



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

25 February 1982

Foreign Policy

MR COLES *✓ m 25/2*

LAW OF THE SEA

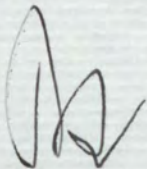
Thanks for passing me the letter from John Holmes, which I return. I will write something on the lines he suggests to Simon Webley.

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

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

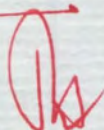
cc. Mr. Ibbs, CPRS

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

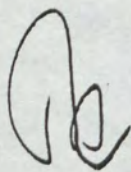
DRAFT TREATY ON THE LAW OF THE SEA

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

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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.

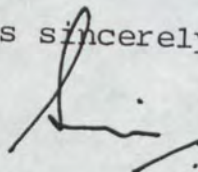
I am sorry to burden you with this but it is one of those issues the outcome of which will only become apparent in the longer term. (Though there is likely to be a row in March/April).

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

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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.

/.....

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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

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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*

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