

on the agenda of the Meeting of the Legal Advisers of Member States of the Committee to be convened at the UN Office in New York during the Forty-ninth Session of the General Assembly;

*Notes* with appreciation the efforts of the Government of Qatar to convene an International Conference on the International legal Issues Arising under the United Nations Decade of International Law and strongly recommends that all the Member States participate at high level;

*Directs* the Secretariat to continue its efforts towards the realisation of the objectives of the U.N. Decade of International Law; and

*Decides* to place the item the "U.N. Decade of International Law" on the agenda of its Thirty-fourth Session.

### (iii) Secretariat Brief The United Nations Decade of International Law

The present report has been prepared pursuant to General Assembly Resolution 47/32 of November 25, 1992 entitled "United Nations Decade of International Law" whereby the Assembly *inter alia* invited all States and International Organizations and institutions referred to in the programme for activities to be commenced during the second term (1993-94) of the United Nations Decade of International, to undertake the relevant activities mentioned therein and to submit to the Secretary-General reports for submission to the General Assembly at its Forty-eighth Session.

Following upon the adoption of the United Nations Decade of International Law-the Asian-African Legal Consultative Committee has considered this item at successive sessions since 1990 and proposes to do so at its thirty-third session to be held in Tokyo, Japan-in early 1994. Besides the Secretary-General of the Asian-African Legal Consultative Committee proposes to hold consultations, as in the preceding years, with the legal advisers of member States of the Committee.

The Secretariat of the AALCC is actively co-operating with the Government of Qatar to organize an International Conference on the International Legal Issues Arising under the United Nations Decade of International Law. The Conference proposed to be held in March 1994 is designed and expected to promote the objectives of the United Nations Decade of International Law.

During the Second term of the United Nations Decade of International Law the AALCC proposes to continue to urge Member States which have not already done so to consider ratifying or acceding to multilateral

conventions. The Secretariat of the AALCC in fulfillment of its advisory functions would continue its endeavours to promote the acceptance of and respect for the principles of international law by urging that they ratify or accede to such international instruments as the Convention on the Law of the Sea 1982, the Basal Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal 1990, the Bio-diversity Convention 1992 the Refugees Convention 1951 and 1967 Protocol thereto, to name but a few.

The AALCC shall continue to furnish assistance to Member States of the Committee to facilitate their participation in the process of multilateral treaty making, their adherence thereto and the implementation of multilateral treaties in accordance with their national legal systems. The modest endeavours of the Secretariat to render assistance in preparing for the Second International Conference on Human Rights may be mentioned in this regard.

The AALCC attaches great significance to the cardinal principle of the peaceful settlement of disputes and shall during the second term of the Decade of International Law *inter alia* undertake an in-depth study and detailed consideration of the proposals of the United Nations Secretary-General contained in his report entitled "Agenda for Peace". The Secretariat of the AALCC is working in close collaboration towards organizing an International Conference on International Law in Doha during March 1994. At the proposed International Conference an item entitled "the Peaceful Settlement of Disputes" shall be considered at length by representatives of Member States of the AALCC and other participants. The said Conference may, perhaps, adopt a recommendation or resolution in that regard.

The Committee at its thirty-second session held in Kampala (1993) *inter alia* appointed an open ended Working Group with a core membership of Egypt, China, Ghana, India, Indonesia, Japan, Nigeria, Qatar, Saudi Arabia, Tanzania and Uganda to consider and advise the Secretariat in the preparation of a study based on the recommendations of the United Nations Secretary-General as set out in his report entitled "Agenda for Peace".

The Secretariat of the Committee has been closely following and, from time to time commenting on, the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization. The Secretariat proposes to continue to monitor the work of the Special Committee with regard to the peaceful settlement of disputes. As regards the ways and means of encouraging wider use of the role of the International Court of Justice and its wider use in the peaceful settlement of disputes the Secretariat of the AALCC proposes to update and expand its

preliminary study on the role of the International Court of Justice in the settlement of environment disputes.

With respect to disputes stemming from international economic and trade law matters the Secretariat of the AALCC shall during the second term of the Decade continue to exhort and urge Member States to resolve their differences in accordance with the arbitration and/or conciliatory rules framed by the UNCITRAL. The Committee shall also endeavour to expand and enlarge the activities of its Regional Centres of Arbitration functioning at Cairo and Kuala Lumpur. Steps would also be taken to make operational similar centres at Lagos and Tehran.

The Secretariat of the AALCC shall continue to study the progress of work of the International Law Commission and to comment thereon as part of its modest contribution to the progressive development and codification of international law. The Committee attaches great significance to the items currently on the agenda of the ILC as they are of particular relevance/significance to its members. Earlier at its Kampala session the Committee had adopted a Declaration on Human Rights which has since been distributed as a Working Paper of the PREPCOM of the Conference on Human Rights.

In the matters relating to environment and Development the Secretariat while engaged in the analysis of the international instruments adopted by UNCED at Rio in June 1992 now proposes to undertake the study of the legal aspects of prevention and reversal of desertification. The Secretariat of the AALCC proposes to convene conjointly with the UNEP a meeting of group of legal experts to consider this matter.

During the second term of the UN Decade of International Law the Secretariat of the AALCC expects to make further progress in its study on the legal aspects of privatization of State Owned Enterprises which, while serving the interest of its Member States, it is hoped would contribute to the development of the law on that subject. In the field of refugee law the Secretariat's work on model legislation on refugees aimed at enlarging the definition of the term "refugee" to conform to fresh perceptions and existing realities shall be intensified and, perhaps, completed during the present term of the Decade of International Law. The Secretariat of the AALCC is working in close co-operation with the office of the UNHCR and the Organization of African Unity in this matter.

In connection with the objective of encouraging study, dissemination and wider appreciation of international law the Committee continues to print the Reports of its annual sessions and the verbatim records thereof. Recently

the Secretariat published a combined report of its annual sessions held between 1987 and 1991. A noteworthy feature of that volume is that the research studies prepared by the Secretariat of the Committee on some select agenda items have been reproduced in that report. In this the report has made a departure from the past practice and the report is Secretariat-study oriented rather than focussing on the deliberations thereon at the annual session of the Committee.

The AALCC Secretariat is of the view that the International Conference on International Law proposed to be held in Doha in March 1994 and the proposed publication of papers, presented there would *inter alia* promote the objective of the study, dissemination and wider appreciation of international law. The Secretariat's in-house training programme under which junior and medium-level officials of member states are imparted in-house training would also lend support to this objective.

Finally, it may be stated that the Secretariat of the AALCC shall continue to liaise and co-operate with other competent regional organizations and specialized agencies of the United Nations in the fulfillment of its proposed activities and programme of work aimed at realizing the objectives of the United Nations Decade of International Law.

## United Nations Decade of International Law

### Report of the Secretary-General on a Preliminary operational plan for a possible United Nations congress on public international law\*

#### I. Introduction

On 25 November 1992, the General Assembly adopted resolution 47/32 entitled "United Nations Decade of International Law", to which was annexed, as an integral part thereof, the "Programme for the activities for the second term (1993-1994) of the United Nations Decade of International Law". Section V, paragraph 3, of the Programme reads as follows:

"The Secretariat, on the basis of informal consultations with the members of the Sixth Committee, should draw up a preliminary operational plan for a possible United Nations Congress on Public International Law, based on the proposal that the congress should be held in 1994 or 1995, and within existing resources and assisted by voluntary contributions, and submit it to the Sixth Committee for consideration by general agreement at the forty-eighth session of the General Assembly."

Furthermore, in paragraph 7 of the resolution, the General Assembly requested the Secretary-General to submit to the Assembly at its forty-eighth session a report containing the above mentioned plan.

Pursuant to these requests, informal consultations were arranged on 14 and 27 May 1993 with members of the Sixth Committee on a draft preliminary operation plan for a possible United Nations Congress on Public International Law.

The present preliminary operational plan takes into consideration the relevant provisions of General Assembly Resolution 47/32 and views expressed during the said informal consultations. It is designed to assist the Sixth Committee in the consideration of this question at the forty-eighth session of the General Assembly.

#### II. Purpose of the Congress

While the precise theme of the Congress would have to be decided by the General Assembly, upon the recommendation of the Sixth Committee,

\* Reproduced from UN Doc. No. A/48/435 of 29 September 1993.

the fact that the Congress would take place within the framework of the United Nations Decade of International Law indicates that its purpose would be the promotion of the role of international law in international relations. The Congress should be organized in such a way as to ensure that all major legal systems, all regions and all segments of the international legal profession would have an opportunity to be heard and to be represented.

In making its decision on the theme of the Congress, the General Assembly may wish to consider that the Congress might address both theory and practice of international law, and take into account the fact that the teaching and dissemination of international law is of great importance, in particular to States that have recently joined the international community.

### III. Timing of the Congress

The Congress should be convened at United Nations Headquarters, in New York, not earlier than 1995, in order to allow sufficient time for its preparation. The General Assembly, upon the recommendation of the Sixth Committee, would have to take a decision as to the timing and the duration of the Congress. The following possibilities could be envisaged as to the precise timing of the Congress

- (a) The Congress could be held in conjunction with a session of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;
- (b) The Congress could be held in conjunction with a regular session of the General Assembly (Sixth Committee);
- (c) The Congress could be held at a time independent from any other planned meeting.

If the Congress was to be held in conjunction with a session of the Special Committee on the Charter, as suggested by some delegations during the informal consultations, or in conjunction with a regular session of the General Assembly (Sixth Committee), as also suggested by other delegations, the following considerations, *inter alia*, would need to be taken into account in deciding between these two options: the extent of the presence in New York for the purpose of the session in question of members of delegations who would also attend the Congress; the extent of financial assistance provided for delegations from the least developed countries with respect to participation in that session; the other meetings and activities taking place at that time; and

the availability of large conference rooms, in particular the General Assembly Hall, and other conference services.\*

The duration of the Congress should not exceed five working days; it should not be less than three working days since the subjects to be covered are too vast to be addressed meaningfully in a shorter period of time, and since a shorter period of time would not justify the travel by many participants to the Congress to New York.

### IV. Organization of Work

The General Assembly, on the recommendation of the Sixth Committee, would have to take a decision on the specific topics to be discussed at the Congress.

Each day of the congress could be divided into either two plenary meetings, i.e., one in the morning (10 a.m. — 1 p.m.) and one in the afternoon (3 p.m. — 6 p.m.); or a plenary meeting in the morning and one or more consecutive, not simultaneous, working group meetings on specific issues in the afternoon. All the necessary services and facilities (conference rooms, including the General Assembly Hall, simultaneous interpretation from and into all official languages of the United Nations, recording of the proceedings, distribution of documents, etc.) would have to be available.

It is suggested that, during each plenary meeting, a number of selected speakers would lead the discussion on specific topics. This could be followed by interventions from the floor (comments, questions and answers).

In view of the importance of the Congress an opening and closing statement may be made by a high-ranking individual, who is well-known in the field of public international law.

The Congress would also benefit from a properly organized coverage of its work by the mass-media, including television, newspapers and magazines. Publishing the materials of the Congress for distribution to various educational, research, governmental, judicial and public institutions throughout the world could also be considered, but would depend on the availability of resources.

### V. Issues Regarding Participation in the Congress

#### A. Participants

Participation in the Congress would be broadly-based and it should be

\* The use of the General Assembly Hall for the purpose of the Congress during a session of the Assembly would require special arrangements.

open to all those interested in international law, both in theory and in practice, and particularly to the following:

- (1) Members of the International Court of Justice;
- (2) Members of the International Law Commission;
- (3) Diplomats/delegates to the Sixth Committee;
- (4) Officials from the legal offices of the ministries of foreign affairs and of the ministries of justice;
- (5) National judges;
- (6) Members of Parliament;
- (7) Professors of public international law and of related subjects (for example, political science, international relations and international organizations);
- (8) Officials from legal offices of international organizations, including regional organizations;
- (9) Representatives of non-governmental organisations active in the area of public international law and which have consultative status with the Economic and Social Council;
- (10) Representatives of the media dealing with issues of international law on a regular basis.\*

#### B. Notice to participants

The best way of reaching the participants under categories (3) to (7) would be by a note verbal to the Permanent Representatives, requesting them to inform their Governments about the Congress. The Governments would, in turn, be requested to publicize and transmit the information to all prominent individuals under categories (3) to (7). A background note containing information about the Congress and promoting its purposes and relevant activities could be prepared by the Secretariat and attached to the note verbal. The Governments could also be requested to publicize the background note, without cost to the Secretariat. Letters of invitation could be sent from the Secretariat to the members of the International Court of Justice and the International Law Commission. Similar letters would be sent to the other categories of participants (categories (8) to (10) in para 14 above). An

\* A decision could also be taken to allow a limited number of observers from the general public, which might be interested in attending the meetings of the Congress.

appropriate procedure would need to be devised to widely publicize the Congress, such as notices in leading journals of public international law.

#### C. Decisions regarding admission

It is important to avoid an unbalanced regional representation of the participants in the Congress. It would therefore seem helpful to require advance registration for the Congress, which, except for members of the International Court of Justice and the International Law Commission, should be in the form of a request for admission. If provisional limits were to be put on the number of participants from a particular region or country, they would have to be readjusted in light of the results of the registration process. The "first come first served" principle should, in this context, be taken into account. In the case of countries with a very large number of interested individuals, any other criterion would not be workable. It should be borne in mind that the congress is not intended only for persons who have achieved international recognition. The final decision as to admission could rest with either of the following:

- (a) the Sixth Committee, possibly through the regional groups;
- (b) the Secretariat.

The total number of participants would of course depend on the capacity of the conference rooms available at the time of the Congress.

#### D. Selection of speakers

The selection of speakers for the Congress should also meet the requirements of balanced regional representation and of expertise of the speakers in each of the particular topics of discussion. For practical considerations, once the General Assembly has decided on the topics to be discussed at the Congress, the selection of the speakers should be made by the Secretariat, in consultation with the members of the Sixth Committee.

#### VI. Financing of the Congress

As indicated above, General Assembly resolution 47/32 provides that the Congress should be held within existing resources and be assisted by voluntary contributions. Since it would still involve programme budget implications, however, and involve commitment of United Nations resources, it would be necessary for the Secretary-General to submit a statement of programme budget implications of any draft resolution on the holding of a Congress. In view of the financial restrictions placed on the Congress, preparations

would be dependent to some extent on the availability of extra-budgetary resources.

It is anticipated that staff resources for substantive preparation of the Congress and for substantive servicing of its meeting could be accommodated from within the staff resources of the Office of Legal Affairs. The other major costs arising would relate to conference servicing, public information coverage and travel and subsistence of at least some of the participants.

#### **A. Conference servicing and public information coverage**

On a theoretical full cost basis, all three options for the timing of the Congress described in paragraph 6 above would have the same financial implications for conference services. However, under options (a) and (b) and provided the length of the session of the Special Committee on the Charter or of the Sixth Committee was reduced accordingly, resources from within the entitlement of either one of those organs could be used to service the Congress, in which case no actual additional costs would be involved for meeting services. As to option (c), the pattern of the biennial schedule of meetings is such that from mid-January to the end of July all permanent resources are fully utilized. Unless the Congress were to be held either in the first two weeks of January or the first two weeks of August, financial costs for the recruitment of free-lance conference servicing still would be involved.

A substantial component of conference servicing costs, however, consists of the processing, translation, and printing, of documentation. If the documentation for the Congress is kept to a minimum (for example, limited to the Congress programme, a list of participants and compilation of summaries of main statements), it is anticipated that the costs of conference servicing can be absorbed within existing resources.

As regards public information coverage of the Congress, it is not anticipated that requirements could be absorbed within existing resources. Depending on the nature and degree of coverage, and the regular demands on services of the Department of Public Information, additional resources would be required.

#### **B. Travel and subsistence**

The participation of designated speakers would be one of the prerequisites of the Congress. In order to ensure that financial considerations do not constitute an obstacle to their participation in the Congress, it is crucial that travel costs and subsistence for the period of their participation in the Congress be covered.

The travel and subsistence cost of speakers could not be borne by the United Nations within existing resources. They would thus have to be borne through financing from external sources, such as voluntary contributions, or directly by the Government of each speaker. Participation may thus depend on the availability of extra-budgetary resources or contributions in kind. It is hoped that the travel and subsistence costs of speakers will be borne by their respective Governments.

#### **C. Possible external sources of financing**

In its decision to hold the Congress, the General Assembly may wish to include an invitation to Governments and non-governmental institutions, including non-governmental organizations, to make voluntary financial contributions towards the financing of the Congress, or to cover particular costs, such as the travel and subsistence costs of speakers (see paras, 21-23 above), and to authorize the Secretariat to solicit contributions from non-governmental sources. In accordance with the Financial Regulations and Rules of the United Nations, a trust fund would have to be established by the Secretary-General for receiving financial contributions. It will not be possible to estimate the extent of financing that might be available from voluntary contributions until approaches are made to possible donors.

With respect to non-governmental sources, and with the authorization of the General Assembly, voluntary contributions could be solicited, for example, from individuals by means of general solicitations (for example, in relevant journals or publications). In addition, private-sector corporations and enterprises (for example, legal publishers), as well as major foundations and philanthropic institutions, could be approached to make contribution, or to undertake to cover particular types of costs. Contributions could also be solicited from professional and academic associations, and non-governmental organizations concerned with international law.

It should be underscored that, as stated in paragraph 18 above, unless such financial issues are settled, no activity relating to the convening of the Congress can be set in motion.

### III. The Law of the Sea: The Work of the PREPCOM and The U.N. Secretary- General's Informal Consultations (1993)

#### (i) Introduction

The item "Law of the Sea" has been on the agenda of the Asian-African Legal Consultative Committee since its Colombo Session (1971) and the AALCC has played a significant role in the negotiations culminating in the UN Convention on the Law of the Sea. The United Nations Convention on the Law of the Sea, 1982 is the culmination of over 14 years of work involving participation by more than 150 countries representing all regions of the world, all legal and political systems, and all degrees of socio-economic development. These countries convened for the purpose of establishing a comprehensive regime "dealing with all matters relating to the law of the sea — bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole." The elaboration of the Convention represents an attempt to establish true universality in the effort to achieve a just and equitable international economic order governing ocean space.

The Committee at its twenty-fourth session held in Kathmandu (1985) decided that the item "Matters relating to the work of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea" (hereinafter called the PREPCOM) would be on the agenda of the Annual Session of the AALCC. The Secretariat of the AALCC has thereafter continued to monitor the progress of work in the PREPCOM and has presented reports to the successive sessions of the Committee.

The PREPCOM was established when the United Nations Convention on the Law of the Sea was adopted in 1982. It was entrusted, *inter alia* with

the task of elaborating rules and regulations for the various organs of the proposed International Sea-Bed Authority which is to organise and control activities in the International Sea-Bed Area, described as the "Common Heritage of Mankind". The PREPCOM was also given the mandate to pave the way for the early and efficient establishment of the Enterprise — the Sea-Bed Mining arm of the Authority, to draw and adopt a mining code, to study and tackle the problems of land-based producer States likely to be most seriously affected by the Sea-Bed production, and to formulate regulations for the International Sea-Bed Tribunal. All these tasks were to be carried out in various organs of the PREPCOM including the General Committee, the Plenary and the four Special Commissions.

On 2nd April, 1993, the Preparatory Commission, after eleven years of protracted negotiations and assiduous work adopted its draft provisional final report. The list of pending issues which are annexed to the provisional final report indicates that the effort to resolve them in PREPCOM will not be continued and the existing pattern of meeting would stop. Instead, the focus will be on the informal consultations organised by the U.N. Secretary-General which are now open ended. The Secretariat of the AALCC in compliance with its mandate monitored the progress of work in the PREPCOM during its eleventh session held in Kingston (Jamaica) from 22nd March to 2nd April, 1993, and also the developments in the Informal Consultations which held three meetings in 1993.

### Thirty-third Session: Discussions

The Assistant Secretary-General, Mr. Asghar Dastmalchi, while introducing the subject "Law of the Sea" stated that the Brief prepared by the Secretariat set out a report on the work of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, as well as a report on the United Nations Secretary-General's Informal Consultations on the UN Convention on the Law of the Sea. He pointed out that an item entitled 'Progress of the Work of the PREPCOM has been included in the programme of work of the Secretariat following upon a decision of the Committee at its twenty-third Session held in Tokyo in 1983 and the Secretariat has since then been monitoring the progress of work in the PREPCOM and the item has been considered at successive sessions of the Committee since its twenty-fourth Session held in Kathmandu in 1985. It was last considered at the thirty-second Session of the Committee held in Kampala in 1993.

The Assistant Secretary-General observed that at the summer meeting of its Tenth Session held in New York in August 1992 the PREPCOM had

decided to complete the task of adoption of its final report in the course of its next meeting. The purpose of the meeting of the Eleventh Session of the PREPCOM was, therefore, limited. The spring session was not intended to be a negotiating session but a session for adopting the various reports of the PREPCOM. In his opening statement at that Session, the Chairman Mr. Jose Luis Jesus, clearly stated that following consultations in the General Committee of the Preparatory Commission it had been agreed that the draft final reports would not be Negotiating instruments" but a summary of the PREPCOM's discussions over the last eleven years. He had therefore proposed that the discussions be focussed only on correcting inaccuracies and should not include substantive statements.

As regards the future work of the Preparatory Commission, the Assistant Secretary-General stated that the PREPCOM had *inter alia* decided: (a) not to hold any meetings in the course of this year; (b) to make provision every year for the United Nations servicing of a two-week annual session of the PREPCOM until the entry into force of the Convention; (c) that the need for the effective holding of the annual session of the PREPCOM will be decided by the Chairman of the PREPCOM in consultation with the Chairmen of the Regional Groups and interest Groups. The Chairman of the PREPCOM will also decide the precise date for such a meeting and (d) The General Committee, acting on behalf of the PREPCOM as its executive organ for the implementation of resolution II, will meet for the two or three days annually to consider matters related to the implementation of resolution II and to continue the monitoring of the implementation of the obligation of the registered pioneer investors.

He pointed out that when it became clear that a solution to problems with certain aspects of the deep sea-bed mining provisions of the Convention on the Law of the Sea inhibited the industrialized States from ratifying or acceding to it, or even signing it, the Secretary-General of the United Nations took the initiative, in July 1990, of convening informal consultations with a view to promoting a dialogue to address the issues in question. The Secretary-General of the AALCC participated in two rounds of the informal consultations held during the last year. The brief prepared by the Secretariat incorporates the report of the Secretary-General's participation at the consultations convened in April and November 1993.

The Secretary-General's Note proposed the establishment of an initial Authority whose function would be restricted primarily to continue with the functions being carried out by the PREPCOM with respect to pioneer investors including training programmes and receiving and processing of new



applications. It would also implement the decisions of the PREPCOM, monitoring and receiving the trends of development relating to the deep seabed mining activities including the protection of the marine environment and setting up of regulations covering activities related to deep-seabed mining and monitoring their implementation. The Initial Authority would also have the function of contracting with investors or other entities, establishment of necessary subsidiary bodies and continuing consultations on resolutions of such issues which would be pending after the United Nations Secretary-General's Informal Consultation or at the time of entry into force of the Convention. Although this possible structure received widespread support from most of the delegations, the industrialized countries continued to work for restricting even further the functions of the Initial Authority to the minimum. During the three rounds of the consultation the same tussle prevailed especially on the subjects like Initial Enterprise, the structure and composition of the organs of the Initial Authority, the Secretariat, the expenses of the Initial Authority, etc.

He observed that the discussion on the "Draft texts governing the Regime for Deep Sea-bed Mining" clearly indicated the existence of divergency among the developing and the industrialized countries. While the former continued to advocate the principle of common heritage of mankind and the provisions of the Convention on decision-making in the various organs of the Authority, the latter insisted on changing and amending the provisions of the Convention to conform to their needs with the realities of the present world market economy. They emphasized on chamber voting procedure for decision making in the Council which would guarantee virtual veto in all decisions in the Council and very limited functions for the Enterprise. They were also against mandatory transfer of technology, and rejected the idea of compensation for economic loss arising from new minerals from the area as unrealistic. They were opposed to transfer of technology and a review conference.

During the August Meetings, an anonymous paper called 'The Boat Paper', purported to have been prepared by representatives of several developed and developing States was circulated among the delegations as a contribution to the process of consultations. It is clear that majority of the developing countries could not have been parties to it and were neither consulted nor supported its content.

At the November consultations, the representative of Sierra Leone, introduced a new paper referred to as the "Non-Paper" which was said to have been prepared by the representatives of the delegations primarily from the Group of 77. The paper underscores difficulties of achieving the major

amendments incorporated in the "Boat Paper" representing the position of industrialized countries which would make radical changes to part XI of the Convention. Such changes would take a long time to be negotiated with the Group of 77. In the meantime, now that the Convention is about to enter into force, it was necessary to make provisional measures for the interim period before commercial exploitation of the minerals becomes feasible so as to avoid the existence of a vacuum during which dual regime would exist — the Convention regime and the traditional high sea freedoms regime.

He also pointed out that the United Nations Convention on the Law of the Sea, 1982, having received the Sixtieth instrument of ratification on 16th November 1993 is now poised to enter into force on 16th November 1994, in accordance with Article 308, paragraph 1 of the Convention. The entry into force of the Convention is expected to have a marked impact on the practice of States, in particular those which are parties to the Convention, and the activities of a number of international organizations competent in the fields of ocean affairs. The entry into force of the Convention would, among other things, consolidate and reinforce the provisions which have already received general acceptance. It needs however to be emphasized that the establishment of the date of entry into force of the Convention affects the programme of work of the PREPCOM. As the Secretary-General of the United Nations has pointed out in his report the Commission would *inter alia* have to

(a) Convene the Group of Technical Experts, established in accordance with the Statement on the implementation of Resolution II, "within three months" from 16 November, 1993 to review the state of deep seabed mining and to make an assessment of the time when commercial production may be expected to commence, pursuant to the decision of the Commission. If, as a result of the review and the assessment, the Group of Technical Experts concludes that commercial production will not take place for an extended period of time, the PREPCOM shall recommend to the Authority that the annual fixed fee payable under Annex III, Article 13, paragraph 3 be waived for a relevant time;

(b) Submit its final report on all matters within mandate, except those relating to the International Tribunal for the Law of the Sea, to the Assembly of the International Sea-Bed Authority at its first session, to be held "on the date of the entry into force" of the Convention,

(c) Submit the report regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea meeting of States Parties to the Convention, to be convened within "six months" from 16 November 1994; and