

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-
A/CONF.62/94

Letter dated 10 October 1979 from the Chairman of the Group of 77 to the President of the Conference

Extract from the Official Records of the Third United Nations Conference on the Law of the Sea, Volume XII (Summary Records, Plenary, General Committee, First and Third Committees, as well as Documents of the Conference, Resumed Eighth Session)

ference has already been exposed, most recently on 28 August and 15 September 1978, and 19 March 1979, I shall respond as briefly as possible to the contention that the enactment of national legislation designed to regulate the conduct of deep sea-bed mining, and exploration and exploitation activities undertaken beyond the limits of national jurisdiction, would be illegal and potentially disruptive to this Conference.

My Government rejects outright the notion that United Nations General Assembly resolutions, including resolutions 2574 D (XXIV) and 2749 (XXV) and irrespective of the majorities by which such resolutions were adopted, are legally binding on any State in the absence of an international agreement that gives effect to such resolutions and that is in force for that State. Clear statements of our position are on public record, including those made in the course of debate accompanying the passing of the General Assembly resolutions just mentioned and those made in the course of the unfortunate exchanges on this subject that have taken place during the Conference on the Law of the Sea and in the United Nations Conference on Trade and Development.

There exists nothing in customary or conventional international law that precludes Governments from acting to regulate the activities of their citizens or that forbids Governments or private persons or entities access to the sea-bed beyond the limits of national jurisdiction for the purposes of exploring for and exploiting the resources there. Should the Conference succeed in producing a convention that establishes an international régime for the regulation of such exploration and exploitation, those States for which that convention is in force will forgo the exercise of these high seas freedoms. But for States not bound by such a convention, there are no legal impediments to these activities.

Legislation currently being contemplated in the United

States would by its own terms be superseded by a convention in force for the United States. Moreover, legislation designed to establish a regulatory régime for deep sea-bed mining is compatible with the aims of the Conference as they have emerged in the course of negotiations. Finally, it is widely recognized that commercial recovery of deep sea-bed hard mineral resources cannot commence until the middle of the next decade, that is, far beyond the date that the Conference has set for itself for completion of the convention. Assuming continuation of the encouraging progress that has marked recent negotiations, legislation thus poses no threat to the orderly establishment of an international régime to regulate deep sea-bed mining activities. In the meantime, legislation is needed if the sizeable investment required for the continued development of technology is to be made.

With respect to the assertion that national legislation or prospective unilateral mining are disruptive to negotiations and will have an adverse impact on the Conference on the Law of the Sea and on other multilateral negotiations undertaken within the United Nations framework, I wish to say that such a result is not the intention of the United States. Indeed, if there is a burden being placed on the negotiations, it is the impression held by some that we will eventually agree to an unworkable international régime simply because we have no alternative means of access to resources we need. Let the prospect of legislation serve as a reminder that, to be acceptable, a convention must provide assured and non-discriminatory access to deep sea-bed resources for States and entities sponsored by States, on reasonable terms and conditions and with security of tenure for miners.

Let us end this sterile debate and get on with the important work of the Conference, for its success will make it unnecessary to put to the test conflicting views of nations and permit us all in concert to exploit the resources of the deep sea-bed for the common good of all mankind.

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Letter dated 10 October 1979 from the Chairman of the Group of 77 to the President of the Conference

[Original: English/French/Spanish]
[19 October 1979]

I have the honour to transmit to you herewith resolution I, adopted by the Ministers for Foreign Affairs of the member States of the Group of 77 on 29 September 1979 in New York, on the question of unilateral legislation on sea-bed mining, and to request you to have it circulated as an official document of the Conference.

(Signed) M. CARIAS
Head of the delegation of Honduras
to the Third United Nations Conference
on the Law of the Sea
and Chairman of the Group of 77

Resolution I

QUESTION OF UNILATERAL LEGISLATION ON SEA-BED MINING

The Ministers for Foreign Affairs of the States members of the Group of 77,

Recalling General Assembly resolution 2749 (XXV) of 17 December 1970, whose principles held that the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as well as the resources thereof, are the common heritage of mankind, to be explored and exploited for the benefit of mankind as a whole and taking into particular consideration the interests of the developing countries,

Recalling various resolutions of the General Assembly, United Nations agencies, and regional and subregional groups, as well as resolutions 51 (III) of 19 May 1972 and 108 (V) of 1 June 1979 of the United Nations Conference on Trade and Development affirming the principle that all States should refrain from adopting legislation or any other measures designed to carry out the exploration and exploitation of these resources until an international régime and machinery is adopted by the Third United Nations Conference on the Law of the Sea,

Taking note of the fact that negotiations to create an international régime and machinery for the exploration and exploitation of these resources for the benefit of mankind as a whole are in progress under the auspices of the United Nations,

— Convinced that such unilateral legislation would create a situation which would be prejudicial to the orderly exploration and exploitation of the resources of the sea-bed for the benefit of mankind as a whole,

Convinced also that unilateral legislation on sea-bed mining and other related matters will be contrary to well-established principles of negotiations and will have considerable negative impact upon the successful conclusion of the Conference and would endanger other economic negotiations and affect the interests of the international community.

1. *Declare that:*

(a) Any unilateral measures, legislation or agreement restricted to a limited number of States on sea-bed mining are unlawful and violate well-established and imperative rules of international law;

(b) Such unilateral acts will not be recognized by the international community, and, being unlawful, will entail in-

ternational responsibility on the part of States who commit them, and an investor will not have legal security for his investments in activities in pursuance of such acts;

2. *Urge* all States to refrain from taking any unilateral action on sea-bed mining and appeals to them to bring the Third United Nations Conference on the Law of the Sea to a successful and early conclusion.