

FODUB 037/03

ZZ DUBLIN

GRS 535

CONFIDENTIAL

FM FCO 031545Z DEC 84

TO FLASH DUBLIN

TELEGRAM NUMBER 378 OF 3 DECEMBER

FOLLOWING FROM PRIVATE OFFICE FOR PRIVATE SECRETARY

NIPT: UN LAW OF THE SEA CONVENTION

FOLLOWING IS TEXT OF MR WALKER'S LETTER:

1. BEGINS:

MY SECRETARY OF STATE NOTES THAT IT IS NOT PROPOSED THAT THE UK SHOULD SIGN THE CONVENTION. HE HAS NOTED FURTHER THAT THE COMMUNITY HAS COMPETENCE ONLY IN A LIMITED NUMBER OF THE AREAS COVERED BY THE CONVENTION, AND THAT THE CONVENTION'S PROVISIONS IN THESE AREAS ARE NOT OBJECTIONABLE TO THE UK.

NEVERTHELESS HE STILL HAS RESERVATIONS ABOUT THE IDEA OF COMMUNITY SIGNATURE OF THE CONVENTION:

- i) THE REST OF THE WORLD IS UNLIKELY TO UNDERSTAND HOW LIMITED IS THE AREA OF THE COMMUNITY'S COMPETENCE, AND COULD WELL REGARD COMMUNITY SIGNATURE AS IMPLYING THAT ALL EC MEMBER COUNTRIES SUPPORTED THE CONVENTION IN ALL ASPECTS OTHER THAN DEEP SEABED MINING WHERE A SPECIFIC RESERVATION IS PROPOSED. THE DRAFT POLITICAL DECLARATION BY THE COMMUNITY, ALTHOUGH NOT STRONGLY PHRASED, WOULD CERTAINLY BE SEEN AS CONFIRMING THE SUPPORT OF MEMBER STATES:
- ii) AS THE COMMISSION RECOMMENDATIONS IN THE COREPER REPORT TO THE COUNCIL (JUR153 MARE6) MAKE CLEAR, THE COMMISSION JUDGES THE CONVENTION TO BE 'SATISFACTORY OVERALL TO THE COMMUNITY', AND SEES COMMUNITY SIGNATURE AS 'REINFORCING THE COMMUNITY'S IDENTITY' AND AS 'A DECISIVE FACTOR IN THE CONVENTION'S IMPLEMENTATION'. IT IS CLEAR THAT THE COMMISSION PROPOSE TO SPEAK AND VOTE IN THE PREPARATORY COMMISSION ON ANY ASPECT OF THE CONVENTION DISCUSSED, AND NOT ONLY ON COMPETITION POLICY AND POLLUTION ASPECTS OF SEABED MINING:
- iii) SIGNATURE OF THE CONVENTION WILL ENCOURAGE THE COMMISSION'S EFFORTS TO EXTEND COMMUNITY COMPETENCE UNDESIRABLY IN A MOST SENSITIVE AREA. SHOULD THEY BE SUCCESSFUL, THE UK WOULD IN EFFECT HAVE TO ACCEPT THE PROVISIONS OF THE CONVENTION IN ANY NEW AREA INTO WHICH COMMUNITY COMPETENCE WAS EXTENDED, DESPITE THE FACT THAT WE WERE NOT OURSELVES SIGNATORIES.

IF DESPITE THESE RESERVATIONS THE FOREIGN SECRETARY CONCLUDES THAT THE BALANCE OF ADVANTAGE LIES WITH NOT BLOCKING COMMUNITY SIGNATURE, MY SECRETARY OF STATE WOULD BE READY TO ACCEPT THIS, PROVIDED CERTAIN CHANGES WERE MADE TO THE 'POLITICAL DECLARATION' (ANNEX II TO JUR153 MARE6) TO BE MADE BY THE COMMUNITY ON THE OCCASION OF SIGNATURE, IN ORDER TO RESTRICT THE IMPLIED COMMUNITY ENDORSEMENT OF THE CONVENTION TO THE AREA OF COMMUNITY COMPETENCE. THIS COULD BE DONE BY ADDING AFTER 'VARIOUS FIELDS' IN THE 5TH LINE OF THE FIRST PARAGRAPH, THE PHRASE 'IN WHICH THE COMMUNITY HAS COMPETENCE', AND BY ADDING AT THE END OF THE SECOND PARAGRAPH 'IN THE AREAS IN WHICH THE COMMUNITY HAS COMPETENCE'. THERE WOULD THEN BE NO SUGGESTION OF A GENERAL ENDORSEMENT OF THE PROVISIONS ON THE CONTINENTAL SHELF WHICH MY SECRETARY OF STATE REGARDS AS OBJECTIONABLE TO THE UK.

MY SECRETARY OF STATE HAS NOTED THE ASSURANCES WHICH HAVE BEEN GIVEN BY FCO LEGAL ADVISERS THAT COMMUNITY 'CONFIRMATION' OF THE CONVENTION WOULD REQUIRE THE UNANIMOUS AGREEMENT OF MEMBER STATES, AND THAT SUCH CONFIRMATION WOULD NOT IMPOSE ANY OBLIGATIONS ON THE UK IN AREAS OUTSIDE COMMUNITY COMPETENCE.

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FODEUB36/3

ZZ DUBLIN

GRS 319

CONFIDENTIAL

FM FCO 031035Z DEC 84

TO FLASH DUBLIN

TELEGRAM NUMBER 377 OF 3 DECEMBER

FOLLOWING FROM PRIVATE OFFICE FOR PRIVATE SECRETARY

UN LAW OF THE SEA CONVENTION: MIPT

MIPT

FOLLOWING IS TEXT OF PROPOSED COMMUNITY POLITICAL DECLARATION  
ON SIGNATURE OF UN LAW OF THE SEA CONVENTION

1. BEGINS:

'ON SIGNING THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA, THE EUROPEAN ECONOMIC COMMUNITY DECLARES IT CONSIDERS THE CONVENTION CONSTITUTES, WITHIN THE FRAMEWORK OF THE LAW OF THE SEA, A MAJOR EFFORT IN THE CODIFICATION AND PROGRESSIVE DEVELOPMENT OF INTERNATIONAL LAW IN VARIOUS FIELDS. THE COMMUNITY WOULD LIKE TO EXPRESS THE HOPE THAT THIS DEVELOPMENT WILL BECOME A USEFUL MEANS FOR PROMOTING CO-OPERATION AND STABLE RELATIONS BETWEEN ALL COUNTRIES IN THESE FIELDS.

THE COMMUNITY, HOWEVER, CONSIDERS THAT SIGNIFICANT PROVISIONS OF PART XI OF THE CONVENTION ARE NOT CONDUCTIVE TO THE DEVELOPMENT OF THE ACTIVITIES TO WHICH THAT PART REFERS IN VIEW OF THE FACT THAT SEVERAL MEMBER STATES OF THE COMMUNITY HAVE ALREADY EXPRESSED THEIR POSITION THAT THIS PART CONTAINS CONSIDERABLE DEFICIENCIES AND FLAWS WHICH REQUIRE RECTIFICATION. THE COMMUNITY RECOGNIZES THE IMPORTANCE OF THE WORK WHICH REMAINS TO BE DONE AND HOPES THAT CONDITIONS FOR THE IMPLEMENTATION OF A SEA BED MINING REGIME, WHICH ARE GENERALLY ACCEPTABLE AND WHICH ARE THEREFORE LIKELY TO PROMOTE ACTIVITIES IN THE INTERNATIONAL SEA BED AREA, CAN BE AGREED. AS A MEMBER OF THE PREPARATORY COMMISSION THE COMMUNITY WILL SPARE NO EFFORTS IN CONTRIBUTING TO THIS WORK IN THE HOPE OF FINDING SATISFACTORY SOLUTIONS.

A SEPARATE DECISION ON FORMAL CONFIRMATION (1) WILL HAVE TO BE TAKEN AT A LATER STAGE. IT WILL BE TAKEN IN THE LIGHT OF THE RESULTS OF THE EFFORTS MADE TO ATTAIN A UNIVERSALLY ACCEPTABLE CONVENTION.'

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NOTE AT (1):

2. 'FORMAL CONFIRMATION' IS THE TERM USED IN THE CONVENTION FOR RATIFICATION BY INTERNATIONAL ORGANIZATIONS (SEE ARTICLE 306 AND ANNEX IX, ARTICLE 3).

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