

**Negotiating**  
the **Law** of  
the **Sea**

---

**James K. Sebenius**

Lessons in the art and science of reaching agreement

# Contents

Introduction 1

## PART ONE

### Agreement in the Small, Disagreement in the Large: Financial Arrangements and the Law of the Sea Conference

- 1 Background: Of Nodules, Navies, and Negotiation 7
  - Setting the Stage* 7
  - Whence the Law of the Sea Conference?* 11
  - Conference Organization and Procedures* 12
  - Financial Arrangements in the Seabed Regime of the LOS Treaty* 13
  - Summary* 23
- 2 Course of the Financial Negotiations 24
  - Themes in the Chronology* 24
  - The 1977 New York Session* 24
  - The 1978 Geneva Session* 26
  - The 1978 New York Session* 30
  - The 1979 Geneva Session* 34
  - The 1979 New York Session and Beyond* 37
  - Appendix 1: The Detailed Financial Arrangements Proposals* 40
  - Appendix 2: Description of the MIT Model* 45
- 3 Elements of Agreement 49
  - Diverse Factors in Agreement* 49
  - Use of an Outside Model* 50
  - Agreement as the Result of Differences* 55
  - Combining Issues* 61
  - Summary* 69

4 Disagreement in the Large: Explanation and Evaluation 71

*A Framework for Negotiation Analysis* 71

*Evolution of the U.S. Negotiating Strategy* 74

*The Shape of the Final LOS Treaty* 78

*The Central Trade: Navigation and Nodules* 80

*What Happened? Explaining the Reagan Decision* 81

*Evaluating the Decision to Reject the Treaty-* 84

*Summary and Conclusions* 106

PART TWO

Agreement in Negotiation: General Propositions

5 Differences and Joint Gains 113

*Beyond Common Ground for Negotiation* 113

*Elements of a Differences Orientation* 117

*More Formal Difference Analysis* 144

6 Negotiation Arithmetic: Adding and Subtracting Issues and Parties 182

*A Common Point of Departure* 182

*Adding and Subtracting Issues* 184

*Adding and Subtracting Parties* 207

*Summary and Conclusions* 214

Notes 219

Bibliography 234

Index 245