The attached report addressed to the President of the Conference and the Chairman of the First Committee by Minister Eversen on the results of the informal intersessional consultations held in Geneva from 26 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 Amerasinghe
President of the Third United Nations Conference on the Law of the Sea

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

Informal consultations in Geneva, 26 February-11 March 1977, on matters relating to the First Committee of the Law of the Sea Conference, in particular the system of explication

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 26 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 ESRT, 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
31. Comparable rights to the conclusion of an agreement upon terms to be agreed is to be found in part II, article 56, on the right of land-locked States to participate, subject to the conclusion of agreements, in the exploitation of the living resources of the economic zones of adjoining coastal States and in article 59, in the right of certain developing coastal States to participate, subject to the conclusion of agreements, in the exploitation of the economic zones of other States in a subregion or region.

32. Bearing in mind these parallels, it seems inappropriate to depart from the language of clear obligation which is used in comparable situations elsewhere in the Convention. Hence, the restoration of the idea that, subject to the negotiation of specified points within the limits prescribed by the Convention (including its related and dependent texts), the Authority shall make a contract with an appropriate applicant.

Enclosure 6

9 March 1977

PAPER SUBMITTED BY AMBASSADOR WOLF

The attached paper is being circulated in the hope that it might promote a better understanding of the joint-venture system, mentioned by a number of participants during these discussions. It is intended as an illustration, not as a basis for discussion.

Model for a unified joint-venture system

The model is in agreement with all six points listed in the paper circulated, at the initiative of some participants, on 3 March. Very concretely, it spells out "a conceptually unified system of exploitation in which the Authority would have a central and indispensable role in all activities as the Trustee of the Common Heritage".

Beyond the points listed in that document, the model proposed here would have the following aspects:

1. It is based on the full and active participation of the industrial States and their companies.

2. It provides a framework for co-operation rather than competition with established industry.

3. It maximizes the participation of developing countries.

4. It assures the effective control of the Authority.

5. It reduces and simplifies the problems of financing and technology transfer.

6. It maximizes financial benefits for the Authority.

7. It does not foreclose any options for the future. The control of the Authority could be increased or decreased on a sliding scale, within the same system.
8. The very enlightening and useful discussions of these last days on paragraph 8 (new) and 8 (bis) would remain equally relevant in this new context, even though the problems discussed in connexion with these paragraphs would be greatly simplified.

9. The system is flexible enough to be applicable both in the international area and, if desired and with some simple adaptations, in areas under national jurisdiction adjacent to the international area; this may become important if a relevant portion of nodules were to be mined in areas under national jurisdiction.

If the system here proposed were to be considered, article 22 would read somewhat along the following lines:

Article 22

1. Activities in the area shall be organized and controlled exclusively by the Authority as determined by this Convention and in accordance with article "T".

2. Activities in the area shall be conducted by Enterprises established by the Authority in joint venture with 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 ("Signatories"), in accordance with the provisions of this Convention and the Statute for Enterprises.

The most relevant provisions of the Statute for Enterprises would be somewhere along the following lines. All numbers and figures are illustrative.

Establishment of the Enterprises

Enterprises shall be established in conformity with the provisions of this Convention and its annexes.

Purpose

The purpose of an Enterprise shall be the common exploitation of manganese nodule deposits and the development of extraction, recovery, transportation and treatment systems for large-scale tests, as well as the subsequent economic operation of the mine. Further elements of the purpose of an Enterprise shall be feasibility studies in the fields of marketing, transportation, logistics and site selection.

Operational and financial principles

1. The Enterprises shall be financed partly by the International Seabed Authority, in accordance with the provisions of this Convention, and partly by contributions of Signatories. Each Signatory shall have a financial interest in the Enterprise to which it belongs, in proportion to its investment share.

2. Each Signatory shall contribute to the capital requirement of the Enterprise to which it belongs and shall receive capital repayment and compensation for use of capital in accordance with annex I.