

## DOCUMENT A/CONF.62/L.135

Letter dated 22 April 1982 from the representative of Australia  
to the President of the Conference

[Original: English]  
[26 April 1982]

You will be aware that during the Plenary meetings of the Third United Nations Conference on the Law of the Sea held from 15 to 17 April 1982 to discuss formal amendments to the draft convention on the law of the sea, the Australian delegation confined its remarks to an explanation of the formal amendment regarding unfair economic practices (A/CONF.62/L.98) which has been sponsored jointly by Canada and Australia.

The Australian delegation now wishes to offer the following comments on those other amendments that have been submitted that are of direct significance to Australia.

*A/CONF.62/L.97 (with regard to article 160), A/CONF.62/L.100, A/CONF.62/L.103, A/CONF.62/L.104, A/CONF.62/L.105, A/CONF.62/L.106, A/CONF.62/L.107 (with regard to article 151), A/CONF.62/L.113, A/CONF.62/L.116, A/CONF.62/L.121, A/CONF.62/L.124 and A/CONF.62/L.125*

Australia sponsored A/CONF.62/L.104 in the hope that it would facilitate the adoption of the convention by consensus. The Australian delegation considers it essential that some important issues in Part XI be addressed and resolved if a satisfactory outcome to the negotiations is to be achieved.

*A/CONF.62/L.97 and A/CONF.62/L.117*

The Australian delegation considers that article 21 as written provides the proper balance between the interests of the coastal State and of other States and opposes any changes to this article. In particular the Australian delegation opposes amendments which would require prior authorization or notification for the innocent passage of warships.

*A/CONF.62/L.102*

The Australian delegation supports this proposed amendment.

*A/CONF.62/L.106*

In so far as this proposed amendment refers to article 60, paragraph 3, the Australian delegation prefers the wording which was recommended by the Collegium in A/CONF.62/L.93 for incorporation in the draft convention.

With respect to the proposed amendments to article 230, we could support the amendment to change the title of the article. However, the Australian delegation is opposed to the other proposed amendments to article 230.

*A/CONF.62/L.108 and A/CONF.62/L.120*

The Australian delegation's position has been to support strongly the adoption of a law of the sea convention by consensus to which no reservations would be necessary. The Australian delegation hopes that it will still be possible to achieve this objective.

*A/CONF.62/L.109 and Corr.2*

The Australian delegation supports the existing wording of article 39 and of resolution III, but could support the proposed changes to articles 42, 221 and 233.

*A/CONF.62/L.111*

The Australian delegation supports the present wording of article 310.

*A/CONF.62/L.114*

Australian is a sponsor of this proposal and strongly supports it.

*A/CONF.62/L.118*

The Australian delegation opposes this proposed amendment.

*A/CONF.62/L.126*

The Australian delegation could support these proposed amendments.

Finally, the Australian delegation would like to repeat that Australia's principal objective remains the early adoption of a comprehensive and widely accepted convention, which would write the international law of the sea in more equitable terms, and which would meet our own substantial interests in the law of the sea. The Australian delegation hopes that it will be possible to reach consensus on the articles to which amendments have been submitted, so that voting will be unnecessary.

I should be grateful if you could arrange to have these comments circulated to other delegations as an official conference document.

(Signed) K. G. BRENNAN  
Representative of Australia  
to the Third United Nations Conference  
on the Law of the Sea

## DOCUMENT A/CONF.62/L.136

Letter dated 26 April 1982 from the representative of Spain to  
the President of the Conference

[Original: Spanish]  
[26 April 1982]

In response to your appeal to delegations which have submitted amendments to the draft convention, as contained in document A/CONF.62/L.78 and in documents A/CONF.62/L.93 and A/CONF.62/L.94, I should like to explain the reasons why my delegation must at least maintain its amendment to article 39 and its first amendment to article 42, paragraph 1 (b), namely, the proposal that the word "appli-

cable" should be replaced by "generally accepted" (see A/CONF.62/L.109).

Without going into details, I must state once again that the Spanish delegation has at no time during the Conference signified its consent to the régime of passage through straits contained in Part III of the draft convention. Although in 1976 it publicly declared its willingness to agree that maritime

navigation should be subject to the régime of “transit passage”, it always maintained that that régime needed to be improved in some respects with a view to the prevention of pollution of the waters of the sea. This is the purpose of the amendment to article 42 proposing that the wording “applicable international regulations” should be changed to “generally accepted international regulations”. The point is that the present text might be interpreted as preventing coastal States from adopting a set of objective regulations that could be uniformly applied to all ships in transit.

As regards overflight of the territorial sea in straits, the Spanish delegation has never accepted it, and its informal suggestions of 1978 (C.2/Informal Meeting/4) make this clear. Moreover, my delegation has reiterated that position on various occasions; I might mention the memorandum circulated at Geneva on 24 April 1978, the Spanish delegation's statements of 3 May 1978 and 26 August 1980 and those made in the Second Committee and the 163rd and 169th plenary meetings during the current session.

The amendment to article 39, proposing the deletion of the word “normally” in paragraph 3 (a), is a last attempt at

compromise offered by the Spanish Government, acceptance of which would enable it to join in a final consensus. For the reasons stated, I must maintain these two amendments.

In view of your appeal and of the fact that the amendments proposed by my delegation to articles 221 and 233 involve only matters of drafting, I can inform you that I shall not insist on their being put to the vote. Nor shall I insist on a vote on the proposal that the word “oily” should be deleted before “wastes” in article 42, paragraph 1 (b).

I would also inform you that I do not intend to seek a vote on my delegation's amendment to draft resolution III, concerning territories under colonial domination. However, I must state that the Spanish Government formally reserves its position on that draft resolution, to paragraph 2 of which it cannot signify its consent.

I should appreciate it if the contents of this communication were circulated as an official document of the Conference.

(Signed) J. LACLETA  
Representative of Spain  
to the Third United Nations Conference  
on the Law of the Sea

#### DOCUMENT A/CONF.62/L.137

Compromise proposal of the President on the participation of Namibia,  
represented by the United Nations Council for Namibia

[Original: English]  
[27 April 1982]

Article 305, paragraph 1 (as contained in document A/CONF.62/L.93): add a new subparagraph (b) reading as follows: “(b) Namibia, represented by the United Nations Council for Namibia;”; renumber paragraphs (b), (c), (d) and (e) accordingly and make the consequential changes to articles 1 (bis) and 306.

Draft resolution I, on the Preparatory Commission, paragraph 2 (as contained in document A/CONF.62/L.94): the first sentence should read as follows:

“2. The Commission shall consist of the representatives of States and of Namibia, represented by the United Nations Council for Namibia, which have signed the Convention or acceded to it.”

#### DOCUMENT A/CONF.62/L.138

Letter dated 27 April 1982 from the representative of Israel to the President of the Conference

[Original: English]  
[26 April 1982]

I have the honour, on instructions, to communicate to you the following:

While fully maintaining its position on all matters as set out in my letter of 13 April 1982 (A/CONF.62/L.129), my delegation wishes to stress once again its strong opposition to draft resolution IV, proposed in document A/CONF.62/L.101 of 13 April 1982.

It has been, and is, the consistently held view of my delegation that a grouping such as the so-called “Palestine Liberation Organization” is not entitled, and must not be permitted, to sign the Final Act of this Conference. The proposed resolution IV is, therefore, utterly unacceptable to my delegation.

Similarly, my delegation cannot agree to the proposed amendment to article 156, paragraph 3, also contained in the aforementioned document.

My delegation is unable to accept the statement made by the President on behalf of the Collegium on 15 April 1982 (A/CONF.62/SR.168, para. 3) that “there had been wide-

spread and substantial support for the amendments proposed by Iraq (A/CONF.62/L.101) ...” and the repetition of that statement in paragraph 9 of the Report of the President to the Conference in accordance with article 37 of the rules of procedure (A/CONF.62/L.132).

In fact, as is well known, the initiative which led to these provisions has been a sharply divisive element in this conference. My delegation is, therefore, of the opinion that these amendments should have been put to the vote.

In the circumstances, and as already indicated previously, my delegation reserves for itself full freedom to take due action in this behalf at the appropriate time.

I have the honour to request that this letter be circulated as an official document of the Conference.

(Signed) S. ROSENNE  
Representative of Israel  
to the Third United Nations Conference  
on the Law of the Sea