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A/CONF.62/C.1/L.3

Draft articles considered by the Committee at its informal meetings (Articles 1-21)

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume III (Documents of the Conference, First and Second Sessions)*

Nations in the formulation and implementation of appropriate international commodity policies as an integral component of an over-all strategy for development, particularly of the developing countries.⁷

F. Mineral production from the area of the sea-bed beyond national jurisdiction: issues of international commodity policy (TD/113/Supp.4): Summary

1. The economic impact of competing production of minerals from the sea-bed, which might be expected to be adverse to varying extents for the export incomes of all established producers (in relation to the incomes which they would otherwise earn), might be particularly adverse for typical developing producing countries. This could be so for a variety of reasons:

(a) Developing producing countries typically depend more heavily on the minerals concerned (such as copper and manganese ore) for their export incomes and government revenues than do developed producing countries.

(b) The share of developing countries in world trade in certain minerals (notably manganese ore) has been declining owing to the more rapid progress made in the developed countries' production for export.

(c) The developing countries are likely to participate directly to only a small degree in the production of minerals from the sea-bed, for, because of its technically sophisticated nature and its high capital requirements, this production will no doubt be undertaken principally by interests from the affluent and technologically advanced countries.

(d) Developing countries, which are increasingly processing land minerals before export, would lose such potential export income to the extent that minerals produced from the sea-bed were processed on the mainland of the producing enterprise's

⁷The International Development Strategy for the Second United Nations Development Decade makes no reference to the resources of the sea-bed presumably because, at the time it was drawn up, the potential utilization of these resources seemed remote.

home country. Moreover, the stimulus which sea-bed production would undoubtedly impart to the existing technological trend towards the direct processing of mineral concentrates, and the avoidance of intermediate processes which are now partly carried out in developing producing countries, would aggravate the loss of potential export income on the part of developing countries.

(e) The need for large-scale capital investments for the exploration and mining of sea-bed resources might adversely affect the flow of private investment into similar activities in developing countries.

(f) Because fewer alternative investment and employment opportunities exist in developing than in developed countries, particularly heavy economic and social costs will be incurred in any re-allocation of resources that may be necessitated by the competition from sea-bed production.

Some implications for policy

2. The essential problem which would arise from the production of minerals from the sea-bed would thus be the adverse impact of such production—in the absence of special arrangements—on the economic well-being of the developing producing countries concerned, and the consequential difference between the social costs and benefits of sea-bed production and its costs and benefits judged simply in terms of normal commercial criteria. The implication of this conclusion for international policy is that firm arrangements would be required in advance of the production of minerals from the sea-bed in order to ensure that such activity would not adversely affect the interests of developing producing countries or, better, would bring them, and to other developing countries, positive benefits.

3. There would appear to be two possible approaches to the problem of protecting the trade interests of the developing countries which are established exporters of the minerals in question: an approach designed to obviate or minimize any potential adverse effects and an approach under which the affected countries would receive compensation for the estimated adverse impact upon their export earnings.

DOCUMENT A/CONF.62/C.1/L.3*

Draft articles considered by the Committee at its informal meetings (Articles 1-21)

[Original: English]
[5 August 1974]

Explanatory note

This document contains the texts of draft articles which are the result of the Committee's reading of part I of appendix III of the Report of Sub-Committee I of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, which deals with the status, scope and basic provisions of the régime, based on the Declaration of Principles (resolution 2749 (XXV)). References to the comparative table (A/AC.138/L.10), to the first reading or second reading by the working group of Sub-Committee I of the sea-bed Committee, and to the introductory note have been omitted, as being unnecessary at this stage. Several foot-notes which are no longer relevant have also been omitted, while in the remaining foot-notes, references to the "working group" have been replaced by references to the "Committee". Consequential and other minor editorial changes have been made.

Draft articles 1-21 are presented at this stage without the introductory note which appeared at the beginning of the report of Sub-Committee I of the sea-bed Committee, pending completion of the work of the First Committee on the other draft articles.

Wording taken from the Declaration of Principles continues to be underlined,** while marginal notes refer to the corresponding paragraph of the Declaration. Draft article 1 is regarded by the Committee as having been subjected only to a first reading and hence is given a Roman numeral in accordance with the practice followed by Sub-Committee I of the sea-bed Committee.

The Committee decided not to deal, for the time being, with proposals for definition or interpretation of terms. Provision would continue to be made for an article on interpretation of terms (article "O") but the Terms to be covered and their interpretation would be added at a later stage.

*Incorporating documents A/CONF.62/C.1/L.3 and Corr.2 and 6 of 6 and 27 August 1974.

**In italics in the text.

[(Draft) Convention on the Sea-Bed and the Ocean Floor
beyond the Limits of National Jurisdiction]*

PART I: PRINCIPLES

Article I

LIMITS OF THE AREA⁸

(A)

1. (i) The limit of the sea-bed to which these articles apply shall be the outer limit of the continental shelf established within the 500-metre isobath.

(ii) In areas where the 500-metre isobath referred to in paragraph 1 of this draft is situated at a distance of less than 200 nautical miles measured from the baselines from which the territorial sea of the coastal State is measured, and in areas where there is no continental shelf, the limit of the sea-bed shall be a line every point on which is at a distance of not more than 200 nautical miles from the nearest point on the said baselines.

or (B)

1. The Area shall comprise the sea-bed and the subsoil thereof seaward of the outer limit of the Coastal Sea-bed Area⁹ in which the coastal State by virtue of article . . . [of the Convention . . .] exercises sovereign rights for the purpose of exploring and exploiting the mineral resources of the coastal sea-bed area.

or (C)

1. The Area shall comprise the sea-bed and ocean floor and subsoil thereof beyond the limits of national jurisdiction.¹⁰

or (D)

1. The limit of the sea-bed to which these articles apply shall be the outer lower edge of the continental margin which adjoins the abyssal plains or when that edge is at a distance of less than 200 miles from the coast, up to that distance.

(A)

2. (Procedures for notification, record and publication of actual limits of national jurisdiction. In this connexion see also article XL, International Sea-Bed Boundary Review Commission.)

or (B)

Omit this provision.

*The Committee has not considered headings, marginal notes, or the position of texts.

⁸The Committee noted the proposals submitted on the limits of the Area, as well as the fact that a final decision concerning those limits would depend on the results of discussions on the item as a whole in the Second Committee. The question of the limits of the Area was not fully considered by the Committee.

⁹This alternative envisages that the coastal State may establish the limit of its Coastal Sea-bed Area up to a distance of 200 nautical miles from the applicable baselines for measuring the breadth of the territorial sea.

¹⁰The term "national jurisdiction" is not intended to prejudice the nature and content of such jurisdiction.

Article 2

COMMON HERITAGE OF MANKIND

(A)

The Area and its resources are the common heritage of mankind.

or (B)

The Area and its resources are the common heritage of mankind. This principle shall be implemented and interpreted in accordance with the provisions of these articles.

Article 3

ACTIVITIES REGARDING EXPLORATION AND EXPLOITATION, ETC.

(A)

1. *All activities* in the Area, including scientific research and *the exploration of the Area and the exploitation of its resources and other related activities shall be governed by the provisions of these articles and shall, unless otherwise provided in these articles, be subject to regulation by the Authority established pursuant to article . . .*

or (B)

The provisions of these articles shall govern the exploration of the Area and exploitation of its resources and other related activities which are specified herein. The Authority shall have the functions with regard to those activities which are conferred on it by these articles.

or (C)

1. All activities in the Area shall be governed by the international régime established by these articles. The International Authority established under article . . . shall enjoy in respect of these activities such powers as are conferred upon it by the terms of these articles.

Article 4

NO CLAIM OR EXERCISE OF SOVEREIGNTY, ETC.

(D.2 and 5)

1. No State shall claim or exercise sovereignty or sovereign rights over any part of the Area, nor shall any State or person, natural or juridical, appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights, nor such appropriation shall be recognized.

2. No State or person, natural or juridical, shall claim, acquire or exercise any rights [over] [with respect to] the resources of the Area except as hereinafter specified in these articles. Subject to the foregoing, no such

¹¹It was suggested that there might be an amalgamation of articles 5 and 7, and perhaps article 8, along the following lines:

The Area shall be open to use exclusively for peaceful purposes by all States without discrimination. Scientific research, the exploration and exploitation of its resources shall be carried out for the benefit of mankind as a whole, irrespective of the geographical position of States, whether coastal or land-locked, and taking into particular consideration the interests and needs of the developing countries.

¹²It was suggested that a further sentence should be added at the end of the existing text, reading as follows: "All States, whether land-locked or coastal, shall have access to the Area in accordance with the provisions of these articles."

claim, acquisition, or exercise of such rights shall be recognized.

*Article 5*¹¹

USE OF THE AREA BY ALL STATES WITHOUT DISCRIMINATION

Non-discrimination (D.5)

The Area shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without discrimination [in accordance with the provisions of these articles]¹²

Article 6

GENERAL CONDUCT IN THE AREA AND IN RELATION TO THE AREA

(A)

General conduct of States (D.6)

States shall act in and in relation to the Area in accordance with the provisions of these articles, the applicable principles and rules of international law including [those contained in] the Charter of the United Nations [and taking into account] the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, adopted by the General Assembly on 24 October 1970, in the interests of maintaining international peace and security and in the interests of peaceful coexistence and the promotion of international co-operation and mutual understanding.

(B)

All activities in the Area and in relation to the Area shall be in accordance with the provisions of these articles and the purposes and principles of the Charter of the United Nations.

*Article 7*¹¹

BENEFIT OF MANKIND AS A WHOLE

General objective: benefit of mankind as a whole (D.7)

The exploration of the Area and the exploitation of its resources shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether land-locked or coastal, and taking into particular consideration the interests and needs of the developing countries.

Special interest groups

[2. Participation of land-locked and other geographically disadvantaged States in the exploration of the area and the exploitation of its resources shall be promoted and protected, having due regard to the special needs and interests of these States, in order to overcome the adverse effects of their disadvantaged geographical location on their economy and development.]

Article 8

PRESERVATION OF THE AREA EXCLUSIVELY FOR PEACEFUL PURPOSES

Peaceful uses (D.8)

The Area shall be reserved exclusively for peaceful purposes, [, and every effort shall be made to exclude it from the arms race] [and its use for military purposes shall be prohibited].

[The Contracting Parties undertake to conclude further international agreements as soon as possible] with a view to effective implementation of this article.

[The emplacement of nuclear weapons and of other weapons of mass destruction in the area is prohibited.]

[Nuclear and thermonuclear weapon test explosions are prohibited in the Area.]

Proposal to replace third and fourth paragraphs:

[The activities of all nuclear submarines in the Area and in the sea-bed area of other States shall be prohibited. The emplacement of nuclear weapons and all other weapons in the Area and in the sea-bed area of other States shall be prohibited.]

Article 9

WHO MAY EXPLOIT THE AREA

(A)

All exploration and exploitation activities in the Area shall be conducted by a Contracting Party or group of Contracting Parties or natural or juridical persons under its or their authority or sponsorship, subject to regulation by the Authority and in accordance with the rules regarding exploration and exploitation set out in these articles.

or (B)

All activities of exploration of the Area and of the exploitation of its resources and all other related activities including those of scientific research shall be conducted directly by the Authority.

The Authority may, if it considers it appropriate, and within the limits it may determine, confer certain tasks to juridical or natural persons, through service contracts, or association or through any other such means it may determine which ensure its direct and effective control at all times over such activities.

or (C)

1. All activities of exploration and exploitation in the Area shall be conducted in accordance with legal arrangements with the Authority pursuant to this convention, regulations included in this convention and those promulgated by the Authority pursuant to this convention.

2. The Authority shall enter into legal arrangements for exploration and exploitation with Contracting Parties, groups of Contracting Parties and natural or juridical persons sponsored by such Parties, without discrimination. Such Parties or persons shall comply with this convention, regulations included in this convention and those promulgated by the Authority pursuant to this convention.

or (D)

All exploration and exploitation activities in the Area shall be conducted by a Contracting Party or group of Contracting Parties or natural or juridical persons under its or their authority or sponsorship, subject to regulation¹³ by the Authority and in accordance with the rules regarding exploration and exploitation set out in these articles. The Authority may

¹³The view was expressed that the word "regulation" in this context should be replaced by the word "supervision".

decide, within the limits of its financial and technological resources, to conduct such activities.

Note: The Committee will have to consider whether to set out here, as is done in some proposals, the general rules regarding resource activities in the Area. These could include, *inter alia*, according to the type of administration adopted as regards exploration and exploitation, rules on: notice to mariners and other safety procedures, areas to be allotted, work requirements, work plans, inspection, service contracts, licensing, joint ventures, fees payable, revocation of service contracts, revocation of licences and integrity of investments. On the other hand, the Committee may decide to omit them from part I of the articles.

Article 10

GENERAL NORMS REGARDING EXPLOITATION^{14,15}

(A)

- (D.9) 1. The exploration of the Area and the exploitation of its resources shall be carried out in an efficient manner so as to provide for orderly and safe development and maximum benefits to producers and consumers of raw materials and of products which are made from them. Such resources development shall ensure *expanding opportunities in the use thereof and ensure the equitable sharing by States Parties in the benefits derived therefrom, taking into particular consideration the interests and needs of the developing countries, whether land-locked or coastal.*

or (B)

The exploration of the Area and the exploitation of its resources and other related activities shall be carried out in a safe, orderly and rational manner so as to ensure their conservation and optimum utilization and to regulate production in the Area so as to prevent the deterioration in the prices of minerals and raw materials from land and off-shore sources that may result from such exploitation and adversely affect the exports of developing countries, especially those who are producers of wasting and non-renewable materials. The mineral resources of the Area shall be considered as being complementary to resources produced from land and off-shore areas. The benefits derived from exploitation of the resources of the Area shall be distributed equitably among all States, irrespective of their geographical location, giving special consideration to the interests and needs of developing countries, whether coastal or land-locked.

[2.¹⁶ An amount equal to the proceeds of any tax levied by a State in connexion with

activities relating to the exploitation of the Area, whether in respect of profits made, services rendered or the supply of equipment or materials, or in respect of salaries paid or interests disposed of, by persons physical or juridical under its jurisdiction, shall be paid by that State to the Authority with a view to its being shared among developing countries. When the proceeds envisaged are greatly reduced because the State itself undertakes the exploitation or agrees to fiscal exemptions, a compensatory amount will be paid by this State to the Authority.]

Note 1: The view was expressed in respect of this article that there is a need to take into account, in the regulations under the machinery, provisions allowing the Authority and States Parties to pursue measures designed to facilitate the stabilization of commodity prices on a global basis, as, for example, through international commodity agreements.

Note 2: The Committee may wish to consider whether to set out here, as is done, for example, in the United States draft, article 5, paragraph 1, the basic principles of benefit sharing, or to deal with this subject in a subsequent chapter of the articles.

Article 11

SCIENTIFIC RESEARCH

(A)

- (D.10) 1. Every State, whether coastal or land-locked, has the right to undertake scientific research in the Area [ocean space], provided due regard is paid to the rights and interests of other States, and of the Authority, concerning legitimate activities in the Area.
2. Every State shall:
- (i) Encourage scientific research in the Area;
 - (ii) *Promote international co-operation in scientific research*, in particular:
 - (a) *By participation in international programmes and by encouraging co-operation in scientific research by personnel of different countries;*
 - (b) *Through effective publication of research programmes and dissemination of the results of research through international channels;*
 - (c) *Through measures to strengthen research capabilities of developing countries, including the participation of their nationals in research programmes.*
3. *No such research activities shall form the legal basis for any claim with respect to any part of the Area or its resources.*

or (B)

1. Neither these articles, nor any rights granted pursuant thereto shall affect the freedom of scientific research in the Area. Each Contracting Party agrees to encourage, and to obviate interference with, scientific research in the Area. Contracting Parties *shall promote international co-operation in scientific research concerning the Area exclusively for peaceful purposes:*

¹⁴One representative was of the view that the concepts dealt with in this article could more appropriately be included among the purposes of the machinery.

¹⁵With reference to this article, the representative of the USSR referred to the explanatory note to article 9 of the provisional draft articles submitted by the USSR, reproduced in section II of the Comparative Table.

¹⁶This provision would apply to either (A) or (B). It would become the second paragraph of (A) if (B) was not adopted. In any case, it does not prejudice the legal nature of the body or bodies legally entitled to exploit the resources of the Area.

(a) *By participation in international programmes and by encouraging co-operation in scientific research by personnel of different countries;*

(b) *Through effective publication of research programmes and dissemination of the results of research through international channels;*

(c) *Through measures to strengthen research capabilities of developing countries, including the participation of their nationals in research programmes.*

2. *No such research activities shall form the legal basis for any claim with respect to any part of the area or its resources.*

or (C)

Scientific research in the Area shall be carried out exclusively for peaceful purposes, 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 developing countries.

Without prejudice to the scientific research activities carried out by the Authority itself, it shall grant authorization on a non-discriminatory basis for such activities to any person, natural or juridical, provided that there are the necessary guarantees of technical competence, responsibility for any damage that may be caused to the marine environment and compliance with the applicable regulations adopted in this regard by the Authority.

States shall promote international co-operation in scientific research in the Area, in particular through:

(a) International programmes directed toward the training of nationals of developing countries in all aspects of marine science and technology;

(b) Technical assistance to developing countries;

(c) Employment of qualified personnel from developing countries in all aspects of the activities carried out in the Area;

(d) Notification to the Authority of research programmes, and dissemination of their results by the same channel.

Article 12

TRANSFER OF TECHNOLOGY

(A)

Contracting Parties shall co-operate in promoting the transfer of technology and know-how relating to the exploration of the Area and the exploitation of its resources to developing countries and to other countries in need of such technology or know-how.

Opportunities shall be given for the training of personnel of those countries in all aspects of marine technology, particularly by participation, as far as possible, in the exploration of the Area and the exploitation of its resources.

or (B)

States shall promote, through the Authority:

(a) Programmes for the promotion of transfer of technology to developing countries

with regard to the exploration of the Area and the exploitation of its resources, including, *inter alia*, facilitating the access of developing countries to patented and non-patented technology, under just and reasonable conditions;

(b) The elaboration of techniques adapted to the production and trade structures of developing countries;

(c) Measures directed towards the acceleration of domestic technology of developing countries and the opening of opportunities to personnel from developing countries for training in marine science and technology and their full participation in activities in the Area.

or (C)

Contracting Parties shall take necessary measures for promoting the transfer of technology and scientific knowledge relating to the exploration of the Area and the exploitation and utilization of its resources, so that all States benefit therefrom on an equitable and non-discriminatory basis.

Contracting Parties undertake to establish and to carry out concrete programmes, within the framework of the over-all policy of the United Nations in this field, for transferring scientific knowledge and technology, including patented technology, to the developing countries.

The Authority shall establish permanent means for the acquisition, dissemination and transfer of scientific knowledge and technology, as well as for training of personnel from developing countries in marine science and technology, so as to ensure their full participation in activities in the Area.

or (D)¹⁷

Revenues derived from sea-bed exploration and exploitation shall be used, through or in co-operation with, other international or regional organizations, to promote efficient, safe and economic exploitation of mineral resources of the sea-bed; to promote research on means to protect the marine environment; to advance other international efforts designed to promote safe and efficient use of the marine environment; to promote development knowledge of the Area; and to provide technical assistance to Contracting Parties or their nationals for these purposes, without discrimination.

Article 13

PROTECTION OF THE MARINE ENVIRONMENT

With respect to [all] activities in the Area, appropriate measures shall be taken for the adoption and implementation of international rules, standards and procedures for, inter alia:

(a) *The prevention of pollution and contamination, and other hazards to the marine*

¹⁷This alternative text is derived from article 5, paragraph 2, of the United States draft and is integrally related to that treaty, which asserts that States shall share with the Authority a portion of the revenues derived from the exploration and exploitation of sea-bed resources under their jurisdiction beyond the 200-metre isobath. Text (D) should be read in the context of this treaty proposal as it appears in article 5 of the United States draft and related articles.

environment, including the coastline, and of interference with the ecological balance of the marine environment, particular attention being paid to the need for protection from activities such as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations and pipelines and other devices related to exploration of the area and exploitation of its resources;

(b) The protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment.

Article 14

PROTECTION OF HUMAN LIFE¹⁸

With respect to [all] activities in the Area, appropriate measures shall be taken for the adoption and implementation of international rules, standards and procedures for the protection of human life.

Article 15

DUE REGARD TO THE RIGHTS, ETC. OF COASTAL STATES

(A)

1. [All] activities [of exploration and exploitation] [*in the Area*] [in the regions of the Area adjacent to its limits] shall be conducted with *due regard to the rights and legitimate interests of coastal States in the region of such activities, as well as of all other States, which may be affected by such activities. Consultations* [, including a system of prior notification], *shall be maintained with the States concerned, with a view to avoiding infringement of such rights and interests. [Such activities of exploration and exploitation shall be conducted with the concurrence of the coastal State or States concerned.]*

or

1. All activities of exploration and exploitation in the region adjacent to the boundary between the Area and the areas under State jurisdiction shall be conducted with due regard to the rights and legitimate interests of both the coastal State and the Authority.¹⁹

2. Neither these articles nor any rights granted or exercised pursuant thereto shall affect the right of coastal States to take such measures as may be necessary *to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the Area.*

or

2. (a) Any State facing grave and imminent danger from pollution or threat of pollu-

tion, following upon a hazardous incident or acts related to such an incident in the Area, which may reasonably be expected to result in major harmful consequences for that State, may take such measures as may be necessary to prevent, mitigate or eliminate such danger subject to the provisions of this Convention.

2. (b) Measures taken in accordance with this subparagraph (a) shall be proportionate to the damage which threatens the State concerned and shall not go beyond what is reasonably necessary to achieve the objective referred to in subparagraph (a).

3. Resources of the Area which lie across limits of national jurisdiction shall not be explored or exploited, except in agreement with the coastal State or States concerned. Where such resources are located near the limits of national jurisdiction, their exploration and exploitation shall be carried out in consultation with the coastal State or States concerned, and where possible through such State or States.

or (B)²⁰

1. Coastal States and the Authority shall co-operate closely in respect of all activities conducted in a zone under their respective jurisdiction adjacent to the boundary of the Area, not exceeding . . . miles in breadth. [Legal effect shall be given to such co-operation by the adoption of a non-discriminatory convention to be elaborated for this purpose.]

2. Coastal States shall transfer to the Authority a portion of the financial benefits obtained from the exploitation of the natural resources of maritime areas adjacent to the limits of the Area. [A special convention shall be negotiated on this subject.]²¹

or (C)

Omit this provision.

Article 16

LEGAL STATUS OF WATER SUPERJACENT TO THE AREA, ETC.

(A)

Status of water column and air space (D.13 (a))

Rights under existing international law:

[Except as provided in these articles, nothing herein]. [Neither these articles nor any rights granted or exercised pursuant thereto] shall affect the legal status of the waters superjacent to the Area [as high seas] or that of the air space above those waters.

[2. (Except as provided in these articles.) The use of the Area for the purpose of the exploration of the Area and the exploitation of its resources shall not conflict with freedom of navigation, fishing, scientific research, laying and maintenance of submarine cables and pipelines and other freedoms of the high seas.]

(B)

Omit this provision.

Rights of coastal States (D.12)

Emergency measures (D.13 (b))

¹⁸This article is drafted on the understanding that the rules, standards and procedures to be implemented include, so far as concerns States that are parties thereto and to the extent that they remain in force, those rules, standards and procedures that are in force at the date of entry into force of these articles.

¹⁹It was proposed that if this text were adopted, the words "and the authority" should be added at the end of the title of the article.

²⁰In connexion with some of the provisions of this draft the view was expressed that texts not covered by the Declaration of Principles and which might be at variance with it should not be proposed.

²¹It was proposed that if this text were adopted, the words "and obligations" should be added after the word "rights" in the title of the article.

Article 17

ACCOMMODATION OF ACTIVITIES IN THE MARINE ENVIRONMENT AND IN THE AREA

Activities in the Area

1. All activities in the marine environment shall [be conducted with reasonable regard for] [not result in any unjustifiable interference with] the exploration of the Area and the exploitation of its resources.

Other marine activities

2. The exploration of the Area and the exploitation of its resources shall [be conducted with reasonable regard for] [not result in any unjustifiable interference with] other activities in the marine environment.

Note: The Committee may wish to consider whether to include here or elsewhere in these articles a more detailed treatment of "non-interference rules" relating to such matters as prevention of interference with recognized sea-lanes and restrictions on resource exploitation in areas with a high pollution risk; see, for example, the USSR draft, articles 4, 10, 12, the United States draft, article 21, the Maltese draft, article 72, and other relevant texts.

Article 18

RESPONSIBILITY TO ENSURE OBSERVANCE OF THE INTERNATIONAL REGIME AND LIABILITY FOR DAMAGES²²

International responsibility (D.14)

[1. Every State shall have the responsibility to ensure that activities in the Area, including those relating to [the exploration of the Area and the exploitation of] its resources whether undertaken by governmental agencies, or non-governmental entities or persons under its jurisdiction, or acting on its behalf, shall be carried out in conformity with the provisions of these articles. The same responsibility applies to international organizations and their members for activities undertaken by such organizations or on their behalf. Damage caused by such activities shall entail liability,²³ [on the part of the State or international organization concerned, in respect of activities which it undertakes itself or authorizes.] [A State Party to these articles shall be responsible for any damage caused to another State Party to these articles as a result of its activities on the seabed.]

[2. A group of States acting together shall be jointly and severally responsible under these articles.]

[3. Each Contracting Party shall:

(i) Take appropriate measures to ensure that those conducting activities under its authority or sponsorship comply with these articles;

(ii) Make it an offence for those conducting activities under its authority or sponsorship in the Area to violate the provisions of these articles; such offences shall be punishable in accordance with administrative or judicial proce-

²² Although the Committee carried out a third reading of this article, it was agreed that the scope and complexity of the subject-matter were such that it would be necessary for the Committee to give further detailed consideration to the issues involved at a later stage. The view was expressed that the matter needed to be examined in the light of article 9, "Who may exploit the Area".

²³ The Committee may wish to consider whether to include reference here to the question of limits of liability as well as to other liability questions.

dures established by the authorizing or sponsoring party;

(iii) Be responsible for maintaining public order on manned installations and equipment operated by those authorized or sponsored by it;

(iv) Be responsible for damages caused by activities which it authorizes or sponsors to any other Contracting Party or its nationals;

(v) Be responsible for carrying out all measures necessary for the restoration or any damaged property or area to its condition immediately prior to such damage.]

[4. Every [Contracting Party] [State] shall take appropriate measures to ensure that the responsibility provided for in paragraph 1 of this article shall apply *mutatis mutandis* to international organizations of which it is a member.]

Article 19

ACCESS TO AND FROM THE AREA

Land-locked States [and other geographically disadvantaged States] shall have [the right of] [free] access to and from the Area²⁴ [in order to enable them to derive benefits, in accordance with the provisions of this Convention, from the Area and its resources].^{25,26}

Article 20

ARCHAEOLOGICAL AND HISTORICAL OBJECTS

(A)

1. Particular regard being paid to the preferential rights of [the State of country of] [the State of cultural] [the State of historical and archaeological] origin,²⁷ all objects of an archaeological and historical nature found in the Area shall be preserved [or disposed of by the Authority for the benefit of the international community as a whole].

[2. The recovery and disposal of wrecks and their contents more than [fifty] years old found in the Area shall be subject to regulation by the Authority without prejudice to the rights of the owner thereof.]

or (B)

Omit this provision.

Article 21

SETTLEMENT OF DISPUTES²⁸

All disputes arising out of the interpretation or application of these articles shall be settled in accordance with the provisions of article

²⁴ One delegation expressed the view that it might be useful to insert the words "all parts of" before the words "the Area".

²⁵ The view was expressed that the modalities of participation by States and other juridical persons or the Authority in activities in the Area, as well as benefits to be derived therefrom, should be dealt with in the appropriate provisions of this convention, and not under this article.

²⁶ The view was expressed that the formulation of this article could not be construed as discriminating in favour of land-locked States in terms of access to the Area.

²⁷ One delegation expressed the view that the first part of this paragraph, up to the word "origin" should be omitted.

²⁸ Although the Committee carried out a third reading of this article, it was agreed that the subject of settlement of disputes should be considered further at a later stage.

Note: An article of this kind, which does no more than foresee more detailed provision for settlement of disputes, may be all that is required under part I of these articles. Any further detailed consideration which the Committee may wish to give to this subject may take as a starting-point paragraph 15 of the Declaration of Principles.²⁹

* * *

Article 0

[INTERPRETATION] [DEFINITION]

A definition article may be required when the negotiation is completed.

* * *

Note: During the discussion of article 9 the following proposal was made by one delegation and it was agreed to reproduce the text of the proposal at the end of these draft articles since it contained some elements relating to various issues before the Committee:

1. All activities of exploration and exploitation shall be conducted pursuant to regulations promulgated by the Authority and no such exploration or exploitation shall be carried out except under and in conformity with such regulations and the provisions of this convention.

2. Regulations promulgated pursuant to paragraph 1 of this article shall include adequate provisions for:

²⁹The view was expressed that article 21 was acceptable only if later coupled with procedures for the compulsory settlement of disputes.

(a) the orderly and rational exploration and exploitation of the Area and its resources;

(b) the securing of adequate measures of control by the Authority over all phases of the exploration, exploitation and marketing of the resources in order to secure the objectives of the common heritage of mankind;

(c) the widest and most equitable participation on a non-discriminatory basis, in the activities necessary for the exploration and exploitation of the Area and its resources including the provision of goods and services;

(d) the securing of the maximum benefits for mankind as a whole from the exploration and exploitation of the Area and its resources ensuring at the same time that such benefits are equitably shared having special regard to the interests and needs of developing countries, coastal and land-locked;

(e) the assurance to consuming countries, on a non-discriminatory basis, of adequate supplies at reasonable prices of the products arising from the exploration and exploitation of the Area and its resources, due regard being paid to the availability on fair and equitable terms of similar or competitive land-based products.

3. Regulations pursuant to this article shall be made on the recommendation of the Council and approved by the Assembly by a two-thirds majority present and voting, provided that such majority shall include at least a majority of the total membership of the Assembly.

DOCUMENT A/CONF.62/C.1/L.4

Barbados: amendments to document A/CONF.62/C.1/L.3

[Original: English]
[6 August 1974]

1. *Article 8*

(1) The article should read as follows:

The Area shall be reserved exclusively for peaceful purposes.

(2) The remainder of the text should be deleted.

2. *Article 0 [Interpretation] [Definition]*

Peaceful purposes should be defined

DOCUMENT A/CONF.62/C.1/L.5

United States of America: working paper on the economic effects of deep sea-bed exploitation

[Original: English]
[8 August 1974]

I. Introduction

Numerous studies have been prepared, including the reports of the United Nations Secretary-General and the United Nations Conference on Trade and Development secretariat, concerning the potential economic effects of manganese nodule exploitation on the markets for the metals involved and on the

economies of developing country producers of the metals to be extracted from nodules. The analytical work contained in these studies is open to an inevitable criticism—it is highly speculative because we are studying the impact of an industry which does not yet exist on future markets whose magnitude is impossible to predict with absolute precision. Hence, it is understandable that there are often contradictory predictions on the