CHANGES SUGGESTED BY THE DELEGATION OF THE UNITED STATES OF AMERICA

NOTE: Proposed additions are indicated by underlining and proposed deletions by square brackets. In addition, where whole paragraphs or articles are added, they are not underlined and deletions of such paragraphs and articles are simply noted as "delete article ___ or paragraph ___".

Article 133
Use of Terms

For the purposes of this Convention:

(a) "resources" means those solid, liquid or gaseous mineral resources in situ in the Area at or beneath the sea-bed, including polymetallic nodules, for which rules, regulations and procedures have been adopted;

(b) resources, when recovered from the Area are referred to as "minerals."

Article 140
Benefit of Mankind

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

2. The Authority shall provide for the equitable sharing of financial and other economic benefits derived from activities in the Area through any appropriate mechanism, on a non-discriminatory basis, in accordance with article 160, paragraph 1(f).

Article 148
Participation of developing States in activities in the Area

The effective participation of developing States in activities in the Area shall be promoted as specifically provided for in article 144; annex I, article 9; article 13, paragraph 14; article 15; and annex IV, article 11, (b); paragraph (c), (this Party) having due regard to their special needs and interests, and in particular the special needs of the land-locked and geographically disadvantaged States among them, in overcoming obstacles arising from their disadvantaged location, including remoteness from and access to and from the Area.

*/ The Transitional Provision shall also be deleted.
ANNEX III. BASIC CONDITIONS OF PROSPECTING, EXPLORATION AND EXPLOITATION

Article 1
Title to minerals

Title to minerals shall pass to the operator upon recovery of the minerals from the Area, in accordance with this Convention.

Article 2
Exploration and exploitation

1. The Enterprise, States Parties, and the other entities referred to in article 153, paragraph 2(b), of Part XXI of this Convention, may apply to the Authority for approval of plans of work covering activities in the Area. Upon approval of a plan of work, any such entity shall be an "operator" for the purposes of this Convention.

Paragraph 2 as in L.78

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

4. Every approved plan of work shall:

(a) be in strict conformity with this Convention, this Annex and the rules, regulations and procedures of the Authority;

(b) ensure control by the Authority of activities in the Area in accordance with article 153, paragraph 4 of Part XI of this Convention.

5. Each approved plan of work shall take the form of a contract to be signed by the Authority and the operator or operators of their agent. Upon approval of the plan of work by the Authority, the operator shall:

(b) ensure control by the Authority of activities in the Area in accordance with article 153, paragraph 4 of Part XI of this Convention.

Article 4
Qualifications of applicants to become operators

1. All applicants other than the Enterprise shall be qualified if they have the nationality or control and sponsorship required by article 153, paragraph 2(b), of Part XX of this Convention and if they follow the procedures and meet the qualification standards established by the Authority by means of rules, regulations and procedures and meet the qualification standards set forth in subparagraphs 4(a), (b) and (c). Sponsorship of the Enterprise shall not be required.

2. Sponsorship by the States Party of which the applicant is a national shall be sufficient. Unless the applicant has more than one nationality, as in the case of a partnership or consortium of entities from several States, in which event all States Parties involved shall sponsor the application, the partnership or consortium shall designate one among them as an agent. The agent shall obtain the sponsorship of a State Party. The State Party shall ensure, before agreeing to serve as a sponsor, that it has effective control and
Jurisdiction over the agent. The criteria and procedures for implementation of the sponsorship requirements shall be set forth in the rules, regulations and procedures of the Authority.

Paragraph 3 as in L.70
Delete paragraph 4 and substitute the following:

4. The qualification of applicants shall be:

(a) the capacity to generate internally or to raise funds necessary to comply with the minimum annual expenditures for exploration established in the rules, regulations and procedures of the Authority, as evidenced by certification by a qualifying bank. Such certification shall not be required for the Enterprise or State Party applicants.

(b) except for the Enterprise and State Party applicants, to post a bond to assure performance of the obligations under the proposed plan of work in the amount of 50% of the minimum annual expenditures for the first three years of exploration, provided that disputes concerning the performance bond shall be resolved under the laws of the sponsoring State.

(c) in the case of an applicant that has previously held a plan of work, certification that the plan of work was not terminated in accordance with article 11.

Delete paragraph 5. Delete paragraph 6.

Article 4(bis)
Undertakings by applicants

Every applicant, without exception, shall as part of its application undertake:

(a) to comply with the applicable obligations created by the provisions of Part IX, the rules, regulations and procedures of the Authority in effect at the time its plan of work is approved, decisions of the organs of the Authority directed to the operator, and the terms of its plan of work approved by the Authority;

(b) to submit to inspection in accordance with article 162, paragraph 2(b); and

(c) to provide the authority with a written assurance that its obligations under the plan of work will be fulfilled in good faith.

Delete article 5. The subject of transfer of technology has been dealt with in Annex IV, new article 11(bis) and substitute the following:

Article 5
Certification by sponsoring States

A State Party which sponsors an applicant, or in the case of the Enterprise, the Authority, shall provide the Technical Subcommission with a certification that the applicant which is sponsors in accordance with article 153, paragraph 2, meets the qualifications set forth in article 4, paragraph 4, and that it is in full compliance with the terms of this Convention, this Annex, and the rules, regulations and procedures of the Authority. A State Party shall not sponsor an applicant. The Technical Subcommission shall accept the certification of a sponsoring State, the Authority or a State Party, unless it decides otherwise by consensus.
Article 6
Disapproval of Plan of work

Delete paragraphs 1, 2 and 3 and substitute:
1. The Technical Subcommission shall take up for consideration proposed plans of work in the order in which they are received.

2. When considering an application for a plan of work with respect to activities in the Area, the Technical Subcommission shall first ascertain whether:

(a) the applicant has complied with the requirements of article 4. In case of non-compliance with these procedures or of absence of any of the commitments and assurances referred to in article 6 (b)(d), the applicant shall be given 45 days to remedy such defects;

(b) the applicant is in compliance with this Convention and with the rules, regulations and procedures of the Authority.

(2) [sic]. In making the findings referred to in paragraph 2 the Technical Subcommission shall assume that the requirements contained therein have been met. In the case of the Enterprise, State Party applicants and applicants which have been sponsored by State Parties for which certification referred to in article 3 have been resolved, unless within 65 days after taking up an application for consideration, or 45 days after the expiration of any period for remedying defects provided in accordance with paragraph 3(c), the Technical Subcommission decides otherwise by consensus.

3. Absent a decision taken pursuant to paragraph (2)(b)(d) by the Technical Subcommission that an applicant does not meet the requirements of article 4 or is not in compliance with this Convention or the rules, regulations or procedures of the Authority, the Technical Subcommission shall approve the applicant's plan of work unless:

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

(b) part or all of the proposed Area is disapproved by the Authority pursuant to article 162, paragraph 2 (iv), of Part XI of this Convention;

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

(i) plans of work for exploration and exploitation of nonmetallic nodules in non-reserved sites that, together with either part or all of the proposed site, would exceed in size 30 per cent of a circular area of 400,000 square kilometers surrounding the centre of either part of the Area covered by the proposed plan of work;

4. For the purpose of the standard set forth in paragraph 2(c), a plan of work proposed by a partnership or consortium shall be counted on a pro rata basis among the sponsoring States Parties involved according to article 4, paragraph 3. (The Authority may approve plans of work covered by paragraph 3(c) if it determines that such approval would not permit a State Party or persons sponsored by it to monopolize the conduct of activities in the Area or to preclude other States Parties from activities in the Area.)

Delete paragraph 3: Delete Article 7

Article 6
Reservation of sites

Each application, other than those proposed by the Enterprise or by any others for reserved sites, shall cover a total
area, which need not be a single continuous area, (sufficiently large so as to preclude the possibility of its being divided into smaller areas, or into two or more areas, for the purpose of their being exploited independently) in the manner prescribed by the Authority pursuant to the relevant provisions of the present Convention. (Suitable methods of definition and delimitation of areas shall be established by the Authority pursuant to the relevant provisions of the present Convention.) Any application for the area under consideration shall be accompanied by a detailed plan showing the area, the date of submission of the application, and the names of the applicants. (Suitable methods of definition and delimitation of areas shall be established by the Authority pursuant to the relevant provisions of the present Convention.) Any area thus designated shall be subject to the provisions of this article. (Suitable methods of definition and delimitation of areas shall be established by the Authority pursuant to the relevant provisions of the present Convention.) Any area thus designated shall be subject to the provisions of this article.

Article 9

Activities in reserved sites

Delete Article 9 and insert:

1. If the Enterprise does not submit a proposed plan of work for a reserved site that is approved by the Technical Subcommission within four years of the designation of that site pursuant to article 8, then the Enterprise shall offer to enter into a joint venture with the contractor who proposed the site, provided that the contractor has obtained the sponsorship of the Authority. The Technical Subcommission shall notify the contractor of the offer but may, for reasons of national interest, refuse to consider the offer or to enter into a joint venture with the contractor. If the contractor accepts the offer, the Technical Subcommission shall approve the proposed plan of work for the reserved site within a reasonable period. The Technical Subcommission shall consider the proposal of the contractor for the use of the resources of the reserved site and may also consider the proposal of the contractor for the use of the resources of the adjacent area, provided that the proposal is consistent with the overall development plan for the area. The Technical Subcommission shall approve the proposed plan of work for the reserved site within a reasonable period. The Technical Subcommission shall consider the proposal of the contractor for the use of the resources of the adjacent area, provided that the proposal is consistent with the overall development plan for the area.

2. If a contractor has not entered into a joint venture with the Enterprise within four years of the offer, the Enterprise may exercise the right to develop the site. The contractor may, on the other hand, enter into a joint venture with any entity referred to in paragraph 1 of the present article, or with any other entity that is qualified to develop the site. The Technical Subcommission shall consider the proposal of the contractor for the use of the resources of the reserved site and may also consider the proposal of the contractor for the use of the resources of the adjacent area, provided that the proposal is consistent with the overall development plan for the area. The Technical Subcommission shall approve the proposed plan of work for the reserved site within a reasonable period. The Technical Subcommission shall consider the proposal of the contractor for the use of the resources of the adjacent area, provided that the proposal is consistent with the overall development plan for the area.

3. If the contractor referred to in paragraph 1 does not enter into a joint venture with the Enterprise, the contractor may, on the other hand, enter into a joint venture with any entity referred to in paragraph 1 of the present article, or with any other entity that is qualified to develop the site. The Technical Subcommission shall approve the proposed plan of work for the reserved site within a reasonable period. The Technical Subcommission shall consider the proposal of the contractor for the use of the resources of the adjacent area, provided that the proposal is consistent with the overall development plan for the area. The Technical Subcommission shall approve the proposed plan of work for the reserved site within a reasonable period. The Technical Subcommission shall consider the proposal of the contractor for the use of the resources of the adjacent area, provided that the proposal is consistent with the overall development plan for the area.
If the contractor does not submit a proposed plan of work within eight years of the time period specified in paragraph 1, the site shall lose its status as a reserved area. At that time, any entity referred to in article 153, paragraph 2 may submit an application for a plan of work covering that site, provided that the proposed plan of work contains procedures for full compensation as referred to in paragraph 2. Any disputes concerning the adequacy of the proposed compensation shall be resolved in accordance with paragraph 2.

4. The Enterprise may conclude contracts for the execution of part of the activities in accordance with Annex IV, article 12. It may also enter into joint ventures for the execution of such activities with any willing entities which are eligible to carry out activities in the area pursuant to article 153, paragraph 3 (d), of Part II of this Convention. When considering such joint ventures, the Enterprise shall offer to States Parties which are developing States and their nationals the opportunity of effective participation.

Article 11
Joint arrangements

Paragraph 1 as in L.78

2. Contractors entering into such joint arrangements with the Enterprise may receive financial incentives as provided for in the financial arrangements established in accordance with article 13, paragraph 14.

3. Joint venture partners of the Enterprise shall be liable for the payments required by article 13 to the extent of their joint venture share, subject to financial incentives as provided in paragraph 14 in accordance with article 13, paragraph 14.

Article 12
Activities conducted by the Enterprise

Delete paragraphs 1 and 2 and insert the following:

This Convention, its Annexes, the rules, regulations and procedures of the Authority and the decisions of any organ of the Authority shall apply to the Enterprise in the same manner as they would to any other operator except in those cases where the Convention expressly provides otherwise.

Article 13
Financial Terms of Contracts

With the exception of paragraph 3, article 13 remains as in L.78.

3. A contractor shall pay an annual fixed fee of $ 1 million from the date of entry into force of the contract. If the approved commencement of commercial production is postponed because of a delay in the allocation of the production authorization, in accordance with article 153 of Part XI of this Convention, the annual fixed fee shall be waived for the period of postponement. From the commencement of commercial production, the contractor shall pay either the production charge or the annual fixed fee, whichever is greater.

Article 17
Rules, regulations and procedures

1. The Authority shall adopt and uniformly apply to all operators rules, regulations and procedures in accordance with article 160, paragraph 2(b), article 162, paragraph 2(a), and article 165, paragraph 1(a) of Part XI of this Convention, for the implementation of its functions as prescribed in Part XI, Annexes, on the following matters:

(a) Administrative procedures relating to prospecting, exploration and exploitation in the Area;
(i) decision-making procedures of the Commissions and Subcommissions except where otherwise specified;

(ii) terms and conditions of employment of the staff of the Authority;

(iii) procedures for disposition of allegations made pursuant to Article 166;

(b) Operations

Subparagraphs (b) (i) - (b) (xiii) and (c) (i) - (c) (iii) remain as in L.78.

[(xiv) qualification standards for applicants;]

[(xvi) exploration for and exploitation of resources of the Area other than polymetallic nodules;]

[(xvii) requirements for joint ventures with the Enterprise for carrying out activities in the Area in reserved sites pursuant to Article 1 of this Annex;]

[(xviii) exclusive rights to explore and exploit certain minerals at a particular site in conformity with exploration for other categories of minerals at that site;]

[(xix) contents of plans and terms of contracts;]

(c) financial matters;

[(iv) financial terms of contracts;]

[(v) Enterprise financing including default procedures;]

[(d) rules, regulations and procedures to implement decisions of the Council taken in pursuance of Article 151, paragraph 1(3) and 154, paragraph 1(d);]

Add a new subparagraph (d bis)

(d bis) allocation of the funds of the Authority subject to the provisions of article 173, paragraph 3.

Paragraphs 2(a) - (g) remain as in L.78.

ANNEX IV. STATUTE OF THE ENTERPRISE

Article 1

Purpose

1. The Enterprise shall be the organ of the Authority which shall carry out prospecting and activities in the Area directly, pursuant to Articles 153, Paragraph 2 (a), of Part XI of this Convention, as well as transportation, processing and marketing of minerals recovered from the Area.

Delete paragraph 2. See Annex III, article 12.

1. In developing the resources of the Area pursuant to paragraph 1, the fundamental policy of the Enterprise shall be to develop the resources of the Area profitably. The Enterprise shall subject to the provisions of this Convention, operate on the basis of sound commercial principles.

Article 2

Relationship to the Authority

Delete paragraph 1.