

# The Law of the Sea: The power play

By Frederick F Clairmonte and John Cavanagh

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In its recent polemic against the Law of the Sea, *Business International* flatly spelled out aspects of the treaty most odious to corporate capital. The treaty, it argues, "will introduce dangerous concepts that could be used in future MNC contract negotiations with LDC governments". These perilous precedents, in its view, are:

"global revenue sharing under the guise of the 'common heritage of mankind' will be institutionalized; the ice will be broken on mandatory technology transfer; and for the first time the United Nations will set up a transnational company to compete with private firms".

These are the central arguments that are being advanced by transnational lobbyists in their quest to mould the treaty to meet the demands of corporate power and profit. What is shrouded in these deliberations is the awesome gap in economic and political power between TNCs involved in the seabed and developing countries whose interests the treaty purports to advance. What is no less obscured is that the treaty

differs from other forms of international economic co-operation such as UNCTAD's Common Fund and Integrated Programme for Commodities (IPC) inasmuch as it is the first international agreement that is designed to alter property relations. This explains why coordinated lobbying of an intensive nature is underway by the corporate giants. The analysis which follows highlights the major corporate actors and the strategies they deploy to maximize their gains from the seabed to the detriment of developing countries, notwithstanding an ostensibly comprehensive treaty. It concludes with treaty developments since the advent of the Reagan administration.

## The assault

While arduous negotiations were being carried on, around two dozen Western and Japanese corporations, with combined 1979 sales of over 244 GUSD, have been preparing massive mineral assaults on the ocean bed. This anticipated El Dorado is to be found in potato-sized nodules (of

which there are between 900 and 1,700 billion metric tons) with an estimated current market value exceeding 3 TUSD. This is a potential bonanza, ten times OPEC's combined export revenues (300 GUSD) for 1980.

Since 1873, oceanographers have known that significant segments of the ocean bed are strewn with potato-sized nodules that contain large quantities of important minerals. A typical nodule contains about 28 per cent manganese, 1.4 per cent nickel, 1.2 per cent copper, 0.25 per cent cobalt, 0.5 per cent molybdenum, as well as approximately 25 trace metals. Tests of the Glomar Explorer, a specially designed ship used by Lockheed to test their nodule collection technology, suggest that billions of tons of nodules lie under 3,600–4,500 metres of water in more than 300 prime mining sites in the Pacific Ocean. They are located in a rectangular area between Mexico and Hawaii roughly 19,300 kms long and 6,400 kms wide. Present nodule forecasts could well be an underestimate since less than 5 per cent of the ocean floor has been thoroughly surveyed.

It was not, however, until the 1960s that technology to collect the nodules and extract their minerals was created. Cognisance of this raw materials resource galvanised two separate forces, one corporate and the other inter-governmental. By the inception of the 1970s, a considerable number of giant transnational corporations formed five separate corporate consortia to pioneer maritime and mining technology to exploit these nodules. Simultaneously, the United Nations launched negotiations for setting up a comprehensive treaty which would govern all activities over, on, and under the world's oceans.

Although a legal agreement may initially decelerate the tempo of corporate earnings from the sea, it is unlikely to impair their global operations significantly in the longer-term. To be sure, the Law of the Sea should be understood as develop-

ing country accommodation with, and subordination to, corporate power which continues to dominate the financial and engineering facets of the global minerals industry. Of seminal significance is that *the treaty makes no inroads on the most lucrative profit centres in corporate mining: processing and highly complex marketing and distribution operations.*

### Corporate consortia

At present, developing countries are the source of most exports of the five basic minerals that comprise the nodules: copper, cobalt, nickel, manganese and molybdenum; at the same time, they are negligible mineral consumers. Seen in corporate perspectives, the protagonists of the seabed display a staggering variety of sectoral and technical expertise, ranging from the Japanese Sogo Shoshas (General Trading Companies), petrogiants, mining and chemical giants and aerospace corporations. Closer scrutiny reveals that most are transnational conglomerates, originating in eight nations: Belgium, Canada, the FRG, France, Italy, Japan, the United Kingdom and the United States. (see Table 1).

The 1973 oil crisis precipitated new forms of corporate alliances, in this case seabed consortia heavily underwritten by the state apparatus in countries with exiguous mineral endowments, as France, the FRG and Japan. Essentially, this sprang from a fear that OPEC-like cartels would be contagious in mineral sectors and that political instability in underdeveloped mineral economies might jeopardize supplies. In that sense, the seabed became an idealized resource base, freed from the nightmares of national expropriation. Since their spawning, the consortia have poured a conservatively estimated 265 MUSD into research and development of new seabed mining and processing technology.

The dimensions of corporate power can best be studied through the prism of

selected corporate actors. *British Petroleum* (BP), a member of the Kennecott consortium, is the second largest European corporation and one of the seven petroleum sisters. It brings to seabed mining the newly acquired expertise of one of the world's biggest mining and mineral companies, Selection Trust, appropriated (1980) in the largest corporate acquisition (1 GUSD) in UK history. *Selection Trust*, itself, has equity shares in Zambian copper mining; nickel mining in Australia; copper, zinc and silver mining in both Australia and Canada; as well as gold and diamond mines in other parts of the planet. *Shell* and *AMOCO* also own copper mines in several developing countries and together these three petrogiants control 16 per cent of the world's refined copper and market most of it through their own trading subsidiaries.

By the mid-seventies, three corporations controlled more than three-fifths of nickel capacity outside the USSR. Two of these three, *Inco* (formerly International Nickel Company of Canada) and *Le Nickel* belong to seabed consortia.

Another leading company is *Union Minière*, the colonizer of the Congo and still a paramount power in Zaire's economy. It is the major subsidiary of the *Société Générale de Belgique* Group, whose network permeates the entire Belgian economy: banking and insurance, shipping and engineering, a wide range of manufacturing and service sectors, transportation and global marketing etc. Both *Union Minière* and its multi-billion dollar parent corporation rank among the most secretive mining and industrial companies in the world and, despite a fat and glossy annual report, are wholly non-accountable. Indeed, the annual report is designed to obfuscate their global operations. According to one source *Union Minière's* ownership in just one subsidiary (*Métallurgie Hoboken-Overpelt*) conferred on it 4 per cent of developed market economies copper refining capacity in 1978.

*Sedco*, a US member in *Inco's* consor-



Note the following organizations whose initials appear on the table:

DOMCO: Deep Ocean Mining Corporation

CNEXO: Centre National pour l'Exploitation des Océans

CEA: Commissariat d'Energie Atomique

BRGM: Bureau de Recherche Géologiques et Minières

Afernod: Association française pour l'étude et la recherche des nodules

DOMA: Deep Ocean Minerals Association

**Table 1**  
**Corporate Control of the Seabed**

Consortia: Corporations	Country	Corporate profile	Ownership stake (per cent)	1979 sales (GUSD)
<i>Ocean Mining Associates</i>				
US Steel	US	steel, chemicals	25	12.9
Union Miniere	Belgium	subsidiary of conglomerate Société Générale	25	n.a.
Sun Co. Inc.	US	petroleum	25	10.8
ENI	Italy	petroleum	25	19.0
<i>Ocean Management Inc.:</i>				
Inco	Canada	metals	25	2.5
Sedco	US	oil service and supply	25	0.4
Preussag	FRG	metals, oil, coal		1.8
Metallgesellschaft	FRG	metals, engineering	25	4.5
Salzgitter	FRG	steel, shipbuilding, engineering		4.1
Sumitomo-led DOMCO Group	Japan	general trading/conglomerate	25	33.1
<i>Ocean Minerals Co.:</i>				
Lockheed	US	aerospace	30.7	4.1
Standard Oil (AMOCO)	US	petroleum, natural resources	30.7	20.2
Royal Dutch Shell	UK/Neth.	petroleum, natural resources	30.7	62.0
Bos Kalis Westminster	Neth.	dredging, civil engineering	7.9	0.9
<i>Kennecott Consortium:</i>				
Standard Oil of Indiana (Sohio)	US	petroleum, natural resources	40	2.4
Noranda	Canada	copper, ores, minerals	12	2.1
Consolidated Gold Fields	UK	mining, construction	12	2.1
Rio Tinto-Zinc	UK	mining, chemicals	12	5.6
BP	UK	petroleum, natural resources	12	40.5
Mitsubishi	Japan	general trading/conglomerate	12	52.6
<i>Afernod:</i>				
CNEXO	France	public/private sector enterprise	n.a.	n.a.
CEA	France	public/private sector enterprise Africa mining	n.a.	n.a.
BRGM	France	public/private sector enterprise Africa mining	n.a.	n.a.
Le Nickel-SLN	France	part of IMETAL, nonferrous metals	n.a.	2.3
France-Dunkirk	France	shipbuilding	n.a.	n.a.
<b>TOTAL</b>				<b>243.9</b>

**Sources:**

Trade sources, Fortune 1982-08-23, Hermann Enzer, US Department of the Interior.

Advertisement by Lockheed,  
published in Fortune, February 11th,  
1980. Below.

tium, is the world's leader in oil rig and drilling technology and has been innovating in nodule exploitation techniques for close to a decade.

Other corporate juggernauts include the *Kennecott Copper Corporation*, ranked fifth in copper mining capacity and third in refining capacity among the developed market economies in 1978. *US Steel*, one of the world's largest steel firms, straddles not only iron and coal mines, but also extends its control (with 44 per cent of the equity in the *Compagnie Minière de l'Ogooue* in Gabon) over important global sources of manganese ores. West German corporations (*Preussag*, *Metallgesellschaft* and *Salzgitter*) in the Inco consortium have already carried out extensive prospecting in the Pacific and Indian oceans, using their own mining and exploration vessel, *Valdivia*. Two of them are also experimenting in mining

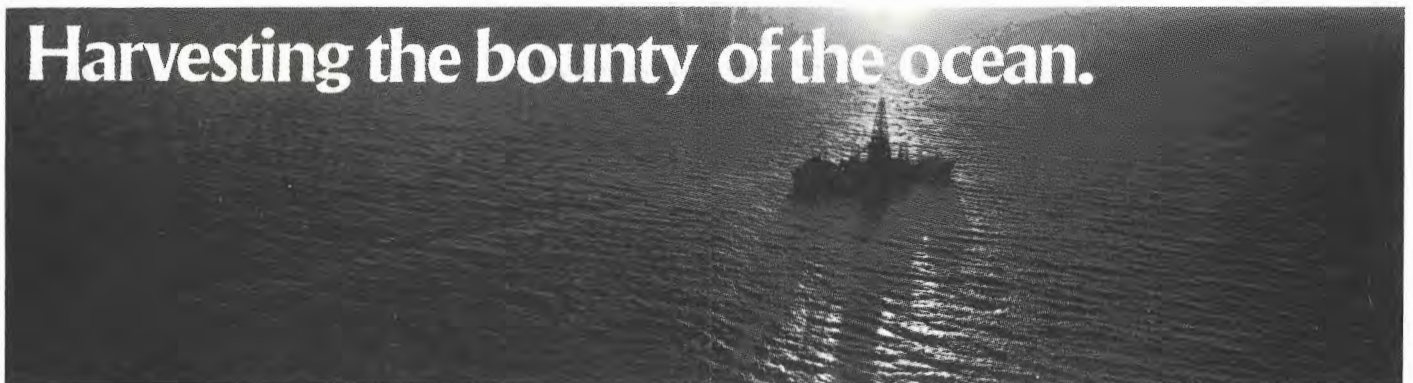
copper, bauxite, gold and silver on the Red Sea floor between Saudi Arabia and the Sudan. No less prominent in the race for the colonization of the seabed is the *Lockheed Aircraft Corporation* with interests englobing aerospace equipment, ocean vessels and petroleum extracting equipment. For some time now Lockheed has been harnessing aerospace technology for use on the seabed, as well as in ocean thermal energy conversion technology.

In many ways the most formidable phalanx within this fraternity of corporate capital are the Japanese, who have made their debut not singly but as part of a corporate pack. The Sumitomo-led DOMCO group is comprised of four other Sogo Shoshas and 18 Japanese finance (one of which is the giant Sumitomo Bank) and manufacturing firms, including 9 Sumitomo group firms. This mass Japanese presence reveals the depth and co-

herence of the overall corporate blueprint: Japanese corporations, masterminded and substantially bankrolled by the Ministry of International Trade and Industry (MITI), launched yet another frontal assault on the seabed in the mid-seventies with the creation of Deep Ocean Minerals Association (DOMA). It consists of 35 leading Japanese firms from the mining, general trading, shipbuilding and steel industries. These seabed efforts are now being meshed to Japan's mineral and petroleum offensive in the Antarctic which is itself part of an extensive global raw material procurement complex.

In order not to antagonize the mineral developing economies that are their clients, however, consortia members have shrouded their operations in secrecy, save for the occasional public relations utterances.

## Harvesting the bounty of the ocean.



The world's largest, most advanced mining ship puts to sea.

### Lockheed knows how.

#### Working the wettest, deepest mine.

Seagging miners in hard hats are starting to make sure the world doesn't run out of manganese, nickel, copper and cobalt. Their lode is the great mineral broth known as the oceans.

Densely peppered along the sea floor more than 14,000 feet deep lie blackish, potato-size lumps called manganese nodules, and each contains varying amounts of those four much-used minerals.

The nodules abound in most oceans, but their thickest concentration is in the Pacific southeast of Hawaii. And that is where Lockheed, as prime contractor for Ocean Minerals Company,

has gone sea mining with the *Glamor Explorer*, world's largest and most advanced mining ship.

Using proved technology, the big vessel has strung sophisticated equipment down to depths of 14,000 to 18,000 feet. Like a giant vacuum cleaner, the subsea apparatus will suck up the valuable nodules and pipe them to the surface for transport to shore for process development.

Will the supply last? The estimated billions of tons of nodules in the Pacific alone could assure meeting world needs for more than a millennium.



A manganese nodule from the deep ocean floor.

#### Putting the waves to work.

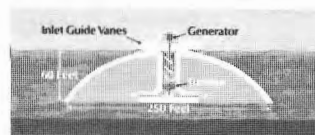
The mineral-rich oceans are also a source of enormous power. The massive energy of waves is awesome, clean and free. But harnessing this powerful force has so far been a tantalizing, unattainable goal.

That goal may, however, be in reach. A recently patented Lockheed invention could turn the dream of capturing energy from waves into reality.

In the Lockheed invention, a dome-shaped structure, 250 feet in diameter, is anchored to ride just beneath the sea's neutral level. Its little miracle is that, with only one moving part, it turns the ocean's natural wave energy into a whipping, spiral force that creates electricity.



How artificial atoll would look anchored in place.



Cutaway view of atoll-like power plant.

The concept is similar to the action of waves hitting atolls. The waves don't just sweep by those small islands. Instead, they wrap themselves around them in a spiral pattern.

So, what the Lockheed scientists have done is design a small, artificial atoll that bends the striking waves into a whirlpool. This vortex within the domed structure becomes a powerful flywheel of water. It drives the one moving part: a submerged turbine wheel. The end result is an outpouring of electricity, a potential bonanza of power.

#### Turning ocean water into fuel.

Can temperature differences in the oceans act as fuel? Definitely. Ocean surface water is warmed significantly by solar heat while, not far below, the deep water stays chillingly cold. Because of this natural and constant state, a feasible concept called Ocean Thermal Energy Conversion (OTEC) is now operating in the deep water off the island of Hawaii.

The barge-mounted Hawaiian installation, for which Lockheed has provided the power cycle, uses warm surface water and cold deep water in a closed ammonia cycle incorporating Alfa-Laval



A proposed giant OTEC plant.

heat exchangers. The generated ammonia vapor drives a turbine which, in turn, produces surplus electric power.

Before the turn of the century, massive OTEC platforms—floating like 1500-foot vertical buoys—may be grouped offshore to generate all the electrical needs for large cities, using only the free and renewable ocean water as fuel.

When it comes to solving complex problems by using advanced technologies, Lockheed knows how.

## Lockheed



## Technology and rates of return

Notwithstanding such massive corporate investment and expertise, numerous technical obstacles remain to be overcome. As the chief oceanologist of one of the consortia pithily described it: "Scientists know more about the moon than about the oceans. With one satellite we can make detailed pictures of hundreds of square miles — and we cannot even look at one square mile of the ocean floor with that degree of detail."

Seabed mining has been compared to sucking up grains of wet sand off the pavement through a long hosepipe dangling from the top of the Eiffel Tower in high winds. Essentially, the technical problem is one of adapting existing technology from operating depths or hundreds of metres (i.e. petroleum) to thousands of metres. At present there are basically three systems for collecting nodules from the seabed. The first consists of a dredge-like device on the ocean floor, connected to the mining ship via a large diameter steel pipe. The dredge collects nodules by means of suction and sends them to the ship via the connecting pipeline. The second system deploys hydraulic pumps to lift a nodule-water mixture to the surface. Finally, a third system involves scooping up nodules from the ocean floor in what is referred to as a continuous line bucket method.

Other technical problems relate to mapping mine sites at such depths, fabricating pipelines to withstand extraordinary pressures, with perhaps the most intractable problem being enormous power requirements. In view of these obstacles, corporate spokesmen are demanding a 30 per cent return on investment prior to launching commercial operations, as against an estimated 8 per cent they could earn with current technology. Not surprisingly, the necessary second generation of technology is already being designed and tested in corporate laboratories and on consortia ships, and can be expected to make dramatic strides by the end of

the current decade. In this realm, the consortium Ocean Mining Associates converted a US Steel Corporation iron ore carrier into a test ship. Two other mining ships, the *Glomar Explorer* and the *Governor Ray*, have been perfecting mining technology for the Ocean Minerals Company.

Estimated capital costs for a seabed mining venture run from about 600 MUSD to over 800 MUSD. These costs have escalated significantly above early seventies' estimates of 200–250 MUSD. Likewise, operating costs have soared to a range of 180–240 MUSD.

## Motive forces

While the spectre of OPEC was one propellant in the drive for the conquest of the seabed, there are yet others.

The first is the highly strategic nature of the minerals involved, which at present are supplied by an exiguous number of mineral economies: *cobalt* (Zaire and Zambia) and *copper* (Zaire, Zambia, Peru and Chile). Of the five principal nodule minerals, cobalt is perhaps of greatest strategic significance through its crucial role in jet engine turbine blades, other aircraft parts and electronics applications. The prodigious appetite for these strategic minerals is further stimulated by the spiralling arms race with military expenditures now topping 500 TUSD worldwide. *Manganese's* strategic leverage resides in its present indispensability in steel production. Likewise, nickel's importance as an industrial mineral resides in its ability to resist corrosion and to impart strength to alloys, leading to its widespread use in chemicals, petroleum refining, fabricated metal products, aircraft parts, motor vehicles, electrical machinery and construction. *Molybdenum* also has the property of imparting hardness, strength and corrosion-resistance to steel, cast iron and non-ferrous metals, and is used in the manufacture of semi-conductors, chemicals, paints and pigments etc.

Another impelling factor in the frantic

rush towards the colonization of the sea is escalating mineral prices stemming in part from more than three decades of outrageous waste and depletion of land based minerals. This movement has been accentuated by the high and growing import mineral dependency of developed market economies. Certainly, the conspicuous Japanese presence is explained by its near total dependence on imports for these big five minerals. Even in the richly endowed United States, 1979 imports of the minerals found in nodules scaled 1,24 GUSD, including almost all its manganese and cobalt, and 70 per cent of its nickel. This stands in striking contrast to the USSR. (See chart) The US economy now gobbles up about 140 GUSD worth of metals yearly, with 1978 imports standing at 10 GUSD, a 30 per cent escalation over the preceding year. According to a forecast of an US government survey, in two decades the US mineral trade deficit will have approached 100 GUSD in current dollars.

These extreme levels of dependency, coupled with the sheer mining and import costs involved, explain massive state interventionism in seabed mining via tax concessions and subsidies. Costs borne by the states soar as high as 60 per cent for West German corporations and 50 per cent for those of France. The pull of the sea is also abetted by mounting problems facing landbased mines: labour unrest, spiralling costs, and what corporate power allege to be prohibitive environmental legislation. Thus, seabed mining becomes a convenient device for bypassing the organized labour movement. Likewise in Zaire, political strife has contributed to disrupt entirely cobalt markets; in the wake of the 1978 Shaba events' cobalt prices rocketed seven-fold.

## Utopia and reality

The Treaty's humble beginnings hark back to 17 August 1967 when the Maltese ambassador to the United Nations, Arvid Pardo, requested the General As-

sembly to support the idea that a treaty be drawn up specifying that ocean resources beyond national jurisdiction be considered "the common heritage of mankind". Ostensibly, the treaty as presently constructed stipulated that mining corporations submit applications for exploiting specific segments of the ocean bed to a 36 member Authority. Upon approval, the corporation is expected to pay taxes on its earnings to this Authority. Other corporations are required to provide the Authority with mining technology at market prices. To this end, developed market countries have agreed to lend the Author-

ity 1 GUSD to finance mining operations.

Notwithstanding the now familiar corporate lamentation that passage of the treaty will diminish all incentives for mining the seabed (which in many cases is now being used as a public relations pressure ploy), there should be no illusions that the realm for corporate aggrandizement will be appreciably diminished. Even if the treaty is consummated, a panoply of corporate loopholes remain. Exclusively, the treaty is concerned with production, leaving untouched the vast area of corporate control over processing, marketing and distribution. Nationalization

of mining in Zaire, it may be recalled, while on a formal level assuaging nationalist sentiment, did not jeopardize the major profit centres of corporate mining capital. Precisely the same Union Minière, now actively involved in one of the consortia, continues to dominate Zaire's more lucrative mineral processing, marketing and distribution, long after the formal transfer of their mines to the Kinshasa administration. And it is questionable if the Zairean authorities have any knowledge whatsoever — save at a perfectly rudimentary level — of their operations.

One of the most contentious issues in

#### Land-based mining of major sea-bed minerals, 1978

	World reserves		World out-put		End-uses		
	By area	per cent of total	By area	per cent of total	Industry	per cent of total in USD	
<i>Manganese</i>	DMEs	52	DMEs	32	Transport	20	
	of which		of which		Construction	16	
	South Africa	43	South Africa	24	23	Machinery	12
	Australia	9	Australia	8	8	Other	52
	DEs	9	DEs	29			
	of which		of which				
	Gabon	5	Gabon	11			
	Brazil	2	India	7			
	CPEs	39	CPEs	39			
	of which		of which				
USSR	38	USSR	34				
<i>Nickel</i>	DMEs	32	DMEs	48	Transport	23	
	of which		of which		Chemical	15	
	Canada	14	Canada	30	Electronics	13	
	Australia	9	Australia	11	Constructor	9	
	DEs	53	DEs	27	Fabricated		
	of which		of which		metal prod.	9	
	New Caledonia	25	New Caledonia	15	Other	31	
	Indonesia	8	CPEs	25			
	CPEs	15	of which				
	of which		USSR	17			
USSR	10	Cuba	5				



international discussions is the possible economic impact of deep-sea mining on land-based production. It is feared that the additional metals recovered from the nodules may substantially reduce metal prices and revenues for land-based producers. The following table gives an insight into the potentially devastating impact seabed mining could impart to certain land-based producers, notably in nickel and cobalt.

It ought not to be imagined that the potentially adverse impact will be wrought equally or simultaneously on all producers. Rather, it would appear that coun-

tries like South Africa, Zaire, Zambia, Canada and the USSR have the most to lose. From a corporate perspective, it is the mega-mining corporations, such as BP and Rio Tinto-Zinc, deeply entrenched in both the land and sea, which have the most to gain.

### Who are the gainers?

While the Law of the Sea treaty has been considered a step forward in international economic cooperation, its architects are seemingly ignorant of, or oblivious to, the nature of multi-commodity traders which

now dominate global marketing of minerals, as well as most other commodities.<sup>1</sup> Like most policy makers, they fall victim to a competitive and hence idealized vision of international trade which runs counter to the institutional changes in the international economy over the last 10-15 years. At least one of the treaty's architects, Mr. Christopher Pinto (Sri Lanka), partially grasped this reality in his contention that developing nations are "heirs now to a fortune that they lack the means to claim".<sup>2</sup>

Juxtaposed to the evolution of these mega-corporations, there has been a paral-

	World reserves		World out-put		End-uses	
	By area	per cent of total	By area	per cent of total	Industry	per cent of total in USD
<i>Cobalt</i>	DMEs	7	DMEs	22	Aircraft	30
	of which		of which		Electronics	25
	Australia	3	Australia	10	Machinery	15
	DEs	72	Canada	5	Paints	10
	of which		DEs	63	Chemicals	10
	Zaire	30	of which		Ceramics	
	New Caledonia	18	Zaire	32	and glass	5
	Philippines	13	Zambia	7	Others	5
	Zambia	8	Morocco	5		
	CPEs	21	CPEs	15		
<i>Copper</i>	DMEs	30	DMEs	37	Electronics	58
	of which		of which		Construction	19
	USA	20	USA	17	Industrial	
	DEs	58	Canada	9	machinery	9
	of which		DEs	41	Transport	8
	Chile	20	of which		Other	6
	Zambia	7	Chile	13		
	Peru	6	Zambia	8		
	CPEs	12	CPEs	22		
	of which		of which			
USSR	7	USSR	14			

#### Source:

Adapted from data in Phillip Crowson, *Non Fuel Minerals Data Base* (London: Royal Institute of International Affairs, 1980).

Note: DME refers to developed market economies; DEs to developing economies and CPEs to centrally planned economies.

lel transformation in the mining and marketing structures of certain developing countries. During the 1970s, countries such as Peru and Chile began marketing some of their raw and processed minerals through state corporations. The fatal flaw of these national state corporations is that they are limited to the sale of their own minerals and metals. In contrast, the seabed is international and thus all marketing benefits must inevitably accrue to transnational corporate capital. This leads to a paradoxical and tragic reality: the very treaty which is ostensibly blueprinted to enhance so-called "third world" sovereignty over the "common heritage of mankind", therefore legitimizes and buttresses corporate power whose goals stand in blatant confrontation to such sovereignty.

### The altered configuration

The overall legal scaffolding of the treaty had been erected by February 1981, with only a number of details left to be ironed out. A few days prior to what was billed as its final and decisive session, the Reagan administration dropped the bombshell that no treaty could be considered prior to a major review. What remains to be examined are the convergent and divergent

interests which stem from the Reagan administration shift, and to analyze the gainers and losers of that shift. For analytical purposes, these interests can be grouped into three major categories: those directly concerned with the immediate passage of the treaty; those in quest of the treaty's revision; and those seeking its elimination.

### The protagonists

The protagonists of immediate passage consists largely of developing countries and specific interests within the state and corporate world, specifically navies and oil corporations. For *developing country elites*, whose interests are often dovetailed to those of large corporations, their drive for immediate passage derives from their desire for the slightly larger slice of the seabed pie that the treaty confers on them. The Singapore spokesman of the Group of 77 went so far as to assert that "if the U S does not respond positively between now and the proposed next session, the chances are we will go ahead and sign the treaty without the U S"<sup>4</sup>. This statement is part of the bargaining rhetoric since a treaty minus the United States is basically impotent.

In the developed countries some of the major protagonists are to be found among *the military*, in this case the navy, which would obtain from the treaty guaranteed access to the world's 116 major straits. There are also certain important decision makers in the civilian bureaucracy who have stressed the importance of immediate passage. According to Mr. Elliott Richardson, Mr. Carter's special representative for the Law of the Sea conference: "the draft convention represents neither a loss for the United States nor a victory for the Group of 77. Rather, it embodies balanced and, I believe, acceptable compromises that emerged from tough and protracted battles between the conflicting ideologies and interests of both sides. This would not have been possible had not the representatives of the United States fought

tenaciously and articulately on behalf of the free enterprise system and its benefits for the world community as a whole."<sup>5</sup>

The very fact that such a public figure (a cabinet member in several administrations, a leading American corporate lawyer and a Harvard academic) labels the treaty as defending "the free enterprise system" is an indicator that U S decision-makers can certainly accommodate themselves to the treaty.

A final segment of the treaty's protagonists is to be found among *the oil corporation members* of the seabed consortia, inasmuch as the treaty also guarantees the right of a nation to exploit offshore natural gas and oil resources within a two-hundred mile limit as well as free passage of the world's oil through the ocean's straits. As a spokesman of Royal Dutch Shell (which is a partner of the Ocean Minerals Consortium) puts it: "The treaty is probably the best that can be achieved". Of vital importance in this perspective, he went on to add, is that "our company would not go ahead with the huge investment without an international decision."<sup>6</sup>

### The revisionists

The second group, which has opted for the treaty's revision, consists primarily of *the Reagan administration* in conjunction with certain of the *non-oil corporate interests* in the consortia. Emboldened by the Reagan victory and the shift in the U S political spectrum, state and corporate spokesmen forcefully articulated the treaty's provisions which they considered were conceding too much. Some of the major provisions that are now under revisionist onslaught were recently spelled out by the leading U S Law of the Sea representative which, in many cases, distorts the purpose of the treaty:<sup>7</sup>

- the draft convention would establish a supranational mining company (the Enterprise) which would benefit from significant discriminatory advantages relative to companies of industrialized countries;
- through technology transfer provisions,

**Table 2**  
Comparison of reserves from land mines and nodules (million tonnes metal content)

	Land-based reserves	Potential nodule reserves
Nickel	54	290
Copper	498	240
Cobalt	1,5	60
Manganese	5 440 <sup>1</sup>	6 000

Source: United Nations, Department of International Economic and Social Affairs, 1980.

<sup>1</sup> Gross weight.



the draft convention makes mandatory the sale of proprietary information and technology to developing countries, now largely in U S hands;

- it limits the annual output of seabed nodules as well as the amount which any single company can mine. In so doing, it could discourage potential investors, thereby creating artificial scarcities;
- it creates a one nation, one vote, international organization which is governed by an assembly and a 36 member Executive Council. In the Council, the USSR and its allies have three guaranteed seats, while the U S must compete with its allies for any representation;
- it imposes revenue sharing obligations on seabed mining corporations which would significantly augment seabed mining costs;
- it contains provisions concerning liberation movements, like the PLO, and their eligibility to obtain a share of the revenues of the seabed authority;
- it lacks any provisions for protecting investments made prior to the treaty coming into being.

It is not surprising that this commentary reads like mining company grievances since, as *The Economist* reminds us:

"the new American team at the United Nations conference on the Law of the Sea includes men associated with some of these mining companies, which have lately been lobbying hard in Congress as well as in the Reagan administration"<sup>8</sup>.

Although at first sight these revisions may appear formidable, in reality the mining interests promoting them also recognize that an unyielding position could lead to their own undoing. Sooner or later — but inexorably — there will be international regulation of the sea and on this point there appears to be corporate consensus. Further, they require this treaty, albeit in modified form, to guarantee the political security that would compensate the massive risks and investment outlays involved.

To buttress their bargaining stance, se-

nior state officials and representatives of mining consortia from eight developed countries endowed with the requisite mining technology have been meeting in non-publicized sittings to hammer out a common position. Designated "*the like-minded group*", they are attempting to coordinate national legislation that would, in the absence of a sea treaty, authorize corporations from these countries to begin operations on the seabed as early as 1988.

### The rejectionists

There is yet another current of thought which rejects entirely any unified approach toward an all-encompassing international Law of the Sea. This view is clearly exemplified in *The Wall Street Journal*<sup>9</sup> which contends that both the concept and the principle of the treaty are deeply flawed and hence unacceptable. The philosophical roots of the rejectionist front have been no less clearly spelled by the Republican Mr. William Safire, writing in *The New York Times*:

"The United States should stand for competition and against collectivization; for equal opportunity to gain wealth and against forced redistribution of wealth; for freedom of the seas from the surface to the bottom; and against supernational taxation on anybody's exploration of the unknown."<sup>10</sup>

While such pristine exhortations to economic liberalism are the common rhetorical refrain of global corporate capital, it would appear that they reflect the specific sentiments of certain corporate groupings whose operations are unrelated to the seabed. Thus, while the rejectionist front represents an important ideological current, it is peripheral to future negotiations on the Law of the Sea.

### The wider strategy

These divergent ideological currents have emerged as a result of the Reagan administration's strategy. Of these three groups,

the revisionist current has acquired prominence due to the meshing of big mining capital's aspirations with those of the current US administration. From all indications, it would appear that the revisionist approach has been widely accepted, with certain nuances, by other Western and Japanese corporate/state interests. The upshot is that the renegotiation of the Law of the Sea treaty will undoubtedly confer even more lucrative benefits on TNCs involved in seabed exploitation.

As some of the OECD countries' larger strategies unfold, there are indices that their seabed minerals policies are being coordinated with land-based minerals policies, which involve a rapprochement with mineral-rich South Africa. Once again, not fortuitously, the biggest beneficiaries can be expected to be the mammoth mining corporations.

### Notes:

<sup>1</sup> For details of multi-commodity traders, see F. Clairmonte and J. Cavanagh, *The configuration of corporate power in selected food commodities, Raw Materials Report, Vol 1 No 3, Summer 1982.*

<sup>2</sup> Christopher W. Pinto, "Problems of Developing States and Their Effects on Decisions on Law of the Sea", in *Law of the Sea: Needs and Interests of Developing Countries, 7th Annual Conference of the Law of the Sea Institute, June 26-29, 1972, p. 13.*

<sup>3</sup> Interpress Services, wire service, New York, 1981-04-07.

<sup>4</sup> *Wall Street Journal*, 1981-03-09.

<sup>5</sup> *New York Times*, 1981-04-07.

<sup>6</sup> See observations of Assistant Secretary of State James Malone in testimony before the House of Representatives Merchant Marine and Fisheries Subcommittee, 28 April 1981.

<sup>7</sup> *The Economist*, 1981-04-04.

<sup>8</sup> See editorial, *Wall Street Journal*, 1981-03-09.

<sup>9</sup> *New York Times*, 1981-02-20. ■