

the sea; Canada also would like to shield its mining industries against a flood of seabed metals. Malone objected to sections of the text that limit the number of mining operations from any single country, limit the volume of minerals produced, and grant the Seabed Authority broad powers to restrict mining.

- The United States wants the treaty to state clearly that companies meeting objective standards will be guaranteed a license to mine. It is feared that some companies might be excluded or constrained simply because their sponsoring nation was out of political favor.

In addition, Malone said that the section creating the Enterprise sets up "a system of privileges" which discriminate so strongly against private companies that most would be forced to obtain licenses by going into joint ventures with the Enterprise or with developing nations. Malone said there should be no bias against private, independent mining companies. The United States also would like to "grandfather-in" some protection for the companies that ventured into deepsea mining before the treaty was written.

- The United States is not enamored of the one-nation, one-vote rule for governing the Seabed Authority. Malone said the arrangement should be more realistic, reflecting the actual economic power and interests of the nations involved. In short, U.S. companies do not want to be prevented from mining the seabed by a filibuster of lesser nations in the Authority.

- The United States objects to the provision that two-thirds of the nations participating in the review conference could adopt amendments to the mining regime that would be binding on all parties. "This proposal," Malone said, "is obviously not acceptable when dealing with major economic interests of countries which have invested significant capital in the development of deepsea mining."

- The United States will not bargain on principles which it wishes to maintain in other areas of international law. For example, Malone said, the Administration will not give up its opposition to technology transfer in order to gain freedom from production controls.

- Lastly, the treaty must be likely to win Senate approval. According to Malone, this means for example, that the treaty should not commit the Enterprise, as it does now, to funding movements of national liberation, such as the Palestine Liberation Organization.

Some of the new American terms

clearly would require fundamental changes in the text of the treaty. What will happen if a treaty is adopted without U.S. concurrence? De Soto says the effect will be "nothing definite, nothing unrecoverable." The United States may always join later, when circumstances

are favorable. However, he adds, "The climate for U.S. investment in seabed mining outside the legitimately adopted convention, I think, would not be very propitious. That is what we call free market forces in operation."

—ELIOT MARSHALL

Clinch River Hits New Snag

The long-delayed breeder reactor project on the Clinch River in Tennessee was hit with a new setback on 5 March. The Nuclear Regulatory Commission (NRC) voted not to grant a procedural waiver that would have accelerated construction. Managers at the Department of Energy (DOE) had asked for the waiver in order to begin clearing the worksite this spring before the environmental impact review is completed. As a result of the NRC's denial, work will not begin until mid-1983 at the earliest. This delay could kill the project, which escaped a Senate hanging last year by a margin of only two votes.

The DOE's lawyers petitioned for special treatment last November, arguing that the breeder project met all the NRC's criteria for accelerated construction, as set out in rule 10 CFR 50.12. Bulldozing the site would do no irreparable damage to the environment, they said. The President and Congress had endorsed the breeder, satisfying the requirement that the waiver be in the public interest. Finally, the DOE lawyers said that following normal licensing procedures would work an unbearable financial hardship. The last point was the one on which the case fell apart.

Lawyers from the Natural Resources Defense Council and the Sierra Club challenged the claim that it would cost an extra \$120 million to \$240 million to follow the normal rules. Summoning an expert in utility finances, they pointed out that in the current financial climate, the DOE could probably come out ahead by postponing construction. After this argument was presented, the DOE shifted the basis of its calculations, but came up with the same result: delay would cost \$120 to \$240 million.

The DOE did its case no good by shifting the rationale in mid-argument. The two commissioners who have opposed the breeder for some time (Victor Gilinsky and Peter Bradford) were joined by a third, John Ahearne, who has not opposed it. This tipped the balance against the waiver.

Ahearne said the chief reason for voting as he did was that the DOE had done a "poor job" in presenting its case. DOE's petition, he said, "raised real doubts as to whether the applicant (DOE) understands what licensing means." Had a private utility given such a performance, Ahearne said during a preliminary meeting, the NRC would have considered "taking some action against the utility."

The DOE's case was hurt as well by letters from the attorney general of Tennessee and from three former members of the President's Oversight Committee on Nuclear Power—John Deutch, Bruce Babbitt, and Harold Lewis. They wrote that the NRC would undermine public confidence in the breeder if it granted a special exemption from licensing procedures.

NRC Chairman, Nunzio Palladino, and Commissioner Thomas Roberts voted for the waiver, saying that the dispute over economics is not as important as the fact that quick construction of the breeder would be in the national interest.

What will happen now? DOE Deputy Assistant Secretary for the Nuclear Reactor Program, Gordon Chipman, said after the vote that the denial of a waiver will make the breeder \$150 million more expensive. Congress may view this as an intolerable new cost and simply vote to end the project. Another DOE official told the NRC last fall that if the waiver were denied, the project would be "dead in the water in March." It remains to be seen whether the impact will in fact be as severe as the DOE predicted.

—ELIOT MARSHALL