The attached report addressed to the President of the Conference and the Chairman of the First Committee by Minister Evensen on the results of the informal intersessional consultations held in Geneva from 28 February to 11 March 1977 under his chairmanship is hereby forwarded to the delegations of States participating in the Conference, in conformity with the decision taken at the 76th meeting of the Conference on 17 September 1976.

H.E. Mr. Hamilton Shirley Amernasinghe
President of the Third United Nations
Conference on the Law of the Sea

H.E. Minister Paul Bemba Ngo
Chairman of the First Committee
Third United Nations Conference on the Law of the Sea

Informal consultations in Geneva, 28 February-11 March 1977, on matters relating to the First Committee of the Law of the Sea Conference, in particular the system of exploitation

I have pleasure in submitting to you the report set out below on the intersessional consultations which I had the honour of chairing in Geneva from 28 February to 11 March 1977.

I. Background and general information

The general background for the meeting was the widespread feeling that further progress in the Conference now hinges particularly on the questions pertaining to the sea-bed and ocean floor beyond national jurisdiction. The need for intersessional consultations on this issue was expressed in a number of statements at the conclusion of the last session of the Conference. I refer inter alia to the statement made at that time by the Chairman of the First Committee, the distinguished representative of Cameroon.

In response to this situation the Secretariat, acting at my request, convened the meeting in Geneva through its letter of 17 December 1976, which was sent to all heads of delegation of States participating in the Conference. Approximately 170 persons from 85 States participated (Enclosure 1). In keeping with the normal tradition for such intersessional activities the meetings were completely informal. The discussion was of a personal character and did not commit any delegations by the statements made.

Prior to the meetings I circulated to all heads of delegation some suggested compromise formulations, elaborated by me and tentative in form and contents, pertaining to articles 22, 23 and certain related provisions of the annex (Enclosure 2). I emphasized that these draft formulations were not meant to be regarded as an alternative to the RSN, but only as an attempt to identify a possible approach to compromise solutions on points which had proved difficult during the last session of the Conference. I also emphasized that these new
United States of America
Mr. Elliot Lee Richardson
Mr. Richard Darman
Mr. Bernard H. Oxman
Mr. John T. Smith II
Mr. Francis S. M. Hodson
Mr. Harry C. Blume III
Mr. Greg Christoupolos
Mr. Stuart P. French
Mr. Brian J. Boyle
Mr. Alan G. James
Mr. Arthur L. Kotler
Mr. William V. F. Newlin
Mr. Howard W. Pollock

Uruguay
Mr. Julio Osear Lupinacci
Mr. Carlos Fernandez Ballesteros

Venezuela
Mr. Andres Aguilar
Mr. Marcos Falcon Briceño
Mr. Ruben Carpio Castillo
Mr. Luis Luaces

Yugoslavia
Mr. Zvonimir Perisic
Mr. Stojan Novakovic

Zaire
Mr. Lukasu K’Habouzi

Enclosure 2
14 February 1977

Dear Colleague,

Inter sessional consultations in Geneva, 28 February-11 March 1977

I have the honour to refer to the circular note from the United Nations Secretariat of 17 December 1976, convening the inter sessional meetings in Geneva to be held from Monday, 28 February to Friday, 11 March this year. As stated in the circular note, the topic suggested for the meeting is matters pertaining to the First Committee, particularly the system of exploitation. You will shortly receive some draft formulations 1/ for articles 22 and 23 of the Revised Single Negotiating Text (NSNT) 2/ and related provisions in the annex thereto, which together with other relevant documentation might assist us in structuring the discussion.

As to the scope of our discussions my suggestion would be that we focus not only on the articles to which my own draft formulations are addressed, but also on other important aspects of the system of exploitation, in particular the specific provisions concerning the enterprise as well as article 9 and other provisions governing the resource policy of the authority.

As to the general background for the meeting I would refer to the statements made at the conclusion of the last session of the conference regarding
Article 32

Relevant background papers

(USA—(Workshop Paper No 3 of 19 August 1976) — enclosure 1)

(USSR—(Workshop Paper No 2 of 19 August 1976) — enclosure 2)

(RSNT — enclosure 3)

(Group of 77—(Workshop Paper No 1 of 17 August 1976) — enclosure 4)

Suggested compromise formula:

1. Activities in the Area shall be organized and controlled by the Authority in accordance with the provisions of this Article and Article 21, paragraph 1.

2. Activities in the Area shall be conducted:

(i) through the Enterprise, and,

(ii) in association with the Authority in accordance with paragraph 3 below, by States Parties or State Enterprises, or persons natural or juridical which possess the nationality of States Parties or are effectively controlled by them or their nationals, when sponsored by such States, or any group of the foregoing.

3. Activities in the Area shall be conducted in accordance with a formal written plan of work drawn in accordance with Annex I and approved by the Council after review by the Technical Commission. In the case of activities in the Area conducted in association with the Authority by the entities specified in paragraph 2 (ii) such a plan of work shall be in the form of a contract of exploration and exploitation.

4. The Authority shall exercise control over activities in the Area as is necessary for the purpose of ensuring compliance with the relevant provisions of this Part of the Convention, including its annexes, and the rules, regulations, and procedures of the Authority adopted under Article 26 (2) (xxiv) and the plan of work approved in accordance with paragraph 3. States Parties shall assist the Authority by taking all measures necessary to ensure such compliance.

1/ Attached hereto.
