

Third United Nations Conference on the Law of the Sea

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A/CONF.62/WS/8

Statement by the delegation of Guatemala dated 3 April 1980

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)*

the "geographically disadvantaged States" should be precisely defined and the heading of article 70 should be changed in the light of this definition.

13. We are also of the opinion that the word "surplus" should be deleted and that the phrase "nutritional needs of the populations" in article 70 should be replaced by a more meaningful phrase such as "the economic or developmental needs of the populations".

14. Since articles 61 and 62 of the revised negotiating text also have a bearing on this subject, my delegation believes that the strict provisions of these two articles should be mitigated in the case of fishing vessels belonging to the geographically disadvantaged States which also take part in fishing in the exclusive economic zone.

15. As regards the report of the Chairman of the Third Committee (A/CONF.62/L.50), the delegation of Bahrain is in favour of the deletion of article 246, paragraph 4, which refers to the possibility of the existence of "normal circumstances" despite the absence of diplomatic relations. We believe that this additional paragraph in the report is an unnecessary explanation of the phrase "normal circumstances" contained in paragraph 3 of the article.

16. We also support the position adopted by the geographically disadvantaged States with regard to the proposed

amendments to the text of article 254 and are in favour of the retention of this article as it appears in the revised negotiating text.

17. With regard to the question of the settlement of disputes concerning sea boundary delimitations between adjacent or opposite States, we are in favour of retaining the text of paragraph 1 (a) of article 298 as it appears in the revised negotiating text. We see no need for the insertion in this article of the amendment proposed in the report of the Chairman on the work of negotiating group 7 (A/CONF.62/L.47).

18. Concerning the report of the Chairman of the group of legal experts on final clauses (FC/16);^a the delegation of Bahrain believes that the report's recommendations concerning the general prohibition of reservations on the provisions of the Convention should be reviewed.

19. We are in agreement with the final version of the draft preamble (See A/CONF.62/L.49) which was generally accepted by the developing countries.

20. These are the principal observations of my delegation on the reports and on the revised informal composite negotiating text.

^aSee *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XII, document A/CONF.62/91.

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*[Original: Spanish]
[14 May 1980]*

1. The delegation of Guatemala wishes to place on record its deep appreciation to the President of the Conference, to the Chairmen of the First, Second and Third Committees, and to the Chairmen of the various working groups, whose unremitting efforts have enabled positive steps to be taken towards agreement on and the solution of the complex issues which are still pending and which have been an obstacle to the consensus necessary for agreement on and the institution of the new international law of the sea, which will undoubtedly be a mainstay of the new economic order so urgently sought by all peoples of the world.

2. We recognize that significant progress has been made at this session of the Conference in various areas, although in some cases the amendments were not unanimously accepted. They did, however, receive substantial support, and this affords a better basis for continued negotiations on what was, before the beginning of this session, the informal composite negotiating text. Those amendments should therefore be included in the text.

3. My delegation definitely agrees that the presidential team should, before the end of this session, complete the second revision of the negotiating text, so as to give Governments an opportunity to examine the exact status of the Conference and consider the areas of agreement and disagreement before deciding on their contributions to conciliation and compromise at the Geneva session. We believe that the scope of the negotiations will then have to be further broadened, for many delegations at the New York session have been left with the impression that the negotiations have been taking place in very small and select circles, which has made it difficult to secure greater support for the proposals.

4. For these reasons, the second revision of the text will be very useful, even if its provisions are not binding on delegations, because of the lack of agreement.

5. My delegation supports the inclusion in the text of all those amendments which obtained the substantial support of a majority of delegations. In particular, we strongly support the

proposals submitted by the contact group, chaired so efficiently by Mr. de Soto, and those submitted by the Group of 77 as a whole—of which we are a member—and ratified by its Chairman, the representative of Uganda.

6. In the short time available, we wish to make the following main points concerning the problems still pending.

7. The preamble has noticeably been improved, thanks to the proposal made by the President of the Conference, and is now acceptable to my delegation with any amendments which may be appropriate or necessary to express the philosophical and teleological purposes and principles which the Convention is designed to uphold.

8. Progress has also been made in connexion with the final clauses, which are on the whole acceptable, although we have some reservations with regard to the provisions on entry into force and on reservations.

9. With regard to the First Committee, we understand the complexity of the problems involved, which arise from the differences between the highly industrialized Powers with great technological capabilities, on the one hand, and the developing States, on the other. We appreciate the efforts made by working groups 1, 2 and 3, and the constructive proposals made by their Chairmen. In particular, we wish to state our preference for a definition of boundaries that would provide for a balance between land and sea mining. We therefore view with satisfaction the proposal by the Chairman of the First Committee, which can serve as a basis for future negotiations.

10. We believe that the convention on the law of the sea will be a multilateral treaty giving rise to international rights and obligations. We therefore consider that only sovereign States can be parties to it, although the interests and needs of peoples who have not yet achieved independence should be taken into account.

11. We agree, in principle, with the proposed revision and with the chapter on the compulsory transfer of technology under article 5.

12. With regard to the Second Committee, we must congratulate its Chairman, who managed to make some substantial improvements in several proposals which my delegation supports, particularly with regard to shortening the terms of Commission members from 10 to 5 years, and to article 76, paragraph 7, regarding the manner in which coastal States should delineate their continental shelf. We particularly support the inclusion in paragraph 1 of the amendment proposed by the Chairman of negotiating group 7, and its incorporation in articles 74 and 83 on the delimitation of the exclusive economic zone and the continental shelf, which should be in accordance with the norms of international law and equitable principles, which we consider extremely important, considering the circumstances involved and pertaining to the zone. We support his other proposals.

13. With regard to the Third Committee, we greatly appreciate the magnificent work done by its Chairman in overcoming difficulties through fruitful negotiations which led to compromise formulas that will make a consensus possible. We agree that coastal States should retain the sovereign right to arrange for or authorize scientific research in their territorial sea and exclusive economic zone, as provided in article 246, but

we have reservations about paragraphs 3, 4, 6, 7 and 8 of that article and about articles 249, 253, 254 and 255, all of which will be duly studied by our Government.

14. We must stress the importance our delegation attaches to the inclusion among the "special interests" to be represented in the Council of the special interests of many countries which are potential producers of minerals, including my own, which has nickel and cobalt. Such special interests should have a place on the Council.

15. My delegation cannot agree that the convention should provide for innocent passage of war vessels without the consent of the coastal State.

16. We support the Argentine proposal for the adoption of rules for the protection of migratory marine populations.

17. Lastly, we wish to express our sincere hope that the Geneva session will pave the way for definitive agreement and the eventual formalization of the negotiating text, and that agreement can be reached on the draft convention to be approved at Caracas, thus opening up new prospects for the promising law of the sea and enabling the heritage of mankind to be used for the strengthening of international peace and co-operation.