series of setbacks in 1965 and 1966 in addition to those associated with the Cultural Revolution. These setbacks included the cancellation of the second Afro-Asian Conference which the Chinese had intended to use "to assert Chinese leadership over a united bloc of African and Asian nations opposed to both American and Soviet 'imperialism.'" In addition, Indonesia "became extremely hostile towards China" following an abortive coup which deposed President Sukarno, a PRC supporter, and led to the annihilation of the Indonesian Communist Party. Finally in late 1965 and early 1966, a series of military coups in Sub-Saharan Africa (including Ghana which had had especially friendly relations with China) weakened China's position in that area.

In September 1967, the Chinese began to decrease their emphasis on promoting Maoism and revolutionary movements abroad and attempted to soothe their damaged relations with several Asian states (e.g., Cambodia and Nepal) by settling diplomatic disputes and granting economic aid. China also improved its relations with two African states, Tanzania and Zambia, as a
result of an agreement to aid them in the construction of a major railroad.\textsuperscript{69}

In addition to their contradictory objectives of attempting to enhance their international prestige and promoting communist uprisings, the dispute with the Soviet Union also continued to be of major concern to the Chinese from 1964 through 1968. In 1964, the Chinese explicitly attacked the policies of the Soviet Union at a meeting of the Afro-Asian People's Solidarity Council. China's delegate "accused the Soviet Union of 'great-power chauvinism and national egoism' in giving aid . . ./and/ of ignoring the struggle against imperialism."\textsuperscript{70} The Chinese and Soviets also clashed over the extent of China's involvement in the Vietnamese conflict. The Chinese position was to restrict their participation to supplying aid, while the Soviets called for an expanded and united Soviet-Chinese action. Finally, the Sino-Soviet dispute resulted in numerous protests by the Chinese in 1964 and 1968 that the Soviets were attempting to annex Chinese territory along their common border and that the Soviets were stirring up anti-Chinese feelings among minorities in Sinkiang.\textsuperscript{71}

China's attempt to counteract what it perceived as a Soviet threat led it to continue its earlier policy aimed at alleviating tensions with the US. Chou En-lai "presumably judged that improved relations with the United States would serve to offset the Soviet pressure on China" in 1968 when he proposed the resumption of Sino-American talks in Warsaw.\textsuperscript{72} Secondly, the Chinese also attempted to improve their relations with other communist states, most notably Albania, Romania, and Yugoslavia, to counterbalance Soviet influence in Eastern Europe.\textsuperscript{73} Thirdly, in conjunction with its other policies aimed at maintaining its security vis-à-vis all "enemies" including the Soviet Union, between 1966 and 1968 the Chinese accelerated their nuclear weapons program.\textsuperscript{74} Finally, the Sino-Soviet dispute led China to expand its trade
with Japan, Canada, Australia, and other Western states in order to continue
to pursue its economic development objectives.75

In summary, initially during the 1964-1968 period the Chinese pursued
a foreign policy objective of attempting to enhance China's influence among
Third World states. However, due to a series of setbacks in 1965 and 1966,
the Chinese had little success in achieving this goal. In addition, in 1966
the Chinese renewed emphasis on their earlier objective of promoting Maoist
uprisings within foreign states which resulted in conflicts between China
and these states. By 1967, China's policies had changed direction to focus,
one more, on the objective of improving China's international reputation
especially among developing states. During the 1964-1968 period, the Chinese
consistently focused on two other foreign policy objectives: opposing all
actions by the Soviet Union and, correspondingly, decreasing hostility towards
the United States. Finally, in order to promote China's economic development,
the Chinese pursued a foreign policy objective of expanding trade with
Western industrialized states.

1969-1972

Unlike the previous period when domestic policies were the major focal
point of the PRC government, the years from 1969 to 1972 were characterized
by major new initiatives in China's foreign affairs. In April 1969, the
Chinese "began to implement a new foreign policy, a policy of coexistence
and negotiation with all but a few carefully identified and narrowly defined
'Enemies.'"76 By this time, the Soviet Union had replaced the US as China's
major enemy.77 In March 1969, the Sino-Soviet conflict erupted into an
armed confrontation regarding jurisdiction over a disputed island in the
Ussuri River on the Sino-Soviet border. This clash eventually spread to other
areas along the Sinkiang-Kazakhstan border until October when negotiations were begun to establish a precise boundary line.

In spite of any decrease in Sino-Soviet tensions which may have resulted from the bilateral negotiations and some increase in trade between the two countries, the Chinese were careful "to make it as politically disadvantageous as possible for the Soviet Union to resume pressures or launch an actual attack on China." Therefore, China's nuclear deterrent force was strengthened, its conventional forces modernized, and the Chinese people were readied for a "people's war."

In addition, the Chinese launched a series of foreign policy actions designed to protect China from the Soviets. Most noticeably, the Chinese continued to pursue their objective of establishing their own sphere of influence among Third World states by emphasizing their close ties with these countries. For example, "Chinese writers claimed that these countries, amongst whom China was included, were bound together by certain common historical experiences and by common current objectives." In addition, the Chinese granted economic aid to several Asian, African, and Latin American states. In the Middle East, where the Chinese feared that the Soviet Union was attempting to outflank China from the south, the Chinese exchanged diplomatic relations with several states and established economic ties with others. In their policies vis-à-vis all of the Third World areas, the Chinese no longer pursued their objective of promoting communist revolutions. Instead, they focused on improving their state-to-state relations with these countries.

Finally, China's dispute with the Soviet Union probably had a large influence on China's concurrent move towards establishing better relations with the US. Beginning in 1969, restrictions on trade and travel between
China and the US were gradually relaxed. This period of decreasing tension between the US and China eventually led to US President Richard Nixon's visit to China in February 1972. The results of Nixon's talks with Chou En-lai and Mao Tse-tung were presented in the "Shanghai Communiqué" which stated that both countries wished 'to reduce the danger of international military conflict;' that 'neither should seek hegemony in the Asia-Pacific region' and that each was 'opposed to efforts by any other country or group of countries to establish such hegemony;' and that neither was 'prepared to negotiate on the behalf of any third party or to enter into agreements or understandings with the other directed at other states.'

The visit did not mark the end of all conflict between the US and China; however, it did represent a major change in Chinese foreign relations. In addition to its objectives of establishing a counterbalance to perceived Soviet threats and correspondingly enhancing its position with Third World states and improving relations with the US, from 1969 through 1972 the Chinese also focused on protecting their border with India and improving their relations with Western European states. In order to strengthen their position vis-à-vis India, the Chinese signed a boundary agreement with Nepal in 1969 and strongly supported the Pakistani government during the Pakistani civil war. In the latter instance, the Chinese felt that the growth of Indian influence into East Pakistan and the emergence of Bengla Desh could also be interpreted as a further extension of Soviet influence along China's southern flank. Therefore, ..., Huang Hua, Chinese delegate to the Security Council, accused the Soviet Union of a monstrous plan to encircle China.

Finally, even though tension between the US and China was decreasing after 1969, the Chinese continued to advocate policies aimed at curtailing the spread of both Soviet and American influence in the world. The Chinese were especially vocal regarding this objective following their admittance to the United Nations on October 25, 1971. In order to accomplish
this goal and to aid their own economic development program (the Third and Fourth Five-Year plans for 1966-1975 had been proposed), the Chinese began to take action to improve their relations with noncommunist industrialized states. By 1972, the Chinese had established diplomatic relations with eleven Western industrialized states, increased their trade with European states, and openly supported European cooperation through the Common Market in economic, political, and foreign affairs. In general, "Peking [was playing] up the development of Western European nations into a more closely unified force capable of challenging Soviet and American dominance in Europe."

In summary, the 1969-1972 period in China's foreign relations saw the continuation of foreign policy objectives aimed specifically at criticizing the Soviet Union and correspondingly being less critical of the US. In addition, the Chinese adopted a third foreign policy objective of curtailing the hegemony of both superpowers. Fourthly, the Chinese focused on expanding relations with Third World and Western European states to achieve their goal of enhancing China's international stature and establishing a counterbalance to American and especially Soviet influence in these areas. In the case of relations with the industrialized states, the Chinese also focused on increasing trade with these states in order to promote Chinese economic development.

1973-1977

The final period discussed in this study covers the years 1973 through 1977. It was primarily during this period that the Chinese formulated their policies on ocean issues and publicly presented them at UNCLOS III. China's specific LOS policies will be discussed in detail in chapters 4 and 5. At this point, developments in other areas of China's foreign relations will be considered since they reflect China's general foreign policy objectives and
may have had a direct impact on the concurrent development of China's LOS policies.

Domestic politics in China from 1973 through 1977 were focused on changes in leadership following the deaths of Chou En-lai and Mao Tse-tung in 1976 and attempts by various groups to enhance their own political authority at the expense of competing groups. In general, this maneuvering for power within China had little impact on China's foreign policy and the goals it was formulated to achieve.\(^{90}\) One could possibly argue that for a short time in 1976 "the gang of four" (i.e., Chiang Ch'ing, Wang Hung-wen, Chang Ch'un-Ch'iao, and Yao Wen-yuan) attempted to change the direction of China's foreign policy. However, since their period of control was shortlived, their objective of changing the focus of China's foreign policy was not translated into any significant policy changes.

In the area of foreign policy, the Chinese still seemed to be concerned primarily with their dispute with the Soviet Union and attempts to enhance their own strength vis-à-vis that of the Soviets. China's criticisms of the Soviet Union were summarized in 1977 by Hua Kuo-feng, then Chairman of the CCP, when he accused the "Soviet leading clique" of "'restoring capitalism and enforcing fascist dictatorship at home and pushing hegemonism and perpetuating aggression and expansion abroad.'"\(^{91}\) Among the specific actions which aggravated Sino-Soviet tensions in 1974 were the failure of the Soviets to support China in its dispute with Vietnam over the Paracel and Spratly islands, the expulsion on charges of espionage of five members of the Soviet embassy staff in Peking, and the capture by the Chinese of what they labelled "an armed [Soviet] reconnaissance helicopter."\(^{92}\) Throughout the entire 1973-1977 period, disputes over the delimitation of the Sino-Soviet border also continued. Following Mao's death in 1976, the Soviets appeared to make
an attempt to improve their relations with China. In response, the Chinese accused the Soviets "of creating 'false impressions' of relaxation in Sino-Soviet relations in order to 'confuse' world opinion [and of engaging] in 'wishful thinking and day dreaming' about Sino-Soviet reconciliation."\(^93\)

Continuing the trend in China's foreign policy objectives which appeared in the late 1960s, the Chinese looked to improved relations with the US as a means of countering the perceived threat from the Soviet Union. For example, in 1976 during talks with former US President Nixon, Hua Kuo-feng, acting premier of China, stressed that Sino-American cooperation was needed to cope with the Soviet expansionist threat.\(^94\) Relations between China and the US improved substantially following the January 1973 withdrawal of US forces from Vietnam which "removed one of the major irritants in Sino-U.S. relations."\(^95\) On the other hand, Sino-American relations failed to improve further in 1974 and 1975 due to the Paracel and Spratly islands dispute and continued US support for the Nationalists on Taiwan.\(^96\) In addition, the Chinese were critical of the US for its continued policy of detente with the Soviet Union and its failure, according to the Chinese, to deal effectively with the spread of Soviet influence.\(^97\)

The fact that Sino-American relations were improving did not mean that the Chinese no longer opposed the US in its position as a superpower. The Chinese continued to pursue their objective of struggling against the "'hegemonism of the two superpowers.'"\(^98\) However, as alluded to earlier, the Chinese identified the Soviet Union as the greatest threat to peace since "'the United States wants to protect its interests in the world and the Soviet Union wants to expand.'"\(^99\)

During the 1973-1977 period, the Chinese also continued to pursue the objective of improving their relations with Third World states and establishing
a sphere of influence among these states in order to enhance their position vis-à-vis the Soviet Union. As a means to accomplish this goal, the Chinese began to speak out on issues of importance to Third World states. For example, following the "energy crisis" in 1973, China announced its general policy guideline of "Third World control of Third World resources."

Since this policy announcement, "Peking has campaigned for the Third World's economic independence and has endorsed every move relating to Third World control over Third World resources." The Chinese specifically focused on strengthening their ties with Asian states. They attempted to enhance their position with the Japanese at the expense of the Soviets by siding with Japan in its dispute with the Soviet Union over ownership of islands off the north coast of Japan and by signing an agreement to sell oil to Japan. Through direct negotiations in 1975, the Chinese managed to improve relations with several Southeast Asian states including Cambodia, Burma, Singapore, Thailand, and the Philippines. (The Chinese also encouraged the US to continue its vigilance against Soviet incursions into Asia.) In South Asia, China's relations with India "followed a rather consistent policy of making life difficult for the Indian government, which Peking regarded as a willing victim of Soviet social-imperialism." On the other hand, China maintained its good relations with Pakistan through cooperative development projects involving Chinese loans and grants.

China's relations with the countries of Western Europe not only reflected its objectives vis-à-vis the Soviet Union, but also its goal of speeding up its own economic modernization program. With regard to the Soviet threat, in 1973 the Chinese expressed "a concern with encouraging a continued American presence in Europe as a counterweight to the Soviets." In addition, they stressed the need for Western European unity to combat Soviet "hegemonism."
In relation to China's economic development, Chou outlined a policy in 1975 which called for an "all-out modernisation of agriculture, industry, national defense, as well as science and technology." Initially advocates of this policy urged the Chinese to "rely mainly on their own efforts while making external assistance subsidiary." However, by 1977 China's policies turned towards imports of foreign technology as a basis from which to develop. Thus, foreign trade particularly with the US and Western Europe was to "be allowed to develop so as to 'help' in the modernization of China. Self-reliance would not be defined as self-exclusion."

In addition to the foreign policy objectives which, for the most part, were the continuation of earlier goals, the Chinese also began to support policies aimed at a new objective, "the formulation of new norms of international law." The Chinese were especially eager to see the establishment of new international regulations which would ensure that all states were dealt with equally under international law regardless of national characteristics such as level of economic development. China's policies aimed at achieving this goal were also closely related to China's other objective of improving its relations with Third World states since many of these states similarly called for changes in international law. In essence, the Chinese were particularly concerned about the 'progressive' development of international law: changes to increase the representation of the small and medium-sized states in international organizations, to encourage the 'progressive' forces of nationalism to establish their independence and equality, and to incorporate 'socialist' principles of 'mutual aid.'

Finally before concluding the discussion of China's foreign policy goals from 1949 through 1977, it is necessary to consider the Chinese conception of sovereignty since it exerted a major influence on China's foreign policies
and objectives throughout the period. It was particularly central to China's objective of protecting its borders. However, the concept of sovereignty means 'more to the Chinese than just military security. It also represents the protection of all of China's rights as an independent state including, for example, the right to establish its own regulations for all areas under its jurisdiction including coastal waters and the right to accept or reject, on its own terms, international regulations which might impinge on China's sovereign authority.

The concept of sovereignty currently held by the PRC was greatly influenced by China's early contacts with the West. Traditionally, the Chinese had viewed China as the 'central kingdom' superior to all other countries."\textsuperscript{112} However, following China's defeat at the hands of Great Britain in the Opium War (1842), the Chinese signed the first in a series of what they later referred to as "unequal treaties." These treaties, which established extraterritorial rights within China for Western states, had an entirely different meaning for the Chinese than for foreign states. The Western states were operating under their conception of international law which established the idea that a 'civilized' nation had a right to colonize territories which were 'uncivilized' and incapable of understanding their responsibilities under international law. \ldots [Therefore], \textit{respect for sovereignty and territorial integrity was not an issue because China, lacking the rights of a civilized state under international law, was not considered a sovereign entity.}\textsuperscript{113}

The Chinese, on the other hand, saw fixed tariffs and consular jurisdiction as conveniences rather than a mark of inequality. In addition, the creation of foreign enclaves tended to isolate Westerners from Chinese: a situation which suited the Chinese rulers. Thus, the Chinese signed treaties agreeing to Western extraterritoriality.
"not with any sense of loss of dignity or power, but in the condescending belief that the less civilized aliens could not understand the highly complex Chinese rule and must therefore be given a chance to learn the civilized way of life through gradual observation and slow assimilation." 114

The Chinese attitude towards treaties with the West began to change in the late 1800s when the Chinese became familiar with Western international law and its concept of sovereignty. They then began "to suffer from 'a sense of inferiority and even shame at the unusual position of China,' which combined with the activating force of nationalism, engendered a positive, active 'determination to end that inequality.'" 115 Even after the fall of the Ch'ing dynasty in 1911 and the establishment of the Republic of China on January 1, 1912, China was still not treated as a sovereign and equal state by the Western powers. These states continued to exercise extraterritorial rights in China until 1943. 116 In essence, China's early involvement with Western international law left it with a sense of bitterness over the imposition of "unequal treaties" and the affront to its sovereignty. This experience "instilled in a proud and once powerful people the determination to have China - no longer 'the central realm' but now a nation-state - achieve recognition as the sovereign equal of other states." 117

The view of sovereignty currently held by the Chinese stipulates that "'to deny the sovereignty of any state under any pretext, be it the state's "level of civilization," or social system, is illegal.'" 118 This conception of sovereignty includes three major elements: (1) China will not tolerate any infringements on its sovereignty by other states; (2) China is equally committed to respecting the sovereignty of other states; and (3) China will never give up its sovereign interests or "sell-out" those of other states to the "imperialists." 119 As an extension of the third element, the Chinese pledged not only to defend their own sovereignty but also to be "the defender
of the sovereignty of all other states unable to do so on their own."

The Chinese see the major problem facing states today as being "how to maintain, not to relinquish or diminish, sovereignty." Maintaining the sovereignty of one's state, however, can lead to problems in cases where the sovereignty of two states come into conflict, i.e., where "an exercise of absolute sovereignty by one nation is bound to undermine the sovereignty of another nation." In order to resolve this dilemma, the Chinese "advocated the principle of mutual respect for national sovereignty as the only correct interpretation of the sovereignty issue in modern international law."

China's objective of emphasizing the primacy of state sovereignty and protecting a state's sovereign rights appears to contradict the fact that, in the past, China has frequently supported national independence movements against state governments. The Chinese have attempted to resolve this contradiction between two of its objectives by arguing that "even nations which are not independent should nevertheless have the rights of independent states under law as soon as the movements representing these nations indicate that they want to be independent." In distinguishing between which groups or nations fit this criterion and which do not, Suzanne Ogden has noted that the Chinese have had to make "a qualitative judgement . . . usually contingent on the 'support of the people.'"

Secondly, China's relations with communist parties in other states also appear to conflict with its concept of sovereignty. For example, a situation could arise in which the Chinese publicly express support for a communist party advocating the overthrow of its government while at the same time maintaining diplomatic relations with that government. In fact, situations such as this arose in China's relations with Indonesia and Burma in 1967. This inconsistency in China's foreign policy objectives has not been adequately
reconciled by the Chinese. However, by the late 1970s; the Chinese had attempted to decrease the significance of this discrepancy by suggesting that China's relations with communist parties in other states would be limited to ideological and moral support rather than material aid.127

In conclusion, from a consideration of the development of China's foreign policy from 1949 through 1977 it has become apparent that, with a few exceptions, the Chinese have consistently pursued a limited number of objectives. Primary among these objectives has been the maintenance of China's national security. In order to accomplish this very broad goal which is common to all states, the Chinese have pursued a number of secondary objectives more specific to China. For example, the Chinese have generally cooperated with one superpower to counteract any potential threat from the other. During its early years (i.e., from approximately 1949 to 1957), the Chinese collaborated with the Soviet Union against a perceived threat from the US. However, by 1958 serious conflicts arose between China and the Soviet Union such that the Chinese no longer felt they could rely on the Soviet Union for military protection. Hence, from approximately 1958 to 1968 the Chinese adopted a more self-reliant foreign policy strategy. The objective of this strategy was for the Chinese to develop their own military capability so that they could defend themselves in the future. From 1969 through 1977, the Chinese also moved towards a closer alignment with the US and focused less on self-reliance as a means to counteract what was seen as a threat to China from the Soviet Union. Thus, by the start of UNCLOS III, two of China's major foreign policy objectives were to improve its relations with the US and to oppose the Soviet Union.

China's objective of improving its relations with the US, however, did not mean a lessening of its commitment to a third foreign policy objective,
the curtailment of superpower (i.e., American and Soviet) hegemony. While
the Chinese had consistently voiced their opposition to what they saw as
attempts by both superpowers to dominate international affairs, they became
even more vocal on this subject after joining the UN in 1971. By the start
of UNCLOS III in 1973, the curtailment of superpower hegemony appeared to be
one of China's major foreign policy objectives.

Related to China's other objectives aimed at preserving its national
security, was its objective of enhancing its international prestige and
creating its own sphere of influence within the Third World. This objective
was especially important to the Chinese during the UNCLOS III years (1973-
1977) as well as during several of the previous time periods (i.e., 1949-1951,

Corresponding to the years in which the Chinese were not pursuing a
policy principally aimed at improving their relations with the Third World
(i.e., 1951-1953 and 1965-1966), the Chinese were focusing on an objective
of promoting revolutions within these states. That is, the Chinese were more
cconcerned with promoting the spread of Chinese style communist movements within these states than attempting to improve relations on a state-to-state level.
This objective of promoting revolutionary movements within foreign states
was not stressed by the Chinese during the time of the UNCLOS III negotiations.
This, however, does not mean that they have abandoned this objective for all
time. As seen in the mid-1960s, Chinese actions are, at times, difficult to predict.

An additional objective which related to China's security was its focus on protecting China's border areas. This objective was prevalent throughout all six of the periods studied. It was reflected in China's relations with Asian states and the Soviet Union along its land borders and in its policies
relating to coastal waters (e.g., the 1950 security zones and the disputes over the Paracel and Spratly islands). China's concern with preserving its sovereignty and the rights associated with a sovereign state (e.g., respect from other states) was also a major foreign policy objective of the Chinese throughout the 1949-1977 period.

As mentioned earlier, China's objectives of protecting its borders and preserving its sovereignty are interrelated in that they both reflect China's fundamental concern with attaining maximum control over areas under its jurisdiction. In their policies aimed at protecting China's borders, the Chinese were essentially focusing on preserving their military control within this area. On the other hand, China's objective regarding state sovereignty referred to ensuring that no foreign state would be able to dictate to China how it should conduct affairs within areas under its national jurisdiction. (The Chinese had previously suffered under this type of control during the period of "unequal treaties" (1842-1943).) Therefore, since both of these objectives are subsumed under that of maximizing control over areas under national jurisdiction, China's LOS policies will be analyzed in terms of this objective rather than the two objectives of protecting China's borders and preserving state sovereignty.

With regard to coastal areas, the Chinese were concerned with reuniting Taiwan province with the rest of the country. This goal, which the Chinese would consider a purely domestic issue, also affected China's relations with the US as well as other countries and added to China's concern over the security of its coastal areas. This concern was reflected in the disputes over the islands of Quemoy and Matsu.

China's domestic policy of economic development also influenced its foreign policy objectives. In order to fulfill their economic goals, the
Chinese have, at times, looked to outside economic aid first from the Soviet Union (1949-1960) and later from the US and other Western industrialized states (1969-1977). Thus, in recent years the Chinese have attempted to expand not only diplomatic relations with Western industrialized states but also trade linkages.

Finally, beginning in the early 1970s, the Chinese proposed policies aimed at promoting, what was for them, a new foreign policy objective, the creation of a new international legal order. Given their early experience with Western international law, the Chinese were eager to see new norms developed which would ensure that all states would be treated equally under international law.

In this chapter, the development of China's foreign policy and the objectives it was designed to serve have been examined for the 1949-1977 time period. From the discussion of China's foreign policy objectives, it has become apparent that, with a few exceptions, the Chinese tended to focus consistently on a limited number of objectives. By the start of UNCLOS III, the Chinese appeared to be focusing on eight objectives in their foreign relations. These were: (1) the improvement of relations with the US; (2) opposition to the Soviet Union; (3) the curtailment of superpower hegemony; (4) the enhancement of their international prestige and the establishment of their own sphere of influence within the Third World; (5) the maximization of control over areas under national jurisdiction; (6) the reunification of Taiwan with the mainland; (7) the expansion of contacts with Western industrialized states; and (8) the creation of a new international legal order. It will now be possible, in chapters 4 and 5, to determine the extent to which these objectives influenced China's LOS policies. However, before a thorough analysis of China's LOS policies can be undertaken, it is necessary, in chapter 3, to examine the second set of variables which
establish the context for this analysis, i.e., China's maritime characteristics and regional maritime policies and disputes.
CHAPTER 3

MARITIME CHARACTERISTICS AND REGIONAL MARITIME DISPUTES

China's foreign policy objectives undoubtedly had a major impact on the formulation of China's LOS policies. However, this set of variables in isolation from other potentially influential factors is an insufficient basis for an analysis of China's policies. It is also necessary to examine an additional set of variables: China's maritime characteristics and regional maritime disputes. In this chapter, the various components of this second set of variables will be examined in order to identify factors which may have influenced China's policies at UNCLOS III.

Maritime Characteristics

Since the number of variables associated with China's maritime characteristics which could have potentially influenced China's LOS policies is immense, it has been necessary to limit this discussion to those variables which appeared most likely to have had a major impact on China's policies. These variables will be discussed in terms of four general categories: (1) geographic characteristics; (2) economic characteristics; (3) maritime expertise; and (4) naval characteristics. As will become evident, these categories are by no means mutually exclusive. They are used here merely as an organizational tool.
**Geographic Characteristics**

The most constant factors affecting China's orientation towards the ocean are those resulting from its geographic location and physical attributes. In addition to merely describing China's geographic characteristics, it is also useful to consider how China compares with other states with respect to these factors.

The two most significant physical features of China's geography are the length of its coastline and the size of its continental shelf. China's coast is very long, covering approximately 3,492 miles. When compared with 142 other states, China has the tenth longest coastline.\(^1\) China's shores face five maritime areas: Pohai Bay; the Yellow Sea; the East China Sea; the Gulf of Tonkin; and the South China Sea, and are marked by numerous indentations.\(^2\) These factors were likely to have had an impact on China's claims regarding the limits of coastal state jurisdiction over waters off its coast. China's large continental shelf would also indicate a position favoring extensive coastal state jurisdiction. Using the 200 meter isobar as the maximum outward limit of the continental shelf, China's shelf would include an area of 230,000 square nautical miles.\(^3\) This gives China the seventh largest continental shelf area in the world following Canada, Indonesia, Australia, the US, the USSR, and Argentina.\(^4\) China is among the thirty-one states which can be characterized as having a fairly wide shelf (i.e., a shelf greater than fifty nautical miles in width) while sixty-one states have narrow shelves, twenty-six are shelf-locked and thirty are landlocked.\(^5\)

A second important characteristic is China's geographic location. At UNCLEOS III it became evident that geographic proximity to straits used for international navigation had an influence on the LOS policies of several
states. This was due, in part, to the probable adoption by the conference
delegates of a twelve nautical mile territorial sea limit which would place
approximately 106 straits under the jurisdiction of the adjacent coastal
states. China borders on four straits which would be included in this
group: the Pohai Strait; P'enghu Shuitao (Pescadores Channel); Lema Channel;
and the Hainan Strait. All of these areas are surrounded on both sides by
Chinese territory with the exception of the Lema Channel which is located
between areas under Chinese and British jurisdiction. (The specific
geographic location and width of the straits and channels bordering on China
are given in table I.) Bordering on four straits whose status would be
altered as a result of a twelve nautical mile territorial sea limit places
China in the middle of a scale of states affected by the changed limit.
According to information compiled by Douglas Campbell III, eight states
border on more affected straits or channels than China while twenty-one
border on less and three border on the same number.

In addition to the straits along their own border which would be
affected by a twelve nautical mile territorial sea limit, the Chinese were
also concerned about future sea traffic through the straits of its neigh-
bors. They were especially concerned about the regulation of vessel traffic
through the Malacca and Singapore straits which connect the South China Sea
with the Indian Ocean since the regulation of transit through these straits
would have a major impact on both China's coastal security and its seaborne
trade.

While the proximity to international straits had an impact on states' LOS
policies, so did their location vis-à-vis landlocked and/or shelf-locked
states. In this instance, closeness to these states might obligate the
coastal state to share its coastal resources with the disadvantaged states.
TABLE I

STRAITS BORDERING ON CHINA WITH A WIDTH OF LESS THAN TWENTY-FOUR NAUTICAL MILES

<table>
<thead>
<tr>
<th>Passage</th>
<th>Sovereignty (On Either Side)</th>
<th>Geographical Situation</th>
<th>Least Width (In Nautical Miles)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pohai Strait</td>
<td>China</td>
<td>entrance to Pohai Bay</td>
<td>22</td>
</tr>
<tr>
<td>P'enghu Shuitao</td>
<td>China</td>
<td>between Taiwan and P'enghu</td>
<td>17</td>
</tr>
<tr>
<td>Lema Channel</td>
<td>China/U.K.</td>
<td>between Hong Kong and Lema Islands</td>
<td>6</td>
</tr>
<tr>
<td>Hainan Strait</td>
<td>China</td>
<td>between Hainan Island and Mainland China</td>
<td>10</td>
</tr>
</tbody>
</table>

China has a lengthy land border which covers approximately 9,000 miles and borders on eleven states. Of these, five are landlocked (Laos, Bhutan, Nepal, Afghanistan, and Mongolia); one has a narrow continental shelf in that all or most of the shelf is less than fifty nautical miles in breadth (North Korea); four have wide continental shelves (Burma, India, Pakistan, and the USSR); and one (Vietnam) is partially shelf-locked in that the continental shelf off the northern part of the country abuts on the continental shelf of China while the southern portion has a wide margin.

As mentioned above, China's geographic proximity to several landlocked, as well as two narrow or shelf-locked states, may have influenced its position on the right of landlocked states to transit neighboring states to gain access to the sea and on the right of landlocked and disadvantaged states to share in the resources of their neighboring states' economic zones.

**Economic Characteristics**

The sectors of China's economy which relate most directly to the oceans can be grouped into two categories: commercial shipping and natural resources (both living and non-living). The state of China's commercial shipping industry can be assessed in terms of four factors: (1) the size of China's merchant fleet; (2) the number and handling capacity of China's ports; (3) the amount of goods China trades by sea; and (4) China's regulation of foreign shipping and its participation in bilateral and/or multilateral treaties dealing with navigation and commerce.

At the time of the inauguration of the PRC in 1949, China's shipbuilding industry was virtually nonexistent. It was essentially limited to a small number of shipyards concentrating on repairs. At that time, China's merchant shipping fleet was confined to approximately fourteen
state-owned vessels, primarily US war surplus, which were only suitable for coastal and inland shipping.\textsuperscript{12}

During the years before its shipbuilding facilities could be expanded, China relied on the purchase of new and secondhand foreign ships as well as on the chartering of foreign vessels. Many of the secondhand vessels were of dubious quality since they had been "sold as scrap to the Chinese-who simply repaired them and put them back into service with little regard for the safety factor."\textsuperscript{13}

China's shipbuilding capacity began to grow after 1957. It was reported that in 1959 China launched its first self-designed ship in the 5,000 deadweight ton (DWT) class and its first 10,000 DWT class ship in 1960.\textsuperscript{14} A second source reported that China built two 10,000 DWT class ships in 1958.\textsuperscript{15} Regardless of the exact date of China's first major ship production, during the 1960s this production expanded rapidly. By 1974, ship production was six times that of 1965.\textsuperscript{16}

In spite of its expanded domestic production, China continued to rely on the purchase of foreign built vessels in order to expand its merchant fleet and to meet its shipping needs. In the late 1960s and early 1970s, China purchased several Yugoslavian ships and in 1972 ordered eight additional Yugoslavian freighters in the 13,000 ton class. China also purchased sixty-three Japanese vessels immediately following its resumption of diplomatic relations with Japan. From 1971 to 1974 China purchased approximately 200 secondhand vessels, all less than ten years old, from foreign sources.\textsuperscript{17} With the combination of foreign purchases and domestic production, by 1975 Chinese flag vessels made up the nineteenth largest merchant fleet in the world.\textsuperscript{18} In 1978, Lloyd's Register of Shipping reported that the Chinese had a total of 713 steamships and motor ships with a total gross registered tonnage of 5,168,898 tons. This figure
represented 1.3 percent of the world's gross registered tonnage of ships.\(^{19}\) (Lloyd's also reported, however, that its figures for China were incomplete and could only be taken as an approximation.\(^{20}\) See table II for a more detailed picture of the growth of China's merchant fleet.) In order to handle their growing imports (primarily of wheat and sugar), the Chinese continued to charter foreign vessels.\(^{21}\)

**TABLE II**

**INVENTORY OF MERCHANT SHIPS**

**SELECTED YEARS, 1952-1976**

<table>
<thead>
<tr>
<th>Year</th>
<th>Units</th>
<th>Thousand DWT.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1952</td>
<td>101</td>
<td>270</td>
</tr>
<tr>
<td>1957</td>
<td>93</td>
<td>302</td>
</tr>
<tr>
<td>1965</td>
<td>174</td>
<td>933</td>
</tr>
<tr>
<td>1970</td>
<td>269</td>
<td>1,944</td>
</tr>
<tr>
<td>1971</td>
<td>305</td>
<td>2,290</td>
</tr>
<tr>
<td>1972</td>
<td>329</td>
<td>2,657</td>
</tr>
<tr>
<td>1973</td>
<td>368</td>
<td>3,291</td>
</tr>
<tr>
<td>1974</td>
<td>430</td>
<td>4,592</td>
</tr>
<tr>
<td>1975</td>
<td>495</td>
<td>6,082</td>
</tr>
<tr>
<td>1976</td>
<td>556</td>
<td>7,081</td>
</tr>
</tbody>
</table>


Throughout the 1960s, most of the ships produced in China were for domestic use. However, at the Fall Canton Trade Fair in 1975 the Chinese
indicated they would be willing to export their 3,000 ton tankers to foreign markets. According to one observer, "the announcement that China was now in a position to export vessels signaled the emergence of the PRC as a growing maritime nation and shipbuilder."

In conjunction with the expansion of their merchant fleet, the Chinese also sought to expand and improve their port facilities. This development was especially crucial during the years when China needed ports to accommodate foreign shipping. This rebuilding resulted in seven major seaports capable of handling at least 10,000 ton vessels being put into operation by 1959. By the 1970s, China had seventeen major ports.

In 1973, a three year port construction and improvement program was initiated "which involved a doubling of investment in the expansion of nine major ports." By the middle of 1976, this program had resulted in the construction of forty deep water berths in the nine ports including: deep water bulk load berths for coal, ore, and mixed cargoes; berths for 10,000 ton tankers; and container berths. This program not only increased the number of small and medium sized ports (those accommodating 5,000 ton vessels) along China's coast, but also expanded China's previously limited capacity to handle large ships of 10,000 tons or more. However even with these improvements, China's ports still suffered from inadequate and insufficient storage facilities.

A third major indicator of the importance of commercial shipping for China's economy is the amount of goods which China trades by sea. As suggested by John Gamble, Jr.,

the total seaborne trade that a state engages in indicates the degree to which navigational uses of the sea are important to that state. The greater a state's interest in navigation, the
more likely it is to be concerned about maintaining freedom of the seas, innocent passage through straits, etc.\textsuperscript{30}

In 1969, China's sea trade amounted to 10,600,000 metric tons of cargo.\textsuperscript{31} When compared with 146 other states, China ranked thirty-eighth in terms of the amount of cargo traded by sea.\textsuperscript{32} The development of China's sea-borne trade from 1959 to 1975 as well as the differences between amounts imported (unloaded) and exported (loaded) are shown in table III.

The final category concerning commercial shipping includes China's regulations governing foreign vessels and its participation in bilateral and multilateral navigational and commercial treaties.

The regulations adopted by the Chinese governing access of foreign ships to Chinese ports are fairly restrictive. For example, under "The 1957 Foreign Vessels Measures" foreign ships were only allowed to enter ports specifically designated by the Ministry of Communication for the use of foreign vessels. Also the captain of a foreign ship was required to complete all entry procedures one week before entering a Chinese port and had to report his exact time of arrival twenty-four hours before arrival.\textsuperscript{33} There are also special regulations regarding the use of ports located on rivers which form the boundary between China and a neighboring state.\textsuperscript{34}

In general, there is a lack of concrete information on China's practices concerning jurisdiction over foreign vessels in its ports. From available information, it appears that the Chinese tend to accept the generally recognized principle of international law that "in the absence of treaty provisions to the contrary, private vessels entering foreign ports are subject to local jurisdiction."\textsuperscript{35} However, in some cases where actions on board a ship do not affect local interests, the port state may
TABLE III
AMOUNT OF GOODS LOADED AND UNLOADED IN INTERNATIONAL SEABORNE SHIPPING (Thousand Metric Tons)

<table>
<thead>
<tr>
<th>Year</th>
<th>Loaded</th>
<th>Unloaded</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959</td>
<td>3,200</td>
<td>3,000</td>
<td>6,200</td>
</tr>
<tr>
<td>1965</td>
<td>6,250</td>
<td>11,700</td>
<td>17,950</td>
</tr>
<tr>
<td>1966</td>
<td>10,050</td>
<td>12,000</td>
<td>22,050</td>
</tr>
<tr>
<td>1967</td>
<td>8,850</td>
<td>12,600</td>
<td>21,450</td>
</tr>
<tr>
<td>1968</td>
<td>7,450</td>
<td>14,000</td>
<td>21,450</td>
</tr>
<tr>
<td>1969</td>
<td>7,200</td>
<td>13,400</td>
<td>20,600</td>
</tr>
<tr>
<td>1970</td>
<td>7,500</td>
<td>15,500</td>
<td>23,000</td>
</tr>
<tr>
<td>1971</td>
<td>7,710</td>
<td>14,000</td>
<td>21,710</td>
</tr>
<tr>
<td>1972</td>
<td>8,050</td>
<td>14,500</td>
<td>22,550</td>
</tr>
<tr>
<td>1973</td>
<td>10,100</td>
<td>15,000</td>
<td>25,100</td>
</tr>
<tr>
<td>1974</td>
<td>14,150</td>
<td>16,000</td>
<td>30,150</td>
</tr>
<tr>
<td>1975</td>
<td>18,200</td>
<td>17,000</td>
<td>35,200</td>
</tr>
</tbody>
</table>

decide to leave it up to the flag state to deal with the situation. In general though, "it is the port state, not the flag state, which has the final authority to decide whether a particular case in fact falls into the category of exemption."\(^36\)

In order to deal with the issue of state jurisdiction over collisions at sea and other maritime incidents, the Chinese Ministry of Communication set forth "the 1959 Regulations Concerning the Investigation and Settlement of Incidents Involving Maritime Losses." This document superseded all earlier Chinese regulations on the subject.\(^37\) In general, these regulations claimed Chinese jurisdiction over a foreign vessel involved in a maritime incident: '(1) which caused damages to properties belonging to Chinese nationals, or, (2) which took place in Chinese territorial sea, or (3) if [sic] which an investigation and settlement has been requested by the consular officer of the flag state.'\(^38\)

Another important set of regulations promulgated by the Chinese in 1964 was the "Regulations Governing Foreign NonMilitary Vessels Passing Through the Chiungchow Strait."\(^39\) With the adoption by the Chinese of the straight baseline method for drawing territorial sea boundaries, Chiungchow Strait became part of China's internal waters. However, since the strait had previously been used for international navigation between two parts of the high seas, the Chinese adopted the 1964 regulations to set forth explicit rules which would permit the continued use of the strait by non-military vessels. (If the strait had been treated by the Chinese as strictly internal waters, all passage by foreign vessels would have been restricted.) In general these regulations were more restrictive than is the normal practice in the Chinese territorial sea, and even that is far short of what was held by the International Court of Justice to be required in the Corfu Channel Case (1949) and stipulated by the Geneva Convention on the Territorial Sea and the Contiguous Zone.\(^40\)
Finally, according to Tao Cheng,

possibly the most significance [sic] indication of the PRC's new outlook in maritime affairs has been her effort to build a network of full-fledged standard treaties of commerce and navigation as well as consular treaties.41

In order to protect the rights of her ships and nationals in foreign ports, between 1958 and 1962 China signed treaties of commerce and navigation with the Soviet Union, East Germany, North Korea, North Vietnam, and Albania.42

The second major sector of China's economy which relates to the oceans is the resource sector. The oceanic resources most important to China, and other states, are fish, oil, and minerals. As will be brought out in the second half of this chapter, the competition between China and some of its neighboring states over areas containing fish and oil have led to several serious disputes.

For centuries, the Chinese have relied on both fresh and salt water fish as a food source. During the civil war, China's fishing fleet was so severely damaged that by 1949 only approximately 200 trawlers and sailboats and less than 50,000 old-fashioned wooden vessels remained. Most of these were suitable only for shallow water fishing. In addition, according to Chinese sources, China's fishery production had decreased from a high in 1936 of 1,500,000 tons to a low of 45 tons in 1949.43

Once the new government was installed in Peking, a concerted effort was made to develop and modernize China's fishing industry. In the 1949 Common Program which served as the fundamental law in China prior to the adoption of the 1954 Constitution, there was a call for the "'protection of coastal fishing grounds (and) [the] development of aquatic products industry.'"44 In addition, conferences were called for the discussion of production goals and possible means to improve output. Among the directives which came out of these conferences in March and April 1959 were the
suggestions that

'the deputy governors of the (coastal) provinces and the deputy mayor of the Municipality (of Shanghai) were to assume personal command over the catching, buying, and transporting work during the brisk season,' and that 'fishing boats and fishermen who made changes of employment must immediately return to the fishing business.'

Finally, the Chinese government also attempted to increase fishery production by organizing the fishermen into cooperatives and later communes, by granting loans to fishermen with which to purchase equipment, by establishing large fish markets and improving the transportation of fish products, and by instituting long-term plans for modernizing the fishing fleet, the fish processing industry, and fishery research.

Even though statistics on the size of China's offshore fish catches are sketchy, it is evident that they have increased substantially since the forty-five tons the Chinese reported in 1949. The Chinese government reported to the FAO in 1978 that China's catch of marine fish amounted to 3,400,000 metric tons in 1977. Based on this officially reported figure, the FAO estimated that China's marine fish catches from 1973 to 1976 were 3,100,000, 3,200,000, 3,200,000 and 3,300,000 metric tons respectively. Based on these figures, when compared with other states China ranks third behind Japan and the Soviet Union in terms of the amount of marine fish caught. While the catch data may not be totally accurate, considered in conjunction with developments in other areas of China's fishing industry (e.g., the modernization of China's fishing fleet), it gives an indication of the growth of China's maritime fishing industry in size and importance.

Unlike other countries with a major interest in offshore fishing who fish not only in waters close to their own shores but also in distant waters (e.g., Japan and the Soviet Union), China's fishing is confined to
its own coastal waters. China's waters cover a vast area and have an abundance of fish species. According to Choon-Ho Park,

the total area of coastal and offshore fishing grounds to the depth of 200 meters along the coasts of China is approximately 1.5 million sq. km. which comprises as much as 23.7 percent of the world total. ... The number of species in this vast area of sea exceeds 1,500.49

However, the Chinese concentrate primarily on fifty of these species and four of them (the small croaker, the large croaker, the girdle fish, and the white-scale herring) represent a larger proportion of the total Chinese catch than all the others combined.50

Of the non-living resources associated with the exploration and exploitation of the seas, oil has been the most important for China as well as other states. The potential for oil in the offshore areas near the Chinese coast was first brought to light as a result of a 1968 geophysical survey of the Yellow Sea and the East China Sea. The survey, conducted by a UN agency, the Committee for Coordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (CCDP), "concluded that the 'Continental Shelf between Taiwan and Japan may be one of the most prolific oil and gas reservoirs in the world.'"51 This report led to further studies of the area by several bordering states including China. The numerous disputes arising out of conflicting claims by the surrounding states to this offshore area will be discussed in detail later. However, at this point it is useful to consider China's potential in terms of offshore oil production as well as the effect this new production will have on China's economy.

Since the Chinese do not publish statistics regarding oil production or estimates of oil reserves it is necessary to rely on the estimates of others. Jan-Olaf Willums, a Norwegian oceanographer who studied China's offshore oil reserves estimated that the total recoverable oil potential in
the area off China's coast ranged anywhere from a pessimistic 8.7 billion barrels to an optimistic 283.6 billion barrels with the middle range estimate being 29 billion barrels. Thus, China's offshore oil potential is considerable.

In mid-1968, China began its first offshore test drilling in the Po Hai Gulf. By the fall of 1968, the Chinese had made their first oil strike in the Gulf. Basing his statements on foreign sources, primarily Japanese and Norwegian, and on the amount of Chinese purchases of foreign equipment associated with oil drilling and production, Selig Harrison concluded that the Chinese continued their drilling in the Gulf and as of 1977 were probably approaching major oil production in the area. However, no definite statements on this topic have been made by the Chinese.

In 1974, the Chinese began to expand their offshore oil exploration beyond the Po Hai Gulf with seismic surveys and test drillings in the East China Sea. Between 1974 and 1977, the Chinese also sent out seismic survey vessels to explore the area around the Nansha (Spratly) Archipelago in the South China Sea, and in 1975 an exploratory well was drilled in the southern half of the Yellow Sea. In spite of this extensive exploration, according to Harrison,

with the exception of the Po Hai Gulf and possibly the Yellow Sea, there is no firm evidence as of 1977 that China is moving into production in the other places where offshore operations are known to be underway, notably the area between Tsingtao and Shanghai in the East China Sea, the Tonkin Gulf, and the areas near Hainan and the Paracel Islands in the South China Sea.

In most of their exploratory and drilling operations, the Chinese have attempted to rely on their own equipment. In some instances, however, Chinese equipment has been supplemented by foreign purchases to fill the technological gaps. As of 1977, the Chinese had not gone the step further.
to enter into service contracts or other joint arrangements with any of the major oil companies. 58

Finally, it is important to consider the impact which offshore oil production may have on China's economy. While precise data on China's imports and exports of crude oil are impossible to obtain, the general trends in this data can be seen in the limited information that is available. According to UN estimates, the Chinese had been fairly consistent importers of crude oil until 1972. By 1973, China had, in fact, become an oil exporter (see table IV). Chu-yuan Cheng predicted that China's rate of oil export would continue to increase into the 1980s. As delineated in table V, Cheng estimated that China's total oil production would continue to outpace domestic consumption, thus resulting in an increasing surplus, a large part of which could be exported. 59 Therefore, for the Chinese the potential increase in oil production resulting from offshore oil reserves and the subsequent increase in the amount of oil available for export could be seen as a source of needed foreign exchange. According to one author, eventually "oil exports may finance Peking's imports of machinery and plants from the West upon which its current economic development plans are based." 60 Hence an increasing surplus of oil for export is of considerable importance to the Chinese.

The third major group of resources relevant to a discussion of ocean development is metals. Unlike fish and oil, the concern with regard to metals, primarily in the form of manganese nodules, is not so much their exploitation in coastal or economic zone waters, but their exploitation on the seabed of the high seas. The major impact of deep sea mining of manganese nodules would be felt by landbased importers and exporters of manganese, copper, cobalt, and nickel, the principle metals found in the
**TABLE IV**

AMOUNT OF CRUDE PETROLEUM LOADED AND UNLOADED IN INTERNATIONAL SEABORNE SHIPPING  
(Thousand Metric Tons)

<table>
<thead>
<tr>
<th>Year</th>
<th>Loaded</th>
<th>Unloaded</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959</td>
<td>0</td>
<td>21</td>
</tr>
<tr>
<td>1965</td>
<td>0</td>
<td>165</td>
</tr>
<tr>
<td>1966</td>
<td>0</td>
<td>165</td>
</tr>
<tr>
<td>1967</td>
<td>0</td>
<td>165</td>
</tr>
<tr>
<td>1968</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1969</td>
<td>0</td>
<td>159</td>
</tr>
<tr>
<td>1970</td>
<td>0</td>
<td>400</td>
</tr>
<tr>
<td>1971</td>
<td>0</td>
<td>50</td>
</tr>
<tr>
<td>1972</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1973</td>
<td>1000</td>
<td>0</td>
</tr>
<tr>
<td>1974</td>
<td>4000</td>
<td>0</td>
</tr>
<tr>
<td>1975</td>
<td>8000</td>
<td>0</td>
</tr>
</tbody>
</table>

# TABLE V

**PROJECTED DOMESTIC CONSUMPTION AND TRADE POTENTIAL IN CRUDE OIL, 1974-1985**

(Million Metric Tons)

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Domestic Demand for Crude Oil</th>
<th>Estimated Crude Oil Output</th>
<th>Surplus in Crude Oil</th>
</tr>
</thead>
<tbody>
<tr>
<td>1974</td>
<td>50.3</td>
<td>63.0</td>
<td>12.7</td>
</tr>
<tr>
<td>1975</td>
<td>57.0</td>
<td>76.0</td>
<td>19.0</td>
</tr>
<tr>
<td>1976</td>
<td>64.6</td>
<td>91.0</td>
<td>26.4</td>
</tr>
<tr>
<td>1977</td>
<td>74.7</td>
<td>109.0</td>
<td>34.3</td>
</tr>
<tr>
<td>1978</td>
<td>84.8</td>
<td>128.0</td>
<td>43.2</td>
</tr>
<tr>
<td>1979</td>
<td>96.2</td>
<td>150.0</td>
<td>53.8</td>
</tr>
<tr>
<td>1980</td>
<td>109.7</td>
<td>176.0</td>
<td>56.3</td>
</tr>
<tr>
<td>1981</td>
<td>126.4</td>
<td>202.0</td>
<td>75.6</td>
</tr>
<tr>
<td>1982</td>
<td>143.5</td>
<td>232.0</td>
<td>88.5</td>
</tr>
<tr>
<td>1983</td>
<td>163.1</td>
<td>267.0</td>
<td>103.9</td>
</tr>
<tr>
<td>1984</td>
<td>185.2</td>
<td>299.0</td>
<td>113.8</td>
</tr>
<tr>
<td>1985</td>
<td>210.5</td>
<td>335.0</td>
<td>124.5</td>
</tr>
</tbody>
</table>

nODULES. Therefore, China's imports and exports of these resources need to be discussed in order to assess the impact which deep sea mining might have on China's economy. Secondly, the issue of seabed mining would have an additional importance for China if its own industries possessed the technological capabilities to participate directly in the mining. Therefore, the state of China's technology in this area will also be considered.

As in the case of oil production and fish catches, it is difficult to get accurate figures on the amount of metals China imports and exports, let alone its total production and/or reserves. K.P. Wang, an official of the US Bureau of Mines, reported in 1975 that, in general, China is self-sufficient in most minerals with large surplus reserves of some and deficiencies in only a few. However, in spite of this resource base, China's trade figures show a deficit in terms of overall trade in minerals and metals. This general trend also holds true for the major metals found in seabed nodules with the exception of manganese (see tables VI and VII). In order to get a clearer picture of China's position vis-à-vis these metals, each will be discussed briefly.

In 1974, China's domestic copper production accounted for approximately one to two percent of the total world output of copper. However, this amount was only enough to satisfy thirty to fifty percent of China's domestic requirements, thus leaving it severely deficient in terms of supplying its own copper needs. China's estimated reserves of copper are only of modest size and even this is of relatively poor quality. (Chinese sources have reported that China's copper deposits are sizeable. However, none of these supposedly large deposits have been developed, probably due to a lack of capital and technology.) Added to this deficiency in copper production is the continually growing demand for copper in China.
### TABLE VI

**IMPORTS OF METALS FOR SELECTED YEARS, 1957-1974**  
(Thousand Metric Tons)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>copper</td>
<td>3</td>
<td>30</td>
<td>80</td>
<td>90</td>
<td>100</td>
<td>170</td>
<td>140</td>
</tr>
<tr>
<td>nickel</td>
<td>2</td>
<td>8</td>
<td>8</td>
<td>11</td>
<td>15</td>
<td>29</td>
<td>29</td>
</tr>
<tr>
<td>cobalt (metal content)</td>
<td>0.05</td>
<td>0.5</td>
<td>0.25</td>
<td>0.1</td>
<td>0.9</td>
<td>0.9</td>
<td>1.4</td>
</tr>
</tbody>
</table>


### TABLE VII

**EXPORTS OF METALS FOR SELECTED YEARS, 1957-1974**  
(Thousand Metric Tons)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>copper</td>
<td>0.2</td>
<td>0.8</td>
<td>0.2</td>
<td>3.4</td>
<td>0.8</td>
<td>1.8</td>
<td>0.4</td>
</tr>
<tr>
<td>manganese</td>
<td>5</td>
<td>38</td>
<td>43</td>
<td>52</td>
<td>50</td>
<td>51</td>
<td>65</td>
</tr>
</tbody>
</table>

Hence, China's imports of copper, which in 1974 accounted for approximately three-fifths of its total imports of nonferrous metals, are likely to increase in the coming years. Most of these imports are from Chile, Peru, and Zambia with smaller amounts coming from Japan, the UK, and West Germany. As seen in table VII, China does export small amounts of copper as part of its general aid program to some states.

As with copper, China's domestic reserves of nickel are also small, leaving it severely deficient in meeting its domestic needs. Therefore, as seen in table VI, China's imports of nickel have been steadily increasing since 1957. These imports accounted for approximately one-fifth of China's total nonferrous metal imports in 1974. In 1973 and 1974 most of these imports were from Canada (78 percent in 1973 and 69 percent in 1974). China also imported smaller amounts from Western Europe, Albania, Cuba, and possibly the Soviet Union.

Unlike the other nodule metals, China's landbased reserves of manganese are large and of good quality. China produced approximately five percent of the world's output of manganese ore in 1974. This production was great enough to serve China's domestic needs and to allow it a small surplus for export (see table VII). These exports go almost exclusively to Japan.

Finally, China is estimated to have only a small deposit of cobalt whose overall quality is unknown. Aside from the import figures presented in table VI which show that China's cobalt imports are relatively small but steadily increasing since 1971, little information is available regarding China's cobalt supplies or production.

In summary, in terms of its own trade picture, China imports a large amount of some of the metals found in seabed nodules. Imports of copper, nickel, and cobalt cost the Chinese a total of 188.5, 405.6, and 404.5 million
US dollars in 1972, 1973, and 1974 respectively. Thus, these purchases constituted a drain on China's foreign exchange reserves. However in terms of world trade, the amount of minerals imported by China is not significant. For example, in 1973 China's imports of copper accounted for only approximately five percent of the total world exports of copper. Thus, China is not one of the world's major importers of these metals. As is readily apparent from table VII, China also is not a major exporter of any of these metals. In fact, China's "export metals' only earn moderate amounts of foreign exchange, without greatly affecting the [Chinese] economy." In 1974, for example, China's exports of manganese earned only 1.9 million US dollars in foreign exchange.

Finally with regard to seabed mining itself, China does not have the technological potential, at this time, to become directly involved in any deep sea exploitation of nodules. It also has not expressed any immediate interest in developing this capacity.

Maritime Expertise

There are two facets of China's maritime expertise which need to be examined as background for an analysis of China's UNCLOS III policies. First, China's capabilities in the field of marine scientific research need to be examined in order to assess the level of China's development in this area and its future research interests. Secondly, it is necessary to consider the level of maritime expertise among China's delegates at the SBC and UNCLOS III sessions. Therefore, the background of China's delegates will be examined with regard to their experience vis-à-vis maritime issues, including international law, and international negotiations in general.

Within China a great deal of effort in the area of marine scientific research has been focused on developing China's offshore seismic capability.
for use in oil related projects. In this area, "Peking has sought to minimize foreign dependence . . . by combining carefully modulated foreign imports with the parallel development of Chinese operational and manufacturing expertise." According to Selig Harrison, since 1967 the Chinese have had at least three ships with a marine geological capability. These were foreign built ships purchased by the Chinese. By 1973, the Chinese had deployed the first Chinese built seismic survey boats. The Chinese, however, continued to purchase offshore seismic survey equipment from foreign markets to make up for the deficiency in their own production. For example, in the summer of 1974 they purchased a seismic survey boat from France and two multi-purpose oceanographic vessels from a Japanese trading combine. These vessels were then outfitted with a combination of Chinese and imported scientific equipment. In general, with regard to its offshore seismic research capabilities, most seismologists who have visited China believe that Peking will have relatively little difficulty in catching up with the West in the geophysical instrumentation needed for oil exploitation and will not have to rely much on imported equipment.

China's increasing interest in the general area of marine scientific research has also been exemplified in its attendance at international oceanographic conferences. Between 1971 and 1975, the Chinese sent delegations to four such conferences. These were: (1) the International Colloquium and Exhibition on the Exploration of the Ocean in France (March 1971); (2) the Second International Ocean Development Conference in Japan (October 1972); (3) the Third International Ocean Development Conference in Japan (August 1975); and (4) the Third International Conference on Oceanographic Technology in Britain (April 1975).

Since the late 1960s, the Chinese have also shown the increased importance attached to oceanographic research through the expansion of
their research vessel fleet. According to a Chinese source, the first oceanographic research ship designed and built by the Chinese was launched in November 1959. While complete information regarding the current size of China's research fleet is unavailable, Harrison reported that, according to his information, the Chinese had approximately thirty-five oceanographic research vessels of various kinds in 1977. Information provided by the US National Oceanic and Atmospheric Administration in 1976 stated that "since the Great Proletarian Cultural Revolution 10 years ago the number of R/V's in China has increased 8.5 times."

Not only has the size of China's research fleet been increasing, so has the scope of its oceanographic cruises. In July 1976, two Chinese research vessels completed China's first oceanographic study covering a wide area of the Pacific Ocean including both hemispheres and south of the equator. This study covered a number of subjects including marine hydrography, meteorology, chemistry, gravity and geology, seabed geomorphology, ship-to-ship telecommunications, and navigation.

In summary, comprehensive data regarding China's efforts in the area of marine scientific research are not available (e.g., information regarding expenditures, number of personnel, etc.). From the available information, it is apparent that the Chinese have become increasingly involved in marine research during the past ten years. For the most part, China's interests have focused on the waters immediately off its coasts and have been linked with its economic interests in these waters. However in recent years, the Chinese have also developed their oceanographic capabilities in the area of research on the high seas. So far, the Chinese have not shown an interest in conducting research within the waters of other states. Finally, members of an oceanography delegation who visited several Chinese oceano-
graphic institutes in 1978 reported that within China there were adequate personnel and facilities but that research lagged 10 to 15 years behind the West. . . . However, the uniformly high level of enthusiasm among scientists and administrators, coupled with the policy of investment in modern instrumentation, convinced them that the lag between Chinese and Western oceanography would rapidly diminish.94

A second major facet of China's maritime expertise relates directly to its participation in the UNCLOS III negotiations. In this context, it is useful to examine the background of China's SBC and UNCLOS III delegates in terms of their experience vis-à-vis the law of the sea and related matters.

As seen in table VIII, with the exception of the first organizational session of UNCLOS III in 1973, the Chinese have sent a relatively large (in comparison with other states) delegation to both the SBC and UNCLOS III sessions. Details regarding the background of each of China's delegates are not available; however, it is unlikely that many of the delegates had any legal training. In fact, legal study within China virtually disappeared after the Cultural Revolution. In mid-1966 the publication of China's leading journals on international law and politics was halted and as of 1977 had not been reinstated.95 In addition, the Ministry of Foreign Affairs which had ultimate responsibility for LOS issues within the Chinese government did not have a branch department devoted exclusively to legal affairs. These were dealt with by a more inclusive department entitled "Department of International Organizations, Conferences, Treaties and Laws" which was also referred to as the "Department of International Organizations, Law and Treaty."96

Given the facilities for legal training within China, especially in the area of international law, it is not surprising that the Chinese did not have a legal expert in their Permanent Mission to the UN in New York97
### TABLE VIII
DEPARTMENTAL AFFILIATION OF PRC DELEGATES TO THE SBC AND UNCLOS III

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<tr>
<th>Session</th>
<th>Number of Delegates</th>
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<td>Session 6 (1977)</td>
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or that only one member of China's SBC or UNCLOS III delegations, Ni Cheng-yu, was identified as a legal expert. (Ni Cheng-yu was present at the February 1972 meeting of the SBC and the second [1974], third [1975], and sixth [1977] UNCLOS III sessions.98)

In addition to a lack of legal expertise, the Chinese delegates, to a large extent, also lacked experience in international negotiations. This was largely due to their exclusion from the UN and its related organizations until 1971. Of the numerous Chinese representatives to the SBC and UNCLOS III sessions, only two, Pi Chi-lung and Ho Li-liang, had had prior experience in international negotiations. Pi Chi-lung served as the chairman of China's delegation to the third UNCLOS III session (1975). In March 1972, Pi along with two other Chinese took part in discussions in Peking with D.A. Davies, secretary-general of the World Meteorology Organization (WMO) to discuss China's participation in that organization.99 Pi also served as a Chinese representative at the twenty-seventh session of the UN General Assembly in 1972. (He was also a representative at the thirtieth session in 1975 after his participation at the LOS Conference.)100

Finally, while serving in the Ministry of Foreign Affairs in 1973, Pi led China's delegation to the Working Group on the Draft Charter of Economic Rights and Duties of States established by the United Nations Conference on Trade and Development (UNCTAD).101

Ho Li-liang served as an advisor and as an alternate representative at the 1972 and 1973 SBC sessions respectively. She was also an alternate representative at the first UNCLOS III session in 1973 and a representative at the two sessions in 1976. While little is known about her specific background in international affairs, it can probably be assumed that she had had fairly extensive experience in the area of international negotiations prior to 1972. This assumption is based on the fact that her husband,
Huang Hua, "was one of the most experienced and cosmopolitan diplomats in the PRC's foreign service establishment and that she was serving as a counsellor with China's permanent mission to the UN from 1972-1976 when she participated in the LOS discussions. Both of these factors would indicate that she had had at least some international negotiating experience prior to the 1972 SBC meeting.

Finally, while Huang Hua was not listed as an official member of China's delegation to any of the SBC or UNCLOS III sessions, he was present at several of the sessions held in New York. Huang served as China's ambassador to the UN from 1971 until 1976 when he returned to China to serve as head of the Ministry of Foreign Affairs. As mentioned earlier, Huang Hua was very skilled in international diplomacy and he, along with his wife, played an active role in informal negotiations, especially with African delegates, at UNCLOS III.

Even though the majority of China's SBC and UNCLOS III delegates had little experience in multilateral negotiations prior to these sessions, they undoubtedly gained this experience as a result of their participation. In fact, with the start of UNCLOS III in 1973, individual Chinese representatives and advisors participated fairly consistently in consecutive conference sessions (see table IX). This pattern of participation lent some consistency to China's representation and gave these individuals the opportunity to gain experience. The fact that several new advisors were added at each session also indicates that the Chinese probably used the conference as a training ground for future negotiators.

As the Chinese built up their expertise in the areas of marine science and the law of the sea, the Chinese delegations at UNCLOS III began to include advisors from a variety of departments within the Chinese bureaucracy.
TABLE IX

PRC DELEGATES TO THE SBC AND UNCLOS III

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**KEY:**
- R representative
- AR alternate representative
- A advisor
with interests in the oceans. It is useful to examine the departmental affiliations of the Chinese delegates as a reflection of which organizations the Chinese saw as affected by the LOS discussions and, hence, which ones were most likely to have had an input into China's LOS policies. In addition, an examination of the bureaucratic affiliations of China's delegates may also give an indication as to which maritime issues held the highest priority for the Chinese.

During the SBC meetings and the first UNCLOS III session in 1973, the Chinese delegation was composed of representatives from China's mission to the UN, the Department of International Organizations, Law and Treaty of the Ministry of Foreign Affairs, the National Bureau of Oceanology, and the Geological Bureau (see table VIII). These departments continued to send representatives as part of the Chinese delegation to all subsequent UNCLOS III sessions. However, as the conference progressed, representatives from more specialized departments within the Chinese bureaucracy also began to be included, primarily as advisors, in China's delegation (see table VIII). The other organizations represented were the Ministry of Foreign Trade (second session), the Bureau of Port Supervision of the Ministry of Communications\(^1\) (second through sixth sessions), the Bureau of Aquatic Products of the Ministry of Agriculture and Forestry\(^2\) (second and fifth sessions), the Ministry of Foreign Affairs (several advisors at the fourth, fifth, and sixth sessions), the Ministry of Petroleum and Chemical Industry (sixth session), and the Ministry of Agriculture and Forestry (sixth session). From this listing it would appear that the Chinese were most concerned about the impact of the LOS negotiations on China's foreign relations. In addition, as reflected in the attendance of members of the relevant bureaucracies, the Chinese also appeared to be concerned with
navigation and resources (both living and non-living).

In summary, a consideration of the Chinese delegations to the SBC and UNCLOS III sessions has shown that initially most of the members of these delegations lacked legal and maritime expertise as well as multilateral negotiating experience. However, through a fairly consistent participation pattern, several delegates gained this experience. As the sessions progressed, the Chinese delegation also expanded with regard to the areas of expertise of its members to more specialized areas relating to LOS issues. Finally, as pointed out during the discussion of China's capabilities in the area of marine scientific research, it is clear that China's SBC and UNCLOS III delegates did not have the background information regarding the technical aspects of marine issues possessed by many other delegations, especially those of developed states.

Naval Characteristics

The fourth and final category of maritime variables which could potentially influence China's position on the law of the sea issues is its naval characteristics, including the size of China's fleet and its deployment. As brought out earlier, China has a long shoreline which leaves it especially vulnerable to seaborne attack. In addition, a large percentage of China's population and many of its industrial centers are located near the coasts. Since the opening of China to the West in the mid-1800s, the Chinese have been sensitive to the repeated invasions of their country from the sea. This sense of vulnerability was heightened during the 1950s and 1960s with the presence of the US Seventh Fleet in waters off China and the potential threat of Soviet ships in the area. It is not surprising, therefore that "Chinese publications make it clear
that the navy's primary mission is the defense of China against seaborne
attack." In support of this, Commander Bruce Swanson of the US
Navy reported that

other than the Paracels incident, no Chinese warships have been
noted operating at any distance from the mainland. [In
addition], . . . public statements of the PRC Navy's mission
have consistently referred to defending the territorial seas
through interception of enemy infiltration and providing escorts
for coastal shipping and fishing fleets.107

In order to achieve their goal of coastal defense, the Chinese have
been slowly but steadily increasing both the size and capability of their
navy to a point where it is the third largest in the world with approxi-
mately 150,000 officers and men and more than 100 vessels in active
service.108 China's inventory of surface combatant ships is primarily
composed of small vessels such as missile-attack torpedo and gun boats and
submarine chasers. China also has a number of conventional submarines and
a ballistic missile submarine under construction.109

The Chinese navy is organized into three fleets: the North Sea Fleet
(over 300 ships including two submarine squadrons) covering the area from
the Sino-Korean border to the Shantung-Kiangsu provincial border; the East
China Fleet (over 600 vessels with one submarine squadron) from the
Shantung-Kiangsu boundary to Kwangtung Province; and the South Sea Fleet
(approximately 285 vessels) from Kwantung to the Vietnamese border.110
Thus, Chinese naval forces and their support facilities "are configured
primarily for coastal defense"111 and make up "probably the world's most
formidable coastal fleet."112

China has the potential to become a global naval power. However,
according to Lt. David Muller, this would require "extensive preparations
in both naval and political spheres."113 Large expenditures of funds
would be required to expand the capabilities and size of China's navy to enable it to carry out long oceanic cruises. Politically, as long as China maintains only a coastal force of its own, it can use the naval issue as a propaganda device to criticize the Soviet Union and the US for "rank gunboat diplomacy," i.e., maintaining their fleets in foreign waters. In addition, with just a coastal fleet to defend, China can strengthen its position as a member of the Third World by supporting the extension of coastal state jurisdiction and restrictions on the passage of warships through international straits.

Muller concludes that "Peking could well find its navy's freedom of movement severely limited, largely by its own propaganda and diplomatic efforts." However, as he also points out, the PRC is no doubt making a virtue of necessity. It does not have a blue-water navy and therefore feels no qualms about attempting to limit the usefulness of those its rivals possess.

Regional Maritime Disputes

A final set of variables which needs to be examined in order to get a better idea of China's major maritime interests is that of China's regional maritime disputes. The region in the vicinity of the PRC encompasses the Yellow, East China, and South China seas. All of these areas are rich in both living and non-living resources. As a result of this abundance (the extent of oil resources being unclear at this time), several controversies have arisen between China and neighboring states regarding jurisdiction over various sectors of this region. For the most part, these disputes have centered around the question of which state has sovereignty over specific islands in the area. However, controversies have also arisen over the delimitation of fishing zones and the continental shelf.
The major island groupings over which sovereignty disputes have arisen are the Paracel and Spratly islands in the South China Sea and the Senkaku Islands in the East China Sea. For the most part, the rush of claims and counterclaims to jurisdiction over these islands arose as a result of the geophysical survey of the area in 1968. As mentioned previously, this survey concluded that significant deposits of oil and natural gas could possibly be found in the seabed areas off these islands. Thus, a claim to sovereignty over the islands would give the claimant jurisdiction over the adjacent seabed and the oil. In addition to oil, however, sovereignty over these islands is also important in terms of access to rich fishery resources in, and control over shipping through, the area.

The abundance of oil and fishery resources in the South and East China seas has already been discussed; however, the significance of the sea lanes in the South China Sea still needs to be examined. Hungdah Chiu recognized the importance of this area in stating that

the South China Sea emerges as one of the few, if not the only, enclosed areas of the sea to which none of the four major powers, China, Japan, the Soviet Union, and the United States, can afford to remain indifferent.

The South China Sea connects with the Indian Ocean by way of the Malacca-Singapore Straits and with the East China Sea and eventually with the Sea of Japan in the northeast (see map 1). The navies of both the US and the USSR rely on the sea routes through the South China Sea. It is especially important for the Soviets' naval access to their base in Vladivostock. China, and to an even greater extent, Japan rely on these routes for a large part of their commercial maritime trade. Thus, it is important for China that these lanes remain open for commercial navigation, but that military traffic is strictly regulated.

As mentioned above, the Spratly and Paracel Islands are situated
MAP 1

MAJOR SEA LANES IN SOUTH-EAST AND EAST ASIA

in the South China Sea with the Spratlies approximately 200 nautical miles south of the nearest island of the Paracel grouping (see map 2). More specifically, the Spratlies are located approximately 250 miles east of southern Vietnam, 200 miles west of the Philippines, 1,100 miles southwest of Taiwan, and 800 miles southwest of Hainan Island of the PRC. The Paracels are approximately 225 miles east of Da Nang in Vietnam and 165 miles southeast of Hainan. Both of these island groupings are archipelagoes comprised of a series of small islands, reefs, and shoals (approximately fifty in the case of the Paracels and 100 in the Spratlies) which, in most instances, are uninhabited.

Geologically, the northern part of the South China Sea in which the Paracels and Spratlies are located is essentially a deep sea basin with a large abyssal plain the depth of which is greater than 1000 meters (see map 2). The Paracels are located in an area which constitutes the slope and rise of the continental shelf off the coasts of China and Vietnam. Greenfield concludes that on the basis of natural appurtenance, it is difficult to see how the Paracels, tiny islands on what might be regarded as the slope of the shelf extending from South China and Vietnam, could be the effective basis of any extensive shelf claims.

The Spratlies lie in an area of the South China Sea which is the slope or rise of the continental shelf appertaining to South Vietnam, Malaya, Indonesia, and possibly the Philippines, but not of China. Hence, China's claims in this area rest on jurisdiction over the islands rather than the delimitation of the continental shelf.

During the period covered by this study, the jurisdictional disputes over the Paracel and Spratly islands have primarily involved the PRC and the Republic of Vietnam (RVN). Prior to the reunification of Vietnam in 1975, the Democratic Republic of Vietnam did not specifically state its
MAP 2
SOUTH CHINA SEA

claim to the islands and essentially evaded the issue by stating that it should be settled through negotiations among the relevant states. In order to understand the current state of the jurisdictional dispute, it is useful to examine the basis upon which the Chinese and Vietnamese make their claims.

The Vietnamese claim that "'from time immemorial, [the Paracels] have been frequented by Vietnamese fishermen.'" However, they did not fully assert their claim to the islands until 1802 when the Vietnamese Emperor, Gia-long, established a company to exploit the natural resources of the Paracels. The islands were annexed to Vietnam in 1816 and first appeared on Vietnamese maps in 1838. In the early 1930s, the French occupied the Paracels "'in the name of the Vietnamese Royal Kingdom.'"

Vietnam's historical claim to the Spratly Islands is not clearly documented. The Vietnamese do state, however, that emperors of the Nguyen Dynasty (1802-1884), one of the tributary states of the Chinese Ch'ing Dynasty, claimed jurisdiction over the Spratlies. This claim was not clarified until the French took possession of the islands in 1933.

China's claims to the Paracel and Spratly islands are also based on historical records and the right of prior discovery. In 1975 a Chinese writer, Shih Ti-tsu, presented a detailed description of China's claims to the South China Sea islands. He pointed out that the Chinese had been using the South China Sea as a navigation route since the Western and Eastern Han Dynasties (206 B.C.-220 A.D.) and that the islands first appeared on Chinese maps in the early thirteenth century. Also, from 1405 to 1433, the noted Chinese navigator Cheng Ho and his fleet sailed to the Western Seas on seven occasions, calling at the South China Sea Islands time and again and leaving many articles on them, and the places they visited were recorded in special books.
Shih Ti-tsu not only discussed the early discovery of these islands by the Chinese, but also pointed out that the Chinese have inhabited the Paracels and Spratlies for centuries. He stated that archeologists have discovered a variety of artifacts which "show that the Chinese people have lived on many of the Paracels Islands since ancient times, and without interruption since the Tang [626-900 A.D.] and Sung [960-1126 A.D.] Dynasties." In addition, since the late fifteenth and early sixteenth centuries, Chinese fishermen from Hainan Island not only used several of the Spratly Islands as fishing bases but also built houses and temples there and engaged in farming.

Thirdly, to establish his point regarding China's jurisdiction over the islands, Shih pointed out that not only were the South China Sea Islands ... discovered and developed by the Chinese, the successive Chinese governments of various dynasties exercised jurisdiction and sovereignty over them. In substantiating this point, the author cited historical records of inspection tours of the islands during the Eastern Han Dynasty [25-220 A.D.] and naval patrols to the area during the Northern Sung Dynasty [960-1126 A.D.]. Also, since the 1830s, the area around the Paracels has been clearly delineated as within the sea defense area of China.

Finally, other authors have pointed out that China's claims to the Paracels and Spratlies were not seriously challenged until the 1930s when the French claimed them. Also, prior to this time, China's claim to the islands was, "in fact, confirmed by several international and Chinese domestic acts."

The actual dispute over the Paracels and Spratlies began in 1931 when France, acting on behalf of Vietnam, claimed the islands. The Chinese immediately protested, stating that the islands were, in fact, under Chinese
jurisdiction. After several exchanges of diplomatic notes and the passage of several years, the French finally withdrew their claim in 1934. However in 1938 when the Chinese were preoccupied with the Japanese invasion of China, the French occupied the Paracels. The French only retained control until 1939 when the Japanese took over the Paracel and Spratly islands. The Japanese held this control until 1945.139

From 1946 until 1950, the islands were under the jurisdiction of the Republic of China (ROC). Throughout this period, "neither Vietnam nor any other country protested to China regarding their takeover of the islands from Japan . . . or their inclusion within the territorial scope of China."140 In May 1950, the troops of the ROC withdrew from the islands and were replaced by forces from the PRC.

With the signing of the Treaty of San Francisco on September 8, 1951, Japan formally renounced its claim to both the Spratly and Paracel island groups; however, the treaty did not specify who would have jurisdiction over the islands.141 At the conference, the RVN issued a statement in which it reasserted its claim to both of these island groups. This claim went unchallenged by the conference participants; however, neither the PRC nor the ROC were in attendance.

Prior to the conference, on August 16, 1951, the PRC Foreign Minister, Chou En-lai, stated that:

"whether or not the U.S.-British Draft Treaty contains provisions on this subject and no matter how these provisions are worded, the inviolable sovereignty of the People's Republic of China over Nanwei Island (the Spratly Islands) and Sisha Island (the Paracel Islands) will not be in any way affected."142

The ROC also maintained its claim over the islands by virtue of a bilateral peace treaty with Japan in 1952. According to the ROC, the provisions in this treaty stipulated that Japan had renounced its claim to the
islands in favor of the ROC.\textsuperscript{143}

These claims remained relatively stable until the summer of 1956 when a Filipino, Tomas Clomas, laid claim to the Spratly Islands. The PRC, ROC, and RVN protested this action to the Philippine government.\textsuperscript{144} The ROC sent a naval contingent to the Spratly Islands, which found that the Filipinos had already left. Later in 1956, while maintaining its claim to all of the islands, the ROC stationed forces on the largest of the Spratly Islands, Itu Aba (T'ai-ping). At approximately the same time, the Vietnamese occupied Spratly Island (Nanwei), and in 1957 the PRC announced that the Vietnamese had also occupied several of the Paracel Islands.\textsuperscript{145} The PRC reasserted its claim to both the Paracels and Spratlies in 1958. In upholding this claim from 1960 through 1971, the PRC issued at least a hundred warnings to the US regarding violations of China's territorial sea and/or airspace around the Paracel Islands.\textsuperscript{146}

In general, the situation of overlapping claims to the Paracels and Spratlies remained fairly constant until 1974 when an armed clash occurred between the PRC and RVN. The Vietnamese had taken two actions in 1973 which precipitated this clash. In July the Vietnamese government opened thirty of the forty offshore tracts along its coast for oil exploration bids. Eight of these tracts were awarded to Western oil companies for oil and gas exploitation. Later, in September, the Vietnamese took the additional step of incorporating eleven of the Spratly islets into Phuoc Tuy Province in an attempt to preempt the continental shelf between the Spratlies and Vietnamese mainland.\textsuperscript{147} On January 11, 1974 the PRC responded to these actions with a strong statement protesting this infringement of Chinese territory. The RVN refuted the Chinese claim to sovereignty and took the further step of intercepting several Chinese fishermen off the coast of
The confrontation heated up between the twelfth and sixteenth of January when the Chinese planted their flag on several of the Paracel islets to reassert their claim. On the sixteenth, the Vietnamese condemned China for "suddenly claiming the Paracels and Spratlies" and informed the UN Security Council of China's "unreasonable claim." They also invaded Money and Robert Islands of the Paracel group on the seventeenth and took down the Chinese flags. These actions did not result in an armed confrontation with the Chinese since it is doubtful that any Chinese were on the islets at the time. On January nineteenth, the Vietnamese attempted to occupy another of the Paracels; however, they were met by a Chinese force which was already stationed there. The next day, the Chinese forces drove the Vietnamese from the entire Paracel island group. The Vietnamese then moved their forces southward and occupied several uninhabited islets of the Spratly group. The PRC also protested this move; however, it did not take any military action. The ROC also strongly protested the Vietnamese takeover of the Spratly islets. It reaffirmed Chinese sovereignty over the Spratlies and began reinforcing its base on Itu Aba. However, no armed conflicts arose between the ROC and RVN.

As mentioned earlier, the government in North Vietnam said little before 1975 regarding the South China Sea island disputes. However, since its takeover of the government of the RVN in April 1975, the new government has reasserted the Vietnamese claim to the islands and has published maps including the Spratlies and Paracels as Vietnamese territory.

In summary, as of 1977 the PRC occupied the Paracel Islands and claimed the Spratlies as Chinese territory. Vietnam also claimed the Paracels and occupied Spratley Island and approximately twelve other islets.
of the Spratly island group. The ROC occupied Itu Aba, the largest islet in the Spratly group, and like the others claimed the Paracels. The Republic of the Philippines occupied three small islets of the Spratly group. The Philippines also claimed all of the Spratlies, primarily basing its claim on geographic proximity. (Several of the islets are only forty to fifty miles west of Palawan Island of the Philippines.)

In general, the jurisdictional disputes over the Paracel and Spratly islands hinge on historical claims of discovery and use and, as a result, will be difficult to resolve.

China's jurisdictional dispute with the Japanese over the Senkaku Islands (Tiao Yu Tai in Chinese) in the East China Sea is interrelated with the broader question of the delimitation of the seaward boundaries between the two states. Both of these issues are of importance primarily due to the high probability of seabed oil in the Yellow and East China seas. In order to make the relationship between the issues clearer, the dispute over the Senkakus will be considered first since the settlement of this dispute in favor of either the Chinese or Japanese will influence the resolution of the delimitation issue.

The Senkaku Islands are located approximately 120 nautical miles northeast of Taiwan, 200 nautical miles west of Okinawa, and 100 nautical miles north of the nearest city of the southwest end of the Ryukyu Islands (see map 3). This places the islands on the eastern edge of the East China Sea continental shelf near the Okinawa Trench which lies off the coast of Japan. The island grouping consists of "five uninhabited islets and three rocks without vegetation." The largest island of the group is only about two miles long and a little less than one mile wide.

The controversy over these islands did not come to light until the
middle of 1970. On July 12, the ROC signed a contract with a Japanese subsidiary of the Gulf Oil Company for the exploration and exploitation of seabed oil in the East China Sea northeast of Taiwan, an area encompassing all of the Senkaku Islands. The Japanese government responded on July 18 with a statement that the Senkaku Islands belonged to the Ryukyus and, therefore, Japan had sovereignty over them. According to the Japanese, Taiwan did not have the authority to enter into exploration contracts covering this area. On October 23, 1970, the acting Foreign Minister of the ROC informed the Japanese ambassador in Taipei that the islands were part of Taiwan. He also asked that the US, which had jurisdiction over the Ryukyus at the time, prevent Ryukyu patrol boats from interfering with Chinese fishermen in the area of the Senkakus.

This dispute did not lead to any armed clashes in the area nor did it result in any formal negotiations to settle the sovereignty question. However, informal discussions between Japan and the ROC regarding the exploitation of seabed resources on the continental shelf did occur. In addition, the Japanese suggested "that Japan, the ROC, and South Korea cooperate in developing the undersea resources of the East China Sea without prejudice to their respective legal claims." These states met on November 12 to discuss the joint venture.

The suggestion of a joint effort to exploit the resources of the area led to the first unofficial statement by the PRC on the issue. On December 11, 1970 an article was published in the Peking Review in which the PRC expressed its disapproval of the scheme and called it "a new crime by Japanese militarism in plotting aggression against China and Korea with U.S. imperialist support." On December 30, 1971 the PRC Ministry of Foreign Affairs issued its first official statement on the islands. This
followed the signing of a treaty by the US and Japan on June 17, 1971
which would restore Okinawa, the Ryukyus, and the Senkakus, since they were
considered to be part of the Ryukyus, to Japan in 1972. (The US had adminis-
tered these islands since the end of World War II.) In its statement, the PRC stressed that
"it is utterly illegal for the U.S. and Japanese governments to include China's Tiaoyu [Senkaku] and other islands in the so-called 'area of reversion' in the Okinawa 'reversion' agreement. Their act cannot in the least alter the sovereignty of the People's Republic of China over her territory of the Tiaoyu and other islands."162

Thus, the Senkaku Islands are claimed by the PRC, ROC, and Japan. Once the jurisdictional dispute arose, each of the countries went back into its historical records in order to "prove" the validity of its claim. The bases of the PRC and ROC claims are essentially the same. In the December 30, 1971 statement by the PRC, the Chinese stated that "the tiaoyu [sic] and other islands [had] always been China's territory from time imme-
morial." More specifically, as early as 1556 the islands were con-
sidered "within the scope of China's coastal defence." Other historical writings also established China's sovereignty over the islands. According to the Chinese, the Japanese did not discover the islands until 1884 and did not "seize" them until "the defeat of the government of the ching [sic] dynasty in the sino-japanese war [sic] had become inevitable" in 1895. Finally, in substantiating their claim, the Chinese also pointed out that the islands are situated on the continental shelf which is part of the extension of the Chinese land mass.

On March 8, 1972, the Japanese reasserted the basis of their claim to the islands. They stated that a survey of the Senkakus made in 1885 by the Japanese
ascertained carefully that the islands were not only uninhabited but without any trace of control by China (Ching dynasty). Therefore, the Japanese government set up posts on the Senkaku Islands to manifest Japan's territorial sovereignty and thereby formally incorporated these islands into the territory of Japan. They also claimed that these islands were not among the Chinese islands which were ceded to Japan as a result of the 1895 treaty since they were already Japanese territory. Finally, the Japanese stated that

"none of the alleged historical, geographical, and geological arguments set forth by the governments of the Republic of China and the People's Republic of China are acceptable as valid under international law to substantiate China's territorial claim over the Senkaku Islands." As mentioned earlier, the establishment of sovereignty over the Senkakus will have a large impact on the delimitation of state boundaries in the East China Sea. However, the delimitation itself, apart from island jurisdiction, has also become a major point of contention among Japan, the PRC, the ROC, and South Korea. The area in dispute includes the Yellow and East China seas which are both adjacent and semienclosed by Korea (North and South), China (including Taiwan), and Japan. Nowhere is the distance between any of these land areas greater than 400 nautical miles. In addition, both of these areas are fairly shallow. The average depth of the Yellow Sea is fifty-five meters and at its deepest is less than 125 metres. The East China Sea, with the exception of the Okinawa Trough off the coast of Japan which has a depth of 1270 fathoms at its deepest, is also less than 200 meters deep. This area is relatively free of islands except for the Senkakus discussed above. Thus, under the 200-meter depth criterion for the limit of the continental shelf alone, the natural resources of these seas would fall mainly under the exclusive jurisdiction of the coastal states, and . . . under the hypothesis of a 200-mile economic zone, their jurisdiction would be completely exclusive in relation to non-coastal state interests.
Hence, the rich resources in the area definitely come under the jurisdiction of one of the four states; however, the delimitation of the boundaries remains problematical.

Before discussing the legal foundations upon which the countries base their jurisdictional claims, it is useful to point out the events which precipitated these claims. The primary action which led to interest in the area was the 1968 geophysical survey of the area discussed earlier. Similar to the reactions of Vietnam and China in the case of the Paracels and Spratlies, the "immediate reaction of the adjacent coastal states to the reports was to claim sovereignty over as much of the supposedly oil-rich continental shelf as reasonably defensible."

Due to their pressing domestic demands for oil and to the uncertainty regarding the criteria for delimitation under international law, the states in the area did not seek to negotiate a boundary settlement. Instead, Japan, South Korea, and Taiwan unilaterally established their boundaries vis-à-vis opposite states. Between 1969 and 1970, these coastal areas were subdivided into seventeen sectors for the purpose of oil exploration. In the Japanese case, it was the oil companies which specified their claims while the South Korean and ROC governments specified the blocks in their areas and then contracted out to foreign oil companies for exploration rights in these blocks. As seen in map 4, the areas claimed by these states overlap to such an extent that only four remained uncontested. The fourth state bordering on the area, the PRC, did not make any formal claims regarding its continental shelf limits until December 1970.

One of the possible means of dealing with the problem of overlapping claims would be for the concerned states to negotiate boundary settlements. In 1970, several Japanese oil companies convinced the Japanese government
of the need for such talks. The Japanese held separate meetings with the ROC and South Korea in October and November of 1970 respectively with each side merely repeating its previous position. In fact, "the attitudes of South Korea and Taiwan were so firm on their respective positions that they even voiced skepticism on the need for talks."\(^{175}\)

The Chinese expressed their views regarding boundary negotiations in December 1970 when they made their first public statement claiming sovereignty over the continental shelf of the Yellow and East China seas. In this statement, the Chinese recognized that they could not claim all of the shelf area; however, they stipulated that the boundaries delimiting Chinese, Japanese, and South Korean waters could only be decided on the basis of mutual agreement.\(^{176}\) In the working paper presented by Shen Wei-liang to Subcommittee II of UNCLOS III on July 16, 1973, the Chinese also emphasized that states

"shall, on the basis of safeguarding and respecting the sovereignty of each other, conduct necessary consultations to work out reasonable solutions for the exploitation, regulation and other matters relating to the natural resources in their contiguous parts of the continental shelves."\(^{177}\)

Finally, at a UN sponsored Conference in April 1974, the Chinese reiterated the need for "consultations on an equal footing" between the states concerned.\(^{178}\)

A second means whereby each side could benefit from seabed oil exploitation without a final settlement of boundary limits would be through mutual cooperation in terms of joint development of the resource. The first agreement between representatives from Japan, South Korea, and Taiwan regarding joint ventures was reached at a conference of nongovernmental, interstate organizations in November 1970. Underlying the agreement to form an ocean development corporation was
the basic idea . . . to 'freeze' the problems of jurisdiction and boundary delimitation, leaving those to the governments concerned, while the oil groups proceeded with their development plans under a non-governmental arrangement.\textsuperscript{179}

The problems associated with isolating the exploitation of seabed oil from the state jurisdictional disputes and strong protests by the PRC regarding this joint venture led to its failure.\textsuperscript{180} (The protest by the PRC in December 1970 was discussed earlier with regard to the jurisdictional dispute over the Senkakus.)

A second agreement concerning joint exploitation was signed by Japan and South Korea in January 1972. Once again, this agreement provided for the suspension of the boundary issue pending future negotiations while allowing for oil exploitation to proceed in certain areas of overlapping claims.\textsuperscript{181} However, the Japanese became reluctant to ratify this agreement following a protest by the Chinese on February 4, 1974.\textsuperscript{182} On April 24 while the agreement was before the Japanese Diet for ratification, the Chinese lodged a formal protest with the Japanese stating that the area proposed for joint development, in fact, belonged to China.\textsuperscript{183} The Diet went on to ratify the agreement in June at which time the Chinese again stated their claim to the area and asserted that the continental shelf could only be developed after consultations between the Chinese and the other states concerned. Finally, the Chinese warned that states violating China's sovereignty over the area must bear the consequences.\textsuperscript{184}

In substantiating their claims to the area of the continental shelf, the bordering states referred to two principles of international law. One of these was set forth in the 1958 Geneva Convention on the Continental Shelf. In the convention, the continental shelf is defined as
the seabed and subsoil of the submarine areas adjacent to the
coast but outside the area of the territorial sea, to a depth
of 200 metres or, beyond that limit, to where the depth of
the superjacent waters admits of the exploitation of the
natural resources of the . . . areas.\textsuperscript{185}

According to this definition, all of the areas claimed by the coastal states
in the Yellow and East China seas qualify as continental shelf areas, thus
necessitating the application of criteria regarding delimitation of continen­tal shelf claims. In Article 6 of the convention, the provisions regarding
delimitation between adjacent coastal states stipulate that

the boundary of the continental shelf appertaining to such
States shall be determined by agreement between them. In the
absence of agreement, and unless another boundary line is
justified by special circumstances, the boundary is the median
line, every point of which is equidistant from the nearest
points of the baselines from which the breadth of the terri­torial sea of each State is measured.\textsuperscript{186}

Even though Japan did not sign the Convention on the Continental Shelf,
it still adhered to the equidistant principle as the legal basis upon which
it established its continental shelf claim. Taiwan, on the other hand,
signed the 1958 Convention on October 14, 1970 with two major reservations.
Specifically, it "reserved the right to rely on the theory of natural prolon­
gation of land territory and to disregard isolated small islands and rocks."\textsuperscript{187}
Thus, it left the way open for acceptance of the natural prolongation
concept which is the second legal principle.

A legal precedent cited by both Taiwan and the PRC as the basis for
their continental shelf claims (which are essentially identical) was the
ruling by the International Court of Justice in the 1969 North Sea Continental
Shelf Cases. In this ruling, it was decided that

"delimitation is to be effected by agreement in accordance with
equitable principles, and taking account of all the relevant
circumstances, in such a way as to leave as much as possible to
each Party all those parts of the continental shelf that consti-
tute a natural prolongation of its land territory into and under the sea, without encroachment on the natural prolongation of the land territory of the other. ... "188

In applying the natural prolongation of land territory principle, the Republic of Korea (ROK) and PRC argue that the Okinawa Trough marks the outer limit of their continental land mass, effectively cutting off Japan's claims to the continental shelf beyond the Trough. On the other hand, the equidistant principle would allow for Japan's extended claim to the continental shelf west of the Trough.

The final party to the continental shelf dispute, South Korea, takes a position "which is a hybrid of both the Chinese and the Japanese approach."189 In their dispute with China, the South Koreans rely on the equidistant principle since, given the seabed topography of the Yellow Sea, application of the natural prolongation principle would be to the advantage of the Chinese.190 However, in its dispute with Japan, South Korea adheres to some aspects of the natural prolongation of land territory principle insisting, "that the presence of the [Okinawa] Trough constitutes 'special circumstances' under which the median-line principle cannot be applied."191

As discussed above, various legal principles for the delimitation of the continental shelf have been referred to by the coastal states bordering the Yellow and East China seas to justify their claims. It is extremely difficult to judge which of these claims is the most valid since the legal principles regarding the delimitation of the continental shelf have been open to interpretation based on a combination of geography and an equitable solution.192

In summary, the disputes over island jurisdiction and continental shelf delimitation in the East and South China seas are interrelated. China's interests in these areas have been based on its desire for access to seabed
oil and other resources and on the strategic importance of the area for navigation and shipping. The basis of China's claims to jurisdiction in the East China Sea has been twofold. First, China claims the Senkaku Islands and their surrounding territorial sea and economic zone. (This claim is strongly contested by the Japanese as is China's claim in the South China Sea by Vietnam.) Secondly, China has also attempted to extend its jurisdiction in the East China Sea through a claim to the continental shelf. According to the Chinese, the shelf in this area is a natural prolongation of the Chinese continental land mass while the continental shelf off Japan ends at the Okinawa Trough. In order to extend its jurisdiction in the South China Sea, China has claimed sovereignty over the Paracel and Spratly island groups based on historical discovery and use. This claim could possibly give China access to a territorial sea and an economic zone around the islands. Due to the depth of the South China Sea, China cannot rely on a continental shelf claim as a basis for jurisdiction over resources in this area. Therefore, whereas the international acceptance of China's claim to the Senkakus is important, without the islands China still has a claim, although weaker, to areas of the East China Sea. However, in the South China Sea, China's position rests entirely on its claim to jurisdiction over the islands. Finally, in the area of the Yellow Sea, the jurisdictional dispute rests entirely on the delimitation of the continental shelf.

The final issue over which China has come into conflict with its neighbors is jurisdiction over fishery stocks. Unlike the controversies discussed above, this conflict of interests was dealt with through a series of fisheries agreements. While most of these negotiations and agreements have been with Japan, China also signed a fishery agreement with North Vietnam
in 1957 and one with North Korea in 1959. Little is known about the details of these latter two agreements since the texts were not made public.\textsuperscript{193}

The PRC's involvement in fishery regulations and disputes began soon after the communists came to power in 1949. For both security and conservation reasons, in December 1950, the Chinese established a zone stretching from the Sino-Korean border in the north to Chekiang Province in the south "in which fishing by trawlers, Chinese or foreign, \textit{was} prohibited."\textsuperscript{194}

In breadth, this zone extended beyond the twelve nautical miles which China later (1958) declared to be the seaward limit of its territorial sea.\textsuperscript{195}

Also in December, the Chinese seized five Japanese fishing boats in the East China Sea for fishing within the area China considered to be its fishing zone.\textsuperscript{196}

The seizures of Japanese fishing vessels off the coast of China continued for several years. Since the Japanese government did not have formal diplomatic ties with the PRC at the time, it could only respond with informal protests. In order to deal with the situation, a group of Japanese fishermen's organizations began to band together in September 1952. By November 1954, they had gained enough support to form the "Japan-China Fishery Association of Japan, a private endeavor devoted to the promotion of peaceful fishery relations with China."\textsuperscript{197}

Negotiations between the Japan-China Fishery Association and the China Fishery Association took place in Peking in January 1955. By April 15, the two groups had reached an agreement on fishing in the Yellow and East China seas.\textsuperscript{198} Under this nongovernmental agreement, the Japanese agreed to restrict their fishing in the area with regard to season, fishing gear, and the size of their fleet. They also stated that their fishing boats would comply with the regulations \textit{set forth by China in 1950} so long as they were applicable \textit{sic} to all boats.
regardless of nationalisty and not confined to Japanese fishing boats.\(^{199}\)

In exchange, the Chinese agreed not to seize Japanese fishing boats in the area.\(^{200}\)

This agreement was extended twice until June 1958 when the Chinese refused to extend it further. The Chinese refusal resulted from a general deterioration of relations between China and Japan and what China considered to be repeated Japanese violations of the treaty.\(^{201}\) After 1958, the Chinese again began to seize Japanese vessels violating the zone established in the 1950 declaration and the 1955 agreement.

A second agreement was finally concluded between the two nongovernmental fisheries organizations in November 1963. In this agreement the Chinese designated one zone in which fishing would only be allowed with Chinese permission, two zones as military areas which Japanese fishing vessels were forbidden to enter, and a fourth conservation zone in which all motorboat trawler fishing (Chinese and Japanese) would be prohibited.\(^{202}\) The Japanese fishery association, in turn, agreed to respect the zones and regulations formulated by the Chinese.\(^{203}\) Further restrictions on Japanese fishing in Chinese coastal waters were incorporated in a third fisheries agreement in 1965.\(^{204}\) A further revision of the agreement in 1970 restricted Japanese seining in the western half of the East China and Yellow seas and added certain restrictions on the vessels of both states.\(^{205}\) The 1970 version of the agreement was later extended seven times until December 1975 when a formal bilateral fishery agreement came into force.\(^{206}\)

The negotiations leading up to the formal agreement began soon after relations between China and Japan were normalized in 1972. Throughout these discussions, the Japanese voiced their opposition to several of the restrictions found in the earlier nongovernmental agreements such as Japanese
recognition of China's military and conservation zones and certain horsepower restrictions on Japanese trawlers. However,

when major differences had finally been accommodated in the form of a compromise, the new agreement turned out to be simply another version of the old, slightly modified in form but generally more restrictive of Japanese interests.207

At the first meeting of the Japan-People's Republic of China Fisheries Committee in June 1976, the Chinese pointed out that over ten violations of the 1975 treaty had occurred during the six months between the signing and implementation of the treaty and that a Japanese fishing vessel had again violated China's territorial waters after the treaty had taken effect.208 Thus, even though agreements regulating fishing in the area have been signed and most of the problems worked out, there are still some disagreements over fisheries jurisdiction.

From the discussion of China's maritime characteristics and regional maritime disputes a general image of China's orientation towards ocean-issues can be formulated. First, China is a coastal state with a long shoreline. It possesses a wide continental shelf, the waters and seabed of which are rich in living and non-living resources. These resources are of great importance to the Chinese as evidenced by their increasing efforts in the development of coastal fishing fleets, the enhancement of fish catches, the emphasis being placed on offshore oil exploration, and the disputes which have arisen over fishing and oil rights. Based on these characteristics, one would expect China to be interested in the creation of large coastal zones over which the coastal state would have exclusive jurisdiction and in the international acceptance of a definition of a state's continental shelf which would secure China's claim to shelf resources.

Secondly, while China is not yet a major maritime shipping state, the Chinese are concerned with increasing their sea trading capacity. This is
shown in the increase in the size of China's merchant fleet, in its port development programs, and in the increasing amount of Chinese seaborne trade. Thus, the Chinese would appear to have a stake in the maintenance of an international ocean regime which would uphold unimpeded transit of merchant vessels. From the discussion of the coastal nature of China's navy and in light of China's foreign policy objective of protecting its coastal borders, it is also apparent that the Chinese would not favor the same unimpeded transit for military vessels. In essence, China's concern with the freedom of navigation currently focuses on its commercial rather than military implications.

Thirdly, China is not among the group of states which is advanced either in terms of the technical knowledge necessary for deep seabed exploitation or in terms of general maritime expertise. While there does not appear to be much effort under way within China to develop the specific skills needed for deep seabed exploitation, the Chinese are attempting to expand, as fast as possible, their general knowledge of oceanography. Hence they could benefit greatly from any international exchanges of technological and/or scientific information or equipment.

Finally, the examination of China's regional maritime disputes brought out several points regarding China's maritime interests. The persistent and at times violent disputes over virtually barren islands in the South China Sea point out the immediate importance of the area to China and other states with regard to navigation. The Chinese are particularly concerned with the strategic significance of the South China Sea area for protecting its coast from the Soviet and American navies. In addition, states in the region of the South and East China seas, including China, are interested in the long range prospects of gaining control over seabed oil. Thus, the numerous disputes demonstrate the importance the Chinese attach to gaining control
over navigation and offshore resources. From statements regarding these disputes, it is also clear that the Chinese support the idea that relatively small islands should be entitled to their own territorial seas and economic zones. Finally, as a result of the dispute over resources in the East China Sea, the Chinese enunciated their definition of the continental shelf as the natural prolongation of the continental land mass.

In summary, the examination of China's maritime characteristics and its regional maritime disputes has led to a general impression of China as a state which is keenly interested in maritime issues. China is slowly but steadily developing its own maritime capabilities in the areas of coastal fishing, commercial shipping, and scientific research. It also appears that the Chinese are interested in the expansion of coastal state jurisdiction relating to both coastal waters and the continental shelf.

In this and the previous chapter, two sets of variables have been considered which establish the general context in which China's LOS policies will be analyzed. Before proceeding to a discussion of UNCLOS III and the analysis of China's policies, it is useful to look back on the variables already discussed to see how they combine to form the basis of the analysis. First, the policies of any state on any foreign policy issue reflect, to some extent, the broad foreign policy goals of that state. Through an examination of China's foreign policies from 1949 through 1977, eight general foreign policy goals were identified. These eight general objectives formed the broadest set of variables which the Chinese were likely to take into consideration in the formulation of their LOS policies.

Secondly, China's orientation towards a specific foreign policy issue-area is influenced not only by its general orientation towards all foreign policy issues (i.e., its goals), but also by factors specific to that issue.
Therefore, four categories of variables relating specifically to China's maritime characteristics were discussed. These established a more issue specific context which is also necessary for an analysis of China's LOS policies. Finally, China's regional maritime disputes were discussed in order to point out how China's regional maritime concerns may have had an influence on its general LOS policies.

In conclusion, part I has focused on an elaboration of two sets of variables, China's foreign policy objectives and its maritime characteristics and regional maritime disputes, which can be used to analyze China's LOS policies. This analysis, preceded by a detailed discussion of China's LOS policies as well as those of other states, will be the focus of part II.
PART II

CHINA'S LOS POLICIES:
DESCRIPTION AND ANALYSIS
CHAPTER 4

RULES OF PROCEDURE AND THE DEEP SEABED

Since its first substantive session in 1974, numerous issues relating to the use of the oceans have been discussed at UNCLOS III. These discussions have centered around the proposals of various states on the issues and have resulted in the preparation of a series of LOS texts. In part II, the state proposals on the main LOS issues will be presented in order to show the direction in which the negotiations have proceeded. In addition, China's policies on the various issues will be discussed specifically with regard to how they related to the proposals of other states and to the main positions of the various negotiating blocs. Finally, China's LOS policies will be analyzed in terms of the degree to which they reflected the impact of China's maritime characteristics and foreign policy objectives.

Due to the large number of issues discussed at UNCLOS III, part II is divided into two chapters. Chapter 4 will focus on a discussion of the UNCLOS III negotiations which related to conference procedures and to the seabed beyond national jurisdiction which was the subject of Committee I deliberations. In chapter 5, the issues discussed in Committees II and III relating primarily to coastal resource jurisdiction and navigation will be considered.

As mentioned above, groups of states organized into more or less cohesive negotiating blocs played an important role in the UNCLOS III negotiations. Therefore, before beginning the substantive discussion of these negotiations, the composition of these groups will be examined. In general,
while the delegates at UNCLOS III expressed their opinions as representatives of individual states, they often also reflected the general policy goals of a larger coalition of states. The majority of these blocs were organized on the basis of geographic (regional) location, shared special interests, or a common economic background.

The allocation of official committee posts at UNCLOS III as well as representation on conference committees (e.g., the Credentials and Drafting committees) were on the basis of regional state groupings. These groupings included the Latin American Group (28 countries), the African Group (47 countries), The Asian Group (41 countries), the Eastern European Group (11 countries), and the Western European and Others Group (27 countries including the US, Canada, Australia, and New Zealand).

After the election of conference officials, all of these groups, with the exception of the Western European and Others Group, continued to function as loose negotiating units.

Membership in blocs based on special interests and economic background was not exclusive and tended to overlap. Blocs based on shared special interests included: (1) strait states with a common interest in navigation through straits; (2) coastal states concerned with preserving and expanding their offshore jurisdiction; (3) long-distance fishing states who wanted to preserve their existing rights in waters off the shores of other countries; (4) landlocked (LL) and geographically disadvantaged states (GDS) concerned with preserving their access to the sea and receiving an equitable share of the benefits from offshore resources; (5) archipelagic states concerned with maximizing their jurisdiction over waters between their islands; (6) maritime states, industrially developed states with extensive interests in maritime shipping; and (7) developed states with an interest in the exploitation of seabed resources.
Finally, one of the major negotiating blocs throughout the conference was the "Group of 77" developing states. This "coalition was based on an assumed commonality of interests of all 'have-nots' against all 'haves.'" Its membership, which actually totalled 103 states at the 1974 Caracas session, was comprised of states from the Latin American, African, and Asian regional groups. It also included states representing all of the special interest blocs with the exception of the industrially developed maritime states.

Rules of Procedure

The first session of UNCLOS III was convened in New York from December 3 to December 15, 1973. During this session, the election of officials as well as the adoption of the rules of procedure for the conference were to be completed. However, the discussions became drawn out due to lengthy debates on both the electoral and procedural issues resulting in these deliberations being carried over into the second session. The major issues which led to the protracted discussions were the number of official posts which each state would be allowed to hold and the system of decision-making for the conference, including whether decisions should be made on the basis of a consensus or by voting and, if voting were used, what type of majority would be needed to adopt proposals.

During the first four days of the first session, Hamilton Shirley Amerasinghe, President of the Conference, conducted a series of consultations with the chairmen of the five regional groups and the US representative. These consultations covered the structure and organization of the conference as well as the composition of its major committees. From these discussions, it was
tentatively agreed that the General Committee would consist of 48 members: 12 each from the African and Asian groups, 9 from the Latin American countries, 9 from the Western European and others group and 6 from the Eastern European group... It was also tentatively agreed that the Drafting Committee would consist of 23 members comprising 6 each from the African group and Asian groups, 4 from the Latin American group, 5 from the Western European and others group, and 2 from the Eastern European group.

The General Committee was to be responsible for coordinating conference proceedings and reviewing the progress of the conference. The function of the Drafting Committee was to give advice on and to "co-ordinate and refine the drafting of all texts referred to it, without altering their substance." A third conference committee, the Credentials Committee, which was to have nine members was also established during the first session. Its duties were to examine the credentials of all delegates and to report to the conference on their acceptability.

Detailed provisions regarding the officials of the three main committees of the conference were also firmly agreed upon at these early meetings. The Chairmen of Committees I, II, and III would be elected from the African, Latin American, and Eastern European groups respectively. In addition, each of the three committees would have three vice-chairmen and a rapporteur, thus ensuring that each regional group would have one representative among the leadership of each main committee. Finally, in order that a representative of each regional group would hold one important conference office, the chairmanship of the Drafting Committee was delegated to the Western European and Others group while the president of the conference was from the Asian group. (The positions of chairmen of the main committees were considered of equal stature with the latter two positions.)

The major point of contention regarding the election of individuals to fill the various conference posts was whether or not "one country would occupy more than one of the seats or posts allocated to the group." The Chairman
of the Latin American group was the first delegate to bring up this issue in stating that her group had adopted the position that no individual country should hold more than one post. This position was supported by many of the delegates within the African and Asian groups. The Chinese delegate, Ling Ching, was especially adamant in his support for this view. He formally proposed that a decision should be made by the conference in plenary sessions on the principle of one State, one seat, ... a position which his delegation endorsed in view of its long-standing conviction that all countries, large or small, should have equal rights and that no country, however powerful, should enjoy a privileged position.

China's proposal was strongly supported by the Albanian delegation.

Among the states taking a different view from the one expressed above were those of the Western European and Others group including the US and members of the Eastern European group. Unlike China, most of these states felt that the issue should be settled within the regional groups and not in plenary sessions. That is, since the issue centered specifically on the number of candidates and whom the regional groups nominated to fill the seats allocated to them on the Drafting and General Committees, these states felt that the problems regarding the nominations should be handled within the groups. If one group decided to nominate more candidates than its allowable number of seats on the committees then all members of the conference should be free to vote on the candidates.

A third side to this issue was expressed by the Australian delegate when he said he welcomed the decision by the Latin American group that no country should hold more than one office. ... But there was a need for realism: the great Powers expected to have seats in both the General Committee and the Drafting Committee.

The US elaborated on this by pointing out that "it was vital to ensure that the views which had to be accommodated in the negotiating process were adequately represented [and that] to that end there must be some deviation from
the principle of one seat for each State."\(^{15}\)

After consultations with several delegates, the President of the Conference suggested a formula to settle this impasse. This formula, which was later accepted by the conference without a vote, stated that "'no State shall as a right be represented on more than one main organ of the Conference.'\(^{16}\) Later, on the same day, the election of conference officers took place. In these elections, representatives of the US and USSR were elected to serve both as Vice-Presidents of the Conference as well as members of the Drafting Committee.\(^{17}\) In response to the election of the USSR to its second post, China stated its reservations regarding the election as well as its reservation to "similar actions in respect of the other Committees."\(^{18}\) During the elections, China was selected as one of the thirty-one Vice-Presidents of the Conference (one of the eight allocated to the Asian group) and was appointed a member of the Credentials Committee.\(^{19}\)

Following the elections, the discussions focused on the adoption of rules of procedure for the conference. The discussions on voting procedures led to the first major controversy of the conference. According to Edward Miles,

> the general significance of this confrontation is explained by the fact that the players without significant marine-related capabilities have a potentially overwhelming coalition, consequently the players with significant marine capabilities precipitated a fight over the method of decision making to be employed by the conference.\(^{20}\)

Due to the importance of this issue for all states, these discussions were not concluded during the first session. As a result, informal negotiations continued throughout the interim between the first and second sessions. The issue was finally settled in informal negotiations during the first week of the second session (June 20-August 29, 1974).

The specific issues regarding decision-making under contention were the method of decision-making (i.e., by consensus or by majority vote) and
the type of majority needed if a vote were taken. During the 1973 session, the Soviet delegate stated that "there was a great danger of the imposition of majority views on the Conference and that it was impossible to solve international problems in this way." Therefore, he proposed that all decisions be made on the basis of a consensus. In addition, if a vote were necessary (i.e., a consensus simply could not be reached), the voting majorities should come as close as possible to consensus. The US proposal late in the session focused on decision-making by voting with the required majority for issues of substance being two-thirds of all states participating in the conference (not only of those present and voting). On all the other issues, the US proposed that voting be by a simple majority. The Group of 77 adamantly opposed both the US and the USSR proposals stating that all voting should be by simple majority. Under this type of system, the developing states would constitute a majority bloc of votes.

The Chinese were highly critical of the Soviet proposal favoring a consensus system and stated that it was merely "an attempt to maintain the veto power of soviet /sic/ social-imperialists." The Chinese supported the Group of 77 in calling for the conference voting rules to be based on a simple majority vote with no special privileges being given to any state. At the conclusion of the first session, the Chinese blamed "the unreasonable conduct of the superpowers" for the delay in adopting the conference rules of procedure.

A compromise was finally reached on an outline for voting procedures during the first week of the second session. This compromise, based on a paper prepared by the President of the Conference, provided for a "cooling-off" period before a vote on an issue of substance, given the existence of certain specified conditions. If, after this period, a consensus still had not been reached, a vote would be taken. The document, however, still left
open the question of the size of the majority needed to pass a vote.26

On the issue of majorities, the proposals either favored a majority calculated on the basis of those present and voting or, as mentioned above in the US proposal, on the basis of the total number of conference participants. The compromise on this issue was based on a proposal suggested by Australia and supported by Canada. In general, votes on substantive issues would be on the basis of a majority of two-thirds of those present and voting as long as this included a simple majority of all conference participants.21 However, the question of the majority needed for the adoption of a final treaty, was still undecided. This issue was finally settled on June 27, 1974, the day on which a vote would have been taken if no agreement on the rules of procedure had been reached. It was decided that the same two-thirds majority rule used for issues of substance would be applied to a vote on the final convention. On the other hand, the ten day deferment or "cooling-off" period for issues of substance would not apply to the adoption of a final treaty. However, at least four working days would have to lapse after the adoption of the last Article before a final vote could be taken.28

In general, the rules of procedure adopted for use at UNCLOS III called for a complex and time-consuming method of decision-making. According to Miles, these rules were 'convention breaking' because they constituted a repudiation of the normal General Assembly Rules of Procedure by most of the permanent members of the Security Council. As such, the rules of UNCLOS III have become precedents for any future international conference in which similar incompatibilities between substantive capabilities and coalition size obtain.29

China's policies on the contentious procedural issues appeared to be influenced by both its maritime characteristics and its foreign policy objectives. When considered in conjunction with the large number of states represented at UNCLOS III, China's position as a developing state in terms
of many of its maritime and economic characteristics probably had the most significant impact on its position regarding procedural issues. As a consequence of its status as a developing state, China's interests were similar to those of many of the members of the largest negotiating bloc at UNCLOS III. Since the bloc of developing states constituted more than half of the conference delegates, it is clear that the members of this bloc and states associated with it including China, would support a voting system based on a simple majority. Under this scheme, this group could wield more power than under a consensus system in which their large number would not be sufficient to pass a motion. In essence, China was not a major maritime power and, as a result, would not benefit from any procedural system which would be advantageous to the developed maritime states. Therefore, it supported the system most beneficial to the developing group and its own interests.

Secondly, several of China's foreign policy objectives also appeared to influence its policies at the 1973 session. By speaking out forcefully on the procedural issues, the Chinese appeared to be attempting to enhance their standing among Third World states. This was evident in China's statements on both the voting issue and the election of officials in which the Chinese supported the Third World position. For example, in the latter instance, Ling Ching adamantly supported the position proposed by the chairman of the Latin American group and supported by delegates from both the Asian and African groups.

China's position on the election of officials reflected its concern that all states be treated as sovereign equals at the conference and correspondingly that the influence of the superpowers be curtailed. Given their adherence to the idea that all sovereign states are equal, the Chinese condemned the election of an individual state to more than one major committee
post since this would imply that some states were "more deserving" of conference posts than others. The Chinese supported a system under which each state had an equal opportunity to be elected to a post and no state would be allowed to hold more than one major post. Thus, China's early statements on the rules of procedure reflected its intention to actively participate in the establishment of a new international legal order. In this instance, China's focus was on the establishment of rules of procedure under which all states would be considered as equal with no additional powers being given to states with greater capabilities in the area or those with the most to lose or gain.

Committee I

The Seabed Beyond National Jurisdiction

Prior to the first session of UNCLOS III in 1973, each of the three subcommittees of the Seabed Committee was instructed to draw up a text summarizing the major issues and positions relevant to its area of concern. The document submitted by the working group of Subcommittee I consisted of 115 pages of alternative texts covering the "areas of agreement and disagreement on the status, scope, and basic provisions of the international regime, and the status and scope, functions, and powers of the international machinery." From this report, which formed the basis of the early seabed discussions at UNCLOS III, three issues emerged as problematic, yet whose successful resolution was crucial to a final Law of the Sea agreement. These issues were

- the nature of the resource exploration and exploitation system,
- the functions and powers of the international organization, referred to in the working group texts as the Authority, and the
- nature of the decision-making process.

The positions taken by various states on the question of the nature of the system of exploration and exploitation directly related to their
earlier positions on whether or not the seabed beyond national jurisdiction should be considered the common heritage of mankind as proposed by Pardo in 1967. In general, those states which favored Pardo's proposal later supported a strong International Authority which would regulate seabed exploitation for the benefit of all states. Between 1968 and 1970, the discussions in the ad hoc SBC on the common heritage principle tended to reflect the general polarization between the developed and developing states. Opposition to the principle was strongly expressed by the Soviet Union while Kenya, Malta, and Tanzania expressed the greatest support. After prolonged discussions, several of the developed states began to soften their opposition to the principle. Thus

the Soviet Union and its allies, along with Italy, Belgium, and Malaysia [continued to oppose its inclusion as a principle, but not necessarily as a guideline. The United States did not accept the common heritage as a principle, but did not oppose it either, and other key developed states like Britain and Canada also came around to a non-opposition stance. . . . It was obvious by the end of the 1970 sessions that this issue was nearly settled, and that the major difficulties lay in the more detailed disputes over how the common heritage should be put into operation.33

China did not join the SBC until December of 1971 and, as a result, did not participate in the early discussions on the principle of common heritage. However, China's representative, An Chih-yuan, expressed China's strong support for this principle in his first speech before the committee in March 1972. He stated that China "maintain[ed] that the seas and oceans as well as their submarine resources beyond the limits of territorial seas and national jurisdiction are in principle commonly owned by all the peoples of the world."34 This position was also emphasized by another Chinese representative to the SBC, Hsia Pu, in July 1972 and March 1973, and in the "Working Paper on General Principles for the International Sea Area" submitted by China on August 2, 1973.35
Based on its support for the principle that the seabed beyond national jurisdiction is the common heritage of mankind, China supported the concept of a strong international authority during the negotiations on the nature of the system of exploration and exploitation. Specifically, Hsia Pu stated that

the machinery should be empowered to manage scientific research, exploration and exploitation of international sea-bed resources . . . [and] should be empowered to engage in direct exploitation of resources. . . . Its functions should not be limited to handling matters of registration, license-issuing and co-ordination of matters pertaining to the seabed.36

China's position on the system of exploration and exploitation was similar to that formally proposed by Tanzania on July 20, 1971. Tanzania had proposed a system in which the Seabed Authority would have the authority both to license states who wished to mine the seabed and to carry out exploitation of the seabed on its own. In addition, Tanzania also advocated that the Authority have control over the pricing and marketing of seabed minerals.37 (This latter position was also supported by China and will be discussed in more detail later.)

In terms of the general debate on the system of exploration and exploitation, the Tanzanian proposal as well as China's position tended to fall near the middle of the spectrum of proposals which ranged from a registry system to a system where exploitation would be the sole prerogative of the Authority. The registry system proposed by France called for an international authority with only minimal power whose "main function . . . would be to allocate blocks of seabed to states [thus maintaining] . . . maximum freedom for states."38 Similarly, the proposal by Poland called for a system where "the machinery would . . . start with simple registry and coordinating functions and work its way up to some form of weak super-
The proposals by Britain, the US, and Japan called for "a weak licensing type of international regime and machinery." This type of system was similar to that proposed by Poland for the later stages in the Authority's development. The Soviet Union's proposal while vague also implied the creation of "a relatively weak international regime and machinery that would leave considerable initiative in the hands of states."

A third system was suggested in the proposals of Malta, Canada, and a group of seven landlocked and shelf-locked states. In general, these proposals suggested a mixed system with the International Authority acting as both a licensing agency and at some stage as an operating agency. The Tanzanian proposal as well as China's stated position fit into this category.

Finally, on the other extreme of the spectrum from the pure registry system of France was the system proposed by thirteen Latin American states on August 10, 1971. These states argued that all exploitation and exploration as well as all activities regarding production, processing, and marketing of seabed minerals and scientific research on the seabed should be regulated by the International Authority. Thus, they rejected the idea of licensing as incompatible with the common heritage, and wished to restrict the role of states in exploitation to that of service contractor to, or joint venture partner with, the authority.

The debate in Subcommittee I continued to center around these proposals throughout 1972 and 1973 without any significant progress being made towards a compromise solution. As noted by Barry Buzan, the dominant question here was a licensing versus an operating authority, and the respective underlying viewpoints were desire for secure access to seabed minerals versus fear of looting of the common heritage to the benefit of the developed states.
In order to inject new momentum into the negotiations, a group of
developed states suggested that the delegates consider the conditions of
exploitation which could be operable under any form of operating system be
it a licensing or a totally Authority controlled system. Throughout 1973,
the discussion of conditions such as the rights and duties of operators and
the Authority regarding fees, work requirements and operating standards,
increased in the SBC meetings. However, "'conditions of exploitation' . . .
did not fully replace 'licensing versus operating' as the core of the debate
on the nature of the operating system until the Caracas session . . . in
the summer of 1974." 45

A second major issue at the SBC meetings was the question of the
scope of the functions and powers of the International Authority. A
specific issue of concern was whether the Authority should have the power
to regulate the production and prices of seabed minerals to protect land-
based producers of these minerals. As mentioned above, Tanzania advocated
that the Authority have control over the pricing and marketing of seabed
minerals. In addition, the proposals by the group of thirteen Latin American
states, Malta, the seven landlocked and shelf-locked states, and those of
two developed states, Canada and Japan, also called for the Authority to
exercise varying degrees of production and pricing controls to minimize
possible adverse economic effects on developing countries. 46 In general,
the basic conflict here was between the fears of the developed
states that such controls would render nodule mining econom­
ically, unattractive and the fears of the developing countries
that without such controls exploitation of the common heritage
could turn into a curse rather than a blessing by undercutting
the metal exports of some of their number. 47

Due partially to the fact that little precise information existed regarding
the probable effects of nodule mining on world supplies and prices and to
the strong positions of both the developed and developing countries, little progress was made on this issue. As with other crucial questions, all sides were more concerned with protecting their own interests and presenting their positions than in attempting to reach compromises.

The third major seabed issue, the process of decision-making, was closely related to the problem of the distribution of power within the Authority. In terms of the structure of the Authority, all sides agreed that there should be an Assembly made up of all parties to the LOS Convention as well as a Council of a limited size. Debate arose, however, over which of the two bodies should exercise the power of initiative and thus be the dominant branch. This debate was the result of

the attempt of the developed states to protect themselves as a minority by giving power to the council in their proposals, and out of the parallel attempt of the developing countries to protect themselves from the technological advantage of the developed states by giving power to the assembly, which they could control through their votes.48

In addition, the developing states wanted all decisions of the Authority to be made on the basis of either a simple or a two-thirds majority in the Assembly. The developed states, on the other hand, saw this provision as a threat to their own interests.49

On the issue of the structure of the Authority, as on those discussed above, China sided with the developing states in its support for an International Seabed Authority (ISA) in which "a greater proportion of seats should be given to the developing countries in order to reflect those countries' positive role in international affairs."50 The Chinese representative also stressed that care should be taken in the distribution of seats on the Council as well as in its mode of operation to ensure that "it could not be dictated to by either super-Power."51
In addition to the three major issues discussed above, two other issues of importance were raised in Subcommittee I. These were the extent of seabed resource exploitation which would be allowed in the interim before a treaty was signed and the military use of the seabed beyond national jurisdiction. In December 1969, the UN General Assembly passed a resolution which called for a moratorium on seabed claims and exploitation. Specifically the resolution declared

that, pending the establishment of the international regime,
(a) States and persons, physical or juridical, are bound to refrain from all activities of exploitation of the resources of the area of the seabed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction;
(b) No claim to any part of that area or its resources shall be recognized.52

The main impetus behind this resolution was an attempt by several developing states to restrict seabed mineral exploitation by a few of the developed states. In essence, "it was a way of buying time in which to negotiate before the whole negotiating process was overtaken by a fait accompli."53 This was reflected in the vote on the resolution where all but two (Sweden and Finland) of the sixty-two votes in favor of the resolution were cast by developing states, where all but one (Ghana) of the twenty-eight opposed were developed states, and where twenty-four of the twenty-eight abstentions were cast by developing states who opposed the more radical position of the Latin American states and some of the other developing states.54

Between 1969 and 1971, US companies had made a great deal of progress in the development of the technology needed for deep seabed exploitation. As a result, in November 1971 Senator Lee Metcalf introduced the Deep Seabed Hard Minerals Resources Bill which would have paved the way for the
exploitation of the deep seabed by American companies. Even though the US executive did not take a specific stand on the proposed bill, its presence before the US Congress led to mounting concern among the developing states at the SBC meetings. In response, thirteen developing countries including China presented a draft resolution to the SBC in March 1972. This proposal which was supported by many of the countries in the Group of 77 invoked the moratorium resolution and the declaration of principles ... [and reaffirmed] that 'prior to the establishment of the international regime, no claims on any part of the area or its resources, based on past, present or future activities, will be recognized.'

This statement along with the proposed US bill gave rise to lengthy discussions within the SBC. However, in order to prevent its leading to a major disruption of the conference, neither side pressed the issue in the 1972 sessions of the General Assembly or the 1973 SBC meetings. In the 1973 SBC session, however, China's representative, Hsia Pu, reiterated China's position on this matter. He stated that "his delegation felt that pending the establishment of the international machinery, commercial exploitation of resources in the international sea-bed area should cease." The Chinese continued to voice their support for a halt to seabed exploitation throughout the Caracas and Geneva sessions of UNCLOS III.

The issue of the military use of the seabed was introduced by Pardo in his 1967 statement to the UN General Assembly in which he proposed that the seabed "be used 'exclusively for peaceful purposes' beyond the limits of national jurisdiction." During 1968, debate on this issue in the SBC tended to center on whether or not the SBC was even the proper forum for this discussion or whether another UN committee should handle the issue of seabed arms control. Both the US and USSR wanted the issue referred to the Geneva
Eighteen-Nation Disarmament Committee (ENDC). This move was supported by the superpowers' traditional allies while the nonaligned nations split over the issue with some states preferring the SBC as the forum for discussions. The issue was finally settled in June 1968 when the US and Soviet Union specifically asked the ENDC to deal with the question thereby largely removing it from the SBC's mandate.

Between 1968 and 1971, proposals and counterproposals were made by the US and Soviet Union on the limitation of seabed arms at the ENDC meetings. These discussions finally resulted in the 1971 Sea-Bed Treaty which specifically called for the prohibition of "nuclear weapons and other weapons of mass destruction /on the seabed/ beyond 12 /nautical miles/ off the coasts." This treaty, however, did not prohibit these weapons in the waters above the seabed.

The response to this treaty within the SBC including that of the Chinese delegation, was generally positive. However, at a SBC meeting in March 1973, Hsia Pu went even further than the treaty provisions in stating that the international sea-bed area should be used for peaceful purposes /and/ as a first step towards that end, the activities of all nuclear submarines and emplacement of nuclear and all other weapons in the area should be prohibited.

Chinese representatives consistently voiced their opposition to this type of military use of the international seabed area at following UNCLOS III sessions.

On the related issue of the seabed testing of nuclear weapons, the Chinese took a position contrary to that of most developed as well as developing states. Whereas these states supported the prohibition of seabed testing, the Chinese stated that to advocate the prohibition of nuclear tests in the international sea-bed area meant in fact to allow the two super-Powers to
maintain their monopoly of nuclear weapons, to control other countries, and completely to deprive the peace-loving countries of any freedom of action. Therefore, China could not accept that situation.

Even though delegates expressed a great deal of disagreement on the details of provisions for an international seabed regime during the SBC sessions, there was agreement on several basic principles. For example, it was agreed that: (1) an area of the seabed exists over which no individual state should claim jurisdiction or special rights; (2) an international agency of some type should be established with at least some power over the seabed beyond national jurisdiction; and (3) a proportion of the revenue from seabed resource exploitation should be devoted to the needs of developing countries. Hence at the first substantive session of UNCLOS III in 1974, Committee I was faced with a series of texts reflecting agreement on these few broad principles and disagreement on most of the major issues.

By the start of the Caracas session of UNCLOS III in June of 1974, Committee I had most of the issues before it delineated in a series of alternative texts. Therefore, after one week of general discussion under the chairmanship of Paul Bamela Engo of Cameroon, the members of the committee decided to focus their attention on a few of the major issues of disagreement rather than specifically on the structure of the international machinery. To some extent, these issues reflected new areas of disagreement which had arisen out of the SBC debates. They included: (1) the exploitation system; (2) the conditions of exploitation (rules and regulations); and (3) the economic implications of seabed development.

During the negotiations regarding who should be allowed to explore and exploit the international seabed area, several approaches emerged which
followed along the same lines as the licensing versus operating regime debate during the SBC meetings. The approaches varied along a continuum advocating that all activities be carried out by a Contracting Party or (Parties) subject to Authority regulation on one extreme, to full control by the Authority over all exploration and exploitation on the other. A proposal by the Group of 77 conceded that the Authority would have to enter into legal arrangements with other groups to conduct activities in the area since the Authority lacked the technology necessary to exploit the resources on its own. These joint ventures, however, would only be allowed under the condition that the Authority maintain "direct and effective control at all times over such activities." The proposals of several developed states continued to favor exploration and exploitation by outside parties under the broad supervision of the Authority.

Chai Shu-fan speaking for China set forth China's continuing support for the Group of 77's proposals regarding the nature of the exploitation system. He stated that

an effective international régime should be worked out and appropriate international machinery established to manage and exploit [seabed] resources. He firmly opposed any form of super-Power manipulation or monopoly and the exclusive control of arbitrary exploitation of international deep-sea resources by one or two super-Powers on the strength of their advanced technology.

In a later meeting of Committee I, Ke Tsai-shuo reiterated the position that "the international machinery should be endowed with real powers, including the power of engaging directly in the exploration and exploitation of the resources in the international sea-bed area." Debate at Caracas continued to stall around the issue of who should be allowed to exploit the seabed until the first week of August when the US delegate, in a strongly worded speech, demanded that the committee
discuss the specific conditions of exploitation and that the Group of 77 stop avoiding the discussion of details. Even though this speech provoked time-consuming ideological debate between developed and developing countries, it also shifted the focus of discussion to a possibly more productive area, the conditions of exploitation.

The US, the Group of 77, Japan, and eight of the European Economic Community members submitted drafts on the issue of conditions of exploitation. The Group of 77's draft text directly followed from their position on the issue of who may exploit. They stipulated that the Authority should have virtually complete discretion regarding resource exploitation, thereby remaining in direct control of all operations. This draft also emphasized the need to protect developing states who are landbased producers of minerals found on the seabed. As on the issue of who may exploit, China supported the Group of 77's proposal. The US proposal, as well as that of eight EEC members and Japan, contained detailed regulations for exploitation aimed at maximizing state access to seabed resources. In general,

their approach was to define conditions, the fulfillment of which would automatically result in the allocation of specified rights and duties to entities desiring to engage in exploitation. Such a system would place nearly all powers of initiative in the hands of the exploiting entities (the advanced technology states and their companies) and leave the seabed authority a largely passive supervisory body. Specifically, the US proposal covered such topics as the size of mine sites, the duration of exploration and exploitation rights, and certification of financial and technical responsibility. The EEC members' proposal introduced the concept of national area quotas whereby an individual state could only exploit a set proportion of the seabed area. Thus, at Caracas debate shifted from a consideration of the general form of the exploitation system to a more specific concern with the conditions or rules and regulations
under which the system would operate.

The final major area of debate at Caracas in 1974 concerned the economic implications of seabed mining. As at the SBC meetings, the landbased producers of minerals which would be affected by seabed mining, who were supported by many developing countries, expressed the need for the Authority to have the power to initiate price supports and production controls. On the other side, the US and other developed countries opposed such controls on the basis that it was in the interest of all consuming nations to encourage seabed mining, that the probable adverse effects on landbased producers were questionable, and that any system of controls would itself give rise to more problems. Some developing countries also supported the need to protect consumers from artificially high prices. Due primarily to a lack of reliable data on the probable effects of seabed mining on landbased producers, neither side was able to gain the upper hand in these discussions. Therefore, this debate continued throughout the session without any mutually acceptable solutions being reached.

Committee I, in 1974, did not deal specifically with the draft articles concerning the structure, powers, and functions of the Seabed Authority; however, as has become evident above, many facets of these issues were indirectly considered in the discussions. As in the SBC draft texts, delegates continued to agree on the rudimentary structure of the Authority, including an Assembly, Council, and subsidiary organs. The creation of a separate structure to deal with the settlement of disputes was also generally supported. Regarding the structure of the ISA, China's representative Ke Tsai-shuo "said that the principles of equality among big and small nations and of rational geographical representation should be observed. In addition, the developing countries . . . ought to have a greater weight in the inter-
national machinery." With regard to decision-making procedures, it was generally accepted that regulatory decisions would require approval by a substantial majority of parties, probably two-thirds. A major contentious issue continued to be the composition and voting procedure to be followed in the Council, primarily because the Council, as it was conceived at the time, would serve as the executive body.

In summary, the proposals made in Committee I during the Caracas session tended to fall into a limited number of competing positions. With regard to the system of exploitation, the alternatives tended to favor either a single (the Authority) or a multiple (the Authority in coordination with contracting parties) system approach. The proposals on conditions of exploration and exploitation favored either the detailed elaboration of rules and regulations in the Convention itself or the inclusion of general norms providing a framework within which the Authority would set regulations. Relatedly, the Authority's control could be limited to the mere administration of legal arrangements or expanded to include direct control over all stages of seabed operations.

Informal negotiating sessions rather than formal meetings characterized the second substantive session of UNCLOS III held in Geneva from March 26 through May 10, 1975. The overall result of this session was a series of draft texts prepared by the chairmen of each of the three main committees. These texts were combined to form the Informal Single Negotiating Text (ISNT). Even though the ISNT reflected the authors' assessment of the state of negotiations rather than a consensus of delegate opinion, it was to serve as the basis for future negotiations towards a comprehensive LOS treaty. The text was not presented to the delegates until the end of the Geneva
session and, as a result, was not itself the focus of debate. However, it
did reflect the general trends in the Geneva discussions.

In assisting in the drawing up of the negotiating text for Committee I, the Chairman of the Working Group, Christopher W. Pinto of Sri Lanka, submitted an initial draft to Committee Chairman Paul Enge. The draft, later referred to as the Enge text, primarily reflected the views of the developing states. After submitting this initial draft, Pinto continued negotiations with various state representatives in an attempt to arrive at a compromise text which would reflect a consensus of all views (i.e., those of the developed as well as the developing countries). A revised draft, the Pinto text, was eventually drawn up--however, not until after the deadline for submission to the combined conference negotiating text had passed. Hence, the more controversial Enge text rather than "a set of articles balanced either by the inclusion of articles representative of those submitted by all interest groups, or by adopting the draft articles facing the least opposition" was submitted to the conference for inclusion in the ISNT. The following discussion will focus on both the Enge and Pinto texts in order to point out the major areas of contention regarding seabed activities.

One of the fundamental problems carried over from Caracas was the question of the nature of the system for exploration and exploitation. This problem had been discussed extensively prior to the Geneva session in 1975 with little or no movement towards agreement. Hence, entirely new ideas were needed to spur negotiations. In this respect, the US proposed a "banking system" under which "an applicant for a joint venture would submit two mine sites of equal size, one of which the Authority would designate as a reserved area." The Authority could then negotiate with
any state or its nationals regarding the exploitation of the reserved area. The second area would be developed by the applicant according to arrangements with the Authority. These arrangements would be regulated by provisions in the treaty.

At approximately the same time as the submission of the US proposal, the Soviet delegate also submitted an alternative strategy for exploration and exploitation. Under the Soviet system, the seabed would be divided "into two separate regime areas, one being exploited by states in conformity with the authority's rules and contracts, and the other being exploited by the authority under whatever system it wished, or was able to implement." The size of the areas to be exploited would be set according to a fixed ratio which would be established through negotiation. The Soviets also stressed that the Authority would be entering into contracts with states and not multinational corporations, thereby implying greater stability for the Authority in its relations with outside contractors.

A third new proposal by the Chairman of the Working Group, C.W. Pinto, also focused on a type of parallel or reserved area system. This proposal included provisions similar in some respects to both the Soviet and US proposals. That is, it called for the seabed to be divided into two separate regimes, one reserved for state contractors and the other for the Authority. In addition, it also contained the provision that applicants for contracts would have to submit two proposed mine sites, one of which they would receive rights to and the other of which would revert to the authority to be exploited by it in any manner it might determine within the limits of the convention.

The Group of 77 considered these proposals and rejected the idea of a parallel system which designated certain areas as solely for state
exploitation. They felt their interests could only be protected under a
system where the Authority directly controlled all seabed exploitation. China continued to support the Group of 77 in its proposals for an
Authority with extensive powers. Tien Chin stated that the Authority
should have broad powers, including the right to direct explora-
tion and exploitation of sea-bed resources, and should regulate
all activities in the international area, such as scientific
research, production, processing and marketing. The super-
Powers must not be allowed to reduce the machinery to a hollow
administrative framework devoid of real power.

The views of the Group of 77 were reflected in the ISNT where the
underlying principle regarding seabed activity was that "the Area and its
resources are the common heritage of mankind." Regarding the system of
exploration and exploitation, the ISNT stipulated that the International
Seabed Authority would directly undertake exploration, exploitation, and
marketing of seabed resources. In addition, these activities could be
undertaken by States Parties and/or entities under their jurisdiction accord-
ing to agreements with the Authority. However, the Authority would retain
direct and effective control over all operations at all times.

Also included in the 1975 ISNT was an elaboration of the basic
structure of the Authority already mentioned in both the SBC draft proposals
and in discussions at Caracas. Earlier disagreements regarding the relative
powers and functions of the two major organs of the Authority, the Assembly
and the Council, continued at Geneva. In the Engo text "the Assembly was
the supreme policy-making organ with power to lay down directions to be
pursued by the Council and other organs." The Chinese position favored
the division of powers as set forth in this text. That is, they supported
an Assembly which would be the dominant body within the Authority. According
to the Chinese, the Assembly
should formulate policy on all important matters and give instructions to the council and other subsidiary organs. The council, as an executive organ, should be responsible to the assembly and operate according to the guidelines laid down by it.\textsuperscript{102}

Under the Pinto text, the Assembly would have little power in determining exploitation rights and the Council would not be required to follow the Assembly's directions.\textsuperscript{103}

At Geneva, agreement continued regarding an Assembly comprised of all parties to the LOS treaty and run on a one-state, one-vote formula. However, the structure and the voting procedures of the Council remained problematic. According to the 1975 ISNT, the Council would be comprised of thirty-six members (a larger number than had been suggested in previous drafts). Twenty-four of the thirty-six would be selected on the basis of region (i.e., Africa, Asia, Eastern Europe, Latin America, and Western Europe and Others) and twelve would be selected as representatives of special interests (six from technologically advanced states and six from developing states).\textsuperscript{104} This arrangement, however, was not acceptable to the GDS who wanted two-fifths of the Council seats\textsuperscript{105} and the developed states who wanted nine representatives on the Council.\textsuperscript{106}

Disagreements also arose over voting procedures in the Council. According to the Engo ISNT, Council decisions would be passed on the basis of a two-thirds plus one majority of members present and voting.\textsuperscript{107} China supported this requirement stating that it was opposed "to the super-Powers introducing a disguised veto system."\textsuperscript{108} In the Pinto text, a three-fourths majority would be required only after a general agreement could not be reached. Hence under the Pinto text which called for nine representatives on the Council to be from developed states, only ten votes would be needed to block a decision, whereas under the Engo text requiring only six developed
state representatives, twelve votes would be needed to block. Thus, the negotiations on Council voting procedures directly reflected the intent of the developed and developing states to protect their own interests.

Three additional organs of the ISA discussed at Geneva and included in the ISNT were the Tribunal, the Enterprise, and the Secretariat. The Tribunal would serve as a dispute settlement body and would consider questions regarding the interpretation of the Convention as well as problems relating to exploration and exploitation contracts. The Enterprise, "subject to the general policy directions and supervision of the Council, undertake the preparation and execution of activities of the Authority in the Area." The Enterprise could conduct these activities either on its own or in joint ventures with states or state-sponsored private companies. Finally, the Secretariat would be the central administrative organ of the Authority. Its staff, including the Secretary-General, its chief administrator, would be appointed by the Assembly on the recommendation of the Council. The Authority would also appoint an additional staff of inspectors whose function would be to report any violations of the Convention and/or contracts to the Secretary-General.

A final problem area at Geneva, as earlier at Caracas and the SBC meetings, was the question of conditions of exploitation. Basically, the Authority was to set the regulations for exploitation; however, certain safeguards for exploiters were also included in the ISNT. For example, "operators were guaranteed security of tenure and freedom from alterations or suspension of the contract except for 'gross and persistent violations' of rules." In summary, the 1975 Geneva session began in a mood of conciliation. The leaders of the Group of 77 had indicated they would be more flexible on
the issues of decision-making and the structure and procedures of the ISA. They also felt that they had made a significant concession in 1974 at Caracas in agreeing to include conditions of exploitation in a LOS treaty. On the other hand, the US expressed its willingness to consider basic conditions in place of detailed regulatory provisions in the treaty as long as the conference would adopt detailed regulations for the provisional period. In addition, the US was willing to consider joint ventures, with the possibility of profit sharing, as a single method of exploitation.\textsuperscript{114}

In spite of this expressed flexibility, the major problem at UNCLOS III continued to be

that of reconciling the views of those favoring a system of direct exploitation by the new international Authority to be established with the views of those interested in assuring guaranteed access to, and production of deep seabed minerals by states and their nationals under reasonable conditions with security of tenure.\textsuperscript{115} Committee I was also left with the problem of reconciling the differences in the Engo and Pinto texts noted earlier. Finally, despite the passage in the UN General Assembly of a new moratorium on deep seabed mining (over the negative votes of the US and other industrialized states), there was the nagging threat of unilateral action to initiate seabed operations.\textsuperscript{116} Hence, increasing pressure was exerted on all sides in the negotiations to reach a mutually satisfactory agreement.

The discussions at the fourth session of UNCLOS III held in New York from March 15 through May 7, 1976 centered on the revision of the proposals in the ISNT and resulted in the preparation of a Revised Single Negotiating Text (RSNT) by the committee chairmen. On the first day of the session, China's representative Lai Ya-li expressed China's views on the format for the negotiations. He stressed that the delegates should consider the 1975 ISNT as "a procedural device and . . . therefore simply a working instrument
without binding force. Thus, amendments could be made and new proposals discussed together with the texts." He also stressed that the negotiations should not be broken down into numerous working groups since many of the delegations, especially those from developing countries, were small and, as a result, would not be able to participate fully in all of the working groups.

Unlike the 1975 ISNT, which reflected the views of the developing states, the 1976 RSNT, negotiated largely by the US and a small number of developing countries, reflected the positions of the developed countries. For example, under the RSNT the Authority's discretionary power would be somewhat restricted compared to its powers under the ISNT. More specifically, the system of exploitation set forth in the RSNT was very similar to that proposed by the US at the 1975 Geneva session. As envisaged in the 1976 RSNT, this system, referred to as a parallel or banking system, called for

- the applicant [to] indicate the co-ordinates of an area . . . of which one half [would] be designated by the Authority as the contract area. Alternately, the applicant [could] submit two areas of like size and equivalent commercial value, one of which [would] be designated by the Authority as the contract area. . . . If a contract [were] entered into for the area, the area covered by the application but not by the contract [could] only be exploited by the Authority directly or in association with the Authority and under its control . . . by developing countries or entities sponsored by them and under their effective control.

Under the earlier ISNT, the Authority alone had the power to "determine the part or parts of the Area in which the exploration of the Area and the exploitation of its resources and other associated activities [could] be conducted."

With regard to the issue of whether or not the conditions of exploration and exploitation should be explicitly set forth in the LOS treaty, the 1976 RSNT fell in the middle. That is,

- various rules regarding mining would be specified in the treaty, while others would be elaborated by the Council of the Seabed
Authority on the basis of treaty criteria, subject to veto by one-fourth of the Contracting Parties.\textsuperscript{123} Disputes regarding these regulations would be submitted to the Tribunal of the Seabed Authority.

During Committee I negotiations at the fourth session in 1976, the US changed its position on the issue of the economic implications of seabed mining. It agreed that the Authority should be able to establish production controls on seabed minerals in order to minimize the adverse effects on land-based producers of seabed minerals caused by production increases.\textsuperscript{124} The RSNT was much more explicit on this issue than the ISNT had been in that it enumerated specific measures the Authority could take to protect the export earnings of developing producers of seabed minerals.\textsuperscript{125} Specifically, these arrangements included:

- commodity agreements covering those minerals in which the proposed International Seabed Authority \textit{would} participate;
- powers for the authority to limit seabed production for at least 20 years in accordance with a formula tied to the price of and demand for nickel;
- and compensation for the economic harm caused to affected countries.\textsuperscript{126}

The structure of the Authority outlined in the 1976 RSNT remained basically the same as that in the 1975 ISNT. With regard to the distribution of power within the ISA, the Group of 77 still pressed for a dominant Assembly while the developed states called for a strong Council. China continued to support the developing countries and criticized the superpowers for attempting to establish their hegemony over the seabed administration.\textsuperscript{127} The Chinese representative also stated that, given the number of developing states compared to developed states in the world and the need for fair representation on the Council, the developing states should hold more than two-thirds of the Council seats.\textsuperscript{128}

Discussions at the fifth session of UNCLOS III held in New York from August 2 through September 17, 1976 resulted in detailed reports from each
of the three committees; however, no new revisions to the RSNT were formally proposed. Most of Committee I's time was spent in informal discussions which, according to Committee Chairman Paul Engo, "tended, in spite of all efforts by most delegations, to cover old ground and failed to produce any new approaches that could help resolve the problems at the center of their work."129

In his report to the conference, Engo "emphasized that the one central, critical issue which had to be solved without delay was that of the system of exploitation."130 He pointed out that since the first substantive session in 1974 both of the major interest groups had gradually altered their demands. The group of developing countries had shifted from a position where they would approve of seabed exploitation only by the Authority to a position, expressed at the fifth session in 1976, where they would accept exploitation by other groups including private companies as long as the Enterprise remained preeminent. On the other hand, the developed countries agreed to accept the Enterprise as equal with other exploiters, where originally they had insisted that mining operations be confined to private commercial entrepreneurs.131 In spite of these gradual shifts, however, a consensus still could not be reached on a system acceptable to all.

Towards the end of the fifth session, the US informally circulated a proposal which opened the way for new avenues of discussion. In this proposal, the US indicated "that as part of a parallel system that included assured access for states and their nationals, it would be willing to help the Enterprise get into business simultaneously or virtually simultaneously with other miners."132 The US also indicated that it would agree to provisions for the transfer of technology and it proposed that a review of the
system of exploitation be considered after approximately twenty-five years of operation.  133

In spite of these proposals by the US and those by several other delegations, no real progress was made at the fifth session in 1976 towards an agreement on a new seabed regime. Due to the seriousness of this apparent deadlock, the Conference President, H.S. Amerasinghe, with the agreement of conference delegates, stated that the first three weeks of the sixth session in 1977 would be devoted exclusively to the issue of the deep seabed. In addition, the heads of delegations were expected to conduct these negotiations.  134

During the 1976 fifth session, Chinese representatives repeatedly expressed China's support for the Group of 77's position as well as for the maritime rights and interests of LL and GDS.  135 Correspondingly, Ling Ching attacked the superpowers in a plenary meeting for "obstinately clinging to their unreasonable positions and . . . [for] saying one thing while doing another."  136 He also went on to state that

the basic contradiction of the present work on the law of the sea was that, while the third world countries wanted to safeguard their maritime rights and interests, the one or two super-Powers were not reconciled to the loss of their privileged position of monopolizing the seas. Quite clearly, it was the hegemonist position of the super-Powers that constituted the basic reason why the Conference failed to make due progress.  137

These same sentiments had been expressed earlier by Ho Li-liang.  138

With specific reference to the 1976 RSNT, Ling Ching stated that the preamble and final clauses of the text should not be discussed hastily. He suggested that an ad hoc group be established to study the matter and that all states be allowed to express their views on the texts before the preparation of a draft text.  139 In general, the Chinese felt that the RSNT needed revision especially with regard to seabed exploitation.  140 Finally, Ho Li-liang concluded that "the premature consideration of specific or technical questions" at the fifth session in 1976 had only served to slow
down progress. Therefore, she proposed that "at the next session important questions of principle should be allotted more time and considered on a priority basis."  

In the interim between the fifth (1976) and sixth (1977) UNCLOS III sessions, Minister Jens Evensen of Norway, Vice-President of the Conference, organized several informal negotiating sessions on seabed issues. These informal meetings, attended by representatives from several countries, continued into the sixth session. The result of these meetings was a series of draft articles (the Evensen text) which, while not totally acceptable to either the developed or developing countries, was for both "'an acceptable basis for further negotiations.'" In spite of this general agreement, Engo in preparing his submission on behalf of Committee I for inclusion in the Informal Composite Negotiating Text (ICNT) only partially adopted the ideas presented in the Evensen text. Instead, after considering the discussions at the sixth session, Engo focused primarily on the proposals of the developing states in writing his text. As a result, several of the text's articles were still unacceptable to many delegations. The following discussion of the sixth session held in New York from May 23 to July 15, 1977 will focus not only on the ICNT, but also on the Evensen text and the developed states' proposals not represented in the ICNT in order to give a clearer view of the seabed negotiations.

The four basic issues of the system and conditions of exploitation, the structure of the ISA, and the economic implications of seabed mining which were discussed at previous UNCLOS III sessions continued to be of major importance in 1977. The Evensen text followed the same outline as the 1976 RSNT with regard to the system and conditions of seabed mining. Under the parallel system of the Evensen text, the Authority was to have a substan-
tial say in the context of mining contracts and could offer financial incentives to encourage joint Enterprise and state or private ventures. The parallel system envisaged under the 1977 ICNT, however, would give the Authority the option of stipulating a joint venture as a condition of access. Thus,

contracts for the exploration and exploitation of the resources of the Area may provide for joint arrangements between the Contractor and the Authority through the Enterprise, in the form of joint ventures, production sharing or service contracts, as well as any other form of joint arrangement.

The ICNT further restricted access by allowing the Authority to make the transfer of technology from contractors to the Enterprise virtually a condition of access. Thus, whereas the 1976 RSNT favored the developed states and their desire to keep access to the seabed as open as possible for private exploiters, the relevant provisions in the 1977 ICNT moved in the opposite direction towards the Group of 77's position that the Authority should have the power to reject some private contractors, to set heavy restrictions on those it accepted, and to encourage Enterprise participation in all seabed mining.

The Chinese representatives continued to support an ISA with the exclusive right to exploit seabed minerals and to oppose a parallel system of exploitation. They did agree, however, that "if the authority deem[ed] it necessary, activities of exploitation [could] be conducted, as determined by the authority, under its full and effective control, through a form of association with the states parties or their enterprises." According to the Chinese, this system should only be transitional and should end automatically after a fixed time period.

The negotiations on the structure of the Authority continued to center on whether it should
be governed exclusively on the basis of the sovereign equality of all States whereby every nation would have equivalent political power . . . for where because of their economic and technological advancement and their higher stake in the mining of the seabed . . . the developed states should have a voice in the Authority sufficient to protect their substantial 'minority' interests.  

In the Evensen text, a one-state, one-vote Assembly with substantial legislative powers was provided for as was a Council in which voting would be weighted towards the developed states.  

The 1977 ICNT articles on the structure of the Authority reflected the same basic arrangements as the 1976 RSNT and Evensen text with the exception of the provisions on the selection of members and voting in the Council. The ICNT still called for a Council of thirty-six members; however, it designated eighteen rather than twenty-four seats to be distributed on the basis of geographical location, four seats, not six, for states having made contributions to the development of technology for exploration and exploitation, six seats for developing countries, and four seats each for major importers and exporters of seabed minerals. It also guaranteed greater representation on the Council for LL and GDS. Engo, in the ICNT, also rejected the Evensen idea of weighted voting in the Council and stipulated that questions of substance be decided by a three-fourths majority. (The 1975 ISNT and 1976 RSNT called for a two-thirds plus one majority.)  

With regard to the fourth major seabed issue, economic implications of seabed mining, the 1977 ICNT went further than previous texts, including Evensen's, in protecting landbased producers. Whereas the Evensen text called for the Authority to control the production of minerals found in nodules to protect landbased producers, the ICNT allowed for controls on the production of any of the minerals found in the seabed. The controls on the production of minerals in nodules were also stated in more stringent
and mandatory terms in the ICNT. Finally, unlike either the 1975 ISNT or 1976 RSNT, the 1977 ICNT added to the Assembly's functions the duty to establish a system of compensation for developing countries suffering adverse economic effects as a result of seabed mining. The interests of consumers of seabed minerals were also considered in the ICNT. It contained new provisions to ensure just, and stable and remunerative prices for raw materials originating in the Area which were also produced outside the Area and ... security of supplies to consumers of these raw materials.

During the general discussion of the economic implications of seabed mining, most groups, with the exception of the Socialist bloc, reiterated their previously stated positions. The US which had softened its position at the fourth session in 1976 was faced with increased pressure to allow production controls to protect future as well as current landbased producers. The Group of 77 continued to call for centralized management of seabed mining to protect developing landbased producers and the mandatory transfer of technology to developing states. The Socialist bloc including the Soviet Union altered its position and endorsed extensive production controls. Hence in 1977, the ICNT not only reflected the general agreement in favor of controls, but, also leaned towards the developing countries' view regarding the stringency of these controls.

Near the closing of the sixth session of UNCLOS III in 1977, Shen Chih-cheng stated China's views first on the eventual LOS text and then on the ICNT. He stated that the formulation of a new convention on the law of the sea was an important element in the struggle to establish the new international economic order to which the developing countries attached great significance. Accordingly, the composite text must be based on the reasonable proposals of the developing countries and reflect the fundamental interests of the people
of all countries and it must firmly reject the proposals of the super-Powers. The text should be drafted democratically and serious consideration should be given to the views of the developing countries.160

In summary, the negotiations on the seabed beyond national jurisdiction during the first six sessions of UNCLOS III were continually plagued by major disagreements especially between the developed and developing states. Even though agreement was reached during the early SBC meetings on the basic principles regarding the seabed and its uses, the actual means to implement these principles could not be agreed upon. Hence, this issue continued to be a major impediment to concluding a new LOS treaty.

In analyzing the policies supported by the Chinese during the Committee I negotiations, it becomes apparent that these policies were influenced both by China's maritime characteristics and its foreign policy objectives. Within the set of variables associated with China's maritime characteristics, China's lack of the technological capacity to exploit the deep seabed appeared to have had the greatest impact on its policies. As discussed in chapter 3, China does not have, nor is it likely to develop in the near future, the technology needed to carry out seabed mining on its own or even in partial conjunction with the ISA's Enterprise. Thus, its position in favor of a strong Enterprise with virtually exclusive control over the exploitation of the seabed was totally in keeping with its own economic interests. The states opposing strong ISA control over exploitation were primarily those who have the potential to carry out seabed mining on their own and hence have the potential to reap economic gains from this exploitation. The Chinese, on the other hand, have more to gain as a member of a strong ISA whose profits could potentially benefit developing as well as developed states.
A second set of maritime characteristics which influenced China's policies on seabed exploitation was the size of its copper, nickel, cobalt, and manganese reserves. As was brought out during the Committee I negotiations, the group of states which would be most adversely affected by seabed mining were the major landbased producers and exporters of nodule minerals. Of the four minerals most affected by seabed mining, China possesses a surplus only of manganese. Its exports of this metal are relatively small and go almost entirely to Japan. As mentioned in chapter 3, these exports earn only a small amount of foreign exchange for the Chinese. It is unlikely, therefore, that China's economy would suffer as a result of an increased supply of minerals from seabed mining. This situation accounts, to some extent, for China's position favoring some form of seabed exploitation.

In addition, China's position as a net importer of copper, nickel, and cobalt would lead one to believe that the Chinese would actively support expansive mining of these minerals since the increased supply from seabed mining would probably result in a decline in their world price. China's probable interest in decreased prices is also indicated by the fact that the size of China's imports of seabed minerals is steadily increasing. Hence, the Chinese could benefit economically from decreased world prices resulting from seabed mining.

In Committee I, however, the Chinese supported a strong International Authority with extensive powers to control all facets of seabed mining. In conjunction with its position as a mineral importer, one would have expected China to favor an Authority with only limited production controls thereby allowing for greater mineral production. This discrepancy can be partially explained by reference to the fact that even though China
imports these minerals, its imports are not large enough that a decrease in price due to seabed mining would have a major impact on China's overall economy. In addition, given that the developed countries were strongly opposed to stringent ISA production controls, the Chinese were relatively confident that these states would block the inclusion of such controls in a final LOS agreement.

Finally, significant production from seabed mining is still in the future, thus relegating any assessment regarding the possible impact of increased supplies of minerals to the area of speculation. More importantly, China's support for a strong ISA placed it squarely with the developing states. Thus, instead of supporting a position which may have produced some unknown and possibly minimal economic gains at an equally unknown future date, the Chinese adopted a position which would provide them more immediate political gains in terms of increased identification with the interests of the developing states. (The effect of China's relationship with the developing states on its seabed policies will be discussed in detail later.)

The final maritime characteristic which had an impact on China's participation in the Committee I negotiations was the Chinese delegation's lack of expertise in the area. This characteristic was evident in the fact that the Chinese did not take any real initiative regarding new seabed proposals during these discussions. As noted earlier, the Chinese had had little experience in international negotiations prior to the start of UNCLOS III. In addition, the Chinese did not possess as great an expertise in the areas of international law and seabed technology as some of the other state delegations (especially those from developed states). Therefore, rather than proposing any specific provisions of its own on seabed mining, China's contribution to the seabed negotiations took the form of
reactions to the proposals of others.

In addition to the impact of specific maritime characteristics, China's seabed policies also reflected China's attempt to fulfill several of its foreign policy objectives. On most of the issues discussed in Committee I, i.e., the principle of the seabed beyond national jurisdiction as the common heritage of mankind, the nature of the system of exploitation, the rules and regulations associated with exploitation, the structure, powers, and functions of the constituent bodies of the ISA, the moratorium on seabed mining, and the economic implications of seabed mining, the Chinese sided exclusively with the developing states and the Group of 77. In the majority of their speeches on seabed issues, the Chinese made a point of explicitly stating that they sided with the small and medium sized developing states, that the broad interests of these states must be upheld in all areas, and that the superpowers must not be allowed to dominate the ISA or to gain any advantage over other states in exploiting seabed minerals.

China's attempt to establish itself as dedicated to preserving the interests of the developing states was reflected in the strong wording of some of its attacks on the proposals of the US, USSR, and other developed states. It is also evident in the care taken by the Chinese in almost all of their speeches not only to specifically identify their interests with those of the developing states, but to do so in such a way as to imply that the Chinese were totally dedicated to ensuring that the interests of the developing states were being protected. Thus, the Chinese used the seabed negotiations as a forum both to solidify their position as a member of the group of developing states (without actually joining the Group of 77 bloc) and to enhance their influence with these states.
Not only China's position on seabed issues, but also its statements on the suggested format for Committee I negotiating sessions reflected China's attempt to enhance its influence among developing states. During the fourth session in 1976, the Chinese urged that the negotiations not be delegated to several working groups. They pointed out that this action would be to the detriment of the small and primarily developing states who, as a result of the limited size of their delegations, would be unable to have representatives present at all of the working groups. While the Chinese delegation itself was not large, it would have been able to send representatives to several simultaneous sessions without undue difficulty. Thus, the Chinese were projecting themselves as standing up for the smaller states on an issue which would not have significantly impaired their own negotiating ability.

The one area in which China's position did not reflect that of other developing states was the military uses of the seabed. On this issue, the developing states supported the ban on nuclear testing on the seabed beyond twelve nautical miles while the Chinese opposed it. China's stated reason for adopting its position was that the ban would allow the superpowers to retain their monopoly of nuclear weapons and deprive other states of "any freedom of action." Thus, China's position followed directly from its objective of curtailing superpower hegemony. The Chinese saw the proposed ban on seabed testing as a tactic adopted by the superpowers to maintain their own military superiority. The Chinese, on the other hand, felt that they, and other states, should be allowed to develop their own nuclear capabilities using any available means. The Chinese saw their own development of nuclear weapons as one way to curtail the military dominance of the superpowers.
As a counterproposal to the seabed test ban, the Chinese suggested that all nuclear submarines be banned from the waters of the high seas. The adoption of this counterproposal would have had little direct impact on the Chinese since they did not possess any nuclear submarines in 1973 when the proposal was made. On the other hand, the ban on nuclear submarines would have an immediate impact on the navies of the Soviet Union and the US. In addition, since they knew that their counterproposal would never be accepted by the superpowers, the Chinese did not have to worry about its possible implications for the future development of their own navy. Thus, China's proposal appeared to have been designed to draw criticism away from its nonacceptance of the seabed test ban and to redirect it towards the superpowers. The Chinese thereby hoped to regain some of their prestige with the developing states which they had lost by opposing the original seabed test ban proposal.

China's stand on the military uses of the seabed also reflected its position that no state should be inhibited by another from attaining an equal position in the international system. The Chinese would not support a policy which could possibly inhibit them, or any other state, from developing nuclear weapons while some states already possessed them. China's position reflected its basic belief that the equality of all states needs to be protected under international law.

Finally, China's adherence to the principle that all states should be treated equally under international law regardless of their political and/or economic capabilities was also reflected in its frequent statements supporting the Committee I proposals of the developing states and in its policies regarding the ISA. With regard to the structure of the ISA, the
Chinese supported the position that the Assembly, whose membership would include all states, should be the dominant body whereas the Council, with a more limited membership, should be subordinate. With a dominant Assembly, a few states would not be able to overrule the preferences of the majority. In addition, by supporting the creation of an ISA along the lines proposed by most of the developing states, China was encouraging the establishment of a new international body which would provide for the equal participation of all states in the exploitation of the deep seabed. In order to ensure equal participation, limits had to be placed on the activities of the developed states who already possessed the technology to exploit the deep seabed. The Chinese would probably justify the limitation on state action, in this instance, by pointing out that the developed states had long dominated the developing states and that it was now necessary to place limits on the former so that the latter could also reap benefits. Thus, the Chinese were consistent in their support for the policies of the developing states. It would be interesting to note, however, if the consistency between China's adherence to the concept of state equality and its seabed policy would have arisen if the Chinese had themselves possessed the technological capacity to exploit seabed resources. In this case, a policy consistent with that of the developing states stressing the need for equal seabed access for all states would have been economically detrimental for the Chinese while one less consistent with their broad conception of a new international legal order would have been economically beneficial.

In summary, China's position on issues relating to the seabed beyond
national jurisdiction reflected two general trends in the motives behind China's policies. First, on most issues, China had little at stake in terms of its own economic interests. As a result, the Chinese could easily support the proposals of the developing states without any potential loss to themselves. They were therefore supporting policies which corresponded to their foreign policy goal of increasing China's influence among Third World states.

Secondly, on the one issue which was of immediate relevance to China's own interests, namely its nuclear policies, the Chinese adopted a position which put them in disagreement with the developing states, but in line with their foreign policy objective of curtailing superpower hegemony. From this, one could conclude that on issues which do not affect China's other foreign policy goals, in this case curtailing superpower hegemony, the Chinese will support the policies of the developing states. However, in areas where China's own immediate interests and/or foreign policy goals conflict with the expressed interests of the developing states, the Chinese will abandon the long-term goal of enhancing their position vis-à-vis Third World states in favor of a policy more in line with their immediate self-interest. It remains to be seen, however, if this emphasis on immediate self-interest is a general feature of China's LOS policies or if it was unique in the case of China's military interests.
CHAPTER 5

COASTAL RESOURCE JURISDICTION AND NAVIGATION

Unlike Committee I whose mandate covered a relatively limited issue-area, the seabed beyond national jurisdiction, the Second, and to a lesser extent, Third committees dealt with a large number of diverse issues. Committee II was instructed to prepare draft treaty articles on: the territorial sea; navigation through straits; the seaward limits of archipelagic states; the establishment of a contiguous zone; the creation of an economic zone for living and non-living resources; access to the ocean and its resources for LL and GDS; the limits of the continental shelf; and several more minor issues. While not as extensive as Committee II's mandate, Committee III was left with the task of negotiating articles on the three issues of the preservation of the marine environment, marine scientific research, and the transfer of technology.

This chapter will focus on an elaboration of the UNCLOS III negotiations on the issues mentioned above. In this discussion, as in chapter 4, the policy positions of the various negotiating groups and individual states will be considered. Specific attention will be given to China's policies on these issues and their relationship to those of other states. Due to the large number of issues debated in Committees II and III and the fact that agreement on some of these issues was arrived at early in the conference while others were still sources of controversy in 1977, this chapter will be organized in terms of issue-areas. Each issue will be discussed in its entirety (i.e.,
from the early SBC meetings through the sixth session in 1977) before another is considered. This general discussion of the issues will be followed by an analysis of China's Committee II and III policies in terms of China's foreign policy objectives and maritime characteristics.

Committee II

Following the expansion of the SBC's mandate in 1970, Subcommittee II was entrusted with the task of compiling "a comprehensive list of subjects and issues relating to the law of the sea which should be revised or developed, and preparing . . . draft articles on such subjects and issues." The issues which emerged from these discussions as most in need of change were those relating to the extent and nature of coastal state jurisdiction. Traditionally the rights of a coastal state within its territorial sea had included: "(1) jurisdiction over foreign vessels (both war and merchant ships); (2) police, revenue, and customs functions; (3) fishery rights; and (4) the establishment of defense and security zones."2

Territorial Sea

The debate on the territorial sea during the SBC meetings centered around the issues of its size and how to establish the baselines from which to measure its limits. With regard to the size of the territorial sea, general agreement was expressed on a maximum limit of twelve nautical miles (n.m.)*. For some states, the acceptance of a twelve-mile limit was conditional on the satisfactory resolution of other issues, most notably transit through international straits (e.g., for the US) and the exploitation of

*Throughout the remainder of this paper, when the term miles is used to refer to the limits of the territorial sea, contiguous zone, and economic zone, it should be read as nautical miles.
coastal resources (e.g., for Iceland in relation to its fishing grounds).  

A few Latin American (e.g., Brazil, Uruguay, Ecuador, and Peru) and African (e.g., Sierra Leone and Guinea) states, however, supported a coastal state's right to unilaterally establish its own territorial sea limits based on its unique characteristics. Some of these states wanted to extend their territorial seas to a maximum of 200 n.m.  

In spite of this opposition, the concept of a twelve-mile territorial sea continued to be generally accepted at the Caracas session of UNCLOS III in 1974. Some states still based their acceptance of this limit on the corresponding creation of a 200-mile exclusive economic zone. (The economic zone issue will be discussed later.) In the ISNT which resulted from the Geneva negotiations in 1975, the maximum limit for the territorial sea was set at the agreed limit of twelve n.m. The major opposition to this limit continued to be from certain Latin American states, including Ecuador and Brazil, who wanted the maximum limit to be set at 200 miles. However, the twelve-mile limit remained unchanged in both the 1976 RSNT and the 1977 ICNT.  

The first official statement on the limits of the PRC's territorial sea since its creation in 1949 came in September 1958. At that time, China declared a territorial sea of twelve n.m. The Chinese reasserted their claim to a twelve-mile territorial sea in 1973 during the SBC meetings and maintained this position throughout the first six sessions of UNCLOS III.  

Unlike the US, Soviet Union, and several other countries, China did not advocate that all states be restricted to the same twelve-mile limit. In its "Working Paper on Sea Area Within the Limits of National Jurisdiction" submitted to Subcommittee II on July 16, 1973, the Chinese stated that
a coastal State was entitled to reasonably define the breadth and limits of its territorial sea according to its geographical features and its needs of economic development and national security and having due regard to the legitimate interests of its neighbouring countries and the convenience of international navigation.  

This position was repeated during subsequent SBC meetings and at the 1974 Caracas and 1975 Geneva UNCLOS III sessions by the Chinese delegates Shen Weilang, Chai Shu-fan, and Ke Tsai-shuo respectively. The Chinese demonstrated their adherence to this position in their frequent and often outspoken support for the 200-mile territorial sea claims of several Latin American states and their strong criticism of the superpowers' advocacy of a universal twelve-mile limit. For example, in his statement before the SBC on March 3, 1972, An Chih-yuan stated that the Chinese firmly support the just struggle initiated by Latin American countries in defence of the 200 nautical-miles territorial sea rights and their own marine resources, and resolutely oppose the maritime hegemony and power politics of the superpowers.

At Caracas, the Chinese representative further attacked the US and USSR in his statement that in order to secure maritime domination and take possession of the fishery and sea-bed resources of other countries, the superpowers have been trying to maintain maximum 'high seas' by limiting the extent of the territorial waters and zones of jurisdiction to 12 nautical miles. In addition, they arrogantly assert that the extension of that limit by any country is impermissible and would be tantamount to undermining the 'freedom of the high seas'.

In spite of these and other statements advocating that each country be allowed to set its own territorial sea limits, the Chinese did not rule out the possibility that "Coastal States in the same region may through consultations on an equal footing, define a unified breadth or a limit for the territorial sea in the region." However, they never expanded on this idea to include support for an internationally uniform limit. Finally, with regard
to the delimitation of territorial sea boundaries between adjacent or opposite coastal states, the Chinese advocated that the states involved should "define the boundaries between their territorial seas on the principle of mutual respect for sovereignty and territorial integrity, equality and reciprocity."\(^{16}\)

The second facet of the territorial sea issue before the conference concerned the criteria to be used in establishing the baselines from which the territorial sea would be measured. Prior to the SBC meetings, the generally accepted means of establishing baselines for states with regular coastlines (i.e., without deep indentations or fringed by islands) had been to take the low-water marks along the shore.\(^{17}\) States with irregular coasts, on the other hand, could use a straight baseline method whereby a set of points along the shore were chosen in accordance with certain established principles, and then joined to form the baseline. Water on the landward side of this line was considered internal. Special criteria had also been established regarding the designation of bays as either internal waters or part of the territorial sea.\(^{18}\) The issue of baselines was not extensively discussed during the SBC meetings and, for the most part, the baseline criteria already in use were found acceptable.

Agreement on the existing criteria for establishing baselines continued throughout UNCLOS III. The only addition to the two accepted methods, i.e., the low-water mark and straight baselines, was suggested at the Geneva session in 1975 and incorporated in the ISNT. According to this method, "depending on the range of geographical possibilities for a State's coast, a State [had] the right to employ a method of 'mixed' baselines to fit each special case."\(^{19}\) This provision was also included in the 1976 RSNT and the 1977 ICNT.\(^{20}\) The only major restriction on the establishment of
baselines was that they could not be drawn in such a way as to cut another
state off from either its economic zone or the high seas.¹¹

In their 1958 declaration, the Chinese stated that they would adopt
the straight baseline method for establishing China's territorial sea limits.
In applying this method, the Chinese selected

a number of points on the mainland and the coastal islands . . .
as the base-points which were then joined by a number of
straight lines drawn from point to point, thus forming a broken
line.²²

During the SBC and UNCLOS III sessions, the Chinese representatives did not
make any specific references to the issue of baselines.

Navigation through Straits

A second major issue in Committee II, transit through international
straits, was closely tied to that of the territorial sea. Many maritime
states, including the US, Soviet Union, France, and the United Kingdom,
wanted an assurance that free transit would be maintained through all straits
used for international navigation, including those which would become terri-
torial waters under a twelve-mile territorial sea limit.²³ On the other
hand, some states bordering straits and some developing states advocated
that "innocent passage" should apply to all shipping in the territorial sea
including straits. Tanzania expressed the rationale behind this opinion in
its statement "that a strait is an 'integral part of the territorial waters
of a coastal State whose sovereignty must be fully safeguarded.'"²⁴ The
US opposed the application of the right of innocent passage because: (1) it
had only been vaguely defined and, as a result, various coastal states
interpreted it differently; (2) it required submarines to navigate on the
surface; and (3) it did not include flight over the territorial sea.²⁵

Later in the SBC negotiations, the US amended its position slightly to allow
coastal states the right to restrict international navigation to suitable specified sealanes as long as free transit was preserved.\textsuperscript{26}

The Chinese first presented their position on transit through straits used for international navigation on July 24, 1972 at the SBC meetings. Speaking for China, Shen Wei-liang stated that

in the Chinese delegation's opinion, straits within territorial waters, whether or not they were often used for international navigation, should be subject to regulation by the coastal States concerned. Foreign commercial vessels might enjoy the right of innocent passage through them, provided that they observed the regulations of the coastal State. Foreign warships, on the other hand, must obtain prior authorization.\textsuperscript{27}

The Chinese restated this position with only minor changes in their "Working Paper on Sea Area Within the Limits of National Jurisdiction" in 1973.\textsuperscript{28}

The changes which appeared in this later proposal were the inclusion of references to coastal state regulation of the airspace above its territorial sea and a definition of innocent passage as passage which "is not prejudicial to the peace, security and good order of a coastal State."\textsuperscript{29}

During the Caracas session in 1974 several proposals were introduced regarding navigation through straits. From among these, the proposals of the United Kingdom, Oman, and Fiji are representative of the major interest groups on this issue.\textsuperscript{30} The UK's proposal recognized free passage through straits (including overflight) for vessels of all nationality; prohibited the coastal state from promulgating regulations which would affect ship design and construction and placed this competence, along with the enactment of measures to control ship-generated pollution, in an appropriate international organization (IMCO).\textsuperscript{31}

While these suggestions reflected the UK's position as both a major maritime state and a strait state, they were also supported, in general, by the US, USSR, France, and Japan. The US and USSR also submitted their own proposals reiterating the need for free passage through straits used for international navigation.\textsuperscript{32}
Oman's proposal reflected the views of several of the developing states within the Group of 77, including several strait states, who wanted greater coastal state control over their coastal waters. This proposal called for the coastal state to: (1) regulate the installation, utilization, and protection of navigational facilities and aids, thus implying the regulation of ship design and construction; (2) control marine pollution and the passage of "special" ships such as nuclear submarines and supertankers; and (3) allow only innocent passage of vessels through straits.33

The Chinese delegate, Ling Ching, expressed China's support for Oman's proposal as "setting forth a number of reasonable objective criteria."34 In general, the Chinese stressed their support for the position that all coastal states should have the right to apply regulations in respect of . . . straits [used for international navigation] in accordance with their security and other interests, while also taking account of the needs of international navigation and some reasonable international standards.35 They also maintained that a distinction should be made between foreign military and non-military vessels. In the latter case, the right of innocent passage should prevail for transit through straits used for international navigation while in the former, prior authorization from the coastal state should be required before the vessel could pass through the strait.36

Finally, Fiji's proposal represented the middle ground between the UK and Oman proposals. According to this proposal, coastal states would be allowed to "regulate passage but these regulations could not be more restrictive than relevant IMCO conventions on the subjects of ship design, construction, manning, or equipment."37 In addition, unless prior notification were given to the coastal state, submarines would be required to navigate on the surface.38 During the discussions on these and other proposals regarding navigation, the need for protecting the security, safety,
and environment of strait states was also brought out. 39

During the 1975 negotiations, it was recognized that what was needed on the issue of navigation through straits was a compromise "which would accommodate both the interests in passage and the concerns of strait states regarding such problems as navigational safety and pollution." 40 While favoring the position of the maritime states, the 1975 ISNT reflected an attempt at such a compromise. Under the ISNT, the right of transit passage would apply to all ships and aircraft passing through or over a strait used for international navigation which connected one area of the high seas or economic zone with another area of the high seas or economic zone. 41 Transit passage was defined as "the exercise in accordance with the provisions of this part of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait." 42 A strait state could neither hamper nor suspend transit passage. 43

The ISNT also provided for strait state jurisdiction over the strait. For example, a strait state could designate specific sealanes and separation schemes to promote safe navigation. It could also establish regulations regarding: (1) safety of navigation; (2) prevention of pollution; (3) prevention of fishing; and (4) taking on board or putting overboard of anything which contravened its customs, fiscal, immigration or sanitary regulations. 44 The strait state, however, could not use these regulations to discriminate against any ship or to impair its right of passage. 45 A nonsuspendable right of innocent passage would apply in all straits used for international navigation other than those mentioned above in which transit passage would apply. 46 In spite of these provisions, many strait states continued to oppose unimpeded passage through straits stating that the straits were part of their territorial seas and, as a result, should be covered by the regime
of innocent passage. During the negotiations in 1975, the Chinese sided with these strait states in supporting innocent passage through straits which were part of the strait state's territorial sea. Malaysia, Indonesia, and the Philippines also called for greater strait state rights over the regulation of strait passage.

While the issue of international navigation through straits was discussed during the two UNCLOS III sessions in 1976, no major additions or changes were made to the relevant provisions in the 1975 ISNT. Hence, the 1976 RSNT was essentially the same as the ISNT on these issues.

According to the Chairman of Committee II, Andrés Aguilar of Venezuela, the informal discussions on straits at the fifth session in the summer of 1976 "showed that chapter II [of the RSNT dealing with straits used for international navigation] appeared to provide an acceptable negotiating basis for the great majority of delegations." However, several strait states continued to press for greater control over navigation through straits in order to attain "a better balance between their interests and the interests of users of the straits." The Chinese also expressed their support for greater strait state control over navigation (i.e., a regime of innocent passage) at both the fourth and fifth sessions in 1976.

By the sixth session of UNCLOS III in 1977, most of the strait states who had earlier argued in favor of a regime of innocent passage in straits used for international navigation had softened their positions and continued to press only for amendments to the transit passage regime. Therefore, the ICNT provisions on transit passage remained the same as those in the RSNT. During the discussions, the strait states also dropped their insistence that submarines be required to navigate on the surface through straits.
Throughout the negotiations on straits, China’s position closely resembled that of many of the developing strait states. In addition, the Chinese were highly critical of the position of both the US and USSR that free transit should be allowed in straits used for international navigation which were located within the territorial waters of coastal states. For example, Shen Wei-liang stated that

in demanding 'freedom of transit' and 'freedom of overflight' for foreign ships and aircraft, whether civilian or military, the super-Powers were seeking to treat territorial waters as the high seas, so as to ensure their maritime hegemony.56

One of the most strongly worded of China’s attacks occurred during the Caracas session in 1974 when the Chinese representative said that

the ideas of 'all ships' and 'free passage' as advocated by the super-Powers were designed to enable their warships and nuclear submarines to cross the oceans of the world in implementation of their expansionist policies and their strategy of world hegemony. If that design were carried out, not only would the sovereignty of the straits States be infringed, but the peace and security of the world as a whole would be threatened.57

Archipelagoes

Many of the states affected by both the territorial sea and straits issues were those forming an archipelago. During the SBC meetings, several archipelagic states including Fiji, Indonesia, and the Philippines claimed that states comprised of island groupings such as theirs should have the right ""to regard the waters between and around their islands as one single unit."" 58 They also claimed that innocent passage should apply to all vessels within their territorial seas and that this passage could be restricted to specific corridors. 59 The UK's proposal on archipelagoes, like that of Fiji, etc., also applied only to island states; however, it restricted the delimitation of their territorial seas to the areas enclosed by the use of straight baselines. It also allowed for the continuation of
free passage within these waters if it had existed prior to the convention. During the early discussions on archipelagoes, the Chinese adopted a position closely resembling that of archipelagic states such as Indonesia. In its 1973 working paper, the Chinese stated that "an archipelago or an island chain consisting of islands close to each other may be taken as an integral whole in defining the limits of the territorial sea around it." Thus, the Chinese supported the archipelagic states' claims to expanded jurisdiction over surrounding waters, while at the same time, stressing the need for moderation in their claims. As pointed out by Charles Bethill, "this was very typical of the general Chinese approach which was to accord maximum deference to sovereign state action subject only to the tests of necessity and reasonableness." This 1973 working paper included China's only direct statement during the first six sessions of UNCLOS III on the issue of archipelagoes.

In 1974 at Caracas, the discussions on archipelagic states continued to center on the two issues of their seaward limits and rights of navigation within and flight over their territorial waters. All proposals included the archipelagic state's right to use straight baselines to enclose its outermost islands. However, some proposals attempted to place limits on which islands could be included. The major concern was that states would unreasonably apply the straight line criteria to far-flung small islands. Therefore "among the criteria proposed to avoid this situation were land-to-water ratios and precise maximum lengths for archipelagic lines." The problems associated with navigation and overflight in archipelagic states were analogous to those discussed above regarding straits. For the most part, archipelagic states, like other strait states, opposed the
complete freedom of transit advocated by several maritime states such as the US and USSR. One proposed solution to these problems was to allow free transit through and over archipelagic states as long as this passage was restricted to specified transit lanes. 64

A precise definition of an archipelago was finally proposed at Geneva and included in the 1975 ISNT. According to Article 117 (2) (b) of Part VII, Section 1, an archipelago is

a group of islands, including parts of islands inter-connecting waters and other natural features which are so closely inter-related that such islands, waters and other natural features form an intrinsic geographic, economic and political entity, or which historically have been regarded as such. 65

Archipelagoes which form an integral part of the territory of a continental state, however, were not covered by ISNT provisions. 66

Specific criteria were also set forth in the 1975 ISNT regarding the drawing of baselines around archipelagic states. 67 The waters enclosed by these baselines would be referred to as "archipelagic waters." 68 In addition, "within its archipelagic waters, the archipelagic State may draw closing lines for the delimitation of internal waters." 69 The rights of archipelagic states within their archipelagic waters would basically be the same as those of other states in their territorial seas. That is, they would have jurisdiction over not only the water, but also the airspace above it and its seabed and subsoil. 70 The right of innocent passage would apply to all navigation within archipelagic waters. The archipelagic state could also temporarily suspend innocent passage of foreign ships "if such suspension [were] essential for the protection of [the state's] security." 71 As in straits used for international navigation, the ISNT stated that archipelagic states could designate specific sealanes for sea traffic. (Passage through designated sealanes could not be suspended.) 72
In spite of the progress made at Geneva towards agreement on provisions regarding archipelagoes, they were still not acceptable to all states. For example, the Japanese were still concerned with preserving their historic fishing rights within newly enclosed archipelagic waters and the Soviet Union continued to disagree with provisions restricting vessel traffic.\(^{73}\)

As with the negotiations on navigation through straits, the discussions on archipelagoes at the fourth and fifth UNCLOS III sessions in 1976 did not result in any new compromises. Hence, the 1976 RSNT reflected the same views as expressed in the earlier ISNT. It was not until the 1977 negotiations that states most concerned with the question of archipelagoes were able to reach a general agreement on the previously contentious issues. This new agreement was incorporated into Part IV of the ICNT.

According to the 1977 ICNT, the creation of sealanes within archipelagic waters would not affect the status of archipelagic waters or the sovereign rights of archipelagic states over these waters, the airspace above them, or the seabed below.\(^{74}\) Secondly, provisions in the ICNT revised earlier RSNT articles regarding the rights of states adjacent to archipelagic states. Under the RSNT,

\[
\text{if the drawing of } \ldots \text{ baselines enclose a part of the sea which traditionally been used by an immediately adjacent neighbouring State for direct access and all forms of communication, } \ldots \text{ the archipelagic State must continue to recognize these rights.} \]
\(^{75}\)

The ICNT, however, referred only to cases where "the archipelagic water of an archipelagic State lies between two parts of an immediately adjacent neighbouring State."\(^{76}\) In these cases, the neighboring state would retain all of the rights it had traditionally exercised in the area as well as any rights which were stipulated in agreements between the states. Finally, in two areas, the drawing of baselines around archipelagic states and the
designation of sealanes in archipelagic waters, the basic principles remained the same as in the RSNT with only the details of these calculations being revised in the ICNT.  

In general, throughout the UNCLOS III negotiations, China's position on archipelagoes referred only to the basic principle that the islands comprising these states should "be taken as an integral whole" in defining the states' territorial seas. This provision was included in the 1975 ISNT and was carried over into the 1977 ICNT.

Contiguous Zone

A fourth major area of discussion in Committee II was the issue of coastal zones of special jurisdiction or, more specifically, the creation of contiguous and economic zones. The concepts of contiguous and economic zones are closely related in that depending upon the scope of coastal state jurisdiction in and the size of its economic zone, the concept of a contiguous zone could be superfluous. A contiguous zone is that area beyond the territorial sea in which a state may claim certain rights such as the establishment of fiscal and immigration regulations. Its main function is to act as a buffer and 'checking' zone to make sure nothing illegal or detrimental to security interests takes place in the territorial sea or on the territory of the coastal nation-state. The establishment of contiguous zones, which had been considered in 1958 at UNCLOS I, was not specifically discussed during the SBC meetings. During these meetings, the issue tended to be overshadowed by that of the creation of economic zones.

As at the SBC negotiations, during the first six sessions of UNCLOS III, the issue of a contiguous zone became intertwined with that of an economic zone and, as a result, was not discussed extensively on its own. However,
some support for the creation of a contiguous zone separate from an economic zone was still apparent during the negotiations. In response to this support, it was stated first in the 1975 ISNT and later in both the 1976 RSNT and the 1977 ICNT that a coastal state could establish a contiguous zone of up to twenty-four nautical miles from its baselines. Within this zone, the coastal state would have the right to "exercise the control necessary to: (a) Prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea; [and] (b) Punish infringement of the above regulations."  

The Chinese delegation at UNCLOS III did not make a specific statement on the creation of a contiguous zone. However, it may be inferred from their support of the Latin American states' claims to 200-mile territorial seas that they did not have any strong objections to its creation.

Economic Zone

The primary impetus for the creation of an economic zone was the need "to assure the coastal State jurisdiction and rights over the exploration and development of all resources within the zone." Negotiations on the economic zone centered around the issues of: (1) its size; (2) the resources to be encompassed within the zone and the extent of coastal states' rights over them; and (3) access to zone resources for LL and GDS. With regard to the seaward limit of the economic zone, most states supported the distance of 200 nautical miles measured from a state's baselines. However, in some proposals this limit varied depending upon the resources under consideration. For example, in addition to a fisheries zone of 200 miles most Latin American states and states with broad continental margins wanted jurisdiction over seabed resources to extend beyond 200 miles to the edge of the continental margin. (The specific issue of continental shelf resources
will be discussed in detail later.) On the other hand, some African and
other coastal states (e.g., Canada, India, Kenya, Madagascar, Senegal, and
Sri Lanka) called for preferential fishing rights for coastal states beyond
200 miles since many species of fish migrate beyond the 200-mile limit. 82

China presented its proposal on the creation of an economic zone on
July 16, 1973. In its working paper, China stated that

a coastal State may reasonably define an exclusive economic zone . . . beyond and adjacent to its territorial sea in accordance
with its geographical and geological conditions, the state of its
natural resources and its needs of national economic development.
The outer limit of the economic zone may not, in maximum, exceed
200 nautical miles measured from the baseline of the territorial
sea. 83

Thus, the Chinese sided with the majority of states who wanted a 200-mile
maximum limit on the size of the economic zone.

With regard to the extent of a coastal state's jurisdiction within its
economic zone, during Subcommittee II's meetings, it was generally agreed
that the rights of a coastal state should extend to both living and non-
living resources. This jurisdiction would also be exclusive in that "the
coastal state would have discretion with respect to access to, and the
disposition of those resources." 84 The Chinese agreed with this general
position. According to their 1973 working paper,

all natural resources within the economic zone of a coastal State,
including living and non-living resources of the whole water
column, sea-bed and its subsoil, are owned by the coastal State.
A coastal State exercises exclusive jurisdiction over its economic
zone for the purpose of protecting, using, exploring and exploiting
the resources as described  above. 85

In spite of the general agreement on the scope of coastal state jurisdic-
tion within the economic zone, there was a great deal of debate over
how this jurisdiction should be exercised and the necessity to safeguard
the interests of other states. This problem was especially evident in the
discussions concerning coastal fisheries. In these discussions, there was
general agreement that a new fisheries regime should promote: (1) fish
conservation; (2) the maximum safe utilization of fisheries stocks; and (3) the equitable allocation of the right to fish stocks. However, differences emerged regarding how to incorporate these broad principles into precise regulations. For example, who would be responsible for seeing that stocks of highly migratory or anadromous species of fish such as tuna and salmon respectively were managed and who would be allowed to fish for them. Also, and perhaps more controversial, were the related issues of accommodating the preference of two or more coastal states to the same stock . . . and deciding who could fish for portions of stocks subject to a coastal state preference that are not for the time being fully utilized by the coastal state.

These issues were brought out in the SBC proposals of several states. In separate but similar proposals, the US and Canada called for: (1) coastal state jurisdiction throughout the migratory ranges of anadromous species originating in the coastal state; (2) coastal state jurisdiction over coastal species; and (3) international and regional organizations to manage highly migratory species such as tuna. The Soviet proposal supported the preservation of existing regulatory agencies for fish stocks and the creation of necessary new ones through agreements between the coastal state and other states fishing in the area. Regarding the allocation of fishery resources, the Soviets supported preferential rights over coastal species only for developing coastal states and for all coastal states over anadromous species originating within their waters. The Japanese, who not only engage extensively in coastal fishing but also long distance fishing, supported the preferential rights of developing coastal states over stocks in offshore waters and indicated they might be willing to extend these rights to developed states. However, Japan also wanted highly migratory and
anadromous species exempted from these special rights.  

Many of the developing states did not submit specific proposals regarding fisheries during the SBC sessions since they supported the general view that, within its economic zone, a coastal state should have exclusive fishery rights. Finally, some LL and GDS expressed apprehension at the concept of a 200-mile exclusive fishery zone since it would cut off their access to fish within 200 miles from shore. To alleviate this fear, some coastal states proposed regional fisheries or limited access for LL and GDS to the nearest coastal fisheries. (The issue of LL and GDS access to the sea and its resources will be discussed in more detail later.)

In their SBC statements on fishing within the economic zone, the Chinese, like most other states, stressed that coastal states should take measures to conserve stocks. However, unlike some states, China "was convinced that the coastal States were fully capable of protecting and rationally exploiting the fishery resources of their own economic zones." In addition, the Chinese agreed that international regulations were needed to ensure the preservation of fishery resources. Like the US, Canada, Soviet Union, and other states, China also suggested that coastal states within a specific area should establish regional fishery committees to regulate fishing in their respective areas.

Finally, during the SBC meetings there was general agreement that non-resource uses of the economic zone should be left open to all states. These included navigation, overflight, and the laying of submarine cables and pipelines. The Chinese also specifically stated that "normal navigation and overflight on the water surface of and in the airspace above the economic zone by ships and aircraft of all States [should] not be prejudiced." Agreement on nonresource uses of the economic zone was maintained throughout
all of the subsequent UNCLOS III sessions.  

Support, including that of the Chinese delegation, continued during the second UNCLOS III session in 1974 for the establishment of a 200 n.m. maximum limit for the economic zone. There was also broad support for coastal state rights over artificial islands and installations, all drilling, and the exploration and exploitation of living and non-living resources. Offshore fisheries, however, were still a major source of conflict with the positions remaining basically the same as those presented during the SBC meetings. Proposals ranged from ones such as those of some African states supporting complete coastal jurisdiction with no specific provisions for conservation or full utilization of stocks to ones such as that of eight EEC countries calling for cooperation between coastal states and regional organizations. Between these extremes were proposals like that of the US which called for exclusive coastal state control with the added condition that conservation and full utilization be taken into consideration and that special regulations be established for anadromous and highly migratory species. In response to an earlier SBC proposal by the Soviet Union that foreigners be allowed to fish in the economic zone of a coastal state which could not fully harvest the fish within its zone, the Chinese asserted in 1974 that a coastal state should not be obliged, under any circumstances, to permit foreign fishing in its zone.

The economic zone envisaged under the 1975 ISNT was basically the same as that discussed in the 1974 working paper prepared by the Committee Chairman, Andrés Aguilar. The 200-mile maximum limit, coastal state jurisdiction over nonresource uses, and coastal state rights regarding the exploration, exploitation, and conservation of living and non-living resources in the economic zone were all included in the ISNT. Also included were coastal
state's rights over the construction and use of artificial islands and installations in the zone provided they did not interfere with established patterns of international navigation. Coastal states would also be allowed to designate special safety zones around these installations. These installations, however, would not have their own territorial seas nor would their presence affect the delimitation of the coastal state's territorial sea or that of other zones.

Many of the fishing proposals presented during the SBC meetings and at Caracas were incorporated in the 1975 ISNT. In general, the discussions regarding whether a coastal state's rights over fishery resources in the economic zone should be exclusive (with the coastal state having sole control over fishing) or preferential (with the coastal state having preference over fishing without excluding other states' fishermen) tended to favor the former position. According to the ISNT, the coastal state was to "determine the allowable catch of the living resources in its exclusive economic zone" taking into consideration the need for the conservation of these resources. In addition, the coastal state was to determine its own harvesting capacity for these resources and, where it "did not have the capacity to harvest the entire allowable catch, it should, through agreements or other arrangements, give other States access to the surplus of the allowable catch." Some states disagreed with this provision, stating that too much coastal state discretion was allowed in determining the quantities to be harvested and outside access to the resources.

The 1975 ISNT also called for regional or international cooperation in the conservation and regulation of highly migratory species of fish beyond the economic zone. Within the economic zone, all regulation would be by the
coastal state. Anadromous species would be regulated in the zone by their country of origin and outside the originating zone by the originating state in cooperation with other concerned states. In all but extreme cases, anadromous stocks would only be harvested within the originating state's economic zone. Similar arrangements also applied to catadromous species with regulation by the state in whose waters they had spent the greater part of their life cycle.

China's statements at the 1975 Geneva session, while lengthy, did not include any changes to its previous proposals. The Chinese primarily focused on emphasizing their support for the position of the majority of developing states who wanted an economic zone of not more than 200 miles.

The provisions in the 1975 ISNT referring to the size of the economic zone and the scope of coastal state authority within the zone were, for the most part, generally accepted by the UNCLOS III delegates. Therefore, in both the 1976 RSNT and the 1977 ICNT only minor revisions were made to the relevant ISNT provisions. For example, one of these revisions concerned the regulations applying to catadromous species of fish. A second revision reflected the delegates' attempt to find a way "to avoid assimilating the exclusive economic zone in any way to the territorial sea or the high seas." Therefore, Article 55 was added to Part V of the ICNT in order to clarify the distinction between the status of the economic zone and that of the high seas, including the division between coastal state rights and those of other states.

During the negotiations on the economic zone at the fourth and fifth UNCLOS III sessions in 1976 and the sixth session in 1977, the Chinese did not participate in the discussions regarding the details of specific provisions. However, they continued to adamantly reassert their earlier
general position that coastal states should be allowed to exercise extensive
d Jurisdiction within their 200-mile economic zones.115

Finally throughout the first six sessions of UNCLOS III, Chinese
statements on the economic zone frequently included references to the fact
that most of the developing countries also called for a 200-mile economic
zone. In this way, China was attempting to reinforce its association with
the developing states and to present itself as a defender of developing
states' rights. For example, at Caracas the Chinese delegate Ling Ching
stated

that the Asian, African and Latin American peoples had long
suffered from aggression and plunder at the hands of the
colonialists and imperialists and, accordingly, their deter­
mination to see a territorial sea established together with
an exclusive economic zone up to 200 nautical miles was
entirely proper and reasonable.116

As implied in the statement above, the Chinese were also consistently
critical of the positions of the developed states and especially the super-
powers.117

Landlocked and Geographically
Disadvantaged States

The issue of LL and GDS access to resources in the economic zones of
neighboring states comprised another facet of the negotiations on the creation
of economic zones. In both its working paper on the international sea area
and on the sea area within the limits of national jurisdiction, China
discussed the problem of access to the sea and its resources for LL and GDS.
In the former, it was proposed that "land-locked States have the right to
pass through the territory, territorial sea and other waters of adjacent
coastal States" for trade and other peaceful purposes.118 In the latter,
a coastal state was to "grant to the landlocked and shelf-locked States
adjacent to its territory common enjoyment of a certain proportion of the
rights of ownership in its economic zone. In both cases, the concerned landlocked, disadvantaged, and coastal states were to reach mutually satisfactory bilateral or regional agreements on the details of the access schemes. During the Subcommittee II meetings of the SBC, the Chinese representative also referred to a proposal by several developing countries which stated that a coastal state should grant developing landlocked states transit and exploitation rights in its economic zone. The Chinese delegate replied that this proposal "merited attention;" however, neither he nor any other Chinese delegate in subsequent UNCLOS III sessions made any further reference to a distinction between developed and developing LL and GDS in terms of their access to adjacent economic zones.

At the 1974 Caracas session of UNCLOS III, the majority of delegates agreed that landlocked states should be permitted free access to and from the sea and that they should share, to some extent, in the resources of the economic zone. There were also discussions regarding whether nationals of landlocked states should enjoy equal treatment with coastal state nationals in all or part of the economic zone of an adjacent coastal state, or whether they should enjoy preference over the treatment given nationals of any third state.

With regard to GDS, negotiations centered around the criteria for identifying them and their rights to resources in neighboring economic zones. Some states did not agree that GDS should be entitled to the same special rights as landlocked states. The leader of the Chinese delegation, Ling Ching, however, stated that GDS as well as landlocked states should be entitled to reasonable access to resources within the economic zone(s) of adjacent coastal state(s). The Chinese also stressed that the details of the access scheme should be decided on the basis of mutually satisfactory agreements between the concerned states.
During the third UNCLOS III session in 1975, a group of LL and GDS submitted a set of draft articles to the chairman of Committee II which they wanted included in the ISNT. These proposals called for the rights of landlocked states to resources in the economic zone to be on an equal and nondiscriminatory basis with those of the coastal state. They also called for GDS to be allowed access on an equitable basis. In addition, they wanted developed LL and GDS to participate only in the exploitation of resources off developed coastal states.\textsuperscript{124} During these negotiations and again at the fifth session in 1976, the Chinese reasserted their earlier position that LL and GDS should be allowed reasonable access to coastal zone resources.\textsuperscript{125}

Access to the economic zone for landlocked states was provided for in Part III, Article 57 of the ISNT. This provision stated that developing LL and GDS had the right to participate in the harvesting of living resources on an equitable basis in the economic zone of an adjoining coastal state as long as all relevant economic and geographical characteristics were taken into consideration. The specific arrangements regarding this access were to be worked out later by the relevant states. Developed landlocked states, however, would only be allowed access to the resources in the economic zones of adjoining developed coastal states. No mention was made in the ISNT regarding access rights for developed GDS.\textsuperscript{126}

Many LL and GDS did not feel that the 1975 ISNT provisions went far enough in ensuring them equal access with coastal state fishermen.\textsuperscript{127} Therefore, at the fourth session in the spring of 1976, the group of LL and GDS continued to press for equal access for landlocked states and added that access should not be restricted only to the adjoining coastal state.\textsuperscript{128} However, in his introduction to Committee II's portion of the 1976 RSNT,
Chairman Aguilar stated that "no single proposal commanded significant support [and that he] considered that any major change in the relevant provisions could jeopardize any further negotiations which might take place."\(^{129}\) Hence, the 1975 ISNT and the 1976 RSNT remained identical on the issue of LL and GDS access despite continued opposition.\(^{130}\)

During the fifth session in 1976, the issue of LL and GDS access to resources within neighboring economic zone(s) continued to be debated. However, these debates did not result in any generally agreed to changes or additions to the 1976 RSNT since most of the delegates retained their previously held positions.\(^{131}\) This failure to reach generally acceptable revisions to the RSNT continued during the sixth session in 1977. Therefore, with regard to the provisions to be included in the 1977 ICNT, the group of LL and GDS "expressed a preference for the retention of the existing articles in the RSNT while expressing their readiness to negotiate further on this question."\(^{132}\) One new article in the ICNT which could have an affect on LL and GDS access was designed to relieve a coastal state "whose economy is overwhelmingly dependent on the exploitation of the living resources of its exclusive economic zone" from having to allow LL and GDS access to its zone.\(^{133}\) Currently, the zone around Iceland would be the only one affected by this provision.\(^{134}\)

Finally as on most of the previous issues, the Chinese attacked the position of the superpowers throughout the negotiations on the issue of land-locked states' access to the economic zone. They stated that the aim of the superpowers was to sow discord between the land-locked and coastal countries and sabotage the unity among the developing countries. . . .\(^{135}\) The Chinese went on to say, however, that despite geographical differences, the countries of the third world were bound together in opposing imperialism and colonialism and safeguarding national independence.
Continental Shelf

The final major issue discussed in Committee II was the continental shelf. The main components of this issue were the definition of the continental shelf, coastal states' rights over resources on the shelf beyond 200 nautical miles from their baselines, and the delimitation of the shelf between adjoining states.

During the early SBC meetings, Canada and other SBC members stated their position on what they considered to be the basis of a coastal state's rights to the continental shelf. Basing their position, in part, on the judgement of the International Court of Justice in the North Sea Cases, these countries stated "that the rights of coastal States over the continental shelf arise by virtue of the fact that the shelf is an extension of their land mass." In a later SBC meeting, the Chinese also pointed to the principle that "the continental shelf is the natural prolongation of the continental territory" as the basis for their position on the continental shelf issue. This position, while substantiating that a coastal state had certain rights over the seabed of the continental shelf off its coast, was not totally acceptable to all of the SBC delegates. Many of those delegates wanted a definition of the outer limits of the continental shelf which was more precise than either this general statement regarding natural prolongation or the 1958 Convention on the Continental Shelf.

Several states proposed new definitions for the continental shelf. Uruguay, while preferring the 1958 open-ended definition, suggested that if a new definition were decided upon, it should include the seabed as far as the 2500 meter isobath. The Soviet Union proposed a limit of the 500 meter isobath or 100 miles whichever was further from shore and several landlocked and shelf-locked states suggested a 200 meter depth or a 40-mile
The Chinese position was that a coastal State may reasonably define, according to its specific geographic conditions, the limits of the continental shelf under its exclusive jurisdiction beyond its territorial sea or economic zone. The maximum limits of such continental shelf may be determined among States through consultations.\textsuperscript{141}

Thus, unlike many of the other states who proposed definitions, the Chinese did not designate a specific maximum limit. Instead, they proposed that if a state were to set a specific limit, it should be established only after consultations among all states concerned.\textsuperscript{142} In spite of the various proposals on the definition of the continental shelf, by the end of the SBC meetings, "there seem\textsuperscript{ed} to be a general consensus... that coastal States should retain existing sovereign rights in respect of the seabed as far as the 200 meter isobath."\textsuperscript{143}

Secondly, during the SBC sessions many LL and GDS, as well as other states, expressed their concern regarding the distribution of benefits from the exploitation of continental shelf resources. This concern arose from the fact that "if coastal states enjoy\textsuperscript{ed} all the benefits from areas under their jurisdiction, the broader that jurisdiction, the smaller the international seabed area from which all countries \textsuperscript{would} enjoy benefits."\textsuperscript{144} In response to these concerns, the US, Canada, the UK, and other states endorsed a system of sharing the revenue from the exploitation of some of the continental shelf resources.\textsuperscript{145}

The third major facet of the negotiations on the continental shelf centered on the problem of delimiting the boundary of the continental shelf between adjacent and opposite states. These discussions also involved negotiations on the closely related issue of the delimitation of the economic zone. Several states supported an equidistance rule while others, with regard to the continental shelf, wanted more weight given to special circum-
stances in the delimitations.

During the SBC sessions, the Chinese presented their position on the delimitation issue. They stated that the involved states should settle the problem through consultations on an equal footing. . . . Also, on the basis of safeguarding and respecting the sovereignty of each other, the countries should conduct necessary consultations to work out reasonable solutions for the exploitation, regulation and other matters relating to the natural resources in their contiguous parts of the continental shelves.146

During the Caracas session in 1974, of the sixty-one delegates who stated their position on the definition of the continental shelf, thirty-five (57%) preferred a 200-mile maximum and nineteen (31%) wanted the continental margin to mark the limit.147 The states who favored the continental margin as the outer limit for coastal state seabed jurisdiction were those states with margins extending beyond 200 miles. The Chinese had earlier expressed their support for the position of these broad margin states in stipulating that coastal states should have jurisdiction over the natural resources of the seabed and subsoil of their entire continental shelves including living and sedentary species. The coastal states, however, would not have jurisdiction over the superjacent waters of their shelves beyond the territorial sea, economic zone, or fishery zone.148 It was primarily the LL, GDS, and some African coastal states who supported the 200-mile jurisdictional limit.149 The US supported some aspects of each of these approaches in calling for coastal state jurisdiction over the continental margin along with the sharing of revenue from the exploitation of the continental seabed beyond 200 miles.150

The combined issues of the precise definition of the continental shelf, i.e., whether it includes the continental margin beyond 200 miles, and the
scope of coastal state jurisdiction over the shelf remained contentious
during the 1975 Geneva session. The ISNT only vaguely defined the continental
shelf of a coastal state as

comprising the sea-bed and subsoil of the submarine areas that
extend beyond its territorial sea throughout the natural prolon­
gation of its land territory to the outer edge of the continental
margin, or to a distance of 200 nautical miles from the baselines
from which the breadth of the territorial sea is measured where the
outer edge of the continental margin does not extend up to that
distance.151

Many states were still dissatisfied with this definition. For example, the
US proposed an outer limit of the margin which would be within sixty nautical
miles of the foot of the slope while broad margin states favored a more
directly geographical definition.152

In order to deal with the problems associated with the exploitation
of continental shelf resources beyond 200 miles, the issue of revenue
sharing was again raised at Geneva in 1975. Elaborating upon its earlier
proposal, the US suggested that coastal states be required to share a per­
centage of the value of production of the seabed resources with other states.
Broad margin states agreed with the concept of sharing; however, they
favored a system of profit (rather than revenue) sharing.153 The revenue
sharing plan included in the 1975 ISNT focused on the US type scheme in
which payments would reflect a percentage of the value or volume of
production.154

Finally with regard to the delimitation of the continental shelf
between adjacent or opposite states, under the 1975 ISNT, delimitation was
to "be effected by agreement in accordance with equitable principles,
employing, where appropriate, the median or equidistance line, and taking
account of all the relevant circumstances."155 Several states, including
China, refused to accept as virtually automatic the principle of equidistance,
in favor of the consideration of special circumstances. At the fourth UNCLOS III session in the spring of 1976, delegates continued to call for a new definition of the outer limit of the continental shelf. Aguilar, the Chairman of Committee II, however, did not include a more precise definition in the RSNT because the relevant proposals were both new and of a very technical nature. Hence, he "did not consider it appropriate to include such a definition at [that] stage." Hence, he "did not consider it appropriate to include such a definition at [that] stage."\(^{157}\)

The discussions at the fifth and sixth sessions also failed to reach a compromise solution on a definition. At the fifth session in 1976, new definitions and the effect their application would have on other issues were considered. However, many states continued to adhere strongly to the 200-mile maximum limit while others (primarily broad shelf states) were equally adamant regarding its extension.\(^{158}\)

During the sixth session in 1977, several delegates supported a formula which would allow the coastal state to set the limit at "sixty nautical miles seaward of the surficial foot of the continental slope or where the thickness of sediment is at least one percent of the distance from the foot of the slope."\(^{159}\)

However, the chairman of Committee II concluded that "'the inclusion of the suggested wording in the [ICNT] was not considered justifiable at [that] stage.'"\(^{160}\)

Therefore, the definition of the continental shelf which had appeared in the 1975 ISNT was also included in the 1977 ICNT.\(^{161}\)

The 1976 RSNT provisions on revenue sharing constituted the one area in which RSNT articles on the continental shelf differed from those in the earlier ISNT. In the RSNT, the specific provisions regulating the sharing and timing of payments were presented in greater detail than in the ISNT.\(^{162}\)

The RSNT system of revenue sharing, however, did not have enough support to be included in its entirety in the 1977 ICNT. Article 70 (3) in the
1976 RSNT which would have excluded developing coastal states with broad continental margins from contributing to the revenue sharing plan was deleted from the ICNT. In its place, the ICNT stipulated that only developing countries which were net importers of minerals produced from its continental shelf could be exempted from payments regarding that mineral.\(^{163}\)

The discussion on the delimitation of the continental shelf, at the fourth session in the spring of 1976, continued to support, in general, the 1975 ISNT provisions. However, a revision was made regarding cases in which an agreement between neighboring states had not been reached and the delimitation issue had been taken to a dispute settlement body. According to the 1975 ISNT, in the interim before a judgement was made no state could extend its continental shelf beyond the median or equidistance line.\(^{164}\) In the 1976 RSNT, this provision was altered so that states were encouraged to make provisional arrangements taking the general principles mentioned above into account; however, there was less emphasis than in the ISNT on actually applying these principles.\(^{165}\) During the fifth (1976), and sixth (1977) sessions, the delimitation issue continued to be debated; however, no new arrangements attracted enough support to replace the provisions in the 1976 RSNT.\(^{166}\)

A fourth aspect of the continental shelf negotiations, while not a major focus of discussion, was of importance to China in its claims to the South and East China sea islands. This issue related to the rights of islands in continental shelf claims and whether small and/or uninhabited islands should be entitled to their own territorial seas and economic zones.\(^{167}\) Under the 1975 ISNT, an island is defined as "a naturally formed area of land, surrounded by water, which is above water at high tide."\(^{168}\) If these islands are capable of sustaining human habitation or economic life, they are entitled,
under the ISNT, to their own territorial sea, contiguous zone, economic zone, and continental shelf. These same provisions were included in the 1976 RSNT and the 1977 ICNT. Thus China, or any other state which can establish its claim to the South and East China sea islands, will also be able to claim a territorial sea, continental shelf, and economic zone for, at least, some of these islands.

In summary, during the first six sessions of UNCLOS III, Committee II was able to reach general agreement on several of the issues before it. For the territorial sea, contiguous zone, and exclusive economic zone maximum limits of twelve, twenty-four, and 200 nautical miles respectively were established. There was also agreement on the use of either a straight baseline or a mixed system as the basis from which to measure these zones. A system of transit passage was generally agreed upon for transit through straits used for international navigation. With regard to the economic zone, the scope of coastal state jurisdiction over resources, primarily fish stocks, within the zone were generally agreed upon. The major issues about which negotiations continued were the access of LL and GDS to resources in the economic zones of adjacent coastal states, the definition of the outer limits of coastal state jurisdiction over the continental margin, specific details regarding revenue sharing from seabed resources on the continental shelf beyond 200 miles from the baselines, and the delimitation of the territorial sea, continental shelf, and economic zone between opposite and adjacent states. In general Committee II had made a great deal of progress towards a final LOS Convention.

Committee III
Preservation of the Marine Environment

During the SBC meetings, the members of Subcommittee III established two working groups to deal with: (1) the preservation of the marine environ-
ment and especially the problem of pollution; and (2) scientific research and the transfer of technology. Serious discussions on the prevention of pollution did not get underway until the spring of 1973 primarily because the members of the working groups were waiting to see what, if any, results would come out of the 1972 Stockholm Conference on the Human Environment. Due to this relatively late start, the preparatory work was not completed before the start of UNCLOS III. In some cases, important issues such as the jurisdiction to enforce pollution control regulations had not been considered in sufficient detail prior to the conference opening. Several major issues, however, were discussed during the SBC meetings including: (1) the obligation to prevent pollution; (2) pollution control standards; and (3) enforcement of pollution regulations.

During the SBC meetings, agreement was expressed "on the general and particular obligation of states to prevent pollution and to protect the marine environment." Disagreements arose, however, over the specific obligations which this general principle entailed. For example, many developing states felt that this obligation should be qualified in their cases since strict pollution control regulations might slow their rate of economic growth. They proposed that certain economic factors, such as a state's level of economic development, be considered in formulating and implementing all regulations on marine pollution control. Many developed states (e.g., the US and Canada) opposed these qualifications and stressed the need for global and regional cooperation in establishing effective standards.

The issue of who should have the authority to set pollution control standards was even more problematic. These negotiations centered around the question of whether coastal states should be allowed to establish their own
pollution control standards in their territorial seas and economic zones or whether they should have to adhere to international standards. This jurisdictional problem was discussed in relation to several types of pollution characterized by their sources, i.e., landbased, seabed (within a coastal state's economic zone), and vessel source pollution. With regard to each of these types, proposals were submitted favoring both sides in the jurisdictional issue with no general agreements being reached.

This disagreement was especially evident in discussions regarding vessel source pollution. The added questions of whether the vessel's flag state should set standards for its ships and whether a coastal state had the right to set standards higher than international ones for vessels transiting in a zone adjacent to its territorial sea also arose. Three approaches emerged to deal with these questions. First, it was suggested that all vessels comply with international standards. In addition, higher vessel standards could be established by a flag state for its own vessels and by port states for vessels entering their harbors. In general, coastal states would not be allowed to set standards higher than those agreed upon internationally. Special standards, however, could be established for special areas or regions through international negotiations. In general, this approach stressed the need for uniform standards. Secondly, it was proposed that in cases where adequate international standards did not exist coastal states be allowed to set standards which would apply in specified zones off their coasts. The advocates of this approach felt that it often took too long for international standards to come into force and that coastal states needed to be able to protect their own environments. Finally, some states, especially developing coastal ones, wanted coastal states to be able
to set their own standards with the limitation that these standards should not be incompatible with standards set by developing states for their own flag vessels.\textsuperscript{176}

Associated with the debate over who has the jurisdiction to set standards was the issue of the enforcement of these standards. Basing their arguments on the point that most coastal shipping must pass through the economic zone of at least one other state, many maritime states expressed the fear that complete coastal state control over enforcement would interfere with navigation.\textsuperscript{177} A proposal by the US delegation provided for three types of enforcement: (1) flag state against its own vessels; (2) port state for vessels entering its ports regardless of where a violation may have occurred; and (3) coastal state in emergency cases where there is a major threat of damage and against all vessels of a flag state which had been named by the dispute settlement tribunal as persistently failing to enforce violations against its own vessels.\textsuperscript{178} Other states including Kenya, Canada, Australia, and four Latin American states (Ecuador, El Salvador, Peru, and Uruguay) stressed the need for coastal state enforcement in a zone beyond the territorial sea. (The proposals of Kenya and Canada also included provisions for flag state enforcement.) This scheme provided for greater coastal state control over enforcement than that proposed by the US. Finally, France and Japan proposed a system of limited coastal state enforcement in a zone beyond the territorial sea.\textsuperscript{179}

China's position on the prevention and control of marine pollution was first presented during the SBC meetings on August 2, 1972 by Chen Chih-feng. In his statement, Chen elaborated on the three major positions which the Chinese had adopted. First, they supported the position that coastal states should have extensive authority to protect their coasts. Chen stated
that

"the rights of coastal states must be respected. The coastal states have the right to adopt necessary measures in sea areas within given limits, which are adjacent to their territorial seas, to guard their marine environment against pollution from outside, and have the right to demand compensation from states causing damage to their marine environment by pollution."180

Secondly, he agreed with the majority of delegates in stating that all states have the responsibility to see that they fulfill their obligation to prevent and control marine pollution. According to the Chinese, industrially developed states specifically must take effective measures to control not only the pollution of their own seas but also to prevent pollutants from spreading and possibly damaging the marine environment of other states.181

Finally, China supported the creation of international regulations to protect the marine environment beyond the limits of national jurisdiction. These regulations should cover such issues as

the establishment of anti-pollution standards for the area, the definition of responsibilities of states, the strict prohibition of the use of the sea area as the dumping ground of highly poisonous substances, and the prevention of marine pollution caused by the exploration and exploitation of the international sea-bed area, etc.182

During the second session of UNCLOS III (Caracas, 1974), Committee III was chaired by Ambassador A. Yankov of Bulgaria. Discussions were held during several informal sessions of the working groups with the primary focus on the question of a state's obligation to preserve the marine environment. The general agreement expressed at the SBC meetings that all states must meet this obligation continued at Caracas.183 Several developing states continued to stress the point that their rate of economic development should not be slowed by the necessity to adhere to stringent environmental controls when the developed states had earlier progressed at the expense of the environment. Therefore, they supported provisions which "would make the
legal obligation to prevent and control pollution dependent on the ability to discharge the obligation and the stage of economic development of a state."¹⁸⁴ Unlike the SBC meetings, at Caracas this proposal was supported by a few developed states including Canada who wanted to retain developed state support for its own proposals on coastal zone jurisdiction.¹⁸⁵ This "double standard" proposal was met with a great deal of criticism from both developed maritime states, including the US, UK, and Japan, most European states, and environmentalists. Both groups felt that such a provision would leave "environmental measures to be taken solely according to 'national self-interest'"¹⁸⁶ which would work against the acceptance of higher standards by developed states.¹⁸⁷

Some new proposals were made at Caracas regarding enforcement of pollution control standards; however, these tended to reflect the same positions brought out earlier. For example, the Federal Republic of Germany proposed that coastal states be able to prosecute only those ships violating pollution regulations in their territorial seas while Canada wanted "comprehensive coastal-state enforcement powers in the economic zone."¹⁸⁸ Many maritime states also expressed growing support for the earlier US proposal on port state enforcement. The question of pollution control standards was left for consideration at the next session.

The Informal Single Negotiating Text prepared by Chairman Yankov in 1975 reflected the general principles agreed to in Caracas (1974) as well as the results of compromises reached in Geneva (1975).¹⁸⁹ The basic obligation of all states to protect and preserve the marine environment was incorporated in the ISNT.¹⁹⁰ This obligation extended to all sources of pollution including landbased, atmospheric, dumping, vessel, and that from
installations used by a state. Special provisions were made for developing states in that states /had/ the sovereign right to exploit their natural resources pursuant to their environmental policies and they /should/, in accordance with their duty to protect and preserve the marine environment, take into account their economic needs and their programmes for economic development.

Some developing states, however, considered these provisions to be too vague and continued to press for more explicit exemptions for developing states with regard to the control of marine pollution. Under ISNT provisions, developing states were to be aided in setting up appropriate scientific and technical programs for pollution control and were to receive preference in the allocation of corresponding funds and technical assistance from international organizations.

On the still controversial issue of the right to set pollution control standards, "the general approach of the 1975 ISNT articles was to vest the relevant environmental rights and duties in that state which /had/ jurisdiction over the activity in question." Hence, general international rules and standards were to be established regarding the prevention, reduction, and control of vessel source pollution. Flag states were also to have the responsibility of establishing effective regulations for their own vessels. In addition, a coastal state could establish more stringent discharge regulations to be effective in its territorial sea. However, these regulations could not interrupt the innocent passage of ships through the territorial sea and would not be applicable in the state's economic zone except in the case of the special circumstances discussed below. The authority of a coastal state to set regulations was also restricted by provisions in Part II of the ISNT. According to Article 18, a coastal state could not make any regulations which would
affect the design, construction, manning or equipment of foreign ships or matters regulated by generally accepted international rules unless specifically authorized by such rules.\textsuperscript{197}

While the above mentioned provisions were in consonance with maritime state interests, the ISNT did include the Canadian suggestion that "special areas" be designated in which a coastal state would be allowed to enact appropriate pollution control regulations. Special areas would be those in which

particularly severe climatic conditions create obstructions or exceptional hazards to navigation, and where pollution of the marine environment, according to accepted scientific criteria, could cause major harm to or irreversible disturbance of the ecological balance.\textsuperscript{198}

Many maritime states regarded this provision allowing coastal states the right to establish special areas with higher vessel standards off their coasts as too flexible and they subsequently sought to restrict it.\textsuperscript{199}

Finally, the coastal state would be responsible for establishing national laws to preserve the marine environment from hazards caused by the exploration and exploitation of the seabed and from installations under its jurisdiction.\textsuperscript{200} As with all of the other regulations to be established by individual states, these were to be set up giving due consideration to international standards and could "be no less effective than generally accepted international rules, standards and recommended practices and procedures."\textsuperscript{201} The control of pollution in mining operations in the seabed beyond national jurisdiction was left to the ISA.\textsuperscript{202}

In Chapter VII of the 1975 ISNT regarding enforcement of pollution regulations, "the general approach was one of relying on the state conducting the activity to enforce international standards."\textsuperscript{203} However, problems arose due to the difficulty of ensuring a flag state's supervision of its vessels around the world. Four provisions were included in the ISNT
to deal with this problem. First, a flag state was required to investigate any alleged violation by its vessels of pollution regulations brought to its attention by another state. It was also required to begin appropriate proceedings against the ship in a case where it found sufficient evidence to do so. Secondly, with regard to vessels voluntarily in one of its ports or at an offshore terminal, a port state was required to undertake an investigation if it had reason to believe that the ship had violated international pollution regulations regardless of where the infraction occurred. Thirdly, a coastal state could carry out an investigation of a vessel suspected of violating pollution regulations in its territorial sea. It could carry out the same type of investigation of a vessel at the request of a second state who suspected that the vessel had violated regulations in a zone off the requesting state's coast. If a port state or a coastal state began an investigation under the provisions stated above, it was required to notify the vessel's flag state and forward the results of the investigation to that state. Fourthly, if a coastal state suspected that a vessel had violated international discharge standards within a certain distance from its coast (which may include areas beyond the territorial sea) and the vessel was still within that zone, the state could request the necessary information from the ship to establish if the violation had occurred. In cases of severe damage or the threat of such damage, officials from the coastal state could board and inspect the vessel. In practice, however, the combined factors of surveillance costs and "the great difficulty of obtaining evidence which will be accepted in court as proof of a violation" have made the successful enforcement of discharge standards very unlikely.

All of these enforcement provisions, while included in the 1975 ISNT, were still under debate in Geneva. Some states wanted the enforcement
powers of the port state expanded while others felt they should be restricted. 211

During discussions at the fourth UNCLOS III session in 1976, many details of the ISNT provisions were revised before being incorporated into the RSNT. One of these changes referred to the obligation of all states to preserve and protect the marine environment. All states continued to support this general obligation; however, the provisions exempting developing states from this responsibility were dropped. Thus according to the 1976 RSNT, a state's level of economic development should not be taken into consideration in the establishment of that state's pollution control program. 212 Developing states were still to be given technical assistance in setting up a pollution control system and preference in the allocation of funds for that purpose. 213

In the RSNT articles on international rules and national legislation, flag states were still allowed to set standards for their own vessels as long as their standards were at least as effective as international regulations. 214 In addition, coastal states could establish rules for the prevention of pollution in their territorial seas given the same restrictions as stipulated in the 1975 ISNT. 215 This provision did not go as far as the Chinese would have liked in protecting the rights of coastal states. During the fourth session in 1976, the Chinese delegate stressed that the economic zone was an area of exclusive coastal state jurisdiction and not part of the high seas. As a result, according to the Chinese the coastal state should have the authority both to set and enforce pollution regulations for not only the territorial sea, but also the entire economic zone. 216 (As will become evident below, China's position on the enforcement of pollution regulations would also give more control to the coastal state than
the 1976 RSNT.)

A change appearing in the RSNT articles on standards concerned the designation of certain geographical areas as special areas in which a coastal state could establish pollution control regulations. As mentioned earlier, many maritime powers felt that the wording in the 1975 ISNT regarding special areas was too vague and would lead to its over use. Therefore, with the exception of ice covered areas,

costal special measures /were restricted/ to areas where such measures were required 'for recognized technical reasons' and only 'provided the /competent international/ organization /did not/ . . . . determine that the conditions /did/ not correspond' to those technical reasons. In other words, the coastal-state power was made subject to an international veto.

Coastal states were allowed to establish special regulations to prevent vessel source pollution in ice covered areas within their economic zones without the restrictions cited above regarding other special areas.

Provisions on the enforcement of pollution control standards for vessels were tightened in the RSNT. Vessels which did not comply with international standards of design, construction, equipment, and manning were no longer to be allowed to leave their home ports. Flag states would be required to ensure that all of their ships were certified and inspected at regular intervals. They would also be obligated to investigate all violations of international rules and standards by their ships regardless of whether they had been requested to do so.

The enforcement powers of the coastal state remained basically the same as in the 1975 ISNT, with the addition of provisions allowing the coastal state to require certain information from ships passing through its economic zone. When the information given to the coastal state was inadequate and a violation had occurred, the coastal state was given the right to board and inspect the offending ship. Finally, the coastal state was
given expanded authority over the prosecution of vessels for violations within its territorial sea and economic zone. However, due to protests from several maritime states including the UK, USSR, and Greece, coastal state prosecutions for violations outside its territorial sea could be preempted by the flag state if the latter had taken appropriate action.\textsuperscript{222}

Finally, under the 1976 RSNT port state enforcement powers were greatly enhanced. Hence, "a port state could not only investigate any violations which occurred anywhere but could prosecute any discharge violations (and not just those in the coastal zone)."\textsuperscript{223} These expanded powers also included the port state's right to prosecute for structural violations in ships within its economic zone. However, all of these powers remained subject to the right of flag state preemption. The port state, on the other hand, could hold a ship in its port if it believed the ship posed a threat to the state's marine environment.\textsuperscript{224}

Among the Committee III delegates at the fifth session in the late summer of 1976, there was an "understanding that part III of the revised single negotiating text was a relatively well-balanced document and as such could be used as the starting point for all the negotiations conducted in the Committee."\textsuperscript{225} Therefore, Committee III focused its negotiations on a few key issues rather than on a general reconsideration of its entire relevant portion of the RSNT. This, of course, did not preclude any delegation from bringing up matters of special interest to it.

In its discussions on the protection of the marine environment, Committee III's attention continued to be focused on the broad issue of vessel source pollution, including coastal state competence in setting regulations, the enforcement of pollution control regulations, and the
designation of special areas within which coastal states could establish additional regulations. With regard to the rights of a coastal state to set standards in its territorial sea, the contradiction in the RSNT between Article 21, paragraph 3, of Part III dealing with a coastal state's right to set pollution control regulations and Article 20, paragraph 2 of Part II stating that a coastal state could not make laws affecting the design, construction, manning or equipment of foreign ships was brought out. It was decided that these provisions should be reconsidered and clarified not only to remove any inconsistencies, but also to ensure that rights of innocent passage were safeguarded.

With regard to enforcement, the articles requiring the certification of vessels by their flag state and "the obligation of flag States to ensure periodical inspections to verify conformity of the certificates with the actual condition of the vessel were also clarified." Amendments to the 1976 RSNT were also proposed which would obligate flag states to impose sufficient penalties on their ships to discourage further violations of pollution control regulations.

At the fifth session in 1976, the Chinese continued to voice their opposition to the RSNT articles relating to the authority of coastal states to set and enforce pollution regulations. The Chinese maintained that coastal states should exercise this jurisdiction not only within their territorial seas, but also within their economic zones and in the waters above their continental shelves. At this session, the Chinese also amended their earlier SBC position regarding the establishment of international regulations to protect the marine environment beyond the limits of national jurisdiction.

In 1976, the Chinese stated that, in areas where national rules and standards
already existed, they opposed replacing them with international regulations.231

The 1977 INCT provisions on the preservation and protection of the marine environment were basically the same as those in the 1976 RSNT with the exception of some technical changes aimed at clarification. However, "in introducing these technical modifications of a technical character, [the chairman] firmly intended to preserve unchanged the substance of the 'package' as reflected in the revised single negotiating text" since, according to Yankov, this text had itself been found generally acceptable to the delegates.232 One addition in the ICNT regarding pollution safeguards resulted from the concerns of states bordering straits used for international navigation. Under this article, these states would be allowed to take appropriate enforcement measures against vessels "causing or threatening major damage to the marine environment of the straits."223

In general, China's position on the preservation of the marine environment, like its positions on many issues, e.g., those discussed above in relation to Committee II, remained relatively constant throughout the UNCLOS III sessions.234 Secondly, throughout the negotiations the Chinese also remained firm in their support for the rights of coastal states to complete jurisdiction within their economic zones. Thirdly, in their statements on pollution control the Chinese frequently stressed that their position was the same as that advocated by the developing states and that the superpowers took opposing positions. For example, the Chinese criticized the superpowers for not supporting coastal state enforcement of pollution regulations within their economic zones.235 At the SBC meetings, they specifically criticized the Soviet representative who, they stated, "truculently obstructed and sabotaged the work of drafting . . . provisions [to protect the sea environment], openly opposed all proposals made by other countries
and even refused to continue consultations and exchanges of views on the question."

Marine Scientific Research

The Working Group on Scientific Research and the Transfer of Technology did not begin work until late in the SBC sessions. As a result, it could consider only a few of the draft proposals presented to it before the start of UNCLOS III. The most important issue before this group was "whether or not coastal state consent [would] be required to carry on scientific research in areas of coastal state resource jurisdiction." Some states supported the principle of complete freedom of scientific research and therefore were against any requirement of coastal state consent. These states, which included several East European states, emphasized the international benefits of scientific research. They also pointed out that since coastal states were to have jurisdiction over resources in their respective economic zones, the results of scientific research could not harm the coastal state's control over these resources. On the other hand, several coastal states wishing to protect their resource management and security interests stressed the need for coastal state consent along with additional requirements to regulate research. China's policies regarding scientific research supported this coastal state position. In his statement, Wang Teh-chao asserted that "marine scientific research within the limits of national jurisdiction of a coastal state can only be conducted with the approval of the coastal state beforehand, and, relevant laws and provisions of the coastal state should be observed." Between the two extremes on the issue of consent was the position proposed by Canada and supported by Brazil and Japan. According to this proposal, coastal state rights needed to be emphasized but "all States, whether coastal or not, had the right to conduct or authorise scientific research in
the marine environment.'”239

During the SBC negotiations on research in the high seas beyond national jurisdiction, the Chinese advocated control by the relevant international machinery. Alluding to Chinese suspicions regarding the motives of the superpowers, Wang said that international control was needed to prevent "a handful of hegemonic powers from dominating marine scientific research, and for preventing the superpowers from unlawfully occupying international sea-bed area and resources."240

A final major issue during the SBC meetings related to the obligations which the researcher might have to fulfill in order to protect coastal state interests. With regard to this issue, the US proposed a list of seven requirements. These were: (1) advance notification to the coastal state along with a description of the project; (2) certification of the bona fides of the project; (3) provisions for coastal state participation; (4) the sharing of data and samples with the coastal state; (5) open publication of results; (6) aiding the coastal state in interpreting the results in terms of its economic interests; and (7) compliance with all international environmental standards.241 There was no general agreement among the SBC delegates on accepting this list of requirements.

The 1974 Caracas meetings on scientific research focused on two issues, the definition of scientific research and research in the economic zone. The former discussions focused first on the definition presented in the SBC which excluded industrial exploration from the category of scientific research and specified that research be conducted only for peaceful purposes. Several developing countries wanted these qualifications dropped from the definition. No satisfactory agreement on a definition was reached during the Caracas negotiations and it was decided to put the issue aside.242
The second and more important issue continued to be the extent of coastal state control over scientific research in the economic zone. After lengthy discussions, four general approaches emerged. First, the Group of 77 developing countries supported the provision that all research in the zone as well as the publication of any results should require the explicit prior consent of the coastal state. With regard to research in the international area beyond national jurisdiction, they stated that the control and regulation of research should be left to the International Authority. A second approach, supported by Ireland and Spain, also called for coastal state consent; however, given that the researcher had met certain conditions, the coastal state could not normally withhold its consent. Thirdly, a proposal by the Netherlands, the Federal Republic of Germany, and a group of geographically disadvantaged states resembled, to some extent, the earlier US proposal. They supported the establishment of international requirements for the conducting of research in the economic zone to replace coastal state consent. They also proposed that research in the international area be open to all states and that special provisions be made to allow LL and GDS to participate in marine research. Finally, some states, including the UK, Denmark, USSR, and Switzerland, supported the freedom of all states to conduct research in the economic zone "except that marine scientific research aimed directly at the exploration or exploitation of the living and non-living resources [should] be subject to the consent of the coastal state."  

During the 1974 session, China's representative to the Third Committee, Lo Yu-ju, set forth China's policy on marine scientific research in detail. He stated that "marine research should be governed by basic principles." These included: (1) prior consent of the coastal state if research were to be conducted within waters under its jurisdiction and the observance of the
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costal state's laws and regulations; (2) the right of the coastal state to participate in and to obtain data and results from all scientific research conducted within its waters (the results should only be published with the prior consent of the coastal state); (3) the regulation by the international regime and machinery of all marine research conducted in the international sea area; and (4) the promotion by all states of international cooperation in marine research and the assisting of developing countries in improving their capacity to conduct marine research on their own. At subsequent sessions, the Chinese did not restate their policy on marine scientific research as explicitly as at Caracas. However, various aspects of their policy, especially the requirement of prior coastal state consent for research within that state's area of national jurisdiction, were reiterated at later sessions. The Chinese neither deviated from nor added to their early statements.

At the third session of UNCLOS III in 1975, negotiations on marine scientific research continued to be dominated by the debate between countries (primarily from the Group of 77) insisting on coastal state consent and countries, including developed and developing LL and GDS, who argued that research should only be subject to the researcher's fulfillment of certain obligations to the coastal state. A new area of discussion also arose during the session as a result of a formal proposal by the USSR and other Socialist countries. This proposal "would require coastal state consent for research 'related to the exploration and exploitation of living and non-living resources', while other scientific research would be subject to a series of treaty obligations." Thus, the distinction between different types of research became a focal point. Several states pointed out the difficulties inherent in making a clear distinction between these
types of research. However, in spite of this initial pessimism, the idea of separating resource related research from fundamental research gained popularity.249

The Chinese had earlier expressed their doubts regarding the possibility of distinguishing between different types of scientific research during Committee II negotiations at the 1974 Caracas session. At that time, the Soviet Union presented draft articles on the economic zone in which it discussed regulations regarding scientific research within the zone.250 The Chinese delegate responded that

his delegation wondered whether there could be any fundamental scientific research in today's world that was not related, directly or indirectly, to specific military or economic purposes. /He also stated that/ /it might also be asked what were the criteria for determining what kind of scientific research was related to the exploration and exploitation of resources and what unrelated.251

The Chinese delegate restated his country's view that "it was impossible, in practice, to determine whether or not /marine scientific/ research was related to marine resources" at the third session in 1975 when the Soviets formally presented their proposal on scientific research to Committee III.252

Provisions in the 1975 ISNT on scientific research reflected both earlier areas of agreement and newer ideas such as the one discussed above. The ISNT set forth the definition of marine scientific research as "any study or related experimental work designed to increase man's knowledge of the marine environment."253 As noted above, a definition had not been agreed upon during the previous Caracas session.

In the ISNT, the requirement of consent or obligation as a criterion for scientific research was made dependent upon both the area in which the research was to take place and the type of research to be conducted. With regard to research in the territorial sea of a coastal state, the issue was
coastal States[^h1] the exclusive right to conduct and regulate marine scientific research in their territorial sea. Scientific research activities therein[^s1] be conducted only with the explicit consent of, and under the conditions set forth by, the coastal State.^[254]

Research in a state's economic zone or on its continental shelf, however, entailed more complex provisions. In general, all research in these areas was made subject to the requirements of giving notice to the coastal state, allowing for coastal state participation in the project, providing the coastal state with data, samples, and results of the research as well as aiding in its interpretation, and the open publication of results. In addition, LL and GDS in the area would also be notified and allowed to participate in the research if they desired.^[255] When notifying the coastal state of its desire to carry out marine research, the state or international organization conducting the research would have to indicate whether the research was to be fundamental or resource related. (The specific criteria for distinguishing between these two types of research were to be decided by the competent international organizations.)^[256] In the case of fundamental research, only the obligations listed above would apply. However, if the research was to be resource (either living or non-living) related, it would be subject both to the consent of the coastal state and additional requirements including the duty to "ensure that the research results[^were] not published or made internationally available without the express consent of the coastal State."^[257]

All states would be allowed to conduct marine scientific research in the international seabed area. However, the research group would have to inform the ISA regarding the details of the project and the results would have to be published in a readily available scientific publication.^[258]
Finally, all states could carry out research in the waters of the high seas beyond the limits of the economic zone.\textsuperscript{259}

The negotiations in New York during the spring of 1976 did not lead to any substantial changes in the ISNT articles on marine scientific research. As in the 1975 ISNT, the 1976 RSNT called for coastal state consent for all research conducted within a state's territorial sea.\textsuperscript{260} In addition, coastal state consent would still be required for all research within the state's economic zone or on its continental shelf. However, in the case of research of a fundamental nature, this consent could not be withheld except for a limited number of specific reasons.\textsuperscript{261} The RSNT did stipulate that coastal state consent could be withheld in cases where research dealt with the living or non-living resources of the economic zone or continental shelf. The same restrictions as in the ISNT regarding the publication of the results of this research also continued to apply.\textsuperscript{262}

During these negotiations in 1976, the Chinese restated their previous position that it is impossible to distinguish between scientific research related to resources and that unrelated. In addition, they maintained that a state or states wishing to conduct research within the economic zone of another state should be required to get prior authorization from the coastal state for all such research.\textsuperscript{263}

The only significant changes in the RSNT from the ISNT had to do with the establishment of a specific time limit (four months) for advance notification to the coastal state of the intention to conduct research in its economic zone or on its continental shelf. The researcher would also be allowed to determine the extent to which a coastal state should be able to participate in the research project.\textsuperscript{264} Also, Article 65 was added in the 1976 RSNT enabling the coastal state to call a halt to any research already in progress within its economic zone or on its continental shelf.
which failed to comply with the provisions of the Convention. Finally, the 1975 ISNT provisions regarding the participation of LL and GDS in research projects off neighboring coastal states were included in the RSNT.265

Discussions at the fifth session in the summer of 1976 continued to be dominated by the issue of coastal state consent. The three main positions apparent in these discussions continued to be: (1) those advocating a regime of full consent; (2) those who felt there were still some problems with a full consent system; and (3) those who called for a regime of qualified consent.266 The need for explicit coastal state consent for research within its territorial sea was not really questioned during the fifth session. On this issue, the discussions centered on whether or not this point even needed to be included in a specific article. Most delegates, however, felt that the relevant article should be retained in a final text.267

The issue of coastal state consent for research carried out within its economic zone or on its continental shelf was by far the dominant issue in Committee III. In fact, "there was a generally shared understanding that the outcome of the negotiations on the whole chapter on marine scientific research depended on a satisfactory solution" to this question.268 After lengthy discussions plus the submission of numerous amendments to Article 60 of the RSNT dealing with coastal state consent, the Chairman of Committee III, A. Yankov, presented a revised text to the Committee which he hoped would represent an agreeable compromise. Basically he began with the hypothesis that it would be convenient to assure an appropriate balance between the general consent of the coastal State for the conduct of the marine scientific research and the guarantees for the researching States. In his view, the acceptance of the principle of consent of the coastal State, which would be subject to some exceptions and conditions, was reasonable and realistic.269

Several delegations continued to oppose the type of regime proposed by
Yankov and, as a result, no compromise solution resulted from the negotiations.

After further debate during the sixth session in 1977, Yankov's revised text gained some support. As a result, the general position suggested by Yankov was reflected in the ICNT articles on scientific research. Hence, the requirement of coastal state consent for research conducted within a state's economic zone or on its continental shelf was strengthened in the 1977 ICNT vis-à-vis the corresponding provisions in the 1976 RSNT. For example, provisions were added in the ISNT which would give coastal states two additional reasons for withholding their consent for research. That is, consent could be withheld "when the information regarding the nature and objectives of a project was inaccurate or when the State or international organization conducting the research had outstanding obligations from a prior research project." Some of the increase in coastal state rights regarding the regulation of scientific research was counterbalanced by the inclusion of a new article dealing with implied consent. Thus, a state or international organization could proceed with its research project six months from the date on which it supplied the coastal state with the necessary information, if the coastal state had not replied to the request for consent within four months of receiving the request. In spite of the apparent agreement regarding coastal state consent, several developed states still disagreed with the specific provisions regarding the amount of discretion the coastal state had in granting or withholding its consent.

China's specific policies on marine scientific research have already been discussed; however, two additional features of China's statements on this issue are worth noting. First, throughout these negotiations, the
Chinese were highly suspicious of the superpowers. During the SBC meetings, An Chih-yuan stated that while talking glibly about the 'joint exploitation of sea-bed resources,' the superpowers are in fact sending out their so-called 'research vessels' and 'fishing fleets' everywhere for brazen intrusion into the territorial seas and unbridled plunder of the sea-bed resources and coastal fishing areas of other countries. At the Caracas session in 1974, the Chinese once more expressed their mistrust of the superpowers' claims for total freedom of scientific research. Lo Yu-ju pointed out that in the hands of the super-Powers, marine research was a means of contending for maritime hegemony and for pursuing policies of aggression and plunder. The so-called 'freedom of scientific research' advocated by them was only the freedom to violate the sovereignty of other States and to monopolize marine research. Finally, the Chinese suspicion of the misuse of the freedom of scientific research as a means to threaten the security of coastal states was again voiced by Lo Yu-ju at the fifth UNCLOS III session in 1976. Secondly, in their statements on scientific research, as on other issues, the Chinese clearly aligned themselves with the proposals of the developing countries. For example in 1974, Lo Yu-ju stated that "the contention of many countries of the third world that marine scientific research should be appropriately regulated was entirely proper and should be taken as the basis for discussion at the Conference." At the third session in 1975, he repeated this sentiment in stating that the ISNT should reflect the interests of the developing states as expressed by the Group of 77. This support was also reasserted at subsequent UNCLOS III sessions.
Transfer of Technology

In addition to pollution control and scientific research, Committee III was entrusted with developing draft articles on the transfer of technology. This issue was not discussed in any detail during the SBC sessions. During the 1974 Caracas session, the major proposal on this issue was presented by Nigeria and supported by several countries including Australia, Bulgaria, Ireland, Philippines, Greece, Congo, Tanzania and China. This proposal "called for transfer of technology, including the facilitation of transferring patented and nonpatented technology through agreements under equitable and reasonable conditions." It also required that the ISA be responsible for ensuring that nationals of developing states be trained in seabed technology and that all patents on machinery and processes used in seabed mining in the international area be made available to developing states upon request.

During the UNCLOS III sessions, the Chinese did not discuss either frequently or extensively, the issue of the transfer of technology. It was during the Caracas session in 1974 that they set forth their major ideas on the subject. At that time, the Chinese delegate stated that there should be an active transfer of technology to developing countries, without any conditions or demands for special privileges. The technology transferred must be practical, efficient, economic and convenient to use. Experts and other personnel dispatched to the recipient countries should conscientiously pass on technical know-how to the peoples of those countries whose laws and national customs should be respected. They must not ask for special facilities or engage in illegal activities.

The Chinese delegate also presented the Chinese view that developing countries should evolve their own maritime technology and that this could be done by unremitting effort in the light of a country's own specific characteristics and conditions and by advancing along the road of independence and self-reliance. Self-reliance did not mean self-seclusion or the rejection of foreign aid.
Both of these aspects of China's position on the transfer of marine technology were repeated at the Geneva session in 1975. 284

At the Geneva session, most of the general ideas which had been presented at Caracas were included in the ISNT. In the text it was stated that "all States . . . /should/ co-operate within their capabilities to promote actively the development and transfer of marine sciences and marine technology at fair and reasonable terms, conditions and prices." 285 It was also noted that this applied particularly to the transfer of scientific knowledge to developing states including LL and GDS. 286 In order to achieve this general objective, all states were to

'promote the acquisition, evolution and dissemination of marine scientific and technological knowledge,' 'promote training and education,' especially of developing country nationals, and 'facilitate access to scientific and technological information and data.' 287

This section of the 1975 ISNT also provided for the creation, especially in developing states, of regional research centers in coordination with the ISA to stimulate scientific research. 288

With regard to the transfer of technology and information used in the exploration and exploitation of the international seabed area, all states were to cooperate with the International Authority to see that this data was passed on to developing states and their nationals. This obligation included: (1) training these individuals as members of the managerial, research, and technical staff; (2) making available the technical information regarding relevant machinery and processes used in the operation; (3) professional training; and (4) aiding the developing states in acquiring this training and equipment through special financial arrangements. 289

In general, the discussions on the transfer of technology at the third (1975) and fourth (1976) sessions did not give rise to major disagreements. As a result, Chapter III of the 1976 RSNT on the development
and transfer of marine technology was essentially the same as its counterpart in the 1975 ISNT. However, some problems were foreseen in operationalizing the provisions in the ISNT and RSNT. This was especially true due to the difficulty of putting a price on technological information and the absence in many countries of national science policies which would be needed to facilitate the successful transfer of technology.

Discussions on the transfer of technology at the fifth session in 1976 focused primarily on the role of the International Authority. Proposals were submitted calling for an expanded ISA role in coordinating the transfer of technology in the international area. Other proposals dealt mainly with: the reference to particular interests, such as rights and duties of holders, suppliers and recipients of technology, and the establishment of an over-all system of co-ordination and a joint international fund for activities of the Authority in the field of transfer of technology.

While no new agreements were reached on the transfer of technology, it was decided that a procedural device should be instituted to facilitate later discussions on this issue between Committee I and Committee III at future sessions of UNCLOS III.

Finally, aside from technical modifications designed to clarify provisions in the RSNT, only a few changes appeared in the 1977 ICNT on the transfer of technology. For example, in response to the concern of "some delegations that co-operation in the field of transfer of technology to the developing states . . . be extended to other competent international organizations as well as to the Enterprise," Article 274 was included in the ICNT. This article merely made the obligation to cooperate more explicit.
In summary, the negotiations in Committee III on the transfer of technology moved very quickly to provisions acceptable to most states. On the other hand, several aspects of the issues of the preservation and protection of the marine environment and marine scientific research proved to be more controversial. Regarding the control of pollution, debates on: (1) the right to set pollution control standards to deal with vessel source pollution and (2) enforcement powers which would be sufficient to not only punish violations of regulations, but also to deter future violations, continued throughout the UNCLOS III sessions. The most contentious issue regarding marine scientific research was the problem of what type of consent and/or obligations should be required for research within a coastal state's economic zone or on its continental shelf. All states wanted to ensure that their interests were preserved be they coastal states wanting to protect their security or developed maritime states wanting to conduct scientific research freely.

As has become evident in the preceding discussion, the LOS negotiations in Committees II and III dealt with a large number of issues. In order to facilitate the analysis of China's policies on these issues, it is useful to view them as relating to two broad issue-areas: the limits of coastal state jurisdiction and navigation. By focusing on policies that relate to one broad area, the interrelationship of China's policies and the factors affecting these policies will become clearer. As in chapter 4, the analysis of China's policies on these two issues-areas will focus on the impact of China's foreign policy objectives and maritime characteristics on these policies.

By far the largest number of Committee II and III issues related to
the broad topic of coastal resource jurisdiction. Specifically, these issues included: the territorial sea; the contiguous zone; the exclusive economic zone; the rights of landlocked and geographically disadvantaged states; the continental shelf; and marine scientific research. China's policies on the territorial sea, contiguous zone, and exclusive economic zone reflected a consistent policy orientation regarding the outer limits of coastal state jurisdiction, the resources to be included within this jurisdiction, and the delimitation of these areas between states. (China's policy on the continental shelf also reflected a similar orientation. However, since it was influenced by some unique factors, it will be analyzed in detail later.)

China's policies on the three maritime areas of the territorial sea, contiguous zone, and economic zone all specified that a state should be allowed to set its own jurisdictional limits based on its unique geographical and geological conditions, economic needs, and, in the case of the territorial sea, its security. The Chinese, however, also suggested that if all states in a geographical area agreed, regional territorial sea limits could be established. Finally, according to the Chinese problems regarding the delimitation of these maritime areas between adjacent and opposite states should be settled through negotiations between the concerned states on the basis of mutual respect for sovereignty and equality.

All of these policies on the limits of coastal state jurisdiction clearly reflected the influence of several of China's foreign policy objectives and maritime characteristics. China's objective of enhancing its prestige among Third World states appeared to have had an impact on
its position that each state should be allowed to establish its own zone limits. For example, the Chinese frequently and adamantly asserted that their policy regarding the limits of coastal state jurisdiction was also the policy of many developing (primarily coastal) states who wanted a 200 mile limit. In support of this position, the Chinese pointed out that the developing states had often suffered at the hands of the "colonialists and imperialists" and that their current 200-mile claims were entirely reasonable. Secondly, as indicated by the quote above, China's statements on coastal zone limits also reflected its foreign policy objective of curtailing the influence of the superpowers. In relation to this issue, it appeared that the Chinese hoped to accomplish this goal by repeatedly criticizing the superpowers for attempting to force a universal twelve mile territorial sea limit on the developing states.

Finally, China's policies reflected the influence of several of its maritime characteristics. China's position favoring the establishment of coastal zone limits based on the geographic and economic conditions of the coastal state clearly reflected its position as a state with a long coastline whose offshore waters and seabed are rich in both living and non-living resources. Given these characteristics, it is clear that China would support the establishment of jurisdictional limits based on each state's unique conditions since, in its own case, these conditions would entitle it to a relatively large offshore area.

While China's general position on the establishment of coastal zone limits stressed that all states should be allowed to set their own limits based on their national characteristics, one aspect of China's policy on jurisdictional limits appeared to conflict with this position. This
contradiction arose out of China's statements that a maximum limit of 200 miles from a state's baseline should apply to the combined territorial sea and economic zone. There are at least two possible reasons why the Chinese supported a specific maximum limit. First, as discussed in chapter 4, the Chinese were strong supporters of the creation of an international regime to be responsible for the exploration and exploitation of the seabed of the high seas. If coastal states were allowed to set a maximum limit beyond 200 n.m. for their seaward jurisdiction, the area under ISA control could, theoretically, be minimized or even eliminated. While coastal state claims to all of the area currently beyond national jurisdiction would be unlikely, without a definite maximum limit, delimitation between areas of coastal state and ISA control would be more difficult.

Secondly, China's support for a specific 200-mile limit probably arose out of the fact that 200 miles was the maximum limit that most states had asked for at UNCLOS III. In addition, the Chinese themselves would not gain access to any additional resources if they claimed an area greater than 200 miles. (The issue of China's own claim will be discussed in detail later.) Thus, there would be no economic reason for the Chinese to advocate a maximum limit of greater than 200 miles. A greater limit would merely decrease the amount of seabed under ISA jurisdiction.

A second major facet of the issue of the establishment of coastal zones was the scope of coastal state jurisdiction over coastal zone resources. In each of these zones, the Chinese supported the full extension of coastal state jurisdiction over living and non-living
resources in the water column, on the seabed, and in the subsoil. According to the Chinese, the coastal state should have exclusive jurisdiction over the conservation, exploration, exploitation, and use of all resources in the zones, and the coastal state should not be obliged to share any amount of these resources with foreign states. With regard to the territorial sea, the Chinese also stated that coastal state sovereignty should extend to all activities and not only resources.

China's statements on the scope of coastal state jurisdiction over coastal zone resources primarily reflected its foreign policy objective of maximizing state control over areas under its jurisdiction. Hence, the Chinese felt that coastal states should have total control over all coastal zone resources. Therefore, proposals such as that of the Soviet Union which provided for foreign fishing rights in a state's economic zone were not supported by the Chinese since they would effectively limit the coastal state's authority to use or not use the resources in its zone as it saw fit. China's concern with fulfilling its foreign policy objective of maximizing state control over areas under its jurisdiction also corresponded, in this case, to interests arising from its abundance of offshore resources. That is maximizing coastal state jurisdiction would also maximize China's access to offshore resources and, as a result, would serve China's own economic interests. Thus, China's position on the scope of coastal zone jurisdiction clearly exemplified the close relationship between China's foreign policy objectives and its maritime characteristics.

China's policies on the scope of coastal zone jurisdiction also reflected its foreign policy objective of attempting to enhance its
position vis-à-vis developing states. On this issue, China's policies were in line with the expressed interests of the developing states and their need for offshore resources. Thus, the Chinese could use this issue to associate themselves more closely with the developing states.

Finally, China's policy on the drawing of baselines from which to measure coastal jurisdictional limits reflected the influence of its geographic maritime characteristics. That is, given China's long and indented coastline with, in some areas, a fringe of islands, it was clear that China would itself adopt, and would support the right of other states to use, the straight baseline method. Quite simply, this method allowed China to take advantage of its coastal indentations not only to increase the size of its territorial sea, but also to increase the amount of coastal waters included as internal waters. (Internal waters were subject to the absolute sovereignty of the coastal state whereas waters designated as part of the territorial sea were subject to some limits with regard to navigation.)

The basis for China's general policies on the limits and content of the territorial sea, contiguous zone, and economic zone in terms of China's coastal geography, offshore resources, and foreign policy goals is apparent. However, what is perhaps not as clear is the reasoning behind China's policy regarding its own seaward limits. That is, whereas it adamantly supported the right of Latin American states to establish a 200 n.m. territorial sea and/or economic zone limit, the Chinese only declared a twelve n.m. territorial sea of their own and never specifically stated a maximum limit for their economic zone. Why then did not the Chinese declare a much larger territorial sea and/or economic zone limit of their own? Three factors appear to have been important in this decision.
First, as discussed in chapter 3, as early as 1950 the Chinese established a series of security and/or fishing zones along their coast within which they enforced their own regulations. These zones gained in legitimacy in 1955 with the signing of a nongovernmental agreement between the fishing associations of China and Japan. (This agreement later became a formal intergovernmental fisheries agreement in 1975.) It is important to note that in some areas these zones extended beyond twelve nautical miles from China's coast and that they were established before China's official declaration of even a twelve mile territorial sea. Thus, the most valuable resource in this area, the fishery, was protected by the Chinese without recourse to any specific territorial sea and/or economic zone limits. (A second resource, oil, is also important in this area; however, its importance was not established until approximately 1968. The Chinese dealt with their concern for this resource in their continental shelf policies which will be discussed later.) The Chinese also provided for the coastal defense of their sensitive coastal waters through the 1950 zones and, as a result, did not need to declare an expansive territorial sea in order to gain control over navigation in the area. Thus, with its own resource and security needs provided for in the 1950 zones and with the zones being recognized by Japan (China's most significant neighbor in the area), there was no specific need for China to declare a large territorial sea and/or economic zone of its own.

Secondly, the Chinese probably adopted a specific twelve mile territorial sea limit since that was the maximum limit which was gaining some general international acceptance in 1958. It was also the limit
incorporated into the UNCLOS III texts. In essence, twelve miles was the maximum limit which a state could declare and not appear too "radical" to many other states. (The Latin American states who called for a 200 mile territorial sea limit were considered to be on the extreme.) Thus, China could appear as a moderate in its own territorial sea demands since it would not gain substantially from an extended limit and, at the same time, remain a "friend" of the coastal developing states who claimed a larger limit by stating that all countries should be able to set their own limits based on their unique needs.

Finally, as already noted, the single major resource valuable to China yet beyond the scope of its fishing zones is oil. The Chinese have been concerned with maximizing their access to this seabed resource. In order to accomplish this, it was to the advantage of the Chinese not to establish a precise economic zone limit. That is, if China declared the maximum economic zone of 200 miles for itself, and its neighboring states declared the same, there would be an overlapping of claims which would require a delimitation settlement. Most likely this settlement would be on the basis of an equidistance principle. However, if China's economic zone limit was not precisely specified and the definition of the continental shelf as the natural prolongation of the continental land mass is maintained in a final LOS agreement, the Chinese could possibly force a settlement on the continental shelf rather than on the economic zone issue. (If the economic zone had been established first, it could have possibly influenced the later definition of China's right to the continental shelf beyond 200 miles.) As already noted, on the basis of the natural prolongation principle the Chinese would gain a greater amount of seabed area than under an equidistance agreement. Thus, given the
seabed topography in the area and the precedents in international law regarding natural prolongation and special circumstances (in this case, the Okinawa Trough off the coast of Japan) in the delimitation of the continental shelf, it is advantageous for the Chinese not to specify a precise maximum economic zone limit, especially one of 200 miles.

A fourth major issue relating to coastal state jurisdiction over coastal zones was that of LL and GDS access to the living resources of the economic zones of neighboring states. China's policy on this issue appeared to represent a balance between the influence of China's maritime characteristics and its foreign policy concerns. China's geographic location places it on the border of five landlocked states and two states, which, depending on the exact definition adopted, may be considered shelf-locked. Given this characteristic, it seems surprising that the Chinese would adopt a position which would allow landlocked states the right to pass through coastal state territory to gain access to the sea and which would allow landlocked and shelf-locked states reasonable access to the economic zone resources of adjacent coastal states. (Throughout the UNCLOS III negotiations the Chinese stressed that LL and GDS should be allowed reasonable access to economic zone resources; however, all three negotiating texts only referred to LL and GDS access to living resources of the economic zone.) For the Chinese, this could mean allowing at least five and possibly seven states access to China's economic zone resources. The question than arises as to why the Chinese proposed a policy which appeared to conflict with its own economic interests.

One possible explanation for China's position is that the Chinese delegates decided that their major concern should be to uphold the consistency of China's overall LOS policies in terms of voicing support for developing states. While only referring to the distinction between
developing and developed landlocked states in one of its early SBC policy statements, it can probably be assumed that China's policy supporting access to resources was to apply only to developing rather than developed states. However, in not specifically stating that this distinction should be made (in 1973 the Chinese had merely stated that proposals on this point merited attention), the Chinese reflected their concern that all states, at least initially, be considered as equals under international agreements. Therefore, in order to maintain consistency in their support for the concept of sovereign equality, the Chinese stated that the final division of benefits from coastal zone resources should be on the basis of need. Thus, while not excluding any state from access to economic zone resources, the Chinese decidedly favored the position of developing LL and GDS over developed states since the former had a greater need for these resources. In their statements on this issue, the Chinese also consistently associated their views with those of other developing states and criticized the superpowers for using this issue to sow discord between the landlocked and coastal developing states. Thus, China's position on LL and GDS access reflected the impact of two of its foreign policy goals, enhancing China's position vis-à-vis developing states and preserving the equality of all states under international law.

While China's policy on LL and GDS access to economic zone resources corresponded to the position expressed by most other developing states, it did not reflect the views of all of the developing LL and GDS. China's proposals called for LL and GDS access to a certain proportion of economic zone resources whereas the group of developing LL and GDS wanted equal access for landlocked states and equitable access for GDS to these resources. Also the developing LL and GDS did not want their access to
be confined to adjoining coastal states but open to all coastal states in
their region. The Chinese, on the other hand, restricted their proposals
to access for adjacent LL and GDS. China's position, which fell short of
that proposed by the developing LL and GDS, probably resulted from the
fact that the adoption of a proposal along the lines advocated by LL and
GDS could have had a negative economic impact on China. Thus, while
China's policies on the issue of the rights of LL and GDS reflected China's
desire to enhance its position with the majority of Third World states,
it failed to gain any support for the Chinese among most of the developing
LL and GDS.

In addition to contributing towards the fulfillment of its foreign
policy objectives of enhancing China's position vis-à-vis developing states
and preserving state equality, China's policy also reflected the fact that
it did not appear that any of the landlocked states near China would
press too strongly for immediate access to economic zone resources nor
that the LOS provisions regarding this access would be very stringent.
Therefore, the Chinese may not have considered LL and GDS access to economic
zone resources an immediate enough possibility to offset the short term
gains to be had from showing general support for the policies of developing
states.

Thirdly, even if the Chinese had considered the potentially negative
economic impact of landlocked state access, they may have been calculating
that this access would be limited to the economic zone of the nearest
coastal state. In this case, which had not been specifically stipulated
in the UNCLOS III texts, only Mongolia would be eligible for access to the
economic zone resources of China. (Mongolian access to the coast through
Chinese territory, however, would still pose a problem for the Chinese
given the close ties between that country and the Soviet Union.)

Finally, in their proposal on LL and GDS access, the Chinese included the provision that the details of access agreements would have to be determined through mutually satisfactory bilateral or regional agreements between the states concerned. It is safe to assume that the Chinese would not be willing to give up much, if any, of their resources as a result of these negotiations. This provision, however, does reflect China's foreign policy objective of aiding in the establishment of a new international regime for the oceans based on the equality of all states. In line with this objective, the Chinese felt that none of the provisions of a final LOS agreement should be universally and automatically applicable to all states without their specifically expressed consent. That is, the LOS text should not stipulate that all coastal states with adjacent LL and GDS must give up a set percentage of their economic zone resources to the other states. This position also reflected China's foreign policy objective of maximizing state control over areas under national jurisdiction. In the case of LL and GDS access to economic zone resources, the Chinese were willing to give up some of their resources to these states, but only after bilateral agreements had been reached. Therefore, the coastal state would still maintain maximum jurisdiction including the right to give up part of its resources if it so desired.

China's policies on the continental shelf have already been discussed at some length both in this chapter and in chapter 3. As noted, the continental shelf which is the natural prolongation of the Chinese land mass is wide and potentially rich in oil. The oil is valuable to China not only for domestic consumption, but also as a source of the foreign exchange needed to finance China's domestic modernization plans. From
these characteristics alone, it is clear why China took the position that the continental shelf should be defined as the natural prolongation of land territory and that a state should be allowed to define its own continental shelf limits and should have complete jurisdiction over resources on its shelf up to these limits even if they extend beyond those of the economic zone. Other economic characteristics such as fishery resources and commercial shipping did not affect China's continental shelf position to any great extent since China had declared that coastal state jurisdiction would not extend to the water column above the continental shelf beyond the limits of the economic zone.

The importance to China of the continental shelf issue was also discussed in relation to China's dispute with Japan, Taiwan, and South Korea over oil drilling contracts and in its dispute with Japan over the Senkaku Islands. Given this information regarding the prominence of the continental shelf issue in Chinese foreign affairs, it is not surprising that the Chinese delegates at UNCLOS III had a firmly established policy regarding the definition of the continental shelf. They were obviously well prepared on this issue as exemplified by their familiarity with the relevant international legal precedents on it. What is surprising regarding Chinese statements on this issue is their infrequency. Aside from stating their basic position, the Chinese did not repeatedly address the issue in the Committee II negotiations. This can perhaps be accounted for by the fact that China's position was in contradiction to the policies of most of the developing states who had a narrow continental margin or no margin at all. In fact, on this issue the Chinese found themselves siding with the position of the US and other maritime states with wide continental shelves. Therefore, after making their position clear, the
Chinese would not want to dwell on it--thus emphasizing their differences with some developing states. Hence, this was one of the few issues which did not correspond with China's general foreign policy objective of siding with the developing states and, as a result, enhancing their position vis-à-vis these states.

A final factor which influenced China's position on the continental shelf, or at least its rhetoric on the issue, was China's concern with preserving the equality of all states under a new international oceans regime. Consistent with its statements on other issues, the Chinese stressed the need for each state to be able to establish its own continental shelf limits given its unique conditions rather than merely adopting an internationally set limit. They also stressed the need for negotiations "on an equal footing" to settle delimitation disputes. Hence, these policies reflected China's concern for the preservation of state sovereignty and equality. However, in adopting the definition of the continental shelf as the natural prolongation of the territorial land mass, the Chinese had also clearly adopted the policy which would give themselves an advantage in any delimitation negotiations with their neighbors.

The major factors influencing China's policy on marine scientific research appeared to be its foreign policy objectives of alignment with the developing states, curtailment of superpower hegemony, and maximizing state control over waters under its jurisdiction. These policies were also affected, to a large extent, by China's own marine scientific research capabilities.

China's position on the issue of marine scientific research was the same as that expressed by the Group of 77 and most developing states (at least the coastal ones). In their statements on this issue, the Chinese
were careful to establish their support for these states. They also made it clear that they considered the proposals of the developing states to be entirely reasonable and, as a result, they should serve as the basis for all future discussions on marine scientific research. Through these statements of support, the Chinese hoped to improve their ties with the developing states.

Secondly, China's foreign policy objective of attempting to curtail the power of the US and USSR also had a major impact on its position regarding marine scientific research. As mentioned earlier, China was highly critical of the superpowers' demand for freedom of scientific research which the Chinese interpreted as freedom to carry out espionage. Therefore, the Chinese adopted a position which would limit the superpowers' (and all other states') research activities within the economic zone of a coastal state by requiring prior coastal state approval for any marine scientific research.

Thirdly, and probably most significantly, China's policy which required coastal state consent for all marine scientific research (and not just that relevant to resources) within the economic zone mirrored China's foreign policy objective of maximizing state control over areas under its jurisdiction. Based on the Chinese view that coastal states should have full jurisdiction over activities within their economic zones, the Chinese stated that this jurisdiction should also necessarily apply to scientific research. In the case of marine research, China's concern with maximizing state control also related to its concern with protecting its coastal borders. As noted earlier, China has a long and indented coastline which is difficult to patrol. In addition, the Chinese have traditionally feared being attacked and/or invaded from the sea. Thus, it is under-
standable that they would adopt a policy which would provide for coastal state knowledge of all marine scientific research within waters under its jurisdiction.

A fourth factor which affected China's position on marine scientific research was its interest in developing its own capacity to conduct research activities. The influence of this factor was reflected explicitly in the third point of China's proposal which upheld the right of coastal state nationals to participate in all scientific research being carried out in their coastal waters and the coastal state's right to obtain copies of all data and results from this research. Thus, the Chinese could use this information to supplement their own scientific data, and through direct participation in research activities they could learn the modern techniques with which to develop their own oceanographic research capabilities. By requiring coastal state consent for economic zone research, the Chinese could also make sure that other states did not conduct research which they felt they would be able to do on their own in the near future. Finally, the requirement of coastal state approval for the publication of research results would allow the Chinese to ensure that any new discoveries of economic significance could be kept from general dissemination if they so desired.

With regard to scientific research in areas beyond national jurisdiction, the Chinese made it clear that all research activities in this area should be under the control of the relevant international body. With this policy, the Chinese emphasized that no single state or group of states (e.g., the superpowers) should be allowed to dominate scientific research on the high seas and thereby gain an advantage in terms of future access to resources on the seabed or in the waters of the high seas. Thus, the
Chinese were: (1) protecting the rights of developing states to equal access to deep seabed resources; (2) speaking out for, at least some, limitations on the activities of the superpowers in this area; and (3) maintaining their own right to participate in high seas research in the future.

The second set of issues discussed in Committees II and III at UNCLOS III related to the broad issue-area of navigation. The major issues falling under this category were: navigation within the territorial sea and economic zone; transit through straits and archipelagoes; and the control of vessel source marine pollution. China's policies on all of these issues, with the exception of marine pollution, were identical and reflected the influence of the same maritime characteristics and foreign policy objectives.

A maritime characteristic which one would have expected to exert a major impact on China's navigation policies was its interest in expanding its commercial shipping capabilities. Throughout the 1960s and early 1970s the Chinese had greatly expanded both their merchant fleet in terms of its size and the quality of its vessels and China's port facilities in order to handle an ever increasing amount of foreign seaborne trade. In addition, China had expressed its desire to use seabed oil as a means to gain foreign exchange, thus necessitating an increased role in the transport of oil. With these factors in mind, one would assume that China would adopt a navigation policy similar to that of Britain (i.e., that free passage should apply to transit through straits used for international navigation). This would allow greater freedom of movement for its own vessels in international navigation. China, however, adopted a more restrictive policy which called for the right of innocent passage through a state's territorial sea, including its straits. (As brought out in chapter 3, much of China's
seaborne trade must pass through the Malacca and Singapore straits which will become territorial waters under a twelve-mile territorial sea limit.) China did propose the creation of sealanes through archipelagic waters to facilitate commercial shipping. In addition, it stated that the strait states and archipelagic states should take the needs of international navigation and the need for moderation into account when establishing transit regulations. However, in general, the Chinese position was more restrictive than its commercial shipping interests would have indicated.

In order to account for China's navigation policy, it is necessary to consider some additional factors relating to China's maritime characteristics and its foreign policy objectives. China's geographic characteristic as a state with a long and indented coastline led the Chinese to be particularly concerned with the maintenance of their coastal security. As mentioned in chapter 2, the Chinese have focused on two foreign policy objectives, the maximization of state control over areas under national jurisdiction and the curtailment of superpower hegemony, in order to protect their security. Therefore, the Chinese adopted policies on navigation which corresponded directly with these goals. The fulfillment of these goals in combination with China's geographic maritime characteristics, in fact, exerted the major impact on China's navigation policies.

China's concern with maximizing state control was evident in the debate on passage through the straits which would become part of the coastal state's territorial waters under a twelve-mile limit. During these negotiations the Chinese took the position that a coastal state should have full jurisdiction to regulate traffic within its territorial waters regardless of whether or not these waters included a strait which had previously been used for international navigation. In addition, by
advocating the right of innocent passage for commercial shipping and the need for prior coastal state consent for the passage of military vessels, the Chinese could be relatively certain of maintaining their control over vessels in their own coastal waters. A less restrictive policy would have lessened this control. Thus, China's policy on navigation reflected the priority of its concern for maximizing control over activities within its coastal waters over a desire for less restrictive navigation for its own merchant fleet. It is also important to remember that the implementation of the right of innocent passage in straits used for international navigation would probably have little real effect in hampering the flow of commercial seaborne traffic. What would be restricted under China's policy is the transit of military vessels.

China's position on the transit of military vessels is especially interesting in relation to its own naval developments. At present, the Chinese appear to be concentrating on building up their coastal naval forces rather than expanding to a global naval capacity. China's navigation policy reflected this development in that it would, in fact, inhibit the maneuverability of a global navy. The Chinese wanted to restrict the freedom of movement of military vessels by requiring prior coastal state consent for the passage of military vessels through international straits used for international navigation. If China had been anxious to develop a global navy of its own, it would have called for less restrictive navigation regulations for military vessels.

On the other hand, China's position on the transit of military vessels directly reflected its foreign policy objective of curtailing the military power of the US and USSR. For example, the Chinese explicitly stated that restrictions on the transit of military vessels were needed
in order to stop the superpowers from implementing "their expansionist policies and their strategy of world hegemony." Therefore, the Chinese proposed that prior consent be required for the transit of military vessels through international straits as a means to place limits on the maneuverability of the Soviet and American fleets.

Finally, while China's policies on navigation primarily reflected its foreign policy objectives of maximizing state control over areas under its jurisdiction and the curtailment of superpower hegemony, it also reflected China's objective of enhancing its influence among Third World states. Not only were its policies in line with those of several developing states, including the important group of strait states, the Chinese also repeatedly stressed their concern for the interests of all developing states. Through their statements on the transit of military vessels, the Chinese not only expressed their support for developing state interests, but also their commitment to speak out forcefully to defend those interests against the superpowers. As already mentioned, these policy statements also served several of China's other foreign policy objectives.

The final set of issues relating to navigation arose out of the discussions in Committee III on the question of the preservation of the marine environment and especially the problem of vessel source pollution. The Chinese did not play a major part in these discussions, i.e., they did not present any detailed proposals; however, they did express general principles regarding the issue. In essence, the Chinese stated that coastal states should have complete authority to protect their coasts from damage caused by pollution. This authority, according to the Chinese position, should also extend to the state's economic zone and its continental shelf. In their first statement on the issue in 1972, the
Chinese supported the creation of international regulations to prevent marine pollution in areas beyond national jurisdiction. At the fifth session in 1976, the Chinese modified this position slightly in stating that in all areas where national rules and standards already existed, China opposed their replacement by international regulations.

The major influence on China's policy regarding pollution control appears to have been its foreign policy objective of maximizing state control over all areas under national jurisdiction. In this instance, China's major concern was to ensure maximum coastal state authority within its offshore waters including its territorial sea and economic zone as a means to prevent environmental damage caused by vessels within these waters. There are, however, several other factors which influenced China to adopt its general principles on the control of pollution. First, China's lengthy coastline and the importance of its coastal waters in terms of living resources such as fish had an impact on China's policies. The Chinese wanted to be able to institute their own regulations in order to ensure that these resources would be effectively protected from any damage due to marine pollution.

A second factor which might have influenced China to take a position different from the one presented at UNCLOS III was its growing merchant fleet. In calling for coastal state control over the implementation of pollution standards and regulations, the Chinese were agreeing that all vessels, including their own, would have to meet the fairly stringent regulations of some states. For a country such as China that relies, to some extent, on old and secondhand merchant vessels, these regulations could restrict some of their shipping. However, given that China's shipbuilding industry has been expanding since the 1960s and that the Chinese
are attempting to refit their existing merchant fleet, the Chinese may not have felt that coastal state regulations would inhibit their shipping in the future. Even if coastal state regulations did restrict Chinese shipping in some areas, it is unlikely that the effect on China's economy or even seaborne trade would be significant enough to warrant China's not adhering to its general principle favoring maximum coastal state control over all activities within its coastal waters.

In their statements on marine pollution, the Chinese also reflected the interests of most of the developing states thus corresponding to their foreign policy goal of attempting to enhance China's position vis-à-vis these states. However, instead of explicitly supporting any individual developing state proposal on the issue of marine pollution, the Chinese merely supported the general right of developing states to protect their coasts from pollution. For example, the Chinese did not specifically support the proposal of some developing and a few developed states for a "double standard" which would allow developing states to adopt more lenient pollution control standards than those stipulated for developed states. The Chinese merely stated that all countries had a responsibility to fulfill their obligation to prevent and control pollution. On the other hand, the Chinese did state explicitly that developed states had a special obligation to take effective measures to control pollution since they had been the major contributors to the problem. The Chinese were also quick to point out that the superpowers did not want to fulfill fully this obligation and that they did not agree with the generally correct position of the developing states. Thus while not endorsing any specific developing state policy, the Chinese did associate themselves with the general interests of these states.
In addition to China's foreign policy objectives of maximizing coastal state control over offshore waters and enhancing China's position vis-à-vis developing states, China's policies on marine pollution also reflected its objective of opposing the superpowers and especially the Soviet Union. The impact of this objective was apparent in China's statements such as the one mentioned above and those criticizing the superpowers for not supporting coastal state enforcement of pollution control regulations within their economic zones. In addition, on at least one occasion the Chinese specifically criticized the Soviet Union for obstructing the negotiations on the preservation of the marine environment.

Finally, the level of China's maritime expertise also had an impact on the general content of its pollution policies. As mentioned above, China's policies reflected general principles rather than specific policies on, for example, enforcement regulations and construction standards. This feature, which was characteristic of many of China's LOS policies, most likely reflected the lack of expertise within the Chinese delegation regarding many of the technical matters under discussion. Instead of proposing specific policies without sufficient background and technical knowledge on the issue being negotiated, the Chinese merely presented a broad policy based on their general maritime characteristics and foreign policy concerns. As the UNCLOS III discussions progressed, the Chinese appeared to build up gradually their expertise in certain areas. In the case of marine pollution, this development was seen in the fact that the Chinese amended or expanded on some of their early pollution policies during later UNCLOS III sessions.

The transfer of technology is the final area of negotiation at UNCLOS
III to be considered in this study. The issues discussed under this heading do not fit into the broad categories of the limits of coastal state jurisdiction and navigation set forth earlier. They involved both seabed issues and issues of state jurisdiction. China's position on the transfer of technology reflected the concern of most developing states that maritime technology be actively transferred to them from developed states. Specifically, the Chinese stated that the transfer should involve technology which is practical, efficient, economic, and convenient to use and that the developed states should not attach any conditions to the transfer. China also supported a Nigerian proposal that the International Seabed Authority be responsible for ensuring that nationals of developing states are trained in seabed technology and that all patents, machinery, and processes regarding seabed mining are made available to the developing states upon request.

Both China's specific policies and the fact that the Chinese delegates did not discuss the issue of the transfer of technology to any great extent probably indicated that the issue was not of immediate concern to the Chinese. Due to the state of their own maritime technology, i.e., its relatively low level of sophistication, the Chinese had little, if anything, to lose from a policy which encouraged the transfer of knowledge to other states. On the other hand, they had much to gain from the information which they could potentially receive from the developed states. They were, therefore, anxious to support policies requiring this transfer, especially with no conditions attached. Thus, the future transfer of technology is an important issue in general to the Chinese, but its immediate impact was not great enough to cause the Chinese to focus a great deal of effort in the area. The rather limited resources
of the Chinese delegates in terms of expertise probably also contributed to their relative silence on this issue.

An additional aspect of China's policy, i.e., the statement that developing states should attempt to develop their own maritime technology, reflected the impact of one of China's foreign policy goals. In stating that Third World countries should develop their own technology in accordance with their state's unique characteristics, the Chinese were attempting to enhance their position with these states by holding themselves up as a model of independence and self-reliance. In addition, the Chinese were attempting to associate themselves more closely with the group of developing states.

Finally, the Chinese policy on the transfer of technology reflected their general attitude that the function of international law should be to uphold the equality of all states. According to the Chinese, in order to accomplish this goal international law must provide for the redistribution and equalization of wealth from the developed to the developing states. In advocating the inclusion of articles in a new LOS agreement calling for the transfer of maritime technology, the Chinese were stating that the new international legal order to result from the UNCLOS III negotiations should take positive steps towards guaranteeing the equality of all states. Thus, it reflected China's foreign policy goal of actively participating in the creation of a new international legal order.

In summary, China's policies on Committee II and III issues were influenced to a large extent by both its maritime characteristics and its foreign policy objectives. China's position as a state with a long coastline and a broad continental shelf rich in natural resources
influenced its policies on the limits of coastal state jurisdiction as well as navigation. Among China's other maritime characteristics which influenced these policies were: (1) its proximity to straits; (2) its borders with LL and GDS; (3) the size of its commercial shipping fleet; (4) its level of expertise with regard to marine scientific research and the prior negotiating experience of its UNCLOS III delegates; and (5) the size and deployment of its navy. China's policies on Committee II and III issues were also influenced by China's general foreign policy objectives. The foreign policy goal which appeared to have exerted the greatest influence on these policies was China's desire to maximize state control over offshore areas under its jurisdiction (i.e., its territorial sea, contiguous zone, economic zone, and continental shelf). China's policies on the limits of coastal state jurisdiction and navigation, to varying degrees, also reflected China's goals of curtailing superpower hegemony, opposing the Soviet Union, enhancing China's prestige among developing states, and participating in the creation of a new international legal order.
CHAPTER 6

CONCLUSION

In the preceding chapters attention has been focused on a description of China's LOS policies and an analysis of these policies in light of China's foreign policy objectives and maritime characteristics. This discussion has provided a great deal of information regarding China's general orientation towards ocean issues and the rationale behind it. However, before considering the specific conclusions which can be drawn from this analysis, it is first useful to look briefly at another facet of China's policies at UNCLOS III--its diplomatic strategies and interactions.

China's Participation in UNCLOS III

Among the topics relating to China's diplomatic participation in the conference which need to be considered are: (1) the scope of China's participation in the negotiations; (2) China's "behind-the-scenes" activities; (3) the negotiating groups with which the Chinese had the closest contact; and (4) the response of other delegations to the Chinese. A brief consideration of these topics will provide a more complete picture of China's role in the LOS negotiations.

While the Chinese attended all of the first six sessions of UNCLOS III, they did not participate equally in each. As seen in table X, the Chinese made numerous statements during the first three LOS sessions; however, beginning with the fourth session in 1976 their participation in
the substantive negotiations declined considerably. This decline is
directly related to the Chinese delegation's lack of technical expertise
regarding LOS issues discussed in chapter 3. Following the first UNCLOS III
session in 1973 which focused exclusively on the organization of the con­
ference, the delegates began to discuss the specific LOS issues before
each of the three main committees. As a result, negotiations during the
second (1974) and third (1975) sessions tended to focus on the presentation
of proposals by the various states and a discussion of the broad principles
underlying these positions. Since these early LOS discussions were general
in nature, the Chinese did not feel constrained by their lack of technical
information on the issues and, therefore, often participated verbally in
these discussions. In addition, China's interventions at the second session
in 1974 were especially numerous since the Chinese were eager to place their
general LOS positions before the other conference delegates for early con­
sideration in the LOS negotiations.

The focus of the LOS negotiations at the fourth session in 1976 began
to change from that of earlier sessions. Whereas the previous discussions
had been general in nature, those in 1976 focused more on the technical
aspects of each issue. Due to their lack of technical information regarding
most of the LOS issues, the Chinese delegates said little during these
negotiations. Thus, for the most part, the Chinese were silent observers
at the fourth, fifth, and sixth sessions; however, they did make a few
general statements reasserting their earlier positions and criticizing the
proposals of the superpowers.

In addition to the frequency of China's LOS statements, it is also
interesting to note on which issues the Chinese were most vocal. From
table X, it is apparent that the Chinese spoke most often on those issues
### TABLE X'

**FREQUENCY OF CHINESE STATEMENTS ON SELECTED ISSUES AT UNCLOS III**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Session</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conference Organization</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Election of officials</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Draft rules of procedure</td>
<td>2 3</td>
<td>5</td>
</tr>
<tr>
<td>Committee I</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seabed mining</td>
<td>3 1 2</td>
<td>6</td>
</tr>
<tr>
<td>Committee II</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Territorial sea</td>
<td>2 1</td>
<td>3</td>
</tr>
<tr>
<td>Economic zone</td>
<td>4 1</td>
<td>5</td>
</tr>
<tr>
<td>Rights of LL/GDS</td>
<td>2 1</td>
<td>3</td>
</tr>
<tr>
<td>Navigation through straits</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Committee III</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pollution</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Scientific research</td>
<td>2 2 1</td>
<td>5</td>
</tr>
<tr>
<td>Transfer of technology</td>
<td>2 1</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>4 22 6 0 4 0</td>
<td>36</td>
</tr>
</tbody>
</table>
discussed in Committee II (the territorial sea, economic zone, the rights of LL/GDS, and navigation through straits). This is understandable given the earlier discussion of China's maritime characteristics which indicated that China's own economic interests were most closely affected by Committee II issues.\(^2\) In addition, these issues were especially important to the Chinese in terms of their foreign policy objectives of maximizing state control over coastal zones and curtailing superpower hegemony. The Chinese were also quite vocal on issues relating to the organization of the conference and seabed mining. The number of China's statements on these issues primarily reflected the importance of these issues for China's foreign policy objectives of enhancing its influence among the developing states and curtailing superpower maritime dominance.\(^3\)

A second major feature of China's participation in UNCLOS III was its "behind-the-scenes" activities. These are important to note since they give an indication of the strategies adopted by the Chinese during the LOS negotiations. According to one observer, the members of the Chinese delegation were among the hardest working delegates at the conference. They were continually taking copious notes on not only the substance of the negotiations, but also the technical discussions outside of the formal negotiations.\(^4\) While all of China's delegates were active in taking notes, only the most senior Chinese delegates had extensive interactions with members of other state delegations. Through these informal discussions, the Chinese became better informed not only on the technical aspects of the issues being negotiated, but also on procedural matters.\(^5\) Thus, for the Chinese, UNCLOS III provided a valuable training ground at which to acquire more substantive information regarding LOS issues and to learn the procedures of international negotiations. The seriousness with which the
Chinese approached the UNCLOS III negotiations is an indication of the importance the Chinese leaders attached to these issues.

Finally, with regard to China's participation in UNCLOS III, it is interesting to identify the groups of states with which the Chinese associated and the response of these and other states to the Chinese. This will provide information regarding the benefits, in terms of expanded international contacts, derived by the Chinese from the LOS Conference. As mentioned frequently throughout this thesis, at UNCLOS III the Chinese primarily associated themselves with the developing states. China's support for the general position of these states was mentioned specifically by the Chinese in most of their LOS statements.

While China's LOS comments noted their backing for the interests of all developing states, in their informal discussions the Chinese tended to associate more closely with the African and Latin American states than the Asian. As a result of their earlier experiences with the Chinese (e.g., disputes along their borders with China and the activities of Chinese backed insurgents within their countries), many of the Asian states took a cautious stand vis-à-vis the Chinese at UNCLOS III. The lack of close ties between the Chinese and other Asian states at the conference can also be attributed to the fact that there had been several fairly recent disputes between China and some of these countries over LOS related issues (e.g., the Spratly, Paracel, and Senkaku island controversies and disputes over fisheries and oil resources).

While China's contacts with Asian states at UNCLOS III were fewer than expected, its links with Latin American and African developing states were greater. Since these countries had had fewer prior contacts, and hence disputes, and fewer conflicting LOS interests with the Chinese, they
were more open to establishing closer relations with the Chinese than the more skeptical Asian states. In addition, China's contacts with African states were strengthened through the efforts of Huang Hua and his wife, Ho Li-liang, who attended several of the UNCLOS III sessions. In the 1960s, Huang Hua had served as China's ambassador to Ghana and the United Arab Republic and, as a result, had established contacts with many African leaders. He could therefore rely on these early associations as a basis from which to establish further contacts between China and African states at UNCLOS III.

Through their informal discussions with Latin American and African delegates at UNCLOS III, the Chinese were able to expand their diplomatic contacts with these states. In addition, the Chinese gained the respect of other developing states through their diligent participation in the negotiations. However, even though the Chinese continually stressed that they considered themselves to be a member of the group of developing states, these states did not reciprocate by regarding China as a full member of their group. This reluctance was based on the fact that the Chinese did not share many of the same ocean resource problems with other developing states. In addition, many of the developing states considered China a major political power and therefore not a full member of their group.

This brief consideration of China's diplomatic strategies and interactions at UNCLOS III has added a new dimension to our understanding of China's orientation towards the conference. First, it has become clear that the Chinese viewed the conference as more than just a forum at which to present their LOS policies. They also utilized the conference as a training ground for technical advisors on LOS related issues and for
preparing negotiators for other multilateral conferences. In addition, UNCLOS III was used by the Chinese to increase their state-to-state contacts, especially with Latin American and African states. It has also been shown that while their statements indicated that the Chinese indentified closely with the interests of developing states, these states did not have as strong a perception of shared interests with the Chinese. Finally, the reasons behind the decline in the number of Chinese interventions at the fourth through sixth sessions of UNCLOS III have also been clarified.

Trends in China's LOS Policies

In reviewing the specific proposals as well as the general statements made by the Chinese at UNCLOS III, two general trends can be identified. First, the Chinese initially presented their position on most issues during the early SBC meetings (1972 to 1973). Once these proposals were submitted, the Chinese may have expanded on a few points in their policies; however, on the whole, the policies did not change during the subsequent UNCLOS III sessions (1973-1977). On none of the LOS issues did the Chinese take a later position which contradicted or negated an earlier statement.

Secondly, most of China's statements, especially during the SBC and early UNCLOS III sessions, reflected broad policy outlines or general principles rather than specific regulations. In some instances, such as China's policy on pollution control, amendments were later added to earlier policy statements in order to fill in specific details. Thus, in the early sessions when the Chinese were still relatively new at large-scale international negotiations and their expertise on specific ocean issues had not yet been fully developed, China's policies remained broad, allowing the Chinese room for future maneuvering. Once they had become familiar with the overall negotiating situation and the issues themselves, details were
added to some of their policies. On other issues where precise regulations might have alienated some of the developing states, e.g., on the issue of setting a precise territorial sea limit, China's policies remained somewhat vague. Finally, due to the complexity of the LOS issues relevant to Asia, the Chinese were careful not to make any statements which could later jeopardize their position in this region. As a result of all of the above factors, China's LOS policies tended to reflect broad principles rather than specific regulations.

In addition to the two general trends discussed above, several generalizations regarding the relative impact on China's LOS policies of its foreign policy objectives and maritime characteristics emerge from this analysis.

The foreign policy objective which appeared to exert the greatest influence on China's LOS policies was its desire to maximize state control over areas under national jurisdiction. In the specific case of the SBC and UNCLOS III negotiations, China's focus was on maximizing coastal state authority within its offshore waters. In general, the Chinese stated that any limitation on coastal state control within its territorial sea, economic zone, or continental shelf should be established by the state itself in relation to its own needs rather than being universally set through international agreements. According to the Chinese, all states are equal and sovereign and, as a result, should be free to control all aspects of their own affairs, including the right to establish the limits of their coastal zones and the regulations pertaining to all activities within these zones (e.g., resource exploration and exploitation, scientific research, navigation, and pollution control). Therefore, China did not call for the creation of specific territorial sea or economic zone
limits (other than a combined maximum of not greater than 200 nautical miles) nor did it stipulate a maximum limit for a state's continental shelf. Instead, the Chinese stated that these limits should be set by each state after a consideration of its own unique economic and security needs.

A foreign policy objective which had almost as great an impact on China's LOS policies as maximizing state control over coastal zones was China's desire to curtail superpower hegemony. In pursuing this objective, the Chinese not only adopted policies aimed at placing limits on the maritime power of the superpowers (e.g., limiting the transit of military vessels through straits and increased regulation of marine scientific research), they also consistently and explicitly referred to it in the rhetoric used to present their policies. For example, during a meeting of the SBC, the Chinese delegate pointed out that "the sole aim of the super-Powers was to dominate the seas and oceans." Similar warnings, including appeals to other countries to adopt policies to limit the power of the US and USSR, were made by Chinese delegates throughout UNCLOS III. Finally, during the first session of UNCLOS III in 1973, the Chinese attempted to use their policies on the conference rules of procedure to curtail the influence of the superpowers on the LOS negotiations themselves. Hence, they backed limiting the number of official posts which each state could hold and eliminating the veto or a requirement of consensus in conference decision-making.

China's LOS policies aimed at curtailing superpower hegemony also reflected the influence of another of China's foreign policy objectives, limiting the power of the Soviet Union. Frequently in their statements condemning both of the superpowers, the Chinese deliberately singled out the Soviet Union for added criticism. An example of such an attack
occurred during a SBC session when the Chinese representative explained that

Lenin had stated explicitly 'We must decree nothing from Moscow.' The present leaders of the Soviet Government had fundamentally betrayed Lenin's teachings. Assuming the air of overlords of the world, they tried to subject all other countries to their orders. What they had inherited were not the teachings of Lenin but the hegemonic desire of the Tsars.  

Aside from China's rhetoric criticizing the Soviet Union, it is not apparent in the content of any of China's LOS policies that they opposed the Soviet Union any more than the other superpower, the US. This is essentially the result of the fact that most of the maritime interests of both superpowers were identical and, as a result, they pursued similar LOS policies.

China's foreign policy objective of attempting to improve its relations with the United States did not appear to have a direct impact on its LOS policies. In fact, as already mentioned, the Chinese frequently criticized the US for its positions at UNCLOS III. The only indication that China may have been attempting to soften its attacks on the US was the fact that while it often singled out the Soviet Union for special criticism, it never criticized the US on its own. This, however, is a minor point. In general, China's foreign policy objective of improving Sino-American relations had little impact on China's LOS policies.

A fourth foreign policy objective whose influence was most evident in the rhetoric used by the Chinese in presenting their LOS policies was China's desire to enhance its international prestige especially among developing states. Throughout the SBC meetings and UNCLOS III sessions, the Chinese consistently asserted that China was a member of the Third World and that the Chinese supported the views of the developing states.
For example, at Caracas Chai Shu-fan stated that

> China was a developing socialist country belonging to the third world. Its Government would, as always, adhere to its just position of principle, resolutely stand together with the other developing countries and all countries that cherished independence and sovereignty and opposed hegemonist policies, and work together with them to establish a fair and reasonable law of the sea.13

In virtually all of their LOS statements, the Chinese specifically emphasized that upholding the interests of the developing states was of primary importance to the Chinese at UNCLOS III. Thus, UNCLOS III was important for the Chinese as a forum at which to enhance their position as a developing state through associating themselves with the policies of these states.

In addition to influencing the rhetoric used by the Chinese at UNCLOS III, China's goal of enhancing its position vis-à-vis Third World states also had, at least some, impact on the content of its policies. For example, on the issues of the conference rules of procedure, seabed mining, the limits and jurisdictional rights of coastal states in their maritime zones, access of LL and GDS to economic zone resources, navigation through straits, marine scientific research, prevention of marine pollution, and the transfer of technology, China's interests and hence its positions corresponded to those of most of the developing states. However, as noted in chapters 4 and 5 respectively, China's policies regarding the military uses of the seabed and the continental shelf differed from those of most Third World countries. In fact, China's continental shelf position was closer to that of the US and other maritime powers than that of most developing states (with the exception of those with a wide continental margin). Thus, as tentatively proposed in the conclusion to chapter 4, when faced with the need to make a choice between a policy aimed at
enhancing their prestige vis-à-vis developing states or adopting one more in line with China's immediate self-interest (i.e., its short term foreign policy goals or its economic interests), the Chinese adopted the latter position.

Therefore, whereas an analysis of China's rhetoric at UNCLOS III would lead one to conclude that China's objective of enhancing its prestige among Third World states had a major impact on its LOS policies, in reality, China's policies only corresponded to this objective when they were not in conflict with China's other foreign policy objectives or maritime characteristics. This, however, does not mean to imply that the Chinese were not concerned with their overall image vis-à-vis developing states. This concern was evident in the fact that the Chinese were careful to state verbally their concern for the interests of the developing states at every available opportunity.

As mentioned earlier, the Chinese used informal discussions at UNCLOS III as a means to increase their contacts with individual foreign delegates. Through these meetings, the Chinese hoped to increase international recognition for the PRC not only from developing, but also developed states. This facet of China's actions at UNCLOS III reflected its foreign policy objective of expanding China's contacts with Western industrialized states.

The final foreign policy objective which influenced China's LOS policies was its desire to promote the establishment of a new international legal order. This objective influenced China's position at the 1973 and 1974 UNCLOS III negotiations on the conference rules of procedure. It was also one of the major factors leading to China's support for the creation of an International Seabed Authority to regulate the exploration and exploitation of the seabed beyond national jurisdiction. In both
instances, the Chinese supported policies aimed at enhancing the influence of Third World states in international affairs. According to the Chinese and other developing states, their interests were not being protected under current international law.

In summary, China's foreign policy objectives of: (1) maximizing state control over areas under its jurisdiction; (2) curtailing superpower hegemony; (3) opposing the policies of the Soviet Union; (4) enhancing its prestige among Third World states; and (5) promoting the creation of a new international legal order all had an impact on China's LOS policies. In addition, the Chinese pursued their objective of expanding China's contacts with Western industrialized states through informal meetings at the UNCLOS III sessions. On the other hand, China's objectives of improving relations with the US and the reunification of Taiwan with the mainland did not appear to have a direct impact on its LOS policies.

In addition to China's foreign policy objectives, its maritime characteristics also had an impact on the formulation of its LOS policies. The geographic maritime characteristic which had the most obvious impact on China's LOS policies was the fact that China is a coastal state with a long and indented coastline. It naturally led China to support policies aimed at maximizing coastal state control over offshore waters. This was reflected in China's general positions on coastal zone limits, the jurisdiction of coastal states within these zones, and the use of mixed baseline from which to measure these zones. China's positions on coastal zone issues were also influenced by the fact that waters off its coast are rich in fisheries resources.

The size and potential wealth in oil reserves of China's continental shelf had an impact on its position of not declaring a specific economic
zone limit of its own. (China merely stated that all states had a right to establish a combined territorial sea and economic zone of not more than 200 n.m.) The size and wealth of China's continental shelf also had an impact on its position regarding the definition of the continental shelf as the natural prolongation of the continental land mass.

Finally, China's location near several straits used for international navigation influenced its policy supporting strait state control over navigation. Through such a policy, the Chinese could control navigation in their own straits and hoped that strait states in the area of China would place limits on the passage of military vessels through their waters.

As already mentioned, China's economic characteristics of a large offshore fishery and potentially large continental shelf oil reserves influenced its policies on coastal zones and the continental shelf. However, China's economic interest in expanding its commercial shipping fleet did not appear to have a large impact on its LOS policies. In general, China's desire to protect the security of its coastal areas as well as to maintain maximum control over fish and oil resources offset its concern for fewer limitations on shipping. Therefore, the Chinese supported pollution and navigation regulations which were opposed by many of the maritime shipping states.

China's level of maritime expertise also influenced its LOS policies. With regard to its marine scientific research capabilities, the impact was on China's positions relating to the transfer of technology, scientific research, and seabed mining. Due to their lack of up-to-date marine scientific research techniques and information, the Chinese strongly supported the idea that there should be a transfer of technology from developed to developing states. In addition, the Chinese supported
policies aimed at ensuring the participation of coastal state nationals in foreign research activities within their state's economic zone. The adoption of this policy would help the Chinese acquire modern research techniques. Finally, given that the Chinese lacked the technical expertise to engage directly in seafloor mining, they were anxious to see that the developed states who possessed this technology were not allowed to exploit the deep seabed without sharing their profits. Hence, the Chinese supported a strong ISA which would ensure that developing, as well as developed, states benefited from the exploitation of the deep seabed. The lack of expertise among China's SBC and UNCLOS III delegates regarding international negotiations, international law, and LOS issues had an impact on the specificity of China's LOS policies. This inexperience was reflected in China's negotiations on issues in all three committees.

Finally, China's naval characteristics had an influence on all of its policies relating to navigation. Due to the fact that China's navy was primarily coastal, the Chinese were not overly concerned with preserving freedom of navigation for military vessels. They supported policies aimed at curtailing this freedom in order to place limits on the Soviet and American navies. Thus, any long range interests which the Chinese may have had with regard to developing a global naval capability were made subsidiary to their more immediate interest in limiting the maneuverability of the superpowers.

In conclusion, a review of China's LOS policies has emphasized the extent to which these policies were influenced by China's general foreign policy objectives and its specific maritime characteristics. In essence, China's LOS policies are best explained by reference to China's particular maritime characteristics and the manner in which these characteristics
influenced how China pursued its general foreign policy objectives in the
LOS issue-area.

Significance of UNCLOS III for China

In addition to providing China with a forum at which to present its
views on LOS issues, UNCLOS III was important for the Chinese in a number
of other areas. First, the very fact that China participated in the
conference was significant in that it showed China's interest in once more
taking an active part in negotiations on issues of global concern. Thus,
it gave the Chinese an opportunity to "prove" to the rest of the world that
they were willing to play a constructive role in international affairs. It
also helped to ensure international acceptance for the PRC's participation
in future international conferences.

Secondly, UNCLOS III provided the Chinese with their first forum
outside of standing UN organs at which to express their ideas on an issue
of international concern, the law of the sea. Therefore, it was the first
opportunity since the Cultural Revolution for the Chinese to attempt to
gain acceptance and influence among the developing states. Without partic-
ipating in UNCLOS III, the Chinese might still have begun to expand their
contacts with this group; however, it would have meant a much slower start.
The UNCLOS III sessions provided the Chinese with an ideal context, i.e.,
one in which delegates from most states were gathered in one place for a
specific and relatively limited purpose, in which to begin to establish
their credibility. It was also ideal for the Chinese in that on relatively
all LOS issues (with the exception of seabed nuclear testing and the
continental shelf) their own interests correlated strongly with those of
many of the developing states and, for the most part, contrasted sharply
with those of the superpowers. Therefore, Chinese statements associating
themselves with the interests of the developing states reflected a
commonality of interests.

Thirdly, the Chinese learned a great deal about international negotiat-
ing procedures through their experiences at UNCLOS III. They appeared to
use the conference as a training ground to prepare individuals for participat-
ing in future multilateral negotiations. Fourthly, through informal
discussions, the Chinese expanded their contacts to include states with
which they had formerly had little contact. Through these contacts, the
Chinese hoped to expand their state-to-state relations.

A final interesting question relating directly to China's participation
in UNCLOS III, is whether or not the Chinese would have adopted the same
policies on ocean issues if they had not participated in the conference.
Assuming that the conference had been held but that China had not attended,
it is likely that the Chinese would have remained silent on many of the
more detailed LOS issues such as marine pollution or the composition of the
ISA. However, it is also likely that they would still have issued general
statements periodically, but not as frequently as they did at the actual
conference, expressing their support for the developing states. If the
conference had not occurred at all, it is probable that the Chinese would
not have adopted specific policies on such issues as deep seabed mining.
However, they would still have made their positions clear on issues of
immediate concern to themselves such as the seabed test ban treaty and the
definition of the continental shelf. Thus, China's participation in
UNCLOS III probably motivated the Chinese to develop a more comprehensive
policy on ocean issues than otherwise would have been the case.
China's Future Role in International Affairs

Finally, it is important to consider briefly the insights regarding future developments in Chinese foreign policy which can be gained from this study. First, it is clear that the Chinese take seriously their participation in international conferences and negotiations. They do not immediately adopt a "radical" position in negotiations, but carefully study the issues before stating their position. This could indicate that in the future the Chinese intend to make greater use of international negotiations as a means of pursuing their foreign policy objectives.

Secondly, it is apparent from their UNCLOS III statements that the Chinese are willing to take a strong position on the need to restructure the international legal order to ensure the sovereignty and equality of all states. The Chinese see themselves as having suffered under the old system of "superpower dominance" and, as a result, are adamant in their support for the restructuring of the system.

Most significantly, China's attempt at UNCLOS III to establish itself firmly as a member of the developing states reflects its desire to play a more major role in future international affairs. The Chinese recognize that the power of the US and USSR is based on the military and economic capabilities of these two states. The Chinese also correctly realize that they can not now, nor in the foreseeable future, compete with the two superpowers in these areas. They can not become a "superpower" in the military or directly economic sense. However, the Chinese can greatly enhance their role in world affairs to a position closer or comparable to that of the two superpowers in terms of their influence in multilateral negotiations if they can establish themselves as one of the major spokesmen for the developing states.
The influence which the developing states will have in future international negotiations on global issues is continually increasing as a result of their sheer numbers and the wealth they represent in terms of natural resources. Therefore, if China can establish itself as one of the leaders of this group (and assuming that the group can achieve some degree of unity on issues -- a perhaps doubtful assumption), then China itself can become a more influential state in international negotiations. Thus, UNCLOS III has provided China with an ideal context in which to begin to develop and expand its influence in international affairs.
NOTES

Chapter 1


10 Ibid., p. 317.

11 The PRC had earlier participated in the 1972 United Nations Conference on the Human Environment in Stockholm from June 5-16. The Chinese delegates played an active role at this conference as indicated by the relatively large size of the Chinese delegation (thirty-one members), the delegates' participation in discussions, and the presentation of a draft resolution. Kim, China, the United Nations, pp. 487-488.

12 Ibid., pp. 446-447.


14 Ibid., p. 219.

15 Ibid., p. 218.

16 Kim, China, the United Nations, p. 447.

17 Ibid., p. 445.


22 Ibid., p. 35.

23 Ibid., p. 35.


25 Jones, p. 36.

26 Ibid., p. 220.


29 Jones, p. 37.


31 Ibid., p. 317 and Sullivan, p. 2.

32 For a further discussion of the three trends see Barry Buzan, Seabed Politics (New York: Praeger Publishers, 1976), pp. 53-64.


37. For a further discussion of these resolutions see Oda, New Developments, pp. 65-66.

38. Buzan, p. 90.


40. Earlier, Resolution 2467A XXIII (21 December 1968) had increased the membership of the Seabed Committee from 35 to 42 members. For a list of the members see Shigeru Oda, The International Law of the Ocean Development: Basic Documents (Leiden, Netherlands: A.W. Sijthoff, 1975), p. 51. For a list of the members in 1968 see Ibid., p. 13; in 1969 see p. 51; in 1971 see p. 155; and in 1972 see p. 187.

Chapter 2


2. Ibid., pp. 8-9.


5 Ibid.


7 Chen, Three Worlds, p. 11.

8 Ibid. and Waller, p. 150.

9 Waller, p. 150.


14 Waller, pp. 127-128, 121-123, and 126.


17 North, p. 114.

18 Ohja, p. 181.


21 Ibid.

22 Mozingo, p. 32.

23 Chen, *Three Worlds*, p. 16


27 Waller, pp. 151-152.


31 Ibid.

32 Hinton, *Communist China*, p. 28.

33 Gittings, pp. 196-197.


35 Ibid.

36 Hinton, *Communist China*, p. 32.


38 Waller, pp. 126-127.

39 Ohja, p. 183.

41 Ibid.


43 Mozingo, p. 47.


47 Ibid.

48 Ibid., pp. 288-289.

49 North, p. 134.


51 Waller, p. 166; North, p. 138; and Larkin, pp. 38-39 and 62.

52 Mozingo, p. 46.


54 Ibid.

55 North, p. 118.

56 Ibid., pp. 135-136.


Ibid., p. 54.

Townsend, p. 132. It is difficult to establish the exact date on which the Great Proletarian Cultural Revolution was inaugurated. James Townsend marks the beginning from the September 1965 meeting of the Central Committee when Mao called "for a major assault on 'revisionist' influences" (p. 131). Harold Hinton, on the other hand, points to Mao's May 16, 1966 directive creating a Cultural Revolution Group under the Politburo Standing Committee as the start (An Introduction, p. 60).


Weng, p. 148; Chen, Three Worlds, p. 27; and Waller, p. 153.


North, p. 181.

Hinton, Communist China, p. 47; Waller, p. 166; and Ohja, p. 197.

Waller, p. 166.

Ibid., p. 162. Also see Chen, Three Worlds, p. 27.


Ohja, p. 197.

Hinton, "Evolution of Foreign Policy," pp. 292-294; Chen, Three Worlds, pp. 25-26; and Sutter, p. 11.

Sutter, p. 11.

Ibid.

Weng, p. 155.

Hsiung, "China's Foreign Policy," pp. 43-44.

Weng, p. 167.
China exchanged diplomatic relations with Iran and Turkey and developed economic ties with South Yemen, Iraq, and Egypt. North, p. 191 and Hinton, An Introduction, p. 284.

Weng, pp. 175-178 and Chen, Three Worlds, p. 31.

North, p. 166. Also see Yahuda, pp. 228-229.

Waller, pp. 164-165.

North, p. 189.

Ibid., p. 160.

These states included: Sweden; Denmark; Switzerland; Norway; the Netherlands; France; Austria; Canada; Belgium; the UK; and West Germany. Kim, China, The United Nations, pp. 511-512.

Sutter, p. 21.


Sutter, p. 93. Also see Sutter, pp. 41 and 91-94.

Ibid., pp. 71 and pp. 102-103. For a similar statement by Chou En-lai in 1973 see p. 30.

Sutter, p. 25.


Sutter, p. 30 emphasis added.

"Quarterly Chronicle and Documentation (July-Sept. 1977)," pp. 892-893.

Chen, Three Worlds, p. 43.

Ibid. Also see Yahuda, pp. 242, and 259-260.


Ibid.


Sutter, p. 74 also see pp. 75-77.


110 Suzanne Ogden, "China and International Law: Implications for Foreign Policy," Pacific Affairs 49 (Spring 1976): 38 (hereafter cited as Ogden, "China and International Law").


113 Ogden, "Sovereignty," pp. 3-4.


117 Cohen and Chiu, p. 12.


119 Hsiung, Law and Policy, p. 73.

120 Scott, p. 49.

121 Kim, China, The United Nations, p. 410.

122 Ibid., p. 415.
123 Ibid. Also see Cohen and Chiu, p. 118.


125 Ibid., p. 19.


Chapter 3


3 Gamble, p. 62.

4 Ibid.

5 Ibid., pp. 74-75.


10 Gamble, pp. 72-73.


14 Tao Cheng, p. 82.

15 "PRC Ocean Transport," p. 15.


20 Ibid., p. 1


23 Ibid., p. 2.

24 Tao Cheng, p. 81.

25 These ports are Talien, Chinhuangtao, Tientsin, Yentai, Tsingtao, Lienyun, Shanghai (China's leading port), Wenchow, Foochow, Amoy, Swatow, Whampoa, Canton, Chanchiang, Haikow, Paso, and Peihai. "PRC Ocean Transport," p. 16.

26 Ibid., p. 17.

27 Prybyla, p. 162.
28 "PRC Ocean Transport," p. 16.

29 Lauriat, "Shipping," p. 70.

30 Gamble, p. 20.

31 Ibid., pp. 88-89.

32 Ibid., pp. 90-91.


34 Ibid., pp. 117-118. Also see Tao Cheng, p. 96.

35 Tao Cheng, p. 96.


37 Tao Cheng, p. 99.


39 For the full text of these regulations see Lay, Churchill, and Nordquist, pp. 549-551.

40 Tao Cheng, p. 89.

41 Ibid., p. 82.

42 Ibid.

43 Ibid., p. 80

44 Article 34 of the Common Program of the Chinese People's Political Consultative Conference cited by Tao Cheng, p. 80.


46 Tao Cheng, p. 80.

48 Ibid., p. 5, table A-1.


50 Ibid.


52 Ibid., p. 93.


54 Ibid., pp. 82-85.

55 Ibid., p. 85.


57 Harrison, p. 85.

58 Hardy, p. 25


65. Ibid.

66. Howe, p. 102.


68. Ibid., p. 62.

69. Howe, p. 102.


73. Howe, p. 102.


75. Wang, pp. 9 and 73.


77. Ibid., p. 3.

78. Ibid., p. 20.

79. Ibid., p. 9.

80. Wang, p. 93.


83. Harrison, p. 74.

84. Ibid.

85. Ibid.

86. Ibid., pp. 75-76.

87. Ibid., p. 79.


90. Harrison, p. 74.


93. Ibid., p. 12.


96. Kim, China, the United Nations, p. 416. For an explanation of the various titles of this department see p. 416 footnote 32.

97. Ibid., p. 416.

Kim, China, the United Nations, p. 395.

Ibid., p. 514.

Ibid., pp. 267-268.

Ibid., p. 197.


This department was represented by the same individual, Shen Chih-cheng, throughout the five sessions. However beginning with the fourth session, his official title changed from Deputy Chief of Division, Bureau of Port Supervision, Ministry of Communications to Deputy Division Chief of the Ministry of Communications.

This department was represented by Lo Mei-lung at the second session. Lo also participated in the 1973 SBC session; however, his department was not specified in the delegation list. Also at the fifth session his position had changed to Division Chief, Ministry of Agriculture and Forestry.


109. "How DoD Assesses the Balance of US, USSR, & PRC General Purpose
Forces," Commanders Digest 20 (17 February 1977): 10 and U.S., Congress,
Joint Economic Committee, Allocation of Resources in the Soviet Union
and China-1975, Hearings before the Subcommittee on Priorities and
Economy in Government. 94th Cong., 1st sess., June 18 and July 21, 1975,
p. 113 (hereafter cited as Allocation of Resources).

110. Swanson, p. 97 and "Tribute to an Imperial," p. 45.

111. Allocation of Resources, p. 44.

112. George Lauriat, "Another Coming Conflict of Comrades Ahead?"
Far Eastern Economic Review 106 (5 October 1979): 58 (hereafter cited as

113. Muller, p. 52.

114. Ibid. Also see Swanson, p. 104.

115. Muller, p. 52.

116. Ibid.

117. The Paracel Islands are referred to as Hsisha in Chinese and
Hoang Sa in Vietnamese. The Spratly Islands are referred to as Nansha
and Truang Sa in Chinese and Vietnamese respectively.

118. Hungdah Chiu, "South China Sea Islands: Implications for
Delimiting the Seabed and Future Shipping Routes," The China Quarterly,
no. 72 (December 1977), p. 756 (hereafter cited as Chiu, "South China
Sea Islands").

119. Ibid., pp. 756-757. Also see Lauriat, "Another Coming Conflict,"
pp. 58-59.

120. Lee Lai-to, "The PRC and the South China Sea," Current Scene

121. Ibid. and Martin H. Katchen, "The Spratly Islands and the Law
of the Sea: 'Dangerous Ground' for Asian Peace," Asian Survey 17
(December 1977): 1169. The major habitable islands in the Spratly Group
are Spratly Island, Amboina Cay, Itu Aba, Flat, Nansha, Thitu, and the

122. Greenfield, p. 147.
123 Ibid., p. 150.
124 Ibid.
127 Chiu and Park, p. 7.
128 Lee, p. 5.
129 Ibid.
130 Chiu and Park, p. 8.
132 Ibid., p. 11.
133 Ibid., p. 12.
134 Ibid., p. 13.
135 Ibid.
136 Ibid., p. 14
137 Ibid.
139 Chiu and Park, pp. 11-13.
140 Ibid., p. 14.
141 Lee, p. 6.


144 Ibid., p. 9.

145 Katchen, p. 1179 and Chiu and Park, p. 15.

146 Chiu and Park, pp. 15-16.

147 Ibid., p. 4. Also see Lee, p. 8.


149 The discussion of the conflict over the islands is based on information found in Lee, pp. 7-8 and Chiu and Park, p. 4.


151 It is difficult to state exactly how many of the small islets are occupied by each country.


153 Katchen, p. 1170.


156 Ibid., p. 39 and Cohen and Chiu, p. 347.

157 Cohen and Chiu, p. 347.
158 Ibid.


161 Park, Continental Shelf Issues, p. 39 and Cohen and Chiu, p. 347.


164 Ibid.

165 Ibid.

166 Ibid. For a further discussion of the Chinese claim see Park, Continental Shelf Issues, pp. 40-41; Cohen and Chiu, pp. 351-353; and Li, "China and Off-Shore Oil," 151-152.

167 Park, Continental Shelf Issues, p. 40.


169 Cohen and Chiu, p. 352. Also see Park, Continental Shelf Issues, pp. 41-42 for a discussion of the Japanese claims.


173 Ibid., pp. 220-221.

174 Ibid., p. 230.

175 Ibid., p. 227.


180 Ibid., pp. 228-229.


182 Ibid., pp. 43-44.


186 Ibid., Article 6.


191 Ibid., p. 243.


193 Tao Cheng, p. 94.

194 Ibid., pp. 92-93.

195 Ibid., p. 93.


197 Ibid.

198 Ibid.

199 Tao Cheng, p. 93.


201 Tao Cheng, p. 93 and Cohen and Chiu, p. 552.


203 Ibid., pp. 550-551.


207 Ibid.


Chapter 4


2 Ibid., p. 161.

3 Ibid., p. 163.


6 Ibid., p. 577.

7 Ibid., p. 565.


9 Ibid., p. 6 par. 19.

10 Ibid.

11 Ibid., p. 9 par. 2.

12 Ibid., p. 11 par. 22

13 For example see statements by the delegates of the Soviet Union,
United States, Bulgaria, and Spain in Official Records, Vol. I, p. 9 par. 5; p. 10 par. 12; p. 10 par. 17; and p. 12 par. 1 respectively.


15 Ibid., p. 10 par. 13.

16 Ibid., p. 16 par. 1 emphasis added.

17 Ibid., pp. 18-19.

18 Ibid., p. 19 par. 39.

19 Ibid., p. 18 par. 25 and p. 19 par. 49 respectively.


22 Ibid.


24 Cooper, p. 3.

25 SPRCP, no. 5642 (16 June 1974), p. 64.


27 Ibid.


31 Ibid., p. 5.


46 Ibid., pp. 165-167.
48 Ibid.
51 Ibid.
52 Buzan, p. 98.
53 Ibid., p. 100.
54 Ibid.
55 Ibid., p. 153.
57 Buzan, p. 158.


Kamminga, p. 556.


Gutteridge, p. 327.


Ibid., pp. 7-8.

cited in Ibid., p. 8.


Buzan, p. 226.

Ibid., p. 227.


78 Buzan, p. 227.


80 Ibid.

81 Ibid.

82 Buzan, pp. 231-232.


84 Stevenson and Oxman, "Caracas," p. 11.


90 Buzan, p. 250 emphasis added.


92 Ibid., p. 205.

Buzan, p. 251.

Ibid.


Lowe, p. 511. Also see ISNT, Part I, Annex I, Part C, 6(b).


Ibid., p. 77. Also see ISNT, Part I, Article 27.

Lowe, p. 527.

Stevenson and Oxman, "Geneva," p. 768.

ISNT, Part I, Article 17(6).

Official Records, Vol. IV, p. 69 par. 27.


ISNT, Part I, Article 32.

Ibid., Part I, Article 35.

Buzan, p. 255.


Ibid., 765-766.

Walz, "Deep-Sea-Bed," p. 82.


Ibid., p. 6 par. 41.


ISNT, Part I, Annex I, Part A(3)


Smith, p. 50.

RSNT, Part I, Article 9(4).


Ibid.

130 Ibid.

131 Ibid.


134 Charney, p. 607.


137 Ibid., p. 26 par. 62.

138 Ibid., p. 74 paras. 1-4. Also see p. 46 paras. 21-22 for similar statements by China at the General Committee meeting.

139 Ibid., p. 5 par. 22.


142 Ibid.

143 Smith, p. 45 footnote 9.

145 Smith, pp. 53-54.

146 "Informal Composite Negotiating Text Annex II 5(i)," International Legal Materials 16 (September 1977): 1209.

147 Smith, p. 54. Also see page 54 footnote 39.


150 Smith, p. 48.

151 Ibid.

152 ICNT, Article 159 (1).

153 Ibid., Article 159 (7)

154 Smith, p. 51 and ICNT, Article 150 (1) (g) (C),

155 ICNT, Article 150 (1) (g) (B) (i).

156 Ibid., Article 158 (2) (xiv),

157 Ibid., Article 150 (1) (d) and (e).

158 Smith, pp. 49-59.

159 Ibid.


Chapter 5

1. Gutteridge, p. 313.


4. Gutteridge, p. 381.


6. ISNT, Part II, Section 2, Article 2.


8. RSNT, Chapter 1, Section 2, Article 2 and ICNT, Part II, Section 2, Article 3.


10. NCNA, 5 April 1973, translated in SCMP, no. 5357, pp. 111-114 (hereafter cited as SCMP, no. 5357 (5 April 1973)).


Working Paper on Sea Area Within Limits, p. 1231.

Ibid.


Ibid., p. 15.

Walz, "The Territorial Sea," p. 35. Also see ISNT, Part II, Section 2, Article 6 (2).

For articles dealing with baselines see RSNT, Chapter 1, Section 2, Articles 4-15 and ICNT, Part II, Section 2, Articles 5-16.

ISNT, Part II, Section 2, Article 6 (6).


Gutteridge, p. 320.


Stevenson and Oxman, "Preparations," p. 10.

Ibid. and Gutteridge, p. 320.

Working Paper on Sea Area Within Limits.

Ibid., p. 1232.


Miles, "Caracas," p. 74.

Stevenson and Oxman, "Caracas," p. 15.

Miles, "Caracas," p. 74.


Miles, "Caracas," p. 74.

Ibid.

Stevenson and Oxman, "Caracas," p. 15.


ISNT, Part II, Section 2, Article 37.

Ibid., Part II, Section 2, Article 38 (2).

Ibid., Part II, Section 2, Article 43.

Ibid., Part II, Section 2, Articles 40 and 41.

Ibid., Part II, Section 2, Article 41 (1), (2) and Stevenson and Oxman, "Geneva," pp. 773-774.
46 ISNT, Part II, Section 3, Article 44 and Stevenson and Oxman, "Geneva," p. 774.


50 For the RSNT articles on straits used for international navigation see RSNT, Articles 33-43.


52 Ibid.


54 ICNT, Part III, Article 38.


60 Ibid., p. 13.

61 Working Paper on Sea Area Within Limits, p. 1232 emphasis added.


63 Stevenson and Oxman, "Caracas," p. 22.

64 Ibid.


67 ISNT, Part II, Part VII, Section 1, Article 118.

68 Ibid., Part II, Part VII, Section 1, Article 120.

69 Ibid., Part II, Part VII, Section 1, Article 121.

70 Pabst, "Islands and Archipelagoes," p. 143.

71 ISNT, Part II, Part VII, Section 1, Article 123 (2).

72 Ibid., Part II, Part VII, Section 1, Article 124 (1) and Article 126.


74 ICNT, Part IV, Article 49 (4).

75 RSNT, Part II, Chapter VII, Article 119 (7).

76 ICNT, Part IV, Article 47 (7).

77 Ibid., Part IV, Article 47 (2) and Article 53 (5).


80 ISNT, Part II, Part I, Section 4, Article 33. For the relevant provisions in the RSNT see RSNT, Part II, Chapter 1, Section 4, Article 32 and in the ICNT see ICNT, Part II, Section 4, Article 33.


84 Stevenson and Oxman, "Preparations," p. 16. Also see Gutteridge, p. 324.


87 Ibid., pp. 19 and 22.


89 Stevenson and Oxman, "Preparations," p. 21 and Gutteridge, p. 322.

90 Ibid. (both citations).

91 Gutteridge, p. 322.

92 Ibid.


95 Stevenson and Oxman, "Preparations," p. 15.


97 Stevenson and Oxman, "Caracas," p. 16.


101 ISNT, Part II, Part III, Article 46, Article 45 (1) (d), Article 47 (1), and 45 (1) (a) respectively.

102 Ibid., Part II, Part III, Article 48 (1) (a) and (b) and (7).

103 Ibid., Part II, Part III, Article 48 (4) and (8).

104 Ibid., Part II, Part III, Article 50 (1), (2).

105 Ibid., Part II, Part III, Article 51 (2).


107 ISNT, Part II, Article 53 (1) and (2).

108 Ibid., Part II, Article 54 (1) and (4).

109 Ibid., Part II, Article 54 (3) (a).

110 Ibid., Part II, Article 55.


113 Ibid.


117 For example, see NCNA, United Nations, 24 March 1972, translated in SCMP, no. 5109 (10 April 1972), pp. 46-48 and Official Records, Vol. IV, pp. 77-78 pars. 29-34.


121 Stevenson and Oxman, "Caracas," p. 20.

122 Ibid.


126 ISNT, Part III, Articles 57 and 58. Also see Part VI, Articles 108-116 regarding landlocked states.

127 Jayakumar, pp. 80-81.

128 Ibid., p. 80.
RSNT, Part II, Introductory note (11).

For the RSNT see Ibid., Part II, Chapter III, Articles 58 and 59.


ICNT, Part V, Article 71.

Jayakumar, p. 92.


Gutteridge, p. 324.


Under the 1958 Convention on the Continental Shelf, the continental shelf was defined as "'the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admit of the exploitation of the natural resources of the seabed area.'" Gutteridge, pp. 332-333 footnote 92.

Gutteridge, p. 324.

Stevenson and Oxman, "Preparations," p. 16.


Gutteridge, p. 324.
144 Stevenson and Oxman, "Preparations," p. 18.

145 Ibid., pp. 18-19.

146 Working Paper on Sea Area Within Limits, p. 1234. Also see p. 1231.

147 Miles, "Caracas," p. 79.


149 Stevenson and Oxman, "Caracas," pp. 16-17.

150 Ibid. and Miles, "Caracas," p. 79.

151 ISNT, Part II, Part IV, Article 62.


154 ISNT, Part II, Part IV, Article 69 (1), (2).

155 Ibid., Part II. Part IV, Article 70 (1)

156 Stevenson and Oxman, "Geneva," p. 780.

157 RSNT, Part II, Introductory Note (13).


161 ICNT, Part VI, Article 76.

162 RSNT, Part II, Chapter IV, Article 70 (2).

163 ICNT, Part VI, Article 82 (3).
ISNT, Part II, Part IV, Article 70 (3).

RSNT, Part II, Chapter III, Article 71 (3). For the relevant ISNT and RSNT articles regarding the delimitation of the economic zone see ISNT, Part III, Article 61 (1) and RSNT, Part III, Article 61 (3).

see U.N. Doc. A/CONF.62/L.17 and ICNT/Add.1 for discussions of this issue at the fifth and sixth sessions respectively.


ISNT, Part II, Part VIII, Article 132 (1).

Ibid., Part II. Part VIII, Article 132 (2), (3).

RSNT, Part II, Chapter VII, Article 128 and ICNT, Part VIII, Article 121.

Gutteridge, p. 329.

Stevenson and Oxman, "Preparations," p. 23.

Ibid., p. 24.

Ibid., pp. 24-25.

Ibid., p. 25.


Stevenson and Oxman, "Preparations," p. 27.


Ibid., p. 13.


Ibid., pp. 26-27.


M'Gonigle and Zacher, "Canadian," p. 137.

Ibid., p. 138.


ISNT, Part III, Part I, Chapter 1, Article 2.

Ibid., Part III, Part I, Chapter 1, Article 4 (3).

Ibid., Part III, Part I, Chapter 1, Article 3.

Ibid., Part III, Part I, Chapter 3, Articles 11 and 12.


ISNT, Part III, Part I, Chapter 6 Articles 20 (1) and 2 (2) respectively.

Ibid., Part III, Part I, Chapter 6, Article 20 (3), (4), and (5).

Ibid., Part II, Section 3, Article 18 (2).

Ibid., Part III, Part I, Chapter 6, Article 20 (5).

ISNT, Part III, Part I, Chapter 6, Article 17 (1).

Ibid., Part III, Part I, Chapter 6, Article 17 (1).


ISNT, Part III, Part I, Chapter 7, Article 26 (2).

Ibid., Part III, Part I, Chapter 7, Article 27 (1).

Ibid., Part III, Part I, Chapter 7, Article 28 (1) and (2).

Ibid., Part III, Part I, Chapter 7, Article 27 (1) and Article 28 (3).

Ibid., Part III, Part I, Chapter 7, Article 30.

Ibid., Part III, Part I, Chapter 7, Article 31.


Stevenson and Oxman, "Geneva," p. 792.

RSNT, Part III, Chapter 1, Section 1, Articles 2 and 3.

Ibid., Part III, Chapter 1, Section 2, Articles 12 and 13.

Ibid., Part III, Chapter 1, Section 6, Article 21 (2).

Ibid., Part III, Chapter 1, Section 6, Article 21 (3).


218 Ibid., p. 142. Also see RSNT, Part III, Chapter 1, Section 6, Article 21 (5).

219 RSNT, Part III, Chapter 1, Section 9, Article 43.

220 Ibid., Part III, Chapter 1, Section 7, Article 27 (2-4). Also see M'Gonigle and Zacher, "Canadian," p. 144.

221 M'Gonigle and Zacher, "Canadian," p. 144 and RSNT, Part III, Chapter 1, section 7, Article 30.

222 RSNT, Part III, Chapter 1, Section 7, Article 30 (6) and (7) respectively and M'Gonigle and Zacher, "Canadian," pp. 144-145.

223 M'Gonigle and Zacher, "Canadian," p. 145 emphasis in the original.

224 Ibid., pp. 145-146 and RSNT, Part III, Chapter 1, Section 7, Article 29.


226 RSNT, Part II for the provisions in the RSNT.


228 Ibid., par. 19 for the relevant RSNT provisions see RSNT, Part III, Article 27.


231 Ibid.

232 ICNT/Add.1.

233 ICNT, Part XII, Section 7, Article 234.

234 For the statements by the Chinese representatives at the second session see Official Records, Vol. II, pp. 328-329 pars. 1-8; at the
fourth session see FBIS (26 April 1976), pp. A2-4; and at the fifth


237 Stevenson and Oxman, "Preparations," p. 29.


242 Stevenson and Oxman, "Caracas," p. 27.

243 Ibid., p. 28. Also see Miles, "Caracas," p. 85.


245 Ibid. Also see NCNA, Caracas, 20 July 1974, translated in
SPRCP, no. 5666 (1 August 1974), pp. 156-160.

246 Official Records, Vol. IV, pp. 97-98 pars. 29-31; p. 107
pars. 77-78; FBIS (12 April 1976), pp. A4-5; FBIS (20 September 1976),
p. 96 pars. 14-16.


p. 228 pars. 22-25.

251 Official Records, Vol. II, p. 228 par. 23. Also see NCNA,
Caracas, 7 August 1974, translated in SPRCP, no. 5679 (20 August 1974),
pp. 90-93.

253 ISNT, Part III, Part II, Chapter 1, Article 1.

254 Ibid., Part III, Part II, Chapter 3, Article 13. For the corresponding article in the RSNT see RSNT, Part III, Chapter 2, Section 3, Article 57.

255 ISNT, Part III, Part II, Chapter 3, Articles 15, 16, and 23.

256 Ibid., Part III, Part II, Chapter 3, Article 18.

257 Ibid., Part III, Part II, Chapter 3, Article 21.

258 Ibid., Part III, Part II, Chapter 3, Article 25.


260 RSNT, Part III, Chapter 2, Section 3, Article 57.

261 Ibid., Part III, Chapter 2, Section 3, Article 60.

262 Ibid., Part III, Chapter 2, Section 3, Articles 60 and 61 respectively.


264 RSNT, Part III, Chapter 2, Section 3, Articles 58 and 59.

265 Ibid., Part III, Chapter 2, Section 3, Article 66.

266 U.N. Doc. A/CONF.62/L.18, par. 28

267 Ibid., par. 30 for the relevant RSNT article see RSNT, Part III, Article 57.


269 Ibid., par. 35.

270 ICNT, Part XIII, section 3, Article 247.

271 ICNT/Add.1. Also see ICNT, Part XIII, Section 3, Article 247 (4) (d).

272 ICNT, Part XIII, Section 3, Article 253.


Official Records, Vol. IV, p. 107 par 78. Also see NCNA, Geneva, 4 May 1975, translated in SPRCP, no. 5854 (16 May 1975), pp. 268-270 (hereafter cited as SPRCP, no. 5854 (4 May 1975)).

See FBIS (12 April 1976), pp. A4-5 for similar statements at the fourth session and Official Records, Vol. VI, p. 96 pars. 14-16 for statements at the fifth session.


Stevenson and Oxman, "Caracas," p. 29.


Ibid.


ISNT, Part III, Part III, Chapter 1, Article 1 (1).

Ibid., Part III, Part III, Chapter 1, Article 1 (2).


ISNT, Part III, Part I, Chapter 3, Article 10.

Ibid., Part III, Part I, Chapter 2, Article 9.
315

RSNT, Part III, Chapter 3, Articles 78-79.


Ibid., par. 45.

ICNT/Add. 1. Also see ICNT, Part XIV, Section 2, Article 274.


Chapter 6

1 Telephone interview with Choon-Ho Park, Culture Learning Institute, the East-West Center, Honolulu, Hawaii, 25 February 1981.

2 Ibid.


4 Park interview.

5 Miles interview.

6 Park interview.

7 Ibid.

8 Ibid. and Miles interview.

9 Park interview.

10 Ibid.

12 Ibid.

SELECTED BIBLIOGRAPHY

Books


Hook, Brian; Wilson, Dick; and Yahuda, Michael. "Quarterly Chronicle and Documentation (Jan.-March 1977)." The China Quarterly, no. 70 (June 1977), pp. 446-470.


United States Government Publications

U.S. American Consulate General, Hong Kong. Survey of China Mainland Press.


Unpublished Literature and Interviews


