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/WS/35

Statement by the delegation of Argentina dated 8 December 1982

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume XVII (Plenary Meetings, Summary Records and Verbatim Records, as well as Documents of the Conference, Resumed Eleventh Session and Final Part Eleventh Session and Conclusion)*

ment A/CONF.62/L.78[61] were submitted to and were approved by the informal plenary:

(*a*) Article 56, paragraph 1 (*a*), lines 2 and 3: replace "of the sea-bed and subsoil and the superjacent waters" by "of the waters superjacent to the sea-bed and of the sea-bed and its subsoil";

(*b*) Article 218, paragraph 4: replace "Any proceedings initiated" by "Any proceedings instituted";

(*c*) Article 283, paragraph 2: replace "a settlement" by "the settlement";

(*d*) Annex V, article 10, title: should read "*Right of parties to modify procedure*".

TITLES

4. In response to a question on the function of titles, I submit as Chairman of the Drafting Committee that, on the basis of the consultations I have had with the co-ordinators of the language groups of the Drafting Committee, the titles given to parts, sections and articles of the Convention be considered as helpful for an understanding of the structure of the draft and for promoting ease of reference.

[61] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XV.

DOCUMENT A/CONF.62/WS/34

Statement by the delegation of Turkey dated 15 November 1982

[*Original: English*]
[*15 November 1982*]

In connection with the views expressed by the Greek delegation in the written statement contained in document A/CONF.62/WS/26 of 4 May 1982,[58] the delegation of Turkey wishes to make the following statement:

The scope of the régime of straits used for international navigation and the rights and duties of States bordering the straits are clearly defined in the provisions contained in Part III of the United Nations Convention on the Law of the Sea. With the limited exceptions provided in articles 35, 36, 38, paragraph 1, and 45, all straits used for international navigation are subject to the régime of transit passage.

In the written statement referred to above, Greece is attempting to create a separate category of straits, i.e. "spread out islands that form a great number of alternative straits" which is not envisaged in the Convention nor in international law. Thereby Greece wishes to retain the power to exclude some of the straits which link the Aegean Sea to the Mediterranean from the régime of transit passage. Such arbitrary action is not permissible under the Convention nor under the rules and principles of international law.

It seems that Greece, failing in the Conference in its efforts to ensure the application of the régime of archipelagic States to the islands of the continental States, is now trying to circumvent the provisions of the Convention by a unilateral and arbitrary statement of understanding.

The reference in the Greek written statement to article 36 is of particular concern as it is an indication of Greece's intentions to exercise discretionary powers not only over straits, but also over the high seas.

With regard to the air routes, the Greek statement is contrary to the International Civil Aviation Organization (ICAO) rules according to which air routes are established by ICAO regional meetings with the consent of all interested parties and approved by the ICAO Council.

In view of the above considerations, the delegation of Turkey finds the Greek views expressed in document A/CONF.62/WS/26 legally unfounded and totally unacceptable.

DOCUMENT A/CONF.62/WS/35

Statement by the delegation of Argentina dated 8 December 1982

[*Original: Spanish*]
[*9 December 1982*]

On 30 April 1982, at the 182nd plenary meeting,[59] the Conference, on your initiative, adopted together the text of the United Nations Convention on the Law of the Sea and of four resolutions. Argentina voted in favour because it wanted to fulfil the commitment of the Group of 77 to adopt the text of the Convention as soon as possible.

On that occasion, however, the Argentine delegation placed on record its formal reservation concerning resolution III, reiterating the reservation it had expressed on 31 March in the informal plenary, to the effect that the resolution was unacceptable to Argentina and that if separate votes had been taken on the individual documents, it would have voted against it.

It was not possible to do that because all the texts were submitted as a "package", thus precluding separate voting. The wording of resolution III, particularly that of paragraph 1 (*b*), completely invalidates the principles contained in paragraph 2 of the former Transitional Provision with regard to territories concerning which a dispute exists.

In this connection the Argentine Republic wishes specifically to place on record its position that resolution III in no way affects the "Question of the Malvinas (Falkland) Islands", which is governed by the following specific resolutions of the General Assembly: 2062 (XX), 3160 (XXVIII), 31/49 and 37/9, adopted within the framework of the decolonization process.

In this connection and bearing in mind that the Malvinas and the South Sandwich and South Georgia Islands form an integral part of Argentine territory, the Argentine Government declares that it neither recognizes nor will recognize the title of any other State or the exercise by it of any right relating to the exploration and exploitation of resources which are

alleged to be protected in resolution III. Consequently, it likewise does not nor will not recognize and will consider null and void any activity or measure that may be carried out or adopted without its consent with regard to this question, which the Argentine Government considers to be of major importance.

The Argentine Government will accordingly interpret the occurrence of acts of the kind mentioned above as contrary to the above-mentioned resolutions adopted by the United Nations, the patent objective of which is the settlement of the sovereignty dispute concerning the islands by peaceful means—through bilateral negotiations—and through the good offices of the Secretary-General of the United Nations.

For all these reasons the Argentine Government deeply regrets that it will be unable to sign in Jamaica the Final Act of the Conference or the Convention. Nothing would have pleased my Government more than to be able to do this, since the Convention is the product of efforts made in good will by many countries for many years to achieve a balanced international system in this field.

I request that this communication be issued as a document of the Conference.

DOCUMENT A/CONF.62/WS/36

Note by the Secretariat

[Original: English]
[18 February 1983]

Pursuant to the announcement made by the President of the Conference at the 185th plenary meeting on 6 December 1982, the statements of representatives and observers who were unable to take the floor or who had delivered an abridged version of their text are contained in the annex to this document.

ANNEX

Statements of representatives and observers

CONTENTS

Botswana

[Original: English]

Mr. President, the decision in New York by the eleventh session of the Third United Nations Conference on the Law of the Sea to bring negotiations to an end by the adoption of the Convention came as a relief for many nations. My delegation is particularly pleased that we are gathered here, in this beautiful Jamaican town of Montego Bay, to translate into reality that historic decision.

As we prepare to take the final step in this process of treaty-making and progressive development of international law, it is fitting that we should pause to congratulate ourselves. When negotiations started, it seemed as though we were once again walking the road of failure. The sheer numbers of participants and the equally numerous conflicting interests made success appear impossible. The failures of the past were frequently cited by many to illustrate the imponderables ahead in what appeared to be an over-ambitious exercise. It is therefore with great satisfaction that we are gathered here, not in a mood of despair but to put the finishing touches on the product of nearly a decade of negotiations.

The untiring efforts by the distinguished delegates over a period of over eight years testify to the dedication of the international community to bring order to maritime activities. It is because of this dedication that we have finally adopted a comprehensive law of the sea convention.

In speaking of the success of the Conference, I am not unmindful of the frustrations and disappointments of many delegations, my own included. I would be misleading the Conference, and indeed future generations, if I created the impression that we have produced and agreed on a perfect Convention. Perfection is a rare occurrence in the affairs of men. But it must remain the ultimate objective in our endeavours, for the nearer we move to perfection, the closer we will be to justice.

We set out to reform the existing law of the sea as part of the international endeavour to bring about the new international economic order. But the adopted Convention has fallen short of the expectations of many nations. The land-locked and the geographically disadvantaged States have the least to celebrate. Our demand for an equal share in the economic zone were drowned in the exclusivity of the zone. In return for that exclusivity, we have been relegated to the position of possible participants in the surplus. The right of transit has equally been subjected to terms and conditions capable of subverting it.

The foregoing observations make it clear that the signing of the Convention will not necessarily bring justice to the exploitation of marine resources. It is only a beginning. The good will and good faith of the more fortunate countries will be put to a test in the implementation of the Convention.

An overwhelming majority of the States that participated in the formulation of the Convention are developing countries. Many of these will derive substantial benefits from the provisions of the Convention in the form of wide economic zones subject to their jurisdiction. Many of these States have neither the military might to meet the security needs of their wide zones nor the financial capacity and technological know-how to exploit these zones. For these countries also there are obstacles ahead. There will be temptation for the powerful nations to take advantage of their weaknesses. These poor nations will still have to rely on the financial assistance from, and the technology of, the industrialized nations. The multinational corporations will be there in their ruthless character. The reality of the new international economic order may well remain a distant mirage for many developing coastal States.

The lofty ideal of the common heritage of mankind has been the source of inspiration for many nations in the past decade of negotiations. The new international economic order must recognize the common heritage of mankind as an integral part of that order. The common heritage must be exploited for humanity as a whole. It is therefore our sincere hope that in the actual implementation of the treaty, the industrial nations shall not, for a moment, overlook that ideal.

The exploitation of the sea-bed will necessarily pose grave economic dangers for the land-based producers. No adequate safeguards have been provided for these producers, despite their desperate appeals. Only vague provisions have found their way into the Convention. The land-based producers will therefore be watching, with particular interest, the implementation of these provisions.

I have spoken at length on the weaknesses of the Convention and the problems of its future implementation because my delegation believes that the signing of the Convention will not guarantee economic justice. The dedication shown by the international commu-