

Influenced no doubt by the Assembly Resolution of September 22, 1924, and by a desire to make a full report of its efforts to date, the Committee of Experts has communicated in the so-called questionnaire a report with draft provisions which hardly measure up to the suggested standard. Whether the course taken was expedient or not remains to be demonstrated. Possibly it would have been as well to communicate only the subject and a brief commentary giving reasons for its inclusion in the list. In any event, the outlook is encouraging. The subject of piracy is probably as ripe for codification in the orthodox sense as any subject in international law. A preliminary examination has been made and followed by the submission of a so-called questionnaire of the nature of a preliminary report. Unless replies received are positively discouraging, and this seems unlikely, there is no apparent reason why the subject should not be reported to the Council as "sufficiently ripe," nor why the real labor of investigation should not be initiated in the not too distant future according to such procedure as the Committee of Experts may conclude to recommend.

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EXPLOITATION OF THE PRODUCTS OF THE SEA

The League of Nations Committee of Experts for the Progressive Codification of International Law have included in their "provisional list of the subjects of international law the regulation of which by international agreement would seem to be most desirable and realizable at the present moment" the following subject: "Whether it is possible to establish by way of international agreement rules regarding the exploitation of the products of the sea."

This question has been submitted, as Questionnaire No. 7, to the members of the League and to certain other governments, accompanied by a report by Mr. José Leon Suárez, the Argentine member of the committee, indicating the problems presented and the conclusions reached, and emphasizing the urgent need of international action.¹

This report declares that the limited and local fisheries regulations, which hitherto have been adopted by international agreements among a few of the nations, are wholly inadequate for the protection of sea products from extermination, because they have been intended mainly to establish police measures, and to secure reciprocity and commerce regardless of biological interests. The great importance of considering biological interests is, according to the report, because "biological solidarity is even closer among the denizens of the ocean than among land animals, and the disappearance of certain species would destroy the balance in the struggle for existence and would bring about the extinction of other species also." The question presented is, therefore, fundamentally biological rather than political or commercial, and, quoting again from the report:

¹ Printed in Special Supplement to this JOURNAL, July, 1926, pp. 230-241.

This urgent necessity for international regulation of the exploitation of the biological wealth of the sea is a new phenomenon to jurists but is familiar to all those who are brought into contact with the creatures of the deep, either in the pursuit of gain or in the interests of science. The marine species of use to man will become extinct unless their exploitation is subjected to international regulation.

The report cites, as an illustration of the imperative necessity of international regulation, the destructive consequences of unrestricted whale hunting. The report continues:

The source of wealth which is most immediately threatened with total extinction is the whale, because its bulk prevents concealment, because its slowness of reproduction makes the replacement of casualties impossible, and because the species, being concentrated in the South Polar region after having been exterminated in the north, is attacked in these waters by fishers from every part of the world and is being exterminated with alarming rapidity. The average number of whales killed in the Antarctic every year is not less than 1,500 and sometimes as many as 2,000. No other method than international regulation can be conceived to prevent the annihilation of whales, the total remaining number of which may tentatively be put at 10,000 or 12,000 at the most.

With the report is submitted a chart of marine wealth which shows the geographical distribution of some of the most important species which should be preserved for the use of humanity and indicating especially those of particular importance to Great Britain, Norway, the Netherlands, Germany, Belgium and Denmark, and of some concern to Spain, Portugal, France and the United States, all of which are in need of protection by international regulations.

The conclusion reached by the report is that the needed protection can only be secured by "an international agreement on an economic and biological and not on a political or commercial basis."

To accomplish this object, the report recommends that all the maritime Powers hold a conference, including experts in applied marine zoölogy, persons engaged in marine industries, and jurists, and that in the general technical programme of the conference be included:

- (a) General and local principles for the organization of a more rational and uniform control of the exploitation of the aquatic fauna in all its aspects;
- (b) Creation of reserved zones, organization of their exploitation in rotation, close periods and fixed ages at which killing is permitted;
- (c) Determination of the most effective method of supervising the execution of the measures adopted and maintaining the control.

This subject comes distinctly within the scope of the legislative, rather than the declarative, process of codification of international law, because it is not at present covered by any generally accepted principles or rules of the law of nations.

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