

**ADDRESS BY H. E. AMB. DR. WAFIK Z. KAMIL, SECRETARY-GENERAL
AALCO AT THE INAUGURAL SESSION OF THE
MEETING OF EXPERTS ON THE EMERGING ISSUES ON
THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA
24TH NOVEMBER 2006, NEW DELHI**

Good Morning Excellencies,

Allow me on behalf of all of you to welcome H. E. Dr. P. S. Goel, Secretary, Ministry of Earth Sciences, Government of India,

Hon'ble Mr. Narinder Singh, Joint Secretary L&T Division, President of the Forty-Fifth Session of AALCO,

His Excellency Dr. Choon-ho Park, Judge of the International Tribunal for the Law of the Sea,

Distinguished Experts, panelists for the various Sessions of the Meeting,

Excellencies.

It is a great honour to have amongst us today Dr. P. S. Goel, Secretary, Ministry of Earth Sciences, Government of India. As the winter Session of the Indian Parliament has commenced on 22nd November, the Hon'ble Minister Mr. Kapil Sibal, despite his desire to be here with us this morning, but owing to his Parliamentary commitments could not join our meeting, although he was very much willing to do so. And he has very kindly requested the Secretary in the Ministry of Earth Sciences, Dr. P. S. Goel to deliver the Inaugural Address. Dr. Goel is a very eminent Indian scientist with vast experience and a very large number of academic papers published in Foreign and Indian scientific Journals. On behalf of the Organization and my own behalf, I thank you Sir, for your presence and very graciously agreeing to deliver the Inaugural Address. We are confident that your address would set the tone for productive deliberations during the course of the Meeting.

It is an honour and privilege to welcome all of you today. As you all would recall the year 2006 marks the Golden Jubilee Year of the AALCO. The commemoration of the Golden Jubilee of our Organization has started earlier with the holding of the highly successful and historic Forty-Fifth Golden Jubilee (Headquarters Session) in New Delhi from 3rd - 8th April, 2006, thereafter, very recently we had celebrated our Fiftieth Constitution Day on the 15th of November.

At the age of fifty, for AALCO as an Organization it is time for some retrospection, so as to take pride in counting its achievements, as also an occasion to explore, as a permanent Organization what more could we offer to its Member States and also the international community in its area of work in future.

Amongst other things, in international law circles the AALCO is well recognized for its significant contribution in the elaboration of the United Nations Convention on the Law of the Sea, 1982 (UNCLOS). It may be useful to briefly recall this contribution.

It is to be recalled that the AALCO's coming into existence in 1956 coincided with the general awareness of the importance of the changing nature of international law of the sea, as coastal States began to extend their maritime jurisdiction further and further into the oceans at the expense of the ever-receding high seas, following President Truman's Proclamation of US jurisdiction over the submarine areas adjacent to the West Coast as well as the decision of the International Court of Justice in the *Anglo-Norwegian Fisheries Case* between the United Kingdom and Norway, recognizing the necessity and validity of Norwegian straight base lines and four miles limits of Norwegian territorial sea. By 1957, the International Law Commission was about to finalize four draft conventions relating to the sea, ready for submission to the First United Nations Conference on the Law of the Sea in 1958. In the mean time, Indonesia was poised in 1957 to claim its archipelagic seas. At the First Session of the AALCO in New Delhi, Sri Lanka and India took the initiative to refer to the AALCO the Question relating to the Regime of the High Seas including questions relating to the rights to seabed and subsoil in open sea. At this same First Session, Sri Lanka also referred to the AALCO, the topic—the Law of Territorial Sea. Later, the Arab Republic of Egypt referred to AALCO, the Questions relating to the Seabed and Ocean Floor while on the other hand Nepal referred the question relating to the “Right of Access of Landlocked States to and from the Sea and Transit through Coastal States.

The real momentum on the issue came in August 1967, when Arvid Pardo, Ambassador of Malta to the United Nations proposed an agenda item on the law of the sea for consideration by the United Nations General Assembly. In his famous speech to the First Committee of the United Nations General Assembly on 1st November 1967, he emphasized *inter alia*, that the manganese nodules and the other resources of the international seabed areas beyond the limits of national jurisdictions are the “Common Heritage of Mankind” and that an international machinery should be established for their exploration and exploitation. He also emphasized that international seabed area must be used for peaceful purposes.

The impact of Arvid Pardo's statement was instantaneous and phenomenal and after preparatory work, the General Assembly, at its 25th Session on 17 December 1970 adopted two landmark resolutions: Declaration of Principles governing the resources of the international seabed area and a resolution on convening a conference on the law of the sea as a whole, including the establishment of an international regime and machinery for the international seabed area and its resources.

The Third United Nations Conference on the Law of the Sea (UNCLOS III), which started in December 1973 and lasted until December 1982 has been described as one of the most ambitious and original negotiating process ever undertaken within the United Nations. The AALCO played a very important role in facilitating effective Asian-African

participation in UNCLOS III. Pursuant to a reference by the Republic of Indonesia in 1970, the item has been continuously on AALCO's agenda. The role encompassed informing the Member States of the developments in international negotiations on a continual basis and in an easily intelligible manner; helping some of them formulate their country positions, as well as helping the developing nations to forge a united position on the various facets of law-making diplomacy. New concepts such as Exclusive Economic Zone, Archipelagic States, Rights of Land Locked States originated and developed in the course of deliberations in the AALCO and from here finally found their rightful place in the 1982 Convention. The international negotiations also brought to the limelight of international diplomacy a host of personalities from the region – like S. P. Jagota from India, Frank X. Njenga from Kenya, Hamilton Shriley Amerasinghe and M. C. W. Pinto from Sri Lanka, Hasjim Djalal from Indonesia and Tommy Koh from Singapore.

It is equally significant to note that meetings of UNCLOS I, II and III were invariably chaired by Asian Presidents. The sessions of UNCLOS III in its earlier year were chaired by Ambassador Shirley Amerasinghe of Sri Lanka and upon his retirement in the later stage by Ambassador Tommy Koh of Singapore until 1982, when the revised composite text, was finally adopted at the 1982 UN Convention on the Law of the Sea.

It may not be out of place for me to mention that the small Secretariat under the dynamic leadership of the first Secretary-General Mr. B. Sen ably rendered all assistance to the Member States. Mr. B. Sen who is with us here today would during the course of the meeting; I believe dwell more in detail about this very important phase in AALCO's activities.

The product of this long-drawn process was the United Nations Convention on the Law of the Sea, which is now 24 years old and is fast approaching universal participation. It established for the first time one set of rules for the oceans, bringing order to a system fraught with potential conflict. The scope of the Convention is vast as it covers all ocean space, with all its uses, including navigation and over flight; all uses of its resources, living and non-living, on the high seas, on the ocean floor and beneath, on the continental shelf and in the territorial seas; also the protection of marine environment; and finally basic law and order.

The Convention is thus often referred to as the “constitution of sea” as its basic philosophy is that the problems of oceans are closely interrelated and must be addressed as a whole. Today it is one of the few international agreements that almost all countries abide by in practice, even those that are not States parties of the Convention.

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 Convention and other related matters. And with the entry into force of this Convention, the Secretariat started monitoring and reporting to its Member States the developments in the four arms of the Convention, namely the Meeting of Parties, the

International Seabed Authority, the International Tribunal for the Law of the Sea, and the Commission on the Limits of the Continental Shelf, as well as other related developments in the UN General Assembly.

With all these achievements, Excellencies, it was thus highly appropriate that the plenary organ of AALCO, that is, its Annual Session, at its Forty-Fifth Session mandated me to enquire into prospects on this agenda item. With a view to further continuing and enriching the work of the Organization, the Annual Session requested me to convene a Meeting of Experts to deliberate upon the Emerging Issues on the United Nations Convention on the Law of the Sea. The discussion is structured in an academic setting and the topics are proposed to be addressed in three Sessions today.

Mr. B. Sen, former Secretary-General of AALCO and Prof. R. P. Anand a leading scholar on the law of the sea would provide “An overview of the United Nations Convention on the Law of the Sea-Regime of Oceans –Contribution of Asian-African States”. Both these distinguished personalities have been associated with the elaboration of the Convention and would give some deep insights into the contribution made by the countries of our region in the “Constitution of the Sea”.

Preservation and Protection of Marine Environment is an important area of concern for the international community. Although, the UNCLOS provides for an adequate legal regime for this purpose, newer issues such as the issue of conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction so as to ensure its sustainable and equitable use by all countries is an emerging challenge. We have an eminent panel comprising Dr. M. Gandhi from India and Ms. Joanna Mossop from our permanent Observer New Zealand to discuss these issues in a comprehensive manner.

In the final Session, the delimitation of the maritime boundaries, is essentially a task involved 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. And we have among us H. E. Dr. Choon-ho Park, Judge, International Tribunal for the Law of the Sea and Prof. Atsuko Kanehara from Japan who would throw light on this topic also.

Excellencies, with these words, I would like to once again very warmly and cordially welcome you all to this Meeting. And now I would like to request Hon’ble Dr. P. S. Goel to deliver the Inaugural Address.

Thank you very much.