

- 9 When a question of substance comes up for voting for the first time, the President may, and shall, if requested by at least one fifth of the members of the Assembly, defer the issue of taking a vote on that question for a period not exceeding five calendar days. This rule may be applied only once to any question, and shall not be applied so as to defer the question beyond the end of the session.
- 10 Upon a written request addressed to the President and sponsored by at least one fourth of the members of the Authority for an advisory opinion on the conformity with this Convention of a proposal before the Assembly on any matter, the Assembly shall request the Sea Bed Disputes Chamber of the International Tribunal for the Law of the Sea to give an advisory opinion thereon and shall defer voting on that proposal pending receipt of the advisory opinion by the Chamber. If the advisory opinion is not received before the final week of the session in which it is requested, the Assembly shall decide when it will meet to vote upon the deferred proposal.

**Article 160 Powers and functions**

- 1 The Assembly, as the sole organ of the Authority consisting of all the members, shall be considered the supreme organ of the Authority to which the other principal organs shall be accountable as specifically provided for in this Convention. The Assembly shall have the power to establish general policies in conformity with the relevant provisions of this Convention on any question or matter within the competence of the Authority.
- 2 In addition, the powers and functions of the Assembly shall be:
  - (a) to elect the members of the Council in accordance with Article 161;
  - (b) to elect the Secretary General from among the candidates proposed by the Council;
  - (c) to elect, upon the recommendation of the Council, the members of the Governing Board of the Enterprise and the Director General of the Enterprise;
  - (d) to establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Part. In the composition of these subsidiary organs due account shall be taken of the principle of equitable geographical distribution and of special interests and the need for members qualified and competent in the relevant technical questions dealt with by such organs;
  - (e) to assess the contributions of members to the administrative budget of the Authority in accordance with an agreed scale of assessment based upon the scale used for the regular budget of the United Nations until the Authority shall have sufficient income from other sources to meet its administrative expenses;
  - (f) (i) to consider and approve, upon the recommendation of the Council the rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to Article 82, taking into particular consideration the interests and needs of developing states and peoples who have not attained full independence or other self-governing status. If the Assembly does not approve the recommendations of the Council, the Assembly shall return them to the Council for reconsideration in the light of the views expressed by the Assembly;

- (ii) to consider and approve the rules, regulations and procedures of the Authority, and any amendments thereto, provisionally adopted by the Council pursuant to Article 162, para 2 (o)(ii). These rules, regulations and procedures shall relate to prospecting, exploration and exploitation in the Area, the financial management and internal administration of the Authority, and, upon the recommendation of the Governing Board of the Enterprise, to the transfer of funds from the Enterprise to the Authority;
- (g) to decide upon the equitable sharing of financial and other economic benefits derived from activities in the Area, consistent with this Convention and the rules, regulations and procedures of the Authority;
- (h) to consider and approve the proposed annual budget of the Authority submitted by the Council;
- (i) to examine periodic reports from the Council and from the Enterprise and special reports requested from the Council or any other organ of the Authority;
- (j) to initiate studies and make recommendations for the purpose of promoting international co-operation concerning activities in the Area and encouraging the progressive development of international law relating thereto and its codification;
- (k) to consider problems of a general nature in connection with activities in the Area arising in particular for developing states, as well as those problems for states in connection with activities in the Area that are due to their geographical location, particularly for land-locked and geographically disadvantaged states;
- (l) to establish, upon the recommendation of the Council, on the basis of advice from the Economic Planning Commission, a system of compensation or other measures of economic adjustment assistance as provided in Article 151, para 10;
- (m) to suspend the exercise of rights and privileges of membership pursuant to Article 185;
- (n) to discuss any question or matter within the competence of the Authority and to decide as to which organ of the Authority shall deal with any such question or matter not specifically entrusted to a particular organ, consistent with the distribution of powers and functions among the organs of the Authority.

#### SUBSECTION C THE COUNCIL

##### **Article 161 Composition, procedure and voting**

- 1 The Council shall consist of 36 members of the Authority elected by the Assembly in the following order:
  - (a) four members from among those States Parties which, during the last five years for which statistics are available, have either consumed more than 2% of total world consumption or have had net imports of more than 2% of total world imports of the commodities produced from the categories of minerals to be derived from the Area, and in any case one state from the Eastern European (Socialist) region, as well as the largest consumer;

- (b) four members from among the eight States Parties which have the largest investments in preparation for and in the conduct of activities in the Area, either directly or through their nationals, including at least one state from the Eastern European (Socialist) region;
  - (c) four members from among States Parties which on the basis of production in areas under their jurisdiction are major net exporters of the categories of minerals to be derived from the Area, including at least two developing states whose exports of such minerals have a substantial bearing upon their economies;
  - (d) six members from among developing States Parties, representing special interests. The special interests to be represented shall include those of states with large populations, states which are land-locked or geographically disadvantaged, states which are major importers of the categories of minerals to be derived from the Area, states which are potential producers of such minerals, and least developed states;
  - (e) eighteen members elected according to the principle of ensuring an equitable geographical distribution of seats in the Council as a whole, provided that each geographical region shall have at least one member elected under this sub-paragraph. For this purpose, the geographical regions shall be Africa, Asia, Eastern European (Socialist), Latin America and Western European and Others.
- 2 In electing the members of the Council in accordance with para 1, the Assembly shall ensure that:
- (a) land-locked and geographically disadvantaged states are represented to a degree which is reasonably proportionate to their representation in the Assembly;
  - (b) coastal states, especially developing states, which do not qualify under para 1(a), (b), (c) or (d) are represented to a degree which is reasonably proportionate to their representation in the Assembly;
  - (c) each group of States Parties to be represented on the Council is represented by those members, if any, which are nominated by that group.
- 3 Elections shall take place at regular sessions of the Assembly. Each member of the Council shall be elected for four years. At the first election, however, the term of one half of the members of each group referred to in para 1 shall be two years.
- 4 Members of the Council shall be eligible for re-election, but due regard should be paid to the desirability of rotation of membership.
- 5 The Council shall function at the seat of the Authority, and shall meet as often as the business of the Authority may require, but not less than three times a year.
- 6 A majority of the members of the Council shall constitute a quorum.
- 7 Each member of the Council shall have one vote.
- 8 (a) Decisions on questions of procedure shall be taken by a majority of the members present and voting.
- (b) Decisions on questions of substance arising under the following provisions shall be taken by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members of the Council: Article 162, para 2, sub-para (f); (g); (h); (i); (n); (p); (v); Article 191.

- (c) Decisions on questions of substance arising under the following provisions shall be taken by a three-fourths majority of the members present and voting, provided that such majority includes a majority of the members of the Council: Article 162, para 1; Article 162, para 2, sub-paras (a); (b); (c); (d); (e); (I); (q); (r); (s); (t); (u) in cases of non-compliance by a contractor or a sponsor; (w) provided that orders issued thereunder may be binding for not more than 30 days unless confirmed by a decision taken in accordance with sub-para (d); Article 162, para 2, sub-paras (x); (y); (z); Article 163, para 2; Article 174, para 3; Annex IV, Article 11.
  - (d) Decisions on questions of substance arising under the following provisions shall be taken by consensus: Article 162, para 2(m) and (o); adoption of amendments to Part XI.
  - (e) For the purposes of sub-paras (d), (f) and (g), 'consensus' means the absence of any formal objection. Within 14 days of the submission of a proposal to the Council, the President of the Council shall determine whether there would be a formal objection to the adoption of the proposal. If the President determines that there would be such an objection, the President shall establish and convene, within three days following such determination, a conciliation committee consisting of not more than nine members of the Council, with the President as chairman, for the purpose of reconciling the differences and producing a proposal which can be adopted by consensus. The committee shall work expeditiously and report to the Council within 14 days following its establishment. If the committee is unable to recommend a proposal which can be adopted by consensus, it shall set out in its report the grounds on which the proposal is being opposed.
  - (f) Decisions on questions not listed above which the Council is authorised to take by the rules, regulations and procedures of the Authority or otherwise shall be taken pursuant to the sub-paragraphs of this paragraph specified in the rules, regulations and procedures or, if not specified therein, then pursuant to the sub-paragraph determined by the Council if possible in advance, by consensus.
  - (g) When the issue arises as to whether a question is within sub-para (a), (b), (c) or (d), the question shall be treated as being within the sub-para requiring the higher or highest majority or consensus as the case may be, unless otherwise decided by the Council by the said majority or by consensus.
- 9 The Council shall establish a procedure whereby a member of the Authority not represented on the Council may send a representative to attend a meeting of the Council when a request is made by such member, or a matter particularly affecting it is under consideration. Such a representative shall be entitled to participate in the deliberations but not to vote.

**Article 162 Powers and functions**

- 1 The Council is the executive organ of the Authority. The Council shall have the power to establish, in conformity with this Convention and the general policies established by the Assembly, the specific policies to be pursued by the Authority on any question or matter within the competence of the Authority.
- 2 In addition, the Council shall:

- (a) supervise and co-ordinate the implementation of the provisions of this Part on all questions and matters within the competence of the Authority and invite the attention of the Assembly to cases of non-compliance;
- (b) propose to the Assembly a list of candidates for the election of the Secretary General;
- (c) recommend to the Assembly candidates for the election of the members of the Governing Board of the Enterprise and the Director General of the Enterprise;
- (d) establish, as appropriate, and with due regard to economy and efficiency, such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Part. In the composition of subsidiary organs, emphasis shall be placed on the need for members qualified and competent in relevant technical matters dealt with by those organs provided that due account shall be taken of the principle of equitable geographical distribution and of special interests;
- (e) adopt its rules of procedure including the method of selecting its president;
- (f) enter into agreements with the United Nations or other international organisations on behalf of the Authority and within its competence, subject to approval by the Assembly;
- (g) consider the reports of the Enterprise and transmit them to the Assembly with its recommendations;
- (h) present to the Assembly annual reports and such special reports as the Assembly may request;
- (i) issue directives to the Enterprise in accordance with Article 170;
- (j) approve plans of work in accordance with Annex III, Article 6. The Council shall act upon each plan of work within 60 days of its submission by the Legal and Technical Commission at a session of the Council in accordance with the following procedures:
  - (i) if the Commission recommends the approval of a plan of work, it shall be deemed to have been approved by the Council if no member of the Council submits in writing to the President within 14 days a specific objection alleging non-compliance with the requirements of Annex III, Article 6. If there is an objection, the conciliation procedure set forth in Article 161, para 8(e), shall apply. If, at the end of the conciliation procedure, the objection is still maintained, the plan of work shall be deemed to have been approved by the Council unless the Council disapproves it by consensus among its members excluding any state or states making the application or sponsoring the applicant;
  - (ii) if the Commission recommends the disapproval of a plan of work or does not make a recommendation, the Council may approve the plan of work by a three-fourths majority of the members present and voting, provided that such majority includes a majority of the members participating in the session;
- (k) approve plans of work submitted by the Enterprise in accordance with Annex IV, Article 12, applying, *mutatis mutandis*, the procedures set forth in sub-para (j);

- (l) exercise control over activities in the Area in accordance with Article 153, para 4, and the rules, regulations and procedures of the Authority;
- (m) take, upon the recommendation of the Economic Planning Commission, necessary and appropriate measures in accordance with Article 150, sub-para (h), to provide protection from the adverse economic effects specified therein;
- (n) make recommendations to the Assembly, on the basis of advice from the Economic Planning Commission, for a system of compensation or other measures of economic adjustment assistance as provided in Article 151, para 10;
- (o)
  - (i) recommend to the Assembly rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to Article 82, taking into particular consideration the interests and needs of the developing states and peoples who have not attained full independence or other self-governing status;
  - (ii) adopt and apply provisionally, pending approval by the Assembly, the rules, regulations and procedures of the Authority, and any amendments thereto, taking into account the recommendations of the Legal and Technical Commission or other subordinate organ concerned. These rules, regulations and procedures shall relate to prospecting, exploration and exploitation in the Area and the financial management and internal administration of the Authority. Priority shall be given to the adoption of rules, regulations and procedures for the exploration for and exploitation of polymetallic nodules. Rules, regulations and procedures for the exploration for and exploitation of any resource other than polymetallic nodules shall be adopted within three years from the date of a request to the Authority by any of its members to adopt such rules, regulations and procedures in respect of such resource. All rules, regulations and procedures shall remain in effect on a provisional basis until approved by the Assembly or until amended by the Council in the light of any views expressed by the Assembly;
- (p) review the collection of all payments to be made by or to the Authority in connection with operations pursuant to this Part;
- (q) make the selection from among applicants for production authorisations pursuant to Annex III, Article 7, where such selection is required by that provision;
- (r) submit the proposed annual budget of the Authority to the Assembly for its approval;
- (s) make recommendations to the Assembly concerning policies on any question or matter within the competence of the Authority;
- (t) make recommendations to the Assembly concerning suspension of the exercise of the rights and privileges of membership pursuant to Article 185;
- (u) institute proceedings on behalf of the Authority before the Sea Bed Disputes Chamber in cases of non-compliance;
- (v) notify the Assembly upon a decision by the Sea Bed Disputes Chamber in proceedings instituted under sub-para (u), and make any

recommendations which it may find appropriate with respect to measures to be taken;

- (w) issue emergency orders, which may include orders for the suspension or adjustment of operations, to prevent serious harm to the marine environment arising out of activities in the Area;
- (x) disapprove areas for exploitation by contractors or the Enterprise in cases where substantial evidence indicates the risk of serious harm to the marine environment;
- (y) establish a subsidiary organ for the elaboration of draft financial rules, regulations and procedures relating to:
  - (i) financial management in accordance with Articles 171 to 175; and
  - (ii) financial arrangements in accordance with Annex III, Article 13 and Article 17, para 1(c);
- (z) establish appropriate mechanisms for directing and supervising a staff of inspectors who shall inspect activities in the Area to determine whether this Part, the rules, regulations and procedures of the Authority, and the terms and conditions of any contract with the Authority are being complied with.

**Article 163 Organs of the Council**

- 1 There are hereby established the following organs of the Council:
  - (a) an Economic Planning Commission;
  - (b) a Legal and Technical Commission.
- 2 Each Commission shall be composed of 15 members, elected by the Council from among the candidates nominated by the States Parties. However, if necessary, the Council may decide to increase the size of either Commission having due regard to economy and efficiency.
- 3 Members of a Commission shall have appropriate qualifications in the area of competence of that Commission. States Parties shall nominate candidates of the highest standards of competence and integrity with qualifications in relevant fields so as to ensure the effective exercise of the functions of the Commissions.
- 4 In the election of members of the Commissions, due account shall be taken of the need for equitable geographical distribution and the representation of special interests.
- 5 No state Party may nominate more than one candidate for the same Commission. No person shall be elected to serve on more than one Commission.
- 6 Members of the Commissions shall hold office for a term of five years. They shall be eligible for re-election for a further term.
- 7 In the event of the death, incapacity or resignation of a member of a Commission prior to the expiration of the term of office, the Council shall elect for the remainder of the term, a member from the same geographical region or area of interest.
- 8 Members of Commissions shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Commissions upon which they serve, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with

- Annex III, Article 14, or any other confidential information coming to their knowledge by reason of their duties for the Authority.
- 9 Each Commission shall exercise its functions in accordance with such guidelines and directives as the Council may adopt.
  - 10 Each Commission shall formulate and submit to the Council for approval such rules and regulations as may be necessary for the efficient conduct of the Commission's functions.
  - 11 The decision-making procedures of the Commissions shall be established by the rules, regulations and procedures of the Authority. Recommendations to the Council shall, where necessary, be accompanied by a summary on the divergencies of opinion in the Commission.
  - 12 Each Commission shall normally function at the seat of the Authority and shall meet as often as is required for the efficient exercise of its functions.
  - 13 In the exercise of its functions, each Commission may, where appropriate, consult another commission, any competent organ of the United Nations or of its specialised agencies or any international organisations with competence in the subject matter of such consultation.

**Article 164 The Economic Planning Commission**

- 1 Members of the Economic Planning Commission shall have appropriate qualifications such as those relevant to mining, management of mineral resource activities, international trade or international economics. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications. The Commission shall include at least two members from developing states whose exports of the categories of minerals to be derived from the Area have a substantial bearing upon their economies.
- 2 The Commission shall:
  - (a) propose, upon the request of the Council, measures to implement decisions relating to activities in the Area taken in accordance with this Convention;
  - (b) review the trends of and the factors affecting supply, demand and prices of materials which may be derived from the Area, bearing in mind the interests of both importing and exporting countries, and in particular of the developing states among them;
  - (c) examine any situation likely to lead to the adverse effects referred to in Article 150, sub-para (h), brought to its attention by the state Party or States Parties concerned, and make appropriate recommendations to the Council;
  - (d) propose to the Council for submission to the Assembly, as provided in Article 151, para 10, a system of compensation or other measures of economic adjustment assistance for developing states which suffer adverse effects caused by activities in the Area. The Commission shall make the recommendations to the Council that are necessary for the application of the system or other measures adopted by the Assembly in specific cases.

**Article 165 The Legal and Technical Commission**

- 1 Members of the Legal and Technical Commission shall have appropriate qualifications such as those relevant to exploration for and exploitation and processing of mineral resources, oceanology, protection of the marine



environment, or economic or legal matters relating to ocean mining and related fields of expertise. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications.

2 The Commission shall:

- (a) make recommendations with regard to the exercise of the Authority's functions upon the request of the Council;
- (b) review formal written plans of work for activities in the Area in accordance with Article 153, para 3, and submit appropriate recommendations to the Council. The Commission shall base its recommendations solely on the grounds stated in Annex III and shall report fully thereon to the Council;
- (c) supervise, upon the request of the Council, activities in the Area, where appropriate, in consultation and collaboration with any entity carrying out such activities or state or states concerned and report to the Council;
- (d) prepare assessments of the environmental implications of activities in the Area;
- (e) make recommendations to the Council on the protection of the marine environment, taking into account the views of recognised experts in that field;
- (f) formulate and submit to the Council the rules regulations and procedures referred to in Article 162, para 2(o) taking into account all relevant factors including assessments of the environmental implications of activities in the Area;
- (g) keep such rules, regulations and procedures under review and recommend to the Council from time to time such amendments thereto as it may deem necessary or desirable;
- (h) make recommendations to the Council regarding the establishment of a monitoring programme to observe, measure, evaluate and analyse by recognised scientific methods, on a regular basis, the risks or effects of pollution of the marine environment resulting from activities in the Area, ensure that existing regulations are adequate and are complied with and co-ordinate the implementation of the monitoring programme approved by the Council;
- (i) recommend to the Council that proceedings be instituted on behalf of the Authority before the Sea Bed Disputes Chamber, in accordance with this Part and the relevant Annexes taking into account particularly Article 187;
- (j) make recommendations to the Council with respect to measures to be taken, upon a decision by the Sea Bed Disputes Chamber in proceedings instituted in accordance with sub-para (i);
- (k) make recommendations to the Council to issue emergency orders, which may include orders for the suspension or adjustment of operations, to prevent serious harm to the marine environment arising out of activities in the Area. Such recommendations shall be taken up by the Council on a priority basis;
- (l) make recommendations to the Council to disapprove areas for exploitation by contractors or the Enterprise in cases where substantial evidence indicates the risk of serious harm to the marine environment;
- (m) make recommendations to the Council regarding the direction and supervision of a staff of inspectors who shall inspect activities in the

- Area to determine whether the provisions of this Part, the rules, regulations and procedures of the Authority and the terms and conditions of any contract with the Authority are being complied with;
- (n) calculate the production ceiling and issue production authorisations on behalf of the Authority pursuant to Article 151, paras 2 to 7, following any necessary selection among applicants for production authorisations by the Council in accordance with Annex III, Article 7.
- 3 The members of the Commission shall, upon request by any state Party or other party concerned, be accompanied by a representative of such state or other party concerned when carrying out their function of supervision and inspection.

#### SUBSECTION D THE SECRETARIAT

##### **Article 166 The Secretariat**

- 1 The Secretariat of the Authority shall comprise a Secretary General and such staff as the Authority may require.
- 2 The Secretary General shall be elected for four years by the Assembly from among the candidates proposed by the Council and may be re-elected.
- 3 The Secretary General shall be the chief administrative officer of the Authority, and shall act in that capacity in all meetings of the Assembly, of the Council and of any subsidiary organ, and shall perform such other administrative functions as are entrusted to the Secretary General by these organs.
- 4 The Secretary General shall make an annual report to the Assembly on the work of the Authority.

##### **Article 167 The staff of the Authority**

- 1 The staff of the Authority shall consist of such qualified scientific and technical and other personnel as may be required to fulfil the administrative functions of the Authority.
- 2 The paramount consideration in the recruitment and employment of the staff and in the determination of their conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.
- 3 The staff shall be appointed by the Secretary General. The terms and conditions on which they shall be appointed, remunerated and dismissed shall be in accordance with the rules, regulations and procedures of the Authority.

##### **Article 168 International character of the Secretariat**

- 1 In the performance of their duties the Secretary General and the staff shall not seek or receive instructions from any government or from any other source external to the Authority. They shall refrain from any action which might reflect on their position as international officials responsible only to the Authority. Each state Party undertakes to respect the exclusively international character of the responsibilities of the Secretary General and the staff and not to seek to influence them in the discharge of their responsibilities. Any violation of responsibilities by a staff member shall be submitted to the appropriate administrative tribunal as provided in the rules, regulations and procedures of the Authority.

- 2 The Secretary General and the staff shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Authority, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, Article 14, or any other confidential information coming to their knowledge by reason of their employment with the Authority.
- 3 Violations of the obligations of a staff member of the Authority set forth in para 2 shall, on the request of a state Party affected by such violation, or a natural or juridical person, sponsored by a state Party as provided in Article 153, para 2(b), and affected by such violation, be submitted by the Authority against the staff member concerned to a tribunal designated by the rules, regulations and procedures of the Authority. The Party affected shall have the right to take part in the proceedings. If the tribunal so recommends, the Secretary General shall dismiss the staff member concerned.
- 4 The rules, regulations and procedures of the Authority shall contain such provisions as are necessary to implement this article.

**Article 169 Consultation and co-operation with international and non-governmental organisations**

- 1 The Secretary General shall, on matters within the competence of the Authority, make suitable arrangements, with the approval of the Council, for consultation and co-operation with international and non-governmental organisations recognised by the Economic and Social Council of the United Nations.
- 2 Any organisation with which the Secretary General has entered into an arrangement under para 1 may designate representatives to attend meetings of the organs of the Authority as observers in accordance with the rules of procedure of these organs. Procedures shall be established for obtaining the views of such organisations in appropriate cases.
- 3 The Secretary General may distribute to States Parties written reports submitted by the non-governmental organisations referred to in para 1 on subjects in which they have special competence and which are related to the work of the Authority.

SUBSECTION E THE ENTERPRISE

**Article 170 The Enterprise**

- 1 The Enterprise shall be the organ of the Authority which shall carry out activities in the Area directly, pursuant to Article 153, para 2(a), as well as the transporting, processing and marketing of minerals recovered from the Area.
- 2 The Enterprise shall, within the framework of the international legal personality of the Authority, have such legal capacity as is provided for in the Statute set forth in Annex IV. The Enterprise shall act in accordance with this Convention and the rules, regulations and procedures of the Authority, as well as the general policies established by the Assembly, and shall be subject to the directives and control of the Council.
- 3 The Enterprise shall have its principal place of business at the seat of the Authority.
- 4 The Enterprise shall, in accordance with Article 173, para 2, and Annex IV, Article 11, be provided with such funds as it may require to carry out its functions, and shall receive technology as provided in Article 144 and other relevant provisions of this Convention.