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Chairman: Mr. Otto R. BORCH (Denmark).

AGENDA ITEM 40 (*continued*)

Reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction and use of their resources in the interests of mankind, and convening of a conference on the law of the sea: report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction (A/9021, A/C.1/1035)

1. Mr. GEHLHOFF (Federal Republic of Germany): Since this is the first time I take the floor in this Committee, I should like to begin by thanking you, Mr. Chairman, for the kind words of welcome you addressed to my delegation in the opening meeting of this Committee. My delegation is very happy to participate in the work of this important body of the Assembly and I wish to assure you of our full co-operation in every respect. We are particularly pleased to see you, Sir, in the chair. As observers we have already had ample opportunity to appreciate your wisdom, personal integrity and expertise which will not doubt benefit us also in our future work.

2. The item we are discussing is of such an importance to the international community that we have felt obliged at all times to follow as best we could the preparatory work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. I take this opportunity to pay tribute to its Chairman, Mr. Amerasinghe of Sri Lanka, for the outstanding part he played in taking us, thanks to his skilful and enlightened leadership, to where we now stand, that is to the very threshold of the Third United Nations Conference on the Law of the Sea.

3. As far as procedural questions are concerned, I want to confine myself to expressing the opinion of my delegation that the time has come indeed for convening the Conference according to the schedule proposed by the General

Assembly at its twenty-seventh session in its resolution 3029 A (XXVII). We feel that the preparatory committee has, under the circumstances, gone as far as it could to give delegations the possibility to state their positions in all their diversity. It has submitted working papers and drafts, and last but certainly not least, laid the very foundations of the Conference by drawing up a list of subjects and issues¹ with which we shall deal in formulating a new law of the sea. We feel that at this stage a conference of plenipotentiaries will provide the only chance of making further progress towards the urgently needed redefinition of maritime law. I shall in due course turn again to procedural matters, since I too feel that they are of paramount importance at this stage of our deliberations.

4. As I said before, we have been following as best we could the work of the sea-bed Committee, but we had no right so far to explain our position within the framework of the United Nations to all those who were interested and, to be sure, entitled to know our position. We are grateful indeed that at yesterday's meeting, you, Mr. Chairman, and delegations invited us as a new Member of the United Nations to voice our opinion on matters of substance.

5. The rapid development which took place in the past decade, especially in the fields of science and technology, has made it possible for mankind to use the seas on a scale which no one could have foreseen. The Federal Republic of Germany has always considered it a great and lasting achievement of the United Nations that it should have recognized this development and, from the second half of the 1960s onward, have tackled the task of directing it into the proper channels in accordance with the purposes and principles of the Charter. This involved much more than the codification of existing rules of international law, the real task being the comprehensive regulation of the uses of the sea and the ocean floor.

6. The Government of the Federal Republic of Germany gladly avails itself of this opportunity, which it now has as a State Member of the United Nations, to co-operate also in this great task of the United Nations. It regards this as an historic mandate to be fulfilled in the political, economic and scientific fields in a spirit of peaceful co-operation. The Federal Government shares the view of the United Nations that the oceans are the common heritage of mankind. This concept is both the starting point and the guiding line of our work. It will have to be reflected in the order to be established for ocean space. This order will also have to take into account the fact that a large part of the world population, if not mankind as a whole, depend for their

¹ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 para. 23.

livelihood on the sea as a navigation area and on marine resources as a means of subsistence. We therefore regard the future international regulation of the uses of the sea partly as a continuation of well-tried principles of maritime law and partly as a new set of rules which take into account the possibilities and requirements of the present and the future.

7. This perspective reveals tasks for both industrialized and developing countries to be solved in fruitful co-operation. The industrialized countries which have at their disposal today the technology for the use of the sea and the ocean floor will have to realize that the possibilities thus offered imply an obligation to use them without discrimination also for the benefit of the developing countries. Through their constructive co-operation in the establishment of an order governing the use of marine resources, the economically weaker countries will be in a position to share in the use of those resources already at a time when they do not yet dispose of the technological means to do so. The question of how soon and in what way the vast resources of the sea will come to be an important factor also for the development of the countries of the third world, will depend on the willingness of industrialized and developing countries to co-operate.

8. The Federal Government enters this field with the best of intentions. The principle of the freedom of the seas, enforced with great difficulty over the centuries against the shipping monopoly of a few large seafaring nations, has paved the way for the development of navigation and thus for the world-wide economic relations of today. It laid the foundations for the development of marine research and for the use of the high seas for fishing purposes. But in order to maintain the freedom of the seas also in these fields which are of vital importance for the community of nations, it is necessary to introduce a legal régime for both new and traditional, yet intensified, forms of marine exploitation. This régime must take into account the common interest of mankind in the smooth conduct of sea navigation, in the scientific research of the sea and the ocean floor, in the best possible use and equitable distribution of marine resources as well as in the protection of the marine environment.

9. Given today's interdependence of all national economies, any disturbance of overseas trade has immediate repercussions on the national economies of all countries. Freedom of navigation should therefore be a matter of great importance to all concerned. The same applies to the unimpeded passage through straits.

10. Freedom of the seas also serves the purposes of scientific research. Research ships from many countries, including the Federal Republic of Germany, have contributed over many years to scientific research of the seas. This work should be continued and intensified on a national and international scale. Freedom of scientific research of the seas should therefore be limited only in so far as it conflicts with the exclusive right of individual States or the preferential lawful uses of the seas.

11. The concept of scientific research must be clearly defined. Marine research depends in particular measure on international co-operation. This applies both to the participation of coastal States and the transfer of research

findings and marine technology to the countries of the third world.

12. The Federal Republic of Germany is one of those States which have for a long time engaged in distant fishing and have adjusted their supply of fish accordingly. We therefore consider it one of the primary tasks of the international law of the sea to bring traditional fishing in remote areas into line with the growing demands of coastal States within the framework of regional arrangements.

13. The territorial waters delimit international ocean space, that means the common heritage of mankind and, thus, the freedom of the seas. Coastal States have an interest in coastal sea areas and the international community, especially land-locked and shelf-locked countries, has an interest in safeguarding that common heritage to the greatest possible extent. Both interests must be reconciled. Unilateral measures to extend national jurisdiction represent an infringement of that common heritage and cannot be reconciled with the general rules of international law and the joint efforts of the States here assembled to create a new régime for the seas.

14. The preferential economic rights of coastal States to the resources of the continental shelf are an established part of the existing régime for the uses of the seas and have already been embodied in the 1958 Geneva Convention on the Continental Shelf.² The point will be to bring about a reasonable geographic delimitation between the exploitation rights of coastal States, on the one hand, and the international sea-bed zone, on the other, bearing in mind the interests of the developing countries. That question should be regulated by an international régime in consistent application of the principle of the common heritage of mankind.

15. The Federal Republic of Germany supports the efforts to establish an effective international machinery for the sea-bed. It will be the task of such a machinery to protect the common interests of all peoples in the resources of the international ocean space and to make the economic benefits derived from marine resources accessible to the developing countries as well. To this end, the machinery will have to rely on the political co-operation and support of as large a number of States as possible. Its structure should be such as to enable it to function effectively and also to generate funds which will be available for promoting general progress, especially in the countries of the third world.

16. The best way of attaining that aim seems to be for the machinery to promote the use of the most modern marine technology and to levy an adequate charge thereon, without itself assuming the economic risks of deep-sea mining.

17. However, the international ocean space is used not only as a navigation area or as a raw material reserve; the sea is also an essential part of our environment and as such has to be protected against detrimental influences. The Federal Government expressly welcomes the efforts already being made, either spontaneously or through the initiative

² United Nations, *Treaty Series*, vol. 499, No. 7302, p. 313.

of international institutions, to protect the marine environment. It will support these efforts wherever possible. Since this is an ever-growing task of world-wide dimensions, there is not only the need for an effective international control of marine pollution but also for a willingness on the part of all States to assume obligations and to enforce them with regard to their own citizens. The results already achieved in international arrangements should be taken as the basis of all efforts to establish regional or world-wide standards for the protection of the marine environment. The Federal Government is fully aware of the difficulty of reconciling the requirements of marine protection with the freedom of the high seas and in particular with that of navigation.

18. Before its admission to the United Nations, the Federal Republic of Germany had not been able to take an active part in the work of the sea-bed Committee to prepare the Third United Nations Conference on the Law of the Sea. However, it has followed with keen interest the work of that Committee and has welcomed all progress made by it. We reaffirm our readiness and intention to co-operate in the Conference and in its final preparation. We share the hope that the Conference will take place according to schedule, after clarification of important procedural questions. We particularly hope that the Conference will usher in an era of stability regarding the uses of marine resources on the basis of a comprehensive international régime for the benefit of all States.

19. The CHAIRMAN: I thank the representative of the Federal Republic of Germany for his kind remarks addressed to me.

20. Since no other representative wishes to speak at this point, perhaps I can discuss with the Committee how best to pursue our work for the next two or three days.

21. I understand that the group of Latin American States held its first consultative meeting this morning. I am told that it feels the need to hold a further consultative meeting that will presumably not take place today but possibly will tomorrow. I wonder whether either the Chairman of the sea-bed Committee or the Chairman for this month of the regional groups would advise the Committee on the progress being made with regard to those informal consultations, so that this Committee may most usefully organize its work to meet the wishes of the regional groups and of the Chairman of the sea-bed Committee for continued informal consultations.

22. At the same time, I would be interested in hearing if there are other representatives who, like that of the Federal Republic of Germany, would like to utilize either today or tomorrow morning for more general statements also touching upon substance; that, I think, is an invitation particularly extended to those who have not had an opportunity before to express themselves on substance—and I still hope that we can limit it to that group of countries.

23. If we could have that information from the floor, we might perhaps better be able to organize our work. For one thing, I want to mention that it would be a little strange if I went ahead and organized meetings here that would make it difficult for the regional groups to have their consultative

meetings while at the same time nothing much went on in the Committee itself.

24. I wonder whether the Chairman of the sea-bed Committee might perhaps advise the Committee about the progress that is being made and then, on the strength of his remarks, whether we could come to some kind of conclusion?

25. Mr. AMERASINGHE (Sri Lanka): I share your concern, Mr. Chairman, that we are not making the best use of the time available to us. I should have very much liked to hear from the Chairmen of the regional groups what progress they have made with their consultations within the groups, because I am awaiting their first reactions before calling the next meeting of the Consultative Committee, which, as you know, consists of the contact groups of the various regional groups. It is only after the next meeting that I shall be in a position to put forward in a formal manner a draft resolution which this Committee might consider. I think it is imperative that the draft resolution should be settled on and submitted not later than tomorrow evening, so that we shall have the whole of Thursday and Friday to consider it. I do not think that the matters raised in it are very controversial, or that there is any serious divergence of opinion, and I shall make every effort to eliminate all controversial points and help you, Sir, to complete the work of the Committee on this item by Friday, as scheduled.

26. The CHAIRMAN: I have just been informed that the group of African States will meet after the end of this meeting and that the group of Asian States is planning to meet today. I have no concrete information about the group of West European and other States and the group of East European States. I wonder whether there is information to be given at this stage, because otherwise I think we should now, if we work on the assumption of Mr. Amerasinghe that the draft resolution will be brought to the Committee by Wednesday evening, concentrate on the consultative efforts on Tuesday afternoon, Wednesday morning and/or Wednesday afternoon, and schedule a meeting of the First Committee only if there are representatives who, for particular reasons, would like to make more general statements to the Committee.

27. If there are no such speakers, I think we might adjourn until Thursday morning, allowing the whole of this afternoon and the whole of Wednesday for the groups to consult, on the clear understanding that we are not preventing anybody from speaking who wants to speak and that these free periods this afternoon and tomorrow will be fully utilized in order to accommodate the Chairman of the sea-bed Committee in his wish to be able to present a draft resolution by Wednesday evening.

28. Mr. AMERASINGHE (Sri Lanka): May I suggest that if there are any speakers for tomorrow morning the time left over might be given to Consultative Committee meetings, and that even if there are no speakers there should in any case be a Consultative Committee meeting because it would help us, even if all the groups have not met, to cover more ground and make some progress.

29. The CHAIRMAN: That is a good suggestion. Should we agree, then, that we cancel this afternoon's meeting,

allowing the groups to get into action today, and that we schedule a meeting for tomorrow morning just in order to give anybody who may wish to speak an opportunity to address the Committee? If I hear no objection, I shall take it that that is the desire of the Committee.

It was so decided.

30. I hope it will also be the desire of the Committee to pursue the consultations so that we may have the draft

resolution before us at our meeting on Thursday morning. As you know, we are working under a fairly tight time schedule, not only for the period immediately ahead of us but for the whole period until the end of the First Committee's session this year. It is therefore much to be desired that we should finalize the sea-bed matters either on Friday afternoon or, if necessary, on Monday afternoon.

The meeting rose at 11.05 a.m.