

CONFIDENTIAL

D

cc RTJ (2)



Prime Minister

A.S.C. 12/2

PRIME MINISTER

LAW OF THE SEA: MERCHANT SHIPPING

I note that you have asked the Cabinet Office for a paper on the question of a reciprocating states agreement with the United States. I agree with John Sparrow that it is very important to persuade other states to participate as well as the United States of America.

I remain of the view that we must get a satisfactory agreement on deep-sea mining. At the same time you should be aware of the strong anxieties being expressed by our shipping industry in relation to other maritime issues. The industry believe:-

- (a) if the United Kingdom stands aside from the Convention, United Kingdom ships will be at a significantly higher risk of interference from other countries than if we adopt it;
- (b) customary law and the 1958 Convention will not give merchant shipping the protection the new Convention will on such matters as the breadth of the territorial sea, the meaning of innocent passage through such seas, the regime for straits, limitation of penalties for oil pollution offences, quick release of arrested ships, and settlement of disputes;
- (c) these risks will arise particularly for countries in South America and Africa ill-disposed to us, and countries bordering on straits, and will get worse as time goes on if hostile countries are seen to be getting away with it;
- (d) the United Kingdom's position as a major force in the International Maritime Organisation will be undermined.

CONFIDENTIAL



CONFIDENTIAL

ms

Our shipping industry is in the grip of the worst recession anyone can remember, and has fallen 34% in size in less than a decade. Now more than ever they look to HMG to maintain their access to world markets by all means in our power. These considerations should not deflect us from the path laid down in the Government's statement of 2 December: but we need to bear in mind the interests of shipping when we come to take further decisions.

Incidentally, John Coles in writing to Richard Mottram on 22 December makes the point that, without the Convention, our ships and aircraft are free to pass through straits and archipelagos. That is true, but the situation is far from secure. The rights of our merchant ships to innocent passage, conferred by customary law and the 1958 Convention on the Territorial Sea, are not as clear as they would be under the new Convention, which, for example, greatly limits the ability of signatories to apply laws or regulations to the design, certification, manning or equipment of foreign ships passing through their territorial waters. The consideration given to such uncertainties during the drafting of the Convention must have increased the risk that they will be exploited against states that do not join in.

I am copying this minute to the other members of OD, the Secretary of State for Industry, Sir Robert Armstrong and to Mr Sparrow.

Department of Trade
1 Victoria Street
London, SW1H 0ET

17 February 1983

Arthur Cockfield
LORD COCKFIELD

CONFIDENTIAL

CONFIDENTIAL



10 DOWNING STREET

From the Private Secretary

21 February 1983

Sub
HMT
LPO
MOB
LPS
CDL
DI
CO
CPRS

e. (D/Tde)
HO
LCO
Fuo

LAW OF THE SEA: MERCHANT SHIPPING

The Prime Minister has noted without comment your Secretary of State's minute of 17 February describing the anxieties of our shipping industry in relation to maritime issues which arise under the Law of the Sea Convention.

I am copying this letter to the Private Secretaries of the other Members of OD and also to Jonathan Spencer (Department of Industry), Richard Hatfield and John Sparrow (Cabinet Office).

A. J. COLES

John Rhodes, Esq.,
Department of Trade.

CONFIDENTIAL

SW