

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-
A/CONF.62/33

Declaration of the Organization of African Unity on the issues of the Law of the Sea

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume III (Documents of the Conference, First and Second Sessions)*

ganization of sea-bed production should presumably be that no excessive stimulus should be given to such production. If production activities were carried out by national enterprises, rather than directly by the International Authority, provisions as to "taxation" and the conditions governing entry of the product into the home country of the producing enterprise should be such that supplies originating from the sea-bed should not receive preferential treatment by comparison with land production of developing exporting countries. Consideration may also be given to the possibility of avoiding the built-in "preference" for sea-bed production which would arise from the carrying out of such production by integrated enterprises based in developed countries. Moreover, the General Assembly, in resolution 2750 (XXV), envisaged the transfer to non-producing, including land-locked, developing countries of eq-

uitable shares of the benefits derived from the operations of the Sea-Bed Authority. This objective would seem to call also for the imposition of the maximum rates of royalties, taxation and fees which "the traffic will bear". The combined imposts should, at minimum, have an incidence at least equivalent to that of the average of national imposts on land production of the minerals concerned.

The issues before this Conference are complex indeed and the reconciliation of the various legitimate objectives will require careful consideration. But the end in view is a clear one: to evolve arrangements so that the exploitation of mineral resources of the sea-bed beyond national jurisdiction brings benefits to mankind as a whole, and particularly to developing countries.

DOCUMENT A/CONF.62/33

Declaration of the Organization of African Unity on the issues of the Law of the Sea

[Original: French]
[19 July 1974]

The Council of Ministers of the Organization of African Unity, meeting in its Twenty-first Ordinary Session in Addis Ababa, Ethiopia, from 17 to 24 May 1973, and in its Twenty-third Ordinary Session in Mogadiscio, Somalia, from 6 to 11 June 1974,

Considering that in accordance with the charter of the Organization of African Unity, it is our responsibility to harness the natural and human resources of our continent for the total advancement of our peoples in all spheres of human endeavour,

Recalling resolutions CM/Res. 245 (XVII) and CM/Res. 250 (XVII) of the Seventeenth Session of the Council of Ministers of OAU on the Permanent Sovereignty of African Countries over their natural resources,

Recalling the OAU Council of Ministers resolution CM/Res. 289 (XIX) and decision No. CM/Dec. 236 (XX),

Recalling also resolution 2750 (XXV) and 3029 A (XXVII) of the United Nations General Assembly,

Aware that many African countries did not participate in the 1958 and 1960 Law of the Sea Conferences,

Aware that Africa, on the basis of solidarity, needs to harmonize her position on various issues before the forthcoming United Nations Conference on the Law of the Sea due to be held at Caracas, Venezuela, in 1974, and to benefit therefrom,

Recognizing that the marine environment and the living and mineral resources therein are of vital importance to humanity and are not unlimited,

Noting that these marine resources are currently being exploited by only a few States for the economic benefit of their people,

Convinced that African countries have a right to exploit the marine resources around the African continent for the economic benefit of African peoples,

Recognizing that the capacity of the sea to assimilate wastes and render them harmless and its ability to regenerate natural resources are not unlimited,

Noting the potential of the sea for use for non-peaceful purposes, and convinced that the submarine environment should be used exclusively for peaceful purposes,

Recognizing the position of archipelagic States,

Recognizing that Africa has many disadvantaged States including those that are land-locked or shelf-locked and those

whose access to ocean space depends exclusively on passage through straits,

Noting the recent trends in the extension of coastal States' jurisdictions over the area adjacent to their coasts,

Having noted the positions and the views of other States and regions,

Declares:

A

Territorial sea and straits

1. Pending the successful negotiation and general adoption of a new régime to be established in these areas by the forthcoming United Nations Conference on the Law of the Sea, this position prejudices neither the present limits of the territorial sea of any State nor the existing rights of States;

2. That the African States endorse the right of access to and from the sea by the land-locked countries, and the inclusion of such a provision in the universal treaty to be negotiated at the Law of the Sea Conference;

3. That the African States in view of the importance of international navigation through straits used as such endorse the régime of innocent passage in principle but recognize the need for further precision of the régime;

4. That the African States endorse the principle that the baselines of any archipelagic State may be drawn by connecting the outermost points of the outermost islands of the archipelago for the purposes of determining the territorial sea of the archipelagic State.

B

Régime of islands

5. That the African States recognize the need for a proper determination of the nature of maritime spaces of islands and recommend that such determination should be made according to equitable principles taking account of all relevant factors and special circumstances including:

(a) The size of islands

(b) Their population or the absence thereof

(c) Their contiguity to the principal territory

(d) Their geological configuration

(e) The special interest of island States and archipelagic States.

C

Exclusive economic zone concept including exclusive fishery zone

6. That the African States recognize the right of each coastal State to establish an exclusive economic zone beyond their territorial seas whose limits shall *not exceed* 200 nautical miles, measured from the baseline establishing their territorial seas;

7. That in such zones the coastal States shall exercise permanent sovereignty over all the living and mineral resources and shall manage the zone without undue interference with the other legitimate uses of the sea, namely, freedom of navigation, overflight and laying of cables and pipelines;

8. That the African countries consider that scientific research and the control of marine pollution in the economic zone shall be subject to the jurisdiction of the coastal States;

9. That the African countries recognize, in order that the resources of the region may benefit all peoples therein, that the land-locked and other disadvantaged countries are entitled to share in the exploitation of living resources of neighbouring economic zones on an equal basis as nationals of coastal States on bases of African solidarity and under such regional or bilateral agreements as may be worked out;

10. That nothing in the propositions set herein should be construed as recognizing rights of territories under colonial, foreign or racist domination to the foregoing.

D

Regional arrangements

11. That the African States in order to develop and manage the resources of the region take all possible measures, including co-operation in the conservation and management of the living resources and the prevention and control of pollution to conserve the marine environment, to establish such regional institutions as may be necessary and settle disputes between them in accordance with regional arrangements.

E

Fishing activities in the high seas

12. That the African States recognize that fishing activities in the high seas have a direct effect on the fisheries within the territorial sea and in the economic zone. Consequently, such activities must be regulated especially having regard to the highly migratory and anadromous fish species. The African States therefore favour the setting up of an international sea fisheries régime or authority with sufficient powers to make States comply to widely accepted fisheries management principles or alternatively the strengthening of the existing Food and Agriculture Organization of the United Nations Fisheries Commissions or other fisheries regulatory bodies to enable them to formulate appropriate regulations applicable in all the areas of the high seas.

F

Training and transfer of technology

13. That the African States in order to benefit in exploration and exploitation of the resources of the sea-bed and subsoil thereof shall intensify national and regional efforts in the training and assistance of their personnel in all aspects of marine science and technology. Furthermore they shall urge the appropriate United Nations agencies and the technologically advanced countries to accelerate the process of transfer of marine science and technology, including the training of personnel.

G

Scientific research

14. All States regardless of their geographical situation have the right to carry out scientific research in the marine environment. The research must be for peaceful purposes and should not cause any harm to the marine environment.

Scientific research in the territorial sea or in the exclusive economic zone shall only be carried out with the consent of the coastal State concerned.

States agree to promote international co-operation in marine scientific research in areas beyond limits of national jurisdiction. Such scientific research shall be carried out in accordance with rules and procedures laid down by the international machinery.

H

Preservation of the marine environment

15. That African States recognize that every State has a right to manage its resources pursuant to its environmental policies and has an obligation in the prevention and control of pollution of the marine environment.

16. Consequently, African States shall take all possible measures, individually or jointly, so that activities carried out under their jurisdiction or control do not cause pollution damage to other States and to the marine environment as a whole.

17. In formulating such measures, States shall take maximum account of the provisions of existing international or regional pollution control conventions and of relevant principles and recommendations proposed by competent international or regional organizations.

I

International régime and international machinery for the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction

18. That African States reaffirm their belief in the Declaration of Principles, embodied in resolution 2749 (XXV) of the United Nations General Assembly, and that in order to realize its objectives these principles shall be translated into treaty articles to govern the area.

19. In particular the African States reaffirm their belief in the principle of the common heritage of mankind, which principle should in no way be limited in its scope by restrictive interpretations.

20. That with regard to the International Sea-Bed Area, African States affirm that until the establishment of the international régime and international machinery the applicable régime in the area is the Declaration of Principles, resolution 2749 (XXV) and the moratorium resolutions; and that in accordance with the provisions of the Declaration and the resolutions no State or person, natural or juridical, shall engage in any activities aimed at commercial exploitation of the area.

21. Without prejudice to paragraphs I and 6 above, the African States support a limit of the international area determined by distance from appropriate baselines.

22. That the African States affirm that:

(a) The competence of the international machinery shall extend over the sea-bed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction;

(b) The machinery shall possess full legal personality with functional privileges and immunities. It may have some

working relationship with the United Nations system but it shall maintain considerable political and financial independence;

(c) The machinery shall be invested with strong and comprehensive powers. Among others it shall have the right to explore and exploit the area, to regulate the activities in the area, to handle equitable distribution of benefits and to minimize any adverse economic effects by the fluctuation of prices of raw materials resulting from activities carried out in the area; to distribute equitably among all developing countries the proceeds from any tax (fiscal imposition) levied in connexion with activities relating to the exploitation of the area; to protect

the marine environment; to regulate and conduct scientific research and in this way give full meaning to the concept of the common heritage of mankind;

(d) There shall be an assembly of all members which shall be the repository of all powers and a council of limited membership whose composition shall reflect the principle of equitable geographical distribution and shall exercise, in a democratic manner, most of the functions of the machinery. There shall also be a secretariat to service all the organs and a tribunal for the settlement of disputes. The Assembly and the Council would be competent to establish as appropriate subsidiary organs for specialized purposes.

DOCUMENT A/CONF.62/34*

Report of the Credentials Committee

[Original: English]
[23 August 1974]

1. On 21 August 1974, the Credentials Committee held its second meeting at Caracas. Representatives of all the Members of the Committee, except Chad, were present.

2. Mr. Franz Weidinger (Austria) was unanimously elected Chairman of the Committee to replace Mr. Heinrich Gleissner (Austria) who had served as Chairman in the first session.

3. The Committee had before it a memorandum by the Executive Secretary of the Conference dated 21 August 1974, which read as follows:

"1. The action taken by the Credentials Committee at the first session of the Conference is covered in document A/CONF.62/15 of 15 December 1973, the report of the Credentials Committee as adopted by the Conference on that date. The present memorandum covers the period since that action.

"2. Invitations to participate in the second session of the Conference were sent on 25 April 1974 to 149 States (135 States Members of the United Nations and 14 non-Member States). As of 21 August 1974, 137 States are participating in the Conference.

"3. In accordance with rule 4 of the rules of procedure of the Conference, a Credentials Committee consisting of nine members (Austria, Chad, China, Costa Rica, Hungary, Ireland, Ivory Coast, Japan and Uruguay) was appointed by the Conference at its 9th meeting on 13 December 1973.

"4. As of 21 August 1974, formal credentials in due form under rule 3 of the rules of procedure were received by the Executive Secretary of the Conference from the following 131 States: Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, Chile, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Guatamala, Guinea, Guyana, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Ivory Coast, Jamaica, Japan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Lesotho, Libyan Arab Republic, Luxembourg, Madagascar, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Poland, Portugal, Qatar, Republic of Korea, Republic of Viet-

Nam, Romania, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Tonga, 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, Western Samoa, Yemen, Yugoslavia, Zaire and Zambia.

"5. The lists of representatives of the following five States were communicated to the Executive Secretary by note verbale or letter:

(a) from the Permanent Representative to the United Nations: Belgium and Philippines;

(b) from the Embassies in Caracas: Italy and Peru; and

(c) by note from the Foreign Ministry stating that the note should be taken as the credentials: Gambia.

"6. The credentials of the representatives of Guinea-Bissau and Liberia were communicated to the Executive Secretary in the form of cables by the respective Foreign Ministers.

"7. The Governments of the following States informed the Executive Secretary that they would not attend the second session of the Conference: Central African Republic and Jordan.

"8. No further communication has been received from the Government of the Democratic Republic of Viet-Nam since the cable dated 22 November 1973 from the Minister for Foreign Affairs addressed to the Secretary-General (contained in document A/9350, dated 27 November 1973)."

4. The Chairman proposed that, as an exceptional measure in order to avoid having to hold another meeting, the Committee should accept, subject to later validation, the communications of those Governments listed in paragraphs 5 and 6 of the memorandum reproduced above in lieu of formal credentials.

5. The Committee adopted the Chairman's proposal without objection.

6. The representative of Hungary reiterated his delegation's reservation which it made at the first meeting of the Committee concerning the representative of South Viet-Nam at the Conference. As a signatory to the Act of the International Conference on Viet-Nam, his delegation considered it unacceptable that only one of the South Viet-Namese signatories of that Act should be given the possibility of participating in the Conference. As the Agreement on Ending the War and Restoring Peace to Viet-Nam clearly stipulated, the Provisional Revolu-

* Incorporating document A/CONF.62/34/Corr.1 of 28 August 1974.