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Draft articles considered by the Committee at its informal meetings (Articles 1-21)

[Original: English]
[5 August 1974]

Explanatory note

This document contains the texts of draft articles which are the result of the Committee's reading of part I of appendix III of the Report of Sub-Committee I of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, which deals with the status, scope and basic provisions of the regime, based on the Declaration of Principles (resolution 2949 (XXV)). References to the comparative table (A/AC.138/L.10), to the first reading or second reading by the working group of Sub-Committee I of the sea-bed Committee, and to the introductory note have been omitted, as being unnecessary at this stage. Several foot-notes which are no longer relevant have also been omitted, while in the remaining foot-notes, references to the "working group" have been replaced by references to the "Committee". Consequential and other minor editorial changes have been made.

Draft articles 1-21 are presented at this stage without the introductory note which appeared at the beginning of the report of Sub-Committee I of the sea-bed Committee, pending completion of the work of the First Committee on the other draft articles.

Wording taken from the Declaration of Principles continues to be underlined,** while marginal notes refer to the corresponding paragraph of the Declaration. Draft article I is regarded by the Committee as having been subjected only to a first reading and hence is given a Roman numeral in accordance with the practice followed by Sub-Committee I of the sea-bed Committee.

The Committee decided not to deal, for the time being, with proposals for definition or interpretation of terms. Provision would continue to be made for an article on interpretation of terms (article "0") but the Terms to be covered and their interpretation would be added at a later stage.


**In italics in the text.
claim, acquisition, or exercise of such rights shall be recognized.

Article 5

USE OF THE AREA BY ALL STATES WITHOUT DISCRIMINATION

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)

Article 6

GENERAL CONDUCT IN THE AREA AND IN RELATION TO THE AREA

(A)

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 in 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.

Article 7

BENEFIT OF MANKIND AS A WHOLE

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

[2. Participation of land-locked and other geographically disadvantaged States in the exploration of the Area and exploitation of its resources shall be promoted and protected, having due regard to the special needs and interests of these States, in order to overcome the adverse effects of their disadvantaged geographical location on their economy and development.]

Article 8

PRESERVATION OF THE AREA EXCLUSIVELY FOR PEACEFUL PURPOSES

The Area shall be reserved exclusively for peaceful purposes, and every effort shall be made to exclude it from the area used for military purposes, and to ensure its use for peaceful purposes only.

[The article was originally qualified as follows: "The prohibition of the use of nuclear weapons and of other weapons of mass destruction in the Area is recognized."

[Nuclear and thermonuclear weapons test explosions and nuclear 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 admission of nuclear submarines and all other weapons in the Area and in the sea-bed area of other States shall be prohibited.]

Article 9

WHO MAY EXPLOIT THE AREA

(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 exploration of the Area and of the exploitation of its resources and all other related activities including those of scientific research shall be conducted directly by the Authority.

The Authority may, if it considers it appropriate, and within the limits it may determine, confer certain tasks to juridical or natural persons, through service contracts, or association or through any other such means it may determine which ensure its direct and effective control at all times over such activities.

or (C)

All activities of exploration and exploitation in the Area shall be conducted in accordance with legal arrangements with the Authority pursuant to this convention, regulations included in this convention and those promulgated by the Authority pursuant to this convention.

2. The Authority shall enter into legal arrangements for exploration and exploitation with Contracting Parties, groups of Contracting Parties and natural or juridical persons sponsored by such Parties, without discrimination.

Such Parties or persons shall comply with this convention, regulations included in this convention and those promulgated by the Authority pursuant to this convention.

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 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 Committee 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 Committee may decide to omit them from part I of the articles.

**Article 10**

**General norms regarding exploitation**

**(A)**

1. The exploration of the Area and the exploitation of its resources shall be carried out in an efficient manner so as to provide for orderly and safe development and maximum benefits to producers and consumers of raw materials and of products which are made from them. Such resources development shall ensure expanding opportunities in the use thereof and 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. or **(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 prevent the deterioration 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 washing 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.

**(D.10)**

An amount equal to the proceeds of any tax levied by a State in connection 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 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 Committee may wish to consider whether to set out here, as is done, for example, in the United States draft, article 3, paragraph 1, the basic principles of benefit sharing, or to deal with this subject in a subsequent chapter of the articles.

**Article 11**

**Scientific research**

**(A)**

1. Every State, whether coastal or land-locked, has the right to undertake scientific research in the Area [ocean space], provided due regard is paid to the rights and interests of other States, and of the Authority, concerning legitimate activities in the Area.

2. Every State shall:

(i) Encourage scientific research in the Area;

(ii) Promote international co-operation in scientific research, in particular:

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

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

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

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

**(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.