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Statement by the delegation of Colombia dated 29 April 1982

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DOCUMENT A/CONF.62/WS/30

Statement by the delegation of Zaire dated 30 April 1982

[Original: French]
[2 June 1982]

The Zairian delegation, in a spirit of compromise and solidarity, felt compelled to join those delegations which, on 30 April, voted in favour of the United Nations Convention on the Law of the Sea, including its annexes. Nevertheless, for reasons connected, on the one hand, with the manner in which the principle of the common heritage of mankind, as set forth in resolution 2749 (XXV) of 17 December 1970, has been sacrificed in many provisions of the Convention, and, on the other hand, with the fact that it was not always borne in mind during the negotiations that the new law of the sea is intended to form an integral part of the new international economic order, the Zairian delegation could well have abstained in the vote.

We note that the objectives of the provisions of articles 21, 62, 69, 70, 71 and 151, and of those contained in the resolution on preparatory investment protection in annex IV of document A/CONF.62/L.132, are far removed from the spirit and letter of the principle of the common heritage of mankind, and thus upset the balance of the Convention.

The substance of Zaire's amendments to articles 21, 62, 69, 70 and 71 represents our interpretation of the articles in question.

It has been my delegation's understanding since the start of the Conference that, for progress to be made, negotiations were, wherever possible, to be accompanied by reasonable concessions, the burden of which would be equitably shared among all the interested parties. We were thus extremely concerned to find that most of the concessions made, particularly with regard to Part XI, have been at the expense of the land-based developing producers. We have in mind, in particular, the production formula contained in article 151, paragraph 2, and the compensation formula referred to in paragraph 4 of that article. Rather than abiding by the spirit of article 150, which provides that:

> "Activities in the Area shall, as specifically provided in this Part, be carried out in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to promote international co-operation for the over-all development of all countries, especially the developing States and with a view to ensuring:
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> "...
>
> "(g) the protection of developing countries from adverse effects on their economies on or their export earnings resulting from a reduction in the price of an affected mineral, or in the volume of that mineral exported, ..."

article 151, in paragraphs 2 and 4, states the contrary. Evidence of the wholly negative impact of this article on the economies of the countries involved has been provided by a series of studies on the subject prepared by the Secretary-General at the request of the Conference. Insufficient account was taken of all the proposals submitted by the land-based producers, in the light of those studies, to redress the shortcomings of this article and of Part XI and thus make the Convention more balanced and more acceptable. At the same time we have witnessed a new demand by the industrialized countries aimed at safeguarding preparatory investments.

While this demand was well-founded in principle, we found its substance excessive, from the point of view of both the size of the area allocated for preliminary activities and the number of mining sites available for the pioneer producers. The famous "compromise" represented by annex IV of document A/CONF.62/L.132, on the protection of preparatory investments, merely worsened the position of the land-based developing producer countries inasmuch as all will certainly affect the production ceiling indicated in article 151, paragraph 2.

As you know, the present production limitation formula, based on nickel, will basically limit only nickel production, while for other metals—cobalt, copper, manganese, etc.—the formula provides little, if any, real protection. If the protection of preparatory investments system, as it stands, is to be superimposed on such shaky machinery, we can expect that not only will the production ceiling laid down in article 151 be exceeded to a most alarming extent but economic strangulation will affect the developing land-based producer countries, such as Zaire, which gets most of its income from exports of those minerals, particularly copper and cobalt, of which it is the world's leading producer.

Such is our concern, particularly since formulas which we believed were compromise solutions, such as those on compensation contained in article 151, paragraph 4, are in fact no solution at all.

Nevertheless, we continue to believe that the active solidarity and understanding which we have displayed throughout the negotiations and which has led us to associate ourselves with the majority in support of the "package" will not have been in vain, and that the Authority, through its rules, regulations and procedures, will ensure that the principle of the common heritage of mankind is restored to its rightful place, so that a new, more just and more equitable order may replace the old, unjust and discriminatory order in international relations.

We trust that you will safeguard the legitimate interests of land-based producers and geographically disadvantaged countries in the formulation of viable law at the service of mankind, genuine co-operation, peace and equity.

DOCUMENT A/CONF.62/WS/31

Statement by the delegation of Colombia dated 29 April 1982

[Original: Spanish]
[4 June 1982]

We can accept the President's proposal (A/CONF.62/L.132 and Add.1) with a view to contributing to the final consensus, progress towards which has been facilitated by the exertions of those who have negotiated it under the President's expert guidance.

Colombia supports and, in general, endorses the statement by the Group of 77 at the 177th plenary meeting of the Conference. Our primary concern is to afford protection to the developing countries which, like Colombia, are producers and potential producers of land-based minerals and which

require safeguards in the form of rules and machinery in order to confront the risks of exploiting the resources of the seas and the sea-bed.

Like the vast majority of the members of the Group of 77, we have no possibility of becoming a "pioneer", protected by what has been termed "PIP" or preparatory investment protection, and our analysis of that system is based on the following considerations, which we would like to make known.

In the Group of 77, we commented, at the appropriate time, on the strategy to be followed in discussing amendments to Part XI of the convention and to the preparatory investment protection. The latter constitutes an incentive to the developed countries, aimed at facilitating the signature and ratification of the convention, on the understanding that no unilateral concessions but only reciprocal ones are admissible and that in any case the provisions may be invoked only by parties to the Convention or, in other words, no one may validly take advantage of those provisions, directly or indirectly, outside the framework of the convention.

We consider that the industrialized countries should become parties to the convention, the viability of which would otherwise be limited. We need the technological contributions of the developed countries and their financial contributions to the Authority, in the interests of a pragmatic universality based on the principles which inspired this Conference and especially that of the common heritage of mankind.

It is in light of the network of reciprocal interests embodied in the Convention that we can accept the compromises reached in the aforementioned documents.

We observe that a closed club of pioneer investors is being created which will have the authority to "corner" the mining sites in the seas. As regards paragraph 9 (*d*) of annex IV, we are concerned because such pioneers may apportion the tonnage of mineral production among themselves and may, if they wish, establish an order of priority, yet in neither case does the Authority have the power of decision.

The pioneers number nine in all the Enterprise, operating in the name of the international community, will be left in that initial stage with only one mining site; i.e., there will be a ratio of 1 to 9 between the Authority and the pioneers.

Discussion of the size of the areas has been particularly complex. We understand that it has dealt principally with the risks, since no provision has been made for a change in the tonnage of polymetallic nodules or an increase in payment commensurate with an increase of size.

At first glance, 150,000 square kilometres would appear a vast area, being larger than most of the countries members of the Conference.

The delegation of Colombia can accept the compromise reached by the negotitators representing the Group of 77 on the understanding that article 151 is maintained intact.

The provisions of article 151, in conjunction with those of article 150, i.e., the control of marine mineral production and its effective limitation taking into account the legitimate interests of developing countries producers of land-based minerals, such as Colombia, together with the safeguards stipulated in other provisions, are what make us able to accept the protection of preparatory investment.

The delegation of Colombia can accept the modifications proposed in annex V (A/CONF.62/L.132). This position is in keeping with its steadfast resolve not to hamper progress towards the final consensus and its respect for the principles of unity, universality and integrity of the convention.

In article 150 we note some changes which can be described as drafting changes and do not prejudice land-based producers and potential producers of nickel, copper, manganese and cobalt. I repeat that article 150 is untouchable for our delegation and article 151 is closely associated with it.

Article 155 bears a close relationship with the course of the so-called parallel system and implies in the proposed modification that the review conference will be governed by a procedure very similar to that of the current Conference. We would have preferred the procedure to be changed, but it appears that we will have to resign ourselves to its application again. Probably, in countries like ours, an amendment to the convention will be approved by Congress more readily if it is adopted by the same procedure as the convention itself.

The change whereby the largest consumer would be added to the Council (article 161) is acceptable to us. We regret that it has not been possible to provide for greater participation by medium-sized industrialized countries, which have played a moderating and conciliating role and could do the same in the Council.

Finally, we are prepared to support improvements regarding transfer of technology, processing of applications and work plans, or any other improvements which strengthen consensus without undermining the basic principles of our position and which accord with our resolve to secure the approval of the text by consensus.

DOCUMENT A/CONF.62/WS/32

Statement by the delegation of Colombia dated 30 April 1982

[Original: Spanish]
[4 June 1982]

The United Nations Convention on the Law of the Sea today became part of history. It codifies the new law of the sea which will govern the seas and oceans under a unitary and integral concept according to which all problems relating to maritime space are inseparably linked and concern the international community as a whole, and have to be solved in that spirit.

In our capacity as members of the Permanent Commission of the South Pacific we hereby reiterate the terms of the document transmitted jointly with the delegations of Chile, Ecuador and Peru on 28 April (A/CONF.62/L.143).

We believe that universal recognition of the rights of sovereignty and jurisdiction of the coastal State within a 200-mile limit is a fundamental achievement of the countries members of the Permanent Commission of the South Pacific, in accordance with the basic objectives of the Santiago Declaration of 1952,[45] to which Colombia subsequently acceded.

Those objectives have been compiled and developed in the United Nations Convention on the Law of the Sea, which incorporates into international law principles and institutions essential for a more appropriate and fair exploitation of the resources contained in coastal waters, to the benefit of the over-all development of the peoples concerned, on the basis of the duty and the right to protect those resources and to conserve and guarantee that natural wealth for those peoples.

[45] See *Yearbook of the International Law Commission*, 1956, vol. I.