

PART A

Chapter 4: INTERNATIONAL LAW AND CONCEPTS OF RIGHTS

Law of the sea

The tenth session of the United Nations Conference on the Law of the Sea (LOS), which took place in New York from March 9 to April 24, 1981, and in Geneva from August 3 to 28, 1981, was somewhat disappointing and not as productive as had been hoped. After seven years of negotiations, delegations had unanimously agreed that the New York session in March and April would be the last. However, on the eve of the session, the government of the United States announced that owing to a change of Administration, it was not prepared to conclude negotiations in New York and that it would be reviewing the whole LOS negotiating text which raised "serious" problems for it. The United States advised delegations that its review would not be completed until the autumn of 1981 and that it would not be in a position to participate in the negotiations until after that time. However, the conference was able to make some progress at the tenth session and resolve some outstanding questions. The most significant achievement was near universal agreement on a new formula intended to resolve the long-outstanding issue of the maritime boundary delimitation of the exclusive economic zone and the continental shelf between adjacent or opposite states. After many years of negotiation the two opposing interest groups (one favouring equidistance, of which Canada was a member, the other favouring equitable principles) were finally able to agree on a compromise text. The new formula received widespread support and was included in the revision of the draft convention. It provides that delimitation should be effected by agreement on the basis of international law as referred to in Article 38 of the Statute of the International Court of Justice in order to achieve an equitable solution.

At the Geneva session, the LOS conference decided that Jamaica would be the site of the International Seabed Authority, and that Hamburg, Federal Republic of Germany, would be the site of the International Tribunal for the Law of the Sea.

During the Geneva session, the conference also focused on some of the concerns of the United States Administration regarding the LOS convention. While the US review was not yet completed, the USA thought it would be useful to obtain the reactions of other delegations to some of the problems they had identified with the LOS text. Ambassador Malone, the head of the US delegation, indicated that the USA had fundamental problems with eight areas of the seabed mining provisions of the convention which were the focus of the US review:

- 1) Decision-making process in the International Seabed Authority;
- 2) Composition and voting of the Council;
- 3) Discouragement of seabed mining through production policies;
- 4) Need for unrestricted access to seabed resources;