P R E F A C E

The United Nations Convention on the Law of the Sea is one of the most significant achievements of the International Community in recent history in the field of codification and progressive development of International Law.

The convention together with four resolutions forming an integral part of a package was adopted at the Eleventh Session of the Third United Nations Conference on the Law of the Sea (UNCLOS III) in New York on 30 April 1982. The Final Act of the Conference was adopted at Montego Bay in Jamaica on 10 December 1982. The Convention was opened for signature on the same date when it was signed on behalf of as many as 118 States and the United Nations Council for Namibia.\(^1\)

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1. The Final Act was signed by all 119 delegations which signed the Convention, as well as 24 other States including the United States of America, United Kingdom, Federal Republic of Germany, Belgium, Italy, as also the European Economic Community, Netherlands Antilles, Trust Territory of the Pacific Islands and four national liberation movements (the Final Act was totally signed by 150 delegations).

The signing of the Final Act – the formal record of the Conference's work – does not imply any commitment by signatories in respect of the Conference's decisions but it gives observer status in the Preparatory Commission to the signatories which have not signed the Convention. See: United Nations Press Release, SEA/514, 10 December 1982, p.3.
The signing of the Convention marked the culmination of over 14 years of work involving active participation by the largest number of States (more than 150 countries) in the history of the United Nations, representing all regions of the world, all legal and political systems.  

By 9 December 1984, the closing date for the signature of the Convention, 159 signatures had been appended. These include 51 States from Africa, 45 from Asia, 30 from Latin America, 10 from Eastern Europe and 23 from Western Europe and others including the European Economic Community.

The Convention will enter into force twelve months after its ratification or accession by sixty States. As on 30 November 1985, twenty-four Instruments of Ratification have been deposited, namely, Bahamas; Bahrain; Guinea; Ireland; Iran; Iraq; Jamaica; Malta; Mexico; Namibia (the United Nations Council for); Philippines; Senegal; St. Lucia; Sudan; The United Republic of Tanzania; Togo; Tunisia and Zambia.


The UN Convention on the Law of the Sea is a treaty of a law making nature and it follows the pattern of various other conventions of general application adopted under the auspices of the United Nations, such as the Vienna Convention on Diplomatic Relations, 1961 and the Convention on the Law of Treaties, 1969. The Convention, as adopted contains 320 Articles together with nine annexes. These annexes constitute


Some authors hold the opinion that the UN Convention on the Law of the Sea is in fact both a law making treaty and a constitutive treaty. It is law making/determining in that it authoritatively spells out the limits of various maritime zones (Territorial Sea, Contiguous Zone, Exclusive Economic Zone and Continental Shelf etc.) and seeks to regulate activities therein. It is constitutive in the sense that it makes provisions for the constitution or establishment of a number of international organs (The Sea-Bed Authority, the Enterprise, The International Tribunal for the Law of the Sea etc.). See, K.J.S.R. Kapoor, "The Law of the Sea and Outer Space", World Focus (New Delhi), January 1983, pp.25-30. For more information regarding "Constitutive or semi-Legislative Treaties", see Lord McNair, Ibid, pp-259-71.
an integral part of the Convention. 6

The four resolutions adopted with the Convention are annexed to the Final Act of the Conference.

Resolution 1 provides for the establishment of a Preparatory Commission (PREPCOM) for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea. The body which will make the arrangement enabling the Authority (and the International Tribunal for the Law of the Sea) to be set up and operate. It also contemplates the commencing of the Commission within a period of sixty to ninety days following upon the signature of or accession to the Convention by Fifty States. 7

6. Article 318 of the Convention on the "Status of Annexes" provides that:

"The Annexes form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention or to one of its parts include a reference to the Annexes relating thereto".

7. See the text of Resolution I in Appendix I.
The Powers and function of the Preparatory Commission also extend to matters provided for under Resolution II.\(^8\)

**Resolution II:** In order to meet the concern of a number of Western industrialized countries whose consortia had undertaken exploration, research and development work relating to polymetallic nodules resolution II incorporates a scheme governing what is described as preparatory investment in pioneer activities by States and private consortia relating to polymetallic nodules in the deep sea-bed area which had been worked out during the Eleventh Session of the Conference.

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8. The work of the preparatory Commission is closely related to the provision of Part XI of the U.N. Convention on the Law of Sea (Articles 133-191) and would be of particular significance in the matter of implementation of part XI of the Convention on the Area which according to Article 1 para 1 of the Convention means "The Sea-Bed and Ocean floor and subsoil thereof beyond the limits of national jurisdiction".

Section 4 of the Part XI of the Convention (Articles 156 to 185) deals with the Authority. Article 156 contemplates the establishment of the International Sea-Bed Authority. According to Article 158 organs of Authority are: The Assembly, the Council, the Secretariat and the Enterprise.

Among the Annexes provisions of which are related to the work of the PREPCOM, Annex III deals with the "Basic conditions of prospecting, explorations and exploitation (in the Area), Annex IV is on the Statute of the Enterprise (operational arm of the Authority) while Annex VI deals with the "Statute of the International Tribunal for the Law of the Sea".
The essence of the scheme is to permit upto eight potential mine sites to be explored by States or consortia named in the resolution as "Pioneer Investors". These are France, Japan, India, USSR and four consortia whose components have the nationality of one or more of the following States: Belgium, Canada, the Federal Republic of Germany, Italy, Japan, the Netherlands, the United Kingdom and the United States of America. These States and entities are to be registered as pioneer investors by the Preparatory Commission provided they fulfill the requirements laid down in the Resolution. There can be no commercial production until the Convention comes into force, but when it does, the registered "pioneers" are assured of authorisation to mine their sites upto the limits permitted by the overall sea-bed production ceiling to be established under the Convention. At the same time, the operational arm of the International Sea-Bed Authority, called the Enterprise, would be authorised to mine two sites. (The scheme has also left room for developing countries which might be in a position to become pioneer investors by January 1985).

9. From the second group only Belgium, Canada, Italy, Japan and the Netherlands have signed the Convention.

10. To be registered as a "Pioneer investor", a consortium must have "certifying State" which has signed the Convention. Resolution II inter alia requires that any State which has signed the Convention and which is a prospective certifying State shall ensure, before applying for "pioneer investor" status that none of the areas in respect of which applications are made do not overlap one another or areas previously allocated as pioneer areas. See: United Nations Press Release, SEA/213, 3 September 1985, p.2.
The pioneer investors are required to apply to the Preparatory Commission as soon as it begins to function for registration and the Commission is obliged to register the applicant provided it fulfils the conditions specified in the scheme. Pioneer activities which are permitted before the coming into force of the Convention relate primarily to prospecting and exploring for polymetallic nodules in the pioneer area which shall not exceed 150,000 sq. kilometres in each case. The applicant for registration as pioneer investor would offer an area sufficiently large which could be divided into two parts of equal estimated commercial value and also provide the data available with the applicant in respect of both the parts of the area. The preparatory Commission shall thereafter designate one part of the area as reserved for the conduct of activities by the Authority. 11

The following pages set forth a brief study on the progress of work in the PREPCOM during its sessions and meetings including those held in the year 1985.

In writings this post - Doctoral research paper, I have mainly relied on the reports of the Chairman of the PREPCOM, statements of the Chairmen of the Special Commissions of the PREPCOM on the Progress of work in those Commissions, publications of the Office of the Special Representative of the Secretary General (of the United Nations) for the Law of the Sea and United Nations Press Releases on the Law of the Sea.

11. See the text of Resolution II in Appendix II.
I have been working as Assistant Secretary-General of the Asian-African Legal Consultative Committee since July 1983. I have also attended Geneva Meeting of the Preparatory Commission in August 1985. Both these experiences have enabled me to exchange views with eminent scholars in the field of International Law and to keep abreast with various developments in the Law of the Sea in general and matters relatable to the work of the PREPCOM in particular.

However, the present research has been prepared by the author in his personal capacity, therefore, the views expressed in this work are those of the author alone and do not represent those of any organization, institution or Government.

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