

T A L S
S P R
S P O I
G R O U P
G R U P P
BUREAU VAN DE WOORDVOERDER

**INFORMATION
INFORMATORISCHE AUFZEICHNUNG
INFORMATION MEMO**

**NOTE D'INFORMATION
NOTA D'INFORMAZIONE
TER DOCUMENTIE**

Brussels, June 1976

THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

At its meeting held on 2 June 1976, the Commission adopted a communication to the Council on the Third United Nations Conference on the Law of the Sea.¹⁾ This communication assesses the second session of the Conference and puts forward guidelines for the next session.

The fourth session of the Conference (New York, 15 March - 7 May 1976) witnessed definite progress, although considerable differences on quite a number of essential matters remained unsettled.

It is likely that the fifth session, due to be held in New York from 2 August to 17 September 1976, will be the decisive factor as regards the adoption in the near future of a Convention.

The matters dealt with at this Conference are of prime importance for the Community and its Member States. Our economic future will be particularly affected by the regime set up to cover such important matters as fishing, exploitation of mineral and energy resources on the sea-bed and free movement of shipping. Community patrimony must also be protected and nothing must be done to prejudice its future expansion and enlargement.

The achievement of these aims has sometimes been jeopardized by the turn of events at the Conference, and the uncertainties which remain as to the final form of the future Convention are sufficiently serious to warrant a major effort to ensure Community solidarity. Thus, it is essential that the Community and its Member States are able, at this Conference, to play a part consistent with their interests and resources. As regards all the major points arising in this connection, the Member States are among the countries which are the most affected or most important on one count or another - be it fishing, production of or trade in metals found on the sea-bed (nickel, manganese, cobalt, copper), hydrocarbons extracted from the continental shelf, protection of the marine environment or free movement of shipping.

It is essential, therefore, that the Council decide to adopt a common position on all the important questions outstanding, so as to avoid the uncoordinated measures typical of earlier sessions.

Needless to say, the future Convention must, of necessity, contain an appropriate clause whereby the Community can become a contracting party, thus safeguarding its present and future jurisdiction. Without such a clause, neither the Community nor its Member States would be able fully to assume the rights and obligations deriving from the Convention. Thus it is clear that, in the absence of such a clause, the Member States would be unable either to approve the Convention or to become contracting parties thereto. Hence it is imperative that the Council give a ruling on the principle and terms of such a clause.

¹⁾ A brief description outlining the aims and tracing the progress of the Conference is annexed to this communiqué.

Accordingly, the Commission has decided to forward to the Council a communication containing proposals for common measures on important questions outstanding. The Commission considers it essential that the Council adopt these proposals, including the formulation of the "EEC clause", before the resumption of work in New York on 2 August 1976.

The main points contained in these proposals are as follows:

1. Exclusive economic zone (EEZ)

This refers to the creation of a 200-mile zone where the coastal State would exercise sovereign rights over resources, notably fisheries.

In the opinion of the Commission the creation of such a zone should be agreed to.

2. Continental shelf

The question here is whether the sovereign rights of coastal States over energy and mineral resources should, where necessary, extend beyond 200-miles and whether the coastal State ought to pay the international community part of the profits from operations beyond the 200-mile limit.

The Commission feels that such an extension should be accepted.

3. International sea-bed

The Conference is endeavouring to determine the conditions for exploiting marine resources beyond the EEZ and the continental shelf with special reference to nickel, manganese, cobalt and copper nodules. One notion gaining currency at the Conference is the setting-up of an International Authority which would award operating contracts to operators and which would also be able to exploit these resources through an Enterprise. A proportion (still to be determined) of the operating profits would be shared with the developing countries.

The Commission proposes that the principle of setting up an International Authority and an Enterprise be accepted.

4. Prevention of pollution

The trickiest problem arises out of the insistence of certain countries on the adoption of anti-pollution measures which would threaten freedom of navigation in the EEZ.

The Commission feels that any powers exercised by coastal States in this matter must be genuinely necessary in order to control pollution and must not interfere unduly with shipping.

5. Other matters

Other proposals concern matters of a more technical nature, notably marine scientific research (where the principal task is to determine the respective rights of the coastal States and of other countries in the EEZ and also, the transfer of marine technology for the benefit of the developing countries) and the settlement of disputes.

ANNEX

AIMS AND BACKGROUND OF THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

The Third United Nations Conference on the Law of the Sea may be regarded as one of the most important international conferences of our time, representing as it does an attempt to define, on an international basis, the principles which should govern three-quarters of the surface of the globe.

Since the conclusion of the First Conference in 1958 and the collapse of the Second Conference in 1960 (1) it has become increasingly clear that there are significant gaps in the international rules. Furthermore, the economic, political and technological changes which have occurred since that time represent another reason why there should be a major effort in this area. For example, one could point in this connection to the increasingly sophisticated exploitation of the sea's living resources (and the conflicts to which this gives rise), the very rapid development of techniques for exploiting mineral and energy resources at ever increasing depths and the growth in (and new awareness of) the pollution of the marine environment.

For these reasons the General Assembly of the United Nations has decided to convene a Third Conference on the Law of the Sea with a view to creating an equitable international regime concerned mainly with the international sea-bed, the high seas, the continental shelf, the territorial sea and its adjacent zone, the international straits, fishing rights, protection of the marine environment and marine scientific research.

The main aim of the first session of the Conference (New York, December 1973) was to determine the rules of procedure for the ensuing sessions "of substance". Thus the second session (Caracas, 20 June - 29 August 1974) was the first to tackle the basic issues and its main achievement was the drawing-up of a working paper on the alternative solutions to the questions under debate. The work of the third session (Geneva, 17 March - 9 May 1975) has resulted in the formulation of a Single Negotiating Text covering all the subjects examined.

The fourth session, held in New York from 15 March to 7 May 1976, witnessed definite progress, although substantial differences remain unsettled. A (Revised) Single Negotiating Text was drawn up at the end of this session and will serve as a (not exhaustive) basis for the next session planned to take place in New York between 2 August and 17 September 1976.

(1) The First Conference (so-called Geneva Conference) of 1958 resulted in the adoption of four international conventions on the high seas, the territorial sea, the continental shelf and fishing.