

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/101

Letter dated 28 July 1980 from the representatives of Chile, Colombia, Ecuador and Peru to the President of the Conference

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

DOCUMENTS OF THE CONFERENCE

DOCUMENT A/CONF.62/100

Letter dated 28 July 1980 from the Chairman of the Group of 77 to the President of the Conference

[Original: English]
[28 July 1980]

I have the honour to request that the attached statement on behalf of the Group of 77 be reproduced as an official document of the Conference so that it may be considered at the Plenary meeting specifically called to discuss the subject of the adoption of unilateral legislation affecting the resources of the international area of the sea-bed.

(Signed) E. K. WAPENYI
Representative of Uganda
to the Third United Nations Conference
on the Law of the Sea, and Chairman of the Group of 77

STATEMENT BY THE CHAIRMAN OF THE GROUP OF 77, ON THE UNITED STATES OF AMERICA LEGISLATION AFFECTING THE RESOURCES OF THE INTERNATIONAL AREA OF THE SEA-BED WHICH ARE THE COMMON HERITAGE OF MANKIND

1. The position of the Group of 77 on unilateral national legislation or other action relating to the exploration and exploitation of the sea-bed area beyond the limits of national jurisdiction has been put on record on several previous occasions. The Chairman of the Group of 77 expressed the views of the Group to this Conference on 15 September 1978¹ and 19 March 1979.² The ministers of the member States of the Group of 77, at their meeting held in New York, also adopted a resolution on this question on 29 September 1979. The Group of 77 reiterates its position as contained in those statements and in that resolution.

¹ See *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), 109th meeting.

² *Ibid.*, vol. XI (United Nations publication, Sales No. E.80.V.6), 110th meeting.

2. The Group views with grave concern the recent enactment of national legislation by the United States of America governing the exploration and exploitation of the sea-bed area beyond the limits of national jurisdiction. Such legislation is contrary to international law and is therefore incapable of giving rise to any rights whatsoever.

3. A comprehensive convention on the law of the sea is being negotiated in the interests of maintaining international peace and security and promoting co-operation and mutual understanding among nations. A régime for the sea-bed area beyond national jurisdiction, established by the international community and based upon the principle that the Area and its resources are the common heritage of mankind is central to these negotiations. Any action taken outside the framework of this conference or the threat of such action is in breach of the principle of good faith in the conduct of negotiations, contrary to the procedure of consensus contained in the gentleman's agreement, seriously jeopardizes the progress achieved so far in the conference and is prejudicial to the prospects of the early adoption of a comprehensive convention.

4. The Group of 77 condemns this illegal assertion of rights by the United States Government over the international area of the sea-bed. The Group protests against the said legislation and urges all Governments to do likewise. The Group calls upon all Governments to reject such legislation and not to recognize any activities it purports to authorize. The Group further calls upon all Governments to refrain from similar action.

5. The Group of 77 reserves the right to take any other appropriate action to repudiate such legislation and to safeguard the resources of the international sea-bed area which are the common heritage of mankind.

DOCUMENT A/CONF.62/101

Letter dated 28 July 1980 from the representatives of Chile, Colombia, Ecuador and Peru to the President of the Conference

[Original: Spanish]
[28 July 1980]

In our capacity as the representatives of Chile, Colombia, Ecuador and Peru to the Third United Nations Conference on the Law of the Sea, we have the honour to transmit herewith the declaration issued on 22 July 1980 by the secretariat of the South Pacific Commission in regard to the enactment by the United States of America of a law concerning the exploitation of the area of the sea-bed beyond the limits of national jurisdiction. We would ask you to arrange for it to be circulated as an official document of the Conference as soon as possible.

(Signed) F. ORREGO VICUNA
Representative of Chile
to the Third United Nations Conference
on the Law of the Sea

(Signed) H. CHARRY SAMPER
Representative of Colombia
to the Third United Nations Conference
on the Law of the Sea

(Signed) L. VALENCIA-RODRÍGUEZ
Representative of Ecuador
to the Third United Nations Conference
on the Law of the Sea

(Signed) A. ARIAS SCHREIBER
Representative of Peru
to the Third United Nations Conference
on the Law of the Sea

DECLARATION ISSUED AT LIMA ON 22 JULY 1980

The States members of the South Pacific Commission have repeatedly expressed their unanimous view that the exploitation of the mineral resources of the sea-bed and ocean floor beyond the limits of national jurisdiction must take place exclusively under an international régime which ensures the full and effective application of the principle that this area and its resources constitute the common heritage of mankind, and which at the same time prevents the occurrence of harmful effects for the economies and incomes of those developing countries that are exporters of the minerals concerned. In addition, the Governments of these countries have recommended more than once that co-ordinated action be undertaken.

Accordingly, and in compliance with this expression of their resolve, the secretariat of the South Pacific Commission makes the following Declaration:

Resolution 2749 (XXV), adopted by the United Nations General Assembly on 17 December 1970 at its twenty-fifth session solemnly laid down the principles which govern the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, and declared these to be the common heritage of mankind. Consequently, the Area is not to be subject to appropriation by any means by States or persons, which shall not be able to claim or exercise sovereignty or sovereign rights over any part of the Area or its resources.

The above resolution refers to and confirms resolution 2574 D (XXIV), adopted by the General Assembly at its twenty-fourth session and containing the "Declaration of Moratorium"; it establishes that no State or person, natural or juridical, shall claim, exercise or acquire rights with respect to the Area or its resources incompatible with the international régime to be established and the principles of the common heritage of mankind.

It also provides that, on the basis of the principles which it lays down, "an international régime applying to the area and its resources and including appropriate international machinery to give effect to its provisions shall be established by an international treaty of a universal character, generally agreed upon".

The General Assembly therefore adopted resolution 2750 (XXV) to form with the foregoing an indissoluble whole; this convened the Third United Nations Conference on the Law of the Sea to deal with "the establishment of an equitable international régime—including an international machinery—for the area and the resources of the sea-bed and the ocean floor, and the subsoil

thereof, beyond the limits of national jurisdiction . . . and a broad range of related issues", which taken as a whole constitute the agenda of the Conference.

Resolution 2749 (XXV) had the character of a solemn declaration and was adopted without any opposing vote. This particular fact, by means of which the international community freely expressed its consent, reveals its will to bind itself and respect the rules laid down in the resolution. Accordingly, it may not be ignored and even less circumvented by unilateral actions which involve an intention to coerce other States; which compromise the principle of good faith that is the basis of all international negotiation; and which undermine the foundations of the Charter of the United Nations, which lays down the sovereign equality of all its Members.

Furthermore, it should be recalled that, although the negotiation of this resolution did not fully satisfy the views expressed in the discussion, all sides respected the agreement not to submit amendments subsequently, thus implicitly recognizing the Declaration of Principles as the outcome of a process of universal co-operation in the search for new rules of law having the character of *jus cogens*, namely, that of peremptory rules of international law from which no derogation is permitted.

In the light of these circumstances, the enactment by the United States of America of a law intended to benefit those enterprises of that country which seek to exploit the sea-bed for their own account is unacceptable. Its application lacks validity in the community of nations and carries a heavy international responsibility, since no State possesses the power to distribute the natural resources situated in an international area which is the common heritage. A step of this kind would obviously constitute a breach of the rules of international law, which are at the basis of the co-existence of the peoples of the world, their harmonious development and the maintenance of the necessary conditions for ensuring peace and solidarity.

At the same time, this unilateral action jeopardizes the lengthy deliberations and the results of the Third United Nations Conference on the Law of the Sea which is about to reach its culminating point.

This grave situation has led the secretariat of the South Pacific Commission, on behalf of the Governments of Chile, Colombia, Ecuador and Peru, to transmit the text of the present Declaration to the Secretariat of the United Nations, the President of the Third United Nations Conference on the Law of the Sea, and the international organizations, bodies and specialized agencies involved.

DOCUMENT A/CONF.62/102

Report by the President on the recommendations of the General Committee on the organization of work for the resumed ninth session

[Original: English]
[28 July 1980]

I recalled that at the 129th meeting on 8 April 1980¹ in New York I informed the Plenary that, bearing in mind the decision of the Conference that it must complete its work by the end of the ninth session, I wished to make certain suggestions regarding the organization of the work and time-table during the resumed session.

I had proposed that the first two weeks be devoted to the continuation of negotiations on all outstanding issues and that discussions would continue concurrently in Informal Plenary on the fi-

nal and general clauses and the Preparatory Commission. I had suggested that, under the circumstances that would exist at the start of the resumed session, it would be necessary to decide what sort of negotiating structure, suited to the new circumstances, should be adopted. At the beginning of the third week, namely 11 August, the general debate would start and speakers would be allowed 15 minutes each. I reiterated my hope and my appeal that issues that were, by and large, settled would and should not be re-opened. At the end of the fourth week the Collegium would prepare the third revision of the informal composite negotiating text, which might be given the status of a basic text. No decision was taken on that occasion and it was agreed that

¹ *Ibid.*, vol. XIX (United Nations publication, Sales No.E.81.V.5).