

defend or otherwise guarantee its claims to a 200 nautical mile limit and beyond, coupled with the vulnerability of our mining industry, we need a Law of the Sea Convention as much as any underdeveloped nation does. That goes a long way to explaining, of course, why Canada made common cause with the Group of 77 throughout the negotiations.

Problem of US absence

Since the Convention can come into force twelve months after the deposit of the sixtieth instrument of ratification, there seems every chance, given the actual number of states in the "Group of 77," that the Law of the Sea Convention will become international law within the next two or three years. How it is going to operate if the USA stays out is a matter of conjecture. What that is going to mean in terms of US policy (the main holdout), of USSR policy (one of the principal abstainers) and of Canadian policy, is also pretty much up in the air.

The USA, of course, is quite capable of persisting on its present course: partly on ideological grounds; partly in order to assure its own supply of strategic metals; partly (possibly) out of pique at not being given an absolute guarantee of a seat on the Council; partly, I imagine (for ideological reasons) because of its unreadiness to share — under The Heritage of Mankind formula — the proceeds of its enterprise with such national liberation movements as the PLO and SWAPO; and partly, also, because of what they are bound to consider (if only in financial terms because of economies of scale) the unrealistic limitations placed on deepsea production. A very important consideration in US eyes, I suspect, is related to the applicability to all signatories, and without further ratification, of any decisions taken down the road by the Review Conference: such a procedure does not fit with US constitutional practice and law.

What the USA may do, in these circumstances, is to declare itself in favor of a mini-treaty for deep seabed mining. In that endeavor it would conceivably be joined by the UK, the Federal Republic of Germany, Belgium, the Netherlands, Luxembourg and Japan. Such a treaty is said, indeed, to be in the making. Canada's position in such circumstances would be extremely precarious: do we have any levers we could use to oblige such an enterprise to limit

its production and thereby not completely destroy Canada's landbased operations in mining nickel, cobalt, and copper? Canada's room for maneuver seems to me to be very limited, if such should be the prospect that reveals itself. Decisions by the EEC countries are obviously of prime importance in deciding what the USA will do.

Soviet difficulties

The USSR withheld its approval, so they claimed, because they considered it discriminatory to be denied status as "Pioneer Investors" in the Preliminary Investment Protection resolution unless they were to sign the Convention, whereas the USA, even while standing apart from the Convention, can benefit as a "Pioneer Investor" so long as at least one of the nations in a consortium with the USA to engage in deep seabed mining votes in favor. What is more likely is that the USSR adopted the abstaining role in order to leap either way — in or out — and with minimum prestige damage, depending on how the future unfolded.

Canada, therefore, stands teetering in the middle. I suspect, however, that our diplomats are lobbying feverishly to bring "the dissidents" back from the brink and in doing so are almost certain to have the full support of the Developing World. The upshot is still difficult to predict. It will depend to a considerable extent on how the USA sizes up the pros and cons.

Despite what has already been said, it is not easy to envisage a "mini-treaty" enterprise and a Convention enterprise setting up operations side-by-side. The availability of the required technology and capital are likely to be the critical determinants in this whole exercise. Canada may be able to contribute to one, but is not in a very good position at this time to help on the other.

Well might it be asked whether the Convention is "viable" in all other respects except for the Enterprise et al. In legal terms it probably is; but given the degree to which the Third World — and even Canada — relies on enforceable international law to ensure the climate in which all can flourish, I suspect that for most of those states who have spent so much time, manpower and treasure in getting the Law of the Sea Convention this far, it is a matter of all or nothing. And which of us is capable of embarking now, unilaterally on policies designed to guarantee the integrity of our respective 200 nautical mile zones?

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