

UNITED NATIONS

GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.138/44
28 July 1971

Original: ENGLISH



COMMITTEE ON THE PEACEFUL USES OF
THE SEA-BED AND THE OCEAN FLOOR
BEYOND THE LIMITS OF NATIONAL JURISDICTION

Dual Distribution

WORKING PAPER CONCERNING AN INTERNATIONAL ORGANIZATION TO BE
ESTABLISHED TO DEAL WITH THE PROBLEMS OF THE EXPLORATION AND
EXPLOITATION OF THE MINERAL RESOURCES OF THE INTERNATIONAL
AREA OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, THE
LIMITS OF WHICH ARE TO BE DETERMINED

Submitted by Poland

INTRODUCTION

1. The purpose of the present document is to set out tentatively some of the general guidelines which could be adopted as a basis for a future international organization concerned with the problems of the exploration and exploitation of the mineral resources of the international area, of the sea-bed and the ocean floor, and the subsoil thereof, the limits of which are to be determined hereinafter referred to as the "international area".
2. This document is not intended to prejudice any final detailed solutions which might be adopted for the implementation of those guidelines. Such solutions should be elaborated during further discussion in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.
3. Specific suggestions included in this working paper are presented only as a possible basis for discussions in the Committee.

CE.71-17422

71-16048

I. GENERAL ISSUES

1. General principles

4. The organization should ensure that the exploration and exploitation of the mineral resources of the international area are conducted for the benefit of mankind as a whole, with particular regard to the interests of the developing countries.

Note. The term "exploration" for the purpose of this working paper means exploration for industrial purposes and does not cover scientific research.

5. The organization should ensure that exploration and exploitation are conducted in conformity with international law and, in particular, with the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States adopted by the General Assembly on 24 October 1970.

6. The organization should promote the broadest possible degree of international co-operation and seek to prevent disputes between States arising from the exploration and exploitation of the international area. With this view in mind, the limits of the international area should be defined precisely and as soon as possible.

2. The basic prerequisite for establishment of the organization

7. The question of the desirability of establishing an international organization and the definition of its powers is closely linked to the definition of the precise territorial scope of its activities.

8. If the tendency to expand the jurisdiction of coastal States continues, there would be a possibility that nearly all mineral resources of the international area that could be exploited in the coming decades would come under the jurisdiction of coastal States. In such a situation the usefulness of establishing any international organization would be questionable.

9. Reasonable criteria for the definition of the international area should therefore be adopted so as to enable the establishment of the organization and its proper functioning for the benefit of mankind as a whole, irrespective of the geographical location of States, whether land-locked or coastal, and taking into particular consideration the interests and needs of the developing countries.

3. Concept of a developing organization

10. The organization to be established, and its nature and powers, should be adapted to growing needs. This means that, initially, before the exploitation of mineral resources of the international area is conducted on a large scale, the organs of the organization should not be over-developed, its secretariat should be small, and the competence of the organization should first and foremost be of a co-ordinating nature. This would be for

the transitional period. The duration of this stage should depend on the progress of exploration and exploitation of the resources of the international area and, consequently, on the emergence and development of the need for institutionalized arrangements for international co-operation.

11. The basic criteria for the conclusion of the transitional period and for the transition to the second stage should be the attainment by the organization of the possibility of being financially self-supporting. This would be achieved when the appropriate level of commercial exploitation of the mineral resources of the international area was reached.

12. It may be envisaged that during the first or transitional stage the proposed international machinery would be financed by contributions from its member States and have a status of a special organ of the United Nations.

13. During the second stage, the budget of the organization would be based on revenues derived from the exploitation of the mineral resources of the international area and the organization would have the status of a specialized agency.

II. SPECIFIC QUESTIONS

1. Fundamental principles of the functioning of the organization

- (a) The organization should pay due regard to the manifold interests of all States. It should not be an instrument for domination of one State, or group of States, over other States. The organization should accordingly seek to achieve a proper balance between divergent legitimate interests and needs of all States.
- (b) The organization should maintain relations with its member States, and not with national public or private enterprises engaged in the exploitation of mineral resources of the international area.

2. Functions and powers

- (a) The organization should promote the development of international co-operation in the field of exploration and exploitation of the mineral resources of the international area. It should, in particular, ensure the observance of the future treaty to be concluded on the peaceful uses of the international area.
- (b) The organization should ensure for all States equal access to the mineral resources of the international area. For this purpose it should provide the necessary technical assistance to States not yet able to participate in the exploration and exploitation of the mineral resources of the sea-bed and ocean floor, and the subsoil thereof.

- (c) The organization should promote the equitable sharing by States of the benefits derived from the exploitation of the mineral resources of the international area, taking into particular consideration the interests and needs of the developing countries.
- (d) The competence of the organization should also include the question of the effects of the exploration and exploitation of the mineral resources of the international area and, in particular, matters relating to the prevention of pollution which could result from such activities; protection of the environment against such effects; and ensuring that the exploration and exploitation of mineral resources of the international area would not interfere with the recognized uses of the high seas.

Note. The organization would not deal with all other activities conducted in the international area e.g. with the laying of submarine cables or with limitation of armaments or other disarmament measures which either have already been, or will be, agreed upon.

The exclusion of questions relating to the biological resources of the sea-bed and the ocean floor from the competence of the organization is prompted by the desire to retain the homogeneity of its functions. Moreover, it appears that the problem of the living resources of the sea-bed and the ocean floor beyond the limits of the continental shelf is one which is of small, if any, practical importance.

A fortiori, the organization should not deal with any activity conducted on the surface of the seas and oceans nor in the waters thereof, unless such activity constitutes part of an exploratory or exploiting activity with regard to mineral resources of the international area. In particular the organization should not deal with the extraction of minerals from sea water.

- (e) In the first or transitional period the functions of the organization might be limited to co-ordination of the activities of States and the exchange of information. After the transitional period, its functions might comprise certain forms of supervision and regulations of activities concerning the exploration and exploitation of mineral resources of the international area which might include licencing.
- (f) Regulation of exploration and exploitation of the mineral resources of the international area would be implemented through adoption of appropriate international rules, standards and procedures. The aforesaid rules, standards and procedures

should relate, inter alia, to the following matters arising out of the exploration and exploitation of the international area:

- (i) security and protection of human life;
 - (ii) protection against pollution and contamination of the seas, and
 - (iii) non-interference with other uses of the high seas, e.g. navigation and fishing.
- (g) During both stages the organization should be empowered to establish relations with other international organizations, e.g. one may already envisage the need for the co-ordination of its activities with IMCO, FAO or UNESCO.

3. Territorial scope of activities

14. The precise definition of the territorial scope of the activities of the organization, as was stated above, is a prerequisite for its establishment. As the sphere of its activities should be confined to the sea-bed and the ocean floor and the subsoil thereof, beyond the limits of the continental shelf these limits should be strictly defined.

15. In defining the boundary line, one of the following alternative criteria could be adopted:

- (a) the uniform criterion of the 200-metre isobath,
- (b) the combined criteria of both depth and distance from the base-line; according to this solution every coastal state could adopt as the boundary line, depending on the configuration of the sea-bed adjacent to its coast, the isobath of 200 metres or the distance of ... nautical miles.

16. The organization could have a certain degree of competence in respect of verification of the delimitation of the boundaries of the continental shelf made by coastal states as regards their conformity with the provisions of relevant international agreements.

4. Membership

17. The organization should be based on the principle of universality. Consequently, during both stages it should be open to all States.

18. The adoption of the principle of universality is particularly necessary as the exploration and the exploitation of the international area is of concern for all States. The exclusion of some of them from participation in the organization would endanger orderly exploration and exploitation of the mineral resources of the international area, since those States would not be bound by the provisions of the treaty on the peaceful uses of the international area, or by the decisions and other acts of the organization.

5. Organs and their composition

19. The principal organs should be: (1) an Assembly composed of all member States, (2) a Council composed of 25 States five from each geographical group, and (3) a Secretariat. After the transitional period, as concrete needs would evolve, some subsidiary organs of the Council could be established, such as for example a Technical Board, Economic Board and Registration and Licensing Board. At the same stage, an Arbitration Tribunal might also possibly be established.

20. In the organs a balance should be preserved between the interests of States with different levels of development and with different social and political systems.

6. Voting system

21. The voting system should safeguard the interests of all States and group of States. No group should be placed in a position in which it might be dominated by another group. Various voting procedures should therefore be provided, such as various majorities of votes for different organs and different matters. It might be desirable to take joint decisions in some matters by two organs, one acting on the recommendation of the other.

22. In the Assembly a one State one vote principle could be adopted, while in other organs the feasibility of having group votes might be considered, i.e. for adopting a decision not only a majority of votes of member States would be required, but also a certain number of votes from individual groups of States.

23. Irrespective of the majority voting principle, in the Council and its subsidiary bodies the principle of consensus should be applied as generally as possible.

7. Settlement of disputes

24. Disputes arising between States and resulting from the application of the future treaty on peaceful uses of the international area should be settled by the means referred to in Article 33 of the Charter of the United Nations. The establishment of a special Arbitration Tribunal for the settlement of certain kinds of disputes might also be envisaged (see para. 19 above). The same Tribunal could be empowered to deal with possible disputes arising between States and the organization.

8. Legal nature of the organization and its legal personality

25. The organization should have a limited international legal personality, necessary for the fulfilment of its functions. In particular it should have the right to conclude international agreements with States and other international organizations, and should enjoy appropriate privileges and immunities.

26. The organization should also enjoy in the territory of each of its members the legal capacity necessary for the exercise of its functions and the fulfilment of its purposes.