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COMMITTEE ON THE PEACE USES OF THE SEA-BED
AND THE OCEAN FLOOR BEYOND THE LIMITS
OF NATIONAL JURISDICTION
SUB-COMMITTEE I

TEXTS ILLUSTRATING AREAS OF AGREEMENT
AND DISAGREEMENT ON ITEM 1 OF THE
SUB-COMMITTEE'S PROGRAMME OF WORK:
"STATUS, SCOPE AND BASIC PROVISIONS OF
THE REGIME, BASED ON THE DECLARATION
OF PRINCIPLES (RESOLUTION 2749 (XXV))"

EXPLANATORY NOTE

This document contains articles relating to item 1 of the Sub-Committee's programme of work, entitled "Status, scope and basic provisions of the régime, based on the Declaration of Principles (resolution 2749 (XXV))". With the exception of article I, dealing with "Limits of the Area", and article O "/Interpretation/ /Definitions/", these articles are the result of the second reading by Working Group I and have been given Arabic numbers.

Introductory note concerning the Draft Ocean Space Treaty prepared
by Malta (A/AC.138/53)*

Statement by the delegation of Malta

The delegation of Malta has presented specific and comprehensive legal principles, incorporated in its Draft Ocean Space Treaty, for each aspect provided for in the present document.

The Maltese Draft Treaty is based on a unitary approach to the problems of ocean space as a whole and consequently holds to the view that a new international order for ocean space must be constructed. The "area" covered by the following articles forms part of international ocean space as conceived by the delegation of Malta and as defined in its Draft Ocean Space Treaty. As regards the question of international machinery, the proposals made by the delegation of Malta envisage a machinery that would maintain order in ocean space, would protect the ecological, territorial and jurisdictional integrity of ocean space beyond national jurisdiction, and provide for the management and orderly development of this area and of its natural resources.

For the purposes of brevity and on account of the Maltese delegation's conceptual approach, the Maltese formulation as it appears in its Draft Ocean Space Treaty is not reproduced under each of the texts in the present paper but is referred to in each case by an asterisk referring to the introductory note.

Statement by the U.S.S.R. delegation

With reference to "the Maltese delegation conceptual approach" as embodied in its Draft Ocean Space Treaty it was stated by the U.S.S.R. delegation that in so far as that approach and the draft concern the status of waters superjacent to the sea-bed, they have no relevance whatsoever to the work of the Working Group of Sub-Committee I.

Under the agreement on the organization of work of the Committee of 12 March 1971 Sub-Committee I is entrusted with the task "to prepare draft treaty

* Official Records of the General Assembly, Twentieth-sixth Session, Supplement No. 21 (A/8421), annexes I, II.

articles embodying the international régime - including an 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 Working Group of Sub-Committee I being a subsidiary body of the Sub-Committee can not have any task going beyond the terms of reference of the Sub-Committee as stated above, and accordingly the Group has no competence to consider any problem "of ocean space as a whole".

As it has become clear from the Working Group consideration of the status, scope and basic provisions of the sea-bed régime, any attempt to involve the Working Group in a discussion "of ocean space as a whole" has usually resulted in waste of time, has given rise to disagreements within the Working Group and has diverted its attention from the fulfilment of the task of the Working Group, namely the preparation of draft treaty articles on the international régime - including international machinery for the sea-bed and the subsoil thereof and for their resources.

[[UNITED NATIONS] CONVENTION ON THE
SEA-BED AND THE OCEAN FLOOR BEYOND
THE LIMITS OF NATIONAL JURISDICTION]*

PART I

[BASIC] [FUNDAMENTAL] [GENERAL] PRINCIPLES

* The Working Group has not considered headings, marginal notes, or the position of texts.

I^{1/}

LIMITS OF THE AREA (CT.^{2/}Sec.1)*

- 1. Delimitation of national jurisdiction.]
- 2. Procedures for notification, record
and publication of actual limits of
national jurisdiction.]

* See introductory note.

1/ The Working Group has not considered this text.

2/ CT = Comparative Table (A/AC.138/L.10).

COMMON HERITAGE OF MANKIND (CT. Sec.2)*

(A)

Common
heritage
Limits
(D.1) 3/

1.^{4/} The sea-bed and ocean floor, and the subsoil thereof beyond the limits of national jurisdiction,^{5/} as defined pursuant to Article ... and hereinafter referred to as the "Area", as well as the resources of the Area, are the common heritage of mankind.^{6/}

"Resources"
interpreted

^{2/} The resources referred to in these Articles ~~/are/~~ /include/ the mineral and other non-living resources of the Area ~~/and of the water column/~~ /together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil~~/.~~

OR

/The resources referred to in these Articles constitute the organic and the inorganic content composing the Area.

OR (B)

1. (All of the text of paragraph 1 of (A) above, followed by :)

The Articles contained herein determine the meaning of the common heritage concept

OR (C) (for the Preamble)

BEARING IN MIND THAT the sea-bed and ocean floor, and the subsoil thereof within the area defined in Article ... are the common heritage of mankind in accordance with the provisions of these Articles.

* See introductory note.

3/ D - Declaration of Principles.

4/ Explanatory note: words underlined are contained in the Declaration of Principles (resolution 2749 (XXV)).

5/ The term "national jurisdiction" is not intended to prejudice the nature and content of such jurisdiction.

6/ The view was expressed that, depending on the elaboration of later texts, consideration should be given to the insertion of the phrase "and as such are administered in the name and on behalf of the international community by the Authority established under Article ..." after the word "mankind".

ACTIVITIES REGARDING EXPLORATION AND EXPLOITATION, ETC. (CT. Sec.5)*

(A)

Activities
covered
(D.4)

1. All activities in the Area, including scientific research^{7/} and the exploration and exploitation of the resources of the Area, and other related activities shall be governed by the provisions of these Articles and shall, unless otherwise provided in these Articles, be subject to regulation by the Authority established pursuant to Article ...

"Activities"
interpreted

2. For the purposes of this Article, the term "activities" shall include scientific research, preservation of the marine environment, the prevention of pollution, processing and marketing of commodities recovered from the Area, accommodation of uses of the Area, conservation of living resources and the protection of archaeological and historical treasures.7

* See introductory note.

^{7/} The view was expressed that the reference to scientific research in this text is outside the terms of reference of the Working Group.

OR (B)

The provisions of these Articles shall govern the exploration and exploitation of the resources of the Area and other related activities which are specified herein. The Authority shall have the functions with regard to those activities which are conferred on it by these Articles.

OR (C)

1. All activities in the Area shall be governed by the international régime established by these Articles. The International Authority established under Article ... shall enjoy in respect of these activities such powers as are conferred upon it by the terms of these Articles.

/2. Under this text the question of an interpretative paragraph for the term "activities" is left open.]

NON-APPROPRIATION AND NO CLAIM OR EXERCISE OF SOVEREIGNTY OR
SOVEREIGN RIGHTS; NO CLAIM ETC., OF RIGHTS INCOMPATIBLE WITH
THE TREATY ARTICLES, NON-RECOGNITION OF CLAIMS ETC.,

(CT. Sec. 3 and 4)*

(A)

(D.2 and 5) Neither the Area nor its resources nor any part thereof shall be subject to appropriation by any means whatsoever, by States or persons natural or juridical, and no State shall claim or exercise sovereignty or sovereign rights over the Area or its resources or any part thereof; nor, except as hereinafter otherwise specified in these Articles, shall any State or any person natural or juridical claim, acquire, or exercise any rights over the resources of the Area or of any part thereof. Subject to the foregoing, no such claims or exercise of such rights shall be recognized.

OR (B)

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.

* See introductory note.

USE OF THE AREA BY ALL STATES WITHOUT
DISCRIMINATION (CT. Sec.6)* 8/

Non-discrimination
(D.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 provisions of these Articles.9/

* See introductory note.

8/ One delegation suggested that 5 and 7 could be combined. For the alternative text proposed see 7A.

9/ One delegation expressed the view that the text should end after the word "discrimination", the remainder of the text being deleted. Another delegation suggested that a further sentence should be added at the end of the existing text, reading as follows: "All States, whether land-locked or coastal, shall have access to the Area in accordance with the provisions of these Articles."

GENERAL CONDUCT IN THE AREA AND IN
RELATION TO THE AREA (CT. Sec. 7)*

(A)

General conduct
of States (D.6)

States shall act in and in relation to the Area in accordance with the provisions of these Articles, the applicable principles and rules of international law including /those contained in/ the Charter of the United Nations /and taking into account/ 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 in the interests of peaceful coexistence and promoting international co-operation and mutual understanding.

(B)

All activities in the Area and in relation to the Area shall be in accordance with the provisions of these Articles and the purposes and principles of the Charter of the United Nations.

* See introductory note.

BENEFIT OF MANKIND AS A WHOLE (CT. Sec.8)*

General objective:
benefit of mankind
as a whole (D.7)

/Scientific research and^{10/} the /industrial/ 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.

Special
interest
groups

/2. Due regard shall be paid to the need to protect the interests of /coastal States,/ land-locked and shelf-locked countries /countries with a coastline of less than ... miles, and those whose continental shelf at a depth of 200 metres or less, is less than ... square miles/ in the development of sea-bed resources./

/3. Neither these Articles, nor any rights granted pursuant thereto shall affect the freedom of research on the sea-bed and the subsoil thereof./

* See introductory note.

^{10/} One delegation expressed the view that this text should start with the words: "The administration of the Area and...".

7A

PROPOSED AMALGAMATION OF TEXTS 5 AND 7* 11/

(D.5 and D.7)

/The Area shall be open to use exclusively for peaceful purposes by all States without discrimination. Scientific research, the exploration and exploitation of its resources shall^{12/} be carried out for the benefit of mankind as a whole, irrespective of the geographical position of States, whether coastal or land-locked, and taking into particular consideration the interests and needs of the developing countries./

* See introductory note.

11/ Left for later consideration.

12/ In the event that the amalgamation takes place one delegation would like the opening lines, up to the word "shall" to read: "The administration of the Area and the exploration and exploitation of its resources is exclusively for peaceful purposes without discrimination and".

PRESERVATION OF THE AREA EXCLUSIVELY FOR
PEACEFUL PURPOSES (CT. Sec. 9)*

Peaceful uses
(D.8)

The Area shall be reserved exclusively for peaceful purposes,
/, and every effort shall be made to exclude it from the arms
race/ /and its use for military purposes shall be prohibited/.

/The Contracting Parties undertake to conclude further
international agreements as soon as possible/ with a view to
effective implementation of this Article.

/The emplacement of nuclear weapons and of other weapons of
mass destruction in the area is prohibited/.

/Nuclear and thermonuclear weapon test explosions are
prohibited in the Area/.

Proposal to replace third and fourth paragraphs:

/The activities of all nuclear submarines in the Area and
in the sea-bed area of other States shall be prohibited. The
emplacement of nuclear weapons and all other weapons in the Area
and in the sea-bed area of other States shall be prohibited/.

* See introductory note.

WHO MAY EXPLOIT THE AREA (CT. Sec. 11)*

(A)

All exploration and exploitation activities in the 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, subject to regulation by the Authority and in accordance with the rules regarding exploration and exploitation set out in these Articles.

OR (B)

All activities of scientific research and exploration of the Area and exploitation of its resources and other related activities shall be conducted by the Authority directly or, if the Authority so determines, through service contracts or in association with persons natural or juridical.

OR (C)

All exploration and exploitation activities in the Area shall be conducted by the Authority either directly or in such other manner as it may from time to time determine. If it considers it appropriate and subject to such terms and conditions as it may determine the Authority may decide to grant licences for such activities to a Contracting Party or group of Contracting Parties or through them to natural or juridical persons under its or their authority or sponsorship, including multinational corporations or associations.

* See introductory note.

Licences may also be issued for this purpose to international organizations active in the field at the discretion of the Authority.^{13/}

OR (D)

All exploration and exploitation activities in the 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, subject to regulation^{14/} by the Authority and in accordance with the rules regarding exploration and exploitation set out in these Articles. The Authority may decide, within the limits of its financial and technological resources, to conduct such activities.

* * *

NOTE: The Group will have to consider whether to set out here as is done in some proposals, the general rules regarding resource activities in the Area. These could include, inter alia, according to the type of administration adopted as regards exploration and exploitation, rules on: notice to mariners and other safety procedures, areas to be allotted, work requirements, work plans, inspection, service contracts, licensing, joint ventures, fees payable, revocation of service contracts, revocation of licences and integrity of investments. On the other hand, the Group may decide to omit them from Part I of the Articles.

^{13/} One delegation was of the opinion that it might be useful to add to this proposal, in a separate paragraph, the following:

"All activities of intergovernmental organizations or multinational organizations or corporations in the Area are subject to the general supervision and control of the Authority."

^{14/} The view was expressed that the word "regulation" in this context should be replaced by the word "supervision".

GENERAL NORMS REGARDING EXPLOITATION (CT. Secs. 12 and 13)* 15/16/

(A)

(D.9)

The exploration of the Area and the exploitation of its resources shall be carried out in such a manner as to provide for their orderly and safe development and rational management^{17/} and expanding opportunities in the use thereof and to ensure the equitable sharing by States Parties in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal.

(B)

The exploration of the Area and the exploitation of its resources and other related activities shall be carried out in a safe, orderly and rational manner so as to ensure their conservation and optimum utilization and to regulate production in the Area so as to minimize the fluctuation in the prices of minerals and raw materials from land and offshore sources that may result from such exploitation and adversely affect the exports of developing countries, especially those who are producers of wasting and non-renewable materials. The mineral resources of the Area shall be considered as being complementary to resources produced from land and offshore areas. The benefits derived from exploitation of the resources of the Area shall be distributed

* See introductory note.

^{15/} One delegate was of the view that the concepts dealt with in this Article could more appropriately be included among the Purposes of the machinery.

^{16/} With reference to this Article, the USSR delegate referred to the explanatory note to Article 9 of the provisional draft articles submitted by the USSR, reproduced in Section 11 of the Comparative Table (p. 34 of the English text).

^{17/} The words "rational management" need to be defined.

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.

/2. The Authority shall distribute equitably among all developing countries the proceeds from any tax levied in connexion with activities relating to the exploitation of the Area.7

NOTE 1: The view was expressed in respect of this Article that there is a need to take into account in the regulations under the machinery, provisions allowing the Authority and States/Parties to pursue measures designed to facilitate the stabilization of commodity prices on a global basis as, for example, through international commodity agreements.

NOTE 2: The Group may wish to consider whether to set out here, as is done, for example, in the United States draft, art. 5 (1), the basic principles of benefit sharing, or to deal with this subject in a subsequent chapter of the Articles.

SCIENTIFIC RESEARCH (CT. Sec. 14)*

(A)

(D.10)

1. Every State, whether coastal or land-locked, has the right to undertake scientific research in the Area ocean space, provided due regard is paid to the rights and interests of other States and of the Authority, concerning legitimate activities in the Area.
2. Every State shall:
 - (i) encourage scientific research in the Area;
 - (ii) promote international co-operation in scientific research, in particular:
 - (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) Through measures to strengthen research capabilities of developing countries, including the participation of their nationals in research programmes.
3. No such research activities shall form the legal basis for any claim with respect to any part of the Area or its resources.

NOTE: A definition of "scientific research" would be included in Article O.

OR (B)

1. Neither these Articles, nor any rights granted pursuant thereto shall affect the freedom of scientific research in the Area. Each Contracting Party agrees to encourage, and to obviate interference with, scientific research in the Area. Contracting Parties shall promote international co-operation in scientific research concerning the Area exclusively for peaceful purposes:

* See introductory note.

(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) Through measures to strengthen research capabilities of developing countries, including the participation of their nationals in research programmes.

2. No such research activities shall form the legal basis for any claim with respect to any part of the area or its resources.

NOTE: A definition of "scientific research" would be included in Article O.

OR (C)

Scientific research in the Area shall be carried out exclusively for peaceful purposes, 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 developing countries.

Without prejudice to the scientific research activities carried out by the Authority itself, it shall grant authorization on a non-discrimination basis for such activities to any person, natural or juridical, provided that there are the necessary guarantee of technical competence, responsibility for any damage that may be caused to the marine environment, and compliance with the applicable regulations adopted in this regard by the Authority.

States shall promote international co-operation in scientific research in the Area in particular through:

(a) international programmes directed toward the training of nationals of developing countries in all aspects of marine science and technology;

- (b) technical assistance to developing countries;
- (c) employment of qualified personnel from developing countries in all aspects of the activities carried out in the Area;
- (d) notification to the Authority of research programmes, and dissemination of their results by the same channel.

TRANSFER OF TECHNOLOGY

(A)

Contracting Parties shall co-operate in promoting the transfer of technology and know-how relating to the exploration of the Area and the exploitation of its resources to developing countries and to other countries in need of such technology or know-how.

Opportunities shall be given for the training of personnel of those countries in all aspects of marine technology, particularly by participation, as far as possible, in the exploration of the Area and the exploitation of its resources.

OR (B)

States shall promote, through the Authority:

(a) programmes for the promotion of transfer of technology to developing countries with regard to the exploration of the Area and the exploitation of its resources, including, inter alia, facilitating the access of developing countries to patented and non-patented technology, under just and reasonable conditions;

(b) the elaboration of techniques adapted to the production and trade structures of developing countries;

(c) measures directed towards the acceleration of domestic technology of developing countries and the opening of opportunities to personnel from developing countries for training in marine science and technology and their full participation in activities in the Area.

OR (C)

Contracting Parties shall take necessary measures for promoting the transfer of technology and scientific knowledge relating to the exploration of the Area and the exploitation and utilization of its

resources, so that all States benefit therefrom on an equitable and non-discriminatory basis.

Contracting Parties undertake to establish and to carry out concrete programmes, within the framework of the over-all policy of the United Nations in this field, for transferring scientific knowledge and technology, including patented technology, to the developing countries.

The Authority shall establish permanent means for the acquisition, dissemination and transfer of scientific knowledge and technology, as well as for training of personnel from developing countries in marine science and technology, so as to ensure their full participation in activities in the Area.

OR (D)^{18/}

Revenues derived from sea-bed exploration and exploitation 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 knowledge of the Area; and to provide technical assistance to Contracting Parties or their nationals for these purposes, without discrimination.

^{18/} This alternative text is derived from Article 5, paragraph 2, of the United States draft and is integrally related to that treaty which asserts that States shall share with the Authority a portion of the revenues derived from the exploration and exploitation of sea-bed resources under their jurisdiction beyond the 200-metre isobath. Text (D) should be read in the context of this treaty proposal as it appears at Article 5 of the United States draft and related articles.

PROTECTION OF THE MARINE ENVIRONMENT (CT. Sec. 15)*

(D.11) With respect to /all/ activities in the Area, appropriate measures shall be taken for 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.

NOTE: The Group may wish to consider whether or not to deal in Part I of the Articles with the subject of marine pollution in greater detail, as is done, for example, in the Malta draft, Arts. 80-83. (Compare also U.S. draft, Art. 23).

* See introductory note.

PROTECTION OF HUMAN LIFE* 19/

With respect to all activities in the Area, appropriate measures shall be taken for the adoption and implementation of international rules, standards and procedures for the protection of human life.

* -See introductory note.

19/ This Article is drafted on the understanding that the rules, standards and procedures to be implemented include, so far as concerns States that are parties thereto and to the extent that they remain in force, those rules, standards and procedures that are in force at the date of entry into force of these Articles.

DUE REGARD TO THE RIGHTS ETC. OF COASTAL STATES (CT. Sec. 16)* 20/

(A)

Rights of
coastal
States
(D.12)

1. /All/ activities /of industrial exploration and exploitation/
/in the Area/ /in the regions of the Area adjacent to its limits/
shall be conducted with 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 /, including a system of prior notification,/ shall be
maintained with the States concerned, with a view to avoiding
infringement of such rights and interests. /Such activities of
industrial exploration and exploitation shall be conducted with the
concurrence of the coastal State or States concerned./

OR

Emergency
measures
(D.13(b))

1. All activities of exploration and exploitation in the region adjacent to the boundary between the Area and the areas under State jurisdiction shall be conducted with due regard to the rights and legitimate interests of both the coastal State and the Authority.^{21/}
2. Neither these Articles nor any rights granted or exercised pursuant thereto shall affect the right of coastal States to take such measures as may be necessary 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.

* See introductory note.

^{20/} Attention was invited to the fact that the idea of an intermediate zone might be relevant to this Article at a later stage. The view was also expressed that the idea of an intermediate zone bore no relevance to this Article.

^{21/} It was proposed that if this text were adopted, the words "AND THE AUTHORITY" should be added at the end of the title of the Article.

OR

2. (a) Any State facing grave and imminent danger from pollution or threat of pollution, following upon a hazardous incident or acts related to such an incident in the Area, which may reasonably be expected to result in major harmful consequences for that State, may take such measures as may be necessary to prevent, mitigate or eliminate such danger subject to the provisions of this Convention.

2. (b) Measures taken in accordance with this subparagraph (a) shall be proportionate to the damage which threatens the State concerned and shall not go beyond what is reasonably necessary to achieve the objective referred to in subparagraph (a).

Resources
near limits
of national
jurisdiction

3. Resources of the Area which lie across limits of national jurisdiction shall not be explored or exploited, except in agreement with the coastal State or States concerned. Where such resources are located near the limits of national jurisdiction, their exploration and exploitation shall be carried out in consultation with the coastal State or States concerned, and where possible through such State or States.7

OR (B)^{22/}

1. Coastal States and the Authority shall co-operate closely in respect of all activities conducted in a zone under their respective jurisdiction adjacent to the boundary of the Area, not exceeding miles in breadth. Legal effect shall be given to such co-operation by the adoption of non-discriminatory Convention to be elaborated for this purpose.7

2. Coastal States shall transfer to the Authority a portion of the financial benefits obtained from the exploitation of the natural resources of maritime areas adjacent to the limits of the Area. A special Convention shall be negotiated on this subject.^{23/}7

^{22/} In connexion with some of the provisions of this draft the view was expressed that texts not covered by the Declaration of Principles and which may be at variance with it should not be proposed.

^{23/} It was proposed that if this text were adopted, the words "AND OBLIGATIONS" should be added after the "RIGHTS" in the title of the Article.

LEGAL STATUS OF WATER SUPERJACENT TO THE AREA ETC.
(CT. Sec. 17)* 24/

Status of water
column and air
space (D.13(a))
rights under
existing
international
law.

/Except as provided in these Articles nothing herein./

/Neither these Articles nor any rights granted or exercised pursuant thereto/ shall affect the legal status of the waters superjacent to the Area /as high seas/ or that of the airspace above those waters.

/2. /Except as provided in these Articles./ The use of the Area for the purpose of exploration and exploitation of its resources shall not conflict with freedom of navigation, fishing, scientific research, laying and maintenance of submarine cables and pipelines and other freedoms of the high seas./

* See introductory note.

24/ One delegation expressed the view that this Article should be omitted entirely.

ACCOMMODATION OF ACTIVITIES IN THE MARINE ENVIRONMENT
AND IN THE AREA (CT. Sec. 18)*

Activities in
the Area

1. All activities in the marine environment shall /be conducted with reasonable regard for /not result in any unjustifiable interference with the exploration of the Area and the exploitation of its resources.

Other marine
activities

2. The exploration of the Area and the exploitation of its resources shall /be conducted with reasonable regard for /not result in any unjustifiable interference with other activities in the marine environment.

NOTE: The Group may wish to consider whether to include here or elsewhere in these Articles a more detailed treatment of "non-interference rules" relating to such matters as prevention of interference with recognized sea-lanes and restrictions on resource exploitation in areas with a high pollution risk; see, for example, the USSR draft, Articles 4, 10, 12, United States draft, Article 21, and Malta draft, Article 72, and other relevant texts.

* See introductory note.

RESPONSIBILITY TO ENSURE OBSERVANCE OF THE INTERNATIONAL
RÉGIME AND LIABILITY FOR DAMAGES (CT. Sec. 19)* 25/

International
responsibility
(D. 14)

/1.7 Every State shall have the responsibility to ensure that activities in the Area, including those relating to /the industrial exploration and exploitation of7 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 provisions of these Articles. 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,^{26/} /On the part of the State or international organization concerned, in respect of activities which it undertakes itself or authorizes.] /A State Party to these Articles shall be responsible for any damage caused to another State Party to these Articles as a result of its activities on the sea-bed.]
/2. A group of States acting together shall be jointly and severally responsible under these Articles7.
/3. Each Contracting Party shall:

- (i) Take appropriate measures to ensure that those conducting activities under its authority or sponsorship comply with these Articles.
- (ii) Make it an offence for those conducting activities under its authority or sponsorship in the Area to violate the provisions of these Articles. Such offences shall be punishable in accordance with administrative or judicial procedures established by the Authorizing or Sponsoring Party.

* See introductory note.

^{25/} Although the Working Group carried out a second reading of this Article, it was agreed that the scope and complexity of the subject-matter were such that it would be necessary for the Group to give further detailed consideration to the issues involved at a later stage. The view was expressed that the matter needed to be examined in the light of Article 9, (Who May Exploit the Area).

^{26/} The Working Group may wish to consider whether to include reference here to the question of limits of liability as well as to other liability questions.

- (iii) Be responsible for maintaining public order on manned installations and equipment operated by those authorized or sponsored by it.
 - (iv) Be responsible for damages caused by activities which it authorizes or sponsors to any other Contracting Party or its nationals.
 - (v) Be responsible for carrying out all measures necessary for the restoration of any damaged property or area to its condition immediately prior to such damage⁷.
4. Every Contracting Party State shall take appropriate measures to ensure that the responsibility provided for in paragraph 1 of this Article shall apply mutatis mutandis to international organizations of which it is a member⁷.

ACCESS TO AND FROM THE AREA*

Land-locked States and other geographically disadvantaged States^{27/} shall have the right of free access to and from the Area^{28/} in order to enable them to derive benefits, in accordance with the provisions of this Convention, from the Area and its resources^{29/ 30/}

* See introductory note.

^{27/} The term "geographically disadvantaged States" is to be defined.

^{28/} One delegation expressed the view that it might be useful to insert the words "all parts of" before the words "the Area" in the third line.

^{29/} The view was expressed that the modalities of participation by States and other juridical persons or the Authority in activities in the Area, as well as benefits to be derived therefrom, should be dealt with in the appropriate provisions of this Convention, and not under this Article.

^{30/} The view was expressed that the formulation of this Article cannot be construed as discriminating in favour of land-locked States in terms of access to the Area.

ARCHAEOLOGICAL AND HISTORICAL OBJECTS* 31/

1. Particular regard being paid to the preferential rights of /the State of country of/ /the State of cultural/ /the State of historical and archaeological/ origin,^{32/} all objects of an archaeological and historical nature found in the Area shall be preserved /or disposed of by the Authority for the benefit of the international community as a whole./

/2. The recovery and disposal of wrecks and their contents more than /fifty/ years old found in the Area shall be subject to regulation by the Authority without prejudice to the rights of the owner thereof./

* See introductory note.

31/ One delegation expressed the view that it was not appropriate to deal with the subject of archaeological and historical objects in the context of these Articles and that the above text should be omitted.

32/ One delegation expressed the view that the first two lines of this paragraph should be omitted.

SETTLEMENT OF DISPUTES (CT. Sec. 20)* 33/

/All disputes arising out of the interpretation or application of these Articles shall be settled in accordance with the provisions of Article ...7

NOTE: An Article of this kind which does no more than foresee more detailed provision for settlement of disputes may be all that is required under Part I of these Articles. Any further detailed consideration which the Group may wish to give to this subject may take as a starting point paragraph 15 of the Declaration of Principles.34/

* See introductory note.

33/ Although the Working Group carried out a second reading of this Article, it was agreed that the subject of settlement of disputes should be considered further at a later stage.

34/ The view was expressed that Article 21 is acceptable only if later coupled with procedures for compulsory disputes settlement.

[INTERPRETATION] [DEFINITION]

In these articles:

1. "Industrial exploration" means.....
2. "Shelf-locked country" means.....
3. "Rational management" means.....
4. "Scientific research" means.....
5. "Geographically disadvantaged State" means.
