

Third United Nations Conference on the Law of the Sea

1973-1982

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Document:-

A/CONF.62/109

Letter dated 21 August 1980 from the Director-General of the World Health Organization 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)

Furthermore, they categorically reject any claims to the unilateral exploitation of the sea-bed and the ocean floor and the subsoil thereof, which cannot be the object of appropriation or any claim or exercise of rights on the part of any State or of the nationals of any State.

They assert that the international Authority which will administer the sea-bed and the ocean floor should not be subject to the control or interests of a small group of Powers but should, instead, have an authentically democratic character and adequately represent the interests of the countries of the third world.

They express their desire to study the possibilities for the South Pacific System, as a regional entity, to serve the Governments' purpose of participating actively in the exploitation of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction.

In the light of the present status of the deliberations of the Third United Nations Conference on the Law of the Sea, they consider it desirable for their Governments to carry out jointly an analysis of the draft convention, with the aim of co-ordinating, in so far as possible, the position of each of their countries in respect of the said draft, as well as the actions that may have to be taken in connexion with the entry into force of the convention.

They also recommend that their respective delegations to the next session of the Conference should first hold joint consultations in order to harmonize their views, they recognize the need to establish effective instruments in the struggle against the pollution of the marine environment, and they agree that they should redouble their efforts in the field of scientific investigation.

In addition, they affirm their intention to consider the possibility of concluding an agreement between the countries of the System with a view to ensuring the conservation and, subject to that principle, the optimum utilization of tuna, a resource which is at the free and sovereign disposal of the coastal countries.

Reaffirming their recognition—broadly accepted by the international community—of the rights of sovereignty and jurisdiction which each of their countries possesses over the waters adjacent to its coasts outwards to a distance of 200 nautical miles, they condemn violations of those rights and reject all coercive measures imposed against States members of the System in violation of the provisions of article 19 of the Charter of the Organization of American States and other norms of international law.

They also declare once again the firm political support of their Governments for the Permanent Commission for the South Pacific and consider it desirable to strengthen and adapt the Commission in such a way that having due regard to present geographical scope and the possibilities afforded by new

legal norms and institutions, it will continue to serve as a bond of solidarity among its member countries and as the appropriate regional organization for the defence of their maritime interests. They instruct the Secretariat to study the requirements arising from new situations and to submit to a special meeting its suggestions for achieving the necessary strengthening and adaptation of the Commission.

They express their support for the scientific programmes of the Permanent Commission for the South Pacific, particularly the *Estudio Regional del Fenómeno "El Niño"* project, which is being carried out with the support of the Intergovernmental Oceanographic Commission, UNESCO and the World Meteorological Organization, and the Action Plan for the Protection of the Marine Environment and Coastal Areas of the South Pacific against pollution; they instruct the Secretariat to continue its efforts to prepare a project for the study of the living resources of the region and the development of its fisheries, with the support of Food and Agriculture Organization.

The Ministers for Foreign Affairs of Chile, Ecuador and Peru express the profound satisfaction of their Governments at Colombia's becoming a member of the Permanent Commission for the South Pacific. They are convinced that this development will contribute greatly to the internal and external strengthening of the System, which, since it now encompasses all the Pacific coast States of South America, presents a united front in defending and affirming the important advances already made and offers improved prospects for action in new fields and a means for co-operation with other States and international organizations.

The Ministers for Foreign Affairs of Chile, Ecuador and Peru sincerely thank the enlightened Government of Colombia for its initiative in convening this meeting of Foreign Ministers of member countries of the South Pacific System, commend the Minister for Foreign Affairs of Colombia, Mr. D. Uribe Vargas, for his skilful conduct of the meeting and express their gratitude for the generous hospitality of the city of Cali and its departmental and municipal authorities.

This declaration, signed on 24 January 1981, shall be known as the "Cali Declaration".

(Signed) D. URIBE VARGAS
(Minister for Foreign Affairs of Colombia)

R. ROJAS GALDAMES
(Minister for Foreign Affairs of Chile)

A. BARRERA VALVERDE
(Minister for Foreign Affairs of Ecuador)

J. ARIAS STELLA
(Minister for Foreign Affairs of Peru)

DOCUMENT A/CONF.62/109

Letter dated 21 August 1980 from the Director-General of the World Health Organization to the President of the Conference

[Original: English]
[16 March 1981]

I have the honour to refer to the draft provisions under consideration at the Third United Nations Conference on the Law of the Sea, and in particular to the second revision of the informal composite negotiating text (A/CONF.62/WP.10/Rev.2 and Corr.2-5), of 11 April 1980, and the draft text on final clauses presented by the President (FC/21/Rev.1).

As you will recall, the World Health Organization (WHO), during the various phases of international deliberations on the

law of the sea, has expressed its interest in provisions relating to the exercise by coastal States in the waters under their jurisdiction, of measures deemed necessary to prevent the infringement of their sanitary regulations. The interest of WHO arises out of the regulatory authority of the World Health Assembly under the WHO constitution in regard to sanitary and quarantine requirements and other procedures to prevent the international spread of diseases.

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

¹See *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 those 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-

²See *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).