

(Signed) F. ZEGERS
Representative of Chile
to the Third United Nations Conference
on the Law of the Sea

(Signed) H. CHARRY SAMPER
Representative of Colombia
to the Third United Nations Conference
on the Law of the Sea

(Signed) A. J. LUCIO PAREDES
Representative of Ecuador
to the Third United Nations Conference
on the Law of the Sea

(Signed) A. ARTAS SCHREIBER
Representative of Peru
to the Third United Nations Conference
on the Law of the Sea

DOCUMENT A/CONF.62/L.144

Letter dated 29 April 1982 from the representative of the Union of Soviet Socialist Republics to the President of the Conference

[Original Russian]
[29 April 1982]

I have today received the conclusion of the United Nations Legal Counsel replying to the questions raised in my letter of 22 April 1982 addressed to the President of the Conference (A/CONF.62/L.133).

From that conclusion it is indeed clear that, as stated by the Soviet delegation, the "distinguishing requirements" apply to the three categories of pioneer investors referred to in draft resolution II, subparagraph 1 (a) (A/CONF.62/L.132). This subparagraph provides that some States receive the status of pioneer investor even when they have not signed the convention, while certain other States, including the Soviet Union, may receive such a status only on the essential condition that they have signed the convention. Thus, the Legal Counsel acknowledges in his conclusion that the draft resolution in question contains a discriminatory provision *vis-à-vis* the Soviet Union. The Legal Counsel also acknowledges in his conclusion that the questions raised in my letter, particularly those relating to subparagraph 1 (a) of that draft resolution, are of a political nature.

In that connection, I bring to your notice, in confirmation of the statements I made in the 174th and 177th plenary meetings on 23 and 28 April, that the Soviet Union will be unable to support that draft resolution as it now stands and, accordingly, will be unable to become a party to the convention if the resolution governing preparatory investment in pioneer activities still contains provisions which place the Soviet Union in an unfavourable position *vis-à-vis* several other States.

I request you to have this letter circulated as an official document of the Conference.

(Signed) C. KOZYREV
Representative of the Union of Soviet Socialist Republics
to the Third United Nations Conference
on the Law of the Sea

DOCUMENT A/CONF.62/L.145

Letter dated 28 April from the representative of Malaysia to the President of the Conference

[Original: English]
[29 April 1982]

As Chairman of the delegation of Malaysia to the eleventh session of the Third United Nations Conference on the Law of the Sea, on behalf of the delegations of Indonesia and of Singapore, as well as my delegation, I have the honour to refer to article 233 of the proposed convention on the law of the sea (A/CONF.62/L.78)³⁶ in relation to its application to the Straits of Malacca and Singapore.

In the course of the Third United Nations Conference on the Law of the Sea, the delegations of the States bordering the Straits of Malacca and Singapore, that is, Indonesia, Malaysia and Singapore, have held consultations with delegations of States which constitute major users of those Straits. Those delegations have all confirmed a common understanding regarding the purpose and meaning of that article in its application to those straits taking into account the peculiar geographic and traffic conditions in the Straits of Malacca and Singapore.

This understanding is contained in the statement which is annexed to this letter.

The delegations of States which constitute major users of those straits will be writing to you confirming the contents of this letter and the annexed Statement.

Mr. President, I would be grateful if you could read out this letter together with the annexed statement as well as the above-mentioned confirmation letters and direct that those documents be distributed as official documents of the Third United Nations Conference on the Law of the Sea and form part of the official records thereof.

The Chairman of the Second and Third Committees to whom I am sending a copy of this letter have been good enough to confirm that they see no difficulty in connection with this request.

(Signed) Z. B. M. YATIM
Representative of Malaysia
to the Third United Nations Conference
on the Law of the Sea

ANNEX

Statement relating to article 233 of the draft convention on the law of the sea in its application to the Straits of Malacca and Singapore

Following consultations held among the delegations of States concerned, a common understanding regarding the purpose and meaning of article 233 of the draft convention on the law of the sea in its application to the Straits of Malacca and Singapore has been confirmed. This understanding, which takes cognizance of the peculiar geographic and traffic conditions in the Straits, and which recognizes the need to promote safety of navigation and to protect and preserve the marine environment in the Straits, is as follows:

1. Laws and regulations enacted by States bordering the Straits under article 42, paragraph 1 (a) of the convention, refer to laws and regulations relating to traffic separation schemes, including the determination of under keel clearance for the Straits provided in article 41.

2. Accordingly, a violation of the provision of resolution A.375(X),^a by the Inter-Governmental Maritime Consultative Organization adopted on 14 November 1977, whereby the vessels referred to therein shall allow for an under keel clearance of at least 3.5 metres during passage through the Straits of Malacca and Singapore, shall be deemed, in view of the peculiar geographic and traffic conditions of the Straits, to be a violation within the meaning of article 233. The

^a See Inter-Governmental Maritime Consultative Organization, *Assembly, Tenth Session, Resolutions and Other Decisions*, London, 1978.

States bordering the Straits may take appropriate enforcement measures, as provided for in article 233. Such measures may include preventing a vessel violating the required under keel clearance from proceeding. Such action shall not constitute denying, hampering, impairing or suspending the right of transit passage in breach of articles 42, paragraph 2 or 44 of the draft convention.

3. States bordering the Straits may take appropriate enforcement measures in accordance with article 233, against vessels violating the laws and regulations referred to in article 42, paragraph 1 (a) and (b) causing or threatening major damage to the marine environment of the Straits.

4. States bordering the Straits shall, in taking the enforcement measures, observe the provisions on safeguards in Section 7, Part XII of the draft convention.

5. Articles 42 and 233 do not affect the rights and obligations of States bordering the Straits regarding appropriate enforcement measures with respect to vessels in the Straits not in transit passage.

6. Nothing in the above understanding is intended to impair:

(a) the sovereign immunity of ships and the provisions of article 236 as well as the international responsibility of the flag State in accordance with paragraph 5 of article 42;

(b) the duty of the flag State to take appropriate measures to ensure that its ships comply with article 39, without prejudice to the rights of States bordering the Straits under Parts III and XII of the draft convention and the provisions of paragraphs 1, 2, 3 and 4 of this statement.

DOCUMENT A/CONF.62/L.145/ADD.1

Letter dated 29 April 1982 from the representative of Indonesia
to the President of the Conference

[Original: English]
[29 April 1982]

As Chairman of the delegation of Indonesia to the eleventh session of the Third United Nations Conference on the Law of the Sea, I have the honour to refer to the letter dated 28 April 1982 from the Chairman of the delegation of Malaysia to the eleventh session of the Third United Nations Conference on the Law of the Sea on behalf of the delegations of Indonesia, Malaysia and Singapore, regarding the statement concerning the purpose and meaning of article 233 of the draft convention on the law of the sea in its application to the Straits of Malacca and Singapore.

I am pleased to inform you that my delegation confirms the contents of the letter and the said statement.

(Signed) M. KUSUMAATMADJA
Representative of Indonesia
to the Third United Nations Conference
on the Law of the Sea

DOCUMENT A/CONF.62/L.145/ADD.2

Letter dated 29 April 1982 from the representative of Singapore
to the President of the Conference

[Original: English]
[29 April 1982]

As Chairman of the delegation of Singapore to the eleventh session of the Third United Nations Conference on the Law of the Sea, I have the honour to refer to the letter dated 28 April 1982 from the Chairman of the Delegation of Malaysia to the eleventh session of the Third United Nations Conference on the Law of the Sea on behalf of the delegations of Indonesia, Malaysia and Singapore, regarding the statement concerning the purpose and meaning of article 233 of the draft convention on the law of the sea in its application to the Straits of Malacca and Singapore.

I am pleased to inform you that my delegation confirms the contents of the letter and the said statement.

(Signed) T. T. B. KOH
Representative of Singapore
to the Third United Nations Conference
on the Law of the Sea