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**Collection:** Barr, William: Files  
**Folder Title:** Law of the Sea (05/25/1982-  
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# WITHDRAWAL SHEET

## Ronald Reagan Library

**Collection Name** BARR, WILLIAM: FILES

**Withdrawer**

DLB 12/11/2018

**File Folder** LAW OF THE SEA (05/25/1982-06/06/1982)

**FOIA**

S17-8440

**Box Number** 9

SYSTEMATIC

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ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
225827	MEMO	DUPLICATE OF 225820	15	ND	B1
225828	MEMO	DRAFT MEMO TO THE PRESIDENT RE: OPTIONS FOR THE LAW OF THE SEA, ANNOTATED	19	6/2/1982	B1

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

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ISSUE

In the wake of the adoption of an LOS Convention over US objection, how should the US best pursue its oceans interests particularly seabed mining?

I. Results of the Conference

- A. Part XI
- B. PIP
- C. Non-Seabeds

II. Next Steps in LOS Process

- A. Drafting Committee
- B. Plenary
- C. Caracas
- D. PrepComm

III. An Alternative Seabed Mining Regime

- A. The focus of our seabed effort
- B. The RSA
- C. The RSA -- PIP relationship
- D. Dealing with our allies

IV. Other Oceans Interests (customary international law and assertion of rights)

- A. Navigation and overflight
- B. Fisheries
- C. Marine pollution
- D. EEZ

V. Issues for Decision

- A. Signature (esp. timing and relationship to getting allies on board)
- B. Rest of LOS process (Drafting Committee, Sept. Plenary, Caracas -- interpretive statements and signature of final act, PrepComm)
- C. How to we get an RSA? -- US leverage
- D. Navigation and overflight
- E. EEZ

May 25, 1982

# United States Senate

WASHINGTON, D.C. 20510

May , 1982

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

Dear Mr. President:

The treaty text emerging from the Law of the Sea Conference falls far short of the well considered and highly defensible position you announced on January 29 of this year. It also clearly falls short of the Congressional intent expressed in Title II of the Deep Seabed Hard Mineral Resources Act. We feel you correctly instructed the U.S. Delegation to vote against adoption of the treaty text.

We understand that should the treaty nevertheless enter into force, it would establish:

- o a system of world government in which our political and economic interests and those of our industrial allies were not fairly represented;
- o a cartel for strategic ocean minerals which would freeze out nearly every American company which decided it wanted to develop the seabed;
- o a world-wide state owned company which would monopolize ocean mining at the direct expense of American taxpayers who would be called upon to subsidize its operations;
- o an economic structure built upon production controls, commodity agreements, mandatory transfer of technology and numerous other restrictions which are an anathema to our free enterprise system;
- o a means by which terrorist groups conceivably could be awarded financial benefits;
- o sovereignty threatening precedents applicable to current and future international negotiations;

- o a defacto system of immediate interim application based upon the mere adoption of resolutions by conference delegates, imposing burdens upon the United States and all other participants, not only prior to the treaty's entry into force, but without the advice and consent of the Senate; and
- o a means by which amendments to the treaty would become binding on the United States without the advice and consent of the Senate.

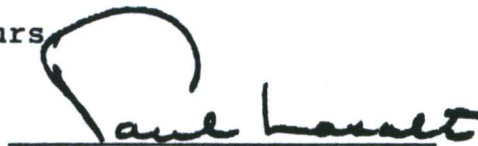
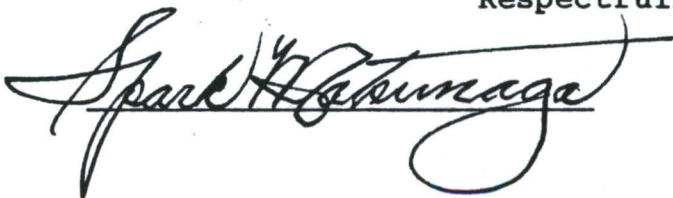
You have already clearly identified other features of the treaty as well which would be inimical to US interests and implicitly to those of our industrial allies.

As you know, the U.S., the United Kingdom, France and West Germany have already enacted legislation which would establish a legal framework for developing ocean minerals. These nations have already negotiated, pursuant to statutory authority, a Reciprocating States Agreement, which would provide for the harmonization and implementation of their legislation and for the resolution of any conflicts. The agreement has not yet been signed due to a hope that waiting until the conclusion of the Law of the Sea Conference on April 30 would result in an agreement on a Law of the Sea treaty text which all industrialized nations with ocean mining interests could enthusiastically sign and ratify.

Mr. President, the vote on the treaty text at the Law of Sea Conference confirms that such a prospect has decayed far beyond the point of even the most wishful thinking. We feel that the time has come for a serious rebuilding effort to begin now, based on the model of our domestic legislation and that enacted by the United Kingdom, France and West Germany. Because of the failure of the treaty to meet our national interests, you should withhold signature of the treaty; promptly sign and implement the Reciprocating States Agreement with these nations and then invite any other nation which enacts similar legislation to join with us in such agreement; and commence exploring possibilities for a more acceptable international regime.

We hope that you will see fit to follow such a course.

Respectfully yours,



STROM THURMOND

DON NICKLES

JOHN P. EAST

BOB DOLE

PAULA HAWKINS

STEVE SYMMS

JESSE HELMS

S. I. HAYAKAWA

JOHN WARNER

ORRIN HATCH

JIM ABDNOR

BARRY GOLDWATER

DAVID BOREN

BOB KASTEN

LARRY PRESSLER

ROGER JEPSEN

ALPHONSE D'AMATO

CHUCK GRASSLEY

DICK LUGAR

BENNETT JOHNSTON

JIM MC CLURE

MALCOLM WALLOP

LLOYD BENTSEN

PAUL LAXALT

SPARKY MATSUNAGA

**OFFICE OF POLICY DEVELOPMENT**

**STAFFING MEMORANDUM**

DATE: 5/27/82 ACTION/CONCURRENCE/COMMENT DUE BY: FYI

SUBJECT: IG Meeting on LOS Treaty

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
PORTER	<input type="checkbox"/>	<input type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
BARR	<input type="checkbox"/>	<input type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BAUER	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	GRAY	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
CARLESON	<input type="checkbox"/>	<input type="checkbox"/>	OTHER		
FAIRBANKS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GUNN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HEMEL	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MALOLEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
SMITH	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
✓ UHLMANN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

*Please return this tracking sheet with your response.*

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



MEMORANDUM

THE WHITE HOUSE  
WASHINGTON

May 24, 1982

FOR: EDWIN L. HARPER  
FROM: MICHAEL M. UELMANN  
SUBJECT: IG Meeting on LOS Treaty

I have learned that seven of nine bureaus within the State Department have recommended to the Secretary of State that the U.S. defer decision on whether to sign the LOS Treaty until at least the end of the summer.

Tomorrow morning there is an IG meeting to review a draft of the Presidential decision memorandum. The draft memorandum (a copy of which is attached) is a good one and was drafted by OES, one of the two State bureaus urging a prompt Presidential decision. It poses two options -- to sign or not to sign.

At tomorrow's IG meeting, there will probably be a strong push to include "deferring the decision" as a third option. As I indicated earlier, deferring a decision will foreclose the President's options by making it impossible to develop support for an alternative LOS regime.

Nevertheless, there will be growing momentum for this option because those who would like to see the United States ultimately sign the Treaty will push it. Moreover, it has the attraction of avoiding an immediate choice on the real issue.

I will be attending the IG meeting tomorrow. Would you like me to raise our concern that deferring the decision will foreclose Presidential options? It may be easier now to push for prompt action, before bureaucratic momentum for deferral builds.

*I hope you did.*

cc: Ken Cribb

*[SECRET ATTACHMENT]*

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OF CLASSIFIED ENCLOSURES

*db 12/11/2018*

*JH*

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To : Bill Bauer  
From : [Signature]

2 June 1982

Status of the Law of the Sea  
Reporting Process

Key Issues in Dispute:

- Continuation in the "UNLOS III process" to:
  - Maintain the Committee II text in its current configuration;
  - Make "interpretive statements" so as to give added weight to the United States interpretations of the ambiguities on the language in the Committee II text, in case of future legal and political challenges;
  - Continue to assert the United States leadership role in international negotiations, and our dedication to the multi-lateral method of settling international matters.
- Continue to seek for "improvements" in the seabed mining text, by informal consultations with our erstwhile allies -- maybe enough so that the United States might be persuaded to sign and ratify.
- Accept the JCS/JAG thesis that unilateral or RSA (limited participation) is inadequate as a foundation for seabed mining in the United States -- lack of guarantee of tenure against all other nations.

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United States Goals for Ocean Policy

- Access to seabed minerals, when and if needed
- Control over pollution in coastal waters
- Control over fisheries in coastal waters
- Continuation of tuna and salmon fisheries positions
- Freedom for scientific research beyond the limits of territorial waters, except for resource-related research on foreign continental shelves
- Maintenance of rights to the resources of the Continental Shelf of the United States\*
- Maintenance of rights of military navigation and overflight:
  - + through territorial waters
  - + through international straits\*\*
  - + through archipelagic waters\*\*
  - + through seas beyond territorial waters\*\*
- Maintenance of rights of civil navigation and overflight:
  - + through territorial waters
  - + through international straits\*\*
  - + through archipelagic waters\*\*
  - + through seas beyond territorial waters\*\*

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\* Under Truman Declaration, Geneva Convention on the Continental Shelf, and the OCS Lands Act, as amended

\*\* Assuming U.S. acceptance of expanded territorial limits and of the archipelagic waters concept

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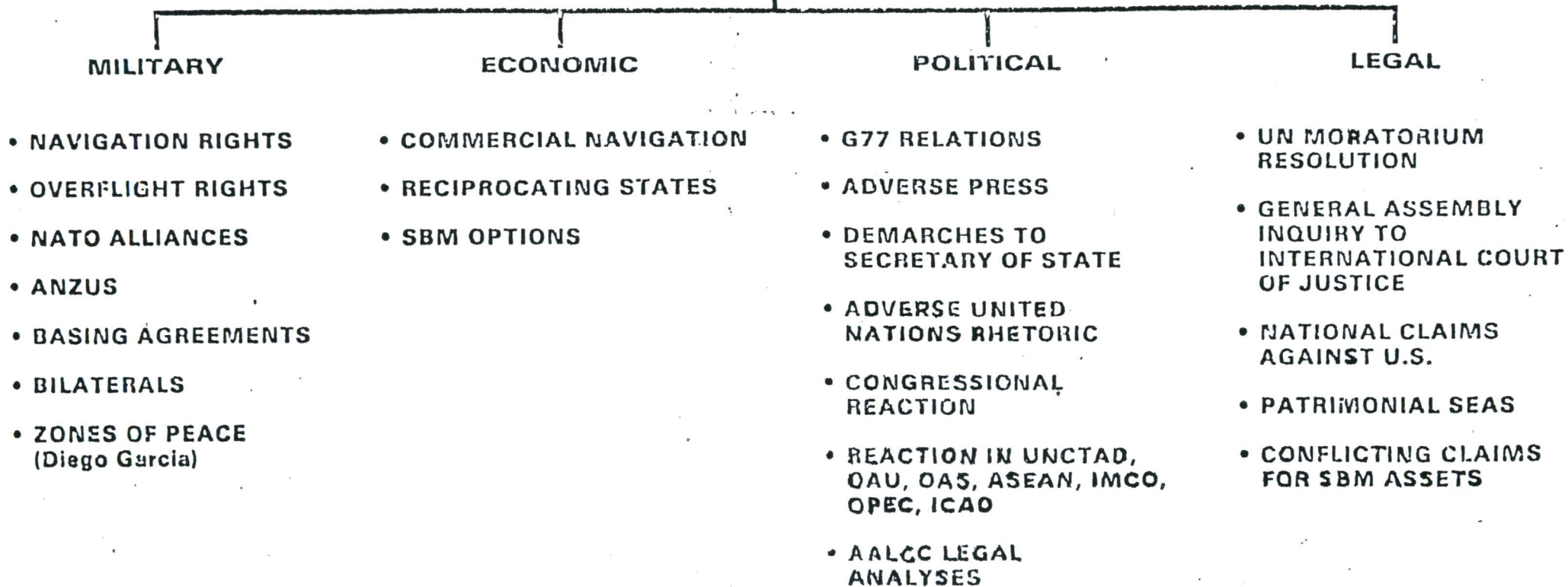
Authority State Waiver 11/6/15

BY ds NARA DATE 12/11/2018

Confidential

## CONSEQUENCES

### U.S. Withdrawal from LOS Treaty



R.B. Keating

## BASIC PROBLEMS FOR United States SEABED MINING OPERATIONS

- + Threat of United States becoming a party to the Convention at some time in the future.
- □+ State of the current metals market
- □+ General Economic Situation, and high money costs.
- Uncertainty of participation in the Convention on the part of major European and Japanese industrial countries -- In many cases, these are partners with United States concerns involved.
- + Possibility of retaliation against other operations of the companies involved, in third world countries who object to unilateral or multinational exploitation.
- □+ Technological hurdles still to be overcome, and the resultant uncertainty of the economics of seabed mining, aside from the tax, fee, and revenue sharing questions.
- □+ Lengthy regulatory processes forecast in the on-shore side of the total seabed mining system, including the environmental controls over processing plants and waste disposal
- □+ Uncertainties in the forecasts of metals needs during the coming, say, fifty years -- necessary for lead time and adequate production time for a viable mining operation.
- Impact of International Seabed Authority fees and revenue sharing, and rules and regulations, under Convention
- Potential tenure limits imposed by Convention Review Conference
- Domestic tax treatment of fees and revenues to the International Seabed Authority
- Costs of Technology Transfer, and concomitant training programs
- --- United States not Party to Convention
- --- United States Party to Convention
- + --- Effective Reciprocating States Agreement, US Not Party