(b) States Parties may, if they consider it appropriate and within the limits specified in subparagraph (a) of this paragraph carry out the activities through State enterprises or juridical persons registered in these States and effectively controlled by them when sponsored by such States in accordance with the applicable provisions of the Basic Conditions set forth in Annex 1.

State Parties sponsoring such juridical persons shall be responsible for taking all appropriate measures to ensure that such persons comply with the provisions of this Part, Annex 1 and the rules, regulations and procedures adopted by the Authority under Article 28.

(c) All contracts entered into by the Authority pursuant to this paragraph for the activities in the Area shall ensure effective fiscal and administrative supervision by the Authority over such activities and shall be drawn in accordance with the Basic Conditions provided for in Annex 1.

3. (a) In the part or parts of the Area, established in paragraph 1 of this Article, where the activities may be conducted directly by the Authority such activities shall be carried out in accordance with applicable provisions of the Basic Conditions set forth in Annex 1.

(b) In the part or parts of the Area where the activities shall be conducted by the Authority, the Authority may, if it considers it appropriate, and within the limits it may determine, carry out activities in the Area or any stage thereof through States Parties to this Convention, or State enterprises, or persons natural or juridical which possess the nationality of such States or are effectively controlled by them or their nationals, or any group of the foregoing, by entering into service contracts, of joint ventures or any other such form of association which ensures its direct and effective control at all times over such activities.

* * *

WORKSHOP PAPER No.3 19 August 1976

UNITED STATES – PROPOSALS REGARDING THE SYSTEM OF ACCESS

Article 22

1. Activities in the Area shall be conducted directly by the Authority through the Enterprise in accordance with Annex I and the rules, regulations and procedures adopted by the Authority under Article 28 (xii). For this purpose, the Enterprise shall enter into contract with the Authority.

2. Activities in the Area shall also be conducted directly by States Parties, or State enterprises, or persons natural or juridical which possess the nationality of States Parties, or are effectively controlled by them or their nationals, when sponsored by such States, or any group of the foregoing, in accordance with Annex I and the rules, regulations and procedures adopted by the Authority under Article 28 (xii), by means of entering into contracts with the Authority.
3. All contracts entered into by the Authority pursuant to paragraphs 1 and 2 of this article for activities in the Area shall ensure effective fiscal and administrative supervision over such activities for the purpose of securing effective compliance with this Part of the Convention, Annex I and the rules, regulations and procedures adopted by the Authority under Article 28 (xii) and shall be drawn in accordance with Annex I. State Parties sponsoring persons natural or juridical under paragraph 2 of this article shall assist the Authority by taking all appropriate measures to ensure such compliance.

Article 23

1. In the exercise of its functions, the Authority shall take steps pursuant to this Part to promote and encourage activities in the Area.

2. The Authority shall avoid discrimination in the granting of opportunities for such activities and in the exercise of its powers and functions. No right granted pursuant to this Part shall be impaired by the Authority and all such rights shall be fully safeguarded.

3. Special consideration by the Authority, pursuant to Articles 16, 11 and 25, paragraph 2 (x), for the interests and needs of the developing countries, particularly the land-locked and geographically disadvantaged among them, shall not be deemed to be discrimination.

Annex I

2. Title to the resources shall vest in the Contractor at the moment they are recovered from the Area pursuant to a contract with the Authority.

5. On the application of the Enterprise, any State Party, or State enterprise, or persons natural or juridical which possesses the nationality of a State Party or is effectively controlled by it or its nationals and is sponsored by a State Party, or any group of the foregoing (hereinafter called the "applicant"), the Authority shall enter into a contract for the carrying out of exploration for, and exploitation of, the resources of the area.

6. Every contract entered into by the Authority pursuant to paragraph 5 shall:

(a) be in strict conformity with Part I of this Convention and the rules and regulations prescribed by the Authority in accordance with Part I of this Convention;

(b) ensure effective fiscal and administrative supervision by the Authority in accordance with Article 22, paragraph 3.

7. (a) The Authority shall adopt appropriate administrative procedures and rules and regulations for making an application pursuant to paragraph 5, and the qualifications of any applicant referred to therein. Such qualifications shall only include (1) financial standing, and (2) technological capability.

(b) The Enterprise and States Parties which apply to enter into
contracts with the Authority shall be presumed to possess the qualifications specified in subparagraph (a).

(c) Each applicant shall, in addition, submit to the Authority a work programme which shall fully take into account the requirements of the rules and regulations of the Authority.

(d) Each applicant shall undertake to comply with the provisions of Part I of this Convention and the rules and regulations adopted by the Authority, and to accept supervision by the Authority in accordance therewith.

8. (a) Upon receiving an application pursuant to paragraph 5 with respect to activities of exploration and exploitation, the Authority shall first ascertain whether any competing application has been received for the area applied for. If no such competing application has been received, the Authority shall conclude, within 90 days after receipt of the application, a contract with the applicant in respect of the area applied for, provided that the applicant has completed the procedures and possesses the qualifications prescribed pursuant to paragraphs 6 and 7. The Authority may not refuse to enter into a contract if the criteria in paragraph 9 (d) have been satisfied, and the contract in all other respects is in strict conformity with the provisions of Part I of this Convention and of the rules, regulations and procedures adopted thereunder.

(b) If the Authority receives more than one application in respect of substantially the same area and category of minerals, selection from among the applicants shall be made on a competitive basis taking into account the extent to which each applicant satisfies the requirements of paragraph 6 and paragraph 7.

9. (a) The Enterprise, any State Party, or any State enterprise or person natural or juridical which possesses the nationality of a State Party or is effectively controlled by it or by its nationals, when sponsored by a State Party or any group of the foregoing which enters into a contract for activities relating to exploration and exploitation with the Authority pursuant to paragraph 5 (hereinafter called the "Contractor") shall make available all funds, materials, equipment, skills and know-how as necessary for the conduct of operations covered by the contract.

(b) The costs involved in the performance of the contract pursuant to paragraph (a) shall be recoverable by the contractor out of the proceeds of operations or by the respective parties in the event the Authority has contributed to the costs of performance.

(c) The proceeds of operations pursuant to the contract after deduction of costs which shall be calculated according to accounting rules and procedures which are in general use shall be apportioned between the Authority and the Contractor in the manner specified in the contract in accordance with sub-paragraph (d) of this paragraph.

(d) (Financial arrangements)
9 bis. The procedural and substantive provisions of this Annex relating to contracts shall apply mutatis mutandis to the Enterprise.

*) The precise procedure for the award of contracts should be taken up in connection with the discussion of Articles 28 and 31.