

5. *Affirms* that the convention on the law of the sea to be finalized by the Third United Nations Conference on the Law of the Sea can be acceptable only if it can accommodate

the interests of all the parties concerned and contain provisions which will ensure the exercise of rights and the fulfilment of obligations in good faith.

DOCUMENT A/CONF.62/87

Letter dated 22 August 1979 from the Chairman of the group of Islamic States to the President of the Conference

[Original: English]
[23 August 1979]

I have the honour to inform you that the group of Islamic States has decided to reiterate its support for the candidature of Malta for the seat of the International Sea-Bed Authority.

I would like to request that this letter be issued as an official document of the Conference.

(Signed) N. YOLGA
Chairman of the group
of Islamic States

DOCUMENT A/CONF.62/89

Letter dated 23 August 1979 from the Chairman of the Group of 77 to the President of the Conference

[Original: English/Spanish]
[24 August 1979]

I have the honour to write to ask you to arrange to have circulated as an official document of the Conference the attached statement which was prepared by the group of legal experts on unilateral legislation concerning mining of the sea-bed, the common heritage of mankind, of the Group of 77 and to which I referred in my capacity as Chairman of the group at the 120th plenary meeting of the Conference, on 24 August 1979.

(Signed) M. CARIAS
Head of the delegation of Honduras
to the Third United Nations Conference
on the Law of the Sea
and Chairman of the Group of 77

STATEMENT BY THE CHAIRMAN OF THE GROUP OF 77

The Group of 77 wishes to reiterate its firm position in assuring respect for the basic principles that govern the seabed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as the exploration and exploitation of its resources for the benefit of mankind as a whole, which shall take particular due regard of the needs and interests of the developing countries.

The Group wishes to emphasize the consistency of its position and the coherence and unity of more than 119 States, expressed in several attitudes and actions undertaken since the adoption of the Declaration of Principles contained in resolution 2749 (XXV) by the General Assembly in 1970, and more recently in the letter prepared by the Group of 77's group of legal experts on unilateral legislation, which was sent to the President of the Conference on 25 April 1979,³⁰ as well as in the declarations of the States members of the Organization of African Unity (OAU) at the meeting of its Council of Ministers held at Monrovia, Liberia, in July 1979.

Our participation in the Third United Nations Conference on the Law of the Sea, convened in 1970, is a proof of our conviction for the need to develop the above-mentioned principles by the world community as a whole.

Those principles have been the basis for negotiations at the Conference since 1973, and considerable progress has been made in working out the details of the international régime and machinery.

While the Group of 77 has been broadly satisfied with these developments, it has also been perturbed over repeated reports that some industrialized States threaten to enact unilateral mining legislation, to make arrangements for its enforcement either singly or in small groups, and to conclude some form of mini-convention or other similar arrangements which provide for mutual recognition of such claims and their collective enforcement against the upholders of the common heritage of mankind and the universal principles of international law.

Such unilateral legislation and related arrangements are allegedly justified as being of a provisional nature, pending the conclusion and entry into force of the new convention on the Law of the Sea. They may also be supposedly defended on the ground of necessity for ensuring development of research and technology. Above all, it is stated that they are lawful and derive from the freedom of the high seas.

The Group of 77 has examined all these claims. Motivated by the interests of the world community as a whole, respect for international law and its peaceful and progressive development, and an early and successful conclusion of the current negotiations at the Third United Nations Conference on the Law of the Sea, the Group of 77 has rejected these claims.

The views expressed unequivocally in these matters may be summarized as follows:

(1) Neither the Geneva Convention on the High Seas, 1958,³¹ nor customary international law deals with or regu-

³⁰ *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XI (United Nations publication, Sales No. E.80.V.6).

³¹ United Nations, *Treaty Series*, vol. 450, No. 6465, p. 82.

lates this exploration and exploitation of the resources of the international sea-bed area. These are not covered by the freedoms of the high seas.

(2) The international sea-bed area beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind.

No State shall claim or exercise sovereignty or sovereign rights over any part of the international sea-bed area or its resources, nor shall any State or person, natural or juridical, appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights, nor such appropriation, shall be recognized. All rights in the resources of the area are vested in mankind as a whole. The exploitation of minerals from these resources shall be organized, regulated and controlled by an international machinery, such as the proposed International Sea-Bed Authority.

The above principles are imperative rules of international law, the derogation of which is allowed neither by unilateral

legislation nor by restricted treaties. Any unilateral legislation adopted while these negotiations are going on will not only violate the rule of good faith in negotiations but, as I said on 19 March 1979, may also have wider impact on economic co-operation between developing and developed States.

(3) Unilateral mining legislation not only will not be recognized by the international community, but also will entail international responsibility to other States.

In view of the grave consequences which such unilateral mining legislation may entail for the enacting States and their contractors, for the future of the Conference, and for peace, co-operation and orderly economic development of the world community as a whole, the Group of 77 reiterates its request and urges all States to make every effort to bring this Conference to an early and successful conclusion and to the adoption of a Convention which is fair and acceptable to all sections of the world community.

DOCUMENT A/CONF.62/90

Letter dated 22 August 1979 from the Vice-Chairman of the group of coastal States to the President of the Conference

[Original: English/Spanish]
[24 August 1979]

In my capacity as Vice-Chairman of the group of coastal States, I have the honour to transmit to you herewith a declaration by the group and to request that it be circulated as soon as possible as an official Conference document.

(Signed) A. CABRERA (Mexico)
Vice-Chairman of the group of coastal States

DECLARATION BY THE GROUP OF COASTAL STATES

The group of coastal States noted with surprise and concern recent media reports that the Government of the United States of America had "ordered its Navy and Air Force to undertake a policy of deliberately sending ships and planes into or over the disputed waters of nations that claim a territorial limit of more than three miles".

In the view of the group of coastal States, such a policy, which in its essentials has been confirmed by officials of the United States Government, is highly regrettable and unacceptable, being contrary to customary international law, whereby a great majority of States exercise full sovereignty in their territorial seas up to a limit of 12 nautical miles, subject to the right of innocent passage. That policy is also

inconsistent with the prevailing understanding at the United Nations Conference on the Law of the Sea which has recognized the validity of such a practice.

The group has taken note of the clarification which was later made by officials of the United States Government to the effect that there has been no order to challenge in an aggressive way the claims of other nations. However, the group considers the statement that the régime of high seas commences beyond three miles is clearly an anachronism.

The group has also taken note of the reassurances given by the same official source that the position of the United States of America in the Third United Nations Conference on the Law of the Sea has not changed as well as of the elements which, according to that source, should be combined within the context of an over-all package deal.

The group reaffirms its determination to continue working towards the early adoption of a generally acceptable, comprehensive convention on the law of the sea and, in the meantime, expresses its hope that every State will refrain from undertaking any actions that may adversely affect its relations with other States or the success of the Conference.

DOCUMENT A/CONF.62/91*

Reports to the plenary Conference

[Original: English]
[19 September 1979]

Memorandum by the President

This document contains the reports to the Conference of the Committees, the two groups of legal experts on the settlement of disputes relating to part XI of the revised informal composite negotiating text (A/CONF.62/WP.10/Rev.1) and on final clauses, respectively, and of the Drafting Committee and the informal plenary meeting on the settlement of disputes (part XV of the negotiating text), as well as of negotiat-

ing groups 6 and 7, on their work during the resumed eighth session held in New York from 19 July to 24 August 1979.

The Conference had originally decided to effect the second revision of the informal composite negotiating text before the adjournment of the eighth session or immediately thereafter, as on the occasion of the first revision. Time and circumstances did not, however, permit the attainment of this objective and the Conference was unable to proceed beyond receiving the reports contained herein. It must be emphasized that the Conference did not have the time to discuss these results in such a manner as to permit assessment in

* Incorporating document A/CONF.62/91/Corr.1 of 15 October 1979.