The Law of the Sea after Montego Bay

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THE MONTEGO BAY CEREMONY

On December 10, 1982, 119 States\(^1\) signed the United Nations

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1. The signatories were the following:

**African Group:** Algeria, Angola, Burundi, Cape Verde, Chad, Congo, Djibouti, Egypt, Ethiopia, Gabon, Gambia, Ghana, Guinea-Bissau, Ivory Coast, Kenya, Lesotho, Liberia, Mauritania, Mauritius, Morocco, Mozambique, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Uganda, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Zambibia, Zimbabwe.

**Asian Group:** Bahrain, Bangladesh, Bhutan, Burma, China, Cyprus, Democratic People’s Republic of Korea, Democratic Yemen, Fiji, India, Indonesia, Iran, Iraq, Kuwait, Lao People’s Democratic Republic, Malaysia, Maldives, Mongolia, Nauru, Nepal, Pakistan, Papua New Guinea, Philippines, Singapore, Solomon Islands, Sri Lanka, Thailand, Tuvalu, United Arab Emirates, Vanuatu, Viet Nam, Yemen.

**Eastern European Group:** Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

**Latin American Group:** Bahamas, Barbados, Belize, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Grenada, Guyana, Haiti, Honduras, Jamaica, Mexico, Panama, Paraguay, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay.

**Western European and Others Group:** Austria, Australia, Canada, Denmark, Finland, France, Greece, Iceland, Ireland, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, Sweden.

Namibia, represented by the United Nations Council for Namibia, and the Cook Islands as a self-governing associated State with full competence to enter into treaties in respect of matters governed by the Convention, also signed. U.N. Dep’t of Pub. Information, Press Release SEA/514, at 2 (Dec. 10, 1982).
Convention on the Law of the Sea (Convention). They represented all regions of the world, all legal and political systems, highly industrialized nations and all degrees of development in Africa, Asia and Latin America. They included States with long coastlines, States that are described as geographically disadvantaged with regard to ocean space, archipelagic States, large and small island States, nations whose companies have invested in research and development related to seabed mining and nations that produce within their territories the same minerals that can be found in the seabed.

Never in the history of treaty-making has such a large and varied number of countries signed a convention on the day it was opened for signature. The number of signatories exceeded the most optimistic expectations and surprised those who had predicted that it would be difficult to obtain on the first day the fifty signatures that were required to convene the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea. The Montego Bay meeting was remarkable also because of the level of representation and the substance of the statements made by 121 delegations.

On December 10, 1973, nine years to the day before the Convention was signed, Ambassador Hamilton Shirley Amerasinghe, the late president of the Conference, announced an agreement that was reached with great difficulty concerning the distribution of seats in the general committee, the three main committees and the drafting committee of the Conference. On that occasion, he stated that this had been made possible by the spirit of cooperation and understanding shown by all concerned. That announce-

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2. Eight States were represented by their Prime Minister or Deputy Prime Minister; six States were represented by the Attorney General or Minister of Justice; fourteen States were represented by their Foreign Minister; and twenty-two States were represented by Ministers of other portfolios or Vice-Ministers. UN-CLOS Signing Ceremony, Montego Bay, Jamaica (Dec. 6-10, 1982) (text as delivered to the Secretariat, U.N., pending issue of official records).

3. Nauru, a small island-State in the Pacific, was represented by its president, Hammer DeRoburt, whose moving statement reflected the importance of the new legal regime for the subsistence and development of the 10,000 inhabitants of his nation:

That is why we will always be grateful to the United Nations for having made it possible, through such a body as this, for us to legislate for a tract of the sea around our island that will be internationally recognized to a defined extent and to claim as our own and to exploit and fish that area for the economic well-being of our people. That opportunity has in turn given rise to aspirations on our part to embark upon the creation of a fishing industry, to fish that zone we have delineated by law—as we think other, neighbouring countries have done or are doing.


ment was the first evidence that the Conference could work by consensus and could make every effort to accommodate the broad variety of interests represented.

The Conference indeed worked painstakingly for nine years in search of a consensus, bearing in mind that all matters pertaining to ocean space are interrelated and need to be treated as a whole. It had to devise novel procedures that were sometimes lengthy and cumbersome, but were designed to allow different interests to find common ground in the face of specific issues on the basis of informal texts. As Secretary-General Javier Perez de Cuellar stated at the closing ceremony in Montego Bay:

> The new law of the sea thus created is not simply the result of actions and reactions on the part of the most powerful countries but the fruit of the determination of an overwhelming majority of nations... which came together bringing a wind of change at the universal level. ... The Conference has produced some basically non-doctrinal decisions, free from partisan creed. Its decisions ultimately derive more from a pragmatic reconciliation of interests than from a collection of doctrines. ... It is my hope that States, when contemplating their sovereign decision whether to sign and ratify the Convention, will be guided by this approach followed by the Conference and will thus leave mythology aside in their own decision-making.5

**The Beginning of a New Era**

Most authorities agree that the Convention having been adopted and signed, the law of the sea and international law in general will never be the same.6 The first question that most legal scholars are trying to answer concerns the position of States which have not signed the treaty and are not likely to ratify it by the time it enters into force, or, in other words, what will be the law of the sea for non-parties. According to Jennings, “whatever else that ‘other’ law may be, it will certainly not be the customary international law of the sea that existed at the commencement of the conference.”7 There is no question that customary law has been developing during the past nine years, that the Conference contributed to that process and that the Convention reflects practice and opinion regarding the uses of ocean space and the rational exploitation of its resources.

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7. Id. at 353.
It has been suggested that most provisions of the Convention, including those parts dealing with navigation and overflight, reflect prevailing international practice and, therefore, can be invoked by non-parties as representing new customary international law.\(^8\) This view does not seem to command broad support. In fact, most statements made in Montego Bay reflect the opposite view. In his opening statement, the president of the Conference, Ambassador T.T.B. Koh of Singapore, said:

> Although the Convention consists of a series of compromises, they form an integral whole. This is why the Convention does not provide for reservations. It is therefore not possible for States to pick what they like and disregard what they do not like. In international law, as in domestic law, rights and duties go hand in hand. It is therefore legally impermissible to claim rights under the Convention without being willing to assume the correlative duties.\(^9\)

This view was shared by the vast majority of those who made formal statements before the signing of the Final Act. The Deputy Prime Minister and Secretary of State of External Affairs of Canada, for example, expressed the following in his statement:

> The Convention sets out a broad range of new rights and responsibilities. If States may arbitrarily select those they will recognize or deny, we will see not only the end of our dreams of a universal comprehensive Convention on the Law of the Sea but perhaps the end of any prospect for global co-operation on issues that touch the lives of all mankind. We must not—we cannot—allow that to happen. The Law of the Sea Convention, and the Convention alone, provides a firm basis for the peaceful conduct of ocean affairs for the years to come. It must stand as one of the greatest accomplishments of the United Nations and worthy of the support of every nation.\(^10\)

The Attorney-General of the United Republic of Tanzania elaborated on the same point when he stated:

> We cannot afford to choose what to take and what to reject, for that would simply mean undoing the treaty. We are going to sign this Convention on Friday with that understanding, and we appeal to those who are faced with a temptation to dissociate themselves from this momentous product of collective endeavor to resist such a temptation.\(^11\)

The delegate of Fiji expressed a similar point of view:

> To attempt to rationalize that parts of the Convention are simply customary international law, and thereby to separate them from others, is to ignore the fact that what was customary international law has been clarified or modified and that if such provisions were preserved it was done as a quid pro quo for other provisions. Any selective use of the Convention, therefore, will be not only inappropriate but also unacceptable.\(^12\)

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12. Id. at 28-30 (statement of Satya Nandan, delegate of Fiji).
Minister Gouzhenko of the Soviet Union took the same approach:

[O]ne cannot adopt a selective approach to the norms of international law. The Convention is not a basket of fruit from which one can pick only those which one fancies. As is well known, the new comprehensive Convention on the Law of the Sea has been elaborated as a single and indivisible instrument, as a package of closely interrelated compromise decisions.\textsuperscript{13}

The delegate of Suriname emphasized that:

If they are to be taken seriously in future global negotiations, the major industrialized States cannot simply pick up their marbles and walk away just because they have not got everything they might have wanted.

The Convention is a compromise document prepared in the course of lengthy and arduous negotiations. All States had to make concessions during those negotiations. The States that fail to adopt the treaty should not entertain the misguided hope that the Convention will just evaporate.\textsuperscript{14}

Similarly, the Austrian delegate emphasized that he could not imagine a separation of rights and duties within the framework of the Convention.\textsuperscript{15}

Similar statements were made by, among others, the delegates of Mexico, Cameroon, Australia, Brazil, Finland, Sri Lanka, Kenya, Colombia, Chile, Barbados, Sierra Leone.\textsuperscript{16} All of these statements reflect a generally-held view that State practice has developed not only by the process of assertion and response, but also as a consequence of intensive negotiations that consistently took into consideration not only the rights of States but corresponding duties as well.

It is worth mentioning that the terms "duty" and "obligation" were unknown to or ignored by publicists and codifiers of the law of the sea until rather recently. It has been said that traditional law of the sea evolved around the concept of freedom of navigation, an expression linked with the concept of a narrow belt of territorial sovereignty based on the cannon-range from the coast, that served to disguise the expansion of maritime empires.\textsuperscript{17}

\textsuperscript{16} U.N. Doc. A/CONF.62/PV.185, at 58 (1983) (Mexico); \textit{id.} at 38 (Cameroon); U.N. Doc. A/CONF.62/PV.187, at 38-40 (1983) (Australia); \textit{id.} at 17 (Brazil); \textit{id.} at 22 (Finland); \textit{id.} at 69-70 (Sri Lanka); \textit{id.} at 52 (Kenya); \textit{id.} at 93 (Colombia); U.N. Doc. A/CONF.62/PV.189, at 11 (1983) (Chile); U.N. Doc. A/CONF.62/PV.192, at 89-90 (1983) (Barbados); \textit{id.} at 96 (Sierra Leone).
\textsuperscript{17} J. Dupuy, \textit{L'océan PARTAGé} 11 (1979).
follows that States were not willing to impose on themselves duties that would curtail their freedom.

The term "duty" appeared in the context of law of the sea for the first time in 1956 in the heading of article 16 of the draft articles prepared by the International Law Commission but was promptly deleted and did not appear in the convention that was adopted in 1958. The new Convention, by contrast, contains expressions of duty and obligation throughout the text. For every right recognized for the coastal State, the port State, the flag State, the landlocked State and the State applying for a plan of work in the seabed area or sponsoring a potential operator, there are countervailing obligations and duties.

The balance of rights and duties is further emphasized in article 300 of the Convention:

States Parties shall fulfill in good faith the obligations assumed under this Convention and shall exercise the rights, jurisdiction and freedoms recognized in this Convention in a manner which would not constitute an abuse of right.

Rights and obligations were seen as so inextricably linked that States agreed to settle any dispute between them concerning the interpretation and application of the Convention, in some cases through compulsory procedures entailing binding decisions and in other cases by submitting disputes to conciliation. This machinery for dispute settlement is obviously not available to countries that chose not to become parties to the Convention.

The question of whether non-parties can benefit from the Convention does not, therefore, lend itself to an easy answer. As the Committee on the Law of the Sea of the American branch of the International Law Association has stated, certain important rights sought and claimed by a non-party in areas such as freedom of navigation cannot be considered fully secure.

Different provisions of the Convention which recognize freedoms to all States require that States with a particular geographical situation fulfill

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21. Id. art. 300.
22. Id. art. 286.
23. Id. art. 284.
certain obligations or abstain from practices that would hamper those freedoms.\textsuperscript{25} Most jurists would find it difficult to accept that a non-party could invoke those treaty provisions that contain specific obligations against a party to the Convention. The same would also be true where the Convention calls on a State to promptly release a vessel upon the posting of a reasonable bond\textsuperscript{26} or where it enjoins a coastal State to grant its consent for marine scientific research projects provided certain conditions are met as defined in the treaty.\textsuperscript{27} A closer examination of these problems by international lawyers, diplomats and scholars is not likely to offer more precise answers.

**THE COMMON HERITAGE**

The question of what will be the law of the sea for non-parties is even more difficult to answer in connection with the exploration and exploitation of the seabed and its resources beyond the limits of national jurisdiction. The principle that such resources are the common heritage of mankind has now been confirmed by a treaty signed by an overwhelming majority of nations, broadly representative of the international community, a treaty which is likely to enter into force in the not-too-distant future.

The idea that there were goods in the oceans that could belong to the indivisible patrimony of humankind and should not be marked with individual seals of ownership was first suggested, in recent times, by the eminent Latin American jurist, Andrés Bello.\textsuperscript{28} A few decades later, a French jurist, A.G. de Lapradelle, made a similar suggestion and added that such resources should be administered by a society of nations.\textsuperscript{29} Most European jurists dismissed this idea as a notion that was not in the interest of the maritime powers, but the concept surfaced again in 1958 in a statement made by Prince Wan Waithayakon of Thailand, the president of the First United Nations Conference on the Law of

\textsuperscript{25} See U.N. LOS Convention, supra note 20, art. 42, para. 2 (laws and regulations enacted by a State bordering straits shall not “have the practical effect of denying, hampering or impairing the right of transit passage”); id. art. 44 (“States bordering straits shall not hamper transit passage”).

\textsuperscript{26} Id. art. 292, para. 1.

\textsuperscript{27} Id. art. 246, paras. 1, 3, 5.

\textsuperscript{28} A. Bello, Principios de Derecho Internacional 35 (Libererria Hermanos Gernier, 1882).

\textsuperscript{29} A.G. de Lapradelle, Le Droit de L'Etat Sur La Mer Territoriale, 5 Revue Générale de Droit International Public 309-47 (1898).
the Sea. But it was only when an awareness developed that the manganese nodules in the seabed could become a new source of supply of nickel, manganese, cobalt and copper for those industrialized nations that could not mine the same minerals within their own land territories, that lawyers began to examine new approaches that would enable investors in seafloor mining to acquire exclusive rights with regard to specific mining sites in the seabed. It became clear that traditional concepts of *res nullius* and *res communis* could not provide the necessary political and legal climate that would encourage investments in research and development for the mining of the oceans' riches. This may explain why the common heritage approach was advocated by President Johnson of the United States in 1966, when the General Assembly of the United Nations adopted the Declaration of Principles, was reaffirmed by President Nixon in 1970 and was the basis upon which all negotiations took place throughout eleven sessions of the Law of the Sea Conference.

It is therefore clear that when Ambassador Pardo of Malta suggested in 1967 that those resources should be treated as common heritage, and when the General Assembly adopted the Declaration of Principles, there was no suggestion that, in the absence of a treaty, those resources could be treated as *res nullius* through a nimble application by analogy of the traditional principle of freedom of the high seas. It is difficult to accept that a Convention supported by a vast majority of the international community can co-exist with another legal regime that would give access to deep seabed resources on the basis of either the *res nullius* or the *res communis* doctrine.

It is equally difficult to argue that there is an international cus-

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34. See Statement by the President, United States Ocean Policy, 6 WEEKLY COMP. PRES. DOC. 677 (May 23, 1970).
35. The United States, as is well known, was represented successively by Ambassador John R. Stevenson, Under-Secretary Carlyle E. Maw, Ambassador T. Vincent Learson, Ambassador Elliot L. Richardson and Ambassador James Malone. For a narrative regarding the United States position throughout the years, see Van Dyke and Yuen, "Common Heritage" v. "Freedom of the High Seas": Which Governs the Seabed?, 10 SAN DIEGO L. REV. 493 (1982).
37. See supra note 33.
tom, as evidence of a general practice accepted as law, that would enable any nation to engage in mining activities in the seabed. Furthermore, most legal authorities in the various political systems would not support the idea that the traditional freedom of the high seas extends to the living and non-living resources found in the high seas. Any such claim would be contradicted by customary law as well as treaty law. Resort to quotations by Hugo Grotius, taken out of context, likewise do not provide any legal basis from which to argue for the coexistence of two incompatible legal high sea regimes.

Only a treaty of universal acceptance can give a nation or a private entrepreneur sponsored by a nation a valid right to explore and exploit a specific portion of the seabed, if seabed mining is to take place under international law. A Convention has been adopted that gives the international community a regime and the machinery to explore and exploit the common heritage, taking due account of the diversity of interests that could be affected by seabed mining activities. That regime, however, needs to be implemented in a manner that will give greater certainty to the rights and duties of all parties concerned. In order to make that possible, the Conference has decided to establish a Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea.

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39. When Grotius published his dissertation on the freedom of the high seas, H. Grotius, Mare Liberum (1608), his purpose was not to examine questions pertaining to the exploitation of coastal fisheries or to the extraction of minerals from the seabed. He was only trying to give legal arguments to reaffirm the right of the Dutch to take part in the East Indian trade and in order to make his point, he elaborated at some length on the impossibility of applying the doctrine of acquisition by prescription to the sea with regard to navigation and trade. In passing, he noted that forests and rivers could be easily exhausted or depleted while the sea could not be emptied by the same means. Had he been faced with the fact that fisheries or mineral resources of the seabed can, in fact, be depleted or that the marine environment can suffer damage from over-exploitation or from the use of noxious substances, it is highly possible that he would have suggested that man treat the marine environment with the same care and diligence that a prudent father is called upon to exercise with regard to the preservation and sharing of the family heritage.

Resolution I\textsuperscript{41} which was adopted together with the Convention, establishes a mandate for the Preparatory Commission which departs substantially from the traditional pattern for bodies of its kind. Only States-signatories of the Convention can participate in the making of decisions, while those which signed the Final Act will be entitled to participate as observers.

In addition to drafting rules of procedure for the Assembly, the Council, the Economic and Planning Commission and the Legal and Technical Commission that have been established under Part XI of the Convention, the Preparatory Commission will have to draft rules, regulations and procedures on conditions of prospecting, exploration and exploitation to be submitted to the Authority and to be applied transitionally by it, pending approval.\textsuperscript{42} This is equally true of rules, regulations and procedures on financial management and the internal administration of the Authority.\textsuperscript{43} The Commission will also have to make recommendations regarding the Enterprise, including different operational options, project formulations, staffing requirements, choice of technologies and projection of financial requirements.\textsuperscript{44} It will also have to undertake studies and make recommendations on problems which would be encountered by developing landbased producers, including studies and recommendations on the establishment of a compensation fund. In the drafting of those rules and regulations, the Preparatory Commission will have to make some decisions that could well affect the acceptability of the new regime for those countries that would have to bear the largest financial burdens or for those whose companies would have to make commitments with regard to seabed mining technology.

In drafting the rules of procedure of the Assembly, for example, the Preparatory Commission will have to determine the procedure for establishing an agreed scale of assessment.\textsuperscript{45} Such scale of assessment will apply to the administrative budget of the Authority. The Assembly's rules will also have to provide for criteria and factors for the funding necessary to enable the Enterprise to explore and exploit one mine site, to transport, process and market the minerals recovered therefrom and to meet the internal administrative expenses.\textsuperscript{46}

\textsuperscript{41} Id.
\textsuperscript{42} Id. para. 5(g).
\textsuperscript{43} Id.
\textsuperscript{44} Id. para. 8.
\textsuperscript{45} U.N. LOS Convention, supra note 20, art. 160, para. 2(e).
\textsuperscript{46} Id. para. 2(f)(ii).
As another example, in drafting the rules, regulations and procedures on conditions of prospecting, exploration and exploitation the Preparatory Commission will have to establish criteria to determine whether a technology used by a contractor or an equally efficient and useful technology can be found on the open market on fair and reasonable commercial terms and conditions.\textsuperscript{47} It will also have to establish regulations and procedures for the Authority to determine whether a disclosure of information pertaining to technology is contrary to the essential interests of the security of a State Party.\textsuperscript{48}

But the Preparatory Commission will have a more immediate task to perform: in accordance with resolution II\textsuperscript{49} which governs preparatory investments in pioneer activities relating to polymetallic nodules, France, Japan, India, the USSR or a State enterprise of each of those States and the four private seabed mining consortia whose components possess the nationality or are effectively controlled by Belgium, Canada, the Federal Republic of Germany, Italy, Japan, the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States, are recognized as pioneer investors, provided they have expended certain minimum amounts prior to January 1, 1983.\textsuperscript{50} Developing States are given the same opportunity if they have met the same expenditure requirements prior to June 1, 1985.\textsuperscript{51}

In order to be registered as a pioneer investor and, therefore, enjoy the exclusive right to carry out preparatory activities in a specific mine site, the pioneer investor has to be certified by a signatory of the Convention. States-signatories which intend to certify a pioneer investor must ensure that areas in respect of which applications are made, do not overlap with one another or with areas previously allocated as pioneer areas. If such conflicts have not been resolved by March 1, 1983, the prospective certifying State must arrange for the submission of all such claims to binding arbitration not later than May 1, 1983 and to be completed by December 1, 1984.\textsuperscript{52} Resolution II provides that a pioneer investor

\textsuperscript{47} Id. Annex III, art. 5, para. 3(a).
\textsuperscript{48} Id. art. 302.
\textsuperscript{50} Id. para. 1(a)(ii).
\textsuperscript{51} Id. para. 1(a)(iii).
\textsuperscript{52} Id. para. 5(c).
may alter its nationality and sponsorship from that prevailing at
the time of its registration as a pioneer investor to that of any
State Party to the Convention which has effective control over the
pioneer investor.\textsuperscript{53}

Within six months upon entry into force of the Convention the
Authority must approve applications for plans of work and give
production authorizations to any pioneer investors that have met
the requirements laid down by the Convention.\textsuperscript{54} In order to im-
plement this novel method of protecting preparatory investments
compatible with the Convention, the Preparatory Commission
will have to adopt rules and procedures regarding receipt,
processing and registration of applications, processing of informa-
tion on the resolution of conflicts with respect to overlapping
claims, designation of reserved and pioneer areas, performance
requirements including periodic expenditures.

In order to preserve the balance between the role of the pio-
nears and that of the Enterprise, resolution II enjoins pioneers to
carry out exploration at the request of the Commission in areas
that will be reserved for the Enterprise, on the basis that the
costs so incurred plus interest shall be reimbursed.\textsuperscript{55} It also pro-
vides for training at all levels for personnel designated by the
Commission and makes it mandatory for certifying States to per-
form obligations relating to the transfer of technology and the
funding of the Enterprise.\textsuperscript{56}

It is conceivable that the Convention may enter into force upon
its ratification by sixty countries long before the first seabed min-
ing operator is ready to embark on actual exploitation of the mine
site. The question of the functioning of the Enterprise will only
become relevant if and when nations and private investors are
ready to finance their own undersea mining projects. In other
words, if large investments in seabed mining on one side of the
so-called "parallel system" become feasible, the Enterprise is
likely to become a rather attractive partner, at least for some
stages of a seabed mining project.

It is therefore clear that the Preparatory Commission could well
become the forum where solutions can be found in a pragmatic
way to enable seabed investors and the Enterprise to begin com-
mercial recovery in a manner acceptable to all parties concerned,
if and when the metal market conditions can justify the substan-
tial investments needed. In that sense the work of the Prepara-

\textsuperscript{53} Id. para. 10(c).
\textsuperscript{54} Id. para. 8.
\textsuperscript{55} Id. para. 12(a)(i).
\textsuperscript{56} Id. para. 12(a)(ii)-(iii).
tory Commission will largely determine the flexibility of seabed mining.

The unique role of the Preparatory Commission was recognized in a number of declarations made in Montego Bay. Austria, for instance, felt that much would depend on the faithfulness to the principles of consensus and comprehensiveness of approach.\textsuperscript{57} Canada stated that if the Preparatory Commission adopts a realistic and pragmatic attitude, the future is assured.\textsuperscript{58} Chile also thought that the future of the Convention would greatly depend on how the Commission proceeded.\textsuperscript{59} Colombia urged that the Commission work to facilitate universality rather than make it more difficult.\textsuperscript{60} In France's view, imperfections with regard to technology transfer and the financing of the Authority should be corrected by the Commission when it drafts the rules, regulations and procedures for the future mining system.\textsuperscript{61} Italy thought the Commission should take a pragmatic approach in ironing out difficulties with regard to seabed mining.\textsuperscript{62} Norway expressed a belief that the Commission's work may be crucial in making the Convention universal.\textsuperscript{63} Uruguay thought the Commission could play a role in that regard by the broad use of its powers.\textsuperscript{64}

CONCLUSION

The Montego Bay signing ceremony\textsuperscript{65} seems to have given all nations a clear message. It has proven that the United Nations can be an effective forum for the negotiation of complex issues, and that when given the choice, nations large and small prefer to operate under the rule of law to reconcile conflicting interests and settle their disputes by peaceful means.

It is hoped that the work of the Preparatory Commission will enable those States that still have misgivings regarding the new

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\begin{enumerate}
\item \textsuperscript{57} U.N. Dep't of Pub. Information, Press Release SEA/514, at 9 (Dec. 10, 1982).
\item \textsuperscript{58} Id.
\item \textsuperscript{59} Id.
\item \textsuperscript{60} Id.
\item \textsuperscript{61} Id.
\item \textsuperscript{62} Id.
\item \textsuperscript{63} Id.
\item \textsuperscript{64} Id.
\item Historians should record the fact that the additional expenditures connected with the holding of the signing ceremony in Montego Bay were defrayed by the government of Jamaica, whose generous hospitality made that meeting a most memorable occasion.
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\end{footnotesize}
legal regime to reexamine their position, not by applying to every treaty provision the worst-case analysis method, but by accepting that other nations can discharge their obligations in good faith and exercise their rights in a manner which would not constitute an abuse of right. The experience gained in the nine years of negotiations justifies that hope.