The General Assembly at its forty fourth Session adopted Resolution 44/120 at its 81st meeting held on 15 December 1989, with a recorded vote of 137 in favour, 4 against and 14 abstaining.

The preamble section of the resolution recalled the earlier General Assembly resolutions, including Resolution 2832 (XXVI) declaring the Indian Ocean as a Zone of Peace. It reaffirmed that the establishment of Zones of Peace in various regions contributes to strengthening the security of states within such zones and thereby to international peace and security. It also reaffirmed that the achievements of the objectives of the Zone of Peace Declaration would contribute to the independence, sovereignty, territorial integrity and peaceful development of the states of the region. While recognising the continued presence of great powers in the Indian Ocean region, it stressed the need to take urgently practical steps for the early achievements of the Declaration. It also recognised that the creation of a Zone of Peace required cooperation and agreement among states of the region to ensure conditions of peace and security within the area, as envisaged in the Declaration. It noted with appreciation the offer made by the Government of Sri Lanka to host the United Nations Conference on the Indian Ocean at Colombo, from 2 to 13 July 1990. It, however, expressed regret that it was not possible to hold the conference in 1990, as scheduled, inspite of the generous offer of the Government of Sri Lanka.

The substantive part of the resolution contained 11 paragraphs. In paragraph 1, the Assembly took note of the report of the *Ad hoc* Committee on the Indian Ocean. Paragraph 2 reaffirmed full support of the 1971 Declaration. Paragraph 3 reiterated the decision to convene the conference at Colombo as a necessary step for the implementation of the 1971 Declaration of the Indian Ocean as a Zone of Peace. Paragraph 4 renewed the mandate of the *Ad hoc* Committee. Paragraph 5 expressed satisfaction over the progress of work in the *Ad hoc* Committee. Paragraph 6 urged the *Ad hoc* Committee to intensity its discussions on substantive issues and principles. Paragraph 7 requested the *Ad hoc* Committee to hold two preparatory sessions during the first half of 1990 for completion of the remaining preparatory work relating to the conference on the Indian Ocean to enable the convening of the conference at Colombo in 1991 in consultation with the host country. Paragraph 8 requested the Chairman of the *Ad hoc* Committee to continue his consultations on the participation in the work of the Committee by States members of the United Nations which are not members of the *Ad hoc* Committee.

Paragraph 9 requested the Chairman to consult the Secretary-General at an appropriate time on the establishment of a Secretariat for the conference. Paragraph 10 requested the *Ad hoc* committee to submit a full report on the implementation of this resolution at the forty-fifth session of the General Assembly. Finally, paragraph 11 requested the Secretary-General to render all necessary assistance to the *Ad hoc* Committee.

The *Ad hoc* Committee held its meeting from 16 to 20 April, 1990. In three separate *notes verbale* dated 11 April 1990, France, the United Kingdom and the United States informed the Secretary General of the United Nations of their decisions to withdraw from the *Ad hoc* Committee on Indian Ocean, with immediate effect.[2] It was explained that the two considerations which led to their decisions were : First the Principles of Consensus, which had guided the work of the *Ad hoc* Committee since its inception, was broken when General Assembly Resolution 44/120 was put to a vote and 10 out of 11 Western States members of the Committee voted against it or abstained. Secondly, resolution 44/120 called for the convening of a Conference even though the *Ad hoc* Committee had not yet reached an agreement on the matters the Conference would actually discuss.

It was stated that the 1971 Declaration on the Indian Ocean as a Zone of Peace raised serious difficulties, particularly as it referred to great power confrontation in the region without the causes of instability there.[3] Further, it was explained by these States that the decision not to participate in a Conference on the Indian Ocean under the current circumstances was in keeping with the General Assembly Resolution 43/79, since under the terms of that resolution, "*the completion of the Preparatory Work—which specifically implies an agreement on the matters to be discussed at the Conference—must preceed the holding of the Conference.*"[4] It was also noted that the Declaration by the Heads of State or Government of Non-aligned countries at their Ninth Conference held in Belgrade from 4 to 7 September 1989, underscored the importance of participation by the Permanent members of the Security Council and major maritime users of the Indian Ocean in the Indian Ocean Zone of Peace process. However, "*this process will not enjoy the participation of three of* the

2. Notes verbale submitted by France (A/45/215) United Kingdom A/45/213 and the United States (A/45/214).
3. A/45/213.
4. A/45/214.

five permanent members of the Security Council nor, apparently of a significant number of the major maritime users of the Indian Ocean."[5] While France and the United Kingdom stated that their continued participation in a process based on the 1971 Declaration no longer seemed to serve any purpose, the United States categorically stated that it firmly believed that "as long as the Indian Ocean Zone of Peace process continues to be based on the *obsolete* 1971 Declaration on the Indian Ocean as a Zone of Peace, this process will not be viable."[6]

The *ad hoc* Committee at its Meeting held in July 1990 decided to postpone the Conference to 1992, instead of convening it in 1991, as had been decided by the General Assembly Resolution 44/120. It also decided to hold the Conference in several stages, the first of which would focus on modalities and later on substantive issues. It is hoped that the General Assembly at its forty-fifth session would endorse the recommendations made by the *ad hoc* Committee.

Against this background, it would be necessary to initiate consultations with a view to breaking the deadlock. It is unfortunate that inspite of its eighteen years work the *ad hoc* Committee has to face such a deadlock. The decision of the three Permanent members of the Security Council to withdraw from participation in the work of the *ad hoc* Committee may be reasonable on some counts but to question the validity of the 1971 Declaration of the Indian Ocean as a Zone of Peace could not be accepted at any count.

The 1971 Declaration was a significant milestone in the efforts to create a Zone of Peace in the Indian Ocean region. In the subsequent years after the adoption of the 1971 Declaration, in several other regions attempts have been made to establish such *zones of peace* following the example set by the 1971 Declaration on the Indian Ocean. As far as the organisational matters are concerned, a good deal of preparatrory work has already been completed and remaining issues could easily be resolved if there is political will. Concentration of efforts should be on the substantive issues including the agreement on an acceptable date to convene the conference in 1992.

The 20 issues and principles identified by the Working Group provide a good basis for further discussion. Among these 20 issues

5. A/45/215.
6. A/45/214.

and principles, several of them represent well established principles of Internaional Law enshrined in the Charter of the United Nations and subsequently elaborated by numerous resolutions of the General Assembly. As indicated in the brief for the 29th Session many of them are also widely recognised in the international documents such as Bandung Declaration of 1955, Panchshila Principles of 1954 the Charter of the Organisation of Afrian Unity 1961, the ASEAN Declaration of 1967, which have great relevance in the context of the Zone of Peace in the Indian Ocean. Consideration of these pinciples in the context of Zone of Peace in the Indian Ocean would simply involve their reaffirmation and incorporation in the final document as suggested in the earlier brief of the AALCC. There is hardly any need to reopen the discussion or raise any controversy in regard *inter alia* to the following elements.

Element I. *Respect for the Charter of the United Nations and International Legal Obligations.*

(Reference:[7] Article 2 (2) and Article 103 of the United Nations Charter, Principle 10 of the Bandung Declaration. Article II(1)(e) and II (2) of the OAU Charter, Principle 7 of the Friendly Relations Declaration of 1970).

Element 2 : *Respect for national sovereignty, the political independence, the territorial integrity and the inviolability of internationally accepted frontiers of littoral and hinterland States:*

(Reference: Article 2 of the UN Charter, Principle 2 of the Bandung Declaration, Articles III (1) and III (3) of the OAU Charter, Principle 6 of the Friendly Relations Declaration, Articles 1 and 2 of the ASEAN Declaration and Principle 1 of the Pancha Shila).

Element 3: *Refraining from the threat or use of force.*

(Reference: Article 2(4) of the UN Charter, Declaration of the Non-use of force, 1987, Principle 7 of the Bandung Declaration, Principle 1 of the Friendly Relations Declaration, Principle 2 of Panch Shila).

7. Some references are made just to give examples. They are not exhaustive.

Element 4: *Peaceful settlement of Disputes.*

(Reference : Articles 2(3) and 33 of the UN Charter, Manila Declaration of 1982, Principle 8 of the Bandung Declaration, Article III(4) and XIX of the OAU Charter, Principle 2 of the Friendly Relations Declaration).

Element 5: *Right of Self-determination of People under colonial, alien or foreign domination and right of states to determine their own political, social and economic systems.*

(Reference: Article 1(2) of the UN Charter, Article III of the OAU Charter, Principle 5 of the Friendly Relations Declaration, Principle 4 of Panch Shila).

Element 6: *Non-intervention and non-interference in the internal affairs of States.*

(Reference: Article 2(7) of the UN Charter, Principle 7 of the Bandung Declaration, Principle 1 of the Friendly Relations Declaration, Principle 2 of the Panch Shila).

Element 7: *Right of Individual and collective self-defence.*

(Reference: Article 51 of the UN Charter, Principle 5 of the Bandung Declaration).

Element 8: *Freedom of navigation and overflight in accordance with International Law.*

(Reference: Geneva Convention on the High Seas 1958, and Parts III & VII of the United Nations Convention on the Law of the sea, 1982).

Element 9: *Development of Friendly relations between States on the basis of the Charter of the United Nations and taking into consideration the Five Principles of peaceful co-existence.*

(Reference : Friendly Relations Declaration, 1970 and Principle 5 of the Panch Shila).

Element 10: *Promotion of international security through regional and other means.*

(Reference: Declaration on the strengthening of International Security, UNGA Res. 2734 (XXV).

Among the remaining elements, at least seven deal with measures concerning arms limitation and disarmament. Such measures have been under consideration in the United Nations and other international fora. Several treaties, conventions, protocols and declarations at the bilateral, regional or international levels have been adopted.

Establishment of a Zone of Peace in the Indian Ocean region has both regional and global importance. While such a Peace Zone would contribute significantly towards the political and security climate in the region, it would at the same time be an important step towards a comprehensive system of international peace and security.

With regards to the last three elements concerning promotion of co-operation among the States of the Indian Ocean region in economic, scientific, technical and environmental protection matters, the focus would be on the already existing mechanisms in the Indian Ocean region.

Apart from these 20 elements, the crucial issue concerning the demarcation of the boundaries of the zone has been under consideration.

A brief discussion of these elements is set out in the following part.

Element 11: *Halting of great power military/naval confrontation in the zone.*

In order to supplement the efforts of the States of the Indian Ocean region, the two super powers, the USA and the USSR can play a key role. The growing co-operative relationship between them has unfortunately not touched the Indian Ocean. One can think of several measures that could be achieved through negotiations and result in removing rivalry in the region of Indian ocean.

Under an initiative taken way back in 1972 the USA and the USSR agreed on the prevention of incidents in the Indian Ocean and airspace above. Later in 1986, the USSR concluded a similar agreement with the United Kingdom. Further initiatives could be taken to gradually reduce their naval presence in the region by declaring a time-frame within which the naval bases could be dismantled.

The proposal to furnish advance information about the movement of their naval fleets and military exercises in the Indian Ocean deserve consideration. All such measures would make constructive contributions and bridge the gap between the concept of security as interpreted by the *zonal* and *non-zonal States.*

Element 12: *:Halting and reversing the arms-race among militarily significant extra-regional powers, and among littoral and hinterland States.*

The arms race among major military powers both qualitatively and quantitatively has been a matter of great concern. Ironically, instead of providing any security, it has been a source of tension and insecurity. This is particularly true for the Indian Ocean region. The security perception of the non-zonal powers is the cause of insecurity of the littoral and hinterland states.

In order to create a semblance of security, more and more sophisticated arms have been introduced. The cause and effect of such arms race are interlinked and unless measures of self-restraint by both zonal and extra-zonal powers are undertaken, there can be no escape from this danger. Such self restraint could be the first realistic step.

Element 13: *Promotion and adoption of effective measures of disarmament in the Zone within the overall goal of general and complete disarmament.*

In its efforts "*to save succeeding generations from the scourge of war*", the United Nations has been engaged in various measures in the fields of arms control and disarmament. The numerous resolutions adopted by the General Assembly annually, on these matters is an indication of the growing concern of the Member States and the confidence they have reposed in the United Nations.

The goal of general and complete disarmament under effective international control could be achieved only by participation of all States. However, the nuclear weapon states have special responsibility in that regard. Their co-operative attitude could create a conducive atmosphere and yield more positive results. The recently concluded Intermediate-range Nuclear forces Treaty (INF Treaty) between the USA and the USSR although modest, is yet a very constructive achievement. It has far reaching implications well beyond the bilateral relations between the two superpowers.

Elimination of all types of weapons of mass destruction, especially nuclear weapons would be a concrete measure towards the goal of disarmament. Such an achievement, could be made step by step. Among the recent initiatives the Indian proposal submitted at the United Nations Third Special Session on disarmament held in mid 1988, and the USSR proposal for eliminating all nuclear weapons by the year 2000 deserve serious consideration.

Element 14: *Withdrawal of foreign military/naval presence and dismantling of foreign bases contrary to the objectives of the Declaration of the Indian Ocean as a Zone of Peace.*

The presence of foreign military and naval forces either floating or stationed in bases have been a major source of concern for the States of the region. The 1971 Declaration specifically called for withdrawal of such foreign military presence from the Indian Ocean. The deliberations in the *ad hoc* Committee during the last eighteen years on this particular issue could not make any headway. The over emphasis on the strategic importance of the Indian Ocean for the major maritime powers has proved to be the main obstacle.

The USSR and the USA had begun bilateral talks on Indian Ocean in early seventies which were discontinued in 1977-78. Apparently, the crux of the decision to convene the Indian Ocean conference by the United Nations depends on the solution of this complex issue. It is therefore, suggested that as a first step consultations among the major users, which may include the five permanent members of the Security Council and the States having vital interests in the region, should begin in earnest.

The Chairman of the *ad hoc* Committee would be the right person to convene such consultations. The *ad hoc* Committee could in the meantime, discuss the measures to provide guarantees for the preservation of the right of freedom of navigation and overflight for all states irrespective of their zonal of non-zonal status. In this context, it would be important to examine the significance of the United Nations Convention on the Law of the Sea of 1982 and the urgency of its early entry into force. The Convention has so far received 41 of the 60 ratifications required to bring it into force.

The successful conclusion of the convention has been hailed as a major step towards establishing a Charter of the Law of the Sea. The Convention sets out among other things, detailed provisions

dealing with the use of the oceans exclusively for peaceful purposes, freedom of seas, right of passage, incuding that of nuclear powered ships. The agreements on these have been achieved after a decade of negotiations and they could be incorporated in the framework of the document envisaged for the *Zone of Peace* in the Indian Ocean. It is a matter of satisfaction that the majority of the states of this region have already signed the United Nations Convention on the Law of the Sea. It is of paramount importance for those who have not done so to ratify the convention and accelerate the process of bringing the Convention into force.

Element 15: *Assurance by nuclear-weapon States for the non-use of nuclear weapons against littoral and hinterland States.*

For the first time in 1961, the General Assembly explicitly declared that the use of nuclear and thermo-nuclear weapons would be a direct violation of the charter of the United Nations and any State using such weapons would be considered as acting contrary to the laws of humanity and as committing a crime against mankind and civilization. Subsequently, in the context of the conclusion of the Non-Proliferation Treaty, the question of strengthening the security of non-nuclear weapon states came to the fore. The Security Council in its resolution 255 of 19 June 1968 recognised that aggression with nuclear weapons would create a situation in which the Security Council and above all its nuclear weapon States, permanent members, would have to act immediately in accordance with their obligations under the United Nations Charter.

Further, the *Final Document* of the *first special session* of the General Assembly devoted to disarmament held in 1978, called upon all states to "actively participate in the efforts to bring about conditions in international relations among states in which a code of peaceful conduct of nations in international affairs could be agreed and which would preclude the use or threat of use of nuclear weapons." (Paragraph 58).

Over the last ten years, the General Assembly has considered such measures under two specific agenda items namely

(i) conclusion of effective international arrangements on the strengthening of the Security of non-nuclear weapons states against the use or threat of use of nuclear weapons and

(ii) conclusion of effective international arrangements to assure non-nuclear-weapon states against the use or threat of use of nuclear weapons. In the course of the discussions, it has become evident that though there is general agreement in principle, there is no common approach. The idea of an international convention of a legally binding character has not yet received the support from all the nuclear weapon states.

The Treaty of Tlatelolco and the Treaty of Rarotonga have dealt with this crucial question in an identical manner. Additional Protocol II of the Treaty of Tlatelolco contemplate the obligation of the five nuclear weapon states to respect the *statute of military denuclearization* of Latin America and they undertake not to contribute to acts involving a violation of the Treaty, nor to use or threaten to use nuclear weapons against the parties to the Treaty. This protocol has been ratified by all the five nuclear weapon states.

The Rarotonga Treaty provides in Protocol 2 that each nuclear-weapon state would undertake the obligation not to use or threaten to use any nuclear explosive device against (a) parties to the Treaty; or (b) Any territory within the South Pacific Nuclear Free Zone for which a state that has become a party to Protocol I is internationally responsible. This protocol has so far been signed and ratified by China and the USSR.

In the absence of an International Convention, such a regional approach provides an alternative. The Zone of Peace in the Indian Ocean can also follow a similar approach.

Element 16: *Non-Proliferation of Nuclear Weapons.*

One of the essential attributes of the Zone of Peace is that it should be free from nuclear weapons. The Treaty of Tlatelolco of 1967 and the South Pacific Nuclear Free Zone Treaty of 1986 provide detailed measures how this objective could be achieved. Both the Treaties incorporate certain common elements. There is however some variation in their approach Under the Treaty of Tlatelolco, the contracting states undertake the obligation to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction and to prohibit and prevent in their respective territories the testing, use, manufacture, production or acquisition of any nuclear weapon by any means whatsoever. This Treaty was modelled on the Non-proliferation Treaty. Consequently like the Non-proliferation Treaty, it also permits peaceful nuclear explosions. Article 18 of the Treaty sets out the procedure for carrying out such explosions under international supervision.

The South Pacific Zone Treaty departs from the NPT and the Tlatelolco Treaty in this respect. It takes into account the recent developments and follows a comprehensive approach obligating the contracting states not to develop, manufacture, acquire or receive from others any nuclear explosive device and not to permit the testing or stationing of nuclear explosive devices in their territory.

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which came into force on 5 March 1970, is the first major instrument to prevent and control the spread of nuclear weapons. Today, there are 141 states parties to the Treaty. The two nuclear weapon states, China and France and some non-nuclear weapon states, China and France and some non-nuclear weapon states particularly Argentina, Brazil, India, Israel, Pakistan and South Africa all of which have advance nuclear industry are not yet parties to the Treaty. Some of these States are of the view that the Treaty does not provide balance of obligations between the nuclear and non-nuclear weapon states. For some, the application of the IAEA safeguards as contemplated in the Treaty to their nuclear activities is irksome. Some others consider that the two nuclear weapon states, the Soviet Union and the United States have not yet met their obligations under article VI of the Treaty to demonstrate any meaningful achievement.

During the Four Review conferences of parties to the Treaty, the strength and weaknesses of the Treaty have been discussed extensively.

There is no dispute concerning the objective of the Treaty to promote international peace and security by providing an effective mechanism to control the spread of nuclear weapons. However, its wider acceptance, especially both by the nuclear and advanced non-nuclear states is crucial for its success. Its relevance in the context of the Zone of Peace in the Indian Ocean depends largely on how the interests and the view points of the States of this region could be accommodated. There is a suggestion to replace it by a new non-proliferation treaty. Another suggestion is to devise regional arrangements which could supplement the existing regime as contemplated by the Treaty. It would be desirable that the States of the Indian Ocean region could attempt to arrive at such agreement among themselves even before the proposed conference on Indian Ocean. If an alternative to NPT could be achieved at the regional level that might serve the purpose of controlling the spread of nuclear weapons. That alternative, however, will have to be acceptable to the international community as well.

Another initiative which the States of the Indian Ocean region could take to curb the proliferation of nuclear weapons is the conclusion of a comprehensive Test Ban Treaty. The negotiations for such a treaty have been going on even prior to the Partial Test Ban Treaty of 1963. However, no such agreement has been reached till today. The recent move to amend the Partial Test Ban Treaty of 1963 and converting it into a comprehensive Test Ban Treaty is an interesting alternative. While there are indications that, it would not be a smooth transition, the decision to convene a conference by the majority of the parties to the 1963 Treaty for this purpose itself is an achievement. The problem of verification and compliance with the amended treaty would have to be considered.

In this context, the proposal made in the Six-nation Initiative—Argentina, Greece, India, Mexico, Sweden and Tanzania in 1986, to assist in monitoring moratorium or ban on nuclear weapon tests could be examined. A scheme for developing a network of seismological measures to detect and identify seismic events could be formulated for the Indian Ocean region. Although, it would at best provide a partial objective for information collection, its utility and significance should not be underestimated. It may be recalled that in early 1970's there was a report on explosion of a nuclear device by South Africa. In the absence of any authentic information it has remained till today a matter of speculation. If such a regional seismological detection system becomes operative, the States of the Indian Ocean will have their own authentic information collection mechanism which subsequently may be supplemented by other measures.

Element 17: *Promotion of Confidence building measures in all their aspects.*

In recent time, the concept of confidence building measures have assumed great importance. These measures cover wide range of activities which include political, military, economic, social and cultural fields. The General Assembly, on several occasions, while emphasising the commitment to confidence building measures has urged member states to explore ways in which confidence building measures can strengthen international peace and security.

In the regional context, Europe has shown commendable results. From Helsinki in 1975 to Stockholm in 1986, a number of confidence building measures have been agreed to and are in the process of being implemented. Although, it may not be practical to open such

a dialogue among the States of the Indian Ocean region on such a wide range of activities it would be desirable at least to identify certain areas where a beginning could be made.

Element 18: *Promotion of co-operation and peaceful exchanges in political, social, economic, technical, cultural and other fields, including measures for the protection of the marine environment.*

It may be recalled that the Government of Sri Lanka at the Twenty-second Session of the AALCC held in Colombo in 1981, proposed an item for inscribing on the agenda entitled *"Economic, Scientific and Technical co-operation in the use of the Indian Ocean"*. The Committee held preliminary discussion at the Twenty-Third Session held in Tokyo in 1983 on the basis of a study prepared by the Secretariat. The item came up for discussion again at the following session held in Kathmandu in 1985. In the meantime, the Government of Sri Lanka decided to hold a conference on this subject in Colombo during 1985. The basic objectives of the proposed conference were:

(a) creating an awareness regarding the Indian Ocean, its resources and potential for the development of the States of the region, and furthering co-operation among them, as well as with other States active in the region, bearing in mind the new ocean regime embodied in the 1982 United Nations Convention on the Law of the Sea;

(b) providing a forum where Indian Ocean States and other interested nations could review the state of the economic uses of the Indian Ocean and its resources and related activities, including those undertaken within the framework of intergovernmental organisations, and identify fields in which they would benefit from enhanced international co-operation, co-ordination and concerned actions; and

(c) adopting a strategy for enhancing the national development of the Indian Ocean States through the integration of ocean-related activities in their respective development processes, and a policy of integrated ocean management through a regular and continuing dialogue and co-operative international/regional action with particular emphasis on technical co-operation among developing countries.

The IOMAC Conference was held in two states and the Final Document was adopted at a Ministerial Meeting held from 26 to 28 January 1987. The Final Document sets out a detailed programme of co-operation in specific areas covering national, sub-regional and international activities. It identifies the priority areas and deals with *'short-term'* *'medium term'* and *'long term'* measures.

It is evident that the system of co-operation which has evolved in the IOMAC Conference provides the basic foundation and instead of duplicating efforts at the regional and international levels it would be desirable to further strengthen this process.

Apart from this, the United Nations Convention on the Law of the Sea of 1982 contemplates co-operation among the states in many areas such as preservation of marine environment, scientific research and conservation of living resources. Furthermore, in the context of Indian Ocean region, UNEP has also developed Regional Seas Programme. Thus, there is already an established framework and the goal should be to promote further co-operation and co-ordination of such programmes.

Element 19: *Promotion of economic co-operation including regional co-operation and trade.*

The far-reaching impact of the Zone of Peace would help promote economic co-operation within and beyond the Indian Ocean region. The relevant Agencies of the United Nations and the regional organisations such as SAARC, OAU, ASEAN, Arab League and the Gulf Co-operation Council could harmonise their efforts in promoting joint endeavours among the countries of the region.

As a first step, it would be desirable to prepare a study on the assessment of the areas of co-operation within the framework of these institutions. Thereafter, new areas could be identified to strengthen such co-operative programmes. The Peace Zone and the Concept of Economic Zone taken together would provide great opportunities and new ventures for economic co-operation.

Element 20: *Respect for human rights and fundamental freedoms.*

The establishment of the Zone of Peace in the Indian Ocean while markedly improving the Peace and Security in the region, would have a positive effect on the political situation in the zone and thus improve the spirit and observation of human rights in the zone.

Geographical limits

The determination of the geographical limits of the Peace Zone in the Indian Ocean is one of the crucial issues. The Final Document of the 1979 Meeting of the Littoral and Hinterland States of the Indian Ocean specifically provided that "*the Indian Ocean as a Zone of Peace should cover the Indian Ocean itself, its natual extensions, the islands thereon, the ocean floor subjacent thereto, the littoral and hinterland states and the airspace above.*" While there is a good deal of support for this proposition some States emphasise that unless the territory and airspace of hinterland states are specifically included, the Zone of Peace would not achieve its objective.

The demarcation of the northern and southern boundaries of the zone could be done in the light of the provisions in the Antarctic Treaty of 1959 and the South Pacific Nuclear Free Zone Treaty of 1986 and other related documents. It is only the eastern and western boundaries where such a determination may raise some problems. However, these issues can be discussed at the United Nations conference instead of being treated as an obstacle to the progress of work in the *Ad hoc* Committee.

Conclusion

Peace Zone is a novel and evolving concept. It may vary from region to region and *embrace* many and varied elements. The legal norms governing such a concept have yet to be *crystallised*. Over the last three decades attempts have been afoot to identify and elaborate basic elements of such a concept. Initially, the concepts such as "*demilitarization*" or "*denuclearization*" in specific geographical areas *gained currency*. For example, the Antarctic Treaty of 1959, was the first major international instrument which provided for demilitarization of the Antarctica. Under Article V nuclear explosions and the disposal of radioactive waste material are prohibited in the Antartica. In 1967, the Latin American States agreed to create a '*denuclearized zone*'. Similar moves to establish nuclear free zones in the Baltic, *Mediterranean*, Middle East, South Asia, Korean Peninsula, Africa and the ASEAN have not yet materialized. However, an example of success is the South Pacific Nuclear Free Zone Treaty of 1986. More recently, the General Assembly resolution of 27 October 1986 declared the Atlantic Ocean, in the region situated between Africa and South America, a *Zone of Peace* and Co-operation of the South Atlantic.

As regards the Zone of Peace in the Indian Ocean, the Declaration of the Indian Ocean as a Zone of Peace in 1971, is the first comprehensive approach which goes beyond the limited objectives of demiliteraization or denuclearization. In essence, it contemplates a combination of both prohibition and positive elements. While elaborating on the obligation of the nuclear and non-nuclear weapon States to keep the denuclearized status of the Zone, it also promises immense benefits which the Zonal powers could derive by creating such a zone. The stable conditions and peaceful atmosphere could usher in an era of peace and co-operation in various fields among the states of the Indian Ocean region.

It is a mater of concern that the deliberations in the *ad hoc* Committee have been almost paralysed since the withdrawal of certain Western States. However, in conformity with the repeated recommendations of the General Assembly endorsing the importance of the 1971 Declaration on the Indian Ocean, it is hoped that those States would reconsider their decision and resume participation in the *Ad hoc* Committee meetings.

In view of the insecurity created by the changing scene in the Indian Ocean region, it is in the interest of the States of the Indian Ocean region to extend positive support to measures giving practical effect to the achievement of the objectives of the Zone of peace in the Indian Ocean. In this context , it may be worthwhile to explore the possibility of taking some initiatives at the regional level. The decision to convene the United Nations Conference on the Indian Ocean in 1992 provides an opportunity to utilize the available time in a fruitful manner. In addition, since it has been decided to convene the Conference in Several stages, the first stage could mark the beginning of new initiatives at the region level. It is hoped that the *ad hoc* Committee could be urged, in consultation with the states bordering the Indian Ocean and the AALCC, to convene such a meeting at the regional level.

XII. INTERNATIONAL TRADE LAW
A. Industrial Joint Ventures

(i) Introduction

The topic '*Legal Framework for Industrial Joint Ventures in Developing Countries*' was included in the work programme of the AALCC pursuant to the recomendations of the second Ministerial Meeting on Regional Cooperation in Industry held in Istanbul in September 1981 under the auspices of the AALCC.

At the Arusha Session (February 1986), the Secretariat while presenting a preliminary study on the topic sought the directions from the Committee whether its future work should focus on developing a model of an equity joint venture or on the preparation of a guide on legal aspects of joint ventures so as to assist parties from the Afro-Asian region in negotiating and concluding such arrangements. The main recommendation of the Trade Law Sub-Committee, which was endorsed by the Plenary Committee, was as follows :

> "The Secretariat should attempt to draft a few sample models of equity joint ventures taking into account the diverse types of joint ventures in use in the Asian-African region. It should also collate the information pertaining to joint venture arrangements concluded or in operation in the region as also models in use for such arrangements for transmission to Member Governments".

Since the Secretariat did not have any response from the Member Governments in regard to its request for materials, it raised the following points for consideration of the Trade Law Sub-Committee during the Singapore Session (March 1988) of the Committee :

"(i) In the absence of any data, would it serve any purpose in attempting to formulate joint venture models; and

(ii) Would it not be more appropriate to prepare a legal guide on industrial joint ventures in developing countries so as to assist parties from these countries in negotiating and concluding joint venture arrangements or in their operation?"

It was the general feeling in the Trade Law Sub-Committee that the mandate given to the Secretariat was so extremely wide that realistically approached, work ought to be undertaken in various stages. The first step was for the Secretariat to collect the relevant information as extensively as possible, and that Member Governments should be requested to provide the information. After the relevant information was collected and the legal issues had been identified, the next step for the Secretriat was to prepare a guide on legal aspects of industrial joint ventures in developing countries. These recommendations were endorsed by the Plenary Committee.

In conformity with the above directions of the Committee, the Secretariat renewed its request to Member Governments. Although the Secretariat did not have positive response, it took the initiative of preparing a preliminary version of the guide on legal aspects joint ventures envisaging its revision and expansion in the light of the materials that might be received from the Member Governments in the future. The preliminary guide was submitted to the Nairobi Session (February 1989) of the Committee.

Pursuant to the decisions taken by the Committee at its Arusha (1986) and Singapore (1988) Sessions, the Secretariat had a two-fold mandate concerning this topic; the first related to the collection of information pertaining to joint venture contracts concluded or in operation in the Asian-African region as well as models in use for such arrangements for transmission to Member Governments. The Secretariat discharged this mandate by collecting a number of joint venture agreements as well as their models from two prominent members of the Committee, namely the People's Republic of China and Japan and transmitting them to the Member Governments prior to the Beijing Session (March 1990) of the Committee.

The second mandate related to the preparation of a guide on legal aspects of joint ventures in developing countries. It had been the general feeling in the Trade Law Sub-Committee that the proposed Guide should have a two-fold objective : (i) it should promote South-South cooperation in the sense of encouraging joint ventures between developing countries of the region, one of which might be more developed as well as North-South coopertion where technology for such joint ventures exceeded the capabilities of the developing country partners and as such had to be purchased or licensed from the parties from the North. It was noted that South-South joint ventures are often less concerned with transfer of technology from one partner to another and more with the optimal utilisation of the resources available to respective partners. (ii) It should provide practical guidance to the parties from our region in negotiating and concluding such arrangements by promoting an awareness about the laws and regulations that are applicable to those arrangements. It was common experience that a significant number of joint ventures contracted between or with developing countries remain stillborn or fail due to lack of awareness about the legal requirements on regulations in the host countries. It was in conformity with these objectives that the Secretariat had submitted a preliminary version of the proposed Guide to the Nairobi Session (February 1989) which was to be revised and expanded in the light of the materials and information that would be received from the Member Governments.

Although the Secretariat did not receive the relevant information from the Member Governments, it was able to collect the required data from UNCTAD, UNIDO and UNCTC in respect of more than forty Asian and African States. It was in the light of this data that the preliminary version of the Guide on Legal Aspects of Industrial Joint Ventures in Developing Countries submitted to the Nairobi Session (1988) was considerably revised and updated. It was contemplated that once the Draft Legal Guide is approved by the AALCC, it would be published and widely circulated.

This Draft Legal Guide was considered by the Trade Law Sub-Committee during the Thirtieth Session held at Cairo(1991) and was formally adopted.