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Statement by the delegation of Chile dated 7 April 1982

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sional character and is as definitive as all others in the draft convention. The fact that there is not a single article of the convention subject to reservation provides eloquent proof of the need for consensus.

In the 1958 Geneva Conventions the right to reservations was sanctioned because they were four separate conventions unrelated to each other. The very concept, the quintessence, that which marks the historic difference between those instruments and the Convention we are adopting lies in the very fact that we now have a single convention based on the principle of the unity of all of its subject-matter. The "gentleman's agreement" approved by the General Assembly on 16 November 1973 states that "the problems of ocean space are closely interrelated and need to be considered as a whole". Reservations are therefore not admissible, and to try at the last moment to specify which questions might or might not affect the whole of the convention, apart from being impossible, is patently incompatible with the "gentleman's agreement" and would destroy the assumptions on which the Conference is founded. In a system of "package" negotiation the many sacrifices and dissatisfactions and the reciprocal concessions are adequately safeguarded in article 309 as it stands. In the tidal wave of reservations that would ensue we would all perish.

Article 121, on islands, has been discussed in the Second Committee at every session. In eight years there was never once a suggestion by the Chairman of the Second Committee that would give grounds for thinking, when negotiations were over, that change might improve the prospects for a consensus such as exists today and has secured ratification.

It would be futile to try to summarize all the negotiations concerning the delimitation of marine spaces and the settlement of disputes: all delegations are aware of them. The negotiation continued throughout last year on this, as one of the most intractable obstacles, and the achievement of consensus on the "indivisible package" opened one of the key avenues for the success of the Conference and at the same time debarred renegotiation: Colombia accepted the formula incorporated in articles 74, 83 and 298 as a final accommodation for the sake of a solemn commitment which superseded the proposals of the groups which had until then supported documents NG7/2 and NG7/10.

It was not easy to accept the compromise, and in order to help to preserve it we are refraining from even commenting on it. Let me say only that we continue to believe that compulsory and binding third-party settlement of disputes is the mode of settlement which best ensures the rule of international law, peaceful settlement of disputes with a reasonable period, and the equality of States.

Should anybody try to reduce the scope of the conciliation procedure, that would be a violation of the commitment we all made, and the delegation of Colombia would be compelled to insist on compulsory and binding settlement of disputes.

The delegation of Colombia respects the right of all delegations to raise subjects of interest to them. But we are all likewise bound to respect every consensus achieved in the Conference. The very structure of its universality and integrity cannot be undermined by anyone. In that we concur wholeheartedly with what is apparently the consensus of all the consensuses of the Conference, and particularly of the Group of 77: to maintain the text of the draft convention, incorporating the compromises on the three pending questions in order to be able to sign this year in Caracas a convention concerning which we have made so many solemn statements and on which the hopes of our nations rest.

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[*Original: Spanish*]
[*7 April 1982*]

The delegation of Chile has taken cognizance of a note, sent to you by the representative of the delegation of Argentina, Enrique Candioti, dated 1 April 1982, which appears in Conference document A/CONF.62/WS/17 of 2 April 1982, concerning the statement which the undersigned made at the plenary 164th meeting on 1 April 1982.

In that statement I referred to the subject of the straits used for international navigation, which is dealt with in the draft convention, and to the specific case of the Strait of Magellan. In this connection, the delegation of Chile considers it inadmissible that the delegation of Argentina, by the aforesaid note, should presume to define the waters and territories belonging to Chile.

In particular, the delegation of Chile rejects the assertion, made by the Argentine representative, attributing to his country the status of a State bordering the Strait of Magellan. Under the Boundary Treaty signed in Buenos Aires on 23 July 1881, the Strait of Magellan in its entirety—and certainly including its two shores—is under the sovereignty of Chile. The foregoing is without prejudice to the reservation in respect of rights which the Government of Chile duly entered with regard to the sea boundary in the region of the eastern mouth of that Strait, a question which is still pending.

The delegation of Chile also rejects the assertion in the above-mentioned note that the aforesaid Strait is the only strait used for international navigation on which Chile has a coast. In accordance with international law and the provisions of the draft convention itself, only the Strait of Magellan meets the qualifications, requirements and conditions to be considered a strait used for international navigation, the régime of which was established in the above-mentioned Treaty of 1881. The other water courses under the sovereignty of Chile form part of its internal waters and its navigation is subject to the régime pertaining to that maritime space, a matter which was confirmed by Decree No. 416 of 1977 concerning the system of straight baselines, issued in accordance with Her Britannic Majesty's Arbitral Award, all of which instruments are fully in force.