



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

Volume II

GENERAL ASSEMBLY

OFFICIAL RECORDS: TWENTY-EIGHTH SESSION

SUPPLEMENT No. 21 (A/9021)

UNITED NATIONS

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New York, 1973

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Volume I of this report contains the report of the Committee and annex I and appendices I and II; annex II, appendices I-IV; and annexes III-V. Volume III contains annex II, appendix V; volume IV contains annex II, appendix VI; volume V contains annex II, appendix VII; and volume VI contains annex II, appendix VIII.

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1. Working paper concerning the concept of an intermediate zone*

Submitted by the Netherlands

1. The Netherlands delegation has submitted to Sub-Committee I a working document concerning the concept of an intermediate zone (A/AC.138/SC.I/L.9). Since this concept is of equal importance for the aspects of the question under discussion in Sub-Committees II and III, the Netherlands delegation is now submitting a revised text of the above-mentioned document as a working document for the main Committee and its Sub-Committees.

2. The essence of the concept of an intermediate zone is the combination of the jurisdiction of coastal States and the jurisdiction of the international community. Since the functions and powers of both coastal States and the international community relate to ocean space, which, in fact, is a unity, some such combination would seem inevitable. This concept increases in force in proportion to the extent to which the interests of coastal States might be considered to extend further from their coastline. The more coastal States' rights are extended into ocean space, the greater the necessity to provide for international control over the exercise of such rights in order to safeguard the interests of the international community as a whole.

3. Accordingly, several proposals submitted to the Committee provide, in one way or another, for a combination of jurisdiction of both coastal States and the international community. Thus, for example, the Canadian proposals on management of the living resources of the sea (A/AC.138/SC.II/L.8) refer to the coastal State's authority to manage and preferential right to utilize adjacent living marine resources, subject to internationally agreed principles.

The United States proposal on fisheries (A/AC.138/SC.II/L.9), while providing in principle, in article III, that the conservation and equitable allocation of fisheries shall be regulated by appropriate international fisheries organizations, gives a sort of subsidiary power of regulation to the coastal State in case the international organization fails to take adequate protective measures.

Likewise, in the field of marine pollution, another Canadian proposal - recorded in paragraph 12 of the report of the Intergovernmental Working Group on Marine Pollution (A/Conf.48/IWGMP II/5) - seems to envisage such a subsidiary power of regulation by the coastal State in the absence of internationally agreed regulations.

This proposal is elaborated in the draft articles for a comprehensive marine pollution convention (A/AC.138/SC.III/L.28). Article II, paragraph 2, of that draft states that the coastal State shall take into account:

"(a) Any international convention the purpose or effect of which is to protect and preserve the marine environment;

"(b) The relevant principles, standards, recommendations, procedures, guidelines, criteria, including water quality criteria, and action plans proposed by competent international organizations."

* Originally issued as document A/AC.138/86.

In all three examples just given the envisaged powers of the coastal State are subject to international rules and standards and to review before an appropriate international tribunal. This is another example of combining national and international jurisdiction.

The concept of combining the coastal State's rights and powers with the rights and powers of the organized international community is, of course, most characteristically reflected in the Maltese draft treaty covering the whole of ocean space and all its uses. Indeed, as stated by the representative of Malta in his statement before Sub-Committee I on 13 March 1972, one of the two basic concepts underlying the Maltese draft is "that the unfettered sovereignty of the coastal State within national jurisdiction must, in the oceans, suffer from limitations in the general interest" (see A/AC.138/SC.I/SR.36).

4. A combination of jurisdiction of both the coastal States and the international community may take the form of subjecting the coastal States' rights to:

- (a) International rules and standards;
- (b) Review by an appropriate international tribunal;
- (c) Supervision by an international authority;
- (d) Sharing of benefits with the international community.

5. More particularly - and within the framework of the items allocated to Sub-Committee I - there are several proposals which refer to the concept of an "intermediate zone" of the sea-bed area. It would seem useful to explore the possibility of reaching some sort of consensus on what the régime for an intermediate zone could be, should such a zone be established. The present working paper is not meant to advocate any particular régime for an intermediate zone but only tries to analyse the concept of such a zone.

6. The intermediate zone is a zone wherein the coastal State's rights and powers are combined with the international authority's rights and powers; in other words, a zone where the national and the international jurisdiction overlap.

7. It would seem to be inherent in the concept of an intermediate zone that, as a minimum:

(a) A substantial part of the financial benefits derived from the exploitation of the zone by a State should be transferred to the international authority;

(b) The exercise by a State of its jurisdiction over the zone should be subject to international rules and standards and to review before an appropriate international tribunal.

It may be recalled that the Netherlands is a sponsor of the seven-Power proposal (A/AC.138/55) which contains specific provisions both regarding the limits and regarding the régime of what is therein called "the coastal State priority zone".

8. Subject to what is stated in paragraph 7 above, there are various possibilities for coastal States' special rights and powers in respect of the intermediate zone. One might distinguish:

(a) Powers to prevent activity in the zone prejudicial to the coastal State's interest;

(b) Rights to exploit the zone in the coastal State's interest.

9. If the activities in the intermediate zone are in any case (1) subject to the rules and standards laid down in the treaty establishing the international authority and those adopted by the authority pursuant to such treaty, (2) carried out by or under a licence from the international authority and (3) under supervision of the international authority, the powers of the coastal State to prevent activity prejudicial to its interests could be of an additional character.

As such, powers could be of any of the following types:

(a) Power to establish additional rules and standards;

(b) Power to object to a licence being given to a particular State or operator, as the case may be;

(c) Power to enforce the observance of the applicable rules and standards and the conditions of the licence.

10. If it is considered necessary in addition to grant to the coastal State special rights to exploit an intermediate zone, such rights could be (a) preferential or (b) exclusive. In both cases, consideration should be given to the sharing in the coastal State's special rights by States which, owing to their geographical location, cannot benefit from an intermediate zone.

11. As regards the management of the intermediate zone, in case special rights as indicated under paragraph 10 are provided for, either of two systems could be followed:

(a) The international authority decides whether or not, and to what extent, exploitation will take place and shall then grant licences to the operator in accordance with paragraph 10;

(b) The State or States having rights under paragraph 10, shall decide whether or not, and to what extent, exploitation will take place and shall then grant licences to the operator in accordance with paragraph 10; such operator shall then be deemed to be licenced by the international authority.

12. There are obviously many modalities of combining the jurisdiction of the coastal State and that of the international authority which are not dealt with in detail in the foregoing analysis, which is only a suggested basis for discussion.

2. Organization of African Unity: Declaration on the Issues of the Law of the Sea*

The Council of Ministers of the Organization of African Unity, meeting in its Twenty-first Ordinary Session in Addis Ababa, Ethiopia, from 17 to 24 May 1973,

1. Considering that, in accordance with the Charter of the Organization of African Unity, it is "our responsibility to harness the natural and human resources of our continent for the total advancement of our peoples in all spheres of human endeavour";
2. Recalling resolutions CM/Res.245 (XVII) and CM/Res.250 (XVII) of the seventeenth session of the Council of Ministers of OAU on the permanent sovereignty of African countries over their natural resources;
3. Recalling the OAU Council of Ministers' resolution CM/Res.289 (XIX); and decision No. CM/Dec.236 (XX);
4. Recalling also resolution 2750 (XXV) and 3029 A (XXVII) of the United Nations General Assembly;
5. Aware that many African countries did not participate in the 1958 and 1960 Law of the Sea Conferences;
6. Aware that Africa, on the basis of solidarity, needs to harmonize her position on various issues before the forthcoming United Nations Conference on the Law of the Sea due to be held in Santiago, Chile in 1974, and to benefit therefrom;
7. Recognizing that the marine environment and the living and mineral resources therein are of vital importance to humanity and are not unlimited;
8. Noting that these marine resources are currently being exploited by only a few States for the economic benefit of their people;
9. Convinced that African countries have a right to exploit the marine resources around the African continent for the economic benefit of African peoples;
10. Recognizing that the capacity of the sea to assimilate wastes and render them harmless and its ability to regenerate natural resources are not unlimited;
11. Noting the potential of the sea for use for non-peaceful purposes, and convinced that the submarine environment should be used exclusively for peaceful purposes;
12. Recognizing the position of archipelagic States;
13. Recognizing that Africa has many disadvantaged States, including those that are land-locked or shelf-locked and those whose access to ocean space depends exclusively on passage through straits;

* Originally issued as document A/AC.138/89.

14. Noting the recent trends in the extension of coastal States jurisdictions over the area adjacent to their coasts;

15. Having noted the positions and the views of other States and regions;

DECLARES:

A

TERRITORIAL SEA AND STRAITS

1. Pending the successful negotiation and general adoption of a new régime to be established in these areas by the forthcoming United Nations Conference on the Law of the Sea, this position prejudices neither the present limits of the territorial sea or any State nor the existing rights of States;

2. That the African States endorse the principle of the right of access to and from the sea by the land-locked African countries, and the inclusion of such a provision in the universal treaty to be negotiated at the Law of the Sea Conference;

3. That the African States in view of the importance of international navigation through straits used as such endorse the régime of innocent passage in principle but recognize the need for further precision of the régime;

4. That the African States endorse the principle that the baselines of any archipelagic State may be drawn by connecting the outermost points of the outermost islands of the archipelago for the purposes of determining the territorial sea of the archipelagic State.

B

RÉGIME OF ISLANDS

5. That the African States recognize the need for a proper determination of the nature of maritime spaces of islands and recommend that such determination should be made according to equitable principles taking account of all relevant factors and special circumstances including:

- (a) The size of islands
- (b) Their population or the absence thereof
- (c) Their contiguity to the principal territory
- (d) Their geological configuration
- (e) The special interest of island States and archipelagic States.

C

EXCLUSIVE ECONOMIC ZONE CONCEPT INCLUDING EXCLUSIVE FISHERY ZONE

6. That the African States recognize the right of each coastal State to establish an exclusive economic zone beyond their territorial seas whose limits shall not exceed 200 nautical miles, measured from the baseline establishing their territorial seas;

7. That in such zones the coastal States shall exercise permanent sovereignty over all the living and mineral resources and shall manage the zone without undue interference with the other legitimate uses of the sea: namely, freedom of navigation, overflight and laying of cables and pipelines;

8. That the African countries consider that scientific research and the control of marine pollution in the economic zone shall be subject to the jurisdiction of the coastal States;

9. That the African countries recognize, in order that the resources of the region may benefit all peoples therein, that the land-locked and other disadvantaged countries are entitled to share in the exploitation of living resources of neighbouring economic zones on equal basis as nationals of coastal States on bases of African solidarity and under such regional or bilateral agreements as may be worked out;

10. That nothing in the propositions set herein should be construed as recognizing rights of territories under colonial, foreign or racist domination to the foregoing;

D

REGIONAL ARRANGEMENTS

11. That the African States in order to develop and manage the resources of the region take all possible measures including co-operation in the conservation and management of the living resources and the prevention and control of pollution to conserve the marine environment, establish such regional institutions as may be necessary and settle disputes between them in accordance with regional arrangements.

E

FISHING ACTIVITIES IN THE HIGH SEAS

12. That the African States recognize that fishing activities in the high seas have a direct effect on the fisheries within the territorial sea and in the economic zone. Consequently, such activities must be regulated, especially having regard to the highly migratory and anadromous fish species. The African States therefore favour the setting up of an international sea fisheries régime or authority with sufficient powers to make States comply to widely accepted fisheries management principles or, alternatively, the strengthening of the existing FAO Fisheries Commissions or other fisheries regulatory bodies to enable them to formulate appropriate regulations applicable in all the areas of the high seas.

F

TRAINING AND TRANSFER OF TECHNOLOGY

13. That the African States in order to benefit in exploration and exploitation of the resources of the sea-bed and subsoil thereof shall intensify national and regional efforts, in the training and assistance of their personnel in all aspects of marine science and technology. Furthermore they shall urge the appropriate United Nations agencies and the technologically advanced countries to accelerate the process of transfer of marine science and technology, including the training of personnel.

G

SCIENTIFIC RESEARCH

14. All States regardless of their geographical situation have the right to carry out scientific research in the marine environment. The research must be for peaceful purposes and should not cause any harm to the marine environment.

Scientific research in the territorial sea or in the exclusive economic zone shall only be carried out with the consent of the coastal State concerned.

States agree to promote international co-operation in marine scientific research in areas beyond limits of national jurisdiction. Such scientific research shall be carried out in accordance with rules and procedures laid down by the international machinery.

H

PRESERVATION OF THE MARINE ENVIRONMENT

15. That African States recognize that every State has a right to manage its resources pursuant to its environmental policies and has an obligation in the prevention and control of pollution of the marine environment.

16. Consequently, African States shall take all possible measures, individually or jointly, so that activities carried out under their jurisdiction or control do not cause pollution damage to other States and to the marine environment as a whole.

17. In formulating such measures, States shall take maximum account of the provisions of existing international or regional pollution control conventions and of relevant principles and recommendations proposed by competent international or regional organizations.

I

INTERNATIONAL REGIME AND INTERNATIONAL MACHINERY FOR THE SEA-BED AND OCEAN FLOOR AND SUBSOIL THEREOF BEYOND THE LIMITS OF NATIONAL JURISDICTION

18. That African States reaffirm their belief in the Declaration of Principles, embodied in resolution 2749 (XXV) of the United Nations General Assembly and that in order to realize its objectives these principles shall be translated into treaty articles to govern the area.

19. In particular the African States reaffirm their belief in the principles of Common Heritage of Mankind, which principle should in no way be limited in its scope by restrictive interpretations.

20. That with regard to the international sea-bed area, African States affirm that until the establishment of the international régime and international machinery the applicable régime in the area is the Declaration of Principles (resolution 2749 (XXV)) and the moratorium resolutions; and that in accordance with the provisions of the Declaration and the resolutions no State or person, natural, or juridical, shall engage in any activities aimed at commercial exploitation of the area.

21. Without prejudice to paragraphs 1 and 6 above, the African States support a limit of the international area determined by distance from appropriate baselines.

22. That the African States affirm that:

(a) The competence of the international machinery shall extend over the sea-bed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction.

(b) The machinery shall possess full legal personality with functional privileges and immunities. It may have some working relationship with the United Nations system but it shall maintain considerable political and financial independence.

(c) The machinery shall be invested with strong and comprehensive powers. Among others it shall have right to explore and exploit the area, to handle equitable distribution of benefits and to minimize any adverse economic effects by the fluctuation of prices of raw materials resulting from activities carried out in the area; to distribute equitably among all developing countries the proceeds from any tax (fiscal imposition) levied in connexion with activities relating to the exploitation of the area; to protect the marine environment; to regulate and conduct scientific research and in this way give full meaning to the concept of the common heritage of mankind.

(d) There shall be an assembly of all members which shall be the repository of all powers and a council of limited membership whose composition shall reflect the principle of equitable geographical distribution and shall exercise, in a democratic manner, most of the functions of the machinery. There shall also be a secretariat to service all the organs and a tribunal for the settlement of disputes. The Assembly and the Council would be competent to establish as appropriate subsidiary organs for specialized purposes.

3. Working paper concerning artificial islands and installations

Submitted by Belgium

On 25 April 1971, the representative of Belgium in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction addressed a letter to the Secretary-General suggesting that the question of artificial islands be included in the list of subjects to be considered by the future Conference on the Law of the Sea (A/AC.138/35). The question was in fact included in the list (item 18).

The purpose of the present working paper is to give a brief review of the problems which this question involves and to suggest possible texts with a view to their solution.

The question of artificial islands raises two separate problems: firstly, that of the jurisdiction to which they are to be subject and, secondly, that of the right of States to erect such structures and the conditions which they must observe in doing so.

The first aspect, that of jurisdiction, does not seem to raise any real problems from the standpoint of the development of the international law of the sea, for it must be emphasized that the question does not concern floating islands - which, in view of the notional mobility, could be treated as vessels - but permanent islands, supported on the sea-bed or the ocean floor. It is self-evident that any such islands erected in the territorial sea would be subject to the jurisdiction of the coastal State. Any such islands erected beyond the limits of national jurisdiction might be placed under the jurisdiction of the international machinery for the sea-bed, whose establishment is contemplated; since they would be supported on the internationalized subsoil or the sea-bed or ocean floor, they would fall within the jurisdiction of the future international body. Furthermore, artificial islands supported on the continental shelf could be made subject either to the jurisdiction of the coastal State or to that of the State which authorized their construction. It should be recalled in this connexion that article 5 of the Convention on the Continental Shelf, done at Geneva on 29 April 1958, entitles the coastal State only to construct artificial installations necessary for the exploration and exploitation of the natural resources of the continental shelf, and places only those installations under the jurisdiction of the coastal State. In the case of artificial islands which could be used as ports, or for the deposit of noxious waste, or for any other purpose, there is a gap to be filled in the law of the sea, and it would be sufficient to provide that installations of that kind will in future be placed under the jurisdiction of the coastal State or of the State which is responsible for their construction.

*

* *

The second problem raised by the question of artificial islands is more difficult. In the first place, it must be understood that only States can have the right to construct artificial islands. A mere private individual cannot claim that right, since the law of the sea is public law; it need only be recalled that a private individual does not possess the right to navigate a sea-going vessel because such a vessel must have a flag, and that can only be granted by a State.

It may be asked whether a State has the right to erect such structures without taking into consideration the difficulties which its action may cause, such as interference with international navigation or fishing, the formation of sandbanks, or hindrance of access to the ports of a neighbouring State. It seems impossible to argue that it does, since article 5, paragraphs 5 and 6, of the Geneva Convention on the Continental Shelf expressly limits the freedom of action of the coastal State. That Convention provides for safety zones extending to a distance of 500 metres - which are thus at least one kilometre in diameter - and it would therefore seem unavoidable that such a provision should also be laid down for artificial islands, which themselves may cover a considerable area. The multiplication of artificial islands in shallow and narrow waters would not fail to have disastrous effects on the marine environment, fishing and other uses of the sea.

It seems unnecessary to lay down specific provisions for the case of artificial islands falling within the jurisdiction of the international machinery for the sea-bed and the ocean floor: since that machinery would be international in character, any States which deemed themselves injured by a project would be in a position to raise the matter and avail themselves of the remedies which are to be provided.

With regard to the continental shelf, it seems fair to provide for the authorization of the coastal State, since an artificial structure which does not serve for the exploitation of the natural resources of the shelf may directly interfere with that exploitation. It would at least be necessary to follow the restrictive provisions of the Convention on the Continental Shelf and provide for a right of appeal against any project which a State considered detrimental to its interests. Such an appeal could not lie to the international machinery proposed for the sea-bed unless the latter's authority extended to the territorial sea (which, in the circumstances, might be desirable). It might thus be necessary to provide for a right of appeal to IMCO if the objection related to interference with navigation; to the regional fisheries organization, if it related to interference with fishing; or to an international organization for the marine environment, if one is established, in the case of objections concerning the environment or pollution.

Finally, as regards the territorial sea, although it is placed under the sovereignty of the coastal State, article 15 of the Convention on the Territorial Sea and the Contiguous Zone of 29 April 1958 contains certain restrictions. It seems fair, while affirming the right of the coastal State to establish artificial islands, also to lay down provisions imposing on that State the obligation to consult the other States concerned when it undertakes the construction of an artificial island in its territorial sea, particularly as the territorial sea will very probably be extended and a structure in certain narrow waters might hinder access to the ports of a neighbouring State. It would be desirable to impose on a coastal State the obligation to publish the plans of any structure which it proposed to erect and to take into consideration any observations addressed to it by other States; it would doubtless be advisable to provide for the right of appeal to an impartial organization, such as IMCO.

*

* *

The following texts might serve as working bases for the preparation of sets of draft articles:

A. The territorial sea:

Article (a): The coastal State is entitled to construct artificial islands or immovable installations in its territorial sea; it must not, through such structures, impede access to the ports of a neighbouring State or cause damage to the marine environment of the territorial seas of neighbouring States.

Article (b): Before commencing the construction of artificial islands or installations as mentioned in the preceding article, the coastal State shall publish the plans thereof and take into consideration any observations submitted to it by other States. In the event of disagreement, an interested State which deems itself injured may appeal to IMCO, which though not empowered to prohibit the construction, may prescribe such changes or adjustments as it considers essential to safeguard the lawful interests of other States.

B. The continental shelf:

Article (c): The coastal State may, on the conditions specified in the following article, authorize the construction on its continental shelf of artificial islands or immovable installations serving purposes other than the exploration or exploitation of natural resources. Such structures shall be placed under its jurisdiction or under that of the State which undertakes their construction, and, with a view to their protection, may be surrounded by safety zones extending not more than 500 metres. Such artificial islands or immovable installations have no territorial sea of their own.

Article (d): Before commencing the construction of artificial islands or installations as mentioned in article (c), the State shall publish the plans thereof and take into consideration any observations submitted to it by other States. In the event of disagreement, an interested State which deems itself injured may appeal to ... , a/ which shall prescribe, where appropriate, such changes or adjustments as it considers essential to safeguard the lawful interests of other States.

C. The high seas beyond the limits of the continental shelf:

Article (e): Any construction of an artificial island or immovable installation on the high seas beyond the limits of the continental shelf shall be subject to the authority and jurisdiction of the international machinery for the sea bed. The international authority may authorize a State to erect such islands or installations and delegate jurisdiction over such structures to that State.

a/ It would seem advisable not to specify at present the body which would be competent to entertain such an appeal. It could be the tribunal of the international machinery, if that was thought appropriate, or there could be the triple possibility of recourse to IMCO in respect of complaints affecting navigation, to the regional fisheries organization in respect of those concerning fishing, or to the international authority for the marine environment and pollution, if one is established.

4. Letter dated 10 July 1973 from the representative of Bolivia to the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction*

I have the honour to transmit to you herewith, in your capacity as Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, a document containing some draft articles concerning land-locked countries which my delegation is formally presenting, with the request that it should be circulated in the Committee as an official Bolivian communication.

(Signed) ALFREDO OLMEDO VIRREIRA
PERMANENT REPRESENTATIVE OF BOLIVIA
TO THE UNITED NATIONS

* Originally issued as document A/AC.138/92.

Draft articles relating to land-locked countries
submitted by Bolivia

ARTICLE ...

The right of land-locked States to free access to the sea (whatever the origin and nature of their land-locked conditions) is one of the basic principles of the law of the sea and forms an integral part of the principles of international law.

ARTICLE ...

States situated between the sea and one or more land-locked States retain full sovereignty over their territory and have the right to adopt such measures as may be necessary to ensure that the right of land-locked States to free access to the sea in no way prejudices their legitimate interests.

ARTICLE ...

For the purpose of enjoying the freedom of the sea and participating in the exploitation of the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction on an equal footing with coastal States, land-locked States shall exercise the right of free access to the sea in the manner and subject to the conditions established in this Convention.

ARTICLE ...

(1) The existence and the nature of the right of land-locked States to free access to the sea derive from the application of the principles of the freedom of the sea and the designation of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as the resources of that area, as the common heritage of mankind.

(2) Its validity and application do not depend exclusively on the unilateral will (or national laws) of States situated between the sea and one or more land-locked States, but concern the community of nations as a whole.

(3) Depending on the nature of each case, its exercise shall be governed by agreement between the land-locked States and the States situated between them and the sea.

ARTICLE ...

Conventions or other international agreements governing the exercise of this right shall not contain any clauses or provisions which limit the rights recognized by this Convention as an integral part of the right of land-locked States to free access to the sea.

ARTICLE ...

The lack or inadequacy of conventions or other international agreements to cover particular cases of the right of land-locked States to free access to the sea shall neither nullify that right as recognized in this Convention nor restrict the exercise thereof in the manner set out herein /articles etc./.

ARTICLE ...

States situated between the sea and one or more land-locked countries shall, without discriminating between the latter and in accordance with the principles (articles) of this Convention, guarantee to the land-locked State or States:

(a) Free and unrestricted transit through their territory (for all classes of movable goods, livestock, objects, merchandise and persons);

(b) For vessels flying the flag of the land-locked State, the same treatment as that given to their own vessels or vessels of any other State in respect of entry into and departure from seaports;

(c) The use of such ports, installations and equipment as may be appropriate for the movement of traffic in transit, under the same conditions as for themselves;

(d) Alternatively, free zones in the aforesaid ports in which land-locked States may, at their own expense, erect or construct warehouses or stores, facilities for the separation of cargoes, goods-yards and railway sidings, oil or gas tanks and pipes for the loading of tank vessels, office and residential buildings, etc.;

(e) The right to appoint, in the ports of transit or free zones, national customs officials who may, without prior notice and without control or supervision by the local authorities, authorize the docking of vessels whose cargo is destined for, or originates primarily in, the land-locked country, and organize and supervise the loading and unloading of such vessels, as well as such port or free zone services as may be necessary for that purpose, without restrictions other than those relating to security, public health and the police regulations of the coastal transit State;

(f) The use of the means of transport and communication existing in their territory, under the same conditions as for themselves.

ARTICLE ...

When means of transport and communication in the States situated between the sea and one or more land-locked States are insufficient to give effect to the right of land-locked States to free access to the sea or when the aforesaid means of transport and communication or the port installations and equipment are inadequate or may be improved in any respect, the land-locked States may construct, modify or improve them at their own expense.

ARTICLE ...

If the port installations and equipment and the means of transport and communication existing in the country of transit are used in a proportion equal to or greater than 50 per cent of their capacity by the land-locked State or States, any tariffs, fees or other charges for services rendered shall be fixed by agreement among the States concerned.

ARTICLE ...

Goods and passengers in transit traffic to or from the land-locked State shall not be subject to the jurisdiction or competence of the judicial authorities of the coastal transit State.

ARTICLE ...

The reciprocity of free transit, when this concept is embodied in the right of land-locked States to free access to the sea, is not an essential principle but may be agreed among the parties.

ARTICLE ...

The rights and facilities established by this Convention as inherent in the right of land-locked States to free access to the sea by reason of special geographical situation, shall be excluded from application of the most-favoured-nation clause.

AMENDMENT ...

Amend the last part of principles 7 and 8 of the Declaration of Principles (General Assembly resolution 2749 (XXV)) to read:

"and taking into particular consideration the interests and needs of the developing countries, especially those which are land-locked".

ARTICLE ...

The land-locked (developing) countries shall have the same obligations and rights as contiguous (developing) coastal States with regard to participation in the live resources of the seas adjacent to the region, the natural resources of the continental shelf and those lying in the sea-bed or the subsoil thereof within the limits of the jurisdictional sea (exclusive economic zone).

5. Draft articles relating to land-locked States
Submitted by Afghanistan, Bolivia, Czechoslovakia,
Hungary, Mali, Nepal and Zambia*

Explanatory note

This document has been drafted with the intention of contributing to the work of the Committee in adopting various articles relating to land-locked States. Since the right of free access to and from the sea is an established principle of international law, much care has been taken to include the special provisions regarding this right of the land-locked States. This document also contains, in the form of general guidelines, certain articles with regard to the participation of land-locked States in the exploration and exploitation of the sea-bed and its resources.

These draft articles are not intended to stand alone but shall form an inseparable part of the law of the sea to be fitted at appropriate places into a comprehensive convention relating to the law of the sea.

Preamble

Recognizing that the right of free access to and from the sea of land-locked States is one of the essential principles of the law of the sea and forms an integral part of the established principles of international law, as the right of free access to and from the sea of land-locked States derives from the application of the fundamental principles of freedom of high seas and has further been strengthened by the principle of the area of the sea-bed as the common heritage of mankind.

ARTICLE I

Definitions

For the purpose of this Convention:

- (a) "Land-locked State" means any State which has no sea coast;
- (b) (i) The term "traffic in transit" means transit of persons, baggage, goods and means of transport across the territory of one or more transit States, when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk or change in the mode of transport is only a portion of a complete journey which begins or terminates within the territory of the land-locked State;

* Originally issued as document A/AC.138/93.

- (ii) For the purpose of traffic in transit, "person in transit" means the passage of person whose movement is not prejudicial to security, law and order of the transit State;
- (c) The term "transit State" means any State, with or without a sea-coast, situated between a land-locked State and the sea, through whose territory the land-locked State shall have access to and from the sea;
- (d) The term "means of transport" includes:
 - (i) Any railway stock, seagoing and river vessels and road vehicles;
 - (ii) Where the local situation so requires, porter and pack animals;
 - (iii) Pipelines, gaslines, and storage tanks when they are used for traffic in transit and other means of transport subject to appropriate arrangements as and when necessary.

ARTICLE II

Right of free access to and from the sea

1. The right of land-locked States to free access to and from the sea is one of the basic principles of the law of the sea and forms an integral part of the principles of international law.
2. In order to enjoy the freedom of the seas and to participate in the exploration and exploitation of the sea-bed and its resources on equal terms with coastal States, land-locked States, irrespective of the origin and characteristics of their land-locked conditions, shall have the right of free access to and from the sea in accordance with the provisions of this Convention.
3. The right of free access to and from the sea of land-locked States shall be the concern of the international community as a whole and the exercise of such right shall not depend exclusively on the transit States.

ARTICLE III

Freedom of transit

Transit States shall accord free and unrestricted transit for traffic in transit of land-locked States, without discrimination among them, to and from the sea by all means of transport and communication, in accordance with the provisions of this Convention.

ARTICLE IV

Right of flag and equal treatment

1. A land-locked State shall have, equally with coastal States, the right to fly its flag on vessels which are duly registered in its territory.

2. On the high seas, vessels flying the flag of a land-locked State shall have identical rights to those enjoyed by vessels of coastal States.

3. In the territorial sea and in internal waters, vessels flying the flag of land-locked States shall have identical rights and enjoy treatment equal to that enjoyed by vessels flying the flag of coastal States.

ARTICLE V

Right to use maritime ports

1. Vessels flying the flag of a land-locked State shall have the right to use maritime ports.

2. Vessels of land-locked States are entitled to the most favoured treatment and shall under no circumstances receive a treatment less favourable than that accorded to vessels of coastal States as regards access to and exit from the maritime ports.

3. The use of these ports, facilities, installations and equipments of any kind shall be provided under the same conditions as for coastal States.

ARTICLE VI

Customs duties and other charges

1. Traffic in transit shall not be subject to any customs duties, taxes or other charges except charges levied for specific services rendered in connexion with such traffic.

2. If the port installations and equipment or the means of transport and communication or both existing in a transit State are primarily used by one or more land-locked States, tariffs, fees or other charges for services rendered shall be subject to agreement between the States concerned.

3. Means of transport in transit used by the land-locked State shall not be subject to taxes, tariffs or charges higher than those levied for the use of means of transport of the transit State.

ARTICLE VII

Free zone or other facilities

1. For convenience of traffic in transit, free zones and/or other facilities may be provided at the ports of entry and exit in the transit States, by agreement between those States and the land-locked States.

2. Such zones shall be exempted from the customs regulations of the coastal States. They remain, however, subject to the jurisdiction of those States with regard to police and public health regulations.

ARTICLE VIII

Right to appoint customs officials

Land-locked States shall have the right to appoint Customs Officials of their own in the ports of transit or free zones, empowered in accordance with the practice of States, to arrange the berthing of vessels whose cargo is bound for or coming from the land-locked State and to make arrangements for and supervise loading and unloading operations for such vessels as well as documentation and other necessary services for the speedy and smooth movement of traffic in transit.

ARTICLE IX

Transportation, handling and storage of goods in transit

Transit States shall provide adequate means of transport, storage and handling facilities at the points of entry and exit, and at intermediate stages, for the smooth movement of traffic in transit.

ARTICLE X

Improvement of the means of transport and communications

When means of transport and communication in the transit States are insufficient to give effect to the rights of land-locked States of free access to and from the sea or when the aforesaid means of transport and communication or the port installations and equipment are inadequate or may be improved in any respect, the land-locked States shall have the right to construct, modify or improve them in agreement with the transit State or States concerned.

ARTICLE XI

Delays or difficulties in traffic in transit

1. Except in cases of force majeure all measures shall be taken by transit States to avoid delays in or restrictions on traffic in transit.
2. Should delays or other difficulties occur in traffic in transit, the competent authorities of the transit State or States and of land-locked States shall co-operate towards their expeditious elimination.

ARTICLE XII

Right of access to and from the sea through rivers

A land-locked State shall have the right of access to and from the sea through navigable rivers which pass through its territory and the territory of transit States or form a common boundary between those States and the land-locked State.

ARTICLE XIII

Alternative routes

Land-locked States shall have the right to use one or more of the alternative routes or means of transport for purposes of access to and from the sea.

ARTICLE XIV

Rights of transit States

The transit State, while maintaining full sovereignty over its territory, shall have the right to take all indispensable measures to ensure that the exercise of the right of free and unrestricted transit shall in no way infringe its legitimate interests. This provision shall not be construed as prejudicing territorial disputes of any kind.

ARTICLE XV

Temporary deviation in exceptional cases

The measures of a general or particular character which a contracting State is obliged to take in case of an emergency affecting the security of the State or the vital interests of the country may in exceptional cases and for as short a period as possible, involve a deviation from the provisions of the above articles, it being understood that the principle of freedom of transit must be observed to the utmost possible extent.

ARTICLE XVI

Reciprocity

Since free transit of land-locked States forms part of their right of free access to and from the sea which belongs to them in view of their special geographical position, reciprocity shall not be a condition of free transit of land-locked States required by transit States but may be agreed between the parties concerned.

ARTICLE XVII

Access to and from the sea-bed area

(1) Land-locked States shall have the right of free access to and from the area of the sea-bed in order to enable them to participate in the exploration and exploitation of the area and its resources and to derive benefits therefrom in accordance with the provisions of this Convention.

(2) For this purpose the land-locked States shall have the right to use all means and facilities provided for in this Convention with regard to traffic in transit.

ARTICLE XVIII

Representation of land-locked States

In any organ of the international sea-bed machinery in which not all Member States will be represented, in particular in its Council, there shall be an adequate and proportionate number of land-locked States, both developing and developed.

ARTICLE XIX

Decision-making

(1) In any organ of the machinery, decisions on questions of substance shall be made with due regard to the special needs and problems of land-locked States.

(2) On questions of substance which affect the interests of land-locked States, decisions shall be made with their participation.

ARTICLE XX

Relation to previous agreements

(1) The provisions of this Convention which govern the right of free access of land-locked States to and from the sea shall not abrogate existing special agreements between two or more States concerning the matters which are regulated in this Convention, nor shall they raise an obstacle as regards the conclusion of such agreements in the future.

(2) In case such existing agreements provide less favourable conditions than those contained in this Convention, the States concerned undertake that they shall bring them in accord with the present provisions at the earliest occasion.

(3) The provisions contained in the preceding paragraph shall not affect existing bilateral or multilateral agreements relating to air transport.

ARTICLE XXI

Exclusion of application of most-favoured-nation clause

Provisions of this Convention, as well as special agreements which regulate the exercise of the right of free access to and from the sea and the area of the sea-bed, establishing rights and facilities on account of the special geographical position of land-locked States, are excluded from the application of the most-favoured-nation clause.

ARTICLE XXII

Settlement of disputes

Any dispute arising from the interpretation and application of the provisions of the foregoing articles shall be subject to the procedures for the settlement of disputes provided for in the Convention.

6. Draft articles for a chapter on the settlement of disputes*

Submitted by the United States of America

Article 1

In any dispute between the Contracting Parties relating to the interpretation or application of the present Convention, any party to the dispute may invite the other party or parties to the dispute to settle the dispute by direct negotiation, good offices, mediation, conciliation, arbitration, or through special procedures provided for by an international or regional organization.

Article 2

Notwithstanding the provisions of article 1, any Contracting Party which is a party to a dispute relating to the interpretation or application of this Convention which is required by this Convention to be submitted to compulsory dispute settlement procedures on the application of one of the parties, may refer the dispute at any time to the Law of the Sea Tribunal (the Tribunal).

Article 3

Notwithstanding the provisions of article 2, if the parties to a dispute have agreed in any general, regional, or special agreement to resort to arbitration, any party to the dispute shall be entitled to refer it to arbitration in accordance with that agreement in place of the procedures specified in this chapter.

Article 4

The Tribunal shall be established and shall function in accordance with the annexed Statute. Its members shall be nominated and elected in accordance with the procedure provided for in the Statute of the International Court of Justice for the election of the judges of the Court. They shall be lawyers of recognized competence in law of the sea matters.

Article 5

When a dispute involves technical questions, such as safety of navigation, ship construction, pollution, scientific research, fishing, or sea-bed exploration or exploitation, the Tribunal shall be assisted in the consideration of the case by four technical assessors sitting with it, but without the right to vote. These assessors shall be chosen by the President of the Tribunal from the list of qualified persons prepared pursuant to the annexed Statute.

* Originally issued as document A/AC.138/97.

Article 6

The jurisdiction of the Tribunal shall comprise all disputes submitted to it in accordance with this chapter and all matters specifically provided for in other chapters of this Convention or in any other international agreement, public or private, which confers jurisdiction on the Tribunal with respect to a dispute relating to the interpretation or application of this Convention.

Article 7

The decisions of the Tribunal shall be binding upon the parties.

Article 8

1. The Tribunal shall expeditiously handle disputes which are of an urgent character and shall in appropriate cases issue binding interim orders for the purpose of minimizing damage to any party pending final adjudication. The Tribunal may also take such binding interim action in cases which have been submitted to arbitration under articles 1 or 3.
2. The owner or operator of any vessel detained by any State shall have the right to bring the question of the detention of the vessel before the Tribunal in order to secure its prompt release in accordance with the applicable provisions of this Convention, without prejudice to the merits of any case against the vessel.
3. Nothing in these articles shall abridge the sovereign immunity to which certain vessels and aircraft are entitled under international law.

Article 9

Any undertaking to have recourse to a particular means for compulsory settlement of a dispute relating to the interpretation or application of this Convention, whether contained in a general, regional or special international agreement, a licence, lease or contract, constitutes an obligation to be carried out in good faith.

7. Proposals in regard to the organization of the Committee's work presented to the Committee by the Chairman at the 90th meeting, held on 5 March 1973

1. The two sessions of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor scheduled to be held in 1973, the first of which commenced on 5 March 1973, will be two of the most crucial in the history of this Committee.
2. The prospects for the Third United Nations Conference on the Law of the Sea making a substantive start, as contemplated, during the spring of 1974 at Santiago, Chile, after a formal inauguration of the Conference during the General Assembly's twenty-eighth session this year, must depend essentially on the progress that is achieved during the five-week spring session and the eight-week summer session of the Committee.

I would, therefore, appeal to all groups and all members to exert themselves to secure a sufficient degree of agreement and understanding to facilitate the preparatory work.

3. It was the adoption, during the summer session of the Committee in 1972, of a comprehensive list of subjects and issues relating to the law of the sea, referred to in paragraph 2 of resolution 2750 C (XXV), that influenced the General Assembly's decision in its resolution 3029 A (XXVII) to decide, subject to review at its twenty-eighth session of the progress of the preparatory work of the Committee, to convene the first session of the Third Conference on the Law of the Sea in New York for a period of approximately two weeks in November and December 1973, for the purpose of dealing with organizational matters, and to convene the second session of the Conference, for the purpose of dealing with substantive work, at Santiago, Chile, for a period of eight weeks in April and May 1974.

4. The progress made by the Committee so far may be examined in relation to the terms of reference and the work of the three Sub-Committees.

The Committee may also wish to consider what modifications, if any, in its present organization are deemed necessary to expedite its preparatory work.

5. For this purpose, this paper will deal in turn with each Sub-Committee and the progress it has achieved so far.

Sub-Committee I

Terms of reference:

"To prepare draft treaty 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, taking into account the equitable sharing by all States in the benefits to be derived therefrom, bearing in mind the special interests and needs of developing countries, whether coastal or land-locked, on the

basis of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil thereof, beyond the Limits of National Jurisdiction, economic implications resulting from the exploitation of the resources of the area /resolution 2750 A (XXV)/ as well as the particular needs and problems of land-locked countries /resolution 2750 B (XXV)/."

6. As section II of the report of the Committee for 1972^{a/} indicates, that Sub-Committee established a Working Group to deal with item 1 of its programme of work entitled "Status, scope and basic provisions of the régime based on the Declaration of Principles (resolution 2749 (XXV))".

This Working Group consisted of 33 members but was to be open-ended to enable non-members to present proposals or those who had already done so to join in their examination.

7. Sub-Committee I also discussed and concluded the discussion of item 2 of its programme of work, viz: Status, scope, functions and powers of the international machinery in relation to:

- (a) Organs of the international machinery, including composition, procedures and dispute settlement;
- (b) Rules and practices relating to activities for the exploration, exploitation and management of the resources of the area, as well as those relating to the preservation of the marine environment and scientific research, including technical assistance to developing countries;
- (c) The equitable sharing in the benefits to be derived from the area, bearing in mind the special interests and needs of developing countries, whether coastal or land-locked;
- (d) The economic considerations and implications relating to the exploitation of the resources of the area, including their processing and marketing;
- (e) The particular needs and problems of land-locked countries; and
- (f) Relationship of the international machinery to the United Nations system.

This item was also referred by the Sub-Committee to the Working Group appointed to deal with item 1.

8. This covers the entire scope of the terms of reference of Sub-Committee I and special arrangements need not be made for that Sub-Committee other than for the continuation of the deliberations of its Working Group and for periodic meetings of the Sub-Committee itself to review the progress in its Working Group and to take any other action necessary for fulfilling its mandate.

Sub-Committee II

9. The terms of reference of this Sub-Committee are as follows:

a/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721).

"To prepare a comprehensive list of subjects and issues relating to the law of the sea, including those concerning the régime of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States) and to prepare draft treaty articles thereon. It is understood that the Sub-Committee may decide to draft articles before completing the comprehensive list of subjects and issues related to the law of the sea."

10. In the course of my informal consultations last week it was stated that just as Sub-Committees I and III had discussed their subjects and issues in detail before appointing Working Groups, Sub-Committee II should also be provided with the same opportunity and facilities. This I am sure the Committee will approve but I must appeal to Sub-Committee II to avoid protracted general debates and to proceed with all dispatch to the detailed examination of the subjects and issues falling within its purview by the appointment of a Working Group or Working Groups.

11. A distinction has to be drawn between the preparation of the list of subjects and issues and the competence of any particular Sub-Committee to discuss, and draft treaty articles on, those subjects and issues. Since many of the subjects and issues are closely interrelated and in such cases each of them does not lend itself to treatment in isolation from the rest, the Chairman would like to suggest the grouping of the subjects and issues in appropriate categories. The Committee will note that there is an inconsistency between, on the one hand, the terms of reference of Sub-Committee II, which, on a literal interpretation, empower it to draft treaty articles on all items included in the list of subjects and issues and, on the other hand, the terms of reference of the other two Sub-Committees, which empower them to draft articles on those aspects of the law of the sea which fall within their purview and which appear in the list of subjects and issues as items or subitems.

The Committee must, therefore, decide that Sub-Committee II has to confine itself to matters other than those assigned to Sub-Committee I and Sub-Committee III or retained by the Committee itself.

12. The treatment of the question of the limits of national jurisdiction and of the question of peaceful uses has already been determined by the main Committee under the agreement read out by the Chairman at the 66th meeting on 27 August 1971. That agreement reads as follows:

"While each Sub-Committee will have the right to discuss and record its conclusions on the question of limits so far as it is relevant to the subjects allocated to it, the main Committee will not reach a decision on the final recommendation with regard to limits until the recommendations of Sub-Committee II on the precise definition of the area have been received, which should constitute basic proposals for the consideration of the main Committee.

"The question of peaceful uses is allocated to the main Committee, it being understood that each of the Sub-Committees is free to consider it in so far as this question is relevant to its mandate."

13. There are certain other items which concern general principles of international law and which do not fall strictly within the terms of reference of any Sub-Committee. On the other hand, each of the Sub-Committees, in regard to its terms of reference, has to deal with these particular items. For example, item 15, "Regional arrangements", item 20, "Responsibility and liability for damage resulting from the use of the marine environment", and item 21, "Settlement of disputes", have each of them a special relevance to some of the items assigned to each of the three Sub-Committees.

In these circumstances, the most rational method of dealing with those items, viz: items 15, 20 and 21, would be to require each of the Sub-Committees to discuss those items in so far as they are relevant to their respective terms of reference.

14. If I may now revert once again to the progress achieved by the Sub-Committees, I should like to deal with Sub-Committee III.

The terms of reference of Sub-Committee III are as follows:

"To deal with the preservation of the marine environment (including, inter alia, the prevention of pollution) and scientific research, and to prepare draft treaty articles thereon."

This Sub-Committee arranged its programme of work under five main headings as follows:

- A. Preservation of the marine environment (including the sea-bed);
- B. Elimination and prevention of pollution of the marine environment (including the sea-bed);
- C. Scientific research concerning the marine environment (including the sea-bed);
- D. Development and transfer of technology;
- E. Other matters.

Sub-Committee III has set up a Working Group on marine pollution based on the same formula as the Working Group on the régime in Sub-Committee I, i.e., a Working Group of 33 but open-ended to permit of participation of other interested members.

15. Before suggesting a possible categorization of the subjects and issues which are to be dealt with by Sub-Committee II, I should like to suggest a basis for the assignment of the various items and subitems as between the Sub-Committees.

In doing so, we must bear in mind the terms of reference of the three Sub-Committees as settled on 12 March 1971 and the agreement of 27 August 1971 and seek to sift out of the list of subjects and issues those items and subitems which belong elsewhere than in Sub-Committee II.

It was never intended that any single Sub-Committee would be the focal point of the preparatory work for the Law of the Sea Conference. There can be only one focal point and that is the Committee itself.

16. In the course of the informal consultations which I held last week the suggestion was made that in dividing the subjects and issues we should adopt the distinction between national jurisdiction and what falls beyond national jurisdiction.

In many cases this distinction and this criterion for the separation of subjects and issues into two different groups would be extremely relevant and logical but there are many subjects and issues, many items and subitems, which do not lend themselves to such a grouping.

The Committee would do well, therefore, to adopt both these principles - the principle of division according to national jurisdiction or what falls beyond it as well as the pragmatic approach of assigning a particular item or subitems to the Sub-Committee whose terms of reference are most relevant to that particular item or subitem.

As a general rule, any Sub-Committee should be free to make proposals or recommendations on any aspect of any item or subitem if it is relevant to or impinges on any part of that Sub-Committee's terms of reference.

17. I would suggest for the Committee's consideration the following distribution of responsibility between the various Sub-Committees. In doing so, I have taken into consideration the valuable proposals made by the delegations of Australia and Canada and which appear in annex III, section 11 of document A/8721. These proposals were originally issued as document A/AC.138/SC.II/40.

I have also taken into account the observations made by various members during the informal consultations that I conducted last week.

The distribution of responsibility that I would suggest for the Committee's consideration - and here I must emphasize that it is the Committee's responsibility to determine this distribution - is as follows:

Item 1 and all the subitems, with the exception of subitems 1.5 and 1.6, to Sub-Committee I.

Subitems 1.5 and 1.6 to be dealt with in accordance with the agreement of 27 August 1971.

The following items and all the subitems under them would be the responsibility of Sub-Committee II:

Item 2, "Territorial sea"

Item 3, "Contiguous zone"

Item 4, "Straits used for international navigation"

Item 5, "Continental shelf", without prejudice to consideration by Sub-Committee I of subitems 5.4 and 5.5 in so far as relevant to its mandate, and to consideration by Sub-Committee III of subitem 5.6.

The following items would also belong to Sub-Committee II with the modifications indicated:

Item 6, "Exclusive economic zone beyond the territorial sea", without prejudice to the questions of pollution control and scientific research in the zone and duties of States relating thereto being considered by Sub-Committee III under subitem 6.1.

Subitem 6.7, "Sea-bed within national jurisdiction", would be the primary responsibility of Sub-Committee II but Sub-Committee I might need to consider it in relation to "Sea-bed beyond national jurisdiction".

Subitem 6.7.4, "Limits: applicable criteria", to be dealt with in accordance with the agreement of 27 August 1971.

Subitems 6.8, 6.8.1, and 6.9 assigned to Sub-Committee II without prejudice to the consideration by Sub-Committee III of these subitems so far as relevant to its mandate.

In regard to item 7, "Coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea", Sub-Committee II would deal with it subject to subitem 7.2 being dealt with in the same manner as subitem 6.7.

Item 8, "High seas".

Item 9, "Land-locked countries", without prejudice to subitems 9.2.3, 9.2.4 and 9.3 being considered by Sub-Committee I in so far as relevant to its mandate.

Item 10, "Rights and interests of shelf-locked States and States with narrow shelves or short coastlines", without prejudice to subitem 10.1 being considered by Sub-Committee I in so far as relevant to its mandate.

Item 11, "Rights and interests of States with broad shelves".

The following items and all the subitems under them would be the responsibility of Sub-Committee III:

Item 12, "Preservation of the marine environment".

Item 13, "Scientific research".

Item 14, "Development and transfer of technology", without prejudice to consideration by Sub-Committees I and II of the item or any of its subitems in so far as they are relevant to their mandates.

Item 15, "Regional arrangements"; each Sub-Committee would have to consider this question so far as it is relevant to its mandate.

The following items would go to Sub-Committee II:

Item 16, "Archipelagos".

Item 17, "Enclosed and semi-enclosed seas".

Item 18, "Artificial islands and installations".

Item 19, "Régime of islands".

Where any of these items relate to any aspect of the mandates of the other Sub-Committees, they would be entitled to consider the question.

Item 20, "Responsibility and liability for damage resulting from the use of the marine environment", would be dealt with in the same manner as suggested for item 15.

Item 21, "Settlement of disputes"; this item could also be considered by each Sub-Committee in so far as relevant to its mandate.

Item 22, "Peaceful uses of the ocean space; zones of peace and security", would be dealt with in accordance with the agreement of 27 August 1971.

Item 23, "Archaeological and historical treasures on the sea-bed and ocean floor beyond the limits of national jurisdiction", Sub-Committee I.

Item 24, "Transmission from the high seas", Sub-Committee II.

Item 25, "Enhancing the universal participation of States in multilateral conventions relating to the law of the sea", would be the responsibility of the Committee.

The distribution that has been suggested by me would avoid unnecessary duplication of discussion without impairing the essential unity of the subject as a whole, viz: the law of the sea.

18. In an earlier part of this statement, I suggested that the subjects and issues might be grouped in appropriate categories. This problem appears to arise only in regard to the work of Sub-Committee II.

These are only suggestions and I have not lost sight of the fact that that Sub-Committee alone is responsible for the organization of its work.

Category I - Item 2

Item 3

Item 4

Item 16

Item 17

Category II - Item 6

Item 7

Item 9

Item 10

Item 11

Item 19

Category III - Item 5

Category IV - Item 8

Item 24

Category V - Item 18

and Item 19 - unless either of these could more appropriately be considered in any of the other categories.

19. In the course of my consultations, I indicated that the organization into Sub-Committees, while it was appropriate during the earlier stages of the Committee's work, might not any longer be relevant, but I would not wish to see any change and would, therefore, suggest that a three-tiered procedure be adopted as follows:

Working Groups, having examined the various subjects and issues in detail, would report to their respective Sub-Committees, making any recommendation deemed fit in regard to drafting; the Sub-Committees would in turn report to the main Committee.

The final text of all draft treaty articles and draft articles must be the responsibility of the Committee as a whole.

20. In the course of my informal consultations with various groups, certain suggestions were made which deserve consideration. One of these was that the relevant documents of the London Conference on Ocean Dumping and those of the Vancouver Conference on Fishing - the first to be held in the last 15 years - should be brought to the notice of the Committee for the information of Sub-Committees III and II.

It was also suggested that the relevant documents of the proposed IMCO International Conference on Marine Pollution should, when they are available, be similarly forwarded to the Committee.

21. The annex to this document groups under each Sub-Committee the proposals made above.

PROPOSALS IN REGARD TO THE ORGANIZATION OF THE COMMITTEE'S WORK
PRESENTED TO THE COMMITTEE BY THE CHAIRMAN AT THE 90TH MEETING
HELD ON 5 MARCH 1973

ANNEX

SUB-COMMITTEE I

1. International régime for the sea-bed and ocean floor beyond national jurisdiction
 - 1.1 Nature and characteristics
 - 1.2 International machinery: structure, functions, powers
 - 1.3 Economic implications
 - 1.4 Equitable sharing of benefits bearing in mind the special interests and needs of the developing countries, whether coastal or land-locked
 - 1.5 Definition and limits of the area (to be dealt with in accordance with the agreement of 27 August 1971 - see paragraph 12 above)
 - 1.6 Use exclusively for peaceful purposes (to be dealt with in accordance with the agreement of 27 August 1971 - see paragraph 12 above)
- (5. Continental shelf - assigned to Sub-Committee II, without prejudice to consideration by Sub-Committee I of subitem 5.4: Natural resources of the continental shelf, and subitem 5.5: Régime for waters superjacent to the continental shelf, in so far as deemed relevant to the mandate of Sub-Committee I.)
- (6. Exclusive economic zone beyond the territorial sea - assigned to Sub-Committee II, without prejudice to consideration by Sub-Committee I of subitem 6.7: Sea-bed within national jurisdiction, in so far as deemed relevant to the mandate of Sub-Committee I.)
- (7. Coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea - assigned to Sub-Committee II, without prejudice to consideration by Sub-Committee I of subitem 7.2: Sea-bed resources, in so far as deemed relevant to the mandate of Sub-Committee I.)
- (9. Land-locked countries - assigned to Sub-Committee II without prejudice to consideration by Sub-Committee I of the following subitems in so far as relevant to its mandate; 9.2.3: Free access to the international sea-bed area beyond national jurisdiction; 9.2.4: Participation in the international régime, including the machinery and the equitable sharing in the benefits of the area; 9.3: Particular interests and needs of developing land-locked countries in the international régime.)

- (10. Rights and interests of shelf-locked States and States with narrow shelves or short coastlines - assigned to Sub-Committee II, without prejudice to consideration by Sub-Committee I of subitem 10.1, International régime, in so far as relevant to the mandate of Sub-Committee I.)
- (14. Development and transfer of technology - assigned to Sub-Committee III. Sub-Committee I would also have to consider the subitems in so far as relevant to its mandate.)
15. Regional arrangements - to be dealt with by each Sub-Committee, in so far as relevant to its mandate.
- (16. Archipelagos - assigned to Sub-Committee II, without prejudice to consideration of the item by Sub-Committee I in so far as relevant to its mandate.)
- (17. Enclosed and semi-enclosed seas - assigned to Sub-Committee II, without prejudice to consideration of the item by Sub-Committee I, in so far as relevant to its mandate.)
- (18. Artificial islands and installations - assigned to Sub-Committee II, without prejudice to consideration of the item by Sub-Committee I, in so far as relevant to its mandate.)
- (19. Régime of islands - assigned to Sub-Committee II, without prejudice to consideration of the item or its subitems by Sub-Committee I: (a) Islands under colonial dependence or foreign domination or control; (b) Other related matters in so far as relevant to its mandate.)
20. Responsibility and liability for damage resulting from the use of the marine environment - to be dealt with by each Sub-Committee, in so far as relevant to its mandate.
21. Settlement of disputes - to be dealt with by each Sub-Committee, in so far as relevant to its mandate.
22. Peaceful uses of the ocean space; zones of peace and security (to be dealt with in accordance with the agreement of 27 August 1971 - see paragraph 12 above.)
23. Archaeological and historical treasures on the sea-bed and ocean floor beyond the limits of national jurisdiction.

SUB-COMMITTEE II

2. Territorial sea

- 2.1 Nature and characteristics, including the question of the unity or plurality of régimes in the territorial sea
- 2.2 Historic waters
- 2.3 Limits

- 2.3.1 Question of the delimitation of the territorial sea; various aspects involved
- 2.3.2 Breadth of the territorial sea. Global or regional criteria. Open seas and oceans, semi-enclosed seas and enclosed seas
- 2.4 Innocent passage in the territorial sea
- 2.5 Freedom of navigation and overflight resulting from the question of plurality of régimes in the territorial sea
- 3. Contiguous zone
 - 3.1 Nature and characteristics
 - 3.2 Limits
 - 3.3 Rights of coastal States with regard to national security, customs and fiscal control, sanitation and immigration regulations
- 4. Straits used for international navigation
 - 4.1 Innocent passage
 - 4.2 Other related matters including the question of the right of transit
- 5. Continental shelf
 - 5.1 Nature and scope of the sovereign rights of coastal States over the continental shelf. Duties of States
 - 5.2 Outer limit of the continental shelf: applicable criteria
 - 5.3 Question of the delimitation between States; various aspects involved
 - 5.4 Natural resources of the continental shelf
 - 5.5 Régime for waters superjacent to the continental shelf
 - 5.6 Scientific research
- 6. Exclusive economic zone beyond the territorial sea
 - 6.1 Nature and characteristics, including rights and jurisdiction of coastal States in relation to resources, pollution control and scientific research in the zone. Duties of States
 - 6.2 Resources of the zone
 - 6.3 Freedom of navigation and overflight
 - 6.4 Regional arrangements
 - 6.5 Limits: applicable criteria

- 6.6 Fisheries
 - 6.6.1 Exclusive fishery zone
 - 6.6.2 Preferential rights of coastal States
 - 6.6.3 Management and conservation
 - 6.6.4 Protection of coastal State's fisheries in enclosed and semi-enclosed seas
 - 6.6.5 Régime of islands under foreign domination and control in relation to zones of exclusive fishing jurisdiction
- 6.7 Sea-bed within national jurisdiction
 - 6.7.1 Nature and characteristics
 - 6.7.2 Delineation between adjacent and opposite States
 - 6.7.3 Sovereign rights over natural resources
 - 6.7.4 Limits: applicable criteria (to be dealt with in accordance with the agreement of 27 August 1971 - see paragraph 12 above)
- 6.8 Prevention and control of pollution and other hazards to the marine environment
 - 6.8.1 Rights and responsibilities of coastal States
- 6.9 Scientific research
- 7. Coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea
 - 7.1 Nature, scope and characteristics
 - 7.2 Sea-bed resources
 - 7.3 Fisheries
 - 7.4 Prevention and control of pollution and other hazards to the marine environment
 - 7.5 International co-operation in the study and rational exploitation of marine resources
 - 7.6 Settlement of disputes
 - 7.7 Other rights and obligations

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 - 8.1 Nature and characteristics
 - 8.2 Rights and duties of States
 - 8.3 Question of the freedoms of the high seas and their regulation
 - 8.4 Management and conservation of living resources
 - 8.5 Slavery, piracy and drugs
 - 8.6 Hot pursuit
9. Land-locked countries
 - 9.1 General principles of the law of the sea concerning the land-locked countries
 - 9.2 Rights and interests of land-locked countries
 - 9.2.1 Free access to and from the sea: freedom of transit, means and facilities for transport and communications
 - 9.2.2 Equality of treatment in the ports of transit States
 - 9.2.3 Free access to the international sea-bed area beyond national jurisdiction
 - 9.2.4 Participation in the international régime, including the machinery and the equitable sharing in the benefits of the area
 - 9.3 Particular interests and needs of developing land-locked countries in the international régime
 - 9.4 Rights and interests of land-locked countries in regard to living resources of the sea
10. Rights and interests of shelf-locked States and States with narrow shelves or short coastlines
 - 10.1 International régime
 - 10.2 Fisheries
 - 10.3 Special interests and needs of developing shelf-locked States and States with narrow shelves or short coastlines
 - 10.4 Free access to and from the high seas
11. Rights and interests of States with broad shelves
 - (14. Development and transfer of technology - to be assigned to Sub-Committee III. Sub-Committee II would also have to consider the subitems in so far as relevant to its mandate.)

15. Regional arrangements - to be dealt with by each Sub-Committee, in so far as relevant to its mandate.
16. Archipelagos
17. Enclosed and semi-enclosed seas
18. Artificial islands and installations
19. Régime of islands
 - (a) Islands under colonial dependence or foreign domination or control;
 - (b) Other related matters
20. Responsibility and liability for damage resulting from the use of the marine environment - to be dealt with by each Sub-Committee, in so far as relevant to its mandate.
21. Settlement of disputes - to be dealt with by each Sub-Committee, in so far as relevant to its mandate.
22. Peaceful uses of the ocean space; zones of peace and security (to be dealt with in accordance with the agreement of 27 August 1971 - see paragraph 12 above.)
24. Transmission from the high seas

SUB-COMMITTEE III

- (5. Continental shelf - assigned to Sub-Committee II, without prejudice to consideration by Sub-Committee III of subitem 5.6, Scientific research, in so far as relevant to its mandate.)
 - (6. Exclusive economic zone beyond the territorial sea - assigned to Sub-Committee II, without prejudice to consideration by Sub-Committee III of subitem 6.1: Nature and characteristics, including rights and jurisdiction of coastal States in relation to resources, pollution control, and scientific research in the zone. Duties of States; 6.8: Prevention and control of pollution and other hazards to the marine environment; 6.8.1: Rights and responsibilities of coastal States; 6.9: Scientific research, in so far as relevant to the mandate of Sub-Committee III.)
12. Preservation of the marine environment
 - 12.1 Sources of pollution and other hazards and measures to combat them
 - 12.2 Measures to preserve the ecological balance of the marine environment
 - 12.3 Responsibility and liability for damage to the marine environment and to the coastal State

- 12.4 Rights and duties of coastal States
- 12.5 International co-operation
- 13. Scientific research
 - 13.1 Nature, characteristics and objectives of scientific research of the oceans
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- 14. Development and transfer of technology
 - 14.1 Development of technological capabilities of developing countries
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 - 14.1.2 Training of personnel from developing countries
 - 14.1.3 Transfer of technology to developing countries
- 15. Regional arrangements - to be dealt with by each Sub-Committee, in so far as relevant to its mandate.
- (16. Archipelagos - assigned to Sub-Committee II, without prejudice to consideration of the item by Sub-Committee III, in so far as relevant to its mandate.)
- (17. Enclosed and semi-enclosed seas - assigned to Sub-Committee II, without prejudice to consideration of the item by Sub-Committee III, in so far as relevant to its mandate.)
- (18. Artificial islands and installations - assigned to Sub-Committee II, without prejudice to consideration of the item by Sub-Committee III, in so far as relevant to its mandate.)
- (19. Régime of islands - assigned to Sub-Committee II, without prejudice to consideration of the item or its subitems (a) Islands under colonial dependence or foreign domination or control; (b) Other related matters, by Sub-Committee III in so far as relevant to its mandate.)
- 20. Responsibility and liability for damage resulting from the use of the marine environment - to be dealt with by each Sub-Committee, in so far as relevant to its mandate.
- 21. Settlement of disputes - to be dealt with by each Sub-Committee, in so far as relevant to its mandate.
- 22. Peaceful uses of the ocean space; zones of peace and security (to be dealt with in accordance with the agreement of 27 August 1971 - paragraph 12 above.)

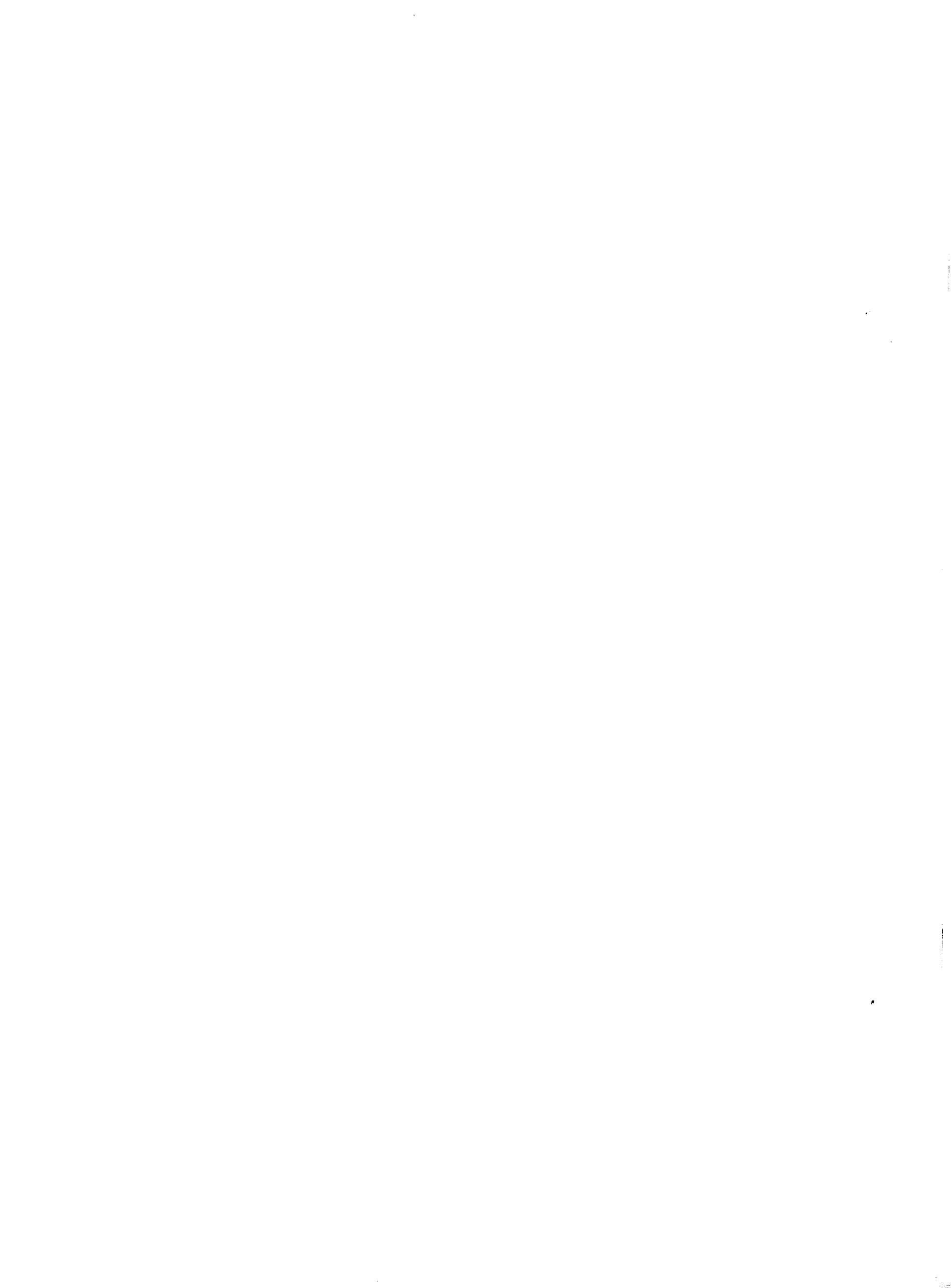
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items 1 and 2 of the Sub-Committee's programme of work a/

- Item 1. Status, scope and basic provisions of the régime, based on the Declaration of Principles (resolution 2749 (XXV))
- Item 2. Status, scope, functions and powers of the international machinery

a/ Originally issued as document A/AC.138/94/Add.1.



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EXPLANATORY NOTE

Part I of this document contains draft 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))". Part II contains draft articles relating to item 2 of the Sub-Committee's programme of work, "Status, scope, functions and powers of the international machinery".

Draft articles with Arabic numerals have received a second reading by the Working Group, while draft articles with Roman numerals and draft article "O" on /interpretation/ /Definition/ have only been the subject of a first reading and may not necessarily reflect with accuracy the various views within the Working Group.

Introductory note concerning the draft ocean space treaty
prepared by Malta (A/AC.138/53) b/

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 delegation of the Union of Soviet Socialist Republics

With reference to "the Maltese delegation's conceptual approach" as embodied in its draft ocean space treaty, it was stated by the delegation of the USSR 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.

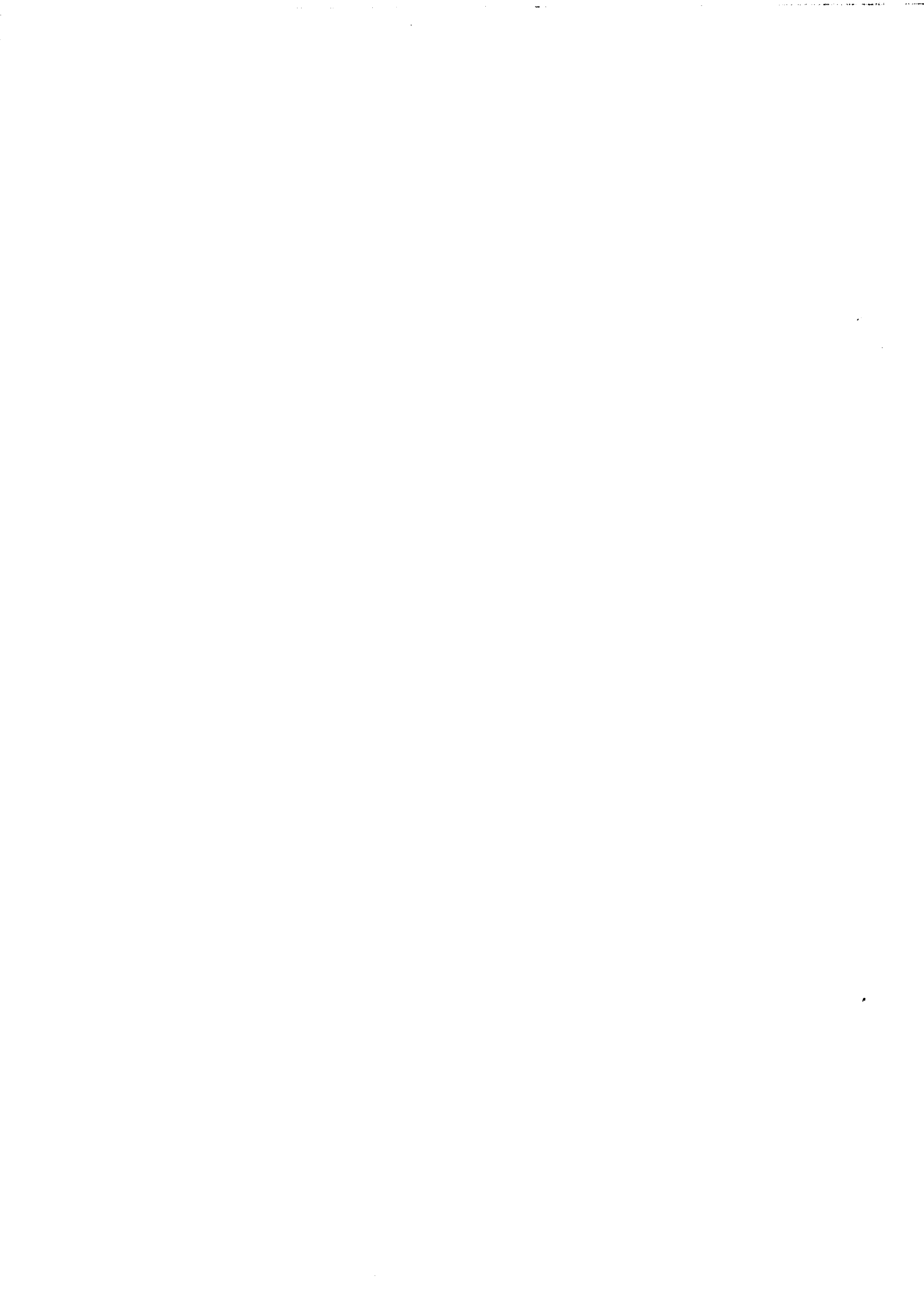
Under the agreement on the organization of work of the Committee of 12 March 1971, Sub-Committee I is entrusted with the task of preparing "draft treaty articles embodying the international régime - including an international machinery - for the area and the resources of the sea-bed and the ocean floor, 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, cannot 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 has become clear from the Working Group's consideration of the status, scope and basic provisions of the sea-bed régime, any attempt to involve the Working Group

b/ Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21 (A/8421), annex I, section 11.

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

1**

LIMITS OF THE AREA*** (CT.*** Sect. 1) 1/

(A)

1. (i) The limit of the sea-bed to which these articles apply shall be the outer limit of the continental shelf established within the 500-metre isobath.

(ii) In areas where the 400-metre isobath referred to in paragraph 1 of this draft is situated at a distance of less than 100 nautical miles measured from the baselines from which the territorial sea of the coastal State is measured, and in areas where there is no continental shelf, the limit of the sea-bed shall be a line every point on which is at a distance of not more than 100 nautical miles from the nearest point on the said baselines.

OR (B)

1. The Area shall comprise the sea-bed and the subsoil thereof seaward of the outer limit of the coastal sea-bed area 2/ in which the coastal State by virtue of article ... of the Convention ... exercises sovereign rights for the purpose of exploring and exploiting the mineral resources of the coastal sea-bed area.

OR (C)

1. The Area shall comprise the sea-bed and ocean space and subsoil thereof beyond the limits of national jurisdiction. 3/

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

** First reading.

*** See introductory note.

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

1/ The Working Group noted the proposals submitted on the limits of the Area, as well as the fact that a final decision concerning those limits would depend on the results of discussions on the item as a whole in Sub-Committee II. It was also noted that the question of the limits of the area was not fully considered by the Working Group.

2/ The coastal State may establish the limit of its coastal sea-bed area up to a distance of ... nautical miles from the applicable baselines for measuring the breadth of the territorial sea.

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

OR (D)

1. The limit of the sea-bed to which these articles apply shall be the outer lower edge of the continental margin which adjoins the abyssal plains or when that edge is at a distance of less than 200 miles from the coast, up to that distance.

(A)

2. (Procedures for notification, record and publication of actual limits of national jurisdiction. In this connexion see also article XL, International Sea-Bed Boundary Review Commission.)

OR (B)

Omit this provision.

2*

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

(A)

Common
heritage
limits
(D.1) 4/

1. 5/ The sea-bed and ocean floor, and the subsoil thereof beyond the limits of national jurisdiction, 6/ 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. 7/

"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./

* Second reading.

** See introductory note.

4/ D = Declaration of Principles.

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

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

7/ 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".

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.

3*

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

(A)

Activities covered
(D.4)

1. All activities in the Area, including scientific research 8/ 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./

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.

* Second reading.

** See introductory note.

8/ The view was expressed that the reference to scientific research in the text was outside the terms of reference of the Working Group.

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.

4*

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. Sects. 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.

* Second reading.

** See introductory note.

USE OF THE AREA BY ALL STATES WITHOUT
DISCRIMINATION (CT. Sect. 6)** 9/

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 10//.

GENERAL CONDUCT IN THE AREA AND IN RELATION
TO THE AREA (CT. Sect. 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 the promotion of 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.

* Second reading.

** See introductory note.

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

10/ 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."

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

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

11/ 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.

7A*

PROPOSED AMALGAMATION OF TEXTS 5 AND 7** 12/

(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 13/ 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.

* Second reading.

** See introductory note.

11/ One delegation expressed the view that the text should start with the
words: "The administration of the Area and ...".

12/ Left for later consideration.

13/ 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. Sect. 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.

WHO MAY EXPLOIT THE AREA (CT. Sect. 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.

* Second reading.

** See introductory note.

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.

Licences may also be issued for this purpose to international organizations active in the field, at the discretion of the Authority. 14/

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 15/ 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.

14/ 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."

15/ The view was expressed that the word "regulation" in this context should be replaced by the word "supervision".

GENERAL NORMS REGARDING EXPLOITATION (CT. Sects. 12 and 13)** 16/ 17/

(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 18/ 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 off-shore 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 off-shore areas. The benefits derived 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.

2. 19/ An amount equal to the proceeds of any tax levied by a State in connexion with activities relating to the exploitation of the Area, whether in respect of profits made, services rendered or the supply of equipment or materials, or in respect of salaries paid or interests disposed of, by persons physical or juridical under its jurisdiction, shall be paid by that State to the Authority with a view to its being

* Second reading.

** See introductory note.

16/ One representative was of the view that the concepts dealt with in this article could more appropriately be included among the purposes of the machinery.

17/ With reference to this article, the representative of the USSR 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.

18/ The words "rational management" need to be defined.

19/ This provision would apply to either (A) or (B). It would become the second paragraph of (A) if (B) was not adopted. In any case, it does not prejudge the legal nature of the body or bodies legally entitled to exploit the resources of the Area.

shared among developing countries. When the proceeds envisaged are greatly reduced because the State itself undertakes the exploitation or agrees to fiscal exemptions, a compensatory amount will be paid by this State to the Authority./

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, article 5 (1), the basic principles of benefit sharing, or to deal with this subject in a subsequent chapter of the articles.

11*

SCIENTIFIC RESEARCH (CT. Sect. 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.

* Second reading.

** See introductory note.

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:

(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-discriminatory basis for such activities to any person, natural or juridical, provided that there are the necessary guarantees 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.

* Second reading.

** See introductory note.

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.

13*

PROTECTION OF THE MARINE ENVIRONMENT (CT. Sect. 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, articles 80 to 83. (Compare also the United States draft, article 23.)

* Second reading.

** See introductory note.

20/ 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 in article 5 of the United States draft and related articles.

PROTECTION OF HUMAN LIFE** 21/

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.

DUE REGARD TO THE RIGHTS ETC. OF COASTAL STATES (CT. Sect. 16)** 22/

(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

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. 23/

* Second reading.

** See introductory note.

21/ 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.

22/ Attention was drawn 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.

23/ 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.

Emergency
measures
(D.13 (b))

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.

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) 24/

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 a 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.7 25/

24/ 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 might be at variance with it should not be proposed.

25/ It was proposed that if this text were adopted, the words "AND OBLIGATIONS" should be added after the word "RIGHTS" in the title of the article.

LEGAL STATUS OF WATER SUPERJACENT TO THE AREA ETC.
(CT. Sect. 17)** 26/

/Except as provided in these articles, nothing herein./

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

ACCOMMODATION OF ACTIVITIES IN THE MARINE ENVIRONMENT
AND IN THE AREA (CT. Sect. 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, the United States draft, article 21, the Maltese draft, article 72, and other relevant texts.

* Second reading.

** See introductory note.

26/ One delegation expressed the view that this article should be omitted entirely.

RESPONSIBILITY TO ENSURE OBSERVANCE OF THE INTERNATIONAL
REGIME AND LIABILITY FOR DAMAGES (CT. Sect. 19)** 27/

International responsibility (D.14) 1. Every State shall have the responsibility to ensure that activities in the Area, including those relating to //the industrial/ exploration and exploitation of/ 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, 28/ /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 articles./

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;

* Second reading.

** See introductory note.

27/ 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".

28/ 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 or any damaged property or area to its condition immediately prior to such damage./

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 member./

19*

ACCESS TO AND FROM THE AREA**

Land-locked States and other geographically disadvantaged States 29/ shall have the right of free access to and from the Area 30/ in order to enable them to derive benefits, in accordance with the provisions of this Convention, from the Area and its resources/. 31/ 32/

* Second reading.

** See introductory note.

29/ The term "geographically disadvantaged States" is to be defined.

30/ One delegation expressed the view that it might be useful to insert the words "all parts of" before the words "the Area".

31/ 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.

32/ The view was expressed that the formulation of this article could not be construed as discriminating in favour of land-locked States in terms of access to the Area.

ARCHAEOLOGICAL AND HISTORICAL OBJECTS** 33/

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, 34/ 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.

SETTLEMENT OF DISPUTES (CT. Sect. 20)** 35/

All disputes arising out of the interpretation or application of these articles shall be settled in accordance with the provisions of article

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. 36/

* Second reading.

** See introductory note.

33/ 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.

34/ One delegation expressed the view that the first part of this paragraph, up to the word "origin", should be omitted.

35/ 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.

36/ The view was expressed that article 21 was acceptable only if later coupled with procedures for the compulsory settlement of disputes.

PART II: INTERNATIONAL MACHINERY

XXII*

ESTABLISHMENT OF INTERNATIONAL MACHINERY (CT. Sect. 21)**

1. There is hereby established the International Sea-Bed Authority International Sea-Bed Resource Agency International Ocean Space Institutions (hereinafter called the "Authority") 1/ which shall function in accordance with the provisions of these articles.
2. These articles shall be open for signature/ratification/accession by all States.
3. All Contracting Parties are members^{2/} of the Authority.
- 4/ There are established as the principal organs of the Authority: ...
(See article XXXII.)
5. The seat of the Authority shall be at

XXIII*

NATURE OF THE AUTHORITY (CT. Sect. 21)**

(A)

The Authority shall be an organization wherein sovereign States jointly manage the international sea-bed area and its resources, based on equality and mutual benefit.

OR (B)

The Authority will work for the benefit of mankind as a whole, in accordance with the provisions of article 7 of these articles.

OR (C)

Omit this provision.

* First reading.

** See introductory note.

1/ Although the term "Authority" is used in these articles for the sake of brevity and convenience it should be interpreted in the light of the alternatives set out in paragraph 1 of this article.

2/ The view was expressed that consideration might be given to dealing with the subject of membership, including the possibility of associate membership, in a separate article.

XXIV*

STATUS OF THE AUTHORITY (CT. Sect. 21)** 3/

(A)

The Authority shall enjoy international legal personality and in the territory of its members, such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

OR (B)

The Authority shall:

- (a) Be an autonomous organization, of a universal character, within the United Nations system;
- (b) Have international legal personality which will enable it to conclude agreements with Governments and international organizations; and
- (c) Enjoy in the territory of each of its members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

XXV*

OPERATION OF VESSELS AND EMPLACEMENT OF INSTALLATIONS
BY THE AUTHORITY (CT. Sect. 21)**

The Authority may move vessels under its flag and may, exclusively for peaceful purposes, emplace installations in the sea and on the sea-bed beyond national jurisdiction. 4/

* First reading.

** See introductory note.

3/ The particular incidents of legal personality will be dealt with in the articles providing for specific powers.

4/ The view was expressed that it would be desirable to draft a further article granting the Authority power to administer reefs, rocks and sandbanks for scientific purposes or for international community purposes.

INSTALLATIONS AND OTHER FACILITIES FOR THE EXPLORATION OF THE AREA
AND THE EXPLOITATION OF ITS RESOURCES**

(A)

1. (i) With a view to the industrial exploration of the Area and exploitation of its resources, stationary and mobile installations may be erected and emplaced in the Area.
- (ii) 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 Safety zones shall be established around these installations, with appropriate navigational markings to ensure the safety both of the installations themselves and of shipping.
- (iii) 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 maritime zones or cutting across international sea-lanes.
- /(iv) Installations for the exploitation of the resources of the Area 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 these articles acquires the said installations for the purpose of exploiting the resources of the sector./
- (v) The construction or emplacement of any under-water or surface installations for the exploration of the Area and exploitation of its resources, 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.
- (vi) 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 ... of these articles.

* First reading.

** See introductory note.

2. (i) The industrial exploration of the Area and exploitation of its resources 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.
- /(ii) Accordingly, the dimensions and configuration of sectors of the sea-bed used for the exploitation of the Area, 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./
- (iii) The foregoing provision shall apply also to areas in which the industrial exploration of the resources of the Area is being undertaken and to the number and location of the installations erected for the industrial exploration of the resources of the Area.
- (iv) Installations erected for the industrial exploration of the Area or exploitation of its resources 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.
- (v) 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 in the Area are conducted in accordance with the provisions of paragraph 2, subparagraphs (i) to (iv) of this article.

OR (B)

Omit this article. (See article 36, Powers and functions of the Council, section 36, alternative (A).)

XXVII*

PRIVILEGES AND IMMUNITIES (CT. Sect. 21)** 5/

1. The Authority

1. The Authority, its property and assets, shall enjoy in the territory of each of its members such privileges and immunities /as may be necessary for the fulfilment of its purposes/ /as are defined in the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations/ /as are necessary for the exercise of its function/.

* First reading.

** See introductory note.

5/ The view was expressed that if the Authority were to engage in activities of a commercial nature it should not be entitled to any privileges or immunities with respect to those activities.

Representatives and officials

(A)

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

3. The^{6/} 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 for this purpose.

OR (B)

2. Representatives of the members of the Authority and, except as otherwise provided in these articles, the officials of the Authority shall enjoy such privileges and immunities as are defined in the Convention on the Privileges and Immunities of the Specialized Agencies.

XXVIII*

RELATIONSHIPS WITH OTHER ORGANIZATIONS (CT. Sect. 21)**

(A)

The Authority /shall/ /may/ enter into one or more agreements establishing appropriate relationships between the Authority and the United Nations and any other organization the work of which is related to that of the Authority. 7/

OR (B)

Omit this article. (See article 34, Powers and functions of the Assembly, section 17, and article 36, Powers and functions of the Council, section 16.)

* First reading.

** See introductory note.

6/ The name of the competent organ of the Authority to be inserted later.

7/ In the course of the first reading the following points were raised with regard to this article: (i) that the question of whether the article should be included depended on whether or not it was decided that the Authority should be a specialized agency; (ii) that the inclusion of the article was unnecessary in view of the reference in article XXIV to the treaty-making capacity of the Authority; and (iii) that the question of the relationships with other organizations was a matter to be considered subsequently, in connexion with the specific functions and powers of the Council and Assembly.

FUNDAMENTAL PRINCIPLES OF THE FUNCTIONING OF THE AUTHORITY
(CT. Sect. 22)** 8/

1. Sovereign equality

(A)

1. The Authority is based on the principle of the sovereign equality of all of its members, and all members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with these articles.

OR (B)

1. The Authority is based on the principle of the sovereign equality of all of its members. The Authority shall accordingly seek to achieve a proper balance between divergent legitimate interests and needs of all States. It shall not be an instrument of domination of one State, or group of States, over other States.

2. Legitimate interests of all States

(A)

2. The Authority shall pay due regard to the manifold interests of all States. It shall not be an instrument for domination of one State, or group of States, over other States. The Authority shall accordingly seek to achieve a proper balance between divergent legitimate interests and needs of all States.

OR (B)

2. All member States, in order to ensure to all other members the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with these articles.

* First reading.

** See introductory note.

8/ It was suggested that articles dealing with the principles and purposes of the Authority such as might be contained in articles XXIX and XXX should appear at the commencement of the provisions on the international machinery.

3. Relations with States only 9/

(A)

3. The Authority shall maintain relations with its member States, and not with national public or private enterprises engaged in the exploitation of mineral resources of the Area.

OR (B)

Omit this provision.

4. Powers and functions

(A)

4. The Authority and its component organs shall exercise only such powers and functions as are specifically and explicitly conferred upon it by these articles.

OR (B)

Omit this provision.

5. 10/

(A)

6. None of the provisions of these articles or the rights granted to the Authority or its organs, and similarly none of the functions exercised by the Authority, or its organs, shall mean that the Authority has jurisdiction over the Area or shall give the Authority rights of legal grounds to consider the Area as owned, possessed or used by it or at its disposal.

OR (B)

Omit this provision.

9/ The Working Group recognized that this provision was connected with article 9, and decided to defer consideration of it until the divergent views reflected in alternative versions of that article had been reconciled.

10/ The Working Group may wish to consider a fifth paragraph along the lines of the second paragraph of article 10.

PURPOSES OF THE AUTHORITY (CT. Sect. 22)**

(A)

1. The Authority shall work for the benefit of the people of all countries.

OR (B)

Omit this provision. (See article 7.)

(A)

2. The purposes of the Authority are:

Either I (1) To develop in an orderly manner and to manage rationally the Area and its resources and to ensure the equitable sharing by all States in the benefits derived from the development of those resources, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal; 11/

Or II Omit paragraph (1) in view of article 10.

Either I (2) To harmonize the actions of States in the Area with a view to securing expanding opportunities for all peoples in the peaceful use of the marine environment;

Or II Omit paragraph (2).

Either I (3) To safeguard the quality of the marine environment for all mankind so that it can be transmitted unimpaired to future generations;

Or II Omit paragraph (3) in view of article 13.

Either I (4) To provide assistance to Contracting Parties or to their nationals in all matters relating to knowledge and development of the Area 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 the Area; Omit paragraph (4) in view of article 12.

Either I (5) To promote the development and practical application of advanced technologies in the Area and their peaceful use by man and to disseminate knowledge thereof;

* First reading.

** See introductory note.

11/ The Working Group may wish to consider the wording of article 6 in this connexion.

Or II Omit paragraph (5) in view of article 12.

Either I (6) To encourage the investigation of and the dissemination of scientific knowledge about the Area, to promote international co-operation in scientific research in the Area and to strengthen the ocean research capabilities of technologically less advanced countries;

Or II Omit paragraph (6) in view of article 11.

Either I (7) To promote the harmonization of national maritime laws and the development of international law relating to the Area;

Or II Omit paragraph (7) in view of article 34, Powers and functions of the Assembly, section 15, and article XLIX, Legal Commission.

Either I (8) To undertake in the Area such services to the international community and such activities as may be consistent with the provisions of these articles.

Or II Omit paragraph (8) in view of article 36, Powers and functions of the Council, section 35.

Either I (9) To ensure observance of the provisions of these articles and bring about by peaceful means adjustment or settlement of disputes or situations arising with respect to the Area.

Or II Omit paragraph (9) in view of article 21 and article 37, System of settlement of disputes including the Tribunal.

OR (B)

Omit this article.

XXXI*

POWERS AND FUNCTIONS OF THE AUTHORITY (CT. Sect. 23)**

(A)

(General provisions to be drafted at a later stage)

OR (B)

Omit this article.

XXXII*

PRINCIPAL ORGANS OF THE AUTHORITY (CT. Sect. 25)**

There are established as the principal organs of the Authority: an Assembly, a Council

33***

THE ASSEMBLY^{12/} (CT. Sect. 25 and 26)**

(A)

1. The Assembly shall consist of representatives of all Contracting Parties member States 13/ and shall meet in regular session every year every two years every three years and at such special sessions as may be determined by the Assembly or convened at the request of the Council or by a majority one third of the members of the Authority. The sessions shall take place at the seat of the Authority unless otherwise determined by the Assembly.

2. At such sessions, each member shall have one representative who may be accompanied by alternates and advisers. The cost of attendance of any delegation shall be borne by the member concerned.

3. Each member shall have one vote. Decisions on questions of substance shall be made by a two-thirds majority of the members present and voting. Decisions on questions of procedures shall be made by a majority of the members present and

* First reading.

** See introductory note.

*** Secnd reading.

12/ The term "Conference" has also been suggested.

13/ Different views were expressed as to whether the term "Contracting Parties" or "member States" should be used. The term "Contracting Parties" has been used for convenience, without prejudice to the final decision. It was also suggested that the term "members" should replace the term "Contracting Parties", in order to reflect the possibility that there might be a category of associate members of the Authority.

voting. A decision as to whether a question is a question of substance or of procedure shall be made by a majority of the members present and voting.

/A majority/ /Two thirds/ of the members shall constitute a quorum.

5. The Assembly may establish, by a majority of two thirds of its members present and voting, a procedure whereby the Council may seek the vote of the Assembly without convening a session of the Assembly.

Alternative to paragraph 3 on decisions

1. Each member of the Assembly shall have one vote.

2. Each member of the Assembly shall belong to one of the following categories:

Category A

(1) Members which are coastal States and which have a population exceeding 100 million inhabitants.

(2) Members which are coastal States and which possess six of the following qualifications:

(a) Have a population exceeding 50 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;

(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 the Area;

(h) Have expended more than \$20 million annually from public funds over the previous three years for scientific research in the marine environment;

(i) Have contributed annually over the previous three years more than \$25 million to the Authority in respect of revenue obtained from the exploitation of natural resources in national ocean space.

(3) An African coastal State, elected by members of category B, possessing one of the qualifications mentioned in the previous paragraph.

(4) Members in category A shall review the qualifications mentioned in paragraphs (1) and (2) 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.

Category B

Members which are coastal States and which do not belong to category A.

Category C

Members which are not coastal States.

3. (1) Three weeks before each regular session of the Assembly, the members belonging to each of the categories indicated in article ... shall meet separately.

(2) At such meetings, members belonging to category A shall:

(a) Ascertain whether all members still possess the qualifications required in article ;

(b) Consider requests for membership in category A;

(c) Give preliminary consideration to the matters that will be discussed at that session of the Assembly;

(d) Transact such other business as may be necessary under the provisions of this Convention.

(3) 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 other organs of the Authority;

(b) Give preliminary consideration to matters which will be discussed at that session of the Assembly;

(c) Transact such other business as may be necessary under the provisions of this Convention.

(4) Decisions taken at the meetings mentioned in paragraphs ... may be appealed to the Assembly.

4. Decisions

(1) Subject to paragraph (2) below, 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 this article.

(2) Decisions by the Assembly relating to the matters mentioned in articles ... 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 this article.

5. Associate members

(1) Any State which signs these articles and ratifies them in accordance with article ..., but which does not possess the qualifications mentioned in paragraph 2 (of this alternative) shall become an associate member of the Authority.

(2) The admission of a State to associate membership is effected by a decision of the Council.

(3) An associate member which is unwilling to carry out its obligations under these articles or which persistently violates the provisions of these articles may be suspended from the rights and privileges of membership. The decision of the Council may be appealed against to the Assembly.

(4) Associate members may participate without vote in the deliberations of the Assembly, and have the right to participate without vote in the discussion before the Council of any question under article

(5) Associate members may request to participate without vote in the discussion of matters of particular interest to them by any organ of the Authority.

(6) Associate members are exempt from the obligation to contribute to the budgetary expenses of the Authority apart from their obligation under article

(7) Associate members shall participate in the equitable sharing of benefits derived from the exploitation of the resources of the Area.

(8) Associate members shall receive without payment, at their request, three copies of all publications of the Authority.

(9) Subject to the foregoing paragraphs, associate members shall enjoy all the rights and privileges of members.

POWERS AND FUNCTIONS OF THE ASSEMBLY (CT. Sect. 26)** 14/ 15/ 16/Opening provision

(A)

1. The Assembly shall be the supreme organ of the Authority and accordingly determine its general policy/. It may discuss and decide any questions or any matters within the scope of these articles, or relating to the powers and functions of the Authority and give directions to the Council or other organs of the Authority on any of those questions or matters.

2. The powers and functions of the Assembly shall be:

OR (B)

1. The Assembly may discuss any questions or any matters within the scope of these articles or relating to the powers and functions of any organs provided for in these articles and may make recommendations to Member States or to the Council or to both on any such questions or matters.

* Second reading.

** See introductory note.

14/ The view was expressed that the Working Group should take note that, if a paragraph along the lines of paragraph 1 of alternative (A) or section 13, "General Questions", was considered to confer a major power on the Assembly to establish a resources management scheme and develop policy to that end, other delegations have proposed substantially different approaches. Such approaches involved elaborate rule-making procedures, Council decisions, technical Commissions and dispute settlement machinery. According to that view, the Working Group should bear in mind that the latter approach was further circumscribed by a need to establish both general and reasonably specific rules for the resource management aspects of the régime and machinery in the treaty itself, and that the time was soon approaching when the Working Group would have to grapple with that problem. Mention was also made in that connexion of a prior "Note" to the same effect in connexion with article 9.

A contrary view was expressed to the effect that the entire rationale contained above was unsubstantiated and remained open to question.

15/ The view was expressed that, wherever the power to "recommend" and "discuss" was granted to the Assembly in the following paragraphs, the Working Group should consider the following substitution: "Consider and discuss any matter within the scope of these articles and make recommendations to the Council and Contracting Parties as appropriate". This formula, it was stated, would avoid the risk of neglecting to specify one or another power.

16/ The order adopted in the presentation of the powers and functions of the Assembly shall not prejudice the question of deciding the order in which these powers and functions may be placed in the final treaty articles.

2. The powers and functions of the Assembly shall be:

OR (C)

1. The powers and functions of the Assembly shall be:

1. Membership of the Council^{17/}

(A)

(1) To elect members of the Council in accordance with article ...;

OR (B)

(1) To establish the membership of the Council in accordance with article ...;

OR (C)

(1) 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 35; 18/

2. The Enterprise^{19/}

(A)

(2) (i) To approve the statutes of the Enterprise;

(ii) To appoint, on the proposal of the Council, the members of the Governing Board of the Enterprise, in accordance with the principles laid down by the Assembly;

OR (B)

Omit this provision.

3. Subsidiary organs

(A)

(3) (i) Based on the principles of economy and efficiency, to establish, as and when appropriate, such other subsidiary organs as may be necessary for the fulfilment of its functions; and to review periodically the need for such subsidiary organs;

^{17/} The view was expressed that the Assembly as such should not have this power.

^{18/} See articles 24 (b) and 27 of the 13-Power draft (document A/AC.138/49).

^{19/} See also articles 38 to 44, The Enterprise.

OR (B)

- (3) (i) To 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 fluctuations in the prices of raw materials that may adversely affect the economy of developing countries;

(A)

- (3) (ii) In the composition of such organs due regard shall be paid to the need for reflecting adequately the whole scale of interests of different groups of States members of the Authority; in principle the composition of subsidiary organs shall follow the pattern of the composition of the Council;

OR (B)

- (3) (ii) For the composition of subsidiary organs due account shall be taken of the principle of equitable geographical representation;

OR (C)

Omit this provision.

4. Contributions

(A)

- (4) Pending the availability of sufficient financial resources from /earnings/ /income/ of the Authority, to authorize, at the initial stages, not exceeding a period of five years, the borrowing of money to meet the administrative expenses of the Authority. The Contracting Parties agree to consider /favourably/ /sympathetically/ requests made to them by the Authority /and its appropriate organs/ for such loans /on liberal terms/.

OR (B)

- (4) /Initially/ to assess the contributions of the Contracting Parties to the administrative budget of the Authority in so far as the Authority may not have sufficient /income/ /funds/ for meeting its administrative expenses;

OR (C)

- (4) The Assembly shall approve any rules with respect to the exercise of the borrowing powers of the Authority;

OR (D)

Omit this provision.

5. Secretary-General

(A)

(5) To appoint /, on the recommendation of the Council, / the Secretary-General^{20/} of the Authority / from among candidates nominated by Contracting Parties /

OR (B)

Transfer the function to the Council. (See article 36, section 10.)

6. Staff regulations

(6) To establish /, on the recommendation of the Council, / the staff / and any other administrative / regulations of the authority;

Note: A corresponding provision is included in article XLV, The Secretariat.

7a Rules of procedure

(7a) To adopt its own rules of procedure;

7b Election of the bureau

(7b) To elect its bureau for each session;

8. Financial regulations

(A)

(8) To adopt /, on the recommendation of the Council, / the financial regulations of the Authority;

OR (B)

Transfer to the Council. (See article 36, section 8.)

OR (C)

Omit this provision.

9. Borrowing power

(A)

(9) To authorize borrowing by the Authority;

^{20/} Several terms were suggested, such as Secretary-General, Director-General, Executive Secretary, etc. The term "Secretary-General" has been used for convenience without prejudice to the final decision.

OR (B)

(9) The Assembly shall approve any rules with regard to the exercise of the borrowing powers of the Authority;

OR (C)

Omit this provision.

10. Budget 21/

(A)

(10) To approve the Authority's budget prepared in accordance with section 24, alternative (C), or return it to the Council for reconsideration and re-submission;

OR (B)

(10) To approve upon the recommendation of the Council the Authority's budget.

11. Reports

(A)

(11) To consider reports from the Council and, as appropriate, from the other organs of the Authority;

OR (B)

(11) (i) To consider reports from the Council and from the other organs of the Authority and, as appropriate, from the subsidiary organs;

(ii) To request special reports from the Council and as appropriate from the other organs of the Authority on any matter within the scope of these articles;

(iii) To approve the annual report of the Enterprise, submitted through the Council, and to request reports through the Council whenever it deems necessary;

12. Amendment

(A)

(12) To consider all proposals for amendment of these articles, in accordance with article ...;

21/ Attention was drawn to the need to ensure that the length of budgetary periods should be co-ordinated with the frequency of Assembly sessions.

OR (B)

Omit this provision.

13. General questions 22/

(A)

(13) To consider questions relating to the exploration and exploitation of the resources of the Area;

OR (B)

(13) To determine the policy and lay down the general conditions which shall govern the exploration of the Area and the exploitation of its resources as well as any contracts of operation and/or association and/or joint ventures concluded by the Enterprise taking into account the recommendations of the Council;

OR (C)

(13) By unanimous decision to determine the policy and lay down the general conditions that shall govern the exploration of the Area and the exploitation of its resources;

OR (D)

Omit this provision.

14. Delegation of powers

(A)

(14) To delegate to the Council the exercise of such of its powers envisaged in articles ... as it deems necessary and revoke or modify such delegation;

OR (B)

Omit this provision.

15. International co-operation 23/

(A)

(15) To make recommendations for the purpose of:

(i) Promoting international political co-operation in the Area;

22/ See foot-note 14.

23/ See foot-note 15.

- (ii) Promoting international co-operation in economic, social, scientific, technological and other fields in the Area;
- (iii) Promoting the progressive development of international law with regard to the Area;

OR (B)

(15) To make recommendations for the purpose of promoting international co-operation in the field of exploration of the Area and the exploitation of its resources;

OR (C)

Omit this provision.

16. Draft conventions

(A)

(16) To approve, upon recommendation of the Council, draft conventions dealing with 24/ and to submit such draft conventions to States for appropriate action/; 25/

OR (B)

(16) To approve, upon recommendation of the Council, draft conventions dealing with the exploration of the Area and the exploitation of its resources;

OR (C)

Omit this provision.

17. Arrangements/agreements with organizations and/or States

(A)

(17) To approve agreements between the Authority and the United Nations or between the Authority and other appropriate intergovernmental organizations the work of which is related to that of the Authority/ concerned with the oceans/;

OR (B)

(17) To determine the general terms on which arrangements or agreements may be concluded between the Authority and the United Nations or between the Authority and any other appropriate intergovernmental organization, or States;

OR (C)

Transfer to the Council. (See article 36, section 16.)

24/ For the subject of these conventions see the Maltese draft, article 101.

25/ The view was expressed that the Working Group had no competence to deal with matters relating to the status of the high seas.

18. Maintenance of law and order/Settlement of disputes/
Implementation of these articles

(A)

(18) To discuss^{26/} any question relating to the maintenance of international law and order in the Area and /call the attention of the Council to/ situations which are likely to endanger international law and order in the Area or the territorial, jurisdictional or ecological integrity of the Area;

OR (B)

(18) To discuss^{26/} any question relating to the observance and implementation of the provisions of these articles;

OR (C)

(18) To request an advisory opinion of the Tribunal on any matter within the scope of these articles;

OR (D)

(18) To bring about adjustment or settlement of disputes or situations /relating to major economic issues/ arising with respect to the Area;

OR (E)

Transfer to the Tribunal. (See article 37, System of Settlement of Disputes /including the Tribunal/ the Tribunal, (B) paragraph 3.)

OR (F)

Omit this provision.

19. Election of members of the Tribunal 27/

(A)

(19) To elect members of the Tribunal;

OR (B)

Transfer to Council. (See article 36, section 46.)

OR (C)

Omit this provision.

^{26/} See foot-note 15.

^{27/} The view was expressed that the Tribunal might be constituted by members on a roster.

20. Suspension from membership 28/

(A)

(20) To deprive a State of the rights and privileges of membership upon the recommendation of the Council in accordance with article ... or of the Security Council of the United Nations;

OR (B)

(20) To suspend acting upon the decision of the Tribunal to be established in accordance with article ... from the exercise of some or all of the rights and privileges of membership or expel on its own initiative or upon the recommendation of the Council a member of the Authority which persistently fails to carry out its obligations under the present articles or which persistently violates the provisions of the present articles;

OR (C)

Omit this provision.

(The view was expressed that the power to deprive or suspend rights of membership was of such a serious nature that it should be carefully circumscribed in the treaty and should include provisions for a Tribunal decision and action of the Council as is done in article 37, System of settlement of disputes including the Tribunal, The Tribunal, alternative (B), paragraph 23, and article 36, Powers and functions of the Council, section 22 (B). Thus it was proposed that section 20 not be included as a power of the Assembly.)

21. Safeguarding of marine environment

(A)

(21) (i) To adopt unanimously on the recommendation of the Council or on its own initiative general principles and recommendations rules concerning the prevention of pollution and contamination of the marine environment as the result of the exploration of the Area and the exploitation of its resources resulting from or caused by any activities in the Area; 29/

(ii) 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;

28/ The view was expressed that these texts should be considered in the light of whether, under the principle of the common heritage of mankind, all States should not be inherently entitled to certain rights and privileges, such as that of sharing in benefits derived from the Area and its resources, of which they could not be deprived.

29/ One proposal would give the Authority the power to deal with protection of the marine environment from exploration of the Area and exploitation of its resources in the coastal sea-bed economic areas as well.

OR (B)

Omit paragraph (ii) above.

OR (C)

Omit this provision.

(If a recommendatory power only, omit because covered by a general power to make recommendations.)

If limited to adoption of general principles, omit because general principles are included in the Treaty. If this formulation envisages specific principles, rules or regulations, transfer to Council. See article 36, section 23, alternative (A).)

22. Emergency fund

(A)

(22) To establish a fund to provide emergency relief and assistance in the event of a disaster to the marine environment resulting from activities of exploration of the Area or the exploitation of its resources;

OR (B)

Omit, or transfer to the Council or incorporate in budgetary arrangements. (See article 36, section 25, alternative (A).)

23. Adjustment of situations impairing ecology

(A)

(23) To make recommendations 30/ /for the adjustment of/ /regarding/ any situations which it deems likely to impair the ecology of the Area /or the general welfare of the international community or co-operation among States in the Area/;

OR (B)

(23) To make recommendations in order to assure the ecological balance of the marine environment in the Area, and to recommend all appropriate measures designed to restore the ecological balance of the Area whenever this balance has been seriously affected to the detriment of the international community;

OR (C)

Omit this provision.

30/ See foot-note 15.

24. Equitable sharing 31/

(A)

(24) To adopt precise criteria and rules for the equitable sharing of benefits derived from the Area and its resources, having special regard for the interests and needs of developing countries, whether coastal or land-locked, as well as to approve annually the plan for apportionment submitted by the Council on the basis of such criteria;

OR (B)

(24) To adopt recommend precise criteria and rules for the equitable sharing of benefits derived from the Area and its resources the exploitation of the resources of the Area and for their utilization in accordance with the purposes and principles of the Charter of the United Nations taking into particular consideration the interests and needs of developing countries, whether land-locked or coastal. These criteria shall adequately take into account, inter alia, the population, the gross national product per capita and the production of off-shore mineral resources within the //national jurisdiction// //continental shelf// of the State beyond the 200 metre isobath as well as literacy, protein consumption (grams per person), daily calorie consumption, life expectancy, people per physician, per capita power consumption (annual KWH output per person), population growth rate, condition of settlement systems (congestion and poverty of urban immigrants, aging of rural settlements, inadequate housing, health, transportation, water supplies, etc.), lags in capital formation, distribution of output and income, human investment in education, savings ratio, burden of foreign debt servicing and apportionment in accordance with the inverse ratio of the respective contributions to the annual budget of the United Nations and approve at each regular session the plan for apportionment submitted by the Council on the basis of those criteria. These criteria shall be reviewed every ... years;

OR (C)

(24) (a) To adopt upon the recommendation of the Council rules relating to the equitable sharing of the benefits derived from the exploitation of the natural resources of the Area in accordance with the following criteria:

(i) In the event that the revenue from the exploitation of the natural resources of the Area 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 Authority;

(b) 20 per cent for international community purposes in the Area, such as hydrographic and cartographic activities, promotion of ecological, oceanographic, and fishery research, establishment of aids to navigation, etc.

31/ With reference to this provision, the USSR representative 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 (A/AC.138/L.10).

(c) 40 per cent for the development of the capabilities of Contracting Parties which are coastal States and whose gross national product does not exceed \$800 per caput to conduct activities in ocean space. The Secretary-General shall submit proposals to the Council with regard to the most appropriate use of the remainder of the revenue.

(ii) In the event that revenue from the exploitation of the natural resources of the Area exceeds \$50 million, the excess over \$50 million shall be applied in the first place to cover the administrative expenses of the Authority. After covering the administrative expenses of the Authority (a) not less than 50 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 for use by land-locked members; (c) not less than 10 per cent of the revenue shall be allocated for international community purposes and (d) not less than 5 per cent shall be allocated for the prevention and relief of disasters of whatever nature in ocean space. The Secretary-General shall submit proposals to the Council with regard to the most appropriate use of the remainder of the revenue.

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

(iv) The provisions of the above paragraphs are without prejudice to the obligation of the Council to submit to the Assembly detailed rules regarding the equitable sharing of benefits derived from the exploitation of the natural resources of the Area.

(v) Each Contracting Party has a right to an equitable share in the revenue derived from the exploitation of the natural resources of the Area. Contracting Parties 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.

(b) The Assembly may return the rules with its recommendations to the Council. In that case amended rules will be submitted by the Council to the Assembly at the latter's next regular session.

OR (D)

(24) To adopt recommend supplementary guidelines for the implementation of the criteria set out in article ... to ensure the equitable sharing of benefits derived from the exploitation of the resources of the Area;

OR (E)

(24) To approve proposals by the Council for the equitable sharing of the net income of the Authority in accordance with the following criteria:

- (i) All disbursements shall be made out of the net income of the Authority, except as otherwise provided in article
- (ii) 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.
- (iii) 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.
- (iv) 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 alternative (D) of article 12, and in other articles of this Convention.
- (v) The portion to be devoted to economic advancement of developing States Parties to this Convention shall be divided among the following international organizations as follows:

(NOTE: A list of international and regional development organizations should be included here, indicating percentages assigned to each organization.)
- (vi) The Council shall submit to the Assembly proposals for the allocation of the income of the Authority within the limits prescribed in this paragraph.
- (vii) Upon approval of the allocation by the Assembly, the Secretary-General is authorized to distribute the funds.

OR (F)

Transfer subject to the Council.

25. Participation of developing countries

(A)

- (25) (i) To take appropriate measures to ensure the participation of the developing countries on terms of equality with developed countries in all aspects of the activities carried out in the Area, including, inter alia,:
 - (a) To establish appropriate institutions on a regional basis for the training of nationals of developing countries in all aspects of marine science and technology;
 - (b) To provide to developing countries on request technical assistance and experts in the field of oceanographic exploration and exploitation;
 - (c) To ensure the employment of qualified personnel from developing countries in all aspects of the activities carried out in the Area;

- (ii) To give priority to the location in developing countries of processing plants for the resources of the Area; in the conclusion of contracts and the establishment of joint ventures, to give due consideration to entities from developing countries; to make adequate plans to promote the creation and development of such entities and reserve zones within the Area for preferential exploitation by such entities;

OR (B)

(25) To make recommendations 32/ in order to ensure the participation of the developing countries on terms of equality with developed countries in the exploration of the Area and the exploitation of its resources, such as:

- (a) To promote collaboration between appropriate institutions for the training of nationals of developing countries in all aspects of the exploration of the Area and the exploitation of its resources;
- (b) To provide to developing countries on request technical assistance and experts in the field of oceanographic exploration and exploitation;
- (c) To take measures to promote the employment of qualified personnel from developing countries in all aspects of the exploration of the Area and the exploitation of its resources;
- (d) To consider giving priority to the location in developing countries of processing plants for the resources of the Area;

OR (C)

Text of alternative (A) or (B), followed by:

- (ii) For the purpose of this article, States not having attained a level of marine science and technology permitting the exploration of the Area and exploitation of its resources, or not having the financial resources required to carry out such exploration and exploitation, shall be treated on an equal footing with developing countries;

OR (D)

Text of alternative (A) or (B), other than (c) and (d) and (ii) of alternative (A), which should be transferred either to the Enterprise or to the Council.

OR (E)

As regards alternative (A), omit or transfer substance of (b) to the Council or to a subsidiary organ to be established.

As regards alternative (B), omit (c) and (d).

OR (F)

Transfer to Council. (See article 36, section 28, alternative (A).)

32/ See foot-note 15.

26. Land-locked /and geographically disadvantaged/ /and transit/ countries

(A)

(26) To consider, in accordance with the provisions of this Convention, general problems arising for land-locked /and geographically disadvantaged/ /and transit/ countries in connexion with the exploration of the Area and the exploitation of its resources and to recommend 33/ the basic guidelines for appropriate agreements or arrangements between the States concerned with respect thereto;

OR (B)

Omit this provision.

NOTE 1. It was proposed to include the following in the powers and functions of the Authority:

"To ensure the solution of the problems of land-locked /and geographically disadvantaged/ /and transit/ countries in connexion with the exploration of the Area and the exploitation of its resources;"

NOTE 2. Present provision on land-locked countries in powers and functions of the Council to remain, but supplemented by reference to "/geographically disadvantaged/" and "/transit/" countries.

NOTE 3. It was proposed that the Assembly and the Council should both have functions with respect to land-locked /and geographically disadvantaged/ countries, according to the general distribution of functions between these two organs.

27. Scientific research, facilities and services, etc.

(A)^{34/}

- (27) (i) To encourage research in the Area, and the development and practical application of scientific techniques for the exploration of the Area and the exploitation of its resources;
- (ii) To foster the exchange of scientific and technical information on the peaceful uses of the Area and its resources;
- (iii) To promote and encourage the exchange and training of scientists and experts in the field of exploration of the Area and the exploitation of its resources;

NOTE. The view was expressed that provision for services, equipment and facilities to meet the needs of research on the development and practical application of

33/ See foot-note 15.

34/ See also article 36, section 28, alternative (A).

scientific techniques for the exploration of the Area and the exploitation of its resources for peaceful purposes should be a function of a subsidiary organ to be established.

OR (B)

(27) To adopt principles and recommendations 35/ regarding the encouragement, assistance and regulation of the carrying out of research in the Area, and the development and practical application of scientific techniques for the exploration of the Area and the exploitation of its resources;

OR (C)

(27) To prescribe regulations for the conduct of scientific research in the Area, whether carried out by the Authority itself, or by other entities, under the authorization of the Council; to take measures to assist, promote and encourage the exchange and dissemination of information and technologies relating to the exploration and exploitation of the Area and its resources, and the exchange of scientists and experts in the field of exploration of the Area and the exploitation of its resources; and to take measures to acquire or establish any facilities, plant and equipment useful in the carrying out of the authorized functions;

OR (D)

(27) To make recommendations 35/ on:

- (a) The promotion of the scientific investigation of ocean space and the interchange and dissemination of information thereon;
- (b) The development and transfer of technologies related to ocean space and its resources and its peaceful uses by man;

NOTE. Training would be dealt with by a subsidiary organ.

OR (E)

(27) To promote international co-operation in scientific research on the resources of the Area;

28. Rules, standards and practices^{36/}

(A)

(28) To regulate exploration and exploitation of the resources of the Area through the adoption where appropriate, in collaboration with the competent organ of the United Nations and with the specialized agencies concerned, of international rules, standards and practices relating, inter alia, to:

35/ See foot-note 15.

36/ Reference should be made to: (a) foot-note 14; (b) article 36, section 36, alternative (A); (c) article XLVI, Rules and Recommended Practices Commission.

- (a) The issue of licences 37/ for the exploration of the Area and the exploitation of its resources
- (b) Technical and operational matters relating to the exploration of the Area and the exploitation of its resources;
- (c) The inspection of operations within the Area;
- (d) Security and the protection of human life;
- (e) Protection against pollution and contamination as well as other hazardous occurrences resulting from or caused by any activities in the Area;
- (f) The discovery, identification, protection, acquisition and disposal of the archaeological and historical treasures found in the Area.
- (g) Non-interference with the use of the high seas;

and appropriate amendment thereof;

OR (B)

(28) To adopt, upon the recommendation of the Council, international rules, standards and practices relating, inter alia, to:

- (a) Technical and operational matters relating to the exploration of the Area and the exploitation of its resources;
- (b) Security and the protection of human life;
- (c) Protection against pollution and contamination as well as other hazardous occurrences resulting from or caused by any activities in the Area;

OR (C)

(28) To regulate exploration and exploitation of the resources of the Area and in particular to adopt international rules, standards and practices relating to security and the protection of human life;

NOTE. The powers and functions referred to in subparagraphs (a) and (b) of alternative (A) to be transferred to the Council.

OR (D)

Transfer the powers and functions contained in alternative (A) to the Council.

37/ The view was expressed that any licensing system, wherever and however expressed in these articles, is incompatible with the principle of the common heritage and such a function should not be given to the Authority and should be deleted.

OR (E)

Include the basic rules referred to in alternative (A) in the text of these articles and establish a procedure for their implementation through technical annexes containing specific rules and regulations which would be prepared by the Council or a subsidiary organ and come into force after being approved by the Contracting Parties. These technical annexes would be amended in accordance with the same procedure.

OR (F)

(28) To examine amendments to the technical annexes to the Convention submitted to it by the Council and to submit recommendations to member States on this matter.

OR (G)

(28) To establish rules governing scientific research, exploration and exploitation of resources and other activities in the international sea-bed area.

OR (H)

Omit this provision.

29. Allocation of blocks

(A)

(29) To examine questions submitted to it by the Council relating to competing applications for the allocation of blocks to States or groups of States /and to natural or juridical persons/ for the purposes of exploration and exploitation and to take decisions on such questions;

OR (B)

This power should be assigned to another organ in conjunction with specific regulations on the subject to be included in these articles.

OR (C)

Omit this provision.

30. Normative principles

(A)

(30) To approve, upon recommendation of the Council, non-discriminatory, normative principles relating to navigation and maritime safety; communications; marine and ocean bed installations, systems and devices; conservation management, exploitation and development of natural resources; the conduct of scientific research; the maintenance of the quality of the marine environment and the harmonization of uses in the Area;

OR (B)

Omit this provision.

31. Reservation of areas

(A)

(31) 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;

OR (B)

Transfer function similar to (A) to the Council.

OR (C)

Omit this provision.

32. Safeguarding the interests and needs of mineral-producing States

(A)

(32) To consider and make recommendations for safeguarding the interests and needs of developing States whose economies are largely dependent on land-based /and off-shore/ hard ore mineral resources located within their respective territories, especially with regard to the production and marketing of such mineral resources, in order to prevent the occurrence of any adverse effects on those economies resulting from the exploration of the Area and the exploitation of its resources;

OR (B)

(32) To examine the plans and recommendations of the Planning Commission with a view to making recommendations to the Council for preventing any fluctuation in the prices of raw materials which may adversely affect the economy of developing countries;

OR (C)

Omit this provision.

33. Use of materials for peaceful purposes

(A)

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

OR (B)

Omit this provision.

34. Licensing^{38/ 39/}

(A)

(34) Upon the recommendation of the Council, to adopt rules in regard to licensing, including the issue, withholding, suspension and revocation of licences, and to approve appropriate fees and other charges with respect to all activities of exploration of the Area and exploitation of its resources;

OR (B)

(34) To consider general questions relating to the exploitation of the resources of the Area and, without prejudice to the generality of the foregoing, to determine the policy and general conditions relating to the exploration and exploitation of the resources of the area;

OR (C)

Transfer all functions relating to licensing to the Council or to another organ. (See articles 36, 38 to 44 and XLVI.)

OR (D)

Omit this provision.

^{38/} The view was expressed that any licensing system, wherever and however expressed in these articles, is incompatible with the principle of the common heritage and such a function should not be given to the Authority and should be deleted.

^{39/} See article 36, section 42, and articles 38-44.

THE COUNCIL (CT. Sect. 27 (a))**Composition

Either I. 1. The composition of the Council shall be in conformity with the principles of sovereign equality among States, rational geographical representation and rotation of offices by election.

Or II. 1. The composition of the Council shall reflect adequately the interests of all groups of Contracting Parties in the Area.

Or III. Omit this provision.

2. The Council shall consist of ... ^{40/} States, and shall meet [in continuous session] [as often as necessary for the performance of its functions] [but not less than once/twice a year].

A

3. (1) Members of the Council shall be elected by the Assembly from the lists prepared in accordance with (article 24 (b) of the 13-Power draft), having due regard to the principle of equitable geographical representation;

(2) 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.

B

3. (1) Members of the Council shall be designated or elected in the following categories:

(a) The [six] [nine] [12] most industrially advanced Contracting Parties shall be designated in accordance with appendix ...

(b) [Thirty] [Twenty-seven] [Twenty-four] [Eighteen] additional Contracting Parties of which at least [20] [18] [16] [12] shall be developing countries, shall be elected by the Assembly, taking into account the need for equitable geographical distribution;

C

3. The Council shall include five Contracting Parties from each of the following groups:

(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

D

3. (1) The Council shall be composed as follows:

(a) The outgoing Council (or in the case of the first Council, the Conference on the Law of the Sea) shall designate for membership on the Council the seven Contracting Parties most advanced in sea-bed technology, and the Contracting Party most advanced in sea-bed technology in each of the following areas not being one of the aforementioned seven:

* Second reading. ** See introductory note.

^{40/} The proposals made regarding the size of membership of the Council included: 18 (United Republic of Tanzania), 24 (Japan, United States, cf. B), 30 (Canada, cf. D, USSR cf. C), 35 (13-Power draft, cf. A). The delegation of Turkey proposed the number 54. The view was expressed that the question of the composition of the Council and other issues relating to its procedure, which were not intensively discussed by the Working Group, should be left to a later stage.

A

B

(2) At least [two] [three] [four] members of the Council shall be land-locked or shelf-locked countries.

(3) 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;

(4) Representatives on the Council shall not be employees of the Authority.

C

(f) Five land-locked countries, at least one from each of the aforementioned groups of Contracting Parties.

D

- (1).....(6).....
- (2).....(7).....
- (3).....(8).....
- (4).....(9).....
- (5).....(10).....

(b) The Assembly shall elect to membership of the Council two members which have no sea-coast and two members the total area of whose continental shelf at a depth of 200 metres or less is

(c) The Assembly shall elect to membership of the Council 15 other members, with due regard to equitable representation on the Council as a whole of the areas specified in subparagraph (a) of this paragraph so that the Council shall at all times include in this category a representative of each of those areas;

Except for the nine members chosen in accordance with paragraph 3 (b) of this article, no members elected under subparagraphs (b) and (c) shall be eligible for re-election for the following term of office:

(2) The designation provided for in subparagraph 1 (a) of this article shall take place not less than 60 days before each regular session of the Assembly. The elections provided for in subparagraphs 1 (b) and 1 (c) of this article shall take place at regular sessions of the Assembly;

A

B

C

D

(3) (a) Designated members of the Council shall hold office from the end of the next regular session of the Assembly after their designation until the end of the following regular session of the Assembly;

(b) Elected members of the Council shall hold office from the end of the regular session of the Assembly at which they are elected until the end of the second regular session of the Assembly thereafter. In the election of these members for the first Council, however, nine shall be chosen for a term of one year.

(See alternative to paragraph 3 of article XXIX, The Assembly, for the definition of categories A, B and C referred to below).

1. The Council shall consist of the following members of the Authority:

(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 to population, to the possession of one or more of the qualifications referred to in article ... and 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.

The Council shall be composed of 36 members, of whom 20 shall be elected by the Assembly and 16 shall be designated in accordance with the following criteria.

A. Of the 16 designated members, eight members shall be designated on the basis of the Gross National Product scale.

To the exclusion of the States already designated in pursuance of the foregoing paragraph, seven members shall be designated on the basis of their particular role as coastal States.

One member shall be designated on the basis of its status as a land-locked State.

The seven members having a particular role as coastal States shall be designated as follows: In each of the geographical regions numbered 1 to 7 in the list in paragraph B below, that State shall be designated which has the highest figure when the length of its coasts in nautical miles is multiplied by the number of its inhabitants.

The State designated as a member on the basis of its status as a land-locked State shall be that land-locked State which has the highest figure when its surface area is multiplied by the number of inhabitants.

B. The Assembly shall elect 20 members of the Council from among the following groups of countries:

- 1. Africa
- 2. North America
- 3. Latin America
- 4. Asia
- 5. Western Europe
- 6. Eastern Europe
- 7. Oceania
- 8. Land-locked States

The above twenty members shall be elected by the Assembly in such a manner that the Council as a whole shall at all times include a specified number (to be determined) of members representing the groups of countries listed in the foregoing paragraph.

At least half of the members of the Council shall be representatives of geographically disadvantaged States.

This is proposed as an additional paragraph in A and as an alternative to B 3. (2), C 3. (f) and D 3. (b).

4. Each member of the Council shall have [one] vote.

A, D, F

5. Decisions on questions of substance shall be made by a [two-thirds] [three-quarters] majority of the members present and voting. Decisions on questions of procedure shall be made by a majority of the members present and voting. A decision as to whether a question is a question of substance or of procedure shall be made by a majority of the members present and voting.

B

5. Decisions by the Council on questions of substance 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 3 of alternative B of this article.

C

5. Decisions on questions of substance shall be made by consensus. Decisions on questions of procedure shall be made by a majority of the members present and voting.

E

5 (i) 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 two other categories.

5 (ii) Members which cannot vote in the Assembly in accordance with article ... shall not vote in the Council.

Either I 6. All Contracting Parties agree to accept decisions of the Council made in accordance with these articles.

Or II Omit this provision.

7. [Two thirds] [...] of the members of the Council shall constitute a quorum.
(A)

8. (1) The Council shall select from among the representatives of its members a Chairman, who shall not serve during his term of office as a representative in the Assembly or in the Council. He shall hold office [for one/three years] [for one month, and thereafter the chairmanship shall rotate among the members of the Council] [in the alphabetical order of their names in (working language)] [on the basis of equitable geographical distribution].

OR (B)

Omit this provision in view of paragraph 4 of article XXXII, Powers and functions of the Council, which provides that the Council shall "adopt its own rules of procedure, including the method of selecting its President".

Either I (2) The Chairman shall convene and conduct the meetings of the Council and carry out such other functions as may be assigned to him by the Council.

Or II Omit this provision.

Either I 9. 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.

Or II Omit this provision.

POWERS AND FUNCTIONS OF THE COUNCIL (CT. Sect. 27 (b))**

Opening provision

(A)

1. The Council shall perform the functions delegated to it by the Assembly and shall be responsible to the Assembly for the prompt and effective execution of its directions and recommendations.
2. The powers and functions of the Council shall be

OR (B)

1. The Council shall be the /executive/ organ of the Authority /primarily responsible for the implementation of these Articles/.
2. The powers and functions of the Council shall be

OR (C)

1. The powers and functions of the Council shall be

1. Supervision and co-ordination

(A)

- (1) To supervise and co-ordinate the implementation of the provisions of these Articles and activities in connexion with the /industrial/ exploration of the Area and the exploitation of its resources;

OR (B)

- (1) (i) In order to achieve prompt and effective action by the Authority, its members confer upon the Council primary responsibility for the harmonization of the actions of nations and the maintenance of law and order in the Area and for the maintenance of the ecological, territorial and jurisdictional integrity and the rational management and orderly development of the Area and of its natural resources. Members of the Authority agree that in carrying out those duties the Council acts on their behalf, except as otherwise provided in this Convention.

* Second reading.

** See introductory note.

(ii) 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 Authority. The specific powers granted to the Council for the discharge of these duties are laid down in chapters of the present Convention.

(2) Contracting Parties agree to accept decisions of the Council in accordance with the present Convention.

OR (C)

Omit this provision.^{41/}

12/ 13/

The Enterprise

(A)^{42/}

- (i) To propose to the Assembly the draft statutes of the Enterprise;
- (ii) To propose to the Assembly candidates for the Governing Body of the Enterprise in conformity with the principles laid down by the Assembly;

OR (B)

Omit this provision.

13/ 12/

Organs concerned with Exploration and Exploitation

(A)^{43/}

To appoint and supervise the organs concerned with the exploration of the Area and the exploitation of its resources which are provided for in these articles, establish procedures for the co-ordination of their activities and determine the terms of office of their members;

OR (B)

Omit this provision.

^{41/} Some delegations proposed that the provision on the issue of rules and the supervision of activities should be contained in one section (see section 35, alternative (A)).

^{42/} Note: Some delegations felt that the two texts above constituted alternatives, whilst others considered that the concept of organs concerned with the exploration of the Area and the exploitation of its resources was not an alternative to the concept of the Enterprise.

^{43/} The organs covered in this paragraph are those proposed in various alternatives, i.e. the Operations Commission, the Permanent Board, the International Sea-Bed Operations Organization, the Exploration and Production Agency and the Inspection and Conservation Commission, and the Exploitation Commission.

4. Statutory organs

(A)

- (4) To consider the recommendations of the Management and Development Commission and of other statutory organs established by these articles;

OR (B)

Omit this provision.

5. Subsidiary organs

(A)

- (5) (i) To establish, as and when appropriate, such subsidiary organs as may be necessary for the fulfilment of its functions; and to review periodically the need for such subsidiary organs;

OR (B)

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

(A)

- (5) (ii) In the composition of such organs due regard shall be paid to the need for reflecting adequately the interests of different groups of States members of the Authority; in principle the composition of subsidiary organs shall follow the pattern of the composition of the Council;

OR (B)

- (5) (ii) In the composition of subsidiary organs due account shall be taken of the principle of equitable geographical representation;

OR (C)

Omit this provision.

6. Rules of procedure

- (6) To adopt its own rules of procedure, including the method of selecting its President;

7. Budget

- (7) To submit proposed budgets to the Assembly prepared in accordance with article 34, section 24, alternative (C) and, if the Assembly shall not approve such proposed budgets, to amend and resubmit them within days; and to adopt necessary measures for the execution of budgets approved by the Assembly;

8. Financial regulations

(A)

- (8) To submit to the Assembly for its approval the draft financial regulations of the Authority;

OR (B)

- (8) To adopt the financial regulations of the Authority;

9. Reports

(A)

- (9) (i) To submit regular reports to the Assembly and, at the request of the Assembly, special reports on any matter /within the scope of these articles/ /within the scope of its functions/;
- (ii) To consider the reports of the subsidiary organ(s) referred to in article(s) ;
- (iii) To receive the annual report of the /Enterprise/ /Operations Commission/ /Permanent Board/ /International Sea-Bed Operations Organization/ /Exploration and Production Agency/ /Exploitation Commission/;
- (iv) To transmit to the /Enterprise/ /Operations Commission/ /Permanent Board/ /International Sea-Bed Operations Organization/ /the Exploration and Production Agency/ /Exploitation Commission/; requests for reports deemed necessary by the Assembly pursuant to article 34; and to receive such reports and to transmit them to the Assembly;

OR (B)

- (9) (i) To submit annual reports to the Assembly, as well as special reports which it may deem necessary or when requested by the Assembly on any matter within the scope of these articles;
- (ii) To consider the reports of the subsidiary organ(s) referred to in article(s) ;
- (iii) To receive the annual report of the Enterprise and to submit it to the Assembly;
- (iv) To transmit to the Enterprise requests for reports deemed necessary by the Assembly pursuant to article ; and to receive such reports and transmit them to the Assembly.

OR (C)

- (9) (i) To consider the periodic reports of the Management and Development Commission, of the other statutory organs of the Authority mentioned in articles and the reports of such subsidiary organs as may be established;

- (ii) To request special reports from the Management and Development Commission, from the other statutory organs mentioned in articles and from such subsidiary organs as may be established;

10. Secretary-General^{44/}

(A)

(10) To appoint the Secretary-General of the Authority;

OR (B)

(10) To make recommendations to the Assembly concerning the appointment of the Secretary-General of the Authority;

OR (C)

Omit this provision.

11. Staff regulations

(11) To submit to the Assembly the draft staff and any other administrative regulations of the Authority;

12. Functions assigned to the Council or delegated to it

(A)

(12) To perform the functions assigned to it in these articles and any function delegated to it by the Assembly;

OR (B)

(12) Under the supervision of the Assembly to perform the functions assigned to it in these articles and any function delegated to it from time to time by the Assembly;

OR (C)

Omit this provision.^{45/}

13. Recommendations to the Assembly

(13) To make, as appropriate, recommendations to the Assembly for adoption or approval concerning the exercise by the Assembly of its functions specified in article 34;

^{44/} Several terms were suggested, such as Secretary-General, Director-General, Executive Secretary, etc. The term "Secretary-General" is used for convenience without prejudice to the final decision.

^{45/} The view was expressed that alternative (C) should not be interpreted as leaving to the Assembly the faculty of delegating such powers to the Council.

14. Recommendations to States

(A)

- (14) To make recommendations to States with regard to the policies and measures required to achieve the purposes of the Authority;

OR (B)

Omit this provision.

15. Draft conventions

- (15) To submit draft conventions to the Assembly dealing with the exploration of the Area and the exploitation of its resources /and other matters to be specified dealing with ocean space/;

16. Agreements with organizations

(A)

- (16) (i) To approve and authorize conclusions on behalf of the Authority of agreements between the Authority and the United Nations or between the Authority and other appropriate intergovernmental organizations /the work of which is related to that of the Authority/ /concerned with the oceans/;

- (ii) To establish procedures for co-ordination between the Authority and the United Nations, its specialized agencies and other international or regional organizations concerned with the marine environment;

OR (B)

- (16) To approve agreements between the Authority and the United Nations or other intergovernmental organizations, and to make recommendations to the Assembly with a view to authorizing the conclusion of such agreements;

17. Agreements with States

(A)

- (17) To approve and authorize conclusion, on behalf of the Authority, of agreements between the Authority and States;

OR (B)

- (17) To approve agreements between the Authority and States and to make recommendations to the Assembly with a view to authorizing the conclusion of such agreements;

18. Implementation and supervision of agreements

- (18) To supervise the administration of agreements entered into by the Authority in accordance with article 34;

19. Maintenance of law and order

(A)

- (19) (i) The Council has primary responsibility for the maintenance of law and order and of the territorial and jurisdictional integrity of the Area. 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 XXX of these articles.
- (ii) The Council may investigate any situation or event of any action by States which might be seriously prejudicial to the maintenance of law and order or which might endanger the territorial or jurisdictional integrity of the Area. 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.
- (iii) Should the Council determine the existence of any situation, event or action which is seriously prejudicial to the maintenance of law and order or which endangers the territorial or jurisdictional integrity of the Area, it may make such recommendations as may appear desirable, taking into account, where appropriate, the provisions of chapter . . . /peaceful settlement of disputes/ of these articles.
- (iv) Should the Council determine that action under the foregoing paragraph has proved inadequate and should it consider that law and order or the territorial or jurisdictional integrity of the Area is seriously prejudiced, it may decide what measures are to be employed to give effect to its decisions. Such measures may include the following:
- (a) Action under chapter . . . /peaceful settlement of disputes/ of these articles;
- (b) Exclusion of a Contracting Party from participation in the equitable sharing of benefits derived from the exploitation of the resources of the Area;
- (c) Exclusion of a Contracting Party or of natural and juridical persons from the exploitation of the resources of the Area in accordance with these articles;
- (d) Suspension of a Contracting Party from participation in the rights and privileges of membership in the Authority.
- (v) The Assembly shall be informed immediately of any action taken under (b), (c) and (d) of the foregoing paragraph. The Assembly may recommend that the Council reconsider the action taken by it.

OR (B)

Omit this provision.

20. Implementation of these articles

(A)

(20) To discuss any question relating to the observance and implementation of the provisions of these articles and take appropriate action thereon;

OR (B)

Omit this provision. (See section 19)

21. Settlement of disputes

(A)

(21) Except as agreed between the parties, to assist in settling disputes between States, or between States and organs of the Authority, concerning the implementation of these articles, by applying the means for peaceful settlement listed in Article 33 of the Charter of the United Nations and to establish at the request of parties to a dispute, organs for conciliation, arbitration, etc., for settling the dispute without prejudice to the powers of the Tribunal established under these articles;

OR (B)

(21) To assist in settling disputes between States concerning the implementation of the present articles, by applying the means for peaceful settlement listed in Article 33 of the Charter of the United Nations and to establish, at the request of parties to a dispute, organs for conciliation, arbitration, etc., for settling the disputes.

OR (C)

(21) To assist in settling disputes concerning the implementation of these articles in accordance with subject to the provisions of article 37.

OR (D)

(21) To request advisory opinions from the Tribunal on any dispute concerning the implementation of these articles;

OR (E)

(21) To take such action as is required by these articles pursuant to a decision of the Tribunal;

OR (F)

(21) To discuss any question relating to the observance and implementation of the provisions of these articles and make recommendations thereon;

OR (G)

Omit this provision.

22. Suspension from membership^{46/}

(A)

- (22) To recommend to the Assembly the suspension of a member of the Authority from the exercise of some or all of the rights and privileges of membership, in accordance with article;

OR (B)

- (22) To decide upon measures to be taken to give effect to a judgement in case a party to a dispute fails to execute a judgement of the Tribunal. The Council may decide to suspend temporarily, in whole or in part, the rights of the party failing to execute that judgement. /Such a Council decision shall not impair the rights of any person, natural or juridical, who has not contributed to the non-execution of the judgement./

23. Safeguarding of marine environment^{47/}

(A)

- (23) To make recommendations^{48/} /to Contracting Parties/ concerning ways of preventing pollution of the marine environment and damage to the living resources of the sea as the result of any activity connected with the /industrial/ exploration of the Area and the exploitation of its resources;

OR (B)

- (23) (i) /Maintenance of the ecology of the Area - based on articles 155-158 of the Maltese draft./

- (ii) To adopt recommendations^{48/} to Contracting Parties with regard to technological innovations which might cause significant change in the state of the marine environment.

OR (C)

Omit this provision.

^{46/} The view was expressed that these texts should be considered in the light of whether, under the principle of the common heritage of mankind, all States should not be inherently entitled to certain rights and privileges, such as that of sharing the benefits derived from the Area and its resources, of which they could not be deprived.

^{47/} See articles 38 to 44, Operations Commission, and article XLVI, Rules and Recommended Practices Commission, alternative (a).

^{48/} The Working Group was asked to consider whether the Council's powers with respect to safeguarding the marine environment should not be made part of its over-all rule-making function as is done in text (A) of section 36, "Rules, standards and practices".

24. Emergency orders

(A)

(24) To issue emergency orders at the request of any Contracting Party to prevent serious harm to the marine environment arising out of any activity connected with the exploration of the Area and the exploitation of its resources;

OR (B)

Omit this provision. (See articles 38 to 44, Operations Commission, and article LI, Inspection and Conservation Commission.)

25. Emergency fund (Establishment)

(A)

(25) To establish a fund to provide emergency relief and assistance in the event of a disaster to the marine environment resulting from activities of exploration of the Area or the exploitation of its resources;

OR (B)

Transfer to the Assembly/Deal with under budgetary arrangements.

OR (C)

Omit this provision.

26. Emergency fund (Use)

(A)

(26) To use the Emergency fund established by the Assembly in accordance with article in the event of a disaster to the marine environment resulting from activities of exploration of the Area or the exploitation of its resources;

OR (B)

Omit this provision.

27. Equitable sharing^{49/}

(A)

(27) To implement in accordance with applicable criteria and rules adopted by the Assembly, the equitable sharing of benefits derived from the Area and its resources;

^{49/} With reference to this provision, the USSR representative 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.

OR (B)

- (27) To submit proposals to the Assembly for the equitable sharing of the net income of the Authority in accordance with the criteria set forth in article 34, section 24 /Upon approval by the Assembly the Council shall carry out the Assembly's decisions recommendations.

OR (C)

- (27) To submit to the Assembly with its recommendations within of the entry into force of the present Convention precise criteria and rules concerning the equitable sharing of benefits derived from the exploitation of resources of the Area, periodically review such criteria and rules and submit the revised criteria and rules to the Assembly for approval; /Upon approval by the Assembly the Council shall carry out the Assembly's decisions recommendations;

OR (D)

- (27) To carry out the equitable sharing of benefits derived from the exploitation of the resources of the Area in accordance with article;

OR (E)

- (27) To submit to the Assembly the scale of distribution among States of benefits derived from activities in the Area; /Upon approval by the Assembly the Council shall carry out the Assembly's decisions recommendations.

OR (F)

Omit this provision and transfer subject matter to a subsidiary organ to be established.

28. Participation of developing countries

(A)

- (28) (i) To take subject to directives laid down by the Assembly, measures designed to attain the objectives set out in article 34, section 25;
- (ii) To establish new institutions or to support existing international or regional centres, through or in co-operation with other international or regional organizations, as may be appropriate to provide study and research of the natural resources of the sea-bed and to train nationals of any Contracting Party in related science and the technology of the exploration of the Area and the exploitation of its resources, taking into account the special needs of developing States parties to these articles;

/(iii) To provide at the request of any Contracting Party and taking into account the special needs of developing States parties to these articles, technical assistance to any Contracting Party: (a) to further the objectives of these articles and help it to meet its responsibilities and obligations under these articles; (b) to augment its capability to derive maximum benefit from the efficient administration of the /coastal sea-bed economic area/ /continental shelf/; coastal sea-bed area;

OR (B)

(28) To make recommendations at the request of any Contracting Party and taking into account the special needs of developing States parties to these articles, on the question of technical assistance to any Contracting Party to further the objectives of these articles and to assist it to meet its responsibilities and obligations under these articles;

OR (C)

Transfer to another organ.

29. Land-locked /and geographically disadvantaged/ /and transit/ countries

(29) To consider, in accordance with the provisions of these articles, specific problems arising for land-locked /and geographically disadvantaged/ /and transit/ countries in connexion with the exploration of the Area and the exploitation of its resources and recommend /basic/ /general/ guidelines for appropriate agreements or arrangements between the States concerned with respect thereto;

30. Scientific research

(A)

(30) To grant authorization for research in the Area 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 unjustifiably risks to the marine environment.

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

OR (B)

(30) To encourage international co-operation in the exercise of the freedom of scientific research in the Area /and its resources/;

OR (C)

(30) To encourage scientific research in the Area;

OR (D)

Transfer this function to another organ.

31. The carrying out of scientific research

(A)

(31) To carry out scientific research in the Area and on the development and practical application of scientific techniques for the exploration of the Area and the exploitation of its resources;

OR (B)

Transfer to a subsidiary organ to be established.

OR (C)

Omit this provision.

32. Exchange of information

(A)

(32) To promote the exchange of scientific and technical information on questions concerning the exploration of the Area and the exploitation of its resources, so as to contribute to mankind's knowledge of the Area and its resources; 50/

OR (B)

Transfer this function to another organ.

33. Recovery and disposal of wrecks

(A)

(33) To approve rules regarding the recovery and disposal of wrecks and their contents in the Area;

OR (B)

Omit this provision.

50/ See also alternative (A) of section 28, paragraph (ii), as a possible alternative.

34. Historical and archaeological objects

(A)

(34) To approve rules regarding the preservation and disposal of objects of historical and archaeological nature in the Area;

OR (B)

Omit this provision.

35. Community projects

(A)

(35) To approve the establishment of (a) scientific stations, nature parks, and archaeological or other marine preserves in the Area; (b) such services for international community purposes 51/ in the Area as may be consistent with the provisions of these articles;

OR (B)

Above text, omitting (b).

OR (C)

Omit this provision.

36. Rules, standards and practices

(A)

(36) To adopt and amend rules and recommended practices in accordance with the following subparagraphs upon the recommendation of the Rules and Recommended Practices Commission:

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
3. Annexes shall be adopted and amended in accordance with subparagraph 4. These annexes adopted along with this Convention, if any, may be amended in accordance with subparagraph 4.

51/ The term "services for international community purposes" is to be defined.

4. 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;

5. 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 in accordance with the criteria specified in appendix
 - (b) Establish work requirements or other requirements for similar purposes in accordance with the criteria specified in appendix
 - (c) Establish standards for defining technical and financial competence of applicants for licences ^{52/} in accordance with the criteria specified in appendix
 - (d) Ensure 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;

^{52/} The view was expressed that any licensing system, wherever and however expressed in these articles, was incompatible with the principle of the common heritage and such a function should not be given to the Authority and should be deleted.

- (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) Standardize the measurement of water depth and the definition of other natural features pertinent to the determination of the precise location of international sea-bed area boundaries;
 - (j) Prescribe the form in which Contracting Parties shall describe their boundaries and the kinds of information to be submitted in support of them;
 - (k) Encourage uniformity in sea-bed mapping and charting;
 - (l) Establish and prescribe conditions for the use of international marine parks and preserves;
 - (m) Regulate discovery, identification, protection, acquisition and disposal of all objects of an archaeological and historical nature found in the Area.
6. 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.
 7. 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 subparagraph 5 in order to facilitate and improve sea-bed resources exploration and exploitation.
 8. 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.
 9. Except as otherwise provided in this Convention, the annexes and amendments thereto adopted by the Council shall be binding on all Contracting Parties.
 10. Recommended practices shall have no binding effect.
 11. Any Contracting Party believing that a provision of an annex or an amendment thereto cannot be reasonably applied because of the 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.

OR (B)

(36) To recommend to the Assembly for approval, rules, standards and practices relating to:

- (i) Technical and operational matters relating to the exploration of the Area and the exploitation of its resources;
- (ii) Security and protection of human life;
- (iii) Protection against pollution and contamination as well as other hazardous occurrences resulting from or caused by any activities in the Area /or relating thereto/;
- /(iv) Discovery, identification, protection, acquisition and disposal of all objects of an archaeological and historical nature found in the Area;/

OR (C)

(36) To establish rules and regulations concerning all activities carried out in the Area including those relating to its resources, in accordance with the criteria laid down by the Assembly;

OR (D)

Omit this provision.

37. Supervision of rules, standards and practices

(A)

(37) To /administer and/ supervise the application of international rules, standards and practices with respect to activities of exploration of the Area and the exploitation of its resources;

OR (B)

(37) To supervise all activities carried out in the Area, including those relating to its resources, in accordance with the criteria laid down by the Assembly;

OR (C)

Transfer to a subsidiary organ to be established.

38. Normative principles

(A)

(39) To consider and submit to the Assembly general and non-discriminatory rules relating to navigation; maritime safety; marine and ocean bed installations; conservation, management and development of natural resources; scientific research; maintenance of the quality of the marine

environment and harmonization of conflicting uses of the Area, as it may consider necessary for an effective pursuit of the purposes of the Authority.

OR (B)

Omit this provision.

39. Exploration and exploitation^{53/}

(A)

(39) To consider and approve recommendations for the exploration of the Area and the exploitation of its resources submitted by /the International Sea-Bed Operations Organization/;

OR (B)

(39) To consider and approve recommendations for the exploration of the Area and the exploitation of its resources submitted by /the Operations Commission/;

OR (C)

(39) To consider and approve recommendations for the exploration of the Area and the exploitation of its resources submitted by /the Permanent Board/;

OR (D)

(39) To consider and approve recommendations for the exploration of the Area and the exploitation of its resources submitted by /the Management and Development Commission/;

OR (E)

(39) To consider and approve recommendations for the exploration of the Area and the exploitation of its resources submitted by /the Exploration and Production Agency/;

OR (F)

(39) To consider and approve recommendations for the exploration of the Area and the exploitation of its resources submitted by /the Exploitation Commission/;

OR (G)

Omit this provision.

^{53/} See section 44, The Enterprise.

40. Regulation of production

(A)

- (40) To take measures to regulate the production, marketing and distribution of raw materials from the Area in implementation of article ;

OR (B)

- (40) To regulate the production, marketing and distribution of raw materials from the Area and to take, in consultation, and where appropriate, in collaboration with the competent organs of the United Nations and with the specialized agencies concerned, 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 and marketing may have adverse effects for developing countries, producers and exporters of raw materials;

OR (C)

- (40) To pursue measures designed to facilitate the stabilization of commodity prices on a global basis, inter alia through international commodity agreements, taking into account the production of raw materials from the Area;

OR (D)

- (40) To regulate the production, marketing and distribution of raw materials from the Area, and to take, on consultation, and where appropriate, in collaboration with the competent organs of the United Nations and with the specialized agencies concerned, measures including inter alia control, or reduction of production so as to minimize fluctuations 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 that are producers of wasting and non-renewable resources. The mineral resources of the Area shall be considered as being complementary to resources produced from land and offshore areas.

OR (E)

- (40) To regulate the production, marketing and distribution of raw materials from the Area and, where appropriate, to take, in consultation or in collaboration with the United Nations and its appropriate specialized agencies, measures to facilitate the stabilization of world prices of the raw materials obtained from the Area, through inter alia reduction and suspension of production and international commodity agreements, whenever it deems that the production of such raw materials from the Area may have adverse effects on the economies of exporters of similar raw materials from developing countries.

OR (F)

- (40) Transfer this power to the Enterprise or to another organ to be established.

OR (G)

Omit this provision.

41. Reservation of areas

(A)

(41) 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;

OR (B)

Omit the provision.

42. Licensing^{54/}

(A)

(42) To issue, withhold, suspend or revoke licences for the /industrial/ exploration of the Area and the exploitation of its resources in accordance with rules adopted pursuant to article ;

OR (B)

(42) To authorize the issue of licences to Contracting Parties, individually or in groups, /, or natural or juridical persons sponsored by a Contracting Party₂ / for the exploration of the Area and the exploitation of its resources in accordance with the provisions of these articles, appendices and supplementary Rules and Recommended Practices;

OR (C)

Transfer to a subsidiary organ.

OR (D)

Omit this provision.

43. Allocation of blocks^{55/}

(A)

(43) To examine any questions relating to competing applications submitted to it by (competent subsidiary organ) for the allocation of blocks to States

^{54/} The view was expressed that any licensing system, wherever and however expressed in these articles, is incompatible with the principle of the common heritage, and that such a function should not be given to the Authority and should be deleted.

^{55/} See article 34, section 29.

or groups of States for the purpose of exploration of the Area and the exploitation of its resources; and to take decisions on such questions or decide to submit them to the Assembly.

OR (B)

Omit this provision.

44. The Enterprise

(A)

(44) In conformity with the policy and general conditions approved by the Assembly:

- (i) To examine and authorize drafts submitted by the Enterprise for the purpose of granting to natural or juridical persons exploration permits in a specified part of the Area;
- (ii) To examine and authorize drafts submitted by the Enterprise for the purpose of initiating negotiations with natural or juridical persons for the exploitation of the resources situated in a specified part of the Area with a view to concluding contracts of operation and/or association and/or joint ventures;
- (iii) To approve contracts of operation and/or association and/or joint ventures presented by the Enterprise for the exploration of the Area and the exploitation of its resources;

OR (B)

Omit this provision.

45. Management and Development Commission

(A)

(45) To decide from time to time which of the following methods may be used for the purpose of exploiting the resources of the Area or any part thereof and instruct the Management and Development Commission accordingly:

- (a) Directly by the Authority, in accordance with annex;
- (b) By the Authority through service contracts with States, groups of States or directly with physical and juridical persons in accordance with annex ;
- (c) By the Authority through a system of joint ventures with States, groups of States or directly with physical and juridical persons, in accordance with annex ;
- (d) By means of a system of non-discriminatory licensing, in accordance with annex ;

OR (B)

Omit this provision or transfer to a subsidiary organ.

46. Election of members of the Tribunal

(A)

(46) To elect the members of the Tribunal from a list prepared on the basis of nominations by Contracting Parties;

OR (B)

(46) (The Council and the Assembly should each have a role in the election of members of the Tribunal.)

OR (C)

Omit this provision.

47. Amendment of articles

(A)

(47) To consider /all/ proposals for amendment of these articles and /, upon approval, / to submit them to the Assembly for its consideration in accordance with article

OR (B)

Omit this provision.

SYSTEM OF SETTLEMENT OF DISPUTES /INCLUDING THE TRIBUNAL/ (CT. Sect. 29)** 56/

(A)

1. Any Contracting Party which considers that another Contracting Party /or licensee which it has sponsored / has failed to fulfil any of its obligations under these articles may bring its complaint before the Tribunal for decision.
2. The Tribunal shall decide all disputes and advise on all questions relating to the interpretation and application of these articles which have been submitted to it in accordance with the provisions of these articles. Decisions of the Tribunal shall be binding. In its decisions and advisory opinions the Tribunal shall also apply relevant principles of international law.
3. Each Contracting Party undertakes to comply with the decision of the Tribunal in any case to which it is a party.

OR (B) (alternative to paragraph 1 of (A))

1. (i) In the event of a dispute between Contracting Parties relating to /the Area and its resources or to the interpretation and application of these articles, / /the exploration of the Area and the exploitation of its resources /, the Contracting Parties concerned shall in the first instance seek a solution by any peaceful means of their choice.
- (ii) In default of agreement, the dispute shall be submitted to the Council /on the initiative of any of / /by/ the parties to the dispute. The Council shall endeavour to settle the dispute and shall in any case make a report containing a statement of the facts and such recommendations as it may consider desirable.
- (iii) After the Council has made its recommendations, /any party/ /the parties/ to the dispute, or the Council itself, may submit the dispute to the Tribunal. The decision of the Tribunal shall be binding on the parties.
- (iv) Notwithstanding the provisions of the preceding subparagraphs, in the event that either party to a dispute considers that the urgency of the matter requires prompt judicial settlement that party may submit the dispute immediately to the Tribunal.

(v) 57/

* Second reading.

** See introductory note.

56/ The Working Group recognized that the relationship between article 21, settlement of disputes, and this article would have to be considered later.

57/ The view was expressed that States which were not Contracting Parties should have no access to any organ of the Authority.

Either I A State which is not a Contracting Party may submit any dispute relating to the Area and its resources to the Council if it accepts in advance, for the purpose of the dispute, the relevant provisions of these articles.

Or II Omit this provision.

(vi)

Either I A dispute between a Contracting Party and the Authority shall be submitted directly to the Tribunal for binding adjudication at the request of the Contracting Party concerned or of the Authority

Or II Omit this provision.

The Tribunal^{58/}

(A)

1. (i) The Tribunal shall be the principal judicial organ of the Authority. It shall function in accordance with the annexed Statute which forms an integral part of the present articles.

(ii) All Contracting Parties are ipso facto parties to the Statute of the Tribunal.

Either I (iii) A State which is not a Contracting Party may become a party to the Statute of the Tribunal on conditions to be determined in each case by the Assembly upon the recommendation of the Council.

Or II Omit (iii).

2. Each Contracting Party undertakes to comply with the decision of the Tribunal in any case to which it is a party.

3. If any Contracting Party to a case fails to perform the obligations incumbent upon it under a decision rendered by the Tribunal, it shall have no vote in any organ of the Authority and the other party may have recourse to the Council, which may, if it deems necessary, make recommendations or take any of the measures referred to in article ... of these articles decide upon measures to be taken to give effect to the decision.

^{58/} The view was expressed that the institutionalization of the concept of the Tribunal was premature.

Either I 4. If any party to a case other than a Contracting Party, or the Authority fails to perform within one year the obligations incumbent upon it under a final decision rendered by the Tribunal, 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 any of the measures referred to in article ... of these articles.

Or II Omit this provision.

Either I 5. Any Contracting Party may request the advisory opinion of the Tribunal on the equity or non-discriminatory nature of the principles and rules referred to in articles as also on any legal question within the scope of this Convention.

Or II Omit this provision.

Either I 6. The Assembly, the Council, or the Secretary-General, may request the Tribunal to give an advisory opinion on any legal question within the scope of this Convention. Other organs of the Authority as authorized by the Assembly, may also request advisory opinions of the Tribunal on legal questions arising within the scope of their activities.

Or II Omit this provision.

Either I 7. Any natural or juridical person that has concluded a contract or agreement with the Authority may request the Tribunal to give an advisory opinion on any legal matter within the scope of that contract or agreement.

Or II Omit this provision.

Either I 8. The Tribunal may, in accordance with any appropriate procedures or authorizations by the United Nations, request or arrange to request of the International Court of Justice advisory opinions on legal questions arising within the scope of its activities.

Or II Omit this provision.

Either I 9. Nothing in the present Articles shall prevent Contracting Parties, parties to a dispute, from agreeing to entrust the solution of that dispute to other tribunals.

Or II Omit this provision.

OR (B)

1. The Tribunal shall be the principal judicial organ of the Authority. It shall function in accordance with the provisions of this article and of appendix ...

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.

Either I 3. Any organ of the Authority may request the Tribunal to give an advisory opinion on any legal question connected with the subject matter of these articles.

Or II Omit this provision.

Either I 4. When a case pending before a court or tribunal of one of the Contracting Parties raises a question of the interpretation of these articles or of the validity or interpretation of measures taken by an organ of the Authority, the court or tribunal concerned may shall request the Tribunal to give its advice thereon.

Or II Omit this provision.

5. The Tribunal shall also be competent to decide any dispute between States or between a State and the Authority connected with the subject matter of these articles submitted to it pursuant to an agreement, licence or contract.

6. 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 these articles. In the Tribunal as a whole the representation of the principal legal systems of the world shall be assured.

7. Decisions of the Tribunal shall be made by consensus majority.

8. No two of the members of the Tribunal may be nationals of the same State.

9. Any Contracting Party which questions the legality of measures taken by any organ other than the Council of the Authority on the grounds of a violation of these articles, lack of jurisdiction, infringement of important procedural rules, unreasonableness, or misuse of powers may bring a complaint before the Tribunal.

Either I 10. Any person, natural or juridical, 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.

Or II Omit this provision.

11. The proceedings provided for in paragraphs 9 and 10 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.

Either I 12. If the Tribunal considers the complaint well-founded, it shall declare the measure concerned to be null and void, and shall decide to what extent the annulment shall have retroactive application.

Or II Omit this provision.

13. The organ concerned shall be required to take the necessary steps to comply with the Tribunal's judgment.

Either I 14. 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.

Or II Omit this provision.

Technical disputes - the role of the Operations Commission in relation to the Tribunal 59/

Either I 15. Before a Contracting Party institutes proceedings against another Contracting Party before the Tribunal related directly to the exploration of the Area and the exploitation of its resources, it shall bring the matter before the Operations Commission.

- (a) 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.
- (b) Any of the Contracting Parties which questions the legality of the opinion, may, within a period of one month, bring a complaint before the Tribunal.
- (c) If the Contracting Party or licensee which it has sponsored, 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.
- (d) 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.

59/ Paragraphs 15 to 19 could at the appropriate time be transferred to the articles on the powers and functions of the relevant Commissions.

Or II Omit this provision.

Either I 16. Whenever the Operations Commission, acting on its own initiative or at the request of an affected natural or juridical person/liceesee, considers that a Contracting Party /or a licensee which it has sponsored/ has failed to fulfil any of its obligations concerning the terms and conditions established in these articles, the appendices or supplementary rules and recommended practices for the exploration of the Area and the exploitation of its resources, it shall issue a reasoned opinion in writing on the matter after giving such party the opportunity to submit its comments.

Or II Omit this provision.

Either I 17. 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.

Or II Omit this provision.

Either I 18. In any case in which the Operations Commission issues an order in emergency circumstances in order to ensure safety of personnel or 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.

Or II Omit this provision.

Technical disputes - the role of the International Sea-bed Boundary Review Commission in relation to the Tribunal

Either I 19. If disputes under article have not been resolved by the time and methods specified in that article, the International Sea-bed Boundary Review Commission shall bring the matter before the Tribunal.

Or II Omit this provision.

Decisions against Contracting Parties or licensees

20. If the Tribunal finds that a Contracting Party /or a licensee which it has sponsored/ has failed to fulfil any of its obligations under these articles, such party shall take the measures required for the implementation of the decision of the Tribunal.

Either I 21. When appropriate, the Tribunal may decide that the Contracting Party or the licensee who has failed to fulfil its obligations under these articles shall pay to the Authority a fine of not more than _____ for each of the offences, or shall pay damages to the other party concerned, or both.

Or II Omit this provision.

Either I 22. In the event the Tribunal determines that a licensee has committed a gross and persistent violation of the provisions of these articles and has not within a reasonable time brought his operations into compliance with them, the Council may revoke his licence. /The licensee shall not, however, be deprived of his licence if his actions were directed by the Contracting Party which sponsored him./

Or II Omit this provision.

Failure to comply with judgements

23. (i) If a Contracting Party fails to perform the obligations incumbent upon it under a decision of 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 decision.

Either I (ii) When appropriate, the Council may decide to suspend temporarily, in whole or in part, the rights under these articles of the Contracting 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.

Or II Omit paragraph (ii).

(See appendix I)

OR (C)

1. The parties to a dispute shall establish a Tribunal in accordance with annex to these articles, composed of persons selected from the Panel referred to therein. (This proposal would be followed by paragraphs 3 to 10 of alternative (A) above.)

OR (D)

1. Any question or dispute concerning the interpretation or application of these articles which is not settled by negotiation shall be referred to the International Court of Justice in conformity with the Statute of the Court, unless the parties concerned agree on another mode of settlement.

OR (E)

(In conformity with the Enterprise approach this article should deal only with disputes between the Enterprise and entities that have entered into service contracts or joint ventures with it.)

THE ENTERPRISE

1. The Enterprise shall be the organ of the Authority responsible for carrying out all technical, industrial and commercial activities relating to the exploration of the area and the exploitation of its resources, whether on its own account or under contracts of operation and/or association and/or joint ventures with juridical persons.
2. The Enterprise shall have an independent legal personality for the purpose of carrying out the activities referred to in article 1.
 - (a) It shall have full authority to conclude contracts except those which, under this agreement, shall be subject to approval by the Council.
 - (b) It may acquire such movable or immovable property as may be necessary for the efficient performance of its functions.
 - (c) It shall have financial autonomy for the purpose of performing its functions.
3. The management and administration of the Enterprise shall be the responsibility of a Governing Board consisting of seven members.
4. The members of the Governing Board shall elect from among their number the President and Vice-Presidents of the Board and shall adopt its rules of procedure.
5. The decisions of the Governing Board shall be adopted by simple majority.
6. The Governing Board shall recruit whatever technical and administrative staff it may need for the performance of its functions.
7. The Enterprise shall submit annual reports to the Council and shall prepare such reports as may be requested of it by the Assembly.
8. The Enterprise shall be empowered to exploit the area on its own account. This right shall be subject to the approval by the Council of a plan of exploitation.
9. The Enterprise shall request from the Council authorization to conduct any negotiations (with other juridical persons) that have as their purpose the exploitation of the area.
10. The Enterprise shall be empowered to prepare drafts of contracts of operation and to initiate negotiations with a view to establishing joint ventures for the performance of activities within its competence in specified parts of the area.

* Second reading.

** See introductory note.

11. (Question relating to the budget of the Enterprise.) 60/

38 to 44* (CT. Sects. 25, 28 and 31)**

THE OPERATIONS COMMISSION 61/

Composition

1. The Operations 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.
2. No two members of the Commission may be nationals of the same State.
3. A member of the Commission shall be elected as its President by a majority of its members.
4. Members of the Operations Commission shall have suitable qualifications and experience in the management of sea-bed resources, operation of marine installations, equipment and devices and environmental sciences.

Powers and functions

5. The Operations Commission, in accordance with the criteria specified in appendix ... and supplementary rules and recommended practices shall:
 - (a) Issue a licence to any Contracting Party, group of Contracting Parties, or natural or juridical persons under its or their sponsorship, for the exploration of the Area and the exploitation of its resources, containing precise terms and conditions regarding:
 - (i) The financial obligations of the licensee;

* Second reading.

** See introductory note.

60/ The view was expressed that the above article concerned the operational arm of an Authority which would carry out all the activities related to exploration of the Area and the exploitation of its resources, either on its own or in association with third parties. As such, it bore only a formal resemblance to the so-called "alternatives" under heading 38 to 44 below. Those "alternatives" texts flowed from proposed systems of an essentially different nature, since they would allow through inter alia the issuance of licences, activities (in some cases all activities) to be carried out by parties other than the Authority and only partially under its control. Hence, supporters of the above articles did not consider any of the following texts to be an alternative in any real sense. Another view was expressed that all the proposals contained in the subsequent articles were in fact viable alternatives to the Enterprise.

61/ See foot-note 60 above.

- (ii) The minerals or categories of minerals to which the licence applies;
- (iii) The precise area to which the licence applies;
- (iv) Rules to avoid unjustifiable interference between licensees who have been granted the right to explore for and exploit different minerals in the same or overlapping area;
- (v) The duration of the licence and any conditions for its renewal;
- (vi) The work requirements or other requirements for similar purposes;
- (vii) The submission of work and production plans including supporting information, studies and reports;
- (viii) Relinquishment and forfeiture;
- (ix) Liability;
- (x) The necessary measures to be taken by the licensee to protect the marine environment;
- (xi) Incorporation by reference of all provisions of the Convention, its appendices and supplementary rules and recommended practices;
- (b) Inspect the operations of licensees and verify compliance with the terms and conditions of their licence;
- (c) Issue emergency orders to prevent serious harm to the marine environment arising out of any activity connected with the exploration of the Area or the exploitation of its resources;
- (d) Perform such functions with respect to disputes between Contracting Parties as are specified in article ... ,
- (e) Initiate proceedings under article ... for alleged violations of this Convention, including, but not limited to, proceedings for revocation or suspension of licences;
- (f) Ascertain that applicants for licences meet the conditions for technical and financial competence;
- (g) Issue deep drilling permits in connexion with scientific research;
- (h) Perform such environmental analyses as are requested by the Rules and Recommended Practices Commission;
- (i) Arrange for the collection and dissemination of information relating to the exploration of the Area and the exploitation of its resources;
- (j) Recommend to the Rules and Recommended Practices Commission amendments to existing rules and recommended practices;

- (k) Inspect, with the co-operation of coastal States, in the coastal sea-bed economic area to ensure compliance with such of the provisions of this Convention, its appendices, rules and recommended practices as may apply to that area;
- (l) Collect on behalf of the Authority the proceeds arising from the financial obligations of licensees;
- (m) Submit annual reports to the Council and prepare and submit such special reports as the Council may from time to time request;
- (n) Carry out such other functions as are assigned to it by the Council.

6. The Operations Commission shall issue a licence if the prospective applicant for a licence is certified by a sponsoring State to meet the financial and technical requirements imposed by the provisions of this Convention, its appendices and supplementary rules and recommended practices.

7. The Operations Commission shall not itself engage in exploration of the area or the exploitation of its resources.

38 to 44* (CT. Sects. 25, 28 and 31)**

THE PERMANENT BOARD 62/

Composition

1. The Permanent Board is an organ composed of seven independent members designated in accordance with paragraphs 4 and 5 of this article.

2. The members of the Board shall be fully qualified in terms of their technical competence in the field of the exploration and exploitation of the sea-bed and its subsoil, and shall be familiar with the economic conditions prevailing in the world market for commodities.

3. The members of the Board shall be elected by the Council every six years. They shall be chosen from among the candidates nominated by the States members of the Authority and possessing the qualifications specified in paragraph 2 of this article. Each State member of the Authority may nominate not more than one candidate, who shall be one of its nationals.

4. In order to ensure equitable geographical distribution, each of the following regions shall be represented by one member of the Board: Africa, Asia, eastern Europe, North America, the Pacific, South America and western Europe. The limits of these regions are defined in an annex to this Convention.

* Second reading.

** See introductory note.

62/ See foot-note 60 above.

5. At each election, every serving member of the Board may be re-nominated by the State member of the Authority of which he is a national.
6. If, during the period between two elections, an elected member of the Board ceases for any reason to discharge his duties, the State member of the Authority of which he is a national shall be requested by the Chairman of the Board to designate a substitute of the same nationality within a period of three months.
7. If the State member of the Authority fails to designate a substitute within this period, it shall forfeit the right to designate a person to sit on the Board for the remainder of the Board's term of office.
8. In the case referred to in paragraph 7 of this article, the Chairman of the Board shall request the Secretary-General to invite States members in the region in question to nominate candidates for election as a substitute by the Assembly or the Council, depending on which of these bodies first meets after the existence of a vacancy has been established.
9. In order to ensure the efficient functioning of the Board, any country a national of which has been elected a member of the Board shall, so far as possible, refrain from recalling him during his term of office.
10. The Board shall elect from among its members a Chairman and a Vice-Chairman, who shall hold office for a period of one year. Thereafter, the Chairman shall each year be succeeded by the Vice-Chairman, and a new Vice-Chairman shall be elected.
11. The members of the Board shall discharge their duties, not as representatives of their respective countries or of the region for which they were elected, but as impartial agents entrusted with an international mandate. No member of the Board shall in respect of the performance of his duties either seek or receive instructions from any Government, organization, public body or private individual. Moreover, all members of the Authority shall respect the international character of the Board and of the duties of its members, and shall in no circumstances seek to influence any of these members in the performance of their duties.
12. The provisions of article 19, paragraph 6, of these articles shall apply to the members of the Board and shall, in addition, remain in force for a period of one year after they have ceased to discharge their duties.
13. The secretariat of the Board shall be provided by the Secretary-General.
14. The decisions of the Board shall normally be taken unanimously or, where such unanimity cannot be achieved, by a majority of two thirds, fractions being rounded off to the nearest higher figure.

Powers and functions

15. The Permanent Board shall exercise the following functions:
 - (a) Examine applications for the allocation of blocks lodged by members or groups of members of the Authority;

- (b) Publish such applications and allocate the blocks concerned in cases where the application is found to be properly documented, where the technical and financial means of the applicant are considered adequate, and where no competing application is received within three months from the date of publication of the application in question;
- (c) Attempt to reconcile competing applications and, if unsuccessful, submit the applications concerned to the Council, together with its proposals for arbitration;
- (d) Examine applications from block-holders for the renewal of allocations and grant or refuse such renewals;
- (e) Where the need exists, make the necessary arrangements for the surveillance and inspection of allocated blocks in order to establish that operations are conducted in accordance with the provisions of this Convention and in conformity with any rules which may be laid down by the Council, in particular with regard to the level of production and the protection of the environment, and propose to the Council any measures which prove necessary as a result of such inspections;
- (f) Receive the periodic reports of block-holders and disseminate statistical information concerning activities carried on in the blocks covered by their allocations;
- (g) Compile production statistics and keep watch on movements in the prices of extracted products;
- (h) Prepare an annual report on the technical activities, concerning both exploration and exploitation, carried on in the blocks in which exploration and exploitation activities are undertaken;
- (i) Perform any additional tasks concerning the allocation of blocks, abandoned blocks, portions of blocks given back on renewal and, where the case arises, the withdrawal of blocks, and where appropriate, submit its reports and proposals in that connexion to the Council; and
- (j) Generally discharge any administrative or technical duties entrusted to it by the Council.

38 to 44* (CT. Sects. 25, 28 and 31)**

THE MANAGEMENT AND DEVELOPMENT COMMISSION 63/

Composition

1. The Management and Development Commission shall comprise all Contracting Parties belonging to category A referred to in article (alternative to paragraph 3

* Second reading.

** See introductory note.

63/ See foot-note 60 above.

of article ...) an equal number of Contracting Parties belonging to category B and five Contracting Parties belonging to category C.

2. Contracting Parties belonging to category B and to category C shall be elected by Contracting Parties of their respective categories, due regard being paid to population, the other qualifications for membership in category A referred to in article ... and to geographical distribution. Not more than half the Contracting Parties members of the Management and Development Commission belonging to category B or to category C shall simultaneously be members of the Council or of the Legal Commission.

3. Members of the Management and Development Commission belonging to category B or 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.

4. Each member of the Management and Development Commission shall have one vote. 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 category A and to one of the other categories.

5. Members which cannot vote in the Assembly in accordance with article (on suspension) shall not vote in the Commission.

6. The 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 Authority.

7. 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 periodically the continued need for such subsidiary organs as it may establish.

8. The Commission shall adopt its own rules of procedure.

9. The Commission shall invite any Contracting Party to participate, without vote, in its deliberations on any matter of particular concern to that Contracting Party.

Powers and functions

10. The Management and Development Commission may make arrangements for representatives of the United Nations and of the specialized agencies 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.

11. The Commission may make suitable arrangements for consultation with intergovernmental and non-governmental organizations and institutions which are primarily concerned with matters within its competence.

12. The Commission shall administer the exploitation of the resources of the Area in accordance with the instructions of the Council and subject to the provisions of annexes A, B, C and D.

13. The Commission shall advise the Council on any matters relating to the management of the Area and to the development of its resources.
14. The Commission may make or initiate studies and reports with respect to any matter relating to the use of the marine environment to the management of the Area and to the development of its resources.
15. The Commission shall report periodically on its activities to the Assembly and to the Council.
16. The Commission shall prepare and submit to the Council for its consideration proposals with regard to the most appropriate methods of exploitation of the natural resources of the Area, taking into account the need for prompt and efficient resource development and for resource conservation and management.
17. The Commission shall prepare and submit to the Council for its consideration draft normative principles relating to the uses, management and development of the Area and its resources and may prepare draft conventions thereon.
18. The Commission shall prepare and submit for the consideration of the Council a draft agreement or agreements with regard to the matters referred to in article ... of this Convention. The agreement or agreements may contain provisions which are regional in scope.
19. The Commission may prepare, in consultation when appropriate with the Scientific and Technological Commission, draft conventions for consideration by the Council with respect to any matter concerning the uses, management and development of the Area and its resources.
20. The Commission shall prepare plans for the development of the Area 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.

ANNEX A

Exploitation of non-living resources directly by the Authority

In the event of direct exploitation of non-living resources of the Area by the Authority, the following guidelines shall be observed:

To be prepared.

ANNEX B

Exploitation of non-living resources by the Authority through service contracts

In the event of exploitation of the non-living resources of the Area by means of service contracts, the following principles will be observed in the conclusion of service contracts:

To be prepared.

ANNEX C

Exploitation of non-living resources by the Authority
through joint ventures

In the event of exploitation of the non-living resources of the Area by the Authority through joint ventures, the agreements establishing joint ventures shall contain the following basic provisions:

To be prepared.

ANNEX D

Licensing

In the event of the exploitation of the resources of the Area through a system of licensing, this system shall conform to the following general provisions when licences are issued in respect of the exploitation of non-living resources:

1. General:

Licences shall be issued subject to the following general provisions:

- (a) Payment of appropriate fees and royalties;
- (b) Licences may be issued to States or to groups of States, or to physical and juridical persons under their sponsorship, or directly to physical and juridical persons;
- (c) Licences shall be issued for a limited time and for a precisely delimited area;
- (d) Licences may be revoked only for cause specified in the licence;
- (e) Activities of licensees are subject to inspection by the State whose nationality they possess and by the Authority;
- (f) Expropriation of licensees or unjustifiable interference with their operations conducted in accordance with the conditions of the licence is prohibited.

2. Exploration:

Licences for the purpose of exploration shall conform to the general provisions contained in paragraph 1 and in addition shall:

- (a) Be issued for a period not exceeding four years and be renewable for a further period of four years subject to appropriate supplementary payment to the Authority;
- (b) Specify the substances for which it is issued;
- (c) Be non-exclusive and transferable;

(d) Be issued for an area delimited by latitude and longitude not exceeding 500,000 square kilometres;

(e) Contain such additional provisions as may be appropriate.

3. Production:

A production licence shall conform to the general provisions contained in paragraph 1 and in addition shall:

(a) Be exclusive and non-transferable;

(b) Be issued for a period not exceeding 30 years;

(c) Contain provisions for increases in fees over the period covered by the licence as from the second year thereof;

(d) Specify the substances or substance covered by the licence;

(e) Be of three different categories:

(i) For energy

(ii) For fluids or for minerals extracted in a fluid state

(iii) For substances other than under (i) and (ii); there shall be a separate licence in respect of each category;

(f) Be issued for an area delimited by longitude and latitude not exceeding 50,000 square kilometres;

(g) Contain detailed work, production and payments requirements;

(h) Contain provisions covering liability for damage;

(i) Provide for an appropriate cash deposit to guarantee financial responsibility and performance of work and production requirements;

(j) Contain appropriate provisions for the protection of the marine environment and for the avoidance of conflict with other uses of the Area;

(k) Contain such additional provisions as may appear appropriate.

4. Licensing of the exploitation of living resources:

To be prepared.

THE INTERNATIONAL SEA-BED OPERATIONS ORGANIZATION 64/

Composition

1. The Assembly/Council shall create an International Sea-bed Operations Organization.
2. (Structure of the Governing Body.)
3. The Assembly/Council on the recommendation of the Secretary-General shall appoint a chief executive officer of the Organization. The staff of the Organization shall be appointed by the Secretary-General under regulations established by the Assembly/Council.
4. The paramount consideration in the employment of the staff shall be the necessity of securing the highest standards of efficiency, competence and integrity. The staff of the Organization should include personnel with demonstrated qualifications and experience in resource management including administrative, legal, technical and economic skills. Due regard shall be paid to the importance of recruiting staff on as wide a geographical basis as possible.

Powers and functions

5. The Organization shall be responsible for the exploration and exploitation of the resources of the Area.
6. The Organization shall be empowered to enter into licensing and other contract arrangements with States subject to the approval of the Council for the exploration and exploitation of the resources of the Area.
7. The Organization shall have the power, subject to the approval of the Council, to undertake exploration and exploitation of the resources of the Area through its own income.
8. The Organization shall, when empowered to do so by the Assembly/Council, undertake such other activities as are necessary to carry out its functions under paragraphs 6 and 7. These powers and functions of the Organization are listed in appendix

* Second reading.

** See introductory note.

64/ See foot-note 60 above.

THE EXPLORATION AND PRODUCTION AGENCY 65/

1. The Exploration and Production Agency shall be the organ of the Authority responsible for the exploration of the Area and the exploitation of its resources, and, subject to approval by the Council, shall:
 - (a) Engage in exploration of the Area and the exploitation of its resources directly, by means of its own resources, in accordance with appendix ... ;
 - (b) Enter into joint ventures, service contracts, production sharing schemes or other legal arrangements with Contracting Parties, or with natural or juridical persons sponsored by Contracting Parties, for the exploration of the Area and the exploitation of its resources, in accordance with the criteria specified in appendix ... ;
 - (c) Issue licences to Contracting Parties, or natural or juridical persons sponsored by Contracting Parties, for the exploration of the Area and the exploitation of its resources, in accordance with the criteria specified in appendix
2. Prior to the commencement of any work programme to be carried out under any of the procedures outlined in subparagraphs (a), (b) and (c) above, the Agency shall submit or ensure the submission of plans and specifications for such programmes of work to the Inspection and Conservation Commission for approval. (See article LI.)
3. The chief officer and senior staff of the Agency shall be appointed by the Council on the recommendation of the Secretary-General.
4. The senior staff of the Agency shall be selected with due regard to both professional expertise and equitable geographical representation, and shall be appointed for a period or periods to be determined by the Council.
5. Members of the staff of the Agency may not hold concurrent positions in any other organ of the Authority or with Contracting Parties or their nationals, but may be consulted from time to time by other organs of the Authority in consideration of their expertise in fields vital to the activities of the Authority.
6. The Agency shall recommend to the Council the issuance, suspension or revocation of exploration and exploitation licences and the entering into, revision, suspension or cancellation of joint ventures, service contracts, production sharing schemes or other arrangements, and shall implement these procedures upon receiving authorization by the Council.
7. The Agency shall not itself directly engage in exploration of the Area and the exploitation of its resources without the express approval of the Council to do so.

* Second reading.

** See introductory note.

65/ See foot-note 60 above.

8. The Agency shall prepare and submit to the Council periodic technical reports with respect to its exploration and exploitation activities and their results.
9. The Agency shall prepare and submit to the Council a semi-annual budget and financial report.
10. The Agency shall prepare such other reports as may be requested of it from time to time by the Council.

38 to 44* (CT. Sects. 25, 28 and 31)**

THE EXPLOITATION COMMISSION 66/

1. The Exploitation Commission shall be composed of 11 members appointed by the Council.
2. Decisions of the Commission shall be made by consensus.
3. The Commission shall:
 - (a) Make recommendations to the Council on issuance of licences to any Contracting Party, or group of Contracting Parties for the exploration of the Area and the exploitation of its resources, containing terms and conditions regarding:
 - (i) The precise area to which the licence applies;
 - (ii) The minerals or categories of minerals to which the licence applies;
 - (iii) The financial obligations of the licensee;
 - (iv) The duration of the licence and any conditions for its renewal;
 - (b) Issue emergency notices to prevent serious harm to the marine environment arising out of the exploitation of the resources of the Area;
 - (c) Issue deep drilling permits;
 - (d) Arrange for the collection and dissemination of information relating to the exploration of the Area and the exploitation of its resources;
 - (e) Exercise control over the method and volume of production in order to prevent waste of resources;
 - (f) Recommend amendments to existing rules and recommended practices with regard to the exploration of the Area and exploitation of its resources;

* Second reading.

** See introductory note.

66/ See foot-note 60 above.

- (g) Collect on behalf of the Authority the proceeds arising from the financial obligations of licensees;
- (h) Submit annual reports to the Council and prepare and submit such special reports as the Council may from time to time request.

NOTE: The view was expressed that the functions performed by the Operations Commission, the Permanent Board, or the Exploitation Commission should be performed by the Council (see article 36, Powers and functions of the Council, section 42, alternative (B)).

THE SECRETARIAT (CT. Sect. 30)**

1. Secretary-General^{67/} and staff: appointment

- (i) The Secretariat shall comprise a Secretary-General and such staff as the Authority may require. The Secretary-General shall serve for a term of six years and may be reappointed for one further term.

Removal from office

(A)

- (ii) The Secretary-General may be relieved of his duties by the Assembly on the recommendation of the Council.

OR (B)

- (ii) The Secretary-General may be relieved of his duties if he is found, by a two-thirds vote of the Assembly and Council, no longer to possess the qualifications specified in paragraph In the event of such a finding the Council shall recommend to the Assembly the appointment of a new Secretary-General / a new Secretary-General shall be appointed.

OR (C)

Omit this provision.

2. Functions and powers of the Secretary-General

The Secretary-General:

- (a) Shall be the chief administrative officer of the Authority and shall act in that capacity at all meetings of the Assembly and the Council;

Either I (b) Shall report to the Assembly and the Council on the work of the Authority;

Or II Omit this provision.

Either I (c) Shall act in an advisory capacity to the Enterprise;

* First reading.

** See introductory note.

^{67/} Several terms were suggested, such as Secretary-General, Director-General, Executive Secretary, etc. The term "Secretary-General" has been used for convenience without prejudice to the final decision.

- Or II Omit this provision.
- (d) Shall collect publish and disseminate information which will contribute to mankind's knowledge of the sea-bed and its resources;
- (e) May draw the attention of the Council to any matter which, in his opinion, may require its urgent consideration;
- (f) Shall prepare draft budget proposals in accordance with the provisions of appendix . . . and submit them to the Council;
- Either I (g) Shall supervise the inspection of, in accordance with the rules contained in paragraph 7 of this article, activities of exploration and exploitation in the Area;
- Or II Transfer to the Council or to the Operations Commission.
- Or III Omit this provision.
- Either I (h) Shall facilitate and promote where appropriate, in consultation with the Council, the exercise of freedom of scientific research in the area , and bring the results thereof to the attention of all Contracting Parties;
- Or II Transfer to the Scientific Commission or other subsidiary organ to be established, or to the Council.
- Or III Omit this provision.
- Either I (i) Shall issue notices to mariners, giving publicity to any danger to navigation of which he has been notified;
- Or II Omit this provision, or, if the function is retained, transfer it to the Operations Commission and limit it to dangers to navigation resulting from exploration and exploitation activities.
- Note: It was suggested that care should be taken to impose such an obligation to issue notices to mariners directly on States elsewhere in these articles.
- Either I (j) Shall maintain a register of the disposal of radio-active and toxic materials in the Area notified to him by the Contracting Parties in accordance with article . . . and bring such notification to the attention of the Council;
- Or II Omit this provision.
- Either I (k) Shall receive from States the maps referred to in article . . . (Delimitation) and bring them to the attention of all Contracting Parties;
- Or II Omit this provision.

Either I (1) Shall maintain a register of physical and juridical persons recognized by the Authority for the purpose of conducting scientific research in the Area;

Or II Omit this provision.

(m) Shall perform such other functions as are entrusted to him by the Assembly or by the Council.

3. International character of staff; secrecy

3. (i) In the performance of their duties, the Secretary-General /chief executive/ 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.

(ii) Subject to the other responsibilities of the Authority they shall not disclose any industrial secret or other confidential information coming to their knowledge by reason of their official duties for the Authority. Any such disclosure by the Secretary-General /chief executive/ or by a member of the staff shall be considered as a grave disciplinary offence /and shall in addition entail personal liability for damages/.

(iii) Each Contracting Party undertakes to respect the exclusively international character of the responsibilities of the Secretary-General /chief executive/ and the staff and shall not seek to influence them in the discharge of their responsibilities.

4. Conflict of interest

4. (i) Except as the Council shall otherwise decide, neither the Secretary-General nor any /staff member/ /person in the service of the Secretariat/ shall, during the period of his service, be associated with, or have a /direct/ financial interest in, any of the operations of any enterprise concerned with the exploration of the Area or the exploitation of its resources.

(ii) Except as the Council shall otherwise decide, neither the Secretary-General nor any /staff member/ /person in the service of the Secretariat/ shall, /during the //five// years preceding his appointment, and/ and /five/ years following the period of his service, be associated with, or have a /direct/ financial interest in, any of the operations of any enterprise concerned with the exploration of /the Area or the exploitation of its resources/ /, or trade in, resources capable of being extracted from the Area/.

5. Staff regulations

5. The staff shall be appointed by the Secretary-General, under regulations established by the Assembly.

6. Recruitment of staff

- (i) The staff shall be recruited on a wide geographical basis. The staff shall include such qualified administrative, scientific, technical and other personnel as may be required in the conduct of the Secretariat's duties to fulfil the objectives and functions of the Authority. The Authority shall be guided by the principle that its staff shall be kept to a minimum.
- (ii) The paramount consideration in the recruitment and employment of staff and in the determination of their 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.

7. Inspectorate

(A)

- (a) The Authority shall, as necessary, establish a staff of inspectors which shall form a part of the staff of the Authority. The staff of inspectors shall have the responsibility to examine resource exploration and resource exploitation operations conducted within the Area to determine whether the rules, standards and practices applicable pursuant to these articles are being complied with, and such other responsibilities as may be assigned to them by the Council.
 - (b) Inspectors shall be designated in each particular instance by the Secretary-General Council, after consultation with the Contracting Party or Parties concerned, from a list of persons nominated by Contracting Parties and shall be afforded all such facilities as may be necessary for the independent exercise of their functions. Inspectors designated by the Authority shall be accompanied by representatives of the Contracting Parties licensees concerned, if such Party licensee so requests, provided that the inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions.
- Either I (c) The inspectors shall report to the Secretary-General. The Secretary-General shall bring any non-compliance reported to him pursuant to this article, or of which he shall have become aware in any other manner, to the notice of the Council, which, having duly heard the party or parties concerned, may call upon the party or parties concerned to remedy forthwith any non-compliance which it finds to have occurred.
- Or II The inspectors shall make factual reports to the Secretary-General who shall thereupon transmit them to the Council.
- (d) In the event of failure of a State licensee to take fully corrective action within a reasonable time, and a

decision of the Tribunal in accordance with article 37, the Tribunal, alternative (B), paragraph 20/ the Council /subject to review by the Tribunal/ may take one or both of the following measures: direct curtailment or suspension of any assistance being provided by the Authority or by a Contracting Party and call for return of any equipment made available to the Contracting Party or Parties /licensee/s/. The Council may report the non-compliance to all Contracting Parties and to the Secretary-General and the General Assembly of the United Nations. The Assembly may also, in accordance with article 34, section 20, suspend any non-complying member from the exercise of the privileges and rights of membership /or a non-complying licensee from the rights granted to it/.

OR (B)

Transfer the function either: (i) to the Enterprise and the Council; or (ii) to the Operations Commission, as is done in articles 38 to 44, the Operations Commission, paragraph 5 (b), (d) and (e); or (iii) to a subsidiary organ responsible to the Council.

XLVI*

RULES AND RECOMMENDED PRACTICES COMMISSION (CT. Sect. 31)**

(A)

Composition

1. The Commission shall be composed of /persons/ /representatives of Contracting Parties/ appointed by the Council /from among persons nominated by Contracting Parties. The Council shall invite all Contracting Parties to submit nominations/.

Either I 2. No two members of the Commission may be nationals of the same State.

Or II Omit this provision.

3. A member of the Commission shall be elected as its President by a majority of its members.

Either I 4. Members of the Commission shall have suitable qualifications and experience relevant to the management of sea-bed resources, ocean sciences, maritime safety, ocean and marine engineering, mining and mineral technology and practices, and environmental sciences. They shall not be full-time employees of the Authority.

Or II Omit the words after "sea-bed resources".

5. Decisions of the Commission shall be made by /majority/ /consensus/.

* First reading.

** See introductory note.

Powers and functions

6. The Commission shall:

(a) Consider, and recommend to the Council for adoption, annexes to this Convention in accordance with article 36, section 36, alternative (A);

(b) Collect from and communicate to Contracting Parties information which the Commission considers necessary and useful in carrying out its functions;

(c) Request the Operations Commission to submit an environmental analysis of the implications of exploration and exploitation for the environment;

(d) Consider and evaluate the implications for the environment of exploration of the Area and the exploitation of its resources before recommending adoption to the Council of any annex or amendment thereto.

OR (B)

(a) Consider and recommend to the Council rules and recommended practices;

(b) Communicate to Contracting Parties information which the Commission considers necessary and useful in carrying out its functions.

XLVII*

PLANNING/PRICE STABILIZATION COMMISSION (CT. Sect. 31)**

(A)

Composition

1. Structure of the Commission.

2. Members of the Commission shall have suitable qualifications and experience relevant to the management of sea-bed resources, mining and mineral technology and practices, trade economics and finance.

3. Decisions of the Commission shall be made by consensus majority.

Powers and functions

4. The Commission shall:

Either I (a) Investigate Review the current trends of supply and demand and prices of raw materials obtained from the Area and those obtained from land;

* First reading.

** See introductory note.

(b) Make recommendations to the Council regarding the price rates at which raw materials obtained from the Area may be sold, and the quantities of such materials that may be made available at any given time, balancing 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.

Or II

4. Review the current trends of supply and demand and prices of raw materials obtained from the Area and from land sources, and if appropriate, make recommendations to Contracting Parties.

OR (B)

Omit this article.

SCIENTIFIC AND TECHNOLOGICAL COMMISSION (CT. Sect. 31)**

(A)

Composition

1. The Commission shall comprise all Contracting Parties belonging to category A referred to in article (alternative to paragraph 3 of article 33) an equal number of Contracting Parties belonging to category C.
2. Contracting Parties belonging to category B and to category C shall be elected by Contracting Parties in their respective categories, due regard being paid to scientific and technological capability and to geographical distribution. All members of the Commission shall possess a graduate degree in or be a person of recognized international competence in a field directly related to the functions of the Commission.
3. Of the Contracting Parties represented on the Commission, those 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 States belonging to category B and two of the States belonging to category C shall be chosen for a period of two years.
4. Each member of the Commission shall have one vote.
5. Decisions of the Commission shall be made by an affirmative vote of the majority of the members present and voting, including a majority of the members present and voting belonging to two of the categories referred to in article (alternative to paragraph 3 of article 33).
6. The Commission shall meet at least twice a year.
7. 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 periodically the continued need for such subsidiary organs as it may establish.
8. The Commission shall adopt its own rules of procedure.
9. The Commission shall invite any Contracting Party to participate without vote on its deliberations on any matter of particular concern to that Contracting Party.
10. The Commission may make arrangements for representatives of the United Nations and of the specialized agencies 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.

* First reading.

** See introductory note.

11. The Commission shall make suitable arrangements for consultation with institutions and organizations of scientists, technicians and technologists primarily interested in questions relating to ocean space.

Powers and functions

12. The Commission may undertake directly, and in any case shall promote, through concerted action by Contracting Parties, the scientific investigation of ocean space and the development of technologies for the exploration of the Area and of its resources and for their peaceful use by man.

13. The Commission shall report periodically to the Assembly and to the Council.

14. The Commission shall disseminate as widely as possible knowledge concerning the matters referred to and shall promote the transfer of technology relating to the use and development of the Area and its resources.

15. 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 for consideration by the Council.

16. 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 of these articles.

17. The Commission may advise Contracting Parties, at their request, on measures required to avoid pollution of national ocean space.

18. The Commission shall advise the Management and Development Commission and the Council on scientific, ecological and technological aspects of the exploitation of the natural resources of the Area.

19. The Commission shall be consulted on all matters within its competence by the Management and Development Commission and by the Council, and particularly on the scientific aspects of the matters referred to in article of these articles. The Commission shall advise the Secretary-General on the administration of such international community services of a scientific and technical nature as may be established under this Convention.

20. The Commission shall prepare and submit to the Council for its consideration draft technical, safety and social standards and regulations with regard to vessels, installations or devices in the Area.

21. The Commission shall determine the requirements for inscription of persons or individuals in the register established in accordance with article of these articles, and decide whether requests for inscription in that register shall be granted.

OR (B)

Composition

1. The Commission shall be composed of /persons/ /representatives of Contracting Parties/ appointed by the Council /from among persons nominated by Contracting Parties. The Council shall invite all Contracting Parties to submit nominations/.
2. No two members of the Commission shall be nationals of the same State.
3. A member of the Commission shall be elected as its President by a majority of its members.
4. Members of the Commission shall have suitable qualifications and experience in the field of ocean science and technology. They shall ~~not be full-time employees~~ of the Authority.
5. Decisions of the Commission shall be made by /majority/ /consensus/.

Powers and functions

6. The Commission shall advise the Council on scientific, ecological and technological aspects of the exploitation of the resources of the Area.

OR (C)

Omit this article.

XLIX*

LEGAL COMMISSION (CT. Sect. 31)**

(A)

Composition

1. The Commission shall comprise all Contracting Parties belonging to category A referred to in article (alternative to paragraph 3 of article 33), an equal number of Contracting Parties belonging to category B and five Contracting Parties belonging to category C.
2. Contracting Parties belonging to category B and to category C shall be elected by Contracting Parties in their respective categories. All members of the Commission shall possess the qualifications required in their respective countries for appointment to high judicial office or shall be experts of recognized competence

* First reading.

** See introductory note.

3. A member of the Commission shall be elected as its President by a majority of its members.

4. Members of the Commission shall be lawyers of recognized standing and competence, and shall have suitable qualifications and experience in international law. They shall not be full-time employees of the Authority.

5. Decisions of the Commission shall be made by majority consensus.

Powers and functions

6. The Commission shall prepare and submit to the Council such draft conventions as may be appropriate or matters falling within the scope of these articles.

OR (C)

Omit this article.

L*

INTERNATIONAL SEA-BED BOUNDARY REVIEW COMMISSION (CT. Sect. 31)**

(A)

Composition

1. The 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.

2. No two members of the Commission may be nationals of the same State.

3. A member of the Commission shall be elected as its President by a majority of its members.

4. Members of the Commission shall have suitable qualifications and experience in marine hydrography, bathymetry, geodesy and geology. They shall not be full-time employees of the Authority.

5. Decisions of the Commission shall be made by majority consensus.

Powers and functions

6. The International Sea-Bed Boundary Review Commission shall:

(a) Review the delineation of boundaries submitted by Contracting Parties in

* First reading.

** See introductory note.

accordance with articles to ensure that they conform to the provisions of this convention, negotiate any differences with Contracting Parties, and if these differences are not resolved initiate proceedings before the Tribunal in accordance with article 37, The Tribunal, alternative (B), paragraph 22;

(b) Make recommendations to the Contracting Parties in accordance with article

(c) At the request of any Contracting Party, render advice on any boundary question arising under these articles.

OR (B)

Omit this article.

LI*

INSPECTION AND CONSERVATION COMMISSION (CT. Sect. 31)**

1. The Inspection and Conservation Commission shall be the organ of the Authority responsible for reviewing, approving and inspecting all work programmes carried out in the Area under exploration and exploitation licences or other arrangements authorized by the Exploration and Production Agency. In accordance with the criteria specified in appendix ... and supplementary rules and recommended practices, the Commission shall:

- (a) Receive and review plans and specifications for all proposed work programmes, including supporting information, studies and reports.
- (b) Perform environmental impact analyses, as appropriate, to determine the possible effects of proposed work programmes on the marine environment.
- (c) Approve, disapprove, or recommend modifications of such work programmes.
- (d) Inspect work programmes in progress, including those of the Exploration and Production Agency itself, to ensure compliance with the rules, standards and practices specified in articles ... and their appendices.
- (e) Issue emergency orders in respect of the execution of work programmes to ensure safety of personnel and protection of the marine environment.
- (f) Make recommendations to the Council for disciplinary procedures, including suspension or revocation of exploration and exploitation permits, joint ventures, service contracts or other arrangement, in the event of violations of the rules, standards and practices specified in articles ... and appendices.
- (g) Exercise control over the method and volume of production of the resources of the Area in order to prevent waste.

* First reading.

** See introductory note.

- (h) Arrange for the collection and dissemination of information relating to the exploration of the Area and the exploitation of its resources.
- (i) Recommend to the Council amendments to existing rules and recommended practices.

2. The chief officer and senior staff of the Commission shall be appointed by the Council on recommendation of the Secretary-General.

3. The senior staff of the Commission shall be selected with due regard to both professional expertise and equitable geographical representation, and shall be appointed for a period or periods to be determined by the Council.

LII*

MISCELLANEOUS PROVISIONS 68/ 69/

- 1. The first session of the Assembly shall be convened by
(Other provisions to be prepared.)

0

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.....

* First reading.

68/ The view was expressed that articles should be included here to facilitate the transition to the régime to be established for the Area.

69/ It may be necessary to deal with the question of amendment of these articles.

Appendix I

1. Each Contracting Party shall be entitled to submit to the Council nominations of individuals for membership on the Tribunal. The Council shall elect the Tribunal in accordance with article
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 chief executive of the Authority.
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.
6. 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.
7. No member of the Tribunal shall, during the period of his service, be associated with, or have a direct financial interest in, any of the operations of any enterprise concerned with the exploration of the Area or the exploitation of its resources.

APPENDIX IV

PREAMBLE TO A TREATY ON THE USE OF THE SEA-BED FOR
PEACEFUL PURPOSES*

(Preliminary draft)

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 (see resolution 2660 (XXV)) 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 régime 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 Charter of the United Nations and to the strengthening of the principles of international law governing the freedom of the high seas, including the freedom of research,

Have agreed as follows:

* The view was expressed that certain matters referred to in the proposed preamble were outside the competence of the Working Group, while greater emphasis should be placed on other matters within the scope of the Working Group's terms of reference. According to another view, the formulation of a preamble was itself a task that the Working Group was not competent to perform since the mandate of the Group was limited to the status, scope and basic provisions of the régime and machinery. It was also stated that it appeared to prejudge the outcome of certain questions within the competence of another Sub-Committee and the question whether there should be a single law of the sea convention or separate conventions. For those reasons other delegations refrained from presenting draft preambles and objected strongly to the consideration of the aforementioned draft.

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