

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(83) 21 final

Brussels, 3 february 1983

LAW OF THE SEA

Meeting of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea (Kingston, 15 March - 8 April 1983) - Procedural and organizational questions affecting the Community and its Member States.

(Communication from the Commission to the Council)

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COMMISSION COMMUNICATION TO THE COUNCIL

Subject : LAW OF THE SEA : Meeting of the Preparatory Commission for the International Sea-bed Authority and for the Intern for the Law of the Sea (Kingston, 15 March - 8 April 1983). Procedural and organizational questions affecting the Community and its Member States.

1. The Third United Nations Conference on the Law of the Sea completed its work on 10 December 1982. Accordingly, the Council Decision of 4 June 1974 concerning procedures¹ and the decisions establishing guidelines and common positions² are no longer applicable.

2. In a Communication to the Council dated 13 October 1982 on the results of the Third United Nations Conference on the Law of the Sea, the Commission recommended the joint signing by the Community and its Member States of the Convention on the Law of the Sea, given that signing did not prejudice their final position as regards ratification of the Convention.

Five Member States have signed the Convention (DK, F, GR, IRL, NL) ; five Member States not and the Community, in the light of the participation clause, has not signed the Convention either.

3. The number of signatures collected by the Convention at the final session was sufficient to enable the Secretariat-General of the United Nations to announce that the Preparatory Commission would meet from 15 March to 8 April 1983 in Kingston.

¹ Doc. CS 3/1223/ 1/74 (JUR 78) REV. 1

² Doc. CS I/271/76 MARE JUR 17 AGRI 12 of 28 July 1976
Doc. CS R/1864/77 of 22 July 1977
Doc. CS 4945/81 of 20 February 1981
Doc. CS 5031/82 of 19 February 1982

In these circumstances, the Commission is convinced that the signing of the Convention, accompanied by a political declaration linking the final decision of the Community and its Member States to the clarifications and progress made during the work of the Preparatory Commission, is still the path to be followed by the Community. The Commission hopes that the conditions for the signing of the Convention by the Community will be met by 15 March.

4. The importance of the 15 March deadline is all the greater as the Preparatory Commission represents the last stage before the entry into force of the Convention on the Law of the Sea. By its very objective, namely to enable the International Authority to become operational, the agenda of the Preparatory Commission includes subjects on which the Commission and the Member States have entered reservations, notably :

- the compulsory transfer of technology and its consequences (annex 3, article 5) ;

- resources policy, in particular :

- a) the guarantee that the pioneer investor will obtain a production authorization ;

- b) the guarantee that the clauses of the contracts concluded by the pioneer investor will be maintained without modification ;

- the financial clauses of the contracts and their interpretation along lines that encourage the start-up of industrial production;

- the voting procedure in the Council ;

- the system of compensation in favour of land-based developing producers ;

- the power of the International Tribunal for the Law of the Sea to interpret the Convention ;

- the right of international organizations to intervene in disputes brought before the Court.

5. Article 2 of the Resolution establishing the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea stipulates that the representatives of signatories of the Final Act may participate fully in the deliberations of the Commission as observers but may not be entitled to participate in the taking of decisions.

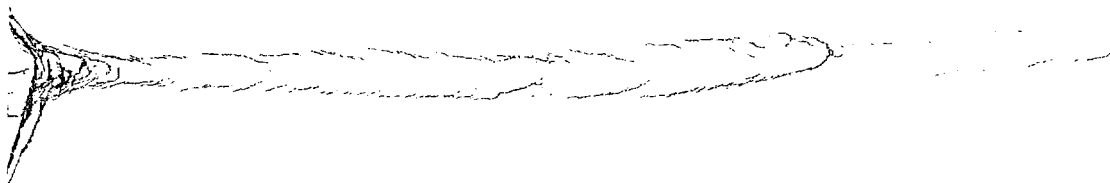
In these circumstances, it is necessary without delay :

- a) to guarantee a status that makes it possible for the Community and its Member States to make their voice heard in a satisfactory way. This need is all the greater as five Member States and the Community, as matters stand at present, will have observer status. These differences in status make it difficult to adopt positions on the subjects on the agenda for the Preparatory Commission which concern the Community directly or are of particular interest to the common market ;
- b) to undertake an assesment of Part XI of the Convention and of other provisions of the Convention and its annexes. The same applies to Resolution II governing preparatory investment in pioneer activities relating to polymetallic nodules in order to determine, as part of an overall process of reflection, the points that could be clarified and improved in the course of the work of the Preparatory Commission in the light of the reciprocal interests of the Community and its Member States.

The Commission therefore proposes that :

- in the deliberations of the Preparatory Commission, a common position should be voiced on all matters for which the Community has competence or which are of particular interest to the common market : the said common position would be established in advance in accordance with the customary procedures (adoption in the Council bodies - coordination on the spot - possibility of referral back to the Council bodies in Brussels in the event of difficulties on the spot) ;

- a systematic and in-depth examination should be made of :
- a) Part XI of the Convention, which is the source of the divergent positions adopted by the Member States ;
 - b) the legal questions involved in the work of the Preparatory Commission for the International Sea-bed Authority and for the International Tribunal for the Law of the Sea.



Written Question No. 2218/82

by Mrs Marijke Van Hemeldonck (S-B)
to the Commission of the European Communities

Subject : Convention on the Law of the Sea and the environment

Some of the Community's Member States signed the International Convention on the Law of the Sea on 10 December 1982. Other Member States (including Belgium and the European Community itself) did not do so.

What exact proposals does the Commission intend to submit in the near future with a view to enabling the European Community to discharge and expand upon its obligations and responsibilities with regard to the environment?

How does it intend to bring Member States' viewpoints closer together? Will the Commission take steps to bring the measures it proposes to take at regional level into line with what has already been achieved at world level, and if so, what will these steps be?

ANSWER GIVEN BY MR NARJES ON BEHALF OF THE COMMISSION
TO WRITTEN QUESTION NO 2218/82 BY MRS VAN HEMELDONCK

The Community must assume its responsibilities in all the fields covered by the Convention on the Law of the Sea relating to the traditional and new uses which man intends to make of marine resources.

The Convention constitutes a whole where comprises balance each other and the results achieved in one field may not be dissociated from those in another.

The Commission is working to bring about the participation of the Community as such in the Convention (1).

Part XII of the Convention is to some extent the consolidation of the rules and principles which the Commission has already applied in the environment policy and the action programmes presented to the Council.

(1) See answer to Written Question No 2220/82 by the Honourable Member.