

# **Third United Nations Conference on the Law of the Sea**

1973-1982

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Document:-

**A/CONF.62/112**

## **Communication from the United Nations Environment Programme**

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)*

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,<sup>4</sup> 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

<sup>4</sup> 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).

international area, if fully and adequately implemented, should allay many fears. The work of the Second Committee on conservation and wise utilization of living resources—including highly migratory species, marine mammals, anadromous, catadromous and sedentary species—has been of interest to us. Delegates have also shown environmental consciousness in the dispute settlement provisions, in the broad reference to the need for the study, protection and preservation of the marine environment and the conservation of the living resources thereof in the preamble, and in several other areas of the informal composite negotiating text (A/CONF.62/WP.10/Rev.2 and Corr.2-5).

There are, of course, many remaining difficulties. Many of the Conference environmental provisions—and in particular those dealing with pollution from land-based sources and from sea-bed activities—while admirable in their general import, still require a great deal of concentrated and detailed future work for their effectuation. The article on environmental responsibility and liability is similarly desirable, but clearly incomplete. The elaboration of these norms will require a great deal of additional work, on both the regional and global level, to formulate more detailed obligations to prevent, reduce and control pollution. UNEP has been working actively on these problems and assures Governments that it stands ready to assist them further, as requested, in this important task.

There also appears to be room for clarification in regard to environmental competence of States in the territorial sea concerning pollution from vessels and dumping. While there are a number of international conventions on these subjects, few of them are yet in force. In addition to efforts to bring these conventions into full force and effect, there is a need to enhance the processes for acceptance and implementation of such international rules and standards. In this connexion, UNEP is concerned with future clarification and development of concepts of standard-setting in accordance with “generally accepted” international norms and enforcement of “applicable” international rules and standards.

Concurrently with elaboration at the Conference of the broad environmental provisions for the new “umbrella treaty”, UNEP has itself been active in the codification, progressive development and implementation of the law and with activities for the protection and preservation of the oceans. The best known of these are, perhaps, UNEP’s Regional Seas Programme and the principles concerning the conservation and harmonious utilization of natural resources shared by two or more States. Delegates to the Conference should be familiar with the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona in 1976, with its accompanying protocols, for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft and Concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency; and the new Protocol for the Protection of the Mediterranean Sea against Pollution from land-based sources that was recently adopted at Athens, in May 1980. They should also be aware of the Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution, in April 1978, which was also concluded under the auspices of UNEP. Moreover, pursuant to the mandate of its Governing Council, UNEP has also been working on regional marine and coastal environment efforts in the Caribbean, West Africa, the Pacific, the East Asian seas and the Red Sea. The East African regional sea and that of the South-West Atlantic were recently identified by the Governing Council as two new regional seas that should be of concern to UNEP.

There are other areas too, where UNEP competence to coordinate the work of the United Nations system in environmental matters has already been well established. UNEP has at the specific request of the Third United Nations Conference

on the Law of the Sea, informed the Conference about its global environmental monitoring system or “GEMS” (in document A/CONF.62/C.3/L.23 of 17 March 1975).<sup>5</sup> UNEP also established working groups dealing specifically with pollution from sea-bed activities (in particular, offshore mining and drilling) and with liability and compensation for environmental risk and harm. More broadly, since Stockholm, UNEP has had a clear institutional mandate from Governments to work towards prevention, reduction and control of pollution from land-based sources, and many initiatives have already been taken in connexion therewith, including with regard to pollution “from or through the atmosphere”.

Turning from pollution to living resources, UNEP concern with marine mammals also dates from inception of UNEP. UNEP programmes, in co-operation with other competent international organizations in the area of conservation of living resources could also be detailed, especially the World Conservation Strategy programme.

The present intent is not to list all of the manifold activities of UNEP concerning protection and preservation of the marine environment or to bear upon the new “umbrella treaty”, but simply to inform delegates of UNEP’s experience and ongoing activities in areas related to Conference negotiations and to seek the insights of delegations at the Conference as to what role UNEP can play to implement and advance the provisions of the new legal régime for the oceans emerging from the Conference and thus keep its Governing Council properly informed. UNEP would welcome discussions by delegations and all the specialized bodies of the United Nations system on the clarification of institutional responsibilities as a follow-up to the Conference. We have been pressed by our Governing Council to devote attention to current problems of international environmental law, and it is clear that the *ad hoc* meeting of senior experts in September 1981 will need to examine *inter alia* the consequences of the Conference negotiations. This will inevitably lead the UNEP Governing Council in 1982, during its review of the 10 years since the Stockholm Conference, to evaluate carefully the results of work and to make an appraisal of required future action.

Consequently, the advice of delegations to the Conference at this time, in particular, is sought with great interest and concern.

## II

### DECISION 8/15. ENVIRONMENT LAW

#### *The Governing Council,*

*Determined* to promote harmonious relations and co-operation in the field of international environmental law in the spirit of the Declaration on the Human Environment adopted by the United Nations Conference on the Human Environment,

*Taking into account* its decision 7/11 of 3 May 1979, and recognizing the efforts of and results so far achieved by the Working Group of Experts on Environmental Law in strengthening such relations and co-operation,

1. *Requests* the Executive Director to convene, prior to the tenth session of the Governing Council, an *ad hoc* meeting of senior Government officials expert in environmental law, taking into account the principles of rule 62 of the rules of procedure of the Council, to assist in ensuring that the section on environmental law of the system-wide medium-term environment programme to be submitted for consideration by the Governing Council at its tenth session:

(a) Identifies subject areas where increased global and regional co-ordination and co-operation may encourage and

<sup>5</sup>See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IV (United Nations publication, Sales No. E.75.V.10).

further enhance progress in the field of environmental law, in particular with regard to the interests of developing countries;

(b) Sets out a programme, including global, regional and national efforts, towards this end;

2. Also requests the Executive Director, in order to ensure that developments within the United Nations system and the related work of other international forums and organizations as well as regional and bilateral agreements are taken fully into account in preparing for the *ad hoc* meeting of senior Government officials, in accordance with the time-table annexed hereto:

(a) To consult with Governments and appropriate regional governmental and non-governmental bodies with a view to reflecting particular recommendations on regional concerns, interests and priorities in the field of environmental law;

(b) To prepare the necessary documentation, noting *inter alia* material published by leading authors in the field of environmental law;

(c) To transmit such documentation, including the in depth review of environmental law referred to in his introductory report,<sup>6</sup> to the Working Group of Experts on Environmental Law for examination prior to its consideration by the *ad hoc* meeting of senior Government officials;

3. Invites States with a special interest in participating in the *ad hoc* meeting of senior Government officials to so inform the Executive Director not later than the end of September 1980;

4. Decides to determine the size of the meeting at its ninth session;

5. Further requests the Executive Director to report to the Governing Council at its ninth session on progress in the implementation of the present decision.

<sup>6</sup>UNEP/GC.6/2.

## ANNEX

### Proposed sequence of events regarding senior level meeting

1. April 1980—Decision to convene the meeting (Governing Council, eighth session).
2. April-September 1980—Consultations among Executive Director and interested Governments concerning (a) participation in and (b) timing and venue of the meeting.
3. September 1980—Preparation of first draft of in-depth review by UNEP secretariat.
4. September-November 1980—Consultations among UNEP secretariat and other international agencies on in-depth review and preparation of second draft.
5. November-December 1980—Consultations with selected Governments on in-depth review and preparation of final draft, initiation of consultations between Secretariat and regional groups to ascertain particular regional concerns, interests and priorities.
6. December 1980—Circulation to Governments and international agencies of final draft of in-depth review and commentary on regional consultative process.
7. May 1981—Governing Council at its ninth session to receive comments on in-depth review, set out general objectives and strategy for future work in environmental law, and note state of regional input leading towards the meeting.
8. June 1981—Executive Director transmits documentation, including in-depth review, comments thereon, regional input, relevant material from the ninth session of the Governing Council and pertinent collated published material or specific references to same, to members of working group of experts.
9. June 1981—Working Group of Experts meets as preparatory committee for the meeting to consider documentation, synthesize material relating to (a) global, and (b) regional environmental legal issues, prepare draft agenda for the meeting and guidelines for eventual recommendations of the meeting.
10. September 1981—Meeting convenes, report submitted to Executive Director for the system-wide medium-term environmental programme.
11. April-May 1982—Governing Council at its tenth session considers the system-wide medium-term environment programme on environmental law.

## DOCUMENT A/CONF.62/113

### Report of the Credentials Committee (tenth session)

[Original: English]  
[13 April 1981]

1. The Credentials Committee held its 14th meeting on 9 April 1981. Representatives of all the members of the Committee except Chad were present.

2. The Committee had before it a memorandum by the Executive Secretary of the Conference, dated 8 April 1981, indicating that as of that date communications had been received concerning 152 States participating in the session.

3. Credentials in the form provided for by rule 3 of the rules of procedure of the Conference had been submitted to the Executive Secretary by the following 120 States: Albania, Algeria, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Dominican Republic, Ethiopia, Fiji, Finland, France, Gabon, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Guatemala, Guyana, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Lao People's Democratic Republic, Lebanon,

Liechtenstein, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Malta, Mexico, Monaco, Mongolia, Morocco, Mozambique, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Papua New Guinea, Peru, Poland, Qatar, Republic of Korea, Romania, Saint Lucia, San Marino, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe.

4. The appointment of the representatives of eight States: Afghanistan, Chad, Haiti, Nauru, Pakistan, Panama, Paraguay and Togo has been communicated to the Executive Secretary by telegram from the Ministries for Foreign Affairs concerned.

5. The appointment of the representatives of the following 24 countries has been communicated to the Executive Sec-