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Report of the co-ordinators of the working group of 21 to the First Committee

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I. Conduct of negotiations

During the first part of the ninth session of the Conference, the working group of 21 conducted 15 meetings to deal with the outstanding issues before the First Committee, concluding where it terminated at the eighth session. It was as usual chaired overall by the Chairman of the First Committee, Mr. B. Enso of the United Republic of Cameroon who also co-ordinated the negotiations on issues involving the Assembly and the Council. Mr. F. Ngeng of Kenya, Chairman of negotiating group 1, co-ordinated the negotiations on matters relating to the system of exploration and exploitation. Mr. T. Lobi of Singapore, Chairman of negotiating group 2, co-ordinated, those concerning financial arrangements. Mr. H. Vucensche of the German Democratic Republic continued consultations with the group of legal experts on the settlement of disputes relating to Part XI.

The Chairman of the First Committee, as principal co-ordinator, received reports from all the co-ordinators on the negotiations and consultations conducted by them and submits his report which contains the results obtained.

II. System of exploration and exploitation

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1. When entrusted with the task of conducting the negotiations on the system of exploration and exploitation and the resource policy, I was perfectly aware of the magnitude of the undertaking and the enormous responsibility the Conference had put in my hands. Although the basic structure of the parallel system had been accepted in the previous stages of the negotiations, some essential aspects related to its functioning, particularly the ways to ensure the effective operation of the two parallel sides of the system, were still subject to scrutiny and controversy. On some concrete points, the opposing views seemed to be irreconcilable as on the question of transfer of lute and technology to the Authority or the production policy, as put only the most striking examples of divergent positions.

2. To overcome the enormous difficulties arising from the establishment of the system, it was necessary not only to have time but, above all, patience, intelligence and spirit of compromise. Of all these, my colleagues in the delegations participating in the negotiations proved to have plenty. Today, thanks to the strenuous efforts of all of them and to their determination to put an end to the exhaustive and prolonged negotiations, I am able to report some success. We have come to the end of our assignment with a set of provisions related to the system that, compared to the previous texts, considerably improve, in my opinion, the chances for a viable parallel system to implement the principle of the common heritage of mankind.

3. I am aware that the text I am proposing does not entirely reflect the aspirations of any State or group of States. It could not be otherwise with a text that intends to be a genuine compromise. But I hope that the new provisions put us in reach of a feasible and possible agreement. I request that the delegates should examine each of the articles in this proposal without prejudice or preconceived fears, keeping in mind that for each concession made, a concession has been received.

4. Numerous suggestions were made by the delegations during the negotiations in the working group of 21 and during the private and intensive consultations I carried out during this session, as well as during the past sessions. I decided to incorporate in the text only those proposals which received widespread support and did not alter the sometimes very fragile balance of conflicting interests I tried to reflect in the text. The articles of Part XI of the revised informal composite negotiating text (A/CONF.62/W.P.10/Rev.1) with respect to which substantial amendments have been made, and of the provisions of annex II, some of which have also been amended, will be found in the appendix to this report. I shall make some comments on these amendments which, in my view, are the most significant.

5. In Part XI there were three important issues still unresolved. The first of these refers to the principle contained in article 140 according to which activities in the area shall be carried out for the benefit of mankind as a whole. Some delegations had, and I believe still have, strong objections regarding the way in which this principle has been worded in this provision. They think that there is no valid reason to extend the sharing of the benefits derived from the exploitation of the area beyond the group of States which will become parties to the convention. It was suggested in this respect that the words "amongst States Parties" should be added to paragraph 2 of article 140. This proposal did not get broad support among many of the delegations. Moreover, it is my impression that any restriction such as the one proposed would contradict other provisions of the convention, as well as the wording and the spirit of resolution 2749 (XXV) of the General Assembly, which refer to the benefit of mankind as a whole. Therefore, I abstained from introducing any substantive change to this provision.

6. The other two remaining issues in Part XI related to
30. Some delegations made very useful suggestions referring to article 13 on transfer of data, in order to clarify the kind of data which is subject to the rules contained in such provision. I decided to introduce amendments in paragraphs 2 and 3. According to the first amendment in paragraph 2, equipment and design data are exempted from the presumption of the non-proprietary character set forth therein. At the end of the first sentence of paragraph 3, concerning the prohibition to disclose data by the Authority, I have added the following words: "but the data on the reserved sites may be disclosed to the Enterprises". The reasons to exclude this kind of data from the prohibition set forth in paragraph 3 are obvious.

31. In article 16 on "Rules, Regulations and Procedures" minor amendments were introduced in paragraphs 1 (a) (iv) and (xii), paragraph 1 (d) and paragraph 2 (d) in order to harmonize the language of these provisions with that of related provisions. In paragraph 2 (a) the addition of a reference to article 151 in the second sentence responds to the need to relate this provision with the resource policy.

32. The addition of the last words in paragraph 2 of article 17 aims at giving more flexibility to the Authority concerning the imposition of penalties and allowing it to apply, when appropriate, a lesser penalty than suspension or termination of the contract in the cases covered under paragraph 1 (a) of the same article.

33. Lastly, in article 19 I have added a final sentence the purpose of which is to avoid that, by the way of transfer of rights arising out of a contract, a contractor circumvents the rules preventing monopolization of the area.

ANNEX

Part XI. The Area

Article 133. Use of terms

For the purposes of this Part:

(a) "Resources" means mineral resources in situ. When recovered from the Area, such resources shall be regarded as minerals.

(b) Resources shall include:

(i) Liquid or gaseous substances at or beneath the surface such as petroleum, gas, condensate, halium, and also sulphur and salts recovered in liquid form;

(ii) Solid substances occurring on the surface or at depths of less than three metres below the surface, including polymetallic nodules;

(iii) Solid substances at depths of more than three metres below the surface;

(iv) Metal-bearing deposits at or beneath the surface.

Article 140. Benefits of mankind

1. Activities in the Area shall be carried out 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 the developing States and peoples who have not attained full independence, or other self-governing status, recognized by the United Nations in accordance with General Assembly resolution 1514 (XXV) and other relevant General Assembly resolutions as specifically provided for in this Part of the present Convention.

2. The Authority shall provide for the equitable sharing of benefits derived from the Area through an appropriate mechanism in accordance with paragraph 2 (f) of article 160.

Article 150. Policing relating to activities in the Area

Activities in the Area shall be carried out as provided by this Part in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to promote international co-operation for the overall development of all countries, especially the developing States, and with a view to ensuring:

(a) Orderly and safe development and rational management of the resources of the Area, including the efficient conduct of activities in the Area and, in accordance with sound principles of conservation, the avoidance of unnecessary waste;

(b) The expansion of opportunities for participation in such activities consistent particularly with articles 144 and 148;
Article 2. Prospecting

1. The Authority shall encourage the conduct of prospecting in the Area.

2. Prospecting shall be conducted only after the Authority has received a satisfactory written undertaking that the proposed prospector shall comply with the present Convention and the relevant rules and regulations of the Authority concerning protection of the marine environment, cooperation in training programmes according to articles 143 and 144 and accepts 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.

3. Prospecting may be carried out by more than one prospector in the same area or areas simultaneously.

4. Prospecting shall not confer any preferential, proprietary, exclusive or any other right 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. The Enterprise, States Parties and the other entities referred to in paragraphs 3 and 6 of article 153, may apply to the Authority for approval of plans of work covering exploration and exploitation of resources of the Area.

2. The Enterprise may apply with respect to any part of the Area, but appeal to other States Parties are subject to the additional requirements of article 8 bis of this annex.

3. Exploration and exploitation shall be carried out only in areas specified in plans of work referred to in paragraphs 3 and 6 of article 153, approved by the Authority in accordance with the provisions of this annex and the relevant rules, regulations and procedures of the Authority.

4. Every plan of work approved by the Authority shall:

(a) be in strict conformity with the present Convention and the rules and regulations of the Authority;

(b) ensure control by the Authority of activities in the Area in accordance with article 8 bis of this annex;

(c) confer on the operator exclusive rights for the exploration and exploitation of the specified categories of 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 two stages only, the operator may confer exclusive rights with respect to such a stage.

5. Except for plans of work approved 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 supervision required by paragraph 2 of article 153, and if they fulfill the procedures and meetings of the qualification standards established by the Authority by means of rules, regulations and procedures.

2. Sponsorship by the State Party of which the applicant is a national shall be sufficient unless the applicant has more than one nationality, in which case a partnership or consortium of entities from several States, in which event all States Parties involved shall sponsor the application, or unless the applicant is effectively controlled by another State Party or its nationals, in which event both States Parties shall sponsor the application.

3. The sponsoring State or States shall, pursuant of article 139, have the responsibility to ensure, within their legal systems, that a contractor so sponsored shall carry out activities in the Area in conformity with the obligations under the present Convention and the terms of its contract. A sponsoring State shall not, however, be liable for damage caused by any failure of its contractor sponsored by it to comply with its obligations if that State Party has enacted legislation and provided for administrative procedures which are, within the framework of its legal system, reasonably appropriate for securing compliance by persons under its jurisdiction.

4. Except as provided in paragraph 6, such qualification standards shall relate to the financial and technical capabilities of the applicant and his performance under previous contracts with the Authority.

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

6. The qualification standards shall require that every applicant, unless otherwise provided by the Authority, shall meet the requirements established by the Authority by means of rules, regulations and procedures.

(a) excel in the technical aspects of the project and have access to the necessary resources and facilities for the purpose.

(b) accept the conditions established by the Authority for the implementation of the project.

(c) provide the Authority with written assurance that their obligations under the contract will be fulfilled.

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

Article 5. Transfer of technology

1. When submitting a proposal to carry out an operation, every applicant shall 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 other relevant non-proprietary information about the characteristics of such technology, and information as to where such technology is available.

2. Every operator under an approved plan of work shall inform the Authority of revisions in the description and information required by paragraph 1 above whenever a substantial technological change or innovation is introduced.

3. Every contract for the conduct of activities in the Area entered into by the Authority shall contain the following undertakings by the operator:

(a) to make available to the Enterprise, if and when the Authority so requests, any available 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 by means of licence or other appropriate arrangements which the operator 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 not possible to obtain the same or similar technology on the open market and on fair and reasonable commercial terms and conditions;

(b) to obtain a written assurance from the owner of any technology that the operator intends to use in carrying out activities in the Area which is not covered under paragraph (a) and is not generally available on the open market from the owner 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 licence or other appropriate arrangements and on fair and reasonable commercial terms and conditions. This assurance shall be made legally binding and enforceable whenever it is possible to do so without additional cost to the contractor;

(c) to take all feasible measures, if and when requested to do so by the Enterprise, to acquire the legal right to transfer to the Enterprise in accordance with subparagraph (d) any technology he uses in carrying out activities in the Area which he is not legally entitled to transfer and which is not generally available on the open market. In cases where there is a substantial corporate relationship between the operator and the owner of the technology, the relationship of the degree of control or influence shall be relevant to the determination whether all feasible measures have been taken. In cases where the operator exercises effective control over the owner, failure to acquire the legal right from the owner would create a presumption that such measures have not been taken;

(d) to facilitate the acquisition by the Authority under licence or other appropriate arrangements and on fair and reasonable commercial terms and conditions of any technology covered by subparagraph (3) above should the Enterprise desire to negotiate directly with the owner of the technology and request such facilities;

(e) to take the same measures as those prescribed in subparagraphs (a), (b), (c) and (d) for the benefit of a developing country or group of developing countries which has applied for a contract under article 8 of the annex in order to make these measures applicable to the exploitation of the reserved part of the Area proposed by the applicant, and provided that such technology is not available on the open market.

4. Disputes concerning the undertakings required by paragraph 3,
like other provisions of contracts, shall be subject to compulsory dispute settlement in accordance with Part XI, and monetary penalties, suspension, or termination of contract as provided in article 17 of this annex. Disputes as to whether offers made are within the range of fair and reasonable commercial terms and conditions may be submitted to either party to binding commercial arbitration in accordance with the arbitration rules of the United Nations Commission on International Trade Law or other arbitration rules if and when prescribed in the rules, regulations, and procedures of the Authority.

5. In the event of the Enterprise being unable to obtain appropriate technology on fair and reasonable commercial terms and conditions to commence in a timely manner the recovery and processing of minerals from the Area, either the Council or the Assembly may convene a group of States Parties composed of those which are engaged in activities in the Area, those which have sponsored entities which are engaged in activities in the Area and other States Parties having access to such technology. This group 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. Each such State Party shall take all feasible measures to this end within its own legal system.

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

7. The undertakings required by paragraph 3 shall be included in each contract for the conduct of activities in the Area until the Enterprise begins its commercial production of minerals from the resources of the Area, and these undertakings may be invoked until ten years after the Enterprise has begun such commercial production.

8. For the purposes of this annex, "technology" means the apparatus and techniques required; including materials, designs, operating instructions, training and technical advice and assistance, necessary to assemble, maintain and operate a viable system and the legal right to use these items for that purpose on a non-exclusive basis.

Article 6. Approval of plans of work submitted by applicants

1. Six months after the entry into force of the present 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 submitted all the procedures established for applications for the approval of article 4 of this annex and has given the Authority the commitments and assurances required by that article.

(b) In cases of non-compliance with these procedures or of absence of any of the commitments and assurances referred to, the applicant shall be given 45 days to remedy such defect;

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

3. All proposed plans of work shall be dealt with in the order in which they were received, and the Authority shall conduct, as expeditiously as possible, an inquiry into their compliance with the terms of the present Convention and the rules, regulations, and procedures of the Authority, including the operational requirements, the financial contributions and the undertakings concerning the transfer of technology. As soon as the issues under investigation have beensettled, 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;

(b) Part or all of the proposed area is disapproved by the Authority pursuant to paragraph 2(w) of article 162;

(c) The production limitation set forth in paragraph 2 of article 151 or the obligations of the Authority under a commodity agreement or arrangement to which it has become a party as provided for in paragraph 1 of article 151 prevents the approval of any applications or requires a selection among applications received during the period of time specified.

(d) The proposed plan of work has been submitted or sponsored by a State Party which already holds:

(i) Plans of work for the exploration and exploitation of polymetallic nodules in non-reserved sites that, together with other part of the proposed site, would exceed in size 30 percent of a circular area of 400 square kilometers.

(ii) Plans of work for the exploration and exploitation of polymetallic nodules in non-reserved sites in application of article 6 of the present annex, which in aggregate area constitute 2 percent of the total sea-bed area which is not reserved or otherwise determined by the Authority from eligibility for exploitation pursuant to paragraph 3(w) of article 162.

4. For the purpose of the standard set forth in paragraph 3(g), a plan of work proposed by a partnership or consortium shall be counted on a pro rata basis among the sponsoring States. Parties involved shall append to paragraph 2 of article 4 of this annex. The Authority may approve a plan of work submitted by a partnership or consortium if the Authority determines that such approval would not permit a State Party or party sponsored by it to monopolize or otherwise interfere with activities of the same or 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 paragraph 2 of article 151, 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 paragraph 1 of article 151, the Authority shall select the applicants on the basis of objective and non-discriminatory standards set forth in the rules and regulations drawn up in accordance with this article. The Authority shall consider all qualified applicants received within the preceding period of time referred to in paragraph 1 of article 6, and shall give priority to those:

(a) Which provide the greatest assurance of performance, taking into account the financial and technical qualifications of the applicant, including stability and performance, if any, under previously approved plans of work;

(b) Which provide earlier prospective financial benefits to the Authority, taking into account when production is scheduled to begin;

(c) Which have already invested most resources and effort in prospecting or exploration;

(d) Applicants who are not selected in any period shall have priority in subsequent periods until they receive a contract;

2. Selection shall be made taking into account the need to enhance opportunities for all States Parties, irrespective of their social and economic systems or geographical location, to participate in activities in the Area and to prevent monopolization of such activities.

3. The Authority shall have priority to exploit the reserved areas either solely through the Enterprise or through joint ventures with States Parties or with private entities sponsored by them whenever fewer reserved sites than non-reserved sites are under exploitation.

4. The Authority shall make its decisions pursuant to this article as promptly as possible after the close of each period.
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 person has the exclusive right to explore and exploit the area covered by the plan of work in respect of a specified category of minerals in a manner which might interfere with the operation of the operator. The operator shall have security of tenure in accordance with paragraph 6 of article 153.

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 paragraph 6 of article 9;
      (iv) Categories of resources;
      (v) Renovation 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 and obligations by a contractor;
      (xi) Procedure for transfer of technology to developing countries in accordance with article 144 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 of this annex.
   (d) Rules, regulations and procedures to implement decisions of the Council taken in pursuance of paragraph 4 of article 151 and article 153.
2. Regulations on the following matters shall fully reflect the objective criteria set out below:
   (a) Size of area:
      The Authority shall determine the appropriate size of area for exploration, which is not to exceed twice as large as those for exploration in order to persist intensive exploration operations. The size of area shall be calculated to satisfy the requirements of article 6 of this annex on reservation of areas as well as stated production requirements consistent with article 151, in accordance with the term of the contract taking into account the state of the art of technology then available for ocean mining and the relevant physical characteristics of the area. Areas shall, neither be smaller nor 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-scale 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.

(e) Performance requirements:

The Authority shall require that during the exploitation stage, periodic expenditures and expenditures 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 cost technology than is presently in use. The Authority shall establish a maximum time interval after the exploitation stage is completed and the exploitation stage begins to achieve commercial production. To determine this interval, the Authority should be taken 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.

(f) Categories of resources:

In determining the category of resources with 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.

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.

(g) Renunciation of rights:

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

(h) Protection of the marine environment:

Rules and regulations shall be drawn up in order to secure 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.

Commercial production shall be deemed to have begun in any case in which 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 its activities in such a way as to result in serious, persistent and willful violations of the fundamental terms of the contract, Part XI and the rules and regulations of the Authority; or

(b) If its 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 as a result of its acts, or such penalties to be imposed against the contractor in any case of violation of terms of contract not covered under paragraph 1 (a), or in lieu of suspension or termination or in any case covered under paragraph 1 (a).

3. Except in cases of emergency as provided for in paragraph 2 (v) of article 106, the Authority may not execute a decision imposing monetary penalties, suspension or termination until the contractor has been accorded a reasonable opportunity to present his case in writing. Pursuant to section 5 of article 106.

Article 16. Revision of contracts

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 of Part XI, the parties shall enter into negotiations to adjust it to new circumstances.

2. The Authority may revise its contract in accordance with paragraph 3 of article 165 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 the obligations of the transferee and if the transfer does not confer on the transferee a plan of work the approval of which would be forbidden by paragraph 3 (d) of article 6 of this annex.

Article 20. Applicability

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 in conflict with the present Convention. Any claim or dispute respected by a court or tribunal having jurisdiction under any of the present 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, up to and including that in Part XI.

Article 21. Liability

Any responsibility or liability for wrongful damage arising out of the conduct of operations by the contractor shall be borne by 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 damage.

B. PRODUCTION POLICY

1. The group which was convened during the eighth session in Geneva to review the provisions of article 153 dealing with production policies retained its discussions which had been suspended at the end of the session in New York last year. Meetings of the group were held on a number of occasions between 2 and 21 March and, in addition, a small group, representing the main special interests was convened on several occasions. I also held private discussions with a number of individual delegations.

2. The discussions continued, more or less, from where they were at the last session and this report should be read in conjunction with my report to the First Committee at the end of the New York session in August 1979. The group expressed concern that the results of our previous discussions should not be forgotten or ignored. Accordingly, so as to ensure a continuity of the record, I will refer back to certain matters which were covered in the previous reports.

3. The first question raised for discussion was the problem which has been referred to as "speculative tonnage", or tonnage allocation which has been identified as a danger to the application but where there is still some considerable doubt and uncertainty about the possibility of the project getting into...