The Law of the Sea

United Nations Convention on the Law of the Sea

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with Index and Final Act of the Third United Nations Conference on the Law of the Sea

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Official Text of the United Nations Convention on the Law of the Sea with Annexes and Index

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Final Act of the Third United Nations Conference on the Law of the Sea

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Introductory Material on the Convention and the Conference

CROOM HELM London & Canberra • ST. MARTIN'S PRESS New York

Published in co-operation with the United Nations

Croom Helm Ltd., Provident House, Burrell Row,
Beckenham, Kent BR3 1AT

Croom Helm Australia, P.O. Box 391,
Manuka, ACT 2603, Australia

ISBN 0-7099-2500-X

St. Martin's Press, Inc.,
175 Fifth Avenue, New York, N.Y. 10010

Printed in the United States of America
First published in the United States of America in 1983

ISBN 0-312-47555-1

United Nations Sales Publication No. E.83.V.5

INTRODUCTION

On 10 December 1982 the United Nations Convention on the Law of the Sea was opened for signature in Montego Bay, Jamaica. This marked the culmination of over 14 years of work involving participation by more than 150 countries representing all regions of the world, all legal and political systems, all degrees of socio-economic development, countries with various dispositions regarding the kinds of minerals that can be found in the sea-bed, coastal States, States described as geographically disadvantaged with regard to ocean space, archipelagic States, island States and land-locked States. These countries convened for the purpose of establishing a comprehensive régime "dealing with all matters relating to the law of the sea, ... bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole." The fruits of their labours are embodied in the United Nations Convention on the Law of the Sea.

The Convention is multi-faceted and represents a monument to international co-operation in the treaty-making process: the need to elaborate a new and comprehensive régime for the law of the sea was perceived, and the international community expressed its collective will to co-operate in this effort on a scale the magnitude of which was unprecedented in treaty history. The elaboration of the Convention represents an attempt to establish true universality in the effort to achieve a "just and equitable international economic order" governing ocean space.

These ideals were transformed through the treaty-making process into the substance of the text, which itself is of unique nature. It comprises 320 articles and nine annexes, governing all aspects of ocean space from delimitations to environmental control, scientific research, economic and commercial activities, technology and the settlement of disputes relating to ocean matters. An examination of the character of the individual provisions reveals that the Convention represents not only the codification of customary norms, but also and more significantly the progressive development of international law, and contains the constituent instruments of two major new international organizations.

It is, however, the conceptual underpinnings of the Convention as a "package" which is its most significant quality, and has contributed most distinctly to the remarkable achievement of the Convention. Its quality as a package is a result of the singular nature of the circumstances from which it emerged, which factors included the close interrelationship of the many different issues involved, the large number of participating States, and the vast number of often conflicting interests which frequently cut across the traditional lines of negotiation by region. In addition, the strong desire that the Convention allow for flexibility of practice in order to ensure durability over time, and so as not to encroach upon the sovereignty of States, was recognized as another important consideration. All of these factors necessitated that every individual provision of the text be weighed within the context of the whole, producing an intricately balanced text to provide a basis for universality.

The concept of the package pervaded all work on the elaboration of the Convention and was not limited to consideration of substance alone. It became the *leit-motiv* of the Conference and in fact permeates the law of the sea as it exists today.

THE HISTORY OF THE CONVENTION

The mammoth task of elaborating this new régime began in 1967, when the concept of the Common Heritage of Mankind was first discussed by the General Assembly in the context of the question of preservation of the sea-bed and ocean floor exclusively for peaceful purposes. The common heritage concept was not a new one (it dates back to the 19th century, and was referred to by the President of the first Law of the Sea Conference in his opening speech in 1958) but it had never before been discussed in an international forum. It is of particular relevance to note that the discussion took place in the First Committee of the General Assembly, as the item was perceived from the very beginning as being of primarily political significance, and not limited to strictly legal or economic concern. This conclusion was based on the same rationale which is the foundation of the package concept, and is the reason that the work of the Third United Nations Conference was not based on draft articles prepared by the International Law Commission, as was the work of the 1958 Conference.

The General Assembly established an *Ad Hoc* Committee to study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, and subsequently created a standing committee, the Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction (Sea-Bed Committee), for the purpose of shaping and refining the ideas and concepts which were to form the basis of the new international régime. These committees, cognizant of the concerns which were to develop into the concept of the package, worked on the basis of consensus.

In 1970 the General Assembly adopted a Declaration of Principles (General Assembly resolution 2749 (XXV)), following upon negotiations which took place in the Sea-Bed Committee, which resolution solemnly declared that "The sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction ... as well as the resources of the area, are the common heritage of mankind" and "shall not be subject to appropriation by any means by States or persons". In addition, it was declared that this area "shall be open to use exclusively for peaceful purposes by all States ... without discrimination". Thus the common heritage was formally spelled out.

The General Assembly at the same time adopted a related three-part resolution, the preambular paragraphs of which reiterated the recognition of need for a reformed régime and mandated its consideration as a package, as follows:

> *"Conscious* that the problems of ocean space are closely interrelated and need to be considered as a whole,
>
> *"Noting* that the political and economic realities, scientific development and rapid technological advances of the last decade have accentuated the need for early and progressive development of the law of the sea in a framework of close international co-operation,
>
> *"Having regard* to the fact that many of the present States Members of the United Nations did not take part in the previous United Nations Conferences on the law of the sea, ..."

The resolution continued, calling upon the Sea-Bed Committee to act as a preparatory committee for the future conference. (For a more detailed history of the pre-conference work on law of the sea, see the Introduction to the Report of the Sea-Bed Committee, A/9021.)

In late 1973 the Third United Nations Conference on the Law of the Sea was convened in accordance with General Assembly resolution 3067 (XXVIII), and set about its task with an organizational session. The first order of business was the question of procedure: procedural practices had to be developed which would foster the cohesiveness of the "package" of law of the sea. Indeed, the procedural innovations of the Conference were at times quite unique and have no doubt contributed to the progressive development of the treaty-making process itself.

As a consequence of the deliberations, the Conference adopted its Rules of Procedure (A/CONF.62/30/Rev.3). Since the earlier committees had worked on the basis of consensus, and due to the widely divergent interests on issues of such paramount importance, it was recognized that resort to traditional voting rules would be unsatisfactory as a method for achieving the desired goals. Consensus was therefore adopted as the principal means by which decisions were to be taken. This notion was embodied in the Declaration incorporating the Gentleman's Agreement, appended to the Rules of Procedure, and provided the context in which the rules themselves were framed. For example, the rules on decision-making require that the Conference in the first instance decide that it has exhausted all efforts to reach consensus before any voting on questions of substance can take place. In order to ensure that this decision is not taken lightly, the rules allow various deferment or "cooling-off" periods before the actual voting may begin. By delaying the voting as long as possible, it was hoped that the divergent positions might be reconciled in the interim, thus obviating the need to vote at all.

The Conference realized at an early stage that negotiations could not be effectively carried out in formal proceedings, and that because of the large number of participants and sensitive issues involved, working groups would be more efficient than plenary meetings. Indeed, much of the elaboration process took place in smaller or more informal meetings, but always on an *ad referendum* basis to larger and/or more formal bodies, and always on the basis of consensus. The working or negotiating groups were generally established on the basis of interest in a particular issue. In this respect States did not coalesce within traditional regional or political alignments. Rather, they grouped themselves to face specific issues and to protect clearly identifiable interests. For example, coastal States wanted a legal régime that would allow them to manage and conserve the biological and mineral resources within their national jurisdiction; archipelagic States wanted to obtain recognition for the new régime of archipelagic waters; landlocked States were seeking general rules of international law that would grant them transit to and from the sea and rights of access to the living resources of their neighbouring States; some industrialized nations wanted to have guaranteed access to the sea-bed mineral resources beyond national jurisdiction within a predictable legal framework; countries that produced the same minerals in their territories wanted assurances that the sea-bed production of these minerals would not undermine their economies or result in a "de facto" monopoly; developing countries wanted to be more than silent witnesses

to the acquisition of new knowledge of the oceans so that marine science and technology could be put at the service of all and not only of a limited number of very wealthy countries; States bordering straits wanted to ensure that free passage would not result in damage to their marine environment or threats to their national security; practically all nations wanted to preserve the freedoms of navigation, commerce and communication; and finally, mankind as a whole needed to ensure that a new legal régime would safeguard the marine environment against depredation or irrational use of non-renewable resources, the discharge or dumping of noxious substances into the oceans or the so-called scientific tests that could affect the delicate balance of marine life. These are only a few of the multitude of particular interests which needed consideration at the Conference. Any individual State could fall into any number of different interest groups, depending upon its individual national concerns and the texture of the negotiations on the overall package. The interest groups did not, however, replace regional group consultations, which also took place, thereby enhancing the flow of information and compounding the number of considerations which had to be weighed with respect to any given issue at any given time.

It is understandable in this context, then, that the Rules of Procedure and the Gentleman's Agreement appended to them not only contemplated the application of consensus with regard to the final adoption of the Convention as a whole, but also for its application at each and every step along the way. The consensus principle was in fact applied throughout the work of the Conference and the many revisions of the text which would become the treaty. In some cases specific informal Conference practices were formally introduced, notably in the later stages of the work when only the more thorny issues remained to be resolved, in order to foster agreement and to ensure that there would be no objection to decisions taken.

A significant procedural step in this respect took place in 1977, at the seventh session of the Conference, when the programme of work contained in document A/CONF.62/62 was adopted. This document followed upon the consolidation, at the end of the sixth session of the various parts of the text into a single working paper, the Informal Composite Negotiating Text. The procedural act of consolidation, albeit producing a text not yet refined nor acceptable to the point of constituting a draft text, itself represented a milestone and a significant step towards the realization of a single comprehensive and unified international régime.

The emergence of the Informal Composite Negotiating Text denotes that the negotiations had proceeded to a very delicate stage, and threw into relief the remaining "hard-core" issues which required resolution. Document A/CONF.62/62 acknowledged this situation and mandated the institutionalization of various previously utilized informal Conference practices to promote agreement. One such practice was the establishment of issue-specific negotiating groups. Another was the formal institution of the President's "Collegium", the body of principal officers of the Conference which acted in an advisory capacity to the President. It had been the principal officers who had informally prepared and revised the negotiating texts upon which the work of the Conference had been focused all along. However, the programme of work now established stringent standards to direct the Collegium in its work: it mandated that

no revision could be made without prior presentation of the proposed change to the Plenary, wherein it must have received "widespread and substantial support", indicating that it offered a "substantially improved prospect of consensus". By these procedural devices the Conference was able to ensure that the package remained cohesive until such time as all of the pieces fell into place.

Another of the peculiarities of the law of the sea treaty is that it is a major instrument which has equally authentic Arabic, Chinese, English, French, Russian and Spanish texts. Indeed, if the object of the package is to have a Convention which is universally acceptable, then it follows that it must be acceptable in each and every of the six languages to which a State may refer. The achievement of this goal required another innovation in the treaty-making process as applied to the Drafting Committee.

The Drafting Committee of the Conference undertook its work in two stages. The first stage involved the harmonization of recurring words and phrases so as to ensure a sense of a whole, unified text, and to avoid misinterpretation and confusion in instances when an identical meaning was intended by phraseology which was varied. Such discrepancies had arisen because the different parts of the text had been drafted in different committees, with reference to varied existing treaty sources, thus necessitating this first stage. The second stage of the work involved the article-by-article reading of the text for the purpose of ensuring that each provision was identical in meaning in each of the languages.

To facilitate its work in the light of the desired goals, and because the Drafting Committee was the only committee of limited representation in the Conference, it was necessary to devise a procedure to ensure universality of participation in the work of the Committee. The informal language groups of the Conference accordingly developed. These were open-ended groups which grappled with Drafting Committee issues and their co-ordination, and then reported back to the Committee. The role of the Committee itself was reserved to policy and decision-making, with little of the actual deliberations taking place in that forum.

At the close of the tenth session in 1981, the Conference decided to revise the informal text, officially producing a Draft Convention (A/CONF.62/L.78). Virtually all the parts of the package had by now fallen into place—only the most seemingly intractable political questions remained. The shape of the comprehensive package on the law of the sea, as comprising the Convention itself plus a number of resolutions, could by now be foreseen. In conjunction with the issuance of the Draft Convention, the Conference adopted a timetable calling for the final decision-making session to be held in 1982. The five-week plan allowed time for negotiation of the remaining points to be resolved; these points included the mandate of the Preparatory Commission and the rules governing pioneer investors in the sea-bed Area prior to the entry into force of the Convention, that is, questions of the work to succeed the Conference.

After long deliberations marking the culmination of over ninety weeks of work, on 23 April 1982, the Conference, in accordance with its Rules of Procedure, determined that all efforts to reach a consensus had

been exhausted. Thus the machinery for the final decision-making was set in motion. The Draft Convention and the four Resolutions that were before the Conference on 30 April 1982 did not include any texts which had not undergone an elaborate structure of negotiations devised by the Conference in order to ensure that all provisions could command widespread and substantial support. On that day the Conference, at the request of one delegation, had to resort to voting on the question of adoption of the whole of the package on the law of the sea. The results of that vote (130 in favour, 4 against, with 17 abstentions) represented the overwhelming reaffirmation of support for the ideals, principles and goals of a new international order for the seas as embodied in the package of the Convention on the Law of the Sea. This reaffirmation of support is further strengthened by the fact that the majority of States which abstained in the voting later became signatories to the Convention.

The final meetings of the Conference were held in Montego Bay, Jamaica, from 6 December to 10 December 1982. The Conference heard closing statements by delegations (see A/CONF.62/PV.185-193), after which the Final Act was signed (for a more detailed history of the Conference, see the Final Act). The Convention was opened for signature in Jamaica on 10 December. On that first day, signatures from 119 delegations comprising 117 States, the Cook Islands (a self-governing associated State) and the United Nations Council for Namibia, were appended to the Convention. In addition, one ratification, that of Fiji, was deposited that day. Never before has such overwhelming support been demonstrated so concretely on the first day that a treaty has been open for signature. The Convention's first achievement in its own right was unprecedented in the history of treaty law.

THE TEXT ITSELF: SOME HIGHLIGHTS

The Convention itself establishes a comprehensive framework for the regulation of all ocean space. It is divided into 17 parts and nine annexes, and contains provisions governing, *inter alia*, the limits of national jurisdiction over ocean space, access to the seas, navigation, protection and preservation of the marine environment, exploitation of living resources and conservation, scientific research, sea-bed mining and other exploitation of non-living resources, and the settlement of disputes. In addition, it establishes new international bodies to carry out functions for the realization of specific objectives.

The touchstone of the package of the Convention is the notion that the enjoyment of rights and benefits involves the concomitant undertaking of duties and obligations, so that an overall equitable order may be created. The paramount duty of all States Parties is to respect the rights of others; however, some duties may entail more executory acts. The duty to give due notice of hazards would be an example of the latter kind of duty. This omnipresent concept of the balance of rights and duties is emphasized by article 300 of the Convention, which mandates good faith in the fulfillment of obligations and proscribes the abuse of rights.

The first six parts of the Convention deal generally with the question of areas of national jurisdiction. The General Assembly Declaration of Principles (resolution 2749 (XXV)) established that the Common Heritage

of Mankind comprises the area of sea-bed and ocean floor beyond the limits of national jurisdiction, "the precise limits of which are yet to be determined". It is the Convention which sets out the guidelines for the determination of those limits.

The Convention allows for the establishment of a territorial sea of up to 12 nautical miles in breadth, providing various methods for determining baselines and for distinguishing between territorial waters and internal waters. The traditional right of innocent passage through territorial waters is recognized, and some specificity as to what kinds of activities will contravene innocence of passage is included. In the case of the waters of States bordering straits, the concept of transit passage is introduced, which draws more from the concept of necessity than does innocent passage and is somewhat more liberal. The concept of archipelagic waters is introduced for the case of archipelagoes, whereby sovereignty may be recognized over the waters within an island group, and the conditions and modalities for establishment of baselines in such cases are specified. Archipelagic sea-lanes passage is also provided.

Beyond territorial waters, the Convention allows the creation of an exclusive economic zone of up to 200 nautical miles. Traditionally, all areas beyond territorial waters comprised the high seas. In order for coastal States to gain economic benefit from areas further off their shores, it was necessary for them to extend their territorial waters, thus eliminating all freedoms of the high seas in the annexed areas. This imposed upon the interest of other maritime States, which insisted that customary law permitted a territorial sea of only three miles breadth, and that anything beyond that entailed abridgement of their freedoms. This disagreement was one of the major issues facing the Conference when it began its work.

The provisions pertaining to the exclusive economic zone are the manifestation of one of the first "mini-packages" of delicately balanced compromises to emerge from the negotiations. The ubiquitous concept of the balance of rights and duties can be most clearly illustrated in this context. The Convention allows the coastal state certain rights in the exclusive economic zone for the purpose of economic advantage, notably rights over fishing and exploitation of non-living resources, as well as concomitant limited jurisdiction in order to realize those rights. At the same time, however, neighbouring land-locked and geographically disadvantaged States must be allowed access to those resources of the zone that the coastal state does not exploit, and, further, the traditional freedoms of the high seas are to be maintained in this area. The recognition of the rights of others in the zone is, however, without prejudice to the rights of the coastal State. In order to safeguard the protection of so many different interests in the zone, all States must undertake to respect and accommodate the rights and legitimate uses of other States in the zone. The Convention lays a broad framework for the peaceful accomplishment of this purpose.

Beyond the limits of the exclusive economic zone, the determination of which provisions of the Convention are applicable to a given activity depends upon the site of the activity involved. Activities on the surface and in the water column are governed by the provisions on the high seas. These generally follow customary international law allowing the freedoms

of the high seas, but augment the law in several important respects, notably with regard to pollution and safety regulations, scientific research, conservation, and prevention of illicit traffic in drugs and psychotropic substances. Activities on the sea-bed and in the subsoil of the continental shelf may fall within the national jurisdiction of the coastal state if the formation of the continental shelf meets specified criteria. The Convention provides for the establishment of a Commission of experts to advise on the delineation of the outer edge of the continental margin, that is, the limit of national jurisdiction over the continental shelf.

Having provided the guidelines for the determination of the limits of national jurisdiction, the Convention then sets out the principles and regulations governing the sea-bed and ocean floor beyond those limits, the common heritage of mankind. The formulation of these provisions was especially difficult since it wholly represents the progressive development of law, and was therefore unaided by the guidance of precedent. The very delicate balance of compromises which emerged represented another "mini-package" within the package, and cannot be divorced from the provisions of resolutions I and II.

The body empowered to administer the common heritage of mankind and to regulate its exploration and exploitation will be the International Sea-Bed Authority, an international organization open to membership by all States as well as international organizations and other entities meeting specified criteria (parties to the Convention are *ipso facto* members of the Authority, article 156). The Authority will have an Assembly, which will be the supreme body and will reflect the balance between the sovereign equality of all States, and a Council with limited representation. The Council will have primary responsibility over sea-bed mining activities, and will be advised by specialized commissions.

It is not the structure but the functions of the International Sea-Bed Authority which make it a forerunner in the development of the law of international organizations. Not only will it be entrusted with the power to directly regulate purely commercial activities, but it will also be empowered to engage in sea-bed mining in its own right, through its commercial arm, the Enterprise. This is the essence of the "parallel system", a concept arrived at as a compromise in 1976 after arduous negotiations. The conditions and modalities for financing the Enterprise and for ensuring that it is technologically equipped to carry out activities form an integral part of the package. The Convention also delineates specific provisions regarding how the Authority must go about selecting among applicants for sea-bed mining and on what basis, how much production from the resources of the Area will be allowed in a specified period, and other technical aspects of application, authorization and the conduct of sea-bed activities.

Resolution I creates the Preparatory Commission, the body which will make the arrangements enabling the Authority (and the International Tribunal for the Law of the Sea) to be set up and to operate. The Commission will draft the specific rules, regulations and procedures of the Authority to govern activities in the Area so that the system of sea-bed mining under the Convention can commence. The shape these rules and regulations take may well determine the viability of the system as a whole, and therefore the significance of this task and its place within the overall package cannot be underestimated.

The Preparatory Commission will also be entrusted to carry out functions under resolution II, which governs preparatory investment in pioneer activities. Under this resolution, certain protections are granted to qualifying sea-bed miners who apply to the Commission and are registered by it to conduct exploratory activities. It is the Commission which will be empowered to fulfill certain functions on behalf of the international community as a whole, on the "other" side of the parallel system, prior to the entry into operation of the Authority.

In addition to the enunciation of régimes on a spatial basis, the Convention deals with certain other matters of global concern. Among these are ecological and environmental issues. The general principles and policies governing prevention, reduction and control of pollution throughout the marine environment are established, as are the specific rights and duties of States concerned for the realization of their environmental and ecological goals. The allocation of the rights and the burden of the duties would vary depending upon the location and/or the type of pollution involved, and specific safeguard and enforcement provisions are included. The Convention is intended to be compatible with existing treaties on this quesion and to provide a broad framework for the conclusion of future, more specific agreements.

The Convention also includes provisions intended to foster the development and facilitate the transfer of all kinds of marine technology, and to encourage the conduct of marine scientific research. The inclusion of such provisions was dependent upon the establishment of adequate safeguards for the holders of rights concerned.

The elaboration of the international régime comes full circle with the stipulation of a comprehensive set of provisions governing the settlement of disputes. It could be foreseen that the effective implementation of the complex new international order under the Convention would be greatly hindered without the creation of an obligation to settle disputes and the designation of means for doing so.

The Convention obliges parties to settle their disputes peacefully, and provides a selection of methods for doing so in the event that they are otherwise unable to reach agreement even with third party intervention. The system under the Convention is a compulsory and binding one in that, with limited exceptions, a party has no choice but to submit to a settlement procedure if requested to do so by the other disputant, and is bound to abide by the findings of the body to which the dispute is submitted. States may make a prior determination of which fora they would be amenable to, and for this purpose the Convention allows a choice from among the International Court of Justice, arbitration, or the International Tribunal for the Law of the Sea, a new and autonomous specialized tribunal established by the Convention. In certain cases where the Convention does not call for a binding method of settlement, the parties are enjoined to submit their dispute to conciliation.

The International Tribunal for the Law of the Sea will have shared competence over all law of the sea matters, but it is its specialized chamber, the Sea-Bed Disputes Chamber, that will have exclusive competence over all disputes involving the international sea-bed Area, even as

against the rest of the Tribunal. That is, the Sea-Bed Disputes Chamber alone will have competence to the exclusion of all other fora over sea-bed mining and related activities.

The creation of the International Tribunal for the Law of the Sea marks an advance in the evolution of the law of international institutions of its kind not only because of the structural autonomy of the Sea-Bed Disputes Chamber and the fact that the Chamber has exclusive jurisdiction over sea-bed matters, but also because private and juridical persons will have direct access to the Chamber on an equal footing with States, since these persons will be the ones directly involved in the activities over which the disputes may arise.

These brief descriptions of the main features of the Convention should not be construed as representing any official interpretations on the provisions in question or of implying such.

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The Convention is due to enter into force twelve months after the deposit of the sixtieth instrument of ratification or accession. In the meanwhile, it stands as testimony to the way in which the international community would like to structure its relations regarding ocean space: the adopted Convention provides a model, establishing the framework within which States may act, and the package persists.

Bernardo Zuleta
Under-Secretary-General
Special Representative of the Secretary-General
for the Law of the Sea

'International Law is Irrevocably Transformed'

Statement by Javier Pérez de Cuéllar,
Secretary-General of the United Nations

With the signing of the Final Act of the Third United Nations Conference on the Law of the Sea, and with the opening for signature of the United Nations Convention on the Law of the Sea, the efforts begun almost 14 years ago to establish a new legal order for ocean space are now reaching their culmination. In order to affirm that international law is now irrevocably transformed, so far as the seas are concerned, we need not wait for the process of ratification of the Convention to begin.

Many of those present today in this hall participated in the initial stages of the lengthy negotiations which are ending today. They will remember that there were some who reacted with scepticism when the possibility of embarking upon a fundamental revision of sometimes age-old institutions was first suggested. There were also some who reacted with open hostility to the prospect of going even further in certain fields by establishing completely new legal institutions.

The earlier efforts of the United Nations in connection with the law of the sea, the merits of which it is not for us to judge today, provided little encouragement for this new undertaking, since the international community which decided to convene this Third Conference was, in quantitative terms, much larger than the community which drew up the 1958 Conventions, and the kaleidoscopic diversity of its members made it, in qualitative terms, a new and different entity.

The six years of work done by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction encompassed negotiations of a scope that constituted a challenge for some and a Utopia for others.

It is easy to understand the state of mind which prevailed when the Conference opened almost nine years ago. It oscillated between hope and fear, between the concern to agree on new ways of peaceful coexistence and the constraints imposed by national interests, by ideological and economic differences, and in some cases by undue attachment to traditional principles and concepts.

In convening this Conference, the General Assembly recognized that all the problems concerning ocean space were closely interrelated and that they should therefore be considered and solved together. The Conference complied rigorously with this premise of its mandate. It departed from traditional procedures and sought new working methods which, through patient effort, would gradually lead first to informal texts that brought consensus increasingly closer and finally to the adoption of a draft convention on which all States could decide officially. The rules of procedure of the Conference, which often appeared to be a strait-jacket, turned out in practice to be a helpful factor in the search for consensus

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Slightly edited text of a statement made on 10 December 1982 at the final session of the Law of the Sea Conference at Montego Bay, Jamaica, after the Convention was opened for signature.

on individual parts of the Convention and on the Convention as a whole. These methods were devised in recognition of the indivisibility of the single whole which the law of the sea must constitute; this was the only way of reconciling divergent interests and promoting compromise, thereby ensuring as full participation as possible in the final agreement.

However, the innovative method adopted by the Conference would not in itself have advanced the negotiations had not the various regions of the world been determined vigorously to pursue ways of reconciling interests and harmonizing different legal and political systems.

The convening of the Conference set in motion not only a complex negotiating process at several levels but at the same time an accelerated process of change in the conduct of States vis-à-vis the uses of the sea. The orderly process of change in the legal order of the oceans that took place through the United Nations responded in fact to an urgent need, felt in every region of the world, which manifested itself in a multiplicity of international declarations and agreements bearing the names of the cities of various continents in which they were adopted, thereby testifying to the universal character of this evolutionary process. Every one of those documents represents a new contribution, an attempt at rapprochement and, above all else, an expression of the determination of States to find formulas of collective agreement designed to bring about the peaceful uses of the seas and their resources.

The new law of the sea thus created is not simply the result of a process of action and reaction among the most powerful countries but the product of the will of an overwhelming majority of nations from all parts of the world, at different levels of development and having diverse geographical characteristics in relation to the oceans, which combined to make a wind of change blow at the universal level.

I should like to refer briefly to the nature of the results of the Conference, because it seems to me that such an analysis can provide important lessons for the multilateral negotiating system in general and for treaty-making in particular.

The novel process for the drawing up of this important multilateral treaty met with frequent criticism for being prolonged, slow and cumbersome. However, the fact that 119 countries have signed the Convention today, the very day of its opening for signature, is the most convincing response to such criticism. Never in the history of international relations have such a large number of countries immediately signed the result of their deliberations, thereby committing themselves to act in accordance with their obligations. This is a particularly important lesson to emerge from this Conference.

The Conference has produced agreements which are essentially non-denominational, devoid of partisan doctrine. Its decisions derive in the final analysis from a pragmatic reconciliation of interests rather than from comparisons of doctrines. This work necessarily has had to go beyond declared positions, although these at times appeared to be carved in stone; to venture outside Plato's cavernous spaces in order to endeavour to grapple with and satisfy the basic needs underlying national ideas and at times national laws—which are, after all, made by man.

It is my hope that States, when contemplating in their sovereign capacity the signature and ratification of this Convention, will be guided by this approach of the Conference and will thus disregard all myths in their own decision-making.

The Convention, which was opened for signature today, contains generally acceptable solutions with respect to the maritime spaces under the sovereignty and jurisdiction of States, the rational utilization of living and non-living resources, the rights of land-locked States, the promotion of marine scientific research as an instrument for the economic and social development of all peoples, the conservation of the marine environment, respect for the freedoms which have traditionally been observed in so far as the community as a whole is concerned and the settlement by peaceful means of disputes concerning ocean space.

The effectiveness of these principles, which constitute a balanced and harmonious whole, will be enhanced if States can co-ordinate their action, compare their experience and make the new legal régime an incentive for new forms of international co-operation. This requires equally co-ordinated action by the United Nations and the specialized agencies, an objective which as Secretary-General I shall henceforth promote as part of my functions under the United Nations Charter and the Convention itself.

I must make reference to the very special challenge represented by the inauguration of the régime and machinery that the Convention has established for the administration of the sea-bed and ocean floor beyond national jurisdiction, which constitute the common heritage of mankind. By a happy coincidence this innovative concept, designed to serve mankind, which must be the beneficiary of the law, and embodied in the Declaration of Principles adopted by the General Assembly in 1970, comes to a legal fruition on Human Rights Day.

At the same time as it adopted the Convention the Conference decided to establish a Preparatory Commission, empowered to grant certain rights to persons who have made preparatory investments compatible with the new legal régime, with a view to subsequent exploitation of the resources of the sea-bed, and to take the necessary measures to ensure the entry into operation of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea as soon as the Convention enters into force. This fact alone creates a situation without precedent in the history of international law. The Preparatory Commission now has the opportunity to produce rules and procedures that will remove uncertainties regarding the rights and obligations of all parties concerned and thus facilitate the decision-making process that will promote universal acceptance of the new legal régime.

The international community owes a debt of deep gratitude to you, Mr. President, and to your illustrious predecessor, whose memory is with us on this historic afternoon, to the Chairmen of the three main Committees, to the Chairman of the Drafting Committee, to the Rapporteur-General and to all the representatives who have worked together in the difficult negotiations and whose names are recorded on the Final Act. You and all of them, together with the Secretariat headed by my Special Representatiuve, have set an example of perseverance, of devotion to a

cause in which they believe with profound conviction, and of objectivity in the search for solutions acceptable to all.

Today one phase is successfully concluded and a new one, equally demanding and difficult, begins. This Convention is like a breath of fresh air at a time of serious crisis in international co-operation and of decline in the use of international machinery for the solution of world problems. Let us hope that this breath of fresh air presages a warm breeze from North to South, South to North, East to West and West to East, for this will make clear whether the international community is prepared to reaffirm its determination to find, through the United Nations, more satisfactory solutions to the serious problems of a world in which the common denominator is interdependence.