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Text on conditions of exploration and exploitation prepared by the Group of Seventy-Seven

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)*

(a) Payment to the Authority, in the case of a natural or juridical person by the Sponsoring Party, of such revenues as are established pursuant to article X;

(b) Any Party or Person must submit, in the case of a natural or juridical person through the Sponsoring Party, all raw data which he has acquired from the international sea-bed area concerning the area for which he holds exclusive rights to the extent such data concern the physical and chemical properties of the area or areas and the resources either while he held a prospecting certificate or during the previous evaluation phase or if he did not hold a prospecting certificate, all such data which he may have acquired from others prior to obtaining the right to mine.

Such Party or Person shall also submit once each year during the exploitation phase all such data described above and all data concerning the amount of production achieved and [such other data as is directly relevant to the implementation of article X].

Article VIII

SUSPENSION OF THE RIGHT TO MINE

1. The right to mine shall be suspended and no compensation shall be paid by the Authority to the miner if any of the following events occurs:

(a) The Tribunal finds on complaint of the Authority or any Party or affected Person that the Party or Person holding the right to mine has conducted his activities in such a way as to result in a gross and persistent violation of this Convention if such violations are directly related to his mining activities and were not caused by circumstances beyond his control.

(b) The Tribunal finds, on complaint of the Authority, that a Party or Person has wilfully failed to comply with a final or interlocutory decision of the Tribunal.

2. No final suspension of the right to mine may be implemented except after the miner has had a reasonable opportunity to exhaust the procedures provided for in this Convention for the settlement of disputes which shall include *de novo* review of the facts and law in the matter by the Tribunal. If the miner holds the right to mine more than one area, suspension shall only apply to the area or areas which have given rise to the situation for which suspension is the penalty. Suspension or other penalties imposed pursuant to this article shall not prejudice the right of a Party or Person to obtain the right to mine in other areas in the future.

3. The period of suspension shall be proportionate to the nature of the violation.

4. The Tribunal may, in lieu of suspending the right to mine, impose monetary penalties proportionate to the nature of the violation and not to exceed . . . per violation. The Tribunal may also impose monetary penalties proportionate to the nature of the violation and not to exceed . . . per violation for violations which are not gross and persistent if such violations are directly related to his mining activities and were not caused by circumstances beyond his control.

5. Any Party or Person whose right to mine is suspended pursuant to this article shall make available all data which it has acquired as defined in article IV, paragraph 1 (b) and article VII, paragraph 2 (b) to the Authority. In the case of a natural or juridical person such data shall be submitted to the Authority by the Sponsoring Party. The Authority shall hold such data in secret.

Article IX

TRANSFERABILITY OF THE RIGHT TO MINE

1. The right to mine shall be freely transferable provided the transferee agrees to comply with all applicable provisions of this Convention and any Tribunal orders or decisions.

2. In the case of a transferee who is a natural or juridical person, such person must obtain the approval of the transferor's Sponsoring Party to the transfer unless the transferee elects to obtain the sponsorship of another Contracting Party or group of Contracting Parties in which case such new Sponsoring Party shall have previously certified to the Authority its willingness to assume the role of Sponsoring Party immediately upon the completion of the transfer of rights and certifies compliance with article IV, paragraph 1 (d).

3. The right to mine may be transferred in whole or in part.

4. The rights of the transferee, whether transferred in whole or in part, shall be identical to the rights held by the transferor prior to the transfer.

Article X

INCOME OF THE AUTHORITY—REVENUE COMMITMENTS OF CONTRACTING PARTIES AND SPONSORING STATES

Any Party or group of Parties holding the right to mine, or acting as Sponsoring Parties under the terms of article II, shall be required to make annual financial payments during the exploitation phase in a convertible currency according to [formula].

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Text on conditions of exploration and exploitation prepared by the Group of Seventy-Seven*

[Original: English]
[16 August 1974]

BASIC CONDITIONS

1. The Area and its resources being the common heritage of mankind, the title to the Area and its resources and all other rights in the resources are vested in the Authority on behalf of mankind as a whole. These resources are not subject to alienation.

2. Title to the minerals and all other products derived from the resources shall not pass from the Authority except in accordance with the rules and regulations laid down by the Authority and the terms and conditions of the relevant contracts, joint ventures or any other such form of association entered into by it.

3. The Authority shall from time to time determine the part or parts of the Area in which activities relating to exploration and exploitation may be conducted.

4. All contracts, joint ventures or any other such form of association entered into by the Authority relating to the exploration of the Area and the exploitation of its resources and other related activities shall ensure the direct and effective control of the Authority at all times, through appropriate institutional arrangements.

*Circulated in accordance with the decision taken by the Committee at its informal meeting 16 August 1974.

5. The Authority may, if it considers it appropriate, enter into contracts relating to one or more stages of operations with any person, natural or juridical. These stages of operations may include the following: scientific research, general survey, exploration, evaluation, feasibility study and construction of facilities, exploitation, processing, transportation and marketing.

6. (a) The Authority shall establish appropriate procedures and prescribe qualifications on the basis of which persons natural or juridical may apply to the Authority for entering into contracts relating to one or more stages of operations.

(b) The selection from among applicants shall be made by the Authority on a competitive basis, taking into special account the need for the widest possible direct participation of developing countries, particularly the land-locked among them. The decision of the Authority in that regard shall be final and definitive.

7. Subject to the provisions of paragraph 6, a contractor who has fulfilled his contract regarding one or more stages of operations, as the case may be, to the satisfaction of the Authority shall have priority in the award of a contract for a further stage or stages of operations.

8. The rights and obligations arising out of a contract with the Authority shall not be transferred except with the consent of the Authority and in accordance with the rules and regulations laid down by it.

9. The Authority may, if it considers it appropriate, enter into a joint venture or any other such form of association with any person, natural or juridical, to undertake one or more stages of operations, provided, however, that the Authority shall have financial control through majority share and administrative control in such joint venture or other form of association.

10. The Authority shall ensure security of tenure to a contractor within the terms of the contract provided he does not violate the provisions of the Convention and the rules and regulations laid down by the Authority.

11. In case of a radical change in circumstances or *force majeure*, the Authority may take appropriate measures, including revision, suspension or termination of the contract.

12. Any person, natural or juridical, entering into a contract, joint venture or any other such form of association with the Authority may be required to provide the funds, materials, equipment, skill and know-how necessary for the conduct of operations at any stage or stages, and to deposit a guarantee.

13. Any responsibility, liability or risk arising out of the conduct of operations shall lie only with the person, natural or juridical, entering into a contract with the Authority.

14. The share of the Authority in a contract, joint venture or any other such form of association may be, *inter alia*, in the form of the production or the proceeds from the resources.

15. (a) The Authority shall ensure that any person, natural or juridical, who enters into a contract, joint venture or any other such form of association with it undertakes to transfer to the Authority, on a continuous basis, technology, know-how and data relevant to the stage or stages of operations involved, during the life of such a contract, joint venture or any other such form of association.

(b) The Authority and any person, natural or juridical, who is a party to a contract, joint venture or any other such form of association, shall draw up a programme for the training of the personnel of the Authority.

(c) The Authority shall further ensure that any person, natural or juridical, who enters into a contract, joint venture or any other such form of association with it, undertakes to provide at all levels training for personnel from developing countries, particularly the land-locked among them, and employment, to the maximum extent possible, to qualified personnel from such countries.

16. The Authority shall have the right to take at any time the necessary measures in order to apply the provisions contained in this Convention, particularly those relating to regulation of production.

17. The applicable law shall be solely the provisions of this Convention, the rules and regulations laid down by the Authority, and the terms and conditions of the relevant contracts, joint ventures and any other such form of association entered into by the Authority.

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Belgium, Denmark, France, Germany (Federal Republic of), Italy, Luxembourg, Netherlands, United Kingdom of Great Britain and Northern Ireland: working paper *

[Original: English and French]
[16 August 1974]

ANNEX TO THE LAW OF THE SEA CONVENTION: CONDITIONS OF EXPLORATION AND EXPLOITATION

In the view of the delegations sponsoring this working paper it is essential for conditions of exploration and exploitation to be included in any law of the sea convention.

While this paper does not necessarily represent the final views of its co-sponsors, either as to substance or as to placement of the conditions, it is an illustration of the kind of conditions that would need to be included in the convention. It is not a comprehensive and detailed set of conditions and is merely intended as an aid to the Committee's work on this subject.

I. Definition of activities

1. Prospecting, evaluation and exploitation in the International Sea-bed Area of the resources referred to in article VI shall be subject to the conditions set out in this annex.

2. Prospecting means a general survey of a large area with a view to collecting data on the basis of which a determination

can be made as to specific areas meriting evaluation. Prospecting may include all work involving geophysical and geochemical surveys and sea-bed sampling, excluding drilling deeper than 50 metres.

3. Evaluation means work, following prospecting, involving the use of considerable technical and financial means in order to confirm the existence, to evaluate the consistency and to demonstrate the exploitability of the resources of a specific area.

4. Exploitation means the extraction of resources for commercial and industrial purposes from a specific area.

II. Prospecting

1. Prospecting shall be open in the International Sea-bed Area, other than in areas in respect of which contracts have been awarded in accordance with article III, subject to a de-

* *Idem*.