

Report from Malta¹

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In mid-June 1970 an international meeting was held on the Mediterranean island of Malta to consider how to achieve peace in the sea. The title of the meeting, *Pacem In Maribus*, was derived from the encyclical of Pope John XXIII called *Pacem In Terris*.

The meeting started its discussions on the basis of the following declarations: (a) that the ocean floor and seas beyond national jurisdiction should be used for peaceful purposes; (b) that the mineral and fishery resources of these regions are the "common heritage of mankind"; (c) that these resources should be explored and exploited for the benefit of mankind as a whole, and particularly for that of the poorer countries.

The meeting was organized because of deep concern felt by many over the rapidly rising tempo of exploitation of high seas resources, and threat of conflict over the sharing of these resources in the face of unrestrained competition. The possible use of the seabed of the ocean for the implantation of weapons of war was an additional sharp spur. Present international machinery was believed to be inadequate and ineffective in controlling harmful competition, over-exploitation and depletion of the fishery resources. Nor was existing machinery seen to be capable of checking the threat of serious damage to the ocean environment and to the living resources through massive pollution. It was therefore urged by some of those present that in order to achieve equitable sharing of the common ocean resources and to protect the ocean from pollution, the present arrangements should be restructured; an extreme view was that exploitation, management and distribution of fish should be placed in the hands of an international agency.

The location of the meeting in Malta resulted from a resolution in the General Assembly of the United Nations proposed by the U.N. Ambassador from Malta, Dr. Arvid Pardo. On November 1, 1967 Dr. Pardo introduced what later became famous as the "Malta Resolution", proposing that the mineral resources of the ocean floor beyond territorial limits should be declared the common property of mankind, and that their exploitation and distribution should be put under the control of an international body. Profits would be used to finance the proposed international organization and to benefit poor nations.

These profits were declared to be potentially large, so that very soon a great deal of money could be expected to enrich the international community.

Following favorable reception to the general concept of the Malta Resolution, the United Nations created the Commission for the Peaceful Uses of the Sea Bed and Ocean Floor Beyond the Limits of National Jurisdiction. This Commission has concentrated on the design of machinery to prevent the sea bed being used as a site for war-like devices. An international treaty has been drafted by the Commission and presented to the General Assembly in October, 1970. Both the United States and the Soviet Union have urged its ratification.

The idea that the mineral resources of the ocean floor should be reserved for

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mankind as a whole has aroused vigorous debate. Inevitably discussions have had to be extended to include the most valuable resource of the oceans, the fisheries.

The proposal of joint ownership and control of marine resources raises complicated and bewildering problems. The *Pacem In Maribus* meeting did not supply solutions to any of these. But the meeting did provide part of the necessary preliminaries—sharper definitions of the problems, the ventilation of various points of view, and at least some progress toward the correction of common and damaging misconceptions about ocean resources and their exploitation.

This paper considers some of the problems of fisheries arising from the Malta meeting, and the discussions which took place there. One serious misconception that has clouded the discussions of ocean resources is the assumption in some quarters that there are large quantities of fish beyond the limits of territorial waters, and therefore that great wealth is waiting as soon as the world declares it to be international property. Of course there *are* large stocks of fish offshore, and these are certainly worth pursuing with vigor and protecting with wisdom. But the abundance of fish decreases as we go seaward, and as we go progressively deeper. And there are few if any enormous unexploited offshore stocks whose wealth can be used to fill the thin coffers of the United Nations, nor to support any new international agency established to manage sea resources.

Then, the quantities of fish which would be available as the common property of mankind are being rapidly reduced by political action. Some of the same countries which would supposedly benefit from a scheme to reserve high seas fish resources as common property are extending their territorial limits. Nine nations now claim jurisdiction over 200 miles of the sea off their coasts, and ownership of the fishery resources in these waters. If all countries of the world, especially those like the United States which have great coastlines, were to follow this lead, there would be thin pickings in the common pool.

Furthermore, according to one part of the 1958 Convention on the Continental Shelf, coastal nations have sole rights to the creatures which live on the bottom on the continental shelves off their shores. Many nations including the Soviet Union and the United States are taking advantage of this. It is under the provisions of this agreement that the United States assumes ownership of the king crabs of the Bering Sea, and controls the catches of Japanese and Soviet fishermen there.

A second misconception, and one which caused very apparent disagreement among participants at Malta, was whether those exploiting the high seas resources are conscious of the necessity for conservation, or willing to accept regulation. All those making a living in the sea were labelled by some observers as thoughtless exploiters. Some of this idea was expressed by Justice William O. Douglas, Chairman of the *Pacem In Maribus* meeting, in his address of welcome. Mr. Douglas asked, "Is the aim of man 'development' of the oceans? Should the aim not be at least in part 'conservation'?" This low opinion of ocean users was widely held at the meeting. It implies that concern for the protection of high seas fishery resources is a new idea, and that nations engaged in this activity have to be persuaded to accept a conservation viewpoint.

In point of fact, the realization that fish resources of the sea are finite, and that limitation must sooner or later be placed on the amount of fishing pressure each stock can withstand is at least as old as this century. In the 1890's this concern was so strong among nations exploiting the North Sea that they sank their differences sufficiently to organize the International Council for the Exploration of the Sea, which came into being in 1902. Today there is no

significant voice among scientists denying the direct and substantial effect of fishing on the welfare of stocks of fish, and most fishery industry people likewise recognize that their activities must be controlled when fishing pressure reaches a certain level.

A third misconception which was prevalent at Malta was that fishery resources and mineral resources can be managed in substantially the same way, by the same global agency. One of the solid accomplishments of the meeting was that at least some of the participants were persuaded to discard this concept.

The major difference between mineral and fishery resources is that the latter are renewable. Once a ton of mineral has been removed it is gone forever; but a ton of fish caught will be replaced by another ton if wisdom is used the way the removal is done.

The living resources of the sea are different from the mineral resources in other significant ways. One of the most obvious of these, and one that has great influence over decisions, is that fisheries are very old institutions, with long-established patterns of operation - local, regional and international. By contrast, ocean mineral extraction has yet to be even started for the most part, with only the oil industry as an operating unit, and this having only about a quarter of a century of experience in the sea.

A third difference between the fisheries and the industry for extracting minerals from the sea is that while fishing can be conducted by small enterprises, with small capital investment and with simple equipment, mineral extraction (including oil) requires enormous investment, complicated technologies, and large enterprises. These two branches of ocean resource extraction cannot be covered by the same kinds of regulations, nor even the same theoretical or philosophical approaches to management and control.

A fourth misconception held by many of the participants of the *Pacem In Maribus* meeting was that no machinery exists to solve problems of exploitation of the sea--the technical problems of how fish stocks decline under fishing pressure, and how to devise regulations to check this. But the truth is that since the formation of the International Council for the Exploration of the Sea at the turn of the century, over forty international fishery agreements have been created; these operate in every part of the world, involving most if not all nations fishing the sea. Some of these arrangements are complex and have many participants, some involve only two countries. Some of the arrangements have been highly successful, some moderately so, some nearly unsuccessful. But they exist, and in their sum they have had a great deal of experience in solving some of the same problems posed at Malta. Thus the concern about conservation of oceanic stocks and attempts at solutions of international fishery problems did not start with *Pacem In Maribus*.

A fifth misconception at Malta was the supposed future role of aquaculture, whose new promise was mentioned many times in urging the necessity for a new policy of high seas fishery control. But very little aquaculture will be conducted in international waters. It will have an important part to play in the future course of extracting food from the sea, but the rewards will be to individual nations and not to any community of nations whose control is only offshore. By far the most--perhaps all--aquaculture operations will be well within the limits of national jurisdiction.

Yet, despite the misunderstandings and misconceptions at Malta, the troubled concerns expressed there about the possible fate of sea resources are justified. It is obvious to most observers that the ocean fisheries are pursuing dangerous

courses, and that the threats of damage by overfishing, unbridled competition and pollution are extremely dangerous.

The history of fisheries development follows a common pattern leading to overuse, overcapitalization and small profits for individuals. If the fishery is valuable enough to justify management, biological research may be conducted and regulations imposed to control the amount and kind of fishing, and the stocks may be brought back to biologically satisfactory levels. But because the resources belong to everyone, in successful fisheries more and more boats enter the industry until the profits become thin despite successful biological management. These trends take place in national and international fisheries alike.

Fishery scientists, social scientists and other observers agree that unless a better record is achieved in the future, mankind is in danger of losing an important part of its heritage and a substantial source of food. The sharp differences of opinion arise in the suggestions of solutions to be applied.

The real issue is whether the present kinds of international agreements are moving in the right direction, or whether their patterns should be changed in favor of some new machinery--perhaps a global agency with responsibility for research and management of the fisheries, and distribution of the catches.

The principal problem so far unsolved by existing fishery agreements is that of dealing with new entrants. When nations operating over a period of time in a certain fishery have established a set of rules for conserving the stocks (and in a few cases distributing the catch), and have achieved a satisfactory delicate balance in these matters, the entry of new nations may tear down the whole structure. This is the kind of situation facing Japan, the United States and Canada, the present participants in the eastern North Pacific Ocean, in the face of strong efforts by Korea, the USSR and other nations to enter the salmon, halibut and other fisheries of the region. In 1970, for example, Korean vessels caught between a half and three-quarters of a million salmon from North American stocks being managed by the International North Pacific Fisheries Commission, the management including intensive, costly research, and restriction of the catch by fishermen of the member countries over many years. And the pressures by several nations to engage in trawl fisheries in the area where the International Halibut Fisheries Commission has successfully managed halibut stocks since the 1930's threaten the whole fabric of that agreement between the United States and Canada. Recent entry by Japan and Canada into the fishery for tunas in the eastern central Pacific has put such strain on an agreement among the United States, Mexico, Costa Rica and other countries that the very existence of the commission has been periled. Yet provision must somehow be made to allow fishing by new countries while acknowledging that traditional participants have special rights.

But this does not solve the most puzzling of all problems--how to distribute the harvest. In many existing cases there are not enough fish in the biologically allowable maximum sustainable yield to satisfy the requirements of all nations or all boats within nations, and this situation will be extended rapidly to more and more stocks if the present pattern of expanding fishing effort persists. In a few cases countries have come to agreement about the division of the catch: Canada and the United States share equally the harvest of the salmon of the Fraser River; the United States, Canada, the Soviet Union and Japan share the catch of fur seals according to a negotiated formula; the USSR and Japan agree on the harvest of some Asian salmon following hard bargaining that takes place

each year. But there is no division by the Inter American Tropical Tuna Commission of the tuna catches, nor by International Commission for the Exploration of the Sea of the many species caught in the North Sea; nor by most international bodies of the fish under their control.

It is clear after an examination of the amount of success or failure achieved by the various fishery commissions and other international agreements that the difficulties are less with the scientific input than with the application of information on the administrative and political levels. In many important cases there are enough biological and mathematical data to devise effective regulations, and in some cases regulations have been successfully applied, especially those specifying total catches, or gear restrictions like those fixing the size of the meshes of nets. These are mechanical regulations which are relatively easily applied and enforced. But so far it has usually not been possible to achieve agreement concerning limitations of the number of participants or of fishing effort, and to a far lesser degree to achieve a mutually acceptable division of the harvest. The latter will continue to be the overwhelmingly difficult stumbling block impeding management of international fisheries.

No meeting at Malta, or elsewhere, can solve this or any of the other major problems. But the gathering at Malta allowed the expression of many opposing views and it modified the opinions and outlooks of most participants. But judging from the Proceedings, all the arguments and rhetoric left a great many people with substantially unaltered basic opinions. The report expresses continued skepticism about the value of existing regional fishery commissions, saying that while "regional fishery arrangements have proven successful in a number of cases. . . these solutions seem somewhat antiquated." The unhappiness with the regional commissions boils down to the issue that they cannot successfully be rationalized on the biological or even the managements level, but on what is described as "political or ethical terms." The report of the meeting says that "regional arrangements fail to apply to or even advance the application of the concept of the common heritage of mankind. Nothing goes to mankind as a whole." What this latter statement meant to some participants was that those who catch the fish do not give part of their harvest to the poor nations. The heart of the dilemma, it seems to me, is the gap between the noble concepts, and the hard reality of their transmutation into food or dollars. According to opinions frequently expressed at Malta, certain individuals are to perform the services and then to give at least part of the rewards to other groups which have made no contribution to their realization. Such a conception of what the "common property of mankind" implies is not only unrealistic but prolongs the hated and destructive processes of charity that has so damaged the whole fabric of international aid.

A major suggestion of the group which organized the meeting is a revealing example to me of the gap between theory and reality. This is the proposal to institute an "Ocean Development Tax" of 1% on ocean produce. This tax would cover "non-living and living resources as well as services (shipping, etc.) no matter where production takes place or services are rendered in the ocean environment, outside national jurisdiction or within."

It did not seem to me that the Malta meeting pushed the world forward in any measurable way toward a solution to what is to be the central and overwhelming problem of conservation of high seas fishery resources, the problem of how to accommodate the needs of long-time participants as well as those of ever-crowding new participants from resources of fixed size. I was not

convinced, nor were a great many other participants, that the substitution of one enormous global regime to control the fisheries would lessen, let alone solve, the problems that smaller, local, specially designed arrangements have only partially solved. The failures of most of the regional commissions and other arrangements are not usually the fault of the design or the structure of these arrangements, but due to the inability of human beings to agree on the necessary levels of cooperation and compromise. It is unrealistic to expect that added agreement or greater willingness to compromise would follow the involvement of all the states of the earth, with their jealousies and their opposing interests.

But if the major problems were not solved at Malta, most participants came away with a strengthened conviction that better machinery must be provided for the protection and fair use of the offshore fishery resources of the world ocean. The meeting sharpened the general understanding of problems of high seas fisheries, and convinced some newcomers to the game that the complexities had not been created by the present fishing nations merely to justify the status quo nor to protect their own interests. The meeting also spurred those whose task it will be to offer improvements to the system to redouble their efforts.

DISCUSSION

International Session

Discussion Leader: Lee J. Weddig

Discussion Panel: Harvey Bullis, Edward A. Schaefer

Fisheries and the IDOE

J. L. McHugh

Q. Bullis:

What is being done about staffing and funding IDOE?

A. McHugh:

Our budget request for fiscal year 1971 was \$15 million, but the budget bill has not yet been passed by the Congress. The appropriation will be divided approximately 50-50 between federal and private agencies. In subsequent fiscal years the 50-50 formula will not be a precedent; federal agencies will compete with all other candidates for funding and awards will be made on the basis of merit and on adherence to the criteria established for the decade.

Q. Bullis:

What is the significance of the three priority categories?

A. McHugh:

The three broad subjects selected for emphasis were Environmental Quality, Environmental Forecasting, and Seabed Assessment. The National Science Foundation has already issued an important Notice and a brochure, and other descriptive material is in preparation. You should write to the Office for the International Decade of Ocean Exploration in NSF for information.

Q. Schaefers:

Tell us of the countries involved in IDOE, and of their progress.