20 May 1982

THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR JUDGE CLARK

FROM: Jim Cicconi

SUBJECT: Law of the Sea

The attached cable (from Congressman Fields' office) contains quotes from Mr. Leigh Ratiner during his recent visit to Jamaica.

This type of thing is the reason for concern by Fields, Breaux, Lott, etc. They seem to feel that elements negotiating the treaty from our side are working at cross-purposes to the President's expressed policies.

Assurances that NSC is on top of the situation would, I feel, go far toward allaying their fears.

Thanks.

PAGE 01 KINGST 04051 1112212 2867

ACTION OES-09

INFO	OCT-00	ADS-00	AID-07	INR-10	EUR-12	SS-10	OIC-02
	AF-10	CIAE-00	EB-08	EA-10	DODE-00	H-01	ID-15
	NEA-06	NSC-01	NSF-01	ARA-10	NSAE-00	COME-00	L-03
	DOE-10	TRSE-00	PM-05	EPA-01	INT-05	PA-01	CEA-01
	DOTE-00	OMB-01	CG-00	AGR-01	ACDA-12	JUS-01	ICAE-00
	SP-02	SPRS-02	/167 W				

----------155577 1119172 /52

R 102019Z MAY 82
FM AMEMBASSY KINGSTON
TO SECSTATE WASHDC 5159
INFO USMISSION USUN NEW YORK

~~LIMITED OFFICIAL USE~~ KINGSTON 4051

E.O. 12065: N/A
TAGS: PLOS, JM, US
SUBJECT: IMPLICATIONS FOR JAMAICA OF LOS TREATY VOTE

1. ~~(U)~~ - THE ARTICLE QUOTED BELOW APPEARED IN THE SUNDAY GLEANER ON MAY 9. TO BE ABLE TO ANSWER THE QUESTIONS WE ANTICIPATE FROM THE GOJ AS A RESULT OF THIS ARTICLE, THE EMBASSY WOULD APPRECIATE THE DEPARTMENT'S ASSESSMENT OF THE IMPLICATIONS FOR JAMAICA OF THE APRIL VOTE ON THE LOS TREATY.

2. (U) - BEGIN QUOTE: (HEADLINE) "NO" VOTE COULD CAUSE PROBLEMS HERE (END HEADLINE, BEGIN ARTICLE): THE VOTE BY THE UNITED STATES, ISRAEL, VENEZUELA AND TURKEY AGAINST THE LAW OF THE SEA TREATY HAS DERIOUS IMPLICATIONS FOR JAMAICA AND IS SOMETHING THE JAMAICAN GOVERNMENT SHOULD EXPLORE RAPIDLY, SAYS THE FORMER DEPUTY HEAD OF THE U.S. DELEGATION TO THE LAW OF THE SEA CONFERENCE, MR. LEE RATTINA, WHO UP TO APRIL 30 WAS DEPUTY CHAIRMAN OF THE U.S. DELEGATION TO THE U.N. LAW OF THE SEA CONFERENCE, SAID THIS WEDNESDAY AT A NEWS CONFERENCE AT THE TRYALL HOTEL, SANDY BAY, HANOVER. MR. RATTINA SAID THE COST OF SETTING UP IN JAMAICA, THE PERMANENT HEADQUARTERS OF THE INTERNATIONAL SEABED AUTHORITY COULD GO UP SUBSTANTIALLY FOR THE SIGNATORIES OF THE TREATY BECAUSE OF THE "NO" VOTE BY THE U.S., ISRAEL, VENEZUELA AND TURKEY. IT WAS IMPORTANT TO REMEMBER HE SAID, THAT HAD THE FOUR COUNTRIES, WHICH CAST THEIR BALLOTS AGAINST THE CONVENTION, VOTED IN THE AFFIRMATIVE, THEY WOULD HAVE BEEN EXPECTED TO CONTRIBUTE ABOUT 50 PERCENT OF THE BUDGET OF THE INTERNATIONAL SEABED AUTHORITY, THE HEADQUARTERS OF WHICH IS TO SITED HERE. HE CONTINUED: IF THE COUR COUNTRIES STAY OUT, THE COSTS OF THE INFRASTRUCTURE WILL BE SHARED AMOUNG REMAINING COUNTRIES AND THAT IS A DIFFICULT FINANCIAL BURDEN. THE FRENCH MAY WANT TO SIGN THE CONVENTION BUT MIGHT NOT WANT TO PICK UP 25 PERCENT SHARE OF THE BUDGET AND MAY STAY OUT OF THE TREATY TO AVOID THE INCREASED COST. THIS HAS SERIOUS IMPLICATIONS FOR JAMAICA AND IS SOMETHING THE JAMAICAN GOVERNMENT SHOULD EXPLORE VERY RAPIDLY. THE U.S. IS GOING TO TRY TO KEEP INDUSTRIALIZED COUNTRIES OUT OF THE CONVENTION AND THAT COULD MEAN NO INTERNATIONAL SEABED AUTHORITY HEADQUARTERS WOULD BE CONSTRUCTED OF THE TYPE EXPECTED IN JAMAICA. MR. RATTINA SAID THAT IN THE NEXT THREE WEEKS THE U.S. SHOULD BEGIN ITS CAMPAIGN TO TRY TO KEEP INDUSTRIALIZED COUNTRIES FROM SIGNING, AND THAT WAS SOMETHING THE JAMAICAN GOVERNMENT [illegible] BIG INTEREST IN. DURING THE NEXT FEW WEEKS, MR. RATTINA SAID, THE REAGAN ADMINISTRATION IN THE USA WOULD BEGIN TO TRY TO [illegible] NEGOTIATIONS TO PUT TOGETHER A MINI-TREATY WHICH WOULD BE IN CONFORMITY TO THE CONVENTION AS IT ADOPTED. IF THE U.S. SUCCEEDED, COUNTRIES WHICH DID NOT SIGN THE U.N. TREATY WOULD NOT BE LIKELY TO SIGN IT. HE SAID THE U.S.A. COULD FIND ITSELF OUT IN THE COLD IF ITS CAMPAIGN TO KEEP THE INDUSTRIALIZED COUNTRIES FROM SIGNING THE U.N. TREATY WAS UNSUCCESSFUL. IF THE U.S. DID NOT SIGN THE CONVENTION, THE SOVIET UNION, FOR EXAMPLE, WOULD HAVE TO COME UP WITH BETWEEN US$50 MILLION TO US$1 BILLION TO HELP TO FINANCE THE ISA. END QUOTE WARNE

File: Lee Rattina

~~LIMITED OFFICIAL USE~~ PDV 5/5/00

fcc

HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

ROBERT E. H. FERGUSON
ADMIN STRATIVE ASSISTANT TO
CONGRESSMAN JACK FIELDS

510 CANNON BUILDING
WASHINGTON, D.C. 20515
202' 225-4901

19 May 1982

Mr. James Cicconi
WHITE HOUSE
West Wing, First Floor
Washington, D.C. 20500

Dear Jim:

It was a pleasure to dine with you and Jack this afternoon.

I personally appreciate your interest in the Law of the Sea situation. Having worked on the Hill for six years and having been involved in some of the most heated battles, I assure you that none have the long-term magnitude equal to this Treaty. The world is ruled by ideology, the perceptions of ideology, and the real-world implementations of ideology. The successful birth of this treaty and its institutions are as vital to historical thrust of Socialism as water is to human life. That birth is not possible without the United States' involvement and sanction.

The time will come when, retrospectively, the next few months will be recognized as the most vital time period in this battle. As you can intimate from the enclosed communication, Ratiner and his associates clearly understand this, and are working to prevent the establishment of an alternative regime in an effort to put our allies into the LOS and totally isolate the U.S.

Sincerely,

R.E.H.F.

HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

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13 May 1982

Mr. Jim Cicconi
West Wing, 1st Fl.
White House
Washington, D.C. 20500

Dear Jim:

Here is the article from the Houston Chronicle which Jack and I discussed with you recently.

Also included is a page from a publication of the Joint Maritime Congress (Pro Treaty) which indicates Malone still holds out hope of getting treaty signed.

As I informed you, Leigh Ratiner promptly flew to Kingston with Tommy Koh, Paul Ingo, and girlfriend following the conclusion of the N.Y. session and "no" vote by U.S. We have reports that Ratiner pressed for a continuation of talks and negotiation during the rest of this year in order to bring the U.S. on board. The plain fact is that Ratiner is working with Richardson and the internationalist crowd to bring the U.S. into treaty at any cost, without any regard for national security or interests. Malone has been less than consistent with the truth.

Sincerely,

R.E.H. Ferguson

Hinges on conditions

Envoy says U.S. might join Law of Sea treaty

UNITED NATIONS (AP) — U.S. Ambassador James L. Malone said Saturday the United States still might join an international Law of the Sea treaty if U.S. conditions regarding deep-seabed mining are met before the newly adopted pact is signed.

But Ambassador Tommy Koh of Singapore, president of the 152-nation sea law conference, angrily rejected further changes to a draft text that represents the results of eight years of tough give-and-take between the developing and industrialized world.

"There can be no more negotiations." Koh told reporters Saturday. Third World countries had made every possible concession to the United States "in return for nothing," he said.

Malone, current head of the U.S. sea law delegation, said "it's still possible" the Reagan administration will sign the treaty despite the U.S. vote against it Friday.

"We have made no final judgment in terms of what our position will be on the signing of the convention or ratification of the convention," he said. "I do not feel that our objectives were met. We now must assess that situation and decide what our next steps will be."

Malone said he thought revisions to the treaty still could be sought at a final meeting of the conference's drafting committee at New York or Geneva in July and August before final signature next December.

If not, he said, the United States may defy the Third World majority and negotiate a separate deepsea mining pact with other Western industrial countries. "Indeed," Malone added, "it may even be that the Soviet Union might have some interest along these lines."

The Soviets and their East Bloc allies abstained when the sea law treaty was adopted Friday by a vote of 130-4, with 17 abstentions.

Koh threatened to file suit with the World Court challenging the legality of any U.S. move toward a separate sea law pact.

"If the court's opinion is that such activities under the 'mini-treaty' are illegal, I would like to see whether these Western countries, which have been sermonizing to the Third World about the rule of law, will ask their (deep sea mining) consortia to stop such activities or whether they will reveal themselves to be a bunch of greedy hypocrites," he said.

The treaty text had been negotiated by three previous administrations and President Carter had been ready to endorse an earlier version of the draft when he was defeated in the 1980 elections.

Koh said he was shocked to learn that the White House had tried to get its Western allies to form a solid front with the United States by voting against the treaty.

"My comments are unpublishable," he said.

Britain, Belgium, the Netherlands, Italy and West Germany — all involved in seabed mining consortia with the United States — were among those abstaining in Friday's voting. Israel, Turkey and Venezuela joined the Americans in voting against the treaty.

Koh had sought to have the treaty adopted by general consent without a vote.

The United States, as a naval power, welcomed most aspects of the wide-ranging sea law treaty, especially those giving fleets free passage through territorial waters and more than 100 strategic straits.

But the Reagan administration, under pressure from American mining interests and Congress, objected to the section dealing with the mining of trillions of dollars worth of metallic nodules from the ocean floor — the richest deposits of which are in the deep seas off Hawaii.

The fist-shaped nodules contain manganese, copper, nickel and cobalt. U.S. mining interests, in conjunction with their Western consortia partners, already have invested an estimated $300 million in developing the complex mining technology.

MARITIME BRIEFS:

SEA LAW SAILS WITHOUT U.S.: All the optimism that the United States would sign the Law of the Sea Treaty seems to have been for naught. On April 30th the Treaty was adopted, 130 to 4, after eight years of diplomatic bargaining. One of the four voting "no" was the United States. Seventeen countries abstained, including Britain and the USSR. The U.S. "nay" vote was based on the all too familiar objections over the deep seabed mining provisions. Ambassador James L. Malone, Chairman of the U.S. Delegation, said that in spite of some modest improvements in the rules governing deep seabed mining, the changes were not enough to meet the Administration's goals. Another key U.S. objection rested on the section that permitted amendment by three-fourths of the Treaty signatories, overriding the U.S. provision requiring Senate assent. Reaction to the U.S. vote has been mixed. In the *New York Times*, William Safire commented that "with the victory, and with its freedom reaffirmed, the great shroud of the sea rolls on as it rolled 5,000 years ago." Former chief U.S. delegate to the conference **Elliott R. Richardson did not share this elation.** He called the result a "bad outcome which could have been avoided if the U.S. delegation could have shown the necessary flexibility to obtain the best possible treaty." There is also concern that those U.S. companies not protected under a "grandfather clause" will operate in countries which are Treaty signatories. **However, a U.S. delegation spokeswoman told the *Washington Letter* that these forecasts are premature and that a complete review will be sent to the President. Informal discussions will continue this summer and Ambassador Malone still believes that changes may be made before the Treaty is signed this December in Caracas;** Venezuela, a nation which, incidentally, voted against the Treaty.

SWEDES TAKE TAX ACTION: Plans for maritime tax benefits that have so far generated nothing but talk from U.S. leaders have generated action from the Transport Ministry and the Parliament in Sweden, a nation with ship operating expenses and taxes even higher than those in the United States. The Ministry's bill now before the Swedish Parliament would allow ship operating companies to claim back 75 percent of the taxes they collect from their crews. The refund package for ships deemed particularly important for national security is 100 percent; for passenger ships and ferries, 50 percent. The tax rebates, designed to decrease during the five year program, would go to ship owners only if they invest the money in new ships.

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JOINT MARITIME CONGRESS
WASHINGTON LETTER

Hall of the States Building
444 North Capitol Street, Suite 801
Washington, DC 20001

David A. Leff, Executive Director
Anthony V. Dresden, Communications Director

Mr. Robert Ferguson
Congressman Fields
510 Cannon
House Office Building
Washington, D. C. 20515

3:00

J. Cicconi 4/19 → JC - NS

Document No. _____

WHITE HOUSE STAFFING MEMORANDUM

DATE: 4/18/82 ACTION/CONCURRENCE/COMMENT DUE BY: _____

SUBJECT: LAW OF THE SEA -- NEXT STEPS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	GERGEN	☐	☐
MEESE	☑	☐	HARPER /BANDOW	☐	☑
BAKER	☐	☑	JAMES	☐	☐
DEAVER	☐	☐	JENKINS	☐	☐
STOCKMAN	☐	☐	MURPHY	☐	☐
CLARK	☐	☐	ROLLINS	☐	☐
DARMAN	☐P	☐SS	WILLIAMSON	☐	☐
DOLE	☐	☐	WEIDENBAUM	☐	☐
DUBERSTEIN	☐	☐	BRADY/SPEAKES	☐	☐
FIELDING	☐	☐	ROGERS	☐	☐
FULLER	☐	☐	GUHIN	☐	☑

Remarks:

The attached is forwarded per conversation.

Richard G. Darman
Assistant to the President
(x2702)

Response:

LAW OF THE SEA (LOS) -- 4/17/82

(A) U.S. policy analysis continues to assume that a standard of treaty "signability" or "ratifiability" is the appropriate test. This standard once was fundamentally relevant -- and a signficant U.S. negotiating lever. But it is fast being rendered irrelevant by events. Indeed, events seem to have moved to the point where international law is likely to be generally construed as that represented by the draft convention now being finally negotiated -- whether or not it is approved by the U.S.

(B) This point is supported by consideration of the stages through which a draft convention moves toward "law."

(1) Preliminary drafting, negotiating, etc. When at this stage, drafts have no standing as treaty law -- although they may be weighed by a judge (along with all kinds of other evidence) in the determination of "customary international law." This is the stage that law of the sea was in for the past 15 years.

[NOTE: Because the deep sea mining drafts have (until recently) been highly unstable and highly contested, they have been worthy of very little weight as evidence of emerging customary law. Keeping the convention drafts unstable, while independently developing a more satisfactory legal framework through a "reciprocating states regime," was a tactical option available to the U.S. in this stage -- but this option has been partially overtaken.]

(2) "Formalization" of the negotiating text. This step increases the standing of the text as evidence of customary law. And it tends to stabilize the text -- because, in the case of the LOS negotiations, "formalization means that the text can be amended only by consensus or by a two-thirds majority of the states participating in the negotiations (roughly 150 nations).

[NOTE: The LOS text was "formalized" in the current negotiating session. The current negotiation of a package of possible amendments is scheduled to culminate in their consideration by the negotiating Conference in the week of April 24-30. Given the voting rules that apply to a "formalized" text, it is unlikely that the entire U.S. package of amendments will be accepted. The final text, therefore, is likely to go beyond the current U.S. "bottom line." Whether and how far beyond remains to be seen.]

(3) Signature of "Final Act" of the negotiating Conference. The "final act" closes the negotiations -- and gives the text last on the table a bit more standing in the interpretation of customary international law. This could take place on April 30, or could wait until the final session (this summer) discussed at (4) below.

(4) Signature of "Draft Convention." This is generally taken as an expression of intent to seek ratification -- although signature can take place along with the expression of conditions or reservations. This gives the text still a bit more standing in the determination of customary law. But further, the "Treaty on Treaties" (Vienna Convention) requires that a nation that signs a draft convention must not take actions inconsistent with the convention while a formal decision on ratification is pending. (The U.S. has not signed the Vienna Convention; but the terms of that Convention are widely accepted as applicable as a matter of customary international law.)

[NOTE: The formalized text, as amended by April 30, is likely to be scheduled for signature as a Draft Convention this summer -- at a big signing ceremony in Caracas. It seems likely that well over 100 nations -- including the Soviet Union, most of our allies, and a host of developing countries -- would sign.]

(5) "Ratification." A Draft Convention enters into force as treaty law when the formal act of ratification is taken by a specified number of nations. The current LOS text requires 60 ratifications to enter into force as treaty law.

[NOTE: Nations' internal processes of ratification differ, of course. But there are over 120 members of the "Group of 77" developing countries alone -- and most of these would likely ratify. FURTHER NOTE: Some people assume that the Reagan Administration may not seek ratification -- but that once a Draft Convention is opened for ratification, it is opened for a post-Reagan administration to submit for ratification, while, in the interim, it gains legal status as both customary law and treaty law.

(C) At earlier stages, the U.S. had a more viable option of resisting or reshaping the treaty. But now:

- o Our "allies" show little stomach either for holding to our line within the Conference, or for joining with us in an alternative reciprocating states regime.

  [NOTE: The State Department negotiators have never shown much enthusiasm for pressing seriously for an alternative reciprocating states regime.]

- o U.S. governmental funding for the Enterprise -- once thought to be a negotiating lever -- is no longer necessary. The draft mining regime could get the Authority funded through taxes and the Enterprise started through joint venture arrangements.

  [NOTE: This assumes that some of the mining multinationals would agree to operate under the treaty, even if under non-U.S. flags. Since some of the companies care more about money and less about ideology, this is not an unreasonable assumption.]

(D) The prospect of the LOS draft becoming customary and treaty law -- with or without the U.S. -- has a self-reinforcing consequence: the very prospect tends to discourage alternative arrangements. Big-time corporate counsel are reluctant to advise ocean mining clients to proceed "unilaterally" under U.S. law if there is a serious prospect of this being construed as in conflict with emerging international law. This, in turn, discourages financing. This, in turn, discourages the development of a "pattern of state practice" that might be more favorable as customary law. And this, in turn, increases the standing of the draft convention as "international law."

[NOTE: A U.S. court could conceivably interpret "international law" to be what the draft convention says -- even if the U.S. has not ratified.]

(E) The notion (advanced by some advocates) that the U.S. can protect itself by waiting to see if it likes the rules and regulations developed by the contemplated "Preparatory Commission" is probably misleading. This is so for two reasons: (a) It may be that to participate in the work of the Preparatory Commission, the U.S. will have to sign -- and effectively be bound by -- the Draft Convention. (This issue is still being negotiated.) (b) For reasons noted, international law will likely be changing toward the treaty version while the Preparatory Commission is doing its work.

WHAT NOW, THEREFORE . . . ?

This note is intended to suggest that time is of the essence: What is settled upon in the April 24-30 stage is likely to become international law (notwithstanding what the U.S. may think). So:

1) The amendments being negotiated should be reviewed at a high level before April 24th.

2) If the expected result is likely to be unacceptable to the Administration, the possibility of tactical maneuvers to postpone the "Final Act" would need to be explored quickly and seriously. (It may already be too late for this.)

3) Similarly, the prospect of re-invigorating the Allies' interest in an alternative "reciprocating states regime" -- even if only for negotiating leverage in relation to the Preparatory Commission -- would have to be seriously explored. (It may be too late for this, too!)

4) If it's too late for (2) and (3), we better hope we like what comes out of the Conference on or about April 30.

* * * *

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April 13, 1982

~~PERSONAL AND CONFIDENTIAL~~

Mr. James W. Cicconi
Deputy Assistant to the President
and Deputy to the Chief of Staff
The White House
Washington, D.C. 20500

Dear Jim:

My call to you last Monday (April 5) was to alert you to the SIG meeting chaired by Buckley to which Safire refers. I was told that the purpose of the meeting was to water down the U.S. negotiating position on the six points the President set forth in his Law of the Sea Statement and I thought you or Jim should be aware of the meeting because of possible adverse political effects. There are conflicting reports about what happened in the meeting and I gather that Ratiner has been quoted as saying some things were decided that others say were not decided.

I now understand that Senator Jepson is preparing (or perhaps has sent) a "Dear Colleague" letter on the Law of the Sea matter and that Senator Helms has it on the agenda for his Wednesday lunch and is prepared to make a big issue of it. So far as I can tell, a substantial part of the business community is laying back to see the text of what is negotiated and is not pushing the Jepson-Helms activity. But there is enormous suspicion of Ratiner, considerable doubt that a satisfactory treaty can be negotiated and a strong belief that the State Department will pressure the President into endorsing the treaty and submitting it to the Senate as "the best we can get" and not repudiating his negotiators.

If the negotiators (principally Ratiner) can state to the press that the agreement was within the scope of their instructions they will have the ability to put the President in a box by forcing him either to repudiate his negotiators (and laying the Administration open to charges of bad faith or incompetence) or forcing a

ratification fight in the Senate as well as a fight in both the Senate and House on various enabling legislation. At the moment I don't know that there is much the White House can do since the negotiations are in process and people won't be able to take a position until they see the language. The Law of the Sea matter is obviously a lot less important than a number of other things on the agenda, but the Safire article is indicative of the kind of heat this issue is generating and you and Jim should be aware that the issue has the potential of a big political fight later this summer.

Sincerely,

Michael F. Butler

Enclosure

New York Times, 4/9/82

A27

ESSAY

Reagan's Sea-Law Sellout

By William Safire

WASHINGTON, April 8 — The Law of the Sea conference is an attempt by third-world nations to set up a "new order" in the world's production of minerals. Their idea is to subject all exploration and mining of the ocean bottom to international control. Their vehicle would be modeled on OPEC: a cartel capable of price-fixing by enforcing control of mineral production — run by an "authority" certain to provide permanent employment for thousands of third-world diplomats.

For centuries, the treasures that lay beyond anyone's territory belonged to nobody, and therefore were available for the taking for any explorer or miner with the wit, courage and capital to go get it.

In the last decade, however, a collectivist notion took hold that all such treasures were "the common heritage of mankind," which meant that an international bureaucracy, not the explorer, would decide who could develop what resource. A combination of third-world greed and liberal-world guilt brought us to the brink of signing a treaty that would sound the death knell of free enterprise in the 21st century.

The Reagan Administration put a stop to that — or so we thought. Many of us cheered when the United States finally told the rest of the world that we had awakened to the danger of negotiating away our freedoms in the Law of the Sea conference. We hailed the stand that rejected price-fixing by an unaccountable "authority."

That Reaganaut defense of free enterprise collapsed last Monday night in the office of Under Secretary of State James Buckley. As Bernard Nossiter of The New York Times reported, a new American position was secretly decided upon that accepts the principle that a global cartel — and not free-market forces — would have the power to limit America's or any other country's production of minerals mined from the sea.

The abandonment of the basic principle on which our economy is founded — and which has yielded far more prosperity than any Socialist scheme — was made possible by buying off the American companies who had been objecting loudly. "Preliminary investment protection" — some pip of an idea — is to be given to private mining companies that lead the way for the exploration of the seabed; their technology and know-how will later be taken over by the competing third-world bureaucracy. As usual, some businessmen can be found who will sell their birthright for short-term profit.

Everyone watching these negotiations knows full well what the third-world game is: First, establish the cartel principle by getting industrial nations to sign a treaty submitting to an international body's production limits. Second, improve on the United Nations by making it impossible for the industrial countries to veto third-world majorities. Third, make it possible to amend the by-laws of the cartel — thereby eliminating private competition — without having to go back to such stumbling blocks as the U.S. Senate for approval.

When the Senior Interagency Group met to cave in under Mr. Buckley's aegis, it was agreed that (1) production limits would be accepted, provided there was "no bite" in them in the beginning; (2) we would not have a veto, but perhaps we could talk bravely about a "blocking capability" if industrial nations stuck together; but (3) it might be awfully hard to get the Senate to hand over a power to amend without future Senate agreement.

That supine position is typical of foreign affairs in the Second Reagan Administration, which began when pragmatists James Baker and William Clark fell in step with Al Haig in February and process triumphed over policy. The same middle-level crew (Secretary Buckley, Assistant Treasury Secretary Marc Leland) that brought us no-default in Poland and winking at the European-Siberian pipeline is in charge of the planned cave-in on Law of the Sea. (Incredibly, they have even approved export licenses for six C-130's to be sent to Iraq.) Because businessmen applaud — weak policy is good for business — Mr. Reagan is persuaded he is doing the conservative thing.

He is not. The betrayal of capitalism, not to mention freedom of the seas, is a radical lurch to the left. And for what? We are warned that the rest of the world will sign a treaty without us, which might mean that our banks would ask for Government guarantees to finance exploration. That's scare talk; we can get other industrial nations to sign a separate free-market treaty if need be.

In return for their hard work inhibiting competition and driving up world inflation, third-world diplomats envision a bonanza from their supranational authority: lifetime jobs, high-rise offices, limousines, elite schools for their children, studies farmed out to friendly academics, everything a potato-shaped manganese nodule can bestow. Best of all, no control of their budget from individual nations, because the cartel bureaucracy would fix world prices to its profit.

No wonder the diplomatic community is putting such pressure on our hapless negotiators. The Law of the Sea Treaty bids fair to become the biggest boondoggle in the history of the earth, setting the example for Socialism in outer space.