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Statement by the delegation of Colombia dated 3 April 1980

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tries, whether coastal, land-locked, or geographically disadvantaged,

Aware of the rapid advances being made in the field of marine science and technology, and the need for the developing countries, whether coastal, land-locked or geographically disadvantaged, to share in these achievements if the aforementioned goals are to be met,

Convinced that, unless urgent measures are taken, the marine scientific and technological gap between the developed and the developing countries will widen further and thus endanger the very foundations of the new régime,

Believing that optimum utilization of the new opportunities for social and economic development offered by the new régime will be facilitated through action at the national and international level aimed at strengthening national capabilities in marine science, technology and ocean services, particularly in the developing countries, with a view to ensuring the rapid absorption and efficient application of technology and scientific knowledge available to them,

Considering that national and regional marine scientific and technological centres would be the principal institutions through which States, and in particular, the developing countries, foster and conduct marine scientific research, and receive and disseminate marine technology,

Recognizing the special role of the competent international organizations envisaged by the Convention on the Law of the Sea, especially in relation to the establishment and development of national and regional marine scientific and technological centres,

Noting that present efforts undertaken within the United Nations system in training, education and assistance in the field of marine science and technology and ocean services are far below current requirements and would be particularly inadequate to meet the demands generated through operation of the Convention on the Law of the Sea,

Welcoming recent initiatives within international organizations to promote and co-ordinate their major international assistance programmes aimed at strengthening marine science infrastructures in developing countries,

1. *Calls upon* all Member States to determine appropriate priorities in their development plans for the strengthening of their marine science, technology and ocean services;

2. *Calls upon* the developing countries to establish programmes for the promotion of technical co-operation among themselves in the field of marine science, technology and ocean service development;

3. *Urges* the industrialized countries to assist the developing countries in the preparation and implementation of their marine science, technology and ocean service development programmes;

4. *Recommends* that the World Bank, the Regional Banks, the United Nations Development Programme, the Interim Fund on Science and Technology and other multilateral funding agencies augment and co-ordinate their operations for the provision of funds to developing countries for the preparation and implementation of major programmes of assistance in strengthening their marine science, technology and ocean services;

5. *Recommends* that all competent international organizations within the United Nations system expand programmes within their respective fields of competence for assistance to developing countries in the field of marine science technology and ocean services and co-ordinate their efforts on a systemwide basis in the implementation of such programmes paying particular attention to the special needs of the developing countries, whether coastal, land-locked or geographically disadvantaged;

6. *Requests* the Secretary-General of the United Nations to transmit this resolution to the General Assembly at its thirty-fifth session.

DOCUMENT A/CONF.62/WS/9

Statement by the delegation of Colombia dated 3 April 1980

[*Original: Spanish*]
[*8 August 1980*]

1. Today we are not holding a general debate but are expressing specific opinions about the possibilities of revising the informal composite negotiating text of 28 April 1979 (A/CONF.62/WP.10/Rev.1), bearing in mind the views which have been expressed on it, the reports of the Chairmen of the Committees and working groups, and the positions of the various countries.

2. This entails a kind of review or balance-sheet, and consequently the establishment of a number of fundamental priorities for my delegation.

3. The so-called "rule of silence" for incorporating or amending texts is unacceptable to us. A further point is that within the limitations imposed we are unable to mention a number of subjects, whether because we are in agreement, as is usually the case, with the Group of 77 of which we are a member, or because we are awaiting the opportunity afforded by the general debate, when the Conference will proceed from a revised negotiating text to a negotiated text. This time has not yet come.

4. There are a number of generic factors which may be used as parameters. The first is that for some time now there has been a feeling of weariness and even scepticism with regard to the prolongation of the deliberations of the Conference, a prolongation which, in the opinion of many, is excessive. The second is that the rules of consensus incorporated in the so-called "gentlemen's agreement" of 27 June 1974 must either be completely in force or they lose their raison d'être. Thirdly, the essential interests of States are guaranteed by the rule of consensus, but this cannot serve as a pretext for failing to take decisions when appropriate, in particular with regard to the implementation of paragraphs 10 and 11 of document A/CONF.62/62.[19]

5. Because of its special geographical situation and the specific conditions which exist there, Colombia considers that one of its priorities at the Conference is the problem of the delimitation of its marine and submarine areas. We form part of the group of countries which have sponsored document NG7/2/Rev.2 and for this reason we support the statements made by our spokesman, the delegation of Spain.

6. We have followed with keen interest the discussions which took place yesterday and today, and we have noted that many important delegations which are not members of either of the two groups directly concerned have pointed out to the Collegium that on the question of delimitation criteria there is no consensus on the existing negotiating text (art. 74, para. 1 and art. 83, para. 1). In the opinion of these neutral delegations, the proposals by the Chairman of negotiating group 7 (A/CONF.62/L.47)[20] constitute a better opportunity of achieving a consensus. Others consider that the negotiating text can by no means be regarded as settled or accepted, and yet others, concerned about the deadlock and even feeling a sense of discouragement, are re-

[19] *Ibid.*, vol. X (United Nations publication, Sales No. E.79.V.4).
[20] *Ibid.*, Vol. XIII.

fraining from supporting it and, in so doing, are also detracting from its value.

7. Throughout the more than 300 articles of the main body of the draft convention, the draft final clauses, the preamble and the annexes there are no provisions which at the present stage of the deliberations are encountering wider or more resolute opposition than paragraph 1 of articles 74 and 83. This is a self-evident fact and shows that, unless these two provisions are revised and amended, they will obstruct approval of the convention like some kind of iceberg, which has been identified and could even sink the convention, to use appropriate maritime terminology. This is not the conclusion of a committed delegation such as my own. It is the conclusion of Mr. Manner, Chairman of negotiating group 7, who does honour to the status of neutrality conferred on him by his dignity. Now that he has written in his final report that it is clear that the present formulation cannot be considered as a text which could provide consensus on the issue, we must find some other solution.

8. I therefore understand that the representative of Ireland, on behalf of the sponsors of document NG7/10/Rev.2, should try to detract from the value of the report of the Chairman of negotiating group 7. I have noted the nuances of his position and have accordingly realized that one of his proposals might be premature, so this might be only an objection on the grounds of timeliness. But to say that the three elements of the problem constitute an "artificial package" is contradicted by the fact that this is the way in which the question has always been viewed. It was for this reason that negotiating group 7 was established, on the understanding, which it appears to be emphasizing as it reaches the end of its mandate, that delimitation criteria, provisional arrangements and the settlement of disputes are inseparable and require a joint solution.

9. The representative of Ireland has stated that the provision concerning delimitation criteria must express "international law without changing it". This bizarre and contradictory statement we find unacceptable. Presumably in this forum it will not be possible for us to reach agreement on what constitutes international law on this point. On the other hand, we know for certain what international law does not constitute. It is unacceptable to claim to convert into a general provision of international law an incomplete fragment of a ruling of the International Court of Justice whose scope extends only to the parties concerned or another, also an incomplete fragment of an arbitral decision concerning two countries, both of these decisions being valid only for the parties concerned.

10. It is quite obviously unacceptable to claim that these decisions should be converted into an *erga omnes* rule with regard to the delimitation of the continental shelf and the exclusive economic zone. It is equally unacceptable to fail to take into account the practice of States when calling for the rule on delimitation to express existing law without changing it, or to fail to take into consideration the provisions of the 1958 Geneva Conventions on this point.

11. Since there is no consensus on paragraph 1 of articles 74 and 83, we are left with the alternative of the proposals by the chairman of the negotiating group 7, who, curiously enough, is the only Chairman who has been asked by the spokesman for the sponsors of document NG7/10/Rev.2 not to make proposals, whereas all the other Chairmen have been encouraged and praised for making proposals in an effort to find a consensus.

12. My delegation compares the proposals by the Chairman of negotiating group 7 not with its own proposals but with the negotiating text. Consequently, although it does not endorse them completely and although they have shortcomings, it recognizes that the proposals of the Chairman of the negotiating group constitute a basis for negotiation and an approach to consensus, in accordance with the procedural provisions contained in document A/CONF.62/62. They are a step towards consensus, which may be achieved through negotiations. We do not object to, and would therefore accept, the inclusion of the proposals in the second revision.

13. Article 298 on the settlements of disputes is, from first to last, inseparably related to delimitation criteria and provisional arrangements. The obligatory settlement of disputes provided for in the negotiating text could be covered by a "package negotiation" of this three-sided question only after a balanced and just rule concerning delimitation criteria had been established and only if the solutions devised were applied to all types of disputes, regardless of whether they had arisen before or after the convention had entered into force.

14. Since there is no consensus on the decision-making machinery of the Council, we reserve the right to participate in negotiations on the question with a view to arriving at a "package deal" on its composition.

15. With regard to matters relating to the composition of the Council, our delegation, like several others, considers that there is no consensus on article 161, paragraph 1 (*d*). Since this provision relates exclusively to the representation of "special interests" of the developing countries, we should, within the Group of 77, reach a consensus which will enable us to incorporate the potential producers of minerals, who number more than 30 and have more direct interests than the other categories covered by the subparagraph in question. Negotiations are open on this question, as indicated in the document submitted by the Chairman of the First Committee (A/CONF.62/C.1/L.27)[20]

16. According to studies conducted by the United Nations and other qualified organizations, many developing countries may be considered as potential producers of minerals on the basis of identified resources. Some have already conducted research studies, others have exploration plans and still others have made investments in exploration and exploitation. Some of them are producing limited quantities of copper, cobalt, manganese and nickel, which will be affected by under-sea exploitation. The United Nations has published a list of potential producers of the four above-mentioned minerals which I take the liberty of transcribing in order to demonstrate its breadth both in regional terms and in terms of products covered. I would point out that it is an incomplete list and that there are many other countries in Africa, Asia and Latin America which, as we shall subsequently see, form part of this group of potential producers of minerals. This group should be borne in mind in connexion with the "special interests" when we come to draft the final version of article 161, paragraph 1 (*d*).

Copper: Argentina, Botswana, Iran, Malaysia, Panama.

Manganese: Bolivia, Chile, Fiji, Ghana, Ivory Coast, Morocco, Romania, Thailand, Upper Volta.

Cobalt: Botswana, Brazil, Burma, Colombia, Cuba, Guatemala, Indonesia, Morocco, Papua New Guinea, Philippines, Solomon Islands, Uganda, Venezuela.

Nickel: Botswana, Brazil, Burundi, Colombia, Dominican Republic, Guatemala, Indonesia, Philippines, Venezuela, Yugoslavia.

17. We support the text of the preamble, which will serve as a guide to the interpretation of the principles of the convention, and pay tribute to the excellent work which has been done on it. We find acceptable the proposals for the final clauses on which Mr. Evensen has put in such painstaking work. We wish to reserve our position on the question of reservations with regard to the convention.

18. In my country's opinion, all aspects of the rights of coastal States must be preserved, whether they relate to marine scientific research, navigation through straits, security, fisheries, protection of the marine environment, control of artificial islands or permanent installations.

19. The "packages negotiated" under the wise chairmanship of Mr. Koh and Mr. Njenga represent a step forward which, with

the reservations expressed by the spokesman for the Group of 77, is acceptable to us, and may be reflected in a revised text.

20. The proposals by the Chairman of the Second Committee (A/CONF.62/L.51)[20], are acceptable to us, on the understanding that with regard to the continental shelf it is definitely decided that "The provisions of this article are without prejudice to the question of delimitation of the continental shelf between opposite or adjacent States".

21. In conformity with our concern about the preservation of the marine environment, we are pleased to note that a solution has been devised for the appropriate protection of marine animals.

22. The intelligent proposals by Mr. Nandan, with certain amendments which provide more appropriate protection for the interests of land-based producers—another of Colombia's priorities—represent an acceptable basis for negotiation.

23. The report by the Chairman of the Third Committee (A/CONF.62/L.50)[20] is realistic and although the existing texts of certain articles, such as article 254, do not fully meet our wishes, we can accept them as a basis for negotiation.

24. In accordance with an honourable tradition for Colombia, since it was our country which introduced the principle of "good faith" into the Charter of the United Nations at San Francisco, we now sponsor the most recent revised text relating to good faith and abuse of entitlement, on which there is a consensus for incorporation in the negotiating text.

25. Lastly, on the question of the specific suggestion contained in the report by Mr. Koh on the financing of the Enterprise if the convention should enter into force without being ratified by a considerable number of contributory States, my delegation considers this to be a realistic approach. No State can be expected to enter into financial commitments with regard to the Enterprise before the Enterprise has acquired juridical existence.

DOCUMENT A/CONF.62/WS/10

Statement by the delegation of Austria dated 26 August 1980

[Original: English]
[2 October 1980]

LEGAL RÉGIME OF THE CONTINENTAL SHELF

1. Since the very beginning of deliberations on the new régime of maritime space in the late 1960s, one of the main items of those discussions has turned out to be that of the seaward delimitation of that part of the submarine area where the coastal State should have sovereign rights for exploration and exploitation. A decision on that limit entails consequences not only for the respective coastal State but also for the international community as a whole, since at the same time it determined the size of the area belonging to the common heritage of mankind whose benefits should be distributed among all States. In consequence of such a division of the rights over the entire sea-bed, and thus of the benefits to be gained therefrom among the international community on the one side and the respective coastal States on the other, States without a continental shelf or with a limited one could derive benefits only out of that part of the sea-bed which would be allotted to the international community. On the contrary, a coastal State with a broad shelf would benefit from both parts of the sea-bed, from its respective continental shelf as well as from the international ones.

2. Hence States without any or with only a limited continental shelf have constantly stressed in the negotiations both in the Committee on the Peaceful Uses of the Sea-bed and the Ocean Floor beyond the Limits of National Jurisdiction as well as during this Conference, the need to limit the extension of the continental shelf in such a manner as to establish a kind of balance between the coastal States' part of the submarine area and the international part. These States have also emphasized the necessity of an economically meaningful size for the international area.

3. Developments at the Conference seem, however, to run counter to such legitimate demands. The second revision of the informal composite negotiating text (A/CONF.62/WP.10/Rev. 2 and Corr.2 to 5) provides for such an extension of the continental shelf that only States with a broad continental margin gain unbalanced profits. When such inequality in fact is confirmed and even reinforced by law, the principles of justice and equity which are considered to govern the new law of the sea seem to be impaired. Attempts to re-establish some sort of balance and to reciprocate the above-mentioned advantages of some coastal States resulted in the demand for the establishment of a Common Heritage Fund as well as for the obligation of coastal States to make payments and contributions in respect of the exploitation of the non-living resources of the continental shelf beyond 200 nautical miles (art. 82). Thus, like the establishment of a Common Heritage Fund, the latter provision would—but only to a rather limited extent—ensure that the principle of equity would be respected in the distribution of the benefits derived from the uses of the sea-bed. However, its shortcomings are obvious: it is only applicable to the probably least profitable part of the continental shelf and it does not enhance any stimulation of the development of interest by the land-locked and geographically disadvantaged States in such exploitation of the submarine area.

4. A total exclusion of the land-locked and geographically disadvantaged States, by legal terms, from the exploitation of the continental shelf might entail a later interpretation of the respective provisions to the effect that the land-locked and geographically disadvantaged States themselves had voluntarily renounced their interest in such use of the sea. Consequently, the situation might occur that, in future legal and factual developments concerning that part of the sea-bed, the land-locked and geographically disadvantaged States would be deprived of any legal interests. Their legitimate interests might be set aside and, finally, totally ignored.

5. In order to ensure that the interests of the land-locked and geographically disadvantaged States not be excluded from such undertakings, even on commercial terms, and in order that they be respected, the following draft resolution, which has already appeared under the symbol NG6/12, is herewith reiterated:

"*The Third United Nations Conference on the Law of the Sea*,

"*Taking into account* the dependency of the economic development of all States on the availability of natural resources and the increasing need to extract these resources also from the continental shelf,

"*Bearing in mind* the sovereign rights of the coastal States over the continental shelf for the purpose of exploring it and exploiting its natural resources,

"*Being aware*, however, of the situation of the land-locked and geographically disadvantaged States which due to their geographical location may even be totally deprived from ex-