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Explanatory memorandum by the President of the Conference

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ANNEX II

Basic conditions of prospecting, exploration and exploitation

Article 1
Title to minerals

Title to the minerals shall be passed upon recovery of the minerals pursuant to a contract of exploration and exploitation.

Article 2
Prospecting

1. (a) The Authority shall encourage the conduct of prospecting in the Area.
   (b) Prospecting shall be conducted only after the Authority has received a satisfactory written undertaking that the proposed prospector shall comply with this Convention and the relevant rules and regulations of the Authority concerning protection of the marine environment, the training of personnel nominated by the Authority and acceptance or verification by the Authority of compliance. The proposed prospector shall, together with the undertaking, notify the Authority of the broad area or areas in which prospecting is to take place.
   (c) Prospecting may be carried out by more than one prospector in the same area or areas simultaneously.
   (d) The Authority may close a particular area for prospecting when the available data indicates the risk of irreparable harm to a unique environment or unjustifiable interference with other uses of the Area.

2. Prospecting shall not confer any preferential, proprietary, exclusive or any other rights on the prospector with respect to the resources. A prospector shall however, be entitled to recover a reasonable amount of resources of the Area to be used for sampling.

Article 3
Exploration and exploitation

1. Exploration and exploitation shall be carried out only in areas specified in plans of work referred to in article 153, paragraph 3, of Part XI of this Convention and approved by the Authority in accordance with the provisions of this annex and the relevant rules, regulations and procedures of the Authority.

2. Every plan of work approved by the Authority shall:
   (a) Be in strict conformity with this Convention and the rules and regulations of the Authority;
   (b) Ensure control by the Authority of activities in the Area in accordance with article 153, paragraph 4, of Part XI of this Convention;
   (c) Confer on the operator exclusive rights for the exploration and exploitation of the resources in the area covered by the plan of work in accordance with the rules and regulations of the Authority. If the applicant presents a plan of work for one of the ten stages only, the contract may confer exclusive rights with respect to each stage.
3. Except for plans of work proposed by the Enterprise, each plan of work shall take the form of a contract to be signed by the Authority and the operator or operators upon approval of the plan of work by the Authority.

**Article 4**

**Qualifications of Applicants**

1. Applicants, other than the Enterprise, shall be qualified if they have the nationality or control and sponsorship required by article 152, paragraph 2 (b), of Part XI of this Convention and if they follow the procedures and meet the standards established by the Authority by means of rules, regulations, and procedures.

2. Except as provided in paragraph 4, the qualification standards prescribed by the Authority shall relate to the financial and technical capabilities of the applicant and his performance under previous contracts with the Authority.

3. The procedures for assessing the qualifications of States Parties which are applicants shall take into account their character as States.

4. The qualification standards shall require that every applicant, without exception, shall as part of his application undertake:

   (a) to accept as enforceable and comply with the applicable obligations created by the provisions of Part XI, rules and regulations adopted by the Authority, decisions of the organs of the Authority, and terms of his contracts with the Authority;

   (b) to accept control by the Authority of activities in the Area as authorized by this Convention;

   (c) to provide the Authority with written assurances that its obligations covered by the contract entered into by it will be fulfilled in good faith;

   (d) to comply with the provisions on the transfer of technology set forth in article 5.

**Article 5**

**Transfer of Technology**

1. In respect of transfer of technology, every applicant other than the Enterprise shall:

   (a) Make available to the Authority a general description of the equipment and methods to be used in carrying out activities in the Area, as well as any other relevant information about the characteristics of such technology, and information as to where such technology is available on the open market. That description shall be submitted with the application and thereafter whenever a substantial technological change in innovation is introduced;

   (b) Undertake to use, in carrying out activities, in the Area, technology other than that covered by subparagraph (c) and which is not generally available on the open market only if he has obtained written assurance from the owner of the technology that he will, if and when the Authority so requests, make
available to the Enterprise to the same extent as made available to the operator, that technology under license or other appropriate arrangements and on fair and reasonable commercial terms and conditions. Should an owner of technology refuse to honour his assurance when requested by the Enterprise, subsequent assurances by him shall not be accepted, and if the owner who refuses to honour his assurance has a corporate or family relationship with the applicant, this refusal shall be considered relevant to the applicant's qualifications for any subsequent proposed plan of work;

(a) Undertake to make available to the Enterprise, if he receives the contract, and on fair and reasonable commercial terms and conditions, the technology which is to be used by him in carrying out activities in the Area and which he is legally entitled to transfer. This shall be done upon the conclusion of the contract and if and when the Authority shall so request by means of licence or other appropriate arrangements which the Contractor shall negotiate with the Enterprise and which shall be set forth in a special agreement supplementary to the contract. This commitment may be invoked only if the Enterprise finds that it is unable to obtain the same or equally efficient and useful technology on the open market and on fair and reasonable terms and conditions;

(b) Undertake to facilitate, upon the conclusion of the contract and if the Authority shall so request, the acquisition by the Enterprise under licence or other appropriate arrangements and on fair and reasonable commercial terms and conditions of the technology covered by subparagraph (b);

(c) Undertake the same obligations as those prescribed in subparagraph (b), (c) and (d) for the benefit of a developing country or a group of developing countries which have applied for a contract under article 8 provided that these obligations shall be limited to the exploitation of the reserved part of the Area proposed by the applicant, and provided that activities under the contract sought by the developing country or group of developing countries would not involve transfer of technology to a third country or the nationals of a third country;

2. If upon request in accordance with this article the pertinent negotiations fail within a reasonable time to reach agreement on the terms and conditions of transfer to the Enterprise, either party may refer any matter arising in the negotiations to conciliation in accordance with annex IV. The Conciliation Commission shall within 60 days make recommendations to the parties which shall form the basis of further negotiations. Should the latter negotiations fail to reach agreement on the terms and conditions of transfer either the Enterprise, acting on behalf of the Authority, or the contractor may thereafter refer to binding commercial arbitration in accordance with the UNCITRAL Arbitration Rules (or other arbitration rules if and when prescribed in the rules, regulations and procedures of the Authority), within 90 days, the question whether the offers made are within the range of fair and reasonable commercial terms and conditions. In cases where the arbitral tribunal determines that the contractor's offer is not within that range and the contractor fails to revise its offer within a further period of 90 days to bring it within that range, the tribunal shall make an award. Where the dispute in the pertinent negotiations refers to matters other than the terms and conditions of transfer and the parties fail to reach agreement in negotiations subsequent to the recommendations of the Conciliation Commission, either party may within sixty days refer the matter to the appropriate dispute settlement mechanism established in the Convention for its decision. In the event that the contractor does not accept or fails to implement the arbitral award or the decision of the appropriate tribunal, the Contractor shall be liable to penalties in accordance with the provisions of article 17.
3. In the event that the Enterprise is unable to obtain appropriate technology on fair and reasonable commercial terms and conditions to commence in a timely manner the processing of the minerals it recovers from the Area, the States Parties which are engaged in activities in the Area or whose nationals are engaged in activities in the Area, and other States Parties having access to such technology shall consult together and shall take effective measures to ensure that such technology is made available to the Enterprise on fair and reasonable commercial terms and conditions.

4. In the case of joint ventures with the Enterprise technology transfer will be in accordance with the terms of the joint venture agreement.

5. For the purposes of this article, "technology" means the equipment and technical know-how, including manuals, designs, operating instructions, training and technical advice and assistance necessary to assemble, maintain and operate a system for the exploration for and exploitation of the resources of the Area and the non-exclusive legal right to use those items for that purpose.

Article 6

Approval of plans of work submitted by applicants

1. Six months after the entry into force of this Convention, and thereafter each fourth month, the Authority shall take up for consideration proposed plans of work.

2. When considering an application for a contract with respect to exploration and exploitation, the Authority shall first ascertain whether:

(a) the applicant has complied with the procedures established for applications in accordance with article 4 and has given the Authority the commitments and assurances required by that article. In case of non-compliance with these procedures or of absence of any of the commitments and assurances referred to, the applicant shall be given 15 days to remedy such defects;

(b) the applicant possesses the requisite qualifications pursuant to article 4.

3. All plans of work proposed by qualified applicants shall be dealt with in the order in which they were received, and the Authority shall conduct, as expeditiously as possible, an inquiry in connection with operational requirements, financial contribution, and transfer of technology as provided in the relevant provisions of this Convention and this annex. As soon as the issues under investigation have been settled, the Authority shall approve such plans of work, provided that they conform to the uniform and non-discriminatory requirements established by the rules, regulations and procedures of the Authority, unless:

(a) Part or all of the proposed area is included in a previously approved plan of work or a previously submitted proposed plan of work which has not yet been finally acted on by the Authority; or

(b) Part or all of the proposed area is disapproved by the Authority pursuant to article 152, paragraph 2 (e) of Part XI of this Convention;

(c) Selection among applications received during that period of time is necessary because approval of all plans of work proposed during that period would be contrary to the production limitation set forth in article 151, paragraph 2, of Part XI of this Convention or to the obligations of the Authority under a commodity agreement or arrangement to which it has become a party, as provided for in article 151, paragraph 1, of Part XI of this Convention;
(d) The proposed plan of work has been submitted or sponsored by a State Party which has already had approved:

- three plans of work for exploration and exploitation of sites not reserved pursuant to article 8 within a circular area of 400,000 square kilometres which is centred upon a point selected by the applicant within the requested additional site;

- plans of work for exploration and exploitation of sites not reserved pursuant to article 8 which in aggregate size constitute three per cent of the total seabed area which is not reserved pursuant to that article or otherwise withdrawn by the Authority from eligibility for exploitation pursuant to article 162, paragraph 2, of Part XI of this Convention.

4. For the purpose of the standard set forth in paragraph 3 (d), a plan of work proposed by a consortium shall be counted on a pro rata basis among the States Parties whose nationals compose the consortium. The Authority may approve plans of work covered by paragraph 3 (d) if it determines that such approval would not permit a State Party or persons sponsored by it to monopolize the conduct of activities in the area or to preclude other States Parties from activities in the area.

Article 7
Selection of applicants

1. Where the selection must be made among applicants because of the production limitation set forth in article 151, paragraph 2, of Part XI of this Convention or because of the obligations of the Authority under a commodity agreement or arrangement to which it has become a party, as provided for in article 151, paragraph 1, of Part XI of this Convention, the Authority shall make the selection on the basis of objective and non-discriminatory standards set forth in rules and regulations drawn up in accordance with this article.

2. The Authority shall consider all qualified applications received within the preceding period of time, as prescribed in the rules, regulations and procedures, and shall give priority to those which:

(a) Give better assurance of performance, taking into account the financial and technical qualifications of the proposed operator and performance, if any, under previously approved plans of work; or

(b) Provide earlier prospective financial benefits to the Authority, taking into account when production is scheduled to begin.

3. Selection shall be made taking into account the need to provide for all States Parties, irrespective of their social and economic systems or geographical locations, opportunities to participate in activities in the area, the need to prevent monopolization of such activities, and the need to exploit reserved sites, and on the basis of a determination of equitable merit, taking into account the resources and effort already invested by prospective operators in prospecting and in exploration, if any.

4. When, due to the same reasons set forth in paragraph 1, the selection must be made among the Enterprise and applicants for contracts, the Authority shall have priority to exploit the area reserved to it under article 8 within the production policies of article 151 of Part XI of this Convention, either solely through the Enterprise or through joint ventures with States or with private entities sponsored by the States.
5. The Authority shall make its decisions pursuant to this article as promptly as possible after the close of each period.

Article 8
Reservation of sites

1. Each application, other than those proposed by the Enterprise or by any others for reserved sites, shall cover a total area which need not be a single continuous area but shall be sufficiently large and of sufficient value to allow the mining operation. The proposed operator shall indicate the co-ordinates dividing the area into two parts of equal estimated commercial value. Within forty-five days of receiving the data necessary to make the assessment of the value of the site, the Authority shall designate the part which is to be reserved solely for the conduct of activities by the Authority through the Enterprise or in association with developing countries. The area designated shall become a reserved area as soon as the plan of work for the non-reserved area is approved and the contract is signed.

2. The Enterprise shall be given an opportunity to decide whether it wishes itself to conduct activities in each area reserved pursuant to this article.

3. In conducting activities in the areas reserved pursuant to this article the Enterprise may enter into joint arrangements with any entity qualified to conduct activities in the area. In such joint arrangements appropriate provision shall be made for participation by developing countries, the nature and extent of such participation to be approved by the Authority.

4. Nothing in this article shall be interpreted as preventing the Enterprise from carrying out activities in accordance with this annex in any part of the area not included in a previously approved plan of work or a previously submitted plan of work which has not yet been finally acted on by the Authority.

Article 9
Separate stages of operations

If an operator, in accordance with article 3, paragraph 2 (c), has an approved plan of work for exploration only, he shall have a preference and a priority among applicants for a plan of work for exploitation with regard to the same areas and resources; provided, however, that where the operator's performance has not been satisfactory such preference or priority may be withdrawn.

Article 10
Joint arrangements

1. Contracts for the exploration and exploitation of the resources of the area may provide for joint arrangements between the Contractor and the Authority through the Enterprise, in the form of joint ventures, production sharing or service contracts, as well as any other form of joint arrangement for the exploration or exploitation of the resources of the area.

2. Contractors entering into such joint arrangements with the Enterprise may receive financial incentives as provided for in the financial arrangements established in article 12.

Article 11
Activities conducted by the Enterprise

1. Activities in the area conducted under article 155, paragraph 2 (a), of
Part XI of this Convention through the Enterprise shall be governed by the provisions of Part XI, the rules, regulations and procedures of the Authority and its relevant decisions.

2. Any plan of work proposed by the Enterprise shall be accompanied by evidence supporting its financial and technological capability.

Article 12

Financial terms of Contracts

1. In adopting rules, regulations and procedures concerning the financial terms of a contract between the Authority and the entities referred to in article 155, paragraph 2(b), of Part XI of this Convention in accordance with the provisions of Part XI, and in negotiating the financial terms of a contract in accordance with the provisions of Part XI and those rules, regulations and procedures, the Authority shall be guided by the following objectives:

(a) to ensure optimum revenues for the Authority from the proceeds of commercial exploitation;

(b) to attract investments and technology to the exploration and exploitation of the Area;

(c) to ensure equality of financial treatment and comparable financial obligations on the part of all States and other entities which obtain contracts;

(d) to provide incentives on a uniform and non-discriminatory basis for contractors to undertake joint arrangements with the Enterprise and developing countries or their nationals, to stimulate the transfer of technology thereto, and to train the personnel of the Authority and of developing countries;

(e) to enable the Enterprise to engage in seabed mining effectively at the same time as the entities referred to in article 155, paragraph 2(b), of Part XI of this Convention.

2. A fee shall be levied for the administrative cost of processing an application for a contract of exploration and exploitation and shall be fixed at an amount of $500,000 per application. If the cost incurred by the Authority in processing an application is less than $500,000, the Authority shall refund the difference to the applicant. The amount of the fee shall be reviewed from time to time by the Council in order to ensure that it covers the administrative cost of processing such an application.

3. A Contractor shall pay an annual fixed fee of $1 million from the date of entry into force of the contract. From the commencement of commercial production, the Contractor shall pay either the production charge or the annual fixed fee, whichever is greater.

4. From the commencement of commercial production, in conformity with paragraph 3, a Contractor shall choose to make his financial contribution to the Authority either by:

(a) paying a production charge only, hereinafter referred to as the single system;

(b) paying a combination of a production charge and a share of net proceeds, hereinafter referred to as the mixed system.
5. (a) If a Contractor chooses to make his financial contribution to the Authority by paying a production charge only, it shall be fixed as a percentage of the market value of the processed metals produced from the nodules extracted from the contract area in accordance with the following schedule:

(i) Years 1-10 of commercial production ... 8 per cent
(ii) Years 11-20 of commercial production ... 13.5 per cent

(b) The said market value shall be the product of the quantity of the processed metals and the average price for those metals during the relevant accounting year. The average price shall be determined in accordance with paragraph 7 and paragraph 8.

6. If a Contractor chooses to make his financial contribution to the Authority by paying a combination of a production charge and a share of net proceeds, such payments shall be determined as follows:

(a) The production charge shall be fixed at a percentage of the market value of the processed metals produced from the nodules extracted from the contract area in accordance with the following schedule:

(i) First period of commercial production 2 per cent
(ii) Second period of commercial production 5 per cent

(b) The said market value shall be the product of the quantity of the processed metals and the average price for those metals during the relevant accounting year. The average price shall be determined in accordance with paragraph 7 and paragraph 8.

(c) The Authority's share of net proceeds shall be taken out of an amount equal to 35 per cent of the Contractor's net proceeds to represent the net proceeds attributable to mining of the resources of the contract area. This amount shall be referred to hereafter as the attributable net proceeds.

(d) The Authority's share of attributable net proceeds shall be determined in accordance with the following schedule:

(i) First period of commercial production 65 per cent
(ii) Second period of commercial production 65 per cent

(e) The first period of commercial production referred to in subparagraphs (a) and (d) shall commence in the first year of commercial production and terminate in the year in which the Contractor's total net proceeds plus his recovery of development costs less his payments to the Authority in the form of share of attributable net proceeds in the preceding accounting years are equal to twice the development costs incurred prior to the commencement of commercial production. The second period of commercial production referred to in subparagraphs (a) and (d) shall commence in the following accounting year and continue until the end of the contract.

(f) The term "net proceeds" shall mean gross proceeds less operating costs and less the recovery of development costs as set out in subparagraph (i).

(g) The term "gross proceeds" shall mean the gross revenues from the sale of the processed metals, and any other monies deemed to be reasonably attributable to the operations of the contract in accordance with the financial rules.
(h) The term "development costs" shall mean:

(i) all expenditures incurred prior to the commencement of commercial production which are directly related to the development of the productive capacity of the contract area and activities related thereto, in conformity with generally recognized accounting principles, including, inter alia, costs of machinery, equipment, ships, buildings, land, roads, prospecting and exploration of the contract area, construction, interest, required leases, licences, fees, and

(ii) similar expenditures, incurred subsequent to the commencement of commercial production, for the replacement, improvement, or addition of machinery and equipment.

(j) The proceeds from the disposal of capital assets and the market value of those capital assets which are no longer required for operations under the contract and which are not sold shall be deducted from development costs during the relevant accounting year. Where these deductions exceed the development costs the excess shall be added to the gross proceeds.

(k) The development costs referred to in subparagraph (h)(i) shall be recovered in ten equal annual instalments from the date of commencement of commercial production. The development costs referred to in subparagraph (h)(ii) shall be recovered in ten or fewer equal annual instalments so as to ensure their complete recovery by the end of the contract.

(k) The term "operating costs" shall mean all expenditures incurred after the commencement of commercial production in the operation of the productive capacity of the contract area and the activities related thereto, in conformity with generally recognized accounting principles, including, inter alia, the fixed annual fee or the production charge, whichever is greater, expenditures for wages, salaries, employee benefits, supplies, materials, services, transportation, marketing costs, interest, utilities, preservation of the marine environment, overhead and administrative costs specifically related to the operations of the contract area and any net operating losses carried forward from prior accounting years.

(l) The costs referred to in subparagraphs (h) and (k) in respect of interest paid by the Contractor may only be allowed if, in all the circumstances, the Authority approves, pursuant to article 4, paragraph 1, the debt-equity ratio and the rates of interest as reasonable, having regard to existing commercial practice.

(m) The costs referred to in this paragraph shall not be interpreted as including payments in respect of corporate income taxes or similar charges levied by States in respect of the operations of the Contractor.

7. (a) In all cases the price used for the sale of metals shall be the price for the metals in the most basic form in which they are customarily traded on an international market.

(b) If an international market provides a representative pricing mechanism for the metals in the most basic form in which they are customarily traded, the average price on such market shall be used. In all other cases, the Authority shall, after consulting the Contractor, determine a fair market price in accordance with paragraph 8.
6. (a) All costs, expenditures, proceeds and revenues, and all determinations of market price and value, referred to in this article shall be the result of free market or arm's length transactions. In the absence thereof, they shall be determined by the Authority after consulting the Contractor, as though they were the result of free market or arm's length transactions taking into account relevant transactions in other markets.

(b) In order to ensure enforcement of and compliance with the provisions of this paragraph, the Authority shall be guided by the principles adopted for, and the interpretation given to, arm's length transactions by the United Nations Group of ERODE on Multinational Enterprises, the Ad Hoc Group of Experts on Tax Treaties between Developing and Developed Countries and other international organizations, and shall adopt rules and regulations specifying uniform and internationally acceptable accounting rules and procedures, and the means of selection by the Contractor of certified independent accountants acceptable to the Authority for the purpose of auditing in compliance with the said rules and regulations.

9. The Contractor shall make available to the accountants, in accordance with the financial rules and regulations and procedures of the Authority, such financial data as are required to determine compliance with this article.

10. All costs, expenditures, proceeds and revenues referred to in this article, shall be determined in accordance with generally recognized accounting principles and the financial rules, regulations and procedure of the Authority.

11. The payments to the Authority under paragraphs 5 and 6 may be made either in a freely convertible currency or in a currency agreed upon between the Authority and the Contractor, or at the Contractor's option, in the equivalent of processed metals at market value. The market value shall be determined in accordance with paragraph 5(b).

12. All financial obligations of the Contractor to the Authority as well as all his fees, costs, expenditures, proceeds and revenues referred to in this article shall be adjusted by expressing them in constant terms relative to a base year.

13. In all cases other than contracts for all stages of operations, the Authority shall establish the schedule of production charge applicable under the single system and the schedules of production charge and the Authority's share set out in paragraph 1(e) and the schedule set out in paragraph 5 and paragraph 6.

14. The Authority may, taking into account any recommendations of the Economic Planning Commission and the Technical Commission, adopt rules and regulations that provide for incentives, on a uniform and non-discriminatory basis, to Contractors to further the objectives set out in paragraph 2.

15. In the event of a dispute between the Authority and a Contractor over the interpretation or application of the financial terms of contract, either party may submit the dispute to compulsory and binding commercial arbitration.
Article 13
Transfer of data

1. The operator shall transfer in accordance with the rules and regulations and the terms and conditions of the plan of work to the Authority at time intervals determined by the Authority all data which are both necessary and relevant to the effective implementation of its powers and functions of the judicial organs of the Authority in respect of the area covered by the plan of work.

2. Transferred data in respect of the area covered by the plan of work, deemed to be proprietary may only be used for the purposes set forth in this article. Data which are necessary for the promulgation of rules and regulations concerning protection of the marine environment and safety shall not be deemed to be proprietary.

3. Data transferred to the Authority by prospectors, applicants for contracts for exploration and exploitation, and Contractors, deemed to be proprietary, shall not be disclosed by the Authority. The responsibilities set forth in article 168, paragraph 2, of Part XI of this Convention are equally applicable to the staff of the Enterprise.

Article 14
Training programmes

The Contractor shall draw up practical programmes for the training of personnel of the Authority and developing countries, including the participation of such personnel in all activities covered by the contract, in accordance with article 144, paragraph 2, of Part XI of this Convention.

Article 15
Exclusive right to explore and exploit

The Authority shall, pursuant to Part XI and its rules and regulations prescribed by the Authority, accord the operator the exclusive right to explore and exploit the area covered by the plan of work in respect of a specified category of minerals and shall ensure that no other entity operates in the same area for a different category of minerals in a manner which might interfere with the operations of the operator. The operator shall have security of tenure in accordance with article 153, paragraph 6, of Part XI of this Convention.

Article 16
Rules, Regulations and Procedures

1. The Authority shall adopt and uniformly apply rules, regulations and procedures for the implementation of its functions as prescribed in Part XI on the following matters:

(a) Administrative procedures relating to prospecting, exploration and exploitation in the Area.

(b) Operations:

(i) Size of area;

(ii) Duration of operations;

(iii) Performance requirements including assurances pursuant to article 4, paragraph 4(a).
(iv) Categories of minerals;
(v) Renunciation of areas;
(vi) Progress reports;
(vii) Submission of data;
(viii) Inspection and supervision of operations;
(ix) Prevention of interference with other activities in the marine environment;
(x) Transfer of rights by a Contractor;
(xi) Procedures for transfer of technology to developing countries in accordance with article 144 of Part XI of this Convention and for their direct participation;
(xii) Mining standards and practices including those relating to operational safety, conservation of the resources and the protection of the marine environment;
(xiii) Definition of commercial production;
(xiv) Qualification standards for applicants;
(c) Financial matters
(i) Establishment of uniform and non-discriminatory costing and accounting rules, as well as the method of selection of auditors;
(ii) Apportionment of proceeds of operations;
(iii) The incentives referred to in article 12.
(d) Rules, regulations and procedures to implement decisions of the Council taken in pursuance of articles 151 and 164, paragraph 7, of Part XI of this Convention.

2. Regulations on the following items shall fully reflect the objective criteria set out below:

(a) Size of area

The Authority shall determine the appropriate size of areas for exploration which may be up to twice as large as those for exploitation in order to permit intensive exploration operations. Areas for exploitation shall be calculated to satisfy the requirements of article 8 on reservation of sites as well as stated production requirements over the term of the contract, taking into account the state of the art of technology then available for commercial mining and the relevant physical characteristics of the area. Areas shall neither be smaller or larger than are necessary to satisfy this objective.
(b) Duration of operations

(i) Prospecting shall be without time-limit;

(ii) Exploration should be of sufficient duration as to permit a thorough survey of the specific area, the design and construction of mining equipment for the area, the design and construction of small and medium-size processing plants for the purpose of testing mining and processing systems;

(iii) The duration of exploitation should be related to the economic life of the mining project, taking into consideration such factors as the depletion of the ore, the useful life of mining equipment and processing facilities and commercial viability. Exploitation should be of sufficient duration as to permit commercial extraction of minerals of the area and should include a reasonable time period for construction of commercial scale mining and processing systems, during which period commercial production should not be required. The total duration of exploitation, however, should also be short enough to give the Authority an opportunity to amend the terms and conditions of the plan of work at the time it considers renewal in accordance with rules and regulations which it has issued subsequent to entering into the plan of work.

(c) Performance requirements

The Authority shall require that during the exploration stage, periodic expenditures be made by the operator which are reasonably related to the size of the area covered by the plan of work and the expenditures which would be expected of a bona fide operator who intended to bring the area into commercial production within the time-limits established by the Authority. Such required expenditures should not be established at a level which would discourage prospective operators with less costly technology than is prevalent in use. The Authority shall establish a maximum time interval after the exploration stage is completed and the exploitation stage begins to achieve commercial production. To determine this interval, the Authority should take into consideration that construction of large-scale mining and processing systems cannot be initiated until after the termination of the exploration stage and the commencement of the exploitation stage. Accordingly, the interval to bring an area into commercial production should take into account the time necessary for this construction after the completion of the exploration stage and reasonable allowance should be made for unavoidable delays in the construction schedule.

Once commercial production is achieved in the exploitation stage, the Authority shall within reasonable limits and taking into consideration all relevant factors require the operator to maintain commercial production throughout the period of the plan of work.

(a) Categories of minerals

In determining the category of mineral in respect of which a plan of work may be approved, the Authority shall give emphasis inter alia to the following characteristics:

(i) Resources which require the use of similar mining methods and
(ii) Resources which can be developed simultaneously without undue interference between operators in the same area developing different resources.

Nothing in this subparagraph shall deter the Authority from granting a contract for more than one category of mineral in the same area to the same applicant.

(e) Renunciation of areas

The operator shall have the right at any time to renounce without penalty the whole or part of his rights in the area covered by a plan of work.

(f) Protection of the marine environment

Rules and regulations shall be drawn up in order to ensure effective protection of the marine environment from harmful effects directly resulting from activities in the area or from shipboard processing immediately above a mine site of minerals derived from the mine site, taking into account the extent to which such harmful effects may directly result from drilling, dredging, coring and excavation as well as disposal, dumping and discharge into the marine environment of sediment, wastes or other effluents.

(g) Commercial production

Commercial production shall be deemed to have begun if an operator engages in activity of sustained large-scale recovery operations which yield a sufficient quantity of materials as to indicate clearly that the principal purpose is large-scale production rather than production intended for information gathering, analysis or equipment or plant-testing.

Article 17
Penalties

1. A Contractor's rights under the contract concerned may be suspended or terminated only in the following cases:

(a) If, in spite of warnings by the Authority, the Contractor has conducted his activities in such a way as to result in serious, persistent and willful violations of the fundamental terms of the contract, Part XII and the rules and regulations of the Authority, or

(b) If a Contractor has failed to comply with a final binding decision of the dispute settlement body applicable to him.

2. The Authority may impose upon the Contractor monetary penalties proportionate to the seriousness of the violation in any case of violation of terms of contract not covered under paragraph 1(a).

3. Except in cases of emergency orders as provided for in article 165, paragraph 2(k), of Part XII of this Convention, the Authority may not execute a decision involving monetary penalties, suspension or termination until the Contractor has been accorded a reasonable opportunity to exhaust his judicial remedies available to him pursuant to section 6 of Part XII.
Article 18
Revision of Contract

1. When circumstances have arisen, or are likely to arise, which, in the opinion of either party, would render the contract inequitable or make it impracticable or impossible to achieve the objectives set out in the contract or in Part XI, the parties shall enter into negotiations to adjust it to new circumstances.

2. Any contract entered into in accordance with article 153, paragraph 3, of Part XI of this Convention may be revised only with the consent of the parties.

Article 19
Transfer of rights and obligations

The rights and obligations arising out of a contract shall be transferred only with the consent of the Authority, and in accordance with the rules and regulations adopted by it. The Authority shall not unreasonably withhold consent to the transfer if the proposed transferee is in all respects a qualified applicant and assumes all of the obligations of the transferor.

Article 20
Applicable law

The law applicable to the contract shall be the provisions of Part XI, the rules and regulations prescribed by the Authority, the terms and conditions of the contract, and other rules of international law not incompatible with this Convention. Any final decision rendered by a court or tribunal having jurisdiction by virtue of this Convention relating to the rights and obligations of the Authority and of the Contractor shall be valid and enforceable in the territory of each State Party.

No State Party may impose conditions on a Contractor that are inconsistent with Part XI. However, the application by a State Party of environmental or other regulations to sea-bed miners it sponsors or to ships flying its flag, more stringent than those imposed by the Authority pursuant to article 16, paragraph 2(f), shall not be deemed inconsistent with Part XI.

Article 21
Liability

Any responsibility or liability for wrongful damage arising out of the conduct of operations by the Contractor shall lie with the Contractor, account being taken of contributory factors by the Authority. Similarly, any responsibility or liability for wrongful damage arising out of the exercise of the powers and functions of the Authority shall lie with the Authority, account being taken of contributory factors by the Contractor. Liability in every case shall be for the actual amount of damages.