UNITED NATIONS

GENERAL ASSEMBLY

Distr.
GENERAL

A/AC.135/1/Add.2
14 March 1968
ENGLISH
ORIGINAL: ENGLISH/FRENCH/SPANISH

AD HOC COMMITTEE TO STUDY THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION

NOTE BY THE SECRETARY-GENERAL

1. In addition to the replies of Member Governments under operative paragraph 3 (a) of General Assembly resolution 2340 (XXII), communicated to the Ad Hoc Committee in document A/AC.135/1 and Add.1, the Secretary-General has now received replies from the Governments of Gabon, Saudi Arabia, Colombia, Denmark and Italy.

2. The substantive parts of these replies are reproduced in the present document, in the order in which they were received, for the information of members of the Committee.

GABON

[Original: French]
7 March 1968

... the Government of the Gabonese Republic has no observation to make on the text of General Assembly resolution 2340 (XXII) and expresses the hope that a coastal country of central Africa will be included among the members of the Ad Hoc Committee.

SAUDI ARABIA

[Original: English]
7 March 1968

1. The term "beyond the limits of present national jurisdiction" shall mean not only the subsoil of territorial waters but also such cases as are permissible by traditional practices as well as by international agreements which may extend national jurisdiction beyond the subsoil of territorial waters.
2. The rights of the coastal State shall be observed whether such rights are actually being exercised or whether for some valid reason the exercise of these rights is temporarily suspended.
3. The coastal State shall have priority rights in cases where the subsoil lies beyond its national jurisdiction in accordance with the aforementioned reservations regarding the exploitation of the underlying resources for the benefit of mankind.
4. In the event whereby the coastal State shall exploit the underlying resources in accordance with the provision of the preceding paragraph 3, the term "for the benefit of mankind" shall mean the benefit of the coastal State, which does not conflict with the benefit of the international community.
5. The exploitation of the aforementioned potential resources of the sea-bed and the ocean floor and the subsoil thereof shall not jeopardize the interests of the coastal State in any way nor threaten its security. Furthermore, such exploitation shall not infringe upon the right of the coastal State to take all the necessary measures to safeguard its sovereignty.

COLOMBIA

/Original: Spanish/
11 March 1968

... the view of the Colombian Government on the subject... is the view expressed in the discussion on this item in the First Committee of the General Assembly, as may be seen in the published record (A/C.1/PV.1528) of the meeting held on Tuesday, 14 November 1967, at 3.30 p.m.

One must anticipate the situations that might result from a lack of effective norms to prevent certain scientifically and technologically advanced nations from unilaterally exploiting immense resources which are the common heritage of mankind.

The invention of echo-sounding devices and specially designed submarines for scientific exploration of the sea-bed will make possible better and faster investigations of the mineral reserves in the subsoil of the sea-bed and will enable those Powers which have already achieved startling technological and scientific advances to undertake the exploitation of assets which must not be exploited unilaterally since, as has been rightly said, they are mankind's common heritage.

Colombia considers it highly desirable that, before irreversible situations are created, that is to say, before - as is not unlikely - unilateral exploitation of the mineral and natural resources of the ocean floor and subsoil beyond the limits of present national jurisdiction is begun, a study should be made of an international legal system to regulate this complex subject. Of course, it would not be prepared to make any commitment that would entail any restriction of the rights of the High Contracting Parties recognized by the Conventions on the Law of the Sea signed at Geneva.

A decision as important, in Colombia's view, as the possible adoption of a legal system to govern the exploitation of the natural resources of the ocean floor and subsoil would be the allocation of the profits from such operations to strengthening the economies of the developing countries.

DENMARK

/Original: English/
13 March 1968

Preliminary remarks

Denmark finds that one of the main tasks of the Ad Hoc Committee should be to define the geographical area to be comprised by a future international régime relating to the exploitation and reservation for peaceful purposes of the sea-bed and the ocean floor and the subsoil thereof. Resolution 2340 (XXII) of the General Assembly refers to the sea-bed and the ocean floor, and the subsoil thereof, "underlying the high seas beyond the limits of present national jurisdiction". For the purpose of determining the scope of this term it is necessary to have regard to those rules of international law which delimit the areas subject to national jursidiction. In addition to the territorial sea, the continental shelf is relevant in this context. Under the terms of the Convention on the Continental Shelf, signed in Geneva on 29 April 1958, a coastal State exercises sovereign rights for the purpose of exploring and exploiting the natural resources of the sea-bed and subsoil of the maritime areas "adjacent to the coast.... to a depth of 200 metres, or beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas".

Under this definition the question is, what areas could reasonably be considered as being "adjacent to the coast", and furthermore, at what depths it is technically possible to exploit the resources of the sea-bed and subsoil. Neither of these criteria is sufficiently precise, and it may be necessary to adopt an additional criterion, such as a certain distance from the coast, in order to define what areas are beyond national jurisdiction.

As any such definition inevitably will affect the area of application of the Continental Shelf Convention, it may be found necessary to open the procedure of revision under art. 13 of that convention.

The question of the delimitation of areas of the Continental Shelf between neighbouring countries is not particularly important in this context, but the following information may nevertheless be given:

/...

In accordance with the principles of the Convention of the Continental Shelf, Denmark has entered into bilateral agreements with the below-mentioned countries on the delimitation of the continental shelf in the North Sea and the Skagerrak.

1. Agreement of 9 June 1965, between Denmark and the Federal Republic of Germany relating to the delimitation of the continental shelf between the two countries in the coastal area in the North Sea.

2. Agreement of 8 December 1965, between Denmark and Norway relating to the delimitation of the continental shelf between the two countries in the North Sea.

3. Agreement of 3 March 1966, between Denmark and the United Kingdom of Great Britain and Northern Ireland relating to the delimitation of the continental shelf between the two countries in the North Sea.

4. Agreement of 31 March 1966, between Denmark and the Netherlands relating to the delimitation of the continental shelf between the two countries in the North Sea.

5. Protocol and special agreement of 2 February 1967, for the submission to the International Court of Justice of a difference between Denmark, the Netherlands and the Federal Republic of Germany relating to the delimitation of the continental shelf in the North Sea.

As regards the waters adjacent to other parts of the Danish coast, Denmark holds that the Geneva Convention of 29 April 1958, by its contents - and as in the case of the North Sea - is applicable to the whole area of the Kattegat and the Baltic Sea, the depth of which at no point exceeds 200 metres.

As for the areas of the North Atlantic Ocean adjacent to the coasts of the Faroe Islands and Greenland, the Geneva Convention applies, pursuant to Article 1, only to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of exploitation. In this case, the question of delimiting the applicability of the Convention will therefore arise in respect of the areas to be covered by a future régime, if any.

The sovereign rights of Denmark with regard to exploration and exploitation of natural resources in that part of the continental shelf which belongs to Denmark pursuant to the Geneva Convention are set out in a Royal Decree of 7 June 1963. In this connexion, reference is made to the Note of 24 January 1968, from the Ministry of Foreign Affairs of Denmark to the Secretary-General of the United Nations

with which a survey was enclosed of laws and other regulations in force in Denmark concerning the continental shelf.

Principles of a future régime

In the opinion of Denmark, the establishment of the following principles should be considered in the formulation of an international régime for the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction:

No State may validly purport to subject any part of the sea-bed and the ocean floor, or the subsoil thereof, to its sovereignty. Exploration and use shall be free for all States, including non-coastal States, without discrimination of any kind, cf. Article 2 of the Convention on the High Seas, signed at Geneva on 29 April 1958 and Article I and II of the Treaty of 27 January 1967, on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Celestial Bodies.

The areas concerned shall be used exclusively for peaceful purposes, cf. Article IV of the Treaty on Outer Space.

Exploration and exploitation shall be conducted with due regard to the corresponding interests of other States, cf. Article IX of the Treaty on Outer Space.

States shall inform the Secretary-General of the United Nations as well as the public and international scientific community, to the greatest extent feasible and practicable, of any activities conducted on the sea-bed and the ocean floor, and in the subsoil thereof, as well as of the nature of such activities, cf. Article XI of the Treaty on Outer Space.

In order to avoid conflicts between States which intend to exploit the same geographical area, it should be examined whether some system could be devised, under which a State, which has notified the Secretary-General of any intended activity of the nature indicated in a clearly defined geographical area, and which starts carrying out such activity within a certain time-limit, should enjoy a prior right as long as it effectively continues exploiting the area in question.

In order to render any such system effective, and also for more general purposes, it may be found appropriate to lay down that activities for the exploitation of the sea-bed and the subsoil in areas beyond national jurisdiction may only be undertaken by States, by intergovernmental organizations, or by private individuals or companies acting under the authority of a State.

ITALY

/Original: English/
12 March 1968

Preliminary views

1. The Italian authorities have carefully studied resolution 2340 (XXII) adopted by the General Assembly on 18 December 1967 following a proposal of the delegation of Malta on "the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the sub-soil thereof, underlying the high seas beyond the limits of present national jurisdiction and the uses of their resources in the interest of mankind".

Such a study, which is being carried out keeping also in mind the views expressed by Member States at the twenty-second session of the General Assembly, has not been completed due to the importance, diversity and range of the problems which have been raised by the above proposal. Moreover, a preliminary consideration of the problem has demonstrated that an adequate assessment of the questions involved depends upon the preliminary clarification of several points which appear to require further analysis in depth.

The purpose of the present memorandum is to submit a tentative list of the main aspects of the matter upon which - in the opinion of the Italian Government - the attention of the Committee should be concentrated, in the course of its activities and in accordance with its terms of reference.

2. The basic aspects of the matter which, in view of the Italian Government, ought to be considered by the Ad Hoc Committee are the following:

(a) political aspects: they constitute the very basis of the resolution and appear to require a preliminary political assessment of the whole problem with a view to better organizing the activities of the Committee and to reaching results that are consonant with the purposes of the resolution.

(b) legal aspects: in the first instance it would appear advisable to clarify the enunications contained in the resolution, their meaning and their legal purview. For instance, it would be of importance to define, although in a tentative way, what is intended by the "limits of present nation jurisdiction"; which are the "principles and purposes of the Charter of the United Nations" relevant to the matter; what is the meaning to be attributed in this context to

the expression "peaceful uses"; what is the meaning of the expression "the interest of mankind" which has been used in connexion with the economic exploitation; and the relationship between the scope of the resolution and the rules embodied in the 1958 Geneva Convention on the Continental Shelf.

(c) economic aspects: these are manifold and constitute the most obvious and substantive form of the use of the sea-bed and the ocean floor and of the subsoil thereof.

(d) scientific aspects: on the one hand these aspects are at the basis of any initiative aimed at economic exploitation, while, on the other hand, they constitute a distinct subject of interest as regards the knowledge of the sea-bed and the subsoil thereof and the scientific disciplines connected with such knowledge.

(e) military aspects: they are among the main objects of the original proposal submitted by the Government of Malta at the XXII session of the General Assembly, namely the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof. An analysis in depth of these aspects may be recommended in order to clarify their scope.

3. Another problem which may be submitted to the Special Committee, and to which reference was made in the course of the debates at the XXII session of the General Assembly (among others by the representative of Malta at the meeting in the First Committee) is the question of the protection against pollution deriving from the discharge at sea or in the oceans of radioactive wastes. This is a question of the utmost importance and which is bound in the future to become more and more relevant in view of the high rate of expansion in the nuclear activities by many countries, especially as regards nuclear power plants. Such a question does not necessarily involve the sea-bed and the subsoil thereof (although the waste containers are bound to come into contact with the floor), but concerns rather the problem of the sea and ocean waters. This aspect is therefore somewhat different from the ones that have been mentioned above, which are mainly connected with the use of the sea-bed and subsoil.

4. There exists another aspect of the question which does not seem to have been covered by resolution 2340 (XXII) though it can be related to the aspect concerning the protection against pollution since it involves the waters rather

than the sea-bed and subsoil; namely the "flora" of the seas and of the oceans. Surveys conducted by a number of experts in the field and published in a vast number of technical studies testify to the importance of this problem as far as the future food needs of mankind are concerned. It could be useful to consider the opportunity of including this problem among the matters to be studied by the Committee, both for the sake of obtaining a more detailed investigation and in view of the potentialities that this so far unexploited resource may present.

5. Finally, within the framework of these preliminary analyses, it could be useful to undertake a study as to the differences in the scope of the resolution as applied to the bed and the subsoil of the enclosed seas on one hand and, on the other hand, to the sea-bed and subsoil of open seas and oceans.

It is a well known fact that, in international law, the rules governing the waters are not uniform and often take into account specific factors. It might be advisable to study whether and to what extent special factors - and which ones - should be taken into account also in dealing with the sea-bed and ocean floor, and the subsoil thereof.

6. The Italian Government is of the opinion that the above list, although of a preliminary nature, may provide material for the Committee to discuss, from a political as well as from a technical viewpoint, before it proceeds to organize its work aimed at providing "an indication regarding practical means to promote international co-operation" in this field as requested by General Assembly resolution 2340 (XXII).
