



UNITED NATIONS  
GENERAL  
ASSEMBLY



Distr.  
GENERAL

A/AC.138/63  
23 November 1971

ORIGINAL: ENGLISH

---

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

NOTE VERBALE DATED 22 NOVEMBER 1971 FROM THE PERMANENT MISSION  
OF JAPAN ADDRESSED TO THE SECRETARIAT OF THE UNITED NATIONS

The Permanent Mission of Japan to the United Nations presents its compliments to the Secretariat of the United Nations and has the honour to transmit herewith a copy of the Working Paper on the Outline of a Convention on the International Sea-bed Régime and Machinery prepared by the Government of Japan to contribute to the study and discussions to be conducted by the Committee on the Peaceful Uses of the Sea-bed and the Ocean Floor beyond the Limits of National Jurisdiction. The Working Paper sets out tentatively the possible elements which should be incorporated in drafting articles concerning the international sea-bed régime and machinery.

The Permanent Mission of Japan to the United Nations avails itself, etc.

OUTLINE OF A CONVENTION ON THE INTERNATIONAL  
SEA-BED REGIME AND MACHINERY

WORKING PAPER

The attached working paper is submitted for discussion purposes in order to contribute to the drawing up of draft articles concerning the international sea-bed régime and machinery and, as such, it does not necessarily represent the definitive views of the Government of Japan.

/.

OUTLINE OF A CONVENTION ON THE INTERNATIONAL  
SEA-BED REGIME AND MACHINERY

CHAPTER I. GENERAL PROVISIONS

1. Purpose

The purpose of this Convention is to establish a basic régime concerning the International Sea-bed Area and the development of its resources (hereinafter referred to as "sea-bed resources"), which, by providing for an orderly and safe development of sea-bed resources, will ensure an equitable sharing by all States in the benefits derived from such development, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal.

2. Definition of the International Sea-bed Area

/Question of the delimitation of the International Sea-bed Area./ <sup>1/</sup>

3. Definition of sea-bed resources

For the purpose of this Convention, the term "sea-bed resources" shall mean the mineral resources of the sea-bed and the ocean floor, and the subsoil thereof, within the area defined pursuant to paragraph 2. Sea-bed resources shall not include minerals dissolved in sea water.

4. Establishment of the International Sea-bed Authority

In order to achieve the purpose of this Convention, an International Sea-bed Authority (hereinafter referred to as "the Authority") is hereby established.

5. Relationship of the Authority with the United Nations

(1) The Authority shall submit periodically to the appropriate organs of the United Nations reports on its activities. If in connexion with the activities of

---

<sup>1/</sup> The international sea-bed régime should have, as its scope of application, an area large enough so that the establishment of the régime would not be devoid of economic significance. That the régime proposed in the present working paper will be applicable to the sea-bed area beyond national jurisdiction should not be construed as affecting in any way the position of the Government of Japan regarding proposals based on the idea of an intermediate zone.

the Authority there should arise questions that are within the competence of the Security Council of the United Nations, the Authority may, through the Secretary-General of the United Nations, bring any matter to the attention of the Security Council, as the organ bearing the main responsibility for the maintenance of international peace and security.

(2) The Authority shall enter into an agreement or agreements establishing an appropriate relationship between the Authority and the United Nations.

#### 6. Principal functions of the Authority

The principal functions of the Authority shall be:

- (a) To issue licences which grant Contracting Parties the right to explore the International Sea-bed Area and to exploit the sea-bed resources;
- (b) To establish basic rules concerning the development of sea-bed resources and to supervise the development activities in accordance with such rules;
- (c) To ensure equitable distribution of revenues to be derived from the development of sea-bed resources, taking into particular consideration the need to promote the development of developing countries;
- (d) To provide for standards for the prevention of marine pollution arising in connexion with the development of sea-bed resources;
- (e) To encourage scientific research on the International Sea-bed Area and promote international co-operation in this field; and
- (f) To encourage technical assistance to developing countries in the field of development of sea-bed resources.

#### 7. Status of the International Sea-bed Area

- (1) The International Sea-bed Area shall be open to use by all States, without discrimination, except as otherwise provided in this Convention.
- (2) No State shall acquire or exercise the right to develop sea-bed resources except as hereinafter provided in this Convention.
- (3) No State may claim or exercise sovereignty or sovereign rights over any part of the International Sea-bed Area. No Contracting State shall recognize any such claim or exercise of sovereignty or sovereign rights.

/...

8. Peaceful uses

The International Sea-bed Area shall be reserved exclusively for peaceful purposes.

9. Existing rights

None of the provisions of this Convention shall affect the legal status of the superjacent waters as high seas, or that of the air space above those waters; nor shall it affect such rights as are clearly recognized under the existing international law, inter alia, the right to lay and maintain submarine cables and pipelines.

10. Protection of human life and preservation of the marine environment

All activities in the International Sea-bed Area shall be conducted in accordance with adequate standards for the protection of human life and the preservation of the marine environment.

11. Activities in the marine environment

(1) Development activities of the sea-bed resources in the International Sea-bed Area must not result in any unjustifiable interference with other activities in the marine environment.

(2) All activities in the marine environment shall be conducted with reasonable regard for development activities of the sea-bed resources of the International Sea-bed Area.

12. Price fluctuations

The Authority and the Contracting Parties shall pay due regard to the need for minimizing adverse effects of the development of the sea-bed resources on the prices of land-based minerals.

13. Interests of land-locked and shelf-locked countries

Due regard shall be paid to the need to protect the interests of land-locked and shelf-locked countries in the development of sea-bed resources.

/...

14. Status of Contracting Party

- (1) This Convention shall be open to all States.
- (2) Membership of the Authority shall comprise all Contracting Parties to this Convention.
- (3) After entry into force of this Convention, any State may accede to it at any time and, upon accession to this Convention, the State shall acquire the membership of the Authority.

15. Violation

A Contracting Party which has persistently violated the provisions of this Convention may, by a two-thirds majority of the Assembly acting pursuant to the recommendation of the Council, be suspended from the exercise and enjoyment of its rights and privileges under the Convention.

16. National legislation

Each Contracting Party shall, by national legislation, take appropriate measures to ensure that the development of sea-bed resources is carried out in accordance with the provisions of this Convention.

17. Settlement of disputes

- (1) In the absence of agreement by negotiation or by other methods of peaceful settlement of disputes, any dispute relating to the interpretation or application of this Convention or on any matter within the scope of this Convention shall be referred to the Tribunal established in accordance with paragraph 37 unless the parties concerned agree to bring the matter before the International Court of Justice.
- (2) The Authority may seek an advisory opinion of the International Court of Justice, subject to authorization from the General Assembly of the United Nations, on any legal question arising within the scope of this Convention.

/...

## CHAPTER II. DEVELOPMENT LICENCE

### 18. Development licence

The development of sea-bed resources shall be undertaken under a licence issued by the Authority (hereinafter referred to as a "development licence") with respect to such area of the international sea-bed area as specified by the licence (hereinafter referred to as the "licensed area").

### 19. Types of licence

- (1) There shall be two types of development licence: exploration licence and exploitation licence. A development licence shall be exclusive with respect to such area and category of minerals as specified by it.
- (2) An exploration licence shall be issued for authorizing the sampling of sea-bed resources by drilling, dredging or other methods of exploration purposes.
- (3) An exploitation licence shall be issued for authorizing the acquisition of sea-bed resources for the purpose of commercial exploitation.
- (4) Exploration and exploitation licences shall be issued with respect to each of the following categories of minerals:
  - (a) Oil, gas and other minerals in fluid state found in the subsoil of the sea-bed;
  - (b) Other minerals (such as manganese nodules).

### 20. Issuance of licence

- (1) Only a Contracting Party may apply for a development licence.
- (2) Contracting Parties may jointly apply for a development licence.<sup>2/</sup>
- (3) The Authority shall issue a development licence to an applying Party when application has been submitted in conformity with the procedure to be established by the Authority.
- (4) In cases where application for a development licence has been made by two or more Contracting Parties with respect to overlapping areas, the Contracting Party first submitting the application shall have priority. If two or more applications have been submitted on the same date, priority shall be determined by a lot drawn among the applying Parties.

---

<sup>2/</sup> Further study is required for joint development activities to be undertaken by two or more Contracting Parties.

- (5) The Authority shall not issue an exploitation licence to a Contracting Party for an area in respect of which an exploration licence has already been issued to another Contracting Party.
- (6) The Authority shall not issue annually more than      exploration licences, and not more than      exploitation licences, to one Contracting Party for each category of minerals described in paragraph 19 (4).

21. Size of a licensed area

- (1) With respect to the category of minerals described in paragraph 19-(4)-(a), a licensed area may not exceed      square kilometres under an exploration licence, and      square kilometres under an exploitation licence, respectively.
- (2) With respect to the category of minerals described in paragraph 19-(4)-(b), a licensed area may not exceed      square kilometres under an exploration licence, and      square kilometres under an exploitation licence, respectively.

22. Sub-licence

A Contracting Party which has acquired a development licence from the Authority (hereinafter referred to as a "licensee Party") may, in respect of the licensed area, issue a sub-licence to its nationals, including juridical persons.

23. Duration

- (1) The duration of an exploration licence shall be      years, and it may be renewed      times at the maximum upon application to the licensee Party.
- (2) The duration of an exploitation licence shall be      years, and it may be extended for a limited period when the licensee Party or the operator under a sub-licence is deemed by the Authority to be conducting operations in good faith in compliance with the provisions of this Convention.

24. Commencement of the operation

- (1) A licensee Party shall commence, or ensure that the operator under its sub-licence shall commence, operations within      months from the date of issuance of the licence.

/...



(2) There shall be no suspension of operations over a period exceeding       months under an exploration licence, and       years under an exploitation licence, respectively.

25. Work plan

Prior to the commencement of the operation, a licensee Party shall submit to the Authority a work plan in accordance with the rules and procedure to be established by the Authority. It shall inform the Authority of subsequent changes in its work plan.

26. Revocation and relinquishment

(1) The Authority may revoke a licence when a licensee Party or its sub-licensee commits any one of the following:

- (a) Failure to start operations in violation of the provision of paragraph 24 (1);
- (b) Suspension of operations in violation of the provision of paragraph 24 (2);
- (c) Failure to pay licence fees or other charges in violation of the provisions of paragraph 27.

(2) A licensee Party may relinquish its licence in accordance with the procedure to be established by the Authority. The Authority may, in accordance with paragraph 20, reissue a licence to any Contracting Party with respect to the relinquished area.

(3) The Contracting Party which has relinquished its licence shall remove installations and other equipments erected or emplaced in the licensed area, except as otherwise authorized by the Authority.

27. Licence fees, rental fees, royalties

(1) A licensee Party shall pay to the Authority licence fees in accordance with the rules and procedure to be established by the Authority.

(2) A licensee Party shall pay to the Authority annual rental fees in accordance with the rules and procedure to be established by the Authority.

(3) A licensee Party shall, upon attainment by itself or by the operator under its sub-licence, of production of sea-bed resources at a commercial level, pay to the Authority royalties, in the amount to be determined by the Authority in terms of a percentage of annual produce. /...

28. Liability for damage

/Further study is required/

CHAPTER III. THE INTERNATIONAL SEA-BED AUTHORITY

29. Legal personality

The Authority shall enjoy such legal capacity as may be necessary for the exercise of its functions and fulfilment of its purposes.

30. Privileges and immunities

The Authority shall enjoy such privileges and immunities as are necessary for the fulfilment of its purposes except for the immunity from judicial proceedings.

31. Principal organs

There are established as the principal organs of the Authority: an Assembly, a Council, a Tribunal, and a Secretariat.

32. Assembly: composition and voting

- (1) The Assembly shall consist of all Member States.
- (2) The Assembly shall meet at least once in three years and at any time at the request of the Council or of the Secretary-General.
- (3) Each member of the Assembly shall have one vote.
- (4) Decisions of the Assembly shall be by a majority of the members present and voting except as otherwise provided in this Convention.

33. Assembly: powers and functions

The Assembly shall have the following powers and functions except as otherwise provided for in this Convention:

- (a) To elect its President and other officers;
- (b) To elect the members of the Council in accordance with paragraph 34;
- (c) To determine its rules of procedure;
- (d) To receive, consider and approve reports from the Council including those to be submitted to the United Nations;

/...

(e) To approve proposed budgets of the Authority, or return them to the Council for reconsideration and resubmission;

(f) To suspend a Member State from the exercise of the rights and privileges of membership;

(g) To take decision on any matter referred to it by the Council.

34. Council: composition

(1) The Council shall be composed of 24 Member States designated under this Convention or elected by the Assembly.

(2) Six Member States shall be designated in accordance with the provisions contained in Appendix.<sup>3/</sup>

(3) Eighteen additional Member States, of which at least 12 shall be developing countries and three shall be land-locked or shelf-locked countries, shall be elected by the Assembly, taking into account the need for equitable geographical distribution.

(4) Elected members of the Council shall hold office for three years.

35. Council: voting

(1) Each member of the Council shall have one vote.

(2) Decisions of the Council on procedural questions shall be by a majority of the members present and voting.

(3) Decisions of the Council on other questions shall be by a two-thirds majority of the members present and voting.

36. Council: powers and functions

The Council shall have the following powers and functions except as provided for in this Convention:

(a) To submit reports to Member States and the Assembly;

(b) To determine its rules of procedure;

(c) To appoint the Secretary-General of the Secretariat;

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

---

<sup>3/</sup> Appendix is not attached.

(e) To establish rules and/or procedures in respect of the following matters: issuance, revocation and relinquishment of development licence; work plan; payment of licence fees, rental fees and royalties; collection and distribution of revenues; prevention of pollution resulting from the development of the sea-bed resources; and any other matter necessary for the development of the sea-bed resources;

(f) To supervise the development activities in accordance with the rules and procedures provided in paragraph (e) above;

(g) To enter, with the approval of the Assembly, into agreement or agreements establishing an appropriate relationship between the Authority and the United Nations.

37. Tribunal: composition

(1) A Tribunal shall be established on an ad hoc basis, and shall be comprised of three members, of which one each shall be designated by the respective parties to the dispute, and the third member shall be chosen as the Chairman by the two members so designated, from among the members on the panel of arbitrators. Each Contracting Party is entitled to nominate one member for the purpose of such panel. In cases where two or more Contracting Parties are involved in a dispute against another Contracting Party, the former Contracting Parties shall collectively designate one arbitrator as a member of the Tribunal.

(2) In the event of the Authority being party to the dispute, the Secretary-General shall appoint such person as he deems appropriate, either from among the members of the panel or otherwise, as a member of the Tribunal.

(3) The Tribunal shall be constituted within    months from the time of the request of any of the parties to the dispute.

38. Tribunal: functions

(1) The Tribunal shall be responsible for deciding any dispute referred to it relating to the interpretation or application of the Convention or on any matter within the scope of this Convention.

(2) The Tribunal shall determine its rules of procedure.

/...

(3) The decision of the Tribunal shall be by majority vote. Its decision shall be final and binding unless the parties agree to submit the case to the International Court of Justice.

39. Secretariat: composition

(1) The Secretariat shall consist of a Secretary-General and such staff as the Authority may require.

(2) The Secretary-General shall be appointed by the Council from among persons nominated by Member States.

(3) 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.

40. Secretary-General: functions

The Secretary-General shall:

- (a) Be the chief administrative officer of the Authority;
- (b) Report to the Assembly and the Council on the work of the Authority;
- (c) Appoint the staff of the Secretariat;
- (d) Appoint an arbitrator as a member of the Tribunal for settlement of disputes to which the Authority is party;
- (e) Perform such other functions as are entrusted to him by the Council.

41. Expenditure of the Authority

(1) Disbursements of the Authority shall be made out of its revenues deriving from licence fees, rental fees and royalties.

(2) Until such time as the Authority will become financially self-supporting in accordance with the preceding paragraph to defray its expenses, the expenses of the Authority shall be borne by the Member States as apportioned by the Assembly.<sup>4/</sup>

---

<sup>4/</sup> There might be included a provision requiring the six members of the Council as provided in paragraph 34 (2), to give favourable considerations to the finance of the Authority upon its request.

42. Distribution of revenues

The revenues of the Authority shall, after its administrative and other necessary expenses have been met, be used to promote the development of developing member countries in accordance with the rules to be established by the Authority.

CHAPTER IV. OTHER PROVISIONS

43. Amendments

Amendments to this convention shall be adopted by the Assembly by a two-thirds majority of its members present and voting on the recommendation of the Council.

44. Final clause

- signature
- ratification
- entry into force, etc.