



PM/83/18

PRIME MINISTER

United Nations Law of the Sea Convention

1. Following my minute of 23 December, officials from the FCO and DOI have had discussions with representatives of like-minded industrialised countries about the prospects for improving the deep sea mining provisions of the Convention. We need now to decide whether or not to attend the Preparatory Commission opening in Kingston, Jamaica, on 15 March and, if so, what tactics to adopt there.
2. For purposes of the discussions with our friends, a list of points was drawn up by FCO and DOI officials with the approval of Malcolm Rifkind and John MacGregor. These are set out at Annex A. They are more fundamental than our negotiating position at the later stages of the Conference when there was a prospect of the Convention being adopted by a consensus which included the USA.
3. The outcome of our discussions, which included exchanges with the Japanese (who have now signed the Convention), and of talks of a rather ^{d: Fferent} ~~difficult~~ nature with the Americans, is summarised at Annex B. Our European friends and Japan (whether or not signatories) agreed, and some have said so publicly, that they wish to see improvements to the deep sea mining regime and that they will seek such improvements in the Preparatory Commission. But none of them is willing to adopt a position comparable to that implicit in the points in Annex A. Some have pointed out that such improvements are not obtainable in the Preparatory Commission but would require changes to the Convention itself, on which, as you

/know,



know, substantive negotiations have been formally concluded. Some have said that it would not be possible to negotiate improvements of such substance unless there is a change of heart among the G77 and that cannot be expected for some years.

4. I said in my earlier minute that the prospects of obtaining fundamental changes within the two year signature period are not good. We have to unravel significant elements in a package which has been adopted after ten years of negotiation, or seek to substitute different provisions. This, if possible at all, will be a long haul, certainly extending well beyond the closing date for signature. It is too early to say whether our European partners will stick with us in not signing the Convention without substantial improvements. That, however, may be less significant than whether any major country interested in deep sea mining is prepared to ratify or (after the signature period has closed) accede to the Convention unchanged. None of our partners has indicated a disposition to ratify. We should seek to keep them to that position which, over the long term, should increasingly bring home to the G77 the impracticality of the deep sea mining regime in the Convention.

5. We are committed by our Parliamentary statement to working in the international community in pursuit of generally agreed provisions for regulating marine matters. I believe we must continue to make this effort, even if the prospects of short term success are not at present promising. Turning our back on the Convention will not increase the chances of getting a generally agreed solution and could damage our maritime interests. The Preparatory Commission has relatively limited terms of reference, but it

/is the



is the sole post-UNLOSC forum - setting aside the General Assembly - in which we can seek to influence international opinion in pursuit of our policy. It is logical therefore to make a start there. Our European partners are anxious for us to participate and, apart from anything else, it may stiffen their resolve to seek improvements if we are present. The Americans are not participating, but they have not lobbied against our doing so (they have lobbied at a low level about the possibility of withholding financial contributions to the Commission, but we believe that such action would not be legal whether or not we attend: our contribution, through the UN regular budget, is likely to be of the order of £120,000 p.a.). I therefore believe we should attend the Commission. Although the first meeting is unlikely to get very far, it is important for our negotiators to try and influence its work programme at the outset.

6. Against this background, I therefore invite my colleagues to agree on:

- (a) UK participation with like-minded European countries and with the Japanese in the Preparatory Commission;
- (b) acceptance of the points at Annex A as the basis of HMG's negotiating position.

7. I should add that in my view our initial statements in the Commission, while making clear the importance we attach to changing the deep sea mining regime, should be relatively general and that our negotiators should only reveal the full details of our position if and when we succeed in engaging the rest of the United Nations in serious negotiations. This would both give the best chance of initiating such a negotiation and also make it easier to maintain unity with our partners. Finally, if our officials are to have any credibility with our European partners and with the Japanese,

/let alone



let alone with the Commonwealth and developing countries, we must not give the impression that our policy is ultimately dependent on the Americans joining the Convention.

8. If the approach described above can be approved, I suggest that detailed negotiating instructions for our officials at the Preparatory Commission be agreed inter-departmentally.

9. Discussions are continuing meanwhile on the Reciprocating States Agreement. Though important, I do not believe this affects the decisions needed now. A separate note on it is being prepared by the Cabinet Office.

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


(FRANCIS PYM)

Foreign and Commonwealth Office
22 February 1983



LIST OF POINTS FOR AMENDMENT

1. Regulation and licensing by an international body is not exceptionable in an international area. But the structure proposed (the International Sea-Bed Authority) is over-elaborate for the nature and number of operations it would oversee, and would require unacceptably high financial contributions from states. The powers and policies of the Authority go beyond what is required for an efficient licensing body and would impose undesirable precepts of central planning (e.g. through production control and provisions for participation in commodity arrangements). We would seek a simplified, less expensive licensing body with limited functions.
2. Compulsory transfer of technology either to an international body (the Enterprise) or to developing countries is unacceptable as a precedent that would harm many industrialised interests beside its immediate effects on deep sea mining. The concept of the common heritage does not in our view extend, as the Convention proposes, to providing opportunities for participation in deep sea mining by the Enterprise or developing countries on terms more favourable than those provided for qualified private operators (e.g. as regards technology). Participation by the G77 through distribution of profits from deep sea mining would be acceptable. Cooperation towards developing an international operation and/or joint ventures on equal terms with private operators is conceivable, but on a voluntary not mandatory basis.
3. Some provision for review is desirable but the provision should not impose on a minority (particularly one composed of industrialised states) the views of a majority.
4. The interim arrangements (Preparatory Investment Protection) are restrictive, limiting operators to exploration for an indefinite period and are costly in financial and other terms (e.g. exploration on behalf of the Enterprise). We would wish to secure automatic grant of licences to the recognised investors whose activities predate the Convention, whether or not they participate in the interim arrangements.
5. The licence terms, particularly financial arrangements and performance requirements, should take full account of the long term risk and development costs involved in order not to deter investors.



ANNEX B

CONSULTATIONS WITH INTERESTED COUNTRIES ON THE DEEP SEA MINING PROVISIONS OF THE UN CONVENTION ON THE LAW OF THE SEA

1. During January/February 1983 officials from the FCO and DOI held bilateral meetings with officials from the following countries which have not signed the Convention: FRG, USA, Italy, Belgium and Luxembourg. They also had preliminary discussions with officials from France and the Netherlands, both of whom signed the Convention at Montego Bay, and with the Japanese, who signed on 7 February. All these three countries have made clear their wish to obtain improvements to the deep sea mining provisions.
2. In these consultations, the FCO and DOI based themselves on the points in Annex A regarding our views on the Convention. (An earlier version was used in talking to the FRG.)
3. The results of these consultations were as follows:
FRG : had long expressed similar concerns to those now being raised by the UK, but somewhat taken aback by the depth of our objections and saw little likelihood of these being met. G77 considered common production as basis for the common heritage: would it be possible to change this view? (Foreign Ministry showed inclination to sign Convention and try to obtain improvements through Preparatory Commission (PrepCom); Economics Ministry more robust, but admitted that FRG position less radical than UK one.) FRG prepared to ratify Convention if some changes, e.g. on transfer of technology and review conference, made. But these not tantamount to changing the system. Would attend PrepCom and hoped UK do so too. (Agreed useful to establish a group of those wanting improvements.) Would support any UK statements and stress themselves the need for changes. But until German Cabinet have taken formal decision on signature (which could not happen until after the elections on 6 March) would not want to imply that signature was precluded. Hence would not ask for parallel system to be changed.



- 2 -

USA : Have turned back on Convention although domestic controversy continues and could be interested if President Reagan's six points capable of accommodation. Consider UK idea of getting amendments to the Convention unrealistic, but will not block our efforts. Will not attend PrepCom, but interested in its results.

Italy : Agreed with UK view on desirability of improvements, but doubted the scope for such activity. Vulnerable to pro-G77 pressure especially in Parliament. If they could get a few improvements, e.g. on transfer of technology, financial terms of contract and production policies, would sign - though not necessarily ratify. Will attend PrepCom and keen on idea of establishing group of industrialised states there.

Belgium : Ideological solidarity with UK objections to the Convention, but somewhat alarmed by radical nature of our proposals and pessimistic as regards chances of success. Will be represented at PrepCom and will support UK and others in urging need for major changes. Now reviewing advantages and disadvantages of signature. Likely their Ministers will postpone a decision until they can evaluate first phase of PrepCom. But Belgian Foreign Minister susceptible to Commission influence, which could result in Belgian signature at any time.

Luxembourg : Share our negative view of deep sea mining provisions and thought that Luxembourg decision on signature should be postponed until clear what PrepCom might yield. But warned that French and Commission putting pressure on Luxembourg Foreign Minister to sign.

France : Motivated by distaste for what the Americans have done and cynical wish to ride with the South. But would like to keep a foot in the American camp, e.g. by joining a reciprocating agreement, although if pressed would sacrifice latter for French image with G77. See themselves in PrepCom as playing leading role between G77 and those industrialised countries who will only be observers. But no expectation that PrepCom can achieve anything.



Netherlands : Interested in collaboration with us in trying to improve the Convention. (We have not yet had detailed discussions.)

Japan : See Convention as ''inevitable'' and while continuing to express dissatisfaction with its deep sea mining provisions as a reason for getting their implementation deferred for an undefined period, unlikely to be active in supporting moves for changes except on matters such as transfer of technology. Would like to reach agreement with non-signatory deep sea miners to avoid conflicts, but unlikely to sign a formal reciprocating agreement.

4. It is clear that significant differences remain among the industrialised countries in their approach to the Convention. There is a basic division between the USA, who see no further virtue in negotiations and the rest, who will all participate in PrepCom (except for Luxembourg, which is not doing so for practical reasons). The French (and European Commission) are still pressing the view that more concessions can be obtained in PrepCom if we (and the Community) sign. But they recognise the prospects for obtaining changes are limited. Most of our European partners would be willing to cooperate with us in PrepCom in seeking changes, but none of them are prepared to take as strong a line on the degree to which the system should be amended. The FRG and Belgium, who have in the past been the most opposed to the deep sea mining provisions, would not back a demand for elimination of the Enterprise and the parallel system. FRG, Italy and France are interested in a joint venture solution to the problem of how to exploit sea bed resources. Nevertheless, although none of our European partners see any prospect of major changes being obtainable within the signature period, they recognise that ratification will be very difficult for them unless all the industrialised countries join in the system.

5. All our European industrialised partners are keen to



- 4 -

keep a foot in the American camp outside the Convention, but not necessarily at the price of destroying their chances of obtaining reasonable opportunities to mine within it. None of them, however, would insist on US participation before signing the Convention, although they are likely to think twice about ratification without the US. Japan, though also keen to keep at least a toe in the American camp and sceptical about the viability of the deep sea mining provisions being implemented in the near future, is unlikely to stick out its neck very far in calling for changes to the text of the Convention itself.



22 FEB 1953

12 1 2 3 4
5 6 7 8 9



Foreign and Commonwealth Office

London SW1A 2AH

24 February 1983

Dear John,

UNLOSC

Amendment made.

A-d-c. 1/8

AJC?

Mr Pym's minute to the Prime Minister of 22 February contained a typing error in paragraph 3. The first sentence should read 'The outcome of our discussions, which included exchanges with the Japanese (who have now signed the Convention) and of talks of a rather different [not difficult] nature with the Americans, is summarised at Annex B.'

I am copying this letter to Private Secretaries to the recipients of the original minute.

Yours ever

J E Holmes

(J E Holmes)
Private Secretary

A J Coles Esq
10 Downing Street

24 FEB 1944

1944 FEB 24



FOR POL. ~~CONF~~ RJ (2)



2 MARSHAM STREET
LONDON SW1P 3EB
01-212 3434

My ref:K/PSO/11111/83
Your ref:

Prime Minister.

for information.

10 March 1983

A.P.C. 11/5

Francis

Thank you for copying to me your minute of 22 February to the Prime Minister about UNLOSC.

I am happy to agree the proposals contained in paragraph 6 of your letter, namely

- (a) UK participation with like-minded European countries and Japan in the Preparatory Commission;
- (b) acceptance of the points at Annex A as the basis of HMG's negotiating position,

I must however make it clear that this is on the understanding that there is no question of reopening negotiations on clauses relating to environmental matters. As you know, these are satisfactory to us and the interests of my Department would be well served if we were eventually able to sign UNLOSC.

I am copying this to recipients of your minute.

TOM KING

The Rt Hon Francis Pym MC MP

MAR 1983

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

RESTRICTED



MINISTRY OF DEFENCE

MAIN BUILDING WHITEHALL LONDON SW1A 2HB

Telephone 01-218 2111/3 (Direct Dialling)

01-218 9000 (Switchboard)

MO 12/3

4th March 1983

A.S.C. 4/3

p.a.

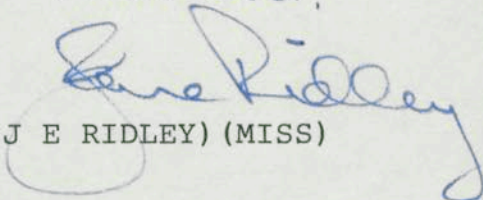
Dear John,

UNITED NATIONS LAW OF THE SEA CONVENTION

The Defence Secretary has seen the Foreign and Commonwealth Secretary's minute of 22 February. He has no objection to what is proposed.

I am copying this letter to the Private Secretaries to recipients of the earlier correspondence.

Yours ever,


(J E RIDLEY) (MISS)

A J Coles Esq

RESTRICTED

MINISTRY OF DEFENCE
HEADQUARTERS, MODULATED, LONDON SW1A 2JH



4 MAR 1983



CONFIDENTIAL

