

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/111

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

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)

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

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.

³*Ibid.*

Secondly, the Government of the Federal Republic of Germany has from the outset attached high priority to participation in the work of the United Nations. It has always sought to play a constructive part in ensuring the functioning of the United Nations system, both by means of its regular contributions and by its participation in the peace-keeping, economic, social and cultural activities of the United Nations and its specialized agencies. It would be an acknowledgement of these efforts if an institution linked with the United Nations like the International Tribunal for the Law of the Sea were to have its seat in the territory of the Federal Republic of Germany.

Thirdly, the Federal Republic of Germany, being a country with a short coast-line, belongs at the Conference to the group of land-locked and geographically disadvantaged States. It

does not derive any benefit from the enlargement and readjustment of sea areas. Realizing, however, that the law of the sea in its present form needs to be adapted to the political and economic circumstances of our time, it has, together with the other geographically disadvantaged States, played a constructive role at the Conference from the outset. It believes, therefore, that the International Tribunal for the Law of the Sea, an important institution of the law of the sea, should have its seat in Hamburg and thus in the only geographically disadvantaged State to have applied.

The Federal Government will be grateful for every support for the candidature of the Free and Hanseatic City of Hamburg as the seat of the International Tribunal for the Law of the Sea which it proposes, and asks for such support.

DOCUMENT A/CONF.62/112

Communication from the United Nations Environment Programme

[Original: English/French]
[10 April 1981]

Questions have been addressed to the United Nations Environment Programme (UNEP) concerning its views in regard to implementation of the work of the Third United Nations Conference on the Law of the Sea. These questions are particularly pertinent in light of decision 8/15 of UNEP Governing Council adopted at its eighth session held in Nairobi in April 1980. Annexed are the initial views of UNEP with regard to these questions, to which decision 8/15 is attached and which were circulated to delegations informally on 27 August 1980 at the resumed ninth session of the Third United Nations Conference on the Law of the Sea.

i.

INITIAL VIEWS OF THE UNITED NATIONS ENVIRONMENT PROGRAMME WITH REGARD TO THE IMPLEMENTATION OF THE WORK OF THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

The United Nations Environment Programme wishes to commend the Conference on its efforts and achievements with regard to the codification and progressive development of the law of the sea, which at the same time represents a significant step forward from the environmental perspective. Above all, what is emerging from the Conference is a valuable basic framework of ideas, norms and expectations, which will guide all Governments and agencies in the adoption of a wide range of ocean-related policies and practices for the future. Within this framework, the forthcoming "umbrella treaty" will provide the all-important legal basis for the development of the international environmental law of the sea in various global and regional forums in the years ahead. Without its jurisdictional framework, a confused situation would prevail. For these reasons alone, the convention deserves widespread support.

Since the substantive work on the environmental provisions has been completed, and that on the entire text is now nearing completion, it is considered important for UNEP to seek the suggestions of delegates as to how to fulfil its institutional responsibilities in the effective implementation of the convention. Such guidance is required in view of the broad mandate of UNEP to co-ordinate activities within and outside the United Nations system in matters relating to the protection and preservation of the marine environment, and particularly in view of decision 8/15 on co-operation in the field of international environmental law adopted by the Governing Council of UNEP at its eighth session on 29 April 1980, a copy of which is attached.

From the environmental perspective, one of the significant achievements of the convention is the inclusion, in treaty form, of a general obligation of all States to protect and preserve the marine environment as a whole. This represents a truly significant step forward, building upon principles enunciated at the United Nations Conference on the Human Environment,⁴ and especially upon principle 7 of the Stockholm Declaration on the Human Environment.

UNEP, in particular, welcomes the inclusion of principles 21 and 22 of the Declaration of Stockholm in the general provisions drafted by the Third Committee, and in the other general provisions and articles drafted by the Third Committee on global and regional co-operation, on technical assistance and on monitoring and environmental assessment. UNEP is also pleased to see specific treaty articles dealing with international rules and national legislation to prevent, reduce and control pollution of the marine environment from land-based sources, from sea-bed activities, from activities in the international area and from or through the atmosphere; again, these prescriptive provisions and their companion enforcement articles, while far from fully developed, represent a sound basis for future law-making and implementation. The articles on responsibility and liability, on obligations under other conventions on the protection and preservation of the marine environment, and on ice-covered areas also have obvious importance.

The delegations to the United Nations Conference on the Law of the Sea should also be commended for the extraordinary efforts devoted to the problems of ship-generated pollution in the Third Committee. Despite the jurisdictional sensitivity of these issues, the Conference has succeeded in bringing an innovative approach to these controversial and difficult matters: for example, in the introduction of the expanded concepts of coastal States' rights and responsibilities for the adoption of measures to protect and preserve the marine environment and of universal port State enforcement jurisdiction, considerable diplomatic skill has been displayed in accommodating conflicting interests in the freedom of navigation and in the need for environmental regulation.

UNEP has similarly noted the environmental awareness shown by other Committees. In particular, the environmental provisions drafted by the First Committee for activities in the

⁴ See *Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972* (United Nations publication, Sales No. E.73.11.1.14 and Corrigendum).