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THE ECONOMICS OF THE COMMON HERITAGE OF MANKIND

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why not examine it also from a standpoint of common law, and justice. JG

ABSTRACT

The mineral resources of the oceans beyond the limits of national jurisdiction have been declared by the U.N. General Assembly in December, 1970, to be the common heritage of mankind. This has been interpreted by some international negotiators as being equivalent to common ownership and sufficient to justify elaborate regulation of ocean miners overlaid with extra revenue sharing levies, technology transfer, and production controls, all intended to stimulate the economic growth of developing countries. This hypothesis is examined from an economic perspective and found to be seriously flawed. The policies are more likely to be perverse in the sense that industrially developed land-based mineral producers are those protected, with mineral consumers, especially those in developing countries being most at jeopardy. Domestically, the balance of trade will worsen, consumers will lose, and the tax revenues will be less if the U.S. ocean mining industry is not permitted to develop. Quantitative estimates of the gains and losses are provided.

INTRODUCTION

The deep seabed negotiations at the Third U.N. Conference on the Law of the Sea (UNCLOS) is widely viewed as a contest between ocean miners in industrialized countries on one hand and the impoverished masses in developing countries on the other. The underlying presumption seems to be that the third world is the principal supplier of mineral raw materials, while the industrialized countries are the everincreasing consumers. It is a kind of zero-sum game where the industrialized country gains come at the expense of the developing countries.

A contrasting view which prevails among economists and many others is that an activity which increases mineral supplies leads to a general gain to society. Among the latter group, innovation is considered the key ingredient in real economic growth because it leads to a greater conservation of resources, to greater level of output, or both. Thus, improvement in the human condition occurs in part from innovative effort to make better use of the world's resources (4, 5).

Setting about to test which view is a more appropriate description of how the world operates is a difficult task. Since one outcome essentially precludes the other, a fully conclusive test is impossible. Short of that, however, it is possible to perform, in this case, a projection of the economic trends with and without minerals recovered from the ocean, and estimate the magnitudes of the gains and losses, and thus identify the gainers and losers.

ASSUMPTIONS

One might approach the task of projection in several ways. Perhaps one of the most elaborate is to construct a set of market relationships for each of the four principal metals (nickel, copper, cobalt, and manganese) found in ocean nodules, including explicit functions for the factors of production and the major substitute metals. That is an ambitious project, beyond the modest objectives of the present exercise.

More appropriate is an approach based upon Bureau of Mines (2, 8, 9, 10) data and projections for the four metals, supply and demand elasticities as reported in Adams (1), and projections of consumption from Malenbaum (6). This is the approach adopted for this exericse. A summary of the assumptions is contained in Table 1.

The estimates for the output from ocean mining are based, in altered form, on Tinsley (11). Besides using a less ambitious schedule, the projections for the four-metal output from ocean nodules presume that over time countries other than the United States will account for an increasing share. Within the time horizon of this examination, the non-U.S. output from the ocean is presumed to be totally accounted for by miners from countries other than those who are members of the Group of 77 developing countries.

An implied assumption is that ocean mining is part of the natural expansion of supplies of metals. Thus, the exponentially smoothed shifts in demand are presumed to generate increases in supplies, including those from the ocean along a stable supply schedule. The one exception is the cobalt market. Since cobalt recovered from the ocean will be a sizable fraction of the total market, it was felt more appropriate to extrapolate land-based production and consider the ocean supply to be supplementary.

TABLE 1
NUMERICAL ASSUMPTIONS
(Quantities are in 10^3 Metric Tons)

For 1978 . . .	Ni	Cu	Co	Mn***
World mine production	805*	8,116*	34	10,602*
Projected annual rate of growth	3.6%	4%	4½%**	2½%
Developing Country production	102	3,281	16	2,840
Projected annual rate of growth	0%	2½%	0%	0%
U.S. mine production	11	1,347	0	0
Projected annual rate of growth	3.2%	3%	0%	0%
U.S. consumption	166	2,805*	6*	1,404*
Projected annual rate of growth	3.2%	1.7%	3.3%	1.6%
Own price elasticity	-1.44	-.82	-.50	-.75
Supply elasticity	1.22	1.67	1.67	1.00
World price, 1978 $/tonne	5,511½	1,466	25,419	138
Developing Country consumption	16	882	2	2,616
Annual growth rate	4½%	4.3%	5.6%	4.2%
1990 ocean mining	89	75	12	794
World annual growth	3.6%	4%	4½%	2½%
U.S. annual growth	3.2%	3%	2½%	1%

*Least squares adjustment
**Not including Co recovery from the ocean
***Metal contained

THE WORLD MODEL

The supply-demand diagram in Figure 1 shows the basic components of concern in the world market for each of four metals. The total supply curve comprises three components. One is the supply originating from developing countries. The second is the output from land-based sources in industrialized countries. The third is the metal quantities recovered from the ocean.

The intersection of demand and total supply determines the market price and world output per year from all sources. When there is no mineral recovery from the ocean, the reduced supply results in an increase in the prevailing price. There are also corresponding increases in the output from developing countries and land-based producers in industrialized countries. Combined, these changes mean that the earnings of land-based producers (shaded areas a and b in Figure 1) in and out of the third world will be greater than they would have been with ocean mining.

The gain comes at the expense of the world consumers, which increasingly are those in developing countries. Actually, the loss to consumers exceeds the gain to land-based producers because there is a deadweight loss by consumers (shaded area c) not received by the land-based producers.

THE U.S. MODEL

A similar model for the United States is shown in Figure 2. Of particular interest in the domestic market are the changes in (a) imports, (b) U.S. consumer surplus, and (c) revenues which accrue to the U.S. Treasury from the 46 per cent corporate income tax. The change in balance of payments is depicted in Figure 2 as the difference between the total revenue received by foreign producers when there is no ocean mining and the import bill when there is domestic ocean mining (shaded area d in Figure 2). The change in U.S. consumer surplus is reduction of the area under the domestic demand curve associated with the higher prices caused by the elimination of ocean mining. The tax revenues which will be foregone by the U.S. Treasury is 46 per cent of the net revenue which would have been earned by the ocean mining industry (shaded area e), less 46 per cent of the increased earnings from domestic land-based production, if any (shaded area f).

RESULTS OF THE ANALYSIS

The effect of the current and previous negotiating texts which have emanated from the UNCLOS is to make mineral recovery from the oceans uneconomic. Thus, examination of the prevailing market conditions in the world and in the U.S. indicates the principal gains and losses which are to be expected when mineral recovery from the oceans is foregone. These estimates result from a parametric analysis and are indicative of the direction and rough magnitude of the effects of eliminating ocean mining. They are not precise

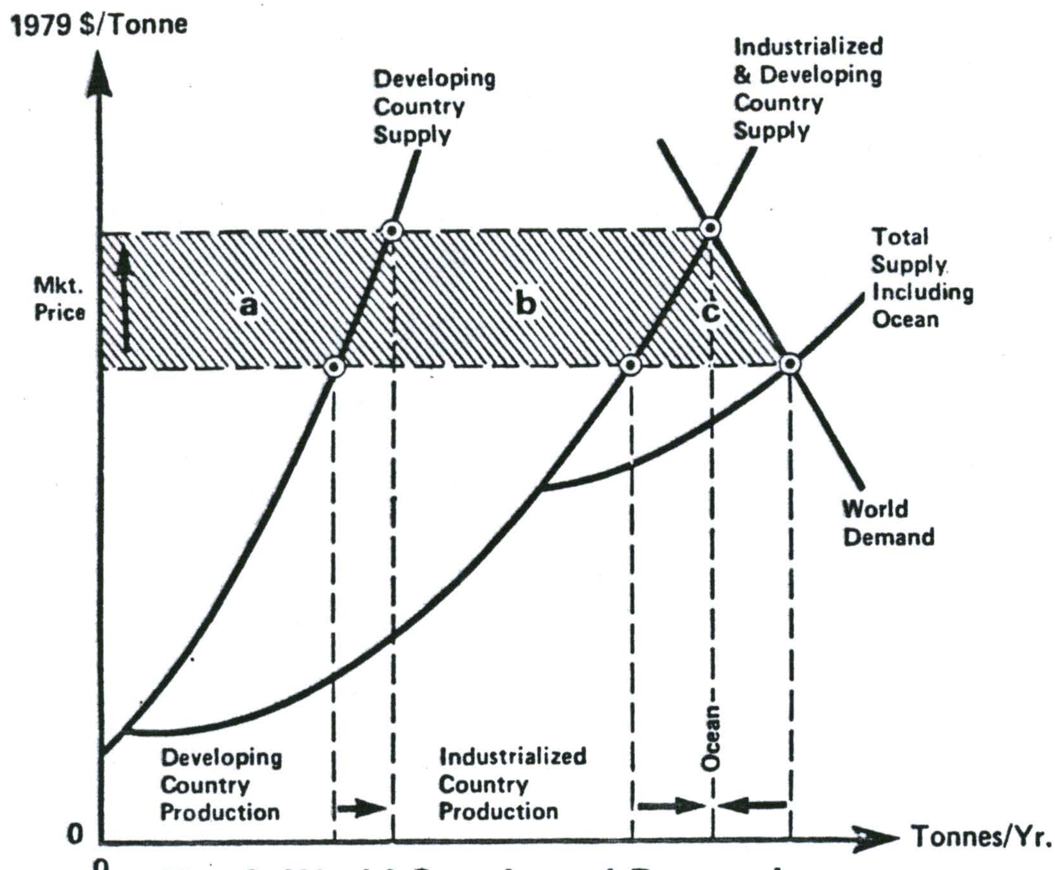

Fig. 1 World Supply and Demand

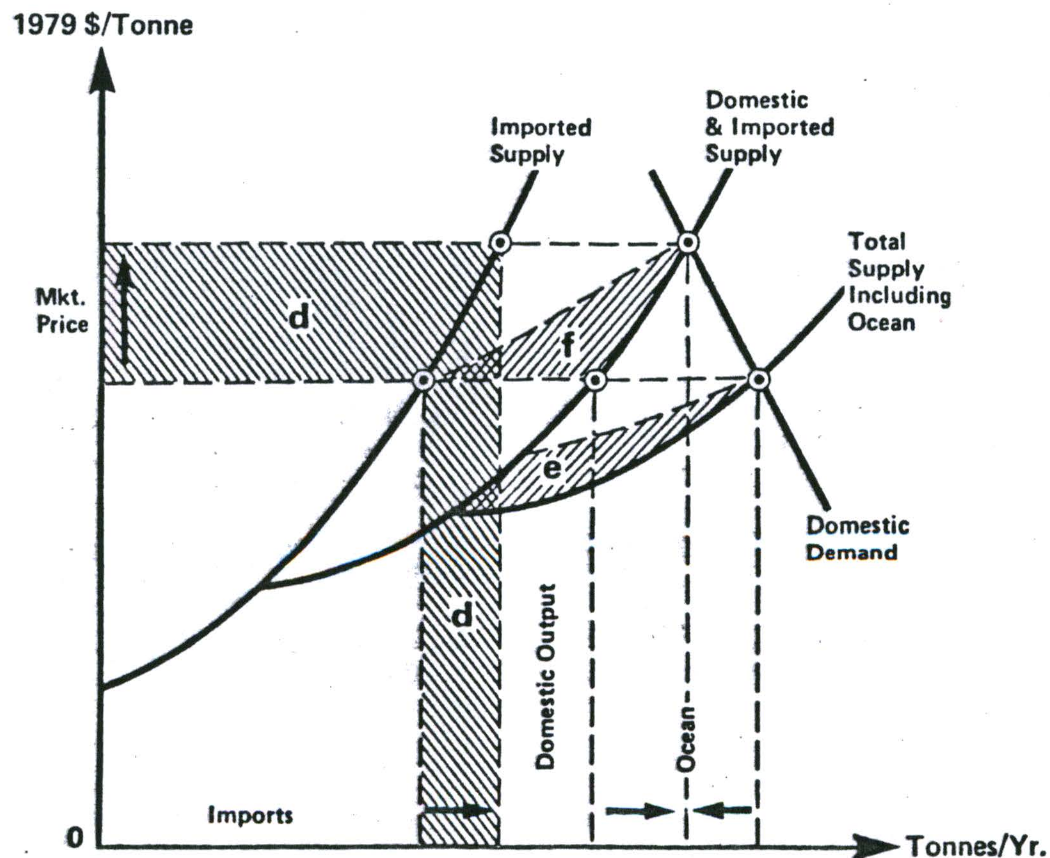

Fig. 2 U.S. Supply and Demand

measures, nor are they particularly good statements of the profitability of individual mining ventures including those from the ocean. However, the estimates should be indicative of the principal economic interests involved in the UNCLOS negotiations and how their fortunes change.

The Results from the World Model

One effect of precluding ocean mining as a potential source of mineral supplies is to cause an increase in the net revenue accruing to land-based producers. The table below shows the gains to mineral producers in developing countries.

ANNUAL GAINS TO DEVELOPING COUNTRY PRODUCERS
(Millions of 1979 Dollars)

	1990	2000	2010	2020	2030
Nickel	29½	40	53	71	96
Copper	14	21	33	50	78
Cobalt	54	66	81	99	121
Manganese	14	18	23	29	37
Total	112	145	190	249	332

By contrast, the gains to land-based producers in industrialized countries will be greater by sizable amounts.

ANNUAL GAINS TO INDUSTRIALIZED COUNTRY PRODUCERS
(Millions of 1979 Dollars)

	1990	2000	2010	2020	2030
Nickel	300	591	1134	2237	4315
Copper	41	77	141	259	471
Cobalt	112	250	516	1027	2020
Manganese	54	94	160	271	453
Total	507	1012	1951	3794	7259

Even in the case of cobalt which has until recent times been mainly an export of developing countries, the future gains to industrialized countires are expected to be greater. The reason is that cobalt output in industrialized countries has been increasing at a statistically significant rate of 18.6 per cent per year (between 1973 and 1978) while the cobalt output from developing countries has been decreasing.

When the losses to consumers in developing is estimated (see below) it can be seen that after the year 2010, the

ANNUAL CONSUMERS LOSSES IN DEVELOPING COUNTRIES
(Millions of 1979 Dollars)

	1990	2000	2010	2020	2030
Nickel	7½	16	32	68	142
Copper	6	11	20	37	68
Cobalt	12	26	50	111	231
Manganese	21	41	79	152	293
Total	47	94	181	368	734

the magnitudes are larger than the gains which accrue to mineral producers in developing countries, and smaller by a significant amount than the gains to be realized by industrialized-country producers. Of course, developing countries which are large producers and only modest consumers will gain on an individual basis. But on an aggregate basis developing countries lose by restricting mineral recovery from the ocean. Thus, it would appear that the Group of 77 developing country representatives act principally in support of land-based producer interests (mainly in industrialized countries), rather than the interests of their own domestic consumers.

It should be clear that producers in developing countries will share, along with ocean mining, in the gains from the natural expansion of mineral demand, as indicated below.

ANNUAL DEVELOPING-COUNTRY PRODUCER GAINS WITH OCEAN MINING
(Millions of 1979 Dollars)

	1990	2000	2010	2020	2030
Nickel	3	4	5	7	9
Copper	152	234	358	550	845
Cobalt	14	17	21	26	31
Manganese	11	14	18	23	30
Total	180	269	402	606	915

These gains are larger in each case than those resulting from restrictions on ocean mining. But the implications may not stop there. To the extent that valuable mineral production is more concentrated without the ocean supply, developing countries become more vulnerable to external threats. They may also be more susceptible to internal revolution as the large export earning industry becomes the focal point for insurgent pressure on the established regime.

Restrictions on one source of supply may also signal consumers that they should invest in developing substitutes for the four metals. Given that mineral raw materials are characteristically inputs at an early stage of production, there are substitute possibilities at each subsequent stage, including the final product. Thus, the long-run prospects for healthy growing markets for the four metals may be dimmed if supplies from the oceans are precluded by political action.

The Results from the Domestic Model

The U.S. markets for three of the four metals are dominated by imports. This in turn means that elimination of the marine portion of the metals industry will worsen our balance of payments. The table below indicates the magnitude.

ANNUAL CHANGE IN U.S. BALANCE OF TRADE WITH NO OCEAN MINING
(Millions of 1979 Dollars)

	1990	2000	2010	2020	2030
Nickel	-888	-1,643	-3,015	-5,567	-10,208
Copper	-133	-213	-342	-551	-890
Cobalt	-350	-547	-914	-1,366	-2,121
Manganese	-126	-178	-252	-357	-505
Total	-1,497	-2,581	-4,523	-7,841	-13,724

The adverse balance is almost $1½ billion in 1990 and that amount comes close to doubling each subsequent decade.

More important, however, are the losses that U.S. consumers will sustain if the domestic market is not augmented with ocean source minerals. The following table indicates

ANNUAL U.S. CONSUMER LOSSES WITH NO OCEAN MINING
(Millions of 1979 Dollars)

	1990	2000	2010	2020	2030
Nickel	68	125	229	421	775
Copper	15	21	30	42	60
Cobalt	27	45	78	134	225
Manganese	8	12	18	27	41
Total	118	203	355	624	1101

that U.S. consumer losses grow ten-fold from 1990 to 2030, exceeding a billion dollars in 2030.

With that magnitude of loss to U.S. consumers, it is clear that ocean mining is strongly in the U.S. interest. But if that is not enough of a rationale along with the balance of payments argument to encourage U.S. negotiators to be diligent in their efforts, perhaps an estimate of the drain on U.S. Treasury tax revenues will help. It is projected that the reduction in U.S. tax revenues from eliminating ocean mining (offset by the increase in tax revenues from domestic land-based production) begins at $12 million in

ANNUAL U.S. CORPORATE TAX REVENUE LOSSES WITH NO OCEAN MINING
(Millions of 1979 Dollars)

	1990	2000	2010	2020	2030
Nickel	11	20	37	68	126
Copper	-3	-4	-7	-11	-18
Cobalt	3	5	8	13	20
Manganese	1	2	3	4	6
Total	12	23	41	74	134

1990 and increases by an order of magnitude by 2030. To this can be added the reduction in personal income tax revenues resulting from the U.S. consumer losses (assuming a 21 per cent average tax rate). It would appear that the

TOTAL ANNUAL TAX REVENUE LOSSES WITH NO OCEAN MINING
(Millions of 1979 Dollars)

	1990	2000	2010	2020	2030
Nickel	25	46	85	156	289
Copper	0	0	-1	-2	-5
Cobalt	9	14	24	41	67
Manganese	3	5	7	10	15
Total	37	65	115	203	366

U.S. Treasury has at much to lose with no U.S. ocean mining as the land-based producers in developing countries have to gain. It suggests that tax revenues which accrue from U.S. consumers and ocean miners could be transferred to land-based producers in developing countries to compensate them fully for any notional gain they may have foregone by their acceptance of ocean mining.

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APPENDIX A

LEGEND FOR DATA ROWS APPEARING IN APPENDICIES B, C, D, AND E

A. 10^3 tonnes/yr. of world production including ocean supply
B. 1979 \$/tonne price with ocean supply
C. 10^3 tonnes/yr. ocean production worldwide
D. 1979 \$/tonne price without ocean supply
E. 10^3 tonnes/yr. of world production without ocean supply
F. 1979 \$$10^6$ gain in producers surplus worldwide
G. 1979 \$$10^6$ gain in profits for developing country producers
H. 1979 \$$10^6$ gain in profits for industrialized country producers
I. 1979 \$$10^6$ loss for consumers worldwide
J. 1979 \$$10^6$ loss for consumers in developing countries
K. 10^3 tonnes/yr. of consumption in developing countries
L. 1979 \$$10^6$ deadweight loss worldwide
M. 10^3 tonnes/yr. output from developing countries with ocean supply
N. 10^3 tonnes/yr. output from developing countries without ocean supply
O. 10^3 tonnes/yr. consumption in the United States
P. 10^3 tonnes/yr. U.S. production from the ocean
Q. 10^3 tonnes/yr. U.S. consumption without ocean supply
R. 1979 \$$10^6$ loss in U.S. consumer surplus
S. 10^3 tonnes/yr. of imports into the United States with ocean supply
T. 10^3 tonnes/yr. of U.S. imports without ocean supply
U. 1979 \$$10^6$ change in U.S. balance of trade
V. 1979 \$$10^6$ change in U.S. tax revenue from ocean miners
W. 10^3 tonnes/yr. of U.S. land-based production
X. 1979 \$$10^6$ change in U.S. tax revenue from U.S. land-based producers

APPENDIX B

NICKEL

Ni	1990	1995	2000	2005	2010	2015	2020	2025	2030
A	1,231	1,469	1,753	2,092	2,497	2,980	3,557	4,245	5,066
B	10,452	12,108	14,027	16,250	18,829	21,814	25,276	29,283	33,926
C	89	106	127	151	181	215	257	307	366
D	10,736	12,436	14,409	16,691	19,342	22,406	25,963	30,079	34,847
E	1,183	1,412	1,684	2,010	2,399	2,864	3,418	4,079	4,868
F	330	457	631	873	1,187	1,668	2,308	3,191	4,411
G	29½	34	40	46	53	61	71	83	96
H	300	423	591	827	1,134	1,607	2,237	3,108	4,315
I	343	474	655	906	1,236	1,729	2,394	3,313	4,577
J	7½	11	16	23	32	47	68	98	142
K	27	34	42	52	65	81	101	126	157
L	13	17	24	33	49	61	86	122	166
M	102	102	102	102	102	102	102	102	102
N	105	105	105	105	105	105	105	105	105
Ø	243	284	333	390	456	534	625	732	857
P	89	104	122	143	167	196	229	268	314
Q	233	273	320	375	438	513	601	703	823
R	68	92	125	169	229	311	421	572	775
S	139	162	190	222	260	304	356	418	489
T	218	255	299	350	409	479	561	657	769
U	-888	-1,210	-1,643	-2,234	-3,015	-4,101	-5,567	-7,522	-10,208
V	-13	-18	-24	-33	-44	-60	-81	-110	-149
W	15	18	21	25	29	34	40	46	54
X	+2	+3	+4	+5	+7	+9	+13	+17	+23

APPENDIX C

COPPER

Cu	1990	1995	2000	2005	2010	2015	2020	2025	2030
A	13,325	16,212	19,725	23,998	29,198	35,523	43,222	52,583	63,976
B	1,840	2,016	2,208	2,418	2,649	2,902	3,178	3,482	3,814
C	75	91	111	135	164	200	243	296	360
D	1,845	2,021	2,213	2,423	2,655	2,909	3,185	3,490	3,823
E	13,300	16,182	19,688	23,954	29,144	35,457	43,142	52,486	63,857
F	55	74	98	131	174	232	309	412	549
G	14	17	21	27	33	41	50	63	78
H	41	57	77	104	141	191	259	349	471
I	55	74	98	131	174	233	310	414	551
J	-6	-8	-11	-15	-20	-27	-37	-50	-68
K	1,462	1,804	2,227	2,749	3,393	4,188	5,169	6,380	7,875
L	0	0	0	0	0	1	1	2	2
M	3,281	3,712	4,200	4,752	5,376	6,083	6,882	7,786	8,810
N	3,294	3,726	4,216	4,770	5,397	6,106	6,908	7,816	8,844
Ø	3,451	3,762	4,101	4,470	4,873	5,312	5,790	6,312	6,880
P	75	87	101	117	135	157	182	211	245
Q	3,444	3,755	4,093	4,462	4,864	5,302	5,779	6,300	6,867
R	15	17	21	25	30	35	42	51	60
S	1,455	1,448	1,419	1,361	1,269	1,133	946	696	369
T	1,523	1,528	1,512	1,470	1,395	1,280	1,117	895	601
U	-133	-169	-213	-271	-342	-436	-551	-700	-890
V	-1	-2	-2	-2	-3	-4	-5	-6	-8
W	1,921	2,227	2,581	2,992	3,469	4,022	4,662	5,405	6,266
X	+4	+5	+6	+8	+10	+12	+16	+20	+26

APPENDIX D

COBALT

Co	1990	1995	2000	2005	2010	2015	2020	2025	2030
A	61	76	95	117	147	182	227	284	253
B	29,555	32,650	36,045	39,967	44,178	48,811	53,949	59,665	65,926
C	12	15	19	23	29	36	45	56	70
D	32,670	36,118	39,930	44,145	48,840	53,955	59,649	65,945	72,905
E	34	58	72	90	112	140	174	217	337
F	166	228	316	430	597	817	1,126	1,558	2,141
G	54	60	66	73	81	90	99	110	121
H	112	168	250	357	516	727	1,027	1,448	2,020
I	185	255	353	480	668	914	1,260	1,742	2,394
J	-12	-17	-26	-37	-50	-75	-111	-159	-231
K	4	5	7	9	11	15	20	26	34
L	19	27	37	50	71	97	134	184	253
M	16	16	16	16	16	16	16	16	16
N	19	19	19	19	19	19	19	19	19
Ø	9	11	12	15	17	20	24	28	33
P	12	14	15	17	20	22	25	28	32
Q	8	10	11	14	16	18	22	26	30
R	27	37	45	62	78	101	134	173	225
S	-3	-3	-3	-2	-3	-2	-1	0	+1
T	8	10	11	14	16	18	22	26	30
U	-350	-459	-547	-698	-914	-1,069	-1,366	-1,715	-2,121
V	3	4	5	6	8	10	13	16	20

APPENDIX E

MANGANESE (METAL CONTAINED)

Mn	1990	1995	2000	2005	2010	2015	2020	2025	2030
A	14,258	16,132	18,252	20,650	23,364	26,434	29,908	33,838	38,284
B	156	177	200	226	256	289	328	371	419
C	794	899	1,017	1,150	1,302	1,473	1,666	1,885	2,133
D	161	183	206	233	264	298	338	383	432
E	13,918	15,747	17,816	20,157	22,806	25,803	29,194	33,030	37,370
F	68	87	112	143	183	233	300	384	490
G	14	16	18	20	23	26	29	33	37
H	54	71	94	123	160	207	271	351	453
I	70	90	115	147	188	240	309	395	505
J	-21	-29	-41	-57	-79	-109	-152	-211	-293
K	4,286	5,265	6,467	7,945	9,759	11,988	14,726	18,089	22,221
L	2	3	3	4	5	7	9	11	14
M	2,840	2,840	2,840	2,840	2,840	2,840	2,840	2,840	2,840
N	2,928	2,928	2,928	2,928	2,928	2,928	2,928	2,928	2,928
Ø	1,699	1,839	1,991	2,155	2,333	2,526	2,735	2,961	3,205
P	794	835	877	922	969	1,019	1,071	1,125	1,183
Q	1,658	1,792	1,946	2,105	2,275	2,467	2,672	2,889	3,130
R	8	10	12	15	18	22	27	34	41
S	905	1,004	1,114	1,233	1,364	1,507	1,664	1,836	2,022
T	1,658	1,792	1,946	2,105	2,278	2,467	2,672	2,889	3,130
U	-126	-150	-178	-212	-252	-300	-357	-425	-505
V	1	2	2	2	3	3	4	5	6

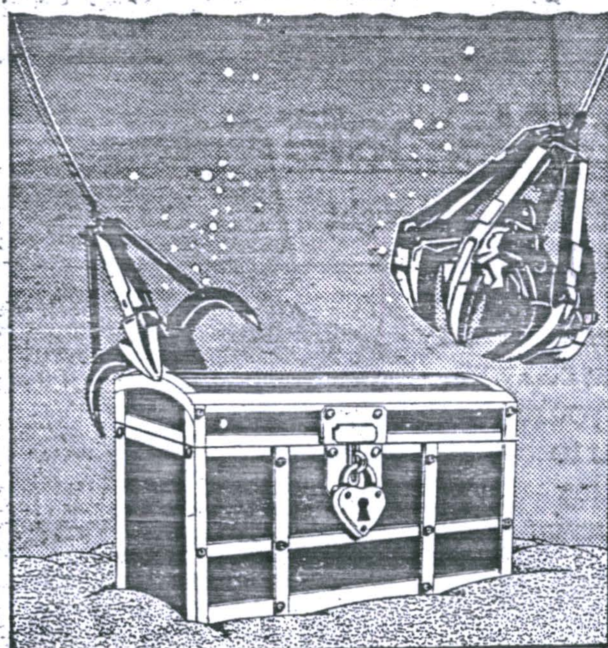
To Bill Barr

DAILY MAIL 23rd August 1982

file LOS

A SHAMELESS GRAB OF OUR TREASURES . . . AND ALL CONDONED BY THE FOREIGN OFFICE

The unleashing of a sea monster



BY ANDREW ALEXANDER

THREE stories concerning the Foreign Office.

First: During the Falklands Crisis, Chile was seriously considering an attack on Argentina. Immediate reaction of the Foreign Office was that this should be strongly *discouraged.*

Second: It was discovered recently by an indignant Government Minister that Britain, for some curious reason, pays the cost of Irish lighthouses. The Foreign Office, however, pleaded for no change in the arrangements because this might 'upset' Dublin. And this at a time when Mrs Thatcher wanted Britain's displeasure with Mr Haughey to be known.

The third story is longer and more complex, though it again exemplifies, in passing, the Foreign Office's continuing desire to appease.

An apparently innocuous body called the United Nations Conference on the Law of the Sea has been at work for some years putting up a plan for a new, rich and potentially dangerous international organisation which would be used against Western industrialised nations' interests.

Impudence

The story begins in the 1960s when the United Nations passed a resolution declaring, fatuously, that the resources of the world's sea-bed were 'the common heritage of mankind.'

As the years passed it has become increasingly clear, thanks largely to the investment and expertise of various Western commercial concerns, that the sea-bed is rich—potentially hugely rich—in exploitable minerals. These include copper, cobalt and manganese.

So UNCLOS produced a formula to govern the recovery of such minerals. It was a formula of breathtaking impudence.

There would be an International Sea-bed Authority. It would set up a concern called Enterprise, with headquarters in Jamaica; it would license deep sea mining in international waters throughout the world.

Any company or consortium applying for a licence to prospect and mine in a particular area would be required to hand over half the area to the ISA and to sell its deep sea mining technology to the ISA at a price to be determined by that body.

In the event of no agreement there could be arbitration on price. But that is a meaningless 'safeguard' given that mining companies would be very reluctant to offend the ISA with its vast monopoly power over the sea-bed.

The ISA would get a big chunk of the revenue from the sale of the minerals. And it would agree to the sale subject to what it saw as world needs.

The ISA would consist of all the nations of the world operating on a one nation, one vote principle.

The powerful Executive Council would be made up of 36 nations. This group could, incredibly, exclude several of the handful of nations which actually did the mining while including a number of land-locked countries which could not mine anything.

The UNCLOS formula laid down, for example, that 18 of the 36 nations are to be chosen on a geographical basis covering Africa, Asia, Eastern (Socialist) Europe, Western Europe and Latin America.

Hang on, the sharp-eyed will say, what about North America? Where is Australasia ? You may well ask.

Busybody

The United States, expected, incidentally, to provide 25 per cent. of the initial funds to set up the ISA, would probably get in as one of the group of four to be chosen from the eight States with the largest investment in ocean mining. But it is not certain.

In any case the 36-man executive would certainly consist predominantly of non-Western and non-ocean mining nations. Several would of course be land-locked.

The distribution of profits is seen by UNCLOS as a tremendous opportunity for transferring wealth from the West to Governments of the Third World. What the formula will be is not certain, but it is unlikely to be one of which the Western Nations would approve.

In other words the U.S., Britain, France, Canada, and Germany, etc., would be involved in spending large sums to mine the ocean bed at times and places permitted by the ISA.

The profits would accrue to the ISA for distribution to those who have not lifted a finger in the entire enterprise. Or the funds could be used to make the ISA a rich and powerful international busybody.

Heritage

Why, you may ask, should Luxembourg or Paraguay or the Central African Republic or Hungary or Afghanistan be the beneficiaries ? The reply is that, you see, it has been acknowledged that the resources of the seabed are 'the common heritage of mankind'.

The only good news about UNCLOS and its proposed convention is that in the spring the Reagan Administration changed its previous stand at the UN and decided to vote against the draft document. The Third World was outraged. Britain — oh, how did you guess ?—boldly abstained.

Amendment of the proposed convention is now being sought. The possibility of no convention at all is being suggested in some quarters. It is the best idea at the moment.

But the Foreign Office (and this is the nub of story No.3) still shows itself willing to go along with a particularly gratuitous abandonment of certain British interests.

For it is one of the suggestions of the international plan that islands which are uninhabited or unable to sustain economic life on their own, would have no Continental shelf rights around them. These rights, covering minerals, normally extend to 200 miles out to sea and sometimes beyond.

Enemies

For Britain that would mean the abandonment of rights around Rockall, perhaps South Georgia near the Falkland Islands, the South Sandwich Islands and other inhospitable places.

I rejoice to report that two Government departments have declined to go along with this and the Foreign Office has been told to think again.

But more than just the rules about Rockall need to be thought about again. The world is in danger of creating a new sea monster. Britain, with her experience and her maritime interest, should be to the forefront of that monster's enemies.

MPs, sadly, seem to know next to nothing about UNCLOS and its plans. When Parliament returns in the autumn there should be a thorough debate to air this hitherto almost undiscussed matter.

Dear Bill,

Ian MacGregor, the American chairman of British Steel Corporation, sent me this. He believes there is now strong support in England for an alternative seabed mining regime, and hopes that we will make the strongest possible effort to dissuade Mrs. Thatcher from signing the LOS treaty.

Bob [illegible]

Personal August 24, 1982 file LOS

The Honorable James L. Buckley

Dear Senator Buckley:

On August 10, Bill Salmon called and cross-examined me as to my motives for requesting a meeting of our LOS industry leaders with Secretary George Shultz. Attached is a copy of my July 8 letter to Secretary Shultz asking for such a meeting. Mr. Salmon informed me that the implementation plans for seeking an alternative seabed mining regime were now in your hands and that henceforth he would be the coordinator for requests such as mine. Since I have not heard further from him on this matter, I ask that you consider taking whatever steps are necessary to arrange for industry leaders and me to meet soon with Secretary Shultz. I believe such a meeting is urgently needed and would be in the best interests of the State Department and the Reagan Administration for the following reasons:

1) The many industry leaders who have been helping us over the past two years with the LOS negotiations, starting with the President's Strategic Minerals Task Force, strongly support the President's decision not to sign the LOS treaty. The American Mining Congress, American Petroleum Institute, National Association of Manufacturers, Chamber of Commerce of the U.S., National Ocean Industries Association, National Federation of Fishermen, and the National Fisheries Institute fully support the President's decision. Moreover, several of our most prominent industry leaders have already assisted the President in seeking European industrial support for an alternative seabed mining regime.

2) Our industry leaders, having fought for so long against an unsatisfactory LOS treaty, believe that an aggressive, high-level diplomatic effort is required to achieve commercially-viable, alternative, deep seabed mining arrangements. They recognize that this will be a difficult task, but they see a good chance of success if the President himself intervenes early and decisively, making it clear to our allies that an alternative regime is a top priority and of special importance to him. Without aggressive interventions by the President, and U.S. Cabinet officials, our industry leaders fear that European heads of state would conclude that President Reagan had not attached a high priority to an alternative regime as evidenced by his limiting U.S. intervention to a lower level. In line with this view, European heads of state would then see no compelling reasons for withholding or delaying signature of the LOS treaty because such signature would not, in all likelihood, be viewed by the U.S. as inimical to its basic interests, nor highly objectionable to the President.

3) Our industry leaders will become disillusioned with the Administration's LOS approach if they believe the President's directive to pursue an alternative regime has not been carried out aggressively and purposefully. Failure to follow-through vigorously would be seen by them as a deliberate backing-away from the President's commitment to protect U.S. ocean interests outside of the LOS treaty.

Those industry leaders experienced in international negotiations are convinced that a less than all-out effort would quickly convey to European heads of state and cabinet officials a lack of resolve on our part and an obvious unwillingness to commit the resources needed for protection of shared ocean interests outside of the LOS treaty.

I think there is little chance that a low-key approach would succeed in disengaging our allies from the LOS treaty and having them join with us in an alternative regime. However, if the judgement of the Administration is that the low-key approach will work, then it would be best to so inform our industry leaders as soon as possible. In good faith, we have no other option. Right now, they would regard such an approach as placing in extreme jeopardy the Reciprocating States Agreement, the interim agreement on exploitation of polymetallic nodules, and the Private Commercial Arbitration Agreement. Additionally, our industry leaders feel that a low-key approach would negate the efforts they have made to persuade their European CEO counterparts of the undesirability of the LOS treaty and the merits of joining with us in an alternative regime (there is now strong opposition to the LOS treaty in the private sectors of allied countries). Finally, the support of Congress for the President's decision would deteriorate rapidly if our industry leaders lose confidence in the Administration's ability to develop a U.S.-flag ocean mining industry.

Sincerely,

Bob

Robert B. Keating

cc: Bill Barr

July 8, 1982

Secretary of State-Designate George P. Shultz
Department of State
Washington, D.C.

Dear Mr. Secretary-Designate:

Industry leaders who have been helping us with the Law of the Sea deliberations wish to meet with you to discuss how they might assist in the implementation of the President's decision not to sign the LOS treaty. They believe that they can be of immediate help in dissuading our major allies from signing the LOS treaty through their contacts with foreign industry leaders. They also wish to assist with the strategy and tactics needed to build an alternative seabed mining regime.

If you could spare a few moments, I would invite the following industry leaders to meet with you at a time and place convenient to you.

Ambassador James L. Malone
Assistant Secretary of State for OES

Charles F. Barber
Chairman & CEO,
ASARCO, Inc.
(also Chairman, American Mining Congress)

James Lesch
Chairman & CEO,
Hughes Tool Company
(also Chairman, National Ocean Industries Assoc.)

Bill Wearly
Chairman, Executive Committee
Ingersoll-Rand Company

Taylor Ostrander
AMAX, Inc.

Sincerely,

Bob

Robert B. Keating
LOS Industry Leader Group

Bill -
Pls. draft short letter for my sig., perhaps quoting from 1 or both Pres. statements. I see no purpose in meeting w. the enemy, do you?

TJ

ID # 090356

FG007

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING

☐ H - INTERNAL

☑ I - INCOMING

Date Correspondence Received (YY/MM/DD) 82/07/28

Name of Correspondent: James A. Armstrong

☑ **MI Mail Report** **User Codes:** (A) ______ (B) ______ (C) ______

Subject: Opposes the administration decision not to sign the Law of the Sea Convention as adopted by the Conference on April 30, 1982. Requests a meeting with the President or his representatives to discuss same.

ROUTE TO: **ACTION** **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
✓ SC Rawl	ORIGINATOR	82/07/29		C	82/08/20
Referral Note:					
✓ OPD	A	82/08/20			/ /
Referral Note:					
		/ /			/ /
Referral Note:					
		/ /			/ /
Referral Note:					
		/ /			/ /
Referral Note:					

ACTION CODES:
- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure
- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:
- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:
- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments:

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

5/81

5

Scheduling

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.

THE WASHINGTON OFFICE
110 Maryland Avenue, N.E., Washington, D.C. 20002 (202) L14-2350
James Armstrong, President Claire Randall, General Secretary

July 22, 1982

Foward to OPD

090356

President Reagan
The White House
Washington, D.C. 20500

Dear Mr. President:

The Governing Board of the National Council of Churches of Christ, on whose behalf I write to you, was concerned by your announcement on July 9, 1982 that your Administration will not sign the Law of the Sea Convention as adopted by the Conference on April 30, 1982, and, as further stated by you, "our participation in the remaining process will be at the technical level to involve only those provisions that serve the United States' interests".

We must respectfully disagree with your decision. In rejecting this treaty you have isolated the United States in a sea of global support for the Convention and you have essentially eliminated a leadership role for your Administration in the necessary, albeit difficult, development of comprehensive international law. You appear to have placed us in an adversarial relationship with the 150 or more countries who have participated with us in the process.

Three United States Presidents across party lines have invested nine years of good-faith negotiating effort to reach what you yourself have characterized, "as an important achievement which signifies the benefits of working together effectively balancing numerous interests".

Many Americans believe that this comprehensive ocean treaty is essential precisely because it protects United States foreign policy interests in guaranteeing the rule of law over two-thirds of the earth's surface. As the world's greatest maritime power, the United States has a stake in the treaty's provisions; on navigation and overflight, on maritime commerce, access to sea resources such as oil, gas, fisherie deep seabed minerals, on environmental protection, marine research, limitations on coastal state aggrandizement at the expense of international community rights, and o agreement to pursue peaceful settlement of virtually every type of oceans-related dispute.

Mr. President, you stated that, "the United States has long recognized how central the world's oceans are to mankind, and how important international agreements are to the use of these oceans", and you recognized "many positive and very significant accomplishments in the Treaty". However, the decision to withdraw from the law of the sea process now will only invite efforts to deny the United States key benefits of this carefully negotiated treaty.

We are discouraged by such a possibility. We are painfully aware of the influence our country, if it chooses to stand outside the treaty, to damage its efficacy and credibility. The Law of the Sea Convention needs the signature of the United States

Without that signature the Convention will undoubtedly become international law with most of our allies adhering to it.

The Governing Board of the National Council of the Churches of Christ in the USA, the community of United States Protestant and Orthodox churches, has affirmed through the years the Biblical message that the Creation is a gift of God for all people that dwell within. We are, in spite of human resistance, to be held accountable as stewards of this gift to assure that it serves all people and is preserved for future generations. The Governing Board as a result has supported those developments which it feels show promise of leading to a more just international order. The United Nations Law of the Sea Convention is just such a development.

In light of the above, we respectfully urge you to reverse your decision, and to approve United States participation in the Preparatory Commission which will convene 90 days after the 50th signature to draft the detailed rules for mining the international deep seabed.

We stand ready and eager and would welcome the opportunity to meet with you, Mr. President, or your representatives to discuss with you further the depth of our concern regarding our country's relationship to the law of the sea process.

I remain,

Sincerely yours,

James A. Armstrong

Bishop James A. Armstrong
President

JAA/bel

ROUTING AND TRANSMITTAL SLIP

Date: 9/20/82

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Mr. Bill Barr		
2.		
3.		
4.		
5.		

	Action		File		Note and Return
	Approval		For Clearance		Per Conversation
	As Requested		For Correction		Prepare Reply
	Circulate		For Your Information		See Me
	Comment		Investigate		Signature
	Coordination		Justify		

REMARKS

This is a copy of the letter sent in reply to the National Council of the Churches of Christ along with the incoming letter

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
Otho E. Eskin	4321 NS
	Phone No. 632-9098

5041-102
☆ U.S. G.P.O. 1977-241-530/3090

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

Chron

Ms. Claire Randall
General Secretary
National Council of the
Churches of Christ in the U.S.A.
110 Maryland Avenue, N.E.
Washington, D.C.

Dear Ms. Randall:

The Secretary has requested that I reply to your letter of August 13, concerning the interest of the National Council of the Churches of Christ in the U.S.A., in the Law of the Sea Treaty.

We greatly appreciate your organization sharing its views on the Law of the Sea Treaty, as was outlined in Bishop Armstrong's letter to the President. In this regard, during the recently completed negotiations in New York, the U.S. delegation made every effort to achieve compromises on the seabeds provisions which were acceptable to all nations. However, there was an unyielding refusal on the part of some of the participating nations to engage in serious negotiations on most of the major concerns raised by the United States. Since the President's objectives, as outlined in our enclosures, were not met, the U.S. called for a vote on the adoption of the final text of the treaty, and subsequently voted against it.

On balance, the provisions of the treaty dealing with navigation, overflight and continental shelf activities are consistent with United States interests. However, the proposed seabed mining regime is not acceptable. Four U.S. administrations have taken the view that each portion of the Law of the Sea Treaty must stand on its own merits if the entire treaty is to be acceptable. The United States is currently in the process of developing an ocean policy in light of the Law of the Sea Conference which will continue to fully protect our strategic and resource interests.

Again, thank you for sharing the views of your organization on this important issue.

Sincerely,

Otho E. Eskin
Director,
Office of Ocean Law and Policy

Enclosures:

1. The President's January 29 LOS Statement
2. Ambassador Malone's April 30 Statement

Drafted:OES/OLP:REWatkins:wlp
9/8/82 X21206

Cleared:OES/OLP:BHoyle
OES/O:TKronmiller

DEPARTMENT OF STATE
EXECUTIVE SECRETARIAT

ACTION SLIP

UNC
(Classification/Downgrader)

DATE: 8/17/82

S/S CONTROL NUMBER
8224634

ACTION ASSIGNED TO: OES

DUE IN
S/S BY:

ACTION REQUESTED

- ___ STATE TO NSC MEMO
- ___ STATE TO
  - ___ TRAVEL AUTHORIZATION
- ___ STATE TO NSC TRANSMITTAL FORM
- ✓ DIRECT REPLY on behalf of S
- ___ REPLY FOR SIGNATURE BY ___
- ___ RECOMMENDATION FOR ___ UNDER COVER OF AN ACTION MEMO
  - ___ with Memorandum for the President
- ___ APPROPRIATE HANDLING
- ___ with Draft reply for signature by ___
- ___ with Comment or Recommendation
- ___ provide info copy under cover of State-NSC transmittal form
- ___ provide comeback copy for ___
- ___ FOR YOUR INFORMATION

ATTACH THIS ACTION SLIP AND ORIGINAL CORRESPONDENCE TO ANY SUBMISSION TO S/S

REMARKS/SPECIAL INSTRUCTIONS:

'82 AUG 17 PM 4:49

CLEAR WITH:

___ S	___ UNA	___ A	___ AF
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___ M	___ S/CPR	___ INM	___ ACDA
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___ TEAM B	___ M/EEO	___ RP	___
✓ TEAM C	___ M/WHL		
___ ~~IA~~	___ M/MO		
✓ S/S-I (RF)			

FROM: Arodia Amelio (NAME)

S/S-S: A 21522 B 28062 ~~C 28338~~ 28062

JJ

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.

THE WASHINGTON OFFICE
110 Maryland Avenue, N.E., Washington, D.C. 20002 (202) LI4-2350
James Armstrong, President Claire Randall, General Secretary

8224634

August 13, 1982

George P. Schultz
Secretary of State
The State Department
Washington, D.C. 20520

Dear Secretary of State Schultz:

I would like to bring to your attention a letter sent to President Reagan signed by the President of the National Council of the Churches of Christ in the USA, Bishop James Armstrong.

It expresses the depth of concern of the Governing Board of the Council regarding President Reagan's decision to withdraw United States support and signature from the Law of the Sea Convention.

The National Council of the Churches of Christ is on record in support of the Law of the Sea process and the Convention, and respectfully disagrees with the Reagan Administration's decision to remove the United States from a role of leadership in this process.

Sincerely,

Claire Randall

Claire Randall
General Secretary

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.

THE WASHINGTON OFFICE
110 Maryland Avenue, N.E., Washington, D.C. 20002 (202) L14-2350
James Armstrong, President Claire Randall, General Secretary

July 22, 1982

President Ronald Reagan
The White House
Washington, DC 20500

Dear Mr. President

The Governing Board of the National Council of the Churches of Christ, on whose behalf I write to you, was concerned by your announcement on July 9, 1982, that your Administration will not sign the Law of the Sea Convention as adopted by the Conference on April 30, 1982, and, as further stated by you, "our participation in the remaining process will be at the technical level to involve only those provisions that serve the United States' interests".

We must respectfully disagree with your decision. In rejecting this treaty you have isolated the United States in a sea of global support for the Convention, and you have essentially eliminated a leadership role for your Administration in the necessary, albeit difficult, development of comprehensive international law. You appear to have placed us in an adversarial relationship with the 150 or more countries who have participated with us in the process.

Three United States Presidents across party lines have invested nine years of good-faith negotiating effort to reach what you yourself have characterized as "an important achievement which signifies the benefits of working together effectively balancing numerous interests."

Many Americans believe that this comprehensive ocean treaty is essential precisely because it protects United States foreign policy interests in guaranteeing the rule of law over two-thirds of the earth's surface. As the world's greatest maritime power, the United States has a stake in the treaty's provisions; on navigation and overflight, on maritime commerce, access to sea resources such as oil, gas, fisheries, deep seabed minerals, on environmental protection, marine research, limitations on coastal state aggrandizement at the expense of international community rights, and on agreement to pursue peaceful settlement of virtually every type of oceans-related dispute.

Mr. President, you stated that "the United States has long recognized how central the world's oceans are to mankind, and how important international agreements are to the use of these oceans," and you recognized "many positive and very significant accomplishments in the Treaty." However, the decision to withdraw from the law of the sea process now will only invite efforts to deny the United States key benefits of this carefully negotiated treaty.

We are discouraged by such a possibility. We are painfully aware of the influence of our country, if it chooses to stand outside the treaty, to damage its efficacy and credibility. The Law of the Sea Convention needs the signature of the United States. Without that signature, the Convention will undoubtedly become international law with most of our allies adhering to it.

The Governing Board of the National Council of the Churches of Christ in the USA, the community of United States Protestant and Orthodox churches, has affirmed through the years the Biblical message that the Creation is a gift of God for all people that dwell within. We are, in spite of human resistance, to be held accountable as stewards of this gift to assure that it serves all people and is preserved for future generations. The Governing Board as a result has supported those developments which it feels show promise of leading to a more just international order. The United Nations Law of the Sea Convention is just such a development.

In light of the above, we respectfully urge you to reverse your decision, and to approve United States participation in the Preparatory Commission which will convene 90 days after the 50th signature to draft the detailed rules for mining the international deep seabed.

We stand ready and eager and would welcome the opportunity to meet with you, Mr. President, or your representatives to discuss with you further the depth of our concern regarding our country's relationship to the law of the sea process.

I remain,

Sincerely yours,

James A. Armstrong

Bishop James A. Armstrong
President

RESOLUTION ON LAW OF THE SEA TREATY

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.
475 Riverside Drive, New York, NY 10115

Adopted by the Governing Board
May 15, 1981

Whereas since 1970 the U.S. Government has supported the United Nations declaration that the resources of the seabed and the ocean floor beyond national jurisdictions are the "common heritage" of humanity; and

Whereas since 1970 the U.S. Government through bi-partisan endeavor has been committed to the conclusion of a comprehensive oceans treaty – the Law of the Sea; and

Whereas the Law of the Sea negotiations have been termed the "most significant single event in the history of peaceful cooperation and the development of the rule of law since the founding of the United Nations itself" (U.S. Ambassador to the Law of the Sea, Elliott Richardson, 1980); and

Whereas the new international ocean law will reduce world tensions by creating dispute settlement procedures to deal with conflicting interpretation of existing law, as well as in areas not precisely covered by law; and

Whereas the Law of the Sea negotiations represent the most important attempt to resolve conflicting international economic and commercial interests through a broadly-based multilateral framework; and

Whereas the Governing Board of the National Council of the Churches of Christ in the U.S.A. has stated that the "future allocation of food, energy and raw materials and the protection of the planetary environment cannot be determined fairly and accepted widely unless the representatives of all the world's peoples share in the great decisions that must be made"; and

Whereas "the United Nations has accomplished much and is still potentially the organizing center indispensable to human survival and the nurture of a genuine worldwide community"; and

Whereas the Governing Board of the National Council of Churches has called upon the religious communities of the United States to "press the federal government and private corporations to participate creatively in the development of more just and humane economic relationships";

Therefore be it resolved that the Governing Board of the National Council of the Churches of Christ in the U.S.A.:

Urges the present U.S. Administration to honor agreements previously negotiated, and to work toward a completed and signed treaty in 1981 to be followed by early ratification;

And be it further resolved that the Governing Board and its member communions inform the churches of the content and implications of the emerging Law of the Sea.

Policy Base: *The United Nations and the World Community*, adopted by the Governing Board, May 4, 1977.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 8, 1982

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: Deep-Sea Mining Agreement

As Bill reported to you this morning, the attached article suggests progress, but our three allies reserved their options to sign the LOS Treaty. The pressure should be kept on, and toward that end, the Meese op-ed piece would be useful. The last time I saw a draft of it, however, was in July, and it thereafter disappeared somewhere in the West Wing. I'd like to see the latest draft before it's put to bed.

RUSH

DOCUMENT NO. 090918 PD

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 9/7/82 ACTION/CONCURRENCE/COMMENT DUE BY: 9/8/82

SUBJECT: U.S., 3 Allies Sign Deep-Sea Mining Pact

	ACTION	FYI		ACTION	FYI
HARPER	☐	☐	DRUG POLICY	☐	☐
PORTER	☐	☐	TURNER	☐	☐
BARR	☐	☐	D. LEONARD	☐	☐
BOGGS	☐	☐	OFFICE OF POLICY INFORMATION		
BRADLEY	☐	☐	HOPKINS	☐	☐
CARLESON	☐	☐	COBB	☐	☐
DENEND	☐	☐	PROPERTY REVIEW BOARD	☐	☐
FAIRBANKS	☐	☐	OTHER		
FERRARA	☐	☐	____________	☐	☐
GALEBACH	☐	☐	____________	☐	☐
GARFINKEL	☐	☐	____________	☐	☐
GUNN	☐	☐	____________	☐	☐
B. LEONARD	☐	☐	____________	☐	☐
LI	☐	☐	____________	☐	☐
MONTOYA	☐	☐	____________	☐	☐
SMITH	☐	☐	____________	☐	☐
UHLMANN	X	☐	____________	☐	☐
ADMINISTRATION	☐	☐	____________	☐	☐

REMARKS:

1) Does this mean we are making progress on our alternative approach?
2) Should this be mentioned in the draft Op Ed piece we have prepared for Edwin Meese III for the New York Times?

Please return this tracking sheet with your response

Edwin L. Harper
Assistant to the President
for Policy Development
(x6515)

U.S., 3 Allies Sign Deep-Sea Mining Pact

By Thomas W. Lippman
Washington Post Staff Writer

The United States and three Western European nations have signed an agreement on deep-sea mining claims that removes another potential irritant to the troubled Atlantic alliance and gives new hope to American companies that this country can circumvent the mining provisions of the Law of the Sea Treaty.

France, West Germany, Britain and the United States agreed to resolve through consultations any conflicting claims filed by sea-bed mining consortia under their existing laws and to consult each other before issuing any authorization for sea-bed mining operations.

The agreement does not in any way indicate that any of the three European signatories will join the United States in refusing to sign the Law of the Sea Treaty, but it appears to enhance the prospects that this country can negotiate separate mining agreements outside the treaty with at least some of the industrialized nations.

The U.S. mining industry fears it will not be allowed access to the mineral riches on the ocean floor because the United States—alone among major industrial nations—has announced its refusal to sign the treaty. Yesterday, it welcomed the agreement with the West European nations as a possible breakthrough toward pacts that would circumvent the treaty.

"I think it's good news," said Charles Cook, vice president of the American Mining Congress. "It's significant that France, Britain and West Germany are in on this. They're the only ones besides us who have the wherewithal to do any actual mining, the ones who have the technology."

"With the treaty, the door was shut on us," said Conrad Welling, executive vice president of Ocean Minerals Co., an ocean-mining consortium consisting of Lockheed Corp., Standard Oil Co. of Indiana, Royal Dutch Shell and Royal Bos Kalis Westminster, a Dutch marine construction company.

"The only other recourse we have is through agreements with individual countries," he said. "This is a step toward that."

But Lee Kimball, director of an independent group, Citizens for Ocean Law, who has closely monitored treaty developments, said, "You'll hear some people claim this is a breakthrough, but in no way does this indicate that Britain, France or Germany is going to back off from the treaty and join our scheme."

The treaty, which was approved overwhelmingly in a U.N. vote, would give exclusive control of the vast deposits of manganese, nickel and cobalt on the ocean floor to an international authority that would approve mining ventures, issue licenses, validate claims, set production limits and distribute profits among signatory nations.

The United States has said it will not sign because the treaty's sea-bed mining provisions are irreconcilable with this country's economic philosophy. If the other industrialized nations accept the international regulatory program, however, the United States faces the possibility of being frozen out of potentially lucrative and strategically vital mining operations.

In the four-nation interim agreement signed Thursday, the European nations reserved the right to ratify the Law of the Sea Treaty. The framework agreed to permits exploratory work in progress to continue until the treaty takes effect and, as a senior administration official put it, allows the Europeans to "keep their options open."

"It is framed so as not to prejudice the position of any of the parties in respect to the Law of the Sea convention," the State Department said.

Fro Bob Keating
-File - LOS

THE TIMES

28th September 1982

D. Cameron Watt

Beating the US under the sea

In the next few weeks the Cabinet will be faced with another desperately difficult decision. Like that over the Soviet gas pipeline, it will involve defying President Reagan: it will also involve a conflict of British interests and Mrs Thatcher's dislike of any state enterprise not dependant on profit for its survival.

The issue is whether to sign the draft Law of the Sea Treaty, the result of nearly nine years' negotiation by a United Nations conference. In April the United States voted against adopting the draft text. Britain, West Germany, Italy and some American client states abstained. So did the Soviet Union and its clients. The vast majority of countries, including Australia, New Zealand and Canada, together with France and Japan, voted for adoption.

The text, ironically, is largely of American provenance. Mr Reagan turned against it in March 1981, held up the conference for nine months, and then announced a list of radical alterations without which the US would not sign. In particular, he objected to being compelled to hand over what he regarded as American technological secrets to a multinational enterprise. Mr Malone, his special representative, came here to enlist British support. So anxious were the other conference members for the US to sign that a mediatory group led by New Zealand and Australia secured most of the American desiderata in the final draft text. But, as Mr Muldoon, the New Zealand Prime Minister, subsequently revealed, Washington rebuffed their efforts.

At the same time, the American interests opposed to the treaty text enlisted the support of the British right-wing organization Aims of Industry, which had hitherto remained undisturbed by the alleged iniquities of the draft text. A full-blooded campaign was unleashed in the British popular press, whose Foreign Office-bashers, having exhausted the Falkland seam, let their imaginations run away with them in listing all the putative goodies about to be given away by our weak and wicked diplomats.

Whether this will have any effect on the Cabinet remains to be seen. One at least of the bash-a-diplomat for Britain brigade is among Mrs Thatcher's most fervent admirers. A lot depends on the manner in which the decision is presented to the Cabinet. Since Mrs Thatcher abolished the inter-departmental committee which, under the Lord Privy Seal, used to iron out disagreements on matters of marine policy, the Cabinet will get the issue raw.

The different departments involved are just digesting whatever responses their particular constituencies have been capable of producing. At a rough guess, the Foreign and Commonwealth Office, Trade, Transport, Defence and Environment will support signing the treaty. Energy and Agriculture and Fisheries are more difficult to guage; ideologically, if that is the right word, both are instinctively nationalist and protectionist. On the other hand, the treaty would legitimize Britain's 200-mile fisheries zone and extend our rights to offshore oil resources from 200 miles to the edge of the continental shelf

The balance may rest on the Department of Industry; this lends importance to the ideological inspiration which Aims of Industry and others have derived from the demonologies evoked by the treaty's American enemies. They object to the treaty proposals for the mineral resources of the ocean bottom beyond the 200-mile or continental shelf limits. To listen to their propaganda one would believe that only American companies have the know-how or the wealth to develop these resources.

In fact the five multinational consortia involve British, French, Belgian, West German and Dutch as well as American companies. The draft treaty declares these resources the common heritage of mankind; creates a seabed authority to licence exploration and exploitation and attaches to this an "enterprise" which has the right to exploit half each licensed site and to which licencees must sell the relevant technology. The authorities could also control the rate of exploitation in the interests of the land-based producers of the minerals involved.

These provisions in fact affect only four British companies. One has openly rebutted American attempts to enlist its support against the treaty. The other three, all genuinely multinational in their operations, unlike US Steel, which is leading the campaign in the US, know how vulnerable they would be to retaliation in the Third World countries where they already have mining concessions. Though known to be unhappy, especially on the production limitation issues, they wisely keep their silence.

Though by no means lacking in dedication to the principles of free enterprise, those companies have for years treated the world as they find it, operating successfully in *etatiste* and free enterprise states alike; they do, however, have difficulties with the economic nationalism of the United States. The danger is that they may not speak with one voice to the Department of Industry; and ideological clamour, rather than a proper assessment of British, rather than American, interests may win the day.

It is not seemly for a British Cabinet to be swayed by American-inspired lobbying; especially when American ocean mining legislation includes clauses injurious to Britain's shipping interests. And if Britain does not sign, who will there be to help this or the next American Administration to descend from its ideological cloudland and set sail again on the real sea?

The author is Stevenson Professor of International History at the University of London.

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SINK the Floating OPEC

Do we really want an international cartel with a stranglehold on oceanbed resources?

BY DOUG BANDOW

On April 30, the United States concluded its participation in what had become a supreme act of masochism: the United Nations Conference on the Law of the Sea (UNCLOS). Though the leaders of the developing countries, and their acolytes, are now singing hosannahs to the proposed 175-page treaty (or convention), with its 439 articles, President Reagan has done the world's peoples a favor by announcing that the United States will not sign it.

The treaty increases territorial sea limits from 3 to 12 miles, establishes 200-mile exclusive economic zones, promulgates rules on ocean marine research and pollution control, and provides international navigation rules. It also creates an international regulatory system governing deep seabed mining.

Unfortunately, the treaty, approved by a Conference vote of 130 to 4, with 17 abstentions, is a fatally flawed document. It is inconsistent with this country's economic and security interests and is inimical to the principles of liberty upon which our country was founded.

The treaty's most egregious flaws involve the Orwellian deep seabed mining regime that it would create: an "International Seabed Authority," ruled by an Assembly and a Council, to regulate deep seabed mining and redistribute income to developing countries, and a subsidiary "Enterprise" to mine the seabed for the Authority. This international Leviathan would severely restrict the potential world supply of minerals, and, in particular, US access to important strategic minerals. It also would pose pernicious political precedents for future international diplomatic and economic relations.

Access to the deep seabed is important because the seabed is covered with billions of polymetallic nodules, containing cobalt, manganese, nickel, and copper. Significant sulphide deposits have also recently been discovered.

Increasing the world supply of these resources would be of economic benefit not only to the United States but to the rest of the world. It would be of particular value to developing countries that are seeking to industrialize. Increased supplies of seabed minerals also would enhance our national security by reducing our overseas dependence on potentially unstable land-based suppliers of critical minerals, such as cobalt.

The treaty adopted in April, if accepted by the industrialized countries, would discourage any access to seabed resources. Virtually any regulatory system, however limited, tends to limit experimentation, depress productivity, and increase costs, creating inefficiencies and misallocations in the marketplace. But the byzantine regime created by this treaty is almost unique in its perversity, threatening development of deep seabed minerals in several ways.

First, the incomprehensible regulatory system is specifically designed to restrict private-sector development of the seabed. A company must survey two sites and turn one over *gratis* to the Enterprise before even applying for a production authorization. To then receive permission to mine its remaining site, a company must potentially compete with the Enterprise, developing nations, and other private companies. A production authorization also could be denied if the company was found to violate either the antimonopoly or antidensity provisions, which restrict the number of mine sites available to any one country—a restriction aimed at the United States.

Permission to mine would be finally subject to votes by the Legal and Technical Commission, the membership of which could be stacked, and the 36-member Council, which is dominated by developing countries. The US government has no effective blocking power, even in conjunction with other Western industrialized countries, despite their disproportionate political and economic interests in seabed mining. Hence, access by US firms would be dependent upon the whims of economic competitors, political adversaries, and nations that want *no* seabed mining.

Finally, the so-called pioneer investors—those active before ratification of the treaty—would be protected by grandfathering them into (not out of) the Authority's regulatory miasma. Although the four existing private seabed mining consortia and four specified companies controlled by foreign governments would each be guaranteed access to one site, other potential miners from the private sector could be frozen out by Council votes.

Second, many of the treaty's objectives are openly antimining, including "orderly and safe development," "rational management," "just and stable prices," and "the protection of developing countries." This special-interest protectionism is also embodied in the article limiting deep seabed mining production and authorizing commodity agreements and in an article (added late in the negotiations) governing subsidies to land-based producers.

In addition, a moratorium has been placed on the development of minerals other than manganese nodules, such as sulphides, until rules and regulations are adopted by the Authority. Of course, any nation opposing further resource development could, and probably would, block any new rules and regulations indefinitely.

Third, the convention mandates the transfer of mining and processing technology from private miners to the Authority and developing countries. *Technology* could be interpreted to include engineering and technical skills as well as actual equipment, and there is no effective compensation system for the unauthorized disclosure of any transferred technology.

Fourth, the treaty imposes significant financial burdens both on private miners and industrialized countries. The Authority and the Enterprise would be bureaucratic horrors, with initial start-up costs in the hundreds of millions, or billions, of dollars, and annual operating costs in the tens of millions. To fund them, miners would be subject to an application fee ($500,000), a fixed annual fee ($1 million), and a production, or royalty, charge. Developed countries would be required to provide subsidies in the form of interest-free loans and loan guarantees. The US share would be 25 percent. Moreover, the final session added the requirement that the sponsoring *country* of a miner be liable for the miner's obligations if the company were unable to perform.

Fifth, the seabed articles create a system of monopolistic advantages for the Enterprise that discriminates against private miners. The Enterprise gains a donated mine site for each and every site for which a developer seeks production authorization. It gains transferred technology directly from its competitors. And it receives from the Authority and from signatory nations subsidized financing and exemptions from taxes and Authority payments.

These competitive disadvantages for private miners include specific consideration granted to 125 developing countries and some 105 "land-locked and geographically disadvantaged" countries. The United States is neither, of course.

Sixth, even the severely restricted access for

Life without the Treaty

What happens if the US government stands firm in its decision not to sign the United Nations Law of the Sea treaty? Does it leave the United States in international isolation? Will it be impossible for US firms ever to mine the seabed?

It is true that on April 30 the United States was joined by only three other nations in voting against the Conference treaty. In the aftermath, the words *isolated* and *isolation* have shown up frequently in news reports and former diplomats' comments on the US vote and on President Reagan's July announcement that the United States would not be signing the agreement.

Yet 17 other nations—*including the Soviet Union, Britain, and West Germany*—failed, by abstaining, to vote for the treaty. Although greatly outnumbered by the 130 nations voting for the agreement, the abstaining and nay-voting countries are the source of 60 percent of world production and of contributions to the United Nations. In fact, the only major industrial nations voting for the treaty were France and Japan—and both pointed out that they were not saying whether they would ultimately ratify the treaty.

Sixty ratifications are needed for the treaty to go into effect, but analysts now speculate that they may be a long time in coming. Moreover, if 60 ratifications do come through, they may well be mainly from small nations. If so, the US government's desire for further negotiations on an alternative "mini-treaty" could bear fruit. The now-defunct Reciprocating States Agreement (RSA)—negotiated by France, West Germany, Britain, and the United States within the context of UNCLOS—could be the starting point.

The aim of the RSA was to provide a framework for harmonizing national ocean-mining legislation among its signatories and for delineating mine sites. It was to be open to signing by any nation, signatory or nonsignatory to the Law of the Sea treaty, industrial or developing. It attempted, not to regulate seabed mining, but to provide an international legal environment in which development of oceanbed resources might proceed.

Critics of the US stance against the UN treaty worry that, without it, US firms will be unable to obtain financing for the huge capital investments needed to explore and mine the ocean floor. The mining industry itself, however, has enthusiastically supported the Reagan administration's refusal to sign the treaty. As pointed out in a Heritage Foundation report ("The Law of the Sea Treaty: Can the US Afford to Sign?"), it seems doubtful that financing would be forthcoming anyway under the restrictive conditions imposed by the treaty; and with or without the Law of the Sea treaty, credit would be extended to ocean-mining firms on the basis of their existing assets and not their ability to produce seabed minerals.

The advantage of a treaty, then, would not be in the area of financing but in providing the climate in which potential seabed developers might risk their capital on such ventures. And the industry seems willing to bet on there being a viable alternative to the Law of the Sea regime.

—M. Z.

private miners could be swept away by a three-fourths vote of the member nations after the Review Conference meets 15 years after the commencement of commercial production. Thus, amendments to end private mining approved by the Third World and Soviet bloc could take effect without the consent of the United States and the other Western industrialized nations, irrespective of the seabed investments that had been made in the intervening time. Meanwhile, prejudicial changes in customary international law might preclude a return to open ocean access.

Overall, the treaty creates an environment enormously hostile to private investment. Yet it poses a far more serious danger to this country than simply hindering deep seabed development: ratifying it would legitimize the New International Economic Order (NIEO), a form of international hemlock being served by the developing states. The Law of the Sea conference was but one of the many forums through which the developing countries have been waging economic warfare on the developed nations.

The core of the developing countries' ideology is that economic relations are a zero-sum game, with rich countries having grown wealthy at the expense of poor ones. Third World poverty is seen as a legacy of colonialism, for which the industrialized countries owe reparations.

To enforce this obligation, the developing countries want to create a system of international organizations controlled by them to redistribute the wealth of developed countries' peoples. Such wealth includes not only money but also resources and technology. Demands for preferential insurance and transportation rates and subsidized technologies and claims of expropriation rights all are part of this international socialist nightmare. Related to the NIEO are other totalitarian dreams, such as the New International Information Order, with Third World control of the international press.

In fact, the Law of the Sea treaty is crucial for NIEO proponents, because it would radically restructure international relations, forging new, redistributionist and collectivist legal relationships between developing and developed nations. Among other things, the treaty would establish a legal duty for economically successful countries to pay tribute to unsuccessful ones, Third World control over previously unowned resources and proprietary private technology, and a system of international governance that does not fairly reflect America's political and economic stake in the issues involved.

US acceptance of the treaty, in the words of former Maltan UN Ambassador Arvid Pardo, "however qualified, reluctant, or defective, would validate the global democratic approach to decision making." This would greatly accelerate the campaign to instill NIEO principles in other international organizations and institutions and over other global problems and unowned resources, such as the Antarctic and outer space.

The treaty is fundamentally flawed in its philosophical conception, as well. Though neither commentators nor industrialized country negotiators have paid much attention to philosophy, preferring, instead, to focus on practical economic effects, ideology may have been the deciding factor in these negotiations: it drove and controlled the entire process.

Indeed, the negotiations over the seabed articles were almost entirely an ideological struggle to define the meaning of "common heritage of mankind." The developing countries—the so-called Group of 77—seized the philosophical high ground, effectively setting the agenda for the entire conference. Their ideological aggressiveness essentially guaranteed, from the very beginning, that the West would lose on both the philosophical and practical issues.

The industrialized countries, instead of accepting the redistributionist "common heritage of mankind" principles supported by the Third World, should have stood firm for the fundamental notion, drawn from John Locke, that property ownership of previously unowned resources devolves on those who identify them and mix their labor and capital with them. So vesting ownership in producers—those who take the risks and who have the greatest connection with the resources—is both moral and just. It also has historical and international precedents; the development of the American West is one example.

The treaty embodies the bizarre idea that nations are equal owners of ocean resources—that they are, in essence, as Robert Goldwin put it recently, "stockholders, each with an equal share of stock and the equal voting right that goes with it." This philosophy of international corporate ownership, by restricting access and confiscating earned wealth, goes far beyond the traditional principle of commons, with communal ownership and access. Granting ownership interests to countries that don't even have contact with the resources fundamentally perverts property ownership rights.

Indeed, such self-indulgent claims of ownership are prompted by the naked avarice of some of the leaders of developing states. An oligarchy of international lawyers and diplomats would appropriate and rule in the interests of themselves and their ruling establishments back home; the fundamental rights of all individuals, *including most of the citizens of the developing countries*, would be venally sacrificed in the guise of international justice, fairness, and cooperation.

The seabed articles offend other deeply held American values, as well. For instance, restricting entry into seabed mining, setting production limitations, limiting the number of sites for mining, and mandating the transfer of private technology all abridge miners' and consumers' economic liberties.

Such economic freedom arises from the natural right of self-ownership and the necessary corollary right to transfer and trade the fruits of one's own labor. It also arises as a necessary adjunct—indeed, prerequisite—to political freedom, by restricting the

general authority of government over individuals and by preserving private counterforces to concentrated government power. The protection of these economic freedoms was one of the prime motivations for founding our democratic system, and the reasons for their protection remain just as compelling today.

Further, creating the Enterprise, with its monopolistic advantages of subsidized funding, donated mine sites, exemption from taxes and Authority payments, and transferred technology, violates the fundamental American antipathy toward government monopolies. Such cartels possess political power as well as economic power and are able to use their political power to aggregate additional economic power. This danger is even greater with the supranational, autonomous, and supremely political Authority.

What conceivable justification could there be for signing a treaty that discourages seabed development, sets dangerous political precedents for future international negotiation, and conflicts with fundamental American philosophical tenets? Some argue that the advantages of the other treaty provisions outweigh the disadvantages of the seabed articles. Others suggest that the lack of a universally accepted treaty could lead to anarchy, chaos, and maybe even war.

Both claims are nonsense. All too often we are asked to sacrifice very real philosophical and economic interests for amorphous and ephemeral foreign and defense policy objectives. The supposed advantages of the latter soon disappear; the disadvantages of the former persist.

For instance, the treaty would require eventual sharing of revenue from petroleum production from the outer margin of the continental shelf, discouraging energy development. The boundary provisions may be unsound. Marine science research would be severely restricted. And the pollution articles are at best marginally beneficial.

More important, the articles governing international navigation are not a major advantage to the United States. The location and depths of the world's straits, and the current state of military technology, suggest that America's military need for the treaty is limited. Further, economic and commercial interests make it likely that international navigation routes would remain open to commercial navigation without a treaty, even where belligerents with no respect for international law, such as Iran and Iraq, are involved.

The articles also offer little improvement over current customary international law. They retreat from free navigation in some instances and are dangerously ambiguous in others.

Indeed, even if the articles were clearly advantageous, such an idealized regime of international law cannot overcome reality. Any navigational guarantees are likely to be commonly supported only so long as it is in both parties' interests to do so. History is replete with examples of countries breaking treaties when they have considered it to be in their national interest. Thus, meaningful navigation protection will come from the ability and willingness of the US government to assure compliance and from the state of the bilateral or regional relations involved. Having no treaty might be marginally less efficient, but that disadvantage would not warrant accepting the costs of the other sections of the treaty.

The anguished cries of the internationalistic Cassandras about anarchy and war should not be taken seriously either. One need only look at the conduct of nations during the past two decades to see that most have behaved rationally. Simply signing international agreements in no way guarantees order; even if it did, the order resulting from this treaty would not be desirable.

But rejecting this treaty will encourage reliance on a different kind of order—the spontaneous order that arises from reliance on voluntary cooperation and the marketplace. Such order, based on freedom of choice and flexibility, is preferable to the totalitarian order embraced by the Third World.

The Reagan administration's decision to reject the treaty was not made simply to satisfy the commercial interests of a few mining companies. Rather, the aim was to attempt to ensure that fundamental philosophical, economic, and national security interests of the United States are adequately protected in the years ahead.

Of course, rejecting the treaty means the failure of a process nearly two decades in the making. But, the question of the *kind* of global structure being created is paramount, for as former Delegation Deputy Chairman Richard Darman wrote:

> *. . . the notion of conceding [the negative international precedents set by the proposed treaty] to avoid the precedent of Conference "failure" (meaning "lack of agreement") seems absurd. It would be to trade long-term, substantive failure for avoidance of temporary procedural failure. Trading these objectionable elements for marginal gains in the system of environmental protection and dispute settlement seems out of proportion. Trading them for questionable interests in treaty protection of distant-water military mobility seems a tie to the past at the expense of the future. And trading them to protect interests that might just as well be protected without a comprehensive treaty seems no trade at all.*

Rejecting the treaty also means risking the early death of the US deep seabed mining industry, for without a universally accepted treaty, there may be no US-flag seabed mining operations. If some foreign-flag seabed mining occurred under a treaty without our participation, however, the increased mineral production would still yield economic benefits to us. Moreover, if the return on seabed mining is high enough, some US seabed mining outside of the treaty is possible, since the geographical and technological characteristics of seabed mining create de facto property rights and discourage

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of refugees right out of Lewis Carroll, lovable eccentrics who seem to take their law from *Alice in Wonderland* instead of Blackstone—ruled that Oakland may sue to acquire the Raiders team and keep them from, as planned, moving to Los Angeles. That this may contravene the constitutional restraints against cruel and unusual punishment seems not to have weighed here. Perhaps that's another trial.

The ruling, presumably, was handed down by the White Rabbit himself. I don't know what Oakland's going to do with the Raiders. They can hardly turn them into a freeway or run a railroad through them. God knows there's no oil under them. Are they going to put swings on their field or monkey bars?

What I don't understand is, if you can condemn and obtain a football team, why didn't they try for the 49ers? Personally, I think they should have told the court they wanted at least the Cincinnati Bengals. If you can get a team by court order, why not the Dallas Cowboys? After all, they're America's Team, right? It's a nice idea, though. Maybe Yale should take over Notre Dame. God knows it would help New Haven—if anything can.

The action raises some nice points of law. If teams can't move, can individuals? What if the world's richest man has a stopover at the Oakland Airport? Can they get a writ from the California Supreme Court expropriating him under the right of eminent domain and forcing him to remain and pay taxes to the city of Oakland in perpetuity? Can they sell tickets to see him?

Is the ruling retroactive? Should it be applied nationally? If so, do the Dodgers go back to Brooklyn, the Giants to New York, the Lions to Detroit, the Rams to Los Angeles—indeed, to Cleveland, because that's where they originally came from? Do the Washington Redskins now go back to Boston? The St. Louis Cardinals go back to Chicago? Do the Chicago Bears become the Decatur Staleys again? After all, that's where they started. Where should the Braves go? Milwaukee first and then Boston? Do the Giants get out of Jersey?

Indeed, what would Oakland say if the courts in Pennsylvania decided its baseball team had to go back to Philadelphia, where it started as the Philadelphia Athletics 80 years ago? Does Los Angeles get the Chargers back?

The court ruled that Oakland "may acquire by eminent domain any property necessary to carry out any of its powers or functions." Funny. That's what Hitler said when he marched into Poland. The German word for eminent domain was *Lebensraum.*

In a way, it has always been cheeky of some carpet-bagging owner who made his money selling shirts to the army or guns to the Arabs, or whose grandfather bought furs for strings of glass beads, to be able to buy an athletic team like a set of electric trains or an Erector set and grandly superimpose the territorial mandate "New York" or "Chicago" or "Detroit" across their uniforms and feed on municipal pride and support. But, even if Al Davis, the well-known managing general partner, had called his team simply The Raiders, leaving blank the geographical identification, would this have protected him from the following "law"? "In this period of fiscal constraints, if the city fathers of Oakland in their collective wisdom elect to seek the ownership of a professional football franchise, are we to say them nay?"

Honest. That's what the court said. If they're asking me, the answer would be, "Hell, yes!"

Apart from all that, it's a lovely little grift. The city must pay "fair market value" for the condemned team. If you think they will, ask anybody whose beach house was condemned by government to provide a place for the public to drop its potato salad and sandwich wrappers and dogs' mistakes. The fair market value of the Rams in 1962 when Dan Reeves bought the club outright was $7 million. Ten years later, Carroll Rosenbloom acquired it for $19 million.

If you're beginning to see a trend, stick around. I think Al Davis is gonna feel like that little old lady with the fruit stand. He will get banana peels all over him. Sometimes, when the city takes over your property, it promises to help you reestablish in some other location. They'll probably help Al get a Roller Derby franchise in Dubuque.

As of late August, it appears that the Raiders will be starting the 1982 football season in Los Angeles. The California Supreme Court, in ruling that Oakland may go to court to attempt to retain the team under eminent domain, refused to grant an injunction keeping the team from moving while the case is decided. Later, the Ninth Circuit Court of Appeals, in a separate court battle between the National Football League and the Raiders, rejected an NFL request that the team be ordered to stay put while the NFL fights the move in court.—Eds.

Jim Murray is a sports columnist for the Los Angeles Times, *from which this article is reprinted with permission.*

Floating OPEC

(Continued from p. 32)

poachers, and economic or military retaliation by treaty signatories seems unlikely.

Still, in rejecting the treaty, the US government should begin building an alternative ocean resource regime based on current customary international law, which provides open access to seabed resources and allows miners to mine. Such an alternative mining system would be rooted in the traditional principles of freedom of the high seas and would be intended simply to create an international mechanism to vest and protect the resource property rights of those who seek to explore and develop the seabed and to resolve conflicts between them.

The Deep Seabed Hard Mineral Resources Act, passed in 1980 to provide an interim framework until the treaty came into force, should be amended to eliminate the prohibition on actual mining before 1988. Then the government must attempt to reach an agreement with other potential seabed mining nations for mutual recognition of claims and settlement of disputes over contested claims. Though the major industrialized countries now appear to be unwilling to sign the previously negotiated "Reciprocating States Agreement," after the administration's decision not to sign the Conference treaty, they may be amenable to less-formal arrangement, including even simple parallelism, that would have the same effect.

Such arrangements would recognize that free-market seabed mining and voluntary commercial exchange exploit no one. It also would define the "common heritage of mankind" as a common heritage of unimpeded and equal access to previously unowned resources and freedom to use individual initiative to develop those resources. And it would build an international system intended to benefit all the peoples of the world, not just an elite class of international bureaucrats, lawyers, and political leaders.

In building such a system, the United States would be creating a truly just international structure, which would promote free trade and economic prosperity. In doing so, our country would be enhancing the prospects for international cooperation and world peace.

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