

PREM 19/758

PART 1 ends:-

TF LF CO 24/12

PART 2 begins:-

Sparrow to PM Qa06212

12/1

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
MISC 19 (80) 2nd Meeting Minutes	25.6.80
OD (80) 47	30.6.80
OD (80) 48	30.6.80
OD (80) 17th Meeting, Minute 1	2.7.80
OD (80) 52	18.8.80
CC (81) 11th Conclusions, Minute 2	12.3.81
OD (81) 25	27.5.81
MISC 19 (82) 18th Meeting, Minutes	27.4.82
MISC 19 (82) 2nd Meeting, Minutes	9.11.82
CC (82) 51st Conclusions, Minute 2	2.12.82

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate CAB (CABINET OFFICE) CLASSES

Signed *A Wayland* Date *28 August 2012*

PREM Records Team

CONFIDENTIAL

FILE

da



Foreign Pol

10 DOWNING STREET

From the Private Secretary

24 December 1982

Dear Roger,

The Prime Minister has now seen the Foreign and Commonwealth Secretary's minute of 23 December about the UN Law of the Sea Convention. Mrs. Thatcher has agreed to Mr. Pym's proposals as to our next steps as set out in paragraphs 4 and 5 of his minute, although she has commented that we should already be well aware of the areas in which the Convention requires improvement.

Yours ever

T. Flesher

Timothy Flesher

Roger Bone, Esq.,
Foreign and Commonwealth Office.

CONFIDENTIAL

da



PM/82/110

PRIME MINISTER

Prime Minister: 1

Agree Mr

Pyms proposals
for the next steps?Yes
out

JF

23/12

UN Law of the Sea Convention: Final Session Jamaica
6-10 December 1982

1. In my minute of 26 November, I promised to report after the Final Session of UNLOSC in Jamaica on the degree of support which the Convention had received.
2. 119 delegations signed the Convention at the Final Session and one (Fiji) deposited an Instrument of Ratification. 25 delegations present did not sign the Convention. Apart from the USA and UK, these included among the industrialised countries the FRG, Belgium, Luxembourg, Italy and Japan, although the latter declared its intention of signing soon. Other significant non-signatories included Venezuela, Argentina, Switzerland, Zaire, and two important straits States (Spain and Oman). Nevertheless, signature by over two-thirds of the international community on the day the Convention was opened for signature is unprecedented and reflects the particular importance attached to the Conference and Convention by the developing countries.
3. The UK statement, which followed the lines agreed between us, provoked a good deal of interest. We achieved our objective of getting over to the Conference that we would be unlikely to participate in the Convention without improvements to the mining regime. This position caused disappointment which has been reflected in the serious UK press. But only the Nigerian delegation attacked us directly at Jamaica, expressing the hope that our separation from other Commonwealth countries (all of those present signed) would be only temporary. The statements made by other industrialised countries who did not sign the Convention were, with the exception of the USA, less explicit in their opposition to the Convention than ours. However the statements made by the French and Netherlands Delegations, both of whom did sign the Convention, included passages criticising the deep sea mining provisions and calling for their correction; and the FRG, Belgium and Italy

/also



also referred to the problems which Part XI still presented for them.

NEXT STEPS

4. Our objectives remain as set out by Malcolm Rifkind in his statement in the House on 2 December: to work with the international community to achieve generally agreed provisions for regulating marine matters and in particular to obtain satisfactory improvements in the deep sea mining regime. As reactions to our statement at Jamaica show, although it may be possible to aim for an amelioration of the regime by the adoption of sensible rules in the Preparatory Commission, the prospects of obtaining fundamental changes in the Convention itself within the two year signature period are not at all good. The first stage therefore is to explore what improvements we want, and to what extent they can be achieved in the Preparatory Commission. We shall want to concert our efforts with those who think like us. I therefore propose that officials in the FCO and other interested departments should begin work immediately on identifying more precisely the areas in which we seek improvements. At the same time, officials should liaise on these improvements with their counterparts in the FRG, France, Belgium, Italy and Luxembourg who, unlike the Americans, will probably attend the Preparatory Commission - in which we are also entitled to participate on a non-voting basis. (These contacts might also serve to stiffen the resolve of the Germans, Italians, Belgians and Luxembourg not to sign the Convention at present; should any of them do so, it would not only increase our isolation and lessen the chances of the improvements we seek, but would reopen the question of Community signature by giving the signatories a majority in the EEC). We shall also have to consider when and in what terms to discuss future developments with the Americans.

Study we already know there



5. Thereafter Ministers will have to decide finally on the improvements we should seek and the means by which we should seek them. We will clearly need to have in mind the considerations raised by John Nott in his minute to you of 20 December.

RECIPROCATING AGREEMENT

6. Discussions are meanwhile continuing between ourselves and other potential deep sea mining countries (USA, FRG, France) about the conclusion of an agreement for mutual recognition of exploration licences granted to mining companies under domestic legislation. The Americans are anxious to press ahead more quickly than the French or the FRG. We attach importance to keeping in step with both the Americans and the Germans on a reciprocating agreement.

7. I am copying this minute to members of OD, the Secretary of State for Industry, the Minister of Agriculture, Fisheries and Food, the Secretary of State for Energy, the Attorney-General and Sir Robert Armstrong.

(FRANCIS PYM)

Foreign and Commonwealth Office
23 December, 1982

FOREIGN POL : 3rd UN Law of the Sea
May 1980.

23 DEC 1982

10
9
8
7
6
5
4
3
2





72
70
FOREIGN POLICY

10 DOWNING STREET

From the Private Secretary

22 December 1982

UNLOSC

The Prime Minister has seen your Secretary of State's minute of 20 December about the question of signature and ratification of the Law of the Sea Convention. Mrs. Thatcher has expressed doubt as to whether it is necessary to return to the question of signature and ratification of this instrument. She does not find herself in agreement with Mr. Nott's arguments.

With regard to Mr. Nott's paragraph 5, in which he argues that coastal states will dispute our right to send ships and aircraft through straits and archipelagos if we stand outside the Convention, the Prime Minister has commented that such passage takes place at present, at a time when the Convention is not in force.

I am copying this letter to the Private Secretaries of members of OD, the Secretary of State for Industry and Sir Robert Armstrong.

A. J. COLES

Richard Mottram, Esq.,
Ministry of Defence.

Prime Minister

A. J. C. 21/12

MO 12/3

PRIME MINISTER1 disagree.
msUNLOSC

Now that the statement to Parliament on signature of UNLOSC has been made and the Final Act ceremony has taken place we shall in due course have to return to the question of signature and ratification of the Convention. I hope that in the intervening period we can avoid actions and statements which might prejudice our final decision, which as Malcolm Rifkind explained to the House on 2nd December is still to be taken.

2. I accept that we have adopted a forward public position in order to influence friendly countries to join together to press for the amendment of the deep-sea mining provisions. But we should surely return to the question of signature and ratification on the basis of the broad range of national interests involved, and uninfluenced by the particular tactics adopted to win concessions.

3. It was explained to MISC 19 that there would be substantial damage to our security interests if we do not become party to the Convention. In fact, there is evidence that some damage has already been caused by the failure to achieve a generally accepted Convention: Spain, bordering as it does the strategically important straits of Gibraltar, looks set to follow the US example of rejecting the Convention in order to impose tighter controls on navigation and overflight in her waters than those permitted by the Convention (Morocco has, however, signed). It was to avoid a general dissipation of the navigational benefits that the Chiefs of Staff were keen for early signature and ratification as soon as appropriate.



4. It is clear from the statements made at the signing of the Final Act that the great majority of the world's coastal states will in due course become parties. The attached map shows (in blue) the coasts of states who have already signed. Some of these states may not in the event ratify; on the other hand some other states who have not yet taken a decision are likely to join the signatories. It is therefore clear that most of the world's strategically important straits and archipelagos will come under the Convention.

5. The aspect which most concerns me is our continued ability to send submerged submarines, military aircraft and surface warships with air cover and helicopter patrols through straits and archipelagos in support of our defence responsibilities outside NATO. Many coastal states will dispute our right to do this if we stand outside the Convention. A superpower like the US has a sufficient margin of military capability to face down the disputes that are likely to occur. But a medium sized naval and air power such as the UK with far-flung interests to defend could find its capability to react at a distance unacceptably degraded by friction and disagreements. These could also adversely affect diplomatic support for us in any dispute involving maritime or air freedoms.

They do have the now.

6. I believe that these implications for our wider responsibilities are sufficiently serious for them to weigh heavily in our final decision on signature and ratification of the Convention. In the meantime I hope that colleagues will bear in mind the possible long term strategic consequences of isolating ourselves outside the Convention.

7. I am copying this minute to OD Colleagues, to Patrick Jenkin and to Sir Robert Armstrong.

Ministry of Defence
20th December 1982

Jaw.



COASTAL STATES HAVING SIGNED CONVENTION, IN BLUE
 COASTAL STATES OPPOSING CONVENTION, IN YELLOW
 STATES YET TO ANNOUNCE DECISION, IN BLACK

THE WORLD
 GSGS OR 3947

SCALE 1:90000000 APPROX AT THE EQUATOR

MAPS PRODUCED UNDER THE DIRECTION OF THE DIRECTOR OF MILITARY SURVEY ARE NOT TO BE REGARDED AS AUTHORITATIVE ON BOUNDARIES OR POLITICAL STATUS EXCEPT IN RELATION TO UNITED KINGDOM TERRITORIES

Printed by MCE RE

Produced under the direction of the Director of Military Survey, Ministry of Defence, United Kingdom, 1976



10 DOWNING STREET

THE PRIME MINISTER

14 December 1982

Foreign Pot H

c. Fco
HMT
DOT
DOE
MAFF

Dear Admiral Irving,

Thank you for your letter of 19 November about the Law of the Sea Convention. I understand you also wrote to Geoffrey Howe, Michael Heseltine and Peter Walker. My answer will stand for all of us.

As you will have seen from the statement made by Malcolm Rifkind in the House of Commons on 2 December (copy enclosed), we appreciate that some of the provisions in the Convention, including those on pollution, are helpful. But the seabed mining provisions are not acceptable and would in our view set undesirable precedents e.g. as regards transfer of technology.

The Convention is open for signature for two years. We believe a further effort should be made to reach a general agreement on the seabed parts of the Convention, as has already been reached on the other parts. By virtue of signing the Final Act, we will be entitled to participate fully in the deliberations of the Preparatory Commission, although we will not have a vote.

Yours sincerely
Margaret Thatcher

Rear Admiral Sir Edmund Irving, K.B.E., C.B.

SWP

PARLIAMENTARY STATEMENT ON UNLOSC, 2 DECEMBER 1982

The UN Convention on the Law of the Sea will be opened for signature in Jamaica on 10 December, and will remain open for signature for 2 years thereafter. The Convention deals with many aspects of the Law of the Sea. Some provisions are a re-statement or codification of existing international law; some provisions seek to make new law. Parts of the Convention, for example, those relating to navigation, the continental shelf and pollution are helpful, but the provisions relating to deep seabed mining including the transfer of technology are not acceptable. They are based on undesirable regulatory principles and could constitute unsatisfactory precedents. A number of our friends and allies share our misgivings on these points. We need to obtain satisfactory improvements in the deep sea mining regime and will therefore explore the prospects with interested states. As the Convention is open for signature for 2 years, there is ample time for revision before taking a final decision. It is our wish that there should be generally agreed provisions for regulating marine matters and we wish to continue to work with the international community to achieve this.

I should emphasise to the House that we could not participate in a seabed regime on the present terms and for that reason, we could not ratify the Convention unless the provisions for the deep sea mining regime become satisfactory.

A copy of the Convention and relevant resolutions of the Conference will be placed in the Library of the House.

CONFIDENTIAL

GR
ACA



Foreign and Commonwealth Office

London SW1A 2AH

10 December 1982

Dear Tim,

for the Prime
signature

UNLOSC: Letter from ACOPS

Thank you for your letter of 25 November enclosing a letter to the Prime Minister from Admiral Sir Edward Irving, the Acting Chairman of the Advisory Committee on Pollution of the Sea. Admiral Irving has sent identical letters to the Chancellor of the Exchequer, the Secretary of State for the Environment and the Minister of Agriculture, Fisheries and Food.

/ As requested I attach a draft reply from the Prime Minister to Admiral Irving, which has been cleared with the other Departments concerned. It corrects the misleading impression in Admiral Irving's letter that we could only participate in further discussions if we signed the Convention.

/ I also enclose a copy of the record of the symposium about UNLOSC to which Admiral Irving's letter refers, together with a summary of the views expressed, which may be of interest to the Prime Minister.

We have agreed with the other departments concerned that they need take no further action, assuming that the Prime Minister replies on the lines of the enclosed draft.

I am copying this letter to the Private Secretaries to the Chancellor of the Exchequer, the Secretaries of State for Trade and for the Environment and to the Minister of Agriculture, Fisheries and Food.

Yours ever
J E Holmes

(J E Holmes)
Private Secretary

T Flesher Esq
10 Downing Street

DSR 11 (Revised)

DRAFT [redacted], LETTER

DRAFT: minute/letter/teleletter/despatch/note

TYPE: Draft/Final 1+

FROM:

Reference

Prime Minister

DEPARTMENT:

TEL. NO:

SECURITY CLASSIFICATION

TO:

Your Reference

Top Secret

Secret

/ Confidential /

Restricted

Unclassified

Rear Admiral Sir Edmund Irving KBE CB
Acting Chairman
Advisory Committee on Pollution
of the Sea
60 New Oxford Street
London WC1A 1ES

Copies to:

PRIVACY MARKING

SUBJECT:

.....In Confidence

CAVEAT.....

Thank you for your letter of 19 November about the Law of the Sea Convention. I understand you also wrote to Geoffrey Howe, Michael Heseltine and Peter Walker. My answer will stand for all of us.

As you will have seen from the statement made by Malcolm Rifkind in the House of Commons on 2 December (copy enclosed), we appreciate that some of the provisions in the Convention, including those on pollution, are helpful. But the seabed mining provisions are not acceptable and would in our view set undesirable precedents eg as regards transfer of technology.

The Convention is open for signature for two years. We believe a further effort should be made to reach a general agreement on the seabed parts of the Convention, as has already been reached on the other parts. By virtue of signing the Final Act, we will be entitled to participate fully in the deliberations of the Preparatory Commission, although we will not have a vote.

Enclosures—flag(s).....



SUMMARY OF VIEWS EXPRESSED AT SYMPOSIUM ON UNLOSC HELD ON 2 NOVEMBER AT LANCASTER HOUSE

1. General Council of British Shipping: Favoured early signature and ratification. Freedom of navigation important for British shipping. The extension of coastal states' claims was a real threat to merchant shipping. Convention law was needed to regulate matters. To rely on customary law was not enough. It would be too risky to hope to enjoy the benefits of the Convention without UK participation. The UK needed the Convention more than the United States, because we had a larger merchant fleet and were more dependent on international trade. UK opposition to the Convention could result in difficulties for British shipping around the world.

2. British Petroleum: Deep Sea Mining part of the Convention clearly unsatisfactory whereas the rest broadly acceptable. Favoured early signature but with the reservation that the UK would not ratify unless the seabed regime was improved. As a major shipowner and world trader, BP was concerned about the threat of unilateral maritime claims by Third World countries. Not good enough to assert that many provisions were already part of customary international law. Maritime law should be treaty law and the UK a party to the treaty. Desirable that Americans should be brought into the treaty as well.

3. Shell: Strongly in favour of UK and Netherlands signature. While expressing reservations about deep sea mining provisions, Shell saw advantages for off-shore oil and gas operations in Continental Shelf provisions. Innocent passage important for tanker trade. The Convention would enhance North/South relations to the benefit of international trade. Full UK membership of Prep Com important to help improve deep sea mining regime. Deep sea mining outside the Convention was not realistic and could be brought before the International Court of Justice. When signing Convention, UK should make a reservation about the deep sea mining provisions.

/4. British



4. British Steel: The seabed would probably be the main source of minerals for future generations but our knowledge is limited. The Convention proposed 'nationalisation' of seabed resources on a world scale. This would lead to a cartel like OPEC. Government should not rush to embrace a Convention which might embarrass future generations. Its navigational parts were merely an attempt to codify accepted international practice. It was unlikely that Prep Com would be able to produce changes necessary to bring United States into Convention. It was possible that non-signatories could make arrangements for deep sea mining outside the Convention.

5. Rio Tinto Zinc (on behalf of UK members of the Kennecott Consortium - RTZ, BP Minerals, Consolidated Goldfields):

Because of the unsatisfactory nature of seabed provisions and non-signature by USA, deep sea mining under Convention unlikely to attract private investment. Other parts of Convention enjoyed consensus; the seabed provisions did not. Ideally negotiations should continue. Convention was objectionably regulatory and set an ominous precedent. Would stifle production. The international enterprise would predominate.

6. Review Conference jeopardized security of terms and financial terms were too tough. (Companies wanted HMG to agree to double taxation relief). Resulting package left too many uncertainties. UK could influence others and should seek improvements. Suggested two courses of action (not clear whether they were mutually exclusive): sign with reservation about ratification and press for improvements; establish a strong network of reciprocating states agreements and seek amendments to the Treaty. But unlikely Prep Com could alter the substance of the regime.

Royal Society

7./ Under Convention, marine scientific research would for first time be covered by international law. During past decade it had become increasingly difficult to obtain permission to work in the exclusive economic zones and on the continental shelves of some countries. Convention would provide framework for forward planning, although we would have to recognise wider claims and restrictions than hitherto.

/Marine



Marine scientific community on balance favoured signature. A vote in Prep Com could help ensure that the powers of the Authority were not unfavourable to research in the international Area.

8. UK Offshore Operators Association: Convention should be made acceptable to more countries including the United States. Welcomed the improvements to provisions covering the removal of platforms [Article 60.3].

9. Association of British Independent Exploration Companies (BRINDEX): Neutral on question of signature, but would welcome further clarification on removal of offshore platforms.

10. Advisory Committee on Pollution of the Sea (ACOPS):
As an island state, UK stands to gain much from claims to exclusive economic zone and Continental Shelf as defined under Convention. UK should sign and become full member of Prep Com. Convention for first time laid down international standards to prevent all sources of marine pollution (IMO provisions on vessel source pollution were only limited). Would strengthen enforcement against pollution. Not to sign would be major setback in Britain's international relations, and could lead to further conflicts of 'cod war' kind.

11. Chartered Institute of Patent Agents: Opposed to signature of Convention because of mandatory transfer of technology provisions. If UK signed, we should protest at transfer of technology provisions and stress that they could not be accepted as a precedent for the future. Convention went further towards conceding what developing countries wanted than they had achieved in other negotiations.

12. Licensing Executives Society: Opposed signature of Convention because of transfer of technology provisions, which were unworkable. A system for compulsory transfer of technology would be a very dangerous precedent.

13. Royal Institute of Navigation: UK should sign the Convention and extend the territorial sea to 12 miles. Supported views expressed by General Council of British Shipping.

Record of UNLOSC Symposium (2 November 1982)

Mr Rifkind:
(Chairman)

Could I begin by welcoming you all to Lancaster House; and say how grateful we are that you have taken the trouble to come this afternoon to give us your views on the Law of the Sea Convention. As some of you will know, we have during the proceedings of the Conference had regular contact with some of the bodies most interested in the outcome and this has been of very considerable value to the Government in understanding the views of the various interested parties. Of those who are represented this afternoon, you will see that there is no specific representation from those with either defence or fishing interests. Although these matters come under the Convention there are separate ways of consulting them and finding out their views on this particular subject.

Could I at this stage, if I may, introduce my Ministerial colleagues? On my immediate left Sir Michael Havers, the Attorney General; on his left Lord Mackay, the Lord Advocate; then Mr Iain Sproat, the Parliamentary Under Secretary at the Department of Trade; and Mr John Wakeham, the Minister of State at the Treasury; on my far right, Hamish Gray, the Minister of State, Department of Energy; John MacGregor, Parliamentary Under Secretary of State, Department of Industry; on my immediate right, Sir Ian Sinclair, the Chief Legal Adviser to the Foreign and Commonwealth Office.

The procedure this afternoon will be that I will be inviting each of the bodies represented to make a short presentation of the view of their organisation on the Law of the Sea Convention. In the letters of introduction we sent to you, we indicated the particular matters on which we hoped you would give us the benefit of your

views. At the end of each presentation I will then invite my Ministerial colleagues to ask any questions they would like, in order to elucidate the points that have been raised and then we will go on to the next organisation. I am sorry that there will not be a substantial amount of time for each presentation but you will appreciate that the numbers involved make that impossible... I would be grateful if the first contributor, Mr Tookey, could speak on behalf of the General Council of British Shipping. Thank you very much.

Mr Tookey:
(GCBS)

Thank you Minister. I represent the General Council for British Shipping: I am the current Vice President. May I reciprocate by saying thank you for giving us this opportunity to state our views ?

It would be a considerable overstatement to say that GCBS has always welcomed the concept of a Law of the Sea treaty and there are still a number of elements in it which we dislike. We do, however, consider that we now need it and in fact therefore now welcome it. When the three mile limit was the norm, ships could avoid countries likely to misbehave. With a twelve mile territorial limit and jurisdiction over a number of matters in a 200 mile zone, it is essential that the relationship between ships and the states in whose waters they trade be properly defined. Furthermore, if the UK does not sign, and I would say parenthetically that I wish we were talking of both signature and ratification, it will have little say in trying to protect the interests of the shipowner, the ship, the master or the crew.

Freedom of navigation is particularly important to British Shipping and we are grateful for the hard work which was put into the negotiations on Article 21 Para.2, which states that laws made by coastal states shall not apply to the design, construction, manning or equipment of foreign ships in innocent passage, unless they are giving effect to generally accepted international rules or standards. The very fact that this negotiation was so difficult leads us to believe that the benefit of this article might not be applied to ships from non-treaty countries, which might lead to widely differing national requirements being applied to a ship which traded past a number of countries. A ship trading from here to Japan might pass through the waters of eighteen states.

As you will be aware, more than a hundred waterways will now be straits. The new regime will, in all probability, eventually become customary international law but the knowledge that a shipowner may eventually be able to persuade his government to obtain a right of passage gives him little satisfaction. He prefers certainty. Events in the Middle East must have convinced everyone of the importance of keeping straits open.

We attach considerable importance to the safeguards which have been negotiated; in particular Article 230, although not giving everything we would wish, gives greater protection to our masters and crews than exists at present by providing that penalties for pollution shall, in the main, be monetary penalties. Imprisonment would be a totally inappropriate punishment. Also, the provisions on rapid release of both ship and crew are important.

Our recommendation that the UK should sign is not born of a wish to pander to the developing countries. Practically everything which happens in UNCTAD is in some way contrary to our interests as firm supporters of free trade in shipping. But we are also realists and we trade worldwide as does much of UK commerce. If the UK does not sign it is likely to be the only major maritime commercial power which does not sign. This will, in our view, simply not be understood and could have a detrimental impact on our shipping interests. The UK delegation played a prominent part in the negotiations on the freedom of navigation and pollution issues and indeed chaired the Maritime Group in the Third Committee. If we walk away from this treaty it will upset many of our friends and make it difficult for the UK to play a similar role in the future.

So much for our fears. To be positive, we feel that the time has come when a worldwide regime which will protect the freedom of navigation, one of our great invisible resources, is to be welcomed. Freedom of navigation, if it is not to be illusory, must include freedom from harassment. It is no longer wise to rely on the development of customary international law in an age when states are increasingly inclined to take unilateral action to "protect" what they perceive to be their economic and/or political interests.

We are aware of the problems the Treaty presents to another industry, and we have no wish to see it suffer any disadvantage. We have therefore carefully considered whether British shipping would get the benefits of the

Convention without UK involvement in the Convention, and we have come to the conclusion that the risk that we would not do so is too great.

We do not know the content of proposed interim measures with likeminded potential miners but it seems to GCBS that they would exacerbate the rift and be taken as a clear indication that the countries concerned would not sign or ratify. They would prolong the period of international discord.

It is clearly evident from what I have said that GCBS favour signature at an early stage. Postponement would have many of the disadvantages of non-signature. In our view, the UK should be seen as being unequivocally in favour of a world system on maritime matters and we do not see any realistic alternative to that contained in the treaty. A world system without the US is of course a flawed system but we have learnt to live with the US as a non-participant in many maritime conventions. Our view then is: Better with it than without it.

Mr Rifkind: There is one particular point I would like to ask about if I may. You have mentioned that you do not think that the United Kingdom would be able to get the benefit of the navigation provisions if it did not sign the Convention, yet you have also acknowledged that the United States is clearly not going to sign the Convention. Do you think there are going to be practical disadvantages that the United States are going to experience if other maritime countries do sign, and they do not?

Mr Tookey: I think the answer to that has to depend to some degree on how one judges the degree of importance of the United

States as a major maritime power. It obviously is a major power, a major commercial power. But you do not see the United States flag around the seas in anything like the strength of the Red Ensign. So I think we would as a major maritime nation be significantly worse off than the United States by non-signature. Also the United Kingdom depends to a far greater degree than the USA on foreign trade.

Mr Rifkind: Is your suggestion therefore that if other maritime countries do sign and the UK does not, that our Merchant Navy would be literally prevented or inhibited from passing through waters, or simply that we would have no legal basis on which to claim the rights that in practice we might continue to exercise?

Mr Tookey: I think that one could rely or hope to rely on customary international law. But I think the fact that the majority of the world at least sees the need for a new law on the sea would imply that they would look for support from the major developed countries and the UK is a major country and I think that our stand-offishness would be misinterpreted and could result in difficulties for British shipping around the world. There have been countries which have indicated that unless the developed world concedes something on the seabed, then there could be difficulties on the matters of navigation. And it is the matter of navigation of course which is our main concern.

Mr Rifkind: Thank you very much indeed. Could we then now go on to our next contributor, Mr Bentham?

Mr Bentham:
(BP)

Thank you Minister for the opportunity of attending and speaking at this meeting today on behalf of BP.

At the outset I should make it clear that I am speaking today in respect of the overall interests of BP with regard to Law of the Sea matters, and not in respect of the narrower issue only of deep sea mining for manganese nodules. Mr Derek Rankin-Reid of RTZ will be dealing later with that specific matter, and my colleague Mr Tony Gorton of BP Minerals is also here and available to speak, or answer questions, in respect of deep sea mining, where, of course, BP has a substantial interest in the Kennecott Consortium.

I say that at the outset because Part XI of the Treaty text which deals with deep ocean mining is clearly unsatisfactory, whereas the rest of the Treaty text is, in our view, broadly acceptable, and here I refer to the provisions in respect of rights of passage through the Territorial Sea, Straits and Archipelagos, the freedom of the High Seas the exploitation of the Exclusive Economic Zone and the Continental Shelf, the Environment and Pollution.

When the movement for an overall Law of the Sea Treaty gained impetus in the late 1960's and 1970's, the western developed countries with strategic and commercial maritime interests were confronted with a number of threats:-

- i) that States would extend their territorial seas unreasonably, for example to 200 miles - as some South American countries had already purported

to do - and thereafter would impose tolls for passage through those seas, or introduce unreasonable legislation in respect of traffic or in respect of the design, construction, operation and manning of ships.

ii) that the Third World countries would claim large portions of the continental margin - the shelf, the slope and the rise - as being part of the deep sea bed and therefore "the common heritage of mankind". This would have resulted in cutting back national jurisdiction, for example over the UK's continental shelf.

iii) a double standard would be introduced in respect of pollution from the land, from dumping or from ships. A stringent standard would be imposed for the developed world and its ships, and a much looser standard for the undeveloped countries.

Those were some of the dangers foreseen at the outset of the Law of the Sea negotiations and BP, as a ship owner and charterer, as a petroleum company and as a world trader was naturally disturbed at this type of prospect.

In the result, a package deal approach was adopted towards the new Law of the Sea - for good or ill - and the Western World in negotiation over the years 1974 - 1982 has in fact traded advantages in respect of the Territorial Sea, Straits, Archipelagos, the EEZ, the Continental Shelf, pollution and so on in exchange for meeting the Third World's aspirations in respect of the deep ocean, in particular the wish of the Group of 77 to have a U.N.

Authority control and carry out mining in the deep sea. The U.N. Authority, with its Assembly, Council, Special Committees and so on is unattractive. It has been described by one American authority, Mr Northcutt Ely as "a Chinese pagoda floating on its head", and that may be a fair description. Nevertheless, the Authority is now embedded in the Treaty text.

The problem now is how to balance the advantages won in respect of rights of passage, the continental shelf, pollution, etc., against the disadvantages of Part XI.

One argument against signing the Treaty, and one frequently put forward in the US, is that the Treaty's provisions concerning the territorial sea, straits, archipelagos, the EEZ, the continental shelf, the environment and pollution, are now already a part of customary international law. This argument is attractive, but I think it has a siren quality to it. If we wish to be certain that rights of passage are assured in international law and that the right to exploit the continental shelf extends to the foot of the rise and that pollution can be sensibly dealt with, then it is important that the UK should be a party to the new Treaty and in a position to assert that these rules are not just (arguably) customary law but (unarguably) Treaty law.

One possible approach to the dilemma of balancing the very real disadvantages of Part XI - and make no mistake, America's objections to it are real - on deep sea mining, against the real advantages of the rest of the Treaty

might be for HMG to sign the Treaty early next year but with the reservation - and this could be put in a variety of ways - that the UK would not ratify unless Part XI is improved, whether through amendment of the Treaty text or by the enactment of Rules and Regulations which will give an incentive - not a disincentive - to deep sea mining. If such an approach were to succeed, one could conceive of the US acceding to the Treaty in the fullness of time.

To sum up, Minister, as BP sees it, the provisions of Part XI are inadequate and undesirable, but there is much value in the rest of the Treaty to a commercial Group such as ours with a basic interest in international trading. Early signature of the Treaty, but with a reservation, would, we believe, protect our interests.

Mr Rifkind: Thank you very much. One brief question if I may. What would be the effect as far as BP's assessment is concerned, if some members of the European Community were to sign and others were not? Do you see any particular problems if there is a difference of view within the Community?

Mr Bentham: I think at first sight probably not.

Mr Gray:
(DEn) You referred, Mr Bentham, to the attitude adopted by the United States, and you indicated in your remarks that you would be anxious that a way could be found so that they might be able to sign the Convention. Bearing that in mind, does the fact that the United States seems unlikely to sign the Convention at the moment, does that make any difference to your attitude to Continental Shelf matters?

Mr Bentham:

I don't think it would on Continental Shelf matters, because I think as between ourselves and the States, we take very much the same view of customary international law. And I think most American lawyers and English lawyers would agree that one had jurisdiction down to the foot of the rise. And there is a pretty fair argument in customary international law that this should be the position. Under the Treaty it would be very nice to have it cut and dried, if that's the right expression to use in the case of the Continental Shelf. But there's no difference there, I think, between the American and the British approach.

Mr Gray:

So this would not influence your attitude towards our signing, - the fact that the Americans were not signing?

Mr Bentham:

Well, I think so. In fairness of course, like most people we would very much prefer to see the US in the Treaty. As a major world power, if not the major world power, it is highly desirable that they should be. But on the other hand, it's not unthinkable that we should have a treaty without America in the first instance. And if one can do something to make it more possible for them to join later, then perhaps that might be an advantage.

Mr Rifkind:

Thank you very much indeed. Our next contributor is Mr Blair, on behalf of Shell.

Mr Blair:
(Shell)

I speak on behalf of Shell and start off by stating that Shell has expressed its view on the question whether HMG should sign the Convention in a letter which I sent to Mr Fifoot, the Deputy Leader of the UK Delegation on 2nd August on the basis of guidance which I had received, and I will quote from that letter: "We (and that is Shell at very senior level) have carefully reviewed the Convention and Resolutions adopted on 30th April and it remains our considered view that the speedy conclusion of the Convention and the implementation of the Resolutions are in the best interests of our industry and merit our support. We hope that a substantial number of countries will sign the Convention and that it will come into force in the course of this decade, after suitable rules and regulations have been drafted by the Preparatory Commission. We would hope and expect that the United Kingdom and the Netherlands will be among the signatories. We would regret any significant delay in signature."

A similar communication was made at that time to the Netherlands Government. We are, of course, aware of the shortcomings in Part XI and Annex III of the Convention (to which I shall refer later) but felt that the balance of advantages strongly favoured the recommendation which we made to both Governments. There is firstly the fact that the statement by President Reagan on 29th January 1982 made it clear that the United States had no difficulties with

sixteen Parts of the Convention on which agreement has been reached by consensus and which the statement described as acceptable and consistent with US interests, but only with some major elements of the deep sea mining regime (Part XI and its annexes) which the statement described as not acceptable. Amongst other factors which determined our view are: firstly, the definition of the Continental Shelf which extends jurisdiction to an extent which provides a viable basis for off-shore oil and gas operations; secondly, satisfactory provisions on transit passage through international straits and on innocent passage through the territorial sea and similar rights in respect of archipelagic waters (these affect navigation and are of particular importance to the tanker trade); and thirdly, in regard to the protection and preservation of the marine environment, the acceptance of port state jurisdiction as proposed by the oil industry some years ago, will help in combating pollution by tankers and furthermore, the treaty gives support to IMCO rules and regulations and may speed up their application. Captain Lawrence will elaborate on the last two points. Finally, I should mention that it is our view that the conclusion of the Convention is likely to have a favourable effect on the development of North/South relations on which the peaceful and orderly development of trade, investment and in particular energy matters depends; were the Convention to fail at this stage as a result of states deciding

not to sign it or for any other reason, the effect of this could seriously exacerbate North/South problems to the detriment of international industry.

I turn now to the shortcomings of Part XI and Annex III on deep sea mining. It is futile to speculate on how much better the treaty would be if the proposals by the eleven industrialised countries which include all Scandinavian countries as well as Canada, Australia and New Zealand, and originally, also the Netherlands, had been accepted as basis for a compromise. As things are the only possibility we see in mitigating the shortcomings is via the rules and regulations which the Preparatory Commission is to draft. We believe a lot could be achieved through this route but membership of the Preparatory Commission is limited to states which have signed the Convention, and it seems to us important that as many of the industrialised countries as possible which can be expected to possess the technical knowledge, experience and drafting skills, should be members of the Preparatory Commission. This is another reason why we think that the United Kingdom should sign the Convention at an early date.

This leads me to the second option mentioned in the Background Note which seems to envisage the possibility of interim arrangements with the United States and certain other countries which go beyond the conflict

resolution agreement recently signed. We do not think that deep sea mining outside the Convention regime can in the long run be realistic. We would certainly place no reliance on such arrangements.

Finally, two purely personal observations which I have not discussed within Shell. It is sweepingly asserted in some circles that a Convention is not necessary since all or most of the matters of benefit to the industrialised countries contained in the Convention would become customary international law. This may be true for a few concepts but I strongly doubt the extensiveness of this bold assertion. It would certainly not apply to the Settlement of Disputes provisions. It is perhaps of interest that the United States Delegation when recently rebutting in Document A/Conf.62/L.158 the assertions by Chile, Colombia, Ecuador and Peru contained in A/Conf.62/L.143 on rights of sovereignty and jurisdiction within the 200 mile limit was relying in its rebuttal on the terms of the Convention and not on rules of customary international law.

My second personal recommendation concerns the possibility that the United Kingdom, when signing the Convention, might make a statement to the effect that it would make ratification dependent on satisfactory rules and regulations negotiated in the Preparatory Commission. I think that such an expression of

expectation would be helpful, particularly if similar declarations were made by other industrialised countries.

Mr Rifkind:

Thank you very much indeed, Mr Blair.

Captain Lawrence:
(Shell)

Most of what I propose saying has already been said. Mr Blair has put forward the arguments supporting signing which we in the Shell group believe to be true. I wish to amplify purely on the marine considerations most of which have already been mentioned. The Convention has been so long under consideration and contains many fundamental improvements to the legal regime affecting shipping that are self-evident. The most important perhaps being the changes in the definition of territorial law, rights of free passage, archipelagic transit and the exploitation of the EEZ. All of these are desirable in the short term. The impact on other international conventions is also to be borne in mind. It is therefore perhaps to be regretted that the Convention as drafted also contains so many contentious issues which could have affect on its acceptance. There is a danger we believe that if acceptance is delayed too long that it will lead to a proliferation of unilateralism by coastal states, a process which had already started and which may start again and brings with it the danger of rigid implementation. I therefore suggest that it must be in this country's interests to be an early signatory of the Convention.

Mr Rifkind: Thank you very much indeed.

Mr MacGregor:
(DOI) Mr Blair, you refer to the second option mentioned in the background note, and speak against that on the grounds that as you say we do not think that deep sea mining outside the Convention regime can in the long run be realistic. If the United States does not sign the Convention, would you feel that that statement would be correct, or put it another way would you feel that without the United States, deep sea mining inside the Convention regime could in the long run be realistic ?

Mr Blair: I don't think it would be realistic in either case outside the Convention. Quite frankly I am convinced that the matter would be taken up before the International Court of Justice and that the International Court exists whether we like it or not. I believe that judgement would go against whoever acts outside the framework of the Convention.

There is of course a further assumption in what I have just said. I believe the Convention will be signed by a substantial number of States at an early stage and I believe also that it will be ratified in due time. So all this convinces me that operation outside the four walls of the Convention would be an extremely precarious venture. And that's the reason why I would not recommend that in those circumstances deep sea mining could be a viable proposition.

Mr Rifkind:

You mentioned that one of the benefits of signing would be that we could take part in the work of the Preparatory Commission and yet as I understand the Convention we could still take part in the work of the Commission without signing, although we could not vote in any decisions that took place. Would you see that as being a major disadvantage?

Mr Blair:

Yes. Clearly, here it isn't a question of voting, it is the question of negotiating. And quite frankly the mere fact (and I mention this in some two places in my statement) that you need the drafting skills of British experts and experts from industrial countries generally, which can do a lot to produce rules and regulations, will to a large extent mitigate the shortcomings of Part XI.

Sir Michael Havers:
(Attorney General)

Mr Blair, what you are really saying is that the International Court will find after a period of time that the rules of the Convention are now part of the rules of international law. Is that really what you are saying about why they will find against any State outside the Convention taking part in deep sea mining?

Mr Blair:

No, I wouldn't say this. I wouldn't say that the rules of the Convention are part of international

law. And I would think that probably the judgement would be different, that acting outside the framework of the Convention is not sanctioned in any forum by an international regime having the approval of the community of States.

Sir Michael Havers: But if in fact they are to find against anybody not a signatory they would have to find that the international law went that far.

Mr Blair: Yes.

Sir Michael Havers: So my proposition you would agree with.

Mr Rifkind: Thank you very much. Mr Ian MacGregor on behalf of British Steel.

Mr Ian MacGregor:
(British Steel)

Mr Minister, Chairman, I am here in part as British Steel is a consumer of minerals and also in my private capacity as a former member of that industry. And I feel that, while this proposed Convention has many attractive features particularly from the point of view of finally codifying what has become essentially the existing practice in law I believe in many areas, and as such has been enshrined in a Convention which was arrived at by consensus, I think that part of it is attractive. Professor Watt proposed that in a way this was perhaps redundant, the early part of the agreement, because he said that a good deal of the material included in the draft Treaty has already become part of conventional international practice, and thus assumed the status of customary law. And I think that the fact that in the part of the Convention which deals with navigation and property there is merely an attempt to codify what has already become accepted practice internationally. And I think that is further supported by the fact that that part of the Convention was arrived at by consensus.

The final part on minerals is one in which there is little understanding and I think that it would be improper for any Government to dash into embracing the conditions which are proposed without having the public more fully understand the implications of what they are being asked to have their Government approve.

The industrial countries over the last $2\frac{1}{2}$ or 3 centuries have built their ability to produce products based on free access to the bountiful supply of minerals in the earth's surface. The interesting thing is that the earth's surface continues to have ample supplies.

The great question over the years has been the economic comparisons between one source of supply and another and we have seen the fortunes of the mineral companies and in fact countries rise and fall as the economics of the minerals available to them within their borders have become economically viable or less economically viable.

It seems to me that despite my good friend's concern about ocean mining we will be increasingly in generations ahead faced with the necessity for looking further afield for sources of minerals. We are at a very early stage in understanding the mineral deposits in the ocean and of course the more popular ones are the nodules which are easily recognised and which obviously attract public gaze because of the simplistic idea. The fact remains that the ocean bottoms may well be the future source of economic minerals in centuries ahead. We are probably fifty to a hundred years away from full exploitation of these occurrences and in fact our exploration of the ocean bottoms and our understanding of them is in a very very primitive state.

There is however, growing appreciation of the fact that this huge surface which is greater than the land mass by an order of 7 to 10: 1 does indeed probably contain the

mineral requirements for future generations of people. And the difficulty that I have with this Treaty is that it essentially proposed the nationalisation of the mineral industries on a world scale.

I believe that is a concept that is unsound, and one which would by virtue of the conditions that are applied here mean that our industrial countries in the next century and in succeeding years find themselves as captives of a regime which is totally alien to our concept of free economic development.

I would find it very difficult to believe that with the present understanding, or lack of understanding of the implications of this that any government should proceed at this stage to embrace what is obviously a very dangerous precedent in the internationalisation of resources.

We already are concerned about one cartel in energy. And here there is blatantly put forward the concept of providing just that for all the basic minerals which I insist will increasingly be found in those parts of the earth's surface which are covered by water.

Mr Rifkind: Thank you very much.

Mr MacGregor: Mr MacGregor, two speakers have already suggested that (DOI) it might be helpful in getting the United States eventually to sign the Convention if the United Kingdom signed the Convention and then participated in the discussions on the Preparatory Commission. I wonder if you would like to comment on whether you think that it will be possible to get changes in the Preparatory Commission which would make it acceptable to the United States.

Mr MacGregor:
(British Steel)

My understanding is that there has been an enormous resistance to the rationalisation of this particular non-consensus part of this Agreement and to the attempts that have been made at all levels to try to get a more rational approach to the thing.

Therefore I would feel that the prospects for such an arrangement are poor unless there is a dramatic change in attitudes on the part of some of the participants.

I can see well why they hate to give up this opportunity which has been granted to them.

Mr Rifkind:

Going on from that very question, given that the Americans are unlikely to sign, do you think that it is realistic to expect any deep sea mining to in fact take place if there are, as it were, two parallel systems, one under the Convention and one either of the United States by itself, or including other States operating with it?

Mr MacGregor:

First of all, let me make this comment. Even if you have a UN Convention, I am not impressed by past experience, as to whether that would provide you with a strong regime over anything. I think your Government certainly has been the victim of some of the events that I have talked about in the past. Therefore I am not sure, in fact I am concerned that we could assume that by attempting to get a Convention of this type that you are going to have an atmosphere in which intelligent agreements can be reached. Now, at the present moment there has been proposed a Reciprocating States Agreement and your Government is already supposed to

be a signatory to that, as well as the United States and France (although the French have some reservations about the methods of adjudicating certain parts of the Agreement), and the Germans. And I understand that the Soviets are quite attracted by the idea, as well as some of the satellites.

So I believe that the mechanisms do exist for the economic powers to be able to carry out whatever arrangements they wish to make.

Mr Sproat:
(DoT)

Can I just clear one point with Mr MacGregor? Am I right in understanding him to say that as far as the navigational parts are concerned, he thinks they are fine? But as they are customary international law already, we do not need them.

Mr MacGregor:

My implication is that, from Professor Watts' observation, that this is a helpful codification of what he thinks has become a body of law anyway.

Mr Sproat:

And as far as the second part is concerned, the mining, you think that that is dangerous in itself, and sets a very dangerous precedent for the future?

Mr MacGregor:

Yes.

Mr Sproat:

Could I just ask, if that is a fair summary of what you say, it seems to me that what Mr Tookey of the GCBS said was that the navigation thing is fine but we do need it, because it is not yet strong enough as customary international law, and I would just like to know whether Mr MacGregor and Mr Tookey are disagreeing over that one point, and no other?

Mr Tookey:

We do feel that we need the law. There is a feeling amongst many of what is today referred to as the Third World that the present law was created in a time when they had colonial status and therefore had no voice. And I think the mere fact that they are pressing themselves for the Law of the Sea implies that they are not satisfied with the present regime and want something to which they feel they have contributed. I think there is much more chance that they will accept a regime in which they have played a part in drawing up.

Mr Sproat:

But as far as navigation is concerned, presumably because it is customary international law at the moment, these ex-colonial countries are satisfied with it. It is just that they want to get changes on the mining law and they are using the bargaining power of codification of navigation in order to get their hands on some of the benefits of the deep sea mining.

Mr Tookey:

We have seen the three mile limit grow to six miles, to twelve miles, to two hundred. Which is customary, I ask?

Mr Sproat:

Would it be possible to codify the navigational laws and get rid of the mining parts?

Mr MacGregor:
(British Steel)

I think that a former colonial power became over-anxious to do this codification in the early stages of the negotiations. That signal was misinterpreted in certain quarters. You have, shall I say, a little price attached to it.

Sir Ian Sinclair:
(Chief Legal
Adviser to the
FCO)

Just one question I wanted to put to Mr MacGregor arising out of his presentation. It is really a follow-up to the question that Mr Rifkind put. This is effectively, does Mr MacGregor feel that in the long term deep sea bed mining that is to say exploitation can take place outside the Convention regime in the context of Reciprocating States Agreements or otherwise, given the nature of what is supposed to be an exclusive regime within the Convention (and the States would become Parties to the Convention, and there will be a large number of them - let's not deny that ^{who} -/will accept an obligation not to recognise any claim, acquisition or exercise of rights to minerals on the sea bed outside the Convention system), -is it really going to be a viable proposition to engage in deep sea bed mining outside the Convention system? It goes back to the point made by Mr Blair.

Mr MacGregor:

Well, I am not an expert on the international law involved. But I am impressed by the fact that one Government should be prepared to take that position. And that Government will be increasingly dependent on world supplies of minerals.

Sir Ian Sinclair:

Could I ask a supplementary question? Do you think that the necessary finance to engage in these operations would be made available to the mining interests if they were operating outside the Convention system and the title to the minerals extracted would be precarious to say the least?

Mr MacGregor:

I would say that the procedure in the Convention does not look like an attractive mechanism for financing mining,

and therefore I would venture that the suggestion by the non-signatories may probably be a better alternative.

Sir Michael Havers: I have listened with fascination to what you had to say. Can I put it this way? Are you saying that the proposals which you disagree with at the moment on deep sea mining are capable of amendment or that we are going about it entirely the wrong way?

Mr MacGregor: I hesitate to adjudicate these points, but I might have some opinions. I really think that so little is understood about the latter part of this Convention, and it is in such a controversial area, that it would be improper for any Government to impose on its citizens the limitations proposed here at this stage in the game, especially a Government that purports to believe in the survival of the economic system which has existed in this part of the world for quite some time.

Sir Michael Havers: Then what you are really saying is that, if we could separate all the navigational pluses and separate Part XI, you would be happy.

Mr MacGregor: I would say that we are probably in this pickle as a result of the over-haste on the part of a certain former colonial power to get the codification of the navigation rights because of its own particular interests. But it fell into a trap.

Mr Rifkind: The next contributor is Mr Rankin-Reid.

Mr Rankin-
Reid

Whilst I am from Rio Tinto, I am joined by my colleagues, Mr Gavin Moncrieff from Gold Fields and Tony Gorton from BP. We together represent the UK members of the Kennecott Consortium.

We welcome this opportunity, only a few weeks before HMG must make a final decision on the proposed United Nations Convention on the Law of the Sea, to give you our views on the impact that the Convention will have on our deep sea mining activities. We thank you for the invitation to this meeting.

We are very conscious that deep sea mining is not the only issue at stake, although undoubtedly Part XI of the Convention has been the most difficult part to negotiate and has received far more publicity than the rest of the Convention. As potential sea bed producers we represent but one special interest. Others include those of military navigation, mineral consumers, shipping, fishing and oil producers. The task of Government is an extremely difficult one of balancing interests of which sea bed issues are but one. The relative weights to be attached to those interests and whether those interests can only be served by a comprehensive Treaty, are debatable, but not by us here. Others may not be so diffident (and there will be no shortage of advice to close your eyes to Part XI, think of England and to sign the Treaty.)

No shortage of advice at all, these siren voices will tell you that the Pacific is a far away area of which we know little and can expect to receive nothing for many years to come. And, of course, this is the very kernel of the problem, that it does not show an economically viable project at this particular moment. It is in the future and all that much more difficult to gauge, and this is one point which Mr MacGregor made which we would like to emphasise as well. We as potential sea bed miners can only assess that part which affects us and we hope that assessment is useful

to you. The substitution of an international regime for the existing high seas freedom represents the most significant departure from customary international law. It was in the expectation of this universally acceptable treaty that we in the Kennecott Consortium invested nearly US \$50 million in deep sea mining activities. But this hoped-for security has not arrived, and what we have at the moment is uncertainty not freedom. As a consequence, both HMG and our Consortium face difficult decisions made more complicated by the opaqueness of some of the alternatives.

The quandary which we both are in is in no small way due to the fact that the Law of the Sea has been negotiated as a "package" with the coastal states bargaining a lessening of their extensive territorial sea claims for industrialised countries' concessions on part XI. The result has been unfortunate, but highly predictable.

The texts on other areas command substantial consensus whilst the complex and controversial provisions on sea bed mining do not. The ideal solution from our point of view would be to continue negotiating part XI until a Treaty likely to attract investment emerged. Unfortunately HMG does not find itself in this position, and must decide whether the benefits of the Treaty on non sea bed issues can only be achieved by signing a Treaty which contains provisions regarding the sea bed likely to prove unworkable. We for our part have to decide whether to pursue our licence applications under Prep Comm or in the USA or another non treaty country. They are decisions which none of us relish.

Mr Chairman, in your letter of invitation you invited us among other things to address the range of options before the Government. Let us go straight to the heart of the matter: the unsatisfactory nature of part XI. We have to say that the Treaty in its present form and in the absence of the USA is unlikely to attract private sector investment. The legislative and fiscal regime can only be judged against that for land based mines. To the extent that the arrangements are more onerous

or less certain than arrangements elsewhere, they will inhibit deep sea mining. In the sense Part XI is flawed by two factors: first in this fallacious assumption that it is immensely profitable, and the second is that it is possible at this stage to legislate for an industry not yet in existence.

This bleak prospect is not the result of any one or two stark deficiencies, the removal of which would effect a miraculous cure. Rather it is the accumulation of uncertainties some of which are relatively small in themselves. And so an industry not yet in existence is saddled with an unworkable regime. This is not the place to reiterate the detail which we have regularly and fulsomely provided you. But it is the place and perhaps our last chance to remind you of some of the larger issues which seem important to us. First, the sea bed provisions have little to do with the efficient and timely development of resources to meet consumer needs; and a lot to do with the furthering of international regulation and the restriction or distortion of market forces. On the international level much of that regulation is objectionable in principle (for example production controls, the production policies of the Authority, the Authority's participation in commodity conferences and the narrow scope of judicial review). Most of it sets an ominous precedent. It is not surprising that it is regarded as the standard bearer for the New International Economic Order.

Secondly, the sea bed regime is not production orientated. Anyone coming to this text for the first time would assume that it had been written by land based producers with a specific aim of preventing sea bed mining, at least by private enterprise. Production controls affording indiscriminate protection to producers in developed countries, as well as those in developing countries more worthy of assistance, are but one example. We must ask ourselves whether a large and expensive international

bureaucracy is likely to lead to an efficient transfer of scarce resources to developing countries.

Thirdly, the system of Enterprise preferences, such as site reservation and access to competitors data to name but a few make it extremely doubtful as to whether there will in fact be a "mixed system" of development, as opposed to a unitary system dominated by the Enterprise and a few state entities. There is no provision for example preventing the long term distortion of the system by requiring the Authority to release banked sites for private or State entity development.

Fourthly, the Review Conference's ability to amend the system of exploitation under article 155 by a two thirds majority casts a shadow over the security of access which was long the western countries' objective. It is the aim of many that the Enterprise end up the sole operator in the sea bed area.

Fifthly, the financial terms remain tough and any appeal they may have had once has diminished in the current economic climate. Their amelioration may well be necessary to counteract the disincentives provided by the high level of uncertainty. We are in favour of developing countries benefiting from sea bed revenue. But we have repeatedly warned HMG that deep sea mining cannot be taxed by both the Authority and H M Treasury if we are not to preclude sea bed mining by UK companies. To do otherwise would be to place sea bed mining in an impossible position regarding land based mining and add still further to the list of disincentives. We have had a long and occasionally entertaining correspondence with the Inland Revenue on this point, and we are still far from agreement on this elementary point of principle. This may be as good an occasion as any to appeal to Caesar for a happy issue from our afflictions. That the financial terms don't merit outright rejection is in no small way due to the Herculean efforts of the DOI in the negotiations, and they and the Foreign Office legal

advisers deserve strong commendation for their efforts to make this Treaty workable. It is no fault of theirs that their efforts have failed.

Sixth: In many cases the problem lies not in the provisions which can be readily identified as positive disincentives such as production controls and the costs of exploration over reserved sites, but rather the "grey areas" of uncertainties regarding the Authority's discretions.

We are told to trust the Authority and that these discretions will be wisely and prudently exercised. I think a more cautious view is indicated, in view of the politicization of the debate which we have seen.

Seventh: It is fashionable to criticise the USA. Their tactics in the negotiation have presented their allies with great difficulties. And on occasions they have succeeded in confounding both their allies and enemies. But much of what they now say in respect of part XI is well founded and is the result of a reassessment of interests rather than lobbying by the American companies. It is always convenient to blame the mining lobby (as in a recent article by David Tonge in the Financial Times), but it is not the mining lobby which has hi-jacked the UNLOSC negotiations, it is in fact the international lawyers, it is they who are basking in the sun with their endless conferences. Some indication of the differences between the current text and a text having a better chance of achieving acceptability, is contained in the copious amendments co-sponsored by the UK at the last session.

Lastly, we would say that were deep sea mining the only interest of the British Government in the negotiations, it is difficult to see why its attitude should differ from British mining companies. Deep sea mining provides an additional potential source of world supply and it militates against the UK's interest as a consumer to constrain its development with unnecessarily complex

restrictions or adverse tax arrangements. The result is likely to be a less efficient and effective use of resources at a cost to UK consumers.

To sign or not to sign: Our decision may or may not be affected by yours, but our mutual dilemma is in no small way due to the relentless pursuit of a comprehensive Treaty. You have asked us to address ourselves to the range of options before HMG. We can try to assess their likely impact on our likely course of action. What we cannot do is render "political" advice on whether or not HMG should sign. We as potential sea bed miners can only assess that part which affects us and we hope that assessment is useful to you.

Your decision will be of great moment, as the resources of over one half of the world's surface which lies under the sea are involved, of which manganese nodules are merely the best known at this current stage. The ratification of a Treaty including an unworkable system of sea bed exploitation may be akin to locking those resources away in a safe and throwing away the key. The UK by its action on signature and ratification will undoubtedly influence others and may well affect the longevity of the current sea bed regime. Regardless of those decisions we hope that HMG will continually press for substantial improvements to the text of a nature that would enable the USA to accede to the Treaty and for us to operate under it. One possible path which might enable HMG to have its way on the other issues without being locked into the sea bed regime might be to sign the Treaty, with a qualifying statement to the effect that the UK intended to seek improvements to Part XI and its attitude to ratification would be affected by whether or not those improvements were forthcoming. Yet another path would be to forge a strong net-work of Reciprocating States Agreements and from that position seek further amendments to the Treaty.

The first decision which we as a consortium will have to make is whether to apply under Prep Comm for registration as a "pioneer investor". At first sight the Prep Comm presents itself as a panacea for the Treaty's problems. Issues too technical and complicated for Committee One can be solved by the Prep Comm. But despite its crucial role in drafting regulations for Council approval, the Prep Comm cannot, by the terms of its mandate, alter the substance of the sea bed regime.

Even if it were otherwise, the history of Committee One negotiations offers little optimism for the UK alone or in concert influencing the outcome of those negotiations. So much for what Prep Comm is not. What it is is a limited licensing authority. Unfortunately, its licences are both limited and potentially expensive. It offers our consortium a place in the queue. Whether or not we would apply to Prep Comm depends on an assessment of a number of technical points. Our views are likely to differ from those of the four pioneer states which together would hold 75 percent of the Pioneers' resource area, but whose access to public funds and subjection to strategic fiats result in their investment decisions not being dominated by commercial considerations.

Our difficulties include, that we still have no guaranteed right to mine under Prep Comm; the fact that the USA lies outside the Law of the Sea Treaty regime means that any title deriving from Prep Comm and its successor, the Authority, could be challenged in American courts. Clearly, a similar consideration applies to foreign challenges to US derived rights. Clear title is of crucial importance to mining companies and their ability to finance projects. At the moment it is likely to be found under neither potential system. The annual fee of US\$1 million per annum we regard as excessive. The work commitments and minimum expenditure levels are likely to force us to spend far more at an early stage than we would require. Will we apply to Prep Comm? For the reasons I have listed we think it unlikely that the Kennecott Consortium will apply for registration as a Pioneer Investor under Prep Comm, whether or not

the UK signs the Convention. Much of course will depend on the attitude of the non-UK members of the Kennecott Consortium and whether improvements to Prep Comm are made. In any event, whether or not the UK signs the Treaty, we think that efforts should be made to obtain designation as a Reciprocating State by the USA and other States which have enacted domestic legislation. The existing CRA represents only a useful step in this direction. We are conscious of the difficulties contained in those negotiations and their presentation. But until a Treaty enters into force with effect for the UK, Government backing for mutual recognition of exploration coordinates is important, particularly in the light of two potentially competing licensing systems.

In conclusion, in Caracas almost a decade ago, we shared a vision of a global Treaty commanding universal acceptance. And it did seem possible then. As we approach Jamaica those hopes have become forebodings. We face the melancholy dilemma that none of the possible options present a clear way forward for us as a mining company. The basic lack of appeal of the Treaty for private enterprise is matched by title recognition and security problems associated with possible operation under domestic legislation even if strengthened by a Reciprocating States Agreement. We wish HMG success in producing a solution to our dilemma!

Mr Rifkind

Could I ask my colleagues if there are any questions to put to Mr Rankin-Reid?

Mr MacGregor:
(DOI)

Mr Rankin-Reid referred to the fact that at the present time the consortium would not wish to register as pioneer investors under the Preparatory Commission. You would presumably regard it as necessary to have major improvements in the present situation under the Convention in order to enable you to sign. Can you say whether you feel that there are major improvements that are really necessary and how major; and secondly, what prospects you see of these being achieved?

Mr Rankin-Reid

May I defer to my colleague?

Mr Moncrieff:

(Consolidated
Gold Fields)

Personally I think that the alterations required are too fundamental to expect to be changed within a matter of months which is really what is required. So I can't foresee changes being brought about in that sort of time span, to enable us to apply to be registered with the Prep Com early next year. You have to start entering into compulsory arbitration on the 1st of March next year, four months away from now. We don't even know whether Russia or Japan are going to apply or where they are going to apply, let alone begin anything else. So the time is too limited to bring about anything further.

Mr Rifkind:

Leaving aside the question of ratification for a moment, did I understand you to say that there would be no particular objection if the United Kingdom found itself in a situation where it entered into a Reciprocating States Agreement with the United States and such other States as were willing to take part, and might also sign the Convention leaving open the issue of ratification?

Mr Rankin-Reid:

That is one alternative; but whether you would want to give that much weight to the existing sea bed regime is of course another question.

Mr Rifkind:

But from your point of view, would that particular kind of approach be of assistance to a consortium such as your own?

Mr Rankin-Reid:

As we don't intend to apply under PrepCom, we are not overly concerned with the promptitude from a strictly mining point of view.

Sir Michael Havers

Mr Rankin-Reid does realise that by signing it would enable HMG to take part in the negotiations without of course committing the Government in any way ultimately to ratify?

Mr Rankin-Reid:

We have been loyal members of the Delegation for many years, and can say that the amount of UK thinking that has found its way into the Treaty provisions is remarkably little. And we have no indication that the position will be any different in the PrepCom, - probably markedly worse, because the G77 will then have a full head of steam up.

Mr Rifkind: Our next contributor is Dr Laughton.

Dr Laughton: I am representing the interests of marine scientists both on behalf of the Royal Society and of the Natural Environment Research Council, part of the Department of Education and Science. These two bodies have both worked extremely closely together on examining the role of marine scientists, particularly the freedoms of marine scientific research within the draft Convention.

Marine scientific research has to some extent been the poor relation in the negotiations, and compromises have been made which will inevitably further curtail the freedom that we have enjoyed in the past, - a freedom which has, however, been progressively eroded over the last decade by the progressive claims for national sovereignty and the increases in the claims for 200 mile zones.

Under the Convention, marine scientific research will for the first time be explicitly embraced by international law. And to that extent of course marine scientists have to be extremely concerned about where the Convention or any Treaty arising out of it brings them.

Let me consider the effect of signature as opposed to ratification by the UK in terms of the two distinct areas in which marine scientific research is carried out. Firstly the areas of national jurisdiction, that is the Exclusive Economic Zone and the Continental Shelf.

Let us bear in mind that the Exclusive Economic Zone is about 32% of the ocean's surface and the Continental Shelf has been estimated beyond that to be another 8%. So something like 40% of the total oceans of the world will be subject to national jurisdiction in one form or another. During the last decade it has become increasingly difficult to obtain permission and to concede to the coastal State requirements to work in the EEZ and the Continental Shelf of some countries.

Procedures and claims have often been unclear, the demands sometimes quite arbitrary and excessive. As a result of this, research has tended to avoid potentially difficult areas. And I am quite convinced that the balance of where marine scientific research is taking place has shifted away from controversial regions.

The Convention if and when it is ratified will provide a known framework and a basis for scientific planning. But in anticipation of the Convention it seems likely that coastal States will use the draft Convention as a basis for action. And whereas this may curb some excessive claims, it may also increase others.

Whether we sign or not, marine scientific research will require the consent of coastal States probably working on the basis of clauses within the Convention. This consent will be easier to obtain in our view if a coastal State believes that the UK supports the principles and philosophy of the Convention and if good relations both scientifically and politically exist between countries.

Early signature will give some indication of intent to ratify although no commitment, and therefore may ease the negotiation of marine scientific research.

On the other hand signature may require us to recognise claims greater than we do at present. It may commit us to following procedures laid down in the Convention and hence make it more difficult to contest refusals or unacceptable constraints on marine scientific research by coastal States.

I could go into a whole collection of pros and cons on the Coastal States areas. But our view is that on

/balance

balance the advantages and disadvantages about weigh equally and would not influence me one way or the other to saying yes we should sign at this stage.

The second area is the international area. For research into the water column of the high seas, there are no constraints on marine scientific research. And we are happy that the Convention expresses these and does not provide any threat.

However for research on or into the seabed in the Area, the freedom of marine scientific research is qualified by such phrases as 'for peaceful purposes', 'for the benefit of mankind as a whole' or 'States Parties shall promote international cooperation' and by the uncertain interpretation of the powers of the International Sea Bed Authority which will be responsible for organising, carrying out and controlling prospecting, exploration and exploitation in the Area. Marine scientists are concerned about how the Sea Bed Authority may interpret the words "research", "prospecting" and "exploration". And hence the degree of control which it may try to exert, bearing in mind that all the resources of the ocean floor have been discovered initially by the marine scientific research community. The nodules, the hydro-thermal deposits and so forth, - we would not be talking about them had marine scientific research not had free rein to explore and discover what was there.

Signature would perhaps enable the UK to be a member of the Preparatory Commission and hence possibly to influence the interpretation of the powers of the Sea-Bed Authority for the benefit of marine scientific research in the Area. It is perhaps wishful thinking that such issues would be dealt with at the Preparatory Commission stage. But insofar as the Sea-Bed Authority is going to have to declare its role and the limits of its power at some stage, the earlier we are in on such discussions or such influence, the better.

I conclude that therefore in respect to marine scientific research in the Area that there are marginal advantages to signature which would enable us to vote in the Preparatory Commission should it attempt to interpret the Convention unfavourably for marine scientific research.

I must emphasise however that by favouring on balance signature at this time, this does not imply that marine scientists will necessarily

support the ratification of the Convention. To ratify or not to ratify raises issues different from the questions of to sign or not to sign at this stage. And the marine scientific community may well see that the disadvantages of ratification, of joining the Treaty, may outweigh those of joining and staying in.

Mr Rifkind Thank you. Mr Williams.

Mr Williams (UK Offshore Operators Association) Mr Chairman, I represent the UK Offshore Operators Association. Representing an association of companies of diverse nationalities, it is clearly very difficult for me to make recommendations to the UK Government on the issues which we are discussing, other than the very general one that it is clearly desirable to have a Treaty acceptable to - if at all possible - more countries than it is at present acceptable to, and of course including the United States. This is a point that BP has already made. I just would make one comment and ask one question.

Based on the last drafts that we have seen there have been clearly improvements made covering the provisions for the removal of platforms, and we are certainly pleased about this. If we had to write them ourselves I think we would have written them differently, but in the form they are we consider they are acceptable. The question I would like to put is: are you able to confirm that the deep sea mining regime does not apply to exploration and production of hydrocarbons?

Sir Ian Sinclair Certainly, as far as we are aware the regime for the deep sea bed does not relate to exploration and exploitation of hydrocarbons. That is certainly my understanding.

Mr Williams We are very pleased to have that confirmation.

Mr Rifkind Thank you very much. Mr Davidson-Kelly.

Mr Norman Davidson-Kelly I represent BRINDEX, the Association of British Independent

Exploration Companies, basically the smaller companies involved in UK North Sea and other UK offshore development. I would like to direct ourselves very briefly to a very narrow issue which Mr Williams touched on, the question of abandonment. I would outline very briefly our problem and to say that I am not sure that the Convention as it stands solves our problem in a way in which we would like it to be solved. Basically the problem in relation to abandonment is quite simply that as we view the investment opportunities in the North Sea and world-wide we must take into account a whole host of economic parameters, which include the oil price, the political regime, the geological and physical conditions surrounding particular investment. One of the aspects associated with the political regime is the concept of abandonment and cleaning up the site after we leave. It is very important, of course, that this liability is quantified in terms which make it possible for us to estimate the future expenditure which must be incurred on that behalf. To turn to the specific wording of the Convention, I would like to say that we believe the Department of Energy has done a terrific job in getting the wording to the state it now is over previous drafts of the text at such a late stage. And we fully endorse the sentiments behind the wording. But I would point out that we are still in a wait-and-see position. The detailed rules are awaiting formulation by some appropriate international authority and basically with the very important aspects of safety of navigation paramount in everybody's minds. So although we see an improvement in the position, we cannot yet quantify the extent of the improvement even signature of the Convention will not of itself solve the problem as to what the rules are that are to be adopted. And we would very politely and quietly suggest that possibly as we are making such good progress towards getting to a state in which these rules and parameters can be quantified, that possibly irrespective of the Convention there can be discussions between the Department of Energy and the relevant bodies in the industry who are interested in this problem to try and clarify the subject in greater detail.

Mr Rifkind

Thank you very much indeed. Are you basically saying that you are fairly neutral on the question of whether we should sign or not sign/^{the}Convention, but you would hope that further work would be done on the particular interests you have in this area?

Mr Davidson-
-Kelly

Indeed, from a practical point of view we cannot see that it makes a particular difference one way or the other; having said that, it might just tie the hands of the Department of Energy slightly, but I would certainly go along with this and say we would prefer to talk about it.

Mr Rifkind:

Thank you very much indeed. Dr Patricia Birnie.

Dr Birnie
(ACOPS)

ACOPS has followed the United Nations Conference on the Law of the Sea (UNLOSC) since its inception, and discussed with Ministers the environmental protection aspects of the Convention especially, but not only, those in Part XIII.

It has been stated that the USA and Argentina will not sign the Convention.

They are not, we suggest, a model for the UK. We are an island, with dependencies, unlike USA or Argentina neither of which is an island state. Moreover, we do not claim a 200 mile territorial sea like Argentina; we oppose it, as does the Law of the Sea Convention. We consider that the USA is misconceived in its view that the Law of the Sea (LOS) Convention is against its national interests and we would not want Britain simply to support an ally under these circumstances.

We support signing the Convention in December to express the strongest possible support for the Treaty's fundamental principles (especially the environmental principles) and to gain the advantage of being a member of the Preparatory Commission and playing a role in developing the rules for exploitation of the deep seabed, which inter alia include environmental rules.

As an island we gain many advantages by the Treaty: we have a huge coastline in proportion to our size and population. Under the Treaty, this gives us great resource advantages in the 200 mile Exclusive Economic Zone (EEZ) and over the whole continental margin, advantages which we can claim also for our island dependencies unless they are uninhabitable rocklets or rocklets beyond the margin.

We are as an island disadvantaged without a Treaty particularly in relation to control and prevention of pollution. Our large coastline exposes us to marine pollution risks from several sources, and the huge EEZ and Continental Shelf generated, present great enforcement problems. / ^{The present} Continental Shelf regime was developed when knowledge was in a primitive state.

We, therefore in ACOPS, particularly welcome Part XIII of the Treaty which greatly improves international rules and standards of pollution control and strengthens the opportunity for enforcement in coastal waters (the 12 mile territorial sea (TS), 200 mile EEZ, and the Continental Shelf) and on flag ships, for the following reasons:

- (i) It lays down for the first time an international obligation to protect and preserve the marine environment as a whole;
- (ii) It requires all States to take measures to this end.

It, for the first time in any global treaty requires national and international laws and standards to be developed to prevent or control all six sources of marine pollution, namely,:

- (i) From deep Seabed activities: ACOPS has taken part in international workshops establishing the need for international standards in this area;
- (ii) From continental shelf activities: There is neither a global nor a regional treaty laying down standards or controls for this source;
- (iii) Ocean dumping: Enforcement under existing global and regional treaties is limited to flag ships and to territorial sea. The LOS Convention

extends jurisdiction to the continental shelf, the TS and a 200 mile EEZ and the continental margin,

- (iv) Atmosphere: There is no global treaty and only one regional one (the Economic Commission for Europe) but atmospheric pollution, which all eventually descends into the sea, cannot be confined to a region;
- (v) Land-based: There is no global treaty, though this source constitutes up to 80% of marine pollution. Regional treaties are limited in scope because of interchange of waters.
- (vi) Vessel source pollution: There are global treaties and regional measures (e.g. European Economic Community) but they do not provide, as does the LOS treaty, international standards for States not party to them; port state jurisdiction; bonding of arrested vessels to facilitate navigation and trade ; higher standards for special areas broadly identified (including ice-covered areas); recognition of the need to protect areas that are ecologically "fragile"; enforcement of international standards in the TS, the 200 mile EEZ, ports. These are a product of a negotiated balance proposed by the UK and others (while the UK was a leader of the "maritime group" at the conference).

We think that the International Maritime Organisation (IMO) and the United Nations Environment Programme (UNEP) have considerable limitations in this respect. Though they can do something:

International Maritime Organisation (IMO) is concerned mainly with vessel source pollution; not all states are members, still less party to its conventions; not all its conventions are in force; they are subject to revision; IMO has experienced difficulties in dealing with pollution from sources other than oil; its concept of special areas is more limited than the LOS Convention as is its provision for port state jurisdiction (which is not in force).

United Nations Environment Programme (UNEP): a small secretariat with limited staff funds. Its Regional Seas Programme is good but based on a framework system at present.

The UK has hitherto had a magnificent record in ratification of global and regional conventions in the LOS. It has always maintained respect for the rule of law and defended international standards not only in the Falklands Islands but during the so-called "cod wars", condemning unilateral and sectoral actions. It consistently in UNLOS debates emphasised the need for international standards and an international approach to the solution of LOS problems; it considered an international approach contributed to international stability and the harmonious development of international law.

Not to sign the LOS Convention, we suggest, after years of negotiations and many compromises of interests by all parties would break with the long British tradition and long held values, a major setback in Britain's international relations and in its influence in international LOS councils, and in global interests, we think, leading to many conflicts of the "cod war" kind.

Mr Rifkind

Thank you very much indeed. Mr Lawrence.

Mr Lawrence:
(Chartered
Institute of
Patent Agents)

I represent the Chartered Institute of Patent Agents and my members therefore act for inventors, and our interest in this is the very narrow one of investments in new technology. But unfortunately this has much broader implications than the Law of the Sea Treaty alone. In this country and in the world in general it is generally believed that new technology is essential and we hear regularly in this country how important it is here and now. New technology requires that investment shall be made, but investment only comes if the potential investors can make a financial estimate of the reward that might come from their investment, assuming it succeeds technically; and much investment in technology fails absolutely.

But the requirement is that when you get something that succeeds you should be able to foresee a return that cancels out the losses on the failed investments and the costs of the one that succeeds. Investors therefore make their decision on whether or not to go in for new technology on commercial grounds and the investment, as we all know, is not always as forthcoming as it should be, which shows that the commercial grounds at present are only just sufficient to justify investment and it might be desirable in this country and elsewhere if they could be made more favourable towards investment in new technology. These commercial grounds are based on the expectation of a technical advantage over the competitors when the investment has succeeded. If you are not going to get a technical advantage, there is no point in making the investment in the first place; you might as well stay with your existing technology; so don't take the risks and don't spend the money; and then you will have no new technology. You get your technical advantage over the competitors from two sources, and only two sources. One is by keeping your new technology secret, maintaining everything is a trade secret. The other is to publish it but get a monopoly in the form of patent protection. British courts strongly uphold the right to maintain trade secrets and it is well established in the law that that is a perfectly proper and useful way of maintaining the competitive advantages you get from investing in new technology. There isn't at present any international patent system that is going to give patent protection on the high seas, and therefore patents don't come into the rewards very much in the context of the Law of the Sea Treaty. So primarily we have got to look at the trade secret rights that the investors are going to get. Now then they at present expect to be able to get their rewards either by using those trade secrets themselves or handing them over to others on a voluntary basis and negotiating on a normal arms-length basis. As I mentioned on that basis at present there is only just enough incentive for a lot of the investment that we require. And against this background one has got to realise that in recent years the developing countries have been pressing for different terms and basically they want more advantageous terms to themselves. If those terms are going to be more advantageous

to the developing countries, it follows that they are going to be less advantageous to those who are doing the investment. The Law of the Sea Treaty contains the article on the transfer of technology, Article 5 in the Appendix on this subject, and this is the first article that has got so close to implementation of all the various articles and treaties that the developing countries have their eye on. Under this article, the people who devise the technology can only use it in undersea exploration if they agree to disclose it to the Enterprise and if they agree to give a licence for its use by the Enterprise or even by developing countries. They are liable to have to transfer their technology on terms which are unclear, to the developing countries who want to get hold of the technology without going through the expense and inconvenience of developing it themselves. Thus the investors have to do a lot of research, a lot of it will be a total failure and then as and when something succeeds they have to accept that developing countries and others are liable to walk in and just demand it as of right. This is appearing in the Law of the Sea Treaty; this is not the only instance where it has come up. There is a treaty which governs all the world patent systems, the Paris Convention. In a version of that which emerged from negotiations last year in Nairobi we were in the incredible situation that there was a serious proposal that countries could have the right to grant compulsory exclusive licences against a patent owner: the patent owner could go into a country and spend a million pounds building a plant there, upon which the local government could say that is not enough we are now going to stop you using your plant and we are going to stop you working in this country at all and we are going to grant somebody else a licence. This obviously has enormous ramifications for the transfer of technology worldwide. There are other treaties coming up I understand in international telecommunications, the exploration of the Antarctic and I am sure in plenty others, and whatever is agreed in the Law of the Sea is almost certainly going to be carried forward by the Group of 77 countries. They will say that what has been agreed for the Law of the Sea can be implemented in international communications, in exploration of the Antarctic, and wherever they want it. None of these

treaties have yet come into effect: the first will be a precedent, and my own Institute, aided by Government officials, have been fighting off this encroachment for many years. We have so far succeeded in avoiding it coming into effect anywhere and we want to prevent it coming into effect now. That I accept is a fairly narrow issue but I think it is one that affects the whole of British industry. From the point of view of my members and the inventors we represent, we think the Law of the Sea Treaty ought not to be signed because of this issue alone. We accept that this may be a rather narrow issue on which to reject it and we are not competent to comment on the questions of nationalisation of mineral rights and navigation and so forth, but we would urge that our point of view be listened to and that if signature is thought to be necessary for other reasons, then it should be done in such a way either so as to defer it for as long as possible, so as to put off the evil day when we have to be seen to live with this sort of regime; or that it be done with sufficient noises publicly to say that we protest absolutely and we are going to try and minimise the difficulties in the Preparatory Commission. I personally am very doubtful that those difficulties can be minimised. The wording of the relevant article seems, I fear, so clear that if the developing countries want to hold onto what they have got, they can do so and we are not going to be able to minimise it very much, but at least we might be able to try. But all I would say is, if we are going to sign, please do so while making as loud a statement as possible that we do not approve of this and we will not accept it as a precedent for the future.

Mr Rifkind

Thank you.

Mr Burnet-
Hall:
(Licensing
Executive
Society

I am appearing on behalf of the Licensing Executive Society. We are a body of individuals who are concerned with the transfer of technology and which is in fact part of an international organisation, American in origin, but whose British chapter operates entirely independently of the Americans. So I am in effect speaking entirely in respect of

of the UK organisation. We are equally concerned exclusively with Article 5 of Annex 3. The reason I am here primarily is to emphasise that our hostility to this, although it is identical I think with the views expressed by RTZ, Kennecott and some of the big companies, we do not particularly represent the big companies. We feel that as a matter of practice, this whole proposal is totally counter-productive and that it will be bad for everybody, not just for those who stand to make the most profit out of the immediate operations. I endorse entirely what has been said by Mr Lawrence. I perhaps might just add to what he said. Under the 1949 Patents Act which as you may know was repealed in 1977 by the 1977 Patents Act; under section 41 of the 1949 Act there were compulsory licence provisions in respect of pharmaceuticals and these were considered very carefully by the Banks Committee before the new legislation and it was held that such provisions were counter-productive and should be abolished and they were indeed 'abolished' in the 1977 Patents Act. And I think exactly the same philosophy applies to the licensing proposals in this Annex. I would further add that I believe the proposals are virtually unworkable. The transfer of technology is not the same as compulsory licensing of a patent, but a patent can be licensed at the stroke of a pen by saying that it is no longer enforceable against the compulsory licensee. You cannot transfer technology in that way. You require days, weeks, years perhaps of collaboration between the licensor and the licensee. The definition of technology in paragraph 8 includes training and technical advice and assistance. This is just not going to happen in relation to an unwilling licensor and so I think this is a most unsatisfactory proposal in any event because it simply is not going to work.

Finally, on this particular issue, the question of royalties. What is going to be a fair and reasonable royalty? This could perhaps be treated quite differently by people from different jurisdictions even with the best will in the world. And one must doubt whether the best will in the world will be there. In the case of a patent infringement or for that matter a breach of confidence action in this country, I

believe that the sort of royalty that might be awarded by way of damages could represent in the situation of an unwilling licensor who is forced out of the market, his total expected profits. Now this is not going to happen in a case like this. I am sure that those making up the body that would adjudicate on royalties will not be such as to allow the licensor a complete recovery of the profits he has lost.

And my final point I would just make as a matter of policy. Paragraph 5 refers to actions to be taken by States to ensure technology is made available to the Enterprise on fair and reasonable commercial terms. Now I must confess I don't understand exactly how this would be operated; but if the United Kingdom were to be one of such States, this would involve a total overthrow of its approach to private enterprise and the development of technology. There has never been any system for compulsory licensing of technology as such and, whatever the hue of this administration, whatever this administration might think about it, there are obviously others in the wings who would take a very different approach, and I believe it would be a very dangerous precedent to set.

Mr Rifkind: Thank you. The final contributor, Mr Hargreaves.

Mr Hargreaves: Thank you, Mr Chairman. I represent the Royal Institute of (Royal Institute of Navigation, which is an institute concerned with the science of Navigation) and practice of navigation. Incidentally, it is not just marine navigation: we also deal with air and space navigation. And the Royal Institute has played a big part in the development, particularly in the IMO, of traffic routing, especially in the Dover Strait. And, like the General Council of British Shipping, we are extremely interested in the freedom of navigation. We would, therefore, welcome the extension of the territorial sea to 12 miles and would wish strongly to support the views which were so ably expressed by the GCBS at the beginning of the meeting. Briefly, we would hope that the tail which has been wagged so vigorously by the mining and commercial interests does not wag the dog, and would wish the United Kingdom to sign the Convention.

Mr Rifkind:

Thank you all very much indeed. I would repeat that if there are points which in the time available you have not felt able to expand in quite the way you would have liked, please do feel free to write to us. This is of course a private meeting and we would ask you to respect that. We will find your contributions extremely helpful indeed in analysing the advantages and disadvantages of what is obviously a very complex matter.

Sir Edmund IRVING MP



8/12

25 November 1982

I attach a copy of a letter the Prime Minister has received from Sir Edmund Irving, Acting Chairman of the Advisory Committee on Pollution of the Sea.

I should be grateful if you could provide a draft reply for the Prime Minister's signature, to reach me by Thursday 8 December.

TIM FLESHER

Chris Greenwood, Esq.,
Foreign and Commonwealth Office.

S.

25 November 1982

I am writing on behalf of the Prime Minister to acknowledge your letter of her of 19 November. This is receiving attention and a reply will be sent to you as soon as possible.

TIMOTHY FLESHER

Rear Admiral Sir Edmund Irving, KBE, CB.

ADVISORY COMMITTEE ON POLLUTION OF THE SEA

President - The Rt Hon James Callaghan PC, MP
Vice President and Acting Chairman - The Rt Hon Lord Campbell of Croy PC, MC
Vice Chairman - Rear-Admiral Sir Edmund Irving KBE, CB
Secretary - Dr Viktor Sebek
Scientific Adviser - J. Wardley-Smith, OBE

60, New Oxford Street
London WC1A 1ES
Tel: 01-580 3378/9
Cable: Earthscan London W1
Telex: 261681 Eascan G

EI/EBMc

19 November 1982

Rt Hon Margaret Thatcher, MP
Prime Minister
House of Commons
LONDON
SW1A 0AA

823

CG (fco) PM

Dear Prime Minister,

At its meeting held on 17 November in the House of Lords, the Advisory Committee on Pollution of the Sea endorsed the opinion submitted by members of its Legal and Policy Sub-committee in the course of consultation with Ministers on the UN Convention on the Law of the Sea at Lancaster House on 2 November 1982.

Since then, the European Commission has proposed that the EEC's Council of Ministers and individual Member States sign both the Final Act and the United Nations Convention of the Law of the Sea. The Advisory Committee once again urges HMG to sign the Convention at the December meeting in Jamaica. The signature enables Britain to participate fully in further discussions on the Convention and to keep open the option to ratify.

Yours sincerely,

E. J. Irving

Rear Admiral Sir Edmund Irving KBE CB
Acting Chairman ACOPS

The following organisations are represented on the Committee

United Kingdom

Association of County Councils
Association of District Councils
Association of Metropolitan Authorities
Association of Sea Fisheries Committees of England & Wales
British Association for Shooting & Conservation
British Hotels, Restaurants and Caterers Association
British Ports Association
British Resorts Association
Convention of Scottish Local Authorities
Council for the Protection of Rural England
Council for the Protection of Rural Wales
Fauna Preservation Society
Field Studies Council
Fisheries Organisation Society
Friends of the Earth
General Council of British Shipping
International Council for Bird Preservation (British Section)
National Water Council
Royal Society for the Prevention of Cruelty to Animals
Royal Society for the Protection of Birds
Scottish River Purification Boards' Association
Universities Federation for Animal Welfare

Observers

BP Tanker Co Ltd
Esso Petroleum Co Ltd
Shell International Petroleum Ltd
United Kingdom Offshore Operators' Association

Overseas

European Environmental Bureau
International Association of Independent Tanker Owners
International Association of Ports and Harbours
International Cooperative Alliance
International Hotel Association
International Institute for Environment and Development
International Union of Local Authorities
Nordic Union for the Prevention of Oil Pollution of the Sea
Oil Industry International Exploration and Production Forum

SUBJECT.



CC FCO

RM
Foreign Policy

10 DOWNING STREET

THE PRIME MINISTER

10 December 1982

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T 236/82.

Thomson

*cc. Master set
ops.*

Thank you for your letter about the Law of the Sea Convention.

As you will by now have heard, although we believe that the provisions of the Convention relating to navigation and the continental shelf are valuable, we find unacceptable the deep sea mining provisions and the unsatisfactory precedents which they would set, for example, as regards transfer of technology. The Convention will remain open for signature for two years and we, therefore, wish to explore the prospects for obtaining improvements to the deep sea mining regime before taking a final decision on signature.

A number of industrialised countries share these misgivings. I hope that your delegation can do everything possible to persuade other members of the Conference that there should be a revision of the deep sea mining regime. I know that New Zealand was very active in trying to encourage negotiations on this issue at the session of the Conference earlier this year. It would be helpful if you could explain to other delegations, including especially those from the Pacific region, the benefits to be gained by establishing a consensus on this as on other parts of the Convention.

Meanwhile, I am grateful to you for your help at the Commonwealth Heads of Government Regional Meeting in Suva in October.

/Ratu Mara

fu

Ratu Mara did indeed write to me separately about the Convention and about the Falklands. I have sent him a reply explaining how our own interests are affected by the Convention and assuring him that we will take into account the views of Commonwealth leaders in the Pacific region.

You may like to know that we have also made representations to the United States to ensure that they are aware of the concerns of the Pacific Islands states about fishing. We hope that the Americans will work towards agreement with countries like Fiji to establish fair and practical arrangements for tuna in the Pacific. If the deep sea mining industry were to develop, then the countries of the region could also look forward to benefits from this activity as well as fishing. This re-inforces the need to establish a generally agreed deep sea mining regime, which will promote and not deter this new industry.

Yours sincerely
R. Muldoon

The Rt. Hon. R.D. Muldoon, C.H., M.P.,



Foreign and Commonwealth Office

London SW1A 2AH

9 December, 1982

Dear John,

Type letter please.
AJL 9.
12Law of the Sea Convention

Thank you for your letter of 25 November, with which you enclosed a copy of a letter from Mr Muldoon to the Prime Minister on this subject.

I attach a draft reply from the Prime Minister to Mr Muldoon, which has been agreed with the Departments to whom you copied your letter and with MAFF.

Mr Muldoon's letter sets out very clearly the arguments in favour of the Convention, although in our case the benefits relating to the exclusive economic zone have already been largely attained through the declaration of the 200 mile fishing zone by the European Community in 1977. The continental shelf advantages of the Convention are also more complicated in our case than in New Zealand's because of Rockall. Moreover, it is much easier for New Zealand, without a major interest in deep sea mining either as a centre of mining companies or as a consumer, to accept the Convention as it stands. (Mr Muldoon's letter does not mention the deep sea mining regime at all). 25/11/82

On the other hand, the points made by Mr Muldoon on tuna fishing in the Pacific are reasonable. We have pointed out to the Americans the bitterness their present approach engenders. The approach taken in the Atlantic and reflected in the UNLOSC text, is fairer, and more practical.

The New Zealand Delegation have been generally helpful in the Conference in trying to encourage a compromise; and Mr Muldoon himself was particularly helpful at the Commonwealth Heads of Government Regional Meeting held in Fiji in October, where he dissuaded his fellow Commonwealth leaders from linking their support for our position on the Falklands in the UN General Assembly with our position on UNLOSC. (You will remember that the Prime Minister of Fiji sent separate messages to the Prime Minister on these subjects following the Suva meeting and the Prime Minister sent a reply to Ratu Mara explaining our position on the Law of the Sea Convention). This point is covered in the draft reply to Mr Muldoon, which takes account of the Parliamentary Statement made on 2 December. Our High Commission in Wellington have already passed on the text to the New Zealand Ministry of External Affairs.

CONFIDENTIAL



I am copying this letter to John Rhodes (Dept of Trade),
Johnathan Spencer (Dept of Industry), Richard Mottram (MOD),
David Harbourne (MAFF) and Richard Hatfield (Cabinet Office).

Yours ever
J E Holmes

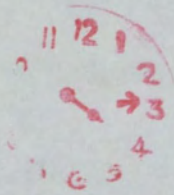
(J E Holmes)
Private Secretary

A J Coles Esq
Private Secretary
10 Downing Street

CONFIDENTIAL



9 DEC 1982



DRAFT: minute/letter/teleletter/despatch/note

TYPE: Draft/Final 1+

FROM: Prime Minister

Reference

DEPARTMENT:

TEL. NO:

SECURITY CLASSIFICATION

TO: The Rt Hon R D Muldoon
Prime Minister of New Zealand

Your Reference

Top Secret

Secret

Confidential

Restricted

Unclassified

Copies to:

PRIVACY MARKING

SUBJECT:

.....In Confidence

CAVEAT.....

Thank you for your letter about the Law of the Sea Convention.

As you will by now have heard, although we believe that the ^{provisions of the} Convention ^{relating to} has merits as regards navigation and the continental shelf, ^{are valuable} we ^{find unacceptable} are concerned by the deep sea mining provisions and the unsatisfactory precedents which they would set, ^{for example} as regards transfer of technology. ~~These provisions are unacceptable to us.~~ The Convention will remain open for signature for two years and we therefore wish to explore the prospects for obtaining improvements to the deep sea mining regime before taking a final decision on signature.

A number of industrialised countries share these misgivings, ~~and~~ I hope that your delegation can do everything possible to persuade other members of the Conference that there should be a revision of the deep sea mining regime. [§] We know that New Zealand was very active in trying to encourage negotiations on this issue at the session of the Conference earlier this year. ~~and~~ ~~we believe~~ it would be helpful if you could explain to

/other

Enclosures—flag(s).....

other delegations, including especially those from the Pacific region, the benefits to be gained by establishing a consensus on this as on other parts of the Convention.

Meanwhile I am grateful to you for your help at the Commonwealth Heads of Government Regional Meeting in Suva in October. Ratu Mara did indeed write to me separately about the Convention and about the Falklands. I have sent him a reply ~~on~~ ^{by the Convention} ~~the Convention~~ explaining how our own interests are affected and assuring him that we will take into account the views of Commonwealth leaders in the Pacific region.

You may like to know that we have also made representations to the United States to ensure that they are aware of the concerns of the Pacific Island states about fishing. We hope that the Americans will work towards agreement with countries like Fiji to establish fair and practical arrangements for tuna in the Pacific. If the deep sea mining industry were to develop, then the countries of the region could also look forward to benefits from this activity as well as fishing. This reinforces the need to establish a generally agreed deep sea mining regime, which will promote and not deter this new industry.

~~we may know the position and decision taken by the Government on an issue that interests not just hon. Members but people throughout the country?~~

Mr. Biffen: The right hon. Gentleman raises a point which has excited deep feeling not just within the House but generally. I shall see that the point is brought to the attention of the appropriate Minister.

Mr. Robert Parry (Liverpool, Scotland Exchange): Is the Leader of the House aware of early-day motion 108 requesting a public inquiry into the use of CS gas cartridges in Liverpool last year?

[That this House calls upon the Secretary of State for the Home Department to institute a public inquiry into the use of Ferret CS gas cartridges in Liverpool, Toxteth during the disturbances in July 1981; notes that the support for a public inquiry comes from the Liverpool City Council, the Merseyside County Council, the Merseyside Police Committee, the Liverpool Trades Council, the National Council for Civil Liberties, the Transport and General Workers Union, the National Union of Public Employees, the National Graphical Association, the National Association of Local Government Officers and the Merseyside Community Relations Council; and feels that such an inquiry would allay public disquiet and remove any fears of a cover up into the use of such projectiles.]

The motion is supported by 125 right hon. and hon. Members and has the support of many national and regional organisations. As the Home Secretary has admitted to the House that the use of those cartridges at that time was a mistake, will the right hon. Gentleman ask the Home Secretary to reconsider his decision not to call for a public inquiry so that we can say that the House has not been party to a cover-up of the use of those projectiles?

Mr. Biffen: My right hon. Friend the Home Secretary is helpfully sitting alongside me, and I am certain that he will have noted the points made by the hon. Gentleman.

Mr. John Ryman (Blyth): Will the leader of the House consider initiating a debate on the Office of Fair Trading and references to the Monopolies and Mergers Commission because this subject has an important influence on unemployment? Is the leader of the House aware that last week the Director General of Fair Trading refused to refer to the Monopolies and Mergers Commission a bid by Alcan (UK) Limited for British Aluminium which will make it almost inevitable that there will be further large-scale unemployment in the aluminium industry?

Mr. Biffen: I understand the point made by the hon. Gentleman and know what it means for unemployment in the North-East in the aluminium industry. I cannot offer Government time for such a debate. It is a natural topic for an Adjournment debate.

Law of the Sea Convention

3.57 pm

The Under-Secretary of State for Foreign and Commonwealth Affairs (Mr. Malcolm Rifkind): The United Nations convention on the law of the sea will be opened for signature in Jamaica on 10 December, and will remain open for signature for two years thereafter. The convention deals with many aspects of the law of the sea. Some provisions are a re-statement or codification of existing international law; some provisions seek to make new law. Parts of the convention, for example, those relating to navigation, the Continental Shelf and pollution are helpful, but the provisions relating to deep seabed mining including the transfer of technology are not acceptable. They are based on undesirable regulatory principles and could constitute unsatisfactory precedents. A number of our friends and allies share our misgivings on those points. We need to obtain satisfactory improvements in the deep sea mining regime and will therefore explore the prospects with interested States. As the convention is open for signature for two years, there is ample time for revision before taking a final decision. It is our wish that there should be generally agreed provisions for regulating marine matters and we wish to continue to work with the international community to achieve that.

I should emphasise to the House that we could not participate in a seabed regime on the present terms, and for that reason we could not ratify the convention unless the provisions for the deep sea mining regime become satisfactory.

A copy of the convention and relevant resolutions of the conference have been placed in the Library of the House.

Mr. Denis Healey (Leeds, East): The Under-Secretary's statement is utterly unacceptable to the Opposition. It is one more example of the Government behaving as President Reagan's poodle. The Under-Secretary must be aware that this matter has been under negotiation for over 20 years. The convention was supported by 130 countries when it was presented earlier this year, including the overwhelming majority of European and Commonwealth countries. Only the United States of America and three other countries—for different reasons—opposed it. The Government's decision not to ratify the treaty will be regarded as contrary to international and British interests.

Does the Under-Secretary agree that, as a maritime seafaring country, Great Britain has an immense interest in finally deciding the law of the sea on all matters to do with the sailing of vessels, as the convention does, and that there is no chance of any commercial undertaking attempting to explore mineral rights on the seabed unless the legal position is clear?

If the convention is frustrated by the Government's actions, there will be little chance of action in that area, in which the Government are presumably interested, being pursued. Through what machinery does he hope to persuade the 130 countries which have already agreed the convention to change the position that they have taken on the mineral regime? In any case, does not the convention come into force once 60 countries have ratified it? I hope that he will not tell us that the Government will defy a convention once it has come into force.

Mr. Rifkind: The Government's objective throughout the discussions has been to achieve a convention acceptable to the world community as a whole. Not only the United States has expressed opposition to the convention; a number of other countries have grave anxieties, particularly about the mining provisions. For example, the West German Government have not so far expressed an intention to sign the convention; it is possible that they will not do so. The same applies to the Italian and a number of other Governments.

The right hon. Gentleman is incorrect to imply that 130 countries will ratify the convention. So far only the German Democratic Republic has expressed an intention both to sign and to ratify the convention. A number of countries that have expressed an intention to sign have given no assurance about ratification.

It is important that, if at all possible, the maritime provisions should be acceptable to the world community. Those parts of the convention that relate to the free passage of vessels, the Continental Shelf and pollution are acceptable to the Government. As the convention expressly allows two years for countries to decide whether to sign, if it is still the wish of the world community as a whole to have a convention acceptable to all, we hope that further thought will be given to the parts which not only are unacceptable to ourselves and the United States but which have been criticised by a significant number of other countries.

Mr. Healey: With respect, the Under-Secretary is far too intelligent to be unaware of the fact that he has not answered any of my questions.

Does the convention not enter into force if 60 countries ratify it? Can the hon. Gentleman confirm that the Government did not oppose the convention when it was discussed earlier this year and that we were one of a small number of countries that abstained? Is not the change in the Government's position, like that of the West German Government, due to excessive and intolerable pressure exerted by the United States Administration? Will not the hon. Gentleman stand up for Britain for a change? The matter is of immense importance to us as a seafaring nation.

Mr. Rifkind: I am afraid that the right hon. Gentleman is incorrect. The United Kingdom was one of a substantial number of countries that abstained when the convention was concluded. A small number of countries opposed and voted against the convention; a significantly greater number, including a substantial number of West European and Soviet Bloc countries, abstained.

The convention will come into effect if it is ratified by 60 countries. The United Kingdom will honour all conventions that it has ratified; that is what ratification is all about. If we have not ratified a convention, we shall be in the same position as any other country that does not ratify a convention: we shall not be bound by it.

Mr. Healey: The hon. Gentleman has made a serious statement. He is suggesting that a treaty which for the first time in human history regulates the law of the sea will come into force if ratified by 60 countries but that the Government reserve the right to defy its provisions. How will it help British mineral companies which want to explore the seabed to defy a convention that has entered into force as a result of ratification by the proper number of counties?

Mr. Rifkind: I cannot believe that the right hon. Gentleman does not appreciate the fact that for a country to be bound by an international treaty it has to take the decision to sign and subsequently to ratify it. If it declines to ratify a treaty, it is stating that it does not intend to be bound by it. It is a normal and acceptable part of international law that countries that do not ratify treaties are not bound by them.

Mr. Healey: The hon. Gentleman still has not answered the question. Does he believe that any mineral company will be prepared to invest the hundreds of millions of pounds required to suck up nodules from the seabed if the Government defy an international convention determining the legal regime under which the activities take place? Has he met any international company that would be prepared to take that risk?

Mr. Rifkind: A country is not defying an international convention if it declines to ratify it; it is simply exercising its sovereign rights as a State.

One of our main anxieties about the present terminology of the convention is that the deep sea mining proposals would deter many international companies from contemplating the expensive investment required.

Mr. J. Grimond (Orkney and Shetland): Is the convention amendable, and, if so, how? Having been ratified, does the convention have to reconvene for amendments to be made? Will the hon. Gentleman tell us now or place in the Library the Government's objections to the convention as it stands?

Mr. Rifkind: The convention is open for signature but is unlikely to be ratified by the minimum requirement of 60 States for some time. Previous conventions have sometimes taken a number of years to be ratified. At the very least there will be a substantial gap before possible ratification. If there is sufficient will, there is the opportunity for changes to be made.

The Government's objections primarily concern the deep sea mining regime but also the compulsory requirements for transfer of technology and the limitations on production in deep sea mining which would be a substantial disincentive to mining. Those are the main areas of anxiety, although there are a number of other detailed points.

Sir John Biggs-Davison (Epping Forest): Is not the official Opposition's position that vital British interests should be subordinated to the views of a majority of powers whose interests may conflict with ours?

Mr. Rifkind: Anxiety is caused not only by the fact that the proposed regime could have that effect; there is also a provision that the terms of the convention and the regime can be reviewed after 15 years. If there was not unanimity after five years of further discussion, a majority could take a decision, for example, to exclude all commercial private exploitation of the deep seabed, which would certainly be contrary to our interests.

Mr. Ivor Stanbrook (Orpington): In order not to lose the benefit of the parts of the convention with which we agree and are prepared to accept, should we not consider at least signing or even ratifying the convention with reservations?

Mr. Rifkind: Under certain international conventions that is a possibility. Unfortunately, it is not an option under

this one. Party States have the option of signing the whole convention or declining to sign; they do not have the opportunity to accept only parts.

Mr. Tam Dalyell (West Lothian): May I say without bravado, as one who put parliamentary questions to Harold Macmillan 20 years ago on the subject and who has followed it ever since, that I am appalled at the Minister's attitude? Does he recollect the work of the late Lord Ritchie-Calder and the point that he often used to make about the extraction of manganese nodules from the seabed and the importance of getting the agreement of the riparian States in the Indian Ocean, the Pacific or elsewhere?

Mr. Rifkind: I do not dispute that, but I repeat that there is real reason to doubt whether the regime proposed would encourage companies which have the technology to invest the vast sums that would be required to extract the nodules from the deep seabed. It is in everyone's interest to have a regime acceptable to the world community as a whole and one that will encourage the private sector, which has the technology, to invest the vast sums required if the resources are to be utilised.

Mr. John H. Osborn (Sheffield, Hallam): will my hon. Friend bear in mind the fact that the Council of Europe and the European Parliament have looked into the matter? Does he recall that the Council has an excellent report prepared by my hon. and learned Friend the Member for Solihull (Mr. Grieve) and that there is an opinion by the European Economic Affairs and Development Committee, which I entered with the desire to support the United Nations convention but members of the committee found that the industrial and bureaucratic provisions were intolerable? What representations has my hon. Friend had from international mining companies and others to the effect that the agreement would be intolerable?

Mr. Rifkind: I am grateful to my hon. Friend for drawing the study to the attention of the House. I believe that the mining companies' anxiety is that the system adopted by the world community should be an incentive and not a disincentive to deep sea mining. The production controls, the transfer of technology requirements and other similar factors constitute a substantial disincentive.

We hope that there will still be opportunity, especially over the next two years, for further thought to be given to changes that will enable the world community to unite and endorse a regime that will encourage deep sea mining. If such changes can be contemplated, that is something that we shall welcome.

Mr. Dick Douglas (Dunfermline): Will the Minister concede that the objections are being promoted by a small group of companies, which are based mainly in the United States, which have the technology to exploit the resources lying on the deep sea bed? Is he asking the House and the British people to believe that these companies would go ahead, under the supervision of licences granted by the United States, in opposition to nearly all the countries in the world? Is he asking the House to believe that that is the main stumbling block? Is he suggesting that the United Kingdom has no interest in these affairs other than in consortia with United States' companies?

Will he accept that we are being dragged into international disrepute at the behest of Reagan economics in the international sphere? Will he concede that this

attitude of mind undermines many areas of international co-operation which are essential if we are to get out of the slump?

Mr. Rifkind: American and British companies must speak for themselves. I am not aware of any public statements that they have made in the United States, in Europe or elsewhere in which they have called for the proposals of the law of the sea convention to be accepted by nation States. If they have great enthusiasm for the proposals, they have not given that indication.

Mr. T. H. H. Skeet (Bedford): Does my hon. Friend appreciate that there is no urgency in this matter because deep sea mining is unlikely to take place before 2000 AD? Is he aware of the danger of recognising an international seabed authority, which would lead to the conclusion that there would have to be an international Antarctic authority and an international space authority, too?

Mr. Rifkind: My hon. Friend is right to say that in any circumstances the prospects for mining on the deep sea bed are a good number of years ahead. It is a distant prospect rather than an immediate one irrespective of the attitudes that countries take to the convention. He is right also to say that our policy towards this convention could be used as a precedent in other discussions that might take place on other matters in future.

Mr. Tom McNally (Stockport, South): Is not the Minister aware of the high priority given by successive Governments to the law of the sea conference? It was one example where order could be brought where anarchy could reign. Does he accept that the low level or even casual way in which the Government have brought this announcement to the House could suggest that they are beginning to enter a conspiracy to wreck the whole process on behalf of narrow vested interests?

Mr. Rifkind: The hon. Gentleman is incorrect in making that suggestion. The Government do not desire to wreck international co-operation. We have said that there are large parts of the convention which we find acceptable, which are attractive and which are of interest to the international community. However, the deep sea mining provisions are not an incidental part of the convention. They form a major part of the convention, and one that has been most controversial in recent years. The British Government have never made any secret of their concern about and disagreement with these proposals. We did not endorse the convention when it was approved some months ago. We still hope to see sufficient changes made over the next two years by the international community, before a final decision on signature is required, to enable us to endorse it. We shall be delighted to do so, but only if the terms of the convention are consistent with British interests.

Mr. David Atkinson (Bournemouth, East): Does my hon. Friend accept that his statement will be warmly welcomed by all countries which have expertise in deep sea mining which are prepared to invest in it and to become involved in it? Of the many changes in the convention which I hope he will pursue, will he ensure that the membership of the executive council of the proposed authority will include countries that are involved in deep sea mining and will not be confined to countries which are land-locked and which do not even know how to deep sea mine?

Mr. Rifkind: My hon. Friend is correct to say that many of the countries that have indicated that they are likely to sign the convention are not involved in deep sea mining, and would be only beneficiaries to the convention and would not have any obligations under it. He is correct also to say that it is desirable that those involved in the international seabed authority, if it is set up, should be the countries most involved. The United Kingdom will be able to be involved in the debates at the preparatory commission. However, it will not have a vote at that commission unless it has signed the convention.

Several hon. Members rose—

Mr. Speaker: Order. I propose to call those hon. Members who have been rising in their places to ask questions and then to call the Opposition spokesman, the right hon. Member for Leeds, East (Mr. Healey), before ending questions on the statement.

Mr. Ioan Evans (Aberdare): Does the Minister agree that one of the problems that has faced mankind over the years has been conflicts about ownership of the earth's surface? The purpose of the law of the sea conference is to ensure that there are not the same conflicts in the development of the oceans' beds. If the Government are going along with the United States of America—the hon. Gentleman has not mentioned any other country that has seriously said that it is against the law of the sea proposals—will they introduce positive proposals with a view to seeking some international agreement? Is he aware that if there is a failure to do so there will be a danger of a serious conflict because of an inability to determine what areas should be developed by what countries?

Mr. Rifkind: I can assure the hon. Gentleman that the British Government are not against international co-operation on the exploitation of the deep seabed. That is a desirable principle. We take exception to particular proposals within the convention, which if imposed through the international seabed authority and the various other structural innovations that are proposed could result in an unwieldy, bureaucratic and possibly unworkable system which would deter rather than encourage the investment and co-operation that the hon. Gentleman seeks.

Mr. Keith Best (Anglesey): Is my hon. Friend aware that the only effective international law is that which is achieved through unanimity, which, of course, involves acceptance by other major countries as well as our own? His caution in safeguarding British interests will be welcomed widely—we must proceed carefully in these matters—but will he accept that many will be looking for the Government and the United Kingdom to take a major part in ensuring that a fundamental step in international law is not lost for ever?

Mr. Rifkind: My hon. Friend has raised a valuable point. It is a harsh fact of life that any convention bearing on deep sea mining that did not have the United States as a party would be of relatively little value in achieving international agreement. That is because of the overwhelming and predominant contribution that the United States makes to technology and possible developments in this area of activity. I agree with the objectives that my hon. Friend has mentioned.

Mr. John Ryman (Blyth): It is correct in law that there cannot be a breach of a convention unless there is prior ratification by the United Kingdom Government, but does

the Minister agree that his nonchalant attitude to this issue will create the impression, however unwittingly, that Her Majesty's Government are adopting an insular attitude and shirking their responsibility to the Third world by appearing to obstruct a comprehensive international agreement to distribute the wealth of the world among those who most need it?

Mr. Rifkind: I am grateful to the hon. Gentleman for educating Members on the Opposition Front Bench. The United Kingdom cannot be bound by a convention that it has not ratified. It is not the desire of Her Majesty's Government to obstruct co-operation with the Third world. Much of the convention is acceptable. However, there is one major aspect of it which is unacceptable. It will come as no surprise to any Third world country that the United Kingdom disagrees with the parts of the convention to which I have referred. I hope that there will still be an opportunity for international discussion and co-operation that will lead to changes that will be acceptable to the United Kingdom and the world community.

Mr. Gary Waller (Brighouse and Spenborough): I accept that the convention as drafted is clearly flawed and in need of revision. However, does my hon. Friend agree that some form of treaty is necessary in future to give the world community, especially Third world developing countries, some hope that they can develop their own economic system and improve their performance? Will the Government work to achieve a more satisfactory solution that produces goods that are acceptable to all?

Mr. Rifkind: I can certainly give that assurance. It is undoubtedly in the interests of the world community that there should be an international convention that is acceptable to it as a whole. So far that has not proved possible with this convention but we shall do our best to see whether it can be made possible during the next two years.

Mr. Andrew Faulds (Warley, East): Is not the problem that the Prime Minister, who is so renownedly ignorant about foreign affairs and so pitifully tied to Reagan's coat tails, has personally intervened yet once again?

Mr. Rifkind: The hon. Gentleman's question is so absurd that it does not require a reply.

Mr. Healey: Will the hon. Gentleman accept that the exchanges in the past half hour demonstrate that it is the view of a large number of hon. Members that the Government's attitude is just one more example of their indifference to international order, their hostility to the interests of the Third world and their subservience to the temporary commercial interests of American companies? The House will wish to debate the matter, and I hope that the hon. Gentleman can assure us that the Government will give us an opportunity to do so.

Mr. Rifkind: The right hon. Gentleman will be aware that his latter point is a matter not for me but for my right hon. Friend the Leader of the House. No doubt my right hon. Friend has heard every word of the right hon. Gentleman's contribution.

The exchanges that we have had do not suggest that the House overwhelmingly takes a different view from the Government. Perhaps not surprisingly, the Opposition take a different view; but that is not unusual.



PRIME MINISTER

Prime Minister

To note.

A.J.C. 1/12.

UN LAW OF THE SEA CONVENTION

I have seen Francis Pym's minute of 26 November and your Private Secretary's letter of 29 November.

2 I am pleased to note that our efforts to lobby others are continuing and meeting with success. I can see some force in Francis Pym's argument that we may need to exert maximum influence shortly after the Jamaica session when those who have simply deferred a decision may come under further pressure to sign. I would therefore like us to keep in very close touch with the like-minded members of the Community so that we know when an approach at the highest level will have maximum impact.

3 As to the proposed statement to be made in the House I have some misgivings about providing an opportunity for discussion of this sensitive issue at the present time. But it may be unavoidable and there could be advantage in giving a clear signal to the international Community before the Jamaica session. In that case it would be desirable to make plain that our concerns relate to fundamental principles within the proposed deep sea mining regime so that no-one is misled into believing that a few textual changes will suffice.



CONFIDENTIAL

4 I am sending copies of this minute to the Private Secretaries of Members of OD and to Sir Robert Armstrong.

PJ

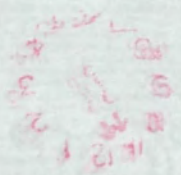
P J

1 December 1982

Department of Industry
Ashdown House
123 Victoria Street
LONDON
SW1E 6RB

For Pod

UNVLOSC



71 DEC 1962

CONFIDENTIAL

SECRET



DEPARTMENT OF INDUSTRY
ASHDOWN HOUSE
123 VICTORIA STREET
LONDON SW1E 6RB

TELEPHONE DIRECT LINE 01-212 3301
SWITCHBOARD 01-212 7676

Secretary of State for Industry

JU282

30 November 1982

Brian Fall Esq
Private Secretary
Foreign & Commonwealth Office
Downing Street
London SW1

AA 1/2
h-a.

Dear Brian,

UN LAW OF THE SEA CONFERENCE

I am writing to draw your attention, and that of other copy recipients, to my Secretary of State's active interest in the current discussions concerning UNLOSC. This has been the subject of recent Ministerial correspondence, including my Secretary of State's minute to the PM of 26 November, but as this Department is not a regular member of OD we are regularly omitted from the list of those to whom correspondence is copied, as correspondents are in the habit of only circulating to "other Members of OD".

2 It would be very helpful if you and other Departments involved in this correspondence could ensure that this Department is included in the list of copy recipients.

3 I am sending a copy of this letter to John Coles (No 10), other Members of OD, and to Sir Robert Armstrong's office.

Yours ever,

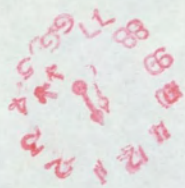
Caroline Varley

CAROLINE VARLEY
Private Secretary

For Pol

UNLose

May 80



-1 DEC 1982



November 1982

Prime Minister

This statement is now
due to be made on Friday this
week.

WR

John

*WR
John*

ADL 30/11

UN LAW OF THE SEA CONVENTION

WR

The Lord President has seen a copy of the Foreign and Commonwealth Secretary's minute of 26 November on this subject and of John Coles reply to you dated 29 November. He believes that the announcement to be made in Parliament should be by means of an Oral Statement. Perhaps we could be in touch about the timing.

I am copying this letter to the Private Secretaries of members of OD and to Sir Robert Armstrong.

John Coles
12.11.82

D C R Heyhoe
Private Secretary

John Holmes Esq
Private Secretary
Foreign and Commonwealth Office
Downing Street
London SW1

CONFIDENTIAL

100
100
100
100
100
100
100
100
100
100

30 NOV 1982



10 DOWNING STREET

c. CO
CDL
DTde
LPS
MOD
LPO
HMT
LCO
HO
FCO

For Pol.

Full

29 November 1982

From the Private Secretary

Dear Sir,

UN LAW OF THE SEA CONVENTION

The Prime Minister has seen the minute of 26 November by the Foreign and Commonwealth Secretary on the above subject, as well as the minute of 24 November by the Chief Secretary and of 26 November by the Secretary of State for Industry.

The Prime Minister agrees with Mr. Pym that for the time being we have taken sufficient action with our European partners. She also agrees that, subject to the views of the Lord President, our position should be made clear in Parliament this week either through an Oral statement or a Written Answer.

The Prime Minister is broadly content with the points to be made in such a statement, as outlined in paragraph 4 of Mr. Pym's minute. But in sub-paragraph (b) she would prefer the deletion of the words "contained elements which" and she would like sub-paragraph (e) to read:

"The Convention will remain open for signature for two years and there is ample time for revision before taking a final decision on signature."

Our delegation to the final session of UNLOSC in Jamaica from 6-10 December could then take a similar line to that which had been adopted in the House.

I am copying this letter to the Private Secretaries of Members of OD and to Sir Robert Armstrong.

Yours ever
John Holmes -

John Holmes, Esq.,
Foreign and Commonwealth Office.



PM/82/105

PRIME MINISTER

See 2 amendments
notUN Law of the Sea Convention

A.S.C. 26/11

Agree that:-

Yes

(a) we have taken sufficient action with the Europeans for the time being?

Yes

(b) a parliamentary statement should be made about our position next week? (subject to the views of the Lord President)

(c) that statement, and our statement in Jamaica, should take the line in para. 4 below?

1. We have now lobbied strongly in appropriate capitals explaining our misgivings about the deep sea mining provisions of the Convention. Posts were asked to cover all Ministries concerned and to register our views at the political as well as the official level where possible. The FRG seems set to follow our lead, although their final decision will not be taken until a Cabinet meeting on 1 December. The Belgians also seem likely to share our views on signature (at any rate at Jamaica) as do the Italians. The Japanese are likely to sign the Convention at the final session of UNLOSC due to be held in Jamaica on 6-10 December, although they may not be ready in time because of their government changes. The Netherlands and possibly the Luxembourgers may also sign at Jamaica - the subject was due to be discussed in the Dutch Cabinet on 26 November. The } Australians, New Zealanders and Canadians have meanwhile announced their firm intention of signing the Convention at Jamaica.

2. I think that the action we have taken should meet the concern of Leon Brittan and Patrick Jenkin about the need to encourage uncommitted governments to follow our lead. I agree with Leon Brittan that the next step should be to make our position clear publicly. We should then draw attention to it in capitals. We shall continue to lobby further as well, particularly in the light of the Dutch Cabinet decision. But as things stand, I am not sure we need to lobby the FRG, Belgium, Italy and Luxembourg again at the highest level, as Patrick has suggested. It would perhaps be better to hold this card in reserve for the post-Jamaica period, when some non-signers may begin to waiver.

3. Our delegation will in any case need to make a statement at the final session in Jamaica if only to repudiate the claim of others that the Convention is more than a contractual act between parties (ie that it can have validity for parties and non-parties alike). Such a statement should clearly also include an indication of our position on signature of the Convention. The degree of

/interest



interest also means that we should inform Parliament before our statement at Jamaica, either by an inspired written PQ or possibly an oral statement in the House. On timing, it would be wise to wait at least until 2 December because of the German cabinet meeting on 1 December, but go ahead immediately thereafter. (Although it now seems that the FRG will adopt, at any rate for the time being, much the same policy as ourselves, I would prefer that nothing be said in public until we are sure of their decision). This timing would enable our Parliamentary statement to have an impact on others and to be clear to all before Jamaica, where our objective should, I think, be to signal to the G77 that we would be highly unlikely to participate in the Convention unless significant improvements are made to the deep sea mining provisions.

4. If these arrangements are agreed, I propose to instruct our delegation to the Jamaica session to follow the line taken by you in answer to Sir C Fletcher Cooke on 9 November: that the seabed clauses would be very disadvantageous to this country, although there are others, such as those on the freedom of navigation, that would help us and that the balance of advantage will be carefully looked at before a final decision. The statement would go on to make the following points (a draft will be circulated at official level as soon as possible):

- (a) there has been a failure of consensus due to the deep sea mining provisions;
- (b) despite some helpful sections in the Convention, the deep sea mining provisions ~~are unacceptable~~ are unacceptable to ourselves and a number of other industrialised countries;
- (c) a number of our friends and allies share these misgivings;
- (d) we need to obtain satisfactory improvements in the deep sea mining regime and will therefore explore the prospects with interested states;
- (e) the Convention will remain open for signature for two years and there is ample time for ^{revision} ~~full consideration~~ of ~~the prospects~~ before taking a final decision on signature;

CONFIDENTIAL



5. Our announcement to Parliament next week would cover the same ground and draw attention to the undesirable precedents the industrial provisions would set if they were accepted.
6. After Jamaica, I will report on the degree of support which the Convention has received, in order that we can consider whether there is need for further discussion.
7. I am sending this minute to members of OD and to Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to be 'F. Pym', written in a cursive style.

(FRANCIS PYM)

Foreign and Commonwealth Office
26 November, 1982

CONFIDENTIAL

CONFIDENTIAL



JU254

PRIME MINISTER

SIGNATURE OF THE UNLOSC CONVENTION

I have seen copies of the recent correspondence following up the MISC 19 meeting. I support Leon Brittan's comments about the importance of the damaging industrial precedents in the Convention and I believe we should emphasise the point in making known the UK position.

2 I am concerned that we are not yet giving a clear signal about our intentions on signature, particularly to those of our Community partners who have not reached a decision on signing the Convention. If, as I believe we should, we are to decide that the UK ought not to sign the Convention for the time being, then we have an interest in influencing as many others as possible, particularly within the Community, to take a similar position.

3 From recent enquiries in capitals I understand that we have established that the Germans and Italians, probably the Belgians and possibly the Luxemburgers would incline towards our view. In the same way that we are influenced by the position of our Community partners they will be influenced by ours. While I understand Francis Pym's arguments for not undertaking an



anti-signature crusade in the international Community at large
this does not preclude some selective lobbying to persuade FRG,
Italy, Belgium and Luxemburg not to sign the Convention. I spoke
to Count Lambsdorff last week who was sympathetic to our view:
others may also respond to a clear signal from us.

4 To be effective we must make our position known soon as Leon
Brittan suggests. To preserve the selective approach advocated
by Francis Pym you may wish to do this by writing to the German,
Belgian, Italian and Luxemburg Prime Ministers urging them to
defer signature of the Convention.

5 I trust we shall also continue to take a robust line about
deferring the question of signature of the Convention by the
Community.

6 Copies of this minute go to members of OD and to Sir Robert
Armstrong.

PJ

P J

26 November 1982

Department of Industry
Ashdown House
123 Victoria Street

Foreign Pol, May '80, UNLOSC

26 NOV 1982



1982 NOV 26

CONFIDENTIAL

SECRET



File
Foreign
Pd
OS

10 DOWNING STREET

From the Private Secretary

25 November 1982

✓ MAFF

LAW OF THE SEA CONVENTION

I enclose a copy of a letter which the Prime Minister has received from the Prime Minister of New Zealand. I should be grateful for a draft reply in due course.

I am sending copies of this letter to John Rhodes (Department of Trade), Jonathan Spencer (Department of Industry), Richard Mottram (Ministry of Defence) and Richard Hatfield (Cabinet Office).

A. J. COLES

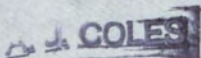
John Holmes, Esq.,
Foreign and Commonwealth Office.

File

289

25 November 1982

The Prime Minister has asked me to thank you for your letter of 25 November containing the text of a letter from the Prime Minister of New Zealand about the Law of the Sea Convention. A reply to Mr. Muldoon's letter will be sent in due course.

The logo for COLES, featuring a stylized crown or crest to the left of the word "COLES" in a bold, sans-serif font.

His Excellency The Hon. W. L. Young.

010
PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T 226/82



Advance text
rec'd earlier.

A.J.C. 29

Prime Minister
Wellington
New Zealand

h-a

25 November 1982

Dear Margaret,

As you may know, we have announced that New Zealand will sign the Law of the Sea Convention at the signature session in Jamaica next month.

We have always been a strong supporter of the Convention. We gain a great deal as does the United Kingdom from the provisions relating to the exclusive economic zone and the continental shelf. At the same time we recognise that the great achievement of the Convention has been to secure this expansion of coastal state jurisdiction over resources while at the same time preserving and in some cases improving the traditional freedoms of navigation and over-flight in respect of straits, territorial seas and exclusive economic zones. These safeguards are of major importance for New Zealand's trading and security interests and, we believe, for the security interests of the Western alliance. We are particularly concerned that if the Convention does not achieve widespread support what we may end up with is greatly expanded zones of coastal state jurisdiction with no adequate guarantees for navigation and over-flight through those zones. More generally, the advantages of agreed and stable rules bearing on such an important range of national interests should not, in our view, be underestimated.

Another major factor which my Government took into account in its decision to sign the Convention is the importance attached to it by the Pacific Island countries many of whom see the fish within their new exclusive economic zones as one of the few major resources to which they can look for their development. Accordingly, it is a matter of concern to us that the standing of the United States in the eyes of these countries has been seriously affected by its refusal to accept the Convention. Our concern would, of course, be increased if your Government were to decide against signing it and thus give rise to the feeling in the Pacific, however unjustified, that the United Kingdom was also unresponsive to the interests and needs of the Pacific countries.

/In this

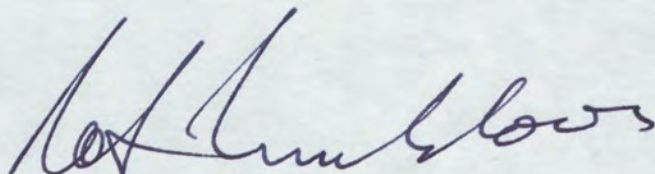
The Right Honourable
Margaret Thatcher,
Prime Minister,
No. 10 Downing Street,
LONDON.

In this regard I know that they are taking a very close interest in the position of the United Kingdom. In August this year the Thirteenth South Pacific Forum adopted a resolution reaffirming its concern over the United States' position on the Convention, noting with regret that the US Administration had decided not to sign or become party to it and expressing the hope that other developed states would not adopt a similar stance.

At the Commonwealth Heads of Government Regional Meeting in Suva in October this concern was even more directly expressed. In fact at one point some countries wanted Ratu Mara, as Chairman, to write to you linking their support for Britain's position in the Falklands with the fact that the UK had not yet announced that it would sign the Law of the Sea Convention. I argued that this was quite unacceptable since there was no history or indeed logic behind such a linkage. Ratu Mara agreed and decided to write separately to you on both points. Nonetheless, the mere fact that the suggestion was advanced was a clear indication of the strength of feeling on the Law of the Sea issue.

I know that your Government will be giving very careful consideration to signing the Convention at the signature session next month. I did, however, want to draw your attention to the importance which is attached in this region to signature of the Convention by the United Kingdom so that this factor might be given due weight in your decision.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'R.D. Muldoon', written in a cursive style.

R.D. Muldoon

SUBJECT

PRIME MINISTER'S

T 226/82

(2)

PERSONAL MESSAGE

SERIAL No. T 226/82



Prime Minister

I shall let you have

a reply.

A.S.C. 25/11

cc Master
Ops

NEW ZEALAND HIGH COMMISSION

NEW ZEALAND HOUSE · HAYMARKET · LONDON SW1Y 4TQ

Telephone: 01-930 8422 Telex: 24368

From the High Commissioner
H.E. The Hon W. L. Young

25 November 1982

My Dear Prime Minister

My Prime Minister has asked me to forward to you the following text of a letter, the original of which will follow shortly:

"Dear Margaret,

As you may know, we have announced that New Zealand will sign the Law of the Sea Convention at the signature session in Jamaica next month.

We have always been a strong supporter of the Convention. We gain a great deal as does the United Kingdom from the provisions relating to the Exclusive Economic Zone and the continental shelf. At the same time we recognise that the great achievement of the Convention has been to secure this expansion of coastal state jurisdiction over resources while at the same time preserving and in some cases improving the traditional freedoms of navigation and over-flight in respect of straits, territorial seas and exclusive economic zones. These safeguards are of major importance for New Zealand's trading and security interests and, we believe, for the security interests of the Western alliance. We are particularly concerned that if the Convention does not achieve widespread support what we may end up with is greatly expanded zones of coastal state jurisdiction with no adequate guarantees for navigation and over-flight through those zones. More generally, the advantages of agreed and stable rules bearing on such an important range of national interests should not, in our view, be underestimated.

/Another

The Right Honourable Margaret Thatcher, MP
Prime Minister,
10 Downing Street,
LONDON.

Another major factor which my Government took into account in its decision to sign the Convention is the importance attached to it by the Pacific Island countries many of whom see the fish within their new Exclusive Economic Zones as one of the few major resources to which they can look for their development. Accordingly, it is a matter of concern to us that the standing of the United States in the eyes of these countries has been seriously affected by its refusal to accept the Convention. Our concern would, of course, be increased if your Government were to decide against signing it and thus give rise to the feeling in the Pacific, however unjustified, that the United Kingdom was also unresponsive to the interests and needs of the Pacific countries.

In this regard I know that they are taking a very close interest in the position of the United Kingdom. In August this year the thirteenth South Pacific Forum adopted a resolution reaffirming its concern over the United States' position on the Convention, noting with regret that the US Administration had decided not to sign or become party to it and expressing the hope that other developed states would not adopt a similar stance.

At the Commonwealth Heads of Government Regional Meeting in Suva in October this concern was even more directly expressed. In fact at one point some countries wanted Ratu Mara, as Chairman, to write to you linking their support for Britain's position in the Falklands with the fact that the UK had not yet announced that it would sign the Law of the Sea Convention. I argued that this was quite unacceptable since there was no history or indeed logic behind such a linkage. Ratu Mara agreed and decided to write separately to you on both points. Nonetheless, the mere fact that the suggestion was advanced was a clear indication of the strength of feeling on the Law of the Sea issue.

/I know

3.

I know that your Government will be giving very careful consideration to signing the Convention at the signature session next month. I did, however, want to draw your attention to the importance which is attached in this region to signature of the Convention by the United Kingdom so that this factor might be given due weight in your decision.

Yours sincerely,

R.D. Muldoon"

Yours sincerely,

William I. Young.

RESTRICTED

HL

*all put
to T.*

25 November 1982

Messages from the Prime Minister to the Prime
Minister of Fiji

Thank you for your letter of 24 November. The Prime Minister agrees that the proposed message from her to Mr. Ratu Mara should be despatched but wishes the phrase "and which should and could be amended" to be added to the end of the third paragraph.

Mrs. Thatcher also agrees that when our High Commissioner delivers this message he should informally thank Mr. Ratu Mara for his message about the Falkland Islands.

JOHN COLES

John Holmes, Esq.,
Foreign and Commonwealth Office.

RESTRICTED



Foreign and Commonwealth Office

London SW1A 2AH

24 November 1982

Prime Minister

Agree to send attached message
to Prime Minister of Fiji?

A.J.C. 24/11

Dear John,

Messages to Prime Minister from Prime Minister of Fiji

// I enclose two messages from the Prime Minister of Fiji, Ratu Sir Kamisese Mara, to the Prime Minister following last month's Commonwealth Heads of Government Regional Meeting (CHOGRM) in Suva. Although the messages are dated 20 October, they did not reach our High Commissioner in Fiji until 1 November. He had sent advance warning of the messages by telegram in late October, but unfortunately only sent the full texts by bag (the service from Fiji is very slow), which is why we have not written until now. / I attach the relevant extract from the CHOGRM communiqué referred to in Ratu Mara's second message.

✓ | The first message is a reply to the Prime Minister's pre-CHOGRM message of 11 October about the Falkland Islands. The Prime Minister has already thanked Ratu Mara for his response to that message (FCO telno 336 to Wellington of 25 October). There therefore seems no need for her to say anything further to Ratu Mara on this subject. Our High Commissioner might however be asked to pass an informal word of thanks from the Prime Minister when he delivers her reply to Ratu Mara's second message. In the event, the countries participating at the Suva meeting did well by us in the General Assembly vote. Only two (India and Malaysia) voted for the Latin American resolution; five (including Fiji) voted against; and six abstained.

The second message is largely devoted to the Law of the Sea Convention. Ratu Mara reports that this was of particular interest to all regional Heads of Government; and he records a general hope 'that the countries of Western Europe, such as the United Kingdom which has a long history of maritime tradition, will find it possible to support the Convention by signing it'.

/In this



In this second passage, Ratu Mara is reflecting the consensus among the Regional Heads of Government. Their communiqué 'deplored the declared decision by the United States not to become a party to the Convention' and 'urged all States to sign the Convention at Jamaica and to proceed to ratification without unnecessary delay'.

Our High Commissioner in Suva has pointed out the importance which Fiji and other South Pacific countries attach to the Convention and the adverse reaction in the region that our failure to sign would cause. We gather in fact that it was only after the intervention of Mr Muldoon that the Fijians dropped the idea of writing to the Prime Minister proposing overt linkage between the way Fiji would vote at the UN on the Falklands and our attitude to signing the UNLOS Convention.

In the circumstances, and given the helpful attitude of Fiji on the Falklands at the UN, a warm if frank message from the Prime Minister to Ratu Mara would seem appropriate. I enclose a draft which, if the Prime Minister agrees, we shall instruct our High Commissioner to deliver.

Yours ever

(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

OUT TELEGRAM

Classification and Caveats
CONFIDENTIAL

Precedence/Deskby
PRIORITY

C
S
SS
EATS
SKBY
FCO
E/ADD
NO

1
2
3
4
5
6
7
8

ZCZC
GRS
CONFIDENTIAL
FM FCO
TO PRIORITY SUVA
TELEGRAM NUMBER

9 YOUR LETTER OF 4 NOVEMBER TO CARRUTHERS: RATU MARA'S LETTERS
10 OF 20 OCTOBER TO THE PRIME MINISTER
11 1. Following is text of Prime Minister's reply to letter on
12 Law of the Sea. BEGINS:

13 Thank you for your letter of 20 October about the
14 Commonwealth Heads of Government Regional Meeting. I am afraid
15 that I have only just received this and am sorry to have been so
16 late replying. The meeting was clearly very successful, and I
17 was glad to hear of yet another example of the value of the
18 Commonwealth association. Much of the credit belongs to you
19 and your government.

20 You mentioned in particular your discussion of the Law
21 of the Sea Convention. We are now considering the advantages
22 and disadvantages of the Convention in the light of our own
23 interests and the views of other countries. Given what you so
24 rightly described as the complexity and diversity of the
25 subject matter, this is no easy task. I am grateful to you

NNNN ends telegram		BLANK	Catchword for
File number		Dept	Distribution Limited CCD FID SPD MAED UND cc: Mr Adams
Drafted by (Block capitals) PRIVATE SECRETARY			
Telephone number 233 4641			
Authorised for despatch			
Comcen reference	Time of despatch		

///
//
/

OUT TELEGRAM (CONT)

Classification and Caveats
CONFIDENTIAL

Page
2

1 <<<<

2 for setting out so clearly the views of Regional Heads of
3 Government.

4 It had, as you know, been our hope that the Law of the Sea
5 Conference could achieve a Convention which would be generally
6 accepted. This would have contributed greatly to the rule of
7 law on the seas, to which we attach importance. The absence of
8 such consensus makes our decision very difficult and although
9 there are advantages in the Convention, the seabed mining
10 provisions contain elements which are very difficult for us to
11 accept, *and which should and could be ~~substantially~~ amended*

12 It is helpful to know your views. We will of course
13 take them, and those of our other friends, fully into account
14 in reaching a decision. However, as I am sure you will
15 understand, there are also several important British interests
16 involved. ENDS

17 2. Please deliver this message as soon as possible. When you
18 do so, you should say that Mrs Thatcher has not replied to
19 Ratu Mara's separate letter of 20 October about the Falkland
20 Islands, as that letter crossed with Mrs Thatcher's message
21 to him of 25 October (FCO telno 336 to Wellington). But she
22 greatly appreciated Ratu Mara's message, and Fiji's decision
23 to vote with us in the General Assembly on 4 November.

24
25 PYM

26 NNNN

NNNN ends
telegram

BLANK

Catchword

EXTRACT FROM FINAL COMMUNIQUE, COMMONWEALTH HEADS OF GOVERNMENT
REGIONAL MEETING, SUVA, FIJI, 14 - 18 OCTOBER 1982

16. Heads of Government welcomed the adopting in April 1982, of the new comprehensive Convention on the Law of the Sea, which had been the fruit of nine years of painstaking negotiations and which was of special significance to the countries of the region. At the same time they deeply deplored the declared decision by the United States not to become a party to the Convention. Observing that a number of other developed states had abstained in the vote on its adoption, they recognised that the lack of active support from these states could seriously undermine the effectiveness of an instrument that was designed to establish an international regime for the equitable and orderly management of the resources of the sea to the benefit of developed and developing countries alike. They therefore strongly urged all states to sign the Convention at the forthcoming signing conference in 1982 and to proceed to the ratification process without unnecessary delay.

Prime MinisterA.S.C. $\frac{24}{4}$

Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon Francis Pym MC MP
 Secretary of State
 Foreign & Commonwealth Office
 Downing Street
 London SW1A 2AL

24 November 1982

Re: Secretary of State,
 UNLOSC: SIGNATURE

I have seen copies of Peter Rees' minute to the Prime Minister recording our discussions in MISC 19 and your subsequent minute to the Prime Minister about the question of signature of the Law of the Sea Convention.

I was rather surprised to see that Peter Rees' minute made only the slightest reference to the provisions in the Convention relating to transfer of technology. Some of us in MISC 19 regarded these provisions as setting potentially very damaging precedents and I think the report to the Prime Minister might have given greater emphasis to this point.

MISC 19 also concluded that a decision by the UK to sign now would be premature and tactically unwise. Our aim is to get the unsatisfactory provisions relating to deep sea mining, including the transfer of technology provisions, changed and to explore the scope for putting together a substantial consensus.

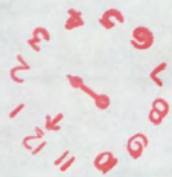
While this need not take the form of an "anti-signing crusade", putting together a consensus must mean making a determined attempt to influence the uncommitted. Clearly, such action on our part will have much more effect if we have made our own firm statement against signing the Convention in its present form before the meeting in Jamaica. To give sufficient time for parallel lobbying in appropriate capitals, the statement should be made very soon. I hope colleagues will be consulted in good time on the precise terms of such a statement.

I am copying this to members of OD and to Sir Robert Armstrong.

yours sincerely

LEON BRITTAN
 (approved by the Chief Secretary & signed in his absence).

Foreign Pd, May '80, UNCLASC



24 NOV 1982



26
Foreign
Aff
e

10 DOWNING STREET

From the Private Secretary

22 November 1982

LAW OF THE SEA: U.S. POSITION

The Prime Minister has received a letter from President Reagan's Special Emissary, Mr. Donald Rumsfeld. I enclose a copy.

I doubt if any further communication with the United States is necessary at this stage.

I am copying this letter and enclosure to John Rhodes (Trade), Jonathan Spencer (Industry), Richard Mottram (Defence) and Richard Hatfield (Cabinet Office).

A. J. COLES

John Holmes, Esq.,
Foreign and Commonwealth Office.



10 DOWNING STREET

From the Private Secretary

cc: OD for s. Pot ²⁰⁸
✓ Ho
✓ to civ's off.
✓ Hunt
✓ to Pres's off.
✓ Med
19 November 1982
✓ to Privy Seal's off.
✓ Trade
✓ Ch/Duchy/hare. off.
+ CO ✓

LAW OF THE SEA

The Prime Minister has noted the contents of the minute of 17 November by the Foreign and Commonwealth Secretary and that of 15 November by the Minister for Trade.

Mrs. Thatcher remains convinced that we cannot endorse a Convention which contains the present sea bed mining provisions. She will consider, in the light of further reports on Community and other attitudes, whether there is a need for OD discussion.

I am sending copies of this letter to the Private Secretaries to the members of OD, and to Sir Robert Armstrong.

A. L. COLES

John Holmes, Esq.,
Foreign and Commonwealth Office.

BM

PRIME MINISTER

Law of the Sea Convention

I attach a minute by the Foreign and Commonwealth Secretary.
In view of your comments on Mr. Rees' minute of 15 November
(attached) I also attach again the minutes of Misc 19.

May I say that:-

- (a) You have noted these papers.
- (b) You remain convinced that we cannot endorse a Convention which contains the present sea-bed mining provisions.
- (c) You will consider, in the light of further reports on Community and other attitudes, whether there is a need for OD discussion.

Agree that I should write in this sense?

Yes
mb

A.J.C.

18 November, 1982.



PM/82/99

PRIME MINISTER

UN Law of the Sea Conference: Signature of the Convention

- TPM
with ASC
1. Peter Rees minuted to you on 15 November recording the outcome of the MISC 19 meeting on 9 November.
 2. I agree that we must now press ahead with clarifying the position of our European partners and others (notably Japan), and representing our misgivings to those who are undecided. It emerged from the Community Co-ordination meeting on 15 November, when our representative set out our position and sought the reactions of others, that four countries (Denmark, France, Greece and Ireland) have taken a decision to sign the Convention at Jamaica next month. The representatives of the Netherlands and Luxembourg thought that their Governments might take a similar decision by the end of the month. Germany is the key remaining country from our point of view; FCO and Department of Industry officials visited Bonn on 3 November to explore and influence German thinking in line with our own. This was followed up after MISC 19 with an instruction to our Ambassador to pursue the issue further. The other Community countries which in my view are most likely to have doubts about the Convention are Belgium (because of Union Minière) and the Italians, who are represented in one of the mining consortia. I have asked my officials to work closely with their Department of Industry colleagues to formulate instructions to our Community posts in order to influence those decisions which have yet to be taken. But I should say that it is still possible that we shall end up as the only member of the Community not to sign the Convention, if that is how our own decision in the end goes.
 3. I also strongly endorse the need not to be seen by the international community at large to be embarking on an anti-signature crusade. There is no doubt that the Commonwealth (both old and new) are strongly in favour of the Convention, as we have already seen from messages to you from the acting Prime Minister of Australia and the Prime Minister of Fiji. (Some of those in the

CONFIDENTIAL



Commonwealth who gave us strongest support over the Falklands, eg the Pacific and Caribbean Islands, are, incidentally, among those who are strongest advocates of British signature of the Convention). Their disappointment, and in some cases resentment, if we decide not to sign, will be considerable.

4. The need for caution is underlined by the fact that the President of the UNLOSC Conference, Ambassador Koh of Singapore, who is generally well-disposed to this country, has threatened to seek an advisory opinion from the International Court of Justice if any country attempts to mine the deep sea bed outside the Convention. It will no doubt be said that by signing a Reciprocating State Agreement (or whatever we decide to call it), which we are seeking to do with the Americans, Germans and possibly the French, we would lay ourselves open to such action. We must make sure that we can convincingly refute any such suggestion.

5. I agree with Peter Rees that we shall need to look at the position again in the light of our soundings of others. I assume that the next step will be a discussion in OD.

6. I am copying this minute to members of OD and to Sir Robert Armstrong.

(FRANCIS PYM)

Foreign and Commonwealth Office

17 November, 1982

CONFIDENTIAL

For. Pol: Third UN Law of the Sea Cont. 5/80



17 NOV 1982

SUBJECT

CF

ce Markis + em

189



PRIME MINISTER'S

PERSONAL MESSAGE

SERIAL No. T221/82

10 DOWNING STREET

for. Pol

THE PRIME MINISTER

17 November 1982

Dear Mr Anthony

Thank you for your message about the Law of the Sea Convention.

We much regret that the negotiations did not result in a Convention which could be accepted by all countries. We are now looking closely at the text in the light of all our national interests and the views of our allies. While some of the provisions are satisfactory, the deep sea mining provisions contain elements which are highly disadvantageous to the industrialised countries and this makes our decision a very difficult one. As you know, the Convention will remain open for signature for two years and we wish to look very carefully at the balance of advantages and disadvantages before reaching a decision.

You mentioned the communiques of the South Pacific Forum meeting and the recent CHOGRM. You may be assured that we will take your concerns, and those of our other friends in the Pacific, fully into account in considering the question of signature of the Convention.

Yours sincerely

Margaret Thatcher

The Rt. Hon. J. D. Anthony, C.H., M.P.

[Handwritten mark]

THE WHITE HOUSE
WASHINGTON

November 16, 1982

②
Prime Minister

A.S.C. 22
11

MF

Dear Mrs. Thatcher:

I was pleased that you were able to honor President Reagan's request and meet with me on short notice despite your busy schedule. We would not have imposed but the issues are, as you recognize, very important and time sensitive.

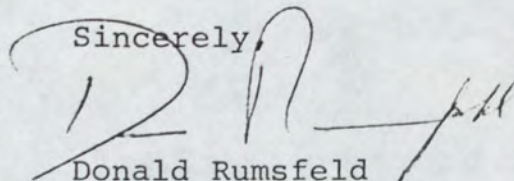
After completing my round of consultations with you and the leaders of other key countries, I reported to President Reagan. He remains firm in his resolve not to sign the Law of the Sea treaty and to develop an alternative seabed mining arrangement. He continues to urge the United Kingdom not to sign the treaty or, at least, to defer that decision while working with the United States toward an alternative regime. Continuing dialogue at high and expert levels is important, and the United States looks forward to such consultations with your government in this critical field.

The concern about whether key navigation and overflight rights can be fully protected outside the treaty was addressed in our discussion and was particularly evident in my subsequent meeting with Mr. Rifkind and others. I had these concerns put before Secretary Weinberger and understand that he has subsequently written to Defense Minister Nott elaborating on U.S. views as to why these rights can be so protected.

I appreciated the opportunity to meet with you and to address personally President Reagan's deep concerns about the seabed part of the treaty -- concerns that are widely shared throughout the United States and in Congress. Your insightful and candid observations were as refreshing as they were on the mark.

With best wishes.

Sincerely,



Donald Rumsfeld

The Right Honorable
Margaret Thatcher, M.P.
Prime Minister
London

Prime Minister



PRIME MINISTER

SIGNATURE OF THE UNLOSC CONVENTION

Content with these conclusions?

I thought the meeting was rather more decisively against - judging by the minutes than the minutes indicate was

A.F.C. 16.11

Arthur Cockfield chaired a meeting which I also attended, of the Ministerial Group on Maritime Affairs (MISC 19) on 9 November to consider whether the United Kingdom should sign the UNLOSC Convention and if so when and under what circumstances. In Arthur's absence on an overseas visit, I would like to report the outcome to you and other OD members.

It was clear that major elements in the Convention, notably the navigation package, with its important defence implications, and some of the Continental Shelf provisions would be of significant benefit to British interests. But it was the damaging implications and precedents of the deep sea mining regime which were at the centre of the Group's deliberations. All of us recognised that the deep sea mining provisions of the Convention were unsatisfactory, in some respects profoundly so; and it was agreed that, whatever the decision on signature, there could be no question of the United Kingdom ratifying the Convention without significant improvements to the provisions and rules governing the operation of the mining regime. Even if we were to sign the Convention and participate in the Preparatory Commission



as a voting member, it was thought that the chances of securing such changes were not high.

It was recognized that failure to sign might leave the United Kingdom uncomfortably isolated: but it was pointed out that the present United States Administration has decided against signature and that the Federal Republic of Germany, whose attitude could be of crucial importance, was still hesitating. Nor were the attitudes of our other Community partners in all cases clear. It was felt that, for once, time was on our side, in so far as we have up to two years before the period when the Convention is open for signature runs out and we could always accede to it thereafter. Against this background, the balance of opinion in the Group was against early signature; and it was considered that it would in any case be premature to take a decision until we had firmer information about the intentions of other Community countries, particularly the Federal Republic of Germany. It was therefore decided:

- (a) to seek to establish urgently the views of our Community partners and other friendly governments, and especially those of the Federal Republic of Germany, with whom we are already in close touch. Without embarking on an anti-signature crusade, which could expose us to criticism from the many countries which have already decided to sign (including France



and both the Old and the New Commonwealth), we should make no secret of our reluctance to commit ourselves in any way to the Convention on the basis of the present deep sea mining provisions. If our soundings showed that the Federal Republic and perhaps one or two other countries of weight seemed likely to join us in deciding against signature for the time being, this would be a better way of putting pressure on the G77 to agree to amend the Convention, which must remain our aim, than signing within the next three months so as to be able to participate in the Preparatory Commission as a voting member.

- (b) to press ahead with the negotiation of a Reciprocating States Agreement with the United States and the Federal Republic, and if possible with France. This seems the best way to protect the position of our deep sea mining interests in the immediate period ahead.
- (c) to seek to form a clearer view of the extent to which the substantial changes we want in the deep sea mining regime might become attainable. There will be a continuing need to monitor this closely over the next two years, particularly as the G77 comes to realise the

CONFIDENTIAL



full implications of continuing United States hostility to the mining regime and the adverse consequences that this will have for their interests.

It will probably be necessary to review the position again in the light of the soundings referred to in paragraph 4(a) above, and a further report will be made at that time.

I am copying this minute to members of OD and to Sir Robert Armstrong.

PR

PETER REES
MINISTER FOR TRADE

15.11.1982

CONFIDENTIAL

FOREIGN POLICY: 3rd UN Law of the Sea Conference
(UNLOS)

11
11
NOV 1982



CONFIDENTIAL

Foreign Pol



Foreign and Commonwealth Office

London SW1A 2AH

12 November 1982

Re. type letter.

ADL 15/11.

Dear John,

Law of the Sea

Thank you for your letter of 8 November about the message from the acting Prime Minister of Australia to the Prime Minister.

I enclose a draft reply from the Prime Minister to Mr Anthony, which has been cleared with the DOI, MOD and DOT.

Mr Anthony's message refers to the recent Commonwealth Heads of Government Regional Meeting in Suva, which took up a strong position in favour of early signature of the Law of the Sea Convention. Ratu Sir Kamisese Mara, the Prime Minister of Fiji, has also sent a message to the Prime Minister including the communiqué of the meeting and drawing attention to the passage on Law of the Sea. We are writing separately with a draft reply to this message.

Yours ever

John Holmes

(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

CONFIDENTIAL

Law of the Sea: Foreign Policy

1970-1975

1970-1975

DRAFT UNCLASSIFIED LETTER

DRAFT: ~~minutes/letter/teletype/despatch/roty~~
~~XXXXXXXXXXXXXXXXXXXX~~

TYPE: Draft/Final 1+

FROM:
Prime Minister

Reference

DEPARTMENT: TEL. NO:

SECURITY CLASSIFICATION

TO:
The Rt. Hon. J D Anthony, CH MP
Acting Prime Minister of Australia

Your Reference

- Top Secret
- Secret
- Confidential
- Restricted
- Unclassified

Copies to:

PRIVACY MARKING

SUBJECT:

.....In Confidence

Thank you for your message about the Law of the Sea Convention.

CAVEAT.....

We are now looking closely at the ^{best} ~~Convention~~ in the light of all our national interests and the views of our allies. ~~As you will know, our objective during negotiations has been to try to obtain a generally agreed Convention which could be accepted by all countries. We much regret that this has not been possible.~~ ^{While some of} We recognise that the navigational provisions which you cite are satisfactory but the deep sea mining provisions contain elements which are highly disadvantageous to the industrialised countries and this makes our decision a very difficult one. As you know, the Convention will remain open for signature for two years and we wish to look very carefully at the balance of advantages and disadvantages before reaching a decision.

We must repeat that the negotiations did not result in a Convention which could be accepted by all countries.

Enclosures—flag(s).....

~~We also understand the concern over UNLOSC among the Pacific island states.~~ You mentioned the

/communiqués

communiqués of the South Pacific Forum meeting and the recent CHOGRM. You may be assured that we will take your concerns, and those of our other friends in the Pacific, fully into account in considering the question of signature of the Convention.

RR ¹⁵/₁₇.



hLE

RM

For. Pol

10 DOWNING STREET

THE PRIME MINISTER

10 November, 1982

Dear Mr. Macgregor.

Thank you so much for your letter of 8 November. I have much sympathy with your views and shall give them full weight when the time comes to take a decision on signature of the Convention on the Law of the Sea. At present, we are conducting the usual examination of all aspects of the Convention but there is no doubt in my mind that the provisions on sea-bed mining are very defective indeed, and would be very *dangerous to this country's interests*

Thank you for writing — and so cogently.

Yours sincerely
Margaret Thatcher

Ian MacGregor, Esq.,

RM

PRIME MINISTER

THE LAW OF THE SEA

Prime Minister
My advice to Alan was that there was no danger of
you telling Mr. Rumsfeld that we should sign (!)
and that therefore his analysis could, if he wished,
wait to cover the time of the OD discussion.
A.S.C. 10/11.

I was proposing to send you an economic analysis of the Law of the Sea before you met Mr. Rumsfeld some three weeks ago. However, John Coles thought it was probably inappropriate at that stage. I gather that now you have received an incisive account from Ian MacGregor.

You may also be interested in how the United States' policy is shaping up. This article in the Wall Street Journal is very informed, primarily by W. Alan Wallis, the Under Secretary in the State Department for Economic Affairs. I understand that the rest of the State Department is orchestrating considerable pressure, certainly to continue funding the Jamaican Head Office and for the initialling of the Treaty. I believe, however, that this lobbying will not be successful. The United States is unlikely to sign.

10 November 1982

Dictated but not seen by: ALAN WALTERS

Sea Law Seduction

As the chill November winds blow across the East River, United Nations officials are eagerly readying themselves for a big bash in Jamaica next month to mark the signing of the Law of the Sea Treaty. Sparing no expense, the U.N. is expected to lay out up to \$20 million celebrating this attempt to tax Western mining companies and to steal their technology. While the Reagan administration opposes the treaty, U.S. taxpayers may wind up paying one-quarter of the bill not only for the party but also for the operating expenses of the U.N.'s new International Seabed Authority.

The authority wants to control the mining of metal and mineral "nodules" on the world's seabeds. It proposes to require mining ventures to pay an application fee of \$250,000, an annual operating fee of \$1 million and a graduated tax on mining operations as high as 70% of net proceeds. Moreover, it would require mining explorers to turn over half of their finds to the authority's own mining arm, called "the Enterprise," and would negate patent protections by demanding that companies turn over their mining technology.

One of the main points of this exercise is to discourage deepsea mining and thereby protect onshore producers of the affected minerals. Should sea mining actually occur, however, the U.N. would have an automatic source of income to be distributed to its member countries and favorite causes like the Palestine Liberation

Organization, largely free of U.S. influence or control.

President Reagan announced last July that the U.S. won't sign the treaty because it doesn't protect our national or commercial interests. Now, however, there is an effort to get the administration to "initial" the treaty at next month's gathering in Jamaica. Proponents say that initialing is a mere diplomatic formality which recognizes U.S. participation in the talks since 1973. What they aren't saying is that America's initials would give the appearance of approval and would commit the U.S. to spend millions to subsidize the authority and its Jamaica headquarters.

Because the seabed authority isn't likely to raise any of its own revenues any time soon, it will be funded out of the general U.N. budget, of which the U.S. pays 25%. As a result, U.S. taxpayers will underwrite a quarter of this seabed piracy unless the U.S. cuts its U.N. contribution to reflect its non-participation in the seabed scheme.

The U.S. already withholds a portion of its U.N. funding obligations, equal to 25% of the funds given to the PLO, the Southwest Africa Peoples Organization and Cuba. If the administration really opposes giving the U.N. control over American mining ventures, the president should not only refuse to initial the Law of the Sea but also to provide any money for the seabed authority. The big party in Jamaica next month deserves a bit of dampening.



10 DOWNING STREET

From the Private Secretary

9 November, 1982

LAW OF THE SEA

I enclose a copy of a letter which the Prime Minister has received on the above subject from Mr Ian MacGregor. The Prime Minister intends to reply to this herself (no draft is required).

I am copying this letter and enclosure to Jonathan Spencer (Department of Industry), John Rhodes (Department of Trade), Julian West (Department of Energy) and Richard Hatfield (Cabinet Office).

A. J. COLES

J. Holmes, Esq.,
Foreign and Commonwealth Office.

BRITISH STEEL CORPORATION

IAN MACGREGOR

8 November 1982

Rt Hon Margaret Thatcher MP
Prime Minister
10 Downing Street
London S W 1

I agree with other letters to lobby.
Please
I will send copy to P.S.
Prime Minister

If you agree I will thank
him for his views and say
that you will give them full
weight when the time comes
to take a decision on signature

Dear Prime Minister,

Content?
A.J.C. 5/11

The Law of the Sea Treaty and the question as to whether Britain becomes a signatory are matters, I believe, which will affect this country's ability to contribute to the progress of the developed world, and to maintain a significant position in its ranks. May I therefore offer some thoughts on the Treaty in its present form?

Initially, the Treaty discussions concentrated on the navigational problems. Mining of the sea bed and the 'nodules' was seen as a secondary and unimportant future prospect. Today, however, we know that in the twenty-first century, industrial economies will have to look increasingly to the oceans for their mineral resource needs. We cannot yet accurately forecast the potentiality of ocean-bed mining, but it is clearly of much greater significance than was recognised when the proposals were put forward by Mr Mintoff and when the major powers were preoccupied with the need to codify navigation rights.

I believe many people are concerned that the deep sea bed mining section gives the UN the power to mine in its own right, with money provided by developed countries and with the additional power to acquire sites and technology compulsorily from private mining consortia. Such compulsory

/contd

S

Rt Hon Margaret Thatcher MP

acquisition of commercially and strategically valuable technology could be used by many small UN nations as a precedent in other negotiations involving the use of world resources. Further, any profits can be given to bodies associated with the UN and, if immediate past experience is a guide, conceivably even to such organisations as the PLO and SWAPO.

If I may express a view as the former chief executive of a major international mining company, the proposed regime would seriously deter development of such potential resources which represent, in my view, probable future economic sources for metals and minerals which the UK now freely imports from land-based and privately financed enterprises.

I feel that there would be little point in Britain signing the Treaty if the United States does not. It would be helpful, I think, to call for a reconvening of the Conference to consider the deep sea bed mining aspects of the draft Treaty. All other parts of the Treaty were arrived at by consensus and provide a basis for a workable Treaty. Surely the deep sea mining portion of the Treaty should be framed by a similar consensus.

To push ahead prematurely could condemn future generations to a risky dependence for important minerals on the machinations of a supra-nationalised industry.

Sincerely,

Jan MacGregor

Final
Foreign Policy

8 November 1982

The Prime Minister has asked me to thank you for your letter of 8 November containing a message from the Acting Prime Minister of Australia to Mrs. Thatcher. The contents of Mr. Anthony's message are being considered and a reply will be sent as soon as possible.

A. J. COLES

His Excellency The Hon. Sir Victor Garland, K.B.E.

8 November 1982

LAW OF THE SEA

I enclose a copy of a letter the Prime Minister has received from the Australian High Commissioner which conveys a message to Mrs. Thatcher from the Acting Prime Minister of Australia, about the Law of the Sea Convention. I should be grateful if you could let me have a draft reply as soon as possible for signature by the Prime Minister.

A. J. COLES

John Holmes, Esq.,
Foreign and Commonwealth Office.

SUBJECT
CC MASTER
OPS.

CONFIDENTIAL

2



AUSTRALIAN HIGH COMMISSION • LONDON

PRIME MINISTER'S

PERSONAL MESSAGE

SERIAL No. T212/82

8 November 1982

THE HIGH COMMISSIONER
The Hon. Sir Victor Garland, KBE

NO
me
John Louis Minister

Prime Minister
We shall let you have
a reply. 9/11

I have been asked by the Acting Prime Minister, Mr Anthony, to convey to you the following message:

Begins -

"Australia attaches great importance to a comprehensive and widely supported Convention on the Law of the Sea. I am concerned to hear, therefore, that the United States Government is seeking actively to dissuade other Governments from signing the Convention adopted in April of this year and recently sent Mr Rumsfeld to a number of European capitals including London for this purpose.

It might be helpful to your consideration of the question of signature of the Law of the Sea Convention if I were to let you have an indication of Australian thinking.

Our final decision will be taken soon now that we have completed our consultations with other Governments, the Australian States and interested organisations.

Our disposition is to sign when the Convention is opened for signature in Jamaica in early December. This disposition is based on our assessment that most of our specific objectives, particularly in freedom of navigation which is basic to strategic mobility and in access to living and non-living resources, are met in the Convention. We would have liked to see more practical and 'free enterprise' provisions covering deep seabed mining: but we believe that this Convention embodies the only package of measures likely to be available in the foreseeable future.

For these reasons we should be extremely concerned if countries, such as Great Britain, with substantial interests in the Law of the Sea, did not support the Convention. If they were to stand aside this would inevitably increase the risk of maritime disputes, including over transit rights and access to resources,

...2/

CONFIDENTIAL

CONFIDENTIAL

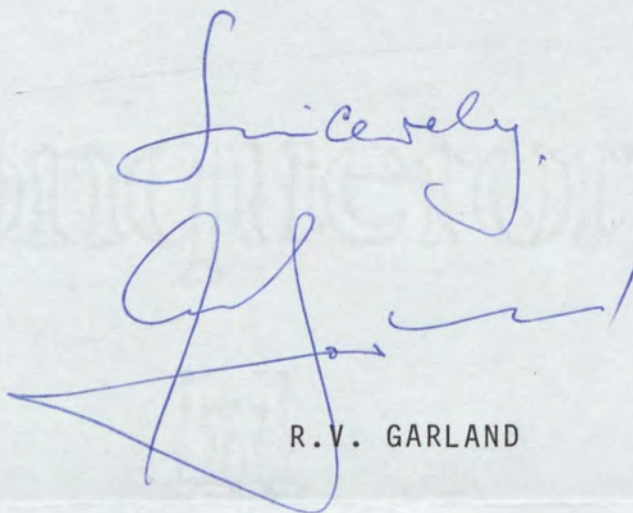
- 2 -

which would have the effect of weakening the strategic and trading interests of the West. We believe that it will only be by signing the Convention and participating fully in the work of the Preparatory Commission that our countries will be able to influence the development of the Law of the Sea in a manner favourable to our interests. Whether the Convention will merit ratification will obviously be affected by the work of this Commission and may be a decision some years off.

I should add that the communique of both the recent South Pacific Forum and CHOGRM meetings strongly urged early signature of the Convention. There is concern in the Pacific that the decision of the United States not to sign can only benefit the Soviet Union.

I should greatly appreciate your reassurance that your Government will take a long-sighted view of the development of the Law of the Sea and decide to sign the Convention in Jamaica in December."

Ends.

Sincerely,

R.V. GARLAND

The Rt Hon. Margaret Thatcher, MP,
Prime Minister,
No. 10 Downing Street,
LONDON SW1.

CONFIDENTIAL

FILE DA



For. Pol.

10 DOWNING STREET

From the Private Secretary

25 October 1982

Dear Sir,

Call on the Prime Minister by Mr. Donald Rumsfeld : Law of the Sea

Thank you for your letter of 22 October. Mr. Rumsfeld called on the Prime Minister at 5.30 this afternoon. I enclose a record of the conversation.

I am copying this letter and its enclosures to John Rhodes (Department of Trade), Anthony Willis (Department of Industry), Richard Mottram (Ministry of Defence), Julian West (Department of Energy), Robert Lawson (MAFF), Lester Hicks (DOE) and Richard Hatfield (Cabinet Office).

*Your edw
JLH WLS.*

John Holmes, Esq.,
Foreign and Commonwealth Office.

CONFIDENTIAL

SD

SUBJECT ce Paris

CONFIDENTIAL

RECORD OF A CONVERSATION BETWEEN THE PRIME MINISTER AND MR. DONALD RUMSFELD AT 1730 HOURS ON MONDAY 25 OCTOBER 1982 AT NO.10 DOWNING STREET

Prime Minister
Mr. A.J. Coles

Mr. Rumsfeld
Mr. Guhin

* * * * *

Mr. Rumsfeld said that he had already visited Paris. He would proceed to Bonn this evening and Rome tomorrow. After returning to the United States, he would then probably visit Tokyo, Brussels and The Hague.

The President had asked him to visit these capitals to explain his thinking on the Law of the Sea Convention. When he had come into office, the President had "stopped the train". He had examined the Convention and had been disturbed about the way in which it had evolved. He had several concerns. The first related to the deep seabed mining provisions. These would establish a bureaucratic body with a United Nations flavour. Expenditure of hundreds of millions of dollars was anticipated. The President and he were absolutely convinced that the apparatus was such as to dissuade those who were interested in deep sea mining. Secondly, there were aspects of the Convention which were both bad in themselves and which would create unfortunate precedents if transferred to other areas of UN activity (a recent speech had referred to the possibility of the adoption of such provisions in relation to Antarctica and outer space). For example, some provisions of the Convention could be changed by a two-thirds majority, without reference to capitals. There were also rules relating to the mandatory transfer of technology. Production limits were established. There was provision for national liberation fronts, for example SWAPO and the PLO, to benefit from revenue. All this violated the President's belief in how economic activity should be handled. The notion that such ideas should be approved and be used as precedents for the future was distinctly worrying.

CONFIDENTIAL

/An impetus

An impetus towards signature was now developing. Many of those supporting signature would end up with jobs in the new bureaucracy.

Mr. Rumsfeld then handed over the original of President Reagan's letter of 10 October to the Prime Minister, as well as a note arguing that the deep seabed mining part of the treaty is contrary to Western interests and a further note illustrating the voting record of the Non-Aligned Movement in the United Nations. Copies of both these notes are annexed to this record.

The Prime Minister said that the deep seabed mining provisions gave rise to very considerable concern. At present, the United Kingdom was examining the text of the Convention and consulting a number of interests. It would be argued that many provisions of the Convention were conducive to British interests, for example those relating to freedom of navigation, though she thought that in practice we had this freedom now. Mr. Rumsfeld said that the United States would also be concerned if it could be shown that failure to sign the Convention would prejudice the freedom of navigation. But the argument that the Convention largely consolidated existing international and customary law suggested to them that they would not benefit from it. On such matters as navigation, over-flying rights etc. the United States was able to function satisfactorily without the Convention.

The Prime Minister repeated that she would not disguise her worries about the mining provisions but we were engaging in a process of wide consultation.

Mr. Rumsfeld said that the view was heard that it would be possible to alter the mining arrangements when the Convention got under way. But this was not convincing given that an attempt to change the provisions, when change was still a practical possibility, had failed. President Reagan hoped that the United Kingdom and other countries would consider not signing the Convention - and would in any event delay signature. At the forthcoming meeting in Jamaica, there would be a ceremony terminating the negotiating conference.

That was not important. But the Convention would then become open for signature - and when sixty countries had signed it, it would be open for ratification. At a particular point in this procedure a preparatory commission would be established - those who had signed the Convention could participate fully in the Commission; others could take part as observers. But since there was provision for observers to play an effective role, there was no reason for any country to rush into signature.

Ten years ago the assumption had been that seabed mining would be economically viable sooner rather than later. Now, the timescale looked longer. The Non-Aligned countries would be unhappy about this because they had been expecting revenue soon.

The Prime Minister asked what the US estimate was of the intentions of other countries. Mr. Rumsfeld said that Japan and the Netherlands were leaning towards signature; France would sign; and Belgium was believed to oppose signature. For various reasons, Venezuela would not sign and Ecuador was undecided.

The Prime Minister said that she was worried that the deep sea mining provisions were such that potential Western investors would not put money into this activity. Mr. Rumsfeld agreed - the regime was too uncertain to attract money. The Prime Minister said that there were, however, other provisions which had to be balanced against these - that was why we were embarking on a process of consultation.

The Prime Minister then asked Mr. Rumsfeld which heads of state he had already seen. Mr. Rumsfeld replied that he had so far only seen President Mitterrand. The French shared US distaste for the mining provisions but the arguments about the attitude of Third World countries fell on deaf ears in Paris where there was a policy of remaining as close as possible to the Third World. He sensed that the fear of being at odds with the developing countries would weigh more with the French Government than the disadvantages of some aspects of the text.

/The Prime Minister

The Prime Minister said that she doubted whether a Convention of this kind could function without American participation. Mr. Rumsfeld said that this was certainly true of the mining section. It was desirable to work out an alternative approach on mining, involving the countries with a large GNP and the appropriate technology to exploit the seabed.

The Prime Minister said that she understood the American message, but there were other matters that had to be taken into consideration. Mr. Rumsfeld said that President Reagan himself had said that he could agree with 90% of the Convention but that in his view this was outweighed by the principal problem of the mining provisions.

The Prime Minister then asked Mr. Rumsfeld to give his view of the prospects for the US economy. Mr. Rumsfeld said that recovery was slow but was going to come. Inflation would continue to fall and the fall in interest rates was encouraging. Unemployment would be slow to come down but he was generally optimistic. The American people were demonstrating unusual patience. He did not believe that the forthcoming elections would see a large anti-Reagan swing due to the unemployment situation. The party in office normally lost 25 seats in such elections. He would be very surprised if on this occasion the Republican Party lost more than 30 or so. The Prime Minister suggested that when the elections were over, the Administration would need to look again at the size of the budget deficit. Mr. Rumsfeld agreed. He then said that he attached particular importance to the home mortgage rate. This was pegged to long term expectations and was not yet falling. Real recovery would only come when it began to fall.

The conversation ended at 1810 hours.

A. S. C.

25 October 1982

LAW OF THE SEA TREATY

The deep seabed mining part of the treaty is contrary to Western interests for a number of practical and precedential reasons. It runs counter to our common values of economic development and integrity of international organizations.

- o The treaty would concede to developing countries control over a major new international organization governing resources beyond national jurisdictions. The Western allies working together would not have effective power to block or to achieve decisions on many key issues.
- o The Law of the Sea organizations would be politicized much like other UN organizations. The strains between the developing and developed countries could well become worse as it becomes more apparent that the deep seabed provisions will not lead to commercial mining under the treaty and, thus, not produce substantial revenues, if any, for the developing countries.
- o The allies cannot expect to exercise sufficient influence in the organizations under the treaty. As an indicator, during the 1981-82 UN General Assembly, members of the Non-Aligned Movement voted against U.S. positions over 90 percent of the time with respect to votes on the 75 most important issues; they voted against positions of the United Kingdom almost 80 percent of the time on those issues.
- o The treaty would concede principles of mandatory transfer of private technology, sharing funds with national liberation movements, and production limits. This would strengthen those undesirable aspects of the so-called New International Economic Order at the expense of Western interests.
- o Fundamental changes could later be made in the treaty, a major international undertaking, and made binding upon parties without the approval of all the parties.
- o The treaty would not guarantee access to deep seabed resources, but would establish a costly international machinery and process. In addition to the considerable costs to any miners, States would be obligated under the treaty to provide interest free loans and loan guarantees for a mining operation by the international Enterprise, plus a share of administrative costs. Together these obligations for the United Kingdom could be expected to range from 36-90 million in U.S. dollars or about pounds sterling 21-53 million.

- o Although it is not clear when commercial exploitation of deep seabed resources will become economically viable, it is clear that the approach in the treaty would impose great risks and burdens and not attract the necessary private investment to prove workable.
- o Acceptance of the treaty with the unacceptable provisions noted above would enhance efforts to use them as precedents for international management of resources such as in outer space and Antarctica. There are already indications in the UN that some countries would like to push such precedents.

The treaty does contain provisions relating to military and commercial navigation and overflight that serve allied interests. Because they largely codify international law and practice, the exercise of these important rights will be fully protected without signing or ratifying the treaty.

The beneficial aspects of the treaty are outweighed by the seabed problems. United States policy on the treaty reflects basic principles and broad political and economic concerns widely held in the United States and in the Congress, where there is substantial opposition to the treaty. These concerns and Congressional opposition are not expected to change in the foreseeable future.

It is not possible to achieve changes in the deep seabed provisions in the foreseeable future, if ever, that would meet the objectives set forth in the amendments co-sponsored by the several allies at the Law of the Sea conference session in March-April 1982.

Even if one believes that improvements to the treaty are possible, staying outside the treaty and working out an acceptable alternative would not foreclose options with respect to changing the treaty and would strengthen bargaining power for any such effort.

The United States is convinced that an alternative arrangement for deep seabed mining outside the treaty can provide a workable framework for pursuing interests in oceans resource development. This alternative need not be global in nature. It could range from the minimum of mutual recognition of mine sites and private or governmental arbitration of conflicts to a more comprehensive approach.

The United States hopes that your government will reach a similar conclusion regarding the treaty and will delay signing it or preferably decide not to sign or otherwise commit to it. The United States is ready to explore possible alternative arrangements with you at the earliest opportunity.

The Law of the Sea Treaty creates institutions, an Assembly and a Council, that would have control over all aspects of deep seabed mining. These institutions are modeled after institutions of the United Nations. Members of the Non-Aligned Movement (NAM) would dominate these new institutions, much as they dominate the United Nations today.

The 94 members of the NAM do not in large part share the values and policies of the United Kingdom. During the 36th United Nations General Assembly (1981-82), NAM members agreed with the United Kingdom an average of only 21.6 percent of the time with respect to the 75 most important issues voted upon. The most supportive NAM country (Malawi) voted in favor of the United Kingdom's position 41.7 percent of the time, while the least supportive (the Seychelles) voted with the United Kingdom only 12.9 percent of the time.

In contrast to the 21.6 percent average NAM support for the United Kingdom's positions, NAM members supported the positions of the Soviet Union an average of 77.7 percent of the time.

The table below illustrates the voting patterns of NAM members in the United Nations.

Average NAM Country Votes in Agreement With:

<u>United Kingdom</u>	<u>21.6 %</u>
France	24.4 %
Federal Republic of Germany	23.3 %
Japan	28.3 %
Italy	23.3 %
Belgium	24.2 %
Netherlands	27.2 %
<u>USSR</u>	<u>77.7 %</u>
<u>United States</u>	<u>8.4 %</u>

Voting patterns in the proposed Law of the Sea structures -- where the Western allies would not have effective power to block or to obtain decisions on many key issues -- would be similar to those current patterns in the United Nations.

United Nations Box Score: - % Vote Agreement with UNITED K
10/07/82

AGREEMENT OF NON-ALIGNED WITH UK ON IMPORTANT VOTES

YEARS 1981-1981

'**' = NO ROLLCALLS

SORTED BY 'OVERALL'

MEMBER	YEAR	PLEN	FIRST	SEC	THRD	FRTH	FIFTH	SIX	SPEC	ESGA	OVER	VOTES	ABSTN	ABSNT
MALAWI	1981	35.3	**	**	33.3	50.0	**	**	66.7	**	41.7	36	31	0
JAMAICA		36.2	40.0	100.0	75.0	66.7	**	**	42.9	0.0	41.6	77	44	0
EQ-GUINE		43.7	**	0.0	**	**	**	**	**	0.0	38.9	18	5	0
BOLIVIA		37.5	50.0	0.0	0.0	66.7	**	0.0	66.7	0.0	36.8	57	21	0
CENT-AFR		36.8	0.0	100.0	25.0	50.0	**	0.0	33.3	**	36.4	55	19	0
SINGAPOR		35.7	33.3	0.0	25.0	66.7	**	0.0	28.6	0.0	32.9	73	30	0
SWAZILAN		34.1	40.0	0.0	25.0	0.0	**	**	0.0	100.0	32.8	64	34	0
LIBERIA		26.7	50.0	0.0	75.0	66.7	**	0.0	28.6	0.0	32.0	75	28	0
IVORY CO		32.7	40.0	100.0	25.0	40.0	**	0.0	42.9	0.0	31.6	79	35	0
MAURITIS		32.5	**	**	**	**	**	**	**	**	31.1	45	6	0
ZAIRE		26.0	40.0	0.0	33.3	66.7	**	0.0	28.6	0.0	29.6	81	30	0
BOTSWANA		29.4	**	0.0	25.0	66.7	**	**	28.6	0.0	29.5	61	15	0
KAMPUCHE		32.4	25.0	**	0.0	**	**	**	**	0.0	29.2	48	10	0
SENEGAL		29.2	25.0	0.0	50.0	66.7	**	**	16.7	0.0	28.9	76	9	0
SOMALIA		27.7	25.0	0.0	25.0	66.7	**	**	28.6	0.0	28.2	78	15	0
SUDAN		27.1	20.0	0.0	100.0	50.0	**	0.0	28.6	0.0	27.3	77	15	0
MALAYSIA		24.0	25.0	0.0	25.0	66.7	**	**	28.6	0.0	25.9	81	19	0
MALDIVE		23.9	0.0	0.0	50.0	66.7	**	0.0	28.6	0.0	25.7	74	10	0
GABON		21.3	20.0	100.0	33.3	66.7	**	0.0	28.6	0.0	25.6	78	25	0
NEPAL		24.5	25.0	**	25.0	66.7	**	0.0	20.0	0.0	25.6	78	30	0
NIGER.		24.4	20.0	0.0	25.0	66.7	**	0.0	28.6	0.0	25.6	78	13	0
EGYPT		21.3	40.0	0.0	25.0	80.0	**	0.0	28.6	0.0	25.3	79	25	0
MOROCCO		26.0	20.0	0.0	0.0	66.7	**	0.0	28.6	0.0	25.3	83	14	0
RWANDA		22.4	20.0	0.0	66.7	60.0	**	**	28.6	0.0	24.4	78	13	0
SAUDI AR		24.0	25.0	0.0	25.0	50.0	**	0.0	28.6	0.0	24.4	82	18	0
DJIBOUTI		25.6	33.3	0.0	50.0	0.0	**	**	28.6	0.0	24.2	66	9	0
BANGLAD		24.5	20.0	0.0	0.0	50.0	**	0.0	28.6	0.0	24.1	79	17	0
GAMBIA		27.3	**	0.0	50.0	0.0	**	**	0.0	0.0	24.1	58	12	0
SRI LANK		22.0	0.0	0.0	50.0	66.7	**	0.0	28.6	0.0	24.1	83	19	0
QATAR		23.8	0.0	0.0	50.0	60.0	**	**	28.6	0.0	23.9	71	14	0
GUYANA		23.9	25.0	0.0	50.0	25.0	**	0.0	28.6	0.0	23.7	76	9	0
TOGO		24.0	20.0	0.0	25.0	33.3	**	**	28.6	0.0	23.5	81	19	0
LESOTHO		22.0	0.0	0.0	33.3	60.0	**	**	28.6	0.0	23.4	77	24	0
BURUNDE		22.4	0.0	0.0	75.0	33.3	**	0.0	28.6	0.0	23.2	82	18	0
KENYA		24.5	20.0	0.0	50.0	16.7	**	0.0	28.6	0.0	23.2	82	12	0
SURINAM		18.4	20.0	0.0	25.0	66.7	**	0.0	28.6	0.0	23.1	78	17	0
BHUTAN		21.7	0.0	**	66.7	50.0	**	0.0	25.0	0.0	22.9	70	18	0
GHANA		22.0	20.0	0.0	75.0	16.7	**	0.0	28.6	0.0	22.9	83	18	0
ST. LUCIA		24.4	**	**	**	0.0	**	**	50.0	0.0	22.9	48	13	0
TUNISIA		22.0	20.0	0.0	0.0	66.7	**	0.0	28.6	0.0	22.9	83	15	0
ZAMBIA		20.0	20.0	0.0	50.0	40.0	**	0.0	28.6	0.0	22.2	81	11	0
MAURITAN		24.0	0.0	0.0	50.0	16.7	**	0.0	28.6	0.0	22.0	82	11	0
OMAN		24.5	20.0	0.0	25.0	0.0	**	0.0	28.6	0.0	21.8	78	18	0
ECCADOR		22.0	20.0	0.0	25.0	33.3	**	0.0	28.6	0.0	21.7	83	25	0
UP-VOLTA		17.0	**	**	25.0	66.7	**	0.0	33.3	0.0	21.7	69	23	0
ZIMBABWE		25.0	**	0.0	50.0	0.0	**	0.0	**	0.0	21.4	56	6	0
ARGENTI		20.4	0.0	0.0	0.0	66.7	**	0.0	28.6	0.0	20.7	82	29	0
PERU		18.4	0.0	0.0	25.0	66.7	**	0.0	28.6	0.0	20.7	82	26	0
TRIN/TOB		18.0	0.0	0.0	75.0	16.7	**	0.0	33.3	0.0	20.7	82	28	0
YUGOSLAV		22.0	0.0	0.0	50.0	16.7	**	0.0	28.6	0.0	20.5	83	12	0

United Nations Box Score - % Vote Agreement with UNITED K
10/07/82

AGREEMENT OF NON-ALIGNED WITH UK ON IMPORTANT VOTES

YEARS 1981-1981 '***' = NO ROLLCALLS SORTED BY 'OVERALL'

MEMBER	YEAR	PLEN	FIRST	SEC	THRD	FRTH	FIFTH	SIX	SPEC	ESGA	OVER	VOTES	ABSTN	ABSNT
SIERRA L		20.0	20.0	0.0	50.0	0.0	**	0.0	28.6	0.0	20.3	79	11	0
BELIZE		21.4	**	**	0.0	0.0	**	**	**	**	20.0	30	11	0
MALTA		23.9	0.0	**	**	**	**	**	**	0.0	20.0	60	8	0
BAHRAIN		22.0	0.0	0.0	25.0	25.0	**	0.0	28.6	0.0	19.8	81	16	0
NIGERIA		22.0	20.0	0.0	25.0	33.3	**	0.0	16.7	0.0	19.8	81	15	0
PAKISTAN		22.0	20.0	0.0	0.0	25.0	**	0.0	28.6	0.0	19.8	81	12	0
KUWAIT		20.8	0.0	0.0	50.0	16.7	**	0.0	28.6	0.0	19.0	79	9	0
IRAQ		18.7	0.0	0.0	50.0	16.7	**	0.0	28.6	0.0	18.5	81	8	0
EMIRATES		20.0	0.0	0.0	25.0	20.0	**	0.0	28.6	0.0	18.3	82	16	0
BENIN		16.3	0.0	0.0	66.7	25.0	**	0.0	50.0	0.0	18.1	72	8	0
CAPE VER		17.0	0.0	0.0	66.7	0.0	**	**	28.6	0.0	18.1	72	11	0
INDIA		18.0	0.0	0.0	50.0	16.7	**	0.0	28.6	0.0	18.1	83	16	0
INDONES		18.0	0.0	0.0	0.0	50.0	**	0.0	28.6	0.0	18.1	83	13	0
CAMEROON		19.1	0.0	0.0	66.7	16.7	**	0.0	16.7	0.0	17.9	78	23	0
COMOROS		18.2	**	0.0	50.0	0.0	**	**	**	0.0	17.9	28	5	0
TANZANIA		15.9	**	0.0	50.0	0.0	**	**	28.6	0.0	17.9	67	9	0
LAOS		16.0	0.0	0.0	50.0	16.7	**	100.0	33.3	0.0	17.7	79	7	0
SAO TOME		16.7	0.0	0.0	50.0	16.7	**	**	28.6	0.0	17.7	79	7	0
UGANDA		17.0	0.0	0.0	50.0	16.7	**	0.0	28.6	0.0	17.5	80	12	0
IRAN		20.0	0.0	0.0	0.0	16.7	**	0.0	50.0	0.0	17.4	69	6	0
CUBA		16.0	0.0	0.0	50.0	16.7	**	100.0	20.0	0.0	17.3	81	7	0
LIBYA		16.3	0.0	0.0	50.0	16.7	**	0.0	28.6	0.0	17.3	81	6	0
LEBANON		17.8	0.0	0.0	50.0	0.0	**	0.0	28.6	**	17.1	70	18	0
NICARAG		16.7	0.0	0.0	50.0	16.7	**	0.0	33.3	0.0	17.1	76	8	0
VIET NAM		16.0	0.0	0.0	50.0	16.7	**	**	28.6	0.0	17.1	82	7	0
MADAGASC		16.0	0.0	0.0	50.0	16.7	**	0.0	28.6	0.0	16.9	83	9	0
HALI		16.0	0.0	0.0	66.7	16.7	**	0.0	33.3	0.0	16.7	78	18	0
PANAMA		16.3	25.0	0.0	0.0	0.0	**	0.0	50.0	0.0	16.7	72	20	0
ALGERIA		14.3	0.0	0.0	50.0	16.7	**	0.0	28.6	0.0	16.0	81	9	0
YEMEN. SO		14.3	0.0	0.0	50.0	16.7	**	0.0	28.6	0.0	15.9	82	8	0
CHAD		16.0	0.0	0.0	33.3	16.7	**	0.0	28.6	0.0	15.4	78	14	0
GUINEA		18.0	0.0	0.0	33.3	16.7	**	0.0	20.0	0.0	15.4	78	11	0
MOZAMBIQ		12.8	0.0	**	50.0	16.7	**	**	28.6	0.0	15.4	78	6	0
GRENADA		13.6	**	**	50.0	33.3	**	**	**	0.0	15.3	59	5	0
SYRIA		14.3	0.0	**	33.3	16.7	**	**	28.6	0.0	15.2	79	6	0
G. BISSAU		16.3	0.0	0.0	33.3	0.0	**	**	**	0.0	15.0	60	12	0
ETHIOPIA		16.0	0.0	0.0	50.0	0.0	**	0.0	28.6	0.0	14.8	81	6	0
ANGOLA		13.6	0.0	0.0	50.0	16.7	**	**	0.0	0.0	14.5	69	7	0
CONGO		11.4	0.0	0.0	50.0	16.7	**	0.0	28.6	0.0	14.5	76	8	0
AFGHAN		7.3	0.0	**	66.7	16.7	**	100.0	28.6	**	14.1	71	7	0
CYPRUS		15.4	0.0	0.0	0.0	0.0	**	**	28.6	0.0	14.1	64	7	0
JORDAN		13.3	0.0	0.0	0.0	33.3	**	0.0	28.6	0.0	13.7	73	10	0
YEMEN. NO		13.6	0.0	0.0	0.0	20.0	**	0.0	28.6	0.0	13.7	73	10	0
SLYCHELL		10.9	**	**	50.0	20.0	**	**	**	0.0	12.9	62	7	0

OVERALL AVERAGE OF AGREEMENT FOR THIS GROUP IS 21.6%

Note. #VOTE = Nbr of votes that qualified bilaterally for comparison.
#ABST = Nbr of abstentions on rollcalls.
#ABSNT = Nbr of absences on rollcalls.

CONFIDENTIAL

cc Soviet Union
Pipeline.



Foreign and Commonwealth Office

London SW1A 2AH

25 October 1982

Dear John

Mr Rumsfeld's Call: Pipeline

The Prime Minister will wish to know that some progress has been made in talks in Washington. The Americans have now tabled a revised version of the Shultz text which is more acceptable to us. Mr Shultz discussed this version with Sir Oliver Wright and the French and German Ambassadors yesterday. But the French are taking a hard line. They cannot accept the commitments to harmonise credit policies, to refrain for the moment from further Siberian gas purchases, or to examine the desirability of controls on advanced technology. Mr Pym is speaking to M Cheysson about this in Luxembourg today.

The Prime Minister may wish to take the following line with Mr Rumsfeld when he calls this afternoon:

- (a) Glad our governments are working so closely to resolve this dispute. Important to do so as rapidly as possible. We must keep up the momentum. Know Mr Shultz is playing a key role. We are grateful to him for this.
- (b) I understand latest version of his paper likely to be broadly acceptable to Summit Seven, except to France. Francis Pym is urging M Cheysson today in Luxembourg to be more flexible. We expect that if we can reach agreement on the final text of the paper your government will immediately lift the December and June measures (and Denial Orders) relating to companies outside the US. Very important these talks do not break down.

/ (c)

A J Coles Esq
10 Downing Street

CONFIDENTIAL



CONFIDENTIAL

- (c) Believe there are two lessons for our governments. First, we must agree on Western analysis and strategy towards the Soviet Union. The work outlined by the Shultz paper would be an excellent basis. Second, the Alliance must try harder to act together. Events in Poland have been a defeat for the East. We must not let the failures of communism be overshadowed by the disunity of the West.

Gausman
&

(B J P Fall)

Private Secretary

CONFIDENTIAL



25 OCT 1982

10 11 12 1 2 3
9 8 7 6 5 4

CONFIDENTIAL



Foreign and Commonwealth Office

London SW1A 2AH

22 October 1982

Prime Minister

A.S.C. 22/10.

Dear John,

Law of the Sea

Thank you for your letter of 15 October about Mr Rumsfeld's visit. The American Embassy have now confirmed that Mr Rumsfeld will call on the Prime Minister from 1730 to 1815 on 25 October. He will be accompanied by Michael Guhin, a staff member of the National Security Council, as a note-taker.

I enclose a brief for the Prime Minister (which has been agreed by the other Departments concerned, including DOI, MOD, DOT and the Department of Energy) and a biographical note on Mr Rumsfeld. We understand Mr Rumsfeld will not be briefed to raise any subjects other than Law of the Sea himself, although he will be prepared to pass on messages on other subjects. We have considered whether it would be useful to raise anything from our side apart from UNLOSC. We suggest that if there is an opportunity the Prime Minister could mention the Siberian pipeline and EC/US trade issues. They are covered in the brief.

Apart from the call on the Prime Minister, Mr Rumsfeld will be having talks in the FCO with Mr Rifkind and other ministers concerned. (Mr Pym will be in Luxembourg.) He may be seeing President Mitterand in Paris on the morning of 25 October. In other capitals, he is likely to be received by Signor Spadolini (Rome) and Mr Tindemans (Brussels). It is not yet clear how he will be received in Bonn.

I am afraid that the brief on UNLOSC is a long one. But the subject is complex and there are many issues to be weighed in the balance. They will be put to Ministers collectively in November (work is still in hand on some of the legal points in particular); and Mr Rumsfeld's visit is therefore well-timed to contribute an up-to-date and authoritative statement of the American position to the papers on which Ministers will wish to base their discussion.

/I am

CONFIDENTIAL

CONFIDENTIAL



I am sending copies of this letter and its enclosures to the Private Secretaries of Mr Sproat (DOT), Mr Macgregor (DO I), Mr Wiggin (MOD), Mr Gray (Department of Energy), Mr Buchanan-Smith (MAFF), Mr King (DOE) and Sir Robert Armstrong.

Yours ever

J E Holmes

(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

CONFIDENTIAL



BIOGRAPHY OF MR DONALD RUMSFELD

Born Chicago 1932. Educated Princeton and served in US Navy as pilot (and wrestling champion) 1954-7. Subsequently Staff Assistant on Capitol Hill and executive in investment banking firm.

Elected Congress as Republican for Illinois 1962. Appointed Director of the Office of Economic Opportunity 1969; Director of Cost of Living Council 1971; and US Ambassador to NATO 1972. Replaced Haig as head of White House Staff 1974 and replaced Schlesinger as Secretary of Defence 1975. Now President of G.D. Searle (Chicago pharmaceutical corporation).

Red-blooded Republican and intensely ambitious. Considered as possible Vice-Presidential running-mate for Ford in 1976 elections and an alleged contender for Secretary of State during Reagan's transition period.



BRIEF FOR CALL BY MR DONALD RUMSFELD ON THE PRIME MINISTER
AT 1730 HOURS ON 25 OCTOBER 1982

OBJECTIVES

UNLOSC

1. Listen to Mr Rumsfeld without commitment.
2. Encourage the Americans:
 - (a) to hold open the possibility of achieving a generally acceptable agreement;
 - (b) to be flexible over the content of a reciprocating arrangement for deep sea mining.
3. Mark the importance to UK interests of the navigation and shelf provisions of UNLOSC and ask for American co-operation in these fields.

OTHER ISSUES

4. Sound note of caution on Siberian pipeline and EC/US trade issues.

/POINTS TO MAKE



POINTS TO MAKE

UNLOSC

1. Agree with President Reagan's emphasis on co-ordinating our efforts. Regret that no consultations took place before the President announced US decision not to sign. (Understand Mr Haig promised consultations, but they were postponed.)

No

2. Main UK objective to obtain a generally agreed Convention. Share your concern about deep sea mining and therefore supported your efforts to obtain improvements at spring session of UNLOSC. Regret failure to obtain consensus. Believe that secure investment in deep sea mining will only take place within an accepted international regime. Hope USA share this long-term aim, despite difficulties with present Convention. Also hope they will use any opportunity which arises for further negotiations.

No
it better
be the
right
refuse
what it
is.

3. Immediate problem is whether it is in UK national interest to sign. Any decision on signature would not pre-empt a decision on ratification. We will be meeting to decide policy next month. Glad to have American views before we make up our minds.

4. Convention covers wide range of subjects of importance to UK other than deep seabed mining:

- (a) prospective economic advantages from the outer Continental Shelf, on which the Convention is generally helpful in establishing title for coastal states;
- (b) freedom of navigation, which has significant defence and commercial implications. Want to do everything possible to maintain allied solidarity on defence issues. Extremely

/important



important that international law continues to enable British and allied ships and aircraft fully to use straits like Gibraltar and Hormuz. Doubt whether customary rights alone sufficient;

- (c) marine pollution problems e.g. in Straits of Dover. Want to extend our territorial sea to 12 miles in a way which will not adversely affect our and our allies' interests in other international straits. May be easier if we have signed the Convention.

5. Need to weigh these points against the disadvantages of the seabed mining provisions. Concerned to keep open opportunities for our companies and therefore have to take account of protection which signature might provide. Will keep you informed of what my colleagues and I decide.

*Signature provides no protection
- it puts us at risk to go unreciprocated*

6. Attach importance to negotiating an agreement with you, and with FRG and France, if possible, for recognition of applications for *authority* exploration licences under our respective national laws (i.e. reciprocating states agreement). Hope to press ahead on this front. Important that agreement should be drawn up in such a way as to minimise risk of an appeal to the International Court of Justice which could well decide that deep sea mining outside the Convention is unlawful. Details need to be carefully worked out to avoid this risk. Otherwise the future for deep sea mining would be adversely affected. Useful if you could emphasise importance of this issue with the [REDACTED] Germans.

/SIBERIAN GAS PIPELINE

SIBERIAN GAS PIPELINE

7. Regard interference with our existing contracts, and the extraterritorial implications of President Reagan's December and June measures as unacceptable. The Denial Order on John Brown is damaging its interests worldwide. More damage being done to Western countries and companies and to the Alliance itself than to the Soviet Union. Measures have had no effect on Poland.

8. We must keep dispute in proportion, same as a family quarrel. Need now is to solve problem rapidly and prevent repetition. We must keep up momentum of La Sapinière where Mr Shultz played key role. Hope meeting of Summit Seven, plus Presidency and Commission, will take place as soon as possible. Essential that we work harder to agree common Western analysis of Soviet economy and prospects, and Alliance strategy.

EC/US TRADE ISSUES

9. Disputes between the US and European Allies do no good to either side. Encouraged by efforts being made to work out mutually acceptable solutions to current problems. Important above all to avoid new ones developing.

10. May be a particular risk of this happening over EC agricultural exports. We have reservations of our own about way CAP currently operates. But CAP is of fundamental political importance to most existing members of EC, and frontal assault on its principles cannot succeed. As candid friends strongly urge US to avoid provoking

/confrontation.



confrontation. Result would be to strengthen the position of hard liners in EC like France.

11. French would get a lot less support if US were to indicate willingness to seek some accommodation. Understand Commission have put ideas forward informally. Ought at least to be worth exploring.

12. In the longer term all developed countries will have to do something to control production of agricultural surpluses. The world market is not elastic and if the Russians started producing good harvests, everyone would be in trouble. Our own objectives of controlling EC production of high-cost surpluses will contribute, but the general trade problem goes much wider than EC export policy.



ESSENTIAL FACTS

UNLOSC

1. Law of the Sea Conference adopted draft Convention on 30 April by a split vote (see Annex A for background). Convention will open for signature in Jamaica in December. When 50 countries have signed, which is likely to be soon, a Preparatory Commission will be set up to

- (a) draw up rules and regulations for the deep sea mining regime;
- (b) grant exploration sites to pioneer investors.

But Convention will not enter into force until 60 countries have ratified or acceded which is likely to take several years.

2. President Reagan announced on 9 July that US would not sign. Mr Rumsfeld's visit intended to encourage us to delay signature and examine alternatives.

3. Convention covers wide range of UK interests (see Annex B for details). UK objective (endorsed by OD in 1980 following review by officials on change of Government in 1979) has been to seek a generally accepted Convention. But failure to reach consensus means two systems now likely to emerge: one inside the Convention (including the majority of states - France, USSR, Japan, Old Commonwealth and G77 likely to sign); and one outside (led by USA and including any other state the Americans can persuade to join them - only FRG, Belgium and Italy are likely candidates apart from UK).

4. If we sign the Convention, our mining companies could apply for an exploration site under the preliminary investment protection arrangements and get priority status for an exploitation authorisation when the Convention enters into force if we have ratified it. But they also need protection against their American competitors and

therefore want UK to sign a reciprocating agreement with USA. This also necessary to permit continued operation of the joint US/UK Kennecott consortium. A limited Conflict Resolution Agreement was signed with USA, France and FRG on 2 September, but it only encourages companies to sort out overlaps in applications which they have made under respective national laws of the four countries and does not involve mutual recognition of national licences. A full reciprocating agreement likely, however, to provoke G77 to ask International Court of Justice to give an opinion declaring mining outside the Convention to be illegal. That would make position worse, eg G77 might take reprisals against our commercial interests involved (which include BP, Shell, RTZ and Consolidated Goldfields).

5. However, signature would not commit UK to ratify it (or involve any extra cost - contributions only payable to International Sea-Bed Authority on entry into force and if we have ratified). Officials therefore considering possibility of keeping foot in both the US and Convention camps. This would involve signing both the Convention and a reciprocating agreement with USA. Law Officers being asked to advise on compatibility. If feasible, we would probably want:

- (a) to have signed reciprocating agreement before signing Convention - this will require American help (hence para 6 of Points to Make)
- (b) to make a public declaration either
 - (i) reserving our position on ratification; or
 - (ii) indicating that UK ratification would be unlikely unless the G77 agreed to make major concessions in the Prep Com negotiations.

Both courses are under consideration. This approach would help to prevent our signature being taken as a signal of support for the Convention and would encourage the G77 to make concessions in the Prep Com negotiations, where we would have a greater say if we had signed the Convention. (If we had not signed, we would not be able to vote.) The European Commission are proposing a similar approach.



6. Ministers due to consider this issue in November. No decision yet reached. British mining companies would probably go along with approach above, which would protect their interests on both flanks. (Shell are pro-Convention, RTZ/Consolidated Goldfields more doubtful and BP in between.) Some (manufacturing) industry opinion against the Convention (eg Aims of Industry), but CBI have not endorsed this view. Shipping industry very much in favour of signing the Convention.

7. Whatever we do, important not to prejudice defence interests which we have in common with USA. Pentagon in the past favoured Convention for strategic reasons (especially passage through Gibraltar), but currently claim that access to strategic minerals more important. Americans could probably protect their defence interests adequately outside the Convention. But this would not be easy for UK, especially if we extend our territorial sea to 12 miles (as we would like to do for pollution reasons). Would not then be able to reject similar 12 mile claims at Gibraltar, Hormuz and Malacca (all straits less than 24 miles wide). Ratification of the Convention would help significant^{-tly} by establishing new concept of transit rights; effect of signature less certain, but might help.

8. Also need to consider what our position would be if we stayed outside the Convention with USA alone and a future American administration took a different view. Despite current confrontation, our long term interest lies in encouraging USA and G77 to keep open option of reaching a general agreement. Important to impress on Americans need to avoid developing conflicting regimes in the short term which would rule out such a possibility. The sort of reciprocating agreement we want with USA should be compatible with the Convention regime.

SIBERIAN GAS PIPELINE

9. At La Sapinière Mr Shultz spoke from US paper whose general thrust was endorsed by NATO Foreign Ministers. Paper broadly acceptable, though criteria and passages on credit and technology might cause difficulty. The Americans have told closest Allies that agreement on the paper might enable them to lift their measures. Discussions are continuing in Washington.



BACKGROUND

EC/US TRADE RELATIONS (Revised to include material from MAFF)

1. US Agriculture Secretary Block has started threatening an 'export subsidy war' with the EC. Reflects increasing frustration at US inability to demonstrate that EC export refund payments are in breach of special GATT rules for agriculture sector; approach of mid-term elections also a factor.
2. In our view the main causes of US farmers' problems are actually the strong dollar and depressed markets for commodities which the EC does not export (coarse grains, soya and cotton). The EC has a substantial deficit of trade in agricultural products with the US (\$7 billion in 1980) and has done nothing new to provoke the Americans. Given the overall state of EC/US relations, the latest US onslaught over agriculture is ill timed.
3. World markets for agricultural produce have obvious limits, with demand underpinned for several years by Soviet crop failures. The appearance of the EC, as internal agricultural restructuring took effect, as a net agricultural exporter, has put increasing pressure on other developed countries like the US that have traditionally planned domestic surpluses for export sales. For the EC, as indeed for the US, exporting is the most cost effective form of surplus disposal and as EC internal prices are generally higher EC exports are subsidised to make them competitive.
4. The US has a genuine problem in that as EC surpluses of cereals, milk and sugar increase, its own market share is eroded. But this has to be seen in the context that US agricultural exports had previously expanded (they increased 2 1/2 times in the 1970s) from 38.5% to 45% of total world agricultural trade. Over recent years the US has supplied two-thirds of world exports of coarse grains, 40% of wheat and 80% of



soya beans.

5. Given Mr Rumsfeld's position it may be worth flagging briefly the dangers of a confrontational US approach. The Americans sometimes give the impression that their aim is to force the EC to abandon the basic CAP mechanisms of export refunds and variable levies altogether. This is completely unrealistic.

UNLOSC BACKGROUND

1. Third U.N. Law of the Sea Conference (UNLOSC) set up in 1973 to prepare comprehensive Convention covering:

(a) "traditional" maritime law questions, e.g. breadth of territorial sea, straits, fishing zones, continental shelves and navigation;

(b) mining of polymetallic nodules on deep sea bed beyond national jurisdiction (on which UN General Assembly adopted a Resolution in 1970 declaring them to be common heritage of mankind);

(c) environmental and research issues.

Agreement reached at early stage on most elements of (a) and reluctantly (c). But fundamental division between industrialised countries and G77 on (b), the former wanting a loose regulatory system allowing maximum freedom for private companies to mine and the latter insisting on all mining being conducted by an international Enterprise. Compromise proposed by Dr Kissinger in 1976, by which both international Enterprise and private companies would be able to mine in parallel, with private companies identifying mine sites for Enterprise and transferring technology to it, and states providing finance. G77 accepted this compromise with proviso that there should be a review conference after 15 years, which would be able to change system by 2/3rds majority vote of participants of Conference.

2. Carter Administration then pressed strongly for adoption of Convention, making a number of undesirable concessions in the process. But US mining companies dissatisfied and, given inevitable interim period before any Convention became operative, urged Administration to pass a deep sea mining law in 1980, whereby US citizens could obtain licences from US government to explore and mine sea bed. FRG, UK and France forced to follow suit with national legislation to protect their companies. (UK Deep Sea Mining (Temporary Provisions) Act passed July 1981. USSR and Japan have now promulgated comparable laws.)



3. With advent of Reagan Administration criticism of Convention in USA came to a head and President announced review which lasted from March 1981 to February 1982 and effectively stopped the Conference negotiations. Americans meanwhile proceeded with UK, FRG and France towards a reciprocating agreement to cover licences applied for under respective national deep sea mining laws. Discussions included other potential deep sea mining countries, in particular Japan, but latter dropped out because it started deep sea mining project too late to qualify for priority under US law.

4. Outcome of US review was that President Reagan instructed his delegation to return to Conference and try to obtain improvements to deep sea mining provisions to meet six key objectives (related to free enterprise principles, national liberation movements, and Senate rights in relation to US treaty-making powers). President wrote to Prime Minister in February seeking UK support. Prime Minister agreed with President's request, but urged that reciprocating agreement be postponed in order to enhance the chance of achieving agreement in UNLOSC. USA accepted latter point and UK delegation faithfully backed American request for amendments during March/April Session of UNLOSC. But G77, having come to conclusion that no compromise would be possible with Reagan Administration, pressed for adoption of Convention. In a vote on 30 April (called for by USA):

- 130 countries voted for adoption of Convention (mainly from G77 but including Old Commonwealth, Japan and France);
- 4 countries voted against (USA, Israel, Turkey and Venezuela);
- 17 countries abstained (including UK, FRG, Benelux, Italy and most of Eastern European group).

Attach-
ment A

Attach-
ment B



MRL 371/304/1
 RECEIVED IN DEPT. OF IND. & COM.
 - APR 1982
 6/4 J.D.

40

10 DOWNING STREET

THE PRIME MINISTER

1 March 1982

Attachment (B)
 to Annex A

50041
 4445

Dear Ron.

(2)

Thank you for your message about the Draft Convention on the Law of the Sea.

When we came to office, we also conducted a review of the Convention. Our conclusion was that the adoption of a generally acceptable Convention by agreement would be in the United Kingdom's interest, subject to further consideration of the final text.

Since the talks which our delegations had in Washington on 8/9 February, we have approached some influential Governments and key leaders in the Conference and urged them to accept the necessity for further negotiations on the questions which you raised in your statement of 29 January. We have also spoken with Ambassador Koh, who will be doing his utmost to establish a mechanism for such negotiations. And we persuaded the EC Council of Ministers to adopt a decision on 22 February urging that the matters which you raised should be considered by the Conference.

We have not yet decided how the United Kingdom would react if it proved impossible to achieve a generally acceptable Convention and the group of 77 pressed for a vote. Our objective is an acceptable Convention and we would consider any arrangement which excluded the United States as seriously defective. We shall be making clear to the leaders of the Conference that we would have great difficulty in participating in a Convention in which the US did not take part. All parties have recognised that the Law of the Sea negotiations are a package; we shall therefore need to study the final text especially carefully before reaching a decision on the balance of advantage in the light of our national interest.

/ I was glad

I was glad to note in your statement on 29 January that the US delegation at the Conference will be working with other countries to achieve an acceptable treaty. This commitment has already proved helpful. It will be necessary to convince leading delegations at the Conference of the seriousness of the US commitment to the multilateral treaty process. This leads us to wonder whether it is wise to sign, in the next week, the reciprocating states agreement related to our national mining legislation. We want to sign this agreement with you and the FRG. But signature in the week before the resumption of the Conference will make it more difficult to get the necessary delegations to negotiate on your concerns and so to obtain a generally acceptable international regime of the kind we both want.

Our delegation will, as usual, be working closely with yours to try and achieve a Convention which is in our common interests.

Yours sincerely
D. Langford

The President of the United States of America

CONFIDENTIAL

Attachment (A)
to Annex A

Dear Margaret:

For years the international community has been striving to develop an agreement concerning the world's oceans. These negotiations are now at an important juncture. I want to share with you some of my country's concerns regarding the current draft treaty on the Law of the Sea.

After a long and detailed review we have concluded that the seabeds provisions of the draft treaty are seriously defective and that, as now written, the treaty would in effect discourage and perhaps prevent the development of deep seabed resources. These resources include not only manganese nodules but other minerals of potentially greater importance. The draft treaty would also subject your government and mine to very large financial obligations.

Western unity will be essential for obtaining improvements in the seabeds provisions of the text while protecting the valuable provisions in such areas as navigation and the continental margin. In the absence of unity of purpose the prospects for a generally acceptable Law of the Sea convention are dim.

If you and other key leaders make it clear to the conference that you are not prepared to conclude a Law of the Sea treaty without the United States, I am convinced that we can succeed in making the changes necessary to transform the draft convention into a widely accepted treaty. If on the other hand, the conference believes that your country and other major industrialized countries might join a treaty which falls short of the necessary improvements, there will be little chance of a successful treaty. I urge you to send your negotiating team back to the conference with full support for the United States position.

I am directing my Law of the Sea negotiators to work closely with your delegation in the weeks to come to achieve a treaty which is acceptable and promotes our common interests.


Sincerely,

/s/

Ronald

The Right Honorable
Margaret Thatcher, M.P.,
Prime Minister,
London.

CONFIDENTIAL



CONFIDENTIAL

ANNEX B

UNITED KINGDOM INTERESTS IN
UNITED NATIONS LAW OF THE SEA CONFERENCE

A. Navigation

1. We have an interest in resisting the "creeping" jurisdictional claims made by many coastal states which could interfere with our freedom of navigation and over-flight. The provisions of the Convention, which fix the limit of the territorial sea at 12 miles, are satisfactory. The present provisions on innocent passage by warships and merchant ships through the territorial sea are also satisfactory; an amendment which would allow coastal states to impede or deny such passage, especially by warships was defeated.

2. If territorial sea claims of 12 miles are recognised, many international straits of great important to our strategic and commercial interests would become territorial sea, eg at Gibraltar, Hormuz and Malacca (as well as Dover). We need secure rights for ships to pass through such straits, aircraft (civil and military) to overfly them, and submarines to pass such straits submerged. The present text meets these concerns. But if we were not party to the Convention, we might not be able to enjoy satisfactory transit passage rights through international straits.

3. A number of archipelagic states are claiming control of wide areas of sea, which could adversely affect our freedom of navigation. The text on archipelagic waters rule out such unreasonable restrictions. If we were not party to the Convention, our freedom of navigation might be unduly restricted.

4. A large number of coastal states have claimed Exclusive Economic Zones which include restrictions on navigation, and particularly on fishing. The present text of the Convention would preserve existing freedom of navigation and not prejudice our fishing interests (see below).

B. Continental Shelf

5. Our interest (which is not shared to the same extent by the United States) is to obtain the widest possible definition of the continental shelf so as to be able to exploit any hydro-carbon resources round our coasts and in particular beyond the Rockall Plateau without incurring the risk of conflict (and subject only in the case of Rockall to delimitation with the Irish). The present text of the Convention would enable us to have unrestricted access to hydro-carbon resources up to 200 miles from our mainland and inhabited islands. We would not be able to claim a continental shelf (or Exclusive Economic Zone) based on Rockall, because it is uninhabitable. But we could still claim the Shelf and Rockall beyond 200 miles from St. Kilda as an extension of the Scottish landmass and the definition of the outer limits of the Shelf in the Convention is favourable to our claims, although we could establish those limits definitively only on the basis of the recommendations of a Boundary Commission which could be set up. We would have to share the revenues from any exploitation of the continental shelf beyond 200 miles with the developing countries (the percentage is not however onerous). If we were not party to a Convention, we would not in theory have to admit of a boundary between our continental shelf and the deep seabed area beyond it, but in practice it would be difficult to reject claims by the International Seabed Authority once it has been set up. (The Danes (on behalf of the Faroes) and the Icelanders also have a strong interest in encroaching on our claims beyond the Rockall Plateau.)

6. It is important that any Convention should allow for partial removal of abandoned installations, since entire removal, e.g. of our North Sea installations, would be very expensive. The present text would allow partial removal, subject to appropriate safeguards for



CONFIDENTIAL

navigation, fishing and the environment. This is an important improvement to the previous text of the Convention.

C. Fisheries

7. The text as it stands gives coastal states rights to exploit fishing stocks in the 200 miles zone with little risk of having to grant access to other states. But the Convention would merely give an international legal cover to a situation we already enjoy de facto and it does not offer any substantial improvements. Because the EC is competent for fisheries, there could be problems if the EC or some member states did not participate in the Convention, but the text on participation is reasonably satisfactory (see below).


D. Delimitation of Maritime Boundaries

8. The present text does not make much difference to the existing situation, except that Article 121.3 would prevent us using Rockall to claim fisheries and continental shelf zones. We would however be entitled to claim the continental shelf beyond Rockall to its boundary with the deep seabed, subject to the recommendations of the Boundary Commission (see above).

E. Deep Sea Mining

9. The resources of the deep seabed will be of increasing importance to the industrialised countries as a source of supply of nickel, cobalt, copper and manganese as landbased supplies are depleted or if they are interrupted. United Kingdom companies have already made large investments in deep sea mining (and the Government have provided an £830,000 loan). Participation by United Kingdom companies in deep sea mining would not only help secure our sources of supply, but also be of general benefit to our economy by stimulating technology resources and possibly some employment.

10. The present text of the Convention is unsatisfactory, since it gives too much control to the developing countries, who could deny access by the United Kingdom and United Kingdom companies; it involves production limits, which could thwart investment, stem the supply of



CONFIDENTIAL

minerals from the deep sea bed and create artificial shortages; and it would involve mandatory transfer of technology to developing countries, which would set a bad precedent for other international economic negotiations.

11. If we remain outside the Convention, there would however be some legal problems about conducting deep sea mining on the basis of national legislation alone. For this reason, the United Kingdom companies involved would prefer an international regime. But one in which the United States did not participate would be unsatisfactory both because the United States companies would have an unfair advantage in not being liable to the onerous provisions of the Convention and also because the costs to the United Kingdom might be about a third higher than would otherwise be the case if the United States did participate. 1980 estimates suggested that if party to a generally accepted Convention, the United Kingdom would have to provide £44 million in loans and guarantees to help finance the first project by the Enterprise and would also have to pay a contribution of circa £2 million to capital cost of International Sea-Bed Authority and running costs of circa £500,000 for at least 10 years.

F. Pollution

12. The texts provide for some useful additions to coastal state rights, but do so in a way which preserves our essential freedom of navigation.

G. Marine Scientific Research

13. The text is acceptable, although it involves some restrictions. If we were not party to a Convention, we might be liable to suffer from greater restrictions.

H. Dispute Settlement

14. The procedures are sufficient to protect our interests in seeing the Convention adequately enforced in order to obtain benefits from it.



CONFIDENTIAL

I. Participation

15. The texts as regards participation in the Convention by the EC and National Liberation Movements are broadly satisfactory, although there was an amendment on Namibia which was slightly unhelpful. The resolution relating to colonies is also tolerable, despite Argentine attempts to prejudice our rights round the Falklands which were not successful.

Conclusion

16. The Convention would afford positive benefits to the United Kingdom and its allies in relation to many of its Articles (notably as regards navigation and the continental shelf), but the deep sea mining regime is unfavourable.

CONFIDENTIAL

CONFIDENTIAL.



Foreign and Commonwealth Office

London SW1A 2AH

22 October 1982

Dear John,

Call on the Prime Minister by Mr Rumsfeld: 25 October

The brief already submitted for this meeting contains a page of background with a note to the effect that a revised version would be provided later incorporating comments by the MAFF. I now enclose this revise.

Yours ever

J E Holmes

(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

CONFIDENTIAL



EC/US TRADE ISSUES (Provisional - MAFF are providing additional material)

10. US Agriculture Secretary Block has started threatening an "export subsidy war" with the EC. Reflects increasing frustration at US inability to demonstrate that EC export refund payments are in breach of special GATT rules for agriculture sector; approach of mid-term elections also a factor.

11. In our view the main causes of US farmers' problems are actually the strong dollar and depressed markets for commodities which the EC does not export (coarse grains, soya and cotton). The EC has a substantial deficit of trade in agricultural products with the US (7 billion in 1980) and has done nothing new to provoke the Americans.

12. Given the overall state of EC/US relations, the latest US onslaught over agriculture is ill timed. But together with others (eg Australia, New Zealand) the Americans have a genuine grievance about the way in which increasing subsidised exports by the EC (the most cost effective means of surplus disposal) prevent them from deriving full benefit from their cost advantage. We understand the Commission, on their own authority, have floated the idea of examining the scope for agreement on share-out of export markets but so far at least they have met with a dismissive response from the US side. In addition in preparations for the GATT Ministerial they have indicated willingness to consider participating in a study of GATT Members' practices in the agriculture sector - this would provide for further discussion of the CAP export refund system but also open up others' practices to scrutiny including the Americans', some of which are pretty questionable.

13. Given Mr Rumsfeld's position it may be worth flagging briefly the dangers of a confrontational US approach. The Americans sometimes give the impression that their aim is to force the EC to abandon the basic CAP mechanisms of export refunds and variable levies altogether. This is completely unrealistic.

cc Master
ops



PRIME MINISTER
SUVA, FIJI

SUBJECT

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T196c/82

ORIGINAL ATO

20th October, 1982

The Rt. Hon. Mrs Margaret Thatcher,
Prime Minister,
10 Downing Street,
London,
UNITED KINGDOM.

Dear Prime Minister,

The Third Commonwealth Heads of Government Regional Meeting for Asia and Pacific was held in Suva from 14th to 18th October. Fifteen of the seventeen Heads personally attended. We were able to discuss global political and economic trends and their impact on the Asia-Pacific region, as well as review regional functional co-operation among the Commonwealth States within the region. Many of the areas of functional co-operation that were identified at the previous two CHOGRM have reached the stage of practical implementation and the meeting was able to give new impetus to this.

Among the matters of particular interest to all participants was the forthcoming signing of the Law of the Sea Convention in December this year.

Given the complexity and the diversity of the subject matter it was the general view that the Convention is the best that could be achieved. It was recognised that the treaty is of great significance to the international community. It is of course, of particular importance for the small island developing countries which look to the resources of the sea for their future development. While welcoming the adoption of the Convention after nine years of negotiations the Heads of Government noted with regret that some of our friends in the West, notably the United States, have indicated that they will not sign it. It is everyones hope however, that the countries

.../2

of Western Europe, such as the United Kingdom which has a long history of maritime tradition, will find it possible to support the Convention by signing it. I therefore, convey this expectation of my colleagues at CHOGRM for your Government's consideration.

I take this opportunity of enclosing a copy of the CHOGRM Communique for your information.

With kind regards,

Yours sincerely,

K. K. T. Mara

K.K.T. Mara
Prime Minister



PRIME MINISTER
SUVA, FIJI

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. 11968/82

ORIG NAM AT O

SUBJECT

cc Minister
ops

20th October, 1982

The Rt. Hon. Mrs Margaret Thatcher,
Prime Minister,
10 Downing Street,
London,
UNITED KINGDOM.

Dear Prime Minister,

Thank you very much for your message to me explaining your Government's position regarding Falkland Islands. I had the message and the accompanying note circulated to all the Commonwealth Heads of Government who attended the Asia-Pacific Regional Meeting which ended in Suva last week.

I also took the opportunity to refer to the message during the Retreat. The Heads of Government noted the communication with interest and I believe that there is now a better appreciation of your Government's position on Falkland Islands.

As you have already noted my Government understands and is sympathetic to British position. We hope that given time and goodwill on all sides the Falkland Islands dispute will be resolved peacefully.

Yours sincerely,

K.K.T. Mara
Prime Minister

CONFIDENTIAL



File

10 DOWNING STREET

From the Private Secretary

19 October 1982

LAW OF THE SEA CONVENTION

Would you please refer to my letter of 15 October. The Prime Minister has sent a short message to President Reagan saying that she will be delighted to see his Special Emissary, Mr. Don Rumsfeld. I now enclose the signed version of this letter and should be grateful if you would arrange for its delivery.

A. J. COLES

John Holmes Esq.,
Foreign and Commonwealth Office.

CONFIDENTIAL



10 DOWNING STREET

Duty Col

pl send this message on
the hot line.

A.S.C. ^{19.}/₁₀

9.47 will be sent

immediately as no backlog.

SUBJECT

CONFIDENTIAL

T 196/82



file JR

or two

10 DOWNING STREET

THE PRIME MINISTER

19 October 1982

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T 196/82

Dear Ron,

Thank you very much for your letter about Don Rumsfeld's visit to discuss the Law of the Sea Convention. I shall, of course, be delighted to see him. Arrangements are being made through the usual channels.

Every good wish.

Yours

Raymond

The President of the United States of America

CONFIDENTIAL

LB

PP WHITE HOUSE
GRS55
P 190850Z OCT
FM PRIME MINISTER
TO THE PRESIDENT OF THE UNITED STATES OF AMERICA
C O N F I D E N T I A L

DEAR RON,

THANK YOU VERY MUCH FOR YOUR LETTER ABOUT DON RUMSFELD'S
VISIT TO DISCUSS THE LAW OF THE SEA CONVENTION.

I SHALL, OF COURSE, BE DELIGHTED TO SEE HIM.

ARRANGEMENTS ARE BEING MADE THROUGH THE USUAL CHANNELS.

EVERY GOOD WISH,

YOURS EVER,

MARGARET

NNNN



2

10 DOWNING STREET

From the Private Secretary

15 October 1982

Dear John,

LAW OF THE SEA

Thank you for your letter of 14 October enclosing a letter to the Prime Minister from President Reagan which asks Mrs. Thatcher to receive the President's Special Emissary on Law of the Sea matters, Mr. Don Rumsfeld.

The Prime Minister could see Mr. Rumsfeld from 1730 to 1815 on 25 October. She would propose to be accompanied only by a Private Secretary.— Perhaps the Americans would restrict their numbers accordingly.

The Prime Minister will be replying to the President but, in view of the imminence of Mr. Rumsfeld's visit, perhaps you could kindly convey the above to the American Embassy.

A. J. COLES

John Holmes, Esq.,
Foreign and Commonwealth Office.



Prime Minister

1. Agree to see him from 5.30 to 6.15 on 25 October (after Frank; before the general reception)?

Foreign and Commonwealth Office

London SW1A 2AH

14 October 1982

2. Agree that only private secretaries should be present?

Dear John,

A.F.C. $\frac{14}{10}$

Law of the Sea

Yes - it would be advised to our ministers to sign this agreement ms

I enclose a letter from President Reagan to the Prime Minister which has been delivered by the American Embassy in London.

We understand that the American Administration have been trying for some time to organise a high-level mission to persuade us to join them in not signing the Law of the Sea Convention. The first two candidates for this job turned it down, but Mr Rumsfeld (President Ford's Secretary of Defence) is a senior Republican of considerable standing. In view of President Reagan's personal plea and his reference to transatlantic relations, we recommend that the Prime Minister agree to see Mr Rumsfeld if at all possible on 25 October. Since we may need to sign a reciprocating states agreement with the Americans in order to protect our deep sea mining interests, we have an interest in maintaining good relations with them in this area.

The American Embassy have asked if the Prime Minister would be willing to see Mr Rumsfeld on a one-to-one basis, at least initially. We do not think it necessary to agree to this condition, unless the Prime Minister would particularly wish to do so. By agreeing to a meeting we would already be indicating greater awareness of US sensitivities than the Americans have shown towards us. We were not for instance consulted before President Reagan's announcement of his decision on 9 July that the USA would not sign the Convention, although Mr Haig had earlier promised such consultations.

US pressure not to sign the Convention is likely to be matched by pressure in the opposite direction from several quarters. The French have already said in public that they will sign the Convention and we expect the Japanese, Canadians and Australians to follow suit. Indeed there has already been some discreet pressure from the Old Commonwealth and Japan on us to sign.

/If the

CONFIDENTIAL



If the Prime Minister is willing to see Mr Rumsfeld we will - if you wish - let Mr Steator know. Briefing for the meeting will be prepared in conjunction with the other Departments involved. We will also consider whether the call could usefully cover matters other than Law of the Sea and include these in the briefing if appropriate.

I am copying this letter to the Private Secretaries of the Secretaries of State for Trade, Industry, Energy, Defence, Environment and Scotland and the Minister for Agriculture, Fisheries and Food.

Yours ever

for Holmes

(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

CONFIDENTIAL

SUBJECT
PRIME MINISTER'S

PERSONAL MESSAGE

SERIAL No. T191C182
THE WHITE HOUSE

WASHINGTON

*cc Mrs
om.*

*Original of text
received earlier.*

*h.a.
MR 26/10*

October 10, 1982

Dear Margaret,

The Law of the Sea treaty adopted by the United Nations Conference last April raises many fundamental concerns for the United States. In July, as you know, I concluded that signing that treaty will not serve the national interest.

I recognize that the treaty deals with a wide variety of areas and issues. Indeed, my July statement noted that most provisions of the treaty are consistent with the interests of the United States and other countries. Based on a review of significant interests, such as those with respect to military and commercial navigation, I am confident that they can be fully protected without signing or ratifying the treaty.

At the same time, I also believe that the deep seabed mining provisions of the treaty would be detrimental to the interests of a number of countries, including the United States and our close friends and allies. Development of deep seabed resources on an economic basis would be very difficult, if not impossible, to achieve under the treaty. In broader terms, the treaty would create precedents that are contrary to a range of important interests and that would adversely affect the positions of advanced countries in the future development of international institution-building generally.

These problems are of deep concern to the United States and to me personally. I believe it is very important that we work together to have a clear understanding of the consequences of the Law of the Sea treaty and to coordinate our efforts in a way that will serve our common interests.

For this reason, I have asked Don Rumsfeld to serve as a special emissary to discuss these matters with you and with other key allies. He has my fullest confidence and I trust that you will consider him to be my personal emissary in regard to the matters I have asked him to raise with you.

Finally, let me say that while Law of the Sea is the issue which has led me to propose Don's mission, I view it within the context of our broader relationship as allies faced with a number of problems. While each of them has its complexities, I believe deeply that we are capable now, as perhaps never before, of solving them and of demonstrating a degree of allied cohesion unparalleled in the past generation. For this reason, Don will be receptive to listening to other elements of our common agenda. Needless to say, I will value your thoughts greatly and very much look forward to receiving Don's report.

With warm personal regards,

Ron

The Right Honorable Margaret Thatcher, M.P.
Prime Minister
London

CONFIDENTIAL

JR

Foreign Policy

c. NIO
DOE
SO
D/IND
D/N
MAFF
CS, HMT
LOD
LAD
CO
CDL
LPSO
MOD
LPO
HMT
FCO
LCO
HO

10 DOWNING STREET

From the Private Secretary

30 April 1982

UNITED NATIONS LAW OF THE SEA CONFERENCE

I have discussed with the Prime Minister the contents of Lord Cockfield's minute of 28 April and Francis Richards' letters of 29 and 30 April.

The Prime Minister agrees that it would be right for the United Kingdom to abstain, if the Convention as a whole is put to a vote. I conveyed this information orally to the Foreign and Commonwealth Office earlier today.

I am copying this letter to the Private Secretaries of those who received Lord Cockfield's minute.

AJC

John Rhodes, Esq.,
Department of Trade.

VS

CONFIDENTIAL

CONFIDENTIAL



Foreign and Commonwealth Office

London SW1A 2AH

30 April 1982

Dear John.

UNLOSC

Further to my letter of 29 April, I attach a copy of a message from Mr Haig to the Secretary of State, following up Mr Buckley's approach of last night and appealing to us to vote against the Convention, when it is presented for adoption today in New York (early this afternoon our time).

The signals from the US Administration are conflicting. At the meeting of the Co-ordinating Group last night in New York, as I explained to you earlier on the telephone, the leader of the US Delegation made it quite clear that the US were not expecting the UK or other Co-ordinating Group Delegations to vote against the Convention and that by abstaining we would adequately demonstrate our solidarity with the United States. It was also clear from that meeting, and from a meeting of EC representatives held in New York yesterday, that despite approaches by the US in Bonn, Paris, Brussels and Rome, similar to the one made by Mr Buckley to us, none of the other industrialised countries are intending to vote against the Convention. The FRG in particular have made it clear that they will abstain. The Quai d'Orsay have rung us this morning to say that they will be recommending to M Cheysson either a vote for or an abstention: they see no likelihood of him agreeing to vote against. Mr Pym has not seen the Haig message. But his view last night, after hearing of the Buckley approach, was that we should stick to our intention of abstaining if the Convention is voted on in New York today, and our delegation will be so instructed, unless we hear that the Prime Minister would wish them to do otherwise by 1300Z today.

/As explained

CONFIDENTIAL

CONFIDENTIAL



As explained in my earlier letter, we will instruct the Embassy in Washington to explain our decision to the State Department at the earliest opportunity.

I am copying this letter to the recipients of my earlier letter.

Yours ever,

A handwritten signature in dark ink, appearing to read 'F N Richards', written in a cursive style.

(F N Richards)
Private Secretary

A J Coles Esq
10 Downing Street

CONFIDENTIAL

SECRET

Dear Francis:

Secretary Buckley telephoned you yesterday and I wish to add my personal expression of serious concern over the recent turn of events at the Law of the Sea Conference in New York. The Seabed Mining provisions recently presented by Conference President Koh are very much against the mutual interests of our two governments. They reject the amendments we jointly filed and much of the compromise proposals made by the Group of Eleven. It is very important that Japan, our Western Allies and the United States act together in the final hours of the Conference to protect our common economic and political principles. I ask that your delegation be authorized to act with the United States and allied delegations in voting against the Law of the Sea Treaty, which will be put before the Conference on Friday, April 30, 1982.

Sincerely,

Al

SECRET

CONFIDENTIAL



Foreign and Commonwealth Office

London SW1A 2AH

29 April 1982

Dear John,

UNLOSC

Please refer to the Secretary of State for Trade's minute of 28 April about MISC 19's recommendations on how our delegation should vote if the Convention is put to a vote.

Under-Secretary Buckley telephoned this evening to urge that we should vote against the Convention if, as now seems likely, it is put to a vote tomorrow in New York. The Secretary of State was in the House at the time, and I did no more than take note of Mr Buckley's approach.

An approach of this kind by the US in the closing stages of the Conference was expected and the briefing for the MISC 19 meeting on 27 April took account of the possibility of such pressure. It has not been possible to consult the Secretary of State; the view of Mr Rifkind, who has been closely involved in the closing stages of the Conference, however, is that a vote against the Convention would serve no useful purpose at this stage, since the text of the Convention would not be open to further improvement after the vote. A vote against (or indeed one in favour) would also tend to prejudice our position as regards subsequent signature of the Convention on which MISC 19 thought we ought to keep open our options. There is also the point that we would not wish to vote against the Convention in isolation from the FRG, ie as the only supporter of the US, and it is not clear how the FRG will vote. He therefore believes that the recommendation in Lord Cockfield's minute should stand. We shall of course be making early arrangements to explain our vote to the Americans in Washington in the terms of the Secretary of State for Trade's minute. Should Mr Pym have any additional comments to make we shall let you have them tomorrow morning.

I am copying this letter to those who received Lord Cockfield's minute and to the Private Secretary to Lord Cockfield.

Yours ever,

(F N Richards)
Private Secretary

A J Coles Esq
10 Downing St

CONFIDENTIAL



CONFIDENTIAL Prime Minister

*A decision is needed tonight.
Content that our delegation should be
guided by these instructions?*

*A. & C. 29.
4*

PRIME MINISTER

UNITED NATIONS LAW OF THE SEA CONFERENCE

The United Nations Law of the Sea (UNLOSC), after nine years of 'informal' negotiations, recently decided to proceed to the formal stage of its negotiations and is now working rapidly towards a climax, which is expected to occur on Friday 30 April. The Ministerial Group on Maritime Affairs (MISC 19) met yesterday under my Chairmanship to consider how the United Kingdom Delegation to UNLOSC should approach the final stages of the Conference.

The position reached in the negotiations in New York was that the draft Convention had survived this formal stage of the negotiations intact. Amendments not already withdrawn were withdrawn on Monday or voted down. Thus the danger that parts of the Convention favourable to United Kingdom interests would be unravelled in the amendment stage has receded. But there is still no agreement on deep sea mining between the Group of 77 and the United States, and this is the issue which will occupy the Conference in the short time left for further negotiations. If a consensus cannot be reached by Friday, the Group of 77 are likely to press for a vote on the Convention as a whole.

MISC 19 agreed that our objective should remain as defined in your letter of 1 March to President Reagan, namely to work towards a generally acceptable Convention. To this end our Delegation would support any compromise proposals which were acceptable to the G 77 and the United States; would seek to persuade the Americans to accept proposals from the G 77 which improved the texts from our point of view; and would take the line with the G 77 that, in reaching our decision on whether to sign the Convention, we would take account of what improvements in the deep sea mining texts had been incorporated in the text of the Convention before it was adopted. This last point is designed both to encourage the incorporation of improved texts (which would make it easier subsequently for the Americans and ourselves to sign the Convention), and to provide a counter to any G 77 offer which is made conditional on our agreeing before voting takes place to sign the Convention.

CONFIDENTIAL

CONFIDENTIAL



The chances of a generally acceptable Convention emerging from this process are not high. If the Convention as a whole is put to a vote on Friday, MISC 19 believes that it would be right for the United Kingdom to abstain. This would be an appropriate expression of our disappointment at the failure to achieve consensus. It would leave open the question of signature. At the same time, it would show some solidarity with the United States: we would not wish to vote for any text which the United States would not support.

I should be glad to know whether you are content that the United Kingdom Delegation to UNLOSC should be instructed accordingly.

I am copying this minute to our OD colleagues, to the Secretaries of State for Northern Ireland, for the Environment, for Scotland, for Industry and for Energy, to the Minister of Agriculture, Fisheries and Food, to the Chief Secretary (Treasury), to the Attorney-General and the Lord Advocate, and to Sir Robert Armstrong.

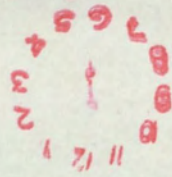
Arthur Cockfield

LORD COCKFIELD

Department of Trade
1 Victoria Street
London, SW1H 0ET

28 April 1982

CONFIDENTIAL



7 APR 1982

COPIES

CONFIDENTIAL

Foreign Policy



Foreign and Commonwealth Office

London SW1A 2AH

16 April 1982

N. B. P. D.

*ADL 16.
4*

f-a.

Dear John,

Thank you for your letter of 1 April enclosing President Reagan's answer to the Prime Minister's letter of 1 March about the Law of the Sea negotiations.

Our advice, with which the other interested Departments agree, is that the President's latest letter does not require a reply. No useful purpose would be served by sending one at the present time. Although the letter expresses the hope that we will sign the Reciprocating States Agreement as soon as possible after the present UNLOSC session ends on 30 April, we would prefer to wait and see the outcome of the session before giving any definite undertaking on this point. (There could be developments during the session, especially on preliminary investment protection, which would affect the Agreement and if such an undertaking became public at this stage of the Conference, it could be unhelpful to our negotiating stance at New York.) Therefore any reply which was sent to the President now would have to be in terms less forthcoming than the US would clearly like. This would be undesirable in the context of our overall relations with them at the present time.

Meanwhile you may like to know that Mr Haig wrote to Lord Carrington on 5 April urging that the UK state publicly that we would not adhere to a Law of the Sea Treaty to which the US is not a party. I enclose a copy of his message and of Mr Pym's reply. Since Ministers have not yet considered the possibility of a Treaty without the US, we obviously cannot go as far as Mr Haig wants. But, as you will see, the reply to Mr Haig does show our wish to maintain as much unity as possible with the US in the final stage of the negotiations.

I am copying this to the Private Secretaries to the Secretaries of State for Defence, Industry and Trade.

Yours ever

(J E Holmes)
Private Secretary

John Holmes

A J Coles Esq
10 Downing Street

CONFIDENTIAL

EMBASSY OF THE UNITED STATES OF AMERICA
LONDON

April 5, 1982

Dear Foreign Secretary:

I have been asked to deliver the enclosed message to you from Secretary Haig, which was received at the Embassy this morning.

Sincerely.

Edward J. Streater
Charge d'Affaires, a.i.

Enclosure:
CONFIDENTIAL

The Rt. Hon. The Lord Carrington, KCMG, MC,
Secretary of State
for Foreign and Commonwealth Affairs,
Foreign and Commonwealth Office,
London, SW 1.

CONFIDENTIAL

April 5, 1982

Dear Peter:

I am writing to express my serious concern with developments at the Law of the Sea conference in New York. Unfortunately, so far during this session, there has been no serious negotiation of the United States concerns with the Deep Seabed provisions of the Treaty, although these issues are of major importance to this country. The United States delegation has made every effort to meet the timetable adopted by the conference and to present its proposals in the form desired by the other delegations. Despite that, the United States proposals have not been given a full hearing.

We are convinced that, were the conference to engage in actual negotiations, an acceptable compromise would emerge. Without negotiations, the objectives that our governments share cannot be met and United States participation in the Law of the Sea Treaty would be foreclosed.

There is a widely held view among the Group of 77 that the United Kingdom and other major industrialized countries may sign the present Law of the Sea convention with few if any changes. It would be very helpful if the United Kingdom also could publicly state that substantial changes need to be made to the existing text and that, in any event, the United Kingdom would not adhere to a Law of the Sea Treaty to which the United States is not a party.

I am gratified with your continuing support at the Law of the Sea conference. The United States remains committed to the process of negotiating a universally acceptable Law of the Sea Treaty.

Sincerely,

Al

CONFIDENTIAL

OUT TELEGRAM

		Classification and Caveats	Precedence/Deskby
	↓	CONFIDENTIAL	IMMEDIATE

ZCZC	1	ZCZC
GRS	2	GRS
CLASS	3	CONFIDENTIAL
CAVEATS	4	
DESKBY	5	
FM FCO	6	FM FCO 161400Z APRIL 82
PRE/ADD	7	TO IMMEDIATE WASHINGTON
TEL NO	8	TELEGRAM NUMBER
	9	REPEATED FOR INFORMATION TO UKMIS NEW YORK
	10	ROUTINE TO BONN, PARIS, AND TOKYO
	11	UNLOSC
	12	1. Please pass the following message from me to Haig:
	13	BEGINS
	14	Thank you for your letter of 5 April to Peter Carrington about the
	15	Law of the Sea Conference.
	16	We share your disappointment that there has been little serious
	17	negotiation in the Conference so far, and therefore no real
	18	progress on the issues which were outlined in President Reagan's
	19	statement of 29 January. Margaret Thatcher's letter to the
	20	President of 1 March explained what we had been doing to ensure
	21	that these issues were discussed by the Conference. Since the
///	22	session began the leader of the United Kingdom delegation has
//	23	constantly repeated our view of the necessity for engaging in
/	24	negotiations on these issues.
	25	We have also made it clear on a number of occasions that our

NNNN ends telegram	BLANK	Catchword object
File number	Dept PRIVATE OFFICE	Distribution UNLOSC.
Drafted by (Block capitals) J E HOLMES		
Telephone number		
Authorised for despatch <i>J. Holmes 16/4</i>		
Comcen reference	Time of despatch	

OUT TELEGRAM (CONT)

	Classification and Caveats		Page
↓	CONFIDENTIAL	IMMEDIATE	2.

<<<<

1
 2 object is a generally acceptable convention, and that any
 3 convention which the United States was unable to accept would
 4 be seriously defective. In the First Committee debate on 16
 5 March, our representative said that we would have great difficulty
 6 in participating in such a convention. He also made it clear in
 7 Plenary on 30 March that we do not think the proposals put
 8 forward so far as a basis for a compromise go far enough. And on
 9 25 March, Lord Trefgarne told the House of Lords that we
 10 certainly believe there is room for improvement in the deep sea
 11 mining texts.

12 You ask if we can go further and state publicly that in any
 13 event, the UK would not adhere to a Law of the Sea Treaty to which
 14 the US is not a party. As you know, the Treaty covers a wide
 15 variety of subjects other than deep sea mining, including
 16 some which are of very great concern to us, given our
 17 geographical and economic circumstances. If we are faced with
 18 a Convention which has been adopted under pressure from the
 19 G77 and which you could not be a party to, we would have to
 20 examine our options very carefully taking account of our overall
 21 interests. The Cabinet has not yet looked at this question, which
 22 we hope will not arise. But I do not think a statement of the
 23 sort you suggest would necessarily have the effect of making
 24 the G77 compromise. On the contrary, it could provoke them into
 25 making no further effort to reach a solution on the deep sea
 26 mining texts and also encourage them to attack the other texts
 27 which are at present favourable to us, eg on navigation and the
 28 shelf. This could have very unfortunate effects, for instance
 29 on the question of innocent passage of warships through the
 30 territorial sea, which is, I understand, of equal significance
 31 to the deep sea mining issue in the view of your delegation.

///
 ///
 /

32 However, I agree that the best way to avoid such a
 33 situation is to maintain our unity in the negotiations at the
 34

NNNN ends telegram	BLANK	Catchword Conference
--------------------	-------	-------------------------

OUT TELEGRAM (CONT)

	Classification and Caveats		Page
↓	CONFIDENTIAL	IMMEDIATE	3.

<<<<
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Conference. Accordingly, as Douglas Hurd told Walter Stoessel on 13 April, our delegation was instructed to co-sponsor the formal amendments which your delegation wished to put forward on the deep sea mining texts. I understand both delegations worked hard and successfully to get agreement on a comprehensive list of proposals which, following our lead, were also supported in most cases by the other major industrialised countries.

Meanwhile, I have been heartened to learn that your delegation have received new instructions which will introduce a greater flexibility in any negotiations. As you know, when you embarked upon your review, we felt that any proposals for change should be limited if they were to have a chance of being incorporated in the draft convention. We hope that a readiness to compromise will now be maintained on all sides. We will be urging this view on the G77 while repeating that we consider a treaty without the US would be seriously defective. This seems to us the best way forward towards a convention which can, as we hope, be adopted by consensus.

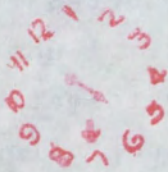
ENDS

PYM
NNNN

///
//
/

NNNN ends telegram	BLANK	Catchword
--------------------	-------	-----------

16 APR 1962



MFJ

Foreign pot

6 April 1982

I write to acknowledge receipt of your letter of 6 April enclosing a letter from President Reagan to the Prime Minister about the Law of the Sea negotiations and the Reciprocating States Agreement.

JC

Mr. Edward J. Streator.

ds



EMBASSY OF THE UNITED STATES OF AMERICA
LONDON

April 6, 1982

M 6/4

Dear Mr. Coles:

I have been asked to forward the enclosed letter to the Prime Minister from President Reagan, which was received at the Embassy this afternoon. The text of the letter was forwarded on April 1, 1982.

Sincerely,

Edward C. Streater
Edward C. Streater
Chargé d'Affaires a.i.

Enclosure:
SECRET

Mr. John Coles,
Private Secretary
to the Prime Minister,
10 Downing Street,
London, SW1.

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T 56/82

THE WHITE HOUSE

WASHINGTON

cc. master
ops

March 29, 1982

Dear Margaret,

Thank you for your letter of March 1 on the Law of the Sea negotiations and the Reciprocating States Agreement. I appreciate your consideration of our positions in the negotiations and your supportive efforts with influential governments, key leaders of the conference, and the EC Council of Ministers.

As you know, we have considered it important to conclude an interim Reciprocating States Agreement as soon as possible and regret that your country and the Federal Republic of Germany decided not to sign the agreement prior to the conclusion of the current Law of the Sea session in New York. The United States remains committed to the agreement as an interim measure, pending entry into force of a Law of the Sea treaty acceptable to our countries. We hope that your government, as well as other like-minded states, will enter into the arrangement in May, shortly after the close of this Law of the Sea session.

We look forward to working closely with you on both of these matters.

Sincerely,

Ron

The Right Honorable
Margaret Thatcher, M.P.
Prime Minister
London

THE WHITE HOUSE

WASHINGTON

March 29, 1982

Dear Margaret,

Thank you for your letter of March 1 on the Law of the Sea negotiations and the Reciprocating States Agreement. I appreciate your consideration of our positions in the negotiations and your supportive efforts with influential governments, key leaders of the conference, and the EC Council of Ministers.

As you know, we have considered it important to conclude an interim Reciprocating States Agreement as soon as possible and regret that your country and the Federal Republic of Germany decided not to sign the agreement prior to the conclusion of the current Law of the Sea session in New York. The United States remains committed to the agreement as an interim measure, pending entry into force of a Law of the Sea treaty acceptable to our countries. We hope that your government, as well as other like-minded states, will enter into the arrangement in May, shortly after the close of this Law of the Sea session.

We look forward to working closely with you on both of these matters.

Sincerely,

Ron

*Text was delivered
earlier by cable
April 1, 1982*

The Right Honorable
Margaret Thatcher, M.P.
Prime Minister
London

SECRET



10 DOWNING STREET

From the Private Secretary

1 April, 1982.

I enclose a copy of a letter from President Reagan to the Prime Minister in reply to Mrs. Thatcher's letter of 1 March about the Law of the Sea negotiations and the reciprocating states agreement.

I should be grateful to know in due course whether you consider that President Reagan's letter requires a reply.

I am sending copies of this letter to the Private Secretaries to the Secretaries of State for Defence, Industry and Trade.

A. J. COLES

Francis Richards, Esq.,
Foreign and Commonwealth Office.

SECRET

1 April, 1982.

I write to acknowledge your letter of 1 April enclosing a message to the Prime Minister from President Reagan about the Law of the Sea negotiations.

COLES

The Honourable Edward J. Streator




EMBASSY OF THE UNITED STATES OF AMERICA
LONDON

April 1, 1982

Dear Mr. Coles:

In the absence of the Ambassador, I am forwarding the attached message to the Prime Minister from President Reagan, which was received at the Embassy this morning.

Sincerely,


Edward G. Streater
Minister

Enclosure:
SECRET

Mr. John Coles,
Private Secretary
to the Prime Minister,
10 Downing Street,
London, SW1.

SUBJECT

SECRET

PRIME MINISTER'S 3
PERSONAL MESSAGE
SERIAL No. T 56/82

Dear Margaret:

Thank you for your letter of March 1 on the Law of the Sea negotiations and the Reciprocating States Agreement. I appreciate your consideration of our positions in the negotiations and your supportive efforts with influential governments, key leaders of the conference, and the EC Council of Ministers.

cc. Nastes
Ops.

As you know, we have considered it important to conclude an interim Reciprocating States Agreement as soon as possible and regret that your country and the Federal Republic of Germany decided not to sign the Agreement prior to the conclusion of the current Law of the Sea session in New York.

The United States remains committed to the Agreement as an interim measure, pending entry into force of a Law of the Sea Treaty acceptable to our countries. We hope that your government, as well as other like-minded states, will enter into the arrangement in May, shortly after the close of this Law of the Sea session.

We look forward to working closely with you on both of these matters.

Sincerely,

/s/

Ron

The Right Honorable
Margaret Thatcher, M.P.,
Prime Minister,
London.

SECRET



10 DOWNING STREET

From the Private Secretary

15 March 1982

Law of the Sea

Thank you for your letter of 11 March describing the latest position reached with regard to the reciprocating states agreement. The Prime Minister has noted the contents of your letter.

I am copying this letter to the Private Secretaries to the Secretaries of State for Defence, Industry and Trade.

A. J. COLES

John Holmes, Esq.,
Foreign and Commonwealth Office.

RB



10 DOWNING STREET

12 March 1982

Simon Webley Esq
British-North American Research Association
1 Gough Square
LONDON
EC4A 3DE

cc. Mr. Richard

F/c.o.

M 12/3

Dear Simon

Many thanks for your letter of 22 January about the deep sea mining provisions of the Draft Convention being negotiated at UNLOSC.

The position as I understand it from the Foreign Office can be summarised as follows:

"The Government have not yet taken a final decision on the overall contents of the Convention. Following the review of our policy towards UNLOSC which was conducted after the Government came to power in 1979, we have consistently taken the view that all aspects of the Convention will have to be considered as a whole in the light of the results of the negotiations at the Conference. Until then, it will not be possible to decide whether or not the Convention would be acceptable. This applies also to the deep sea mining provisions which, as they have emerged from the negotiations, have presented difficulties which we have never underestimated. (At one stage, there was talk of separating the deep sea regime from the rest of the Treaty, but that is no longer a realistic negotiating possibility; and we will therefore be faced with the need to weigh these aspects in our overall assessment of the text which will emerge.")

I have had similar representations from Michael Ivens at AIMS and have fed your letter and Michael's papers into the system. I will let you know if there are any developments.

JOHN HOSKYNs



Prime Minister

For information. Department are
agreed on this line.

Foreign and Commonwealth Office

London SW1A 2AH

A.S.C. $\frac{12}{3}$

11 March 1982

MF

Dear John,

Law of the Sea

On 1 March the Prime Minister wrote to President Reagan about the Law of the Sea Conference. In her letter, Mrs Thatcher suggested that it might not be wise to sign at this stage a reciprocating states agreement (RSA) related to national mining legislation; although we wanted to sign such an agreement with the US and the FRG, signature now would make it more difficult to get leading delegations at the UNLOS Conference session (which opened this week) to negotiate on American concerns and so to obtain a generally acceptable international regime of the kind both countries want.

On 6 March our Embassy in Washington informed us that despite this message, the Administration felt itself under such strong pressure from Congress and industry that they wanted an RSA signed as soon as possible: this decision was subsequently refined to "closing the window" on further licence applications on 12 March, with an extension until 16 March for signature of the RSA.

see below X

If we had fallen in with this timetable we would have provoked a very angry response from the Group of 77 at the UNLOS Conference who would have seen these moves as an attempt to pre-empt the international regime for deep seabed mining covered by the draft Convention. They might have responded by refusing to negotiate on the latest American amendments to the draft Convention; and by reopening sections of the draft covering continental shelf and marine navigation with which we are content, and have much interest in maintaining. This would have destroyed any chance of achieving the universally acceptable Convention which remains our long-term objective. On the other hand, provided that there is progress at the Conference in the meantime, signature of an RSA later in the year may be possible without risking the same disruptive effect.

/The risks might

X "Closing the window"

Those companies who apply for licenses to mine in the deep sea-bed before the window is closed get preferential treatment over those which apply afterwards.



The risks might in any case have been worth running if there were no other way of safeguarding important British commercial interests. But this was not the case. The international companies involved have recently signed an agreement for commercial arbitration on disputes between them; and we (and the French and Germans) will be ready to keep up the pressure on the Americans if they show signs of seeking to apply their law in a way which would certainly discriminate against our companies.

On this basis it was agreed between FCO and DOI Ministers that we should ask the Americans one last time not to push for signature of an RSA; if they persisted, we should say that we would not sign now because of the disruptive effect on UNLOSC, but we would want to do so as soon as developments in UNLOSC permitted (probably in May). Meanwhile, we would close our window at the same time as the Americans; and we would hope that they could find ways of taking account of our mutual interests. With the agreement of other interested Ministers (MOD, DOT, Department of Energy) and the approval of Lord Carrington and Mr Jenkin, instructions to that effect were issued on 11 March. I enclose a copy of the telegram to Washington. (In order to take account of a request from the British companies involved, it was agreed at the last minute that our window would not actually close until 16 March, even if the Americans closed theirs on 12 March.)

We have kept the Germans fully informed of our thinking as it developed, both in Bonn and New York. They have all along made it clear that they would not sign an RSA without us; and they have agreed to support our approach to Mr Haig. We hope the French may do so also.

I am copying this letter to the Private Secretaries to the Secretaries of State for Defence, Industry and Trade.

Yours ever

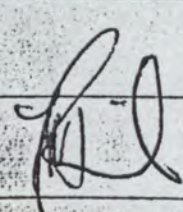
John Holmes.
(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

OUT TELEGRAM

	Classification and Caveats CONFIDENTIAL	Precedence/Deskby IMMEDIATE DESKBY 111500Z
--	---	---

ZCZC	1	ZCZC
GRS	2	GRS
CLASS	3	CONFIDENTIAL
CAVEATS	4	
DESKBY	5	DESKBY 111500Z
FM FCO	6	FM FCO 111345Z MAR 82
PRE/ADD	7	TO IMMEDIATE WASHINGTON
TEL NO	8	TELEGRAM NUMBER
	9	REPEATED FOR INFORMATION TO IMMEDIATE BONN, PARIS, UKMIS NEW YORK,
	10	(For Leader of UKDEL TO UNLOSC)
	11	UKMIS NEW YORK TELNO 216 AND TELECON GRAY/FRENCH 10 MARCH: UNLOSC
	12	1. Grateful if you could speak to the Americans at an
	13	appropriate level as soon as possible to make the following
	14	points. In doing so you should stress my personal interest and
	15	concern.
	16	(i) We are we think agreed that government and industry in
	17	both our countries would stand to gain from agreement at
	18	UNLOSC on a universally acceptable Convention, providing,
	19	among other things, for a satisfactory international
	20	regime on deep seabed mining. It is therefore in our
	21	mutual interest to ensure that the Conference is not
///	22	disrupted by any action of ours at the beginning of the
//	23	current crucial session.
/	24	(ii) We are both, of course, also anxious to protect the
	25	interests of our governments and industries in the short-

NNNN ends telegram	BLANK	Catchword term,
File number	Dept	Distribution UNLOSC Limited MAED UND ECD(E) PS PS/Mr Hurd PS/PUS Lord Bridges Mr Adams Legal Advisers
Drafted by (Block capitals) PRIVATE SECRETARY		
Telephone number 233 4641		
Authorised for despatch 		
Comcen reference	Time of despatch	

OUT TELEGRAM (CONT)

Classification and Caveats

CONFIDENTIAL

Page

2

1 <<<<

2 term, and particularly those who have already invested
 3 considerable sums in deep seabed exploration. That
 4 requires not only that we close our windows, but that we
 5 negotiate a reciprocating agreement which would place the
 6 applicants through the window of one country on a basis of
 7 equality with applicants through the window of the other
 8 country. Unfortunately, if we sign such an agreement now,
 9 the Group of 77 at UNLOSC will see this as an attempt to
 10 undermine the Conference by establishing an international
 11 regime outside the UNLOSC framework. In response they
 12 may well refuse to discuss the amendments you have put to
 13 the Conference with the inevitable result that our long-
 14 term objective of a universally acceptable Convention would
 15 not be met.

16 (iii) Even the closing of the window now could have a similar
 17 provocative effect. We hope therefore that even at this
 18 late stage you can persuade your colleagues not to close
 19 the window now, but to wait until the current discussions
 20 in UNLOSC end on 30 April. By then there may have been
 21 sufficient progress at the Conference to give the Group
 22 of 77 confidence that we take UNLOSC seriously, and they
 23 may react more moderately to a reciprocating states
 24 agreement.

25 (iv) We know that your authorities are being pressed to close
 their window on 12 March. If they decide that they have
 no alternative but to do so, then we would like to keep
 in step. We understand, however, that the UK applicant
 would in that case wish to adjust its application in the
 light of that development and we would therefore close
 the UK window on Tuesday 16 March. We would not, however,
 be able to sign a reciprocating states agreement then
 because we wish to avoid the disruptive effect which this
 would have on UNLOSC. But we want to conclude

NNNN ends telegram	BLANK	Catchword reciprocating
-----------------------	-------	----------------------------

OUT TELEGRAM (CONT)

Classification and Caveats

CONFIDENTIAL

Page

3

<<<<

1 <<<<

2 reciprocating arrangements with you on a retroactive basis
 3 as soon as possible after the current discussions finish.
 4 In the meantime, we hope that the Administration can find
 5 means of recognising applications from other countries
 6 filed before the closing of their window despite the
 7 delay in conclusion of an agreement.

8 (v) In view of the importance of harmonising positions in
 9 the interests of our countries, we hope we can all remain
 10 closely in contact on this question.

11 2. (For Bonn) Please give the text of these points to
 12 Lautenschlager so that the Germans can now take action in support
 13 (your telno 205). Please explain that the decision to defer
 14 closure of our window until 16 March is a last-minute decision
 15 intended to help the UK applicant protect its position under
 16 US laws; the same point may be valid for the German applicant.

17 3. (For Paris) Please give this text to the Quai and say that
 18 we would welcome any action of a similar nature which they felt
 19 able to take with the Americans.

20 4. (For UKmis New York) We would not wish leader of UKDel
 21 to UNLOSC to convey this text to Koh: but we would be content
 22 for Koh to be told that his appeal (UKMis telno 214) had been
 23 given sympathetic consideration and that HMG will seek to avoid
 24 any action which would disrupt the Conference at this critical
 25 juncture.

26
 27 CARRINGTON

28 NNNN

29

30

/// 31

// 32

/ 33

34

NNNN ends
 telegram

BLANK

Catchword

SUBJECT.



10 DOWNING STREET

THE PRIME MINISTER

1 March 1982

PRIME MINISTER'S

PERSONAL MESSAGE

SERIAL No. T 34/82

Dear Ron.

cc. Master sec
ops

Thank you for your message about the Draft Convention on the Law of the Sea.

When we came to office, we also conducted a review of the Convention. Our conclusion was that the adoption of a generally acceptable Convention by agreement would be in the United Kingdom's interest, subject to further consideration of the final text.

Since the talks which our delegations had in Washington on 8/9 February, we have approached some influential Governments and key leaders in the Conference and urged them to accept the necessity for further negotiations on the questions which you raised in your statement of 29 January. We have also spoken with Ambassador Koh, who will be doing his utmost to establish a mechanism for such negotiations. And we persuaded the EC Council of Ministers to adopt a decision on 22 February urging that the matters which you raised should be considered by the Conference.

We have not yet decided how the United Kingdom would react if it proved impossible to achieve a generally acceptable Convention and the group of 77 pressed for a vote. Our objective is an acceptable Convention and we would consider any arrangement which excluded the United States as seriously defective. We shall be making clear to the leaders of the Conference that we would have great difficulty in participating in a Convention in which the US did not take part. All parties have recognised that the Law of the Sea negotiations are a package; we shall therefore need to study the final text especially carefully before reaching a decision on the balance of advantage in the light of our national interest.

/ I was glad

Foreign Office
cc J. Hockings
D/I
MOD
DIT
DES
DIN
HM
MAFF
N/S
DBK
CO

I was glad to note in your statement on 29 January that the US delegation at the Conference will be working with other countries to achieve an acceptable treaty. This commitment has already proved helpful. It will be necessary to convince leading delegations at the Conference of the seriousness of the US commitment to the multilateral treaty process. This leads us to wonder whether it is wise to sign, in the next week, the reciprocating states agreement related to our national mining legislation. We want to sign this agreement with you and the FRG. But signature in the week before the resumption of the Conference will make it more difficult to get the necessary delegations to negotiate on your concerns and so to obtain a generally acceptable international regime of the kind we both want.

Our delegation will, as usual, be working closely with yours to try and achieve a Convention which is in our common interests.

Yours sincerely
V. Payant

The President of the United States of America



10 DOWNING STREET

Prime Minister

Agree the text of the
reply to President Reagan,
subject to any comment from
the Foreign Secretary who is
being consulted over the weekend
(all departments concerned agree with
the text) ?

A.J.C.

It really does need
redrafting (see text). It
is very verbose
no.

CONFIDENTIAL



Foreign and Commonwealth Office

London SW1A 2AH

26 February 1982

f.a.
M 3/3

Dear John,

Law of the Sea

I wrote to you earlier today enclosing a draft reply from the Prime Minister to President Reagan's message.

Following further interdepartmental discussion today, a revised version of the draft reply has now been agreed. I enclose this revised version.

I am copying this to the recipients of my previous letter.

Yours ever

(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

CONFIDENTIAL

2 pps.
2

Foreign and Commonwealth Office

London SW1A 2AH

26 February 1982

Dear John,

Law of the Sea

Thank you for your letter of 18 February enclosing a message from President Reagan to the Prime Minister. I enclose a draft reply.

As you are aware the US have been urging us in various ways to take their side in the confrontation which is likely to develop between them and the Group of 77 at the next session of UNLOSC. Apart from the approaches referred to in your letters of 10 and 16 February, the Secretary of State for Defence has also received a message from Mr Weinberger (enclosed). On 25 February Aims of Industry gave a press conference on the lines of Professor Denman's letter to the Prime Minister, stressing the disadvantages of the Convention, which has received attention in today's press. The Leader of the US Delegation will be in London next week to speak at Chatham House and give a press conference on Law of the Sea.

In response to American appeals, we have been making strenuous efforts to persuade leading members of the Conference to accept the need for consideration of the concerns expressed by President Reagan at the next session which starts on 8 March. We also persuaded our EC partners to express the view at the Council of Ministers' meeting on 22 February that such negotiations should take place so that a generally acceptable treaty can be obtained.

President Reagan is asking us to go further than this, and to say clearly now that we are not prepared to participate in a treaty without the US. When OD considered the issue in June 1980, the Prime Minister concluded that the adoption of a generally accepted convention by consensus would be likely to be in the UK's interest, subject to further consideration of the final text. But Ministers have not yet decided whether to accept the Draft Convention in its present form if pressed to a vote by the G77: nor have they considered what to do if the Americans decide not to participate in the Convention. There are important national interests involved apart from deep sea mining, eg the continental shelf and navigational provisions, with which other Departments in Whitehall are closely concerned. The US do not share all these interests and there is a danger that these texts could be unravalled to our disadvantage.

In these circumstances we recommend the adoption of a reasonably positive stand in reply to President Reagan. We would

/make



make it clear to the G77 that we believe a treaty without the US would be seriously defective and it is unlikely we would join such a treaty. This would:

- (a) show our commitment to Anglo/American cooperation;
- (b) put pressure on the G77 to negotiate seriously about the US concerns;
- (c) help us cope with the criticism being expressed by British industrialists.

But the message to President Reagan should also stress that we expect the US to negotiate seriously as well and that our attitude is based on that assumption. (His statement of 29 January, which I enclose, was helpful in that respect.)

It is also relevant that the US are now pressing us to sign an agreement about the implementation of the interim deep sea mining laws, which have been passed by the US, UK, FRG and France. This Agreement is strongly criticised by the G77 as a 'mini-treaty' contrary to the spirit of UNLOSC. We were hoping that France would join in the Agreement and that it would have been completed in January. But the French are now refusing to sign before the next UNLOSC session. Attempts by the Germans and ourselves respectively to persuade the French not to drop out and the US to defer signature have been unsuccessful and it now seems that the US may want to go ahead on 3 March. Chancellor Schmidt is speaking to President Mitterrand today to press the French again and President Reagan's message to the Prime Minister offers us an opportunity to repeat our representations to the US. Although we would wish, even if these efforts fail, to go ahead with signature of the Agreement (otherwise our mining interests will be disadvantaged), it would be worth urging the Americans at the highest level to reconsider the tactical disadvantages of signature now in relation to our common long-term objective of obtaining a generally acceptable international Convention. A passage on this subject is therefore included in the draft reply to President Reagan.

Since the proposed date for the signature of the Agreement is now so close, to have the necessary impact on the Americans it would be helpful if the message could be despatched as soon as possible.

I am copying this letter to the Private Secretaries of the Secretaries of State for Industry, Defence, Trade, Education and Science, and Energy; of the Chancellor, Attorney-General, Minister of Agriculture, Fisheries and Food and Minister for Local Government and Environment Services; and of Sir Robert Armstrong.

Yours ever

(J E Holmes)
Private Secretary

John Holmes

A J Coles Esq
 10 Downing St

DSR 11 (Revised)

DRAFT: minute/letter/teleletter/despach/note

TYPE: Draft/Final 1+

FROM:

Reference

Prime Minister

DEPARTMENT:

TEL. NO:

SECURITY CLASSIFICATION

TO:

Your Reference

- Top Secret
- Secret
- Confidential
- Restricted
- Unclassified

President Reagan

Copies to:

PRIVACY MARKING

SUBJECT:

.....In Confidence

Thank you for your message about the Draft Convention on the Law of the Sea.,

CAVEAT.....

When we came to office, we also conducted a review of the Convention. Our conclusion was that the adoption of a generally acceptable Convention by ~~consensus~~ ^{agreement} would be in the United Kingdom's interest, subject to further consideration of the final text.

Since the talks which our delegations had in Washington on 8/9 February, we have ~~asked our missions in~~ ^{approach} ~~certain capitals to approach~~ ^{some} influential Governments and key leaders in the Conference and urged ^h them to accept the necessity for further negotiations on the questions which you raised in your statement of 29 January. We have also spoken with Ambassador Koh, who will be doing his utmost to establish a mechanism ^{to} ~~whereby~~ such negotiations ~~can take~~ ^{we persuaded} place. And ~~(largely due to our efforts)~~ the EC Council of Ministers ^{to} ~~adopted~~ a decision on 22 February urging that the matters which you raised should be considered by the Conference.

Enclosures—flag(s).....

We have not yet decided how the United Kingdom would react if it proved impossible to achieve a generally acceptable Convention and the group of 77 press ^{ask for} it to a vote. ~~I can assure you that our objective remains~~ a generally acceptable Convention ~~which can be adopted by consensus.~~ ~~This means that~~ we would consider any arrangement which excluded the US as seriously defective. We shall be making ~~this~~ clear to the leaders of the conference, ~~and~~ that we would ~~certainly~~ have considerable difficulty in participating in a Convention in which the US did not take part. ~~I think that~~ ^A all parties have recognised that the Law of the Sea negotiations are a package; ^{shall} and we would need to ^{study} look very carefully at the final text in the light of all our national interests before making up our minds.

I was glad to note

Your statement on 29 January that the US delegation at the Conference will be working with other countries to achieve an acceptable treaty ^{This commitment has already proved helpful.} ~~has greatly assisted those who, like~~ ~~Executive~~ ourselves, wish to help. ^{next} ~~At the forthcoming session of the~~ Conference ^{at the balance} it will be necessary to convince leading delegations of the seriousness of the US commitment to the multilateral treaty process. ^{This leads us to} ~~In this connection~~ we wonder whether it is ^{wise} advisable to ^{sign} proceed, in the next week, ~~to~~ ~~signature~~ of the reciprocating states agreement related to our national mining legislation. We want to sign this agreement with you and the FRG. But signature in the week before the resumption of the Conference will make it more difficult to get the necessary delegations to negotiate on your concerns and ^{so} ~~thus~~ to obtain a generally acceptable international regime of the kind we both want.

This is really drafted, very wondrous.

/Our delegation

Our delegation will, as usual, be working closely with yours to try and achieve a Convention which is in our common interests.

D Form 11 (Revised)

DRAFT: minute/letter/teleletter/despatch/note

TYPE: Draft/Final 1+

FROM:
PRIME MINISTER

Reference

DEPARTMENT: **TEL. NO:**

SECURITY CLASSIFICATION

TO:

Your Reference

- Top Secret
- Secret
- Confidential
- Restricted
- Unclassified

President Reagan

Copies to:

PRIVACY MARKING

SUBJECT:

.....In Confidence

Thank you for your message about the Draft Convention on the Law of the Sea.

CAVEAT.....

When we came to office, we also conducted a review of the Convention. Our conclusion was that the adoption of a generally acceptable Convention by consensus would be in the United Kingdom's interest, subject to further consideration of the final text.

Since the talks which our delegations had in Washington on 8/9 February, we have asked our missions in certain capitals to approach influential Governments and key leaders in the Conference and urge them to accept the necessity for further negotiations on the questions which you raised in your statement of 29 January. We have also spoken with Ambassador Koh, who will be doing his utmost to establish a mechanism whereby such negotiations can take place. And (largely due to our efforts) the EC Council of Ministers adopted a decision on 22 February urging that the matters which you raised should be considered by the Conference.

Enclosures—flag(s).....

We have not yet decided how the United Kingdom would react if it proved impossible to achieve a generally acceptable Convention and the Group of 77 press it to a vote. The Law of the Sea negotiations have been recognised by all parties to be a package, and we would

need to look very carefully at the final text in the light of all our national interests before making up our minds. I can assure you that our objective remains a generally acceptable Convention which can be adopted by consensus. This means that we would consider any arrangement which excluded the US as seriously defective. We shall be making this clear to the leaders of the Conference, together with our view that it is unlikely we could participate in a Convention in which the US did not take part.

Your statement on 29 January that the US delegation at the Conference will be working with other countries to achieve an acceptable treaty has greatly assisted those who, like ourselves, wish to help. At the forthcoming session of the Conference it will be necessary to convince leading delegations of the seriousness of the US commitment to the multilateral treaty process. In this connection we wonder whether it is advisable to proceed in the next week to signature of the reciprocating states agreement related to our national mining legislation. We want to sign this Agreement with you and the FRG. But signature in the week before the resumption of the Conference will make it more difficult to get the necessary delegations to negotiate on your concerns and thus to obtain a generally acceptable international regime of the kind we both want.

Our delegation will, as usual, be working closely with yours to try and achieve a Convention which is in our common interests.

2

13

SECRET



EMBASSY OF THE
UNITED STATES OF AMERICA
DEFENSE ATTACHE OFFICE
London, England

MINISTRY OF DEFENCE
RECEIVED
M.S.
11 FEB 82
8 February 1982

10 07 8/2/82

12/3

The Right Honorable John Nott MP
Secretary of State for Defense
Ministry of Defense
Main Building
Whitehall SW1A 2HB

Dear Mr. Nott,

I have received a signal from Secretary of Defense Weinberger requesting that the following letter be delivered to you.

"Dear Colleague:

(U) As you are aware, President Reagan announced on January 29 that the United States will return to the LOS Conference and work with other countries to achieve an acceptable treaty.

(S) Several important mutual defense interests are involved in these negotiations. I hope you will agree that the matters listed below are important enough to warrant your urging the positive support of your Law of the Sea Delegation.

A. It is important that the navigation articles remain as currently drafted. While I do not believe that these articles are ideal, they do establish certain international standards which could serve to protect global mobility. Accordingly, to avoid any detrimental changes to these articles, we should ensure that the committee which is responsible for these issues (Committee II) is not reconvened. An example of a possible change to these articles which would be detrimental to defense interests would be a modification to Article 21 that would require warships to give notice to, or seek the permission of, the coastal state before transiting its territorial sea in innocent passage; such tampering would adversely affect mobility and could lead to a general unraveling of the navigation package.

2. =

B. Major elements of the seabed regime are unacceptable to the United States. Of particular concern to you would be the decision-making machinery, and transfer of technology issues. As currently drafted the seabed mining articles place the development of the resources of the deep seabed under burdensome and discriminatory international control. One aspect of this problem is that the draft

Classified by DAI/UR
Declassify on 08 Feb 88

SECRET

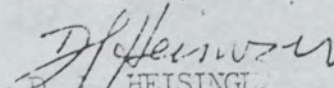
SECRET

convention creates a one-nation one-vote international organization which is governed by an assembly and a 36-member executive council. In the council, industrialized nations are not guaranteed an ability to influence its actions commensurate with either our required financial contributions to the supranational seabed authority or our potential consumption and production of seabed minerals.

C. I assume that you are aware that the technology transfer provisions of the current text compel the sale of proprietary information and technology. Under these provisions, the supranational mining company, called the enterprise, through mandatory transfer procedures, is guaranteed access to seabed mining technology. The text further guarantees similar access to technology to any developing country planning to go into seabed mining. A major military concern is the adverse impact that these technology transfer provisions would have, not only on the basic incentive for innovation, but also on the stability of our current technology-sharing arrangements. As you are well aware, certain of the technology that could be used in deep seabed mining has military applications. Such security-related technology can be withheld from transfer under the present terms of the draft treaty, but only under a terminal penalty -- the withheld technology cannot be used in any ocean mining project. If not modified, such a sanction provision will undoubtedly generate industry pressure on signatory governments to authorize the transfer of technology which has been embargoed on grounds of national security. Accordingly, the U.S. would be reluctant to transfer ocean related technology to allies who sign the treaty as now drafted because of our concern that their mining industry might be allowed to transfer this technology to the enterprise or developing countries.

(U) Because our respective LCS delegations will begin holding intersessional meetings on February 8, I hope that you can give this matter your earliest attention. Sincerely, Signed:
Casper W. Weinberger."

Sincerely,


D. L. HEISING
Captain, U.S. Navy
Defense Attache

STATEMENT BY THE PRESIDENT

The world's oceans are vital to the United States and other nations in diverse ways. They represent waterways and airways essential to preserving the peace and to trade and commerce; are major sources for meeting increasing world food and energy demands and promise further resource potential. They are a frontier for expanding scientific research and knowledge, a fundamental part of the global environmental balance and a great source of beauty, awe and pleasure for mankind.

Developing international agreement for this vast ocean space, covering over half of the earth's surface, has been a major challenge confronting the international community. Since 1973 scores of nations have been actively engaged in the arduous task of developing a comprehensive treaty for the world's oceans at the Third United Nations Conference on Law of the Sea. The United States has been a major participant in this process.

Serious questions had been raised in the United States about parts of the draft convention and, last March, I announced that my Administration would undertake a thorough review of the current draft and the degree to which it met United States interests in the navigation, overflight, fisheries, environmental, deep seabed mining and other areas covered by that convention. We recognize that the last two sessions of the Conference have been difficult, pending the completion of our review. At the same time, we consider it important that a Law of the Sea treaty be such that the United States can join in and support it. Our review has concluded that while most provisions of the draft convention are acceptable and consistent with United States interests, some major elements of the deep seabed mining regime are not acceptable.

I am announcing today that the United States will return to those negotiations and work with other countries to achieve an acceptable treaty. In the deep seabed mining area, we will seek changes necessary to correct those unacceptable elements and to achieve the goal of a treaty that:

- o will not deter development of any deep seabed mineral resources to meet national and world demand;
- o will assure national access to these resources by current and future qualified entities to enhance U.S. security of supply, to avoid monopolization of the resources by the operating arm of the International Authority, and to promote the economic development of the resources;

- o will provide a decision-making role in the deep seabed regime that fairly reflects and effectively protects the political and economic interests and financial contributions of participating states;
- o will not allow for amendments to come into force without approval of the participating states, including in our case the advice and consent of the Senate;
- o will not set other undesirable precedents for international organizations; and
- o will be likely to receive the advice and consent of the Senate. In this regard, the convention should not contain provisions for the mandatory transfer of private technology and participation by and funding for national liberation movements.

The United States remains committed to the multilateral treaty process for reaching agreement on Law of the Sea. If working together at the Conference we can find ways to fulfill these key objectives, my Administration will support ratification.

I have instructed the Secretary of State and my Special Representative for the Law of the Sea Conference, in coordination with other responsible agencies, to embark immediately on the necessary consultations with other countries and to undertake further preparations for our participation in the Conference.

(29 January 1982)



26 FEB 1968

RECEIVED
11
1
9
0
7
6



With the compliments of

THE PRIVATE SECRETARY

John Holmes.

26.2.82

k.a.

AL 3/3.

FOREIGN AND COMMONWEALTH OFFICE
SW1A 2AH

RESTRICTED

RESTRICTED

FM OTTAWA 252152Z FEB 82

TO IMMEDIATE FCO

TELEGRAM NUMBER 110 OF 25 FEBRUARY

INFO IMMEDIATE UKMIS NEW YORK

cc Mrs Coles (No 10)

LAW OF THE SEA CONFERENCE

1. ACTING LEGAL ADVISER AT EXTERNAL AFFAIRS CALLED ME IN THIS AFTERNOON AT VERY SHORT NOTICE TO DELIVER AN AIDE MEMOIRE WHICH READS AS FOLLOWS:

THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA IS SCHEDULED TO BEGIN ITS ELEVENTH (AND FINAL) SESSION IN NEW YORK ON MARCH 8, 1982. THE CANADIAN GOVERNMENT ATTACHES THE HIGHEST IMPORTANCE TO THE SUCCESSFUL CONCLUSION OF THE CONFERENCE AND THE ADOPTION OF A BROADLY ACCEPTABLE CONVENTION ON THE LAW OF THE SEA. IT CONSIDERS THAT SUCH A CONVENTION IS NECESSARY FOR ASSURING WORLD PEACE AND STABILITY AND THE RATIONAL AND EQUITABLE UTILIZATION OF THE OCEANS.

THE CANADIAN GOVERNMENT WISHES TO EXPRESS THE FIRM VIEW THAT NO STEPS SHOULD BE TAKEN OR ANY ARRANGEMENTS ENTERED INTO BY ANY GOVERNMENT UNTIL THE CONCLUSION OF THE CONFERENCE WHICH WOULD BE INCONSISTENT WITH THE PRINCIPLES AND SPIRIT OF THE NEGOTIATED COMPROMISES REFLECTED IN THE DRAFT CONVENTION. SPECIFICALLY, IF THE RECIPROCAL STATES AGREEMENT WERE TO BE SIGNED EITHER DURING THE INTERSESSIONAL MEETING CURRENTLY UNDERWAY OR DURING THE GROUP OF 77 MEETING FROM MARCH 3 TO 5, OR DURING THE ELEVENTH SESSION OF THE CONFERENCE ITSELF, THE LOS CONFERENCE COULD WELL BE ADVERSELY AFFECTED, AND THE GROUP OF 77 AND OTHERS MIGHT BE LESS WILLING TO CONSIDER ANY FURTHER COMPROMISES. THE POSSIBILITY OF ADOPTING A CONVENTION ON THE LAW OF THE SEA BY CONSENSUS WOULD THEREBY BE SIGNIFICANTLY REDUCED.

2. IN DISCUSSION, HE EMPHASISED THE SERIOUSNESS WITH WHICH CANADA WOULD REGARD ANY MOVE TO A RECIPROCAL STATES AGREEMENT, PARTICULARLY WHEN THE CONFERENCE WAS ABOUT TO RECONVENE.

3. I SAID THAT I HAD ABSOLUTELY NO INFORMATION ABOUT WHETHER OR NOT WE WERE CONSIDERING SUCH AN AGREEMENT BUT WOULD CONVEY THE CANADIAN GOVERNMENT'S VIEWS URGENTLY TO YOU.

DAVIES

LIMITED

MAED
UND
ECD (E)
LEGAL ADVISERS
PS
PS/LPS

PS/MR HURD
PS/PUS
LORD BRIDGES
MR ADAMS
MR POWELL-JONES
MR EVANS

ADDITIONAL DISTRIBUTION

UNLOSC
COPIES TO
SIR I SINCLAIR
LEGAL ADVISER

RESTRICTED

RESTRICTED

RESTRICTED

FM OTTAWA 252152Z FEB 82

TO IMMEDIATE FCO

TELEGRAM NUMBER 110 OF 25 FEBRUARY

INFO IMMEDIATE UKMIS NEW YORK

cc Mrs Coles (Nota)

LAW OF THE SEA CONFERENCE

1. ACTING LEGAL ADVISER AT EXTERNAL AFFAIRS CALLED ME IN THIS AFTERNOON AT VERY SHORT NOTICE TO DELIVER AN AIDE MEMOIRE WHICH READS AS FOLLOWS:

THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA IS SCHEDULED TO BEGIN ITS ELEVENTH (AND FINAL) SESSION IN NEW YORK ON MARCH 8, 1982. THE CANADIAN GOVERNMENT ATTACHES THE HIGHEST IMPORTANCE TO THE SUCCESSFUL CONCLUSION OF THE CONFERENCE AND THE ADOPTION OF A BROADLY ACCEPTABLE CONVENTION ON THE LAW OF THE SEA. IT CONSIDERS THAT SUCH A CONVENTION IS NECESSARY FOR ASSURING WORLD PEACE AND STABILITY AND THE RATIONAL AND EQUITABLE UTILIZATION OF THE OCEANS.

THE CANADIAN GOVERNMENT WISHES TO EXPRESS THE FIRM VIEW THAT NO STEPS SHOULD BE TAKEN OR ANY ARRANGEMENTS ENTERED INTO BY ANY GOVERNMENT UNTIL THE CONCLUSION OF THE CONFERENCE WHICH WOULD BE INCONSISTENT WITH THE PRINCIPLES AND SPIRIT OF THE NEGOTIATED COMPROMISES REFLECTED IN THE DRAFT CONVENTION. SPECIFICALLY, IF THE RECIPROCAL STATES AGREEMENT WERE TO BE SIGNED EITHER DURING THE INTERSESSIONAL MEETING CURRENTLY UNDERWAY OR DURING THE GROUP OF 77 MEETING FROM MARCH 3 TO 5, OR DURING THE ELEVENTH SESSION OF THE CONFERENCE ITSELF, THE LOS CONFERENCE COULD WELL BE ADVERSELY AFFECTED, AND THE GROUP OF 77 AND OTHERS MIGHT BE LESS WILLING TO CONSIDER ANY FURTHER COMPROMISES. THE POSSIBILITY OF ADOPTING A CONVENTION ON THE LAW OF THE SEA BY CONSENSUS WOULD THEREBY BE SIGNIFICANTLY REDUCED.

2. IN DISCUSSION, HE EMPHASISED THE SERIOUSNESS WITH WHICH CANADA WOULD REGARD ANY MOVE TO A RECIPROCAL STATES AGREEMENT, PARTICULARLY WHEN THE CONFERENCE WAS ABOUT TO RECONVENE.

3. I SAID THAT I HAD ABSOLUTELY NO INFORMATION ABOUT WHETHER OR NOT WE WERE CONSIDERING SUCH AN AGREEMENT BUT WOULD CONVEY THE CANADIAN GOVERNMENT'S VIEWS URGENTLY TO YOU.

DAVIES

LIMITED

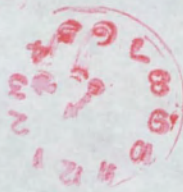
MAED
UND
ECD (E)
LEGAL ADVISERS
ES
PS/LPS

PS/MR HURD
PS/PUS
LORD BRIDGES
MR ADAMS
MR POWELL-JONES
MR EVANS

ADDITIONAL DISTRIBUTION

UNLOSC
COPIES TO
SIR I SINCLAIR
LEGAL ADVISER

RESTRICTED



26 FEB 1982

25 February 1982

Foreign Policy

MR COLES *✓ m 25/2*

LAW OF THE SEA

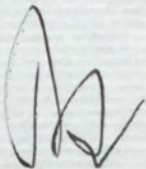
Thanks for passing me the letter from John Holmes, which I return. I will write something on the lines he suggests to Simon Webley.

Meanwhile, I am passing you a letter, together with enclosures including a paper by Professor Denman, which Michael Ivens of AIMS has sent to Douglas Hurd.

It looks as if it is making many of the same points as were made in Simon Webley's letter. I understand that Denman is an authority on the Law of the Sea.

I am copying this note to John Holmes for information, but not the enclosures, as Mr Hurd already has them.

I am copying this note also, together with copies of the enclosures, to Robin Ibbs at CPRS.



JOHN HOSKYNS

CF



Foreign and Commonwealth Office

London SW1A 2AH

24 February 1982

Mr. Hoskyns

Do you want to write on these

lines?

We clearly cannot say anything more
until we know what we are going
to say to President Reagan.A.J.C. ²⁴/₂

Dear John,

Law of the Sea

Thank you for your letter of 10 February enclosing a letter sent to John Hoskyns by Mr Webley of the British-North American Research Association.

As you say, there is clearly a campaign by some elements in the US Administration, working through industrialists here, to press the British Government to support the changes which the US are seeking in the deep sea mining provisions of the Draft Convention on the Law of the Sea. We have also received approaches from Ian MacGregor and from Michael Ivens of Aims of Industry and Mr Hurd has now agreed to see these two when he returns from the Middle East.

We are considering urgently what advice to offer in the light of your letter of 18 February about President Reagan's message to the Prime Minister which we are discussing with other Departments in Whitehall. I hope that we shall soon be in a position to let you have a draft reply to President Reagan. But meanwhile I think it might be useful to send something of a holding reply to Mr Webley. I enclose a draft.

Yours ever

John Holmes

(J E Holmes)
Private Secretary

Return → A J Coles Esq
10 Downing Street



(By Hand)

February 17 1982

Hon Douglas Hurd CBE MP
Minister of State
Foreign and Commonwealth Office
Downing Street
London SW1A 2AL

Dear Minister of State,

Last week Donald Denman, who is preparing a paper for us on the Law of the Sea, visited the United States and had discussions with Ambassador Malone who is the President's representative at the United Nations on this matter.

As a result of Ambassador Malone's concern about Britain's position on this matter, which will be before the United Nations next month, Professor Denman has written to the Prime Minister. He has stressed that the United States are very concerned at the intended world policy on this matter and believe that the draft Convention could be equally harmful to Britain, the Western democracies and Japan.

I am enclosing the material that Professor Denman sent to the Prime Minister: a memorandum following a discussion with Ambassador Malone, Admiral Bruce Harlow and Admiral W.C. Mott; a statement from the Office of the President's Press Secretary; a paper from Ambassador Malone and a Fact Sheet also from the Office of the President's Press Secretary.

Because of the urgency of the matter, Professor Denman and I would very much welcome the opportunity of a discussion on this matter at which Professor Denman will present more detailed information.

It is our intention to publish a paper by Professor Denman on the Law of the Sea, with a press conference, at the end of next week.

Yours sincerely
Michael Ivens

Michael Ivens

40 Doughty Street, London WC1N 2LF Tel: 01-405 5195

Sir John Reiss, B.E.M., President of the Council; John Lyle, Chairman of the Council,
H. G. Starley, C.B.E., Vice-President; Sir Frank Taylor, D.Sc.(Hon.), F.I.C.E., Vice-President; Adam K. Bergius, D.S.C., (Chairman, Scotland),
J. G. Cluff, R. W. Dean, Sir John Foster, K.B.E., Q.C., W. R. B. Foster, Ian Gilbert, E. J. Gordon Henry, J. P. Hourston, C.A., Justin Kornberg, G. N. Mobbs,
Lawrence Orchard, C.B.E., T.D., Sir Neil Shanks, M.C., Mrs. Nora Tew, I.D.D.A., Brian Trafford, Thomas Tudor, Michael E. Waters, Col. W. H. Whitbread, T.D.,
Scottish Committee: Adam K. Bergius, D.S.C., Chairman; M. J. G. Wyse, M.B.E., Deputy Chairman; P. A. Barns, Graham, C. H. K. Finlayson, E. J. Gordon Henry,
Mrs. M. Hook, John E. Milne, James Moore, R. B. Weatherstone, H. A. Whitson, C.B.E., B.A.

Director: Michael Ivens

LAW OF THE SEA REVISIONS OF DRAFT CONVENTION

Memorandum following a discussion with
Ambassador Malone of the US Government
and Admiral Bruce Harlow and Admiral
W.C. Mott of the US Navy at Washington
D.C. on 9 February, 1982.

1. The review of the current draft Convention of the United Nations' Law of the Sea undertaken by the US Government since March 1981 leaves the US Government much disturbed by the intended world policy for handling the immense wealth of the mineral resources on the sea floor of the deep oceans.
2. The US Administration has a double concern. What it sees in the draft Convention as harmful to the US is also, in the view of the US, no less harmful to Britain and the Western democracies and Japan. It is imperative that the call for revision should not therefore be seen as coming from the US alone, as if the US were concerned only for her own interests.
3. There are two main aspects of the proposed Law of the Sea Convention - one covers the navigation of the seas, the other exploitation of the resources of the sea and the seabed. Both are of equal importance in the long run for the United States and for Britain. Concentration on navigation aspects has, in the past, overshadowed the strategic importance of access to the deep sea minerals. Hence the urgent case to review the proposals.

4. The draft policy for exploiting mineral resources also has two broad divisions. One recognises the Sovereign right of coastal states over the resources of contiguous coastal waters and their seabed (i.e. territorial seas, exclusive economic zones, continental shelves, and so on), and the other covers the vast mineral resources of the deep oceans which lie beyond the national jurisdictions. The US criticism and concern is directed to the latter aspect of the draft Convention.

5. Attached to this Memorandum is a statement from Ambassador Malone who is leading the US delegates at the Law of the Sea Conference in March 1982. The statement sets out simply the US grounds for concern over the terms of the current draft Convention. It also refers to proposals already made by the US Government and sent to the UK Government for a revision of the draft Convention so as to remove its defects. The US calls her allies to support her stand in their own interests. It is a matter of utmost urgency to bring the US criticisms to the attention of the relevant industrial interest^S in Britain and to urge the Government to instruct its spokesman at the forthcoming Law of the Sea Conference to support the American revisions or something like them. Public opinion in Britain is ill-informed of the facts of the Law of the Sea draft Convention, its tremendous implications for the future and its dangers.

6. The American criticisms, as stated by Ambassador Malone, can be related in detail to the specific Articles of the draft Convention which gives rise to them. To do so would result in a technical detailed analysis - necessary and suitable for

preparing to present the case in plenary and formal debate - but an exercise which could confuse the issues for the layman and for those who need only grasp the main lines of contention to see how necessary it is to support the US. Nevertheless, it could help lay understanding to have the following broad examples of the main features of the proposed policy which underlie the US misgivings.

- 7.(a) There is to be set up the International Seabed Authority governed by an Assembly and an executive organ called the Council and assisted by a number of ad hoc Commissions.
- (b) The Authority shall have absolute and exclusive control over the resources of the seabed of the deep oceans (to be called the Area) and shall engage in mining and other activities itself through an operative organ - the Enterprise.
- (c) Access to the deep sea resources will therefore be barred to industrialists of the world and to all national institutions, except through the portals of the Authority. Its administration will be entirely bureaucratic and, inevitably, politicised; a policy which could not possibly be in accord with sound economic development and private enterprise.
- (d) The draft Convention gives sanction to the Authority in the most ambiguous terms; to act, for example, "on behalf of mankind as a whole"; for "the benefit of the international community"; for "the healthy development of the world economy"; and to administer the area as the "common heritage of mankind".
- (e) The draft Convention is inherently contradictory. It

requires the Authority to avoid discrimination and yet, time and time again for various reasons, the Authority is given a mandate to discriminate in favour of developing countries, the land-locked and the geographically disadvantaged. To take one example, compensation must be paid to developing countries which suffer adversity from activities in the Area; but no provision is made for similar compensation to other countries which are likewise affected.

- (f) The terms on which mining contracts can be granted would not be tolerable in any free market and fair economy. For every potential mining area found contractors will be expected to offer a second area to the Enterprise or to a developing country and to provide data, scientific knowledge and a full ranging technology and training of personnel to go with it. The industrialist will be required therefore to give his secrets away to his competitors and to train the competitors in the use of them against him. The transfer of technology, apart from giving competitors an unjust advantage, could mean the free international distribution of patents with all that that entails for loss of rights. Moreover by such disclosure international security could be threatened.
- (g) A contractor is faced not only with the uncertainty of what those onerous demands might lead to, but should he prolong negotiations beyond what the Authority judges to be a reasonable time, he is likely to face an arbitration procedure and have terms dictated to him or suffer heavy

penalties if he refuses to comply.

- (h) The Enterprise would come to exercise an absolute monopoly over at least one half of the deep seabed resources of the world and with the privileges accorded to it would hold a most unjust advantage over all other operators, especially private concerns.
- (i) The construction and voting arrangements for the Assembly, the Council and the other organs of the Authority would put those nations whose technical knowledge, economies and industrial structures have the most to give to development of the deep seabed resources of the world at a most serious disadvantage. The voting powers of America in the Assembly for ~~entry~~ ^{Access to} entry would be the same as that of the Gambia or of Malta. Voting for the 36 members of the Council is deliberately pre-conditional in favour of the developing countries and the Eastern (Socialist) European Region. The voting formula refers to "an equitable geographical distribution of seats" and defines this as meaning that each region shall have at least one member and that the regions shall be by name, Africa, Asia, Eastern Europe (Socialist), Latin America and Western Europe. Where is the USA, Australia, Canada and Britain? Other facets of the formula require, for example, four members from major importers of minerals, one of which must be from the Eastern (Socialist) European Region.
- (j) After 20 years, the Assembly shall call a review

conference. The review conference will have power to amend the articles of the Convention by a voting system, similar to that used at the Third UN Conference of the Law of the Sea - that is upon a two thirds vote of the members of the Conference. The decision would be binding upon the dissenting members who would already be committed as members of the Assembly. Thus the future could be taken wholly out of the hands of one third of all participating nations.

8. The purpose of this Memorandum is to draw attention to those proposals in the draft Convention of the Law of the Sea which are so adverse to the best interests of Britain and her allies, especially the USA, and to inform public opinion, industry and Parliament in the hope that immediate action will be taken by Government to instruct Britain's spokesman at the Law of the Sea Conference in March to support the USA and call for a revision of policy for handling the future winning and development of the resources of the seabed of the deep oceans.

D.R. Denman,
D.Sc., Ph.D., M.A., M.Sc.,
FRICS.

14 February 1982

FOR RELEASE AT CONCLUSION OF
THE BRIEFING, EXPECTED ABOUT

STATEMENT BY THE PRESIDENT

The world's oceans are vital to the United States and other nations in diverse ways. They represent waterways and airways essential to preserving the peace and to trade and commerce; are major sources for meeting increasing world food and energy demands and promise further resource potential. They are a frontier for expanding scientific research and knowledge, a fundamental part of the global environmental balance and a great source of beauty, awe and pleasure for mankind.

Developing international agreement for this vast ocean space, covering over half of the earth's surface, has been a major challenge confronting the international community. Since 1973 scores of nations have been actively engaged in the arduous task of developing a comprehensive treaty for the world's oceans at the Third United Nations Conference on Law of the Sea. The United States has been a major participant in this process.

Serious questions had been raised in the United States about parts of the draft convention and, last March, I announced that my Administration would undertake a thorough review of the current draft and the degree to which it met United States interests in the navigation, overflight, fisheries, environmental, deep seabed mining and other areas covered by that convention. We recognize that the last two sessions of the Conference have been difficult, pending the completion of our review. At the same time, we consider it important that a Law of the Sea treaty be such that the United States can join in and support it. Our review has concluded that while most provisions of the draft convention are acceptable and consistent with United States interests, some major elements of the deep seabed mining regime are not acceptable.

I am announcing today that the United States will return to those negotiations and work with other countries to achieve an acceptable treaty. In the deep seabed mining area, we will seek changes necessary to correct those unacceptable elements and to achieve the goal of a treaty that:

- o will not deter development of any deep seabed mineral resources to meet national and world demand;
 - o will assure national access to these resources by current and future qualified entities to enhance U.S. security of supply, to avoid monopolization of the resources by the operating arm of the International Authority, and to promote the economic development of the resources;
-
- o will provide a decision-making role in the deep seabed regime that fairly reflects and effectively protects the political and economic interests and financial contributions of participating states;
 - o will not allow for amendments to come into force without approval of the participating states, including in our case the advice and consent of the Senate;
 - o will not set other undesirable precedents for international organizations; and
 - o will be likely to receive the advice and consent of the Senate. In this regard, the convention should not contain provisions for the mandatory transfer of private technology and participation by and funding for national liberation movements.

The United States remains committed to the multilateral treaty process for reaching agreement on Law of the Sea. If working together at the Conference we can find ways to fulfill these key objectives, my Administration will support ratification.

I have instructed the Secretary of State and my Special Representative for the Law of the Sea Conference, in coordination with other responsible agencies, to embark immediately on the necessary consultations with other countries and to undertake further preparations for our participation in the Conference.

FOR RELEASE AT CONCLUSION OF
THE BRIEFING, EXPECTED ABOUT

FACT SHEET

UNITED STATES LAW OF THE SEA POLICY

Today the President announced his decision that the United States will return to the negotiations at the Third United Nations Conference on the Law of the Sea and work with other countries to achieve an acceptable treaty for the world's oceans. This follows a comprehensive interagency review of United States Law of the Sea objectives and interests as they relate to the current draft convention.

Preparations for the Third United Nations Conference on the Law of the Sea began in 1969. The first substantive session of the conference was convened in Caracas, Venezuela, in 1974. Ten sessions of the conference have been held since then to develop a consensus agreement on provisions covering the full range of ocean interests. These include:

- o exploration and exploitation of deep seabed mineral resources;
- o extent and nature of coastal state jurisdiction over living resources;
- o extent of coastal state jurisdiction over the resources of the continental margin;
- o limits of the territorial sea;

- o navigation and overflight rights on the high seas, in territorial seas, in straits and in archipelagoes;
- o delimitation of boundaries between opposite and adjacent states;
- o the rights of landlocked and geographically disadvantaged states;
- o protection of the marine environment;
- o freedom on marine scientific research; and
- o peaceful settlement of disputes

Over 150 nations have participated in this effort. By 1980, the conference had reached agreement on all but four outstanding issues: the delimitation of the outer edge of the continental margin, participation of regional organizations in the treaty, establishment of a preparatory commission, and grandfather rights for existing deep seabed miners. Most participants expected that the negotiations would conclude in 1981.

Serious concerns had been raised within the United States, however, specifically with respect to the deep seabed mining provisions of the draft convention. The proposed treaty has some unacceptable elements. Consequently, on March 2, 1981, the Administration announced that it was initiating a comprehensive review of United States law of the sea policy.

The United States sought to ensure that there was sufficient time for the review of the proposed draft convention before negotiations were concluded. The conference proceeded with technical drafting work and discussion of several outstanding issues during a five week session in March-April 1981. In August 1981 the conference reconvened in Geneva for five weeks during which the United States aired a series of substantive concerns with respect to the deep seabed provisions of the draft convention. The United States sought to elicit candid reactions to areas of its concern and to explore the kinds of solutions that could reasonably be expected to result from further negotiations. The next session of the conference begins in early March.

United States concerns about the draft convention center on those issues of access, development decision-making, and other provisions noted in the President's statement. Particular elements of the deep seabed provisions that give rise to U.S. concerns include:

policy-making in the seabed Authority would be carried out by a one-nation, one-vote Assembly;

the Executive Council which would make the day-to-day decisions affecting access of U.S. miners to deep seabed minerals would not have permanent or guaranteed representation by the United States, and the United States would not have influence on the Council commensurate with its economic and political interests;

- o a Review Conference would have the power to impose treaty amendments on the United States without its consent;
- o the treaty would impose artificial limitations on seabed mineral production;
- o the treaty would give substantial competitive advantages to a supranational mining company -- the Enterprise;
- o private deep seabed miners would be subject to a mandatory requirement for the transfer of technology to the Enterprise and to developing countries;
- o the new international organization would have discretion to interfere unreasonably with the conduct of mining operations, and it could impose potentially burdensome regulations on an infant industry; and
- o the treaty would impose large financial burdens on industrialized countries whose nationals engaged in deep seabed mining and financial terms and conditions which would significantly increase the costs of mineral production.

The deep seabed offers a potentially important alternative source of minerals. While current world demand and metals markets do not justify commercial-scale development at this time, multinational consortia have invested substantial amounts to develop technology and to prospect. When economic factors become favorable, deep seabed mining is likely to be an important undertaking.

The draft Law of the Sea Treaty is fundamentally defective because it:

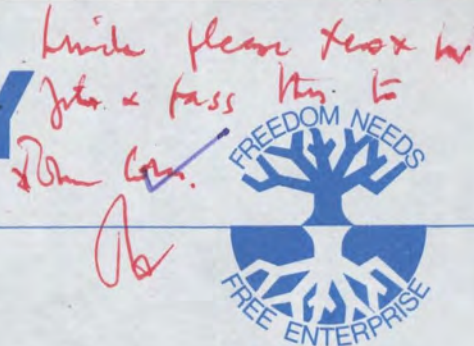
- artificially limits deep seabed mineral production and provides for discretion and discrimination if there is competition for limited production allocations;
- discourages private investment in deep seabed mineral production because of: lack of certainty in the granting of mining contracts, mandatory technology transfer requirements, and burdensome financial requirements;
- creates a privileged supranational competitor -- the Enterprise -- whose advantages could make it extremely difficult, if not impossible, for private ventures -- absent national subsidies -- to compete. A supranational monopoly over deep seabed mineral production could thus result;
- fails to provide grandfather rights for existing investment in deep seabed mineral development;
- establishes a decision-making system so structured that US and other potential deep seabed mineral producers and consumers will be unable effectively to influence important policy and operational decisions;
- provides for a review conference which, after five years of negotiation, may adopt amendments to the deep seabed mining regime that would automatically enter into force for the US upon approval by two-thirds of the States Parties;
- allows participation by and funding for liberation groups;

The United States has prepared proposals to correct these problems. These proposals have been given to the UK delegation. The United States hopes that the UK will strongly support the US proposals.

Without a unified UK-US position a treaty will be adopted which will probably put an end to the prospects for deep seabed mining. With a unified UK-US position the Western allies will support these changes and it will be possible to make the Law of the Sea Treaty acceptable.

AIMS OF INDUSTRY

The free enterprise organisation



For release: Noon, Wednesday, February 24 1982

SIGNING THIS U.N. CONVENTION WOULD BE DISASTROUS
America V. Rest of the World would be
propaganda victory for Soviet Union

Britain should join the United States in rejecting or amending the draft text of the Law of the Sea at the United Nations' Conference next month, states Professor Donald Denman in a paper for Aims of Industry. The Conference starts on March 8 and finishes on April 13.

The proposed policy would set up a giant UN Quango to be called "The Enterprise" which would come to exercise an absolute monopoly over at least one half of the deep seabed resources of the world. The proposed law has been written in favour of the developing countries and the Soviet Union and Eastern bloc countries. A warning paper, "The Law of the Sea Convention. Need to think again before we sign"* has been written by Professor D.R. Denman, former head of the Department of Land Economy at the University of Cambridge, and a foremost expert on this subject. It is published by Aims of Industry and an early copy has been sent to the Prime Minister, the Foreign Office and the Minister of Energy.

"Britain and its Western allies should not leave America to stand alone on this issue," said Michael Ivens, Director of Aims of Industry. "That is one reason why we have published Professor Denman's paper. It would be disastrous if the outcome of the UN Conference became America V. the Rest of the World. This would be a propaganda gift to the Soviet Union.

m.f.

"The Law of the Sea Convention. Need to think again before we sign", by D.R. Denman: Aims of Industry, 40 Doughty Street, London WC1N 2LF; free with postage (12½p).

40 Doughty Street, London WC1N 2LF Tel: 01-405 5195

Sir John Reiss, B.E.M., *President of the Council*, John Lyle, *Chairman of the Council*,
H. G. Starley, C.B.E., *Vice-President*, Sir Frank Taylor, D.Sc.(Hon.), F.I.O.B., *Vice-President*, Adam K. Bergius, D.S.C., (*Chairman, Scotland*),
J. G. Cluff, R. W. Dean, Sir John Foster, K.B.E., Q.C., W. R. B. Foster, Ian Gilbert, E. J. Gordon Henry, J. P. Hourston, C.A., Justin Kornberg, G. N. Mobbs,
Lawrence Orchard, C.B.E., T.D., Sir Neil Shields, M.C., Mrs. Norah Tew, I.D.D.A., Brian Trafford, Thomas Tudor, Michael E. Wates, Col. W. H. Whitbread, T.D.,
Scottish Committee: Adam K. Bergius, D.S.C., *Chairman*, M. J. G. Wylie, M.B.E., *Deputy Chairman*, P. A. Barns-Graham, C. H. K. Finlayson, E. J. Gordon Henry,
Mrs. M. Hook, John E. Milne, James Moore, R. B. Weatherstone, H. A. Whitson, C.B.E., B.A.

Director: Michael Ivens

Aims of Industry—a company limited by guarantee. Registered in England No. 457622
VAT Reg. No. 244 6295 51

Registered office: 40 Doughty Street, London WC1N 2LF

We have asked for meetings with the Foreign Office and the Ministry of Energy on this matter."

"The UN Enterprise would hold a most unjust advantage over all other operators, especially private concerns," states Professor Denman. The voting powers of America or Britain would be the same as Gambia or Malta. The voting formula for the 36 members of the Council is based on regions of Africa, Asia, Eastern Europe (Socialist), Latin America and Western Europe.

The proposed laws would bar access on the deep sea resources to anyone "except through the portals of the authority".

As Professor Denman points out, "For every potential mining area found, contractors will be expected to offer a second area to the Enterprise or to a developing country and to private data, scientific knowledge and a full ranging technology and training of personnel to go with it. The industrialist will be required therefore to give his secrets away to his competitors and to train the competitors in the use of them against him. The transfer of technology, apart from giving competitors an unjust advantage, could mean the free international distribution of patents with all that that entails for loss of rights."

"There is a movement to include among the voting members of the world Convention," points out Professor Denman, "liberation groups and other such bodies devoid of proper national status and this movement should be countered."

Britain and America should not quit the Law of the Sea Conference, states Professor Denman, but they should look for arrangements which will not create an international authority monopoly, and "will preclude all amendments to an established Convention without the approval of all participating states," and prevent the transfer of scientific knowledge and technology possessed by private firms to others likely to compete against them.

- End -

Enclosure: "The Law of the Sea Convention:
Need to think again before we sign"

Further information: Ken Daly 01 405 5195 (evenings: 0342 712 779)
Michael Ivens 01 405 5195 (evenings: 01 722 2311)
Donald Denman 02233 57725 or 01 458 6080

THE LAW OF THE SEA CONVENTION

Need to think again
before we sign

D. R. DENMAN

FEBRUARY 1982

AIMS OF INDUSTRY

The free enterprise organisation

THE LAW OF THE SEA CONVENTION

Need to think again before we sign

1. Member nations of the UN Third Law of the Sea Conference were last year about to sign the text of a world Convention when the USA Government called a halt and asked for time to review the draft text. That review has now taken place and the Law of the Sea Conference is due to meet again next month. The American caution stands on solid grounds. Constructive proposals have been made to amend the draft Convention in the light of the review. Britain's attitude is of the utmost importance to America, ourselves and our allies. The case to support the Americans is a strong one and carries with it the need for a better informed public opinion.
 2. There are two main aspects of the proposed Law of the Sea Convention—one covers the navigation of the seas and the other the exploitation of the resources of the sea and the seabed. Both are of equal importance in the long run to the United States and to Britain. Concentration on the navigation aspects of the Convention had in the past overshadowed the strategic importance to the industrial nations of access to the deep sea minerals. Hence the urgent case to review the current proposals and the draft Convention that embodies them.
 3. The proposed policy for exploiting the vast minerals resources of the deep oceans also has two broad divisions. One recognises the sovereign right of coastal states over the resources of contiguous coastal waters and their sea bed (i.e. territorial seas, exclusive economic zones, continental shelves and so forth) and the other covers the vast wealth of mineral resources of the deep oceans which lie beyond the national jurisdictions. America's concern, which should also be Britain's, arises from what is proposed in the latter aspect of the draft Convention and for the following more specific reasons.
 4. (a) There is to be set up the International Seabed Authority governed by an Assembly and an executive organ called the Council and assisted by a number of ad hoc Commissions.
(b) The Authority shall have absolute and exclusive control over the resources of the seabed of the deep oceans (to be called the Area) and shall be engaged in mining and other activities itself through an operative organ—the Enterprise.
(c) Access to the deep sea resources will therefore be barred to industrialists of the world and to all national institutions, except through the portals of the Authority. Its administration will be entirely bureaucratic and, inevitably, politicised; a policy which could not possibly be in accord with sound economic development and private enterprise.
(d) The draft Convention gives sanction to the Authority in the most ambiguous terms; to act, for example, "on behalf of mankind as a whole"; for "the benefit of the international community"; for "the healthy development of the world economy"; and to administer the area as the "common heritage of mankind".
- (e) The draft Convention is inherently contradictory. It requires the Authority to avoid discrimination and yet, time and time again for various reasons, the Authority is given a mandate to discriminate in favour of developing countries, the land-locked and the geographically disadvantaged. To take one example, compensation must be paid to developing countries which suffer adversity from activities in the Area; but no provision is made for similar compensation to other countries which are likewise affected.
 - (f) The terms on which mining contracts can be granted would not be tolerable in any free market and fair economy. For every potential mining area found contractors will be expected to offer a second area to the Enterprise or to a developing country and to private data, scientific knowledge and a full ranging technology and training of personnel to go with it. The industrialist will be required therefore to give his secrets away to his competitors and to train the competitors in the use of them against him. The transfer of technology, apart from giving competitors an unjust advantage, could mean the free international distribution of patents with all that that entails for loss of rights. Moreover by such disclosure international security could be threatened.
 - (g) A contractor is faced not only with the uncertainty of what those onerous demands might lead to, but should he prolong negotiations beyond what the Authority judges to be a reasonable time, he is likely to face an arbitration procedure and have terms dictated to him or suffer heavy penalties if he refuses to comply.
 - (h) The Enterprise would come to exercise an absolute monopoly over at least one half of the deep seabed resources of the world and with the privileges accorded to it would hold a most unjust advantage over all other operators, especially private concerns.
 - (i) The construction and voting arrangements for the Assembly, the Council and the other organs of the Authority would put those nations whose technical knowledge, economies and industrial structures have the most to give to development of the deep seabed resources of the world at a most serious disadvantage. The voting powers of America in the Assembly for example would be the same as that of the Gambia or of Malta. Voting for the 36 members of the Council is deliberately pre-conditioned in favour of the developing countries and the Eastern (Socialist) European Region. The voting formula refers to "an equitable geographical distribution of seats" and defines this as meaning that each region shall have at least one member and that the regions shall be by name, Africa, Asia, Eastern Europe (Socialist), Latin America and Western Europe. Where is the USA, Australia, Canada and Britain? Other facets of the formula require, for example, four members from major importers of minerals, one of which must be from the Eastern (Socialist) European Region.
 - (j) After 20 years, the Assembly shall call a review conference. The review conference will have power to amend the articles of the Convention by a voting system, similar to that used at the Third United Nations Conference of the Law of the Sea—that is upon a two thirds vote of the members of the Conference. The decision would be binding upon the dissenting members who would already be committed as members of the Assembly. Thus the future could be taken wholly out of the hands of one third of all participating nations.

- (k) Pending the signing of the Convention, leading industrial nations including Britain have taken steps to regulate by law the lifting of mineral resources from the deep seas. Parliament, in Britain, for example has recently passed the Deep Sea Mining (Temporary Provisions) Act 1981. The present draft Convention fails to secure to private and national interests who will have committed vast sums and effort to the deep sea floor as sanctioned by these recent laws, a proprietary right to the workings so established.
- (l) There is a movement to include among the voting members of the world Convention liberation groups and other such bodies devoid of proper national status and this movement should be countered.

5. There should be no question of either America or Britain quitting the Law of the Sea Conference and its negotiations for a world Convention. But a just stand supported, it is hoped, by the other industrial nations should ensure a better balanced outcome by providing a revised text that:

- (i) will facilitate rather than deter the development of deep seabed mineral resources to meet both specific national needs and world demand;
- (ii) avoid the monopolisation of the deep sea resources by the Enterprise or such other organ of an international authority;
- (iii) will ensure a decision-making process over the deep sea bed that is balanced and fair and reflects and protects the political and economic interests and financial commitments of all participating states;
- (iv) will preclude all amendments to an established Convention without the approval of all participating states;
- (v) prevent the mandatory transfer of patents, scientific knowledge and technology possessed by private firms and institutions to others likely to compete against them;
- (vi) duly recognise and secure the proprietary rights of operators over installations for mining the deep sea floor prior to the signing of the Convention.

CONFIDENTIAL

Foreign Pol.

880



B.F.

10 DOWNING STREET

From the Private Secretary

18 February 1982

LAW OF THE SEA NEGOTIATIONS

I enclose a message which the Prime Minister has received from President Reagan on the above subject and which was forwarded by the American Embassy this morning.

I should be grateful for advice and a draft reply for signature by the Prime Minister as soon as possible.

I am sending a copy of this letter and its enclosure to Jonathan Spencer (Department of Industry).

A. J. COLES

Francis Richards, Esq.,
Foreign and Commonwealth Office.

CONFIDENTIAL

6/10

Prime Minister

(2)

Advice will follow in due course. A.S.C. 18. 2



SUBJECT

EMBASSY OF THE UNITED STATES OF AMERICA
LONDON

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T 31 / 82

February 18, 1982

mt

*cc memo
aps
h-a.
M 2 1/2*

Dear Mr. Coles:

In the absence of the Ambassador, I am forwarding the attached message to the Prime Minister from President Reagan, which was received at the Embassy this morning.

Sincerely,

Edward J. Streater
Minister

Enclosure:
CONFIDENTIAL

CONQUEROR

Mr. John Coles,
Private Secretary
to the Prime Minister,
10 Downing Street,
London, SW1.

T 31/82

CONFIDENTIAL

Dear Margaret:

For years the international community has been striving to develop an agreement concerning the world's oceans. These negotiations are now at an important juncture. I want to share with you some of my country's concerns regarding the current draft treaty on the Law of the Sea.

After a long and detailed review we have concluded that the seabeds provisions of the draft treaty are seriously defective and that, as now written, the treaty would in effect discourage and perhaps prevent the development of deep seabed resources. These resources include not only manganese nodules but other minerals of potentially greater importance. The draft treaty would also subject your government and mine to very large financial obligations.

Western unity will be essential for obtaining improvements in the seabeds provisions of the text while protecting the valuable provisions in such areas as navigation and the continental margin. In the absence of unity of purpose the prospects for a generally acceptable Law of the Sea convention are dim.

If you and other key leaders make it clear to the conference that you are not prepared to conclude a Law of the Sea treaty without the United States, I am convinced that we can succeed in making the changes necessary to transform the draft convention into a widely accepted treaty. If on the other hand, the conference believes that your country and other major industrialized countries might join a treaty which falls short of the necessary improvements, there will be little chance of a successful treaty. I urge you to send your negotiating team back to the conference with full support for the United States position.

I am directing my Law of the Sea negotiators to work closely with your delegation in the weeks to come to achieve a treaty which is acceptable and promotes our common interests.

Sincerely,

/s/

Ronald

The Right Honorable
Margaret Thatcher, M.P.,
Prime Minister,
London.

CONFIDENTIAL

18 FEB 1982





285

10 DOWNING STREET

From the Private Secretary

18 February 1982

Thank you very much for your letter of 18 February forwarding a message to the Prime Minister from President Reagan about the Law of the Sea Negotiations. I shall place this before the Prime Minister.

K. J. COLES

The Honourable Edward J. Streator.



Assistant Secretary of State

Washington, D.C. 20520

TO: Admiral Mott

FROM: OES - Ambassador Malone

Attached is the paper I promised you for Professor Denman.

LAW OF THE SEA REVISION OF DRAFT CONVENTION

Memorandum following a discussion with Ambassador Malone of the United States Government and Admiral Bruce Harlow and Admiral W.C. Mott of the US Navy at Washington D.C. on 9 February, 1982.

1. The review of the current draft Convention of the United Nations' Law of the Sea undertaken by the US Government since March 1981 leaves the US Government much disturbed by the intended world policy for handling the immense wealth of the mineral resources on the sea floor of the deep oceans.
2. The US Administration has a double concern. What it sees in the draft Convention as harmful to the US is also, in the view of the US, no less harmful to Britain, the western democracies and Japan. It is imperative that the call for revision should not therefore be seen as coming from the US alone, as if the US were concerned only for her own interests.
3. There are two main aspects of the proposed Law of the Sea Convention - one covers the navigation of the seas, the other the exploitation of the resources of the sea and the seabed. Both are of equal importance in the long run for the United States and for Britain. Concentration on navigation aspects has, in the past, overshadowed the strategic importance of access to the deep sea minerals. Hence the urgent case to review the proposals.

4. The draft policy for exploiting mineral resources also has two broad divisions. One recognises the Sovereign right of coastal states over the resources of contiguous coastal waters and their seabed (i.e. territorial seas, exclusive economic zones, continental shelves, and so on), and the other covers the vast mineral resources of the deep oceans which lie beyond the national jurisdictions. The US criticism and concern is directed to the latter aspect of the draft Convention.

5. Attached to this Memorandum is a statement from Ambassador Malone who is leading the US delegates at the Law of the Sea Conference in March 1982. The statement sets out simply the US grounds for concern over the terms of the current draft Convention. It also refers to proposals already made by the US Government and sent to the UK Government for a revision of the draft Convention so as to remove its defects. The US calls her allies to support her stand in their own interests. It is a matter of utmost urgency to bring the US criticisms to the attention of the relevant industrial interests in Britain and to urge the Government to instruct its spokesman at the forthcoming Law of the Sea Conference to support the American revisions or something like them. Public opinion in Britain is ill-informed of the facts of the Law of the Sea draft Convention, its tremendous implications for the future and its dangers.

6. The American criticisms, as stated by Ambassador Malone, can be related in detail to the specific Articles of the draft Convention which gives rise to them. To do so would result in a technical detailed analysis - necessary and suitable for

preparing to present the case in plenary and formal debate - but an exercise which could confuse the issues for the layman and for those who need only grasp the main lines of contention to see how necessary it is to support the US. Nevertheless, it could help lay understanding to have the following broad examples of the main features of the proposed policy which underlie the US misgivings.

- 7.(a) There is to be set up the International Seabed Authority governed by an Assembly and an executive organ called the Council and assisted by a number of ad hoc Commissions.
- (b) The Authority shall have absolute and exclusive control over the resources of the seabed of the deep oceans (to be called the Area) and shall engage in mining and other activities itself through an operative organ - the Enterprise.
- (c) Access to the deep sea resources will therefore be barred to industrialists of the world and to all national institutions, except through the portals of the Authority. Its administration will be entirely bureaucratic and, inevitably, politicised; a policy which could not possibly be in accord with sound economic development and private enterprise.
- (d) The draft Convention gives sanction to the Authority in the most ambiguous terms; to act, for example, "on behalf of mankind as a whole"; for "the benefit of the international community"; for "the healthy development of the world economy"; and to administer the area as the "common heritage of mankind".
- (e) The draft Convention is inherently contradictory. It

requires the Authority to avoid discrimination and yet, time and time again for various reasons, the Authority is given a mandate to discriminate in favour of developing countries, the land-locked and the geographically disadvantaged. To take one example, compensation must be paid to developing countries which suffer adversity from activities in the Area; but no provision is made for similar compensation to other countries which are likewise affected.

- (f) The terms on which mining contracts can be granted would not be tolerable in any free market and fair economy. For every potential mining area found contractors will be expected to offer a second area to the Enterprise or to a developing country and to provide data, scientific knowledge and a full ranging technology and training of personnel to go with it. The industrialist will be required therefore to give his secrets away to his competitors and to train the competitors in the use of them against him. The transfer of technology, apart from giving competitors an unjust advantage, could mean the free international distribution of patents with all that that entails for loss of rights. Moreover by such disclosure international security could be threatened.
- (g) A contractor is faced not only with the uncertainty of what those onerous demands might lead to, but should he prolong negotiations beyond what the Authority judges to be a reasonable time, he is likely to face an arbitration procedure and have terms dictated to him or suffer heavy

penalties if he refuses to comply.

- (h) The Enterprise would come to exercise an absolute monopoly over at least one half of the deep seabed resources of the world and with the privileges accorded to it would hold a most unjust advantage over all other operators, especially private concerns.
- (i) The construction and voting arrangements for the Assembly, the Council and the other organs of the Authority would put those nations whose technical knowledge, economies and industrial structures have the most to give to development of the deep seabed resources of the world at a most serious disadvantage. The voting powers of America in the Assembly for example would be the same as that of the Gambia or of Malta. Voting for the 36 members of the Council is deliberately pre-conditioned in favour of the developing countries and the Eastern (Socialist) European Region. The voting formula refers to "an equitable geographical distribution of seats" and defines this as meaning that each region shall have at least one member and that the regions shall be by name, Africa, Asia, Eastern Europe (Socialist), Latin America and Western Europe. Where is the USA, Australia, Canada and Britain? Other facets of the formula require, for example, four members from major importers of minerals, one of which must be from the Eastern (Socialist) European Region.
- (j) After 20 years, the Assembly shall call a review

conference. The review conference will have power to amend the articles of the Convention by a voting system, similar to that used at the Third United Nations' Conference of the Law of the Sea - that is upon a two thirds vote of the members of the Conference. The decision would be binding upon the dissenting members who would already be committed as members of the Assembly. Thus the future could be taken wholly out of the hands of one third of all participating nations.

8. The purpose of this Memorandum is to draw attention to those proposals in the draft Convention of the Law of the Sea which are so adverse to the best interests of Britain and her allies, especially the USA, and to inform public opinion, industry and Parliament in the hope that immediate action will be taken by Government to instruct Britain's spokesman at the Law of the Sea Conference in March to support the USA and call for a revision of policy for handling the future winning and development of the resources of the seabed of the deep oceans.

D.R. Denman,
D.Sc., Ph.D., M.A., M.Sc.,
FRICS.

14 February 1982.

The draft Law of the Sea Treaty is fundamentally defective because it:

- artificially limits deep seabed mineral production and provides for discretion and discrimination if there is competition for limited production allocations;
- discourages private investment in deep seabed mineral production because of: lack of certainty in the granting of mining contracts, mandatory technology transfer requirements, and burdensome financial requirements;
- creates a privileged supranational competitor -- the Enterprise -- whose advantages could make it extremely difficult, if not impossible, for private ventures -- absent national subsidies -- to compete. A supranational monopoly over deep seabed mineral production could thus result;
- fails to provide grandfather rights for existing investment in deep seabed mineral development;
- establishes a decision-making system so structured that US and other potential deep seabed mineral producers and consumers will be unable effectively to influence important policy and operational decisions;
- provides for a review conference which, after five years of negotiation, may adopt amendments to the deep seabed mining regime that would automatically enter into force for the US upon approval by two-thirds of the States Parties;
- allows participation by and funding for liberation groups;

The United States has prepared proposals to correct these problems. These proposals have been given to the UK delegation. The United States hopes that the UK will strongly support the US proposals.

Without a unified UK-US position a treaty will be adopted which will probably put an end to the prospects for deep seabed mining. With a unified UK-US position the Western allies will support these changes and it will be possible to make the Law of the Sea Treaty acceptable.

STATEMENT BY THE PRESIDENT

The world's oceans are vital to the United States and other nations in diverse ways. They represent waterways and airways essential to preserving the peace and to trade and commerce; are major sources for meeting increasing world food and energy demands and promise further resource potential. They are a frontier for expanding scientific research and knowledge, a fundamental part of the global environmental balance and a great source of beauty, awe and pleasure for mankind.

Developing international agreement for this vast ocean space, covering over half of the earth's surface, has been a major challenge confronting the international community. Since 1973 scores of nations have been actively engaged in the arduous task of developing a comprehensive treaty for the world's oceans at the Third United Nations Conference on Law of the Sea. The United States has been a major participant in this process.

Serious questions had been raised in the United States about parts of the draft convention and, last March, I announced that my Administration would undertake a thorough review of the current draft and the degree to which it met United States interests in the navigation, overflight, fisheries, environmental, deep seabed mining and other areas covered by that convention. We recognize that the last two sessions of the Conference have been difficult, pending the completion of our review. At the same time, we consider it important that a Law of the Sea treaty be such that the United States can join in and support it. Our review has concluded that while most provisions of the draft convention are acceptable and consistent with United States interests, some major elements of the deep seabed mining regime are not acceptable.

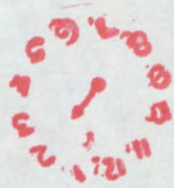
I am announcing today that the United States will return to those negotiations and work with other countries to achieve an acceptable treaty. In the deep seabed mining area, we will seek changes necessary to correct those unacceptable elements and to achieve the goal of a treaty that:

- o will not deter development of any deep seabed mineral resources to meet national and world demand;
- o will assure national access to these resources by current and future qualified entities to enhance U.S. security of supply, to avoid monopolization of the resources by the operating arm of the International Authority, and to promote the economic development of the resources;

- 14
- o will provide a decision-making role in the deep seabed regime that fairly reflects and effectively protects the political and economic interests and financial contributions of participating states;
 - o will not allow for amendments to come into force without approval of the participating states, including in our case the advice and consent of the Senate;
 - o will not set other undesirable precedents for international organizations; and
 - o will be likely to receive the advice and consent of the Senate. In this regard, the convention should not contain provisions for the mandatory transfer of private technology and participation by and funding for national liberation movements.

The United States remains committed to the multilateral treaty process for reaching agreement on Law of the Sea. If working together at the Conference we can find ways to fulfill these key objectives, my Administration will support ratification.

I have instructed the Secretary of State and my Special Representative for the Law of the Sea Conference, in coordination with other responsible agencies, to embark immediately on the necessary consultations with other countries and to undertake further preparations for our participation in the Conference.



THE POST OFFICE

16 February 1982

Law of the Sea Conference

I wrote to you on 10 February enclosing correspondence from Mr Simon Webley of the British-North American Research Association.

I now enclose a copy of a letter which the Prime Minister has received from Professor Denman. As you will see, this also urges that we should support the American case for amendments to the draft Law of the Sea Convention. Perhaps you could take this into account in considering my earlier letter and let me have advice and a draft reply for the Prime Minister to send to Professor Denman.

(A. J. COLES)

Francis Richards Esq
Foreign and Commonwealth Office.

Qa 05827

To: MR HOSKYNS

12 February 1982

From: J R IBBS

Law of the Sea Negotiations

1. Thank you for sending me a copy of your minute of 9 February to John Coles.
2. We share the general approach set out in your third paragraph, and indeed the CPRS has on several occasions in the past argued for a more robust British line on this subject. However, I agree with John Coles that the British-North American Research Association is behind the game. As I understand it, we are now in the not unsatisfactory position that the Americans will be battling with the Group of 77 to get a better deal for deep sea mining on a basis that would suit us, and we shall benefit if they reach agreement. The briefs for our delegation to the next session of the conference are now being written, and we shall see them in draft. Should we find a need to intervene, our line will be to emphasise the UK interest in reaching a better deal on substance as well as in arriving at a treaty which all concerned can sign.
3. I am sending a copy of this minute to John Coles.

JR

115 FEB 1982





10 DOWNING STREET

From the Private Secretary

10 February 1982

Law of the Sea

I enclose a copy of a letter which John Hoskyns, the Head of the Policy Unit here, has received. As you will see, it expresses concern about that part of the draft Treaty of the Law of the Sea which deals with the deep sea bed.

Mr. Webley refers to a letter which was sent to the Secretary of State for Industry by Sir Alastair Down, the Chairman of the British-North American Research Association which I am not enclosing since it was copied to the Foreign and Commonwealth Secretary. I understand that Mr. Jenkin has already replied to Sir Alastair Down.

I had a telephone call today from Mr. Ian MacGregor, Chairman of the British Steel Corporation. He explained that he had had discussions with the US Administration in Washington last week and had found there great concern about the provisions of the draft Treaty which affect access to minerals. There was, he said, much support for the view of President Reagan, namely that the United States should not sign the Treaty unless it was satisfied with all of its provisions. Mr. MacGregor said that until recently there was much ignorance in British industry about the Law of the Sea negotiations but as the nature of the Treaty was now beginning to unfold, and industrialists were beginning to acquire a general understanding of its principles, concern was growing quickly. There was a ground-swell of unease. He and other businessmen wondered how Governments committed to the free market had become involved in putting together such a "cocktail" for the control of minerals. The industries of the free economies had been built on free access to raw materials. The future of our economies would depend similarly on such access. He said that most industrialists who had made representations to the Government had received replies to the effect that the negotiations had been proceeding for a long time and it was now too late to rock the boat. Another attitude that he claimed to detect was that the UK was satisfied with those parts of the draft Treaty which concerned navigation and was therefore not inclined to be unduly concerned about possible inadequate provisions on access to raw materials. His own view was that it was not acceptable to regard past work as sacrosanct.

I deduce from all this that at the very least the US

/Administration

Administration has enlisted the help of some leading British industrialists in its opposition to certain aspects of the draft Treaty. But Mr. MacGregor would argue, also, that there is widespread and genuine concern in British industry.

In talking to him I disclaimed any expertise about the negotiations. He is not expecting a reply to his telephone call. But as a member of the British North-American Committee he would expect to see a copy of any reply to the letter of 22 January to John Hoskyns. It would be most helpful if you could let me have some advice on the issues raised in this letter and a draft reply to Mr. Webley.

A. J. COLES

Francis Richards, Esq.,
Foreign and Commonwealth Office.

MR. HOSKYNS

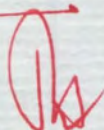
cc. Mr. Ibbs, CPRS

Law of the Sea Negotiations

Thank you for your minute of 9 February, to which you attached a letter from Mr. Webley of the British North American Research Association.

I am not an expert in this matter but there are a number of points in Mr. Webley's letter which suggest to me that he is not one either. It has apparently just become clear to his Committee that the US Administration is concerned about that part of the draft Treaty which deals with the deep sea bed. But it has been public knowledge ever since the Reagan Administration took office that they were concerned about this and that they had instituted a major review of the position. There is no doubt at all that the US Government will be seeking to amend the Treaty at the next session of the negotiations in March. There is much more doubt whether the Treaty will be ready for "initialling" next month. The negotiations have been going on for nearly a decade. From memory, a number of the more detailed points made by Mr. Webley about the possible contents of the Treaty are inaccurate, but I can only really give you a considered view on these matters after consulting the FCO and the Department of Industry. Have you any objection to me sending them a copy of Mr. Webley's letter?

No - please do



→

A.S.C. -

9 February, 1982

9 February 1982

MR COLES

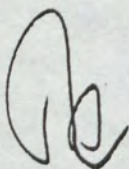
DRAFT TREATY ON THE LAW OF THE SEA

I enclose a letter from Simon Webley of British-North American Research Association.

I have spoken to Simon Webley about this. He says that Patrick Jenkin has just replied to Sir Alastair Down and it looks as if the Department of Industry view is "let's get the Treaty signed and don't worry too much about problems of this kind - they'll come up later and perhaps we'll be able to find a way round them then". This appears also to be the position of the FCO.

This is right outside the Policy Unit remit but, since many of our biggest problems seem to have this characteristic (we take the line of least resistance and thus paint ourselves into some new corner for the next quarter of a century) perhaps we should think hard about it before letting it just slide through.

I am copying all this to Robin Ibbs, since Simon Webley's letter refers to a good paper written by John Guinness when he was in CPRS.



JOHN HOSKYNS

British-North American Research Association

Chairman SIR ALASTAIR DOWN, O.B.E., M.C., T.D.

Council

DIRK DE BRUYNE
JOHN DU CANE, O.B.E.
GERRY EASTWOOD
Hon. HENRY HANKEY, C.M.G., C.V.O. (Hon. Secretary)
H. U. A. LAMBERT (Hon. Treasurer)
SIR PATRICK MEANEY
SIR RICHARD POWELL, G.C.B., K.B.E., C.M.G.
LORD SHERFIELD, G.C.B., G.C.M.B.
SIR LESLIE SMITH
SIR ERNEST WOODROOFE

Cable Address

BRITNARA, LONDON EC4

Director

SIMON WEBLEY

Executive Secretary

MELANIE WALSH

1 GOUGH SQUARE, LONDON EC4A 3DE

01-353 6371

January 22nd, 1982

John Hoskyns, Esq.,
Head of the Policy Unit,
10 Downing Street,
London SW1.

Dear John,

I think there is a matter of some importance to this country and our friends in the West which is in danger of being swept under the carpet for fear of losing out on what some think is a bigger prize. This involves one section or Title of the draft Treaty on the Law of the Sea which is due for initialling at the end of an eight week conference in New York starting on 8th March 1982.

The issues surrounding the Law of the Sea have been the subject of frequent international discussion over eleven years and there are many excellent things in the draft from our point of view.

However, at a recent meeting of the British-North American Committee it became clear that the US Administration, which is completing a review of the draft for Presidential determination of the US position and US industry, are very concerned about Title 11 dealing with the Deep Sea Bed. This covers the mining of polymetallic nodules which are a rich potential source of nickel, copper, manganese and cobalt - all commodities obtained from external sources on which we are dependent to a greater or lesser extent.

So unhappy do they feel, that we understand it is unlikely that the Administration will be prepared to initial the Draft Treaty if it remains in its present form. Some bewilderment was expressed at the BNAC meeting at the fact that a UK government led by Mrs. Thatcher would agree to this section of the Treaty without reservations; though it was admitted that most of the undesirable features of this Title had been pushed through by the Carter Administration with minimal support from the other industrialised countries.

Cont./...

Briefly what we face, in the portion of the Draft Treaty relating to the administration of the Deep Sea Bed, is a proposed permanent and binding legal obligation under international law which would put all the resources of two-thirds of the earth's surface oceans into the hands of a new UN international organisation which would be under the effective control of the Third World and Soviet Bloc with no reserved powers of any kind for the countries which will be the chief users of the minerals mined from the sea bed.

The administrative structure of the proposed regime is unbelievably complex. A Deep Sea Bed Authority would consist of an Assembly in which all UN member nations would be represented (maybe 150); a Council of Representatives of 36 states, described as the Executive Organ of the Authority, which in turn would be served by a 15 man Economic Planning Commission and a 15 man Legal and Technical Commission; a 21 judge International Tribunal for the Law of the Sea, consisting of various Chambers including an 11 judge Sea Bed Disputes Chamber; and, of course a Secretariat which would be centered in Jamaica and for which a temporary headquarters, costing some \$10 million, was already put under construction last November!

All this is being created in order to guide and rule a supranational "Enterprise" which is itself to undertake deep sea mining on behalf of the collective nations of the world under conditions that are far more favourable in every way than those that will be available to other mining operators, as well as ruling, administering and collecting revenues from deep sea mining by such other mining groups as are permitted to operate.

The catch phrase being used to justify all this is "the common heritage of mankind". While many have dismissed this phrase as a pleasant generality, the Treaty provides that that portion of the oceans of the globe defined as the deep sea bed to be the common property for all time of the proposed new sea bed organisation. This will be ruled by a simple majority vote of the UN member states.

The Treaty gives no assurance of access for us or our friends and allies to the mineral resources of the deep sea bed, and these resources are likely to come to be of enormous importance to our economies. The Treaty would not even assure that the various Western companies that have invested millions of pounds in creating the technology for deep sea mining would be able to mine. The Treaty does provide, however, that the technology these companies have developed must be compulsorily transferred to the new UN Enterprise for its use as a condition of their obtaining permission to mine.

Cont./...

It is extremely doubtful whether private mining will be feasible under these conditions.

If we approve this Draft Treaty without any changes we (and our allies) will in one fell swoop, be agreeing to:

- a) A major future source of strategic minerals being in the hands of whoever has the power in the UN (not the Security Council with its veto);
- b) Creating a precedent which could mean that air and space will become totally under UN control at a future date and the Arctic and Antarctic could well follow.
- c) Leaving the US out on a limb, admittedly largely of their own making, on an issue with which we should be in agreement.

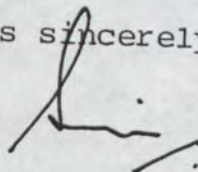
I am sorry to burden you with this but it is one of those issues the outcome of which will only become apparent in the longer term. (Though there is likely to be a row in March/April).

I am told by RTZ that the negotiating position for our Ambassador to the Law of the Sea (John Powell-Jones) will have to go through a Cabinet Committee; the Department of Industry (via John McGregor) is aware of the problem; there is a good paper in the CPRS by John Guinness which sets out the issues but I have not seen it.

What this boils down to is: how do we get the "politics" into the decision of whether to support the US in their stand which they will be making in March at the Law of the Sea Conference, or indeed to take an independent line of our own on grounds of straight national interest? In my opinion and that of a number of informed people, the price we are being asked to pay to obtain important concessions (definitions of Continental Shelf, rights of passage through straits of territorial waters and fishing limits etc.) is unacceptably too high, as well as being totally inconsistent with a private enterprise philosophy and contrary to our interests on general grounds of commercial policy.

Can we do anything about it?

Yours sincerely,



Simon Webley

PS. I also enclose a copy of a letter sent to Patrick Jenkin by Sir Alastair Down and others on this subject.

The British-North American Committee

BRITISH-NORTH AMERICAN RESEARCH ASSOCIATION
1 Gough Square, London EC4A 3DE, England
01 353 6371

C.D. HOWE INSTITUTE
Suite 2064, 1155 Metcalfe St., Montreal, Quebec H3B 2X7
(514) 879-1254

NPA
1606 New Hampshire Ave., N.W., Washington, D.C. 20009
(202) 265-7685

Chairman
SIR ALASTAIR DOWN
Chairman, Executive Committee
Burmah Oil Company

Vice-Chairman
GEORGE P. SHULTZ
Vice-Chairman
Electrical Group of Companies

President and Chief Executive Officer
WILLIAM M. TURNER JR.
President and Chief Executive Officer
Consolidated Bathurst Inc.

Members
R W ADAM
WILLIAM M AGEE
J A ARMSTRONG
CHARLES T BARD
JOSEPH E BARD
ROBERT A BARDEN
W G BARRITT
SIR DONALD BARRON
CARL E BRIDGE
MICHEL BEJANGE
C FRED BINGSTEN
CAROL D BOLEN
JOHN F BOCHOUT
FRANK BORMAN
THORNTON F BRADSHAW
JAMES W BURNS
SIR RICHARD BUTLER
VISCOUNT CALDECOTE
SIR CHARLES CARLISLE
SILAS S CATHCART
HAROLD VAN B CLEVELAND
DONALD M COO
FRANK J CUMBERLEY
JAMES W DAVANT
MALCOLM P DAVENSON
DARK DE BRUYNE
A H A DODD
SIR RICHARD DOBSON
WILLIAM DOOGIE
WILLIAM H DONALDSON
PETER P DOWNS
GEOFFREY DRANN
TERRY DUFFY
GERRY EASTWOOD
HARRY E ESKLON
MOSS EVANS
J F FINLAYSON
GLENN FLATEN
RICHARD W FOGAN
SIR ALGERNON FRANK
ROBERT R FINEDECK
THEODORE GEORGE
GERRAN GILLIEN
MALCOLM GLENN
GEORGE GORDON
JOHN H HALE
HON HENRY HANLEY
AUGUSTIN S HART JR
FRED L HARTLEY
G R HERRING
HENRY W HENZ
ROBERT HENDERSON
THELMA HENDERSON
HEDGECOCK HOUTHAUSER
TOM JACKSON
DONALD P JACOBS
JOHN J JAMES
GEORGE S JOHNSTON
JOSEPH D KEELER
CURTIS M KLEINBERG
H L A LANBERT
HERBERT H LAUN
WILLIAM A LIPPERS
FRANKLIN A LINDSAY
SIR PETER MACADAM
RAY W MACDONALD
IAN MAUGREOR
CAROL MACMILLAN JR
JOHN D MACDONALD
J P MANN
WILLIAM A MARSHALL
R B MARSHALL
WILLIAM J MCDONOUGH
DONALD E MEADE
WALTER W MEARNEY
C J MEDBERRY JR
SIR PETER MENZIES
JOHN MILLER
DEBRA F MITCHELL
JOSEPH P MORGAN
ALLAN E MURRAY
KENNETH D NAIDEN
CONOR CRUISE O BRIEN
WILLIAM S OGDEN
PAUL PARR
PAUL L PARKER
BROUGHTON PIRAN
GEORGE J POLAK
SIR RICHARD POWELL
PETER R RAY
J G REYNOLDS
PAUL E PRICE
LOUIS PRUITT
MERLE RHANSON
CARL E RECHARDT
LAWRENCE REUBEN
BEN ROBERTS
HAROLD B ROSE
DAVID SANDS
WILLIAM SALOMON
A C SARGEL
HOWARD SARGEL
NATHANIEL SARANIS
SIR FRANCIS SANDLANDS
HOW SAUNDERS
PETER F SCOTT
ROBERT C SEAMANS JR
LORD SELWICK
THE EARL OF SELWICK
JACOB SHEPHERD
LORD SHEPHERD
R MICHAEL SHELDON
GEORGE L SIMON
WILLIAM E SIMON
GORDON R SIMPSON
SIR ROY SISON
SIR LESLIE SMITH
E NORMAN STAUB
WALTER J STANLEY
SIR ROBERT TAYLOR
J C TURNER
W F TRAVIS
WALTER H J D WALLACE
GUY M E WAITS
VISCOUNT WEAVER
SIR COLIN B WHITEHEAD
SIR IAN ST WOODROUPE
CHARLES WOODTON

Secretary
SIR ALASTAIR DOWN
Chairman, Executive Committee
Burmah Oil Company

Secretary
SIR ALASTAIR DOWN
Chairman, Executive Committee
Burmah Oil Company

Secretary
SIR ALASTAIR DOWN
Chairman, Executive Committee
Burmah Oil Company

January 22nd, 1982

Rt. Hon. Patrick Jenkin, PC,
Secretary of State for Industry,
House of Commons,
London SW1A 0AA

Dear Secretary of State,

I am writing, as British Chairman of the British-North American Committee, on behalf of the other members of the Committee named in the attached list, to ask that H.M. Government should urgently review its attitude to those provisions of the draft Convention on the Law of the Sea which deal with deep sea mining. We believe that these provisions are so detrimental to the interests of the United Kingdom as to be unacceptable.

This matter was brought to the attention of the Committee at its meeting in Palm Beach, Florida, last December. The United States members then expressed their grave concern and stressed the urgency of the matter, as discussion of the draft Convention is to be resumed early in March 1982. They also informed the Committee that the United States Administration was at present reviewing its attitude to the draft Convention, with particular reference to the provisions relating to mining. They said that U.S. industry was making strong representations to the Administration and urged the British and Canadian members to consider similar action.

We appreciate that the draft convention is a highly complex document dealing with a multitude of matters of differing degrees of concern to individual countries and that of necessity it represents a compromise between many points of view; so that its acceptability as a whole to the United Kingdom can be assessed only by H.M. Government, which alone is in a position to weigh up and balance the various conflicting considerations.

Nevertheless, we believe that the present provisions of the draft so imperil the continuing supply of essential materials and the interests not only of mining operators but of the metal processing and associated industries and so of the whole economy as to justify their rejection.

/.....

The British-North American Committee

BRITISH-NORTH AMERICAN RESEARCH ASSOCIATION
1 Gough Square, London EC4A 3DE, England
01 353 6371

C.D. HOWE INSTITUTE
Suite 2064, 1155 Metcalfe St., Montreal, Quebec H3B 2X7
(514) 879-1254

NPA
1606 New Hampshire Ave., N.W., Washington, D.C. 20009
(202) 265-7685

1 Name
SIR ALASTAIR DUNN
Chairman
British Oil Company

W. M. WEAR
Chairman Executive Committee
Nigerian Rand Company

1 Name
GEORGE P. SMULTZ
Vice Chairman
British Group of Companies

1 Name
WILLIAM M. TURNER JR.
President and Chief Executive Officer
Consolidated Bathurst Inc.

Members
R. W. ADAM
WILLIAM M. AGE
J. A. ARMSTRONG
CHARLES T. BARD
JOSEPH E. BARD
ROBERT A. BANDEEN
W. D. BARNETT
SIR DONALD C. BARRON
CARL E. BEUGE
MICHEL BELANGER
C. FRED BERKSTEN
CAROL D. BOLEN
JOHN F. BOURGEOIS
FRANK BORNHART
THORNTON F. BRADSHAW
JAMES S. BURNS
SIR RICHARD BUTLER
VISCOUNT CALDECOTE
SIR CHARLES CARTER
SILAS S. CATHCART
HAROLD VAN B. CLEVELAND
DONALD W. COE
FRANK J. CUMMINGS
JAMES W. DAVANT
RALPH P. DAVISON
DAVID DE BRUYNE
A. H. DEBB
SIR RICHARD DOBSON
WILLIAM DOODGE
PETER P. DOWD
GEORGE W. DRANN
TERRY DUFFY
GERRY EASTWOOD
HARRY E. EKLUND
MOSS EVANS
J. F. FINLAYSON
GLENN FLATEN
RICHARD W. FOHEN
SIR ALFRED FRANK
ROBERT R. FREEDMAN
THEODORE GELER
GIBSON GLENN
MALCOLM GLENN
JOHN H. GUYDER
JOHN H. HALL
HON. HENRY HANLEY
AUGUSTUS S. HART JR.
FRED L. HARTLEY
G. R. HEFFERNAN
HENRY H. HENZEL
ROBERT HENDERSON
THE HON. HODGKINSON
HENDON S. HOUTMANER
TOM JACKSON
DONALD P. JACOBS
JOHN J. JAMES
GEORGE S. JOHNSTON
JOSEPH P. KEENAN
JOHN F. KLEBERGER
H. U. A. LAMBERT
HERBERT H. LAKE
WILLIAM A. OFFERS
FRANKLIN A. LINDSAY
SIR PETER MACDONALD
RAY W. MACDONALD
IAN MACGREGOR
CARROLL MACMILLAN JR.
JOHN D. MACNEIDER
J. P. MANN
WILLIAM A. MARQUARD
A. B. MARSHALL
WILLIAM J. MCDONOUGH
DONALD E. MEADS
SIR PATRICK MEHEWY
C. J. MELBERRY JR.
SIR PETER MENZIES
JOHN MILLER
DEREK F. MITCHELL
JOSEPH P. MONAGHAN
ALLEN E. MURPHY
KENNETH D. NADEN
CONOR CRUISE O'BRIEN
WILLIAM S. OGDEN
PAUL PARE
PAUL L. PARKER
BRIGHTON PARKIN
GEORGE J. POULIN
SIR RICHARD POWELL
ALFRED POWIS
J. G. PRITCHICE
PAUL E. PRICE
LEO J. PYTEL
MERLE RAWSON
CARL E. REICHART
GRANT REISER
BEN ROBERTS
HAROLD B. ROSE
DAVID SANDGUY
WILLIAM SALOMON
A. C. SANDU
HOWARD SARGEL
NATHANIEL SARUELS
SIR FRANCIS SANDLANDS
HON. MALCOLM SAUER
PETER F. SCOTT
ROBERT C. STAMMERS JR.
LORD SEBASTIAN
THE EARL OF SELWYN
JACOB SHEPHERD
LORD SHEPHERD
R. MICHAEL SHIELDS
GEORGE I. SPINK
WILLIAM E. SUDON
GORDON R. SUTTON
SIR RAY SUTTON
SHELLSIE SMITH
E. NORMAN STUBB
RALPH I. STUBBS
SIR ROBERT TAYLOR
J. C. TURNER
W. D. TAYLOR
MARTIN WELSH WALLACE
GLENN E. WATTS
VISCOUNT WILKINSON
FREDERICK B. WHITTYMORE
SIR IAN WOODHOPE
CHARLES WOODTON

Members
HON. HENRY HANLEY
BRIAN SELWYN
LORDS
JOHN MILLER
NORTH AMERICAN SECRETARY
WASHINGTON

Members
SPEARLY LEA
North American Director
of Research Washington
SACHS WELBY
British Director of
Research London

2.

We accept that in order to minimise the potentialities of conflict there must be some workable form of international regulation of mining in the deep sea bed. We would also see no objection of principle to the levying of royalties on the products of deep sea mining to be used for the benefit of developing countries; always provided that the level of such royalties is such as to leave the mining operators with adequate incentive to undertake enterprises of the immensity and hazardous nature that exploitation of the resources of the deep sea bed would require.

We therefore endorse the need for establishing an international authority of the kind contemplated in the draft Convention to supervise mining activities in the deep sea bed. Such an authority to be effective would not, however, require the powers conferred upon it by the present draft, which would require an enormous international bureaucracy to carry out. In particular, we consider that the creation under the Authority of an Enterprise which would itself undertake mining operations, is completely unacceptable. This is a manifestation of the New International Economic Order, as advocated by the Group of 77, which is entirely contrary to the commercial interests of the advanced industrial countries and would create a highly undesirable precedent for the future.

It would also so weight the scales against other mining operators as to make it virtually certain that no such operators would be able to raise the huge amounts of finance needed for a deep sea mining enterprise. Nor can there be any justification for putting such an Enterprise in so privileged a position in choice of sites and in financial subsidisation at the expense of private operators and tax benefits not available to other operators whether private or nationalised.

We also see objection to the provisions of the draft for electing the Executive of the Authority, which place the U.S.S.R. and its satellites in an unjustifiably privileged position, and to the system of one nation one vote for all other countries irrespective of the extent of their involvement in mining activities. Nor do we see any ground for giving existing land based producers of minerals any special protection against competition from the products of deep sea mining.

/.....

The British-North American Committee

BRITISH-NORTH AMERICAN RESEARCH ASSOCIATION
1 Gough Square, London EC4A 3DE, England
01 353 6371

C.D. HOWE INSTITUTE
Suite 2064, 1155 Metcalfe St., Montreal, Quebec H3B 2X7
(514) 879-1254

NPA
1606 New Hampshire Ave., N.W., Washington, D.C. 20005
(202) 265-7685

Chairman
SIR ALASTAIR DOWN
Chairman
Burmah Oil Company

WILLIAM L. WEARLY
Chairman, Executive Committee
Imperial Home Company

Vice Chairman
GEORGE P. SHULTZ
Vice Chairman
Bechtel Group of Companies

President
WILLIAM I. M. TURNER JR.
President and Chief Executive Officer
Consolidated Bathurst Inc.

Members:
R. W. ADAM
WILLIAM M. AGE
J. A. ARMSTRONG
CHARLES F. BAIRD
JOSEPH E. BARD
ROBERT A. BANDEEN
W. C. BARNETT
SIR DONALD BARRON
CARL E. BEGHE
MICHEL BELANGER
C. F. BERGLIN
CAROL D. BOLEN
JOHN F. BOHOUT
FRANK BOHMAN
THORNTON F. BRADSHAW
JAMES W. BURNS
SIR RICHARD BUTLER
VISCOUNT CALDECOTE
SIR CHARLES CARTER
SILAS S. CATHCART
HAROLD VAN B. CLEVELAND
DONALD M. COE
FRANK J. CUMBERLEY
JAMES W. DAVANT
ALEX P. DAVIDSON
DREW DE BRUYNE
A. H. DOBBS
SIR RICHARD DOBSON
WILLIAM DODGE
WILLIAM H. DONALDSON
PETER F. DOWNS
GEORGE DRAIN
TERRY DUFFY
GEOFFREY EASTWOOD
HARRY E. EKLUND
MOSS EVANS
J. H. FINLAYSON
GLENN FLATEN
RICHARD W. FOEHL
SIR ALISTAIR FRANK
ROBERT R. FREDERICK
THEODORE GEIGER
GAVIN GILLESPIE
MALCOLM GLENN
GEORGE GOYDER
JOHN H. HALE
HON. HENRY HANKEY
AUGUSTIN S. HART JR.
FREDL. HARTLEY
G. R. HEFFERNAN
HENRY H. HEINZ II
ROBERT HENDERSON
TREVOR HODSWORTH
HEINRICH S. HOUTHAANER
TOM JACKSON
DONALD P. JACOBS
JOHN Y. JAMES
GEORGE S. JOHNSTON
JOSEPH D. KEELMAN
CURTIS W. KLEINER
W. G. LAURENT
HELMERT H. LANK
WILLIAM A. LEFFERS
FRANK A. LINDSAY
SIR PETER MACDONALD
RAY W. MACDONALD
IAN MCGEEGOR
CARROLL MACMILLAN JR.
JOHN D. MACOMBER
J. P. MANN
WILLIAM A. MARSHALL
A. B. MARSHALL
WILLIAM J. MASONDOUGH
DONALD E. MEADS
SIR PATRICK MEANEY
C. J. McDERMOTT
SIR PETER MENZIES
JOHN MILLER
DEREK F. MITCHELL
JOSEPH P. MONGE
ALLEN E. MURRAY
PENELM D. NADLEN
CONOR CRUISE O'BRIEN
WILLIAM S. OGDEN
PAUL PAIR
PAUL L. PARKER
BROUGHTON PIRNIE
GEORGE J. POLAK
SIR RICHARD POWELL
ALFRED POWIS
J. G. PRENTICE
PAUL E. PRICE
LOUIS PUTZ
MELIE RAMSON
CARL E. REICHARDT
GRANT REUSER
BEN ROBERTS
HAROLD B. ROSE
DAVID SARGENT
WILLIAM SALOMON
A. C. SAMUEL
HOWARD SAMUEL
NATHANIEL SAMUELS
SIR FRANCIS SANDILANDS
HON. MAURICE SAUNDERS
PETER F. SCOTT
ROBERT C. SEAMAN JR.
LORD SELBORN
THE EARL OF SELKIRK
JACOB SHEINKMAN
LORD SHEPHERD
R. MICHAEL SHELDON
GEORGE L. SHINN
WILLIAM E. SIMON
GORDON R. SIMPSON
SIR ROY SISSON
SIR LESLIE SMITH
E. NORMAN STAUB
RALPH I. STRAUSS
SIR ROBERT TAYLOR
J. C. TURNER
W. D. TRAVIS
MARTIN W. WATKINS
GLENN I. WATTS
VISCOUNT WEIR
FREDERICK B. WHITTEMORE
SIR ERNEST WOODROOPE
CHARLES WOOTTON

HON. HENRY HANKEY
British Secretary
London

JOHN MILLER
North American Secretary
Washington

SPENCY LEA
North American Director
of Research, Washington

SAUNDERS WILLEY
British Director of
Research, London

3.

We realise that other matters dealt with in the draft Convention may be of more immediate concern to Governments than are the provisions relating to mining, which will not have practical effect for a number of years. We consider, however, that the continuing supply in the longer term of essential materials for which the advanced countries will, in due course, become dependent on the deep sea bed is of such vital importance that it should not be sacrificed in order to secure more immediate objectives.

We hope therefore, that H.M. Government will give urgent consideration to the matters raised in this letter and consult with the Governments of other advanced industrial Countries with a view to establishing an agreed position before discussion of the draft Convention is resumed.

We would be glad to elaborate the broad views that we have put forward in this letter in more detailed discussions with your advisors, should you so wish.

Copies of this letter are being sent to the Secretary of State for Trade and to the Secretary of State for Foreign Affairs.

*I am sincerely
Alastair Down*

The British-North American Committee

BRITISH-NORTH AMERICAN RESEARCH ASSOCIATION
1 Gough Square, London EC4A 3DE, England
01 353 6371

C.D. HOWE INSTITUTE
Suite 2064, 1155 Metcalfe St., Montreal, Quebec H3B 2X7
(514) 879-1254

NPA
1606 New Hampshire Ave., N.W., Washington, D.C. 20009
(202) 265-7685

Patrons
SIR ALASTAIR DOWN
Chairman
Bumiput Co Company

WILLIAM L. WEARLY
Chairman, Executive Committee
Ingersoll Rand Company

Trust Patron
GEORGE F. SMULTZ
Vice Chairman
Bayer Group of Companies

Patron
WILLIAM M. TURNER JR
President and Chief Executive Officer
Ciba-Geigy Basiput Inc

Members
R W ADAM
WILLIAM M ASKE
J A JAMES BOND
CHARLES F BAIRD
JOSEPH E BAIRD
ROBERT B BARDEN
W G BARNETT
SIR DONALD BARRON
CARL E BEIGE
MICHAEL BELANGER
C FRED BELGASTEN
CARLOS D BOLLEN
JOHN F BOONQUIT
FRANK BORNMAN
THOMAS F BRADSHAW
JAMES W BURNS
SIR RICHARD BUTLER
VISCOUNT CALDECOTE
SIR CHARLES CARTER
SALAC S CATHCART
HAROLD VAN B CLEVELAND
DONALD M COE
FRANK J CUMMINGS
JAMES W DAVITT
RALPH P DAVIDSON
DIRK DE BRUYNE
A H A DIBBS
SIR RICHARD DOBSON
WILLIAM DOGGE
WILLIAM H DONALDSON
PETER P DONIS
GEORGE F DRAKE
TERRY DUFFY
GERRY EASTWOOD
HARRY E EMBLOM
MOSE EVANS
J K FINLAYSON
GLENN FLATEN
RICHARD W FOKEN
SIR ALSTAIR FRAME
ROBERT R FREDERICK
THEODORE GEEGER
GWYN GILLESPIE
MALCOLM GLENN
GEORGE GOSVAM
JOHN H HALE
MOR HENRY HANKEY
AUGUSTIN S HART JR
FRED L HARTLEY
G R HOFFMAN
HENRY H HENZEL
ROBERT HENDERSON
THE VON HEDENBORN
HENRIK S HOUTHAFFER
TOM JACKSON
DONALD P JACOB
JOHN J JAMES
GEORGE S JOHNSTON
JOSEPH D KEELAN
CURTIS M KILMER
H U A LAMBERT
HERBERT H LEAK
WILLIAM A LEEVERS
FRANKLIN A LINDSAY
SIR PETER MACADAM
SIR W MACDONALD
IAN MACGREGOR
CAROL MACMILLAN JR
JOHN D MACOMBER
J P MANN
WILLIAM A MARSHALL
A B MARSHALL
WILLIAM J MEDONOUGH
DONALD E MEADE
SIR PATRICK MEANEY
C J MEDBERRY III
SIR PETER MENZIES
JOHN MILLER
DEREK F MITCHELL
JOSEPH P MORGAN
ALLAN E MURPHY
KENNETH D NADLER
CONOR CRUISE O'BRIEN
WILLIAM S OGDEN
PAUL PARRER
BROUGHTON PIPER
GEORGE J POULIN
SIR RICHARD POWELL
ALFRED POWIS
J G PRENTICE
PAUL E PRICE
LOUIS PUTZ
MERLE RAYSON
CARL E REICHARDT
GRANT REUBER
BEN ROBERTS
HAROLD B ROSE
DAVID SANDS
WILLIAM SANDSON
A C SAMUEL
HOWARD SAMUEL
NATHANIEL SANDOZ
SIR FRANCIS SANDOZ
MOR MALCOLM SALVE
PETER F SCOTT
ROBERT C SEAMAN JR
LORD SELBORN
THE EARL OF SELWYN
JACOB SHERWINE
LORD SHERWELL
R MICHAEL SHIELDS
GEORGE I SIMON
WILLIAM E SIVON
GORDON R SAPPSON
SIR ROY SISSON
SIR LESLIE SMITH
E NORMAN STAUB
RALPH S STRONG
SIR ROBERT TAYLOR
J C TURNER
W D TAYLOR
MATTHEW DE FELD WALLACE
GLENN E WATTS
VISCOUNT WELCH
THE DUCHESS B WHITTEMORE
SIR EARLEST WOODROOFE
CHARLES WOOTTON

MOR MALCOLM SALVE
British Secretary
London
John Miller
North American Secretary
Washington

SPIRIT LEA
North American Director
of Research Association
Simon Wisely
British Director of
Research London

BRITISH MEMBERS OF THE BRITISH-NORTH AMERICAN COMMITTEE WHO ARE ASSOCIATED WITH THE LETTER SENT BY SIR ALASTAIR DOWN ON THEIR BEHALF TO THE SECRETARY OF STATE FOR INDUSTRY ON JANUARY 22nd 1982

PROFESSOR R.J. BALL
Chairman,
Legal & General Group Ltd., &
Principal,
London Business School.

J.D. BIRKIN
Chairman,
Tunnel Holdings Ltd.

VISCOUNT CALDECOTE
Chairman,
Delta Metal Company, &
Chairman,
Finance for Industry.

JOHN DU CANE
Director,
AMAX.

GERRY EASTWOOD
General Secretary,
Association of Patternmakers
and Allied Craftsmen

IAN MacGREGOR
Chairman,
British Steel Corporation.

A.B. MARSHALL
Chairman,
Bestobell Ltd.

SIR PATRICK MEANEY
Group Managing Director,
Thomas Tilling Limited.

SIR RICHARD POWELL
Hill Samuel Group Ltd.

SIR ROY SISSON
Chairman,
Smiths Industries Limited.

SIR LESLIE SMITH
Chairman,
BOC International Ltd.



Fast Post

SECRETARY OF STATE FOR ENERGY

THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ
TELEPHONE: 01-211 3000

The Rt Hon John Biffen MP
Secretary of State for Trade
Department of Trade
1 Victoria Street
London SW1H 0ET

La. Mrs.

2 June 1981

Dear John

ANNOUNCEMENT OF THE GOVERNMENT'S DECISION TO EXTEND THE
UNITED KINGDOM TERRITORIAL SEA

I refer to your Memorandum (OD(81)25) on this subject and
confirm that I am content with the actions proposed therein.
Copies of this letter are being sent to OD members.

*Yours
D.A.R.*

D A R HOWELL

RECORDED



CONFIDENTIAL

ds

file

Foreign Policy

1 June 1981

Announcement of the Government's Decision to
Extend the United Kingdom Territorial Sea

The Prime Minister has seen and taken note
of the Secretary of State for Trade's minute
(OD(81)25) of 27 May on this subject.

MODBA

John Rhodes, Esq.,
Department of Trade.

CONFIDENTIAL

62

010
Ref: B06208

(4)

Prime Minister
To Mr.

R.L.W.

MR ALEXANDER

c Sir Robert Armstrong

Announcement of the Government's Decision to Extend the
United Kingdom Territorial Sea

In his memorandum OD(81) 25 the Secretary of State for Trade, in his capacity as chairman of the Ministerial Group on Maritime Affairs, reports the Group's agreement on the terms and timing of an announcement of the Government's intention to extend our territorial sea to 12 miles. Agreement has been reached because Foreign and Commonwealth Office Ministers have withdrawn both their earlier objections to making such an announcement before the conclusion of the United Nations Law of the Sea Conference (UNLOSC) and their more recent objections to making the announcement before the European Community negotiations on a common fisheries policy (CFP) are completed. The UNLOSC objection was abandoned because of the delays to which UNLOSC has been subjected following the election of President Reagan; and the CFP objection because of expected delays to the fishery negotiations following the election of President Mitterand. The Foreign and Commonwealth Office also accept (paragraph 6 of the paper) that the risk of an announcement seriously upsetting the Americans is small enough to be acceptable.

2. This means that the issue does not now require the further consideration by OD envisaged last July (OD(80) 17th Meeting, Item 1).
3. The announcement will not specify when the Government will actually legislate to give effect to their intention. If UNLOSC reaches a satisfactory conclusion within the next year, our legislation to ratify the new Law of the Sea Convention (for which a contingent slot is available in the 1981-82 parliamentary programme) will include a provision extending our territorial sea. If UNLOSC remains stalled separate legislation will be needed. A Bill for this purpose was included in the 1981-82 programme; but it was among those queried in Cabinet on 14th May, and Mr Biffen is now likely to agree that it should be dropped in 1981-82 provided it can (if needed) have a high priority in 1982-83.
4. The Prime Minister need only take note.

28th May 1981

R L WADE-GERY



THE MINISTER OF STATE

HAMISH GRAY ESQ MP

The Hon Douglas R Hurd CBE MP
Minister of State
Foreign and Commonwealth Office
London
SW1A 2AH

Gaut March
DEPARTMENT OF ENERGY
THAMES HOUSE SOUTH
MILLBANK
LONDON SW1P 4QJ

Direct Line 01-211 3290
Switchboard 01-211 3000

NBPA

Phd

27 May 1981

Dear Douglas,

UNITED NATIONS LAW OF THE SEA CONFERENCE (UNLOSC)

will request if required.

Thank you for sending me a copy of your letter of 18 May to John Biffen with the draft paper setting out our assessment of the UNLOSC negotiations. At the time of our own policy review in 1980 I made it clear that I was opposed to the role accorded to the Boundary Commission in the present informal text of the Conference and that the issue was sufficiently important to make it arguable whether our continental shelf interests generally would be best served by a convention on these lines. David Howell reaffirmed this at OD later and it was agreed that we would have to consider our position in due course in the light of the results of the Conference as a whole.

It seems to me that the reference at the end of paragraph 7 of the draft paper that "the shelf provisions as a whole are acceptable and important to the UK" and the subsequent inclusion of the continental shelf in the list at paragraph 7 of the positive benefits to the UK and its allies which the Convention affords implies our acceptance of the existing continental shelf package and pre-empts a decision that is yet to be taken.

I cannot support such an implication as my views on this issue are unchanged. I suggest however that the two passages could be deleted without affecting the conclusion of the paper, with which I agree, that the balance of advantage lies in continuing the effort to conclude a Convention commanding general acceptance.

I am copying this letter to colleagues in Misc 19.

Yours was
Hamish

27 MAY 1981



S E C R E T

PS(2)

GR 230

SECRET

D E D I P

BURNING BUSH

FM ROME 041500Z MAY 1981

TO PRIORITY FCO

TELEGRAM NUMBER 145 OF 4 MAY 1981

INFO PRIORITY WASHINGTON, PARIS, BONN AND UKMIS NEW YORK
(PERSONAL FOR AMBASSADORS)

FOLLOWING FROM PRIVATE SECRETARY

QUADRIPARTITE MINISTERIAL DINNER, 3 MAY: LAW OF THE SEA

1. RAISING THIS, GENSCHER SAID THAT THE GERMANS WERE VERY PLEASED THAT THE AMERICANS WANTED TO REVIEW THEIR POSITION. AT THE VENICE ECONOMIC SUMMIT HE HAD EXPRESSED MISGIVINGS ABOUT THE STATE OF NEGOTIATIONS AT THAT POINT. HIS MISGIVINGS HAD NOT DECREASED SINCE THEN. FOR EXAMPLE, THE PRESENT DRAFT ON FREE PASSAGE THROUGH STRAITS WAS FAR MORE ADVANTAGEOUS TO THE WARSAW PACT THAN TO THE WEST, E.G. IN THE MEDITERRANEAN AND THE BALTIC. THE UNLOSC NEGOTIATIONS WERE OF FUNDAMENTAL STRATEGIC AND ECONOMIC SIGNIFICANCE. GERMANY WOULD LIKE THE ISSUE TO BE DISCUSSED AGAIN QUADRIPARTITELY AFTER THE AMERICAN REVIEW.

2. HAIG WELCOMED THIS: THE AMERICANS DID NOT RELISH BEING A LONE VOICE IN THE WILDERNESS. LORD CARRINGTON AGREED THAT DISCUSSIONS WOULD BE USEFUL. HE POINTED OUT HOWEVER THAT IT WOULD BE STRANGE TO HAVE NO AGREEMENT AFTER TEN YEARS OF DISCUSSION. WE SHOULD HAVE TO DECIDE WHETHER AN AGREEMENT WITH SOME WEAKNESSES WAS BETTER THAN NO AGREEMENT AT ALL.

FRANCOIS PONCET AGREED WITH THE SECRETARY OF STATE. HE WAS NOT SURE THAT THE CONCLUSION AFTER ANY REVIEW WOULD BE VERY DIFFERENT FROM WHAT HAD GONE BEFORE. THE NEGOTIATIONS HAD BEEN DIFFICULT BUT THE OUTCOME WAS BALANCED. HE DOUBTED WHETHER WE COULD ACHIEVE MUCH MORE, AND THE POSITIVE GAIN IN WHAT WE HAD ALREADY GOT SHOULD NOT BE NEGLECTED. HE AGREED HOWEVER TO A DISCUSSION IN QUADRIPARTITE.

ARCULUS

LIMITED

HD/PLANNING STAFF

HD/MAED

HD/NAD

HD/WED

HD/UND

HD/ECD (E)

PS ✓

PS/LPS

PS/PUS

MR BULLARD

MR POWELL-JONES

MR FERGUSSON

S E C R E T



2PB
For Pub.

Foreign and Commonwealth Office
London SW1

2 September 1980

NBPA
1/2

John Nott

UNITED KINGDOM DEEP SEABED MINING LEGISLATION

I have seen Memorandum OD(80)52. I entirely agree that the decision on introduction of deep seabed mining legislation should remain confidential for the time being, and that the timing of an announcement should be decided separately. Subject to this, I agree that this legislation should be put in the 'essential' category for the 1980/81 Session.

I am copying this letter to other members of OD.

yes ✓
lan

The Rt Hon John Nott MP
Secretary of State for Trade
1 Victoria Street
London SW1

SEP 3 1980



Ref: B06010



*P.A. has already indicated
 concurrence with Mr Nott's paper.
 NBP/1 ^{to P.A. informed}
 Hunt - 3/5*

PRIME MINISTER

United Kingdom Interim Deep Seabed Mining Legislation
 (OD(80) 52)

This memorandum by the Secretary of State for Trade has been circulated for clearance out of committee by the Defence and Overseas Policy Committee by 12th September. The subject has already been considered by the Ministerial Group on Maritime Affairs and Mr Nott's paper has been written by him in his capacity as Chairman of that Group.

2. There are at present three United Kingdom companies (British Petroleum, Rio-Tinto Zinc and Consolidated Gold Fields) who are involved in research and development of seabed mining as members of the United States-led Kennecott consortium. The minerals which are likely to be produced from the seabed are in the form of manganese nodules which contain, in commercially recoverable amounts, nickel, copper, cobalt and manganese. As you know, these minerals are of critical importance to British industry. At present the United Kingdom is totally dependent on imports for its supply of all four. Moreover cobalt comes almost entirely - and our copper and manganese very largely - from countries in Southern Africa which are for political reasons uncertain sources of supply. Manganese nodules constitute an important alternative source of these minerals in the future and participation by United Kingdom companies in seabed mining will ensure greater security of supply for United Kingdom consumers. In the long term, as higher grade land based sources of these minerals begin to be exhausted, the value of seabed nodules as a source of supply will become even greater.

3. As Mr Nott explains, United Kingdom legislation is now urgently needed by our companies if they are not to be put at a disadvantage vis-a-vis their American and other competitors. There will be a gap of several years until an international regime can be established under the new Law of the Sea Convention which the United Nations Law of the Sea Conference (UNLOSC) has been working on since the early 70s. National legislation will fill that gap on an interim basis. The Americans enacted theirs in mid-summer and others are doing the same. In theory our companies could operate under



a United States licence. But they are in practice unwilling to do so; and RTZ would be in a difficult position since they are at present at odds with the American Administration because of litigation over uranium. In any case, if the United Kingdom companies were to operate under a United States licence, security of supply and other advantages to the United Kingdom would be lost.

4. Good progress was made at the UNLOSC session which has just ended. But finalising the Convention will take at least one more session, fixed for next spring; and time will be needed thereafter for ratification.

5. Domestically, our proposed legislation is likely to be well received. The only part of it which may be controversial is the proposed "revenue sharing provision", which is intended to moderate the hostility of the under-developed countries to national licensing in anticipation of an international regime. But the other developed countries who are passing such legislation are also including such provision; and a United Kingdom Bill which did not do so would attract hostility in UNLOSC and thus jeopardise other very important material interests which we there have at stake (notably in relation to the Continental Margin).

6. None of your OD colleagues have so far commented. The Chancellor of the Exchequer, Lord Chancellor, Defence Secretary and Lord President are not expected to do so. The Foreign and Commonwealth Secretary or Lord Privy Seal is likely only to underline the point in Mr Nott's paragraph 4, that a later decision will be needed on the timing of an announcement; and to add the obvious rider that it should not coincide with the next UNLOSC session.

7. The Legislation Committee will wish to have the views of OD on the priority to be accorded to the proposed legislation. Although as the paper says the Chancellor of the Duchy is naturally anxious to avoid another crowded session, I understand that the proposed legislation would not be unwelcome to him if it could come forward early. As it has already reached the "first print stage", this should be possible.



8. I recommend that you concur in Mr Nott's paper, which you can do (under the terms of his final paragraph) by letting 12th September pass without commenting.

R L Wade-Gery

2nd September 1980

R L WADE-GERY

CONQUEROR

III



2 SEP 1980

12 1 2 3
4 5 6 7 8 9 10 11

COMMISSION

Foreign Policy



✓ MP

DEPARTMENT OF ENERGY
THAMES HOUSE SOUTH
MILLBANK
LONDON SW1P 4QJ

Direct Line 01-211 3290
Switchboard 01-211 3000

THE MINISTER OF STATE

Hamish Gray Esq MP

Douglas Hurd Esq CBE MP
Minister of State
Foreign and Commonwealth Office
LONDON SW1A 2AH

19 August 1980

Dear Douglas,

will request if required

UN LAW OF THE SEA CONFERENCE: VOTING IN THE COUNCIL AND BOUNDARY COMMISSION

I have seen a copy of your letter of 15 August to John Nott concerning developments at UNLOSC.

My particular concern is with the role of the Boundary Commission, and the political pressures under which it will undoubtedly find itself, however ~~political~~ may be the intentions of its creators. I note that your assessment of the position is that attempts to press for reinsertion of 'taking into account' would not be successful at Geneva and that our Delegation are therefore taking whatever action is necessary to maintain our formal reservation on this issue.

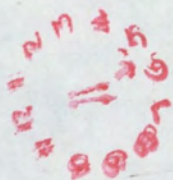
However I made my position clear at MISC 19 and David Howell reaffirmed this at OD later. Events so far at Geneva have not changed our views. You mentioned to the Chairman of Committee II whilst you were in Geneva that the change of wording to 'on the basis of' seemed to be a large price for the UK to pay (Geneva telegram no. 362) and I could not agree more with you, indeed I would suggest that it is a huge price.

I certainly agree with you that we shall have to consider our position in due course in the light of the results of the Conference as a whole.

I am copying this letter to colleagues in MISC 19.

*Yours sincerely
Hamish*

02 AUG 1980





Foreign Office

PRIME MINISTER

United Nations Law of the Sea Conference (UNLOSC) and the
Extension of the United Kingdom Territorial Sea

(OD(80) 47 and 48)

BACKGROUND

1. (i) UNLOSC

The United Nations Law of the Sea Conference is coming close to its decisive phase. The work programme for the remainder of the Ninth Session in Geneva in August provides for the completion of the negotiating text and its formal transformation into a draft Convention. If that happens it will be virtually impossible for the United Kingdom, or the small group of states with similar interests at stake, subsequently to secure changes in the text. On the other hand the opportunities for obtaining an improved text by holding out for later sessions are narrowing rapidly: both the United States and the Soviet Union want to bring the Conference to an end soon, while the developing countries are becoming impatient at the continuing search for consensus on each point. A resort to voting could unravel many of the gains we have made in negotiation. The crunch may not come in this round of negotiation, but, if it does, the Government is likely to be faced with a difficult choice between the conclusion of a Law of the Sea Convention which meets some but not all United Kingdom objectives, and the break up of a conference in which the United Kingdom has obtained a great deal of its requirements. OD has not hitherto discussed the British interests in UNLOSC. This paper was initiated by the Foreign and Commonwealth Secretary because the Secretary of State for Energy suggested that it would be desirable for Ministers to take stock collectively of the situation reached in and our strategy at UNLOSC. His proposal was welcomed by the other Ministers most concerned - the Secretaries of State for Defence, Trade and Foreign and Commonwealth Affairs. Officials prepared a paper (annexed to the Secretary of State for Trade's memorandum OD(80) 48) which has been discussed by Mr Nott's Ministerial Group on Maritime Affairs (MISC 19). The Group agreed that it would not be possible to obtain a partial Convention, but some reservations were expressed by the Minister of



of State for Energy, with some Treasury support; and, to a lesser extent by the Minister of State for Industry (who is interested in deep sea mining potentialities).

(ii) Extension of the United Kingdom Territorial Sea

This is a major issue arising from the UNLOSC negotiations. The United Kingdom has traditionally favoured a narrow territorial sea and is now in a fairly small minority of countries which have not claimed 6, 12 or 200 mile limits. There is wide agreement at UNLOSC that a 12 mile limit would be appropriate and the text which successive governments have agreed that our negotiators should endorse permits extension to 12 miles. The Ministerial Group on Maritime Affairs agree that it would be in the United Kingdom interest to go to 12 miles and seek OD's endorsement of this view. They also seek OD's view on the timing of our extension or announcement of intention to extend. The arguments are summarised in OD(80) 47.

HANDLING

2. It will probably be most convenient to take the two papers separately beginning with that on UNLOSC. You will wish the Secretary of State for Trade to introduce his paper (which sets out the main points of difficulty) and then ask the Foreign and Commonwealth Secretary to say how he sees the conference developing. The Secretary of State for Energy and Minister of State, Department of Industry (Mr Adam Butler) (both have been invited for this item) will want to explain the points which concern them; and the Secretary of State for Defence and the Secretary of State for Trade (wearing his Departmental hat) the reasons for settling sooner rather than later. You will wish the Chancellor of the Exchequer to comment on the financial and the Attorney General (who has also been invited) on the legal aspects.

3. The questions to resolve in discussion are -

- a. how strong is the evidence for the existence of large hydrocarbon deposits around Rockall? How large are these deposits in relation to those for which a Convention on present lines would give us a secure title?



- b. What would our position be if -
- i. UNLOSC failed?
 - ii. UNLOSC produced a Convention to which we did not accede?
- c. Can we rely on the United States to obtain all that we want as regards sea bed mining? Is there any risk that, by treating this question (which the developing countries look at in pure North-South terms) as overriding in importance, the United States could bring about the collapse of the Conference?
- d. Are the likely financial implications tolerable as regards both actual public expenditure and potential revenue foregone?

HANDLING - Territorial Sea

4. You will wish the Secretary of State for Trade, as Chairman of MISC 19, to introduce his paper and then to present his own department's case for early extension. You might then invite the Foreign and Commonwealth Secretary to describe the difficulties he sees this causing to our negotiators in UNLOSC; and the Secretary of State for Defence to say why the possible risk to a satisfactory straits regime would harm our defence interests. You will wish to establish how seriously the Secretary of State for Energy regards the potentially increased threat to our landing requirements of an extension to our territorial waters stemming from the resultant increase in the competence of the European Community.

CONCLUSIONS - UNLOSC

5. Subject to the points made in discussion you might guide the Committee to -
1. Endorse the recommendations in paragraph 11 of OD(80) 48.
 2. Take note that urgent Ministerial decisions may be required in the latter part of August.

CONCLUSIONS - Territorial Sea

6. Subject to points made in discussion you might guide the Committee to -
 1. Agree in principle that the United Kingdom should extend its territorial sea to 12 miles.
 2. Agree that this decision remain confidential.
 3. Invite the Secretary of State for Trade in his capacity as Chairman of MISC 19 to consider further the timing of any announcement of our intention to extend in the light of the outcome of the forthcoming part-Session of UNLOSC.

RA

ROBERT ARMSTRONG

1 July 1980



*With the Compliments
of*

THE LORD ADVOCATE

..... 20 May 1980

LORD ADVOCATE'S CHAMBERS
FIELDEN HOUSE
10 GREAT COLLEGE STREET
LONDON, SW1P 3SL

5
Telephone : Direct Line 01-212 0515
Switchboard 01-212 7676 0100



for PD.

Lord Advocate's Chambers
Fielden House
10 Great College Street
London SW1P 3SL

0100
Telephone : Direct Line 01-212 0515
Switchboard 01-212 7676

The Rt. Hon. David Howell MP.,
Secretary of State for Energy,
Department of Energy,
Thames House South,
Millbank,
London SW1P 4QJ.

22 May 1980

And 22/5

Thank you for sending me a copy of your letter of 6th May to the Secretary of State for Foreign and Commonwealth Affairs seeking an appraisal of UK objectives and strategy in the UNLOSC negotiations on continental shelf issues.

I have now seen a copy of Peter Carrington's reply, and I would agree with his suggested way of proceeding to discuss this important matter. I should very much like to participate in the discussions, and if it is agreed that MISC.19 should consider the question first an opportunity to do so will present itself since I am a member of that Committee.

I am copying this letter to the recipients of yours.

MACKAY OF CLASHFERN



NRPA

Foreign
Policy
Unit
- 2/5

MINISTRY OF DEFENCE WHITEHALL LONDON SW1A 2HB

TELEPHONE 01-218 9000
DIRECT DIALLING 01-218 2111/3

MO 12/3

19th May 1980

Dear Peter,

THIRD UN LAW OF THE SEA CONFERENCE

I have seen David Howell's letter to you of 6th May.

From the defence viewpoint, we attach much importance to reaching agreement on a satisfactory Convention and this view is shared by our NATO allies. The defence-related articles in the draft Convention have for the most part achieved a stable and acceptable form and, if international agreement to them can be achieved, would offer the best safeguard of the navigational freedom to which we attach much importance. Without an agreed Convention we would expect renewed attempts by coastal states unrestrained by international law, to extend their jurisdiction at the expense of the freedom of action of maritime powers, including ourselves.

I agree that it would be useful for Ministers to meet to review the UK's objectives and strategy for the remaining stages of the conference. I also agree that officials should draw up a paper along the lines suggested by David Howell, but it would, I think, also be worth including in the paper an assessment of the implications for the UK of not achieving an agreed Law of the Sea Convention.

I am copying this letter to the recipients of David Howell's.

Francis Pym

20 MAY 1980

10 11 12 1 2 3 4
5 6 7 8 9



FCS/80/93

SECRETARY OF STATE FOR ENERGY

UN Conference on the Law of the Sea (UNLOSC)

- h.c.*
Min
19/5
1. Thank you for your letter of 6 May.
 2. I agree that it would be sensible for Ministers to take stock of the UK's objectives and strategy at UNLOSC, as you suggest, given that these important negotiations are approaching what could be their final stages. Co-ordination between departments has worked well, but at Ministerial level we do not want to be faced, on a take-it or leave-it basis after negotiations are complete, with a text covering general matters of great economic and political importance. I suggest that MISC 19 under John Nott, if he agrees, should consider the question first and should aim at a meeting for the purpose about mid-June. I should add that I think it may be advisable for OD also to consider it thereafter, both because of the importance of our senior colleagues giving attention to the main issues, and in order to resolve any outstanding differences between Departments. My officials will prepare a paper to serve as a basis for discussion.
 3. I am copying this minute to the Prime Minister, John Nott, and the other recipients of your letter.

(CARRINGTON)

Foreign and Commonwealth Office

19 May 1980



SECRETARY OF STATE FOR ENERGY
 THAMES HOUSE SOUTH
 MILLBANK LONDON SW1P 4QJ

②

Prime Minister

The Rt Hon Lord Carrington KCMG MC
 Secretary of State for Foreign
 and Commonwealth Affairs
 Downing Street
 LONDON SW1

for
 P. Andrews

Andrews

6 May 1980

See Peter

ms

THIRD UN LAW OF THE SEA CONFERENCE (UNLOSC)

My Department's primary objective at UNLOSC is to secure in any eventual Convention test provisions that would enhance our claim to sovereign rights over areas of the outer continental shelf ie, beyond 200 miles from our coasts. These outer areas (notably in the West Rockall area) are the ones to which we shall probably be looking in perhaps 20 to 30 years hence for a contribution to our energy requirements, after we have exploited the oil resources in the shallower waters around our coast. Our present guess is that up to 275 million tonnes of oil might eventually be recovered from these outer areas, worth at the top of the range some £25 billion at 1980 prices. I recognise that it is speculative whether it will ever be economic to recover any such oil, but it is obviously important to secure our sovereign rights over these outer areas and hence our right to exploit the oil deposits which might be present there.

It is against the foregoing background that I have read the Report by the Leader of the UK Delegation on the first part of the Ninth Session of UNLOSC held in New York between 3 March - 4 April. Paragraphs 12 and 13 of that Report offer a package of provisions which we are invited to accept as a final settlement of the continental shelf issues. It seems that similar package offers have emerged in other areas outside my Department's area of interest, eg. navigation, fishing and pollution, but that, as the Report makes clear, other important issues, particularly the regime for mining manganese nodules, are further away from settlement.



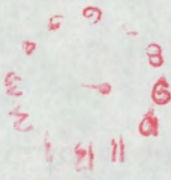
Nevertheless the Report seems reasonably optimistic that a settlement of all the outstanding issues could be reached at the resumed Ninth Session in August, and stresses (paragraph 19(a)) that in that event, there would be little opportunity for delegations to consult governments between the adoption of the formal text and the closing date for amendments. It might be particularly difficult for us because of the summer recess. I therefore suggest that it would be sensible for us to meet to take stock of the UK's objectives and strategy across the range of issues before the Conference, so that our Delegation's instructions for the resumed Ninth Session will reflect our collective views. I have some doubts about the merits of the package on continental shelf issues, which seems to be emerging despite the resolute efforts of our Delegation. It is possible that other of our colleagues too may have reservations. In particular I fear that an UNLOS Convention on the lines proposed may have the effect of giving the proposed Boundary Commission a stronger position than we could accept in determining the outer edge of our continental margin. This could mean that those important outer areas referred to in the first paragraph of my letter could end up under the International Seabed Authority and not under the UK. This risk seems to be increased by the latest changes in the text on the Boundary Commission, which, as you know, we opposed at the time.

If you agree to a discussion along the lines proposed, it would be helpful to have a paper, prepared by officials, setting out the situation in the principal areas under discussion in the Conference, identifying the major UK interests and what we are putting at risk by accepting the compromises now being discussed in the Conference, and the scope for further initiatives on the part of the UK.

I am copying this letter to the Prime Minister, the Chancellor of the Exchequer, the Secretaries of State for Trade, Industry, Defence, Agriculture, Fisheries and Food, Education and Science, Home Office, Scotland, Wales and Northern Ireland, to the Attorney General, to the Lord Advocate and to Sir Robert Armstrong.

D A R HOWELL

Handwritten signature:
G. ...
D.A.R.



- 6 MAY 1980

