European Communities

EUROPEAN PARLIAMENT

Working Documents

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DOCUMENT 1-793/82

# Report

drawn up on behalf of the Legal Affairs Committee
on the signature and ratification of the
Convention on the Law of the Sea

Rapporteur : Mr D. VIÉ

PE 80.193/fin.
Or.Fr.

English Edition

During its sitting of 15 February 1982 Parliament referred the motion for a resolution (Doc. 1-957/81 tabled by Prinz zu Sayn-Wittgenstein-Berleburg, Mr Vergeer Sir Frederick WARNER, Mr K. H. HOFFMANN, Mrs MOREAU, Mr von HASSEL, Mr van AERSSEN, Sir Peter VANNECK, Mr JANSSEN van RAAY, Mr MULLER-HERMANN and Mr FRANZ, pursuant to Rule 47 of the Rules of Procedure, on the law of the sea, to the Legal Affairs Committee as the committee responsible and to the Committee on Agriculture, the Committee on Budgets, the Committee on Economic and Monetary Affairs, the Committee on External Economic Relations and the Committee on Development and Cooperation for their opinions.

At its meeting of 26 February 1982 the Legal Affairs Committee appointed Mr VIÉ rapporteur.

On 13 July 1982, the Legal Affairs Committee, after its rapporteur had made an introductory statement and the representative of the Commission of the European Communities had spoken on the subject, instructed its rapporteur to draw up a draft report on this matter.

At its meetings of 21 and 22 September and 19 and 20 October 1982, the Legal Affairs Committee considered the draft report prepared by Mr Vié and, at the latter meeting, adopted it by 12 votes for with 2 abstentions.

The following took part in the vote : Mrs Veil, chairman; Mr Chambeiron, vice-chairman; Mr Vié, rapporteur; Mrs Baduel Glorioso (deputizing for Mrs Cinciari Rodano), Mrs Boot (deputizing for Mr Janssen van Raay), Mr D'Angelosante, Mr Ercini, Mr Goppel, Mr Malangré, Mr Megahy, Mr Poniridis, Mr Prout, Mr Schwencke (deputizing for Mr Vetter), and Mrs Vayssade.

At its meeting of 30 September and 1 October 1982 the Committee on Agriculture decided not to deliver an opinion and the Committee on Budgets decided, at its meeting of 29 and 30 September 1982, not to give an opinion. Given the time schedule the Committee on Development and Cooperation was unable to deliver an opinion.

The opinions of the Committee on Economic and Monetary Affairs and the Committee on External Economic Relations are attached.

C O N T E N T S

A

The Legal Affairs Committee hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement :

## MOTION FOR A RESOLUTION

on the signature and ratification of the Convention on the Law of the Sea.

The European Parliament,

- having regard to the motion for a resolution (Doc. 1-957/81) on the law of the sea,
- having regard to the Treaty establishing the European Economic Community,
- having regard to the case-law of the Court of Justice and in particular its judgements in the AETR and Kramer cases and opinions 1/75, 1/76 and 1/78,
- having regard to the resolutions of the European Parliament of 14.3.1980[1] and 9.4.1981[2],
- having regard to the report of the Legal Affairs Committee and the opinions of the Committee on Economic and Monetary Affairs and the Committee on External Economic Relations (Doc. 1-793/82),

1. Points out that the European Economic Community is empowered to sign and ratify the forthcoming Convention on the Law of the Sea pursuant to Articles 210 and 228 of the EEC Treaty;
2. Notes that Article 5 of the EEC Treaty requires the Member States to ensure fulfilment of the obligations arising out of the Treaty and that to this end they must facilitate the achievement of the Community's tasks and abstain from any measure which could jeopardize the attainment of the objectives of this Treaty;
3. Requests the Council to adopt the appropriate Community measures at the proper time to commit the Community in respect of the future Convention on the Law of the Sea;
4. Draws the attention of the Member States to the risks to the unity of the European Community should they not adopt a common position towards the Convention on the Law of the sea but act individually;

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1 OJ C 85, 8.4.1980, p.85

2 OJ C 101, 4.5.1981, p. 65

5. Solemnly calls on the Commission of the European Communities, as the guardian of the treaties, to ensure that the Member States respect the Community patrimony, in particular the procedures and powers of the Community, by invoking, where appropriate, the procedures laid down in the Treaties : including if necessary an application to the Court of Justice under Article 169 or Article 175 of the Treaty;

6. Believes that, should there be any doubt as to the compatibility of the proposed agreement with the provisions of the EEC Treaty, it would be advisable to obtain beforehand the opinion of the Court of Justice, pursuant to article 228;

7. Is convinced that if the Community hopes to speak to the world with one voice on matters some of which are not yet fully under the responsibility of the Community, it would be logical for the same to apply to statements and action by the Community in such a basic field as the law of the sea, with its likely implications for the future of mankind;

8. Notes that the current status of the Community, as an observer at the Third Conference on the Law of the sea, is at variance with its real powers;

9. Requests that the Community enjoy a legal status corresponding to its true political and legal situation, and that, should such a solution be impossible, the Community delegation be accommodated in that of the Member State holding the Presidency of the Council, so that it may thus act on behalf of the Community;

10. Instructs its Legal Affairs Committee to follow developments in the situation;

11. Instructs its President to forward this resolution to the Council and Commission and to the Parliaments and Governments of the Member States.

B

# EXPLANATORY STATEMENT

## I. Introduction

1. On 30 April 1982, after nine years of long and difficult negotiations, a draft Convention was adopted in New York by the Conference on the Law of the Sea.

A drafting committee has been given the task of finalizing the text which should be available for signature at a final session of the Conference to be held in Jamaica in autumn 1982.

2. As it stands, the draft Convention is a step forward in international law and cooperation; it contains fundamental provisions such as the establishment of the Area (1) which, with its economic resources, is to be the 'common heritage of mankind'.

The entry into force of the Convention will have considerable political and economic implications for the international community and the EEC.

3. The inclusion, at the request of the EEC, of a clause allowing international organizations to participate is an especially thorny problem as in its present wording this clause calls into question Community procedures and powers.

Article 2 of Annex 9 of the Convention allows an international organization to sign the Convention provided that a majority of its member states have signed it first. At the same time, Article 3 allows accession to or confirmation of the Convention by an international organization after the majority of its member states have deposited their instruments of ratification or accession.

This solution as it stands is most unsatisfactory and raises the question of compatibility between the Convention and Community law.

4. Before it is too late, the European Parliament must draw the attention of the Community institutions and the Member States to the shortcomings of certain provisions in the draft Convention in relation to Community law. However, solutions to these problems do exist.

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(1) The Area lies beyond the continental shelf and comprises the seabed and subsoil but not the superjacent waters nor the airspace above those waters (Articles 1 and 135 of the draft Convention)

5. The European Parliament is now in a position to take stock of the first results achieved by the resolutions it has adopted in the past on the law of the sea. This represents an exercise of parliamentary control and an assessment of the extent to which the European Community's objectives have been achieved.

## II. Respect for the Community's powers in relation to the law of the sea

6. In considering this matter we have to analyse the Community's powers to conclude agreements. The legal obligations flowing from the Community's powers are indisputable.

However it should be added that the Member States are also bound by general rules of conduct deriving from Community law in general.

### (a) The Community's powers to conclude agreements

7. Community law provides a wide and diverse capacity to conclude agreements on the basis of the foundations of the Community itself and certain common policies.

8. The law of the sea does in fact impinge on a number of Community policies laid down in the Treaties or deriving from secondary legislation adopted by the appropriate Community bodies.

Community policies cover the arrangements for fisheries (1), for the freedom of navigation and for the standards for scientific research or the status of the seabed and the rules on the conservation of the environment. Similarly, the Common Agricultural Policy, the free movement of goods, the freedom of establishment and the right of competition are only some of the policies affected, under more than one head, by the law of the sea.

Article 116 of the EEC Treaty provides that, from the end of the transitional period onwards, Member States shall, in respect of all matters of particular interest to the Common Market, proceed within the framework of international organizations of an economic character only by common action, and that to this end, the Commission shall submit to the Council proposals concerning the scope and the implementation of such common action.

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(1) Article 38 of the EEC Treaty and Article 102 of the 1972 Act of Accession

Article 7 of the EEC Treaty, prohibiting any discrimination on grounds of nationality within the scope of application of the Treaty, is important here, in view of its effect on the possible application of the future Convention on the Law of the Sea within the EEC.

9. The Community's powers in practical terms are undeniable. Their effects in terms of the Community's power to conclude agreements can be assessed in the light of the provisions of the Treaty and the case-law of the Court of Justice.

10. Article 210 of the EEC Treaty confers legal personality on the Community, which, according to the judgment in the famous AETR case, confers on it the right to conclude agreements: 'in its external relations the Community enjoys the capacity to establish contractual links with third countries over the whole field of objectives defined in Part One of the Treaty' (1).

11. The draft Convention on the Law of the Sea is hybrid in nature in that parts of it fall within the ambit of the Community while, to a lesser extent, other parts fall within the jurisdiction of the Member States and relate to their sovereignty: for example, the limits of territorial waters, the rules applying to warships and the problem of straits.

The provisions of Article 228 of the EEC Treaty seem to apply to this Convention if we bear in mind that, according to the precedent of the famous AETR case, in its external relations the Community enjoys the capacity to establish contractual links with third countries over the whole field of objectives defined in the Treaty or the treaty system by derivation from it.

The Community must therefore follow the procedure laid down in Article 228, as we shall see below. The Council may then conclude the agreement after consulting the European Parliament.

The institutions and Member States of the Community will then be legally bound by the conclusion of the agreement.

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(1) AETR judgment, 31.3.1971 - Case 22/70, (1971) ECR 274

(b) The Community's code of conduct

12. Article 5 of the EEC Treaty lays down general standards of conduct for the Member States.

On the one hand they must take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of the Treaty or resulting from action taken by the institutions of the Community.

This provision is positive in nature and involves obligations which the Member States must assume in practice.

Article 5 also requires the Member States, by analogy, to abstain from any measure which could jeopardise the attainment of the objectives of the Treaty.

The intention of this dual commitment is to make Community legislation as effective as possible. The Member States may not hamper the development of Community law where the Community holds exclusive powers, as the Court stated in its judgment in the Kramer case (1).

13. In the instance of the law of the sea. the Community patrimony, which has been built up irreversibly according to the case-law of the Court of Justice, must be safeguarded.

The Commission, as guardian of the Treaties, pursuant to Article 155 of the EEC Treaty, has an especially great responsibility.

In order to exercise this responsibility it has access to machinery for settling disputes, and in particular that of action under Article 169 for failure by a Member State to fulfil an obligation under the Treaty (2).

III. The content of the draft Convention

14. For the purposes of parliamentary control it is worth considering the effectiveness of the actions of the Community institutions during the recent negotiations and in relation to the wishes of the European Parliament expressed in its past resolutions.

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(1) See under IV. Solutions allowing Community law to be respected

(2) The primacy of Community law can also be enforced by the institution of proceedings in the national courts, possibly after a request for a preliminary ruling (Article 177)

(a) Fundamental provisions mentioned in the resolutions of the European Parliament

15. This report will not attempt an exhaustive analysis of the substance of the draft Convention.

However, we shall consider some of its basic provisions in detail.

1. Preservation of freedoms

16. The European Parliament has consistently demanded that the freedom of navigation, and in particular the right of transit in straits and the freedom to lay submarine cables and pipelines be preserved (1).

The draft Convention recognises the right of innocent passage through the territorial sea (Article 17) and the right of transit passage through straits used for international navigation (Article 38). Vessels of all States enjoy similar rights of innocent passage through archipelagic waters (Article 52).

In the exclusive economic zone the coastal State, while enjoying sovereign rights for the purpose of exploration and exploitation, is obliged to respect the freedoms of navigation and overflight and freedom to lay submarine cables and pipelines (Article 78).

The same applies to the continental shelf (Article 78) and the high seas. In exercising its rights on the continental shelf the coastal states must not infringe the freedoms of other States as provided for in the Convention.

Finally, the freedom of the high seas is reaffirmed and is open to all States, comprising the various traditional freedoms: those of navigation, of overflight, to lay submarine cables and pipelines, of fishing and of scientific research (Article 87). These major freedoms have apparently been respected and the European Parliament cannot but welcome this fact.

2. The Area and the International Seabed Authority

17. The fundamental innovation in the draft Convention is the establishment of the Area and its resources as 'the common heritage of mankind' (Article 136). The Area stretches from beyond the limits of the continental shelf and comprises the seabed and its subsoil (Article 133).

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(1) Resolution of 14.3.1980 contained in the Gillot report (Doc. 1-725/79), OJ C 85 of 8.4.1980, p. 86
Resolution of 9.4.1981 contained in the Walter report (Doc. 1-869/80), OJ C 101 of 4.5.1981, p. 65

Activities in the Area are to be carried out 'for the benefit of mankind as a whole' (Article 140). These activities will be organized and carried out by the International Seabed Authority. All States Parties are ipso facto members of the Authority (Article 156).

The organs of the Authority consist of an Assembly, a Council and a Secretariat.

The Enterprise for its part is the organ of the Authority which carries out exploration and exploitation in the Area (Article 170).

It is given wide powers under the draft Convention and will enjoy a relatively privileged status (Annex IV).

The Council is the executive organ of the Authority. It will consist of 36 members, 4 from among the investing States, 4 from among the consumer States, 4 from among the exporting States, 6 from among the developing States, and 18 elected to ensure an equitable geographical distribution (Article 161).

These arrangements will ensure that the third world countries are fairly widely represented.

### 3. The protection and preservation of the seabed

18. The States will be obliged to protect and preserve the marine environment (Article 192). They shall take all measures consistent with the Convention to prevent, reduce and control pollution of the marine environment.

States shall act so as not to transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another (Article 195).

The draft Convention seeks to establish cooperation on a global and as appropriate, a regional basis, in elaborating international standards and practices for the protection and preservation of the marine environment (Article 197).

19. States shall adopt laws to prevent, reduce and control pollution of the marine environment from land-based sources (Article 207), sea bed activities (Article 208) from dumping (Article 210), from vessels (Article 211) and from or through the atmosphere (Article 212).

The powers of enforcement and surveillance by coastal States (Articles 222 and 223-233) and of port States (Article 218) will be strengthened.

At first sight these provisions seem consistent with the wishes expressed by the European Parliament in paragraph 8 of its Resolution of 14.3.1980 and paragraph 12 of its resolution of 9.4.1981.

(b) Procedures for the negotiation and ratification of the Convention

1. The European Community's role in drawing up the Convention

20. Under the internal rules of procedure of the Conference, a limited role was allotted to the EEC. The Member States alone took part in the negotiations, not the Community as such.

The Council of the EEC has summed up the principles on which negotiations of this type are conducted: matters falling within the jurisdiction of the Community are dealt with under the normal EEC negotiation procedure. On matters of an economic nature or which are likely to affect the common policies the Member States consult among themselves.

During the negotiations the joint position of the Member States is put forward by the representative of the Member State holding the Presidency of the Council.

21. It is true that the Commission has observer status at the Conference, but it cannot effectively influence the course of the negotiations.

However, Article 228 of the EEC Treaty expressly states that such agreements shall be negotiated by the Commission and concluded by the Council after consulting the European Parliament.

This provision has been almost completely ignored despite attempts, especially by the Belgian Presidency, to have the Community's interests better defined and represented.

What might have been done, and still could be done in the future, was to accommodate the Commission delegation within that of the Member State holding the Presidency of the Council, if there was no better way of defending the Community's interests.

This would have also gone some way to meeting the requirements of Article 228.

2. The European Community's role in the ratification of the Convention

22. In various resolutions the European Parliament has requested that the Commission and Member States continue to press for the Community as such to become a contracting party to the Convention with the same rights and obligations as the States in those areas where powers have been transferred to it (1).

(1) Paragraph 3 of the resolution of 14.3.1980, paragraph 6 of the Resolution of 9.4.1981. See also motion for a resolutin of 2.7.1982 (Doc. 1-957/81), paragraph 6.

Article 305 of the draft Convention seems to satisfy this request by the Community.

23. However, Annex IX, which was added to the draft Convention in April 1982 and concerns the participation of international organisations, is much less favourable to the European Communities.

Parts of it seriously endanger the cohesion of Community law.

Article 2 of Annex IX allows an international organization to sign the Convention if the majority of its Member States are signatories.

Furthermore, if an international organization signs the Convention, it shall make a declaration specifying the matters governed by the Convention in respect of which competence has been transferred to the organization by its States members which are signatories, as well as the nature and extent of such competence.

24. An international organization may accede if the majority of its States members have deposited their instruments of ratification or accession (Article 3).

The instrument of accession by the international organization must contain an undertaking to accept the rights and obligations provided for States in the Convention (Article 4). The international organization shall exercise the rights and fulfil the obligations transferred.

In addition, Article 4(5) is prejudicial to Community law and seems likely to raise serious legal problems: participation by an international organization in the Convention does not give its Member States which are not parties to the Convention any of the rights provided under the latter.

The result could be that Community citizens enjoyed rights under the Convention which Member States did not.

25. The possibility of a conflict between obligations incurred by an international organization under the Convention and those imposed on it by its own statutes is dealt with in Article 4(6) of Annex IX, in favour of the Convention: should there be a conflict, the obligations incurred under the Convention would prevail.

As we shall explain later, one possibility would be for the Council, the Commission or a Member State to obtain beforehand the opinion of the Court of Justice as to whether the Convention is compatible with the provisions of the Treaty pursuant to Article 228.

## IV. Solutions allowing Community law to be respected

26. The harmful consequences if some Member States signed the Convention individually while others did not are clear to see. In order to avoid this situation, which would jeopardize the Community as a whole and progress towards the unification of Europe, ways can be found to ensure respect for Community law.

27. In its judgment in the Kramer case (1), the Court said that Member States participating in the North East Atlantic Fisheries Convention and in other similar agreements were not only under a duty not to enter into any commitment within the framework of those conventins which could hinder the Community in carrying out the tasks entrusted to it by Article 102 of the Act of Accession, but also under a duty to proceed by common action within the Fisheries Commission.

28. In a resolution on the position of the European Communities in public international law (2) the European Parliament fully supported the principles laid down and affirmed by the Court of Justice and urged the Council and Commission to use the instruments available to the Communities so as to further the achievement of the objectives laid down in the Treaties.

29. The Court's solution regarding the conservation of fish stocks in the North East Atlantic is equally valid in the wider context of the future Convention of the Law of the Sea, wherever the Community's powers are involved.

This legal duty imposed by the Court on the Member States must dictate their present and future conduct.

30. One cannot contemplate the Member States acting otherwise. Moreover, it is for the Commission, the guardian of the Treaties, to act if necessary to ensure respect for Community law (Articles 155, 169 and 175). (3)

Should there be any doubt as to the compatibility of the Convention with the provisions of the Treaty, the Commission should obtain beforehand the opinion of the Court of Justice (second paragraph of Article 228).

This precautionary check is one way to prevent commitments contrary to the Treaty being entered into.

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(1) Judgment of 14.7.1976 in joined cases 3, 4 and 6/76; (1976) ECR, p. 1313

(2) Resolution of 11.9.1978, OJ C 239, 9.10.1978, p. 16

(3) Any application for a declaration of failure to act which may be brought by the Commission cannot in any way prejudice the powers of the European Parliament in this connection.

In present circumstances this would take the form of a request for a preliminary ruling on the constitutional admissibility of entering into such a commitment.

31. However, a solution consistent with obligations to the Community is possible. It would require the Member States to undertake to sign the Convention together after ironing out their present differences.

A Council decision on the basis of Article 235 of the EEC Treaty would be the proper procedure for achieving, via the operation of the common market, one of the objectives of the Community.

In any case, the draft Convention does not allow reservations other than those expressly permitted in Article 309, and this may facilitate Community action.

32. We cannot afford to underestimate the fundamental differences between certain Member States over some of the economic and financial provisions in the present draft Convention. However, it is politically and legally imperative that we reach a unified Community position.

33. Looking ahead, the Member States and the Council must succeed in establishing a joint position before negotiations begin.

The Commission must be in a position to fulfil its negotiating mandate effectively.

The Council could adopt an informal solution by accommodating the Commission delegation with that of the Member State holding the Presidency of the Council, where no other solution is feasible.

34. It should be recalled in this connection that in 1973 the European Parliament, in a resolution on the legal aspects of participation by the European Communities in the work of the various UN bodies, raised the problem of the recognition of the European Community as a single entity in all international bodies and requested the Commission and Council to give the matter urgent consideration.[1]

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[1] OJ No. C 62 of 31.7.1973, p. 49

MOTION FOR A RESOLUTION

DOCUMENT 1-957/81

tabled by Mr SAYN-WITTGENSTEIN-BERLEBURG, Mr VERGEER, Sir Frederick WARNER, Mr HOFFMANN, Mrs MOREAU, Mr von HASSEL, Mr van AERSSEN, Sir Peter VANNECK, Mr JANSSEN van RAAY, Mr MULLER-HERMANN and Mr FRANZ

Pursuant to Rule 47 of the Rules of Procedure

on the law of the sea

The European Parliament,

1) Points out once more that without exception all questions concerning the law of the sea fall within the spheres of activity of the European Community in that Community law

   a) concedes to the organs of the Community capacity in international law analogous to that of the Member States,

   b) by virtue of obligations and rights arising from international law is assigned new responsibilities not wholly defined by the legislation of the Member States,

   c) can be given a part to play in the attainment of highly important objectives in connection with the law of the sea through appropriate decisions of the Council;

2) Supports the Commission in consistently seeking to infer from Article 235 and Article 227 (1) of the EEC Treaty - as construed by the Court of Justice of the European Communities in cases Nos 3, 4 and 6/76 - a limited power to reach a common position for the Member States of the European Community at the third United Nations Conference on the Law of the Sea;

3) Sees a promising means of achieving commercially acceptable arrangements on the law of the sea in the foreign trade sector, first and foremost through close coordination with the United States - which according to present information regards as unsatisfactory the draft convention's cumbersome international rules, the provisions on transfer of technology (inter alia for security reasons), the arrangements with regard to duties and the provisional investment protection measures - and secondly through cooperation between the Member States in the exclusive economic zones extending up to the edge of the continental shelf in accordance with the European Parliament's decision of 10 April 1981 and thirdly through coordination of the interim laws of Member States with deep-sea mining interests;

4) Recognizes that bilateral agreements with Third World countries are a sound way of helping them develop their economic activities through new forms of international cooperation;

5) Calls therefore for technological cooperation:

   a) with a view to implementing the subsidy programme provided for in the second Lomé agreement for mining on the continental shelf of the partner states and

b) with a view to extending the Communities' cooperation agreement with Brazil concerning common investments in deep-sea mining, as proposed in point 37 ff of the resolution adopted at the EEC/Latin America interparliamentary conference held at Bogota from 25 to 28 January 1981;

6) Welcomes the unofficial announcement by the organizing committee of the Conference on the Law of the Sea dated 27 August 1981 that the planned package solution would contain an EEC clause whereby the United Nations noted a special division of competence between the Community and the Member States;

7) Considers, given that this EEC clause entails an obligation on signatory states to notify all rights vested exclusively in the Community, that apart from measures under Article 84, it is high time that the Community be given real competence for economic activities in the maritime field;

8) Suggests as sectors to be notified irrespective of the state of harmonization of laws and the actual transfer of executive powers:

a) powers vested in the Community exclusively under the Treaty of Rome: Community fishing rights and coordination of environmental protection, competition law, rights of establishment and related rights with respect to shipping and the exploitation of the seabed;

b) powers exercisable jointly by the Community and the Member States as against third parties:
responsibility under the ECSC Treaty for financial aid in favour of exploration projects, adoption of a Community position on the extraction of minerals from the continental shelf beyond 200 nautical miles from the coast and possibly on the present arrangements with regard to deep-sea mining;

9) Assures the Commission that the European Parliament will pursue the debate on maritime matters in its appropriate committees;

10) Instructs its President to forward this resolution to the Council, the Commission and the chairman of the third UN Conference on the Law of the Sea.

Article 1 bis

Scope

This Convention shall apply mutatis mutandis to entities referred to in article 305, paragraphs 1 (b), (c), (d) and (e), which become Parties to this Convention in accordance with the conditions relevant to each, and to that extent 'States Parties' means and includes such entities.

PART XVII

FINAL CLAUSES

Article 305

Signature

1. This Convention shall be open for signature by :

(a) all States;

(b) Namibia, represented by the United Nations Council for Namibia;

(c) all self-governing associated States which have chosen that status in an act of self-determination supervised and approved by the United Nations in accordance with resolution 1514 (XV) of the general Assembly of the United Nations and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of such matters;

(d) all self-governing associated States which, in accordance with their respective instruments of association, have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of such matters;

(e) all Territories which enjoy full internal self-government, recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of such matters;

(f) international Organizations, in accordance with annex IX.

2. This Convention shall remain open for signature until ... (last day of the twenty-fourth month after the opening date for signature) at the Ministry of Foreign Affairs of the Republic of Venezuela and also, as from ... (first day of the seventh month after the opening date for signature) until ... (last day of the twenty-fourth month after the opening date for signature), at United Nations Headquarters in New York.

Article 306

Ratification and act of formal confirmation

This Convention is subject to ratification by States and the other entities referred to in article 305, paragraphs 1 (b), (c) and (d), and act of formal confirmation, in accordance with Annex IX, by the entities referred to in article 305, paragraph 1 (e). Instruments of ratification and of formal confirmation shall be deposited with the Secretary-General of the United Nations.

Article 307

Accession

This Convention shall remain open for accession by States and the other entities referred to in article 305. Accession by entities referred to in article 305, paragraph 1 (e), shall be in accordance with annex IX. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Annex IX

Participation by international organizations

Article 1

For the purposes of article 305 and of this annex, international organizations shall mean international intergovernmental organizations consituted by States to which States members of such organizations have transferred competence over matters governed by this Convention, including the competence to enter into treaties in respect of such matters.

Article 2

Signature

An international organization may sign this Convention if a majority of its States members are signatories to this Convention. At the time of signature an international organization shall make a declaration specifying the matters governed by the Convention in respect of which competence has been transferred to the organization by its States members which are signatories, as well as the nature and extent of such competence.

Article 3

Act of formal confirmation and accession

1. An international organization may deposit its instrument of formal confirmation or of accession if a majority of its States members deposit or have deposited their instruments of ratification or accession.

2. Such instruments of the organization shall contain the undertakings and declarations required by articles 4 and 5.

Article 4

Extent of participation and rights and obligations

1. The instrument of formal confirmation or of accession deposited by an international organization shall contain an undertaking to accept the rights and obligations provided for States in this Convention in respect of matters relating to which competence has been transferred to it by its States members which are Parties to this Convention.

2. An international organization shall be a party to this Convention to the extent that it has competence in accordance with the declarations, communications of information or notifications referred to in Article 5.

3. Such an international organization shall exercise the rights and fulfil the obligations which would otherwise fall upon its members which are States Parties in accordance with this Convention, on matters relating to which competence has been transferred to it by such States members. The States members of such an international organization shall not exercise the competences they have transferred to it.

4. The participation by such international organizations shall in no case entail an increase of the representation that their States members, which are States parties, would otherwise be entitled to, including rights in decision-making.

5. The participation of such international organizations shall in no case give any rights provided under the Convention to member States of the organization which are not Parties to the Convention.

6. In the event of a conflict between the obligations of an international organization under this Convention and its obligations arising under the terms of the agreement establishing the organization or any acts relating to it, the obligations under the present Convention shall prevail.

Article 5

Declarations and notifications

1. The instrument of formal confirmation or accession of an international organization shall contain a declaration specifying the matters governed by this Convention in respect of which competence has been transferred to the organization by its States members which have ratified or acceded to the Convention.

2. A State member of an international organization shall, at the time it ratifies or accedes to the Convention or at the time when the organization deposits its instrument of formal confirmation or accession, whichever is later, make a declaration specifying the matters governed by this Convention in respect of which it has transferred competence to the organization.

3. States parties which are members of an organization which is a party to the Convention shall be presumed to have competence over all matters governed by this Convention in respect of which transfers of competence to the organization have not been specifically declared, notified or communicated by such States under this article.

4. The international organization and its States members, which are Parties to the Convention, shall promptly notify the depositary of any changes to the distribution of competences, including new transfers of competence, specified in the declarations under paragraphs 1 and 2.

5. Any State party may request an international organization and its States members, which are States parties, to provide information as to who has competence in respect of any specific question which has arisen. The organization and the States members concerned shall furnish such information within a reasonable time. The international organization and the States members may also, on their initiative, provide such information.

6. Declarations, notifications and communications of information under this article shall specify the nature and extent of the competences transferred.

Article 6

Responsibility

1. Parties which have competence under article 5 shall bear responsibility for failure to comply with obligations or any other violation of the Convention.

2. Any State Party may request an international organization or its States members which are States Parties for information as to who has responsibility in respect of any specific matter. The organization and the States members concerned shall provide such information. Failure to provide such information within a reasonable time or the provision of contradictory information shall result in joint and several responsibility.

Article 7

Settlement of disputes

1. At the time of deposit of its instrument of formal confirmation or accession, or at anytime thereafter, an international organization shall be free to choose, by means of written declaration, one or more of the means for the settlement of disputes concerning the interpretation or application of this Convention, referred to in article 287, paragraph 1 (a), (c) or (d).

2. The provisions of Part XV shall apply mutatis mutandis to any dispute between parties to this Convention, one or more of which are international organizations.

3. Where an international organization and one or more of its States members are joint parties to a dispute, or parties in the same interest, the organization shall be deemed to have accepted the same procedures for the settlement of disputes as the States members; provided that where a State member has only chosen the International Court of Justice under article 287, the organization and the State member concerned shall be deemed to have accepted arbitration in accordance with annex VII, unless the parties to the dispute otherwise agree.

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## Article 8

## Applicability of Part XVII

Part XVII shall apply mutatis mutandis to an international organization, except in respect of the following:

(a) the instrument of formal confirmation or accession of an international organization shall not be taken into account when applying article 308, paragraph 1;

(b) (i) An international organization shall have exclusive capacity with respect to the application of articles 312 to 315, to the extent that it has competence under article 5 over the entire subject matter of the amendment;

(ii) The instrument of formal confirmation or accession of an international organization to an amendment, the entire subject matter over which the international organization has competence under article 5, shall be considered to be the instrument of ratification or accession of each of the member States Party to the Convention, for the purposes of applying article 316, paragraphs 1, 2 and 3;

(iii) With regard to all other amendments, the instrument of formal confirmation or accession of the international organization shall not be taken into account when applying article 316, paragraphs 1 and 2;

(c) (i) In respect of article 317, an international organization may not denounce this Convention if any of its member States is a Party to the Convention and if it continues to fulfil the qualifications specified in article 1;

(ii) The international organization shall denounce the Convention when none of its member States is a Party to the Convention or if the international organization no longer fulfils the qualifications specified in article 1. Such denunciation shall take effect immediately.

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## OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

Draftsman : Mr Dieter ROGALLA

At its meeting of 19 March 1982 the Committee on Economic and Monetary Affairs appointed Mr. Walter as draftsman of its opinion to the Legal Affairs Committee. On 1 April 1982 Mr. Rogalla replaced Mr. Walter as draftsman.

The Committee considered the draft opinion at its meeting of 3-4 November 1982 and adopted it on a unanimous vote.

Participated in the vote:

Mr. MOREAU, Chairman; Mr. ROGALLA, draftsman (Deputizing for Mr. Walter); Mr. BEAZLEY, Mr. BONACCINI, Mr. DE FERRANTI, Mr. DELOROZOY, Mrs. DESOUCHES, Mr. HERMAN, Mr. LEONARDI, Mr. MIHR, Mrs. NIELSEN (deputizing for Mr. Nordman), Mr. PAPANTONIOU, Mr. PURVIS (deputizing for Sir Brandon RHYS WILLIAMS), Mr. VON BISMARCK, Mr. WAGNER, Mr. WEDEKIND (deputizing for Mr. SCHNITKER) and Mr. WELSH.

1. The motion for a resolution (Doc. 1-957/81) tabled pursuant to Rule 47 of the Rules of Procedure by Sayn-Wittgenstein-Berleburg and others, refers to a number of law of the sea related issues, such as the need to set a common Community position on matters raised at the third U.N. Conference on the law of the sea, the need for cooperation between the Member States in their exclusive economic zones, coordination of the interim laws of Member States with deep sea-bed mining interests, technological cooperation on deep sea-bed mining with developing countries, and the need for the Community to be given real competence for economic activities in the maritime field.

2. Since the resolution was tabled a draft convention on the law of the sea has been adopted in New York. A formal closing session and the signing of the Final Act will take place later this year.

3. The draft convention contains a clause (305) providing for participation by international organisations, and an annex (Annex IX), laying down the conditions for such participation. The draft report of the Legal Affairs Committee concentrates its attention on the unsatisfactory nature of these conditions.

4. This is indeed a vital matter of principle at stake from the point of view of the Community. Annex IX contains certain articles such as Article 4 (5) ("The participation of such international organizations shall in no case give any rights provided under the Convention to member States of the organization which are not parties to the Convention") and Article 4 (7) ("in the event of a conflict between the obligations of an international organization under this Convention and its obligations arising under the terms of the agreement establishing the organization or any acts relating to it, the obligations under the present Convention shall prevail") which could cause problems for the Community.

5. It is therefore vitally important that the Community maintain a unified position with regard to whether to sign the Convention, and subsequently, and depending on progress within the preparatory Committee, on whether to ultimately ratify it or not.

6. Clearly Community member States have varying interests on law of the sea matters. For some the unsatisfactory provisions of the Convention as currently drafted, such as those concerning the proposed deep sea-bed mining regime, are of less importance than for others. The risk of member States taking different positions on whether to sign is illustrated by the vote on the draft convention at the conclusion of the 11th Session of the Conference in New York when 4 member States (France, Greece, Ireland and Denmark) voted in favour, and the other 6 abstained.

7. This possibility should be avoided at all costs, and a coordinated Community strategy must still be agreed upon.

8. It is also essential to underline the need to obtain the broadest possible consensus among the international Community on a future law of the sea regime. As mentioned above a number of elements in the proposed regime are indeed unsatisfactory, such as those provisions dealing with the transfer of technology, and the very real uncertainty as to the future workings of the proposed Enterprise , which would exploit the deep sea-bed in parallel with private operators, and which would constitute the first "internationalized undertaking". Nevertheless it would be wrong if disagreement on these issues jeopardized the very real achievements of the conference in other areas. If the majority of nations sign the Convention while others, and notably a number of the major industrialized nations most capable of exploiting the deep sea-bed, do not, great uncertainty will remain concerning the law of the sea, and there are very likely to be disputes as to which elements in the Convention will have become customary international law affecting all states, and which not.

9. At present the United States, which voted against the draft convention at the 11th Session, has indicated that it will still not sign the convention. It should be strongly urged to reconsider its position. It would also be highly desirable for the member States of the Community to sign the convention as a bloc. This would also give the Community greater weight in any attempt to persuade the United States to adopt a more positive attitude.

10. For the negotiations are by no means over. They will merely continue in another forum, that of the preparatory Committee. It is there that the currently unsatisfactory provisions of the convention should be ironed out, and if such a result is not obtained, there will always remain the option of non-ratification of the Convention.

Conclusions

11. The Committee on Economic and Monetary Affairs emphasizes that vital economic issues will be at stake in the subsequent negotiations within the preparatory Committee, in particular such issues as the terms for the transfer of technology, and the nature of the future deep sea-bed mining regime, with its potentially major implications in reducing the raw materials dependence of the Community, and in stimulating Community industry.(1)

12. Consequently, the Committee on Economic and Monetary Affairs strongly supports the Legal Affairs Committee in calling on the Commission to clarify the legal position of the Community under the draft law of the sea convention, and also to ensure that the member States fully respect the Community's competences in law of the sea matters.

13. The Committee strongly urges the member States to adopt a coordinated Community position as to whether to sign the Treaty, rather than them all going their separate ways. It also hopes that this will lead to all the member States signing the convention, in order to help achieve the widest possible international consensus on a new law of the sea regime, and to enable the Community to properly play the role envisaged for it under clause 305 of the draft convention.

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(1) In this context the Committee recalls the more detailed discussions in and conclusions of, its adopted report on economic aspects of the exploitation of the seabed (Doc. 1-869/80, rapporteur, Mr. Walter).

Parliament should thus be kept fully informed of the progress of negotiations within the preparatory Committees and of their economic implications.

14. Finally the Committee would urge yet again for better coordination at Community level on law of the sea related issues where agreement has not yet been reached between Member States, such as on energy and fisheries issues. The Commission should also report back to Parliament on how it intends to fulfil the role allocated to the Community by the draft convention.

## OPINION

(Rule 101 of the Rules of Procedure)
of the Committee on External Economic Relations

Rapporteur : Mr SAYN-WITTGENSTEIN BERLEBURG

On 19 October 1982, the Committee on External Economic Relations appointed Mr SAYN-WITTGENSTEIN BERLEBURG, draftsman of an opinion.

At its meetings of 19 October and 4 November 1982, the committee considered the draft opinion. It adopted the conclusions unanimously on 4 November 1982.

The following took part in the vote : Sir Fred CATHERWOOD, chairman, Mrs WIECZOREK-ZEUL, vice-chairman; Mr SAYN-WITTGENSTEIN BERLEBURG, rapporteur; Mr FRUH (deputizing for Mr BLUMENFELD);Miss HOOPER, Mr LAGAKOS (deputizing for Mr SEELER), Mr PAULHAN, Mr PELIKAN, Mrs PHLIX (deputizing for Mr JONKER), Mr RIEGER, Mr SPENCER, Sir John STEWART-CLARK, Sir F. WARNER, Mr ZIAGAS.

Introduction

The European Parliament has been discussing for some time now the international negotiations on a new law of the sea[1]. Following the end of the eleventh session of the Third UN Conference on the Law of the Sea and the publication of the text of the convention approved by the majority of the delegations of the states represented, in which the participation of international organizations is specifically provided for in Article 305 and spelt out in detail in Annex IX, it is the task of the European Parliament to make it clear to the institutions of the Community what circumstances should be taken into account and what objectives the Community as a whole should pursue in developing a maritime policy of its own.

Parliament began its work with the tabling in January 1982 of Document 1-957/81 as a motion for a resolution pursuant to Rule 47 of the Rules of Procedure. This concentrates on showing how in its policy on the relevant areas of activity relating to economic exploitation of the seas the Community can arrive pragmatically at a common position by recognizing existing agreements and taking new initiatives. On the basis of a clear legal conception within the terms of the EEC Treaty and also through the implementation of international law, reference is made to possible methods for international maritime cooperation within and in addition to the new framework for the international law of the sea.

The explanatory statement of the Legal Affairs Committee's report (PE 80.193/ Mr Vie) admits that the Third international conference on the law of the sea entails 'considerable political and economic implications for the international community and the EEC . The Committee on External Economic Relations cannot ignore this especially as the conditions governing the use of the ocean have a direct or indirect impact on international trade as a whole.

The conference on the law of the sea and, in the final analysis, the convention as approved constitute in themselves an extraordinary situation in that it was required from the very beginning that the agreements reached should form a single comprehensive negotiating package. The full political and economic importance of any agreement can therefore be assessed only if considered from the point of view of the international economy and trade and in a world context.

One of the European Community's basic negotiating principles in the area of external economic relations is the concern to ensure that the Community acts as a single body, or at least that the positions of its Member States are coordinated. Membership of the Community imposes an obligation of good conduct on the Member States vis-à-vis each other even in those areas where national policies follow an independent line.

The objectives of the Treaty of Rome do not apply only to the sovereign territories of the Member States of the Community. They require the Member States to make efforts to achieve greater international economic pragmatism and, hopefully, greater prosperity, to reduce trade imbalances by greater equality of distribution and to avoid any conflict which may arise in future. These are the ideas which have guided the Committee on External Economic Relations in adopting its position on the international law of the sea.

The law and external economic relations

At a time of growing international inter-independence, increasing conflict over the distribution of resources and increasing dependence on the sea, a new order for the ocean, rules governing the use and legal status of 71% of the earth's surface cannot possibly be of secondary importance for the European Community, an economic power with special responsibility for peace and balance in the world. The new law of the sea has long been expected. The old principle whereby economic force gave the strong the freedom of the seas was no longer appropriate to settle matters relating to fisheries, hydro-carbons (oil and natural gas), undersea mining, transport and environmental protection of the oceans. The key issue at the Third conference on the law of the sea was therefore intervention in international competitive relationships on the question of the distribution of power. Although the desire for order on the part of all states was involved, from the very outset.

those which were more interested in the law of the sea by virtue of their long coastline and those exporting their own resources were in a more advantageous position as regards representing their own interests than the rest of the world.

Over a period of nine years two basic principles were balanced against each other in the new law of the sea, two principles which could have totally different implications for the development of the international economy and trade. First there is the continental shelf principle, the principle of national sovereignty for coastal states in respect of the access to and exploitation of living and inert offshore resources and for the environmental control of such activities and of shipping in transit. Then there is the principle of the common heritage of mankind, whereby economic activities in the high seas (fishing, transport, undersea mining) should be subject to the scrutiny of an international authority for the benefit of all.

In those aspects of the negotiations which did not deal with resources and which were often heavily influenced by strategic considerations, emphasis was rightly placed on freedom of navigation, rights of transit and to fly over international sea channels and in foreign economic zones and on sufficient freedom for maritime research in international zones - for the time being at least, the principles of a free world economic order.

The other principle, that of the 'heritage of all mankind' did not produce the originally hoped-for new scope for a highly profitable expansion of undersea mining as a contribution to the development of the poorest countries of the world, and this notwithstanding the final shape of the disputed international production policy which is to be determined by a preparatory committee of the signatory states before the new international law comes into force. There is no contribution towards development because

(a) the success of the coastal states in establishing their claims to a zone of at least 200 nautical miles or to the extremity of an ill-defined and ambigious continental shelf leaves little scope for ambitious future projections, given the location and available resources of Manganese nodules[2], and

(b) the land-based raw materials producers who are in competition with deep-sea mining ventures have managed for the time being to protect themselves against losses in export revenues at the expense of an efficient undersea mining system.[3] The expectations of countries involved in undersea mining of a framework conducive to investment for the activities recently launched by Consortia based on their territory have not therefore been fulfilled.

In addition to the restrictions on the mining of Manganese nodules, the ban on participant states undertaking other projects to recover minerals from the seabed is a serious blow and a handicap to much-needed future innovation. Access to primary products such as oil, natural gas and other non-mineral raw materials is made more difficult by the continental shelf principle and the extensive restrictions on deep sea mining. This could seriously affect the Member States' supplies of raw materials, contrary to the hopes expressed in the Moreau Report on supplies of raw materials to Europe as a result of an increase in what he referred to as non-commercial risks (paragraph 18).

There are likely to be obstacles to maritime research as a result of the registration procedures in the zones belonging to third countries established by the continental shelf principle. Such obstacles may also occur in international zones as a result of the powers to be granted to the sea mining authority.

Without wishing to anticipate the final outcome, it is nevertheless clear in terms of external economic relations that, in addition to the unsatisfactory results of the conference as regards the future security of raw materials supplies, international trade will be endangered by

(a) a dramatic increasein the number of sea channels resulting in possibly as many as 140 border disputes (overlapping of two adjacent economic zones),

(b) a shift in the world economic balance of power to the benefit of 10 or 12 states with sovereignty over extensive sea areas and against the large majority of countries which would be in a worse position because of their short coastline; (developing and industrialised countries). This will inevitably lead, inter alia, to an increase in the number of bilateral treaties on the use of seas which have hitherto been international waters (primarily concerning products traded internationally - fisheries - but

which are not consumed nationally - hydrocarbons - thus affecting prices and possibly also quantities on the world market).
This does not mean that without the convention and the continuing legal uncertainty the conflicts which might result would not lead to a much worse situation. It is undoubtedly true also that the system for official and binding international settlement of disputes supported by all the delegations represents a great advantage in terms of legal certainty for those states which are interested in maritime policy.

Because of the many ideological and political alignments which split the world, the results of the negotiations do not leave any real scope for private, efficient developments in specific regions. They will also encourage more active national intervention in related areas (UNCTAD, Antartic, space ). This runs counter to the real needs of the world economy as identified on many occasions by the Community in conjunction with its trading partners and allies.

Looking to the future

In considering what action the Community should now take the Committee on External Economic Relations has based its thinking on an enlarged community. This is in line with the strongly geographical philosophy behind the future convention. As an international organization to which the Member States have definitively transfered certain rights, the Community can arrogate to itself national rights as defined in the convention.
In adopting Mrs Vayssade's report on the customs territory of the European Community, the European Parliament finally gave its approval to the idea of a common Community sea area.

Recognition of this state of affairs in the form of a clear agreement on the position to be adopted could make tactical coalitions between Member States and non-member countries at the Conference a thing of the past. It is incomprehensible why the Legal Affairs Committee should have mentioned the areas in question only in paragraphs 8 and 9 of the explanatory statement and not in the motion for a resolution itself.

It is not possible at present to say to what extent the right of the Community as such will extend beyond political authority over a European Community sea area (particularly as a pawn in negotiating fisheries and maritime research agreements with third countries). What is certain is that the Community's sole right to negotiate trade agreements was one factor which allowed the Commission to forward to the Council on 23 January 1982 a communication on the need for a position on the economic exploitation of the seabed. This action is to be welcomed.

At present it is not only a question of

(a) examining the content of the Convention to discover whether it excludes the possibility of the Community acceding to it, but also

(b) of interpreting existing bilateral Community agreements on maritime cooperation,

(c) making careful moves towards developing a Community maritime policy in preparation for private-sector commercial initiatives in the Community (environmental research, monitoring fisheries), and

(d) ensuring that cooperation between individual Member States and non-Member countries is in compliance with the Treaties (including current deep sea mining activities).

The Committee on External Economic Relations considers that during the 2-year period, which individual States have to sign the Convention, and which runs from December 1982, no one should rule out the possibility of investigating existing alternatives to the Convention. Given our external economic responsibilities, there is an urgent need for a Commission report on this matter. We know from our experience of many other negotiations that the developing countries will be forced to rely on certain industrialized countries not only for the preparation of the international seabed mining system but also in order to exploit newly-acquired areas under their sovereignty. We should not forget to distinguish between those countries which now benefit from preferential treatment in two respects (through agreements between the Community and non-member countries and as a result of the Convention on the Law of the Sea) and those which will be poor in terms of resources and maritime sovereignty following the entry into force of the Convention.

The Legal Affairs Committee proposes a procedure for assessing the compatibility of the law of the Convention (on the question of international organizations signing it) with existing law deriving from Community Treaties. While the Committee on External Economic Relations does not wish to underestimate the importance of this institutional aspect, it feels that it would nevertheless be better in the first instance to allow those Member States which are interested to sign individually so that, during a further period of observation, a procedure for assessing the compatibility of international agreements with the Treaties can be introduced before the Community itself becomes party to an agreement. For the Community to sign in its own right immediately after a majority of Member States had done so could be premature given the associated standardization of intrinsic areas of law for a future maritime policy for the Community as an equal partner in international trade. The Community, represented by the President of the Council, was unable as the negotiations at the Conference became more specific to present a united front because of widening differences over the individual starting points and objectives.

Conclusions

Given these varied and conflicting aspects, the Committee for External Economic Relations proposes that the text of the Legal Affairs Committee should be amended to include the following points:

(a) Insert the following at the end of the fourth recital:
' . . . 14.3.1980 , 9.4.1981 and 16.9.1981 ,

(b) Paragraph 1 to read as follows:

'Points out that the European Economic Community is empowered to sign and ratify the Convention on the Law of the Sea both pursuant to Articles 210 and 228 of the EEC Treaty and by application of a clause in the future Convention called for by the Community in the Council Decision of 28.7.1976, according to which confederations of states with intrinsic rights, as under the Treaty of Rome, may be partners in the Convention;'

(c) After paragraph 1 insert the following new paragraph:

'Holds the Council responsible for determining in detail the Community's specific maritime rights following preparation by the Commission and taking account of the position of the Community's main trading and alliance partners on the international law of the sea to enable the Community officially to take part as such in the International Conference on the Law of the Sea;'

(d) Replace paragraph 3 with the following text:

'Calls on the Council to specify which rights in respect of the sea the Community will directly assume pursuant to the so-called Community clause and urges the Council to adopt the necessary measures, paying particular attention to the following areas:

- direct application of the Rome Treaties to the seaward part of the area in which they have force of law,
- Community fishing rights,
- Community coordination of environmental protection measures,
- Coordination of research in connection with the exploration aspects of maritime policy,
- guidelines for the economic exploitation of the sea-bed, taking into account the Commission Communication to the Council of 23.1.1982;'

(e) After paragraph 4 insert the following additional new paragraph:

'Calls on the Commission to take all possible steps to examine the effect on marine projects both within and outside the framework of the Convention of clauses in existing bilateral agreements between the Community and third countries concerning scientific and technical cooperation and financial support, particularly as regards infrastructure and industrial applications and natural and environmental protection, and to submit a report to Parliament on this subject;'

(f) Paragraph 5 to read as follows :

'Solemnly calls on the Commission of the European Communities, as the guardian of the treaties, to respect the procedures and powers of the Community by invoicing, where appropriate, the procedures laid down in the treaties;'

(g) Paragraph 10 to read as follows:

'Calls for a general debate in the Council on a genuine Community maritime policy in which the arguments for and against subsequent ratification of the Convention by the Community as a whole would be assessed.'

The committee will comment on the report of the legal Affairs Comittee in its existing form.

Casimir,Prinz Wittgenstein, MEP

Footnote 1

- Hoffmann Report (Committee on Transport)
  Transport policy aspects of Law of the Sea
  Resolution of 28.1.1980

- Gillot Report (Legal Affairs Committee)
  Law of the Sea and maintenance of Community law
  Resolution of 14.3.1980

- Walter Report (Committee on Economic and Monetary Affairs)
  Economic aspects of the Law of the Sea
  Resolution of 9.4.1981

- Vayssade Report (Committee on External Economic Relations)
  Aspect of the common Community customs area
  Resolution of 16.9.1981

- Moreau Report (Committee on External Economic Relations)
  (Inter alia EC supplies of raw materials from the sea and seabed)
  Resolution of March 1982

- Pery Report (Committee on Agriculture)
  Coordination of surveillance in the Community fishing zone (including EC flag on EC coastguard fleet)
  Resolution of 13.5.1982

Footnote 2

The results obtained so far seem to indicate that module production is viable. On an annual quantity of 1 million tonnes, profits are said to lie between 43% and 109% averaging 63%. A company producing 3 million tonnes a year would achieve between 44 % and 94%, an average of 75%. Transition from depletion of stocks with a high metal content to supplies with a lower metal content would be offset by a reduction in investment and production costs.

Footnote 3

Walter Report (Committee on Economic and Monetary Affairs)
EP Resolution of 9.4.1981, paragraphs 16 et seq.