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

COMPARATIVE TABLE OF DRAFT TREATIES, WORKING PAPERS
AND DRAFT ARTICLES 1/

Prepared by the Secretariat

1/ In view of the relevant General Assembly resolutions and in the interest of economy, this document is being reproduced in a minimal number of copies and is being distributed accordingly.

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Introduction

1. At its 66th meeting on 27 August 1971, the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of Nations Jurisdiction decided

"to request the Secretariat to prepare a comparative analytical table to cover all draft treaties, working papers and draft articles relating to the international régime or other related issues of the law of the sea, as well as to request delegations to submit the texts to be so covered by 31 October". 1/

2. The present tabulation, which has been prepared in response to this request, incorporates texts from the following 12 2/ documents:

- Draft United Nations convention on the international sea-bed area: working paper submitted by the United States of America (A/AC.138/25)
- International régime: working paper submitted by the United Kingdom (A/AC.138/26) 3/
- International sea-bed régime: proposals of the United Kingdom for elements of a convention (A/AC.138/46)
- Establishment of a régime for the exploration and exploitation of the sea-bed: proposals submitted by France (A/AC.138/27)
- Draft statute for an international sea-bed authority, submitted by the United Republic of Tanzania (A/AC.138/33)

1/ Report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21, paragraph 26.

2/ Three of these proposals, those submitted by France and the United States, and the first working paper submitted by the United Kingdom, are annexed to the 1970 Report of the Committee: Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 21.

The remainder, with the exception of that presented by Japan, are annexed to the 1971 Report of the Committee: Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21. The proposal presented by Japan was reproduced as a Committee document in November 1971 (A/AC.138/63).

3/ The Mission of the United Kingdom informed the Secretariat that only the following portions of its 1970 paper (A/AC.138/26) should be included in the present table: paragraphs 2, 4, 5 (without the last sentence), 9 (sections (11) (i) and (j) only), 11 and 13.

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- Provisional draft articles of a treaty on the use of the sea-bed for peaceful purposes, submitted by the Union of Soviet Socialist Republics (A/AC.138/43)
- 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 (A/AC.138/44)
- Working paper on the régime for the sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction, submitted by Chile, Colombia, Ecuador, El Salvador, Guatemala, Guyana, Jamaica, Mexico, Panama, Peru, Trinidad and Tobago, Uruguay and Venezuela /hereinafter referred to as the "13-Power working paper" (A/AC.138/49)
- Draft ocean space treaty: working paper submitted by Malta (A/AC.138/53) 4/
- Preliminary working paper submitted by Afghanistan, Austria, Belgium, Hungary, Nepal, Netherlands and Singapore /hereinafter referred to as the "7-Power working paper" (A/AC.138/55)
- International sea-bed régime and machinery working paper, submitted by the delegation of Canada (A/AC.138/59)
- Outline of a convention on the international sea-bed régime and machinery, working paper submitted by Japan (A/AC.138/63)

3. As was indicated by the Chairman of the Committee at the time of the Committee's decision to request the Secretariat to prepare the table, the purpose of the present document is, in essence, to facilitate the comparison of the various texts which have been presented so far, concerning chiefly the international régime, including international machinery, for the area and the resources of the sea-bed and the ocean floor and the subsoil thereof, beyond the limits of national jurisdiction. The method followed in the table has been the established one of placing the portions of the different texts dealing with the same or a similar topic in adjacent columns, under common headings. The columns have been arranged in the order of the submission of the various proposals to the Committee; in the case of the United Kingdom, however, which submitted two proposals, one in 1970 and one in 1971, the second (A/AC.138/46) has been listed in the same column as the first (A/AC.138/26).

4. As regards the task of determining which particular portions of the text were to be compared in any given case, and the choice of headings to be used, account had to be taken of two basic factors. First, the documents differ considerably in their form: six consist of draft treaty articles (those of the United States, the United Republic of Tanzania, the Union of Soviet Socialist Republics, the 13-Power working paper, Malta and Japan), and the remainder were submitted as working papers, or as a commentary on principles, in which considerations or suggestions are advanced relating to different issues (those of the United Kingdom,

4/ For a note concerning the parts of the Maltese text covered, see paragraphs 11-15 below.

France, Poland, the seven-Power Working paper and Canada). Secondly, and more substantially, the proposals differ in their content and structure, no two having precisely the same scope and pattern. In order to produce the table, it was necessary to adopt a common format and to use common headings. It was therefore decided that, in the organization of the table, the order found in the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction (General Assembly resolution 2749 (XXV) of 17 December 1969) should be followed as far as possible. Where additional headings were necessary (notably in the case of provisions concerning international machinery) these have been provided. Of the 34 sections into which the table is divided, the first 20 follow broadly the order of the Declaration of Principles (in the case of section 1, the preamble to the Declaration), and sections 21 to 31 deal with aspects of international machinery. Sections 32 to 34 cover transitional measures, miscellaneous provisions and final clauses.

5. Mention should be made of the fact that, in a number of cases, the topics dealt with in different sections are closely related. Particular reference may be made in this connexion to section 5: "Activities regarding exploration and exploitation of the resources of the area and other related activities to be governed by the international régime", section 10: "Orderly and safe development and rational management of the area and its resources", and section 11: "Provisions regarding exploration and exploitation of the resources of the area: registration, licensing, direct exploration and exploitation", on the one hand, and sections 21 to 31, dealing with international machinery, on the other. In keeping with the underlying approach of the various papers, the Secretary-General sought to include in sections 5, 10 and 11 provisions of a general nature, relating to the over-all character of the régime, and in sections 21 to 31 provisions cast in terms of the specific functions and attributes of international machinery and its organs.

6. The Secretary-General has thus endeavoured, within the limits indicated, to present the texts within a common analytical framework which is as neutral as possible as regards the particular approach or philosophy underlying the different documents. It will nevertheless be evident that in many cases the text of given articles or provisions could have been placed under several headings. One course which could have been followed would have been to quote the texts wherever they appeared relevant. This, however, besides entailing extra costs and increasing the length of the documents, would have resulted in some confusion in the presentation, as well as involving the possibility of reproducing some texts more than others. The Secretary-General accordingly decided to reproduce texts once only, and to include cross-references wherever this seemed appropriate: the number of cross-references given does not purport to be exhaustive. In following this course the Secretary-General has been fully aware that the placing of texts might in some cases appear arbitrary and that it might seem to the author or authors that particular paragraphs or articles should be placed under different headings. The Secretary-General would in this connexion call attention once more to the essential requirement of the adoption of a common framework, if the table was to be prepared, and, beyond that, to the fact that the table does not purport in any degree to

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affect or supersede the papers actually submitted to the Committee by delegations. It is envisaged solely as a working instrument to assist members of the Committee.

7. As regards the extent to which texts are reproduced, texts have in principle been reproduced in their entirety. In some cases, however, connecting material has been omitted. Preambular provisions have been placed in an initial section. Foot-notes have been included when they appear to affect the substance of the provisions to which they apply. Appendices are reproduced separately and not set out in columns since they appear in only one paper. An index has been included at the end of the table, listing the articles or provisions of each proposal and showing in which section they have been placed.

8. It should be noted that in many cases the sponsoring delegation or delegations stated that the documents in question were introduced for discussion purposes and did not constitute formal or definitive proposals. Statements to this effect have not been reproduced in the present document.

9. Particular reference should be made to two texts: the working paper on a draft ocean space treaty submitted by Malta (A/AC.138/53) and the draft articles on the breadth of the territorial sea, straits and fisheries, submitted to Sub-Committee II by the United States (A/AC.138/SC.II/L.4 and Corr.1). The working paper submitted by Malta has been reproduced only in part in the present table. In his statement on the subject at the time of the Committee's decision to request the Secretariat to prepare a table, the Chairman of the Committee noted that the Maltese draft adopted a radically different approach to the issues before the Committee, by comparison with the other texts, and stated that the substance of the draft would be treated in so far as it could be compared with those other texts. In order to avoid disrupting the essential unity of the Maltese draft, the Chairman declared that the Secretariat would, in a special note, refer to the provisions of the Maltese draft as a whole. A note on the nature and organization of the provisions of the Maltese draft, and the extent to which those provisions have been incorporated in the table, has accordingly been provided after this introduction.

10. The draft articles on the breadth of the territorial sea, straits and fisheries, submitted to Sub-Committee II by the United States, have not been reproduced in the present table. Since, like portions of the Maltese draft, these proposals deal with aspects which are not dealt with, or which are dealt with only directly or in passing in the texts reproduced, which concern largely the international régime, including international machinery, for the sea-bed area and its resources beyond the limits of national jurisdiction, it seemed preferable that these particular papers should not be covered in the present document. In view, furthermore, of the fact that the Chairman of the Committee had indicated that addenda to the table would be prepared when further texts were submitted, it thus appeared more useful to envisage including texts still outstanding (that is to say, the remaining portions of the Maltese draft and the United States draft articles on the breadth of the territorial sea, straits and fisheries) in a future addendum, rather than adding them to the present comparative table.

Note on the draft ocean space treaty contained in the
working paper submitted by Malta (A/AC.138/53)

11. As stated in paragraph 8 above, the Chairman of the Committee requested the Secretariat to include in the present document a note explaining the nature of the Maltese proposal and the extent to which it was incorporated in the following table.

12. The 1971 report of the Committee 5/ contains, in paragraph 53, a series of statements submitted by sponsoring delegations explaining the philosophy or basic approach of the various proposals. Reference should therefore be made to the summary provided by the delegation of Malta (paragraph 53 (g)), as well as to the full text of the introduction to the working paper, in connexion with this note. The summary emphasizes that the Maltese draft is based on a unitary approach to the problems of ocean space, regarded as a whole. The opening paragraph of the introduction states that the working paper

"is based on the postulate that the principle of laissez-faire freedom underlying the present régimes governing activities in ocean space beyond national jurisdiction is largely obsolescent and increasingly inadequate...".

13. In subsequent paragraphs it is said that

"The increasingly serious problems and conflicts developing in ocean space cannot be solved satisfactorily in the framework of existing legal régimes of the seas, largely based on concepts that seldom correspond to contemporary reality, or by the sole elaboration of an international régime for the sea-bed beyond national jurisdiction, since all uses of ocean space are increasingly interlinked."

Accordingly, "a new international order for ocean space" must be constructed. Further paragraphs of the introduction explain the particular changes and proposals suggested.

14. As will be clear from the above, the provisions of the Maltese text have been cast in terms of a régime covering all aspects of, and activities in, ocean space, and are not addressed solely to the peaceful uses of the sea-bed and ocean floor beyond the limits of national jurisdiction. The organization of the Maltese working paper thus differs substantially from the scheme of headings used in this table. As regards the main divisions of the paper, part I, entitled "Ocean space" seeks mainly to up-date the 1958 Geneva Conventions on the Territorial Sea and the High Seas, within the new comprehensive framework relating to ocean space which is envisaged. Part II deals with "Coastal State jurisdiction in ocean space"

5/ Report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21.

It is proposed that a limit of 200 miles should apply with respect to coastal State jurisdiction; within that limit, however, the exercise of jurisdiction by the coastal State would be subject to certain obligations designed to protect international interests. Part III concerns "National ocean space" and contains proposals relating to navigation and living resources. Parts IV and V are entitled "International ocean space" and "The international ocean space institutions".

15. Parts IV and V, which are the portions most closely comparable with the other texts covered, have been incorporated in the present table in their entirety. Part II, relating to the question of limits, has also been included in the table. Parts I and III have not been included, with the exception of article 1, containing definitions, and article 35, relating to scientific research. From the basic nature of the Maltese proposal, the texts reproduced tend to be broader in scope than those set out in other columns of the table.

T A B L E S

Preambular provisions:

A/AC.138/25 - USA (A/8021) A/AC.138/26 - UK (A/8021) A/AC.138/27 - France (A/8421) A/AC.138/33 - United Republic of Tanzania (A/8421) A/AC.138/43 - USSR (A/8421) A/AC.138/44 - Poland (A/8421)

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The Contracting Parties

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A/AC.138/46 - UK (A/8421)

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Recalling resolutions 2340 (XXII) of 18 December 1967, 2467 (XXIII) of 31 December 1968, 2574 (XXIV) of 15 December 1969, and 2750 (XXV) of 17 December 1970 of the General Assembly of the United Nations,

Recalling the Declaration of Principles Governing the Sea-Bed and the Ocean Floor and the Subsoil Thereof, Beyond the Limits of National Jurisdiction adopted by the General Assembly on 17 December 1970,

Desiring to ensure that the exploration and use of the sea-bed and ocean floor should be conducted in accordance with the Purposes and Principles of the Charter of the United Nations and in conformity with the Declaration of Principles Governing the Sea-Bed and the Ocean Floor and the Subsoil Thereof, Beyond the Limits of National Jurisdiction, in the interest of maintaining international peace and security and for the benefit of all mankind and in particular the interests of developing countries,

Mindful of the importance of preserving the sea-bed and the sea-floor and the subsoil thereof, beyond the limits of national jurisdiction from actions and uses which might be detrimental to the common interests of mankind,

Hoping to foster greater international co-operation and co-ordination in the peaceful exploration and exploitation of the sea-bed and ocean floor and its subsoil thereof beyond the limits of national jurisdiction.

The States Parties to this Treaty,

Attaching great importance to the rational and orderly use of the sea-bed and the subsoil thereof beyond the limits of the continental shelf exclusively for peaceful purposes and for the benefit of the peoples of all countries,

Considering that co-operation in this field between States, on the basis of a treaty, would contribute to the maintenance of international peace and security and to the development of international co-operation, and would also promote the utilization of the resources of the sea-bed in the interests of economic progress, including the interests of the economies of the peoples of the developing countries,

Noting the great importance of the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Subsoil Thereof, as an important step towards the exclusion of the sea-bed and the ocean floor from the arms race,

Recalling General Assembly resolution 2749 (XXV) approving the Declaration of Principles Governing the Sea-Bed and the Ocean Floor and the Subsoil Thereof beyond the Limits of National Jurisdiction, which provides inter alia that an international regime applying to the sea-bed and the subsoil thereof shall be established by "an International Treaty of a universal character, generally agreed upon",

Convinced that the conclusion of a Treaty on the Use of the Sea-Bed for Peaceful Purposes will contribute to the realization of the Purposes and Principles of the United Nations Charter and to the strengthening of the principles of international law governing the freedom of the seas, including the freedom of research,

Have agreed as follows:

A/AC.138/49 - 13-Power Draft (A/8421)

.....

PREAMBLE

.....

.....

A/AC.138/53 - Malta (A/8421)

PREAMBLE

The States Parties to
this Treaty, have agreed as
follows:

A/AC.138/55 - 7-Power Working Paper (A/8421)

.....

A/AC.138/59 - Canada (A/8421)

.....

A/AC.138/63 - Japan

.....

1. Question of limits of the area

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland (A/8421)

Chapter I

Basic Principles

Article 1

.....

2. The International Seabed Area shall comprise all areas of the seabed and subsoil of the high seas* seaward of the 200 meter isobath adjacent to the coast of continents and islands.

3. Each Contracting Party shall permanently delineate the precise boundary of the International Seabed Area off its coast by straight lines not exceeding 60 nautical miles in length, following the general direction of the limit specified in paragraph 2. Such lines shall connect fixed points at the limit specified in paragraph 2, defined permanently by co-ordinates of latitude and longitude. Areas between or landward of such points may be deeper than 200 meters. Where a trench or trough deeper than 200 meters transects an area less than 200 meters in depth, a straight boundary line more than 60 nautical miles in length, but not exceeding the lesser of one fourth of the length of that part of trench or trough transecting the area 200 meters in depth or 120 nautical miles, may be drawn across the trench or trough.

4. Each Contracting Party shall submit the description of the boundary to the International Seabed Boundary Review Commission within five years of the entry into force of this Convention for such Contracting Party. Boundaries not accepted by the Commission and not resolved by negotiation between the Commission and the Contracting Party within one year shall be submitted by the Commission to the Tribunal in accordance with Section E of Chapter IV.

5. Nothing in this Article shall affect any agreement or prejudice the position of any Contracting Party with respect to the delimitation of boundaries between opposite or adjacent States in seabed areas landward of the International Seabed Area, or with respect to any delimitation pursuant to Article 30.

* NOTE: The United States has simultaneously proposed an international Convention which would, inter alia, fix the boundary between the territorial sea and the high seas at a maximum distance of 12 nautical miles from the coast.

See also Articles 26 and 30 (Section 16) and 45 (Section 31).

Delimitation

Article 3

(1) The national jurisdiction of a coastal State shall extend to an adjacent area of the seabed and the ocean floor and the subsoil thereof, including its resources, to a water depth of metres. A coastal State may, in its discretion, declare that its jurisdiction over such area and its resources extends to a line, every point of which is not more than miles from the nearest points on the base lines, from which the breadth of its territorial sea is measured.

(2) Each Contracting Party shall notify to the International Seabed Authority, established pursuant to Article I of this Convention, the limit of its national jurisdiction over the adjacent area of the sea-bed and the ocean floor and the subsoil thereof, including its resources, defined by coordinates of latitude and longitude and evidenced by appropriate large-scale maps.

(3) The International Sea-bed Authority may take such steps as may be necessary, in collaboration with the notifying State, to verify the contents of such notification.

(4) Nothing in this Article shall affect any agreement or prejudice the position of any Contracting Party with respect to the delimitation of boundaries of sea-bed areas between opposite or adjacent States.

Article 2

The provisions of this Treaty shall apply to the sea-bed of the high seas and the subsoil thereof beyond the limits of the continental shelf. In areas where there is no continental shelf, the provisions of this Treaty shall apply to the sea-bed of the high seas, beginning at the demarcation line provided for in article 3 of this Treaty.

Article 3

(Question of the limits of the sea-bed)

See also Article 10, para. 6 (section 18).

I. General Principles

.....

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 developing countries.

II. Specific Questions

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.

A/AC.138/49 - 13-Power
draft (A/8421)

A/AC.138/53 - Malta (A/8421)

.....

PART II: COASTAL STATE JURISDICTION IN OCEAN SPACE

Chapter IX: Limits

Article 36

National jurisdiction extends to a belt of ocean space adjacent to the coast the breadth of which is 200 nautical miles. Ocean space beyond 200 nautical miles from the coast forms part of International Ocean Space. No part of International Ocean Space is subject to national jurisdiction of any kind unless otherwise expressly provided in the present Convention.

Article 37

1. The jurisdiction of an island State or of an archipelago State extends to a belt of ocean space adjacent to the coast of the principal island or islands the breadth of which is 200 nautical miles. The principal island or islands shall be designated by the State concerned and notified to the competent organ of the International Ocean Space Institutions. In the event of disagreement with the designation made by the archipelago State any Contracting Party may submit the question to the International Maritime Court for adjudication.

2. The jurisdiction over ocean space that may be claimed by a State by virtue of its sovereignty or control over islands, other than those referred to in paragraph one, shall be determined in a special convention.

Article 38

1. Contracting Parties agree to surrender against equitable and appropriate compensation their claims to jurisdiction over the sea-bed of submarine areas more than 200 nautical miles from their coast which are subjacent to waters less than 200 metres deep.

2. The compensation referred to in paragraph one shall be determined by the International Ocean Space Institutions in the light of all relevant factors including the practical possibilities of resource exploitation. In the event that the compensation proffered is considered inadequate by the Contracting Party concerned, the matter shall be adjudicated by the International Maritime Court.

Chapter X: Baselines

Article 39

The baseline for measuring the breadth of national ocean space is the low-water line along the coast as marked on large-scale maps officially recognized by the coastal State and deposited with the International Ocean Space Institutions.

Article 40

1. In localities where the coastline is deeply indented, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of national ocean space is measured.

2. The drawing of such baselines must not depart to any appreciable extent from the general direction of the coast and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

3. Baselines shall not be drawn to and from low tide elevations unless lighthouses or similar installations which are permanently above sea level have been built on them.

4. Baselines shall not be drawn from artificial islands or from floating harbours or other floating installations, whether anchored or not to the sea-bed.

5. The manner in which an archipelago State may draw the baseline for measuring the breadth of national ocean space shall be determined in the convention referred to in article 37 (2) taking into account the provisions of chapter X of this convention.

6. The system of straight baselines may not be applied by a State in a manner calculated to cut off the national ocean space of another State from International Ocean Space.

7. The coastal State must clearly indicate straight baselines on charts which must be deposited with the International Ocean Space Institutions. The competent organs of these institutions may object within one year of the deposit of the charts to the baselines drawn by the coastal State. In the event of disagreement with the coastal State, the matter shall be submitted to the International Maritime Court for adjudication.

Article 41

1. If the distance between the low water marks of the natural entrance points of a bay does not exceed 24 miles, a closing line may be drawn between the low water marks and the waters enclosed thereby shall be considered as internal waters.

2. Where the distance between the low water marks of the natural entrance points of a bay exceeds 24 miles, a straight baseline of 24 miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

3. The foregoing provisions shall not apply to so-called historic bays or in any case where the straight baseline system provided for in article 40 is applied.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada
(A/8421)

A/AC.138/63 - Japan

I. Limits and status of the international area:

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See comment under principle 4 (section 5)

Chapter I

General Provisions

2. Definition of the International Sea-bed Area

Question of the delimitation of the International Sea-Bed Area, 1/

1/ 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.

A. The international area shall comprise all sea-bed and subsoil outside the area of the territorial sea (the maximum breadth of which is 12 miles measured from the base-line) and beyond the submarine areas adjacent to the coasts of States. For the purpose of this article submarine areas are considered to be adjacent to the coast of a particular State if

- either their depth does not exceed 200 metres,

- or they underly a belt of sea the breadth of which is 40 miles measured from the base-line of the territorial sea, according to the choice between the two methods of delimitation to be made by that particular State at the moment of ratification. The choice shall be final and the method of delimitation chosen shall apply to the whole of the coastline of that particular State.

A/AC.138/25 - USA (A/8021)
(continued)

A/AC.138/26 - UK (A/8021)
(continued)

A/AC.138/27 - France (A/8021)
(continued)

A/AC.138/33 - United Republic
of Tanzania (A/8421)
(continued)

A/AC.138/43 - USSR (A/8421)
(continued)

(A/AC.138/44 - Poland (A/8421)
(continued)

A/AC.138/49 - 13-Power
draft (A/8421)
(continued)

A/AC.138/53 - Malta (A/8421)
(continued)

A/AC.138/55 - 7-Power
Working Paper (A/8421)
(continued)

A/AC.138/59 - Canada
(A/8421) (continued)

A/AC.138/63 - Japan
(continued)

Article 42

1. Waters on the landward side of the baseline form part of the internal waters of the State.
2. Where the establishment of a straight baseline in accordance with article 40 has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas a right of passage as provided in articles 46 and 47 shall exist in those waters.

Article 43

The outer limit of national ocean space is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of national jurisdiction over ocean space.

Article 44

For the purpose of delimiting national jurisdiction over ocean space, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

Article 45

1. Where the coasts of two or more States are opposite or adjacent to each other, none of the States is entitled, failing agreement between them to the contrary, to extend ocean space subject to their jurisdiction beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of ocean space under the jurisdiction of each of the States is measured. The provisions of this paragraph shall not apply, however, where it is necessary by reason of historic title or other special circumstance to delimit national ocean space of each State in a way which is at variance with this provision.
2. The line of delimitation between national ocean space of two or more States lying opposite or adjacent to each other shall be drawn with reference to fixed permanent identifiable points on land where this is possible. The line shall further be marked on large-scale charts officially recognized by the coastal States and deposited with the competent international institutions.
3. In the event of disagreement between the States concerned the question shall be submitted for adjudication by the International Maritime Court.

Article 46

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-tide line of its banks.

See also Article 132 /section 27 (b)/.

2. Common heritage of mankind

<u>A/AC.138/25 - USA (A/8021)</u>	<u>A/AC.138/26 - UK (A/8021)</u>	<u>A/AC.138/27 - France (A/8021)</u>	<u>A/AC.138/33 - United Republic of Tanzania (A/8421)</u>	<u>A/AC.138/43 - USSR (A/8421)</u>	<u>A/AC.138/44 - Poland (A/8421)</u>
<u>Chapter I</u>	.....	.....	<u>Characteristics of the Area</u>	.....	.....
<u>Basic Principles</u>			<u>Article 4</u>		
<u>Article 1</u>	<u>A/AC.138/46 - UK (A/8421)</u>		The sea-bed and the ocean floor and the subsoil thereof and its resources lying beyond the limits of national jurisdiction, as defined in paragraph 1 of article 3 (hereinafter called the International Sea-bed Area) is the common heritage of mankind and shall, as such, be subject to the régime hereinafter set forth.		
1. The International Sea-bed Area shall be the common heritage of all mankind.	.....			

A/AC.138/49 - 13-Power Draft (A/8421)

Chapter I

Fundamental principles

Article 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.

A/AC.138/53 - Malta (A/8421)

Part IV: International Ocean Space

Chapter XV

Basic principles

Article 66

International Ocean Space is the common heritage of all mankind and, as such, is administered in the name, and on behalf, of the international community by the Institutions established in accordance with article 86 of this Convention.

A/AC.138/55 - 7-Power Working Paper (A/8421)

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A/AC.138/59 - Canada (A/8421)

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 the resources of the area, are the common heritage of mankind."

This of course is the most fundamental principle to be embodied in the future treaty either verbatim or in other words to the same effect. It is the principle from which all others flow and which determines the objectives and functions of the international sea-bed regime and machinery. This does not imply, however, that the United Nations should be given sovereignty over the area and its resources, any more than it has been given sovereignty over celestial bodies. Such a disposition, it is considered, would be not only unnecessary but could also involve grave dangers of conflict between the United Nations and its Member States. What does flow from this principle is recognition of the clear need to have institutional arrangements for the protection, management and exploitation of the common heritage - arrangements which will provide not only for the equitable distribution of benefits but also for equitable participation in the exploitation and management of the common heritage.

The concept of the common heritage, however, should not be interpreted to mean that, because of the unique legal status of the area, the future sea-bed treaty as can automatically be made universally binding - even upon States which may not adhere to that treaty. This note of caution is particularly relevant in view of the fact that the treaty will affect national off-shore boundaries. At the same time, however, the treaty must achieve if not universal acceptance then something very close to it, for otherwise the concept of the common heritage could be frustrated either by the majority of States within the treaty framework or by the minority of States outside it. It is possible of course that such fundamental elements of the treaty as the concept of the common heritage may come to be or indeed may already be regarded as principles of customary international law binding upon States independently of any conventional provision.

It should be noted that difficulties could arise from the affirmation that the international sea-bed area itself, and not only its resources, is the common heritage of mankind. This could be taken to imply that all uses of and activities on the sea-bed beyond national jurisdiction, and not only those activities directly related to resources exploration and exploitation, should necessarily be regulated by the international regime and machinery to be established.

A/AC.138/63 - Japan

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3. Non-appropriation and no claim or exercise of sovereignty or sovereign rights

<u>A/AC.138/25 - USA (A/8021)</u>	<u>A/AC.138/26 - UK (A/8021)</u>	<u>A/AC.138/27 - France (A/8021)</u>	<u>A/AC.138/33 - United Republic of Tanzania (A/8421)</u>	<u>A/AC.138/43 - USSR (A/8421)</u>	<u>A/AC.138/44 - Poland (A/8421)</u>
<u>Chapter I</u>	.....	.....	<u>Characteristics of the Area</u>	<u>Article 5</u>	.....
<u>Basic Principles</u>					
<u>Article 2</u>	<u>A/AC.138/46 - UK (A/8421)</u>	See entry under Section 8.	<u>Article 5</u>		
1. No State may claim or exercise sovereignty or sovereign rights over any part of the International Sea-bed Area or its resources. Each Contracting Party agrees not to recognize any such claim or exercise of sovereignty or sovereign rights.	.....		The International Sea-bed Area shall not be subject to appropriation by any means by States or persons, natural or juridical, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof.	1. No State shall claim or exercise sovereignty or sovereign rights over any part of the sea-bed or the subsoil thereof. States Parties to this Treaty shall not recognize any such claim or exercise of sovereignty or sovereign rights. 2. Similarly, the sea-bed and the subsoil thereof shall not be subject to appropriation by any means, by States or persons, natural or juridical.	
				<u>Article 26</u>	
				None of the provisions of this Treaty or the rights granted to the International Sea-bed Resources Agency or its organs, and similarly none of the functions exercised by the Agency or its organs, shall mean that the Agency has jurisdiction over the sea-bed and the subsoil thereof or shall give the Agency rights or legal grounds to consider the sea-bed and the subsoil thereof as owned, possessed or used by it, or at its disposal.	

A/AC.138/49 - 13-Power Draft (A/8421)

Chapter I

Fundamental Principles

Article 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.

A/AC.138/53 - Malta (A/8421)

Part IV. International Ocean Space

Chapter XV

Basic Principles

Article 67

International Ocean Space is not subject to appropriation by any means by States or persons, natural or juridical, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof.

A/AC.138/55 - 7-Power Working Paper (A/8421)

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A/AC.138/59 - Canada (A/8421)

2. "The area shall not be subject to appropriation by any means by States or persons, natural or juridical, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof."

This principle too could be incorporated verbatim into the treaty. It should be noted, however, that its provisions are stated in absolute terms, unqualified by the expression "states parties". In other words, this element also would have to be considered binding both as a treaty disposition and as a principle of customary international law. The need for such a dual validity is obvious and underlines again the importance of achieving virtually universal acceptance of the treaty. In further elaborating this principle it would be appropriate to provide in the future treaty that states (states parties in this instance) shall not recognize attempted appropriations or claims or exercises of sovereignty or sovereign rights. Bearing in mind international experience with various uses of the high seas, as well as potential uses of celestial bodies, it would also be advisable to give a clearer indication in the treaty as to what might constitute a form of appropriation falling short of a claim or exercise of sovereignty or sovereign rights (a question which is closely related both to the scope of activities to be governed by the régime and to the reservation of the sea-bed for exclusively peaceful purposes). To this end "appropriation" might be defined to mean any exclusive use or denial of the right of access not provided for in the treaty.

See also comment under principle 1 (Section 2) and principle 10 (c) (Section 14)

A/AC.138/63 - Japan

Chapter I. General Provisions

Status of the International Sea-bed Area

Article 7. Paragraph 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.

4. No claim exercise or acquisition of rights incompatible with the international régime

<u>A/AC.138/25 - USA (A/8021)</u>	<u>A/AC.138/26 - UK (A/8021)</u>	<u>A/AC.138/27 - France (A/8021)</u>	<u>A/AC.138/33 - United Republic of Tanzania (A/8421)</u>	<u>A/AC.138/43 - USSR (A/8421)</u>	<u>A/AC.138/44 - Poland (A/8421)</u>
<u>Chapter I</u>	.....	.....	<u>Characteristics of the Area</u>	.....	.....
<u>Basic Principles</u>			<u>Article 6</u>		
<u>Article 2. Paragraph 2</u>	<u>A/AC.138/46 - UK (A/8421)</u>		No State or person, natural or juridical, shall claim, exercise or acquire, rights with respect to the International Sea-bed Area or its resources incompatible with the provisions of this Convention.		
No State has, nor may it acquire, any right, title, or interest in the International Sea-bed Area or its resources except as provided in this Convention.	.....			
(NOTE: The preceding Article is not intended to imply that States do not currently have rights under, or consistent with, the 1958 Geneva Convention on the Continental Shelf.)					

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See Article 2 (text in Section 3)

A/AC.138/53 - Malta (A/8421)

Part IV. International Ocean Space

Chapter XV

Basic Principles

Article 68

No State or person, natural or juridical, shall claim, exercise or acquire rights with respect to International Ocean Space or to its resources except as provided in this Convention. Each Contracting Party agrees not to recognize any such claim or exercise of rights.

A/AC.138/55 - 7-Power Working Paper (A/8421)

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A/AC.138/59 - Canada (A/8421)

3. "No State or person, natural or juridical, shall claim, exercise or acquire rights with respect to the area or its resources incompatible with the international regime to be established and the principles of this Declaration."

This principle would require only minor redrafting for incorporation in the future treaty. Thus the treaty might state that no rights to the area and its resources "incompatible with this treaty" shall be acquired, or that no such rights shall be acquired "except as provided in this treaty". Again the universal applicability of this provision must be noted, although it may be somewhat less pronounced in the formulation "incompatible with this treaty". The essential objective of this provision would be to reserve to the international machinery the exclusive right to licence the activities governed by the treaty. It should not, however, be so worded or interpreted as to provide that licences may not acquire property rights in or ownership of the resources extracted by them from the sea-bed and ocean floor in accordance with the terms of the treaty.

A/AC.138/63 - Japan

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Chapter I. General Provisions

Status of the International Sea-bed Area

Article 7. Paragraph 2

No State shall acquire or exercise the right to develop sea-bed resources except as hereinafter provided in this Convention.

5. Activities regarding exploration and exploitation of the resources of the area and other related activities to be governed by the international régime.

A/AC.138/25 - USA (A/8021)

Chapter II

General Rules

Section B

Living Resources of the Sea-bed

Article 22

Subject to the provisions of Chapter III, each Contracting Party may explore and exploit the sea-bed living resources of the International Sea-bed Area in accordance with such conservation measures as are necessary to protect the living resources of the International Sea-bed Area and to maximize their growth and utilization.

A/AC.138/26 - UK (A/8021)

2. The régime should govern the exploration of the sea-bed and ocean floor, and of their subsoil and the exploitation of the natural resources of this area

The agreement should specify precisely which resources are concerned. For this purpose the definition of resources of the Convention on the Continental Shelf might be drawn on. The régime would thus embrace the mineral resources of the sea-bed beyond national jurisdiction at present known, including hydrocarbons, manganese nodules, phosphate deposits and mineralized muds, but not minerals recovered from the actual waters of the seas. It would seem more natural to regard such minerals as pertaining to the high seas. Sedentary living resources capable of commercial development would also be subject to the régime, although we do not at present know of any such existing at substantial depth.

A/AC.138/46 - UK (A/8421)

A/AC.138/27 - France (A/8021)

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A/AC.138/33 - United Republic of Tanzania (A/8421)

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Characteristics of the Area

Article 8

All activities regarding exploration and exploitation of the resources of the International Sea-bed Area, and other related activities, shall be subject to regulation by the International Sea-bed Authority, established pursuant to Article I of this Convention, and shall in all respects be governed by the provisions of this Convention.

A/AC.138/43 - USSR (A/8421)

See Article 8 (Section 8)

A/AC.138/44 - Poland (A/8421)

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".

See also Note under I. General Principles (Section 22) and Note under II. Specific Questions (Section 23)

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Chapter I

Fundamental Principles

Article 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.

A/AC.138/53 - Malta (A/8421)

Article 70

All activities in International Ocean Space shall be governed by the international régime established by the present Convention.

A/AC.138/55 - 7-Power Working Paper (A/8421)

A/AC.138/59 - Canada (A/8421)

4. "All activities regarding the exploration and exploitation of the resources of the area and other related activities shall be governed by the international régime to be established."

Translating this principle into treaty terms raises a basic difficulty because the present wording does not make clear whether the international régime is to govern exploitation of mineral resources only or living sea-bed resources as well, and also because it does not define the "other related activities" to be governed by the international régime. With regard to the first ambiguity, that is whether the international régime should apply to mineral resources only or to living sea-bed resources as well, it should first of all be noted that both the living and mineral resources of the sea-bed fall within the exclusive sovereign rights of the coastal state under the 1958 Continental Shelf Convention. Moreover, according to some experts, significant living sea-bed resources are not found beyond depths of approximately 1800 metres, which in most cases would place them well within the outer limits of the continental margin. Accordingly, the ultimate decision on the limits of the international sea-bed area will have a direct bearing on the possible extension of the international régime to living sea-bed resources. Another complicating factor relates to the suggestion advanced in some quarters to the effect that the fisheries jurisdiction of coastal states (over both free-swimming and sedentary species) might, depending upon the ultimate decision on the limits of the international sea-bed area, be extended to comprise some part of that area (including the superjacent waters). The conclusion which can most appropriately be drawn from these various factors is that it would be both premature and unnecessary at this stage to commit ourselves one way or another on the possible applicability of the international sea-bed régime to living sea-bed resources and that this possibility should be left open for the time being.

With regard to the second ambiguity in the present formulation of this principle, concerning the definition of "other related activities", it is considered that it would be unrealistic to attempt to have the future régime govern all uses of and activities on the sea-bed beyond national jurisdiction. The primary purpose of the international régime should be to promote the exploration and exploitation of the resources of the international sea-bed area for the benefit of humanity and the developing countries in particular. For this purpose it will be necessary for the régime to have certain connected regulatory powers which would ensure that other activities would not unduly interfere with the development of sea-bed resources, and which would guard against pollution of the sea arising from sea-bed activities. In principle, there should be no bar to giving the régime certain powers with regard to the laying of pipelines, for instance, since this is an activity directly related to the exploitation of sea-bed resources. It will be desirable, however, to define these connected regulatory powers with the greatest possible precision, and to confine the scope of the régime to those functions necessary to ensure an orderly, efficient and equitable system of exploration and exploitation of sea-bed resources. Caution is required in defining the scope of the régime not only because of the complex and far reaching problems involved in attempting to regulate all uses and activities, but also because of the danger that the establishment of a régime for resource exploration and exploitation might otherwise be indefinitely delayed.

See also comment under Principle 1 (Section 2)

A/AC.138/63 - Japan

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.

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.

6. Use of the area by all States without discrimination

<u>A/AC.138/25 - USA (A/8021)</u>	<u>A/AC.138/26 - UK (A/8021)</u>	<u>A/AC.138/27 - France (A/8021)</u>	<u>A/AC.138/33 - United Republic of Tanzania (A/8421)</u>	<u>A/AC.138/43 - USSR (A/8421)</u>	<u>A/AC.138/44 - Poland (A/8421)</u>
<u>Chapter I</u>	.....	.....	<u>Characteristics of the Area</u>	<u>Article 1</u>	See II, 2.
<u>Basic Principles</u>	<u>A/AC.138/46 - UK (A/8421)</u>		<u>Article 7</u>		Sub-para. (b)
<u>Article 3</u>	<u>INTRODUCTION</u>				(<u>Section 23</u>)
The International Sea-bed Area shall be open to use by all States, without discrimination, except as otherwise provided in this Convention.	The principal characteristics, and the main advantages, of the proposals in this paper are the following: (a) they not only provide the means for a fair distribution of sea-bed revenues, but they also provide an equitable means of access to the resources of the sea-bed. The system envisaged for the allocation of licences would offer fair opportunities to all States, whatever the stage of their development, while allowing production to be maximized. See also paras. 3, 5 and 7, (<u>Section 11</u>)		The International Sea-bed Area shall be open to use, exclusively for peaceful purposes, by all States, whether coastal or land-locked, without discrimination in accordance with the provisions of this Convention.	The sea-bed and the subsoil thereof within the limits specified in articles 2 and 3 of this Treaty shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without any discrimination whatsoever.	

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Part IV. International Ocean Space

Chapter XV

Basic Principles

Article 69

International Ocean Space shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without discrimination in accordance with the provisions of this Convention.

See also Article 91 (3)
(Section 22)

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See para. IV
(Section 27 (b))

5. "The area shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without discrimination, in accordance with the international régime to be established."

The question of peaceful uses is dealt with in connexion with principle 8 which makes substantive provision for this question. With regard to the other aspects of the present principle, it should first be noted that the phrase "in accordance with the international régime" again raises the question whether the régime will govern all sea-bed uses and activities. The essential provision to be made in the treaty on the basis of this principle, however, relates to equal access to and equal use of the sea-bed by all states. This, of course, raises the problem of equality of access by land-locked states which has been so carefully reviewed in the report of the Secretary-General A/AC.138/37 of 11 June 1971. Access to the sea-bed beyond national jurisdiction by land-locked states could conceivably involve not only problems of transit through the land territory and internal waters and territorial sea of neighbouring states but also problems of supplementary shore-based facilities (for storage or processing purposes, for example) and marketing in the territory of such neighbouring states, and perhaps even in the territory of non-neighbouring states in the vicinity of the area being exploited by the land-locked state in question. As indicated in the Secretary-General's report, problems of transit may largely be resolved under existing multilateral and bilateral treaties and by further arrangements of this kind. Existing treaties provide less guidance on the more difficult question of supplementary shore-based facilities and marketing arrangements, but here again the answer may lie in regional and subregional arrangements as suggested in the Secretary-General's report. These same problems, it should be noted, could arise if the international machinery itself were to conduct sea-bed operations or arrange for them to be carried out by contractors, although in that event they would involve relations between the international machinery and the coastal state in the vicinity of its operations, rather than relations between a land-locked state and the coastal state.

Chapter I

General Provisions

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.

See also Article 13
(Section 8)

7. Applicability of principles and rules of international law, including the Charter of the United Nations

<u>A/AC.138/25 - USA (A/8021)</u>	<u>A/AC.138/26 - UK (A/8021)</u>	<u>A/AC.138/27 - France (A/8021)</u>	<u>A/AC.138/33 - United Republic of Tanzania (A/8421)</u>	<u>A/AC.138/43 - USSR (A/8421)</u>	<u>A/AC.138/44 - Poland (A/8421)</u>
.....	.....	.....	<u>Obligations of the Parties</u>	<u>Article 7</u>	See I, 1, para. 5 (<u>section 22</u>)
	<u>A/AC.138/46 - UK (A/8421)</u>		<u>Article 10</u>		
		States shall act in the area in accordance with the applicable principles and rules of international law including the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970, in the interests of maintaining international peace and security and promoting international co-operation and mutual understanding.	In regard to the sea-bed and the subsoil thereof, States shall act in accordance with the principles and rules of international law, including the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, and also in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples, in the interests of maintaining international peace and security and in the interests of the peaceful co-existence of States with different social systems and the promotion of international co-operation and mutual understanding.	
			See also Preambular Provisions.	See also Preambular Provisions.	

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A/AC.138/53 - Malta (A/8421)

Part IV. International Ocean Space

Chapter XV

Basic principles

Article 73

In International Ocean Space, States shall act in accordance with the applicable principles of international law and of the Charter of the United Nations; in accordance with the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States adopted by the General Assembly of the United Nations on 24 October 1970 and in accordance with the provisions of this Convention in the interests of maintaining international peace and security and promoting international co-operation and mutual understanding.

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A/AC.138/59 - Canada (A/8421)

6. "States shall act in the area in accordance with the applicable principles and rules of international law, including the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970, in the interests of maintaining international peace and security and promoting international co-operation and mutual understanding."

This principle could be included verbatim in the future treaty. However, as recognized in the preamble to the declaration, the phrase "in accordance with applicable principles and rules of international law" should not be interpreted to mean that the future sea-bed treaty should in some way be based on the regime of the high seas through a sort of reverse application of the theory of "creeping jurisdiction". The treaty must, on the contrary, be based on the entirely new concept of the common heritage of mankind, while taking into account the necessarily intimate relationship between activities on the sea-bed and those in the superjacent waters. In other words the treaty should provide for a sort of "peaceful co-existence" between surface activities and bottom activities.

A/AC.138/63 - Japan

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8. Benefit of mankind as a whole

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland (A/8421)

See article 5, section 12.

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A/AC.138/46 - UK (A/8421)

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See paras. 22 and 23,
section 12.

I. General Principles

In the opinion of the French government, the régime governing the exploration and the exploitation of the resources of the sea-bed must fulfil two basic requirements:

(a) Economic efficiency, since works of this nature presuppose considerable financial investments and demand undeniable technical skill;

(b) International equity, so that a share of the wealth which may be derived from the exploitation of the sea-bed which belongs neither to the States nor to the companies may contribute to the development of the most underprivileged countries, under conditions to be defined hereafter (c.f. para. IV) (text in section 12).

These two requirements should lead to the rejection of any extreme solutions, particularly:

(a) any scheme which would lead to the appropriation pure and simple by States of more or less extensive areas of the sea-bed, since this would conflict with its international character;

(b) any scheme which would lead to the takeover pure and simple by an international organization invested with considerable powers, of the exploration and exploitation of the sea-bed, since this might be difficult to reconcile with the requirement of economic efficiency.

Characteristics of the Area

Article 9

The exploration of the International Sea-bed Area and the exploitation of its resources shall be carried out 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.

Article 8

The industrial exploration of the sea-bed and the subsoil thereof and the exploitation of their resources shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether coastal or land-locked, and taking into particular consideration the interests and needs of the developing countries.

See I, 1, para. 4 (section 22)

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.....

See article 4 (section 12)

A/AC.138/53 - Malta (A/8421)

Part IV. International Ocean Space

Chapter XV

Basic principles

Article 71

The administration of International Ocean Space and the exploration and exploitation of its resources is exclusively for peaceful purposes and shall be carried out 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 needs of developing countries.

A/AC.138/55 - 7-Power Working Paper (A/8421)

V. Special interests of developing countries

In the exercise of its powers the International Authority shall at all times take duly into account the primary purpose of promoting the development of developing countries, *inter alia* by (a) avoiding or compensating, where necessary, possible adverse effects of exploitation of any part of the international area on such development, (b) contributing an appropriate part of its revenues to such development, and (c) furthering participation of developing countries in the activities undertaken by it or on its behalf. Sharing of benefits shall be equitable and, in principle, related to need, taking into consideration the stage of economic development of each member State.

A/AC.138/59 - Canada (A/8421)

7. "The exploration of the area and the exploitation of its resources shall be carried out 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."

While this principle might be included verbatim, it will of course require further elaboration (which is provided in part by principle 9 in its references to the "equitable sharing of benefits"). Provision will have to be made for payments to the international machinery at levels designed to ensure that they contribute significantly to the economic advancement of the developing countries without at the same time blocking the very high flow of investment required for the development of sea-bed resources. Provision should also be made for the use of sea-bed revenues to cover the operating expenses of the international machinery; to provide for the protection of the marine environment; to advance the growth of knowledge of the sea-bed beyond national jurisdiction; and to provide technical assistance to States for these purposes.

Even more fundamental questions arise as to whether the particular consideration of the needs and interests of the developing countries should entitle them to some form of preference not only in the distribution of revenues but also in the allocation of licenses and in marketing arrangements. On this latter point, while it is of primary importance that the régime should facilitate to the maximum possible extent the participation of developing States in sea-bed exploration and exploitation activities, nevertheless the particular emphasis on the interests and needs of developing countries should relate to the distribution of revenues. It must also be decided whether the distribution of revenues should be made via appropriate international development agencies or directly to the individual developing countries themselves; in the latter event there is the further question of the criteria upon which the distribution should be based. Here there is a very relevant precedent in the arrangements made within the specialized agencies of the United Nations with regard to the scale of contributions and the allocation of technical assistance.

Finally, the treaty might provide for contributions to be made to the international machinery by coastal States from revenues accruing from sea-bed resource exploitation within the area under their national jurisdiction. This possibility would undoubtedly be tied to some extent to the ultimate decision on the limits of the international sea-bed area.

A/AC.138/63 - Japan

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.

See also article 1 (section 5).

9. Preservation of the area exclusively for peaceful purposes

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland (A/8421)

Chapter I

.....

Basic Principles

Article 4

A/AC.138/46 - UK (A/8421)

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

See Preambular provisions
and Article 7 (section 6),
Article 16, paragraphs 6 and
11, and Article 17,
paragraphs 1, 2 and 4
(section 23).

Article 6

.....

1. The use of the sea-bed
and the subsoil thereof for
military purposes shall be
prohibited.

2. None of the provisions
of this Treaty may be applied
or construed in a manner
prejudicial to any measures
which have been or may be
agreed upon in the context of
international disarmament
negotiations and which may be
applicable to an area larger
than that specified in
articles 2 and 3 of this
Treaty.

3. Similarly, none of the
provisions of this Treaty may
be regarded as an impediment
to the conclusion or
application of disarmament
agreements relating to the
sea-bed, including the
application of the Treaty on
the Prohibition of the
Emplacement of Nuclear
Weapons and Other Weapons of
Mass Destruction on the
Sea-Bed and the Ocean Floor
and in the Subsoil Thereof.

4. With a view to the
effective implementation of
the provisions of paragraph 1
and of the measures provided
for in paragraph 2 of this
article, and also with a view
to the exclusion of the sea-bed
and the subsoil thereof from
the arms race, the States
Parties to this Treaty
undertake to conclude further
international agreements as
soon as possible.

See also Preambular
provisions and Article 12,
paragraph 4 (section 18).

A/AC.138/49 - 13-Power
Draft (A/8421)

Chapter I

Fundamental
Principles

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

A/AC.138/53 - Malta (A/8421)

PART IV. INTERNATIONAL OCEAN SPACE

Chapter XV. Basic Principles

Article 84

1. The emplacement of nuclear weapons and of other weapons of
mass destruction in the sea-bed of International Ocean Space is
prohibited.

2. Nuclear and thermonuclear weapon test explosions are
prohibited in International Ocean Space.

See also article 71 (section 8), article 81,
paragraphs (3) and (4) (section 15) and article 127 (1)
(section 27 (b)).

A/AC.138/55 - 7-Power
Working Paper (A/8421)

.....

A/AC.138/59 - Canada
(A/8421)

8. "The area shall be reserved exclusively for peaceful purposes, without
prejudice to any measures which have been or may be agreed upon in the
context of international negotiations undertaken in the field of
disarmament and which may be applicable to a broader area. One or
more international agreements shall be concluded as soon as possible in
order to implement effectively this principle and to constitute a step
towards the exclusion of the sea-bed, the ocean floor and the subsoil
thereof from the arms race."

This principle could be included virtually verbatim in the future
sea-bed treaty, with appropriate modifications reflecting the endorsement
by the General Assembly of the treaty prohibiting the emplacement of nuclear
weapons and weapons of mass destruction on the sea-bed and ocean floor. A
difficult question that arises here is whether the international sea-bed
machinery should be granted at least the same powers of verification of
suspect activities as are granted to States Parties under the sea-bed arms
control treaty.

The inclusion of such a provision, on preliminary consideration, would
appear appropriate and desirable. It is doubtful, however, that the same
can be said for suggestions that the future sea-bed resource treaty should
attempt to ensure that sea-bed resources be used for peaceful purposes only,
not because this objective is undesirable but because it would be
unrealistic and unenforceable except in the context of a world order which
would guarantee that all resources from whatever source were devoted to
peaceful purposes.

While further sea-bed arms control measures are essentially beyond the
scope of the forthcoming law of the sea conference, such further measures
will be crucial to avoiding the possibility of conflict not only between
individual States but also between States and the projected international
machinery. They will also be crucial from the point of view of assuring
non-nuclear coastal States that military activities on the sea-bed will not
threaten their security and that even permissible defensive activities on
the continental shelf are limited to the coastal State concerned.

A/AC.138/63 - Japan

Chapter I. General
Provisions

8. Peaceful uses

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

10. Orderly and safe development and rational management of the area and its resources

<u>A/AC.138/25 - USA (A/8021)</u>	<u>A/AC.138/26 - UK (A/8021)</u>	<u>A/AC.138/27 - France (A/8021)</u>	<u>A/AC.138/33 - United Republic of Tanzania (A/8421)</u>	<u>A/AC.138/43 - USSR (A/8421)</u>	<u>A/AC.138/44 - Poland (A/8421)</u>
..... See article 5 (Section 12).	See paragraph 11 (b) (Section 19).	See under I. General Principles, paragraphs (a)(b) and (a)(b) (Section 8).	..... See article 2 (Section 22)	<u>Article 13</u> States Parties shall, in accordance with the provisions of this Treaty, take steps for the orderly and rational exploitation of the resources of the sea-bed and the subsoil thereof.	.....

A/AC.138/49 - 13-Power
Draft (A/8421)

Chapter I. Fundamental Principles

Article 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.

See also articles 14 (a) (Section 23) and 24 (k) (Section 26 (b)).

A/AC.138/53 - Malta (A/8421)

.....

See articles 91 (7) (Section 22), 106 (Section 26 (b)), 125 paragraph 1; 138 (Section 27 (b)) and 177-182 (Section 31).

A/AC.138/55 - 7-Power
Working Paper (A/8421)

.....

A/AC.138/59 - Canada
(A/8421)

9. "On the basis of the principles of this Declaration, an international régime applying to the area and its resources and including appropriate international machinery to give effect to its provisions shall be established by an international treaty of a universal character, generally agreed upon. The régime shall, inter alia, provide for the orderly and safe development and rational management of the area and its resources and for expanding opportunities in the use thereof and ensure the equitable sharing by States in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal."

The first sentence of this principle is, of course, in the nature of a directive which is in the process of being carried out. The second sentence, however, could be included virtually verbatim in the treaty establishing the régime whose essential objectives it so aptly summarizes.

The single most important factor in achieving these essential objectives of the international régime will be the creation of a sea-bed resource management system which will provide for the encouragement and maintenance of investment on a continuing and orderly basis, without which there will be no benefits accruing for humanity as a whole and the developing countries in particular. This would involve:

- (a) the establishment of an impartial, enlightened and streamlined regulatory and administrative climate for sea-bed resource development, devoid of unnecessary red tape;
- (b) striking a balance between maximum benefits for the international community on the one hand and adequate returns for entrepreneurs on the other, in particular by keeping pre-exploitation costs at a reasonable level and instead taking major benefits primarily in the form of rentals and royalties on production;
- (c) setting and implementing terms and conditions for the granting of rights to explore and exploit sea-bed resources which will involve the minimum risk of political or other discrimination;
- (d) providing security of title or tenure for exploitation, while at the same time requiring that resource development programmes be actively and progressively pursued upon penalty of forfeit of rights;
- (e) devising various types of terminable offshore licences and permits to cover different minerals and different stages of development;
- (f) controlling and supervising sea-bed resource activities to ensure safety of human life and the protection of the marine environment;
- (g) regulating the production of sea-bed resources to maximize physical and economic conservation, in particular through the promotion of unitization of operations and the prevention of over-production, over-drilling and the dissipation of reservoir pressures;
- (h) promoting scientific research with respect to the sea-bed and marine environment, under appropriate conditions;
- (i) minimizing possible conflicts between sea-bed resource activities and other uses of the sea-bed and marine environment, as well as conflicts between resource activities in the international sea-bed area and the interests of coastal States in the region of these activities;
- (j) minimizing and providing the means for settling disputes concerning the interpretation and application of the treaty;
- (k) providing for compensation for damages resulting from sea-bed resources activities;
- (l) regulating the production, marketing and distribution of raw materials from the sea-bed in order (in the words of the preamble to the declaration of principles) "to foster the healthy development of the world economy and balanced growth of international trade, and to minimize any adverse economic effects caused by the fluctuation of prices of raw materials".

A/AC.138/63 - Japan

See article 1 (section 5).

11. Proposals regarding exploration and exploitation of the resources of the area (registration, licencing, direct exploration and exploitation)

A/AC.138/25 - USA (A/8021)

CHAPTER I

Basic Principles

Article 10

All exploration and exploitation activities in the International Seabed Area shall be conducted by a Contracting Party or group of Contracting Parties or natural or juridical persons under its or their authority or sponsorship.

CHAPTER II

General Rules

A. Mineral Resources

Article 13

1. All exploration and exploitation of the mineral deposits of the International Seabed Area shall be licensed by the International Seabed Resource Authority of the appropriate Trustee Party. All licences shall be subject to the provisions of this Convention.

2. Detailed rules to implement this Chapter are contained in Appendices A, B and C. (For text of these appendices see end of table.)

Article 14

1. There shall be fees for licences for mineral exploration and exploitation.

2. The fees referred to in paragraph 1 shall be reasonable and be designed to defray the administrative expenses of the International Seabed Resource Authority and of the Contracting Parties in discharging their responsibilities in the International Seabed Area.

Article 15

1. An exploitation licence shall specify the minerals or categories of minerals and the precise area to which it applies. The categories established shall be those which will best promote simultaneous and efficient exploitation of different minerals.

2. Two or more licences to whom licences have been issued for different materials in the same or overlapping areas shall not unjustifiably interfere with each other's activities.

Article 16

The size of the area to which an exploitation licence shall apply and the duration of the licence shall not exceed the limits provided for in this Convention.

A/AC.138/26 - UK (A/8021)

9. The nature of the licences to be issued would require precise definition

(h) The international body could revoke licences if the licensee State failed to discharge properly other major obligations of the licence.

(i) Operators would be subject to the laws, including the tax regime, of the State from which they had derived their sub-licence (whether exclusive or non-exclusive) during the currency of the sub-licence and thereafter in respect of acts performed during the period.

(j) A sub-licencee would require protection against unreasonable surrender of the licence by the State.

A/AC.138/46 - UK (A/8421)

FUNCTIONS OF THE AUTHORITY

2. The United Kingdom Government propose that the Convention should provide for the issue of non-exclusive prospecting licences and exclusive development licences. Under the trusteeship area concept the international Authority would issue licences beyond the trusteeship area to States parties who could then sub-licence operators. Within the trusteeship area the power to issue licences to operators would be vested in the coastal State. The Authority would receive royalties on production from operations both within and beyond the trusteeship area. The Convention would have to provide that licences once issued could not be modified unilaterally and ensure that the rights of sub-licencees were fully protected.

3. The Convention should establish a system under which all States parties can obtain a fair share of exclusive licences in the international area beyond the trusteeship area. It should therefore impose a limit on the total area any one State may hold under licence at any one time.

4. The area to which individual licences would relate should be clearly and precisely defined. A grid system, defined by reference to co-ordinates of latitude and longitude and based on an internationally agreed geodetic datum, would be by far the most satisfactory.

5. The Convention would contain a formula for determining the total entitlement of each State party and within the quota thus made available a State would be free to apply for licences in any part of the area irrespective of geographical location. The Convention would also provide for a phased distribution of licences every so many years, when each State party could apply for exclusive development licences up to a specified percentage of its quota. This would ensure the orderly development of sea bed resources.

6. The Authority's functions in the issue of licences would thus be primarily administrative. The only occasion when the Authority would have to decide where a State was permitted to operate would be when two or more States applied for exclusive licences for the same area.

7. Under this system all States parties, whether land-locked or coastal, developed or developing, would be provided with the opportunity to participate directly in the development of the resources of the sea bed beyond the trusteeship area. This would mean that as soon as the Convention came into force States would be presented with increased possibilities of developing the industrial and technological basis of their economies as well as deriving benefit from a share of sea bed revenues. A State might decide to carry out exploration and production itself through a State agency or through a State-owned corporation. Alternatively, a State could sub-licence its area to third parties. It would be entirely for the State to decide whether such sub-licencees should be commercial enterprises or public corporations, which in either case might be constituted in its own or some other country. States would have complete discretion whether or not to employ foreign experts. Within certain limits prescribed by the Convention, the terms of the sub-licence would

A/AC.138/27 - France (A/8021)

General Principles

At the March session of the Seabed Committee in New York, the French delegation suggested that, for the international régime to be established for the exploration and exploitation of the sea bed beyond the limits of national jurisdiction, it would be desirable to establish a distinction between two types of exploitation:

- one for minerals where exploration - at the decisive stage - and exploitation require mobile equipment: this could be the case with manganese nodules scattered over the ocean bed and recoverable by dredging;

- the other for minerals where the same operations entail the use of fixed installations (as with hydrocarbons).

This distinction should normally lead to two different types of régime with different provisions.

The system for the first type (mining with mobile equipment) would take the form of simple registration with an international organization, accompanied by a declaration of the areas to be explored or exploited, and without any exclusive rights. Exploration and exploitation would be subject to the international regulations for the protection of life at sea, for respect for the freedom of the high seas, for protection against pollution of the sea, etc. The rules applicable to exploration and exploitation would be set out in a list of conditions laid down by an international convention, which would fix the period of validity of each registration with the possibility of renewal.

For the second type, exploration and exploitation rights would be exclusive and States would be granted areas, within which they would issue licences. The structure of the régime to be applied to this type is explained in the following chapters.

II - General structure of the plan

(A) Form: First, a general convention should be drawn up (following possibly the precedent of the International Telecommunication Union), setting out the basic principles (to be defined by the legal sub-committee), the broad outlines of a régime (to be defined by the economic and technical sub-committee) and the structure of an organization.

Secondly, detailed international regulations should be drawn up by smaller sub-committees consisting mainly of technicians and economists, setting out all the rights, limitations and obligations, which, in all circumstances, both the organization and the States and companies would be obliged to observe. These regulations would be open to revision, say every fifteen years.

Thirdly, from these regulations and all other international obligations affecting the sea bed (pipelines, telegraphic cables, anti-pollution measures, etc.), lists of conditions would be drawn up applicable to every operation giving rise to the granting of an area to a State for the issue of a licence to a company, it being understood that the Convention would provide for the grouping of States for the granting of areas, and for the grouping of companies for the issue of licences.

A/AC.138/33 - United Republic of Tanzania (A/8421)

Obligations of the parties

Article 13

All activities of exploration and exploitation of the resources of the Area and other related activities shall be conducted by or on behalf of the International Sea-bed Authority, or by a Contracting Party or group of Contracting Parties or natural or juridical persons under its or their sponsorship, all subject to the general supervision and control of the International Sea-bed Authority.

Article 30

Individual States or groups of States receiving licences may themselves engage in authorized activities, or they may transfer their rights to individuals or to private or public enterprises within their jurisdiction. They may not, however, transfer their rights to other States without the consent of the Authority. States receiving licences remain responsible for the performance of their conditions.

See also Articles 16, paras. 1 and 2 (Section 23); and 29, para. 1 (a), (b), (c) and paras. 2 to 6 (Section 27 (b))

A/AC.138/43 - USSR (A/8421)

Article 9

(Question of licences for industrial exploration and exploitation of sea-bed resources)

Explanatory note: The present draft does not contain formulations regarding issues relating to licences for industrial exploration and exploitation of sea-bed resources and the distribution of benefits, but merely notes the existence of these issues (articles 9 and 14). These issues are closely linked with the problems of the establishment of the 12-mile limit of the territorial sea, the securing of freedom of passage through straits used for international navigation, and fishing in waters adjacent to the territorial sea. Should a solution of the latter problems be in sight, the USSR delegation will be prepared to submit specific texts of the articles still outstanding in its draft, so that an agreement on these matters can be reached as a package deal.

(See also Article 22 (c) (Section 27 (b)))

A/AC.138/44 - Poland (A/8421)

See II.2, paras (e) and (f) (Section 23) and II.5 para. 19 (Section 25)

A/AC.138/49 - 13-Power
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See Articles 14 (c)
and 15 (Section 23);
24 (g) (Section 26 (b));
32 (f), (g), (m)
(Section 27 (b)); and 33
to 35 (Section 28).

A/AC.138/53 - Malta (A/8421)

Part IV. International Ocean Space Institutions

Chapter XXII. The Council

Licences

Article 139

1. There shall be fees for licences for the exploitation of the natural resources of International Ocean Space.
2. Licences issued pursuant to paragraph 1 shall be for a limited time and for a determined area.
3. The activities of the licencees shall be inspected at regular intervals by the State whose nationality they possess and may be inspected by the Institution.
4. Licences issued pursuant to paragraph 1 may be revoked only for cause specified in the licence.
5. Expropriation of investments or unjustifiable interference with operations conducted pursuant to a licence is prohibited.

Article 140

1. Licences for the exploitation of the living resources of International Ocean Space shall:
 - (a) In the first instance be issued for a period not exceeding four years. The licences are then subject to review. The validity of an extended or amended licence shall not exceed six years;
 - (b) Be non-exclusive, subject to any historical rights which can be proved by any State;
 - (c) Be non-transferable;
 - (d) Be issued to States only. No one State may be granted more than ten licences;
 - (e) Be issued for an area not exceeding one million square kilometres. The boundaries of the area shall be delimited by longitude and latitude;
 - (f) Specify maximum quantities of living resources that may be harvested every year in the area and during the period covered by the licence and, when reliable scientific findings reveal the need for urgent application of conservation measures, shall also specify the maximum quantities of each stock of fish or of other living marine resource which may be harvested in the area and during the period covered by the licence;
 - (g) Provide for an appropriate cash deposit as guarantee of compliance with the conditions of the licence;
 - (h) Provide appropriate penalties in the event of non-compliance with the conditions of the licence;
 - (i) Contain such additional provisions as may appear appropriate.

Article 141

Licences for the exploitation of marine plants and phytozoa of International Ocean Space shall:

- (a) Be non-exclusive, subject to any historical rights which can be proved by any State;
- (b) Be non-transferable;
- (c) Specify maximum quantities of each species of marine plants and phytozoa which may be harvested in the area and during the period covered by the licence;
- (d) Provide appropriate penalties in the event of non-compliance with the conditions of the licence;
- (e) Contain such additional provisions as may appear appropriate.

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See I.B. (Section 23)
and IV. (Section 27 (b)).

A/AC.138/59 - Canada
(A/8421)

See under Principle 9
paras. (c), (d) and (e)
(Section 10) and under
International Machinery,
para. (d) (Section 31).

A/AC.138/63 - Japan

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 "licenced 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.*
- (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.
- (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 licenced area

- (1) With respect to the category of minerals described in paragraph 19-(4)-(a), a licenced 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 licenced 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 "licencee Party") may, in respect of the licenced area, issue a sub-licence to its nationals, including juridical persons.

* Further study is required for joint development activities to be undertaken by two or more Contracting Parties.

A/AC.138/25 - USA (A/8021)
(continued)

Article 17

Licencees must meet work requirements specified in this Convention as a condition of retaining an exploitation licence prior to and after commercial production is achieved.

Article 18

Licencees shall submit work plans and production plans, as well as reports and technical data acquired under an exploitation licence, to the Trustee Party or the Sponsoring Party, as appropriate, and, to the extent specified by this Convention, to the International Seabed Resource Authority.

Article 19

1. Each Contracting Party shall be responsible for inspecting, at regular intervals, the activities of licencees authorized or sponsored by it. Inspection reports shall be submitted to the International Seabed Resource Authority.

2. The International Seabed Resource Authority, on its own initiative or at the request of any interested Contracting Party, may inspect any licensed activity in co-operation with the Trustee Party or Sponsoring Party, as appropriate, in order to ascertain that the licensed operation is being conducted in accordance with this Convention. In the event the International Seabed Resource Authority believes that a violation of this Convention has occurred, it shall inform the Trustee Party or Sponsoring Party, as appropriate, and request that suitable action be taken. If, after a reasonable period of time, the alleged violation continues, the International Seabed Resource Authority may bring the matter before the Tribunal in accordance with Section E of Chapter IV.

Article 20

1. Licences issued pursuant to this Convention may be revoked only for cause in accordance with the provisions of this Convention.

2. Expropriation of investments made, or unjustifiable interference with operations conducted, pursuant to a licence is prohibited.

Article 21

1. Due notice must be given, by Notices to Mariners or other recognized means of notification, of the construction or deployment of any installations or devices for the exploration or exploitation of mineral deposits, and permanent means for giving warning of their presence must be maintained. Any installations or devices extending into the superjacent waters which are abandoned or disused must be entirely removed.

2. Such installations and devices shall not possess the status of islands, and shall have no territorial sea of their own.

A/AC.138/46 - UK (A/8421)
(continued)

be a matter for free negotiation between the State and the sub-licencee concerned. Some States might issue sub-licences on more advantageous financial terms than provided in the licences issued to them by the Authority. Others might choose to impose more onerous terms. Operations under a sublicence would be governed by the fiscal law of the issuing State, subject to certain overriding provisions of the Convention. States could enter into arrangements with other States whereby their quotas would be pooled. In this case the Authority would have to be satisfied that the arrangements provided for an entity which was legally and administratively competent to deal with the Authority on behalf of the pooling States. All those alternatives available to States parties would be subject to the obligation of States to satisfy the Authority of their ability to meet their commitments under the Convention. Flexibility of this kind would ensure that no State, group of States or political or social system was at a disadvantage under the Convention, and that sea bed resources would be developed with maximum efficiency.

8. The provisions of the Convention dealing with licences would cover, *inter alia*, the following matters: the procedure for issue to States parties, duration of licences, work obligations, relinquishment, operating rules, liability for damage, and all financial matters such as licence fees and royalties.

Prospecting Licences

9. Prospecting licences would provide for broadly-based geological, geophysical and geochemical surveys over large areas excluding, however, any areas subject to exclusive development licences. Prospecting would be subject to certain technical conditions, and programmes of work would have to be filed with the Authority by the licensee State.

Development Licences

10. As regards hydro-carbons, the cost of operations in deeper waters will be high in relation to the cost of operations in shallower waters, which is itself high in relation to land-based operations. Because of this, small hydro-carbon reservoirs are unlikely to be economic. Holdings in deeper water would, therefore, have to be sufficiently large to provide a reasonable chance of discovering a substantial reservoir. Because discovering and developing such a reservoir is likely to be a lengthy process, licences would also have to provide security of tenure over an extended period. A very similar consideration applies in the case of other minerals, where areas would need to be large enough to allow an operator a reasonable chance to prove sufficient reserves to justify commercial exploitation.

11. Exclusive licences for the exploitation of hydro-carbons (although not necessarily for other minerals) could, however, be subject to provision for substantial progressive relinquishment of areas which were not successfully brought into production. This would mean that many areas would become available for relicensing from time to time and that eventually only those parts of each original licence area which were in production would remain under the control of a licensee for an extended period. It would be important, in order to avoid fragmentation of licence areas, that where licences for contiguous areas had been granted at any one time to one licensee, the relinquishment provisions of the Convention would apply to the whole area so held and not to individual licence areas.

12. Work obligations should be laid down in order to encourage sea bed exploration and development. They should be expressed in terms of minimum annual expenditure specified in the original licence. In the case of hydro-carbons these obligations ought to relate to the total expenditure on contiguous areas held by one licensee.

Royalties

13. Work obligations would cease to apply to areas in which production had been achieved, and royalty payments would be introduced. These would be payable on a scale related *inter alia* to the volume of minerals produced and conditions of production. They would be fixed at the time a licence was granted.

A/AC.138/27 - France (A/8021)
(continued)

(B) Substance:

(a) Principles applicable to the regime:

(1) States shall be allotted, for a given period of time, areas within which they grant licences themselves.

(2) The granting of an area to a State shall be subject to the submission of an application from a company for a licence within that area.

(3) The law governing relations between the international community, represented by the organization, and States shall be international law exclusively; the law governing relations between States and the companies shall be partly international, partly municipal.

(4) States shall undertake to explore, and later to exploit the areas granted to them, so as to avoid a "freezing" of those areas. However, the establishment of reserves ("provisional freezing") shall not be ruled out, provided it is limited to a reasonable period and properly justified;

(5) Agreement on the sanction for the infringement by any State or company of the principles stated in paragraph 4, or of the technical provisions of the International Regulations in the first instance shall be sought by negotiation; only if agreement proves impossible shall some arbitral procedure be employed.

Obviously areas might be granted to groups of States, either members of an existing international organization or associated for that specific purpose. In that case, the rules set out in this document should be adopted as required.

III - Structure of the régime

(A) Conditions for the allocation of areas and permits

In order to avoid both uncertainty over the allocation of areas, and a too unbalanced allocation that would be contrary to the interests of the international community, it is advisable that the allocation of areas and permits should be hedged round by a fairly tight ring of restrictive rules:

(a) No State may claim for a monopoly of the areas adjacent to its continental shelf;

(b) No State or group of States may on its own account claim for more than a certain number of square kilometres, either in one piece or in several, in a period of ten years, unless it has given back parts of areas in accordance with the conditions set out below (B.b.);

(c) Every company applying for a licence must have an establishment in the territory of the State applying for the corresponding area: for the purposes of the régime, the company is then regarded as having the nationality of the applicant State;

(d) Every company must produce adequate technical and financial assurances, to be guaranteed by the applicant State;

(e) Licences granted to companies by States are exclusive for one or more given substances. Only the State holding the area may issue other licences within the said area, for other substances.

(f) In the event of a discovery, the prospecting licence, subject to its restriction in scope to the size of the area concerned, shall be converted into an exploitation licence when it is duly established that the discovery can be exploited either immediately or within a reasonable time.

A/AC.138/33 - United
Republic of Tanzania
(A/8421) (continued)

A/AC.138/43 - USSR
(A/8421)
(continued)

A/AC.138/44 - Poland
(A/8421) (continued)

A/AC.138/49 - 13-Power
Draft (A/8421)
(continued)

A/AC.138/53 - Malta (A/8421) (continued)

A/AC.138/55 - 7-Power
Working Paper (A/8421)
(continued)

A/AC.138/59 - Canada
(A/8421) (continued)

A/AC.138/63 - Japan (continued)

Article 142

Licences for the exploitation of the non-living resources of International Ocean Space may be issued for purposes of exploration or for production.

Article 143

An exploration licence shall:

- (a) In the first instance be issued for a period not exceeding four years and is renewable for a further period of four years subject to an appropriate supplementary payment to the Institutions;
- (b) Be non-exclusive and transferable;
- (c) Specify the substances for which it is issued;
- (d) Be issued for an area delimited by longitude and latitude, not exceeding 500,000 square kilometres;
- (e) Contain such additional provisions as may appear appropriate.

Article 144

A production licence shall:

- (a) Be exclusive and non-transferable;
- (b) Be issued for a period not exceeding 30 years. Provision shall be made in each licence for increases in work requirement fees over the period covered by the licence as from the second year thereof;
- (c) Specify the substance or substances covered by the licence;
- (d) Be of three different categories:
 - (i) for energy,
 - (ii) for fluid, or for minerals extracted in a fluid state,
 - (iii) for substances other than those under (i) and (ii).
A separate licence shall be issued in respect of each category;
- (e) Be issued for an area delimited by longitude and latitude not exceeding 500,000 square kilometres;
- (f) Contain detailed work, production and payment requirements;
- (g) Contain provisions covering liability for damages;
- (h) Provide for an appropriate cash deposit to guarantee financial responsibility and performance of work and production requirements;
- (i) Contain appropriate provisions for the protection of the marine environment and for avoidance of conflict with other uses of International Ocean Space.
- (j) Contain such additional provisions as may appear appropriate.

See also Article 145 (Section 27 (b)); 182, paras. 1, 3 and 4 and 189, para. 7 (Section 31).

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 years under an 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-licencee 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 licenced 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.

See also Articles 6 (a) and (b) (Section 23) and 36 (e) and (f) (Section 27 (b)).

A/AC.138/25 - USA (A/8021)
(continued)

3. Installations or devices may not be established where interference with the use of recognized sea lanes or airways is likely to occur.

See also Articles 27 to 29 (Section 16); 42 to 44, and 66 to 72 (Section 31).

A/AC.138/46 - UK (A/8421)
(continued)

Fees

14. A licence fee would be payable by the State concerned upon issue of a licence. In order to provide a regular source of income for the administrative functioning of the Authority, continuing annual payments would be necessary throughout the period of a licence. As these payments would not, however, stand in direct connexion with sea bed development they should be kept as low as possible and could be offset against royalties as soon as production began.

Amendment to Terms of Licences

15. Because of the novelty of many of the problems involved in deep sea bed development, of which experience is limited, it would be impracticable at the outset, when the Convention is negotiated, to lay down in it terms and conditions covering every necessary requirement of licence terms (including financial terms) and procedures. Once the Convention was in force the Authority would need to keep its licensing provisions under review and in the light of experience adopt suitable revisions and additions for application to licences to be issued thereafter. To facilitate the revision it would probably be convenient if the licensing provisions of the Convention, in view of their complexity, were contained in an Annex rather than in the body of the Convention.

A/AC.138/27 - France (A/8021)
(continued)

(B) Conditions for exploration and exploitation

(a) Whether or not there is any exploration activity, the area covered by the exploration licences granted by a State to a company shall be automatically halved every five years;

(b) If, in an area held by a State, the latter does not within three years allocate new licences for the areas given back to it, the corresponding part of the area shall be regarded as once more open to the international community and may be granted to another State;

(c) Withdrawal by a State of a licence allocated to a company shall have the same effects for the said State as described in paragraph (b).

(C) Legal relations between State and companies

(a) The international régime established by the Regulations shall decide the general principles for the granting of licences for the exploration and the shipping of deposits, and also related problems raised by the setting up of permanent installations, impediments to shipping and fishing, nuisances, etc....

(b) States shall apply their municipal law to companies operating in the areas granted to them, with respect to working conditions, social welfare of workers, criminal law, collection of dues and taxes, and customs control of products extracted.

See also V (Section 23).

(A/AC.138/33 - United Republic of Tanzania (A/8421) (continued))

A/AC.138/43 - USSR (A/8421) (continued)

(A/AC.138/44 - Poland (A/8421) (continued))

A/AC.138/49 - 13-Power
Draft (A/8421)
(continued)

A/AC.138/53 - Malta (A/8421) (continued)

A/AC.138/55 - 7-Power
Working Paper (A/8421)
(continued)

A/AC.138/59 - Canada
(A/8421) (continued)

A/AC.138/63 - Japan (continued)

12. Equitable sharing of benefits

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421) A/AC.138/44 - Poland (A/8421)

Chapter I

Basic principles

Article 5

1. The International Sea-bed Resources Authority shall use revenues it derives from the exploration and exploitation of the mineral resources of the International Sea-bed Area for the benefit of all mankind, particularly to promote the economic advancement of developing States Parties to this Convention, irrespective of their geographic location. Payments to the Authority shall be established at levels designed to ensure that they make a continuing and substantial contribution to such economic advancement, bearing in mind the need to encourage investment in exploration and exploitation and to foster efficient development of mineral resources.

2. A portion of these revenues shall be used, through or in co-operation with other international or regional organizations, to promote efficient, safe and economic exploitation of mineral resources of the sea-bed; to promote research on means to protect the marine environment; to advance other international efforts designed to promote safe and efficient use of the marine environment; to promote development of knowledge of the International Sea-bed Area; and to provide technical assistance to Contracting Parties or their nationals for these purposes, without discrimination.

See also Appendix D (text at end of table).

A/AC.138/46 - UK (A/8421)

Distribution of benefits

22. ISRA would be self-financing. Its administrative expenses would be the first call on all sea-bed revenues. As these revenues grew there would be a surplus which would be available for distribution for the benefit of States Parties. The Convention might provide for these to be paid automatically into an agreed United Nations fund. Alternatively disbursements might be put under the control of a Distribution Agency with a board, elected by the Assembly, on which there would be a majority of members from developing countries. The principal criteria for disbursements would in this case be laid down in the Convention and the Assembly would provide any supplementary guidelines which might be necessary. Within this framework the Board of the Distribution Agency would control disbursements in its discretion.

23. In laying down the principal criteria for disbursements, the Convention might reserve a proportion to projects which contribute to the development of the sea-bed as the common heritage of mankind. The Board could have discretion to support a very broad range of projects under this heading, including technical assistance to enable States to enjoy their rights and to carry out their obligations under the Convention and a wide variety of research and development projects carried out by national or international organizations in the marine environment. Conservation schemes and projects sponsored by the Regional Offices of the Authority might also qualify.

IV. Royalties

The French Government considers it both legitimate and necessary that the developing countries, including the land-locked countries, should be able to profit from the exploitation of resources which form part of the common heritage of mankind.

It considers that the most appropriate method of distributing the resources, from the standpoint both of international equity and economic efficiency, is not by the assessment and direct collection by the international organization of predetermined taxes on production from deposits.

On the contrary States should levy a tax on companies holding exploitation licences in the areas allocated to them. When an exploitation licence is allocated, the State concerned should undertake both to establish and recover such a tax, and also to contribute an appreciable share of it to any international, regional or bilateral programme of assistance to the developing countries which it may select.

Execution of this undertaking will be supervised by the Permanent Board. Should a State not fulfil this voluntarily accepted obligation, the penalty would be either the refusal of any grant of new areas, or the withdrawal of areas already held, as decided by the Conference of plenipotentiaries.

Revenue - Sharing

Article 33

1. Members of the Authority engaged in exploring and exploiting the area and its resources or who have authorized such activities to be carried out within their jurisdiction agree to pay whatever monies are due to the Authority according to scales established by the Council and specified in each licence.

2. After administrative costs and the costs of the Authority's own programmes are met, income received by the Authority shall be made available, on the basis of equitable sharing to be determined by the Assembly, to member States for their development.

3. Until the Authority becomes self-sufficient, administrative costs will be met by members of the Authority in conformity with the United Nations scale of contributions.

Article 34

1. For the purposes specified in article 33 (2) the Authority shall establish a Distribution Agency and a Stabilization Board.

2. The Distribution Agency shall be composed of three to five persons appointed by the Assembly whose task will be to assess all the income available to the Authority from the sale of raw materials, from licence fees, royalties and any other charges or payments and on the basis of such assessment, to recommend to the Assembly the equitable sharing of such income among members according to the inverse ratio of their respective contributions to the annual budget of the United Nations. In the case of members of the Authority who are not Members of the United Nations, their share of income shall be determined by the Agency according to their stage of development. Upon approval by the Assembly of its recommendations, the Agency shall supervise the distribution of such income.

Article 36

If a dispute arises between the Agency or the Board and a member or group of members regarding the distribution of income or the price or the marketing of raw materials obtained from the International Sea-bed Area, such dispute shall be settled according to the procedure set out in article 39 (2) (for text of article 39 (1) see section 20).

See also article 2, paragraph 1 (section 22).

Article 14

(Question of the distribution of benefits)

See also explanatory note (section 11) and article 22 (d) (section 27 (b))

See II.2, para. (c) (section 23).

A/AC.138/49 - 13-Power
Draft (A/8421)

Chapter I

Fundamental principles

Article 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 land-locked.

See also articles 14 (d) (section 23); 24 (i) (section 26 (b)); and 32 (h) (section 27 (b)).

A/AC.138/53 - Malta (A/8421)

Chapter XXVII

The Secretariat Budget

Article 173

1. In the event that the revenue from the exploitation of the natural resources of International Ocean Space does not exceed \$50 million per annum, it shall be apportioned in the budget as follows: (a) 30 per cent towards the administrative expenses of the Institutions; (b) 30 per cent for international community purposes in International Ocean Space, such as hydrographic and cartographic activities, promotion of ecological, scientific, technological and fishery research, establishment of aids to navigation, establishment of scientific stations, etc., (c) 30 per cent for the development of the capabilities of Members which are coastal States and whose gross national product does not exceed \$800 per caput, to conduct activities in ocean space.

2. The General Secretary shall submit proposals to the Council with regard to the most appropriate use of the remainder of the revenue.*

Article 174

1. In the event that the revenue from the exploitation of the natural resources of International Ocean Space exceeds \$150 million, the excess over \$50 million shall be applied in the first place to cover the administrative expenses of the Institutions. After covering the administrative expenses of the Institutions, (a) not less than 40 per cent of the revenue shall be reserved for the development of the capability of coastal Members beneficially to use ocean space; (b) not less than 15 per cent of the revenue shall be reserved to land-locked Members and to associate Members for the improvement of their ecology or for the development of their capabilities beneficially to use ocean space or lakes and rivers; (c) not less than 15 per cent of the revenue shall be allocated for international community purposes and (d) not less than 10 per cent shall be allocated for the prevention and relief of disasters of whatever nature in, or originating in, ocean space. The General Secretary shall submit proposals to the Council with regard to the most appropriate use of the remainder of the revenue.

2. The Council shall decide on an equitable system of allocation to States of the revenue referred to in paragraph 1 (a), taking into account that not less than 85 per cent of this revenue shall be allocated to States whose gross national product does not exceed \$800 per caput.

3. The Council shall decide on an equitable system of allocation with regard to the revenue referred to in paragraph 1 (b).

Article 175

The provisions of articles 173 and 174 are without prejudice to the obligation of the Council to submit to the Assembly rules with respect to the equitable sharing of benefits derived from the exploitation of the natural resources of International Ocean Space.

Article 176

1. Each Member and associate Member of the Institutions has a right to an equitable share in the revenue referred to in article 174.

2. Members and associate Members nevertheless agree that the funds allocated to each shall normally not be distributed in cash but shall be used to defray the cost of projects designated by them and designed to enhance their capabilities beneficially to use ocean space or, in the case of land-locked Members and associate Members, also of projects designed to improve the ecology of their country.

See also articles 91, para. (7) (section 22), 104 (section 26 (b)); and 133 (section 27 (b)).

*The intention is to ensure that concrete benefits from the international management of International Ocean Space become available to States and to the international community as soon as possible and even if revenue from the exploitation of natural resources does not cover the administrative expenses of the Institutions.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

See V (last sentence) (section 8).

A/AC.138/59 - Canada (A/8421)

See principle 7 (section 8).

A/AC.138/63 - Japan

Chapter III

The International Sea-Bed Authority

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.

See also articles 1 (section 5); 6 (c) (section 23); 36 (e) (section 27 (b)).

13. Control of fluctuation of prices

<u>A/AC.138/25 - USA (A/8021)</u>	<u>A/AC.138/26 - UK (A/8021)</u>	<u>A/AC.138/27 - France (A/8021)</u>	<u>A/AC.138/33 - United Republic of Tanzania (A/8421)</u>	<u>A/AC.138/43 - USSR (A/8421)</u>	<u>A/AC.138/44 - Poland (A/8421)</u>
.....	.....	.....	<u>Powers of the Authority</u>	.....	.....
	<u>A/AC.138/46 - UK (A/8421)</u>		<u>Price Stabilization</u>		
	.....		<u>Article 35</u>		

(1) In exercise of the powers conferred in Article 16 (4), the Authority shall establish a Stabilization Board.

(2) The Stabilization Board shall be composed of three to five persons appointed by the Assembly whose task will be to investigate the current conditions of supply and demand and the price rates regarding raw materials obtained from the international sea-bed and those obtained on land. The Board shall have the power to fix the price rates at which shall be sold all raw materials obtained from the International Sea-bed Area and to determine the quantities of such materials which may at any given time be sold or made available to those desiring them. In considering what prices shall be fixed and what quantities shall be sold or made available, the Board shall balance the need of the world community for raw materials and the need for stability of the economies of the producers of land minerals, particularly when such producers are among the developing countries.

See also Articles 2 para. (a) (Section 22), 16 para. (4) (Section 23); and 36 (Section 12).

A/AC.138/49 - 13-Power Draft
(A/8421)

See Articles 5 (section 10);
14 para. (e) (section 23); and
25 (section 26 (b))

A/AC.138/53 - Malta (A/8421)

See Article 138 para. 2 (b)
(section 27 (b))

A/AC.138/55 - 7-Power
Working Paper (A/8421)

See V para. (a) (section 8)

A/AC.138/59 - Canada (A/8421)

See principle 9 para. (1) (section 10)
and under International Machinery
para. (e) (section 31)

A/AC.138/63 - Japan

Chapter I. General Provisions

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.

14. Scientific research

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland
(A/8421)

Chapter II

See 5 (Section 18)

.....

See Article 16 (Section 23)

Article 27

See Note under I.1.
para. 4 (Section 22)

General Rules

A/AC.138/46 - UK (A/8421)

D. Scientific Research

Article 24

.....

1. Each Contracting Party agrees to encourage, and to obviate interference with, scientific research.

2. The Contracting Parties shall promote international co-operation in scientific research concerning the International Sea-bed Area:

(a) By participating in international programmes and by encouraging co-operation in scientific research by personnel of different countries;

(b) Through effective publication of research programmes and the results of research through international channels;

(c) By co-operation in measures to strengthen the research capabilities of developing countries, including the participation of their nationals in research programmes.

1. Neither this Treaty nor any rights granted or exercised pursuant thereto shall affect the freedom of research on the sea-bed and the subsoil thereof.

2. Without prejudice to the freedom of research referred to in paragraph 1 of this article, the States Parties to the Treaty agree, in the interests of the effective exploitation of the resources of the sea-bed and the subsoil thereof, to promote international co-operation in research on the resources of the sea-bed and the subsoil thereof, in particular by:

(a) participating in international programmes and encouraging co-operation between scientists of different countries in the conduct of research;

(b) publishing programmes and disseminating the results of research, through international as well as other channels;

(c) co-operating in measures to expand the research facilities of the developing countries, including measures to increase the participation of the nationals of those countries in research.

A/AC.138/49 - 13-Power Draft
(A/8421)

See Articles 14 (b),
15, 16 (a) and 17 to 19
(Section 23); 32 (f),
(i) and (k) (Section 27 (b))

A/AC.138/53 - Malta (A/8421)

Part I. Ocean Space

Chapter VIII

Scientific Research

Article 35

1. Every State, whether coastal or not, has the right to undertake scientific research in ocean space. This right is subject to such regulation of a general and non-discriminatory character as may be prescribed by the International Ocean Space Institutions.

2. The consent of the coastal State shall be obtained in respect of any research conducted within a belt of sea adjacent to the coast not exceeding twelve miles in breadth. Such consent shall not be withheld when:

(a) The request together with the proposed research programme is submitted by a person or entity registered by the International Ocean Space Institutions six weeks before the date it is proposed to initiate the research;

(b) The possibility is offered to nationals of the coastal States to participate in the research; and

(c) The results of the research will be published either by the coastal State or by the International Ocean Space Institutions. The person or entity conducting the research is required to conform to the health, customs, police security and pollution regulations of the coastal State.

See also Articles 91, paras. (4) to (6)
(Section 22); 99 (b) and 106 (Section 26 (b));
129 and 136 (a) (Section 27 (b)); and 183 to
190 (Section 31).

A/AC.138/55 - 7-Power
Working Paper (A/8421)

.....

A/AC.138/59 - Canada (A/8421)

10. "States shall promote international co-operation in scientific research exclusively for peaceful purposes:

(a) By participation in international programmes and by encouraging co-operation in scientific research by personnel of different countries;

(b) Through effective publication of research programmes and dissemination of the results of research through international channels;

(c) By co-operation in measures to strengthen research capabilities of developing countries, including the participation of their nationals in research programmes.

No such activity shall form the legal basis for any claims with respect to any part of the area or its resources."

Undoubtedly the future sea-bed treaty should contain a provision along these lines. The present formulation of this principle, however, should be amended to provide that it applies to States Parties only, and to delete the reference to peaceful purposes since principle 8 already makes a general provision for the reservation of the sea-bed for exclusively peaceful purposes.

With regard to part (b) of this principle, it should be noted that the provision for the publication of research programmes and the dissemination of results reflects an essential principle incorporated in the Continental Shelf Convention concerning scientific research, namely that there should be access to information in return for access to areas where research is to be carried out. If it is true that freedom of scientific research must be sacrosanct, then it is only true to the extent that such research contributes to the universal pool of human knowledge, freely available and fully shared by all. For the results of scientific research to be fully shared by all, however, requires that the developing countries should have adequate numbers of trained personnel to understand and utilize the information acquired. It is for this reason that provision should be made for international co-operation in measures to strengthen the scientific capabilities of developing countries so that they may profit from, and ultimately make a greater contribution to, research programmes. A reasonable interpretation must be given, however, to the provision for the dissemination of research results, in order to avoid placing unduly onerous burdens on those sponsoring the research concerned. What matters is that results genuinely be made available.

Provision should also be made in the future treaty for the regulation of scientific research on the same basis as commercial exploitation with regard to anti-pollution requirements, where such research involves the drilling of deep core-holes into the sea-bed or other projects with a similar potential for pollution of the marine environment.

A/AC.138/63 - Japan

See Article 6 (e)
(Section 23)

15. Protection of the marine environment, including the prevention of pollution and protection of human life and property

A/AC.138/25 - USA (A/8021)

Chapter I

Basic Principles

Article 9

All activities in the International Sea-bed Area shall be conducted with strict and adequate safeguards for the protection of human life and safety and of the marine environment.

Chapter II

General Rules

C. Protection of the Marine Environment, Life and Property

Article 23

1. In the International Sea-bed Area, the International Sea-bed Resource Authority shall prescribe Rules and Recommended Practices, in accordance with Chapter V of this Convention, to ensure:

(a) The protection of the marine environment against pollution arising from exploration and exploitation activities such as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations and pipelines and other devices;

(b) The prevention of injury to persons, property and marine resources arising from the aforementioned activities;

(c) The prevention of any unjustifiable interference with other activities in the marine environment arising from the aforementioned activities.

2. Deep drilling in the International Sea-bed Area shall be undertaken only in accordance with the provisions of this Convention.

E. International Marine Parks and Preserves

Article 25

In consultation with the appropriate international organizations or agencies, the International Sea-bed Resource Authority may designate as international marine parks and preserves specific portions of the International Sea-bed Area that have unusual educational, scientific or recreational value. The establishment of such a park or preserve in the International Trusteeship Area shall require the approval of the appropriate Trustee Party.

See also Articles 5, para. 2 (Section 12); 40 (j), (k) and (l) (Section 27 (b)) and 68 (d) and (e) (Section 31).

A/AC.138/26 - UK (A/8021)

See under 5 paras. (a) and (b) (Section 18) and under 11 paras. (c) and (e) (Section 19).

A/AC.138/46 - UK (A/8421)

See paras. 18 and 20 (Section 27 (b))

A/AC.138/27 - France (A/8021)

See under I. (Section 11).

A/AC.138/33 - United Republic of Tanzania (A/8421)

Obligations of the Parties

Article 12

All activities in the International Sea-bed Area shall be conducted with strict and adequate safeguards for protection of human life and safety of the marine environment.

See also Articles 16, para. 12 (Section 23) and 29, para. 1 (d) and (f) and para. 4 (f) (Section 27 (b)).

A/AC.138/43 - USSR (A/8421)

Article 11

1. All types of activities by States on the sea-bed and in the subsoil thereof, as provided for in this Treaty, shall be undertaken in compliance with the rules for the protection of human life at sea.

2. States engaged in the industrial exploration or exploitation of the resources of the sea-bed and the subsoil thereof shall take appropriate measures and co-operate with one another to prevent pollution and contamination of the marine environment and also to prevent interference with its ecological balance as a result of activities on the sea-bed. Furthermore, such activities must not cause damage to the flora and fauna of the marine environment.

3. The aforementioned States shall establish rules for the operational safety of the installations referred to in article 11 of this Treaty, and shall co-operate with one another in this regard.

See also Articles 18 (g) (Section 26 (b)); and 22, para. 2 (h) (Section 27 (b)).

A/AC.138/44 - Poland (A/8421)

See under II.2. para. (d) and paras. (f) (i) and (ii) (Section 23).

A/AC.138/49 - 13-Power Draft
(A/8421)

Chapter I

Fundamental Principles

Article 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.

See also Articles 8 (Section 16); 14 (f) (Section 23); 24 (k) (Section 26 (b)) and 32 (j) and (1) (Section 27 (b)).

A/AC.138/53 - Malta (A/8421)

Part IV. International Ocean Space

Chapter XV

Basic Principles

Article 74

All activities in International Ocean Space shall be conducted with strict and adequate safeguards for the protection of human life and for the protection of the marine environment.

Article 80

1. Each Contracting Party engaged in activities in International Ocean Space shall inform as soon as reasonably possible the Institutions established in accordance with article 86 of any phenomenon which it discovers in International Ocean Space which could constitute a serious danger to the life of persons working in Ocean Space.

2. The Institutions shall inform as soon as reasonably possible each Contracting Party of any phenomenon in International Ocean Space of which they have knowledge which could constitute a serious danger to the life of persons working in Ocean Space.

Article 81

1. The disposal of radioactive wastes in International Ocean Space shall be subject to control and regulation by the Institutions established in accordance with article 86 of this Convention. The Institutions before issuing regulations shall consult with the International Atomic Energy Agency.

2. The Institutions established in accordance with article 86 of this Convention in co-operation with the International Atomic Energy Agency shall maintain a register of the release of radioactive solids and liquids in International Ocean Space and shall monitor International Ocean Space for radioactivity.

3. The use of nuclear energy for peaceful purposes including hydrogen fusion processes in International Ocean Space shall be subject to control and regulation by the Institutions established in accordance with article 86 of this Convention. Before issuing regulations the Institutions shall consult with the International Atomic Energy Agency.

4. Nuclear and thermonuclear explosions of whatever nature are prohibited in International Ocean Space without the express authorization of the Institutions established in accordance with article 86 of this Convention.

Article 82

The introduction of substances, whether solid or liquid or gaseous, or of energy into International Ocean Space or in the air space above whether for disposal or for other purposes in quantities that may reasonably be expected to produce significant deleterious effects to human health, to the living resources or to the quality of the marine environment shall be subject to control and regulation by the Institutions established in accordance with article 86 of this Convention.

Article 83

1. In order to promote international co-operation and the safety of navigation each Contracting Party undertakes to inform the Institutions established in accordance with article 86 of this Convention of the location and nature of any activities conducted under its sponsorship or authority on the sea-bed of International Ocean Space.

2. International or multinational corporations may not conduct activities on the sea-bed of International Ocean Space unless they disclose to the Institutions the proposed location and nature of their activities.

3. The Institutions established under article 86 of this Convention shall as soon as reasonably possible publish the information received under paragraphs 1 and 2 of this article, but confidential technical information shall not be disclosed.

See also Articles 72 (Section 18); 91 (2) (Section 22); 98 (3) and 106 (Section 26 (b)); 125, 129, 130, 136 (a), 144 (i) and 155 to 158 (Section 27 (b)) and 189, paragraphs 3 to 6 (Section 31).

A/AC.138/55 - 7-Power
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11. "With respect to activities in the area and acting in conformity with the international regime to be established, States shall take appropriate measures for and shall co-operate in the adoption and implementation of international rules, standards and procedures for, inter alia:

(a) The prevention of pollution and contamination and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment.

(b) The protection and conservation of the natural resources of the area and the prevention of damage to the flora and fauna of the marine environment."

In implementing this principle the future treaty will have to make more adequate provision for the prevention of pollution arising from sea-bed resources activities. In particular, the treaty should establish safety standards, and provide for their effective enforcement, with respect to blow-out prevention and mud circulation systems; casing practices; testing and plugging programmes; seaworthiness of platforms and other facilities; recognition of sea-bed geological hazards in the positioning of production and storage equipment; anchoring of drilling vessels; laying of pipelines; and so on. Authority should also be granted to the international sea-bed machinery to prohibit the dumping or deposit of harmful material on the sea-bed and ocean floor (having due regard, however, to the provisions which might be made with regard to ocean dumping in other treaties to be adopted by the 1973 Law of the Sea Conference).

A point to note here is that the international sea-bed régime and machinery may eventually be subject to the same conflict as between conservation interests on the one hand, and economic interests on the other, that has already marked debates on national resource development policies at the domestic level. It is only through the elaboration and acceptance of stringent safety standards from the very outset that such a development can be avoided or minimized.

See also 9 (f) (Section 10); comment under 10 (Section 14) and 12 and 13 (b) (Section 16).

A/AC.138/63 - Japan

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.

See also Articles 6 (d) (Section 23) and 36 (e) (Section 27 (b)).

16. Due regard to the rights and legitimate interests of coastal and all other States which may be affected by activities in the area

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A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland (A/8421)

Chapter III

The International Trusteeship

Article 26

1. The International Trusteeship Area is that part of the International Sea-bed Area comprising the continental or island margin between the boundary described in article 1 and a line, beyond the base of the continental slope, or beyond the base of the slope of an island situated beyond the continental slope, where the downward inclination of the surface of the sea-bed declines to a gradient of 1:____.*

2. Each Trustee Party shall permanently delineate the precise seaward boundary of the International Trusteeship Area off its coast by straight lines not exceeding 60 nautical miles in length, following the general direction of the limits specified in paragraph 1. Such lines shall connect fixed points at the limit specified in paragraph 1, defined permanently by co-ordinates of latitude and longitude. Areas between or landward of such points may have a surface gradient of less than 1:____.* Where an elongate basin or plain having a surface gradient of less than 1:____* transects an area having a gradient of more than 1:____*, a straight boundary line more than 60 nautical miles in length, but not exceeding the lesser of one-fourth of the length of that part of the basin transecting the area having a gradient of more than 1:____* or 120 nautical miles, may be drawn across the basin or plain.

3. Each Trustee Party shall submit the description of its boundary to the International Sea-bed Boundary Review Commission within five years of the entry into force of this Convention for that Party. Boundaries not accepted by that Commission and not resolved by negotiation between the Commission and the Trustee Party within one year shall be submitted by the Commission to the Tribunal for adjudication in accordance with section E of Chapter IV.

(Note: Additional consideration will be given to problems raised by enclosed and semi-enclosed seas)

Article 27

1. Except as specifically provided for in this Chapter, the coastal State shall have no greater rights in the International Trusteeship Area off its coast than any other Contracting Party.

2. With respect to exploration and exploitation of the natural resources of that part of the International Trusteeship Area in which it acts as trustee for the international community, each coastal State, subject to the provisions of this Convention, shall be responsible for:

(a) Issuing, suspending and revoking mineral exploration and exploitation licences;

(b) Establishing work requirements, provided that such requirements shall not be less than those specified in Appendix A;

(c) Ensuring that its licensees comply with this Convention, and, if it deems it necessary, applying standards to its licensees higher than or in addition to those required under this Convention, provided such standards are promptly communicated to the International Sea-bed Resource Authority;

(d) Supervising its licensees and their activities;

(e) Exercise civil and criminal jurisdiction over its licensees, and persons acting on their behalf, while engaged in exploration or exploitation;

(f) Filing reports with the International Sea-bed Resource Authority;

(g) Collecting and transferring to the International Sea-bed Resource Authority all payments required by this Convention;

(h) Determining the allowable catch of the living resources of the sea-bed and prescribing other conservation measures regarding them;

(i) Enacting such laws and regulations as are necessary to perform the above functions.

* The precise gradient should be determined by technical experts, taking into account, among other factors, ease of determination, the need to avoid dual administration of single mineral deposits, and the avoidance of including excessively large areas in the International Trusteeship Area.

A/AC.138/46 - UK (A/8421)

Introduction

Under the trusteeship area concept put forward by the United States and supported by the United Kingdom, the arrangements suggested in this paper would be applicable mainly to the sea-bed area beyond the trusteeship area. But they would also apply in certain respects to the trusteeship area.

See also paragraph 2 (section 11).

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A/AC.138/63 - Japan

Chapter I

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Fundamental principles

Article 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.

I. Limits and status of the international area

C. Within the international area a belt of sea-bed and subsoil contiguous to the adjacent submarine area as determined in accordance with paragraph A above, and having a breadth of 40 miles measured from the outer limit of such adjacent submarine area, shall constitute the "coastal State priority zone". In this zone the International Authority cannot either explore and exploit directly (see point III below) or licence exploration and exploitation by a State, without consent of the coastal State.

12. "In their activities in the area, including those relating to its resources, States shall pay due regard to the rights and legitimate interests of coastal States in the region of such activities, as well as of all other States, which may be affected by such activities. Consultations shall be maintained with the coastal States concerned with respect to activities relating to the exploration of the area and the exploitation of its resources with a view to avoiding infringement of such rights and interests."

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This is obviously an important and controversial principle. Coastal States occupy a special position and have special interests in matters relating to the uses of the sea. They bear the brunt, for instance, of pollution damage arising from incidents both within and beyond their national jurisdiction (as coastal populations dependent on home-water fisheries suffer most from the depletion of fisheries resources by roving factory fleets). The future sea-bed treaty must recognize these special rights and interests of coastal States. While the present principle goes some way in this direction, it does not go far enough. Indeed, the effect of the language used in the formulation of this principle is to put the interests of coastal States in the region of activities in the international sea-bed area on the same footing as the interests of all other States despite the patent differences between them. Accordingly, the obligation to consult with the coastal State concerned, at least upon the request of that State, should apply to any activity that might infringe its rights and interests, and not only to those activities relating to the exploration of the sea-bed beyond national jurisdiction and the exploitation of its resources, although of course, the future treaty can impose an obligation to consult only with respect to those activities governed by the treaty. It is considered, therefore, that there should be some mechanism to allow coastal States a degree of special rights within an adjacent zone beyond the limits of national jurisdiction at least with regard to the prevention of pollution arising from sea-bed resource operations. This can be achieved in part through principle 13 (b) which should be incorporated in the present principle in somewhat different terms.

Nothing herein shall affect:

13 (b) The rights of coastal States with respect to measures to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the area, subject to the international regime to be established."

With regard to part (b) of this principle, the negative formulation adopted in the declaration does not provide adequate recognition for the rights of coastal States. Accordingly, it should be phrased instead in a positive manner, for instance, "coastal States may take measures to prevent, mitigate or eliminate grave and imminent danger, etc.", and be made part of principle 12.

A/AC.138/25 - USA (A/8021)
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A/AC.138/26 - UK (A/8021)
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A/AC.138/27 - France (A/8021)
(continued)

A/AC.138/33 - United Republic of
Tanzania (A/8421) (continued)

A/AC.138/43 - USSR (A/8421)
(continued)

A/AC.138/44 - Poland
(A/8421) (continued)

3. Detailed rules to implement this Chapter are contained in Appendix C.

Article 28

A/AC.138/46 - UK (A/8421)
(continued)

In performing the functions referred to in article 27, the Trustee Party may, in its discretion:

- (a) Establish the procedures for issuing licences;
- (b) Decide whether a licence shall be issued;
- (c) Decide to whom a licence shall be issued, without regard to the provisions of article 3;
- (d) Retain (a figure between 33-1/3% and 50% will be inserted here) of all fees and payments required by this Convention;
- (e) Collect and retain additional licence and rental fees to defray its administrative expenses, and collect, and retain (a figure between 33-1/3% and 50% will be inserted here) of, other additional fees and payments related to the issuance or retention of a licence, with annual notification to the International Sea-bed Resource Authority of the total amount collected;
- (f) Decide whether and by whom the living resources of the sea-bed shall be exploited, without regard to the provisions of article 3.

Article 29

The Trustee Party may enter into an agreement with the International Sea-bed Resource Authority will perform some or all of the trusteeship supervisory and administrative functions provided for in this Chapter in return for an appropriate part of the Trustee Party's share of international fees and royalties.

Article 30

Where a part of the International Trusteeship Area is off the coast of two or more Contracting Parties, such Parties shall, by agreement, precisely delimit the boundary separating the areas in which they shall respectively perform their trusteeship functions and inform the International Sea-bed Boundary Review Commission of such delimitation. If agreement is not reached within three years after negotiations have commenced, the International Sea-bed Boundary Review Commission shall be requested to make recommendations to the Contracting Parties concerned regarding such delimitation. If agreement is not reached within one year after such recommendations are made, the delimitation recommended by the Commission shall take effect unless either Party, within 90 days thereafter, brings the matter before the Tribunal in accordance with section E of Chapter IV.

See also Appendix C (text at end of table).

A/AC.138/49 - 13-Power Draft (A/8421)
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A/AC.138/55 - 7-Power Working Paper (A/8421)
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A/AC.138/59 - Canada (A/8421)
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A/AC.138/63 - Japan
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17. Legal status of the waters superjacent to the area and air space above those waters.

A/AC.138/25 - USA (A/8021)

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of Tanzania (A/8421)

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A/AC.138/44 - Poland
(A/8421)

Chapter I

Basic Principles

Article 6

Neither this Convention nor any rights granted or exercised pursuant thereto shall affect the legal status of the superjacent waters as high seas, or that of the air space above those waters.

4. The agreement should provide that the establishment of the regime does not affect the legal status of the superjacent waters as high seas or that of the air space above those waters.

A/AC.138/46 - UK (A/8421)

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Article 25

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Neither this Treaty nor any rights granted or exercised pursuant thereto shall affect the legal status of the superjacent waters of the high seas, or the legal status of the air space above those waters.

See also Articles 4, 10 and 12 (Section 18)

A/AC.138/49 - 13-Power Draft
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13. "Nothing herein shall affect:

- (a) The legal status of the waters
superjacent to the area or that of the
air space above those waters;

Part (a) of this principle should be expanded to provide that all activities in the marine environment shall be conducted in such a manner as to avoid unjustifiable interference with the exploration and exploitation of the resources of the area, and conversely that exploration and exploitation of these resources must not result in any unjustifiable interference with such other activities.

A/AC.138/63 - Japan

Chapter I

General Principles

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.

18. Non-interference with other activities and protection of activities in the area

A/AC.138/25 - USA (A/8021)

Chapter I

Basic principles

Article 7

All activities in the marine environment shall be conducted with reasonable regard for exploration and exploitation of the natural resources of the International Seabed Area.

Article 8

Exploration and exploitation of the natural resources of the International Seabed Area must not result in any unjustifiable interference with other activities in the marine environment.

See also Articles 21 (Section 11); 23 (Section 15); and 68, para. 1 (f) (Section 31).

A/AC.138/26 - UK (A/8021)

5. The agreement should provide that, subject to the right to take reasonable measures for the exploration of the area and the exploitation of its natural resources, as provided under the regime, the laying or maintenance of submarine cables or pipelines should not be impeded. Moreover, the exploration of the area and the exploitation of its resources should not result in any unjustifiable interference with other uses of the sea-bed or of the high seas, including the conservation of the living resources of the sea, or in any interference with the freedom of scientific research.

The agreement should provide measures to eliminate or reduce as far as possible conflicts between the legitimate interests of the operator and those of other users of the high seas and the sea-bed, and to this end could deal, amongst others, with the following questions:

(a) the prevention and control of pollution of the marine environment resulting from research into and exploration of the area, or exploitation of its natural resources;

(b) the conservation of the natural resources of the area;

(c) the prevention of unjustifiable interference with navigation, overflight and fishing;

(d) the promotion of international co-operation in scientific research in the area and arrangements for making accessible to all the results of such research.

Scientific research would be defined in such a manner as to distinguish it clearly from commercial prospecting.

See also para. 11 (d) (Section 19).

A/AC.138/46 - UK (A/8421)

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A/AC.138/27 - France (A/8021)

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A/AC.138/33 - United Republic of Tanzania (A/8421)

Obligations of the Parties

Article 11

Exploration and exploitation of the resources of the International Sea-bed Area must not result in any unjustifiable interference with other activities in the marine environment.

See also Article 29, para. 4 (e) (Section 27 (b)).

A/AC.138/43 -USSR (A/8421)

Article 4

The use of the sea-bed and the subsoil thereof for the purpose of exploring and exploiting its resources shall not conflict with the principles of freedom of navigation, fishing, research and other activities on the high seas.

Article 10

1. With a view to the industrial exploration and exploitation of the resources of the sea-bed and the subsoil thereof, stationary and mobile installations may be erected and emplaced.

2. The installations referred to in paragraph 1 of this article shall not be placed in straits and at points where they may obstruct passage on sea-lanes of vital importance for international shipping or at points of intense fishing activities. Such installations shall be erected, emplaced and operated in accordance with article 12 of this Treaty. Safety zones shall be established around these installations, with appropriate navigational markings to ensure the safety both of the installations themselves and of shipping.

3. The safety zones referred to in paragraph 2 of this article may extend for a distance of 500 metres around the installations erected, measured from each point of their periphery. The configuration and location of the safety zones in each area of the world's oceans shall be such that they do not together form a belt barring the access of shipping to particular zones or cutting across international sea-lanes.

4. Installations for the exploitation of the resources of the sea-bed and the subsoil thereof shall be erected and emplaced by States within the limits of the sectors of the sea-bed used by them. On the expiry of the period for which a sector has been allocated to a State, such installations shall be dismantled and removed, unless another State to which the same sector has been allocated under the procedure specified in this Treaty acquires the said installations for the purpose of exploiting the resources of the sector.

5. The construction or emplacement of any under-water or surface installations for the exploration and exploitation of the resources of the sea-bed and the subsoil thereof, and also the removal of such installations, shall immediately be notified by Notices to Mariners or other generally recognized means of notification. Measures shall also be taken to maintain means of warning mariners of the presence of such installations.

6. Such installations shall not possess the status of islands and shall have no territorial sea, and their presence shall not affect the determination of the limits of the territorial sea or of the limits of the sea-bed in accordance with article 3 of this Treaty.

Article 12

1. The industrial exploration and exploitation of the resources of the sea-bed and the subsoil thereof shall not create any unjustifiable obstacles to activities in the marine environment which are conducted in accordance with the generally recognized principles of international law.

2. Accordingly, the dimensions and configuration of sectors of the sea-bed used for the exploitation of the resources of the sea-bed and the subsoil thereof, the location of these sectors in relation to one another and the number of sectors in a particular area of the world's oceans shall not be such that the sectors (even with spaces between them) together form a belt across maritime zones through which the vessels of States having no coastline on the Atlantic, Pacific or Indian Oceans make their way to the waters of these oceans or to the international sea-lanes crossing them.

3. The foregoing provision shall apply also to areas in which the industrial exploration of the resources of the sea-bed and the subsoil thereof is being undertaken and to the number and location of the installations erected for the industrial exploration of the resources of the sea-bed and the subsoil thereof.

4. Installations erected for the industrial exploration or exploitation of the resources of the sea-bed and the subsoil thereof shall not be used for military purposes of any kind. In particular, they shall not be used for the emplacement, storage or testing of any military equipment or weapons.

5. Shipping and other activities in the marine environment in the areas in question shall be exercised with reasonable regard for the industrial exploration and exploitation of the aforementioned resources, provided that activities on the sea-bed and in the subsoil thereof are conducted in accordance with the provisions of paragraphs 1-4 of this article.

A/AC.138/44 - Poland (A/8421)

See II.2, paras (d) and (f) (iii) (Section 23)

A/AC.138/49 - 13-Power
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A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
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A/AC.138/59 - Canada (A/8421)

A/AC.138/63 - Japan

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Part IV. The International Ocean Space

Chapter XV

Basic Principles

Article 72

Exploration and exploitation of the natural resources of International Ocean Space must not result in any substantial interference with other activities in the marine environment. Exploration and exploitation of natural resources shall not be permitted in areas where interference may be caused to the use of recognized sea lanes essential to international navigation or where scientific findings indicate the probability that exploitation may result in extensive pollution of the marine environment.

See also Article 83 (Section 15).

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See comment under
principle 13 (a) (Section 17).

Chapter I

General Provisions

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.

19. Responsibility to ensure observance of the international régime and liability for damages

A/AC.138/25 - USA (A/8021)

Chapter I

Basic Principles

Article 11

1. Each Contracting Party shall take appropriate measures to ensure that those conducting activities under its authority or sponsorship comply with this Convention.
2. Each Contracting Party shall make it an offence for those conducting activities under its authority or sponsorship in the International Seabed Area to violate the provisions of this Convention. Such offences shall be punishable in accordance with administrative or judicial procedures established by the Authorizing or Sponsoring Party.
3. Each Contracting Party shall be responsible for maintaining public order on manned installations and equipment operated by those authorized or sponsored by it.
4. Each Contracting Party shall be responsible for damages caused by activities which it authorizes or sponsors to any other Contracting Party or its nationals.
5. A group of States acting together, pursuant to agreement among them or through an international organization, shall be jointly and severally responsible under this Convention.

See also Appendix A, para. 12 (text at end of table).

A/AC.138/26 - UK (A/8021)

11. The agreement should make provision for Operating Rules

The agreement might lay down that each State would be responsible to the international body for ensuring that its sub-licencees, whether working in blocks allotted to it or under a non-exclusive licence, did so in accordance with the provisions of the régime and met appropriate standards, particularly in the following respects:

- (a) technical standards in performing the work;
- (b) prevention of waste in the development of the resources;
- (c) safety of personnel and equipment;
- (d) prevention of unjustifiable interference with other uses of the high seas;
- (e) prevention of pollution and other damage to other resources and to the environment.

The general standards to be achieved could be laid down in the Treaty but more detailed rules might be drawn up by the international body or by the individual States; the States in turn would notify the international body of the rules they had laid down.

13. Liability for Damage

Provisions governing liability for damage (including to other operators, other users of the sea, the living resources of the sea and the coasts of States) would need to be included in the agreement. Those provisions would aim at securing reimbursement of the cost of remedying the damage.

A/AC.138/46 - UK (A/8421)

See paras. 20 (Section 27 (b)) and 28 (Section 30).

A/AC.138/27 - France (A/8021)

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A/AC.138/33 - United Republic of Tanzania (A/8421)

Obligations of the Parties

Article 14

- (1) Each Contracting Party shall take appropriate measures to ensure that those conducting activities under its sponsorship comply with this Convention.
- (2) Each Contracting Party shall make it an offence for those conducting activities under its sponsorship in the International Sea-bed Area to violate the provisions of this Convention. Such offences shall be punishable in accordance with administrative or judicial procedures established by the Contracting Party sponsoring such activities.
- (3) Each Contracting Party shall be responsible for maintaining public order on manned installations and equipment operated by it or those sponsored by it.
- (4) Each Contracting Party shall be responsible for damages caused by activities which it sponsors, to any other Contracting Party or its nationals.
- (5) A group of States acting together, pursuant to agreement among them or through an international organization, shall be jointly and severally responsible under this Convention.

See also Articles 29, para. 1 (e) (Section 27 (b)) and 31, para. (6) (Section 30).

A/AC.138/43 - USSR (A/8421)

Article 16

1. A State Party to the Treaty shall be responsible for ensuring that activities connected with the industrial exploration and exploitation of the resources of the sea-bed, including the activities of natural and juridical persons under its jurisdiction or acting on its behalf, are conducted in accordance with this Treaty.

2. A State Party to the Treaty shall be responsible for any damage caused to another State Party to the Treaty as a result of activities on the sea-bed.

A/AC.138/44 - Poland (A/8421)

See II.2, para. (a) (Section 23)

A/AC.138/49 - 13-Power
Draft (A/8421)

See Article 32 (f)
(Section 27 (b)).

A/AC.138/53 - Malta (A/8421)

Part IV. International Ocean Space

Chapter XV

Basic Principles

Article 75

All activities of exploration and exploitation of resources in International Ocean Space shall be conducted by, or on behalf of, the Institutions established in accordance with article 86 of this Convention or by a Contracting Party or group of Contracting Parties or natural or juridical persons under its or their sponsorship, subject to the general supervision and control of the Institutions established in accordance with article 86 of this Convention.

Article 76

All activities of intergovernmental organizations or of international or multinational organizations or corporations in International Ocean Space are subject to the general supervision and control of the Institutions established in accordance with article 86 of this Convention.

Article 77

Each Contracting Party shall bear international responsibility for national activities or for activities under its sponsorship in International Ocean Space whether such activities are carried out by governmental agencies or by non-governmental agencies or by individuals. In particular:

(a) Each Contracting Party shall take appropriate measures to ensure that those conducting activities under its authority or sponsorship comply with the provisions of this Convention;

(b) Each Contracting Party shall make it an offence for those conducting activities under its authority or sponsorship in International Ocean Space to violate the provisions of this Convention. Such offences shall be punishable with the administrative or juridical procedures established by the Contracting Party sponsoring the activities. The procedures shall be notified to the International Institutions created in accordance with article 86 of this Convention;

(c) Each Contracting Party shall be responsible for maintaining public order on vessels and equipment operated by those authorized or sponsored by it and for ensuring that vessels and equipment conform to generally accepted international standards;

(d) Each Contracting Party shall be responsible for damages caused by activities which it authorizes or sponsors to any other Contracting Party or its nationals or to the Institutions established in accordance with article 86 of this Convention;

(e) Each Contracting Party shall be responsible to any other Contracting Party or its nationals or to the Institutions established in accordance with article 86 of this Convention for damage caused by faulty construction, deterioration or breakage of equipment or installations, such as oil storage tanks, emplaced by it in International Ocean Space;

(f) A group of States acting together, pursuant to an agreement among them, shall be jointly and severally responsible under this Convention.

Article 78

1. Intergovernmental organizations in International Ocean Space shall themselves bear responsibility for their activities or for activities under their sponsorship. In particular they shall:

(a) take appropriate measures to ensure that those conducting activities under their authority or sponsorship comply with the provisions of this Convention;

(b) be fully responsible for damages caused by activities which they sponsor to any Contracting Party or its nationals or to the Institutions established in accordance with article 86 of this Convention.

2. In the event of repeated and serious violations of the provisions of this Convention or of failure to pay legally assessed damages, an intergovernmental organization may be debarred, temporarily or permanently, from conducting activities in International Ocean Space.

Article 79

The Institutions established in accordance with article 86 of this Convention shall bear responsibility for their activities or for activities directly sponsored by them. In particular the Institutions shall:

(a) take appropriate measures to ensure that those conducting activities under their authority or direct sponsorship comply with the provisions of this Convention;

(b) be fully responsible for damages caused by activities which they directly sponsor to any Contracting Party or to its nationals or to the organizations referred to in article 78.

See also Article 144 (g) (Section 11).

A/AC.138/55 - 7-Power
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A/AC.138/59 - Canada (A/8421)

14. "Every State shall have the responsibility to ensure that activities in the area, including those relating to its resources, whether undertaken by governmental agencies, or non-governmental entities or persons under its jurisdiction, or acting on its behalf, shall be carried out in conformity with the international regime to be established. The same responsibility applies to international organizations and their members for activities undertaken by such organizations or on their behalf. Damage caused by such activities shall entail liability."

This principle requires elaboration to make clear and express provision for: (a) the responsibility of each contracting party to enforce compliance with, and punish violations of, the provisions of the future sea-bed treaty; (b) the responsibility of each contracting party for the maintenance of public order on manned installations and equipment operated by that party or under its sponsorship; (c) the liability of each contracting party to pay compensation for damages caused by activities carried out by it or under its sponsorship, whether such damages occur within or beyond national jurisdiction, and, quite apart from compensation paid for damages, the further liability of each party for clean-up measures which may be required.

Inherent in these provisions is an element of delegation of responsibility or authority by the future international machinery to the sponsoring State, and this device may represent a practical and effective manner of dealing with a variety of matters involved in the implementation of the sea-bed régime, subject to the agreed rules and standards to be fixed by the treaty and with provision being made for required supervision.

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Chapter II

Development Licence

28. Liability for damage

[Further study is required]

20. Peaceful settlement of disputes

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A/AC.138/33 - United Republic of Tanzania (A/8421)

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Chapter I

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See II.B (a)(3) and (5) (Section 11).

Article 15

All disputes arising out of the interpretation or application of this Convention shall be settled in accordance with the provisions of Article 39 hereunder.

Settlement of disputes

Article 39

(1) The members agree that any dispute between them in regard to the meaning or the scope of a licence shall be settled by negotiation, mediation or arbitration as may be established under Article 29.

(2) Any other disputes between members regarding the exploration and exploitation of the area and its resources (including disputes regarding the interpretation of this Statute) shall be submitted if negotiation, mediation or arbitration fail, to the International Court of Justice.

Provided always that disputes between members of a regional group may be settled by reference to regional arrangements or institutions.

(3) The Authority shall have the right to request an advisory opinion from the International Court of Justice in any dispute between itself and one or more members.

See also Article 36 (Section 12).

Article 15

1. A State Party to this Treaty, which has grounds for believing that activities on the sea-bed by another State Party are contrary to the provisions of this Treaty, may request that consultations be held on the subject of those activities.

2. States Parties to the Treaty shall not, as a rule, refuse requests for consultations as provided for in paragraph 1 of this article.

3. In the event that a request for consultations is refused, the States concerned shall settle their dispute in accordance with the procedure provided for in article 22, paragraph 2 (i) of this Treaty.

See also Article 22, para. 2 (i) (Section 27 (b)).

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.

See also II.5, para. 19 (Section 25).

All disputes arising out of the interpretation or application of this Convention shall be settled in accordance with provisions of Section E of Chapter IV.

See Articles 46 to 60 (Section 29).

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See paras. 16 (Section 25); and 24 and 25 (Section 29).

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Chapter IV

Settlement of Disputes

(-----)

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Part IV. International Ocean Space

Chapter XV

Basic Principles

Article 85

1. All disputes arising out of the interpretation or application of part IV of this Convention with the exception of article 84 shall be settled or adjudicated in accordance with the provisions of chapter XXIV of this Convention.

2. Any State may bring suspected violations of article 84 to the attention of the Institutions established in accordance with article 86 of this Convention.

Part V. International Ocean Space Institutions

Chapter XXIV

Pacific settlement of disputes

Article 152

1. Members or associate members of the Institutions that are parties to any dispute in ocean space shall, in the first instance, seek a solution by any peaceful means of their choice. In default of agreement the dispute shall be submitted to the Council on the initiative of any of the parties to the dispute. The Council shall endeavour to settle the dispute and shall in any case make and publish a report containing a statement of the facts and such recommendations as may appear desirable.

2. A dispute between members or associate members of the Institutions with regard to any matter expressly provided for in the present Convention shall be submitted to binding adjudication by the International Maritime Court at the request of the Council or of any of the parties to the dispute, in the event that other peaceful means of settlement fail.

Article 153

A State which is not a member or associate member of the Institutions may submit to the Council any disputes to which it is a party in ocean space if it accepts in advance for the purposes of the dispute the provisions of Chapter XXIV of the present Convention.

Article 154

A dispute between a member or associate member of the Institutions and the Institutions shall be submitted to the International Maritime Court for binding adjudication at the request of any of the parties to the dispute.

See also Articles 159 to 163 (Section 29).

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15. "The Parties to any dispute relating to activities in the area and its resources shall resolve such dispute by the measures mentioned in Article 33 of the Charter of the United Nations and such procedures for settling disputes as may be agreed upon in the international regime to be established."

While the future sea-bed treaty should provide for the resolution of disputes in accordance with Article 33 of the UN Charter it is essential that further procedures for the settlement of disputes should be included in the treaty.

See also under International Machinery, paragraph (f), The Tribunal (Section 29).

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Chapter I

General Provisions

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.

See also Articles 37 and 38 (Section 29).

21. Establishment of international machinery, legal personality and relationships with the United Nations and other international organizations

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Chapter IV

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Establishment of the Authority

Article 17

8. Legal nature of the organization and its legal personality

The International Sea-bed Resource Authority

A/AC.138/46 - UK (A/8421)

See II (A)
(Section 11).

Article 1

Agree to establish an international sea-bed authority (hereinafter known as the Authority) to operate in conformity with the Declaration of Principles and in accordance with the Statute that follows:

1. The International Sea-Bed Resources Agency, of which States Parties to this Treaty may become members, is hereby established.

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.

A. General

Article 31

1. The International Sea-bed Resource Authority is hereby established.

INTRODUCTION
The principal characteristics, and the main advantages, of the proposals in this paper are the following:

Co-operation with other Agencies

Article 32

The Authority shall co-operate with the United Nations, the specialized agencies, and other agencies related to the United Nations, in carrying out its functions, especially in those areas where previously existing agencies are already conducting significant programmes relating to the area and its resources.

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.

Article 33

Each Contracting Party shall recognize the juridical personality of the Authority. The legal capacity, privileges and immunities of the Authority shall be the same as those defined in the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations.

(b) Because of the nature of the proposed régime the international machinery required for its administration would be relatively simple. The proposals envisage an institutional structure which would be entirely adequate for the purposes of the régime but would not be so costly as to absorb a large part of the sea-bed revenues or so complex as to become cumbersome in operation.

See also paragraph 16 (Section 25).

Legal Personality

Article 38

(1) The Authority shall have legal personality and may sue or be sued in its own name.

(2) Staff members of the Authority, when engaged in the execution of its functions, shall have in the country of each member such privileges and immunities as may be necessary for the performance of their duties.

See also II.2, para. (g) (Section 23).

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Chapter II
(The Authority. Members.
Functions and Powers.)

PART V: THE INTERNATIONAL OCEAN SPACE INSTITUTIONS

See I.B (Section 23).

International Machinery

Chapter I

General Provisions

Article 9

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

The International Ocean Space Institutions (hereinafter also called the Institutions) are hereby established.

Article 86

Article 87

Each Contracting Party shall recognize the international juridical personality of the Institutions.

Article 88

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

1. The Institutions shall enjoy in the Territory of each of its Members such privileges and immunities as are necessary for the fulfilment of their purposes.

2. Representatives of the Members of the Institutions and officials of the Institutions shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Institutions.

3. The Assembly of the Institutions may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this article or may propose conventions to Members of the Institutions for this purpose.

Article 89

Article 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.

1. The Institutions have the right to move vessels under their flag in ocean space.

2. Vessels owned or operated by the Institutions and used only for non-commercial purposes shall have immunity from the jurisdiction of any State in International Ocean Space.

3. The Institutions may, exclusively for peaceful purposes, emplace installations in International Ocean Space, giving notice thereof to Members.

Article 90

1. The Institutions may accept from any State the transfer to their administration of reefs, sandbanks, or islands having less than 10,000 permanent inhabitants.

2. Reefs, sandbanks, or islands transferred to the administration of the Institutions shall be used by the Institutions only for international community purposes, such as scientific stations, nature parks or preserves, etc.

3. The Institutions shall not accept the transfer to their administration of inhabited islands without consulting the freely expressed wishes of the inhabitants and without being satisfied that there exists among the inhabitants no significant opposition to the transfer of administration.

4. The Institutions shall not accept the transfer to their administration of inhabited islands when it might entail a substantial financial responsibility on the part of the Institutions or when it might involve the Institutions in a political dispute with a Member.

5. The population of islands under the administration of the Institutions shall enjoy a full measure of self-government.

6. The Institutions shall promote the economic, social and education advancement of the inhabitants and shall endeavour to provide them with opportunities of employment.

7. The inhabitants may petition any of the principal organs of the Institutions. Such petitions shall receive careful consideration.

8. The inhabitants of islands under the administration of the Institutions may freely terminate their association with the Institutions on giving two years' notice.

See also Article 66 (Section 2).

Before examining the actual structure of the international machinery to be established to give effect to the international régime, it would be helpful to consider what should be the fundamental attributes of that machinery.

The international machinery should be a wholly new institution having juridical personality and the capacity to contract, to hold property, and to initiate legal proceedings. The question of privileges and immunities for the international machinery is a difficult one, particularly with respect to immunity from judicial process. Whatever may be the status of the machinery within the UN family, it is clear that the nature of the task it is to perform is so radically different from anything now being undertaken in the UN system that this new institution will require a new approach not tied to traditions and practices intended for wholly different purposes. In a sense this machinery may be more like an enterprise than an ordinary UN agency. For this reason, it may be necessary to provide, at least in respect of certain of its functions, that the international machinery should have the capacity to be sued. This question will depend to some extent on the nature of the functions and powers to be assigned to the machinery; for instance, if the machinery were to have the capability itself to exploit the resources of the sea-bed or undertake ventures of a commercial nature, then it would seem necessary to make it liable to judicial proceedings in the same way that government vessels on commercial service do not enjoy the same immunities granted to naval vessels and government vessels on non-commercial service.

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 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.

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.

See also Article 36 (g) (Section 27 (b)).

22. Purposes and principles of the international machinery

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A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland (A/8421)

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See Sections below dealing with specific organs.

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See Sections below dealing with specific organs.

See V (Section 23) and Sections below dealing with specific organs.

Fundamental Aims

Article 2

(1) The fundamental aims of the Authority shall be to provide for the orderly and safe development and rational management of the sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction and its resources and for expanding opportunities in the use thereof and shall ensure the equitable sharing by States in the benefit derived therefrom, taking into particular consideration the interests and needs of the developing countries, whether landlocked or coastal.

(2) In pursuing these aims, the Authority shall pay particular attention to the desirability of minimizing fluctuations of prices of land minerals and raw materials that may result from the exploitation of the resources of the area.

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See Sections below dealing with specific organs.

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.

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.

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See Articles 14 to
19 (Section 23) and
Sections below dealing
with specific organs.

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Chapter XVII

Purposes and Principles

Article 91

The purposes of the International Ocean Space Institutions are:

- (1) To maintain international law and order in ocean space and to this end to take effective measures for the prevention and removal of violations of the provisions of this Convention and for the suppression of slavery, piracy and the illicit trade in narcotic drugs and to bring about by peaceful means and in conformity with the principles of justice and international law, adjustment or settlement of disputes or situations which might lead to a breach of the peace or of international law and order in the oceans;
- (2) To safeguard the quality of the marine environment for all mankind so that it can be transmitted unimpaired to future generations;
- (3) To harmonize the actions of nations in ocean space with a view to securing expanding opportunities for all peoples in the peaceful use of the marine environment;
- (4) To encourage the investigation of ocean space and the dissemination of scientific knowledge about ocean space, to promote international co-operation in scientific research in ocean space and to strengthen the ocean research capabilities of technologically less advanced countries;
- (5) To promote the development and practical application of advanced technologies for the penetration of ocean space and for its peaceful use by man and to disseminate knowledge thereof;
- (6) To provide assistance to Contracting Parties or to their nationals in all matters relating to knowledge and development of ocean space and its resources and in particular to assist Contracting Parties to train their nationals in scientific disciplines and technologies related to the peaceful uses of ocean space;
- (7) To develop in an orderly manner and to manage rationally International Ocean Space and its living and non-living resources and to ensure the equitable sharing by all States in the benefits derived from the development of the natural resources of International Ocean Space, taking into particular consideration the interests and needs of poor countries, whether landlocked or coastal;
- (8) To promote the harmonization of national maritime laws and the development of international law relating to ocean space;
- (9) To undertake in ocean space such services to the international community and such activities as may be consistent with the provision of this Convention.

Article 92

In pursuit of the purposes stated in article 91 each Contracting Party shall act in accordance with the following principles:

- (1) Each Contracting Party, in order to ensure to itself and to all other Contracting Parties the rights and benefits resulting from membership of the Institutions, shall fulfil in good faith the obligations assumed by it in accordance with the present Convention;
- (2) Each Contracting Party shall settle disputes arising from the present Convention in a manner that does not endanger international order in ocean space. In the event that other means of pacific settlement of disputes fail, each Contracting Party undertakes to submit disputes to binding judicial settlement or adjudication in accordance with this Convention;
- (3) Each Contracting Party shall refrain from the threat or use of force in International Ocean Space unless expressly authorized by the Institutions;
- (4) Each Contracting Party shall respect the territorial, jurisdictional and ecological integrity of International Ocean Space and undertakes to conduct itself therein in accordance with such rules and regulations as may be issued by the Institutions;
- (5) Each Contracting Party undertakes to give the International Ocean Space Institutions every assistance in any action they may take in accordance with the present Convention.

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See V (Section 8).

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See entry in
Section 23 and Sections
below dealing with
specific organs.

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23. Functions and powers of the international machinery

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(A/8021)

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(A/8421)

A/AC.138/44 - Poland (A/8421)

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See Sections below dealing with specific organs.

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A/AC.138/46 - UK
(A/8421)

See paras. 2-15 (Section 11).

V. Powers of the organization

(a) The funds needed to operate the organization might be raised by means of a moderate tax levied on the surface area covered by exploration licences, at the time of the allocation of areas to each State;

(b) In straightforward cases, the allocation of areas would be carried out by the Board on the basis of predetermined criteria;

(c) Such automatic procedures would have to be abandoned where there were rival applicants and the granting of areas had to be done by the Conference of plenipotentiaries or its delegated Technical Committee. Since the method of adjudication to the highest bidder is liable to lead to over-bidding, which would not be in the interests of companies from smaller States, the best course would perhaps be to try to secure amicable agreement on a balanced distribution.

The French Government feels obliged to point out the desirability of harmony between States and mutual good will in this matter, so as to achieve solutions acceptable to the international community and prevent litigation and disputes which would impair the rational exploitation of an asset common to the whole of mankind.

Powers of the Authority

Article 16

The International Sea-bed Authority is empowered:

(1) to explore the International Sea-bed Area and exploit its resources for peaceful purposes by means of its own facilities, equipment and services, or such as are procured by it for the purpose;

(2) to issue licences to Contracting Parties, individually or in groups, or to persons, natural or juridical, under its or their sponsorship with respect to all activities of exploration of the International Sea-bed Area and the exploitation of its resources for peaceful purposes, and related activities, subject to such terms and conditions, including the payment of appropriate fees and other charges, as the Authority may determine;

(3) to provide for the equitable sharing by Contracting Parties of raw materials obtained from the International Sea-bed Area, funds received from the sale thereof, and all other receipts, as well as scientific information and such other benefits as may be derived from the exploration of the International Sea-bed Area and the exploitation of its resources;

(4) to establish or adopt in consultation, and where appropriate, in collaboration with the competent organ of the United Nations, and with the specialized agencies concerned, measures designed to minimize and eliminate fluctuation of prices of land minerals and raw materials that may result from the exploitation of the resources of the International Sea-bed Area, and any adverse economic effects caused thereby;

(5) to encourage and assist research on the development and practical application of scientific techniques for the exploration of the International Sea-bed Area and the exploitation of its resources, and to perform any operation or service useful in such research;

(6) to make provision in accordance with this Convention for services, equipment and facilities to meet the needs of research on and development and practical application of scientific techniques for the exploration of the International Sea-bed Area and the exploitation of its resources for peaceful purposes;

(7) to foster the exchange of scientific and technical information on the peaceful uses of the International Sea-bed Area and its resources;

(8) to promote and encourage the exchange and training of scientists and experts in the field of exploration of the sea-bed and the exploitation of its resources;

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

(10) to provide, upon request, technical assistance and experts for the use of developing countries in oceanographic exploration and exploitation;

(11) to establish and administer safeguards designed to ensure that materials, services, equipment, facilities and information made available by the Authority or at its request or under its supervision or control are not used in such a way as to further any military purpose;

(12) to establish and adopt, in consultation and, where appropriate, in collaboration with the competent organ of the United Nations and with the specialized agencies concerned, standards of safety for protection of health and minimization of danger to life and property, and the protection of the marine environment as a whole, and to provide for the application of these standards to its own operations as well as to all other operations authorized by it or under its control or supervision;

(13) to acquire or establish any facilities, plant and equipment useful in the carrying out of its authorized functions;

(14) to take any action necessary to give effect to the provisions of this Convention.

Article 17

In carrying out its functions, the International Sea-bed Authority shall:

(1) conduct its activities in accordance with the purposes and principles of the United Nations to promote peace and international co-operation,

See Article 26 (Section 3) and Sections below dealing with specific organs.

II. Specific Questions

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 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 licensing.

(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

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Chapter II

The Authority. Functions and Powers

Article 14

The International Sea-bed 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 land-locked 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.

Article 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.

Article 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.

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See Sections
below dealing with
specific organs

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I. Limits and status of the
international area

B. In the international area all powers relating to the exploration and exploitation of its mineral resources are exercised either by or on behalf of the International Authority. "On behalf of the International Authority" means that (a) any State powers within the international area are based on and defined in a licence given by the International Authority and (b) are exercised under supervision of the International Authority, while (c) disputes relating to existence and exercise of those powers are to be settled by an impartial tribunal at the request of any member State or the International Authority.

III. Powers of the International
Authority

The Assembly may upon recommendation of the Council decide to establish a body charged with direct exploration, exploitation and marketing (including the direct licensing of a private or public enterprise, joint-ventures and service-contracts) of a specified part of the international area.

A/AC.138/59 - Canada (A/8421)

International machinery

With regard to the question whether the international machinery should have the legal capacity and the administrative and fiscal power actually to exploit the resources of the sea-bed, it would seem appropriate to go very slowly regarding this possibility. On the one hand there is the risk of making the proposed machinery too cumbersome and building up overhead costs which might never be warranted by returns; (in this connexion it would be most unrealistic to suggest that investment capital for the conduct of any exploration and exploitation activities by the international machinery should be provided by States parties to the treaty or by the United Nations as a whole). Another factor to be taken into account is the very real possibility of conflict of interests between the international sea-bed machinery's role as a regulatory body and its possible role as an operating body. For instance, difficult questions could arise with regard to the possibility of giving preferred treatment to the international machinery in the granting of rights and in the enforcement of regulations. Moreover, since States of their nominees would be those most likely to have the necessary offshore expertise, it would seem most practical that exploitation be left to them. On the other hand, however, it might be useful to provide the proposed machinery with the power to engage in exploitation at some future stage, particularly if this were to facilitate full participation by the developing countries in the exploration and exploitation of sea-bed resources by means of joint ventures with the international machinery. However, other methods of facilitating full involvement by the developing countries should also be explored.

A/AC.138/63 - Japan

Chapter I

General Provisions

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.

A/AC.138/25 - USA
(A/8021)
(continued)

A/AC.138/26 - UK
(A/8021)
(continued)

A/AC.138/27 - France (A/8021)
(continued)

A/AC.138/33 - United Republic of Tanzania (A/8421) (continued)

and in conformity with policies of the United Nations furthering the establishment of safeguarded worldwide disarmament and in conformity with any international agreements entered into pursuant to such policies;

(2) establish control over the use of materials obtained by the Authority in order to ensure that these materials are used only for peaceful purposes;

(3) allocate all benefits derived from the exploration of the International Sea-bed Area and the exploitation of its resources in such a manner as to secure the greatest possible general benefit in all areas of the world, taking into particular consideration interests and needs of the developing countries, whether land-locked or coastal;

(4) submit reports on its activities annually to the General Assembly of the United Nations and, when appropriate, to the other organs of the United Nations on matters within the competence of those organs: if in connexion with the activities of the Authority there should arise questions that are within the competence of the Security Council, the Authority shall notify the Security Council, as the organ bearing the main responsibility for the maintenance of international peace and security.

A/AC.138/43 - USSR
(A/8421)
(continued)

A/AC.138/44 - Poland (A/8421) (continued)

(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.

See also II.3 (Section 1).

A/AC.138/49 - 13-Power Draft (A/8421) (continued)

A/AC.138/53 - Malta
(A/8421)
(continued)

A/AC.138/55 - 7-Power Working Paper
(A/8421) (continued)

A/AC.138/59 - Canada (A/8421)
(continued)

A/AC.138/63 - Japan (continued)

Article 17

Authorization for scientific research shall be granted to any entity offering, in the judgement 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 judgement 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.

Article 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.

Article 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.

See also Article 3 (Section 5).

24. Membership

A/AC.138/25 - USA (A/8021)

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A/AC.138/26 - UK (A/8021)

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A/AC.138/46 - UK (A/8421)

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A/AC.138/27 - France (A/8021)

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A/AC.138/33 - United Republic
of Tanzania (A/8421)

Membership

Article 18

Membership of the
International Sea-bed Authority
shall be open to all States.
All of the Contracting Parties
of this Convention shall
comprise the membership and such
other States as may be invited
by the members of the Authority
and who accept such invitation.

A/AC.138/43 - USSR (A/8421)

See Article 17, para. 1
(Section 2); and Article 28
(Section 34).

A/AC.138/44 - Poland (A/8421)

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.

A/AC.138/49 - 13-Power
Draft (A/8421)

Chapter II

The Authority Members

Article 11

Membership in the Authority shall be open to all States.

A/AC.138/53 - Malta (A/8421)

Part IV. The International Ocean Space Institutions

Chapter XVIII

Membership

Article 93

1. The original members of the International Ocean Space Institutions shall be those States which, having participated in the 1973 Conference on the Law of the Sea at _____, sign the present Convention and ratify it in accordance with article 205.
2. Any State with a population exceeding 75,000 inhabitants, recognized as independent by not less than 30 other States and which signs the present Convention and ratifies it in accordance with article 205 may become a member of the International Ocean Space Institutions.
3. The admission of any State to membership in the International Ocean Space Institutions under paragraph 2 is effected by a decision of the Assembly upon recommendation of the Council.
4. A member of the International Ocean Space Institutions which is incapable or unwilling to carry out its obligations under the present Convention or which persistently violates the provisions contained in the present Convention may be suspended from the exercise of the rights and privileges of membership or may be expelled from the Institutions by the Assembly upon the recommendation of the Council.

Chapter XXI

Associate Members

Article 116

1. Any State which signs the present Convention and ratifies it in accordance with article 205 but which does not possess the qualifications mentioned in article 93 (2) may become an associate member of the International Ocean Space Institutions.
2. The admission of a State to associate membership in the International Ocean Space Institutions is effected by a decision of the Council.
3. An associate member of the International Ocean Space Institutions which is unwilling to carry out its obligations under the present Convention or which persistently violates the provisions contained in the present Convention may be suspended from the rights and privileges of associate membership or its associate membership may be terminated by the Council. The decision of the Council may be appealed to the Assembly.

Article 117

1. Associate members may participate without vote in the deliberations of the Assembly.
2. Associate members shall have the right to participate without vote in the discussion before the Council of any question under article 116 (2), (3).
3. Associate members may request to participate without vote in the discussions of matters of particular interest to them by the major subsidiary organs of the Institutions and by any additional subsidiary organs that may be established by the Assembly.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

II. Representation

Member States to be divided into two categories. Category A consists of primarily coastal States; category B of primarily non-coastal States. Each member State shall indicate at the moment of ratification to which category it belongs. In any organ of the International Authority, in which not all States members are represented (such as the Council) there should be an equal number of representatives of category A and of category B. Within each category developing countries should be adequately represented.

A/AC.138/59 - Canada (A/8421)

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A/AC.138/63 - Japan

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.

24. Membership (continued)

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland (A/8421)

A/AC.138/49 - 13-Power
Draft (A/8421)

A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada (A/8421)

A/AC.138/63 - Japan

Article 118

Associate members are exempt from the obligation to contribute to the budgetary expenses of the Institutions, apart from their obligations under article 61 of this Convention.

Article 119

Associate members shall participate in the equitable sharing of benefits derived from the exploitation of the natural resources of International Ocean Space.

Article 120

Associate members shall receive without payment, at their request three copies of all publications of the Institutions, except for documents for the internal use of organs of the Institutions.

Article 121

Apart from the provisions of the preceding articles, Associate members shall enjoy all the rights and privileges of members.

25. Organs: General

A/AC.138/25 - USA (A/8021)

Chapter IV

International Sea-bed Resource Authority

A. General

Article 31

2. The principal organs of the Authority shall be the Assembly, the Council and the Tribunal.

9. Conflicts of Interest

Article 65

No representative to the Assembly or the Council nor any member of the Tribunal, Commissions, subsidiary organs (other than advisory bodies or consultants), or the Secretariat, shall, while serving as such a representative or member, be actively associated with or financially interested in any of the operations of any enterprise concerned with exploration or exploitation of the natural resources of the International Sea-bed Area.

A/AC.138/26 - UK (A/8021)

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A/AC.138/46 - UK (A/8421)

The structure of the Authority

16. The institutions set up to administer such a régime under the Convention would be simple, reflecting existing institutions of a technical nature which have proved to work well. The Authority would have the following organs:

A. An Assembly consisting of all States parties to the Convention;

B. A Governing Council, the members of which would be elected by the Assembly;

C. A Secretariat which would be headed by a Secretary-General appointed by the Assembly and which would include a Corps of Inspectors which could form the nucleus of Regional Offices of the Authority.

There would also be machinery for the settlement of disputes and might also be a Distribution Agency whose Board would be elected by the Assembly. The powers and functions envisaged for these organs are considered in more detail in the following paragraphs.

A/AC.138/27 - France (A/8021)

II. General Structure of the Plan

B. Substance

(b) Principles applicable to the organization:

(1) It would comprise, first a Permanent Board to examine all applications and take decisions in simple cases; this Board would centralize all information collected, act in a supervisory capacity and be empowered to issue warnings to States in the case of any violation of the Regulations;

(2) It would comprise, secondly, a Conference of Plenipotentiaries, assisted by a Technical Committee, which would be responsible for taking decisions on applications presenting difficulties (in the case of competition for the same area), and for considering, and if possible settling, cases of violations.

(3) The Conference and the Committee would thus be meeting-places for exchanges of views, negotiations, and possible arbitration. They should be able to bring in alongside the representatives of States, representatives of the companies, whatever their legal status (public or private).

A/AC.138/33 - United Republic of Tanzania (A/8421)

Organs of the Authority

Article 19

(1) The principal organs of the Authority shall be the Assembly, the Council and the Secretariat headed by the Secretary-General;

(2) The Authority and each of its organs may establish such subsidiary organs, adopt such rules, and determine their schedules of meetings, as may be necessary to carry out the fundamental aims enumerated in article 2.

A/AC.138/43 - USSR (A/8421)

Article 17

2. The principal organs of the International Agency shall be the Conference of States members of the Agency and the Executive Board.

3. The administrative and technical servicing of the activities of the Agency and its organs shall be undertaken by the Secretariat, headed by the Executive Secretary.

A/AC.138/44 - Poland (A/8421)

II. Specific Questions

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.

A/AC.138/49 - 13-Power Draft (A/8421)

Chapter III

Structure

Organs

Article 20

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

A/AC.138/53 - Malta (A/8421)

Part V. The International Ocean Space Institutions

Chapter XIX

Organs

Article 94

1. There are established as the principal organs of the International Ocean Space Institutions: an Assembly, a Council, an International Maritime Court and a Secretariat.
2. Major subsidiary organs are an Ocean Management and Development Commission, a Scientific and Technological Commission and a Legal Commission. Additional major subsidiary organs may be established by a decision of the Assembly.

A/AC.138/55 - 7-Power Working Paper (A/8421)

See II (Section 24) and III (Section 23).

A/AC.138/59 - Canada (A/8421)

See sections below dealing with specific organs.

A/AC.138/63 - Japan

Chapter III

The International Sea-bed Authority

31. Principal organs

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

26. Assembly or Plenary Conference

(a) Composition

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland
(A/8421)

Chapter IV

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See II.B. (b)
(Section 25).

The Assembly

Article 18

The International Sea-bed Authority

A/AC.138/46 - UK (A/8421)

Article 20

1. The Conference of the Agency shall be composed of all States members of the Agency.

See II.5.
paras. 19 (i) and
20 (Section 25).

B. The Assembly

Article 34

See para. 17
(Section 26 (b)).

1. The Assembly shall be composed of all Contracting Parties.

(1) The Assembly shall be the supreme organ of the Authority and shall be composed of all members of the Authority;

(2) Each member shall have not more than three representatives who may be assisted by advisers in the Assembly;

(b) Functions and powers

Chapter IV

A/AC.138/26 - UK (A/8021)

See II.B. (b)
subparas. (2) and (3)
(Section 25) and V. (C)
(Section 23).

The Assembly

Article 18

The International Sea-bed Resource
Authority

.....

Article 20

2. The functions of the Conference shall be to:

B. The Assembly

A/AC.138/46 - UK (A/8421)

Article 35

The Assembly

The powers and duties of the Assembly shall be to:

17. General supervision over the operation of the Authority would be exercised by an Assembly consisting of all Parties to the Convention. The Assembly would meet in Plenary Session (say every two years) and in Extraordinary Session at the request of, say, one-third of all States parties. It would elect its own President and determine its own rules of procedure. Amongst its responsibilities would be the approval of the Authority's budget; the election of the Council; the appointment of the Secretary-General; and the election of the Board of any Distribution Agency. The Assembly would also lay down the guidelines which the Board of such an Agency would have to observe in the distribution of funds in excess of the administrative requirements of the Authority.

(a) Elect its President and other officers;

(b) Elect the members of the Council in accordance with Article 36;

(c) Determine its rules of procedure and constitute such subsidiary organs as it considers necessary or desirable;

(d) Require the submission of reports from the Council;

(e) Take action on any matter referred to it by the Council;

(f) Approve proposed budgets for the Authority, or return them to the Council for reconsideration and resubmission;

(g) Approve proposals by the Council for changes in the allocation of the net income of the Authority within the limits prescribed in Appendix D, or return them to the Council for reconsideration and resubmission;

(h) Consider any matter within the scope of this Convention and make recommendations to the Council or Contracting Parties as appropriate;

(i) Delegate such of its powers as it deems necessary or desirable to the Council and revoke or modify such delegation at any time;

(j) Consider proposals for amendments of this Convention in accordance with Article 76.

(3) The Assembly may discuss any question or any matter within the scope of the Authority or relating to its powers and functions and may formulate recommendations to the Council on any matter related to the Authority's fundamental aims;

(4) The Assembly may initiate studies designed to advance the fundamental aims of the Authority or to carry out its decisions;

(5) The Assembly shall approve the Authority's budget;

(6) The Assembly shall receive and consider biannual and special reports from the Council and the Secretary-General.

See also Article 33, para. (2)
(Section 12).

(a) Establish the Executive Board;

(b) Consider and approve the Agency's administrative budget;

(c) Consider general questions relating to the exploitation of the resources of the sea-bed and the subsoil thereof;

(d) Adopt resolutions, on the recommendation of the Executive Board, depriving States of the rights and privileges arising from membership of the Agency, in the event of systematic violations of the provisions of this Treaty, and adopt resolutions, depriving States of the said rights and privileges on the recommendation of the United Nations Security Council;

(e) Consider the reports of the Executive Board;

(f) Appoint, on the recommendation of the Executive Board, the Executive Secretary of the Agency, and consider questions concerning the staff of the Secretariat;

(g) Draft general principles and also recommendations to States concerning the prevention of pollution and contamination of the marine environment as a result of the exploration and exploitation of sea-bed resources;

(h) Consider other questions which may arise in connexion with application of this Treaty, unless they come within the competence of the Executive Board.

A/AC.138/49 - 13-Power Draft (A/8421)

Chapter III

Structure

Section 1

The Assembly

Article 21

The Assembly shall be the supreme organ of the International Sea-bed Authority and shall consist of all States members of the Authority.

Chapter III

Structure

Section 1

The Assembly

Article 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.

Article 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;

A/AC.138/53 - Malta (A/8421)

Part V. The International Ocean Space Institutions

Chapter XX

The Assembly

Procedure

Article 95

1. The Assembly shall comprise all members of the International Ocean Space Institutions.

Part V. The International Ocean Space Institutions

Chapter XX

The Assembly

Functions and Powers

Article 98

1. The Assembly may discuss any questions or any matters within the scope of the present Convention or relating to the powers and functions of any organs mentioned in article 94 of this Convention and may make recommendations to the members of the Institutions or to the Council or to both on any such questions and matters.
2. The Assembly may discuss any question relating to the maintenance of international law and order in ocean space or relating to the suppression of slavery, piracy and the illicit trade in narcotic drugs in ocean space.
3. The Assembly may call the attention of the Council to situations which are likely to endanger international law and order in ocean space or the territorial jurisdictional or ecological integrity of International Ocean Space.

Article 99

The Assembly may make recommendations for the purpose of:

- (a) promoting international political co-operation in ocean space;
- (b) promoting international co-operation in economic, social, scientific, technological and other fields in ocean space;
- (c) promoting the progressive development of international law with regard to ocean space and particularly to International Ocean Space.

Article 100

The Assembly may make recommendations for the peaceful adjustment of any situation which it deems likely to impair the ecology of ocean space or the general welfare of the international community or co-operation among nations in ocean space.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

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A/AC.138/59 - Canada (A/8421)

See International Machinery
para. (a) (Section 26 (b)).

International Machinery

(a) A legislative body or assembly which would be the supreme organ of the international machinery and would have the power to approve its budgets, to elect or appoint members of its executive body, to decide on matters referred to it by that body, and to approve amendments to the sea-bed treaty (subject perhaps to ratification by States parties). It would be composed of all States parties to the treaty. (Although it has been suggested that agencies other than States might be represented on such a body, some States at least could not agree to this proposal). Decisions of the assembly would be taken on the basis of a two-thirds majority.

A/AC.138/63 - Japan

Chapter III

The International Sea-bed Authority

Assembly

Composition and Voting

Article 32

(1) The Assembly shall consist of all member States.

Chapter III

The International Sea-bed Authority

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.

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.

See also Article 15 (Section 33 (b)).

26. Assembly or Plenary Conference (continued)

(b) Functions and powers (continued)

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland
(A/8421)

A/AC.138/49 - 13-Power Draft (A/8421)

(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.

Article 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.

A/AC.138/53 - Malta (A/8421)

Article 101

1. The Assembly shall approve upon recommendation of the Council:

(a) The draft detailed convention for straits used for international navigation mentioned in article 48 (4) of this Convention;

(b) The draft convention for the delimitation of the jurisdiction over ocean space which may be claimed by a State by virtue of its sovereignty or control over the islands referred to in article 37 (2) of this Convention;

(c) A draft convention or conventions between the Institutions and the coastal States concerning the matters referred to in article 59 of this Convention;

(d) A draft convention between the Institutions and coastal States concerning the matters referred to in article 61 (2) of this Convention;

(e) Draft conventions with Contracting Parties concerning the compensation to which they have right in accordance with article 38 (2) of this Convention.

Article 102

The Assembly shall approve any agreements between the Institutions and the United Nations or between the Institutions and other intergovernmental organizations.

Article 103

1. The Assembly shall consider and approve the budget of the Institutions recommended by the Council.

2. The Assembly may return the budget with its recommendations to the Council for reconsideration: the Council shall then submit an amended budget to the Assembly within one month.

3. In so far as expenditure is not covered by revenue, the expenses of the Institutions shall be borne by the members as apportioned by the Assembly.

Article 104

1. The Assembly shall approve upon recommendation of the Council rules relating to the equitable sharing in the benefits derived from the exploitation of the natural resources of International Ocean Space in accordance with article 91 (7) of this Convention.

2. The Assembly may return the rules with its recommendations to the Council. In this case amended rules will be submitted by the Council to the Assembly at the latter's next regular session.

Article 105

The Assembly shall approve any rules with regard to the exercise of borrowing powers by the Institutions.

Article 106

The Assembly shall approve such rules of a general and non-discriminatory character relating to overflight of ocean space; navigation, maritime safety, communications, marine and ocean bed installations, conservation, management and development of natural resources, the conduct of scientific research, the maintenance of the quality of the marine environment and the harmonization of conflicting uses of International Ocean Space as may be recommended by the Council.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada (A/8421)

A/AC.138/63 - Japan

26. Assembly or Plenary Conference (continued)

(b) Functions and powers (continued)

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland (A/8421)

(c) Voting

Chapter IV

The International Sea-bed Resource Authority

B. The Assembly

4. In the Assembly each Contracting Party shall exercise one vote.

5. Decisions of the Assembly shall be taken by a majority of the members present and voting, except as otherwise provided in this Convention.

A/AC.138/46 - UK (A/8421)

Article 20

1. Each State participating in the Conference shall have one vote.

2. Decisions by the Conference on questions of substance shall be made by a two-thirds majority of the members of the Agency present and voting; decisions on procedural questions shall be made by a simple majority.

II. Specific Questions

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.

A/AC.138/49 - 13-Power Draft (A/8421)

A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada (A/8421)

A/AC.138/63 - Japan

Article 107

1. The Assembly shall receive and consider biennial reports from the organs mentioned in article 94 of this Convention.
2. The Assembly may require special reports from the principal organs or from the major subsidiary organs of the Institutions on any matter within the scope of this Convention.

See also Articles 93 (4); 116 (3) (Section 24); 151 (Section 27 (b)) and 163 (1) (Section 29).

Chapter III

Structure

Section 1

The Assembly

Article 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.

Part V. The International Ocean Space Institutions

Chapter XX

The Assembly

Voting

Article 108

Each member of the Assembly shall have one vote.

Article 109

1. A member which is in arrears in the payment of its financial contributions to the Institutions shall have no vote in the Assembly if the amount of its arrears exceeds the amount of the contributions due from it for the preceding two full years.

2. A member which has not executed in so far as possible a final judgement of the International Maritime Court within one year of its delivery shall have no vote in the Assembly until it commences execution of such judgement.

Article 110

Each member of the Assembly shall belong to one of the following categories:

Category A, Category B, Category C.

Article 111

1. Shall belong to category A members which are coastal States and which have a population exceeding 90 million inhabitants.
2. Shall also belong to category A members which are coastal States and which possess six of the following qualifications:
 - (a) Have a population greater than 45 million inhabitants;
 - (b) Have a length of coastline exceeding 5,000 kilometres;
 - (c) Possess more than 1 million gross tons of merchant shipping;
 - (d) Own and operate more than 20 ships and submersibles aggregating not less than 30,000 gross tons for scientific and rescue purposes;

See International Machinery
para. (a) (Section 26 (b)).

Chapter III

The International Sea-bed Authority

Assembly

Composition and Voting

Article 32

(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.

26. Assembly or Plenary Conference (continued)

(c) Voting (continued)

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland (A/8421)

A/AC.138/49 - 13-Power Draft (A/8421)

A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada (A/8421)

A/AC.138/63 - Japan

(e) Have produced more than 1 million metric tons of fish annually over the previous three years;

(f) Have produced annually over the previous three years more than 1 million tons of hydrocarbons or other minerals from the sea-bed of ocean space;

(g) Own submarine pipelines or cables in International Ocean Space;

(h) Have expended more than \$20 million annually from State funds, over the previous three years for scientific research in ocean space;

(i) Have contributed annually over the previous three years more than \$25 million to the Institutions in respect of revenue obtained from the exploitation of natural resources in national ocean space.

3. Members belonging to Category A, shall review the qualifications mentioned in paragraphs 1 and 2 of this article every six years. On such occasions the qualifications mentioned in paragraph 1 and in paragraph 2 (a), (c), (d), (e), (f), (h) and (i) may be increased by not more than 20 per cent.

Article 112

Shall belong to Category B all members which are coastal States and which do not belong to Category A.

Article 113

Shall belong to Category C all members which are not coastal States.

Article 114

1. Three weeks before each regular session of the Assembly, the members belonging to each of the categories indicated in article 110 shall meet separately.

2. At the meetings referred to in paragraph 1, members belonging to Category A shall:

(a) Ascertain whether all members still possess the qualifications required in article 111;

(b) Consider requests from members of the Institutions for membership in Category A;

(c) Transact such other business as may be necessary under the provisions of this Convention.

3. At the meetings referred to in paragraph 1, members belonging to Category B and to Category C meeting separately shall:

(a) elect as many members from their respective category as are necessary to fill vacancies in the Council or in the major subsidiary organs of the Institutions;

(b) transact such other business as may be necessary under the provisions of this Convention.

4. Decisions taken at the meetings mentioned in paragraphs 2 and 3 may be appealed to the Assembly.

Article 115

1. Decisions of the Assembly shall be made by an affirmative majority of the members present and voting, and by a majority of members present and voting belonging to category A and to one of the other two categories mentioned in article 110.

2. Decisions by the Assembly relating to the matters mentioned in articles 101, 102, 103 and 104 shall be made by an affirmative majority of members present and voting and by a majority of members in each of the categories indicated in article 110.

26. Assembly or Plenary Conference (continued)

(d) Procedure

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland
(A/8421)

Chapter IV

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.....

The Assembly

Article 19

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The International Sea-bed Resource Authority

A/AC.138/46 - UK (A/8421)

B. The Assembly

See para. 17 (Section 26 (b)).

Article 34

2. The first session of the Assembly shall be convened The Assembly shall thereafter be convened by the Council at least once every three years at a suitable time and place. Extraordinary sessions of the Assembly shall be convened at any time on the call of the Council, or the Secretary-General of the Authority at the request of one-fifth of the Contracting Parties.

3. At meetings of the Assembly a majority of the Contracting Parties is required to constitute a quorum.

The Assembly shall meet in ordinary session every two years. Extraordinary sessions may be convened at the request of the Council or of a simple majority of the members of the Assembly.

Regular sessions of the Conference shall be convened every two years. Extraordinary sessions may be held at the request of the Executive Board or a majority of the Parties to this Treaty.

Article 22

The Assembly shall adopt its own rules of procedure. Until such time as it does so, the rules of procedure of the General Assembly of the United Nations shall apply mutatis mutandis.

Article 23

The Assembly shall elect its President and Vice-President at the beginning of each session.

Languages

Article 43

The official languages of the Authority shall be English, French, Spanish and Russian. The working languages of the regional sub-headquarters or centres may be any languages agreed upon by the members in the area concerned.

A/AC.138/49 - 13-Power Draft
(A/8421)

See Article 22
(Section 26 (c)).

A/AC.138/53 - Malta (A/8421)

Part V. The International Ocean Space Institutions

Chapter XX

The Assembly

Article 95

2. The first session of the Assembly shall be convened The Assembly shall thereafter meet in regular session once every two years and in such special sessions as occasion may require. Special sessions shall be convened by the General Secretary of the Institutions either on his own initiative or at the request of the Council or of one-third of the members of the Institutions;

3. At meetings of the Assembly a majority of members shall constitute a quorum.

Article 96

The Assembly shall adopt its own rules of procedure.

It shall elect its President for each session.

Article 97

The Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

The need for such subsidiary organs as may be established shall be reviewed by the Assembly every six years.

A/AC.138/55 - 7-Power Working
Paper (A/8421)

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A/AC.138/59 - Canada (A/8421)

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A/AC.138/63 - Japan

Chapter III

The International Sea-bed Authority

Assembly

Composition and Voting

Article 32

(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.

27. The Council or the Executive Board

(a) Composition

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR
(A/8421)

A/AC.138/44 - Poland
(A/8421)

Chapter IV

The International Sea-bed
Resource Authority

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The Council

Article 21

See II.5.
paras. 19 (2) and
20 (Section 25).

C. The Council

A/AC.138/46 - UK (A/8421)

The Council

Article 24

(1) The Council shall consist of 18 members elected by the Assembly and shall include not less than three land-locked States. Members serving on the Council shall be selected with due regard to geographic distribution;

(3) Terms of office for members of the Council shall be three years. Members may serve successive terms;

(4) The United Nations General Assembly shall conduct the first election; subsequent elections shall be conducted by the Authority's Assembly.

(a) the socialist countries,

(b) the countries of Asia,

(c) the countries of Africa,

(d) the countries of Latin America,

(e) the western European and other countries not coming within the categories specified in subparagraphs (a) to (d) of this paragraph, and

(f) one land-locked country from each of the aforementioned groups of States.

2. Members of the Executive Board shall be elected for a term of four years.

1. The Council shall be composed of twenty-four Contracting Parties and shall meet as often as necessary.

2. Members of the Council shall be designated or elected in the following categories:

(a) The six most industrially advanced Contracting Parties shall be designated in accordance with Appendix E;

(b) Eighteen additional Contracting Parties, of which at least 12 shall be developing countries, shall be elected by the Assembly, taking into account the need for equitable geographical distribution.

3. At least two of the 24 members of the Council shall be land-locked or shelf-locked countries.

4. Elected members of the Council shall hold office for three years following the last day of the Assembly at which they are elected and thereafter until their successors are designated or elected. Designated members of the Council shall hold office until replaced in accordance with Appendix E.

5. Representatives on the Council shall not be employees of the Authority.

See also Appendix E (text at end of table).

19. The membership of the Council should reflect the diverse interests of States parties to the Convention, including those of the developing and land-locked countries. However, just as it would be appropriate to give developing States a special position on any institutions of the Authority which might be set up for the purpose of distributing sea-bed benefits, so it would be necessary to make special provision on the Council for those States with an established sea-bed technology, who have a special contribution to make in organizing sea-bed activity and without whose support no international régime in this field would be viable. This could be done by designating as members of the Council a limited number of industrialized countries which, either directly or through commercial enterprises based on their territory, have or develop a substantial sea-bed technology. An important criterion in establishing a country's claim to be a designated member of the Council might be the extent to which it has an established tradition and expertise in the transfer of technological skills and abilities to developing countries

A/AC.138/49 - 13-Power Draft
(A/8421)

Chapter III

Structure

Section 2

Council

Article 26

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

Article 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.

Article 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 12 members shall expire at the end of one year and that of 12 other members at the end of two years.

A/AC.138/53 - Malta (A/8421)

Part V

The International Ocean
Space Institutions

Chapter XXII

The Council

Composition

Article 122

1. The Council shall consist of the following members of the Institutions:

(a) all members belonging to category A;

(b) an equal number of members belonging to category B;

(c) five members belonging to category C.

2. Members belonging to category B and to category C shall be elected by members of their respective categories voting separately, due regard being paid in the first instance to population and to the qualifications referred to in article 111 and also to geographical distribution.

3. Council members belonging to category B and to category C shall be elected for a term of four years. In the first election half less one of the members belonging to category B and two of the members in category C shall be chosen for a term of two years. A retiring member shall not be eligible for immediate re-election.

See also article 111
(section 26 (c)).

A/AC.138/55 - 7-Power
Working Paper (A/8421)

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A/AC.138/59 - Canada (A/8421)

International Machinery

(b) An executive body or council which would exercise authority delegated to it by the Assembly. More specifically, it would have the power to prepare and submit budgets to the Assembly; to approve recommendations by other subsidiary bodies of the international machinery concerning regulations and operating rules for sea-bed exploration and exploitation activities, and concerning marketing procedures and possibly the distribution of benefits; to propose to the Assembly amendments to the sea-bed treaty; and to make appointments to other subsidiary bodies. With regard to the membership of the Council, it is considered that traditional formulae used within the United Nations for representation on the basis of geographic groupings would be completely inapplicable in determining the composition of the executive body of the international sea-bed machinery. In this context the ranges of national interests cut clear across traditional groupings, and it is the proper balance of these national interests which must be taken into account in fixing the membership of the Council. In achieving this the essential criteria could be the level of State expertise in off-shore technology and resource management, the length of coastline, area of continental shelf, land-locked or shelf-locked status, and level of economic development. It is such criteria which must be adequately taken into account - pro or con - and to do so probably will require the creation of two classes of membership, the first being composed of States Parties designated by the Assembly, and the second of States Parties elected by the Assembly. Various permutations and combinations would offer themselves in determining which of the criteria just described should be used as a basis for the designation or election of members of the Council and the relative proportion to be maintained between the two classes of membership. It need only be added that the Council should be a small body and should probably not exceed a maximum of 30 States. Decisions of the Council should be made on the basis of a two-thirds majority vote. Very difficult questions arise concerning proposals for weighted voting or double majorities. It would be incongruous, and incompatible with the fundamental principle of the United Nations of the sovereign equality of States, in an international regime intended to benefit humanity as a whole, to give a virtual right of veto to any particular State or group of States.

A/AC.138/63 - Japan

Chapter III

The International Sea-bed
Authority

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.

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.

27. The Council or the Executive Board

(b) Functions and powers

A/AC.138/25 - USA (A/8021)

CHAPTER IV

C. The Council

Article 40

The powers and duties of the Council shall be to:

- (a) Submit annual reports to the Contracting Parties;
- (b) Carry out the duties specified in this Convention and any duties delegated to it by the Assembly;
- (c) Determine its rules of procedure;
- (d) Appoint and supervise the Commissions provided for in this Chapter, establish procedures for the co-ordination of their activities, and determine the terms of office of their members;
- (e) Establish other subsidiary organs, as may be necessary or desirable, and define their duties;
- (f) Appoint the Secretary-General of the Authority and establish general guidelines for the appointment of such other personnel as may be necessary;
- (g) Submit proposed budgets to the Assembly for its approval, and supervise their execution;
- (h) Submit proposals to the Assembly for changes in the allocation of the net income of the Authority within the limits prescribed in Appendix D;
- (i) Adopt and amend Rules and Recommended Practices in accordance with Chapter V, upon the recommendation of the Rules and Recommended Practices Commission;
- (j) Issue emergency orders, at the request of any Contracting Party, to prevent serious harm to the marine environment arising out of any exploration or exploitation activity and communicate them immediately to licensees, and authorizing or sponsoring Parties, as appropriate;
- (k) Establish a fund to provide emergency relief and assistance in the event of a disaster to the marine environment resulting from exploration or exploitation activities;
- (l) Establish procedures for co-ordination between the International Seabed Resource Authority, and the United Nations, its specialized agencies and other international or regional organizations concerned with the marine environment;
- (m) Establish or support such international or regional centres, through or in co-operation with other international and regional organizations, as may be appropriate to promote study and research of the natural resources of the sea-bed and to to train nationals of any Contracting Party in related science and the technology of the exploration and exploitation, taking into account the special needs of developing States Parties to this Convention;

A/AC.138/26 - UK (A/8021)

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A/AC.138/46 - UK (A/8421)

The Council

18. In the interests of efficiency and of economy immediate responsibility for the functioning of the Authority would be vested in a small body - the Council - meeting as often as might be required and at least once a year. An important function of the Council would be the periodic review of the licensing and other technical provisions of the Convention with a view to ensuring that they reflected knowledge gained through experience and the development of technology. The Council would also have special responsibility in relation to conservation and to pollution caused by operations exploiting the sea-bed, possibly with specific powers for dealing with an emergency, such as a blow-out. Within limits prescribed by the Convention it would be for the Council to determine what proportion of the quotas to which States parties would be entitled (see paragraph 5) would be made available for exclusive development licensing at any one distribution, and to decide upon the date of distribution and related procedural details.

20. The Council would have the responsibility for issuing licences to States in respect of the area beyond the trusteeship area and determining their technical competence for this purpose. In general the Council would not exercise control over sub-licences, which would be the responsibility of States. However, it might be thought appropriate to give the Council powers to require the revocation of a sub-licence in cases where a State could not show that its sub-licencee satisfied the technical and financial requirements of the sea-bed régime. Where the Council had good grounds for doubt as to a State's ability to carry out its responsibilities under the Convention, it might be empowered as an alternative to withholding a licence, to require arrangements whereby the State concerned entered into an agency or partnership agreement with a regional organization, or perhaps with another contracting State if the arrangements were such as to enable the two States in conjunction to satisfy the requirements of the Convention. While the primary obligation to meet the Authority's requirements would lie with States there might also be cases involving pollution or danger to life where immediate action was required. The Convention might therefore provide machinery enabling the Council to instigate and concert urgent action in these cases.

21. The Convention would make provision for the Council to delegate some of its functions (for example, in the field of issuing licences) to the Secretary-General. He would have to exercise these delegated functions in accordance with such directions as the Council might give him and subject to such conditions as the Council might impose, and he would be responsible for the proper discharge of these functions to the Council which would maintain a general supervision over them.

A/AC.138/27 - France (A/8021)

See II.B.(b), sub-para. 1 (Section 25).

A/AC.138/33 - United Republic of Tanzania (A/8421)

The Council

- (1) The Council shall be the executive organ of the Authority and shall execute policy decisions of the Assembly.
- (2) Between sessions of the Assembly, the Council shall take such administrative and technical decisions as may be necessary within the functions and financial resources of the Authority, and shall report the decisions which have been taken to the Assembly at the Assembly's following session, for approval.

Article 29

- (1) The Council shall be responsible for the promulgation of rules and regulations pertaining to the following subjects:
 - (a) Issuing of licences for the exploration of the area;
 - (b) Issuing of licences for the exploitation of the resources of the area;
 - (c) Collection of fees and royalties as provided by the terms of the licences;
 - (d) Prevention of pollution and contamination from sea-bed activities;
 - (e) Establishment of liability for damages arising from exploration and exploitation of the area and its resources;
 - (f) Prevention of harmful interference with marine resources from activities conducted in the area;
 - (g) Provision of technical assistance to developing countries to increase their capabilities to participate in activities related to the area;
 - (h) Inspection of exploration and exploitation activities in relation to the area and its resources;
 - (i) Arbitral procedure for the settlement of disputes;
 - (j) And such other matters as the Assembly may authorize.
- (2) The Council shall issue licences for exploration or exploitation of the area and its resources to members of the Authority or groups of members in accordance with such criteria as may be laid down by the Assembly.
- (3) Regulations issued by the Council shall take effect on dates specified by the Council and may be revoked only by the Council or the Assembly.
- (4) Regulations issued by the Council may specify, but are not limited to, such matters as:
 - (a) The minimum and maximum areas in which exploration or exploitation rights shall be granted;
 - (b) Time-limits for such rights;

A/AC.138/43 - USSR (A/8421)

Article 22

1. The Board shall be the executive organ of the International Agency.
2. The functions of the Board shall be to:

(a) Supervise the implementation of the provisions of this Treaty by States Parties to the Treaty, and supervise activities in connexion with the industrial exploration and exploitation of the resources of the sea-bed and the subsoil thereof;

(b) Co-ordinate the activities of States Parties to this Treaty in the industrial exploration of the resources of the sea-bed and the subsoil thereof, and make a general evaluation, on the basis of data obtained from States, of the reserves of proven resources of the area over which they extend and their geographical distribution on the sea-bed, and also of the depth at which they occur in the subsoil;

(c) (Functions in regard to the issue of licences);

(d) (Functions in regard to the distribution of benefits);

(e) Supervise compliance with the provisions of articles 10 and 12 of this Treaty;

(f) Consider specific problems arising for land-locked countries in connexion with the exploration and exploitation of the resources of the sea-bed and the subsoil thereof;

(g) Promote exchanges of scientific and technical information on questions concerning the exploration and exploitation of the resources of the sea-bed and the subsoil thereof;

(h) Adopt recommendations to States Parties to this Treaty concerning ways of preventing pollution of the marine environment and damage to the living resources of the sea as a result of the industrial exploration and exploitation of the resources of the sea-bed and the subsoil thereof;

(i) Assist in settling disputes between States concerning implementation of this Treaty, by applying the means for peaceful settlement listed in Article 33 of the United Nations Charter; and establish, at the request of parties to a dispute, organs of conciliation, arbitration, etc., for settling the dispute;

(j) Consider other questions arising out of the provisions of this Treaty.

A/AC.138/44 - Poland (A/8421)

.....

A/AC.138/49 - 13-Power Draft
(A/8421)

CHAPTER III

Section 2

Council

Article 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 sea-bed activities;

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

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

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

A/AC.138/53 - Malta (A/8421)

PART V

CHAPTER XXIII

Functions and powers

Article 125

1. In order to achieve prompt and effective action by the Institutions, its members confer upon the Council primary responsibility for the harmonization of the actions of nations and the maintenance of law and order in ocean space and for the maintenance of the ecological, territorial and jurisdictional integrity and the rational management and orderly development of International Ocean Space and of its natural resources. Members of the Institutions agree that in carrying out these duties the Council acts on their behalf, except as otherwise provided in this Convention.

2. In discharging its duties the Council shall act in accordance with the purposes and principles, of the United Nations and with the purposes and principles of the International Ocean Space Institutions. The specific powers granted to the Council for the discharge of these duties are laid down in Chapters XXIII, XXIV and XXV of the present Convention.

3. The Council shall submit biennial reports to the Assembly for its consideration two months before the opening of each regular session. The Council shall submit promptly to the Assembly such special reports as the latter may request.

Article 126

Members and Associate Members of the Institutions agree to accept decisions of the Council in accordance with the present Convention.

Article 127

1. The Council may undertake such functions with regard to the military uses of ocean space or with regard to the regulation of armaments in ocean space as may be conferred upon it by a unanimous vote of members in category A referred to in article 110.

2. Abstention from voting shall not be regarded as detracting from the unanimity of the vote on the questions referred to in paragraph 1.

Article 128

The Council, after obtaining the advice of the Scientific and Technological Commission, shall give its consent if it considers this appropriate, to such requests as may be received from States relating to the matters referred to in article 2 (a) of this Convention.

Article 129

1. The Council shall consider and submit to the Assembly with its recommendations such rules of a general and non-discriminatory character, in accordance with the present Convention, relating to overflight of ocean space, navigation, maritime safety, communications, conservation, management and development of natural resources, scientific research and the maintenance of the quality of the marine environment and the harmonization of conflicting uses of International Ocean Space, as it may consider necessary for an effective pursuit of the Purposes of the Institutions.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

IV. Facilities for land-locked States

When the Council of the International Authority licenses a land-locked State, acting alone or together with another State, to exploit a particular part of the international area it shall - in accordance with the right of free access of land-locked countries to the sea - recommend arrangements between the land-locked State and one or more other member States designed to ensure effective freedom of communication between the land-locked State and the area under licence, for the purpose of exploration, exploitation, including storage and processing and marketing of the mineral resources of that area.

See also III (Section 23).

A/AC.138/59 - Canada
(A/8421)

See International
Machinery, para. (b)
(Section 27 (a)).

A/AC.138/63 - Japan

CHAPTER III

Council

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;

(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.

See also Articles 15 (Section 33 (b)) and 41 (Section 26 (b)).

27. The Council or the Executive Board (continued)

(b) Functions and powers (continued)

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France
(A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland
(A/8421)

(n) Authorize and approve agreements with a Trustee Party, pursuant to Article 29, under which the International Seabed Resource Authority will perform some or all of the Trustee Party's functions.

Article 41

In furtherance of Article 5, paragraph 2, of this Convention, the Council may, at the request of any Contracting Party and taking into account the special needs of developing States Parties to this Convention:

(a) Provide technical assistance to any Contracting Party to further the objectives of this Convention;

(b) Provide technical assistance to any Contracting Party to help it to meet its responsibilities and obligations under this Convention;

(c) Assist any Contracting Party to augment its capability to derive maximum benefit from the efficient administration of the International Trusteeship Area.

(c) Performance requirements upon which the grants are based;

(d) Payments to be made to the Authority;

(e) Rules to be observed in order to minimize interference with navigation, fishing and other marine activities, submarine cables, and pipelines; and

(f) Anti-pollution standards.

(5) The Council shall have the authority subject to Article 21 to remind or suspend a licence of any member who violates its conditions.

(6) Opportunities to apply for licences and information about all licences and information about all licences allocated shall be publicized to all States and to the Press.

See also Article 33, para. 1
(Section 12).

A/AC.138/49 - 13-Power Draft
(A/8421)

A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada
(A/8421)

A/AC.138/63 - Japan

2. The rules referred to in paragraph 1 shall be obligatory for all users of International Ocean Space two years after their adoption by the Assembly.

3. Violation of the rules referred to in paragraph 1 entails legal responsibility when injury is caused to the rights and interests of others. Persistent violators may be excluded from the use of the International Ocean Space.

Article 130

1. The Council shall consider and submit to the Assembly with its recommendations such non-discriminatory normative principles for the harmonization of activities in International Ocean Space and for the use of technology in, or relating to, ocean space as it may consider necessary to ensure the beneficial use and ecological integrity of the marine environment.

2. Two years after their adoption by the Assembly the normative principles referred to in paragraph 1 shall be considered by the International Maritime Court to form part of international law.

Article 131

The Council shall submit to the Assembly with its recommendations within four years of the entry into force of the present Convention:

(a) A draft convention for straits used for international navigation referred to in article 48 of this Convention;

(b) A draft convention for the delimitation of the jurisdiction over ocean space which may be claimed by a State by virtue of its sovereignty or control over the islands referred to in article 57 (2) of this Convention;

(c) A draft convention or conventions between the Institutions and coastal States concerning the matters referred to in article 59 of this Convention;

(d) A draft convention between the Institutions and coastal States concerning the matters referred to in article 61 of this Convention.

Article 132

This Council shall submit to the Assembly with its recommendations draft conventions with Contracting Parties concerning the compensation to which they have right in accordance with article 38 of this Convention.

Article 133

1. The Council shall submit to the Assembly with its recommendations within two years of the entry into force of the present Convention draft rules concerning the equitable sharing in the benefits derived from the exploitation of the natural resources of International Ocean Space.

2. Rules concerning the equitable sharing in the benefits derived from the exploitation of the natural resources of International Ocean Space may be reviewed by the Council every six years. Revised rules shall be submitted to the Assembly for approval.

27. The Council or the Executive Board (continued)

(b) Functions and powers (continued)

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France
(A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland
(A/8421)

A/AC.138/49 - 13-Power Draft
(A/8421)

A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada
(A/8421)

A/AC.138/63 - Japan

Article 134

The Council shall submit the budget of the Institutions to the Assembly for approval.

Article 135

1. The Council shall submit to the Assembly for approval:

(a) Agreements with any State concerning the transfer to the administrations of the Institutions of sandbanks, reefs or islands;

(b) The basic norms governing the administration of inhabited islands.

Article 136

The Council shall approve the establishment of:

(a) Scientific stations, nature parks or marine preserves in International Ocean Space;

(b) Such services for international community purposes in ocean space as may be consistent with the provisions of this Convention.

Article 137

The Council shall make recommendations to States with regard to the policies and measures required in order effectively to achieve the purposes of the Institutions in ocean space as a whole.

Management and development of International Ocean Space

Article 138

1. The Council is primarily responsible for the rational management and orderly development of International Ocean Space and of its natural resources.

2. The responsibilities of the Council under paragraph 1 shall be exercised in accordance with article 91 of this Convention. In addition, the Council in exercising its responsibilities for the management and development of resources shall:

(a) Manage the living resources of International Ocean Space in such a manner as to secure the maximum sustainable yield taking into due account the need to preserve the ecological balance of ocean space; to this end commercial fishing in International Ocean Space shall be subject to a system of non-discriminatory licensing based on scientific findings;

(b) Manage and develop the non-living resources of International Ocean Space by means of a system of non-discriminatory licensing taking into due account the need to preserve as far as possible the ecological integrity of ocean space, and the desirability of promoting efficiency of exploitation and of avoiding undue prejudice to the interests of States exporting minerals or raw materials obtained from land sources.

Licences

Article 145

The Council shall approve all licences for the exploitation of the natural resources of International Ocean Space.

27. The Council or the Executive Board (continued)

(b) Functions and powers (continued)

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France
(A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland
(A/8421)

A/AC.138/49 - 13-Power Draft
(A/8421)

A/AC.138/53 - Malta (A/8421)

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A/AC.138/59 - Canada
(A/8421)

A/AC.138/63 - Japan

CHAPTER XXIII

Maintenance of law and order in
ocean space and threats to the
integrity of International Ocean
Space

Article 146

The Council has primary responsibility for the maintenance of law and order in ocean space and for the maintenance of the territorial and jurisdictional integrity of International Ocean Space. In discharging these responsibilities the Council shall act in accordance with the Purposes and Principles of the Charter of the United Nations and with article 91 of this Convention.

Article 147

The Council may investigate any situation or event or any action by States which might be seriously prejudicial to the maintenance of law and order in ocean space or which might endanger the territorial or jurisdictional integrity of International Ocean Space. In such cases the Council shall make and publish a report containing a statement of the facts with regard to the situation, event or action which gave rise to the investigation.

Article 148

Should the Council determine the existence of any situation, event or action which is seriously prejudicial to the maintenance of law and order in ocean space or which endangers the territorial or jurisdictional integrity of International Ocean Space, it may make such recommendations as may appear desirable taking into account, where appropriate, the provisions of chapter XXIV of this Convention.

Article 149

Should the Council determine that action under article 148 has proved inadequate or has not been complied with and should it consider that law and order in ocean space is seriously prejudiced or that the territorial or jurisdictional integrity of International Ocean Space is seriously impaired, it may decide what measures not involving the use of force are to be employed to give effect to its decisions. Such measures may include:

- (a) Action under chapter XXIV of the Convention;
- (b) Exclusion of a member or an associate member from participation in the equitable sharing of benefits derived from the exploitation of the natural resources of International Ocean Space;
- (c) Exclusion of a member or an associate member or of natural or juridical person under its sponsorship from their right to exploit the natural resources of International Ocean Space in accordance with the provisions of this Convention;
- (d) Suspension of a member or associate member from participation in the rights and privileges of membership in the Institutions;
- (e) Exclusion of any State or of its nationals from their right to make use of International Ocean Space or the air space above International Ocean Space for some or for all purposes.

27. The Council or the Executive Board (continued)

(b) Functions and powers (continued)

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France
(A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland
(A/8421)

A/AC.138/49 - 13-Power Draft
(A/8421)

A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada
(A/8421)

A/AC.138/63 - Japan

Article 150

1. The Council may call upon all members of the Institutions or some of them, as it may determine, to ensure compliance with its decisions under article 149 by such action as may be necessary, including the employment of naval and air forces.

2. Members of the Institutions shall join in affording assistance in ensuring compliance with the decisions of the Council, unless the Assembly has taken the action referred to in article 151.

Article 151

The Assembly shall be informed immediately of any action taken under article 150. The Assembly may recommend that the Council reconsider the action taken by it.

CHAPTER XXV

Maintenance of the ecological integrity
of International Ocean Space

Article 155

The Council, or a body designated by the Council, may investigate any event, situation, practice or action which might cause significant and extensive change in the natural state of the marine environment or which might impair ecological integrity of International Ocean Space.

Article 156

1. Should the Council determine that any event, situation, practice or action endangers the natural state of the marine environment or impairs the ecological integrity of International Ocean Space the Council or the body designated by it, shall make and publish a report containing a statement of the facts.

2. If the event, situation, practice or action referred to in paragraph 1 has occurred in national ocean space, the Council on reliable scientific advice shall make such recommendations as may appear necessary on reliable scientific advice to the coastal State or States concerned.

3. If the event, situation, practice or action referred to in paragraph 1 has occurred in International Ocean Space, the Council shall take such action within its powers as it deems necessary or desirable. This may include the regulation of dangerous practices or technologies and the prohibition or licensing of the disposal of harmful substances in International Ocean Space.

Article 157

In the event of imminent danger of serious contamination of extensive areas of International Ocean Space, the Council, after taking scientific advice, may proclaim a regional or a world ecological emergency.

Article 158

1. During a state of regional or world ecological emergency States within the region or all States in the world, as the case may be, whether or not members of the Institutions, shall take promptly such action for the preservation of the ecology of ocean space as may be prescribed by the Council, or by the body designated by the Council for this purpose.

2. The Council, if necessary, shall ensure compliance with its directions by taking any of the actions mentioned in articles 149 and 150.

See also articles 93 (4) and 116 (3) (Section 24); 139 to 144 (Section 11) and 152 to 153 (Section 20).

27. The Council or the Executive Board

(c) Voting

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland
(A/8421)

Chapter IV

C. The Council

Article 38

Decisions by the Council shall require approval by a majority of all its members, including a majority of members in each of the two categories referred to in paragraph 2 of Article 36.

For Article 36 (2) see
Section 27 (a).

(d) Procedure

Chapter IV

C. The Council

Article 37

1. The Council shall elect its President for a term of three years.

2. The President of the Council may be a national of any Contracting Party, but may not serve during his term of office as its representative in the Assembly or on the Council.

3. The President shall have no vote.

4. The President shall:

(a) Convene and conduct meetings of the Council;

(b) Carry out the functions assigned to him by the Council.

Article 39

Any Contracting Party not represented on the Council may participate, without a vote, in the consideration by the Council or any of the subsidiary organs, of any question which is of particular interest to it.

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A/AC.138/46 - UK (A/8421)

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A/AC.138/26 - UK (A/8021)

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A/AC.138/46 - UK (A/8421)

See para. 18
(Section 27 (b)).

The Council

Article 24

(2) Substantive decisions of the Council shall be made by a two-third majority vote of its members. Procedural decisions (including the question what is a substantive decision) shall be made by a simple majority vote;

The Council

Article 25

The Council shall meet at least twice a year.

Article 26

The Council shall elect a Chairman from among its members to serve for the first month. Thereafter the Chairmanship shall rotate among the members of the Council in alphabetical order.

Article 27

Save as is herein provided, the Council shall adopt its own rules of procedure.

See also Article 43
(Section 26 (d)).

Article 23

1. Decisions of the Executive Board on questions of substance shall be made by agreement; decisions on procedural questions shall be made by the majority of the members of the Board present and voting.

2. Decisions relating to article 22, paragraph 2 (i) shall be considered as adopted only if the parties to the dispute so agree.

Article 23

3. Sessions of the Executive Board shall be held not less than once a year.

Article 24

Any State Party to the Treaty which is not represented on the Executive Board may, if the question under consideration directly affects its interests, participate in the discussions in the Executive Board, without the right to vote.

See II.6.
paras. 21 to 23
(Section 26 (c)).

A/AC.138/49 - 13-Power Draft
(A/8421)

Chapter III

Section 2

The Council

Article 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.

Chapter III

Section 2

Council

Article 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.

Article 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.

A/AC.138/53 - Malta (A/8421)

Part V

Chapter XXII

The Council

Article 124

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

2. Decisions of the Council shall require the affirmative vote of a majority of its members and of a majority of members in category A and in one of the other categories referred to in article 110.

3. Members which cannot vote in the Assembly in accordance with article 109 shall not vote in the Council.

For Articles 109 and 110 see Section 26 (c).

Part V

Chapter XXII

The Council

Procedure

Article 123

1. The Council shall be so organized as to be able to function continuously. Each member of the Council shall for this purpose be represented at all times at the seat of the Institutions.

2. The Council may establish such subsidiary organs as it deems necessary for the performance of its functions. The Council shall review every six years the continued need for such organs as it may establish.

3. The Council shall adopt its own rules of procedure, including the method of selecting its President and the determination of the latter's powers and term of office.

4. Any member of the Institutions which is not a member of the Council may participate without vote, in the discussion of any questions by the Council whenever the latter considers that the interests of that member are specially affected.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

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A/AC.138/59 - Canada (A/8421)

See International Machinery
para. (b) (Section 27 (a)).

A/AC.138/63 - Japan

Chapter III

Council

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.

28. The International Sea-Bed Enterprise

<u>A/AC.138/25 - USA (A/8021)</u>	<u>A/AC.138/26 - UK (A/8021)</u>	<u>A/AC.138/27 - France (A/8021)</u>	<u>A/AC.138/33 - United Republic of Tanzania (A/8421)</u>	<u>A/AC.138/43 - USSR (A/8421)</u>	<u>A/AC.138/44 - Poland (A/8421)</u>
.....	.....	.....	See Article 16 (1) (Section 23)	.....	.....
	<u>A/AC.138/46 - UK (A/8421)</u>				

A/AC.138/49 - 13-Power Draft
(A/8421)

Chapter III

Structure

Section 3

The Enterprise

Article 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).

Article 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.

Article 35

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

A/AC.138/53 - Malta (A/8421)

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A/AC.138/55 - 7-Power Working
Paper (A/8421)

See III (Section 23)

A/AC.138/59 - Canada (A/8421)

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A/AC.138/63 - Japan

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29. The Tribunal

A/AC.138/25 - USA (A/8021)

Chapter IV

The International Sea-bed Resource Authority

E. The Tribunal

Article 46

1. The Tribunal shall decide all disputes and advise on all questions relating to the interpretation and application of this Convention which have been submitted to it in accordance with the provisions of this Convention. In its decisions and advisory opinions the Tribunal shall also apply relevant principles of international law.

2. Subject to an authorization under Article 96 of the Charter of the United Nations, the Tribunal may request the International Court of Justice to give an advisory opinion on any question of international law.

Article 47

1. The Tribunal shall be composed of five, seven, or nine independent judges, who shall possess the qualifications required in their respective countries for appointment to the highest judicial offices, or shall be lawyers especially competent in matters within the scope of this Convention. In the Tribunal as a whole the representation of the principal legal systems of the world shall be assured.

2. No two of the members of the Tribunal may be nationals of the same State.

Article 48

1. Each Contracting Party shall be entitled to nominate candidates for membership on the Tribunal. The Council shall elect the Tribunal from a list of these nominations.

2. The members of the Tribunal shall be elected for nine years and may be re-elected, provided however, that the Council may establish procedures for staggered terms. Should such procedures be established, the judges whose terms are to expire in less than nine years shall be chosen by lots drawn by the Secretary-General.

3. The members of the Tribunal shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

4. A member of the Tribunal unable to perform his duties may be dismissed by the Council on the unanimous recommendation of the other members of the Tribunal.

5. In case of a vacancy, the Council shall elect a successor who shall hold office for the remainder of his predecessor's term.

Article 49

The Tribunal shall establish its rules of procedure; elect its President, appoint its Registrar and determine his duties and terms of service; and adopt regulations for the appointment of the remainder of its staff.

Article 50

1. Any Contracting Party which considers that another Contracting Party has failed to fulfil any of its obligations under this Convention may bring its complaint before the Tribunal.

2. Before a Contracting Party institutes such proceedings before the Tribunal it shall bring the matter before the Operations Commission.

3. The Operations Commission shall deliver a reasoned opinion in writing after the Contracting Parties concerned have been given the opportunity both to submit their own cases and to reply to each other's case.

4. If the Contracting Party accused of a violation does not comply with the terms of such opinion within the period laid down by the Commission, the other Party concerned may bring the matter before the Tribunal.

5. If the Commission has not given an opinion within a period of three months from the date when the matter was brought before it, either Party concerned may bring the matter before the Tribunal without waiting further for the opinion of the Commission.

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(A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

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(A/8421)

A/AC.138/44 - Poland
(A/8421)

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See II.5,
paras. 19 (Section 25)
and 25 (Section 20).

A/AC.138/46 - UK (A/8421)

Machinery for the Settlement
of Disputes

24. However carefully and precisely the Convention is drafted disputes may arise either between States parties or between States parties and the Authority. While it is to be expected that these will in the normal course be settled through diplomatic channels or through informal discussions under the auspices of the Authority, there will be occasions when special machinery may be required for this purpose. Existing arrangements, including the International Court of Justice, might have a role to play in this context. However, it could also be agreed that the Convention should provide for a Tribunal to which parties to a dispute could have recourse in the absence of a solution by other methods. The jurisdiction of the Tribunal would include, for example, disputes as to the interpretation of the Convention, disputes arising out of the terms of licences and disputes concerning boundaries of allocated areas. It might be possible to enable the Tribunal to settle disputes by a process of conciliation as well as by adjudication.

25. The Tribunal would have to be entirely independent. To this end the Convention would establish a panel of persons, nominated by the States parties, who would be either qualified jurists or persons specially qualified in sea-bed operations, technology and allied sciences. Where a dispute came before the Tribunal, each of the parties would be entitled to designate one person from the panel and the persons so designated could then jointly select a further member of the panel (who would have to be legally qualified) to act as Chairman.

A/AC.138/49 - 13-Power
Draft (A/8421)

A/AC.138/53 - Malta (A/8421)

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Part V. The International Ocean Space Institutions

Chapter XXVI

The International Maritime Court

Article 159

The International Maritime Court shall be the principal judicial organ of the International Ocean Space Institutions. It shall function in accordance with the annexed Statute which forms an integral part of the present Convention.

Article 160

1. All members and associate members of the Institutions are ipso facto parties to the Statute of the International Maritime Court.
2. A State which is not a member or an associate member of the Institutions may become a party to the Statute of the International Maritime Court on conditions to be determined in each case by the Assembly upon recommendations of the Council.

Article 161

The competence of the International Maritime Court shall extend to persons natural or juridical other than States with respect to matters which have occurred in International Ocean Space.

Article 162

1. Each member and associate member of the Institutions undertakes to comply with a final decision of the International Maritime Court in any case to which it is a party.
2. If any member or associate member of the Institutions party to a case fails to perform the obligations incumbent upon it under a final judgement rendered by the Court within one year of its delivery, it shall have no vote in the Assembly of the Institutions and the other party may have recourse to the Council which may, if it deems necessary, take any of the measures referred to in article 149 of this Convention.
3. If the Secretariat or any subsidiary organ of the Institutions fails to perform within one year the obligations incumbent upon it under a final judgement rendered by the Court, the other party may have recourse to the Council, which shall investigate the situation and may, if it deems necessary, take any action within its powers.
4. If any party to a case, other than those referred to in paragraphs 2 and 3, fails to perform within one year the obligations incumbent upon it under a final judgement rendered by the Court, the other party may have recourse to the Council which shall investigate the situation and may, if it deems necessary, take any of the measures referred to in article 149 of this Convention.

Article 163

1. The Assembly or the Council or the General Secretary, after consultation with his senior advisers, may request the International Maritime Court to give an advisory opinion on any legal question within the scope of this Convention.
2. Any member or associate member of the Institutions may request the advisory opinion of the Court on the equity or non-discriminatory nature of the principles and rules referred to in articles 129 and 130 as also on the equity or non-discriminatory nature of the licensing systems referred to in article 138.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

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International Machinery

(f) A tribunal, composed of a small body of legal (and perhaps technical) experts, representing the various legal systems of the world, elected by the council or assembly, to settle disputes arising out of the treaty between contracting parties or between contracting parties and the international machinery. Provisions should also be made, however, for the settlement of disputes by negotiation, conciliation or arbitration in keeping with Article 33 of the United Nations Charter. The tribunal should be empowered to seek advisory opinions from the International Court of Justice in accordance with the United Nations Charter. Consideration could also be given to allowing appeals from the tribunal to the International Court of Justice on questions of international law, and provision should be made in any event for giving effect to the decisions of the tribunal.

A/AC.138/63 - Japan

Chapter III

The International Sea-bed Authority

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 7 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.

29. The Tribunal (continued)

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A/AC.138/27 - France
(A/8021)

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A/AC.138/43 - USSR
(A/8421)

A/AC.138/44 - Poland
(A/8421)

Article 51

1. Whenever the Operations Commission, acting on its own initiative or at the request of any licensee, considers that a Contracting Party or a licensee has failed to fulfil any of its obligations under this Convention, it shall issue a reasoned opinion in writing on the matter after giving such party the opportunity to submit its comments.

2. If the party concerned does not comply with the terms of such opinion within the period laid down by the Commission, the latter may bring a complaint before the Tribunal.

Article 52

1. If the Tribunal finds that a Contracting Party or a licensee has failed to fulfil any of its obligations under this Convention, such party shall take the measures required for the implementation of the judgement of the Tribunal.

2. When appropriate, the Tribunal may decide that the Contracting Party or the licensee who has failed to fulfil its obligations under this Convention shall pay to the Authority a fine of not more than \$1,000 for each day of the offence, or shall pay damages to the other party concerned, or both.

3. In the event the Tribunal determines that a licensee has committed a gross and persistent violation of the provisions of this Convention and has not within a reasonable time brought his operations into compliance, the Council may, as appropriate, either revoke his licence or request that the Trustee Party revoke it. The licensee shall not, however, be deprived of his licence if his actions were directed by a Trustee or Sponsoring Party.

Article 53

If disputes under Articles 1, 26 and 30 have not been resolved by the time and methods specified in those Articles, the International Sea-bed Boundary Review Commission shall bring the matter before the Tribunal.

Article 54

1. Any Contracting Party which questions the legality of measures taken by the Council, the Rules and Practice Commission, the Operations Commission, or the Sea-bed Boundary Review Commission on the grounds of a violation of this Convention, lack of jurisdiction, infringement of important procedural rules, unreasonableness, or misuse of powers, may bring the matter before the Tribunal.

2. Any person may, subject to the same conditions, bring a complaint to the Tribunal with regard to a decision directed to that person, or a decision which, although in the form of a rule or a decision directed to another person, is of direct concern to the complainant.

3. The proceedings provided for in this article shall be instituted within a period of two months, dating, as the case may be, either from the publication of the measure concerned or from its notification to the complainant, or, in default thereof, from the day on which the latter learned of it.

4. If the Tribunal considers the appeal well-founded, it should declare the measure concerned to be null and void, and shall decide to what extent the annulment shall have retroactive application.

Article 55

1. The organ responsible for a measure declared null and void by the Tribunal shall be required to take the necessary steps to comply with the Tribunal's judgement.

2. When appropriate, the Tribunal may require that the Authority repair or pay for any damage caused by its organs or by its officials in the performance of their duties.

Article 56

When a case pending before a court or tribunal of one of the Contracting Parties raises a question of the interpretation of this Convention or of the validity or interpretation of measures taken by an organ of the Authority, the court or tribunal concerned may request the Tribunal to give its advice thereon.

Article 57

The Tribunal shall also be competent to decide any dispute connected with the subject matter of this Convention submitted to it pursuant to an agreement, licence, or contract.

A/AC.138/49 - 13-Power A/AC.138/53 - Malta (A/8421)
Draft (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada (A/8421)

A/AC.138/63 - Japan

29. The Tribunal (continued)

A/AC.138/25 - USA (A/8021)

Article 58

If a Contracting Party fails to perform the obligations incumbent upon it under a judgement rendered by the Tribunal, the other Party to the case may have recourse to the Council, which shall decide upon measures to be taken to give effect to the judgement. When appropriate, the Council may decide to suspend temporarily, in whole or in part, the rights under this Convention of the Party failing to perform its obligations, without impairing the rights of licensees who have not contributed to the failure to perform such obligations. The extent of such a suspension should be related to the extent and seriousness of the violation.

Article 59

In any case in which the Council issues an order in emergency circumstances to prevent serious harm to the marine environment, any directly affected Contracting Party may request immediate review by the Tribunal, which shall promptly either confirm or suspend the application of the emergency order pending the decision of the case.

Article 60

Any organ of the International Sea-bed Resource Authority may request the Tribunal to give an advisory opinion on any legal question connected with the subject matter of this Convention.

A/AC.138/26 - UK (A/8021)

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(A/8421)

A/AC.138/44 - Poland
(A/8421)

<u>A/AC.138/49 - 13-Power</u> <u>Draft (A/8421)</u>	<u>A/AC.138/53 - Malta (A/8421)</u>	<u>A/AC.138/55 - 7-Power</u> <u>Working Paper (A/8421)</u>	<u>A/AC.138/59 - Canada (A/8421)</u>	<u>A/AC.138/63 - Japan</u>
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30. The Secretariat

A/AC.138/25 - USA (A/8021)

Chapter IV

The International Sea-bed Resource Authority

F. The Secretariat

Article 61

The Secretariat shall comprise a Secretary-General and such staff as the International Sea-bed Resource Authority may require. The Secretary-General shall be appointed by the Council from among persons nominated by Contracting Parties. He shall serve for a term of six years, and may be reappointed.

Article 62

The Secretary-General shall:

- (a) Be the chief administrative officer of the International Sea-bed Resource Authority, and act in that capacity in all meetings of the Assembly and the Council;
- (b) Report to the Assembly and the Council on the work of the International Sea-bed Resource Authority;
- (c) Collect, publish and disseminate information which will contribute to mankind's knowledge of the sea-bed and its resources;
- (d) Perform such other functions as are entrusted to him by the Assembly or the Council.

Article 63

1. 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 external authority. They shall refrain from any action which might reflect on their position as international officials responsible only to the International Sea-bed Resource Authority.
2. Each Contracting Party shall 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.

Article 64

1. The staff of the International Sea-bed Resource Authority shall be appointed by the Secretary-General under the general guidelines established by the Council.
2. Appropriate staffs shall be assigned to the various organs of the Authority as required.
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.

A/AC.138/26 - UK (A/8021)

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A/AC.138/46 - UK (A/8421)

The Secretariat

26. There would be a Secretariat headed by a Secretary-General who would be appointed by the Assembly on the recommendation of the Council for a period of, say, six years. The Secretariat would be international in character, responsible solely to the Authority and would be funded from sea-bed revenues. It should be kept as small and economical as possible.

27. The main functions of the Secretariat would be to service the institutions of the Authority and any subsidiary bodies they might establish. Apart from any authority delegated to him by the Council, the Secretary-General would be responsible *inter alia* for maintaining records, preparing the budget and circulating information to States parties. In discharging these functions, the Secretariat would be answerable to the Council.

The Inspectorate

28. In order to ensure that technical standards were being observed the Secretariat would include a Corps of Inspectors. The Convention might provide for inspections to be carried out as a matter of routine, subject only to reasonable notice being given. Safeguards for the confidentiality of commercial information would also be required and States would have to retain the right to refuse inspection by individuals whom they regarded as unacceptable.

Regional Offices

29. The number of inspectors required by the Authority need not initially be large. Once activity had gathered momentum, the inspectorate might be deployed regionally to form the nucleus of Regional Offices of the Authority. These could undertake a variety of subsidiary activities in addition to their inspectorate functions provided these activities were kept separate from the inspectorate and were separately funded. For example, the Regional Offices could provide technical advice on such matters as the training of personnel required by States parties to administer sea-bed operations. In this way, the Regional Offices might in due course have an important part to play in assisting States parties to take full advantage of their rights under the Convention.

A/AC.138/27 - France (A/8021)

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A/AC.138/33 - United Republic of Tanzania (A/8421)

The Secretariat

Article 31

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

(2) The Secretary-General shall prepare the Authority's budget and shall present it to the Council which shall then submit it, with its recommendations, to the Assembly for its approval.

(3) The Secretary-General shall report biannually to the Assembly, and shall have the power to propose items for the agenda of the Assembly and the Council.

(4) The Secretary-General shall serve for a term of five years which may be extended or renewed by the Assembly.

(5) The Secretary-General may, subject to financial provisions, recruit such staff as may be necessary to carry out the aims of the Authority.

(6) Members of the staff, designated by the Secretary-General, shall, at all reasonable times, have access to the installations, facilities, and activities of members relating to the area and its resources, for inspection and enforcement purposes.

A/AC.138/43 - USSR (A/8421)

See Article 17, para. 3 (Section 25).

A/AC.138/44 - Poland (A/8421)

See II.5.19 (3) (Section 25).

A/AC.138/49 - 13-Power Draft (A/8421)

Chapter III

Structure

Section 4

The Secretariat

Article 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.

Article 37

The Secretary-General shall act in that capacity in all meetings of the Assembly and the Council 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.

Article 38

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

Article 39

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

Article 40

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

Article 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.

Article 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.

A/AC.138/53 - Malta (A/8421)

Part V. The International Ocean Space Institutions

Chapter XXVII

The Secretariat

Article 164

1. The Secretariat shall comprise a General Secretary and such staff as the Institutions may require. The General Secretary shall be appointed by the Assembly upon recommendation of the Council. He shall serve for a term of six years and may be reappointed for one further term.

2. The General Secretary may be relieved of his duties for cause by the Council.

3. The Council shall recommend to the Assembly the appointment of a new General Secretary in the event of the General Secretary becoming physically or mentally incapacitated.

Article 165

The General Secretary shall:

(a) be the chief administrative officer of the International Ocean Space Institutions and act in that capacity in all meetings of the Assembly and of the Council;

(b) report periodically to the Council and biennially to the Assembly on the activities of the Institutions;

(c) prepare the budget of the Institutions, taking into account the provisions of articles 173 and 174 of this Convention and submit it to the Council;

(d) inspect at reasonable times and with due consideration the resource exploration and exploitation activities of any State or of its nationals in International Ocean Space;

(e) participate in so far as possible in scientific research conducted in International Ocean Space and bring the results thereof to the attention of members and associate members;

(f) issue periodic notices to mariners giving publicity to any danger to navigation of which he has knowledge pursuant to article 50 of this Convention;

(g) receive notifications of the temporary suspension of innocent passage of foreign vessels pursuant to article 48 (1) of this Convention and bring such notifications to the attention of the Council;

(h) receive from the States the maps referred to in articles 38, 40 (7) and 45 (2) of this Convention and bring them to the attention of the Council and to that of all members and associate members of the Institutions;

(i) receive notifications pursuant to article 52 (4) of this Convention and bring such notifications to the attention of the Council;

(j) maintain a register of the disposal of radio-active wastes in International Ocean Space;

(k) administer under rules laid down by the appropriate organs of the Institutions any inhabited islands which may be transferred to the administration of the Institutions and any scientific stations, marine preserves or nature parks which may be established;

(l) perform such other functions as may be entrusted to him by the principal organs or by the major subsidiary organs of the Institutions.

Article 166

The General Secretary may bring to the attention of the Council any matter which in his opinion may endanger the achievement of the purposes of the Institutions.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

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A/AC.138/59 - Canada (A/8421)

International Machinery

(c) A recording or advisory body or secretariat headed by a secretary-general who would be appointed by the council and in turn would appoint his own staff in accordance with guidelines fixed by the council. The secretary-general would report to the assembly and the council on the work of the international sea-bed machinery as a whole, and would collect data on sea-bed research and technology and publish and disseminate information on the sea-bed and its resources with a view to furthering the objectives of the international régime. Other functions might be assigned to him by the assembly or council, including the hiring of expert staffs for the operating commission. The most important provision to be made with regard to his office would be to ensure respect for its international character and freedom from influence from States Parties. Other approaches to this particular function of the machinery offer themselves along the lines of the IAEA precedent. These approaches, of course, also merit consideration.

A/AC.138/63 - Japan

Chapter III

The International Sea-bed Authority

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.

A/AC.138/25 - USA (A/8021) (continued)

A/AC.138/26 - UK (A/8021) (continued)

A/AC.138/27 - France
(A/8021) (continued)

A/AC.138/33 - United Republic of Tanzania
(A/8421) (continued)

A/AC.138/43 - USSR
(A/8421) (continued)

A/AC.138/44 - Poland
(A/8421) (continued)

A/AC.138/49 - 13-Power Draft (A/8421)
(continued)

Article 43

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

Article 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.

Article 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.

A/AC.138/53 - Malta (A/8421) (continued)

Article 167

In the performance of his duties the General Secretary shall be assisted by principal advisers, no two of whom may be nationals of the same State. The senior adviser in terms of length of service shall act as General Secretary if the latter becomes temporarily incapacitated.

Article 168

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

2. Each member and associate member of the Institutions undertakes to respect the exclusively international character of the responsibilities of the General Secretary and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 169

1. The staff shall be appointed by the General Secretary under general regulations established by the Council.

2. Appropriate staffs shall be permanently assigned to the principal organs and to the major subsidiary organs of the Institutions and, as required to the other organs of the Institutions.

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.

Article 170

1. The General Secretary and members of the staff shall not be actively associated with or financially interested in any operations of any enterprise concerned with exploration or exploitation of the natural resources of International Ocean Space.

2. The General Secretary shall request permission of the Council in the event that exceptions to the provisions of paragraph 1 are necessary.

Article 171

Disclosure by the General Secretary or by a member of the staff of confidential technical information shall be considered a grave infraction and shall make the offending party legally responsible for damages.

Budget

Article 172

1. The budget shall cover a period of not less than two years.

2. In preparing the budget of the Institutions the General Secretary shall pay due regard to the need for the greatest possible administrative economy and efficiency. No activities requiring expenditure shall be undertaken without the express authorization of the Assembly or of the Council or of one of the major subsidiary organs of the Institutions unless otherwise provided in this Convention.

3. The General Secretary shall submit biennially to the Assembly and to the Council a cost/benefit analysis of the activities of the Institutions.

4. The General Secretary shall submit every six years to the Council or to the Assembly, as appropriate, a special report on the activities of the subsidiary organs of the Institutions, apart from the major subsidiary organs referred to in article 94, containing an assessment of the efficiency of the work of these organs and such recommendations as he may consider useful.

See also articles 173 and 174 (section 12).

A/AC.138/55 - 7-Power
Working Paper (A/8421)
(continued)

A/AC.138/59 - Canada (A/8421)
(continued)

A/AC.138/63 - Japan (continued)

31. Subsidiary organs

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland (A/8421)

CHAPTER IV

THE INTERNATIONAL SEABED RESOURCE AUTHORITY

D. The Commissions

Article 42

1. There shall be a Rules and Recommended Practices Commission, an Operations Commission, and an International Seabed Boundary Review Commission.
2. Each Commission shall be composed of five to nine members appointed by the Council from among persons nominated by Contracting Parties. The Council shall invite all Contracting Parties to submit nominations.
3. No two members of a Commission may be nationals of the same State.
4. A member of each Commission shall be elected its President by a majority of the members of the Commission.
5. Each Commission shall perform the functions specified in this Convention and such other functions as the Council may specify from time to time.

Article 43

1. Members of the Rules and Recommended Practices Commission shall have suitable qualifications and experience in seabed resources management, ocean sciences, maritime safety, ocean and marine engineering, and mining and mineral technology and practices. They shall not be full-time employees of the Authority.
2. The Rules and Recommended Practices Commission shall:
 - (a) Consider, and recommend to the Council for adoption, Annexes to this Convention in accordance with Chapter V;
 - (b) Collect from and communicate to Contracting Parties information which the Commission considers necessary and useful in carrying out its functions.

Article 44

1. Members of the Operations Commission shall have suitable qualifications and experience in the management of seabed resources, and operation of marine installations, equipment and devices.
2. The Operations Commission shall:
 - (a) Issue licences for seabed mineral exploration and exploitation, except in the International Trusteeship Area;
 - (b) Supervise the operations of licensees in co-operation with the Trustee or Sponsoring Party, as appropriate, but shall not itself engage in exploration or exploitation;
 - (c) Perform such functions with respect to disputes between Contracting Parties as are specified in Section E of this Chapter;
 - (d) Initiate proceedings pursuant to Section E of this Chapter for alleged violations of this Convention, including but not limited to proceedings for revocation or suspension of licences;
 - (e) Arrange for and review the collection of international fees and other forms of payment;
 - (f) Arrange for the collection and dissemination of information relating to licensed operations;
 - (g) Supervise the performance of the functions of the Authority pursuant to any agreement between a Trustee Party and the Authority under Article 29;
 - (h) Issue deep drilling permits.

Article 45

1. Members of the International Seabed Boundary Review Commission shall have suitable qualifications and experience in marine hydrography, bathymetry, geodesy and geology. They shall not be full-time employees of the Authority.
2. The International Seabed Boundary Review Commission shall:
 - (a) Review the delineation of boundaries submitted by Contracting Parties in accordance with Articles 1 and 26 to see that they conform to the provisions of this

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See II.B. (b),
subparas. (2) and
(3) (Section 25).

See Articles 34 (Section 12)
and 35 (Section 13).

.....

See II.B.19 (Section 25).

A/AC.138/46 - UK (A/8421)

para. 16 (Section 25);
paras. 22 and 23 (Section 12).

A/AC.139/49 - 13-Power
Draft (A/8421)

See Article 25
(Section 26 (b)).

A/AC.138/53 - Malta (A/8421)

PART V. THE INTERNATIONAL OCEAN SPACE INSTITUTIONS

CHAPTER XXVIII

MAJOR SUBSIDIARY ORGANS

A. Ocean Management and Development Commission

Composition and procedure

Article 177

There is established an Ocean Management and Development Commission.

Article 178

1. The Ocean Management and Development Commission shall comprise all members belonging to Category A referred to in Article 111, an equal number of members belonging to Category B and five members belonging to Category C.

2. Members belonging to Category B and to Category C shall be elected members of their respective categories voting separately, due regard being paid to population and to the qualifications for membership in Category A referred to in Article 111 and also to geographical distribution. Not more than half the members of the Ocean Management and Development Commission belonging to Category B or to Category C shall also be members of the Council or of the legal Commission.

3. Members of the Ocean Management and Development Commission belonging to Category B and to Category C shall be elected for a term of four years. In the first election half less one of the members belonging to Category B and two of the members belonging to Category C shall be chosen for a period of two years. A retiring member shall not be eligible for immediate re-election.

Article 179

1. Each member of the Ocean Management and Development Commission shall have one vote.

2. Decisions of the Commission shall be made by an affirmative vote of a majority of the members present and voting including a majority of members present and voting belonging to two of the categories referred to in Article 110.

3. Members which cannot vote in the Assembly in accordance with Article 109, shall not vote in the Commission.

Article 180

1. The Ocean Management and Development Commission shall be so organized as to be able to function continuously. Each member of the Commission shall for this purpose be represented at all times at the seat of the Institutions.

2. The Commission may, with the consent of the Council, establish such subsidiary organs as it deems necessary for the performance of its functions. The Commission shall review every six years the continued need for such subsidiary organs as it may establish.

3. The Commission shall adopt its own rules of procedure.

4. The Commission shall invite any member or associate member of the Institution to participate, without vote, in its deliberations on any matter of particular concern to that member or associate member.

Article 181

1. The Ocean Management and Development Commission may make arrangements for representatives of the United Nations and of the specialized agencies established by intergovernmental agreement and brought into relationship with the United Nations in accordance with Article 63 of the United Nations Charter to participate without vote in its deliberations, and for its representatives to participate in the deliberations of the United Nations and of the specialized agencies.

2. The Ocean Management and Development Commission may make suitable arrangements for consultation with intergovernmental and non-governmental organizations and institutions which are primarily concerned with matters within its competence.

3. Intergovernmental fishery bodies shall be brought into relationship with the Ocean Management and Development Commission.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

See III (Section 23).

A/AC.138/59 - Canada (A/8421)

International Machinery

(d) An Administrative or regulatory body which might be known as the resources management commission. This would consist of a small board of experts appointed by the Council (and reporting to it) plus the necessary staff to perform the following functions:

(i) to issue non-exclusive licences for exploration and exclusive permits for exploitation of sea-bed resources, and approve or disapprove such programmes as deep drilling and dredging;

(ii) to supervise and inspect sea-bed resources operations and enforce agreed rules and regulations, including work requirements and the submission of reports;

(iii) to issue stop-work orders in the event of violations of such rules, regulations and safety standards, and to initiate proceedings before the tribunal proposed to be established under the international regime;

(iv) to exercise control over the method and volume of production in order to prevent waste of resources;

(v) to collect fees and royalties; and

(vi) to recommend amendments to the regulations, operating rules and safety standards established by the treaty.

(e) Further administrative and regulatory bodies as required. Consideration should be given, for instance, to the desirability of establishing a commission to deal with the marketing and distribution of raw materials, and perhaps yet another to review the precise demarcation of boundaries. The question also arises as to whether the international machinery could have the potential to embrace regional institutions if and when these might be considered necessary. Regional institutions within the framework of the over-all machinery, provided that their constitutions and working rules were compatible with the régime as a whole, could possibly be an effective means of enabling the developing countries to work together in their mutual interests, to offset the disadvantages of gaps in technology. Accordingly this possibility should at least be left open in the drafting of the treaty. Indeed, there may be advantages in providing the international machinery with some capacity for organic development in order to avoid making it more complex than necessary at the outset while still allowing it some possibility to expand in response to proven practical needs.

A/AC.138/63 - Japan

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31. Subsidiary organs (continued)

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France
(A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR
(A/8421)

A/AC.138/44 - Poland (A/8421)

Convention, negotiate any differences with Contracting Parties, and if these differences are not resolved initiate proceedings before the Tribunal in accordance with Section E of this Chapter;

(b) Make recommendations to the Contracting Parties in accordance with Article 30;

(c) At the request of any Contracting Party, render advice on any boundary question arising under this Convention.

CHAPTER V

RULES AND RECOMMENDED PRACTICES

Article 66

1. Rules and Recommended Practices are contained in Annexes to this Convention.

2. Annexes shall be consistent with this Convention, its Appendices, and any amendments thereto. Any Contracting Party may challenge an Annex, an amendment to an annex, or any of their provisions, on the grounds that it is unnecessary, unreasonable or constitutes a misuse of powers, by bringing the matter before the Tribunal in accordance with Article 54.

3. Annexes shall be adopted and amended in accordance with Article 67. Those Annexes adopted along with this Convention, if any, may be amended in accordance with Article 67.

Article 67

The Annexes to this Convention and amendments to such Annexes shall be adopted in accordance with the following procedure:

(a) They shall be prepared by the Rules and Recommended Practices Commission and submitted to the Contracting Parties for comments;

(b) After receiving the comments, the Commission shall prepare a revised text of the Annex or amendments thereto;

(c) The text shall then be submitted to the Council which shall adopt it or return it to the Commission for further study;

(d) If the Council adopts the text, it shall submit it to the Contracting Parties;

(e) The Annex or an amendment thereto shall become effective within three months after its submission to the Contracting Parties, or at the end of such longer period of time as the Council may prescribe, unless in the meantime more than one-third of the Contracting Parties register their disapproval with the Authority;

(f) The Secretary-General shall immediately notify all Contracting States of the coming into force of any Annex or amendment thereto.

Article 68

1. Annexes shall be limited to the Rules and Recommended Practices necessary to:

(a) Fix the level, basis, and accounting procedures for determining international fees and other forms of payment, within the ranges specified in Appendix A;

(b) Establish work requirements within the ranges specified in Appendixes A and B;

(c) Establish criteria for defining technical and financial competence of applicants for licences;

(d) Assure that all exploration and exploitation activities, and all deep drilling, are conducted with strict and adequate safeguards for the protection of human life and safety and of the marine environment;

(e) Protect living marine organisms from damage arising from exploration and exploitation activities;

(f) Prevent or reduce to acceptable limits interference arising from exploration and exploitation activities with other uses and users of the marine environment;

(g) Assure safe design and construction of fixed exploration and exploitation installations and equipment;

(h) Facilitate search and rescue services, including assistance to aquanauts, and the reporting of accidents;

(i) Prevent unnecessary waste in the extraction of minerals from the seabed;

(j) Standardize the measurement of water depth and the definition of other natural features pertinent to the determination of the precise location of International Seabed Area boundaries;

A/AC.139/49 - 13-Power
Draft (A/8421)

A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada (A/8421)

A/AC.138/63 - Japan

Functions and powers

Article 182

1. The Ocean Management and Development Commission may make or initiate studies and reports with respect to any matter relating to the use of ocean space by man, to the management of International Ocean Space and to the development of its resources.
2. The Commission shall submit a biennial report on its activities to the Assembly and report periodically to the Council.
3. The Commission shall prepare and submit to the Council for its consideration a non-discriminatory system, or systems, of licensing the exploitation of the natural resources of International Ocean Space, taking into account the need for resource conservation and management.
4. The Commission shall recommend to the Council the approval and cancellation of licences for the exploitation of the natural resources of International Ocean Space. The Commission shall supervise compliance with the provisions of all licences issued and shall report thereon periodically to the Council.
5. The Commission shall prepare and submit to the Council for its consideration draft general rules relating to navigation, communications, maritime safety, sea- and ocean-bed installations and devices, conservation, management and exploitation of the natural resources in International Ocean Space.
6. The Commission shall prepare and submit to the consideration of the Council a draft model agreement or agreements with regard to the matters referred to in Article 61 of this Convention. The agreement or agreements may contain provisions which are regional in scope.
7. The Commission shall prepare draft conventions with coastal States members of the Institutions with regard to the matters referred to in Article 59 of this Convention. Such draft conventions shall be submitted to the Council.
8. The Commission may prepare draft conventions of a general and non-discriminatory nature with respect to any matter relating to the use of ocean space by man unless otherwise provided in this Convention.
9. (a) The Commission, in consultation with the Scientific and Technological Commission, shall prepare and submit to the Council for its consideration:
 - (i) draft agreements with any State concerning the transfer of the administration of the Institutions of sandbanks, reefs or islands;
 - (ii) draft basic norms concerning the administration of inhabited islands;
- (b) The Commission shall give instructions to the General Secretary on the administration of sandbanks, reefs and islands which may be transferred to the administration of the Institutions and shall supervise the administration thereof.
10. The Commission shall prepare plans for the development of International Ocean Space and for the rational utilization of its resources, taking into account the need to avoid pollution and to preserve the ecological balance of the marine environment.

B. Scientific and Technological Commission

Composition and procedure

Article 183

There is established a Scientific and Technological Commission.

Article 184

1. The Scientific and Technological Commission shall comprise all members belonging to Category A referred to in Article 111, an equal number of members belonging to Category B and five members belonging to Category C.
2. Members belonging to Category B and to Category C shall be elected by members of their respective categories voting separately, due regard being paid to scientific and technological capability and to geographical distribution.
3. Members of the Scientific and Technological Commission belonging to Category B and to Category C shall be elected for a term of four years. In the first election half less one of the members belonging to Category B and two of the members belonging to Category C shall be chosen for a period of two years.

31. Subsidiary organs (continued)

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France
(A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR
(A/8421)

A/AC.138/44 - Poland (A/8421)

(k) Prescribe the form in which Contracting Parties shall describe their boundaries and the kinds of information to be submitted in support of them;

(l) Encourage uniformity in seabed mapping and charting;

(m) Facilitate the management of a part of the international trusteeship area pursuant to the agreement between a Trustee Party and the Authority under Article 29;

(n) Establish and prescribe conditions for the use of international marine parks and preserves;

2. Application of any Rule or Recommended Practice may be limited as to duration or geographic area, but without discrimination against any Contracting Party or licensee.

Article 69

The Contracting Parties agree to collaborate with each other and the appropriate Commission in securing the highest practicable degree of uniformity in regulations, standards, procedures and organizations in relation to the matters covered by Article 68 in order to facilitate and improve seabed resources exploration and exploitation.

Article 70

Annexes and amendments thereto shall take into account existing international agreements and, where appropriate, shall be prepared in collaboration with other competent international organizations. In particular, existing international agreements and regulations relating to safety of life at sea shall be respected.

Article 71

1. Except as otherwise provided in this Convention, the Annexes and amendments thereto adopted by the Council shall be binding on all Contracting Parties.

2. Recommended Practices shall have no binding effect.

Article 72

Any Contracting Party believing that a provision of an Annex or an amendment thereto cannot be reasonably applied because of special circumstances may seek a waiver from the Operations Commission and if such waiver is not granted within three months, it may appeal to the Tribunal within an additional period of two months.

A/AC.139/49 - 13-Power
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A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada (A/8421)

A/AC.138/63 - Japan

Article 185

1. Each member of the Scientific and Technological Commission shall have one vote.
2. Decisions of the Commission shall be made by a majority of the members present and voting.

Article 186

1. The Scientific and Technological Commission shall meet at least twice a year.
2. The Commission may, with the consent of the Council, establish such subsidiary organs as it deems necessary for the performance of its functions. The Commission shall review every six years the continued need for such subsidiary organs as it may establish.
3. The Commission shall adopt its own rules of procedure.
4. The Commission shall invite any member or associate member of the Institutions to participate without vote in its deliberations on any matter of particular concern to that member or associate member.

Article 187

The Scientific and Technological Commission may make arrangements for representatives of the United Nations and of the specialized agencies established by intergovernmental agreement and brought into relationship with the United Nations in accordance with Article 63 of the United Nations Charter to participate without vote in its deliberations, and for its representatives to participate in the deliberations of the United Nations and of the specialized agencies.

Article 188

The Scientific and Technological Commission shall make suitable arrangements for consultation with institutions and organizations of scientists, technicians and technologists primarily interested in questions relating to ocean space.

Functions and powers

Article 189

1. The Scientific and Technological Commission shall promote through concerted action by members and associate members of the Institutions the scientific investigation of ocean space and the development of technologies for the exploration of ocean space and of its resources and for its peaceful use by man.
2. The Commission shall disseminate as widely as possible knowledge concerning the matters referred to in paragraph 1.
3. The Commission shall make recommendations to the Council concerning measures required to safeguard the quality of the marine environment and shall prepare, as appropriate, draft regulations or conventions thereon.
5. The Commission shall advise the Council on the proclamation of a regional or a world ecological emergency in ocean space and on requests received from States in accordance with Article 2 (a) of this Convention.
6. The Commission may advise at their request members or associate members of the Institutions on measures required to avoid pollution of national ocean space.
7. The Commission shall advise the Ocean Management and Development Commission on the scientific, ecological and technological aspects of licensing the exploitation of the natural resources of International Ocean Space and of the exploration of its non-living resources.
8. The Commission shall be consulted on all matters within its competence by the Ocean Management and Development Commission and particularly on the scientific aspects of the matters referred to in Article 182 (5) and (9) of this Convention. The Commission shall advise the General Secretary on the administration of scientific stations and nature parks or preserves.
9. The Commission shall prepare and submit to the Council for its consideration draft technical, safety and social standards and regulations with regard to vessels, fixed installations or devices lying or floating in or traversing International Ocean Space.
10. The Commission shall prepare and submit to the Council for its consideration draft regulations concerning communications and broadcasting in International Ocean Space.

31. Subsidiary organs (continued)

<u>A/AC.138/25 - USA (A/8021)</u>	<u>A/AC.138/26 - UK (A/8021)</u>	<u>A/AC.138/27 - France (A/8021)</u>	<u>A/AC.138/33 - United Republic of Tanzania (A/8421)</u>	<u>A/AC.138/43 - USSR (A/8421)</u>	<u>A/AC.138/44 - Poland (A/8421)</u>
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A/AC.139/49 - 13-Power
Draft (A/8421)

A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada (A/8421)

A/AC.138/63 - Japan

11. The Commission shall decide the requirements for inscription of, and on each request for inscription by persons or entities in the register referred to in Article 35 (2) of the present Convention. The register shall be kept in the custody of the General Secretary.

Article 190

The Commission shall submit a biennial report on its activities to the Assembly and shall report periodically to the Council.

C. Legal Commission

Composition and procedures

Article 191

There is established a Legal Commission.

Article 192

1. The Legal Commission shall comprise all members belonging to Category A referred to in Article 111, an equal number of members belonging to Category B and five members belonging to Category C.

2. Members belonging to Category B and to Category C shall be elected by members of their respective categories voting separately. Not more than half the members of the Legal Commission belonging to Category B or to Category C shall also be members of the Council or of the Ocean Management and Development Commission.

3. Members of the Legal Commission belonging to Category B and to Category C shall be elected for a term of four years. In the first election half less one of the members belonging to Category B and two of the members belonging to Category C shall be chosen for a term of two years. A retiring member shall not be eligible for immediate re-election.

Article 193

1. Each member of the Legal Commission shall have one vote.

2. Decisions of the Commission shall be made by an affirmative vote of a majority of the members present and voting including a majority of members present and voting belonging to two of the categories referred to in Article 110.

3. Members which cannot vote in the Assembly pursuant to Article 109 shall not vote in the Commission.

Article 194

1. The Legal Commission shall meet at least twice a year.

2. The Commission may, with the consent of the Council, establish such subsidiary organs as it deems necessary for the performance of its functions. The Commission shall review every six years the continued need for such subsidiary organs as it may establish.

3. The Commission shall adopt its own rules of procedure.

4. The Commission shall invite any member or associate member of the Institutions to participate without vote in its deliberations on any matter of particular concern to that member or associate member.

Functions and powers

Article 195

1. The Legal Commission shall promote the harmonization of national maritime laws and the development of international law relating to ocean space.

2. The Commission shall submit a biennial report on its activities to the Assembly and shall report periodically to the Council.

3. The Commission shall prepare and submit to the Council within two years of the entry into force of the present Convention.

(a) a draft of the convention for straits used for international navigation referred to in article 48 (4) of this Convention;

(b) a draft of the convention for the delimitation of the jurisdiction over ocean space that may be claimed by a State by virtue of its sovereignty or control over the islands referred to in Article 37 (2) of this Convention;

4. The Commission shall prepare and submit to the Council draft conventions for the harmonization of national maritime laws and for the development of international law relating to ocean space.

32. Transitional measures

A/AC.138/25 - USA (A/8021)

Chapter VI

Transition

Article 73

1. There shall be due protection for the integrity of investments made in the International Sea-bed Area prior to the coming into force of this Convention.

2. All authorizations by a Contracting Party to exploit the mineral resources of the International Sea-bed Area granted prior to 1 July 1970, shall be continued without change after the coming into force of this Convention provided that:

(a) Activities pursuant to such authorizations shall, to the extent possible, be conducted in accordance with the provisions of this Convention;

(b) New activities under such previous authorization which are begun after the coming into force of this Convention shall be subject to the regulatory provisions of this Convention regarding the protection of human life and safety and of the marine environment and the avoidance of unjustifiable interference with other uses of the marine environment;

(c) Upon the expiration or relinquishment of such authorizations, or upon their revocation by the authorizing Party, the provisions of this Convention shall become fully applicable to any exploration or exploitation of resources remaining in the areas included in such authorizations;

(d) Contracting Parties shall pay to the International Sea-bed Resource Authority, with respect to such authorizations, production payments provided for under this Convention.

3. A Contracting Party which has authorized exploitation of the mineral resources of the International Sea-bed Area on or after 1 July 1970, shall be bound, at the request of the person so authorized, either to issue new licences under this Convention in its capacity as a Trustee Party, or to sponsor the application of the person so authorized to receive new licences from the International Sea-bed Resource Authority. Such new licence issued by a Trustee Party shall include the same terms and conditions as its previous authorization, provided that such licence shall not be inconsistent with this Convention, and provided further that the Trustee Party shall itself be responsible for complying with increased obligations resulting from the application of this Convention, including fees and other payments required by this Convention.

4. The provisions of paragraph 3 shall apply within one year after this Convention enters into force for the Contracting Party concerned, but in no event more than five years after the entry into force of this Convention.

5. Until converted into new licences under paragraph 3, all authorizations issued on or after 1 July 1970, to exploit the mineral resources of the International Sea-bed Area shall have the same status as authorizations under paragraph 2. Five years after the entry into force of this Convention all such authorizations not converted into new licences under paragraph 3 shall be null and void.

6. Any Contracting Party that has authorized activities within the International Sea-bed Area after 1 July 1970, but before this Convention has entered into force for such Party, shall compensate the licensee for any investment losses resulting from the application of this Convention.

Article 74

1. The membership of the Tribunal, the Commissions, and the Secretariat shall be maintained at a level commensurate with the tasks being performed.

2. In the period before the International Sea-bed Resource Authority acquires income sufficient for the payment of its administrative expenses the Authority may borrow funds for the payment of those expenses. The Contracting Parties agree to give sympathetic consideration to requests by the Authority for such loans.

A/AC.138/26 - UK (A/8021)

A/AC.138/46 - UK (A/8421)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland (A/8421)

I. General Issues

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-ordinated 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.

A/AC.138/49 - 13-Power Draft
(A/8421)

A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada (A/8421)

A/AC.138/63 - Japan

Part V. International Ocean Space
Institution

Chapter XXX

Transitional arrangements

Article 202

At the time of the entry into force of this Convention Members of Category A referred to in Article 111 shall be deemed to be

Article 203

There shall be due protection for investments made in International Ocean Space prior to the coming into force of this Convention, when such investments have been notified to the United Nations.

Article 204

1. All authorizations by a Contracting Party to exploit the mineral resources of International Ocean Space granted prior to the entry into force of this Convention shall be continued without change for a period of five years provided that they are conducted in accordance with the provisions of this Convention.
2. After the expiration of the period of five years, a licence in accordance with the provisions of this Convention shall be issued in respect of all activities referred to in paragraph 1.

Transitional Arrangements

The following section of this working paper outlines briefly those elements of the international machinery that might be required to provide a transitional authority for the exploration and exploitation of mineral resources in the minimum non-contentious area of the sea-bed beyond national jurisdiction, in keeping with the three-part proposal advanced by the Canadian delegation at the March 1971 session of the Preparatory Committee for the Third Law of the Sea Conference. That proposal involves: (a) the immediate determination of the minimum non-contentious area of the sea-bed beyond the limits of national jurisdiction, by having every coastal state define and make known, as of a fixed and early date, the extent of its continental shelf claims or, alternatively, the maximum limits beyond which it will never claim, without prejudging any final decision on the question of sea-bed limits; (b) the simultaneous establishment of a transitional skeletal machinery to govern the exploration and exploitation of the mineral resources of the minimum non-contentious area so determined; and (c) the simultaneous creation of an "international development fund" to be derived from voluntary contributions by coastal states from sea-bed resource revenues accruing from areas within their national jurisdiction. The creation of such a transitional authority or machinery would provide the necessary regulation and control over the resource activities that are likely to be undertaken in this area in the near future. It would also encourage the development of sea-bed operations, in keeping with one of the most widely recognized objectives of the international regime to be established, by providing a climate that would allow business enterprises to commit themselves to exploration schemes.

Technological developments will not await the outcome of the 1973 Law of the Sea Conference. While the present legal vacuum has the disadvantage of frustrating the development of sea-bed operations, still greater disadvantages may be involved if, as may well be the case, enterprises and their investors become impatient and even decide to proceed without awaiting for the law to catch up with technology. If action is not taken to provide an immediate, albeit transitional, administrative and regulatory system for the orderly and safe development of sea-bed resources, there may ensue a free-for-all among the giant corporations of the major industrialized powers, with the inherent danger that resources will be wasted, the environment will suffer degradation, and traditional world markets may be disrupted by an unprogrammed distribution of raw materials.

While it is impossible to develop a full-fledged international sea-bed regime and machinery until an appropriate treaty has come into force, there is nothing to prevent the early, indeed, almost immediate, establishment of a transitional machinery which would incorporate in skeletal form the immediately essential elements of the final machinery to be created by the future sea-bed treaty.

The critical units of machinery required to meet the present situation would be as follows:

- (a) an ad hoc executive council to be appointed by the United Nations General Assembly, and
- (b) a transitional resource management commission to serve as a temporary body, with its head and other members appointed by the ad hoc executive council on the basis of their competence and expertise in the field of offshore resource management. This machinery would operate on the basis of the 1970 declaration of sea-bed principles which would thus serve as a sort of provisional statute.

The functions of the transitional resource management commission might be defined as follows:

- (a) to register and record on appropriate charts the continental shelf claims of coastal States, without prejudging the ultimate decision on the limits of the sea-bed beyond national jurisdiction;
- (b) to maintain a registry of offshore exploration and exploitation activities authorized by coastal States within the areas claimed by them as within their national jurisdiction;
- (c) to issue non-exclusive licences for exploration in the non-contentious international sea-bed area as approved by the ad hoc executive council;
- (d) to grant exclusive exploitation permits to states or their nationals on a first-come-first-served basis, with these permits entailing an obligation to carry out evaluation work on an escalating basis culminating in full-scale production within a specified time-limit;
- (e) to collect fees and rentals at the pre-production stage for the purpose of covering administrative costs;
- (f) to approve or disapprove applications for permits for deep drilling or sea-bed mining operations on the basis of compliance with prescribed anti-pollution measures, taking into account, inter alia, the sea-worthiness of vessels to be employed and sea-bed installations to be erected, in relation to the natural meteorological and geological hazards to be anticipated in the permit area;

32. Transitional measures (continued)

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France (A/8021)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR (A/8421)

A/AC.138/44 - Poland (A/8421)

A/AC.138/49 - 13-Power Draft
(A/8421)

A/AC.138/53 - Malta (A/8421)

A/AC.138/55 - 7-Power
Working Paper (A/8421)

A/AC.138/59 - Canada (A/8421)

A/AC.138/63 - Japan

(g) to ensure that all operators comply with rules and regulations approved by the council, either by carrying out required inspections or, as would more often be the case, by delegating such authority to officials of sponsoring States;

(h) to collect royalties, on an *ad valorem* basis, on oil, gas or metals recovered from the non-contentious area of the sea-bed, but not at such a rate as to preclude economic operations;

(i) to monitor the marketing of raw materials recovered so as to identify or predict any tendency towards deterioration of prices caused by the production of minerals from the non-contentious international sea-bed area, thus permitting adjustments to be made, if necessary, in the scale of operations or issuance of new exploitation permits if and when production were to exceed demand by a significant amount;

(j) to collect voluntary contributions from coastal States based on a fixed percentage of the revenues derived from the exploitation of sea-bed mineral resources within the limits of national jurisdiction claimed by them, perhaps beyond the outer limit of their internal waters or some other appropriate cut-off point.

This transitional machinery would provide an invaluable fund of experience for the full-fledged international machinery to be established by the treaty, and indeed it could be transformed into that permanent machinery upon entry into force of the treaty. During the transitional period, disputes arising out of the operations of the transitional machinery could be referred to the International Court of Justice for adjudication, in the event that they could not be resolved by negotiation, conciliation or arbitration.

33. Miscellaneous Provisions

(a) Headquarters and Regional Centres

A/AC.138/25 - USA (A/8021)

CHAPTER IV. THE INTERNATIONAL SEABED RESOURCE AUTHORITY

A. General

Article 32

The permanent seat of the Authority shall be at _____.

(b) Amendment, duration, withdrawal, suspension, loss of privileges and registration of treaties

CHAPTER VIII

AMENDMENT AND WITHDRAWAL

Article 76

Any proposed amendment to this Convention or the appendices thereto which has been approved by the Council and a two-thirds vote of the Assembly shall be submitted by the Secretary-General to the Contracting Parties for ratification in accordance with their respective constitutional processes. It shall come into force when ratified by two-thirds of the Contracting Parties, including each of the six States designated pursuant to subparagraph 2 (a) of Article 76 at the time the Council approved the amendments. Amendments shall not apply retroactively.

Article 77

1. Any Contracting Party may withdraw from this Convention by a written notification addressed to the Secretary-General. The Secretary-General shall promptly inform the other Contracting Parties of any such withdrawal.

2. The withdrawal shall take effect one year from the date of the receipt by the Secretary-General of the notification.

A/AC.138/26 - UK (A/8021)

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A/AC.138/46 - UK (A/8421)

See paras. 16 (c)
(Section 25) and 29
(Section 30).

A/AC.138/27 - France
(A/8421)

.....

A/AC.138/33 - United Republic
of Tanzania (A/8421)

Headquarters and Regional Centres

Article 37

(1) In order to fulfil its role the Authority shall establish and maintain in addition to a headquarters, four regional subheadquarters or centres for the direction of scientific training and research programmes and the performance of such administrative functions as may be assigned by the Authority.

(2) The location of the headquarters shall be in and of the regional subheadquarters or centres shall be and

A/AC.138/43 - USSR
(A/8421)

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A/AC.138/44 - Poland
(A/8421)

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A/AC.318/26 - UK (8021)

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A/AC.138/46 - UK (A/8421)

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Suspension

Article 40

(1) If any member is found by the Assembly to persist in a policy that is contrary to the fundamental aims of the Authority or to the Charter of the United Nations, the Assembly may, by a resolution adopted by a majority of two-thirds of members present and voting, suspend such member from exercising the rights and enjoying the privileges of membership.

(2) The suspension shall remain in force until a change of such policy is recognized by the Assembly.

Withdrawal

Article 41

Any member may withdraw from the Authority on the expiry of one year's notice in writing to the Secretary-General. A member withdrawing shall be liable for assessments on a pro rata basis up to the time the withdrawal becomes effective.

Loss of Voting Privileges

Article 42

A member which is in arrears in the payment of its financial contribution to the Authority's expenditure shall be deprived of the privileges enjoyed by the members of voting in the Assembly or Council if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two financial years.

Review

Article 44

The Contracting Parties shall review this Statute every five years. The Statute may be amended by consent of two-thirds of the members.

A/AC.138/49 - 13-Power Draft (A/8421)

CHAPTER II. THE AUTHORITY

Article 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.

A/AC.138/53 - Malta (A/8421)

PART V. THE INTERNATIONAL OCEAN SPACE INSTITUTIONS

CHAPTER XXIX. MISCELLANEOUS PROVISIONS

Article 197

The seat of the Institutions shall be at

Article 198

1. Regional arrangements for any or all of the purposes of this
Convention may be established with the consent of the Council at
any time not less than four years after the entry into force of
this Convention.

2. The Council shall determine the requirements for the
establishment of regional arrangements and their scope, taking
into account the wishes of the States in the region and the need
for economic and efficient operation of the Institutions.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

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A/AC.138/59 - Canada
(A/8421)

See International
Machinery, para. (e)
(Section 31).

A/AC.138/63 - Japan

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CHAPTER V

FINAL PROVISIONS

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

PART V. THE INTERNATIONAL OCEAN SPACE INSTITUTIONS

CHAPTER XXIX. MISCELLANEOUS PROVISIONS

Article 196

Any treaty and every international agreement concerning
ocean space entered into by any Member or Associate Member of
the Institutions after the present Convention comes into force
shall be registered with the Secretariat and published by it.

Article 199

1. Amendments to the present Convention may be proposed by a
Contracting Party six years after its entry into force.
2. Amendments must be approved by a majority of Members of the
Council including a majority of Members in each of the
categories referred to in Article 110 and by an affirmative
majority of Members in the Assembly.
3. Amendments shall come into force when ratified by two
thirds of the Members of the Institutions belonging to Category A
and by a majority of Members belonging to Category B and to
Category C.

4. Amendments shall not apply retroactively.

Article 200

1. The present Convention shall have a duration of 20 years from
the date of entry into force.
2. On the expiration of 20 years there shall be convened a
General Conference on Ocean Space at which the present Convention
shall be reviewed.

Article 201

1. Any Contracting Party may withdraw from this Convention by
written notification addressed to the General Secretary. The
General Secretary shall promptly inform the other Contracting
Parties of any such withdrawal.
2. The withdrawal shall take effect two years from the date of
the receipt by the General Secretary of the notification. See
also Articles 93 (4) and 116 (3) (Section 24).

CHAPTER I. GENERAL PROVISIONS

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.

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.

33. Miscellaneous Provisions (continued)

(c) Definitions

A/AC.138/25 - USA (A/8021)

A/AC.138/26 - UK (A/8021)

A/AC.138/27 - France
(A/8421)

A/AC.138/33 - United Republic
of Tanzania (A/8421)

A/AC.138/43 - USSR
(A/8421)

A/AC.138/44 - Poland
(A/8421)

CHAPTER VII

DEFINITIONS

Article 75

Unless another meaning results from the context of a particular provision, the following definitions shall apply:

1. "Convention" refers to all provisions of and amendments to this Convention, its Appendices, and its Annexes.
2. "Trustee Party" refers to the Contracting Party exercising trusteeship functions in that part of the International Trusteeship Area off its coast in accordance with Chapter III.
3. "Sponsoring Party" refers to a Contracting Party which sponsors an application for a licence or permit before the International Seabed Resource Authority. The term "sponsor" is used in this context.
4. "Authorizing Party" refers to a Contracting Party authorizing any activity in the International Seabed Area, including a Trustee Party issuing exploration or exploitation licences. The term "authorize" is used in this context. In the case of a vessel, the term "Authorizing Party" shall be deemed to refer to the State of its nationality.
5. "Operating Party" refers to a Contracting Party which itself explores or exploits the natural resources of the International Seabed Area.
6. "Licensee" refers to a State, group of States, or natural or juridical person holding a licence for exploration or exploitation of the natural resources of the International Seabed Area.
7. "Exploration" refers to any operation in the International Seabed Area which has as its principal or ultimate purpose the discovery and appraisal, or exploitation, of mineral deposits, and does not refer to scientific research. The term does not refer to similar activities when undertaken pursuant to an exploitation licence.
8. "Deep drilling" refers to any form of drilling or excavation in the International Seabed Area deeper than 300 metres below the surface of the seabed.
9. "Land-locked or shelf-locked country" refers to a Contracting Party which is not a Trustee Party.

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A/AC.138/46 - UK (A/8421)

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A/AC.138/49 - 13-Power Draft (A/8421)

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(A/8421)

A/AC.138/63 - Japan

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PART I: OCEAN SPACE

Chapter I: Definitions

Article 1

National jurisdiction means the legal power of a coastal State to control and regulate a defined area of ocean space adjacent to its coast. Such jurisdiction is subject to the limitations of international law designed to protect the interests of the international community.

Ocean space comprises the surface of the sea, the water column and the sea-bed beyond internal waters.

National ocean space means that part of ocean space which is under the jurisdiction of a coastal State.

International ocean space comprises all parts of ocean space not subject to national ocean space jurisdiction.

Sea-bed means (a) the floor of the sea or of the ocean and (b) the subsoil or rock underlying the sea floor or the ocean floor.

The term natural resources comprises all living and non-living things or energy, actually or potentially useful to human beings, which are found in ocean space.

The term conservation of the living resources of the seas means the aggregate of measures rendering possible the optimum sustainable yield from these resources.

The term island is used as referring to a naturally formed area of land, surrounded by water, which is above water at high tide.

A low tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide.

A bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

The term vessel includes boats, ships, submersibles, man-made installations or systems which, whether self-propelled or by some other means, move or can be moved from one part of the ocean space to another.

Convention refers to all provisions of, and amendments to, this Convention and its Annex.

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34. Final Clauses

<u>A/AC.138/25 - USA (A/8021)</u>	<u>A/AC.138/26 - UK (A/8021)</u>	<u>A/AC.138/27 - France (A/8421)</u>	<u>A/AC.138/33 - United Republic of Tanzania (A/8421)</u>	<u>A/AC.138/43 - USSR (A/8421)</u>	<u>A/AC.138/44 - Poland (A/8421)</u>
CHAPTER IX	.....	.....	<u>Entry into Force</u>	<u>Article 28</u>	.....
FINAL CLAUSES	<u>A/AC.138/46 - UK (A/8421)</u>		<u>Article 45</u>	This Treaty shall be open for signature by all States. Any State which does not sign the Treaty before it enters into force may accede to it at any time thereafter.	
<u>Article 78</u>	.....		This Convention shall enter into force when ratified by States.	<u>Article 29</u>	
(.....)				(Other final clauses)	

A/AC.138/49 - 13-Power draft (A/8421) A/AC.138/53 - Malta (A/8421)

See V (Section 33 (b)).

PART V. THE INTERNATIONAL OCEAN SPACE INSTITUTIONS

Chapter XXXI: Final clauses

Article 205

1. The present Convention shall be ratified by the signatory States in accordance with their respective constitutional processes.
2. The ratifications and the original of the present Convention shall be temporarily deposited with the Secretary-General of the United Nations, who shall transfer them to the custody of the General Secretary of the International Ocean Space Institutions when he has been appointed. Duly certified copies of the present Convention shall be transmitted by the General Secretary to the Governments of all Contracting Parties.
3. The present Convention shall come into force upon deposit of ratifications by five signatory States each with more than 90 million inhabitants and by a majority of the other signatory States. A protocol of the ratifications deposited shall thereupon be drawn up by the Secretary-General of the United Nations who shall communicate copies thereof to all the signatory States.
4. The texts of the present Convention are equally authentic.

A/AC.138/55 - 7-Power
Working Paper (A/8421)

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A/AC.138/59 - Canada
(A/8421)

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A/AC.138/63 - Japan

CHAPTER IV. OTHER PROVISIONS

44. Final clause

- signature
- ratification
- entry into force, etc.

APPENDICES

APPENDIX A

TERMS AND PROCEDURES

APPLYING TO

ALL LICENSES IN THE INTERNATIONAL SEABED AREA

1. Activities Requiring a License or a Permit

1.1. Pursuant to Article 13 of this Convention, all exploration and exploitation operations in the International Seabed Area which have as their principal or ultimate purpose the discovery or appraisal, and exploitation, of mineral deposits shall be licensed.

1.2. There shall be two categories of licenses:

(a) A non-exclusive exploration license shall authorize geophysical and geochemical measurements, and bottom sampling, for the purposes of exploration. This license shall not be restricted as to area and shall grant no exclusive right to exploration nor any preferential right in applying for an exploitation license. It shall be valid for two years following the date of its issuance and shall be renewable for successive two-year periods.

(b) An exploitation license shall authorize exploration and exploitation of one of the groups of minerals described in section 5 in a specified area. The exploitation license shall include the exclusive right to undertake deep drilling and other forms of subsurface entry for the purpose of exploration and exploitation of minerals described in paragraphs 5.1(a) and 5.1(c). The license shall be for a limited period and shall expire at the end of fifteen years if no commercial production is achieved.

1.3. The right to undertake deep drilling for exploration or exploitation shall be granted only under an exploitation license.

1.4. Deep drilling for purposes other than exploration or exploitation of seabed minerals shall be authorized under a deep-drilling permit issued at no charge by the International Seabed Resource Authority, provided that:

(a) The application is accompanied by a statement from the Sponsoring Party certifying as to the applicant's technical competence and accepting liability for any damage that may result from such drilling;

(b) The application for such a permit is accompanied by a description of the location proposed for such holes, by seismograms and other pertinent information on the geology in the vicinity of the proposed drilling sites, and by a description of the equipment and procedures to be utilized;

(c) The proposed drilling, including the methods and equipment to be utilized, complies with the requirements of this Convention and is judged by the Authority not to pose an uncontrollable hazard to human safety, property, and the environment;

(d) The proposed drilling is either not within an area already under an exploitation license or is not objected to by the holder of such a license;

(e) The applicant agrees to make available promptly the geologic information obtained from such drilling to the Authority and the public.

2. General License Procedures

2.1. An Authorizing or Sponsoring Party shall certify the operator's financial and technical competence and shall require the operator to conform to the rules, provisions and procedures specified under the terms of the license.

2.2. Each Authorizing or Sponsoring Party shall formulate procedures to ensure that applications for licenses are handled expeditiously and fairly.

2.3. Any Authorizing or Sponsoring Party which considers that it is unable to exercise appropriate supervision over operators authorized or sponsored by it in accordance with this Convention shall be permitted to authorize or sponsor operators only if their operations are supervised by the International Seabed Resource Authority pursuant to an agreement between the Authorizing or Sponsoring Party and the International Seabed Resource Authority. In such event fees and rentals normally payable to the International Seabed Resource Authority will be increased appropriately to offset its supervisory costs.

3. Exploration Licenses -- Procedures

3.1. All applications for exploration licenses and for their renewal shall be accompanied by a fee of from \$500 to \$1,500 as specified in an Annex and a description of the location of the general area to be investigated and the kinds of activities to be undertaken. A portion $\frac{1}{2}$ figure between 50% and 66-2/3% will be inserted here of the fee shall be forwarded by the Authorizing or Sponsoring Party to the Authority together with a copy of the application.

3.2. The Authorizing or Sponsoring Party shall transmit to the Authority the description referred to in paragraph 3.1 and its assurance that the activities will not be harmful to the marine environment.

3.3. The Authorizing or Sponsoring Party may require the operator to pay and may retain, an additional license fee not to exceed \$3,000, to help cover the administrative expenses of that Party.

3.4. Exploration licenses shall not be renewed in the event the operator has failed to conform his activities under the prior license to the provisions of this Convention or to the conditions of the license.

4. Exploitation Licenses -- Procedures

4.1. All applications for exploitation licenses shall be accompanied by a fee of from \$5,000 to \$15,000, per block, as specified in an Annex. A portion [a figure between 50% and 66-2/3% will be inserted here] of the fee shall be forwarded by the Authorizing or Sponsoring Party to the Authority together with a copy of the application.

4.2. Pursuant to section 5 below, applications shall identify the category of minerals in the specific area for which a license is sought.

4.3. When a license is granted to an applicant for more than one block at the same time, only a single certificate need be issued.

4.4. The Authorizing or Sponsoring Party may require the operator to pay, and may retain, an additional license fee not to exceed \$30,000, to help cover the administrative expenses of that Party.

4.5. The license fee described in paragraph 4.1 shall satisfy the first two years' rental fee.

5. Exploitation Rights -- Categories and Size of Blocks

5.1. Licenses to exploit shall be limited to one of the following categories of minerals:

(a) Fluids or minerals extracted in a fluid state, such as oil, gas, helium, nitrogen, carbon dioxide, water, geothermal energy, sulfur and saline minerals.

(b) Manganese-oxide nodules and other minerals at the surface of the seabed.

(c) Other minerals, including category (b) minerals that occur beneath the surface of the seabed and metalliferous muds.

5.2. An exploitation license shall be issued for a specific area of the seabed and subsoil vertically below it, hereinafter referred to as a "block". The methods for defining the boundaries of blocks, and of portions thereof, shall be specified in an Annex.

5.3. In the category described in paragraph 5.1(a) the block shall be approximately 500 square kilometres, which shall be reduced to a quarter of a block when production begins. Each exploitation license shall apply to not more than one

block, but exploitation licenses to a rectangle containing as many as 16 contiguous blocks may be taken out under a single certificate and reduced by three quarters to a number of blocks, a single block, or a portion of a single block when production begins. The relinquishment requirement shall not apply to licenses issued for areas of one quarter of a block or less.

5.4. In the category described in paragraph 5.1(b) the block shall be approximately 40,000 square kilometers, which shall be reduced to a quarter of a block when production begins. Each exploitation license shall apply to not more than one block, but exploitation licenses to a rectangle containing as many as four contiguous blocks may be taken out under a single certificate and reduced to a single block, or to a portion of a single block comprising one-fourth their total area, when production begins. The relinquishment requirement shall not apply to licenses issued for areas of one quarter of a block or less.

5.5. In the category described in paragraph 5.1(c) the block shall be approximately 500 square kilometers, which shall be reduced to one eighth of a block when production begins. Each license shall apply to not more than one block, but exploitation licenses to as many as 8 contiguous blocks may be taken out under a single certificate and reduced to a single block, or to a portion of a single block comprising one eighth their total area, when production begins. The relinquishment shall not apply to licenses issued for one eighth of a block or less.

5.6. Applications for exploitation licenses may be for areas smaller than the maximum stated above.

5.7. Operators may at any time relinquish rights to all or part of the licensed area.

5.8. Commercial production shall be deemed to have commenced or to be maintained when the value at the site of minerals exploited is not less than \$100,000 per annum. The required minimum and the method of ascertaining this value shall be determined by the Authority.

5.9. If the commercial production is not maintained, the exploitation license shall expire within five years of its cessation, but when production is interrupted or suspended for reasons beyond the operator's control, the duration of the license shall be extended by a time equal to the period in which production has been suspended for reasons beyond the operator's control.

6. Rental Fees and Work Requirements

Rental Fees

6.1. Prior to attaining commercial production the following annual rental fees shall be paid beginning in the third year after the license has been issued:

(a) \$2 - \$10 per square kilometer, as specified in an appropriate Annex, for the category of minerals described in paragraph 5.1(a); \$2 - \$10 per 100 square kilometers for the category of minerals described in paragraph 5.1(b) of Appendix A; \$2 - \$10 per square kilometer for the category of minerals described in paragraph 5.1(c).

6.2. The rates in paragraph 6.1 shall increase at the rate of 10% per annum, calculated on the original base rental fee, for the first ten years after the third year, and shall increase 20% per annum for the following two years, calculated on the original base rental fee.

6.3. After commercial production begins, the annual rental fee shall be \$5,000-\$25,000 per block, regardless of block size.

6.4. The rental fee shall be payable annually in advance to the Authorizing or Sponsoring Party which shall forward a portion [a figure between 50% and 66-2/3% will be inserted here] of the fees to the Authority. The Authorizing or Sponsoring Party may require the operator to pay, and may retain, an additional rental fee, not to exceed an amount equal to the amount paid pursuant to paragraphs 6.1 - 6.3, to help cover the administration expenses of that Party.

Work Requirements

6.5. Prior to attaining commercial production, the operator shall deposit a work requirement fee or post a sufficient bond for that amount, for each license at the beginning of each year.

6.6. The minimum annual work requirement fee for each block shall increase in accordance with the following schedule:

Para. 5.1(a) and (c) minerals

<u>Years</u>	<u>Amount per annum</u>
1-5	\$ 20,000
6-10	180,000
11-15	200,000
	\$ 2,000,000

Para.5.1(b) minerals

<u>Years</u>	<u>Amounts per annum</u>
1-2	\$ 20,000
3-10	120,000
11-15	200,000
	\$ 2,000,000

The minimum annual work requirement for a portion of a block shall be an appropriate fraction of the above, to be specified in an Annex.

6.7. The work requirement fee shall be refunded to the operator upon receipt of proof by the Authorizing Party or Sponsoring Party that the amount equivalent to the fee has been expended in actual operations. Expenditures for on-land design or process research and equipment purchase or off-site construction cost directly related to the licensed block or group of blocks shall be considered to apply toward work requirements up to 75% of the amount required.

6.8. Expenditures in excess of the required amount for any given year shall be credited to the requirement for the subsequent year or years.

6.9. In the absence of satisfactory proof that the required expenditure has been made in accordance with the foregoing provisions of this section, the deposit will be forfeited.

6.10. If cumulative work requirement expenditures are not met at the end of the initial five-year period, the exploitation license shall be forfeited.

6.11. After commercial production begins the operator shall make an annual deposit of at least \$100,000 at the beginning of each year; or shall post a sufficient bond for that amount, which shall be refunded in an amount equivalent to expenditures on or related to the block and the value of production at the site.

6.12. If production is suspended or delayed for reasons beyond the operator's control, the operator shall not be required to make the deposit or post the bond required in subparagraph 6.11.

7. Submission of Work Plans and Data Under Exploitation Licenses
Prior to Commencement of Commercial Production

7.1. Exploitation license applications shall be accompanied by a general description of the work to be done and the equipment and methods to be used. The licensee shall submit subsequent changes in his work plan to the Sponsoring or Authorizing Party for review.

7.2. The licensee shall furnish reports at specified intervals to the Authorizing or Sponsoring Party supplying proof that he has fulfilled the specified work requirements. Copies of such reports shall be forwarded to the Authority.

7.3. The licensee shall maintain records of drill logs, geophysical data and other data acquired in the area to which his license refers, and shall provide access to them to the Authorizing or Sponsoring Party on request.

7.4. At intervals of five years, or when he relinquishes his rights to all or part of the area or when he submits a production plan as described in Section 8, the operator shall transmit to the Authorizing or Sponsoring Party such maps, seismic

sections, logs, assays, or reports as are specified in an Annex to this Convention. The Authorizing or Sponsoring Party shall hold such data in confidence for ten years after receipt, but shall make the data available on request to the Authority for its confidential use in the inspection of operations.

7.5. The data referred to in paragraph 7.4 shall be transmitted to the Authority ten years after receipt by the Authorizing or Sponsoring Party, and made available by the Authority for public inspection. Such data shall be transmitted to the Authority immediately upon revocation of a license.

8. Production Plan and Producing Operations

8.1. Prior to beginning commercial production the licensee shall submit a production plan to the Authorizing or Sponsoring Party and through such Party to the Authority.

8.2. The Authorizing or Sponsoring Party and the Authority shall require such modifications in the plan as may be necessary for it to meet the requirements of this Convention.

8.3. Any change in the licensee's production plan shall be submitted to the Authorizing or Sponsoring Party and through such Party to the Authority for their review and approval.

8.4. Not later than three months after the end of each year from the issuance of the license the licensee shall transmit to the Authorizing or Sponsoring Party for forwarding to the Authority production reports and such other data as may be specified in an Annex to this Convention.

8.5. The operator shall maintain geologic, geophysical and engineering records and shall provide access to them to the Authorizing or Sponsoring Party on its request. In addition, the operator shall submit annually such maps, sections, and summary reports as are specified in Annexes to this Convention.

8.6. The Sponsoring or Authorizing Party shall hold such maps and reports in confidence for ten years from the time received but shall make them available on request to the Authority for its confidential use in the inspection of operations.

8.7. Such maps and reports shall be transmitted to the Authority and shall be made available by it for public inspection not later than ten years after receipt by the Sponsoring or Authorizing Party.

9. Unit Operations

9.1. Accumulations of fluids and other minerals that can be made to migrate from one block to another and that would be most rationally mined by an operation

under the control of a single operator but that lie astride the boundary of adjacent blocks licensed to different operators shall be brought into unit management and production.

9.2. With respect to deposits lying astride the seaward boundary of the International Trusteeship Area, the Operations Commission shall assure unit management and production, giving the Trustee and Sponsoring Parties and their licensees a reasonable time to reach agreement on an operation plan.

10. Payments on Production

10.1. When commercial production begins under an exploitation license, the operator shall pay a cash production bonus of \$500,000 to \$2,000,000 per block, as specified in an Annex to this Convention, to the Authorizing or Sponsoring Party.

10.2. Thereafter, the operator shall make payments to the Authorizing or Sponsoring Party which are proportional to production, in the nature of total payments ordinarily made to governments under similar conditions. Such payments shall be equivalent to 5 to 40 per cent of the gross value at the site of oil and gas, and 2 to 20 per cent of the gross value at the site of other minerals, as specified in an Annex to this Convention. The total annual payment shall not be less than the annual rental fee under paragraph 6.3.

10.3. The Sponsoring Party shall forward all payments under this section to the Authority. The Authorizing Party shall forward a portion [a figure between 50% and 66-2/3% will be inserted here] of such payments to the Authority.

11. Graduation of Payments According to Environment and Other Factors

11.1. The levels of payments and work requirements, as well as the rates at which such payments and work requirements escalate over time, may be graduated to take account of probable risk and cost to the investor, including such factors as water depth, climate, volume of production, proximity to existing production, or other factors affecting the economic rent that can reasonably be anticipated from mineral production in a given area.

11.2. Any graduated levels and rates shall be described and categorized in an Annex in such a way as to affect all licensees in each category equally and not to discriminate against or favor individual Parties or groups of Parties, or their nationals.

11.3. Any increases in such levels of payments or requirements shall apply only to new licenses or renewals and not to those already in force.

12. Liability

12.1. The operator and his Authorizing or Sponsoring Party, as appropriate, shall be liable for damage to other users of the marine environment and for clean-up and restoration costs of damage to the land environment.

12.2. The Authorizing or Sponsoring Party, as appropriate, shall require operators to subscribe to an insurance plan or provide other means of guaranteeing responsibility, adequate to cover the liability described in paragraph ____.

(Note: More detailed provisions on liability should be included.)

13. Revocation

13.1. In the event of revocation pursuant to Article 52 of this Convention, there shall be no reimbursement for any expense incurred by the licensee prior to the revocation. The licensee shall, however, have the right to recover installations or equipment within six months of the date of the revocation of his license. Any installations or devices not removed by that time shall be removed and disposed of by the Authority, or the Authorizing or Sponsoring Party, at the expense of the licensee.

14. International Fees and Payments

14.1. The Authority shall specify the intervals at which fees and other payments collected by an Authorizing or Sponsoring Party shall be transmitted.

14.2. No Contracting Party shall impose or collect any tax, direct or indirect, on fees and other payments to the Authority.

14.3. All fees and payments required under this Convention shall be those in force at the time a license was issued or renewed.

14.4. All fees and payments to the Authority shall be transmitted in convertible currency.

APPENDIX B

TERMS AND PROCEDURES APPLYING TO
LICENSES IN THE INTERNATIONAL SEABED AREA BEYOND
THE INTERNATIONAL TRUSTEESHIP AREA

1. Entities Entitled to Obtain Licenses

1.1. Contracting Parties or a group of Contracting Parties, one of which shall act as the operating or sponsoring Party for purposes of fixing operational or supervisory responsibility, are authorized to apply for and obtain exploration and exploitation licenses. Any Contracting Party or group of Contracting Parties, which applies for a license to engage directly in exploration or exploitation, shall designate a specific agency to act as operator on its behalf for the purposes of this Convention.

1.2. Natural or juridical persons are authorized to apply for and obtain exploration and exploitation licenses from the International Seabed Resource Authority if they are sponsored by a Contracting Party.

2. Exploration Licenses - Procedures

2.1. Licenses shall be issued promptly by the Authority through the Sponsoring Party to applicants meeting the requirements specified in Appendix A.

3. Exploitation Licenses - Procedures

3.1. The Sponsoring Party shall certify as to the technical and financial competence of the operator, and shall transmit the operator's work plan.

3.2. An application for an exploitation license shall be preceded by a notice of intent to apply for a license submitted by the operator to the Authority and the prospective Sponsoring Party. Such a notice of intent, when accompanied by evidence of the deposit of the license fee referred to in paragraph 4.1. of Appendix A, shall reserve the block for one hundred and eighty days. Notices of intent may not be renewed.

3.3. Notices of intent shall be submitted sealed to the Authority and opened at monthly intervals at previously announced times.

3.4. Subject to the compliance with these procedures, if only one notice of intent has been received for a particular block, the applicant shall be granted a license, except as provided in paragraphs 3.6. - 3.8.

3.5. If more than one notice of intent to apply for a license for the same block or portion thereof is received at the same opening, the Authority shall notify the applicants and their Sponsoring Parties that the exploitation license to the block or portion thereof will be sold to the highest bidder at a sale to be held one hundred and eighty days later, under the following terms:

- (a) The bidding shall be on a cash bonus basis and the minimum bid shall be twice the license fee;
- (b) Bids shall be sealed;
- (c) The bidding shall be limited to such of the original applicants whose applications have been received in the interim from their sponsoring Parties;
- (d) Bids shall be announced publicly by the Authority when they are opened. In the event of a tie, the tie bidders shall submit a second sealed bid to be opened 28 days later;
- (e) The final award shall be announced publicly by the Authority within seven days after the bids have been opened.

3.6. In the event of the termination, forfeiture, or revocation of an exploitation license to a block, or relinquishment of a part of a block, the block or portion thereof will be offered for sale by sealed competitive bidding on a cash bonus basis in addition to the current license fee. The following provisions shall apply to such a sale:

- (a) The availability of such a block, or portion thereof, for bidding shall be publicly announced by the Authority as soon as possible after it becomes available, and a sale following the above procedures shall be held within one hundred and eighty days after a request for an exploitation license on the block has been received;
- (b) The bidding shall be open to all sponsored operators, including, except in the case of revocation, the operator who previously held the exploitation license to the block or to the available portion thereof;
- (c) If the winning bid is submitted by an operator who previously held the exploitation right to the same block, or to the same portion thereof, the work requirement will begin at the level that would have applied if the operator had continuously held the block.

3.7. Blocks, or portions thereof, contiguous to a block on which production has begun shall also be sold by sealed competitive bidding under the terms specified in paragraph 3.6.

3.8. Blocks, or separate portions thereof, from which hydrocarbons or other fluids are being drained, or are believed to be drained, by production from another block shall be offered for sale by sealed competitive bidding under the terms specified in paragraph 3.7. at the initiative of the Authority.

3.9. Geologic and other data concerning blocks or portions thereof open for bidding pursuant to paragraphs 3.6. - 3.8. which are no longer confidential shall be made available to the public prior to the bidding date. Data on blocks, or separate portions thereof, for which the license has been revoked for violations shall be made available to the public within 30 days after revocation.

3.10. Exploitation licenses shall only be transferable with the approval of the Sponsoring Party and the Authority, provided that the transferee meets the requirements of this Convention, is sponsored by a Contracting Party, and a transfer fee is paid to the Authority in the amount of \$250,000. This fee shall not apply in transfers between parts of the same operating enterprise.

4. Duration of Exploitation Licenses

4.1. If commercial production has been achieved within fifteen years after the license has been issued, the exploitation license shall be extended automatically for twenty additional years from the date commercial production has commenced.

4.2. At the completion of the twenty-year production period referred to in paragraph 4.1, the operator with the approval of the Sponsoring Party shall have the option to renew his license for another twenty years at the rental fees and payment rates in effect at the time of renewal.

4.3. At the end of the forty-year term, or earlier if the license is voluntarily relinquished or expires, pursuant to paragraph 5.9 of Appendix A, the block or blocks, or separate portions of blocks, to which the license applied shall be offered for sale by competitive bidding on a cash bonus basis. The previous licensee shall have no preferential right to such block, or separate portion thereof.

5. Work Requirements

5.1. The annual work requirement fee per block shall be specified in an Annex in accordance with the following schedule:

<u>Paragraph 5.1(a) and (c) minerals</u>				<u>Paragraph 5.1(b) minerals</u>			
<u>Years</u>	<u>Amount per annum</u>			<u>Years</u>	<u>Amount per annum</u>		
1-5	\$ 20,000	-	60,000	1-2	\$ 20,000	-	60,000
6-10	180,000		540,000	3-10	120,000		360,000
11-15	200,000		600,000	11-15	200,000		600,000
	\$2,000,000	6,000,000	Total		\$2,000,000	6,000,000	Total

The minimum annual work requirement for a portion of a block shall be an appropriate fraction of the above, to be specified in an Annex.

5.2. Work expenditures with respect to one or more blocks may be considered as meeting the aggregate work requirements on a group of blocks originally licensed in the same year, to the same operator, in the same category, provided that the number of such blocks shall not exceed sixteen in the case of category 5.1(a) of Appendix A, four in the case of category 5.1(b) and eight in the case of category 5.1(c).

5.3. Should the aggregate work requirement expenditure of \$2,000,000 to \$6,000,000 be spent prior to the end of the thirteenth year, an additional work requirement of \$25,000 - \$50,000 as specified in an Annex, shall be met until commercial production begins or until the expiration of the fifteen-year period.

5.4. After commercial production begins the operator shall at the beginning of each year, deposit \$100,000 to \$200,000 as specified in an Annex, or with the Sponsoring Party post a bond for that amount. Such deposit or bond shall be returned in an amount equivalent to expenditures on or related to the block and the value of production at the site. A portion /a figure between 50% and 66-2/3% will be inserted here of any funds not returned shall be transmitted to the Authority.

6. Unit Management

The Operations Commission shall assure unit management and production pursuant to Section 9 of Appendix A, giving the licensees and their Sponsoring Parties a reasonable time to reach agreement on a plan for unit operation.

APPENDIX C

TERMS AND PROCEDURES FOR LICENSES IN
THE INTERNATIONAL TRUSTEESHIP AREA

1. General

1.1. Unless otherwise specified in this Convention, all provisions of this Convention except those in Appendix B shall apply to the International Trusteeship Area.

2. Entities Entitled to Obtain Licenses

2.1. The Trustee Party, pursuant to Chapter III, shall have the exclusive right, in its discretion, to approve or disapprove applications for exploration and exploitation licenses.

3. Exploration and Exploitation Licenses

3.1. The Trustee Party may use any system for issuing and allocating exploration and exploitation licenses.

3.2. Copies of licenses issued shall be forwarded to the Authority.

4. Categories and Size of Blocks

4.1. The Trustee Party may license separately one or more related minerals of the categories listed in paragraph 5.1 of Appendix A.

4.2. The Trustee Party may establish the size of the block for which exploitation licenses are issued within the maximum limits specified in Appendix A.

5. Duration of Exploitation Licenses

5.1. The Trustee Party may establish the term of the exploitation license and the conditions if any, under which it may be renewed, provided that its continuance after the first 15 years is contingent upon the achievement of commercial production.

6. Work Requirements

6.1. The Trustee Party may set the work requirements at or above those specified in Appendix A and put these in terms of work to be done rather than funds to be expended.

7. United Management

7.1. When a deposit most rationally extracted under unit management lies wholly within the International Trusteeship Area, or astride its landward boundary, the Trustee Party concerned shall assure unit management and production pursuant to Section 9.1 of Appendix A, and shall submit the plan for unit operation to the Operations Commission.

7.2. With respect to deposits lying astride a boundary between two Trustee Parties in the International Trusteeship Area, such Parties shall agree on a plan to assure unit management and production, and shall submit the operation plan to the Operations Commission.

8. Proration

8.1. The Trustee Party may establish proration, to the extent permitted by its domestic law.

9. Payments

9.1. Pursuant to sub-paragraph (e) of Article 28, the Trustee Party may collect fees and payments related to the issuance or retention of a license in addition to those specified in this Convention, including but not limited to payments on production higher than those required by this Convention.

9.2. The Trustee Party shall transfer to the Authority a portion (a figure between 50% and 66-2/3% will be inserted here) of the fees and payments referred to in paragraph 9.1 except as otherwise provided in paragraphs 3.3, 4.4 and 6.4 of Appendix A.

(NOTE: Further study is required on the means to assure equitable application of the principle contained in paragraph 9.2 to socialist and non-socialist parties and their operations.)

10. Standards

10.1. The Trustee Party may impose higher operating, conservation, pollution and safety standards than those established by the Authority, and may impose additional sanctions in case of violations of applicable standards.

11. Revocation

11.1. The Trustee Party may suspend or revoke licenses for violation of this Convention, or of the rules it has established pursuant thereto, or in accordance with the terms of the license.

APPENDIX D
DIVISION OF REVENUE

1. Disbursements

1.1. All disbursements shall be made out of the net income of the Authority, except as otherwise provided in paragraph 2 of Article 74.

2. Administrative Expenses of the International Seabed Resource Authority

2.1. The Council, in submitting the proposed budget to the Assembly shall specify what proportion of the revenues of the Authority shall be used for the payment of the administrative expenses of the Authority.

2.2. Upon approval of the budget by the Assembly, the Secretary-General is authorized to use the sums allotted in the budget for the expenses specified therein.

3. Distribution of the Net Income of the Authority

3.1. The net income, after administrative expenses, of the Authority shall be used to promote the economic advancement of developing States Parties to this Convention and for the purposes specified in paragraph 2 of Article 5, and in other Articles of this Convention.

3.2. The portion to be devoted to economic advancement of developing States Parties to this Convention shall be divided among the following international development organizations as follows:

(NOTE: A list of international and regional development organizations should be included here, indicating percentages assigned to each organization.)

3.3. The Council shall submit to the Assembly proposals for the allocation of the income of the Authority within the limits prescribed by this Appendix.

3.4. Upon approval of the allocation by the Assembly, the Secretary-General is authorized to distribute the funds.

APPENDIX E
DESIGNATED MEMBERS OF THE COUNCIL

1. Those six Contracting Parties which are both developed States and have the highest gross national product shall be considered as the six most industrially advanced Contracting Parties.
2. The six most industrially advanced Contracting Parties at the time of the entry into force of this Convention shall be deemed to be: -----
----- . They shall hold office until replaced in accordance with this Appendix.
3. The Council, prior to every regular session of the Assembly, shall decide which are the six most industrially advanced Contracting Parties. It shall make rules to ensure that all questions relating to the determination of such Contracting Parties are considered by an impartial committee before being decided by the Council.
4. The Council shall report its decision to the Assembly, together with the recommendations of the impartial committee.
5. Any replacements of the designated members of the Council shall take effect on the day following the last day of the Assembly to which such a report is made.

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