BOOK REVIEW

The Legal Regime of the Sea-bed Under the New International Economic Order

THE PUBLIC ORDER OF OCEAN RESOURCES: A CRITIQUE OF THE CONTEMPORARY LAW OF THE SEA. By P. Sreenivasa Rao. Cambridge, Mass. and London: The MIT Press. 1975. Pp. xi, 313. $19.95.

LEGAL REGIME OF THE SEA-BED AND THE DEVELOPING COUNTRIES. By R. P. Anand. Delhi: Thomson Press (India) Limited. 1975. Pp. xi, 287. $15.00.

*Reviewed by George Winterton**

I

These two books on the legal regime of the sea-bed and the ocean floor appear at a critical stage in the developing nations' campaign to redistribute the earth's natural and industrial resources, and to ensure that the law of the sea—our planet's last, relatively unexploited, "frontier"—reflects the norms of the new international economic order. For, although there are still large reserves of mineral resources on land, only the immense wealth of the sea provides a realistic prospect of narrowing—or even eliminating—the gap between rich and poor nations. Only the sea can offer a source of minerals which is increasing at a rate greater than present levels of exploitation.[1] In view of the developing na-

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1. *See* R. P. ANAND, LEGAL REGIME OF THE SEA-BED AND THE DEVELOPING COUNTRIES 27-28 (1975) [hereinafter cited as ANAND]. Professor Anand reports that

tions' fervent hope that the sea's resources will be used to vastly improve their material, economic, and social conditions, we might justifiably have expected these books by two of India's leading international lawyers to critically examine the aspirations and arguments of the developing nations and to assess the impact of the new international economic order[2] on the law of the sea-bed. Unfortunately, the books do not entirely fulfil those expectations.

Notwithstanding the breadth of the title of Dr. Rao's book, both books are concerned only with non-living resources of the sea-bed. (Although Dr. Rao does briefly discuss the law of fishing, it is only in the context of mineral exploitation.[3]) As one would expect in this rapidly developing area of law, the authors have not been able to take account of very recent developments; although neither book indicates the date of its completion, Dr. Rao's book seems to have been written between the first (Caracas, 1974) and second (Geneva, 1975) sessions of the Third United Nations Law of the Sea Conference, and Professor Anand's in 1973.[4]

Despite the similar academic background of the authors,[5] their perspectives are rather different. Professor Anand examines the present law of the sea-bed, and the routes its future development should take, from the viewpoint of the developing nations. In fact, large portions of his book consist of uncritical summaries of the present position of the "Group of 77."[6] Dr. Rao, on the other

"manganese is accumulating three times as fast as it can be consumed throughout the world, and cobalt and nickel are growing four times as fast." *Id.* at 28.

2. The principal documents establishing the new international economic order are: (a) Declaration on the Establishment of a New International Economic Order. U.N. General Assembly Res. 3201 (S-VI) (May 1, 1974). 68 AM. J. INT'L. L. 798 (1974); (b) Programme of Action on the Establishment of a New International Economic Order. U.N. General Assembly Res. 3202 (S-VI) (May 16, 1974). 13 INT'L. LEG. MAT. 720 (1974); (c) Charter of Economic Rights and Duties of States. U.N. General Assembly Res. 3281 (XXIX) (December 12, 1974). 69 AM. J. INT'L. L. 484 (1975); (d) Development and International Economic Co-operation. U.N. General Assembly Res. 3362 (S-VII) (September 19, 1975). 14 INT'L. LEG. MAT. 1524 (1975).

3. P. SREENIVASA RAO, THE PUBLIC ORDER OF OCEAN RESOURCES: A CRITIQUE OF THE CONTEMPORARY LAW OF THE SEA 109-114 (1975) [hereinafter cited as RAO].

4. *See* ANAND at 267.

5. Both studied at Yale Law School and worked at the Woodrow Wilson International Center for Scholars in Washington, D.C.

6. The "Group of 77" is a political and economic coalition of many of the developing nations. Originally named the "Committee of 77," its purpose was to serve as a focus for the demands of many of the third (and "fourth") world nations to push for major economic reform at the United Nations Conference on Trade and Development in 1973. Although at its inception it had 77 member nations, and hence its name, the members now number over 100.

hand, following his mentor, Professor Myres McDougal, has written a succinct and carefully reasoned manual for a notional "policy-maker." His posture is neutral, but nevertheless, for whatever reason, he tends on most issues to reach conclusions favored by the developed nations. The principal failing of Dr. Rao's book is, as will be seen, that it largely ignores the present world economic environment. It is no longer possible—if it ever was—to write an international law book in a politico-economic vacuum. The different perspective of the authors is somewhat ironic, for Professor Anand is the academic whereas Dr. Rao is a high official in the Indian Ministry of External Affairs.

II

Dr. Rao excellently analyzes the present law of the continental shelf and the deep sea-bed, the various proposals for delimiting the continental shelf and an "economic zone," and the implications of the United Nations declaration that the deep ocean area and its resources are "the common heritage of mankind." He subjects these principles and proposals to detailed, critical analysis supported by a wealth of material in the notes. Dr. Rao has a particular facility for summarizing a lengthy proposal in a few brief sentences or reducing the differences between viewpoints into a few short propositions. He does this very well in chapters five and six, where he discusses marine activities which could conflict with sea-bed exploitation—such as navigation, fishing, underwater archaeology, recreation and military uses; though one occasionally wishes that these conflicting uses of the sea were discussed in a little more detail.

Thus, Dr. Rao discusses the Santa Barbara oil blowout of 1969 and United States law applicable to such disasters,[7] but barely considers the international law of marine pollution.[8] It would be interesting to know Dr. Rao's views on some of the issues arising in that area, one by no means irrelevant to the law of marine mineral exploitation, and a topic not entirely neglected at the Law of the Sea Conference. For instance, should a coastal state be entitled to seize and immobilize an oil rig drilling in the sea-bed beyond na-

7. *See* RAO at 133-39.

8. Professor Anand, reflecting the attitude of the developing countries, seriously underestimates the importance of environmental issues. *See* ANAND at 255-57.

tional jurisdiction if pollution from it damages that state?[9] Mere reliance upon the flag-state or any International Sea-bed Authority to intervene and/or pay damages would almost certainly prove an inadequate remedy.

Moreover, Dr. Rao's conclusion on the reconciliation of conflicting uses of the sea appears somewhat contradictory. He concludes that "resolution must be achieved in accordance with the tests of equivalence and relativity of interests involved,"[10] a conclusion which is clearly correct, yet he also asserts that "*all* present and prospective uses of the high seas must be *equally* accommodated."[11] These two propositions seem irreconcilable.

In considering the proposed new regime for exploitation of the deep sea-bed Dr. Rao quite properly devotes much attention to the international machinery which would be set up to administer it.[12] The fundamental issue is whether exploitation is to be carried out by states and their nationals or by an international Authority. It is here that the free-enterprise philosophy of the United States (and its influential corporate lobbyists) and the developing nations' "emotional,"[13] economic, and ideological[14] interests in participation in sea-bed exploitation come into direct conflict. Unfortunately, the lobbying by American mining interests and their allies has been so sustained (and frequently almost hysterical[15]) that the United States appears unwilling to compromise on this issue.[16] John Stevenson

9. The Informal Single Negotiating Text prepared by the First Committee at the Geneva Session of the Third United Nations Law of the Sea Conference indicates that a state probably could take such action. *See* Draft Convention on the Sea-bed and the Ocean Floor and the Sub-soil thereof Beyond the Limits of National Jurisdiction, Art. 14.2. 14 INT'L. LEG. MAT. 682, 686 (1975).

10. RAO at 131.

11. *Id.* (emphasis added).

12. *Id.* at 99-108.

13. *See* Professor J. Charney in *Symposium: Post Caracas: Striking a Bargain for Settlement at Geneva*, 14 COLUM. J. TRANSNAT'L. L. 3, 15 (1975).

14. *See* Professor Louis Henkin in *Symposium: A Closer Look at Some Issues for Geneva—Oceans Policy, Marine Environment, and Fisheries*, 14 COLUM. J. TRANSNAT'L. L. 56, 78 (1975); RAO at 16.

15. *See, e.g.*, H.G. Knight, *A Reply to "Deepsea's Adventures: Grotius Revisited,"* 9 INT'L. LAW. 751 (1975); Report of U.S. Senate Observer Group at July-August 1971 session of the U.N. Sea-bed Committee, *quoted in* ANAND at 196. Even the one state—one vote principle has been questioned in the United States because of the developing nations' determination to get a "better deal" from the developed nations. *See Symposium: A New International Law for the Deep Seabed Regime*, 14 COLUM. J. TRANSNAT'L. L. 30, 50 (1975).

16. It has even relied on an argument that "it would be unconscionable from the standpoint of the common law for the authority both to regulate deep sea mining

and Bernard Oxman, two United States negotiators at the Geneva session of the Third United Nations Law of the Sea Conference have written:

> The article of the Committee I text most critical to progress in the negotiations is Article 22, which provides that exploitation shall be conducted directly by the Authority, which "may, if it considers it appropriate," enter into arrangements with states or private parties for this purpose. Unless there is a substantial qualification of this article to provide for assured access and production by states and their nationals, an underlying accommodation will not have been achieved.[17]

However, the mechanism for the international regulation of seabed exploitation is not the whole picture; what also deserves attention is the machinery for distributing the proceeds of this "common heritage of mankind" to the needy countries. Professor Anand and Dr. Rao, like most commentators, barely discuss this matter. While it is, of course, somewhat more futuristic than the question of mineral exploitation, it has immediate importance because it is a vital component in the developing nations' reconciliation of their short-term economic interest in acquiring development funds with their long-term interest in technology transfer and participation in seabed activities.

In view of the anticipated paucity of available funds, at least for the foreseeable future, Dr. Rao opposes the establishment of a new international bureaucracy to distribute them, and also rejects cash payments to individual countries as that "would encourage disparate and uncoordinated economic investments, often with no net gains for an organized and balanced world economic development."[18] He recommends distribution of the funds through "the existing transnational development agencies."[19] While his proposal

activities and to engage in them itself. That would . . . raise doubts as to whether due process of law was being observed.": *see* RAO at 98, *quoting* Mr. Leigh Ratiner.

17. J. R. Stevenson and B.H. Oxman, *The Third United Nations Conference on the Law of the Sea: The 1975 Geneva Session*, 69 AM. J. INT'L. L. 763, 769 (1975). Article 22.3(ii) modifies the portion of Art. 22 quoted by Stevenson and Oxman; "in order to promote earliest possible commencement of activities in the area," the Authority is directed to identify ten "economically viable mining sites in the area" and enter into joint ventures in respect of them with states or their nationals, but such joint ventures "shall always ensure the direct and effective control of the Authority at all times." *See* Draft Convention, *supra* note 9, 14 INT'L. LEG. MAT. at 688.

18. RAO at 107.

19. *Id.* at 108.

is economically sound, I believe it unwise to simply submerge the proceeds of sea-bed exploitation in general development funds, even if a greater number of developing nations would benefit thereby. The "common heritage of mankind" is a new concept, symbolic of the unity and interdependence of mankind, and the proceeds of its exploitation should have tangible, noticeable results. It would, therefore, be preferable to spend the money on a few specific projects identified as funded from marine mineral exploitation instead of distributing a few dollars to all developing countries. The projects should, of course, benefit the developing nations; it might, for instance, be a university for Chad one year, a hospital in Bangladesh the next, and so on.

Unfortunately, some presently proposed formulae for distribution of the proceeds of marine mineral exploitation to the developing nations are rather frugal[20]—as, indeed, is assistance by the developed countries to the poor nations in general.[21] However, it must be noted that the coastal developing nations have been most reluctant to introduce revenue-sharing into areas of the sea-bed which may fall within their jurisdiction, and have shown a miserly indifference to the plight of the geographically disadvantaged states, among whom are the poorest of the poor countries.[22] Moreover, at least for the short-term, the exploitable wealth of the continental margin, especially petroleum resources, far exceeds that of the deep sea-bed.[23]

In an era when the majority of the world's nations—the developing countries—have been instrumental in achieving the declaration by the United Nations of a new international economic order, one

20. *See, e.g.*, regarding the continental margin, Stevenson and Oxman, *supra* note 17, at 782 n. 43.

21. *See, e.g.*, Development and International Economic Co-operation. U.N. General Assembly Res. 3362 (S-VII) Part II, Art. 2: *supra* note 2, 14 INT'L. LEG. MAT. at 1528.

22. As Dr. Rao writes: "The proposition that applies revenue-sharing only to the area between 200 miles from the shore and the edge of the continental margin is very conservative and unsatisfactory": RAO at 203. The position Dr. Rao criticizes is taken by the Informal Single Negotiating Text of the Second Committee, Art. 69: *supra* note 9, 14 INT'L. LEG. MAT. at 728. There is widespread opposition to a more liberal revenue-sharing regime; *see* Stevenson and Oxman, *supra* note 17, at 782. *See also* Professor Richard N. Gardner, N.Y. Times, March 14, 1976, § 3, at 14, col. 2.

23. *See* Gardner, *supra* note 22; *Symposium, supra* note 13, at 21-22. For the great wealth of the continental margin of the United States beyond 200 miles from shore, *see* ANAND at 118.

would expect all international negotiations to center around the poor nations' determination to get a "better deal": technology transfer, assured markets, indexation of the cost of their imports from the developed countries to the price of their exports to them, development aid, and general participation in world political, economic, technological, and social matters. This has, in fact, been the case at the present Law of the Sea Conference.[24] The developing nations have realized that "freedom" without resources to enjoy it is a cruel charade or, at best, useless; as Senator Lee Metcalf aptly said, "[w]hat is proclaimed by some to be equal freedom for all nations on the high seas has become in fact unequal freedom."[25]

Dr. Rao is, of course, aware of these matters—which constitute the core of Professor Anand's book. However, he makes only occasional reference to the specifics of the present world politico-economic environment;[26] for instance, he omits mention of the United Nations Declaration on the Establishment of a New International Economic Order, or its subsequent Programme of Action,[27] though these resolutions were passed before the Caracas session began. Instead, he limits his consideration of these matters to a vague and much too unspecific pythic statement in the McDougal-Lasswell terminology:

> An optimum world public order . . . must facilitate the realization of two important goals: first, the optimum promotion of values such as power, enlightenment, wealth, well-being, skills, affection, respect, and rectitude; second, the widest distribution of such values among the different groups of the world community.[28]

There are many aspects of the new politico-economic environment bearing directly on a future legal regime of the sea-bed which Dr. Rao should have addressed specifically. Thus, despite the excellence of Dr. Rao's treatment of the subjects he considers, his book presents only part of the picture.

24. *See* Mr. Leigh Ratiner in *Symposium, supra* note 15, at 37. *See also* ANAND at 162, 176 on the inter-relation of the limits of national jurisdiction and the regime of the international sea-bed area.

25. *Quoted in* G. Biggs, *Deepsea's Adventures: Grotius Revisited*, 9 INT'L. LAW. 271, 277 (1975).

26. *See, e.g.*, RAO at 34, 203, 209-10 nn. 30-32.

27. *See* note 2 *supra*.

28. RAO at 29.

III

Professor Anand's approach to the legal problems of marine mineral exploitation is very different from Dr. Rao's. He seeks to present the case for the developing countries—the "Commonwealth of Poverty," as he aptly characterizes them[29]—and he does so forcefully, bluntly and frequently eloquently. The argument of the developing nations is that the law of the sea (like other rules of international law) has been used to exploit them;[30] but that era is dead, and a death certificate must be issued by the world community. It is a strong case, and he states it well. However, Professor Anand does his position harm by being too one-sided; he adopts the posture of an advocate, only rarely criticizing the attitude of the developing countries,[31] and frequently overstates the alleged malevolence of the developed nations.[32]

The position is, in fact, far less one-sided than Professor Anand suggests. The developing nations have had a rather "raw deal" at the hands of the rich nations for a long while (colonialism is the supreme example), but, however reluctantly, the latter have recognized that times have changed or, at least, are changing.[33] In the context of marine mineral exploitation, one only need recall the non-passage of the Metcalf Bill,[34] the United States advocacy of revenue-sharing (with the revenue benefiting the developing nations[35]), the Canadian, British and Australian rejections of the claim of Deepsea Ventures, Inc. in 1974,[36] and the general attitude of states such as Sweden and Norway in the Law of the Sea negotiations to realize that the developed nations are not totally impervious to the claims of the developing countries. Moreover, the United States did not vote against the Charter of Economic Rights and Duties of States, and at least some responsible American opin-

29. ANAND at 233.

30. *Id.* at 172-73.

31. *See id.* at 232.

32. *See, e.g., id.* at 160, 212, 215, 231.

33. *See, e.g.*, Secretary of State Kissinger's speech (delivered by Ambassador Moynihan) to the Seventh Special Session of the U.N. General Assembly, September 1, 1975: 14 INT'L. LEG. MAT. 1538 (1975).

34. *See* RAO at 89-93.

35. *See* The United States Draft United Nations Convention on the International Sea-bed Area, Art. 5: 20 INT'L. & COMP. L.Q. 451 (1971).

36. *See* Letter of Canadian Ambassador (to the United States) to Deepsea Ventures, Inc., dated December 6, 1974: 14 INT'L. LEG. MAT. 67-68 (1975); Letter of British Embassy, dated January 20, 1975, and Letter of Australian Ambassador, dated March 18, 1975: *id.* at 796, 795 respectively.

ion has recognized the implications of an interdependent world. Professor Jonathan Charney, for instance, has said:

> . . . I don't subscribe to the proposition that the United States needs to have independent sources for all these resources. I like the idea of the dependence of nations and, consequently, I would like to see the United States importing resources rather than obtaining them only from its own territory.[37]

Of course, as indicated above, there are many American actions, and statements, giving validity to Professor Anand's accusations: as usual, there are many sides to the matter,[38] but Professor Anand's perspective causes him to concentrate on only one.

Similarly, Professor Anand's general acceptance of the arguments of the Group of 77 has made him somewhat insensitive to the fact that the developing nations, like the others, are motivated, especially in the present economic climate, by self-interest, not altruism,[39] and that their interests are very diverse.[40] The sharp increase in the price of oil, for example, has hit the developing nations hardest.[41] The Group of 77's perference for a wide "economic zone" under coastal state jurisdiction is of greatest benefit to the United States[42] and, in the absence of a generous revenue-sharing formula, is a serious impediment to the economic development of the geographically disadvantaged poor states.[43]

The developing nations seem simultaneously to advocate both a

37. *Symposium*, *supra* note 13, at 20. *See also* Senator Lee Metcalf, *supra* note 25.

38. Some of the divergent interests in the United States are noted by Professor Anand: ANAND at 117-38.

39. *See* RAO at 202-03; Mr. Oxman in *Symposium*, *supra* note 14, at 56.

40. Professor Anand does recognize this, of course: *See, e.g.*, ANAND at 240.

41. As Dr. Kissinger put it recently: "It is also ironic that a philosophy of nonalignment . . . now has produced a bloc of its own. Nations with radically different economic interests and with entirely different political concerns are combined in a kind of solidarity that often clearly sacrifices practical interests. And it is ironic also that the most devastating blow to economic development in this decade came not from 'imperialist rapacity' but from an arbitrary, monopolistic price increase by the cartel of oil exporters.": *supra* note 33, 14 INT'L. LEG. MAT. at 1539. Examples of recent efforts among the developing countries to protect one another from the deleterious effects of actions taken against developed nations are: (a) Conference of Developing Countries on Raw Materials: Action Programme and Resolutions on Raw Materials and Other Primary Commodities (Dakar, February 3-8, 1975): 14 INT'L. LEG. MAT. 520 (1975); (b) O.P.E.C.: Declaration Concerning the International Economic Crisis (March 6, 1975), Art. IX: 14 INT'L. LEG. MAT. 566, 571 (1975).

42. *See* A. L. Hollick, *LOS III: Prospects and Problems*, 14 COLUM. J. TRANSNAT'L. L. 102, 103 (1975).

43. *See* Ambassador John Stevenson in *Symposium*, *supra* note 13, at 22; ANAND at 157-59.

wide "economic zone" for coastal states and strong international machinery (with the proceeds of mineral exploitation benefitting the developing nations) for the international area. As Dr. Rao observes, "many developing coastal nations, principally the sponsors and supporters of the economic zone and patrimonial sea concepts, . . . advocate what appear to be contradictory positions."[44] Professor Anand's analysis of the developing nations' policy on the "economic zone" demonstrates the validity of this view. Professor Anand observes that a wide coastal-state jurisdiction over the seabed would, in fact, be of greatest benefit to developed countries such as Australia, Canada, France, the Soviet Union, the United Kingdom and the United States.[45] Accordingly, he recommends a narrow continental shelf jurisdiction together with strong machinery for the international area.[46] However, without giving adequate reasons, he shortly thereafter reverses his stand, asserting that "even the underdeveloped states—and most of the underdeveloped states are also coastal states—would be better off with a wide shelf jurisdiction. . . . This may lead to much more rapid development of the underdeveloped countries than any uncertain worldwide system."[47]

Rejection of the "uncertain worldwide system" at this early stage is completely unwarranted: on this, as on other issues, Professor Anand fails to examine critically the position adopted by the Group of 77. Those positions require careful scrutiny in the light of the goals, not of the developed countries, but of those of optimum *world* public order. By merely reporting their positions, rather than strengthening their case through constructive criticism, Professor Anand has done the developing nations a disservice.

IV

Three matters which warrant far greater attention than they receive in either book demonstrate the unreality in viewing the law of marine mineral exploitation in a politico-economic vacuum.

1. The difference in position between the developed countries and the Group of 77 stems partly from a different chronological pers-

44. RAO at 74-75.
45. ANAND at 112.
46. *Id.* at 113.
47. *Id.* at 116.

pective, itself a reflection of disparate levels of technology. Although vast mineral wealth still exists on land, United States mining interests have shown an indecent, almost suspicious, haste to begin deep sea exploitation.[48] The developing nations see in this a two-fold threat; firstly, an effort to lessen reliance upon their resources[49] and, secondly, a desire to appropriate as much of the sea's resources as possible before the poor nations acquire deep sea mining technology. Neither fear is completely unfounded and the resulting position of the developing nations is to insist that deep sea mining await their technological advancement. They argue that a long-term view must be taken and, hence, there is no cause for haste in exploiting sea-bed resources.[50] Technology transfer has, in fact, been an important provision in all the documents of the new international economic order.[51]

This natural insistence upon participation in deep sea-bed activities conflicts, however, with another premise of marine mineral exploitation in the present economic environment, namely maximum present benefit to the developing countries. The latter premise would suggest the creation of an international sea-bed regime generating a high level of funds for development of the poorer countries. Economic efficiency would be the keynote of such a regime. Accordingly, exploitation would be left to states or their nationals, and licenses would be granted, as Dr. Rao recommends, to "the one who agrees to pay the highest royalties to the

48. *See, e.g.*, Deepsea Ventures, Inc.: Notice of Discovery and Claim of Exclusive Mining Rights, and Request for Diplomatic Protection and Protection of Investment (Filed November 15, 1974): 14 INT'L. LEG. MAT. 51 (1975).

49. Thus, Professor Anand quotes Mr. C. H. Burgess in 1972: "Raw materials are in fact political commodities and are the real base of world power . . . . [A] short time ago the Western industrialized powers controlled about 80% of the then-known copper resources . . . . [T]oday only 40% can be considered controlled by Western industrial countries . . . . Hard mineral resources in the deep ocean represent an alternative to this picture. They can be used to supplement our domestic supplies . . . and in some cases provide raw materials which are not available domestically.": ANAND at 213. *See also* Professor J. Charney in *Symposium*, *supra* note 13, at 14-16; ANAND at 252-55.

50. *See* Moratorium Resolution 2574D (XXIV) of 1968 (*quoted in* RAO at 85, ANAND at 192); ANAND at 250.

51. *See* (a) Res. 3201 (S-VI), para. 4(p), *supra* note 2, 68 AM. J. INT'L. L. at 800; (b) Res. 3202 (S-VI), Part IV, *supra* note 2, 13 INT'L. LEG. MAT. at 727-28; (c) Res. 3281 (XXIX), Art. 13, *supra* note 2, 69 AM. J. INT'L. L. at 489; (d) Res. 3362 (S-VII), Part III, *supra* note 2, 14 INT'L. LEG. MAT. at 1530-31; (e) O.P.E.C. Declaration, Art. XI, *supra* note 41, 14 INT'L. LEG. MAT. at 573-74; (f) Informal Single Negotiating Text of First Committee, Art. 11, *supra* note 9, 14 INT'L. LEG. MAT. at 685.

international body."[52] Even if an area of the deep sea-bed were allotted to each state, as suggested by some of the developed nations,[53] that regime would virtually guarantee the hegemony of the developed nations and the multinational corporations.[54]

It is little wonder, therefore, that the developing nations are prepared to forego such an ephemeral boost to their development capital, and give priority to participation in deep sea activities.[55] Hence, it is natural that the establishment of a satisfactory international sea-bed regime should be crucial in securing the developing nations' agreement to any new Law of the Sea Convention.[56]

2. A principal feature of the new international economic order —which was heralded by the Arab oil embargo of 1973—has been the completely justifiable claim[57] of the developing nations to receive fair, stable prices, and secure markets, for their exports, and indexation of the price of their produce to the cost of the developed nations' exports.[58] Hence, there has been a proliferation of agreements among producers of raw materials,[59] and some commodity agreements between producing and consuming nations.[60]

The developing countries fear, with some justification, that the developed nations will seek to use the mineral resources of the sea-bed to become less dependent upon the resources of the developing countries.[61] This is of particular concern to producers of nickel and copper, which are found in great abundance on the sea-bed in the form of manganese nodules. Moreover, it is quite

52. RAO at 45.

53. *See id.* at 104, 248 n. 97.

54. Yet that is the regime favored by Dr. Rao, "at least for some time": *id.* at 44.

55. *See* Ambassador Aguilar of Venezuela *quoted in id.* at 97; ANAND at 229, 249; First Committee's Informal Single Negotiating Text, Art. 22, *supra* note 17. *But see* Stevenson and Oxman, *supra* note 17, at 795.

56. *See* ANAND at 162, 176.

57. On the magnitude of the decline in returns from primary produce, *see* ANAND at 237.

58. *See* note 2 *supra*.

59. *See, e.g.*, Agreement Concerning the Creation of the Organization of Petroleum Exporting Countries (September, 1960), 443 U.N.T.S. 247 (1962); Agreement Establishing the Organization of Wood Producing and Exporting African Countries (May, 1975), 14 INT'L. LEG. MAT. 1105 (1975); Agreement Establishing the Association of Iron Ore Exporting Countries (April, 1975), 14 INT'L. LEG. MAT. 1140 (1975).

60. *See, e.g.*, Fifth International Tin Agreement (June, 1975), 14 INT'L. LEG. MAT. 1149 (1975). *See generally* J.E.S. Fawcett, *The Function of Law in International Commodity Agreements*, 44 BRIT. Y.B. INT'L. L. 157 (1970).

61. *See* First Committee's Informal Single Negotiating Text, Art. 9.1(b), *supra* note 9, 14 INT'L. LEG. MAT. at 684.

possible that nations which hitherto imported raw materials may become exporters of them; the case of Britain and her North Sea oil readily comes to mind. In light of this, the mineral exporting countries have played a leading role at the Law of the Sea Conference and have, generally, dominated the Group of 77.[62] Both Professor Anand[63] and Dr. Rao[64] recognize the interest of these nations in the legal regime of the sea-bed but, unfortunately, neither discusses it at any length, nor indicates how these interests, and those of the other developing countries, might be reconciled and protected.

3. The two politico-economic considerations discussed above are aspects of the worldwide confrontation between the "rich" and the "poor" nations. But we have seen that there is great diversity of interest among the developing nations themselves;[65] indeed, the fragility of the Group of 77 has been a factor delaying conclusion of a new Law of the Sea Convention.[66] Among the competing and conflicting interests within the Group of 77 four deserve mention:

(a) States with large continental margins favor a wide "economic zone" under coastal state jurisdiction, although developed nations would be among the greatest beneficiaries thereof.[67] Geographically disadvantaged states, on the other hand, prefer a narrower economic zone (and, hence, a wider international area), or, at least, participation in the economic zone of their neighbors.[68]

(b) Mineral-exporting nations view the prospect of deep sea mining with far greater alarm than do the mineral-deficient developing countries.[69]

(c) Disparate levels of industrial and technological development within the Group of 77 lead to different interests in marine mineral exploitation. India and Brazil, for instance, can anticipate far earlier

62. Stevenson and Oxman, *supra* note 17, at 768; Mr. Leigh Ratiner in *Symposium*, *supra* note 15, at 33. For the position of Zambia, a land-based copper producer, *see* RAO at 70.

63. ANAND at 252-55.

64. RAO at 6, 15.

65. *See* First Committee's Informal Single Negotiating Text, Art. 27.1(b), *supra* note 9, 14 INT'L. LEG. MAT. at 690.

66. *See* Hollick, *supra* note 42, at 107.

67. ANAND at 112.

68. *See, e.g.*, the views of Afghanistan, Bolivia, Nepal, Singapore, Uganda and Zambia in RAO at 69, 70.

69. *See* First Committee's Informal Single Negotiating Text, Arts. 9.1(b) and 30.4, *supra* note 9, 14 INT'L. LEG. MAT. at 684, 693.

participation in deep sea-bed activities than can, say, Niger, Laos or Haiti.

(d) Diverse political ideologies among the developing nations are reflected in their policies on marine mineral exploitation.[70]

However, despite these divisive influences, to the suprise—and, even, irritation—of the West,[71] the Group of 77 has retained remarkable cohesion, with its members increasingly recognizing the need for mutual assistance if they are to achieve an equitable redistribution of the world's resources.[72]

V

To sum up, these books are important contributions to the debate on the exploitation of the sea-bed. Dr. Rao's is a succinct, well-reasoned analysis of the interests involved in formulating policy for marine mineral exploitation. It has an extensive bibliography, and is well indexed. There is also a great wealth of material in the notes (at the back of the book).

While Professor Anand's style is looser than Dr. Rao's, he is frequently eloquent and persuasive in his presentation of the developing nations' views on the direction which the law of marine mineral exploitation must take. Although his book was written before the formal declaration of the new international economic order, it reflects the norms of that order to a greater degree than does Dr. Rao's, written some time later.

The books, in fact, complement each other; together they provide a useful basis for understanding any future legal regime of sea-bed exploitation.

70. *See* RAO at 16.

71. *See, e.g.*, Dr. Kissinger, *supra* note 41; Knight, *supra* note 15, at 752.

72. *See* note 41 *supra;* M.J. Williams, *The Aid Programs of the OPEC Countries*, 54 FOREIGN AFFAIRS 308 (1976).