

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

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## **Statement by the delegation of Romania dated 30 April 1982**

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume XVI (Summary Records, Plenary, First and Second Committees, as well as Documents of the Conference, Eleventh Session)*

dian delegation, after considerable reflection we were persuaded not so much by the positive argument that the largest financial contributor under the Law of the Sea ought to be given a Council seat, but by the negative argument that it would be exceeding the bounds of equity if the largest contributor were left without a Council seat. That is why my delegation is proposing that an amendment be made to paragraph 2 of article 161 while leaving paragraph 1 of article 161 as it is.

In my statement at the 164th plenary meeting of the Conference, on 1 April 1982, I joined with many others in cautioning against amendments to certain key navigational provisions together forming a part of the fundamental structure of the Convention. I refer in particular to proposed amendments to article 21. While understanding the motivation of the States putting forth those amendments, I again wish to underline the threat to the entire convention if the delicate balance on navigational provisions is destroyed.

By the same token I wish to emphasize again that essential safeguards for freedom of navigation can be achieved only by a universally accepted convention. The debate and amendments on this issue demonstrate, more clearly than any argument I might adduce, that it is a very dangerous fallacy for anyone to think that they can pick and choose amongst the fundamental provisions of the draft convention, accepting those they like, however novel, and asserting them as existing principles of customary international law, while rejecting those they do not like as mere proposals for provisions in a draft convention binding only on those who are parties to the convention.

The time may have come to recall again that this draft convention has been negotiated as a package. It is ironic in the light of recent developments to recall that many of those who argued that the trade-off should be freedom of navigation in

return for resources, are now insisting, having obtained the guarantees of freedom of navigation that they demanded, that they are entitled to the lion's share of the resources.

Before closing I wish to draw attention to an issue which can provide the basis for a conference breakthrough or a conference breakdown. I refer to the various proposals on the protection of pioneer investment. I wish to make only one point, namely that the larger the number of pioneer States we recognize, the fewer the mine sites left for others, including the Enterprise, when the convention comes into force. The growing number of "pioneers", some of whom may be likened to a man asking to be awarded the title "Father of the Year" before he has been introduced to the prospective mother, is producing an alarming situation. Many delegations are now agreeing with the thesis that we have long maintained, namely, that the only protection of the common heritage and the only safeguard for the Enterprise is the very nickel production ceiling which many of these same delegations are seeking to emasculate. Surely it is obvious that the nickel production formula reflects the interests of the international community as a whole and must be maintained if we are to ensure an orderly and rational development of these resources.

Very little time is left to us. It is nevertheless encouraging that negotiations are continuing and will undoubtedly do so throughout this weekend. May I take this opportunity of reaffirming the commitment of my delegation and my Government to achieving consensus on a global constitution of the oceans, by voting if necessary, but not necessarily by voting. By far the preferable course is to achieve consensus by negotiation and it is to this process that we remain committed pursuant to the "gentlemen's agreement" negotiated under the chairmanship of the Canadian delegation many years ago.

## DOCUMENT A/CONF.62/WS/24

### Statement by the delegation of Romania dated 30 April 1982

[Original: French]  
[4 May 1982]

On the occasion of the adoption of the draft convention on the law of the sea, the Romanian delegation, on instructions from its Government, wishes to make the following statement:

1. The Convention contains a whole series of provisions governing the access of States to the fishing resources of other countries' economic zones, thereby giving expression to the need to promote international co-operation in this field.

However, the right accorded to countries with special geographical characteristics regarding access to fishing resources is limited to the strictly regional level. Insufficient account is taken of the situation of countries in this category, Romania among them, which are located in regions or subregions with few fishing resources and therefore require access to the fishing resources of the economic zones of countries in other regions or subregions.

My delegation hopes that sufficient account will be taken of Romania's special situation both in the conclusion of bilateral fishing agreements and within the relevant international bodies.

2. The Convention provides that delimitation of the continental shelf shall be effected by agreement between the interested parties on the basis of international law, in order to achieve an equitable solution.

The delimitation principles and criteria contained in the Convention provide a general framework which should be

applied on the basis of international law, relevant jurisprudence and State practice. In that connection, in order to achieve an equitable solution, account will have to be taken of all relevant factors, including the fact that small, uninhabited islands with no economic life of their own can in no way affect the maritime spaces belonging to States' coastline proper.

3. With regard to the passage of foreign warships through the territorial sea of other States, we believe that the solution contained in the statement made by the President of the Conference at the 176th plenary meeting of the Conference on 26 April 1982, regarding the amendment to article 21, in document A/CONF.62/L.117, reflects the willingness of the 30 sponsors of the amendment, who represent almost one and a half billion of the world's population, to co-operate in the effort to adopt a convention which conforms to the principles of national independence and sovereignty and the protection of the security interests of all States.

According to that statement, the agreement reached is without prejudice to the right of coastal States to adopt measures to safeguard their security interests.

We hope that this solution, as well as all the other agreements and understandings reached in the course of the Conference, will be applied in good faith, thereby committing the entire Conference and the credibility of the Convention.

4. With regard to declarations on and reservations to the Convention, the Romanian delegation has consistently advo-

cated a solution which would give expression to the right of sovereign States to make reservations to and declarations on multilateral international treaties.

The Romanian delegation believes that, by virtue of the general rules of international law which are reflected, *inter alia*, in the 1969 Vienna Convention on the Law of Treaties,<sup>42</sup> States maintain their right to make reservations and declarations when they become parties to international treaties.

5. With regard to the international sea-bed area, the Romania delegation would like to reiterate that the application of the resolution governing preparatory investments should be in full conformity with resolution 2749 (XXV) of 17 December 1970 of the General Assembly and with Part XI of the Convention.

As the Romanian delegation already emphasized throughout the Conference, Romania is deeply attached to the concept of the common heritage of mankind proclaimed solemnly by the United Nations General Assembly in relation to the sea-bed situated beyond the limits of States' national jurisdiction, and amplified in the relevant provisions of the Convention. In the light of that position and in accordance

with the principles of equity and justice, the Romanian delegation considers it extremely important that the implementation of the relevant provisions of the Convention and of the resolution on the treatment of preliminary investment should in no way affect this heritage and that its resources should be explored and exploited for the benefit of all States, in particular the developing countries.

In this spirit, Romania cannot agree to any measure which, in implementing the Convention and the above-mentioned resolution, would depart from the fundamental principles governing the common heritage of mankind and its exploration and exploitation for the benefit of all the countries of the world.

6. Since the Romanian delegation, like many other delegations, agreed to the texts drafted in the course of the Conference and to the final draft convention in the expectation that the latter would be adopted by all States, my delegation expresses its regret that, despite the efforts and concessions made by the vast majority of participant countries, it was not possible to reach a consensus on the text of the Convention.

#### DOCUMENT A/CONF.62/WS/25

Statement by the delegation of Mali dated 30 April 1982

[Original: French]  
[4 May 1982]

Finally, we have just adopted the draft convention on the law of the sea in favour of which my delegation voted.

You have spared no effort—physical or intellectual—to bring safely into port the ship on which we all embarked to keep our rendezvous with history.

While the hour of that rendezvous is still striking, I feel I must express my delegation's appreciation for the results achieved thanks primarily to your talents, which are, moreover, no secret to any of us.

Your humanism, your high sense of duty well done, your great clear-mindedness when faced with the tidal waves which threatened to engulf us all, your exemplary courtesy so fortunately coupled with the necessary flexibility and essential firmness, in short, your availability at all times, which you consistently demonstrated, were all very important factors.

I should therefore like to extend to you once again the warm and sincere congratulations of the delegation of Mali for these universally recognized qualities.

I should like to include in these congratulations the thanks of the delegation of Mali to the entire Collegium, the entire Secretariat, and all those who contributed to our Conference their unflagging and daily efforts.

My delegation has been very much aware of the fruitful contribution of all delegations and their untiring efforts to ensure the success of our common endeavours.

We have now arrived at the end of our programme of work of which we were able to keep abreast, as anticipated, thanks to your own ingenuity and the goodwill of all.

Thus a highly instructive period has ended.

Thus a new period is beginning which will be marked by the implementation of unprecedented legal provisions, introducing fundamental elements of a more humane future and, to sum up, of our collective destiny.

Thus there is a hope that this period may—for the first time in the history of mankind—be one in which the universal will to share a common heritage among all peoples of the world will be expressed in practical terms.

Is not this concept, which defines both the political and legal elements of such a hope, a sign of a fundamental change in the thinking which has prevailed in an out-of-date, unjust, contradictory and profoundly unbalanced world?

But, does not wisdom also prompt us not to place too much trust in appearances, no matter how attractive they may seem? In that regard, I should like merely to point out that all human endeavour is subject to improvement and that nothing in the world is permanent—neither people nor things—since it is true that even the balances achieved in any context are vulnerable.

Nevertheless, the gaps which we have all noted, the weaknesses which appear here and there and the very frustrations encountered can be overcome and corrected, time being our best friend.

It is in this context that the interdependence of our interests, so particularly characteristic of our contemporary world, imposes its real constraints by means of rules, the breaking of which always leads to general disaster, as can be seen from daily experience.

It is true, therefore, that we are in vital need of each other; our awareness of this phenomenon would seem to entail a serious commitment to the future that transcends current national or other contingencies.

The fact remains that each of us has assumed his responsibilities before history, at the same time as reciprocal obligations. These obligations were not only dictated by our own interests; they were also assumed at the cost of reciprocal concessions so that they might become commitments to all mankind.

There is therefore no need to repeat what has already been said. I should merely like to state that my delegation maintains its solidarity with the group of African States and the Group of 77, and with the Presidents and Chairmen to whom my delegation pays a well-deserved tribute because they addressed themselves to our concerns and common interests with intelligence and effectiveness. Similarly, my delegation expresses its solidarity with all the relevant positions that led