C

PM/83/7

Draft minute from Cabinet Office AR 27.

PRIME MINISTER

Law of the Sea

1. John Sparrow has sent me a copy of his minute to you of 12 January about the desirability of a reciprocating agreement on deep sea mining with the USA.

2. I agree strongly with much that he has to say: we do need to bring in the Germans, preferably also the French; and in the longer run we should try to bring in the Japanese and others; and we should seek to ensure that the agreement is not harmful to our interests. If delay in concluding an agreement helped us achieve those objectives we should clearly support it providing that we did not thereby cause the Americans to abandon the idea of a reciprocating agreement altogether.

3. We must, I think, start from the premise that we need a reciprocating agreement in order to protect our companies against overlapping claims from companies registered under the laws of other countries and most notably the US. The deadline for concluding such an agreement is likely to be the date when the US is ready to issue its first national licences, probably in the autumn of this year. Thereafter our companies would lose priority against US companies so licensed.

4. John Sparrow implies that we should defer signature until we have a draft which is not based on the US 1980 Act. I agree that we should try to negotiate an agreement which meets our main concerns but the US Administration is bound by the 1980 Act and there seems little likelihood of our persuading them to seek early amendments to that law which would free their hands to meet our concerns.

5. Similar problems arise with John Sparrow's suggestion that we should seek an agreement which will later bring in others, especially the Japanese. The US, France and the FRG (with whom we are currently negotiating a reciprocating

 /agreement)

agreement) would all welcome Japanese participation, but to bring the Japanese on board would probably also involve amendments to American legislation which the US would be reluctant to seek in the immediate future, though there are signs that they are beginning to realise the seriousness of this problem in the long term. It therefore seems unlikely that there is any realistic prospect of bringing in the Japanese and others before this autumn.

6. Finally, John Sparrow suggests that we should ask the Americans to defer the issue of their licences pending conclusion of a reciprocating agreement. I see advantage in pursuing this line over the next few months, but we must expect resistance from the US to any suggestion of deferral. They have consistently maintained that they have little administrative discretion under their law once the objective criteria for issuing licences are satisfied. At present they expect these critieria to be satisfied some time in the autumn.

7. In conclusion, therefore, I do not think that we can decide now what our attitude would be if we found that our negotiators had not been able to meet all our objectives of substance, and that the Americans were ready to issue national licences with or without a reciprocating agreement. We would have to consider at that time, and in consultation with the companies concerned,where the balance of our interests lay.

8. I am copying this minute to the Secretaries of State for Industry and Trade, Sir Robert Armstrong and John Sparrow.

(FRANCIS PYM)

Foreign and Commonwealth Office
18 January, 1983

Foreign Rl
UNCOSC, pt 2.

File 2

10 DOWNING STREET

From the Private Secretary

SIR ROBERT ARMSTRONG

LAW OF THE SEA: RECIPROCATING AGREEMENT

The Prime Minister has recently received three papers on this subject - a minute of 12 January by the Head of the CPRS, a minute of 18 January by the Foreign and Commonwealth Secretary and a minute of 25 January by the Secretary of State for Industry.

When she saw the first of these papers the Prime Minister commented that she thought it might be necessary to hold a meeting to discuss the issue and that she needed fuller information.

It would be helpful if the Cabinet Office could prepare a short paper for the Prime Minister describing the significance and likely content of a reciprocating states agreement, the issues for decision and a summary of the views so far expressed. The Prime Minister would decide in the light of this paper whether she needs to hold a meeting on this subject.

I am sending a copy of this minute to Gerry Spence (CPRS), Brian Fall (Foreign and Commonwealth Office), Jonathan Spencer (Department of Industry) and John Rhodes (Department of Trade).

A. J. COLES

28 January 1983

CONFIDENTIAL

JH 673

2 pp's

PRIME MINISTER

Await minute from Cabinet Office

A. J. C. 29/1

LAW OF THE SEA

I have seen John Sparrow's minute to you of 12 January, and Francis Pym's minute of 18 January, concerning reciprocating arrangements for deep sea mining.

2 I take John Sparrow's point about the disadvantages in both substance and presentation for the UK if we concluded an agreement just with the US, based solely on the US deep sea mining law. But that is not what we have been seeking to achieve: France and FRG have participated with ourselves and the US in all the negotiations so far and I hope they will continue to do so. There has already been discussion about the desirability of broadening the discussion to include other deep sea mining states, especially Japan, and I trust progress will be made on this point in forthcoming meetings.

3 However, I agree with Francis Pym that we should not underestimate the difficulty of concluding an agreement in the next few months which will suit both the US who are firmly anti Convention and Japan and France who are disposed to work within it, at least for the time being. Nor should we rely on a helpful response from the US to a request to defer the issue of licences: there is still a strong US domestic lobby which favours rapid progress in this field.

4 I believe that we should do what we can to secure an early agreement which has as broad support as possible and which does not exclude the UK's objectives. But we should not forget that it is the US who have the most numerous deep sea mining operators and that agreement with them on the recognition of licences is the single most important element for the UK in these interim arrangements. Even if other states prove reluctant to agree to terms acceptable to us and to the US, we still need an agreement with the US.

5 I am copying this to recipients of John Sparrow's minute.

PJ

P J

25 January 1983

Department of Industry

Prime Minister

B

The purpose of a Reciprocating States Agreement is to ensure that the signatories recognise the validity of the licences issued to their companies — and to ensure e.g. that we and the U.S. do not both allocate the same block of the sea-bed to our respective companies.

2. The Foreign Secretary may wish to comment.

Note, pending Sir. Syms's comments: A.J.C. 14/1

We shall need to do this more fully when we meet

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Qa 06212

To: PRIME MINISTER

From: JOHN SPARROW

12 January 1983

Law of the Sea

1. I am sure that we were right to decide not to go for early signing of the Law of the Sea Convention. At the time, it was suggested that we should however enter into early signature of a Reciprocal States Agreement (RSA) with the USA. I have doubts about the wisdom of this unless at least the Germans and preferably also the French do so as well.

2. There is a reasonable prospect of US, UK and German agreement on a reciprocal agreement before September 1983, the likely earliest date of issue of American licences to US companies and the date when the need for a reciprocal agreement becomes important. The French may also wish to join such an agreement to safeguard their own interests although they did sign the Law of the Sea Convention and will probably also want to register sites under the Convention arrangements.

3. We should also use the time before September to try to make the RSA acceptable to other industrial countries such as Belgium, Netherlands, Italy and Japan and thus make it a more effective lever on the G77 for revision of the deep sea mining part of the Convention along the lines we want. Indeed an RSA based solely on the US 1980 Deep Seabed Hard Mineral Resources Act would not necessarily be in the best long term interests of the UK even though it would grant our companies reciprocal access. The Act is strongly based on a first come, first served principle which, because of the extent of US resources, is likely to result in US companies obtaining a near monopoly of the best sites. The Act also discriminates against the use of foreign, including UK, ships for carrying nodules. Its use as the basis for any new reciprocal agreement is therefore likely to be against our interests, as well as strongly resented by the G77.

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Foreign Pol. and OSC, Pt 2