

# *C O N T E N T S*

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## **LIST OF ABBREVIATIONS**

AALCO	Asian-African Legal Consultative Organization
CLCS	Commission on the Limits of Continental Shelf
EEZ	Exclusive Economic Zone
GMA	Global Marine Assessment
IHO	International Hydrographic Organization
IMO	International Maritime Organization
ISA	International Seabed Authority
ITLOS	International Tribunal for the Law of the Sea
JPOI	Johannesburg Plan of Implementation
MOP	Meeting of States Parties
UN	United Nations
UNCED	United Nations Conference on Environment and Development (or the Rio or Earth Summit)
UNCLOS	United Nations Convention on the Law of the Sea, 1982 or the Law of the Sea Convention
UNGA	United Nations General Assembly
WSSD	World Summit on Sustainable Development (or the Johannesburg Summit)

## THE LAW OF THE SEA

### I. INTRODUCTION

#### A. Background

1. The United Nations Convention on the Law of the Sea (hereinafter UNCLOS or the Convention) 1982<sup>1</sup> has been widely recognized as the “Constitution of the Sea”, as it established “for the first time one set of rules for the oceans, bringing order to a system fraught with potential conflict”.<sup>2</sup> The Convention constitutes the legal framework within which all activities in the oceans and seas should be considered. Therefore, it is essential to preserve the integrity of UNCLOS as also to give priority to the full and effective implementation of its provisions. Over the years, it has provided global solidarity that has led to more coherent management of ocean affairs.

2. It may be recalled that the item “Law of the Sea” was taken up for consideration by the Asian-African Legal Consultative Organization (AALCO) at the initiative of the Government of Indonesia in 1970. Since then it has been considered as one of the priority items at successive Annual Sessions of the Organization and the deliberations in AALCO’s annual and inter-sessional meetings for nearly a decade were focused on this single most important item. The AALCO can take reasonable pride in the fact that new concepts such as the Exclusive Economic Zone (EEZ) and Archipelago States originated and developed in the AALCO’s annual Session and were later codified in the UNCLOS.

3. After the adoption of the Convention in 1982, the AALCO’s Work Programme was oriented towards assisting Member States in matters concerning their becoming Parties to the UNCLOS and other related matters. With the entry into force of the UNCLOS in 1994, the process of establishment of institutions envisaged in the UNCLOS began. The AALCO Secretariat prepared studies monitoring these developments and the Secretariat documents for AALCO’s annual Sessions reported on the progress of work in the International Sea Bed Authority (ISA), the International Tribunal for Law of the Sea (ITLOS), the Commission on the Limits of the Continental Shelf (CLCS), the Meeting of States Parties to the UNCLOS and other related developments.

4. At the Forty-Fifth Golden Jubilee Session of the Organization, at Headquarters New Delhi, India (3–8 April 2006), the item pertaining to Law of the Sea was considered

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<sup>1</sup> In accordance with Article 308 (1) of the Convention, it entered into force on 16 November 1994. Article 308 (1) states: “This Convention shall enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession”. It may be recalled that the Convention was adopted by the Third United Nations Conference on the Law of the Sea and opened for signature together with the Final Act of the Conference, at Montego Bay, Jamaica, on 10 December 1982. The Conference was convened pursuant to resolution 3067 (XXVIII) adopted by the United Nations General Assembly on 16 November 1973. The Conference held eleven sessions, from 1973 to 1982.

<sup>2</sup> *Oceans: The Source of Life*, Published on the occasion of the 20<sup>th</sup> anniversary (1982-2002) of the United Nations Convention on the Law of the Sea (UN, New York, 2002), pp. 14 at p. 1.

as a deliberated item. Resolution 45/ S 2 adopted at the Session recognized the universal character of the United Nations Convention on Law of the Sea, and its legal framework governing the activities of the oceans. It took note of the deliberations at the United Nations Open-ended Informal Consultative Process (hereinafter the “Consultative Process”), established by the General Assembly to facilitate the annual review of the developments in ocean affairs. The resolution welcomed the active role being played by the ITLOS in the peaceful settlement of disputes with regard to ocean related matters. It reaffirmed that in accordance with Part XI of the UNCLOS, the Area and its resources were the common heritage of mankind and should be used for the benefit of the mankind as a whole. The resolution urged upon the Member States for full and effective participation in the work of the ISA and other related bodies established by UNCLOS 1982 and the Consultative Process so as to ensure and safeguard their legitimate interests. It also requested the Secretary-General to explore the possibility of organizing a Meeting of Experts to deliberate on the emerging issues on the United Nations Convention on the Law of the Sea and legal order of the Oceans.

5. In pursuance of the mandate entrusted by the Session, the Secretary-General convened a “Meeting of Experts on the Emerging Issues on the United Nations Convention on the Law of the Sea”, on 24 November 2006 at the Headquarters in New Delhi. This highly successful meeting was attended by delegations from 22 Member States and one Permanent Observer – New Zealand. Deliberations in the Meeting took place in three substantive sessions, under the following head: An overview of the United Nations Convention on the Law of the Sea - Contribution of Asian-African States; Preservation and Protection of Marine Environment: Legal Regime and Emerging Issues; and Maritime Zones and their Delimitation: The Law and Practice.

6. The Secretariat Report prepared for the Forty-Sixth Session provides information on the status of the UNCLOS and its implementing Agreements; Seventeenth and Eighteenth Sessions of the Commission on the Limits of the Continental Shelf; an overview of the annual comprehensive report of the Secretary-General on Oceans and the Law of the Sea; seventh meeting of the Consultative Process; sixteenth Meeting of States Parties to the UNCLOS’ 82; Twelfth Session of the International Seabed Authority; and the settlement of disputes under UNCLOS by the International Tribunal of the Law of the Sea in the Year 2006; and the consideration of the Oceans and the Law of the Sea issues at the 61<sup>st</sup> Session of the General Assembly. It also places for consideration an overview of the deliberations at the AALCO Meeting of Experts on the Emerging Issues on the United Nations Convention on the Law of the Sea.

## **B. Issues for Focused Deliberations at the Forty-Sixth Session of AALCO**

7. Amongst others, the following points may be considered as the issues for focused deliberations during the forthcoming Forty-Sixth Session of AALCO:

- *Development of legal principles for the preservation and protection of marine environment in the area beyond national jurisdiction with reference to the principle of sustainable development*
- *Question of adequate participation in the Annual Sessions of the International Seabed Authority*

- *Increasing workload of the Commission on the Limits of Continental Shelf*
- *Balancing coastal state's efforts to protect marine and coastal environment with the right of passage in straits used for international navigation*
- *Increasing international efforts to meet the challenges posed by continuing transnational organized crime and threats to maritime safety and security*
- *Problem of marine scientific research vis-à-vis freedom of navigation.*

### **C. Secretariat Comments and Observations**

8. In view of the fact that the Commission on the Limits of Continental Shelf has now before it a total of five submissions and several other ones were on the way, meant that Commission's workload would increase rapidly requiring its members to be present at the United Nations Headquarters for up to four months a year between 2007 and 2012. Practical solutions were therefore urgently required to address the difficulties facing the Commission. Furthermore, the adoption of amendment by the Commission, by which it would, through the Secretary-General, notify a coastal State that made a submission, no later than 60 days prior to the opening date of the Session of the date and place at which its submission would be considered would improve dialogue as well as understanding of approach between the Sub-Commission and the submitting State.

9. Marine ecosystems, which cover more than 70 per cent of the globe, are extremely valuable for the health and the development of the planet. However, they are under growing pressure from different type of human activities or stresses. In this context, discussion at the Consultative Process on how to more sustainably manage and conserve ocean resources at its seventh meeting assumes importance. The core of the discussion revolved around the ecosystem approaches for the management of ocean resources.

10. Active participation of Parties to the UNCLOS in the meetings of International Seabed Authority is required for the effective and timely completion of its business. Therefore, it is essential that all States Parties who were Members of the Authority should be represented at the Authority's meetings, which could not conduct its business effectively in the absence of its members.

11. The year 2006 marks the completion of the first decade of the existence of the International Tribunal of the Law of the Sea. Under the United Nations Convention on the Law of the Sea, it had competence and means to deal with a wide range of disputes and well equipped to discharge its functions speedily, efficiently and cost-effectively. In this period of ten years, the Tribunal by discharging its mandate effectively has made a substantial contribution to the development of international law.

12. It is pertinent to note that the continuing problem of transnational organized crimes and threats to maritime safety and security, including piracy armed robbery at sea, smuggling and terrorist acts against shipping, offshore installations and other maritime interests causes deplorable loss of life and adverse impact on international trade, energy security and the global economy. In this regard, following two regional efforts are noteworthy. The first ones are the Jakarta and Kuala Lumpur Statements on Enhancement of Safety, Security and Environment Protection in the Straits of Malacca and Singapore

adopted on 8 September 2005 and 20 September 2006. These statements were adopted by the “Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection” in Kuala Lumpur from 18 to 20 September 2006<sup>3</sup> and in Jakarta on 7-8 September 2005. The Government of Malaysia, the Government of the Republic of Indonesia and the Government of the Republic of Singapore, with the close collaboration of the International Maritime Organization, organized these meetings. The Kuala Lumpur meeting had focused discussions on the establishment of a framework of cooperation to develop mechanisms and programmes to facilitate cooperation in keeping the Straits safe and open to navigation, including the possible options for burden-sharing. The Kuala Lumpur Statement emphasizes the need to support the work of the Tripartite Technical Experts Group on Safety of Navigation in enhancing the safety of navigation and protection of the marine environment of the Straits as well as the proposed cooperative mechanism presented by the littoral States to promote dialogues and close cooperation between the littoral States, user States, shipping industry and other stakeholders, on safety of navigation and environmental protection. The second pertinent development promoting regional cooperation is the entry into force of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery and Ships in Asia on 4 September 2006.<sup>4</sup> Pursuant to the entry into force of the Agreement, an Information Sharing Centre was launched and established in Singapore in November 2006.

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<sup>3</sup> The Kuala Lumpur Meeting was attended by the three littoral States: **Indonesia, Malaysia, Singapore** and by delegations from: Australia, Bahamas, Belgium, **Brunei Darussalam, China, Cyprus**, Denmark, **Egypt**, Finland, France, Germany, Greece, **India, Japan**, Liberia, Netherlands, New Zealand, **Nigeria**, Norway, **Pakistan, Philippines, Republic of Korea**, Russian Federation, Spain, Sweden, **Thailand**, United Kingdom of Great Britain and Northern Ireland and United States of America. The names of AALCO Member States are indicated in bold. Details stated herein are drawn from UN Doc. A/61/584 dated 17 November 2006.

<sup>4</sup> The Secretariat Report prepared for the Nairobi Session (2005) contains an introductory note on the Agreement. For details see Yearbook of the Asian-African Legal Consultative Organization, vol. III (2005), pp. 753-60.

## II. STATUS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA AND ITS IMPLEMENTING AGREEMENTS

13. The United Nations Convention on the Law of the Sea as at 8 November 2006 had 152 Parties, of which 40 States are AALCO Member States.<sup>5</sup> This represents considerable progress towards universality since the entry into force of the Convention on 16 November 1994, one year after the deposit of the sixtieth instrument of ratification, when there were 69 States Parties.

14. The Agreement relating to the implementation of Part XI of the UNCLOS was adopted on 28 July 1994 and has entered into force on 28 July 1996. As regards the status of this Agreement, as at 8 November 2006, 126 Member States have ratified or acceded to it, of which 32 States are AALCO Member States.<sup>6</sup>

15. The Agreement for the implementation of the provisions of the UNCLOS relating to the conservation and management of straddling fish stocks and highly migratory fish stocks, 1995 was adopted on 4 August 1995 and has been signed by 59 States<sup>7</sup> and ratified by 62 States, of which 9 are AALCO Member States. The Agreement came into force from 11 December 2001 after receiving the requisite 30 ratifications or accessions.

16. The UN General Assembly at its Sixty-first Session on 20 December vide resolution 61/222 emphasized the pre-eminent contribution provided by the Convention to the strengthening of peace, security, cooperation and friendly relations among all nations in conformity with the principles of justice and equal rights and to the promotion of the economic and social advancement of all peoples of the world, in accordance with the purposes and principles of the UN Charter as well as for the sustainable development of the oceans and seas. The Assembly reaffirmed the unified character of the Convention and the vital importance of preserving its integrity and called upon all States that have not done so, in order to achieve the goal of universal participation, to become parties to the Convention, and the Agreement relating to the Implementation of Part XI of the UNCLOS of 10 December 1982, and the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. It also *inter alia* urged all States to

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<sup>5</sup> The UNCLOS 1982 entered into force on 16 November 1994 and as of 8 November 2006, it has been signed by 157 States and ratified or acceded to by 152 States. The AALCO Member States Parties to the UNCLOS are: Bahrain, Bangladesh, Botswana, Brunei Darussalam, Cameroon, China, Cyprus, Egypt, Gambia, Ghana, India, Indonesia, Iraq, Japan, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Mauritius, Mongolia, Myanmar, Nepal, Nigeria, Oman, Pakistan, Philippines, Qatar, Republic of Korea, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Sri Lanka, Sudan, Uganda, United Republic of Tanzania and Yemen. For details see Table recapitulating the Status of the UNCLOS and related Agreement, as at 8 November 2006, available on the website: <http://www.un.org/Depts/los/index.htm#oceans>.

<sup>6</sup> As at 8 November 2006, the AALCO Members who have ratified the Agreement include: Bangladesh, Botswana, Brunei Darussalam, Cameroon, China, Cyprus, India, Indonesia, Japan, Jordan, Kenya, Kuwait, Lebanon, Malaysia, Mauritius, Mongolia, Myanmar, Nepal, Nigeria, Oman, Pakistan, Philippines, Qatar, Republic of Korea, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Sri Lanka, Uganda and the United Republic of Tanzania. Ibid.

<sup>7</sup> The AALCO Member States Parties to the Straddling Stocks Agreement are: Cyprus, India, Islamic Republic of Iran, Japan, Kenya, Mauritius, Senegal, South Africa and Sri Lanka. AALCO Member States signatories to this Agreement include: Bangladesh, Egypt, Indonesia, Pakistan, Philippines, Republic of Korea, and Uganda. Ibid.

cooperate, directly or through competent international bodies, in taking measures to protect and preserve objects of an archaeological and historical nature found at sea, in conformity with the Convention, and called upon States to work together on such diverse challenges and opportunities as the appropriate relationship between salvage law and scientific management and conservation of underwater cultural heritage, increasing technological abilities to discover and reach underwater sites, looting and growing underwater tourism. The Assembly also noted the efforts made by the United Nations Educational, Scientific and Cultural Organization with respect to the preservation of underwater cultural heritage.

### **III. SEVENTEENTH AND EIGHTEENTH SESSIONS OF THE COMMISSION ON THE LIMITS OF CONTINENTAL SHELF (20 MARCH - 21 APRIL AND 21 AUGUST – 15 SEPTEMBER 2006, UN HEADQUARTERS, NEW YORK)**

17. Article 76 of the UNCLOS sets out the definition and various methods for a coastal State to establish the outer limits of its continental shelf, including beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. The same article also envisages the establishment of the Commission on the Limits of the Continental Shelf (hereinafter CLCS or the Commission).<sup>8</sup> The CLCS established in 1997 consists of 21 members who serve in their personal capacity and are experts in the field of geology, physics, geophysics, or hydrography, bearing in mind the need to give consideration to equitable geographical representation. It ordinarily meets twice a year, in the spring and fall, at the UN Headquarters.

18. The functions of the CLCS are to consider the data and other material submitted by coastal States concerning the outer limits of their continental shelves in areas where those limits extend beyond 200 nautical miles; to make recommendations to coastal States in accordance with the UNCLOS; and to provide technical advice in this respect, if requested by the coastal States.

19. The CLCS held its Seventeenth Session from 20 March to 21 April 2006. The three Sub-Commissions constituted to examine the submissions of Brazil, Australia and Iceland, pursuant to Article 76, paragraph 8 of the UNCLOS proceeded with their respective work.<sup>9</sup>

20. Following the expression of concerns regarding the consistency of rule 52 of the Commission's rules of procedure with the provisions of Article 5 of annex II to the Convention, at its Sixteenth Session, the Commission had exchanged views on rule 52 of the procedure and the related section VI of annex III of those rules. The Commission, after extensive deliberations adopted an amendment to rule 52. According to the amendment, the Commission should, through the Secretary-General notify the coastal State which had made a submission, no later than 60 days prior to the opening date of the session, of the date and place at which its submission would be first considered. The coastal State should, in accordance with article 5 of annex II to the Convention, be invited to send its representatives to participate, without the right to vote, in the relevant proceedings of the Commission pursuant to section VI of Annex III.

21. The issue relating to the increasing workload of the Commission was also discussed. At the fifteenth Meeting of Parties, attention had been specifically drawn to the workload facing the Commission in connection with the examination of submissions and the time required to complete the necessary tasks. There had been a widespread feeling that under current arrangements, the Commission might not be able to complete its functions in an efficient manner. With the receipt of the submission by New Zealand

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<sup>8</sup> Annex II to the Convention provides for the Commission, its composition, functions etc.

<sup>9</sup> Details stated herein are drawn from "Statement by the Chairman of the Commission on the Limits of the Continental Shelf on the progress of work in the Commission", CLCS/50 dated 10 May 2006.

and the joint submission by France, Ireland, Spain and the United Kingdom at the forthcoming eighteenth session, the Commission would be faced with the task of examining five submissions simultaneously. Linked to that problem was the duration of the examination of submissions, which could extend for long periods of time, both during the sessions and the inter-sessional periods, which created difficulties for all members. The Commission approved a proposal for submission to the Meeting of States Parties, according to which the Meeting had recommended that, taking into account the importance of the Commissions' responsibilities, adequate additional funding from the United Nations regular budget be provided to ensure full participation of the Commission's members in its work with the requirement of up to four months a year of full-time work at the UN Headquarters.

22. The CLCS held its eighteenth Session from 21 August to 15 September 2006. Two plenary meetings took place on 21-22 August and 6 to 8 September 2006 while the periods from 23 August to 5 September and 11 to 15 September were used for the technical examination of submissions at the Geographic Information System (GIS) laboratories and other technical facilities of the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs.<sup>10</sup>

23. The Sub-Commission established to examine the submission by Brazil continued its work and heard presentations by delegations from Brazil and also sought clarifications from the Brazilian delegation regarding its submissions. It thereafter proceeded to draft its recommendations, which might get finalized during the nineteenth Session. Likewise, the Sub-Commissions established to consider the submissions of Australia and Ireland proceeded with their work. Draft Recommendations regarding all nine-regions of the Australian submission are expected in the nineteenth Session while the Irish claim would continued to be considered at the nineteenth Session. The Commission also established a Sub-Commission to consider the submission of New Zealand made on 21 August 2006, as well as for the joint submission made by France, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland on 22 August 2006. It was the first joint submission made by a group of countries before the Commission.

24. The Commission decided that its nineteenth and twentieth Sessions would be held respectively from 5 March to 13 April 2007 and 20 August to 7 September 2007.

25. The General Assembly at its Sixty-first Session noted with satisfaction the progress of work of the Commission and in view of the anticipated heavy load of the Commission, owing to an increasing number of submissions, noted the additional demand it placed on its members and the Division, and in that regard emphasized the need to ensure that the Commission could perform its functions effectively and maintain its high level of quality and expertise. It also emphasized the need to maintain, to the extent possible given the term of office of the members of the Commission, continuity in the composition of Sub-Commission throughout the consideration of a submission.

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<sup>10</sup> Details stated herein are drawn from the "Statement by the Chairman of the Commission on the Limits of the Continental Shelf on the progress of work in the Commission". CLCS/52 dated 6 October 2006.

#### **IV. OCEANS AND THE LAW OF THE SEA: REPORT OF THE UN SECRETARY-GENERAL**

26. The annual comprehensive report of the Secretary-General<sup>11</sup> and its addendum<sup>12</sup> contains information on the status of the Convention and its implementing Agreements, on declarations and statements made by States under Articles 297, 298, and 310 of the Convention, and on recent submissions to the CLCS. It also includes a section on capacity-building activities and elaborates on recent developments regarding international shipping, safety and security of navigation, people at sea, protection of the marine environment and conservation of marine living resources and the Indian Ocean Tsunami. It provides information concerning the settlement of disputes and inter-agency coordination.

27. According to the report, although a wide range of actions have been taken to address the multifaceted issues relating to ocean affairs and the law of the sea during the review period, much more remains to be done in order to translate the Convention's objectives and other international legal instruments into concrete action. In light of recent developments with regard to various uses of the sea and its resources, the Secretary-General's deposit of charts or of lists of geographical coordinates of points becomes an increasingly important tool for providing adequate information to the international community and users of the seas regarding the outer limits of maritime zones of coastal States, the lines of maritime boundaries delimitation, as well as baselines.

28. The Report found that marine ecosystems, which covered more than 70 per cent of the globe, were extremely valuable for the health and development of the planet, and were under growing pressure from different types of human activities or stresses. Management systems to control and reduce the effects of these activities have conventionally been developed on a sectoral basis and consequently there was a patchwork of legislation, policies, programmes and management plans at the local, national and international levels. These management systems had not prevented a deterioration of ecosystem health.

29. The highlight of the Report was a chapter on the ecosystem approaches and oceans, and this chapter formed the basis of deliberations at the seventh meeting of the UN Informal Consultative Process on Oceans and the Law of the Sea. Ecosystem Approaches were based on the idea that more holistic, integrative and adaptive management approaches based on scientific information, should maintain ecosystems in the sustainable condition necessary to achieve desired economic and social benefits. The chapter covers such issues as the rationale and goal of an ecosystem approach; the legal and policy framework at the global level elements for developing an ecosystem approach; the implementation of the ecosystem approaches at the regional level, including by regional fisheries management organizations, and at the national level; and international cooperation to build the necessary capacities in developing countries.

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<sup>11</sup> UN Doc. A/61/63 dated 9 March 2006. The summary of the Report of Secretary-General is drawn from *UN Press Release SEA/1863* dated 22 June 2006.

<sup>12</sup> UN Doc. A/61/63 Add. 1 dated 17 August 2006.

30. The report states that the application of ecosystem approaches to ocean management is important for the achievement of sustainable development. The common denominator for ecosystem approaches was that it was comprehensive and science-based approach for the conservation and management of natural resources. Adopting and implementing an ecosystem approach should be considered an evolutionary step and an increased focus should be placed on ways to facilitate its implementation, both at the regional and national levels. Because ecosystems do not respect maritime boundaries, regional cooperation was essential. As the scientific understanding of ocean ecosystems was still very limited, further research was needed, as was for the application of the precautionary approach in the face of uncertainty.

31. The report said that in the context of fisheries management, an ecosystem approach required, in particular, the use of the best scientific evidence available for the conservation and management of marine living resources. It also required improved monitoring, not only of the status and trend of fisheries, but also the status of key environmental factors, habitats, endangered species and non-target and dependent species associated with the target species. The ecosystem approach should reflect due concern about the long-term effects of fishery management on marine ecosystems by restricting the environmental impacts of fishing to acceptable levels, including by reducing by-catch and incidental mortality of non-targeted species.

32. Stronger capacity-building efforts were crucial to the effective management of resources and the protection of the marine environment and ecosystems by developing countries, in particular small island developing States, the report notes. Another important area where cooperation was vitally important was maritime security and safety. Creating the conditions that enable the safe and efficient navigation of ships through the world's oceans was essential for global trade. Given that today's challenges to maritime security were wide-ranging, global in scope and often connected, cooperation on all threats to security issues was crucial for their prevention and suppression, as well as for safety of navigation. It was, therefore, important to intensify cooperation at all levels to address threats to maritime security and safety in a comprehensive manner through bilateral and multilateral instruments, as well as mechanisms aimed at monitoring, preventing and responding to such threats.

33. The addendum, to be read in conjunction with the main Report, provides information on the status of the Convention and its implementing Agreements; maritime space; international shipping activities; maritime security; protection and preservation of the marine environment; climate change; marine biodiversity; conservation and management of marine living resources; marine science and technology; and capacity-building. It also provides information concerning people at sea, the settlement of disputes and international cooperation and coordination.

**V. SEVENTH MEETING OF THE UNITED NATIONS OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA (12 - 16 JUNE 2006, NEW YORK)**

34. The United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, was established by the General Assembly in its resolution 54/33 of 24 November 1999 and renewed for three years in resolution 57/141 of 12 December 2002, in order to facilitate the annual review of development in ocean affairs. In view of the contribution made by the Consultative Process in strengthening the annual debate of the General Assembly, over the past six years, the General Assembly vide resolution 60/30 of 29 November 2005 decided to continue with the work of the Consultative Process for the next three years and would review its effectiveness and utility at its Sixty-third Session.

35. The seventh meeting of this Consultative Process took place from 12-16 June 2006, at the UN headquarters in New York. At the centre of discussions was the implementation of “ecosystem approaches” for the management of world ocean resources.<sup>13</sup> These approaches are sought to replace the largely uncoordinated approach to ocean management regimes presently in place. The meeting also considered components of ecosystem based approaches, the practical implications of implementation, challenges and capacities needed, as well as policy and governance issues associated with the transition from the current management regimes to ecosystem-based management.

36. The meeting was Co-Chaired by Lori Ridgeway (Canada) and Cristian Maquieira. Mr. Lori Ridgeway noted the growing importance of the Consultative Process on the global agenda and stressed the importance of thinking of the ecosystem approach as an “integrating framework” instead of a “paradigm shift.” Vladimir Golitsyn, Director of the UN Division for Ocean Affairs and the Law of the Sea (UN-DOALOS), appealed to delegates to contribute to the ICP voluntary fund. Co-Chair Cristián Maquieira (Chile) emphasized that ICP-7 outcomes must be practical and suitable for national implementation.

37. Pursuant to General Assembly resolution 60/30, the ICP-7 organized its discussions around the topic of ecosystem approaches and oceans. The discussion Panel mainly concentrated on ecosystem approaches and oceans and highlighted on demystifying the concept and understanding its implications; moving to implementation; lessons learned from implementation of ecosystem approaches at the national level in developed and developing states; and international cooperation to implement ecosystem approaches at the regional and global levels. The outcome of the meeting includes a report containing agreed consensual elements to be suggested to the General Assembly for consideration under its agenda item entitled “Oceans and the Law of the Sea”.

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<sup>13</sup> This section is based upon information contained in “Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its seventh meeting”, UN Doc. A/61/156 dated 17 July 2006; *UN Press Release* SEA/1858 dated 9 June 2006 and “Summary of the Seventh Meeting of the Open-ended Informal Consultative Process in Oceans and the Law of the Sea: 12-16 June 2006”, *Earth Negotiations Bulletin*, col. 25, no. 31, available online at <http://www.iisd.ca/oceans/icp7/>.

## **A. Agreed consensual elements**

### **i. Preamble:**

38. This section notes that the seventh meeting of the Consultative Process organized its discussions around ecosystem approaches to oceans. The preambular paragraphs mention that the Consultative Process reached agreement that there was continued environmental degradation in many parts of the world and increasing competing demands required an urgent response and the setting of priorities for management intervention aimed at conserving ecosystem integrity. In this context, ecosystem approaches to oceans management should be focused on managing human activities in order to maintain and, where needed, restore ecosystem health to sustain goods and environmental services, provide social and economic benefits for food security, sustain livelihoods in support of international development goals, including those contained in the United Nations Millennium Declaration, and conserve marine biodiversity.

### **ii. Guiding Principles:**

39. This section contains principles to guide the application of ecosystem approaches and states' cooperation in the management of transboundary ecosystems. It was proposed that the General Assembly: recall that states be guided in the application of ecosystem approaches by *inter alia*, UNCLOS, commitments contained in the Convention on Biodiversity (CBD), and the WSSD commitment to apply an ecosystem approach by 2010; and encourage states to cooperate, in conformity with international law including the rights and duties of coastal and other states as provided for in the UNCLOS, and to address impacts on marine ecosystems in areas within and beyond national jurisdiction, taking into account the integrity of the ecosystems concerned.

### **iii. Definition of an Ecosystem Approach:**

40. This section recognizes the lack of a universally agreed definition of an ecosystem approach and contains elements of what such an approach should include or aim to achieve. The Consultative Process proposes that the General Assembly invite states to consider that an ecosystem approach should, *inter alia*: emphasize conservation of ecosystem structures in order to maintain ecosystem goods and services; take into account factors originating outside the boundaries of the defined management area that may influence marine ecosystems in the management area; strive to balance diverse societal objectives; be based on and adapt to best available knowledge, including traditional, indigenous and scientific information; assess risk, and apply the precautionary approach; assess the cumulative impacts of multiple human activities on marine ecosystems; and seek to minimize adverse impacts of human activities on marine ecosystems and biodiversity, in particular rare and fragile ecosystems.

### **iv. Implementation of an Ecosystem Approach:**

41. This section contains actions to be proposed by the General Assembly to achieve an ecosystem approach. It was suggested that the General Assembly propose that implementation of an ecosystem approach could be achieved through, *inter alia*:

inclusion in the development of national policies; encouraging and supporting marine scientific research; understanding through increased research on the impacts of changing climate on the health of marine ecosystems, and developing management strategies to maintain and improve national resilience of marine ecosystems to climate variation; understanding, through increased research, and consideration of the impacts of underwater noise on marine ecosystems; strengthening regional fisheries management organizations, adapting their mandate and modernizing their operations, where appropriate; strengthening and improving coordination and cooperation within, and, in accordance with international law, between, and among states, Intergovernmental Organizations, regional scientific and advisory organizations and management bodies; implementing fully the mandates of existing multilateral organizations, including those established under UNCLOS; applying the Rio principles and the use of a broad range of management tools for the conservation and sustainable use of marine biodiversity, including sector specific and integrated management tools on a case-by-case basis, and based on the best available scientific advice and the application of the precautionary approach, consistent with international law; identifying and engaging stakeholders; applying sectoral approaches to integrated management; advancing the Johannesburg Plan of Implementation including, *inter alia*: the elimination of destructive fishing practices and the establishment of Marine Protected Areas consistent with international law and based on scientific information; conducting assessments in relation to marine activities likely to have a significant impact on the environment in accordance with national legislation and international law; and monitoring the state of ecosystems to inform future management approaches.

**v. Improved Application of an Ecosystem Approach:**

42. This section lists requirements for an improved application of an ecosystem approach. The Consultative Process proposes that the General Assembly invite states to consider that improved application of an ecosystem approach will recognize, *inter alia*: capacity building through technology transfer, knowledge and skills transfer, particularly to developing countries, including small island developing states and coastal African states; steps in the development of the ecosystem approach, including, *inter alia*: identification of ecologically-based management areas; assessment of ecosystem health; and development of indicators; the need to address activities and pressures that lead to adverse impacts on marine ecosystems, including land-based and sea-based pollution, over fishing, illegal, unreported and unregulated fishing, by catch of threatened species, dumping, physical destruction and degradation of habitats, and invasive species; an iterative development of an approach that may be achieved through the strengthening of cooperation and collaboration among existing instruments, bodies and scientific research and advisory organizations; targeted action to address root causes of activities that can undermine the conservation and integrity of marine ecosystems; the need to develop, raise and sustain public awareness and institutional and political will; the improved cooperation among international organizations, by encouraging all states whose vessels participate in a fishery regulated by a regional fisheries management organizations to cooperate by becoming members of such organizations and to establish mechanisms to promote non-member participation; the development of mechanisms to monitor and review ecosystem health and management effectiveness; the dissemination of information to the public on activities that negatively affect ecosystems; the improvement, as

appropriate, of legal and policy frameworks to support and facilitate the application of the precautionary approach and ecosystem approaches; noting the possible options, the approaches and timely follow-up process discussed by the *Ad hoc* Working Group on marine biodiversity beyond areas of national jurisdiction; and the compilation of scientific and ecological criteria, including for the identification of Marine Protected Areas.

**B. Issues that could benefit from attention in future work of the General Assembly on Oceans and the Law of the Sea**

43. The Consultative Process agreed that in addition to the list of issues identified at the six previous meetings additional issues that could be considered by the UN General Assembly were: (a) Social aspects of oceans and the law of the sea; (b) Maritime security; (c) Maritime security and flag State responsibility; and (d) Climate change and oceans.

44. The General Assembly vide resolution 61/222 welcomed the report on the work of the Consultative Process at its seventh meeting and invited States to consider the agreed consensual elements relating to ecosystem approaches and oceans as suggested by the Consultative Process. It also decided that the eighth meeting of Consultative Process would be convened from 25 to 29 June 2007 in New York. It further decided that the forthcoming meetings of the Consultative Process would focus its discussions on the topics “Marine genetic resources” in 2007 and “Maritime security and safety” in 2008.

## **VI. SIXTEENTH MEETING OF STATES PARTIES TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (19 - 23 JUNE 2006, UN HEADQUARTERS, NEW YORK)**

45. The sixteenth meeting of States Parties to the United Nations Convention on the Law of the Sea met at UN Headquarters from 19 to 23 June 2006. The meeting elected Raymond O. Wolfe (Jamaica) as President while Mahmoud Samy (Arab Republic of Egypt), Emma Romano Samo (Philippines), Maja Markovic (Croatia) and Thomas Fitschen (Germany) as its Vice-Presidents. Among the matters considered by the meeting were budgetary and administrative questions related to the International Tribunal for the Law of the Sea, and information reported by the Secretary-General of the International Seabed Authority and the Chairman on the Limits of the Continental Shelf.<sup>14</sup>

46. Rudiger Wolfrum, President of the ITLOS introduced that organ's draft budget proposals for 2007-08, drawn up on the basis of an evolutionary approach intended to optimize efficiency. As in the past the Tribunal had been guided by the principle of zero growth, taking into account the local rate of inflation, as determined by the host country authorities. The Meeting of States Parties approved the budget of the Tribunal for the biennium 2007-2008, amounting to Euro 17, 214, 700. States Parties also decided to establish the Tribunal's Staff Pension Committee, as follows: one member and one alternate member to be appointed by the Registrar for a term of office of two years; and one member and one alternate member, who shall be participants in the Fund and the staff members of the Registry, to be elected by the staff members who are participants in the Fund for a term of office of two years. Also, it was decided that the Meeting would nominate States with a permanent diplomatic or consular presence in Berlin or Hamburg as members and alternate members of the Committee and that the nominated States would then appoint local diplomats as their representatives on the Committee.

47. Peter F. Croker, Chairman of the Continental Shelf Commission informed the meeting about the progress of work achieved at the sixteenth and seventeenth Sessions of the Commission. He also drew attention to the workload of the members and funding for those attending meetings of Sub-Commissions. There had been a widespread feeling that under current arrangements, the Commission might not be in a position to perform its function in an efficient and timely manner. With the receipt of the submission by New Zealand and the joint submission by France, Ireland, Spain and the United Kingdom at the forthcoming eighteenth session, the Commission would be faced with the task of examining five submissions, which could extend for long periods of time, both during the sessions and the inter-sessional periods, which created difficulties for all members. The Commission had approved a proposal for submission to the Meeting of Parties, according to which the Meeting had recommended that, taking into account the importance of Commissions' responsibilities, adequate additional funding from the United Nations regular budget would be provided to ensure the full participation of the Commission's members in its work with the requirement of up to four months a year of full-time work at UN headquarters.

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<sup>14</sup> Details stated herein are drawn from *UN Press Releases SEA/1859 to 1863*.

48. Acknowledging the anticipated workload of the Commission, the Meeting of States Parties decided to address the issue related to the workload and funding for members of the Commission as matter of priority, and to take it up at its next Session. It also requested the Secretariat to prepare, based on the discussions at the sixteenth meeting and in due time before the next meeting, an information note providing relevant details or facts on all proposals made regarding the workload and the funding of the Commission. It also asked the States Parties to contribute voluntarily to the Trust Fund with a view to facilitating the participation of all Commission members from developing countries in the Commission's work.

49. The Deputy Secretary-General of International Seabed Authority Nii Oduntin in his statement informed about the progress of work at body's Assembly, during its eleventh Session. The Authority's Council acting on the recommendations of the Legal and Technical Commission, had approved Germany's application for a work plan to explore for polymetallic nodules in the international seabed area. The Secretary-General had been requested to take the steps necessary to issue the work plan in the form of a contract, the application for which was the first to have been made since the Convention's entry into force.

50. The Council had also carried out a first reading of the draft regulations on prospecting and exploration for polymetallic Sulphides and cobalt-rich ferromanganese crusts prepared by the Legal and Technical Commission, he said. After the first reading, the Council had considered that further explanation and elaboration was required with respect to: prospecting; the size of the areas for exploration; the proposed system for the Authority's participation; and the proposed draft language in the draft regulations relating to protection of the environment and their relationship to the provisions of the Convention and the 1994 Agreement relating to the implementation of Part XI of the Convention.

51. The Authority had also continued its work on establishing a geological model of polymetallic nodule deposits in the Clarion-Clipperton fracture zone of the Pacific Ocean. At the Authority's eleventh Session, it had been proposed that the application fees paid by contractors be transferred to a special endowment fund account, the income from which would be utilized to promote marine scientific research and provide opportunities for qualified scientists from institutions in developing countries to participate in research activities. The Assembly had requested the Secretary-General to make a detailed proposal for the establishment and use of the proposed endowment fund for the consideration of the Finance Committee and the Assembly at its twelfth session, to be held from 7 to 18 August in Kingston. He reminded delegations about the need for States Parties adequate representation at the Authority's meetings as well as the question of timely and full payment of assessed contributions.

52. The seventeenth Meeting of States Parties would be convened on 14 and from 18 to 22 June 2007, bearing in mind that the current term of office of the members of the Commission on the Limits of Continental Shelf expires on 15 June 2007.

## **VII. TWELFTH SESSION OF THE INTERNATIONAL SEABED AUTHORITY (7 – 18 AUGUST, 2006, KINGSTON, JAMAICA)**

53. The International Seabed Authority (hereinafter ISA) was established under UNCLOS'1982, as modified by the 1994 Agreement relating to the Implementation of Part XI (seabed provisions) of the UNCLOS. Its task, as set out in the UNCLOS, is to organize and control all resource-related activities in the seabed area beyond the jurisdiction of any State, an area underlying most of the world's oceans. The UNCLOS defines this deep-seabed area and its resources as "the common heritage of mankind". All parties to the Law of the Sea Convention are *ipso facto* Members of the Authority and the current membership is 149. It was established on 16 November 1994 following the entry into force of the UNCLOS. The three principal organs of the Authority are: the Assembly, in which all members are represented, and a 36-member Council elected by the Assembly and the Secretariat. A 24-member Legal and Technical Commission and a 15-member Finance Committee are the organs of Council.

54. The Twelfth Session of the International Seabed Authority took place from 7 to 18 August 2006 at its Headquarter in Kingston, Jamaica.<sup>15</sup> The Meeting of the Assembly elected Mr. Sainivalati S. Navoti (Fiji) as the President for the Twelfth Session Assembly of the ISA and Mariusz-Orion Jędrysek (Poland) as the President for the Authority's current Session. Out of 149 Members of the Authority, only 65 Member States representatives attended the twelfth Session of the Authority.

55. Regulations for the prospecting and exploration of Seabed Sulphides (polymetallic Sulphides) and Crusts (cobalt-rich crusts) was the focal point of the discussions at the twelfth Session of the ISA. Following extensive discussions on technical issues contained in the draft regulations, the Council agreed that the Secretariat should attempt a further revision in light of the outcomes of the technical workshop. The Secretariat was to produce separate set of regulations for polymetallic Sulphides and cobalt-rich crusts. The Council also recommended that the Legal and Technical Commission should give priority to the regulations relating to the polymetallic Sulphides, which the Council could consider at its next Session.

56. It was agreed that the revised draft regulations for cobalt-rich crusts would be circulated to the outgoing members of the Legal and Technical Commission for their comments and thereafter, to the incoming members. Then the draft would be made available to Member States before the thirteenth Session. Finally, the draft regulation would be reviewed by the Legal and Technical Commission and submit them for consideration by the Council in 2008. The Council also decided to increase the size of the Legal and Technical Commission to 25 members without prejudice to future elections and requested the Secretary-General to prepare for its consideration at its next Session.

57. The Assembly by a draft decision<sup>16</sup> elected 17 Members to the 36 Member Executive Council who will serve a four-year term beginning 1 January 2007, subject to understandings reached in the regional and interest groups. The Assembly adopted a US\$11,782,400 budget for the Authority's operations for 2007-2008 biennium. It also

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<sup>15</sup> For more information see Press releases of the twelfth Session of the International Seabed Authority available on the website of the Authority at URL:<http://www.isa.org.jm/en/>.

<sup>16</sup> Draft decision ISBA/12/A/L.2.

adopted a resolution<sup>17</sup> to establish a special endowment fund for marine research in the international seabed Area. The Assembly discussed the Report of the Secretary-General<sup>18</sup> and reviewed the work of the Authority since the eleventh Session.

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<sup>17</sup> Resolution ISBA/12/A/11.

<sup>18</sup> ISBA/12/A/2

## VIII. DISPUTE SETTLEMENT UNDER UNCLOS

58. States Parties to UNCLOS involved in a dispute when they have not reached a settlement by peaceful means in accordance with the UN Charter are obliged to resort to the compulsory dispute settlement procedures entailing binding decisions, subject to limitations and exceptions provided. UNCLOS provides for four alternative fora for the settlement of disputes: ITLOS, ICJ, an Arbitral Tribunal constituted in accordance with Annex VII to UNCLOS or a Special Arbitral Tribunal constituted in accordance with annex VIII to UNCLOS. States Parties may choose one or more of those fora by written declaration made under article 287 of UNCLOS and deposited with the Secretary-General of the United Nations.

59. The International Tribunal for the Law of the Sea (ITLOS) was established by the Convention to adjudicate disputes arising out of the interpretation and application of the Convention.<sup>19</sup> It has exclusive jurisdiction in disputes concerning deep seabed mineral resources and provides advisory opinions when requested to do so. The jurisdiction of the Tribunal is mandatory in cases relating to the prompt release of vessels and crews or with regard to requests for the prescription of provisional measures, pending the constitution of an arbitral tribunal. It is composed of 21 judges elected for nine-year terms.

60. In the period under review,<sup>20</sup> the Tribunal held its nineteenth Session from 7 to 18 March 2005, and twentieth Session, from 26 September to 7 October 2005. These had been devoted to essentially to legal matters bearing on the Tribunal's judicial work and other administrative and organizational matters. During the past year, the Tribunal and the Committee on Rules and Judicial Practice had dealt with matters including a review of the Tribunal's rules and judicial procedures. Some of the main issues included the implementation of the rules in prompt release proceedings; access to case-related documents; and the preparation of a guide to proceedings before the Tribunal, as well as rules regarding evidence.

61. As regards, the Tribunal's judicial work, its Special Chamber had been formed to deal with a dispute between Chile and the European Community over the conservation and sustainable exploitation of swordfish stocks. That case was the first case submitted to an ad hoc chamber, which combined the advantages of a permanent court with those of an arbitral body while avoiding the considerable expense often incurred in arbitral proceedings. In another case, by signing an agreement on 26 April 2005, Malaysia and Singapore had settled their dispute over the latter's land reclamation in and around the Straits of Johor.

62. The year 2006 marks the tenth anniversary of the International Tribunal for the Law of the Sea. In nearly a decade, it had established a reputation for managing cases expeditiously and efficiently, having dealt with 13 cases, 11 of which had been instituted

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<sup>19</sup> For details see [www.itlos.org](http://www.itlos.org).

<sup>20</sup> Details stated herein are drawn from Annual Report of the International Tribunal for the Law of the Sea for 2005, submitted for the consideration of the Sixteenth Meeting of States Parties, UN Doc. SPLOS/136 dated 24 March 2006 and Statement by Mr. Rudiger Wolfrum, President of the International Tribunal for the Law of the Sea on the Report of the Tribunal at the Sixteenth Meeting of States Parties to the Convention on the Law of the Sea, 19 June 2006, available on ITLOS website.

on the basis of the Tribunal's compulsory jurisdiction. In the prompt release cases, which for the most part had been connected to fisheries activities, the Tribunal had developed a coherent jurisprudence, particularly in applying relevant factors for determining the reasonableness of bonds. It had also dealt with marine environment issues in provisional measures proceedings thereby enabling it to contribute to the development of international environmental law.

63. A symposium on the "Jurisprudence of the International Tribunal for the Law of the Sea: Assessment and Prospects" was organized at the seat of the Tribunal in Hamburg, Germany on 29-30 September 2006 to commemorate the tenth anniversary of the Tribunal. About 170 delegates, including representatives from Governments, UN Agencies, researchers, lawyers from various countries attended it. Mr. Motokatsu Watanabe, Deputy Secretary-General of AALCO participated at the Symposium and delivered on behalf of the Organization the congratulatory message for commemoration of the tenth anniversary.

## **IX. CONSIDERATION OF THE OCEANS AND THE LAW OF THE SEA ISSUES AT THE SIXTY-FIRST SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY**

64. The UN General Assembly considered the agenda item on “Oceans and the Law of the Sea” in its Plenary meetings on 7<sup>th</sup> 8<sup>th</sup> and 20<sup>th</sup> December 2006. The Assembly considered the annual comprehensive report of the Secretary-General and its addendum<sup>21</sup> and adopted two resolutions namely;

- i. Oceans and the law of the sea;<sup>22</sup>
- ii. Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments.<sup>23</sup>

65. By the 17-part resolution<sup>24</sup> on oceans and the law of the sea the General Assembly called upon States to become parties to the Convention, the Agreement on implementing part XI of the Convention and the Agreement relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. States were also called upon to deposit with the Secretary-General their charts or lists of geographical coordinates as called for by the Convention, as also urged to cooperate by protecting and preserving objects found at sea that are of an archaeological or historical nature. They were called upon to work together on diverse challenges and opportunities, including the relationship between salvage law and scientific management of underwater cultural heritage, increasing abilities to access underwater sites, looting and the growing area of underwater tourism.

66. With regard to capacity-building, the Assembly called upon States and international financial institutions to continue strengthening capacity-building activities, particularly in developing countries, in the field of marine scientific research. Those activities include training of personnel, provision of equipment, facilities and vessels, and transfer of environmentally sound technology. States were encouraged to assist developing countries in preparing submissions to the Commission on the Limits of the Continental Shelf regarding the establishment of the outer limits of the shelf beyond 200 nautical miles. The Assembly also noted with appreciation the first regional workshop of the International Tribunal for the Law of the Sea, held in Dakar, Senegal, from 31

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<sup>21</sup> UN Doc. A/61/63 and A/61/63 Add. 1.

<sup>22</sup> UNGA Res. A/61/222 adopted on 20 December 2006. The draft resolution A/61/L.30 dated 22 November 2006 was adopted by a recorded vote of 157 in favour to 1 against, with 3 abstentions. For details see *UN Press Release* GA/10564 dated 20 December 2006.

<sup>23</sup> UNGA Res. A/61/105 dated 8 December 2006. The resolution was adopted without a vote.

<sup>24</sup> The resolution is divided into following parts: Implementation of the Convention and related agreements and instruments; Capacity-building; Meeting of States Parties; Peaceful Settlement of disputes; The Area; Effective functioning of the Authority and the Tribunal; The continental shelf and the work of the Commission; Maritime safety and security and flag State implementation; Marine environment and marine resources; Marine biodiversity; Marine science; Regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects; regional cooperation; Open-ended informal consultative process on oceans and the law of the sea; Coordination and cooperation; Activities of the Division for Ocean Affairs and the Law of the Sea; and Sixty-second session of the General Assembly.

October to 2 November, on the Tribunal's role in the settlement of disputes relating to the law of the sea in West Africa.

67. The 13-part resolution on sustainable fisheries, including through instruments related to the 1995 Agreement on implementing provisions of the Law of the Sea Convention related to conservation and management of straddling fish stocks and highly migratory fish stock called for action to be taken towards achieving sustainable fisheries and for implementing the Agreement and related fisheries instruments. It called for actions regarding illegal, unreported and unregulated fishing; for monitoring, control, surveillance, compliance and enforcement of measures; fishing overcapacity; large-scale pelagic drift-net fishing; by-catch and discards, and finally, sub-regional and regional cooperation measures to achieve the measures called for and establish responsible fisheries in the marine ecosystem. The Assembly also called for actions to be taken concerning capacity-building and strengthening of cooperation within the United Nations system.

**X. CONSIDERATION OF THE OCEANS AND THE LAW OF THE SEA  
ISSUES AT THE FORTY-FIFTH SESSION OF AALCO (3-8 APRIL 2006,  
HEADQUARTERS, NEW DELHI)**

68. The Deputy Secretary-General Mr. Motokatsu Watanabe highlighted the important role played by the AALCO in the elaboration of the United Nations Convention on the Law of the Sea (UNCLOS or the Convention), 1982 and subsequent to its entry into force in following up the developments in the institutions created by the Convention, namely the Meeting of Parties, International Seabed Authority, International Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf and since the establishment of the United Nations Informal Consultative Process on Oceans and the Law of the Sea by the UN General Assembly in 1999.

69. Observer of the International Tribunal for the Law of the Sea, in his statement commended the contribution of AALCO to the strengthening of the rule of law in international relations. In his elaborate statement, he highlighted upon the work of the Tribunal, which was a specialized judicial body established by the UNCLOS. He stated it was one of the options available to the parties to the Convention under Article 287, for the compulsory settlement of disputes concerning the interpretation or application of the Convention. The jurisdiction of the Tribunal was also open to International Organizations, which were entitled in accordance with Annex IX of the Convention to become Parties to it. He emphasized that independence of the freedom of choice of procedure by the Parties to the Convention, the Tribunal had compulsory jurisdiction in two legal proceedings which required urgent action: provisional measures and prompt release of vessels and crews. Moreover, he also highlighted the judicial work done by the Tribunal over the years and how it had made a substantial contribution to the development of the international law.

70. Some of the delegations supported Secretariat proposal for convening a meeting of an AALCO open-ended Group of Experts on the Law of the Sea. A delegation highlighted three issues that it felt were of particular importance in strengthening the implementation of the Convention: first, the implementation of the provisions pertaining to the protection and conservation of the marine environment, research in marine science and the development and transfer of marine technologies; second, the capacity building of developing countries to enable them to effectively use marine resources; third, the strengthening of cooperation and coordination among relevant international organizations and mechanisms in addressing ocean issues.

71. In the context of delimitation of maritime boundaries, a delegation noted that the drawing of boundaries was essentially a task for the States involved. As such, States may conclude bilateral agreements establishing such boundaries as provided for under UNCLOS. However, due to geographical diversity and differing views as to what equity required, such agreements were not easily concluded. One delegation mentioned that the Secretariat in its Report had pointed out that the text of the UNCLOS “gives little guidance on the applicable substantive rules or the factors that are to be taken into consideration except by way of a reference to “international law as referred to in Article 38 of the Statute of the ICJ” and suggested that under such circumstances, a State has

little choice but to rely on the jurisprudence of international courts in order to determine the methods to achieve an “equitable solution”.

72. Another delegation drew attention to the issue of maritime security and in this regard called for addressing the important issue of having a proper definition of piracy. A delegation called for the extension of time-limit for filing the claims pertaining to extended Continental Shelf, by a further period of five years. Filing of such claims was, the delegation stated, difficult for developing countries due to lack of scientific, technical expertise and financial resources.

73. One delegation said that the reference prepared by the Secretariat on the issue of the delimitation of the Exclusive Economic Zone (EEZ) and the Continental Shelf between States with opposite or adjacent coasts, had rightly pointed out the Text of the UNCLOS. In such circumstance, one had little choice but to rely on the jurisprudence of International Courts in order to determine the methods to achieve an “equitable solution”.

74. Another Delegation stated that conservation of living resources of the oceans and the preservation and protection of the fragile marine environment were issues of immense importance. He drew attention to the ten-year deadline stipulated by the United Nations General Assembly in 1999 for filing claims before the Commission on Limits of Continental Shelf regarding the delineation of the extended continental shelf of coastal states. In his view such a short deadline was against the interest of developing countries.

## **XI AN OVERVIEW OF THE AALCO MEETING OF EXPERTS ON THE EMERGING ISSUES ON THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (HEADQUARTERS, NEW DELHI, 24 NOVEMBER 2006)**

75. It may be recalled that the Forty-Fifth Golden Jubilee Headquarters Session, had mandated the Secretary-General to explore the possibility of convening a Meeting of Experts on the Law of the Sea. In furtherance of that mandate and to commemorate the golden jubilee of the Organization, the AALCO Secretariat organized a *“Meeting of Experts on the Emerging Issues on the United Nations Convention on the Law of the Sea”* on 24 November 2006 at the Headquarters of the Organization in New Delhi. Based upon the deliberations at the Golden Jubilee Session, the deliberations at the meeting took place in three substantive Sessions on: An overview of the United Nations Convention on the Law of the Sea- Regime of Oceans- Contribution of Asian-African States; Preservation and Protection of Marine Environment: Legal Regime and Emerging Issues; and Maritime Zones and their Delimitation: The Law and Practice.

76. The Meeting was attended by delegations from following Member States: Arab Republic of Egypt, Brunei Darussalam, People’s Republic of China, Democratic People’s Republic of Korea, Ghana, India, Republic of Indonesia, Japan, Jordan, Republic of Korea, Malaysia, Mauritius, Myanmar, Sultanate of Oman, Pakistan, Senegal, Singapore, South Africa, Sudan, Syria, United Arab Emirates, and Republic of Yemen; Permanent Observer New Zealand; International Tribunal for the Law of the Sea and the League of Arab States Mission in New Delhi. In all nearly eighty participants, including representatives from Member States, Intergovernmental Organizations and academicians participated in the day-long deliberations.

77. A brief overview of the deliberations at this Meeting is as under:<sup>25</sup>

### **A. Inaugural Session**

78. Amb. Dr. Wafik Z. Kamil, the AALCO Secretary-General welcomed Dr. P. S. Goel, Secretary, Ministry of Earth Sciences, Government of India; Hon’ble Mr. Narinder Singh, Joint Secretary, Legal & Treaties Division, also the President of the Forty-Fifth Session of AALCO; H.E. Dr. Choon-ho Park, Judge of the International Tribunal for the Law of the Sea, Panelists, Delegations from Member States, Permanent Observer-New Zealand, Intergovernmental Organizations and other invitees. In his welcome address, he said that at the age of fifty, AALCO as an Organization needs some retrospection, so as to take pride in counting its achievements, and also as a permanent Organization to enquire prospects. The Secretary-General also said that it was thus highly appropriate that the plenary organ of AALCO, that is, its Annual Session, at its Forty-Fifth Session mandated him to enquire into prospects on this agenda item. He also reiterated that in international law circles the AALCO was well recognized for its significant contribution in the elaboration of the United Nations Convention on the Law of the Sea, 1982 (UNCLOS).

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<sup>25</sup> A detailed Report of the Meeting, including the presentations made by the Panelists is being prepared by the AALCO Secretariat and would be submitted for the consideration of the Member States, at the earliest.

79. Dr. P.S. Goel, Secretary, Ministry of Earth Sciences, Government of India inaugurated the Meeting of Experts. In his inaugural address, he said that it was a matter of honour and privilege for him to inaugurate and deliver the Inaugural Address on behalf of Mr. Kapil Sibal, Hon'ble Minister for Science and Technology and Earth Sciences. He said that AALCO's contribution towards bringing together the countries in Asian-African region in consolidating the developing countries position in the United Nations on the progressive development and codification of international law, in general and in the elaboration of the 1982 United Nations Convention on the Law of the Sea, in particular, was very well appreciated.

80. Dr. Goel observed that that the Convention was 25 years old and more than 12 years have passed since its entry into force. The time was therefore opportune to examine the working of the Convention and explore the emerging areas of concern particularly the developing countries belonging to the Asian-African region. Having played a vital role in the development of the UNCLOS, he requested AALCO to explore how best the Asian-African solidarity would further strengthen the legal order established by the UN Convention on the Law of the Sea.

81. Dr. Goel stated that the achievement of a fair and equitable solution was essential for the settlement of maritime boundaries disputes between the States. The rising number of agreements between the States and their marine boundaries indicates that this topic was appropriate and timely to be dealt with in an expert meeting of this kind. He hoped that the deliberations in the meeting of the experts would help resolving some of the pending differences among the African and Asian Countries. He also said that he was glad that the AALCO has set a well thought out of sessions with competent chairpersons and expert panelists to deal with certain emerging issues on the UN Law of the Sea Convention. He was confident that the galaxy of International Lawyers, assembled would ably fulfill their task of bringing out the emerging issues of concern to the international community in the United Nations Convention on the Law of the Sea. He confidently said that the deliberations, would greatly benefit the Asian-African community in gaining further insight over these issues so that it could lead to forging a common position in the international fora.

82. Mr. Motokatsu Watanabe, the Deputy Secretary General of AALCO, concluded the Inaugural Session by giving vote of thanks to all the Delegations from the Member States, Expert Panelists and the Dignitaries who attended the Expert Meeting. He also thanked especially the Government of Japan and Republic of Korea for the voluntary financial support for making the Meeting successful.

**B. Session 1: An Overview of the United Nations Convention on the Law of the Sea – Regime of Oceans- Contribution of Asian-African States**

83. Mr. Narinder Singh, President of Forty-Fifth Session of AALCO and the chair observed that the matters concerning the Oceans and Law of the Sea had been accorded a very high priority in the United Nations. The General Assembly directly considered it in the plenary meetings, the agenda item on the Oceans and Law of the Sea and adopted two major resolutions every year. In addition, the Secretary-General issues a very detailed report on all aspects of Law of the Sea, which covers not only the United Nations Convention on the Law of the Sea but all other issues including fishing, maritime issues, piracy etc.

84. Mr. B. Sen, former Secretary-General AALCO elaborated on the negotiation process of the UNCLOS, as well as pertinent developments in the Convention since its adoption. He highlighted the significant contribution made by the Asian-African States more particularly the Members of the AALCO to the development of various concepts in the UNCLOS. Some of the important areas where AALCO's direct involvement contributed in addition to the concept of Exclusive Economic Zone were that of Territorial Sea, Contiguous Zone, Straits, Archipelagic States, Exclusive Economic Zone and Continental Shelf. He also added that in these areas though the Asian-African states had difference of opinion but finally they all came together and strongly argued through the common platform. He stressed that it contributed to enhancing the solidarity of the Asian-African states and brought about fairness in the elaboration of UNCLOS.

85. Prof. R. P. Anand, Professor *Emeritus*, Centre for International Legal Studies, Jawaharlal Nehru University, New Delhi gave a general overview of the topic. In his presentation, he highlighted and elaborated on some of the issues like Freedom of the Seas; Paramount Principle of the Law of the Sea; Vague and Uncertain Laws; Post-Second World War Era in the development of the Law of the Sea; Conflicting and Diverse Claims; Renewed Challenge to the Freedom of the Seas; Further Erosion of the Freedom of the Seas; and finally, the third UN Conference on the Law of the Sea. He also said that freedom of the seas would still be a relevant concept, but this freedom would not be unlimited. The freedom of the sea was equal to same kind of freedom that individuals enjoy in a national society, namely, freedom under generally agreed and widely accepted legal principles as adopted by the world-wide community of states.

86. Mr. C. Jayaraj, former Secretary-General of Indian Society of International Law complimented the AALCO for convening the Meeting. He particularly appreciated the Session, as it had given the participants an occasion to revisit the history of one of the most important international law-making exercise. By hearing the panelists, the participants were enlightened about the crucial conflicts that existed during that time. He suggested AALCO to find the regional programs, that could be visualized in Asian and African region so that the objectives of the Convention would be fully realized.

87. Dr. M. Gandhi, Director, Legal & Treaties Division, Ministry of External Affairs, Government of India, observed that Marine Scientific Research (MSR) was very critical from the point of practitioners of the developing countries and it would be fitting while commemorating the Golden Jubilee of the AALCO, to look into and consolidate the

Asian-African practice on marine scientific research, especially in the maritime zones. He suggested for solidarity amongst Asian-African States to meet the challenges arising out of the MSR problem.

**C. Session 2: Preservation and Protection of Marine Environment: Legal Regime and Emerging Issues**

88. Prof. Rahmatullah Khan, Secretary-General of Indian Society of International Law chaired the second Session. While introducing the theme for deliberations, he stated that the interests in the continental shelf and in the living resources in the coastal area were dictated mostly by the quest for energy sources. He said that the discovery of minerals in the oceans led to the quest for regime that was not only workable but also equitable and took into consideration the interests of the coastal States.

89. Dr. M. Gandhi explained about Protection of Marine Environment under the topic “Re-defining the Scope of Preservation and Protection of Marine Environment-in the area beyond national jurisdiction in the light of Sustainable Development”. He said that Chapter 17 of Agenda 21, introduced a new approach emphasizing on the precautionary and anticipatory rather than a reactive approach to marine environment. This had led to the new commitment by States within the framework of UNCLOS. He also emphasized that the world community through Millennium Declaration reaffirmed its support for the principles of sustainable development, including those set out in Agenda 21, agreed upon at the United Nations Conference on Environment and Development.

90. Another panelist Prof. Joanna Mossop, Senior Lecturer, Law Faculty, Victoria University of Wellington, New Zealand said that there were many challenges to the marine environment, from pollution to over fishing to the impacts of climate change. She highlighted some of the evolving issues under the title “Preservation of marine biodiversity in areas beyond national jurisdiction”. She elaborated on concepts such as understanding of marine biodiversity; threats to marine biodiversity in areas beyond national jurisdiction; Legal framework for biodiversity beyond national jurisdiction; and finally, options under international law for regulating activities that threaten biodiversity. In conclusion she said that biodiversity protection was a developing issue that required State attention and existing legal framework appeared inadequate to implement effective protection or regulation. The sectoral nature of the current legal regime created conflicting principles or ambiguities regarding an issue that was not on the minds of the negotiators of UNCLOS. She said that a piecemeal approach, while necessary in the short term, would not resolve the broader issues of conflicting uses of the oceans causing threats to marine biodiversity.

**D. Session 3: Maritime Zones and their Delimitation: The Law and Practice**

91. The Session was chaired by Mr. B. Sen, former Secretary-General of AALCO. He stated that that this topic was essentially a task for the States involved, divergent interests between States having opposite or adjacent coast has led to a rise in recent times in international litigation on the subject.

92. H. E. Dr. Choon-ho Park, Judge, International Tribunal for the Law of the Sea touched upon the establishment and functions of the ITLOS and thereafter he proceeded to elaborate on the origin of Northeast Asia Seabed Controversy; Unilateral Claims of the Coastal States; Reasons for Coastal States' Intransigence; Joint Development Schemes; New Developments in the Law of the Sea: the Exclusive Economic Zone Regime; and Prospect of Agreement on Boundary Delimitation. He had titled his presentation "Problems of Maritime Boundary Delimitation in Northeast Asia with reference to Intransigent Attitudes of the Coastal States".

93. The second panelist Prof. Atsuko Kanehara, Rikkyo University, Tokyo, Japan presented a paper on "Some Remarks on Developing Rules Concerning Maritime Delimitation Mainly of Continental Shelf". She divided her paper into two parts. The primary status of "the equidistance and relevant circumstances method" in order to achieve an equitable solution was discussed as first part and said that Article 83, paragraph 1 of the UNCLOS did not lend concrete or precise rules or standards regarding how to achieve the "equitable solution". She also added that it was a commonly shared and recognized view among many scholars and international practitioners that by consulting international precedents refined and concrete rules and methods of delimitation should be established. She also added that international judgments were not only one of subsidiary formal sources of international law under Article 38, paragraph 1 of the ICJ Statute, but also, the most powerful locomotive of creating or crystallizing customary international law. She cited some of the important cases and precedents with regard to the issue. In the second part, she explained the necessary changes in the Concept of Stability of Delimitation Agreements by highlighting Frequency and Long-lastingness of Delimitation Disputes and Final or Provisional Arrangements. In conclusion, she said that based on relevant precedents the primacy of "the equidistance and relevant circumstances method" has been firmly confirmed and the precedents had shown this method was the most appropriate one for achieving equitable solutions lending support to significance of an equidistance line as a tentative line as a part of provisional arrangement. By adopting such policy, and also by taking advantage of disclaimer clauses or future review provisions, she said that the interested States should find a way of overcoming a deadlock in their negotiation so as to make progress in exploration and exploitation of natural resources.

94. Prof. Yogesh K. Tyagi, Professor of International Law, Jawaharlal Nehru University, New Delhi congratulated AALCO for taking up this question of delimitation as one of the item for the discussion and recalled AALCO's contributions on the subject made under the stewardship of Mr. B. Sen by AALCO. He observed that regarding the situations where there was no agreement on maritime delimitation, they may be considered as situation of disputes or situation in the form of challenges for cooperation. He added that in the Law of the Sea Convention, the primacy was not merely on certain settlement of disputes but on cooperation until the settlement of the disputes. He requested the panelists' to enlighten on the legal status equidistance and relevant circumstance method, as well as on joint exploration in view of practice adopted in the region where the panelist belonged to.

95. Prof. Kanehara while replying to Prof. Tyagi's queries regarding the status of the equidistance and relevant circumstances method stated that the equidistance method had

not acquired the status of a compulsory method. She also added that there were two factors relevant in that concept i.e., the precedents by ICJ and Arbitral Tribunals; and change in the concept of Continental shelf and inclusion of the concept of EEZ under the UNCLOS. As regards, on the question of joint development she said that she was not the appropriate person to talk about Japanese government's position.

96. While concluding the Session, Mr. B. Sen thanked the Secretary-General and Secretariat of AALCO for the initiative in organizing the seminar and also hoped that the AALCO would follow the issues and suggestions raised in the session. He also requested AALCO to prepare a study based on the issues and suggestions raised in the session and re-mould on the basis of new ideas with the Asian-African perspective. Finally, the Secretary-General of AALCO concluded the Expert Meeting by assuring the Member States and the delegates to evolve and enhance the study related to Law of the Sea and to deal with all the challenges confronted by Asian-African countries in this matter.

**Annex**

**Status of the Participation of AALCO Member States in the United Nations Convention on the Law of the Sea, of the Agreement relating to the implementation of Part XI of the Convention and of the Agreement for the Implementation of the provisions of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**

S. No.	Member States	United Nations Convention on the Law of the Sea (in force as from 16 November 1994)		Agreement Relating to implementation of Part XI of the Convention (in force as from 28 July 1996)		Agreement for the implementation of the Provisions of the Convention Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (in force as from 11 December 2001)	
		Signature	Ratification, Formal Confirmation (c), Accession (a), Succession (d)	Signature	Ratification, formal confirmation (fc), Accession (a), definitive signature (ds), participation (p) Simplified procedure (sp)	Signature	Ratification, Accession (a)
1.	Arab Republic of Egypt	10 December 1982	26 August 1983	22 March 1995	—	5 December 1995	—
2.	Bahrain	10 December 1982	30 May 1985	—	—	—	—
3.	Bangladesh	10 December 1982	27 July 2001	—	27 July 2001 a	4 December 1995	—
4.	Botswana	5 December 1984	2 May 1990	—	31 Jan 2005 (a)	—	—
5.	Brunei Darussalam	5 December 1984	5 November 1996		5 November 1996	—	—
6.	Cameroon	10 December 1982	19 November 1985	24 May 1995	2August 2002	—	—
7.	China	10 December 1982	7 June 1996	29 July 1994	7 June 1996 (P)	6 November 1996	—

8.	Cyprus	10 December 1982	12 December 1988	1 November 1994	27 July 1995	—	25 September 2002 (a)
9.	DPR Korea	10 December 1982	—	—	—	—	—
10.	Gambia	10 December 1982	22 May 1984	—	—	—	—
11.	Ghana	10 December 1982	7 June 1983	—	—	—	—
12.	India	10 December 1982	29 June 1995	29 July 1994	29 June 1995	—	19 August 2003 (a)
13.	Indonesia	10 December 1982	3 February 1986	29 July 1994	2 June 2000	4 December 1995	—
14.	Islamic Republic of Iran	10 December 1982	—	—	—	—	17 April 1998 (a)
15.	Iraq	10 December 1982	30 July 1985	—	—	—	—
16.	Japan	7 February 1983	20 June 1996	29 July 1994	20 June 1996	19 November 1996	7 August 2006
17.	Jordan	—	27 November 1995 a	—	27 November 1995 (p)	—	—
18.	Kenya	10 December 1982	2 March 1989	—	29 July 1994 (ds)	—	13 July 2004 (a)
19.	Kuwait	10 December 1982	2 May 1986	—	2 August 2002	—	—
20.	Lebanon	7 December 1984	5 January 1995	—	5 January 1995 (p)	—	—
21.	Libyan Arab Jamahiriya	3 December 1984	—	—	—	—	—
22.	Malaysia	10 December 1982	14 October 1996	2 August 1994	14 October 1996 (p)	—	—
23.	Mauritius	10 December 1982	4 November 1994	—	4 November 1994 (p)	—	25 March 1997 (a)

24.	Mongolia	10 December 1982	13 August 1996	17 August 1994	13 August 1996 (p)	—	—
25.	Myanmar	10 December 1982	21 May 1996	—	21 May 1996 (a)	—	—
26.	Nepal	10 December 1982	2 November 1998	—	2 November 1998 (p)	—	—
27.	Nigeria	10 December 1982	14 August 1986	25 October 1994	28 July 1995 (sp)	—	—
28.	Oman	1 July 1983	17 August 1989	—	26 February 1997 (a)	15 February 1996	—
29.	Pakistan	10 December 1982	26 February 1997	10 August 1994	26 February 1997 (p)	15 February 1996	—
30.	Palestine	—	—	—	—	—	—
31.	Philippines	10 December 1982	8 May 1984	15 November 1994	23 July 1997	30 August 1996	—
32.	Qatar	27 November 1984	9 December 2002	—	9 December 2002 (p)	—	—
33.	Republic of Korea	14 March 1983	29 January 1996	7 November 1994	29 January 1996	26 November 1996	—
34.	Saudi Arabia	7 December 1984	24 April 1996	—	24 April 1996 (p)	—	—
35.	Senegal	10 December 1982	25 October 1984	9 August 1994	25 July 1995	4 December 1995	30 January 1997
36.	Sierra Leone	10 December 1982	12 December 1994	—	12 December 1994 (p)	—	—
37.	Singapore	10 December 1982	17 November 1994	—	17 November 1994 (p)	—	—
38.	Somalia	10 December 1982	24 July 1989	—	—	—	—
39.	South Africa	5 December 1984	23 December 1997	3 October 1997	23 December 1997	—	14 August 2003 (a)
40.	Sri Lanka	10 December 1982	19 July 1994	29 July 1994	28 July 1995 (sp)	9 October 1996	24 October 1996

41.	Sudan	10 December 1982	23 January 1985	29 July 1994	—	—	—
42.	Syrian Arab Republic	—	—	—	—	—	—
43.	Thailand	10 December 1982	—	—	—	—	—
44.	Turkey	—	—	—	—	—	—
45.	Uganda	10 December 1982	9 November 1990	9 August 1994	28 July 1995 (sp)	10 October 1996	—
46.	United Arab Emirates	10 December 1982	—	—	—	—	—
47.	United Republic of Tanzania	10 December 1982	30 September 1985	7 October 1994	25 June 1998	—	—
48.	Yemen	10 December 1982	21 July 1987	—	—	—	—

**Note:**

1. The information stated in the above table has been compiled from “Table recapitulating the status of the Convention and of the related Agreements, as at 8 November 2006, available on the website: <http://www.un.org/Depts/los/index.htm#oceans> and Multilateral Treaties Deposited with the Secretary-General, Status as at 31 December 2005.

2. The Arab Republic of Egypt, Bangladesh, China, India, Islamic Republic of Iran, Iraq, Kuwait, Malaysia, Oman, Pakistan, Philippines, Qatar, Saudi Arabia, Sudan, United Republic of Tanzania and Yemen have made Declarations to the UNCLOS, 1982.

3. People’s Republic of China has made a declaration regarding the Straddling Fish Stocks Agreement.

**Inferences:**

Following inferences as to the participation of AALCO Member States to the UNCLOS and its implementing Agreements may be made from the information mentioned in the Table:

**(i) UNCLOS**

UNCLOS 1982 has near universal adherence from the AALCO member states. Out of forty-eight Member States only seven states, namely, Democratic Peoples' Republic of Korea, Islamic Republic of Iran, Libyan Arab Jamahiriya, State of Palestine, Syrian Arab Republic, Thailand, Turkey and United Arab Emirates are not Parties to the UNCLOS.

**(ii) Agreement relating to the implementation of Part XI of the Convention**

Thirty-two AALCO Member States are Parties to this Agreement. Region-wise break-up of the AALCO Member States Parties to this Agreement is as under:

**Asia:** Bangladesh, Brunei Darussalam China, Cyprus, India, Indonesia, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mongolia, Myanmar, Nepal, Oman, Pakistan, Philippines, Qatar, Republic of Korea, Saudi Arabia, Singapore, and Sri Lanka.

**Africa:** Botswana, Cameroon, Kenya, Mauritius, Nigeria, Senegal, Sierra Leone, South Africa, Uganda, and United Republic of Tanzania.

**(iii) Agreement for the implementation of the Provisions of the Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**

Only nine AALCO Member States are Parties to this Agreement. Region-wise break-up of the Parties to this Agreement is as under:

**Asia:** Cyprus, India, Islamic Republic of Iran Japan and Sri Lanka.

**Africa:** Kenya, Mauritius, Senegal and South Africa.