

Development, there is a need to strengthen the implementation of existing international and regional agreements on marine pollution, with a view in particular to ensuring better contingency planning, response, and liability and compensation mechanisms;

(c) Better identification of priorities for action at the global level to promote the conservation and sustainable use of the marine environment, as well as better means for integrating such action;

(d) Further international cooperation to support the strengthening, where needed, of regional and sub-regional agreements for the protection and sustainable use of the oceans and sea

(e) Governments to prevent or eliminate over fishing and excess fishing capacity through the adoption of management measures and mechanisms to ensure the sustainable management and utilization of fishery resources and to undertake programmes of work to achieve the reduction and elimination of wasteful fishing practices, wherever they may occur, especially in relation to large scale industrialized fishing. The emphasis given by the Commission on Sustainable Development at its fourth session to the importance of effective conservation and management of fish stocks, and in particular to eliminating over fishing, in order to identify specific steps at national or regional levels to prevent or eliminate excess fishing capacity, will need to be carried forward in all appropriate international forums including, in particular, the Committee on Fisheries of the Food and Agriculture Organization of the United Nations;

(f) Governments to take actions, individually and through their participation in competent global and regional forums, to improve the quality and quantity of scientific data as a basis for effective decisions related to the protection of the marine environment and the conservation and management of marine living resources; in this regard, greater international cooperation is required to assist developing countries, in particular small island developing States, to operationalise data networks and clearing houses for information sharing on oceans. In this context, particular emphasis must be placed on the collection of biological and other fisheries-related information

and the resources for its collation, analysis and dissemination.⁴⁸

ROLE OF INTERNATIONAL ORGANIZATIONS

The General Assembly at its 49th session, it will be recalled, had invited all the competent international organizations to assess the implications of the entry into force of the Convention in their respective fields of competence and to identify additional measures that may need to be taken as a consequence of the entry into force of the Convention with a view to ensuring a uniform, consistent and coordinated approach to the implementation of the provisions of the Convention throughout the United Nations system. It requested the Secretary General, in that regard, to prepare a comprehensive report on the impact of the entry into force of the Convention on related existing or proposed instruments and programmes throughout the United Nations system and to submit a report thereon to the General Assembly at its 51st session.

General Assembly Resolution 49\28 had also invited the competent international organizations, as well as developmental and funding institutions to take specific account in their programmes and activities of the impact of the entry into force of the Convention on the needs of States, especially developing States, for technical and financial assistance and to support, sub-regional or regional initiatives aimed at cooperation in the effective implementation of the Convention.

In order to avoid potential confusion regarding which organization or organizations are primarily responsible for the activities set forth in the specific provisions of the Convention the Division for Ocean Affairs and the Law of the Sea of the office of legal Affairs, acting as the Secretariat responsible for the United Nations Convention on the Law of the Sea, has now prepared a table to assist States and to contribute to a better understanding of the implications of the Convention for the organizations and bodies both within and outside the UN system dealing with marine affairs within their respective fields of competence.

⁴⁸ See Programme for the Further Implementation of Agenda 21, General Assembly Resolution A/RES/S-19/2 adopted, without a vote, on June 28, 1997, Annex, para 36.

The table lists 12 subjects⁴⁹ in the Sequence in which they appear in the Convention, together with the names of 18 "competent international organizations" in such subject areas. The Organizations identified are the FAO; the IAEA; ICAO; IHO; ILO, IMO, IOC, ISBA, IWC; UNCTAD; UNDP; UNEP; UNESCO; UNIDO; WHO; WIPO; WMO; and the WTO. The Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs has, however, clearly indicated that the table is indicative and not authoritative. It has clarified that some organizations may become "competent" in the future with respect to certain provisions of the Convention, while others not formally named but considered to be competent in an advisory or another capacity may cooperate with the organizations listed."⁵⁰

MERGING ISSUES

Article 319 (2) (a), of the Law of the Sea Convention requires the Secretary General of the United Nations to report to all States Parties, the International Seabed Authority and competent international organizations on issues of a general nature that have arisen with respect to the Convention. The Secretary General had in a report, drawn the attention of States Parties, the Authority and competent international organizations, to three issues which in his opinion have arisen and which warrant their consideration.⁵¹ The issues identified were: (i) Protection of the underwater cultural Heritage; (ii) Marine and Coastal Biodiversity; and (iii) Rules of origin.

⁴⁹ The subjects listed are (i) Territorial Sea and Contiguous zone, (ii) Straits used for International Navigation; (iii) Archipelagic States, (iv) Exclusive Economic Zone; (v) Continental Shelf; (vi) High Seas, (vii) Enclosed or Semi Enclosed seas; (viii) The Area (ix) Protection and Preservation of the Marine Environment; (x) Marine Scientific Research; (xi) Development and Transfer of Marine Technology; and (xii) Settlement of Disputes.

⁵⁰ See Law of the Sea Bulletin No. 3 UN Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, New York, 1996 p. 79 para 3.

⁵¹ Report of the Secretary General under Article 319 of the United Nations Convention on the Law of the Sea. SPL/OS/6. Such reports are in accordance with article 319 (3), to be transmitted also to those States which are listed in article 156 as observers of the Authority.

As regards the matter of the protection of underwater cultural heritage attention was drawn to the work of the UNESCO on the possible drafting of an international standard-setting instrument for the protection of the underwater cultural heritage. It was pointed out that the UNESCO General Conference had called upon UNESCO to consult with the United Nations Office on Law of the Sea matters, as well as the IMO on such aspects as salvage, and to organize a meeting of experts. Comments were invited on the findings of the experts, and a final report submitted to the General Conference at its twenty-ninth session in 1997, for it "to determine whether it is desirable for the matter to be dealt with on an international basis and on the method which should be adopted for this purpose".

Apropos coastal biodiversity the attention of Member States was drawn to the developments in the field of marine and coastal biodiversity and to the implications thereof for the Law of the Sea. It has been pointed in this regard that the Second Meeting of the Conference of Parties to the Convention on Biological Diversity had declared a new global consensus on the importance of marine and coastal biological diversity.⁵² The Conference of Parties had, in a resolution, requested the secretariat of the Convention on Biological Diversity, in consultation with the Division for Ocean Affairs and the Law of the Sea of the United Nations, "to undertake a study of the relationship between the Convention on Biological Diversity and the United Nations Convention on the Law of the Sea with regard to the conservation and sustainable use of genetic resources on the deep seabed, with a view to enabling the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) to address at future meetings as appropriate, the scientific, technical and technological issues relating to bio-prospecting of genetic resources on the deep seabed."

The topic touches not only on the protection and preservation of the marine environment, including that of the international seabed area, but also on such other matters as the application of the consent regime for marine scientific research, the regime for protected areas in the exclusive economic zone, the duties of conservation and management of the living resources of the high seas, and the sustainable development of living marine resources generally.

⁵² Resolution II A 10 on the "Conservation and Sustainable Use of Marine and coastal Biological Diversity"

The specific issue of access points to the need for the rational and orderly development of activities relating to the utilization of genetic resources derived from the deep seabed area beyond the limits of national jurisdiction. In addition to the questions that may be raised concerning applicable or relevant international law and the possible development of generally accepted international rules and regulations, a number of concerns exist as to the appropriate intergovernmental forum for consideration of the issues now raised, as well as other institutional issues, including coordination among treaty bodies and the competent international organizations.

The entry into force of the Convention has brought new attention to all areas affected, or potentially affected, by the Law of the Sea. Attention is now focussed by the World Trade Organization (WTO) and the World Customs Organization on the possible need to formulate special provisions as to "rules of origin" to deal with products (both living and non-living) originating or derived from the various maritime zones. In addition to clarifying the concepts and the jurisdictional aspects of the territorial sea, the high seas, the continental shelf, the exclusive economic zone and the international seabed area, the Division for Ocean Affairs and the Law of the Sea has brought a broad range of issues to the attention of the Technical Committee of the World Customs Organizations and the WTO Committee on Rules of Origin, which are charged with further legal development under the Agreement on Rules of Origin.

COMMENTS AND OBSERVATIONS

The International Community has, since the entry into force of the Law of the Sea Convention in November 1994 devoted its attention to the establishment of the institutions that instrument had envisaged. The establishment of the new treaty system of ocean institutions is now almost complete and what is more it has begun functioning. The conclusion of an Agreement concerning the relationship between the United Nations and the International Seabed Authority, the work of the Legal and Technical Commission on the draft regulations governing the exploration of polymetallic nodules in the Area and the first judgment of the Tribunal for the Law of the Sea in *The MIVI/Saiga* are all pointers to that end.

The General Assembly has repeatedly called on States to harmonize their national legislation with the provisions of the Convention and ensure their consistent application. A persistent inconsistency with the Convention are the claims of 15 States⁵³ for a territorial sea extending beyond 12 miles and the claim of one coastal State for a contiguous zone exceeding 24 nautical miles.

With its entry into force and with new prospects for its universal acceptance the Convention on the Law of the Sea is attracting renewed and widespread interest among governments and, intergovernmental and nongovernmental organizations. The Convention is being increasingly recognized as providing the mechanism for addressing all ocean related issues, and by clearly defining the terms of international cooperation serves to enhance coordination and promote coherence of action. In the words of the Secretary-General of the United Nations "the Convention provides a universal legal framework for rationally managing marine resources and an agreed set of principles to guide consideration of the numerous issues and challenges that will continue to arise from navigation and over flight to resource exploration and exploitation conservation and pollution and fishing and shipping, the Convention provides a focal point for international deliberation and for action."

⁵³ Angola, Benin, Cameroon, Congo, Ecuador, El Salvador, Liberia, Nicaragua, Nigeria, Panama, Peru, Sierra Leone, Somalia Syrian Arab Republic, and Togo.

III. THE UNITED NATIONS DECADE OF INTERNATIONAL LAW

(i) Introduction

The item "The United Nations Decade of International Law" was placed on the agenda of the 29th Session of the AALCC held in Beijing in 1990 following the adoption by the General Assembly of Resolution 44\23 declaring the Decade of the Nineties as the United Nations Decade of International Law. The main objectives of the Decade were : (i) to promote acceptance of and respect for the principles of international law; (ii) to promote methods and means for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice; (iii) to encourage the progressive development and codification of international law; and (iv) to encourage the teaching, study, dissemination and wider appreciation of international law.

At the 29th Session of the AALCC the Secretary-General had observed, *inter alia*, that it was appropriate that the Committee addressed itself to and responded to the Resolution 44\23 of the General Assembly. The AALCC at its 29th Session after due consideration of the Secretariat Note mandated the Secretariat to prepare a comprehensive study on the United Nations Decade of International Law.

In pursuance of the above mandate the Secretariat prepared and forwarded to the Office of the Legal Counsel of the United Nations its observations and views on the Decade which were reproduced in the Report of the Secretary-General of the United Nations on the item "The United Nations Decade of International Law". The item has thereafter been considered at each successive sessions of the General Assembly of the United Nations as well as the AALCC. The matter has also been discussed at the meetings of the Legal Advisers of the Member States of the AALCC.

At the thirty sixth session of the AALCC, *inter alia* reaffirmed that many of the political, economic and social problems which riddle the member States of the international society can be resolved on the basis of the rule of

law. Reiterating the significance of strict adherence to the principles of law as enshrined in the Charter of the United Nations the AALCC requested its member States to give serious attention to the observance and implementation of the Decade. It requested the Secretary General to urge the Member States to ratify the relevant international conventions and apprise the Secretary General of the United Nations of the initiative taken by the AALCC Secretariat in that regard. It also directed the Secretariat of the AALCC to continue its efforts towards the realization of the objectives of the United Nations Decade of International Law.

Meeting of The Legal Advisers of Member States of The AALCC

The proposal for the periodic meetings among the Legal Advisers of the Member States of the AALCC for exchange of views on current problems and issues was initiated and approved at the Committee's Tokyo Session held in 1974. Since then a number of meetings of the Legal Advisers of Member States of the AALCC have been held.

It may be mentioned that speaking at a panel discussion on the UN Decade of International Law: Progress and Promises organized by The American Society of International Law Ambassador Andreas J. Jacovides, Ambassador of Cyprus to the United States of America, had inter alia referred to

“the very useful practice of such regional organizations as the Asian African Legal Consultative Committee (AALCC) to hold meetings of their respective countries representatives in New York, at the same time as the ILC debate in the Sixth Committee. These meetings are often addressed by personalities visiting New York at the same time, such as the President and other members of the International Court of Justice. This practice, in addition to the annual sessions of the AALCC and other regional organizations, such as the European Committee on Legal Cooperation and the Inter-American Juridical Committee, certainly contributes positively to the objectives of the Decade.”*

* See the remarks of Ambassador Andreas J. Jacovides, Ambassador of Cyprus to the United States America in the *American Society of International Law; Proceedings of the 89th Annual Meeting* April 5-8 1995, page 172 at 174-175

The Committee at its 36th Session held in Tehran, 1997 had directed the Secretariat to convene a meeting of the Legal Advisers of Member States at the United Nations Headquarters in New York.

Pursuant to that mandate a meeting of the Legal Advisers of Member States of the AALCC was convened at the UN Office in New York in October 1997. This meeting was chaired by Dr. Javad M. Zarif, Deputy Foreign Minister for Legal and International Affairs, Government of the Islamic Republic of Iran, and the then president of the AALCC. Representatives of Member States and senior officials of the United Nations participated in that meeting which was addressed by the President of the International Court of Justice Mr. Stephen M. Schwebel; the Chairman of the Sixth Committee Ambassador Tomka; the Chairman of the International Law Commission, Professor Alain Pellet, the Chairperson of the Working Group on the United Nations Decade of International Law, Ambassador Ms. Socorro Flores and the Chairman of the Preparatory Committee on the Establishment of an International Criminal Court, Ambassador Mr. Adrian Bos.

The discussions at the meeting were based on a Background Note prepared by the Secretariat wherein two items had been identified for an informal exchange of views among the Legal Advisers of Member States: (i) the United Nations Decade of International Law; and (ii) the Reservation to Treaties.

In his address to the Legal Advisers of the Member States the Secretary General said that the Secretariat did not expect the Legal Advisers to give detailed comments on the above mentioned subjects but merely sought their opinion and policy guidance as to which of these items the Legal Advisors of Member States would desire the Secretariat to take up as a matter of priority. The Legal Advisers approved the convening of a Special Meeting at the 37th Session of the AALCC, on the Reservation To Treaties.

Thirty Seventh Session : Discussion

The Assistant Secretary General Mr. Asghar Dastmalchi while inviting attention to the AALCC Study recalled that the General Assembly had at its 44th session declared the Decade of the Nineties as the United Nations Decade of International Law and outlined the objectives of the decade. The item entitled "The United Nations Decade of International Law has been on work programme of the AALCC since its 29th Session held in Beijing in 1990. The item was included in the agenda of that session of the Committee. on the initiative of the Secretary-General. in accordance with Article 4(d) of the Revised Statutes of the Committee.

The Committee at that Session directed the Secretariat to continue its work on the subject and to include the item on the agenda of the next Session of the Committee. The item has thereafter been considered at successive sessions of the Committee.

The 36th Session of the AALCC, reaffirmed that many of the political, economic and social problems of the international society can be resolved on the basis of the rule of law. Reiterating the significance of strict adherence to the principles of law as enshrined in the Charter of the United Nations the AALCC at its 36th session requested its Member States to give serious attention to the observance and implementation of the Decade. It also directed the Secretariat to continue its efforts towards the realization of the objectives of the United Nations Decade of International Law.

He noted, that following a recommendation made at the Meeting of the Legal Advisers of Member States held in New York in November 1996 a Special Meeting on the Inter-related Aspects between the International Criminal Court and International Humanitarian Law had been organized during the 36th Session. The Secretariat has already published the Report of that Special Meeting on the Inter Related Aspects between the International Criminal Court and International Humanitarian Law.

He gave a brief account of the 52th Session of the General Assembly which had inter alia reviewed the United Nations activities for the progressive

development of international law and its codification and considered work in the fields of human rights, disarmament, outer space, economic development, crime prevention and criminal justice, the environment, international trade, and the law of the Sea. It also addressed the relevant Work of the Sixth Committee and the International Law Commission. The Permanent Representative, of Mongolia to the United Nations requested the, inclusion in the agenda of the 52nd session of the General Assembly an item entitled "Draft Guiding Principles for International Negotiations" as a sub item under the item entitled United Nations Decade of International Law. The text of the Mongolian reference made to the General Assembly at its 52nd Session is given as Annex IV of the Brief of Documents in this Chapter.

The General Assembly at its 52nd session emphasized the importance of conducting effective negotiations in managing international relations and the peaceful settlement of disputes and in the creation of new international norms of conduct of States and decided to continue the consideration of this sub item in the Working Group on the United Nations Decade of International Law during the 53rd session of the General Assembly and invited all States and relevant international organizations to submit in writing to the Secretary General, before 1 August 1998, comments and proposals on the content of the "Draft guiding principles for international negotiations". The text of the draft resolution on the "Draft guiding principles for international negotiations" has been reproduced in Annex III of the Secretariat study in this Chapter. The Committee may, perhaps, wish to consider the Mongolian reference on principles of international negotiation.

He then recalled that at its 51st the Sixth Committee of the General Assembly had considered a proposal related to the "1999 Action dedicated to the centennial of the first International peace Conference and to the closing of the United Nations Decade of International Law" submitted by the Governments of the Netherlands and the Russian Federation. More recently, the General Assembly at its 52nd Session considered the Programme of Action for the Celebration of the Centennial of the First International Peace Conference as drawn up pursuant to General Assembly Resolution 51/159 of 16 December 1996 by the Russian Federation and the Netherlands.

The General Assembly at its 52nd Session welcomed the Programme of Action dedicated to the centennial of the first International Peace Conference, presented by the Governments of the Kingdom of the Netherlands and of the Russian Federation aiming to contribute to the further development of the themes of the first and the second International Peace Conference and which could be regarded as a third International Peace Conference. The Assembly invited (i) the Governments of the Kingdom of the Netherlands and of the Russian Federation to proceed with the implementation of the Programme of Action; (ii) all States to participate in the activities set out in the Programme of Action, as well as to initiate such activities and to coordinate their efforts in this respect at the global level, as well as at the regional and national levels; and (iii) All States to take appropriate measures to ensure universal participation in the activities pursuant to the Programme of Action, with special consideration for the participation of representatives of the least developed countries.

The Assistant Secretary General Stated that the AALCC could give directions as to the role of the AALCC in the “1999 action dedicated to the centennial of the first International Peace Conference and to the closing of the United Nations Decade of International Law. In its consideration of the role of the Secretariat, it was recalled that the “first and the second international peace Conferences as well as the League of Nations and the United Nations subsequently had significantly encouraged of the progressive development of international law and thereby contributed to the maintenance of international peace and security.

Finally, he wished that, the AALCC at this session was given direction as to role of the AALCC Secretariat in the 1999 action dedicated to the centennial of the first international Peace Conference and to the closing of the United Nations Decade of International Law.

The Delegate of Egypt stated that the “Decade of International Law” had achieved a number of landmarks in the codification of International Law, which could be judged from the number of conventions adopted during the period and the increase in number of ratification and accessions to various multilateral conventions such as the Convention on the Law of the Sea, the

Conventions relating to Environment and the Establishment of the WTO. He added that it could be said with a sense of satisfaction that the 3rd phase of the Decade (1997 - 1999) had been a success in realizing the aims of the Decade, and the AALCC had indeed played an active part in assuming a supportive role to the work of the United Nations. This he said, was evident from the number of Seminars, and Workshops which were organized by the AALCC to study topics of importance to the Member States, including the ones which pertained to the Inter related aspects between International Humanitarian Law and the International Criminal Court, Seminar to Commemorate the 30th Anniversary of the Bangkok Principles, Expert Group Meeting on the Extra-Territorial Application of National Legislation: Sanctions Imposed Against Third Parties, Expert Group Meeting on Status and Treatment of Refugees. He expressed the view that the AALCC activities would go on internet. He was also supportive of the idea of holding the first International Peace Conference towards the end of the United Nations Decade of International Law and wanted the AALCC to continue a dialogue with its Member States to elicit views on how AALCC could participate in the Peace Conference.

The Vice President concluded with the comment that the AALCC had an important role to play in realizing the aims of the Decade of International Law, and had succeeded in realising the objectives of the Decade. The United Nations had also noted with appreciation the decision of the AALCC to participate actively in the programme of the UN Decade of International Law. Therefore, the Secretariat should continue to liaise with the Member States in order to effectively participate, in the last phase of the Decade, and report to the next Session.