

Third United Nations Conference on the Law of the Sea

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Document:-

A/CONF.62/110

Note by the President on the programme of work

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume XV (Summary Records, Plenary, General Committee and First Committee, as well as Documents of the Conference, Tenth and Resumed Tenth Sessions)*

In consequence of the many outstanding developments in public health and in medical science and technology, the World Health Assembly has been able to dismantle a large part of earlier outdated practices relating to communicable diseases and in the present International Health Regulations (1969), which are in force for all but a very few States, the exercise of sanitary control by coastal States over shipping which passes through waters within their jurisdiction without calling at a port or on the coast is regulated in very limitative form.

Certain provisions of the informal composite negotiating text touch upon such exercise of sanitary control, that is to say those of article 21, dealing with the application of sanitary regulations in the territorial sea, of article 33 dealing with the contiguous zone and of article 42 dealing with the application of sanitary regulations to transit passage through straits.

Bearing in mind that, under the proposed text of final clauses (art. 305, para. 1), the convention is to prevail, as between the States parties, over the Geneva Conventions on the Law of the Sea of 1958, it becomes necessary, in so far as WHO is concerned, to review the impact of the provisions cited on those applied between the States parties to the International Health Regulations.

In this regard, I note that, in so far as concerns article 21 of the negotiating text, the right of coastal States to make laws and regulations relating to innocent passage through the territorial sea is made subject to conformity with other provisions of international law. These will thus encompass the provisions of the International Health Regulations in so far as sanitary measures applicable to shipping are concerned.

As regards article 42, paragraph 1 (d), the right of States bordering straits to make laws and regulations in connexion with its sanitary regulations covers the taking on board or putting overboard of any commodity or person on or from ships in transit passage. This falls within the scope of the measures permitted under chapter III of the International Health Regulations.

As regards article 33, dealing with the contiguous zone, there is no provision contained within the article referring to

existing rules of international law. However, in the draft text on final clauses, in the same article 305, paragraph 2 of this draft article, concerning the relation of the new convention to other conventions and international agreements, reads:

"This Convention shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Convention and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention."

In confirmation of the views which have been expressed on my behalf by my representative at the informal plenary meeting of the Conference, I have noted with pleasure the proposed inclusion of this final clause, on 14 August 1980, which, I believe, will meet the concerns of the World Health Organization.

In effect, I am convinced that the provisions of the International Health Regulations are compatible with those of the convention, so that both instruments are capable of being applied at the same time, within the sense of article 59, paragraph 1 (b) of the Vienna Convention on the Law of Treaties.¹ Accordingly, the proposed final provision would adequately deal with the matter of concern to the World Health Organization.

May I take this occasion to express to you, Sir, my appreciation for the consideration you have shown to the World Health Organization in its expression of its views in this matter.

I would further be grateful if this letter could be circulated as a document of the Conference.

(Signed) H. MAHLER
Director-General of the World Health Organization

¹ See *Official Records of the United Nations Conference on the Law of Treaties, Documents of the Conference* (United Nations publication, Sales No. E.70.V.5).

DOCUMENT A/CONF.62/110

Note by the President on the programme of work

[Original: English]
[16 March 1981]

1. The Collegium met on 16 March 1981 in order to consider the programme of work of the Conference at this session and the members were unanimous in making the following recommendations to the General Committee. The Collegium used as the basis of its work the programme of work presented by the late President in document A/CONF.62/BUR.13/Rev.1 of 28 August 1980. The programme of work contained in that document was based upon the recommendations of the General Committee adopted at its 58th meeting and considered by the Conference at the 141st plenary meeting.²

2. According to that document, there were four matters which should be taken up by this session. The first concerns the work of the Drafting Committee.

3. The Drafting Committee has carried out a very substantial amount of work at its meetings held between 9 January and 27 February 1981. A large volume of documentation was prepared and considered during these meetings. The initial consideration of this documentation by the language groups

was followed by its consideration at meetings of the coordinators of the language groups and finally by the Drafting Committee itself. The report of the Drafting Committee, based on these three levels of meetings, is available as Conference document A/CONF.62/L.67/Rev.1 and its addenda. The Drafting Committee has completed a first reading, article by article, of those parts of the draft convention falling within the mandate of the Second and Third Committees. The review of Part XI has commenced in the language groups. The Drafting Committee has not yet had the opportunity to examine those parts of the draft convention falling within the mandate of the informal plenary meetings.

4. The first recommendation of the Collegium to the General Committee is that the Drafting Committee, at one of the three levels, should be given Conference facilities to meet half a day, every day. The Drafting Committee will continue its examination of Part XI. Thereafter, it will turn to examine those parts of the draft convention falling within the mandate of the informal plenary Conference.

5. The second recommendation of the Collegium concerns the manner in which the recommendations of the Drafting Committee, affecting those parts of the draft convention fall-

² See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XIV (United Nations publication, Sales No. E.82.V.2).

ing within the mandate of the Committees, should be processed. The Collegium was unanimous in recommending that the recommendations of the Drafting Committee should be considered in plenary Conference and not in the Committees. This was felt to be desirable in order to prevent the lack of harmonization and co-ordination that could result from the process of examining these recommendations. The Collegium has, however, recommended that when they met in plenary session to examine the recommendations of the Drafting Committee affecting the mandate of the three Committees, the Chairman of the relevant Committee as well as the Chairman of the Drafting Committee should sit on the podium with the President.

6. The remaining question referred to in document A/CONF.62/BUR.13/Rev.1 is the question of the participation clause. It is recommended that this question should be taken up in plenary Conference when the plenary has disposed of the recommendations of the Drafting Committee now before the Conference.

7. The third question concerns the Preparatory Commission. This question has, in the past, been dealt with in the plenary Conference. There is, however, a very close interrelationship between this question and the provisions of Part XI. For this reason, it is recommended that a general discussion of the Preparatory Commission should, in the first instance, take place in the First Committee. At a later stage, the question of the Preparatory Commission will be considered at joint meetings of the plenary Conference and the First Committee under the co-chairmanship of the President and the Chairman of the First Committee.

8. The fourth question concerns the treatment to be accorded to the preparatory investments made before the convention enters into force. The Chairman of the First Commit-

tee informed the Collegium that in view of the uncertain attitude of the delegation of the United States towards the draft convention in general, and towards Part XI in particular, the Group of 77 has informed him that it is not prepared to negotiate this question until the attitude of the United States delegation towards Part XI is clarified. In view of this, therefore, no recommendation is made concerning this question.

9. The Collegium took note of the fact that the two interest groups, led respectively by Ireland and Spain, on the question of delimitation of maritime boundaries between States with opposite or adjacent coasts, would like to meet during this session in order to continue their consultations. It is, therefore, recommended that conference facilities be made available to the two interest groups for this purpose, and it is hoped that the consultations between these two will lead to a successful conclusion at this session.

10. The President will be meeting with the Chairmen of the three Committees and the Chairman of the Drafting Committee in order to draw up a time-table for work during the week of 16-20 March and the next week, which will be made available to the Conference on 17 March.

11. Following the consultations of the President with the Chairmen of the five regional groups, it was agreed that the plenary Conference will hold a Memorial meeting on Tuesday, 17 March, at 10.30 a.m. in order to pay tribute to the memory of Mr. Amerasinghe, first President of the Conference. It was also agreed that the speakers will be limited to representatives of the regional groups, the host country and the Special Representative of the Secretary-General.

12. The plenary Conference will meet in the afternoon of 17 March to consider the recommendations of the General Committee concerning the programme of work for the tenth session.

DOCUMENT A/CONF.62/111

Letter dated 17 March 1981 from the representative of the Federal Republic of Germany to the President of the Conference

[Original: English]
[18 March 1981]

I have the honour to draw your attention to the proposal made by my delegation at the 135th meeting of the Conference on 25 August 1980,³ as to the candidature of the Free and Hanseatic City of Hamburg for the seat of the International Tribunal for the Law of the Sea, to be established under the convention.

I should be grateful if, together with this letter, the attached aide-mémoire could be circulated as an official document of the Conference. In the aide-mémoire the Government of the Federal Republic of Germany explains its reasons for submitting the candidature. The brochure referred to in the aide-mémoire has already been transmitted to all delegations.

(Signed) H. DREHER
Head of the delegation of the
Federal Republic of Germany
to the Third United Nations Conference
on the Law of the Sea

AIDE-MÉMOIRE

Since it was convened seven years ago, the Third United Nations Conference on the Law of the Sea has made significant progress towards establishing an equitable régime for the use of the high seas. Within that régime considerable importance will attach to the *modus* for the peaceful settlement of disputes and especially to the International Tribunal

³ *Ibid.*

for the Law of the Sea to be established under the proposed convention. At the ninth session of the Conference on the Law of the Sea, the delegate of the Federal Republic of Germany proposed that the Free and Hanseatic City of Hamburg be chosen as the seat of that Tribunal. The Federal Government is convinced that Hamburg would be a suitable home for this institution which will play an important role in ensuring the functioning of the new law of the sea régime. A special brochure which has already been transmitted to all delegations describes the local amenities and other advantages which Hamburg has to offer.

The application of the Federal Republic of Germany relates to a city of high international standing which would therefore be a representative seat for such an institution and which offers all the facilities for the Tribunal to function effectively and successfully.

But apart from the favourable local conditions, the Federal Government would also like to draw attention to the following aspects in support of the application:

Firstly, within the context of international law, the Government of the Federal Republic of Germany has always recommended the most comprehensive range of instruments possible for the peaceful settlement of disputes, especially through the operation of international tribunals. This applies in very special measure to the *modus* for the settlement of disputes for which provision has been made in the proposed Convention on the Law of the Sea.