FIRST COMMITTEE

DESCRIPTION OF PROSPECTING/GENERAL SURVEY, EXPLORATION AND EXPLOITATION

A. Prospecting/General Survey: The broadly based survey using all available methods, generally of large areas in the first instance, leading by progressively narrowing the search to the location of mineral occurrences of possible economic importance.

B. Exploration: The detailed investigation of mineral occurrence or deposits using all appropriate techniques in order to discover their nature and origin, establish the quantity and tenor of the contained economic minerals, determine how best they may be exploited and generally all other factors affecting their economic development.

C. Exploitation: The practical and economic development of minerals based on the appropriate application of various techniques in order to obtain an economically valuable product.

PREP. 2
19 March 1976
ORIGINAL: ENGLISH

DESCRIPTION OF PROSPECTING/GENERAL SURVEY, EXPLORATION AND EXPLOITATION

A. Prospecting/General Survey: The broadly based survey using all available methods, generally of large areas in the first instance, leading by progressively narrowing the search to the location of mineral occurrences of possible economic importance.

B. Exploration: The detailed investigation of mineral occurrence or deposits using all appropriate techniques in order to discover their nature and origin, establish the quantity and tenor of the contained economic minerals, determine how best they may be exploited and generally consider all other factors affecting their economic development.
C. **Exploitation:** The practical and economic development of minerals based on the appropriate application of various techniques in order to obtain an economically valuable product.
3. (a) The Authority shall encourage the conduct of prospecting in the area. Prospecting shall be conducted only after the Authority has received a satisfactory written undertaking that the proposed prospector will comply with this Convention and the relevant rules and regulations of the Authority concerning protection of the marine environment, the transfer of data to the Authority, the training of personnel designated by the Authority and accepts verification of compliance by the Authority, with all of its rules and regulations as far as they relate to prospecting. The proposed prospector shall, together with the undertaking, notify the Authority of the broad area or areas in which prospecting is to take place. Prospecting may be carried out by more than one prospector in the same area or area simultaneously. 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.

Selection of applicants

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 enter into negotiations for the purpose of concluding a contract with the applicant in respect to the area applied for, unless the Authority finds that:

(i) the applicant does not possess the requisite qualifications pursuant to paragraph 7;

(ii) the applicant has not complied with the procedures established for applications;

(iii) the applicant does not agree to comply with the financial arrangements set forth in paragraph 9 (d) or the requirements concerning operations in this annex or the rules and regulations of the Authority;
(iv) the contract would not be in accordance with the resource policy set forth in articles __________ * and the relevant decisions of the Authority in implementation thereof.

This paragraph shall not prejudice the provisions of paragraph 11.

8. (b) If the Authority receives more than one application at the same time in respect of substantially the same area and category of minerals, selection from among the applicants shall be made on a competitive basis. In accordance with (a) above, the Authority shall enter into preliminary negotiations with the applicants in order to select the best qualified among them and, once the selection is made on the basis of a comparative consideration of their applications and qualifications, the Authority shall enter into negotiations with the selected applicant for the purpose of concluding the corresponding contract.

**Pagination**

Rules, Regulations and Procedures

12. (a) The Authority shall adopt and uniformly apply rules, regulations and procedures for the implementation of this Chapter, including those basic conditions, on the following matters:

1. **Administrative procedures relating to prospecting, exploration and exploitation in the Area**

2. **Operations**
   - (i) Size of area;
   - (ii) Duration of activities;
   - (iii) Performance requirements and guarantees;
   - (iv) Categories of minerals;
   - (v) Renunciation of areas;
   - (vi) Progress reports;
   - (vii) Submission of data;
   - (viii) Inspection and supervision of operations;
   - (ix) Passing of title to minerals; 1/

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* (The appropriate articles will be filled in when the final text is considered as a whole.)

1/ The inclusion of this item will be reconsidered in the light of the discussion of paragraph 2 of Annex 1.

2/ This item may require redrafting.

3/ Retention of this item will depend on the outcome of discussions regarding Articles 9, 28 and 30.
(x) Prevention of interference with other uses of the sea and of the marine environment;
(xi) Transfer of rights by a Contractor;
(xii) Procedures for transfer of technology to developing countries and for their direct participation; 2/
(xiii) Mining standards and practices including those relating to operational safety, conservation of the resources, and the protection of the marine environment;
(xiv) Continuity of operations in the event of disputes;
(xv) Definition of commercial production.

3. Financial matters

(i) Establishment of uniform and non-discriminatory costing and accounting rules;
(ii) Apportionment of proceeds of operations.

4. Rules, regulations and procedures to implement decisions of the Council taken in pursuance of Articles 9 and 30 3/

(b) Regulations on the following items shall fully reflect the objective criteria set out below:

1. **Size of area (item 2 (i))**

   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 stated production requirements over 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. In cases where the Contractor has obtained a contract for exploitation, the area not covered by such contract shall be relinquished to the Authority.

2. **Duration of activities (item 2 (ii))**

   (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 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 the 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 contract at the time it considers renewal in accordance with rules and regulations which it has issued subsequent to entering into contract.

3. Performance requirements (item 2 (iii))

The Authority shall require that during the exploration stage, periodic expenditures be made by the Contractor which are reasonably related to the size of the contract area and the expenditures which would be expected of a bona fide Contractor 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 Contractor to maintain commercial production throughout the period of the contract.

4. **Categories of minerals (item 2 (iv))**

   In determining the category of mineral in respect of which a contract may be entered into, 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 Contractors in the same area developing different resources.

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

5. **Renunciation of areas (item 2 (v))**

   The contractor shall have the right at any time to renounce without penalty the whole or part of his rights in the contract area.

6. **Protection of the marine environment (item 2 (xiii))**

   Rules and regulations shall be drawn up in order to secure the effective protection of the marine environment, taking into account the extent to which activities in the Area are conducted by methods such as drilling, dredging, coring and excavation as well as disposal, dumping and discharge in the Area of sediment, wastes or other matter from activities in the Area will have a harmful effect on the marine environment.

7. **Commercial production (item 2 (xv))**

   "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.

   (c) The provisions of this paragraph shall apply *mutatis mutandis* to the Enterprise.
FIRST COMMITTEE

Rules, Regulations and Procedures

12. (a) The Authority shall adopt and uniformly apply rules, regulations and procedures for the implementation of this chapter, including these basic conditions, on the following matters:

1. *Administrative procedures relating to prospecting, exploration and exploitation in the area*

2. *Operations*
   (i) *Size of area;*
   (ii) *Duration of activities;*
   (iii) *Performance requirements and guarantees;*
   (iv) *Categories of minerals;*
   (v) *Renunciation of areas;*
   (vi) *Progress reports;*
   (vii) *Submission of data;*
   (viii) *Inspection and supervision of operations;*
   (ix) *Passing of title to minerals; 1/*
   (x) *Prevention of interference with other uses of the sea and of the marine environment;*
   (xi) *Transfer of rights by a contractor;*
   (xii) *Procedures for transfer of technology to developing countries and for their direct participation; 2/*
   (xiii) *Mining standards and practices including those relating to operational safety, conservation of the resources, and the protection of the marine environment;*

1/ The inclusion of this item will be reconsidered in the light of the discussion of para. 2 of annex I.
2/ This item may require redrafting.
(xiv) Continuity of operations in the event of disputes;
(xv) Definition of commercial production.

3. Financial matters

(i) Establishment of uniform and non-discriminatory costing and accounting rules;
(ii) Appportionment of proceeds of operations.

4. Rules, regulations and procedures to implement decisions of the Council taken in pursuance of articles 2 and 30 3/

(b) Regulations on the following items shall fully reflect the objective criteria set out below:

1. Size of area (item 2 (i))

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 stated production requirements over 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. In cases where the contractor has obtained a contract for exploitation, the area not covered by such contract shall be relinquished to the Authority.

2. Duration of activities (item 2 (ii))

(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 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 the 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 contract at the time it considers

3/ Retention of this item will depend on the outcome of discussions regarding articles 9, 23 and 30.
3. Performance requirements (item 2 (iii))

The Authority shall require that during the exploration stage, periodic expenditures be made by the contractor which are reasonably related to the size of the contract area and the expenditures which would be expected of a bona fide contractor 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 then is prevalently in use. The Authority shall establish a maximum time interval after the exploration stage is complete 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 contractor to maintain commercial production throughout the period of the contract.

4. Categories of minerals (item 2 (iv))

In determining the category of mineral in respect of which a contract may be entered into, 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 contractors in the same area developing different resources.

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

5. Renunciation of areas (item 2 (v))

The contractor shall have the right at any time to renounce without penalty the whole or part of his rights in the contract area.

6. Protection of the marine environment (item 2 (xiii))

Rules and regulations shall be drawn up in order to secure the effective protection of the marine environment, taking into account the extent to which activities in the area are conducted by methods such as drilling, dredging, coring and excavation as well as disposal, dumping and discharge in the area of sediment, waste or other matter from activities in the area will have a harmful effect on the marine environment.
7. Commercial production (item 2 (xv))

"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.

(c) The provisions of this paragraph shall apply mutatis mutandis to the enterprise.

C.1/PES.7
23 April 1976

FIRST COMMITTEE

GENERAL PRINCIPLES REGARDING ECONOMIC ASPECTS OF ACTIVITIES IN THE AREA

Article 9

Activities in the Area shall be undertaken in such a manner as to:

1. Foster the healthy development of the world economy and a balanced growth in international trade, and to promote international co-operation for the overall development of all countries, especially of developing countries;

2. Expand opportunities for all States Parties in participating in the development of the resources of the Area;

3. Increase availability of resources to meet world demand;

4. Protect against the adverse economic effects of a substantial decline in the mineral export earnings of developing countries for whose export revenues from minerals or raw materials also under exploitation in the Area represent a significant share of their gross domestic product or foreign exchange earnings, when such decline is caused by activities in the Area, by:

(i) facilitating, through existing forums or such new arrangements or agreements as may be appropriate and in which all affected parties participate, the growth, efficiency and stability of markets for those classes of commodities produced from the Area, at prices remunerative to producers and fair to consumers; the Authority shall have the right to participate in any commodity conference dealing with the categories of minerals produced in the Area. The Authority shall have the right to become a party to any such arrangement or agreement resulting from such conferences as are referred to above. The participation by the Authority in any organs established under the arrangements or agreements referred to above shall be in respect of its production in the Area and in accordance with the rules of procedure established for such organs. In carrying out the decisions taken by such organs, the Authority shall assure the uniform and non-discriminatory implementation of such
decisions in respect of all production in the Area of the minerals concerned. In doing so, the Authority shall act in a manner consistent with the terms of existing contracts;

(ii) the Authority limiting, in an interim period specified below, total production in the Area so as not to exceed the projected cumulative growth segment of the nickel market during that period. The cumulative growth segment for the purpose of this part shall be computed in accordance with Annex I, paragraph 21. The interim period referred to above shall be of a duration of 20 years and shall begin on 1 January 1980, or immediately upon the commencement of commercial production under a contract, whichever comes earlier. During the last 12 months of the 20 year period, the Council may take a decision to prolong the period for another 5 years. Production levels under existing contracts, shall not be affected by the interim limit, but shall, however, be included in the calculation of the stated production limits under this sub-paragraph.

(iii) a compensatory system of economic adjustment assistance in respect of the adverse effects referred to in this paragraph;

5. Ensure their safe, orderly and efficient conduct and, in accordance with commonly used principles of conservation, the avoidance of unnecessary waste;

6. Ensure equitable sharing in and distribution of financial and other economic benefits among States Parties from the activities in the Area, taking into particular consideration the interests and needs of the developing countries, in accordance with Article 16, Articles 11, 18 and 25.

C.1/66/5
23 April 1976

ORIGINAL: ENGLISH

FIRST COMMITTEE

DELEGATIONS OF THE AUTHORITY

Article 22

1. Activities in the Area shall be conducted directly by the Authority, and on its behalf, 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 the provisions of Annex I, the rules, regulations and procedures of the Authority adopted under article 28 (xvi) and the Statute of the Enterprise.

* This decision is contingent on a satisfactory voting procedure for this and other issues.
2. Activities in the Area shall be carried out in accordance with a formal written plan of work drawn in accordance with Annex I and approved by the Council after review by the Technical Commission. In the case of activities in the Area conducted on behalf of the Authority such a plan of work shall be in the form of a contract of exploration and exploitation.

3. The Authority shall exercise control over activities in the Area for the purpose of securing effective compliance with the relevant provisions of this Convention, Annex I and the rules, regulations and procedures of the Authority adopted under Article 28 (xii) and the plan of work approved in accordance with Paragraph 2. States Parties who sponsor persons natural or juridical shall assist the Authority by taking all necessary and appropriate measures to secure effective compliance by such persons.

C.1/PRE.9
23 April 1976

ORIGINAL: ENGLISH

First Committee

Annex I

BASIC CONDITIONS OF PROSPECTING, EXPLORATION AND EXPLOITATION

Rights in the area and its resources

1. All rights in the resources of the area are vested in mankind as a whole, on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals derived from the area, however, may only be alienated in accordance with this part of the Convention and the rules and regulations adopted thereunder.

Title to minerals and processed substances

2. Title to the minerals shall normally be passed upon recovery of the minerals pursuant to a contract of exploration and exploitation. In the case of contracts pursuant to paragraph 5 for stages of operations, title to the minerals or processed substances shall pass in accordance with the contract. This paragraph is without prejudice to the rights of the Authority under paragraph 9 (d).

Prospecting

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

(b) Prospecting shall not confer any preferential, proprietary or exclusive rights on the prospector with respect to the resources or minerals.

Exploration and exploitation

4. Exploration and exploitation shall only be carried out in areas specified in plans of work referred to in article 22 and approved by the Authority in accordance with the provisions of this annex and the relevant rules, regulations and procedures adopted pursuant to paragraph 12.

5. Contracts will normally cover all stages of operations. If the applicant for a contract applies for a specific stage or stages, the contract may only comprise such stage or stages. Nothing in this paragraph shall in any way limit the discretion of the Enterprise.

6. Every contract entered into by the Authority shall:

(a) Be in strict conformity with this part of the Convention and the rules and regulations prescribed by the Authority;

(b) Ensure control by the Authority at all stages of operations in accordance with article 22;

(c) Confér exclusive rights on the Contractor in the contract areas in accordance with the rules and regulations of the Authority.

Qualifications of applicants

7. (a) The Authority shall adopt appropriate administrative procedures and rules and regulations for making an application and for the qualifications of any applicant. Such qualifications shall include financial standing, technological capability and satisfactory performance under any previous contracts with the Authority.

(b) The procedures for assessing the qualifications of States parties which are applicants shall take into account their character as States.

(c) Every applicant without exception shall:

(i) Undertake to comply with and to accept as enforceable the obligations created by the provisions of this chapter, the rules and regulations adopted by the Authority, and the decisions of its organs and the terms of contracts, and to accept control by the Authority in accordance therewith;
(ii) Accept control by the Authority in accordance with paragraph 6;

(iii). Provide the Authority with satisfactory assurances that its obligations covered by the contract entered into by it will be fulfilled in good faith.

Selection of applicants

8. (a) Upon receiving an application with respect to activities of exploration and exploitation, the Authority shall first ascertain whether any competing application has been received for the area and categories of minerals applied for. If no such competing application has been received, the Authority shall enter into negotiations for the purpose of concluding a contract with the applicant in respect of the area applied for, unless the Authority finds that:

(i) The applicant does not possess the requisite qualifications pursuant to paragraph 7;

(ii) The applicant has not complied with the procedures established for applications;

(iii) The applicant does not agree to comply with the financial arrangements set forth in paragraph 9 (d) or the requirements concerning operations in this annex or the rules and regulations of the Authority;

(iv) The contract would not be in accordance with the resource policy set forth in articles 9 and 10, the relevant decisions of the Authority in implementation thereof.

This paragraph shall not prejudice the provisions of paragraph 11.

(b) If the Authority receives more than one application at the same time in respect of substantially the same area and category of minerals, selection from among the applicants shall be made on a competitive basis. In accordance with subparagraph (a), the Authority shall enter into preliminary negotiations with the applicants in order to select the best qualified among them and, once the selection is made on the basis of a comparative consideration of their applications and qualifications, the Authority shall enter into negotiations with the selected applicant for the purpose of concluding the corresponding contract.

(c) If the Contractor has entered into a contract with the Authority for separate stages of operations, he shall have a preference and a priority among applicants for a contract for subsequent stages of operations with regard to the same areas and resources; provided, however, that where the Contractor's performance has not been satisfactory, such preference or priority may be withdrawn.

(d) (i) When applying for a contract for exploration only, or for exploration and exploitation, in accordance with subparagraph (a) above, the applicant shall indicate the co-ordinates of an area, consistent with the provisions of paragraph 12, of which one half will be designated by the Authority as the contract area. Alternatively, the applicant may submit two areas of like size and equivalent commercial value, one of which will be designated by the Authority as the contract area. This subparagraph shall not apply to the Enterprise.
(ii) If a contract is entered into for the area designated by the Authority as the contract area, the area covered by the application but not by the contract can only be exploited by the Authority directly or on its behalf by developing countries or entities sponsored by them and under their effective control in accordance with article 22.

(iii) When considering applications from associations which include developing countries for areas specified under subparagraph (ii), the Authority shall, before entering into a contract, ensure that the developing country or countries concerned will obtain significant benefits from any such association as evidenced inter alia by the location of a processing plant in the territory of one of the developing countries concerned.

(e) The issue of a quota or anti-monopoly provision remains to be discussed in the Committee in the future.

Rights and obligations under the contract

9. (a) The Authority on the one hand and 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 (hereinafter referred to as the Contractor), on the other hand, having completed the procedure under paragraph 8 above shall conclude a contract for the conduct of activities in the area. The Contractor shall use its own funds, materials, equipment, skills and know-how as necessary for the conduct of operations covered by the contract and provide an appropriate guarantee of satisfactory performance under the contract to be determined by the Authority. However, the parties may agree to include provisions governing the respective contributions of the Authority and the Contractor.

(b) The costs directly related to the performance of the contract pursuant to subparagraph (a) shall be recoverable by the Contractor out of the proceeds of operations on or by the respective parties in the event the Authority has contributed to the costs of performance. The Authority shall in its rules and regulations establish a schedule pursuant to which such costs will be recovered in the manner specified in subparagraph (a) of this paragraph.

(c) The proceeds of operations pursuant to the contract after deduction of the costs referred to in subparagraph (b), 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 subparagraph (d) of this paragraph.

(d) Provisions relating to financial arrangements will be submitted later.)

10. (a) The Contractor shall transfer in accordance with the rules and regulations and the terms and conditions of the contract to the Authority at time intervals determined by the Authority all data which are both necessary and relevant to the effective implementation of the powers and functions of the organs of the Authority in respect of the contract area. Transferred data in respect of the contract area, deemed to be proprietary, shall not be disclosed by the Authority, and may only be used for the purposes set forth above in this subparagraph. 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. Except as
otherwise agreed between the Authority and the Contractor, the Contractor shall not be obliged to disclose proprietary equipment design data.

(b) 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.

11. The Authority shall, pursuant to this part of the Convention and the rules and regulations prescribed by the Authority, accord the Contractor the exclusive right to explore and exploit the contract area in respect of a specified category of minerals and shall ensure that no other entity operates in the same contract area for a different category of minerals in a manner which might interfere with the operations of the Contractor. The Contractor shall have security of tenure. Accordingly, the contract shall not be cancelled, revised, suspended or terminated, except in accordance with the provisions of paragraphs 14 or 15. The Authority shall not, during the continuance of a contract, permit any entity to carry out activities in the same area for the same category of minerals.

Rules, regulations and procedures

12. (a) The Authority shall adopt and uniformly apply rules, regulations and procedures for the implementation of this part of the Convention including these basic conditions, on the following matters:

(i) Administrative procedures relating to prospecting, exploration and exploitation in the area

(ii) Operations

(i) Size of area;
(ii) Duration of activities;
(iii) Performance requirements and guarantees;
(iv) Categories of minerals;
(v) Renunciation of areas;
(vi) Progress reports;
(vii) Submission of data;
(viii) Inspection and supervision of operations;
(ix) Passing of title pursuant to paragraph 2;
(x) Prevention of interference with other uses of the sea and of the marine environment;
(xi) Transfer of rights by a Contractor;
(xii) Procedures for transfer of technology to developing countries and for their direct participation;
(xiii) Mining standards and practices including those relating to operational safety, conservation of the resources and the protection of the marine environment;

(xiv) Continuity of operations in the event of disputes;

(xv) Definition of commercial production.

3 Financial matters

(i) Establishment of uniform and non-discriminatory costing and accounting rules;

(ii) Apportionment of proceeds of operations.

4 Rules, regulations and procedures to implement decisions of the Council taken in pursuance of articles 9 and 30

(b) Regulations on the following items shall fully reflect the objective criteria set out below:

1 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 exploration shall be calculated to satisfy stated production requirements over 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. In cases where the Contractor has obtained a contract for exploitation, the area not covered by such contract shall be relinquished to the Authority.

2 Duration of activities

(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 contract at the time it considers renewal in accordance with rules and regulations which it has issued subsequent to entering into the contract.
(3) Performance requirements

The Authority shall require that during the exploration stage, periodic expenditures be made by the Contractor which are reasonably related to the size of the contract area and the expenditures which would be expected of a bona fide Contractor 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 prevalently 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 Contractor to maintain commercial production throughout the period of the contract.

(4) Categories of minerals

In determining the category of mineral in respect of which a contract may be entered into, 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 Contractors in the same area developing different resources.

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

(5) Rescission of areas

The Contractor shall have the right at any time to rescind without penalty the whole or part of his rights in the contract area.

(6) Protection of the marine environment

Rules and regulations shall be drawn up in order to secure the effective protection of the marine environment, taking into account the extent to which activities in the area are conducted by methods such as drilling, dredging, coring, and excavation as well as disposal, dumping and discharge in the area of sediment, wastes or other matter from activities in the area will have a harmful effect on the marine environment.
(7) 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.

13. The Authority shall have the right to take at any time any measures provided for under this Convention to ensure compliance with its terms, and in the performance of the control and regulatory functions assigned to it thereunder or under any contract. The Authority shall have the right to inspect all facilities in the area used in connexion with any activities in the area.

Penalties

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

(i) If the Contractor has conducted his activities in such a way as to result in gross and persistent or serious, persistent and wilful violations of the fundamental terms of the contract, this part of the Convention and rules and regulations, which were not caused by circumstances beyond his control; or

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

(b) The Authority may impose upon the Contractor monetary penalties proportionate to the seriousness of the violation in lieu of suspension or termination or in any case not covered under subparagraph (a) above.

(c) Except in cases of emergency orders as provided for in article ______, 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 in the Tribunal. The Tribunal may, however, pursuant to article ______, order execution of a decision regarding monetary penalties or suspension pending final adjudication of the matter.

Revision of contract

15. (a) 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 this part of the Convention, the parties shall enter into negotiations to adjust it to new circumstances in the manner prescribed in the contract.

(b) Any contract entered into in accordance with article 22 of this part of the Convention may only be revised if the parties involved have given their consent.

Transfer of rights

16. 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 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.

Applicable law

17. The law applicable to the contract shall be the provisions of this part of
the Convention, the rules and regulations prescribed by the Authority and the
terms and conditions of the contract. 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 this part of the Convention.

Liability

18. Any responsibility or liability for wrongful damage arising out of the
conduct of operations by the Contractor shall lie with the Contractor. It shall
be a defence in any proceeding against a Contractor that the damage was the result
of an act or omission of 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. It shall be a defence in any
proceeding against the Authority that the damage was a result of an act or
omission of the Contractor. Liability in every case shall be for the actual
amount of damage.

19. Except as otherwise specified, the procedural and substantive provisions
of this annex relating to contracts shall apply mutatis mutandis to the Enterprise.

20. Transitional arrangements prior to the adoption of rules and regulations by
the Authority would be included here.

21. The rate of increase in world nickel demand projected for the interim period
referred to in article 9 shall be the average annual rate of increase in world
demand during the 20-year period prior to the entry into force of this part of the
Convention, provided that the computed rate of increase shall be at least
6 per cent per annum. The cumulative growth segment of the world nickel market
referred to in article 9 shall be computed on the basis of this annual rate of
increase from a base amount, which shall be the highest annual world demand
during the three-year period immediately preceding the year in which the interim
period commences.

* * *

Paragraph 11 is without prejudice to any decision on emergency orders regarding
suspension of work in order to protect the marine environment.

With respect to paragraph 14 (c) it is assumed that a Statute of the Tribunal will
provide for an appropriate time period within which an aggrieved party may have
recourse to the Tribunal.

With respect to paragraph 15 (a) provisions relating to the matter of profits will
be dealt with in subparagraph 5 (a).