COMMEMORATION OF THE 20th ANNIVERSARY OF THE OPENING FOR SIGNATURE OF THE 1982 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA
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Statement
By
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Mr President,

We celebrate today a Convention which has achieved unprecedented success in promoting peace and good order in the oceans.

I would like to pay tribute to my colleagues and friends who participated in the Third United Nations Conference on the Law of the Sea, the Seabed Committee which preceded it, the Preparatory Commission which followed the Conference, and in the negotiations for the Agreement for the implementation of Part XI of the Convention.
But for their dedication to the cause of achieving a universally acceptable convention, we would not be here today to celebrate the 20th Anniversary of the adoption of the Convention and its opening for signature. Indeed it is their individual and collective efforts over long years that we celebrate today. I am pleased to recognize the presence in this Assembly of many of my colleagues and friends from the Conference. We are honoured by their presence. It would be remiss of me not to remember on this occasion those who are unable to be with us here today and also to remember especially those who are now deceased. I would also like to acknowledge the contributions of the dedicated secretariat of the Conference and the Office of the Special Representative of the Secretary-General for the Law of the Sea – now the Division of Ocean Affairs and the Law of the Sea.

Mr President,
The Third United Nations Conference on the Law of the Sea and its legislative and institutional outcomes have made an important and undeniable contribution to the rule of law over the past twenty years.

For centuries, it was assumed that the sheer vastness of the oceans, and their apparently inexhaustible productivity, exceeded human capacity for use and abuse. It is only in the last century that we have begun to realize, as rapid advances in science and technology increase our understanding of the vulnerability of ocean processes, that the old assumptions are no longer valid.

It is against this background that we must measure and evaluate mankind's attempts to establish a public order for the oceans through the rule of law. The function of the law of the sea has long been recognized as that of protecting and balancing the common interests of all peoples in the use and enjoyment of the oceans. Whereas historically the oceans were claimed for the exclusive use of a small number of states, we have seen that the more general community interest in the use of the oceans resulted in the pre-eminence for several centuries of the principle of freedom of the seas for use by all. In more recent history, the predominant factor in the law-making process has been the economic interest of states, and the need to accommodate ever-increasing demands for exclusive and comprehensive jurisdiction over adjacent areas of the sea. The disparate unilateral claims that had been generated created chaos in the law of the sea.

The achievements of the 1982 UN Convention on the Law of the Sea are many; but its greatest contribution has been to resolve important jurisdictional questions, some of which had eluded agreement for centuries. The Convention reflects a delicate balance between competing interests

in the use of the ocean and its resources by taking a functional approach in establishing the various maritime zones and the rights and duties of States in those zones.

In reviewing the old law and revising or replacing it where necessary, and by introducing new concepts to meet the needs of the international community, the Convention revolutionized the international law of the sea. It did so through painstaking negotiation on each important issue and through the process of consensus building. The last remaining issue – that relating to the regime for the mining of minerals from the deep seabed – was also resolved by consensus through the adoption by the United Nations General Assembly in July 1994 of the Agreement relating to the implementation of the provisions of Part XI of the Convention.

The result is that, as far as the legal framework is concerned, the Convention is clearly recognized as the pre-eminent source of the current international law of the sea. It is truly a constitution for the oceans in the sense that it sets out the basic structure, or framework, for ocean management. Its norms are precise but it also establishes principles which lend themselves to further development of the law of the sea. In this sense, there is an in-built flexibility which allows for the development of new norms in response to evolving circumstances. Within these parameters, the Convention has created the conditions necessary for resolving the contemporary problems of ocean management.

There will always, of course, be practical problems associated with the implementation of the provisions of the Convention as well as areas in which further progress needs to be made within the framework of the Convention. Some of the most pressing current issues include the problems of burden-sharing among users of straits used for international navigation, the need to deal with the problems of illegal, unregulated and unreported fishing and equitable sharing of the benefits of marine scientific research. This Assembly will have the opportunity to consider some of those issues further tomorrow.

The Convention established a number of institutions with specific mandates, including the International Seabed Authority, the International Tribunal for the Law of the Sea and the Commission for the Limits of the Continental Shelf. All the institutions established by the Convention are now functioning. Despite the controversies that surrounded Part XI of the Convention, the International Seabed Authority has established itself as a credible, cost-effective and efficient organization. In 2000, the Authority adopted, by consensus, regulations for prospecting and exploration for polymetallic nodules. These regulations, which are highly practical in nature and reflect the current realities of deep sea mineral exploration, completed and gave effect to the regime laid out in Part XI and Annex III of the Convention and in the implementation agreement. Their adoption also enabled the Authority to issue to the seven former registered pioneer investors fifteen-year contracts for exploration, thus finally bringing the pioneer investors within the single and definitive regime established by the Convention and the Agreement. Perhaps more significantly, through its programme of scientific and technical workshops, the Authority has also firmly established a role for itself as a forum for cooperation and coordination of marine scientific research in the Area, thus giving effect to the frequently over-looked, but very important, principle which is contained in article 143 of the Convention.
In the last few years, as international attention has focused more on sustainable use of the oceans, there has been concern at the apparent proliferation of organizations and bodies with overlapping responsibilities for ocean affairs and the prospects for fragmentation in approaches to ocean management at the national, regional and global levels. While it was never intended by the framers of the Convention that there should be a legislative institution to review and give effect to the provisions of the Convention in the same manner as, for example, the climate change and biodiversity conventions, the General Assembly has taken note of these concerns and has sought to address them through measures such as the informal consultative mechanism. Whether these measures are sufficient, or need to be reinforced, is a matter that needs to be

kept under constant review if we are to avoid the erosion of the delicate balance between rights and duties of States that have been carefully woven together into the Convention.
The world we live in today is very different from the world of 1982. Many of the problems we face now could not have been anticipated in 1982. Nor, when we adopted the Convention, could we have foreseen the rapid developments in international environmental law that have taken place, including, for example, the growing entrenchment of the precautionary appproach to ocean management, and the increasing pressures on national, regional and global institutions in general.

Notwithstanding these developments, the Convention has proved to be resilient and adaptable to changing circumstances. Slowly, but surely, it has earned its place as one of the great achievements of the international community. Its universal acceptability is to be seen in the number of States Parties and in the remarkable uniformity with which the Convention is applied in State practice even by those not yet parties. Its influence goes beyond the confines of the law of the sea. It has established itself as part of the global system for peace and security, of which the Charter of the United Nations is the foundation.

Unlike its predecessor instruments on the law of the sea the 1982 Convention is an instrument that will endure. Its comprehensive nature and the delicate balance it has achieved in the competing uses of the oceans assure this. It provides stability and certainty in international law of the sea and introduces equity and responsibility in the use of the oceans and their resources. Together with related instruments it will provide the framework for ocean governance well into the future.

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