



**ASIAN-AFRICAN LEGAL
CONSULTATIVE COMMITTEE**

**REPORT OF TWENTY-THIRD, TWENTY-FOURTH
AND TWENTY-FIFTH SESSIONS
HELD IN TOKYO (1983) KATHMANDU (1985)
AND ARUSHA (1986)**



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INTRODUCTION

The Asian Legal Consultative Committee, as it was originally called, was constituted in November 1956 by the Governments of Burma, Ceylon, India, Indonesia, Iraq, Japan and Syria to serve as an advisory body of legal experts and to facilitate and foster exchange of views and information on legal matters of common concern among the member governments. In response to a suggestion made by the then Prime Minister of India, the late Jawaharlal Nehru, which was accepted by all the then participating governments, the Committee's name was changed to that of Asian-African Legal Consultative Committee as from the year 1958, so as to include participation of countries in the African continent. The present membership of the Committee is as follows:

FULL MEMBERS: Arab Republic of Egypt, Bangladesh, People's Republic of China, Cyprus, The Gambia, Ghana, India, Indonesia, Islamic Republic of Iran, Iraq, Japan, Jordan, Kenya, Democratic People's Republic of Korea, Republic of Korea, Kuwait, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mongolia, Nepal, Nigeria, Oman, Pakistan, Qatar, Senegal, Sierra Leone, Singapore, Somali Democratic Republic, Sri Lanka, Sudan, Syria, Tanzania, Thailand, Turkey, Uganda, United Arab Emirates and Yemen Arab Republic.

ASSOCIATE MEMBERS: Botswana, and Saudi Arabia.

The Committee is governed in all matters by its Statutes and Statutory Rules. Its functions as set out in Article 4 of its Revised Statutes* are:

- (a) To examine questions that are under consideration by the International Law Commission and to arrange for the view of the Committee to be placed before the Commission; to consider the reports of the Commission and to make recommendations thereon to the governments of the participating States;
- (b) To communicate with the consent of the governments of the participating States, the points of view of the Committee on

* Revised Statutes came into force on 12 January 1987

international legal problems referred to it, to the United Nations, other institutions and international organizations;

- (c) To consider legal problems that may be referred to the Committee by the participating States and to make such recommendations to governments as may be thought fit;
- (d) To exchange views and information on matters of common concern having legal implications and to make recommendations thereon, if deemed necessary; and
- (e) To undertake, with the consent of or at the request of participating States, such other activities as may be deemed appropriate for fulfilment of the functions and purposes of the Committee.

Sessions of the AALCC

The AALCC holds its regular sessions annually by rotation in the various member countries. The Sub-Committees and Working Groups appointed by the AALCC also meet during the inter-sessional periods as and when necessary. The AALCC has so far met in twenty-six sessions. The first session was held in New Delhi (1957), second in Cairo (1958), third in Colombo (1960), fourth in Tokyo (1961), fifth in Rangoon (1962), sixth in Cairo (1964), seventh in Baghdad (1965), eighth in Bangkok (1966), ninth in New Delhi (1967), tenth in Karachi (1969), eleventh in Accra (1970), twelfth in Colombo (1971), thirteenth in Lagos (1972), fourteenth in New Delhi (1973), fifteenth in Tokyo (1974), sixteenth in Teheran (1975), seventeenth in Kuala Lumpur (1976), eighteenth in Baghdad (1977), nineteenth in Doha, (1978), twentieth in Seoul (1979), twenty-first in Jakarta (1980), twenty-second in Colombo (1981), twenty-third in Tokyo (1983), twenty-fourth in Kathmandu (1985) twenty-fifth in Arusha (1986) and twenty-sixth in Bangkok (1987). At the sessions, member countries are represented by high level delegations which have included Chief Justices, Cabinet Ministers, Attorneys-General, Judges and senior officials of the Ministries of Foreign Affairs and of Law and Justice. A large number of non-member Asian and African countries, countries from outside the Asian-African region, United Nations, its agencies and other inter-governmental organisations are usually represented by their legal experts in the capacity of observers at the AALCC sessions. Australia and New Zealand have been accorded permanent observer status.

Relationship with other organisations

As early as 1960 the AALCC had entered into official relations with the International Law Commission which maintains such links with other

regional organisations, like the European Committee on Legal Co-operation and the Inter-American Juridical Committee. The AALCC also maintains official relationship with the various United Nations organs and agencies, such as the United Nations Secretariat, UNCTAD, UNCITRAL, UNIDO, UNHCR, UNEP, ECA, ECE, ESCAP, FAO and IMO. At its thirty-fifth session the United Nations General Assembly by its Resolution 35/2 adopted on 13 October 1980 decided to accord Permanent Observer status to the AALCC in view of the importance of its work. As a result of these arrangements, the AALCC is invited to be represented at all conferences and meetings convened by the United Nations or its agencies in the field of law. The representatives of those bodies also attend the AALCC sessions from time to time.

Apart from the United Nations and its agencies, the AALCC also maintains official relations with various regional organisations and certain specialized inter-governmental organisations. These include the League of Arab States, the Commonwealth Secretariat, the Hague Conference on Private International Law, the International Institute for the Unification of Private Law (UNIDROIT), the Latin American Economic System (SELA), the Inter-American Juridical Committee of the OAS and the European Committee on Legal Co-operation of the Council of Europe.

Training Scheme

A training programme has been established in the AALCC Secretariat since the year 1970 to offer facilities for officers of the member governments to gain experience in research and handling of international law problems by being attached to the AALCC Secretariat for a period of six to nine months. The Commonwealth Fund for Technical Co-operation (CFTC) offers financial grant to officers from Commonwealth member governments in Africa to avail of this internship programme. The scheme has so far been availed of by officers deputed by the governments of Arab Republic of Egypt, Ghana, Iraq, Nepal, Nigeria, Republic of Korea, Syria, Tanzania, Uganda and Yemen Arab Republic.

Overview of the work done by the AALCC

One of the functions assigned to the AALCC at its inception was the examination of questions that were under consideration of the International Law Commission (ILC) and to arrange for the views of the AALCC to be placed before the Commission.

An equally important task entrusted to the AALCC was to consider

legal problems referred to it by any of its member governments and to make such recommendations to governments as it thought fit. This advisory role of the AALCC was particularly important in its early years as the newly independent States in the Asian-African region were faced with many difficult problems having an international legal content and were anxious to take a concerted approach on those issues and for this purpose were keen to be guided by the views of an expert body composed of the leading jurists of the region. As a result, at its inception there were as many as twelve different subjects which the member governments wanted the AALCC to consider. These included questions concerning Restrictions on the Immunity of States in respect of Commercial Transactions; Extradition of Fugitive Offenders; Status and Treatment of Aliens including the Question of Diplomatic Protection and State Responsibility; Dual Nationality; Law of the Sea; Reciprocal Recognition and Enforcement of Foreign Judgments in Matrimonial Matters and Legal Aid.

By the time the AALCC held its third session in Colombo in 1960, it was already in a position to make its recommendations on the question of Diplomatic Immunities and Privileges on which a United Nations Conference of Plenipotentiaries was due to convene the following year. The AALCC's recommendations on this subject not only dealt with the draft articles prepared by the ILC but included certain draft formulations of its own. At the United Nations Conference on Diplomatic Relations held in Vienna in 1961, the AALCC's recommendations on the subject were officially circulated as a conference document, and some of its recommendations were incorporated in the Convention that was adopted at that conference.

For the next three or four years beginning with its Tokyo Session held in 1961, the AALCC's programme of work followed a uniform pattern. It continued to meet annually for a period of two weeks with the participation of eminent jurists from member countries and was able to make substantial progress on the subjects referred to it by the member governments. The AALCC's recommendations on several of these subjects were finalised and reports submitted. Among the various subjects dealt with by the AALCC during this period, particular mention may be made of its recommendations on the question of the Legality of Nuclear Tests adopted at its Cairo Session held in 1964; the Principles concerning the Status and Treatment of Aliens finalised at the Tokyo Session in 1961; and the Principles concerning the Rights of Refugees, adopted at its Bangkok Session in 1966, which paved the way for the United Nations Declaration on Territorial Asylum the following year. The AALCC's recommendations on Legality of Nuclear Tests, which were in the nature of a pioneering work, attracted the attention of the United

Nations and later of the International Court of Justice in the complaint filed before it by Australia and New Zealand against France. Recommendations were also finalised on the question of Immunity of States in respect of Commercial Transactions; Principles for Extradition of Fugitive Offenders; Free Legal Aid; Arbitral Procedure; Dual Nationality; Reciprocal Enforcement of Foreign Judgments, the Service of Process and the Recording of Evidence among States, both in Civil and Criminal cases; and Relief against Double Taxation. In addition, the AALCC at its New Delhi session held in 1967 discussed the merits of the judgment of the International Court of Justice in the **South-West Africa Cases** and the **Status of South-West Africa**. The AALCC also examined the ILC's work on the Law of Treaties; the Law of International Rivers; the Revision of the United Nations Charter; Codification of the principles of Peaceful Co-Existence; and the Law of Outer Space.

A major change in the AALCC's programme of work and the method of its functioning came about in 1969 when it was decided that the AALCC should, in addition to its advisory role to its member governments, assist its member States in the preparations for international conferences of plenipotentiaries convened by the United Nations. The Vienna Conference on the Law of Treaties was the first major law-making conference which was attended by a large number of delegations from the newly independent States of Asia and Africa. Dr. T. O. Elias, who was the Chairman of the Committee of the Whole at that conference and also the Chairman of the Afro-Asian Group, suggested that the AALCC should prepare a study on some of the important questions and arrange for a meeting which would enable the Asian and African delegations to have full and frank exchange of views on the crucial issues on the subject. The Karachi Session of the AALCC held in 1969, on the eve of the second session of the Vienna Conference on the Law of Treaties, was utilized for this purpose and the discussions at that session paved the way for the settlement of the outstanding issues and the successful conclusion of the Convention on the Law of Treaties.

In December 1970, the United Nations General Assembly decided to convene the Third Conference on the Law of the Sea. A suggestion was made that the AALCC should take up this subject with a view to assisting its member governments and other governments of the region in the preparations for the proposed conference, having regard to the significant role played by the AALCC in connection with the Conference on the Law of Treaties. From then onwards, the Law of the Sea has continued to remain a priority item on the AALCC's programme of work as well as the agenda of its annual sessions beginning with the twelfth

session held in Colombo in 1971. The AALCC Secretariat has assisted its member governments and other governments in the region by preparing useful studies and discussion papers. Apart from this, inter-sessional consultations on a regular basis have been carried on through meetings of its sub-committees and working groups.

Almost at the same time as the AALCC addressed itself to the consideration of Law of the Sea, it was felt that it should also include in its programme of activities consideration of legal questions in the field of international trade and development in view of the establishment of UNCTAD and UNCITRAL which were expected to take up on a long-term basis the formulation of the international law and practice relating to such matters. Official relationships were established with these two bodies and a section in the AALCC Secretariat was created to deal with international trade law matters.

Since the legal rules governing international trade had been a product primarily of the industrial nations of Western Europe and consequently oriented to safeguard the interests of their trading communities, it became necessary for the Asian and African States to take an active role in the examination and formulation of such rules under the auspices of the specialised bodies of the United Nations. This was particularly so in the fields of shipping legislation, international commercial arbitration and formulation of uniform laws in regard to international trade transactions. The AALCC's work had, therefore, to be directed towards preparation of studies and papers to assist the countries of this region to play an effective role in the deliberations of organs and bodies like UNCITRAL and UNCTAD as also in conferences of plenipotentiaries that were being convened to draw up conventions or codes of conduct regulating trade law matters. Work of this nature dealt with by the AALCC and its Secretariat has been in relation to the Convention on a Code of Conduct for Liner Conferences adopted in 1974, the Convention on the Carriage of Goods by Sea and the Convention on Contracts for the International Sale of Goods which have been adopted at the plenipotentiaries Conferences held at Hamburg and Vienna in 1978 and 1980, respectively. Preparatory work in respect of the Convention on Liner Conferences had been undertaken by UNCTAD and in respect of Carriage of Goods by Sea and Contracts for International Sale of Goods by UNCITRAL.

Following a proposal that the AALCC should also take up specific issues relating to questions which were of special interest to the region, the AALCC undertook the formulation of model or standard contracts for use in international transactions in regard to commodities and raw materials which are primarily exported from the countries of the region.

It was found that most of the transactions in regard to such commodities continued to be made on terms and conditions drawn up by trading associations and institutions in London and some of the leading centres in Western Europe. Such terms and conditions were heavily weighted in favour of the European buyers and needed to be reviewed in order to have more balanced contractual provisions which would effectively take care of the interests of both the buyer and the seller. After five years of consultations with the governments and trading organisations of the region and the United Nations agencies like the UNCITRAL and ECE, the AALCC was able to evolve two standard contracts, one based on F.O.B. and the other on F.A.S. terms, applicable in respect of such commodities. The C.I.F. model contract form was finalised after another couple of years of efforts in 1980 at the AALCC's Jakarta Session. Steps are now being taken to promote the use of these model contracts so that they can gradually replace the outmoded standard forms drawn up by private trading associations.

Another question of great importance to this region was to find ways and means by which disputes of a commercial nature arising out of trading and other types of private law transactions could be settled expeditiously and through adoption of fair procedures. It was noted that most of the contracts governing such transactions between Asian-African parties including governments and governmental corporations and the parties in other regions provided for settlement of disputes by arbitration under the auspices of chambers of commerce or arbitral institutions located in Western Europe. It was found that the procedures adopted by some of these institutions at times worked inequitably for the developing countries, but their weaker bargaining positions left them with no options but to accept such arbitration clauses. The AALCC had made certain important recommendations in this regard which led to the formulation of a Draft Model Law on International Commercial Arbitration by UNCITRAL as well as to the establishment of two Regional Centres of Arbitration, one in Kuala Lumpur (April 1978) and another in Cairo (January 1979), under the auspices of the AALCC. These Centres are the first of their kind and are unique in the sense that they represent an effort on the part of a group of countries at an inter-governmental level, to provide for the first time a machinery for settlement of disputes on an integrated pattern in regard to international transactions of a commercial nature. The Centres are not merely envisaged to provide facilities for arbitration under their own auspices but their principal functions include several broad-based objectives such as co-ordination of activities of national institutions within the region served by the Centres, providing facilities for *ad hoc* arbitration as also in arbitrations held under the auspices of other institutions; and rendering of assistance in the enforcement of awards.

The Centres have started making their impact and a number of agreements have since been signed that provide for settlement of disputes under the auspices of these Centres. Formal agreements have also been signed with the World Bank's International Centre for Settlement of Investment Disputes (ICSID) for mutual co-operation and assistance between these centres and ICSID.

Agreements have also been concluded for mutual co-operation with several national arbitration institutions such as American Arbitration Association, the Korean Commercial Arbitration Board, the Indian Council of Arbitration, the Japan Commercial Arbitration Association, the Indonesian Commercial Arbitration Board and national arbitration institutions in Australia, Morocco, Spain and Jordan.

The AALCC has also taken steps to sponsor two Regional Seminars jointly with the Secretariat of the UNCITRAL. The first Regional Seminar was held in New Delhi during March 1984 on International Commercial Arbitration; the second entitled "Asian-Pacific Regional Trade Law Seminar" was held in Canberra in November 1984 in association with the Australian-Attorney General's Department.

Since its Jakarta Session held in 1980, the AALCC has embarked on another significant venture i.e., the development of a legal framework for co-operation amongst the member countries in the field of industries in the context of realization of some of the objectives of the New International Economic Order. It was felt necessary to identify the content as well as the areas in which such co-operation was feasible before developing a legal framework. As a follow-up of the Jakarta Session, a two-day Ministerial Meeting on Regional Co-operation in Industries was held in Kuala Lumpur in December 1980 with the object of devising a possible pattern of regional co-operation in the economic field, particularly in regard to industrialization. The important areas for such co-operation were identified to be as follows: (i) Downstream activities in relation to petroleum and gas including processing, transportation and marketing; (ii) Iron and steel and non-ferrous industry; (iii) Engineering and machine tools; (iv) Energy other than petroleum such as coal; and (v) Food and agro-industries. The Ministerial Meeting was followed by a three-day meeting of officials for in-depth consideration of certain specific issues indicated by the Ministerial Meeting.

Another Ministerial Meeting held in Istanbul in September 1981 recommended that medium and small scale projects such as cement, fertilizers and building material plants should be brought within the framework of the required co-operation. The need was emphasized for

exchange of information on industrial policies and plans for industrial development as well as the relevant laws and regulations concerning investments in the region in order to promote joint-ventures. Also recommended was the preparation of general guidelines on a tentative framework for co-operation in industrial projects which could be applicable in collaboration arrangements as well as organization of training programmes in technical and managerial fields.

Progress has been achieved in the matter of exchange of information on laws and regulations in the field of industry investment opportunities as also on training facilities. Fifteen member governments have so far furnished the required information which has been duly circulated. The preparation of draft guidelines for joint venture arrangements in the industrial sector has now been taken in hand.

Another step taken by the Committee towards promotion of the economic co-operation was to bring together prospective investors and representatives of its member governments in periodic dialogues as practical means of promoting investments in the developing countries. The AALCC had arranged two such meetings in New York in 1984 and 1985.

AALCC'S Contribution to the Commemoration of the Fortieth Anniversary of the United Nations

Since 1982, the Committee's work supportive of the efforts of the United Nations has proceeded in three directions, namely:-

- (i) inclusion of certain items and topics under consideration of the United Nations in the work programme of the AALCC;
- (ii) Assistance rendered to governments in their consideration of the agenda items before the Sixth Committee and some of the topics in the humanitarian and economic fields through preparation of briefs and studies by the Secretariat; and
- (iii) Strengthening of the United Nations through promotion, ratification and implementation of major conventions as well as through initiatives for improvement of functional modalities of the General Assembly and other organs including the World Court.

Whilst the work in the first two areas have to be undertaken on a continuing basis, the major work in the third area has been brought to a successful conclusion in the course of the past three years.

In regard to the Committee's initiatives in the improvement of the functioning of the United Nations, attention was initially focussed on the working modalities of the Sixth Committee and in promoting the wider use of the International Court of Justice. At a meeting of the Legal Advisers of the AALCC Member States held in November 1983, an informal paper on the rationalisation of the work of the Sixth Committee was prepared on the basis of discussions at that meeting. This was circulated as an official document of the United Nations during the Thirty-eighth Session of the General Assembly at the request of 76 delegations.* The paper generated wide interest and considerable support during the 39th and 40th Sessions of the General Assembly and the recommendations contained therein were taken into account by the Sixth Committee in formulating its programme of work.

The meeting of Legal Advisers had recommended that the Secretariat should prepare a study on the question of possible wider use of the International Court of Justice under a compromise when the parties so agree and with special reference to the revised rules of the Court on the availability of chamber procedures. The promotion of the role of the World Court was one of the topics that was identified as an item where co-operation between the United Nations and the AALCC might be fruitful. The Secretariat had accordingly prepared a study on the subject and presented it at the Kathmandu Session for consideration of the Committee. The study focussed attention on the advantages to be obtained by using the Court or its special chamber in preference to using ad hoc arbitral tribunals. In accordance with the decision taken at the Kathmandu Session the study was circulated as a General Assembly document** during its fortieth session in 1985 which attracted wide interest. As a further follow-up a colloquium on the future role of the Court was organised at the United Nations Headquarters under the auspices of the AALCC on the 8th of October 1986. The purpose of the colloquium was to provide opportunities for indepth explanation of the available procedure under the revised rules of the Court for resolving disputes in matters referred under special agreements with special reference to hearing of cases by a chamber of the Court at the request of the parties. The colloquium was chaired by the then President of the Court, Dr. Nagendra Singh. It was attended by representatives of nearly 120 governments from all regions of the world. The representative of Tanzania as the then President of the Committee opened the colloquium which was addressed by the then Secretary-General of the AALCC, the Chairman of the Sixth Committee; the Legal Counsel of the United Nations and Judge M. Bedjaoui of the International Court of Justice.

* A/C.6/38/8

** A/40/682

The AALCC Secretariat also prepared a study on "Strengthening the Role of the United Nations through rationalisation of functional modalities with special reference to the General Assembly". The study presented an overall assessment of the functioning of the United Nations over the past 39 years, focussing attention on certain specific matters and issues. An open-ended meeting under the auspices of AALCC was convened in September 1985 at United Nations Headquarters to discuss the modalities for consideration of the suggestions made in the study. Pursuant to the consensus arrived at that meeting and at the request of 52 delegations drawn from all regional groups, the study was circulated as a document of the General Assembly*. Further discussions took place in the meeting of a Working Group which met in New York during April and June 1986 and prepared a set of recommendations on the improvement of the functioning of the General Assembly. That set of recommendations was made available to the Group of High-level Inter-Governmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations and was subsequently circulated as a document of the General Assembly at its forty-first session.**

Report of the Twenty third, Twenty fourth and Twenty fifth Sessions of the Committee.

The present Report contains a review of the work of the Committee at its twenty-third, (Tokyo, 1983), twenty-fourth (Kathmandu, 1985) and twenty-fifth (Arusha, 1986) Sessions. There were as many as thirteen items on the agenda for consideration before these three Sessions. The Committee, however, was able to complete its work on two of these items, namely, Mutual Assistance for the Service of Process, Issue of Letters Rogatory and Taking of Evidence in Civil and Commercial Matters and the Model Drafts on Promotion and Protection of Investments. It also made substantial progress in regard to its work on Exclusive Economic Zone - Optimum Utilization of the Fishery Resources. The present Report contains detailed information concerning these three items. On other items, brief notes have been included to indicate the stage of progress and the direction of Committee's work in these areas.

* A/40/726 and Corr 1, Annex.

** A/41/437.

LAW OF THE SEA

Introduction

The subject "Law of the Sea, including questions relating to the seabed and ocean floor lying beyond the limits of national jurisdiction" was included in the programme of work of the AALCC at the initiative of the Government of Indonesia and had been under its active consideration since its Colombo Session (1971).

In the initial stages the role of the AALCC has been envisaged to be assisting its member governments through preparation of studies and arranging in-depth discussion. Later, however, the AALCC emerged as a global forum for a dialogue between the developing and developed countries through participation of observers at the AALCC's Sessions. The participation of high level experts from all over the world during a period of ten years enabled the AALCC to play a major role. Some of the concepts which found a place in the finally adopted Convention had originated in the deliberations of the AALCC, namely, the exclusive economic zone and archipelagic States.

The AALCC had followed the progress of negotiations before the United Nations Sea-bed Committee and later at the UNCLOS III itself. It had first devoted itself to the consideration of issues such as territorial waters, passage through straits used for international navigation, the exclusive economic zone, the continental shelf, the archipelagic States and fishery resources, since 1976, however, the AALCC mainly focused on issues pertaining to the regime for the international seabed area.

After nine years of protracted negotiations the United Nations Convention on the Law of the Sea was adopted on 30th April 1982. It was opened for signature on 10 December 1982. The Convention will enter into force twelve months after its ratification or accession by sixty States.

At the Tokyo Session held in 1983, the Law of the Sea was one of the main items on the agenda. The discussions centred on a general assessment of the 1982 United Nations Convention on the Law of the Sea and its future implementation. The AALCC Secretariat had prepared a comprehensive Note analysing the implications of the

various provisions of this Convention. In the course of the debate several delegations stressed the need to ensure that the Convention entered into force as early as possible. It was also pointed out that the Convention constituted one integrated whole and did not admit of any partial or selective application. Some delegations emphasised that pending entry into force of the Convention, states which had signed it were expected to act in a manner that would not defeat its object and purpose. A view was expressed that certain principles or rules incorporated in the new Convention should be considered as binding as customary or conventional rules of international law on all States including those which did not ratify or accede to the Convention. The other view, however, was that the Convention could neither have general application after its entry into force nor imply any binding effect before its entry into force. It was explained that, to the extent the Convention codifies the existing international law, it could loosely be said to be binding on non-parties, not because such rules were contained in the Convention but because it was already part of customary international law.

Some delegations expressed their dissatisfaction over certain provisions of the Convention. The delegations from landlocked States were particularly unhappy with the stipulations on their rights and interests in the Exclusive Economic Zone. A few others expressed their concern regarding Part XI of the Convention relating to the Area. It was suggested that the AALCC should involve itself in assisting its member States for implementation of the Convention in the areas such as exchange of information and formulation of modalities and standards.

At the conclusion of the discussion, the Committee approved the future work programme under the following broad heads:-

- i) Steps towards ratification of the Convention;
- ii) Assistance to Governments;
- iii) Undertaking of studies from time to time on specific matters or issues of practical importance to member governments for the purposes of the implementation of the Convention.
- iv) Assistance to governments in regard to the work of the Preparatory Commission (Hereinafter the PREPCOM).

In addition, the Committee also decided that its future work would include the question of practical implementation of the provisions of the Convention on landlocked States both in regard to the right of access (Articles 124 to 132) as also their rights and interests in the living resources of the exclusive economic zones (Article 69 to 72) on the proposal of the delegation of Nepal.

Following the recommendations of the Tokyo Session, the Secretariat drew a programme of work which included preparation of studies on the following topics:

- i) Matters relatable to the work of the PREPCOM;
- ii) Delimitation of the Exclusive Economic Zone and the Continental Shelf;
- iii) Right of Transit for Landlocked States; and
- iv) Determination of the Allowable Catch in the Exclusive Economic Zone.

All the four topics had been placed on the agenda of both Kathmandu and Arusha Sessions. A review of progress that has since been made is given below:-

i) Matters relatable to the work of the PREPCOM

The Secretariat prepared and presented a paper before the Special Commission 2 on Enterprise in March 1984 including the framework for co-operative arrangements and joint ventures between pioneer investors and the Enterprise. Discussions were held between the Secretary-General and the Chairman of the Special Commission on the Law of the Sea Tribunal concerning formulation of the Rules for the Tribunal. Studies were also initiated on other items included in the work programme of the Committee.

At the Second Session of the PREPCOM a proposal was introduced by Austria suggesting the constitution of an agency (Joint Enterprise for Research and Development) as a Joint Venture with the PREPCOM to assist in preparing for the Enterprise. The Secretariat examined the Austrian proposal and submitted its views on legal competence of the PREPCOM to enter into contractual arrangements, including undertaking of financial obligations in the context of the provisions of Resolutions I and II. The Secretariat paper was circulated among member governments in July 1984 prior to the PREPCOM'S Geneva Meeting.

At the Kathmandu Session, some brief comments were made on the progress of the work of the Preparatory Commission during its first two sessions. A view was expressed that the functions of PREPCOM had been carefully and clearly defined so as to avoid any conflict with the substantive functions of the International Sea-Bed Authority and the Enterprise, its operational arm, under the relevant provisions of the Law of the Sea Convention. It was pointed out that the activities intended in the pioneer area were not co-extensive with the activities intended in