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66th Plenary meeting

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He expressed the hope that such meetings would be frequent and organized on a regular basis, so that in the four remaining working weeks the Conference would be able to reach an agreement which would command the widest possible support with regard to the question of the settlement of disputes.

47. Mr. DRISS (Tunisia) inquired when the document in question would be available and whether it would be possible to submit suggestions and amendments to the text. His delegation acted as co-ordinator of the Group of 77 which it would have to consult on certain issues. He accepted in principle the proposal by the President regarding negotiating procedure. However, he would like to see sufficient time made available for the submission of proposals, since the item under consideration was highly controversial and he foresaw a need for much consultation.

48. The PRESIDENT said that he would announce the date by which he felt he would be able to submit the new text after consultations with the Chairmen of the three Main Committees. Furthermore, he would wish to meet the Chairmen of the various working groups in order to have their views, if possible, by the end of the week, but later if more time were required.

49. Mr. BAROODY (Saudi Arabia) wished to know whether delegations which had not been able to or had not wished to participate in all the informal meetings would have an opportunity of submitting informal amendments to the new negotiating text.

50. The PRESIDENT assured him that they would. He noted that there was general agreement among delegations that, taking into account the comments and observations submitted to him both in the plenary and as a result of informal meetings, he should prepare a new single negotiating text on the settlement of disputes which would have the same nature as the three texts submitted by the three Main Committees respectively.

It was so decided.

51. The PRESIDENT also noted that all delegations were agreed that with regard to that text, the same negotiating procedure as for the three other texts should be adopted.

It was so decided.

The meeting rose at 1 p.m.

66th meeting

Monday, 19 April 1976, at 10.45 a.m.

President: Mr. H. S. AMERASINGHE (Sri Lanka).

Peaceful uses of ocean space: zones of peace and security

1. The PRESIDENT recalled that the first reference to the question had been made in General Assembly resolution 2467 (XXIII), which established a Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. In resolution 2750 C (XXV), the General Assembly had reaffirmed the mandate of that Committee and had decided to convene a Conference on the Law of the Sea. In its resolution 3067 (XXVIII), the General Assembly had decided that the mandate of the Conference should be "to adopt a convention dealing with all matters relating to the law of the sea, taking into account the subject-matter listed in paragraph 2 of General Assembly resolution 2750 C (XXV) and the list of subjects and issues relating to the law of the sea formally approved on 18 August 1972 by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole". The list of subjects and issues had subsequently been adopted by the Conference itself.

2. It was clear therefore that any treatment of the question of the "Peaceful uses of ocean space: zones of peace and security" could not be divorced from the international negotiations being undertaken in the field of disarmament or from other measures adopted by the United Nations to ensure that the arms race, and in particular nuclear competition, should not spread beyond the outer limit of a sea-bed zone which had been strictly defined. Similarly, with regard to the declaration of zones of peace, it was essential that the measures adopted by different organs and bodies of the United Nations on the same subject should be properly co-ordinated, so as to avoid inconsistent provisions.

3. The deliberations of the Conference of the Committee on Disarmament, the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Sub-Soil Thereof, in resolution 2660 (XXV), the Declaration of the Indian Ocean as a zone of peace, in resolution 2832 (XXVI), the establishment of a nuclear-weapon-free zone in the South Pacific dealt with in resolution 3477 (XXX) and proposals for the establishment of similar zones elsewhere should therefore be borne in mind in the course of the debate.

4. To the extent to which Members of the United Nations had committed themselves on courses of action in regard to disarmament, the denuclearization and demilitarization of the sea-bed with the establishment of zones of peace, they had imposed on themselves certain limitations on the action they might take within the Conference on the Law of the Sea.

5. Mr. BÁKULA (Peru) said it should not be forgotten, when the highly important question of the peaceful uses of ocean space was examined, that the mandate of the Conference was to work out a global convention dealing with all aspects of the law of the sea, not only the utilization of natural resources, pollution, scientific research, the transfer of technology and similar questions, but also the activities that might affect the peace or security of States and the provisions reserving the international area of the sea-bed and high seas exclusively for peaceful purposes. The objections put forward by the representatives of certain States to the effect that the Conference was not competent to examine that question were unfounded. The Conference was clearly competent to do so by reason of the mandate entrusted to it by the General Assembly and of its own decision to include the question on its agenda. Furthermore, the Conference was bound to adopt provisions to ensure that States should act peacefully, not only in the international area of ocean

space, but, with all the more reason, in areas under the national jurisdiction of other States. The delegations opposed to the examination of the question had asserted that there was no need to include in the convention any specific provisions on the subject since there were other forums such as the Conference of the Committee on Disarmament which dealt with questions concerning international peace and security. Anyone who had participated in meetings of the Conference of the Committee on Disarmament, or who had followed its work, knew very well that it had failed, in the 15 years of its existence, to find satisfactory solutions to the problems it had dealt with. That was in no way surprising since it was not a universal organ applying United Nations procedures but had a very special system of its own, with the two super-Powers acting as co-chairmen and holding private negotiations. For that reason, the main contribution of the Conference of the Committee on Disarmament with regard to ocean space had been the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Sub-Soil Thereof beyond the 12-mile limit, which in no way excluded the possibility of the emplacement of such weapons within that limit or the emplacement of conventional weapons both in the area subject to the national jurisdiction of States and in the international area of the sea-bed.

6. That fact alone was enough to show how important it was that the United Nations Conference on the Law of the Sea, in which representatives of all States were participating, should assume the responsibility placed upon it and determine the necessary principles and measures which would ensure that ocean space was used for peaceful purposes, in accordance with the wishes and interests of all peoples of the world.

7. The sole negotiating text,[1] which would be the basis of the future convention, introduced fundamental changes in the old rules on the law of the sea which should put an end to practices that were harmful to the conservation and utilization of biological resources in the new areas under national jurisdiction and would make possible the joint exploitation of the ocean floor in the interests of mankind as a whole. Thanks to the institutions that were being projected, it would be possible to apply to the seas and oceans the principles of international social justice and to promote the development and prosperity of peoples at levels which so far had been reached only by the most industrialized nations.

8. The convention would be incomplete if the aims of justice, development and prosperity were not combined with the aims of international peace and security.

9. Although those questions were related and there would never be peace without justice and prosperity for all, it was not enough to establish provisions for an equitable redistribution of resources and to promote scientific research and pollution control if the obligations of States to refrain from activities that might prevent the enjoyment of all the rights provided were ignored. Needless to say, the principle of freedom of the seas had served throughout the centuries as a pretext for countless abuses. It was enough to learn the lessons of history and avoid making the same mistakes. The peoples of the world wished more than ever to live in peace and their representatives participating in the Conference must therefore do their utmost to ensure that those aspirations were not disappointed.

10. It was precisely for that reason that in 1971 the representatives of the developing countries had proposed an examination of the question under discussion, with special reference to zones of peace and security. The idea of establishing such zones, first in the Indian Ocean on the initiative of the Government of Sri Lanka, then in Africa, the Middle East and the South Pacific, reflected the legitimate concern of the countries of those regions to keep the latent antagonism of the great Powers from degenerating into a conflict in the marine zones near their shores. Unfortunately, the resolutions adopted by the General Assembly to that effect had not been respected and in certain sectors the world was witnessing an open deployment of naval forces and the installation of new military bases, with all the dangers which that represented in the nuclear age. During the discussions of the Second Committee, the representatives of those Powers had, without giving reasons, consistently opposed the amendments submitted by various delegations to ensure the peaceful behaviour of States. Thus it had been proposed that the single negotiating text specify the acts from which foreign ships and aircraft must abstain in passing through straits serving international navigation and forbid the installation of facilities for other than economic purposes in areas under national jurisdiction without the express authorization of the coastal State. Those examples clearly showed that whenever an attempt was made to apply the principle of the peaceful use of ocean space one encountered ill-will on the part of certain States.

11. Recently submitted proposals included no provisions for the maintenance of peace in ocean space. They mentioned the basic transformations which had taken place in economic, technological and social areas and their possible effect on the resources of the sea. They affirmed that freedom of the seas remained essential to the security and well-being of most nations and that the economic zone would continue to be a part of the high seas, surprising assertions which met with hardly any support in the Conference. They maintained that the naval forces of coastal States provoked foreign fishing vessels, whereas it was the opposite that happened: foreign vessels made incursions against which the coastal States felt compelled to protect their resources. They criticized unilateral measures without recognizing their cause, although it was measures of that kind that had given rise to the law of the sea and had made its development possible, and certain nations had indicated that in the current situation they were prepared to defend their interests if necessary. They spoke of promoting scientific research in behalf of the peoples of the world while at the same time they wanted to exclude from the convention research on the marine environment conducted from the atmosphere or outer space. They maintained that access to the resources of the sea-bed should favour the economic growth of all countries, but proposed a loose form of machinery which would basically protect the economic interests of the most industrialized nations. As goals of the Conference they cited freedom of navigation, the development of trade, the enrichment of nations, encouragement of scientific research, the exploitation of new sources of production and consumption, co-operation for progress and the like, but did not speak of promoting peace in ocean space or of the means to safeguard it. It was therefore reasonable to wonder whether the participants in the Conference would have the maturity and common sense necessary to advance along the road to peace. It was essential to include in the convention provisions making it possible to establish a peaceful world free from threats, fears and conflicts. It was obvious nothing could be accomplished without the goodwill of countries which were best equipped to change the current trend of international relations. It was also obvious, however, that the world was currently witnessing unexpected upheavals and a shift in political and economic forces.

[1] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IV (United Nations publication, Sales No. E.75.V.10), document A/CONF.62/WP.8.

12. He had presented the essential points which his Government, faithful to the position of principle it had adopted and maintained in various subregional, regional and world forums, felt should be taken into account in studying the question of the peaceful use of ocean space.

13. The PRESIDENT proposed that the list of speakers on the item be closed on Tuesday, 20 April at 5 p.m.

It was so decided.

The meeting rose at 11.15 a.m.

67th meeting

Friday, 23 April 1976, at 10.30 a.m.

President: Mr. H. S. AMERASINGHE (Sri Lanka).

Peaceful uses of ocean space: zones of peace and security *(continued)*

1. Mr. VALENCIA RODRIGUEZ (Ecuador), noting that the three single negotiating texts (see A/CONF.62/WP.8[1]) had referred to the peaceful uses of ocean space, said that the basis for understanding the term "peaceful uses" had been laid down in 1970 in General Assembly resolution 2749 (XXV) and further refined since then. The first important conclusion had been that the principle of freedom of the high seas, to which the great Powers attached much importance since they used the seas for non-peaceful purposes as well, was not a norm of natural law, but was derived from customary law, which never had obligatory force. Hence, the Declaration of Principles Governing the Sea-bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction adopted by the General Assembly in resolution 2749 (XXV), in "recognizing that the existing legal régime of the high seas does not provide substantive rules for regulating the exploration of the aforesaid area and the exploitation of its resources", and in establishing the basis for a new law for the zone, in effect abrogated the customary law principle. Hence, by analogy, there never had existed an international custom with respect to the exploitation of the sea and its resources. All references thereto had always been made by the great Powers in order to exploit them for their own profit and to the detriment of the developing countries. The new law of the sea therefore must define the concept of peaceful uses so as to reconcile the needs and interests of the various States with the international community.

2. It had already been recognized in many international bodies and agreements that the use of the ocean space for exclusively peaceful purposes must mean complete demilitarization and the exclusion from it of all military activities. Unfortunately, the armament race conducted by the great Powers, including the race in nuclear weapons, had been extended to the ocean space and seriously threatened the peace and security of all States, especially the developing ones. Guarantees were therefore necessary to ensure that the exploration and exploitation of the sea-bed take place in accordance with the norms of international law and the provisions and principles of the Charter of the United Nations. The seas could not continue to be an arena for the armament race on which $300,000 million were spent annually and in which 400,000 highly qualified engineers and scientists were employed in military research. The threat or use of force, and the establishment of military installations, fortifications, bases and facilities, as well as nuclear testing, had to be prohibited. The nuclear explosions being conducted on the sea-bed or on the high seas by the great Powers, ostensibly for exclusively peaceful purposes, could easily lead to the development of devices used in the manufacture of armaments, and it was doubtful that such tests were not harmful to health and to the environment. Those tests should cease until more was known about their value.

3. The great Powers claimed that existing international law did not prohibit the use of ocean space for military purposes as long as such use was made with the purpose of fulfilling obligations under the Charter of the United Nations, and that the whole problem fell more within the scope of other United Nations bodies. The efforts of the United Nations in the past 30 years to curtail the armaments race among the great Powers had not, however, been very successful, and to leave the matter to the Conference of the Committee on Disarmament, as the great Powers wished, would produce the same deadlock that had always blocked other questions relating to general and complete disarmament. The United Nations Conference on the Law of the Sea was better equipped than any other body to consider the problem of the peaceful uses of ocean space and to establish clear and precise rules in that area.

4. A particularly important aspect of the violation of the concept of peaceful uses was the kind of economic aggression involved in the extraction of minerals from the sea-bed, which had a particularly adverse impact on developing producing countries because they depend more heavily on those minerals for their export earnings and government revenues than the developed producing countries. Only the developed countries had the resources and technology necessary to extract those minerals, while the developing countries which produced the same minerals were the first to be affected by an extractive process which was not rationally regulated. The secretariat of the United Nations Conference on Trade and Development, in its report on the implications of the exploitation of the mineral resources of the international area of the sea-bed, rightly maintained that "because fewer alternative investment and employment opportunities exist in the developing countries, compared with the developed countries, particularly heavy economic and social costs will be incurred in any re-allocation of resources that may be necessitated as a result of competition from sea-bed production".[2] The continuation of that kind of economic aggression "could have major adverse effects on the export position and prospects of developing exporting countries",[3]

5. Therefore the future convention on the law of the sea must clearly define the concept of peaceful uses and provide guarantees to prevent the ocean space from being used for nuclear confrontation. It must establish special zones of peace and security, with an emphasis on the creation of nuclear-free zones. It also had to establish that the phrase "legitimate uses" must always be "peaceful" ones, thereby

[1] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IV (United Nations publication, Sales No. E.75.V.10).

[2] See document TD/B/C.1/170, para. 13.

[3] *Ibid.*, para. 32.