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

Dual distribution

WORKING PAPER ON THE REGIME FOR THE SEA BED AND OCEAN
FLOOR AND ITS SUBSOIL BEYOND THE LIMITS OF NATIONAL JURISDICTION

Submitted by Chile, Colombia, Ecuador, El Salvador, Guatemala, Guyana,
Jamaica, Mexico, Panama, Peru, Trinidad and Tobago, Uruguay, Venezuela.

P R E A M B L E

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C H A P T E R I

Fundamental principles

Art. 1.- The Sea Bed and Ocean Floor and the subsoil thereof beyond the limits of national jurisdiction (hereinafter referred to as "the area") as well as its resources are the common heritage of mankind.

Art. 2.- The area and its resources shall not be subject to appropriation by any means whatsoever by States or persons, natural or juridical, and no State shall claim or exercise sovereignty over any part of the area and its resources, nor shall it claim or exercise any rights except as hereinafter provided.

Art. 3.- Exclusive jurisdiction over the area and administration of its resources shall be exercised on behalf of mankind by the Authority established under this Convention.

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Art. 4.- The benefits obtained from exploitation of the resources of the area shall be distributed equitably among all States, irrespective of their geographical location, giving special consideration to the interests and needs of developing countries, whether coastal or landlocked.

Art. 5.- Exploitation of the resources of the area shall be carried out in a rational manner so as to ensure their conservation and to minimize any fluctuation in the prices of minerals and raw materials from terrestrial sources that may result from such exploitation and adversely affect the exports of the developing countries.

Art. 6.- All activities in the area shall be carried out in such a manner as to protect and conserve the natural resources of the area and to prevent damage to the fauna and flora of the marine environment.

Art. 7.- The area shall be used exclusively for peaceful purposes.

Art. 8.- In the activities carried out in the area, the rights and legitimate interests of coastal States shall be respected. Consultations shall be maintained with the coastal States concerned with respect to activities relating to the exploration of the area and the exploitation of resources with a view to avoiding infringement of such rights and interests. Coastal States shall have the right to adopt such measures as may be necessary to prevent, mitigate or eliminate grave danger to their coasts or related interests that may result from pollution, the threat of pollution or from any other hazardous occurrences resulting from or caused by such activities.

CHAPTER II

The Authority. Members. Functions and Powers.

Art. 9.- The Parties to this Convention do hereby establish an International Authority for the Sea bed, herein referred to as "The Authority".

Art.10.- The seat of The Authority shall be - It may be transferred by the Assembly on the affirmative vote of two thirds of its members.

Art.11.- Membership in the Authority shall be open to all States.

Art.12.- The Authority shall have such international legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Art.13.- The Authority shall enjoy in the territory of each of its members, such privileges and immunities as are necessary for the fulfilment of its purposes.

Art.14.- The International Seabed Authority, hereby established, is empowered:

(a) to provide for the orderly and safe development and rational management of the area and its resources for the benefit of mankind;

(b) to undertake scientific research in the area;

(c) to undertake exploration of the area, and exploitation of its resources as well as all activities relating to production, processing and marketing;

(d) to provide for the equitable sharing of benefits deriving from the exploration of the area and the exploitation of its resources, taking into account the special interests and needs of the developing countries, whether landlocked or coastal, in accordance with precise criteria to be established by the Assembly;

(e) to take all necessary measures, including inter alia, control, reduction or suspension of production or fixing of prices of products obtained from exploitation of the area, whenever it deems that such production may have adverse economic effects for developing countries, exporters of raw materials;

(f) to take measures to prevent, mitigate or eliminate pollution or the threat of pollution as well as other hazardous occurrences resulting from or caused by any activities in the area;

(g) to make, on the initiative of interested States or in agreement with them, such regional or subregional arrangements, including the establishment of subsidiary organs and regional or subregional facilities, as it deems necessary for the exercise of its functions;

(h) to take measures to ensure the implementation of the principles and provisions of this convention.

Art.15.- The Authority shall itself undertake exploration and exploitation activities in the area; it may, however, avail itself for this purpose of the services of persons, natural or juridical, public or private, national or international, by a system of contracts or by the establishment of joint ventures. The Authority itself may also undertake scientific research. It may authorize other persons to carry out or undertake such research, provided that the Authority may supervise any research authorized by it.

Art.16.- In order to ensure the participation of developing countries on terms of equality with developed countries in all aspects of the activities carried out in the area, the Authority:

(a) shall establish oceanographic institutions on a regional basis for the training of nationals of developing countries in all aspects of marine science and technology;

(b) shall provide to developing countries on request technical assistance and experts in the field of oceanographic exploration and exploitation;

(c) shall adopt all appropriate measures to ensure the employment of qualified personnel from developing countries in all aspects of the activities carried out in the area;

(d) shall give priority to the location in developing countries of processing plants for the resources extracted from the area;

(e) shall, in the conclusion of contracts and the establishment of joint ventures, give due consideration to entities from developing countries; shall make adequate plans to promote the creation and development of such entities and reserve zones within the area for preferential exploitation by such entities.

Art.17.- Authorization for scientific research shall be granted to any entity offering, in the judgment of the Council, the necessary guarantees as to its technical competence and undertaking to assume responsibility for any damage that may be caused to the marine environment and to comply with the regulations adopted in this regard by the Authority. Such authorization may be denied whenever, in the judgment of the Council, there are reasons to believe that the proposed activities do not have a peaceful purpose, or that they are to be pursued with a view to financial gain or that they are likely to involve risks to the marine environment.

Authorization may also be revoked at any time for violation of the applicable regulations adopted by the Authority.

Art.18.- The Authority shall at all times have access to all research data as well as to interim and final results of research. Such results and data must be communicated to the Authority before their publication or communication to other institutions or governments.

Art.19.- The Authority has the right to supervise at all times all stages of any scientific research programme which is carried out in the area or to participate in any or all stages of such research whenever it considers participation desirable.

C H A P T E R I I I

STRUCTURE

Organs

Art.20.- The principal organs of the Authority shall be the Assembly, the Council, the International Seabed Enterprise (ISBE) hereinafter referred to as the Enterprise, and the Secretariat.

SECTION 1The Assembly

Art.21.- The Assembly shall be the supreme organ of the International Seabed Authority and shall consist of all States members of the Authority.

Art.22.- The Assembly shall meet in ordinary session annually. Extraordinary sessions of the Assembly shall be convoked by the Secretary-General at the request of the Council or of a simple majority of the members.

A simple majority of the members shall constitute a quorum at meetings of the Assembly. Each State member of the Assembly shall have one vote.

Decisions of the Assembly shall be taken by a majority of the members present and voting.

Art.23.- The Assembly may discuss and decide on any questions or any matters within the scope of the present Convention or relating to the powers and functions of the Authority as embodied in Article 14, and give directions to the Council and other organs of the Authority on any of those questions or matters.

Art.24.- The Assembly shall inter alia be empowered:

- (a) to elect its President and other officers;
- (b) to elect the members of the Council after having determined the group to which each Contracting Party will belong for the purpose of those elections, in accordance with the terms of Article on the distribution of seats;
- (c) to determine its rules of procedure and constitute such subsidiary organs as it may consider necessary or desirable;
- (d) to decide on the question of contribution;
- (e) to approve the Authority's budget;
- (f) to consider the annual reports from the Council and the Secretary-General as well as any special ones which it may receive, including those submitted upon its own request;
- (g) to approve the regulations proposed by the Council relating to the formation of contracts and joint ventures with juridical persons, duly sponsored by States for the exploitation of the resources of the area;
- (h) to approve the report of the Enterprise, submitted through the Council;

(i) to adopt precise criteria for the sharing of benefits as well as approve annually the plan submitted by the Council on the basis of such criteria;

(j) Question of the powers and functions of the Assembly relating to the Enterprise.

(k) to decide from time to time which parts of the area are open to exploration and exploitation, and to establish as may be deemed necessary for the orderly development of the area and preservation of the marine environment and its living resources, reserve areas free from exploration and exploitation.

Art.25.- The Assembly shall establish, as an advisory body to the Council, a Planning Commission to draw up plans and make recommendations, as may be necessary, for the development and use of the area and its resources, including appropriate measures for the strengthening of the technological capability of developing countries and for preventing any fluctuation in the prices of raw materials that may adversely affect the economy of developing countries.

SECTION 2

COUNCIL

Art.26.- The Council shall comprise 35 members and shall meet as often as necessary for the performance of its functions.

Art.27.- Members of the Council shall be elected by the Assembly, from the lists prepared in accordance with Article... having due regard to the principle of equitable geographical representation.

Art.28.- The members of the Council shall serve for a term of three years and shall be eligible for re-election. Elections shall be held every year. The Assembly shall determine, by drawing lots, after the first election, that the mandate of twelve members shall expire at the end of one year and that of twelve other members at the end of two years.

Art.29.- Each member of the Council shall have one vote. Substantive decisions of the Council shall be made by a two-thirds majority of the members of the Council present and voting. Procedural decisions (including the question as to whether a particular decision is substantive) shall be made by a simple majority of members of the Council present and voting.

Art.30.- The Council shall elect its Chairman, three Vice-Chairmen and one Rapporteur for a term of one year.

The Chairman, or in case of his incapacity, the Vice-Chairman, appointed by him shall:

Convene and conduct the meetings of the Council and carry out such other functions as may be assigned to him by the Council.

Art.31.- Any Contracting Party not represented on the Council may participate without vote in the consideration by the Council of any question which is of particular interest to it.

Art.32.- The powers and duties of the Council shall be to:

(a) submit annual reports to the Assembly as well as special reports which it may deem necessary or when requested by the Assembly;

(b) determine its rules of procedure;

(c) propose to the Assembly the establishment of subsidiary organs, as may be necessary or desirable, and the definition of their duties;

(d) to make recommendations to the Assembly as to the contribution of member States;

(e) submit proposed budgets to the Assembly for its approval, and supervise their execution;

(f) issue regulations pertaining to all activities undertaken in the area, including those related to the resources thereof, and supervise those activities, in accordance with such criteria as may be laid down by the Assembly;

(g) submit to the Assembly proposed rules and regulations on the formation of joint ventures with juridical persons, duly sponsored by States, for the exploration and exploitation of the resources of the area;

(h) submit to the Assembly the scale of distribution among Contracting Parties of benefits from activities in the area;

(i) authorize scientific research in the area;

(j) set rules and standards for the prevention of pollution and contamination of the marine environment from seabed activities;

(k) adopt, for the benefit of developing countries, measures designed to attain the aims set forth in Art. 16.

(l) to make recommendations to the Assembly with respect to reserve areas as provided for in Art. 24j;

(m) (question of the powers and functions of the Council with regard to the Enterprise) /

SECTION 3

THE ENTERPRISE

Art.33.- The Enterprise is the organ of the Authority empowered to undertake all technical, industrial or commercial activities relating to the exploration of the area and exploitation of its resources (by itself, or in joint ventures with juridical persons duly sponsored by States).

Art.34.- The Enterprise shall have an independent legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Art.35.- (Questions relating to the structure and functions of the Enterprise).

SECTION 4

THE SECRETARIAT

Art.36.- There shall be a Secretary-General, elected by the Assembly for a term of five years. The Secretary-General shall be the chief administrative officer of the Authority.

Art.37.- The Secretary-General shall act in that capacity in all meetings of the Assembly and the Council and shall perform such other duties as are entrusted to him by these organs. He shall make an annual report to the Assembly on the work of the Authority.

Art.38.- The Secretary-General shall act in an advisory capacity to the Enterprise.

Art.39.- The Secretary-General shall be responsible for the distribution of all information obtained from scientific research in the area.

Art.40.- The Secretary-General shall draw the attention of the Council to any matter which in his opinion may require its urgent consideration.

Art.41.- In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any Government or from any other authority external to the Authority. They shall refrain from any action which might reflect on their position as international officials responsible only to the Authority.

Art.42.- Each Member of the Authority undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and shall not seek to influence them in the discharge of their responsibilities.

Art.43.- The staff shall be appointed by the Secretary-General under regulations established by the Assembly.

Art.44.- Appropriate staffs shall be permanently assigned to the Assembly and the Council, and, as required, to other organs of the Authority. These staffs shall form a part of the Secretariat.

Art.45.- The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER IV

SETTLEMENT OF DISPUTES

CHAPTER V

FINAL PROVISIONS

(Questions relating to amendments, ratification, accessions, reservations, entry into force, etc.)