



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
LIMITED

A/AC.138/SC.2/L.6
24 March 1970

ORIGINAL: ENGLISH

COMMITTEE ON THE PEACEFUL USES OF
THE SEA-BED AND THE OCEAN FLOOR
BEYOND THE LIMITS OF NATIONAL
JURISDICTION
Economic and Technical Sub-Committee

Interim report

1. The Economic and Technical Sub-Committee held a series of formal and informal meetings in New York from 9 to 23 March 1970. The meetings were attended by the representatives of the forty-two member countries of the Committee. Also present were the observers of the following countries: Barbados, Burma, Cuba, Denmark, Finland, Ecuador, Guyana, Jamaica, Morocco, Netherlands, New Zealand, Nicaragua, Philippines, Portugal, South Africa, Spain, Sweden, Tunisia, Turkey, Ukrainian SSR and Venezuela, and the representatives of the ILO, FAO, UNESCO, WMO, IMCO and IAEA.
2. The Bureau of the Economic and Technical Sub-Committee was composed of the following members:
Chairman: Mr. Roger Denorme (Belgium)
Vice-Chairman: Mr. J.S. Teja (India)
Rapporteur: Mr. Anton Prohaska (Austria)
3. At the end of its thirty fourth formal meeting held on 23 March 1970 the Sub-Committee adopted its interim report.
4. During its March session in 1970, the Economic and Technical Sub-Committee considered the economic and technical conditions and rules for the exploitation of the resources of the sea-bed and the subsoil thereof beyond the limits of national jurisdiction in the context of the régime to be set up pursuant to General Assembly resolutions 2467 A (XXIII) and 2574 B (XXIV) (A/AC.138/SC.2/L.3).
5. The Sub-Committee based its consideration on the relevant parts of the report of the Sea-Bed Committee (A/7622) to the General Assembly at its

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twenty-fourth session, on the comments made during that session on this item (A/C.1/PV.1673-1783 and A/AC.1/PV.1708-1710) and on the comments made during the general debate in the Committee (A/AC.138/SR.17-24), as well as on the review prepared by the Secretariat on government measures pertaining to the development of mineral resources on the continental shelf (A/AC.138/21 and Corr.1).

6. Under operative paragraph 6 of General Assembly resolution 2574 B (XXIV), the Committee is requested, in particular, to formulate recommendations regarding the economic and technical conditions and the rules for exploitation of the resources of this area in the context of the régime to be set up. In response to this request, it was suggested that it would be appropriate in a first phase to identify and examine systematically the problems and issues of an economic and technical nature regarding the exploration and exploitation of marine mineral resources beyond the limits of national jurisdiction. Thus, while the Sub-Committee recognized that something is to be learned from existing national rules and practices relating to resource exploration and exploitation in all countries, it recognized also that none of these existing systems is directly applicable to resource development in this environment under an appropriate régime internationally agreed upon.

7. The Sub-Committee also recognized that when considering economic and technical conditions and rules for activities of exploration and exploitation of the resources in this area, it would also have to study the alternative questions as to which economic and technical conditions and rules might need to be specified and in what detail in the treaty establishing the régime, and which of them might require international machinery or other international institutional arrangements or might be left for determination by the States. In this connexion, it was stressed by some representatives that consideration of such alternatives would not prejudice their future position with regard to international machinery or international institutional arrangements.

8. A number of considerations were expressed on various approaches and possible forms of solution. However, the Sub-Committee considered that at this stage it was not in a position to advance concrete proposals about the economic and technical conditions and rules regarding exploration and exploitation of the resources of this area.

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9. During the debate, several representatives indicated their views as to the economic and technical rules and conditions of exploitation, the nature and scope of the régime to be established, and the principles to be reflected in this régime, as well as to the international machinery which will be responsible for management of the area and its resources. Several representatives suggested topics with regard to the economic and technical conditions and rules for the exploitation of the resources of this area which might, inter alia, be usefully considered in the context of the international régime to be set up, as well as some possible alternative solutions. They are listed in annex I to this report. Various proposals emerged which might also be usefully considered during the August session in the light of the further programme of work of the Sub-Committee and the General Assembly's request for recommendations. Some of these proposals are contained in annexes to this report.

10. The Sub-Committee has requested the Secretary-General to prepare for the August session a paper on the question of possible methods and criteria for the sharing by the international community of proceeds and other benefits derived from the exploitation of the resources of this area, though some representatives expressed the most serious doubts about the timeliness and appropriateness of such a paper for the implementation by the Sub-Committee of its mandate.

11. The Sub-Committee proposes for its next session in August 1970, keeping in mind the concurrent studies of the main Committee and of the Legal Sub-Committee pursuant to General Assembly resolutions 2467 (XXIII) and 2574 B (XXIV) and taking into account the study undertaken by the Secretary-General pursuant to General Assembly resolution 2574 C (XXIV), to study further systematically and identify the most suitable alternative solutions to the issues raised. It was felt that this study should be made with a view to incorporating the most suitable alternative solutions in a draft resolution to be recommended by the Committee to the General Assembly. Such a draft resolution might, inter alia, request the Committee to pursue its consideration with a view to formulating acceptable draft provisions for the agreement establishing an international régime in the area.

Annex I

LIST OF TOPICS SUGGESTED BY SOME MEMBERS TO BE STUDIED IN
PREPARING ECONOMIC AND TECHNICAL RULES AND CONDITIONS FOR
THE EXPLOITATION OF THE RESOURCES OF THE SEA-BED AND
SUBSOIL THEREOF BEYOND THE LIMITS OF NATIONAL JURISDICTION
WITHIN THE CONTEXT OF THE REGIME TO BE SET UP

This list, which represents a summary of the issues mentioned during the discussion by a number of members, is intended to identify some of the topics to be considered in the context of any kind of régime, and further to identify but not evaluate the alternative forms rules might take.

This list does not imply that rules would be found necessary on all topics included in it when they come to be considered in the context of a particular régime, nor does it imply that all of the rules that prove necessary will have to be specified in the treaty by which the régime would be established.

I. General framework

1. General definitions

Definitions of the various terms and concepts used in the context of marine mineral development will have to be agreed upon. The definition of working concepts used by the economic and technical working group of the Ad Hoc Committee constituted the first attempt in this direction (A/7230, annex I, paras. 5 and 12), which was followed up by the Economic and Technical Sub-Committee in 1969 (A/7622, part III, chap. I).

2. Assignment of responsibility for the administration of provisions and rules

The alternatives mentioned referred to the extent to which responsibility for administering provisions and rules is assigned to States as opposed to an international resource management authority. This problem will have to be considered further at the next session in the light of the report which the Secretary-General is to present in accordance with General Assembly resolution 2574 C (XXIV).

3. Definition of entities entitled to participate in sea-bed exploration and exploitation

Operators authorized to participate in sea-bed resources development could include States, State-authorized operators and international organizations.

This issue would also have to be considered further in the light of the report of the Secretary-General following resolution 2574 C (XXIV).

II. Operating rights

4. Activities subject to registration or licensing

Distinction will have to be made between exploration for scientific purposes and exploration for commercial purposes (in French, prospection). Certain kinds of commercial exploratory activities as well as all kinds of exploitation activities might have to be registered or licensed in some manner.

5. Categories of rights to be assigned according to the stage of the development

Three categories of activity may be distinguished:

- (a) Broad reconnaissance exploration not involving deep drilling;
- (b) Detailed exploration including deep drilling and evaluation;
- (c) Exploitation.

A distinction is often made between rights of exploration, evaluation and exploitation. All of these could be grouped together in one category. It might then be left to the State to make the distinction between different types of titles in its relations with individual operators.

6. Rights to be assigned on an exclusive or on a non-exclusive basis

Rights under the headings in paragraph 5 can be assigned on an exclusive or a non-exclusive basis.

Category (a) could be granted on a non-exclusive basis.

Categories (b) and (c) could either be issued separately or combined in one title covering both phases of activity.

Generally speaking, it was felt that exploitation rights should be exclusive, but there is a question as to whether this is needed if production is from a mobile platform, e.g., dredging.

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7. Types of minerals which are to be covered by exploration and exploitation rights

Titles can be granted to cover the development of all or only of specific minerals in the area for which they are granted.

According to the development phase for which the title is issued it was suggested:

- (a) That exploration rights might cover:
 - (i) only particular minerals, or
 - (ii) all minerals;
- (b) That exploitation rights might cover:
 - (i) all minerals within the same area, or
 - (ii) be distinguished according to the mode of occurrence between:
 - (1) nodules;
 - (2) hydrocarbons;
 - (3) other marine mineral resources.

8. Ways in which exploration and exploitation rights should be assigned

The following means and methods of assigning rights were listed:

- (a) Registration of claims or tracts on a first-come, first-served basis;
- (b) Selection among applicants by lottery;
- (c) Assignment by the administering authority on the basis of its judgement of the merits of the applicants;
- (d) Assignment to the highest bidder in an auction in which the bidding is based on the amount of a cash bonus to be paid for the acquisition of rights, the amount of royalties to be paid on production, the share to be paid on profit, or the amount of work to be undertaken, or possibly some combination of these elements.

In granting exploitation rights, the extent to which exploration has been undertaken might be taken into account.

Machinery might be provided by which, in the event of there being conflicting claims for the same area, the conflict can be resolved by mutual agreement on the allocation of an adjacent area.

This question will have to be studied further in the light of the Secretary-General's report under resolution 2574 C (XXIV).

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9. Means of selecting the areas which will be explored or exploited

(a) The selection of the area to be explored or exploited might be left wholly to the initiative of the operator.

(b) The administering authority could decide what areas or what proportion of the total areas are to be open for exploration and exploitation on the basis of its own cognizance.

(c) The administering authority could decide what areas are to be opened after receiving nominations or applications from operators.

In addition, distinctions can be made depending on whether the rights applying to the area were exclusive or not:

(a) In so far as non-exclusive exploration rights are concerned, the initiative might be left with the operator who might be required to indicate to the administering authority the areas in which he will be working;

(b) As to exclusive titles, the authority might reserve to itself the right to determine over which areas titles will be granted, or again, it might be left to the initiative of the operator.

10. Size of areas to which exploitation and exploration rights will apply

The size of areas can vary according to the type of minerals covered by the titles and on the phase of development for which rights are issued.

For the exploration stage the area should be big enough, from the point of view of the operator, to be economically explored, taking into account distance from shore and depth of water, while, from the point of view of the international community, not so big that it cannot be effectively worked over during a reasonable period of time.

At the production stage the area should be big enough to mount a viable operation for a period long enough to amortize expenditure and make a reasonable profit.

11. Duration of rights

Following the distinction between exclusive and non-exclusive rights, which is based to a large extent on the size of the investment (see also 5 (a)):

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(a) Exploration rights on a non-exclusive basis might be granted only for a relatively short duration and be easily renewable;

(b) Exploitation rights on an exclusive basis might be granted in principle for a longer period whereby the continuation of these rights might be made contingent, after a suitable period, on the achievement of production or be subject to a renewal of rights under new terms.

12. Relinquishment of part of the area after a certain lapse of time

A certain proportion of the initial area allotted might be relinquished by the operator according to a predetermined schedule.

13. Transferability

It could be considered whether or not any rights under the régime should be transferable from one licence- or concession-holder to another.

14. Maintenance of exploitation rights subject to work requirement

In order to discourage the freezing of areas, it could be required that the operator spend a minimum amount on exploration each year and deposit that amount in advance with the administering authority.

15. Size of area that may be held by a single operator or State

A formula will have to be designed to prevent the monopolizing of sea-bed resources and to give the people of the world access to them on an equal basis. The total area to be held by operators of a single State could be limited according to a variety of criteria concerning States (size, population etc.).

Alternatively, the areas that could be held by individual States or operators could be limited in a de facto way by a combination of work requirements and rules limiting the period over which rights could be held.

16. Production requirements

The question will have to be considered as to how far continuing production should be made a condition for the retention of rights, how commercial production would be defined, and to what extent it could be delayed or interrupted without

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loss of exploitation rights. Another question is the extent and manner to which production of sea-bed minerals should be controlled to protect the markets of land producers. It was suggested that this problem could be approached in the context of the world commodity agreements in relation to the particular mineral or minerals concerned.

III. Operating obligations

17. Operational standards

The requirement for agreed operational standards in the performance of work is necessary to ensure and has a bearing on:

- (a) The safety of personnel and equipment;
- (b) The prevention of unjustifiable interference with other uses of the high seas;
- (c) The prevention of waste in mineral exploitation, and
- (d) The prevention of pollution and other damage to other resources and the marine environment.

The aims and objectives of operations standards might be embodied in the agreement establishing a régime while the elaboration of the more detailed regulations governing the implementation of those standards could be left to the administering authority.

On the other hand, the inclusion of fairly explicit rules of implementation in the agreement was also envisaged as a possibility.

18. Collection and dissemination of data

The questions raised referred to the advisability, from the standpoint of the resource management system, the operator and the world community, of whether, to what extent and when operators should be required to make available data which they acquire during mineral exploration and exploitation.

19. Liability

Rules will have to be developed to govern liability for damage resulting from sea-bed operations.

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It was suggested that ways should be explored of providing insurance for liability of massive proportion and that the possibility should be considered of making the participation of operators in marine mineral development dependent on their participation in an insurance plan.

It was further considered that States should be responsible for activities on the sea-bed carried out under their sponsorship. This issue will also have to be considered by the Legal Sub-Committee.

IV. Sharing of the proceeds

20. Means and magnitude of payments

Regarding payments to be made by the operator, it was suggested that financial obligations be kept to a modest level during the exploration stage to encourage exploration. During production, payments could be related to the value at the site of minerals produced. It was also said that license fees might cover the expenses of the administering authority while the international community might share in the royalties on production.

As particular forms of financial payments, the following were mentioned: licence fees, rentals, royalties and bonuses.

21. Apportionment of benefits derived from the exploitation of sea-bed resources

It was suggested that it would be necessary to consider criteria for the allocation of financial proceeds derived from marine mineral development among the members of the international community. In this regard, it was felt that a study by the Secretary-General would provide a useful point of departure.

V. Other matters

22. Terms of forfeiture

Provisions will have to be established governing the forfeiture or revocation of rights to deal with operators who do not keep up their payments, who do not conform to operating standards, or who do not meet other agreed obligations.

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In addition, rules will need to be considered for voluntary forfeiture and for operational standards affecting abandonment of fixed installations.

23. Means to ensure adequate inspection of operations and compliance with the rules

The following problems were mentioned:

(a) Whether or not the coastal States should have the right to exercise inspection and some measure of control of activities in their adjacent waters, outside national jurisdiction;

(b) Whether or not coastal States should also have an opportunity to study, approve or disapprove the plans for exploration and exploitation of the sea-bed resources in their adjacent waters;

(c) The extent to which the international administering authority should also be entrusted with adequate power to proceed to the inspection of the operations and to enforce compliance with the rules established.

24. Settlement of disputes

Provisions will have to be made to ensure adequate settlement of disputes which may arise in the development of marine mineral resources. These disputes may arise between States, or between States and the international administering authority, or between the operators and other users of the marine environment. This question will have to be considered further by the Legal Sub-Committee.

Annex II

SOME PROPOSALS WHICH COULD BE STUDIED IN THE ECONOMIC
AND TECHNICAL SUB-COMMITTEE (FROM A STATEMENT BY THE
REPRESENTATIVE OF THE USSR IN THE ECONOMIC AND
TECHNICAL SUB-COMMITTEE OF THE UNITED NATIONS COMMITTEE
ON THE SEA-BED, 13 MARCH 1970)

1. States shall bear international responsibility for national activities on the sea-bed whether such activities are carried on by governmental agencies or by juridical or physical persons. The activities of juridical or physical persons shall require authorization and continuing supervision by the appropriate State.
2. Exploitation of mineral resources of this area shall be carried out in such a way as to promote development of the world economy and international trade.
3. In their activities on exploration and use of this area States shall take appropriate measures against:
 - (a) Pollution of the marine environment, particularly radioactive contamination;
 - (b) Interference with the existing biological, chemical and physical balances and processes;
 - (c) Damage to the flora and fauna of the marine environment.
4. In their activities States shall have reasonable regard for the appropriate lawful rights of other States in this area.
5. The activities of States in this area shall not infringe upon the recognized freedoms of the high seas and shall not interfere with navigation, fishing, laying and maintenance of submarine cables and pipelines, the conservation of the living resources of the seas, or with scientific exploration.
6. States shall give timely public notice of the establishment of any such installations, constructions or devices and take measures to maintain permanent means for giving warning of their presence.

Annex III

WORKING PAPER PRESENTED BY CAMEROON, CEYLON, INDIA, KENYA, KUWAIT, LIBYA, MADAGASCAR, MALAYSIA, PAKISTAN, SIERRA LEONE, SUDAN AND THAILAND ON INTERNATIONAL MACHINERY FOR THE USE, EXPLORATION AND EXPLOITATION OF THE SEA-BED AND OCEAN FLOOR AND THE SUBSOIL THEREOF, UNDERLYING THE HIGH SEAS BEYOND THE LIMITS OF NATIONAL JURISDICTION

The sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction including the resources of that area (hereinafter collectively referred to as the sea-bed) is the common heritage of mankind.

The sea-bed shall be reserved exclusively for peaceful purposes.

All activities with respect to the sea-bed, including the exploration, use and exploitation thereof, shall be carried out in the interests of mankind, irrespective of the geographic location of the States, and taking into account the special interests and needs of the developing countries.

Appropriate measures shall be taken to ensure a free flow of scientific information on the sea-bed to all States.

The sea-bed shall be placed under the jurisdiction of an international machinery. It shall be an autonomous universal organization possessing full international legal personality within the United Nations system. It shall be responsible for ensuring the rational exploration, conservation, exploitation, and development of the resources of the sea-bed. States shall be entitled to participate on an equal footing in the management of the organization.

The organization shall have regulatory and operational functions.

Its regulatory functions shall include organizing, controlling, administering and co-ordinating all activities with respect to the sea-bed. It shall grant licences for lawful activities with respect to the sea-bed in accordance with rules and legal norms to be formulated embodying standards and criteria for the granting and termination of such licences.

It shall take appropriate measures to prevent pollution and other hazards in the marine environment.

It may undertake operations independently. This may be done either through or in association with investors (government or private) possessing the necessary technical skills, equipment and financial resources or by use of its expertise and equipment.

It shall provide for the most appropriate and equitable application of benefits obtained from the exploration, use and exploitation of the sea-bed to mankind as a whole, particular consideration being given to the special interests and needs of developing countries.

It shall regulate production of the sea-bed resources with a view to preventing fluctuation of prices of raw materials in the world market resulting from the exploitation of the resources of the sea-bed.

The organization shall arrange training programmes aimed at enabling the developing countries to increase their expertise in the techniques needed to carry out all operational activities with respect to the sea-bed.

It shall establish its own budget. It shall be financed initially out of members' subscriptions, according to an appropriate scale of assessment to be determined. Other sources of funds may include borrowing, grants, licence fees, and proceeds derived from operational activities. Conditions of exploitation shall be negotiated with the organization prior to the commencement of activities.

Resources obtained from the exploitation of the sea-bed shall be made available to all countries, in accordance with their needs and in relation to their economic and social development.

A certain portion of the organization's net income shall be allocated to the developing countries in accordance with a scheme to be established and to increase the resources of the United Nations and its specialized agencies active in the field of economic development.

The organization shall have all the powers necessary for the performance of its functions.

Annex IV

WORKING PAPER PRESENTED BY THE UNITED STATES OF AMERICA ON THE
OBJECTIVES TO BE SERVED BY THE INTERNATIONAL REGIME GOVERNING
THE EXPLORATION AND EXPLOITATION OF SEA-BED RESOURCES BEYOND
THE LIMITS OF NATIONAL JURISDICTION

The following objectives to be served by an international régime governing sea-bed resource exploration and exploitation beyond the limits of national jurisdiction were described by the representative of the United States of America, Christopher H. Phillips, in his speech on 6 March 1970 to the Sea-Bed Committee, as objectives that would need to be met by any régime, regardless of its character. They were also referred to by the United States representative, V.E. McKelvey, in his speech on 11 March to the Economic and Technical Sub-Committee as useful in the evaluation of alternative rules and provisions that might be developed to implement the régime, and on 17 March he proposed that they be distributed to the Sub-Committee as a working paper for that purpose. The list of objectives (with Ambassador Phillips' explanatory comments on them) then distributed as a working paper, is as follows:

1. To encourage exploration and exploitation of sea-bed resources

This objective, of course, is basic. All of us are looking to the sea-bed as the source of future benefit to mankind. In its potential mineral wealth, it does indeed promise long-term benefit to mankind as a source of supplemental supplies as well as a source of income derived from their development. But these benefits will stem only from the production and use of these resources; no benefits at all will come either to potential users of these resources or to the international community unless we are successful in encouraging their exploration and exploitation. A sea-bed resource régime not built with this as its primary objective would truly be self-defeating.

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2. To assure that all interested States will have access, without discrimination, to the sea-bed for the purpose of exploring and exploiting mineral resources

At the outset, possibly only a few States will be active in the exploitation of sea-bed resources beyond the limits of national jurisdiction. But over the period in which need for them is likely to develop, we hope that all interested nations will have the capability to develop them to supplement their needs for raw materials. It is important, therefore, that equal access be assured for all.

3. To encourage scientific research and the dissemination of scientific and technological information related to sea-bed resources

Continued scientific research and exploration are the keys to full understanding of the ocean environment and its resources, and the dissemination of the results of research is essential to allow all nations to participate in sea-bed development.

4. To encourage the development of services, such as aids to navigation, maps and charts, weather information, and rescue capability

All of these are necessary to support sea-bed operations.

5. To provide procedures for the assignment of rights to minerals or groups of minerals in specific areas under terms that protect the integrity of investments in sea-bed resource development, that encourage economic efficiency in the exploration and exploitation of sea-bed resources, that prevent a race for claims, and that discourage operators from seeking to hold large areas for purely speculative purposes

This objective is related to the first, but it is also of basic importance if we are to achieve an effective international régime, for without assurance of security of tenure of exploitation rights under agreed terms, no one will risk the large investment required to achieve resource development in this area.

Considering the cost barriers that must be surmounted to make sea-bed development economically feasible, it is essential that we develop a régime that makes possible maximum economic efficiency in sea-bed exploration and exploitation. And, of course, it is essential that we prevent sea-bed resources from being tied up by speculators or others who intend to hold them for future gain rather than immediate development.

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6. To provide for a reasonable return on risk investment

This objective is also related to the first and is just as basic. It applies, I might point out, equally to risk investment undertaken by an international operating organization and to that undertaken by private or state entrepreneurs. Regardless of who is making the investment in exploration or exploitation, risk of total loss must be compensated by a higher rate of return on successful ventures than is the case for low- or non-risk investment, if the operation is to be economically viable in the over-all.

7. To provide revenue to benefit international community purposes, taking special account of the needs of the developing countries, and to meet the operating expenses of the international body established to administer its provisions

Over the long term, the fullest benefit to mankind will come from the use of sea-bed resources as a supplemental source of raw materials, but in the immediate future the benefit to much of mankind may well come via a share in the economic rent that accrues from resource production.

8. To assure that exploration and exploitation of sea-bed mineral resources will be carried out in a manner that will protect human life, prevent conflicts between users of the sea-bed, safeguard other uses of the ocean environment against undue interference, avoid irreparable damage to the environment and its resources, and promote the use of sound observation practices

The basic and most important objective here is to provide effective standards governing sea-bed operations, but backing them up must be procedures and measures to assure compliance.

9. To provide terms and procedures governing liability for damage resulting from exploration and exploitation of sea-bed minerals so that damage will be adequately repaired or compensated

As recent mishaps have shown all too clearly, the chance for accidents of massive proportions in this environment is a very real one. As in all safety precautions, the most effective ones have to do with the development of safe operating procedures. But arrangements for financial responsibility must be provided to pay for the cost of reparations for damage that occurs in spite of all precautionary measures.

10. To provide for the stability of rules, and yet for the flexibility to introduce modifications over time responsive to new knowledge and new developments

Potential operators need the assurance that rules and provisions governing conditions of tenure and the payment of fees will not change during the life of permits and rights that they may acquire, but at the same time provisions must be made to modify operational standards and procedures to take account of new knowledge and new developments.

11. To provide effective procedures for the settlement of disputes

As in pollution control, the most effective means of settling disputes is to prevent them from happening in the first place, but effective procedures for resolving them promptly and fairly are surely a basic objective of any régime.

12. In the over-all, to establish an international régime so plainly viable that States will in fact ratify the treaties establishing it

Unless the régime we establish is acceptable to the vast majority of the nations who would participate in sea-bed resource development, its chance of success is small.

Annex V

WORKING PAPER PRESENTED BY THE UNITED KINGDOM CONTAINING PROPOSITIONS
ON THE NATURE AND SCOPE OF AN INTERNATIONAL REGIME

1. The régime should be established by means of an international agreement

(a) Depending upon the range of questions to be regulated by the régime, one or several instruments of international agreement may be needed. If several agreements were necessary, these could either be concluded simultaneously, bringing the régime into full effect at one time, or over a period of time, so that the régime might progressively embrace a broader range of matters.

(b) To ensure that the régime will be effective, it should be ratified by the great majority of Member States of the United Nations and specialized agencies, including the major maritime nations. The substantive provisions of the agreement, and those for its entry into force, should be drafted with this aim in mind.

(c) Such an agreement might contain provision for review after an appropriate period of time to take account of international experience and of technological developments.

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

The agreement should specify precisely which resources are concerned.

3. The agreement should provide for the grant of licences to States for the exploration or exploitation of resources within specific areas

(a) The possible range of functions to be discharged within the régime is described in the second part of the Secretary-General's study in document A/AC.138/12. There are major difficulties about the actual conduct of operations on the sea-bed by an international agency.

(b) The best régime might be one under which licences would be issued for exploration and for exploitation of the resources of the sea-bed.

(c) Such licences would be issued not to individual operators, but to Member States, who would then themselves be responsible for issuing licences

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to operators under their own legislation, and seeing that agreed standards and safeguards, which could be set out in the agreement, were observed.

(d) Licences could be issued to States either for all minerals in the licence area or only for specific minerals.

(e) The agreement would also have to specify the way in which licence areas would be allocated amongst States. It ought to be possible to find a means of ensuring an equitable distribution which gave all States parties to the régime an opportunity for a direct stake in sea-bed exploitation, whatever their stage of technological development.

(f) The question would arise of the conversion of licences for exploration into licences for the exploitation of resources, and the related question of the duration and renewal of licences. This would have to be arranged in such a way as to provide the necessary economic incentive for commercial operations.

4. A régime of this nature would evidently require the establishment of some form of international body to administer its provisions

(a) The form and structure of such an international body would depend upon the precise nature of the functions it was to discharge. It would presumably form a part of the United Nations family.

(b) The agreement establishing the régime would need not only to specify the form of the international body, but also to lay down in particularly clear and precise provisions the rules by which it would operate and the criteria it should follow, in order to reduce to the minimum the scope for disagreement.

(c) However precise the terms of the agreement, the possibility cannot be discounted that there may be international disagreement about the way the international body should operate. The agreement could, therefore, provide, as the Secretary-General's study suggests, separate arrangements for the settlement of disputes between States parties or between States parties on the one hand and any international body on the other.

5. The agreement should provide for the payment of international royalties and for licensing fees in respect of operations conducted under the régime

(a) The level of such payments would have to be carefully worked out to ensure that they did not have the effect of discouraging the development of sea-bed resources.

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(b) Licensing fees should be limited to what is necessary to finance any international body set up to administer the rules for exploring and exploiting the sea-bed.

(c) The proceeds of production royalties, on the other hand, should be distributed for the benefit of States parties to the agreement establishing the régime, taking special account of the interests of the developing countries. As the Secretary-General points out in his study, such funds could be administered either through some new arrangements or by making use of existing machinery.

6. The agreement should define the area in which the régime was to apply

When the régime eventually comes into force, the international community must know to what area it applies.

7. The agreement should provide that the establishment of the régime did not affect the legal status of the super-jacent waters of the high seas or that of the air space above those waters

8. The agreement should provide that the exploration and exploitation of the resources of the sea-bed 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 could provide measures to deal, amongst others, with the following questions:

- (a) The prevention of pollution of the marine environment;
- (b) The promotion of international co-operation in scientific research;
- (c) Arrangements for making accessible to all the results of such research.

Annex VI

WORKING PAPER SUBMITTED BY EL SALVADOR INCLUDING PROPOSALS ON THE REGIME
OF EXPLORATION AND EXPLOITATION OF THE INTERNATIONAL ZONE OF THE SEA-BED

1. The régime of exploration and exploitation shall be part of the general régime of the international zone of the sea-bed, and the general régime shall be agreed upon as a unit by means of a treaty.
2. The aforesaid régime shall apply to the international zone of the sea-bed, including the subsoil thereof, and hence to the exploration and exploitation of its natural resources.
3. The régime shall provide, among other procedures, for legitimizing exploration and exploitation, for the issuing of licences exclusively to States, associations of States and international organizations.
4. The régime shall be administered by an international organ.
5. The régime shall provide for the payment of dues, taxes, royalties and shares in the profits for the exploitation of the resources of the international zone of the sea-bed in a reasonable proportion consistent with the nature, volume and international price of the resources exploited, the investment and the risks.
6. The régime of exploration and exploitation and the régimes of the superjacent waters and air space above the international zone shall be harmonized and co-ordinated.
7. The régime shall provide for the measures necessary to ensure that exploration and exploitation activities do not interfere with other marine activities, including those designed to conserve biological resources, oceanographic research and the laying of cables and oil pipe-lines, and vice versa.
8. The régime shall introduce measures to ensure work safety, the coverage of risks and other normal safeguards for the personnel engaged in exploration and exploitation, in accordance with the recommendations of the International Labour Organisation.
9. The régime shall provide that the authority issuing a licence or any other permit to explore or exploit shall assume responsibility for complying with the regulations and for any damage that may be caused, even unwittingly, in carrying out legitimate operations.

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10. The régime shall prescribe the grounds for the withdrawal and forfeiture of licences and other permits issued pursuant to the relevant regulations.
