PROPOSAL BY THE GROUP OF 77

FUNCTIONS OF THE AUTHORITY

Article 22

1. Activities in the Area shall be conducted exclusively by the Authority
   (i) directly through the Enterprise, or
   (ii) as determined by the Authority, through a form of association between the Authority and 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.

2. Activities in the Area shall be conducted in accordance with the relevant provisions of this Convention, of Annex thereof, and the Statute of the Enterprise.

3. Activities of the Enterprise in the Area shall be conducted in accordance with a formal written plan of work drawn up in accordance with Annex I and approved by the Council after review by the Technical Commission. Activities in the Area in association with the entities specified in paragraph 1, shall be conducted pursuant to a contract with the Authority entered into in accordance with Annex I and approved by the Council after review by the Technical Commission.

4. The Authority shall exercise full and effective control over activities in the Area for the purpose of securing compliance at all times with the relevant provisions of this Convention, Annex I thereof, the rules, regulations and procedures of the Authority, and the plans of work and contracts approved in accordance with paragraph 3. States Parties shall assist the Authority
by taking all measures necessary to secure such compliance.

Article 23

1. The Authority shall avoid discrimination in the exercise of its powers and functions, including the granting of opportunities for activities in the Area. All rights granted under it shall fully safeguarded in accordance with the provisions of this Part of the Convention.

2. Special consideration for developing countries, including the conduct of activities by the Authority in certain parts of the Area solely in association with them, shall not be deemed to be discrimination.

ANNEX I

TITLE TO MINERALS AND PROCESSED SUBSTANCES

2. Title to the minerals or processed substances derived from the Area shall pass from the Authority only in accordance with the provisions of this Convention, the rules and regulations prescribed by the Authority in accordance with this Convention, and the terms and conditions of the contract.

QUALIFICATION OF APPLICANTS

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

(b) The procedures for assessing the qualifications of States Parties which are applicants shall take into account their character as States.
(c) All applicants without exception and on an equal footing shall:

(i) Undertake to comply with and to accept as enforceable the obligations created by the provisions of this Part of the Convention, 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;

(iv) Undertake to promote the interests of developing countries by association or other means.

ACTIVITIES CONDUCTED THROUGH THE ENTERPRISE

8. Procedures relating to activities in the Area conducted under Article 22.1 (i) through the Enterprise shall be governed by such provisions as the Authority may establish in its rules and regulations and by the Statute of the Enterprise. Such activities shall be conducted in accordance with the resource policy set forth in Article 9 and the relevant decisions of the Authority in implementation thereof.

SELECTION OF APPLICANTS

8. When the Authority determines to conduct activities (b) in the Area under Article 22.1 (ii), the following principles shall apply:

(a) The Authority, on its own initiative, or upon receiving an application with respect to activities in a
part of the Area and relating to a specified category of minerals, shall publish and make known to all Members a time limit for receiving applications for contracts. If no competing application has been received within such time limit; the Authority shall enter into negotiations with the applicant on the terms of a contract in accordance with subparagraph (f), provided the Authority finds that:

(i) The applicant possesses the requisite qualifications pursuant to paragraph 7;

(ii) The applicant complies with the procedures established for applications;

(iii) The application does not relate to activities referred to in paragraph 8 and 8 bis (e) (i);

(iv) The contract is in accordance with the resource policy set forth in Article 9 and ..., and the relevant decisions of the Authority in implementation thereof.

(b) If the Authority receives more than one application within the time limit referred to in paragraph (a) in respect of substantially the same part of the 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 negotiations with the applicants in order to select one among them on the basis of a comparative consideration on their applications and qualifications and, once the selection is made, the Authority shall enter into negotiations with the selected applicant in the terms of a contract, in accordance with subparagraph (f).

(c) If, within a period specified by the Authority, after negotiations were entered into, a contract has not been concluded with the applicant, the Authority may reinitiate the procedure for selection of applicants as specified therein.
(d) 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 minerals; provided, however, that where the Contractor's performance has not been satisfactory such preference or priority may be withdrawn.

(e) (i) The contract area shall be sufficiently large to allow the Authority after the stages of exploration and evaluation have been completed, to determine that a part of it shall be solely for the conduct of activities by the Authority through the Enterprise or in association with developing countries. The Enterprise shall be given an opportunity to decide whether it wishes to conduct the activities itself. Applications for contracts concerning such parts shall be governed mutatis mutandis by the procedures established in paragraph 8 bis.

(ii) When considering applications from developing countries or from a group of applicants which include developing countries for areas specified under subparagraph (i), the Authority shall, before entering into a contract, ensure that the developing country or countries concerned will obtain substantial benefits therefrom as evidenced inter alia by .

(f) The negotiations referred to in this paragraph shall deal with the respective contributions of the Authority and the Contractor in association, including the contribution of funds, materials, equipment, skills and know-how as necessary for the conduct of operations covered by the contract and the extent of the participation of developing countries therein, as well as the proper financial arrangements in accordance with paragraph 9 (d). The Contractor shall provide an appropriate guarantee of satisfactory performance under the contract to be de-
terminated by the Authority. Before signing a contract, the Authority must be satisfied that said contract is in accordance with the goals of the Authority as set forth in Part I of this Convention and in this Annex.

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

This paragraph shall not prejudice the provisions of paragraph 11.

THE ASSEMBLY

Article 25

1. The Assembly shall consist of all the members of the Authority.

2. The Assembly shall meet in regular session every year and in such special sessions as may be determined by the Assembly, or convened by the Secretary-General at the request of the Council or of a majority of the members of the Authority.

3. Sessions shall take place at the seat of the Authority unless otherwise determined by the Assembly. At such sessions, each member shall have one representative who may be accompanied by alternates and advisors.

4. The Assembly shall elect its President and such other officers as may be required at the beginning of each session. They shall hold office until the new President and other officers are elected at the next following session.

5. Each member of the Assembly shall have one vote.

6. All decisions on questions of substance shall be made by a two-thirds majority of the members present and voting. Decisions on other questions, including those on whether a question is one of substance or of procedure shall be made by a majority of the members present and voting.

7. A majority of the members of the Assembly shall constitute a quorum. The presence of two-thirds of the members of the Assembly shall be required to take a vote on questions of substance.

8. Delete.

+ Denotes changes with regard to Revised Single Negotiating Text.