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Congress of the United States
Committee on Foreign Affairs

House of Representatives
Washington, D.C. 20515

file LOS

June 10, 1982

Free: LOS

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Honorable James F. Malone
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Room 7831
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Dear Mr. Malone:

Enclosed is an advance copy of a resolution on the Law of the Sea which is planned for introduction by Congresswoman Schneider next week. I would appreciate your reviewing the legislation and providing comments on the measure when you testify before the Committee.

We look forward to your testimony before the Committee on June 22.

With best wishes, I am

Sincerely yours,


Chairman

Encl.
CJZ:n

CONCURRENT RESOLUTION

Expressing the sense of the Congress concerning continuing United States participation with respect to a comprehensive law of the sea treaty.

Whereas a comprehensive ocean law treaty is of strategic importance to the United States and to the protection of its foreign policy interests;

Whereas for more than ten years the United States has taken a leadership role in promoting a comprehensive treaty on the law of the sea;

Whereas the United States supported the resolution adopted by the United Nations in 1970 which endorsed, inter alia, the principle that the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction are the common heritage of mankind;

Whereas the Third United Nations Conference on the Law of the Sea, representing more than one hundred and fifty countries, over an 8 year period formulated a comprehensive treaty;

Whereas the United States reviewed the draft treaty on the Law of the Sea and participated in the 11th session of the Third United Nations Conference on the Law of the Sea in March and April of 1982;

Whereas on April 30, 1982, the Conference adopted the draft treaty, the Convention on the Law of the Sea, by an overwhelming majority despite the objection by the United States to certain provisions of the treaty;

Whereas the provisions of the treaty make vital and valuable revisions in and additions to the existing body of international law concerning the law of the sea, including provisions governing fishing, marine scientific research, protection of the marine environment, and exploitation of offshore energy resources;

Whereas provisions of the treaty relating to military navigation and over-flight are vital to the national security interests of the United States;

Whereas the treaty establishes a regime of uniform national boundaries that is vital to the efficient transportation of energy resources and other goods in international commerce;

Whereas the establishment of such a regime of uniform national boundaries would limit the steady seaward expansion by certain countries of their national boundaries;

Whereas the seabed contains an abundant supply of hard minerals such as nickel, copper, manganese and cobalt, and it is in the national interest of the United States for these minerals to be available independently of the export policies of foreign countries; and

Whereas opportunities exist for the United States to improve certain provisions of the treaty adopted on April 30 through constructive participation in the meetings

of the Drafting Committee of the Conference on the Law of the Sea to be held in July and August of 1982 and in the sessions of the Conference to be held in September and December of 1982:

Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress urges the executive branch--

1) to avoid taking any actions which could foreclose eventual United States participation in the Convention on the Law of the Sea;

2) to conduct an evaluation of United States objectives for ocean use and relevant foreign policy interests with respect to the Convention, weighing the different alternatives available to the United States; and

3) to designate a high level United States representative to monitor and participate in the meetings of the Drafting Committee of the Conference on the Law of the Sea and in the sessions of the Conference to be held with respect to the Convention on the Law of the Sea in July, August, September, and December of 1982 and thereafter, in order to demonstrate the continuing commitment of the United States to the multilateral process of formulating a law of the sea and to demonstrate the strategic importance of the Convention to the United States.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

June 10, 1982

FOR: MICHAEL GUHIN
FROM: MICHAEL M. UHLMANN
SUBJECT: Package on Antarctic Mineral Resources Regime

By way of comment, the package does not seem to address the problems which will arise when the minerals prospecting, exploration, and exploitation become imminent -- as the claims to territorial rights in Antarctica by various claimant states (and revenues available) become more than juridical issues.

Friday, May 28, 1982

US Inaction on Sea Law Hi

By RUTH PEARSON
Journal of Commerce Special

UNITED NATIONS — The former chief negotiator for the U.S. delegation to the Law of the Sea Conference, Leigh S. Ratiner, said the United States made a mistake in voting against the treaty April 30.

On that date, the U.S. delegation and the representatives of four other governments voted "no," while other governments abstained and 130 voted in favor of the adoption of the world's first comprehensive sea law treaty.

"Speaking as a conservative," Mr. Ratiner said Wednesday night at the House of the Bar Association, "I am appalled at the prospect that my country will allow the rest of the world, including our closest allies, to establish a new global institution for the regulation, management and even the protection of globally shared resources and do it successfully without the participation of the United States."

"I can think of no worse precedent for my country," Mr. Ratiner continued, "than to have it proven to the rest of the world that they can do quite well without us. And that is a

public policy issue the Reagan administration has to face now."

Although Mr. Ratiner agreed that the United States should not be part of the treaty in its present form, he said there are other considerations that are more important.

"Our closest friends and allies are going to join this treaty and in my judgment, the socialist bloc, which abstained in the voting on the treaty on a small and minor point, will eventually join the treaty."

"Virtually all of the Third World except for one or two governments on which the United States may be able to apply special pressure will also join the treaty," he said.

"This treaty will enter into force rapidly," Mr. Ratiner went on. "The terms of the treaty make it easy for it to enter into force."

Mr. Ratiner said the officials who drafted the U.S. delegation's negotiating instructions were the same people who previously had been overruled by President Reagan when he decided that the United States would make a serious effort to obtain an economically viable treaty from the conference.

'Our closest friends and allies are going to join this treaty, and in my judgment the socialist bloc eventually will join.'

The instructions the delegation was given, Mr. Ratiner said, were not the same as the president's objectives. "Our instructions were far more detailed, far more circumscribed, far more constricting than what we publicly told the world our objectives were," he said, adding that the instructions made it impossible for the delegation to make the pragmatic compromises necessary for achieving the ends desired.

"Had it not been for our ocean mining industry and a few ideologues in the Department of State," Mr. Ratiner said, he would be defending the final treaty, as a conservative, on its merits.

The United States has transferred its technology to Japan, the United Kingdom and Germany, he said. And the capacity to raise finance for ocean mining, he went on, "is entirely conditional on the creation of a consortium of banks." Bank of America, he said, cannot afford to finance 10 ocean-mining projects. Neither can Chase Manhattan.

"There will have to be a consortium of banks from around the world to finance just 10 ocean-mining projects," he said. "We are talking in 1982 dollars of \$15 billion if all those 10 ocean-mining projects were to come into effect today. We are probably talking about \$25 billion to \$30 billion by the time it begins in 1995 or the year 2000, which is the earliest possible time for commercial seabed production."

But Mr. Ratiner warned that raising \$25 million to \$30 billion for a venture which 156 out of 157 countries claim the United States has no legal right to will be impossible.

He also warned that an ocean mining mini-treaty signed by a few industrialized countries outside of the international treaty also is out of the question.

"Anyone who thinks that ocean mining will now occur under a mini-treaty between countries like the United Kingdom, Japan, France and Germany, who won't touch a mini-treaty with the United States at this point in time since it would be political and economic suicide is probably foolish," he said.

*Dear Bill,
Leigh Ratiner
will give testimony
on the LOS treaty
to the House
Foreign Affairs
Committee on
June 17th.
Industry is
decidedly
unhappy over
the position he
has taken!
(Sub. Hearing)*

*File
LOS*

Note for Bob Keating:

4 June 1982

Is it possible, through your industry contacts, in France and the United Kingdom, and possibly Federal Republic of Germany, to obtain any assessment of popular or interest group positions on the Law of the Sea Convention -- if they have addressed such.

This might provide some answers to the questions about the nature and extent of domestic pressures in those countries for or against the signature and ratification of the Convention. There, as here, the Government sometimes takes one position which might be overcome by domestic forces once they are aroused -- on either side of the coin.

In this connection, it might be worthwhile to tabulate the domestic (U.S.) groups which might be vocal on one side or the other: mining industry, general industry, patent lawyers, environmental groups, 'internationalist' groups, isolationist groups, etc. I would assume that there is an equally wide spread in other countries. Also, is it the sort of thing which might generate political steam, in these nations with fragmented political parties and coalitions necessary for stable governments?

We need to know both sides of this equation. The subject may be of minor interest to most of the citizens, but that does not prevent small, but vocal or vociferous groups from carrying the day.

6/7/82

file LOS

To : Bill Barr

From : Bob Keating

Dear Bill,

Mike Uhlmann asked me for the presently constituted list of members of the LOS Advisory Committee. It is a large, unwieldy committee filled with pro-treaty people chosen by Elliot Richardson. We must form a new committee for ocean policy and abandon the LOS Advisory Committee.

Bob Keating

LAW OF THE SEA

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October 7, 1981

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