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The Rt Hon. Lord Ashton of Hyde
Chair, International Relations and
Defence Committee
House of Lords
London, SW1A 0PW

Our ref:

MC2022/28949
5th May 2023

Dear Lord Ashton

International Relations and Defence Committee Report, UNCLOS: the law of the sea in the 21st century

I am writing to provide updates in relation to some of the matters addressed by the International Relations and Defence Committee the report of its inquiry in to UNCLOS.

Biodiversity Beyond National Jurisdiction

I am pleased to inform the Committee that on 4 March 2023, the Intergovernmental Conference (IGC) to negotiate a new Implementing Agreement under UNCLOS on the Conservation and Sustainable Use of Marine Biodiversity Beyond National Jurisdiction (the BBNJ Agreement), reached agreement on an English language text. The text is currently going through a series of technical edits and translation into the six official languages of the UN, before being formally adopted at a briefly resumed IGC on the 19th and 20th of June. No points of substance can be reopened. Once the text is adopted, a formal signature ceremony will be convened, likely in the autumn and I hope that the UK will sign the Agreement at the earliest opportunity. Our focus will then be on both domestic implementation and ratification, and supporting our partners to implement and ratify the Agreement so that it comes in to force as soon as possible.

Progress towards the IMO accepting the Convention on Conditions for Registration of Ships as an IMO Convention

The UK raised the issue of the Convention on the Registration of Ships at the recent meeting of the Legal Committee of the International Maritime Organisation. The Report of that meeting of the Legal Committee records the following:

6.33 The Committee also noted the statement by the delegation of the United Kingdom informing it that the United Kingdom had been looking into UNCLOS and in particular to the issue of the so-called "genuine link" between ships and their flag State. This had highlighted the 1986 UN Convention on Conditions for Registration of Ships. This Convention, which has not yet entered into force, establishes international standards for the registration of vessels in a national registry, including references to the genuine link, ownership, management, registration, accountability and the role of the flag State. The objective of the Convention was to strengthen the genuine link between a State and ships flying

its flag. It was the delegation's understanding that the Convention originally belonged to UNCTAD, however the remit of UNCTAD had changed since the Convention had been agreed and the Convention was effectively now "homeless" in the UN system. The delegation believed that the appropriate home for this Convention should be IMO and asked the Secretariat what the process was for transferring this Convention to IMO. As the shipping world has changed significantly since the Convention was drafted, the delegation informed the Committee that the United Kingdom planned to submit a request for a new planned output to review this Convention and to determine what changes were required for it to best reflect global ship registry today – including topics about links between a vessel and the State in which they are registered.

6.34 In response, the Director of the Legal Affairs and External Relations Division recalled Article 68 of the IMO Convention which provides that "Subject to approval by a two-thirds majority vote of the Assembly, the Organization may take over from any other international organizations, governmental or non-governmental, such functions, resources and obligations within the scope of the Organization as may be transferred to the Organization by international agreements or by mutually acceptable arrangements entered into between competent authorities of the respective organizations". It was therefore possible for IMO to begin work on the 1986 Convention on Conditions for Registration of Ships, adopted by the UN General Assembly. With the consent of the United Nations General Assembly and the IMO Assembly, such an output could go forward to the Legal Committee if the Members so decided."

The United Kingdom Permanent Representation to the IMO and the FCDO will continue to work with the IMO Secretariat and Member States to the IMO to achieve the transfer of the Convention to the IMO.

Finally, I wanted to inform you that my officials have been sharing the Committee's Report and the links to the expert evidence that was submitted to the inquiry with key international partners. It has garnered a lot of interest from our partners, and we will continue to discuss the Committee's recommendations with them.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'Rt Hon. Lord Goldsmith', written in a cursive style.

Rt Hon. Lord Goldsmith
Minister of State for Overseas Territories, Commonwealth, Energy, Climate & Environment