

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

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A/CONF.62/98

Letter dated 29 March 1980 from the representative of Italy to the President of the Conference

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

DOCUMENT A/CONF.62/97*

Report of the Credentials Committee

[Original: English]
[31 March 1980]

1. The Credentials Committee held its 12th meeting on 31 March 1980. Representatives of all the members of the Committee except Chad were present.

2. The Committee had before it a memorandum by the Executive Secretary of the Conference, dated 26 March 1980, indicating that as of that date communications had been received concerning 149 States participating in the session, and Namibia (United Nations Council for Namibia).

3. Credentials in the form provided for by rule 3 of the rules of procedure of the Conference had been submitted to the Executive Secretary by the following 116 States: Algeria, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Bolivia, Brazil, Bulgaria, Burma, Canada, Cape Verde, Chile, China, Congo, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Denmark, Ecuador, El Salvador, Ethiopia, Fiji, Finland, France, Gabon, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Guatemala, Guinea-Bissau, Guyana, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Jamaica, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Malawi, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Monaco, Morocco, Mozambique, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Panama, Papua New Guinea, Paraguay, Péru, Philippines, Poland, Portugal, Republic of Korea, Romania, St. Lucia, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Somalia, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tonga, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, United States of America, Uruguay, Viet Nam, Yemen, Yugoslavia, Zaire and Zambia.

4. The appointment of the representatives of five States: Albania, Argentina, Costa Rica, Lao People's Democratic Republic and Solomon Islands had been communicated to the Executive Secretary by telegram from the Ministry for Foreign Affairs concerned.

5. The appointment of the representatives of the following 28 countries had been communicated to the Executive Secretary by letters, cables or notes verbales: Afghanistan, Angola,

Australia, Benin, Bhutan, Byelorussian Soviet Socialist Republic, Central African Republic, Colombia, Democratic People's Republic of Korea, Djibouti, Dominica, Dominican Republic, Egypt, Grenada, Ivory Coast, Japan, Jordan, Kenya, Kuwait, Lebanon, Madagascar, Mongolia, Nepal, Pakistan, Qatar, Rwanda, Upper Volta and Venezuela.

6. The Executive Secretary informed the Committee that, subsequent to the preparation of his memorandum, credentials in due form had been received from Australia, Dominica and Japan, and communications had been received from Burundi, Mauritania and Samoa.

7. The Chairman proposed that, in the light of past practice, the Committee should accept the credentials referred to in paragraphs 3 and 4 above and that, as an exceptional measure and subject to later validation, it should accept the communications referred to in paragraph 5 above in lieu of formal credentials.

8. The representative of Hungary recorded his delegation's objection to the acceptance of the credentials of the delegation of Democratic Kampuchea, stating that, in the view of the Hungarian delegation, these credentials were null and void.

9. The representative of China objected to the statement by the representative of Hungary, stating that, in the view of the Chinese delegation, the credentials of Democratic Kampuchea were valid.

10. The Chairman noted that the views and reservations expressed would be reflected in the report of the Committee. Subject to these views and reservations, summarized in paragraphs 8 and 9 above, the Committee decided to approve the following draft resolution.

"The Credentials Committee,

"Taking into account the views expressed during the debate;

"Accepts the formal credentials of the representatives that have been received;

"Accepts as an exceptional measure and subject to later validation, the communications referred to in paragraph 6 of the Executive Secretary's Memorandum of 26 March 1980 in lieu of formal credentials."

*Incorporating document A/CONF.62/97/Corr. 1, dated 9 April 1979.

DOCUMENT A/CONF.62/98

**Letter dated 29 March 1980 from the representative of Italy
to the President of the Conference**

[Original: English]
[31 March 1980]

In my capacity as representative of the State which currently holds the presidency of the Council of Ministers of the European Communities, I wish to take position on important issues of common interest for the member States.

I recall that member States of the Community have agreed to transfer competences to the European Economic Community in various and important fields. By way of example I might mention those concerning conservation and utilization of marine living resources, the protection and preservation of the marine environment and commercial policy.

The documents introduced to the Conference and the statements made by the Community representatives have already referred to such competences. In this respect I may mention the declaration made at the 95th plenary meeting on 5 May 1978,

by the head of delegation of Denmark, who spoke in his capacity as representative of the State holding the presidency of the Council of Ministers of the European Communities,² during the debate on the preamble and final clauses of the future convention, and the letters addressed to you by my predecessors in the presidency of the Nine, Mr. Riphagen, Mr. Logan and Mr. Wolff.

It follows from this transfer of competences that a most important inclusion which we wish to be made in the conven-

²See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IX (United Nations publication, Sales No. E.79.V.3).

tion is that of a clause which will permit the European Economic Community to become a party to the convention.

The inclusion of the clause is necessary not only for the nine member States of the European Economic Community, but also for the other States at the Conference.

On the one hand, in view of the transfer of competences which has occurred, the member States of the Community cannot undertake engagements with respect to third States in relation to matters over which the Community has competence. It is accordingly necessary that these engagements should be undertaken by the Community and this requires that it should become a party to the future convention together with its member States.

On the other hand, the participation of the European Economic Community responds to the need to give third States which ratify the Law of the Sea convention the legal guarantee that they have before them partners capable of honouring in their regard the totality of the obligations envisaged by the convention.

With this in mind, the Community and its member States are prepared, with regard to litigation and application of the dispute settlement procedures to offer arrangements which would ensure to third States that they can in all cases take action against either a member State or the Community, or both, as the case may be.

The responsibility of the Community to apply certain provisions of the convention would leave to the internal Com-

munity law the task of regulating relations between member States on the questions concerned. One must also recognize the mutual granting of national treatment or any other special treatment within the Community: this will be the consequence of the fact that the Community would be a party to the convention.

This seems to be particularly relevant as regards fisheries, a subject over which the European Economic Community exercises competences which entail that it is exclusively entitled to negotiate, to conclude and to apply international agreements.

I shall draw particular attention to the proposal submitted by the nine member States of the Community (see FC/5 of 3 August 1979). This proposal contains a specific clause allowing the Community to become a contracting party to the future Law of the Sea convention on the same level and with the same rights and obligations as States parties within areas where powers have been given to the Community by its member States. I wish to underline, in the name of all nine member States, the great importance which they attach to the insertion of this provision among the final clauses of the convention.

I should be grateful if you could arrange for this letter to be circulated before the end of the current session as an official document of the Conference.

(Signed) N. VARESI
Head of the delegation of Italy
to the Third United Nations Conference
on the Law of the Sea

DOCUMENT A/CONF.62/99

Letter dated 31 March 1980 from the co-ordinator of the group of Latin American States to the President of the Conference

[Original: Spanish]
[1 April 1980]

I have the honour, in my capacity as Co-ordinator of the group of Latin American States, to inform you that, at the meeting held on 31 March 1980, the group unanimously reiterated its support for the candidature of Jamaica as the seat of the International Sea-bed Authority.

This decision once more confirms the well-known position of the group, communicated to you in the note dated 5 May 1978, in which you were also informed of the group's opposition, for the reasons stated, to any revision of the text that would involve a change in the provisions of article 156, paragraph 3, of the informal composite negotiating text.¹

Furthermore, the position of the group was reaffirmed in the note addressed to you on 23 April 1979² by the then co-ordinator of the group, Mr. de la Guardia, of Argentina.

I should like to request you to have this note reproduced and distributed as an official document of this Conference.

(Signed) C. LUPINACCI (Uruguay)
Co-ordinator of the group of Latin American States
to the Third United Nations Conference
on the Law of the Sea

¹Ibid., vol. VIII (United Nations publication, Sales No. E.78.V.4).

²Ibid., vol. XI (United Nations publication, Sales No. E.80.V.6).

DOCUMENT A/CONF.62/L.46

Organization of work: note by the President

[Original: English]
[22 February 1980]

1. At its 118th plenary meeting, held on 23 August 1979, the Conference took a decision regarding the organization of work for the ninth session. In adopting a definite time-table divided into four stages, the fourth of which would be the final stage, the Conference took into consideration the need for concluding a convention during its ninth session in 1980 as, in the absence of such a programme which the Conference would accept as binding on it, there would be a very serious risk of final decisions being deferred in the belief that more time would be available.

2. As noted in paragraph 9 of the report of the General Committee¹ as submitted to and approved by the Conference at its 118th meeting the Conference concurred in the proposal that the Conference must impose a discipline on itself and agree at the expiry of each stage indicated in the time-table to proceed to the next stage without modifications that would

¹Ibid., vol. XII (United Nations publication, Sales No. E.80.V.12), document A/CONF.62/88.