

Brussels 22. VI. 1983

Written Question No. 2220/82  
by Mrs Marijke Van Hemeldonck (S-6)  
to the Commission of the European Communities)

Subject : Convention on the Law of the Sea and the European Community

On 10 December 1982 119 countries signed the International Convention of the Law of the Sea at Montego Bay, Jamaica. Does the Commission agree that this Convention offers the European Community significant opportunities, inter alia with regard to combating marine pollution and in its relations with Third World countries?

If so, why has the European Community not yet signed the Convention on the Law of the Sea? What exactly are the difficulties? What steps does the Commission intend to take to eliminate them?

Signature of the Convention, however, is not the same as ratification of the Convention. What steps does the Commission intend to take to ensure that both the Member States and the European Community do indeed ratify it?

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ANSWER GIVEN BY MR HAFERKAMP ON BEHALF OF THE COMMISSION  
TO WRITTEN QUESTION NO 2220/82 BY MRS VAN HEDELONCK

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In its Communication of October 1982 (1), the Commission pointed out that, in spite of reservations regarding Part XI of the Convention for the exploration and exploitation of the sea-bed, it recommended that the Member States sign the Convention, which would then enable them, as well as the Community, to participate as full members rather than observers in the work of the Preparatory Commission responsible for preparing the implementation of the Convention as from 15 March 1983.

It also specified that the signing would confirm the Community's desire to work with its partners, within the United Nations system, towards stabilizing international economic relations, particularly with the Third World.

During the two debates which took place in Parliament in November and December 1982 in Strasbourg, Mr Narjes and Mr Andriessen restated the Commission's position, pointing out that a decision on the ratification would be taken in the light of the results of the Preparatory Commission's deliberations.

At the meeting at Montego Bay in December 1982, five Member States of the Community signed the Convention, and five Member States abstained. Since the Convention requires majority participation by the Member States of an international organization, the Community as such was unable to participate in the Convention, nor could it sign.

On 18 February, the Commission sent a letter to the Foreign Ministers of the Ten. It invited the abstaining Member States to sign the Convention and the signatory Member States to abstain from a premature ratification.

A group of senior officials from the Member States and the Commission has been asked to examine questions relating to the Convention on the Law of the Sea (2).

(1) COM(82)669 final.

(2) See answer to Written Question No 2218/82 by the Honourable Member.

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(84) 476 final

Brussels, 18th September 1984

## LAW OF THE SEA - PROCEDURAL MATTERS

(Commission communication to the Council)

COM(84) 476 final

COMMISSION COMMUNICATION TO THE COUNCIL

Subject: Law of the Sea - procedural matters

1. In its final report on the results of the third United Nations Conference on the Law of the Sea (COM (82) 669 final) of 13 October 1982, the Commission recommended that the Convention be jointly signed by the Community and its Member States, since signing would not prejudice their final position on ratification of the Convention and that a policy statement be made on that occasion.
2. Five Member States have signed the Convention (DK, GR, F, IRL, NL), while because of the participation clause, the Community has not been able to sign.\*
3. In a communication of 20 January (COM (83) 21 final) and in a letter from its Vice-President, Mr Haferkamp, of 18 February 1983 to the Foreign Ministers, the Commission reiterated its position and once again called on the non-signatory Member States to sign the Convention and so make it possible for the Community to participate and exercise the responsibilities incumbent on it.
4. In its resolution of 15 December 1982, the European Parliament said that it was necessary for the Community as such to be party to the Convention; in a resolution passed on 9 June 1983, it called "on the Commission once more strongly to urge the five Member States which have not yet signed the act to do so, so that they may, at all events, participate fully and vote in future preparatory discussions."

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\*Art. 2 of Annex IX to the Convention

"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 this 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.

5. At that time, the non-signatory Member States failed to modify their position and some of them even argued that signing could be misconstrued and reduce the chances of obtaining improvements in the Convention's provisions concerning the exploration and exploitation of the seabed. They also pointed out that, like the Community, they could participate as observers at the meetings of the Preparatory Commission as signatories to the Final Act.
6. Since then, the Preparatory Commission has held a number of meetings and all the Member States plus the Community have been able to participate fully since the question of participation in the voting has not yet arisen. This preparatory work has given the impression that the chances of improving the rules on the exploitation of the seabed have increased.
7. The deadline for signing the Convention is 9 December this year (Article 305 of the Convention). After that date, states may only "accede" to the Convention by means of a ratification procedure, and this can be done only when the Convention has entered into force, that is, after its ratification by 60 states. There is a further condition for the Community's accession, namely that a majority of the Member States must deposit or have deposited their instruments of ratification or accession.
8. Since the Convention is being ratified very slowly (by 1 September 1984, the instruments of only 15 states had been deposited), the Convention, although having some definite legal impact, is not likely to enter into force in the near future. It also seems unlikely that the Convention will be ratified shortly by the majority of the Community Member States.
9. It cannot be excluded, however, that one or more non-signatory Member States might decide to sign the Convention before 9 December, thus fulfilling the conditions for the Community's signing. Any such decision could be taken directly before the deadline on 9 December 1984.
10. For this reason the Commission recommends:
  - (i) that the preparatory work on the definition of the Community's competence should be resumed within the Council bodies;
  - (ii) that the draft policy statement to be made when the Convention is signed should be examined and updated;
  - (iii) that the Member States inform each other in good time of any envisaged change in their positions, especially if they plan signing the Convention before 9 December 1984, so that the Council can decide, if need be, that the Community should sign the Convention. Such a decision would have to be taken at the latest at the Council meeting scheduled for 26-27 November.