



**WORKSHOP FOR THE PROMOTION OF SUSTAINABLE DEVELOPMENT OF  
AFRICA'S DEEP SEABED RESOURCES IN SUPPORT TO AFRICA'S BLUE ECONOMY  
PRETORIA SOUTH-AFRICA 16-18 May 2019**

The legal framework for activities in the Area:  
transitioning from exploration to exploitation

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[isa.org.jm](http://isa.org.jm)



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# CONTENT

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1. Exploration regulations: application, contract and activities
2. Draft exploitation regulations: development
3. Next steps



# 1. EXPLORATION REGULATIONS: APPLICATION, CONTRACT AND ACTIVITIES

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# EXPLORATION REGULATIONS AND GUIDANCE

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## Regulations

- Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area
- Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area
- Regulations on Prospecting and Exploration for Cobalt-rich Ferromanganese Crusts in the Area

## LTC Recommendations for the guidance of contractors .....

- ....for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area
- ....and sponsoring States relating to training programmes under plans of work for exploration
- ....for the reporting of actual and direct exploration expenditure
- ....on the content, format and structure of annual reports





## APPLICATION PROCESS



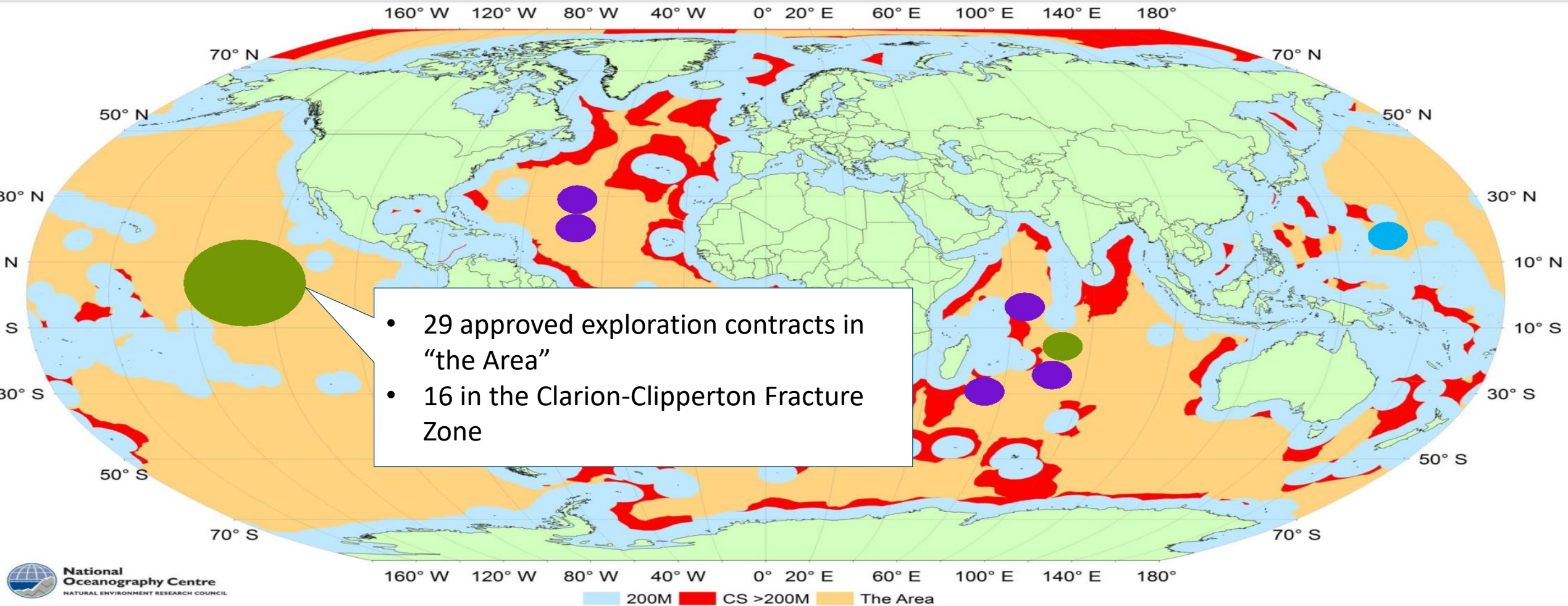
# STANDARD EXPLORATION CONTRACT TERMS

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- 15 year term; extension for 5 years in 'exceptional circumstances' (reasons beyond contractors control or prevailing economic circumstances)
- Exclusive rights for exploration (but limited to that specific mineral)
- Preference and priority for exploitation
- Progressive relinquishment of exploration area
- Annual reporting
- 5-year review mechanism of programme of activities
- Establish environmental baselines plus monitoring programme
- Mandatory training programme
- Data to be submitted on expiry or application for exploitation
- Safety, labour and health standards
- Disputes :Part XI, Section 5, of the Convention, including recourse to SDC

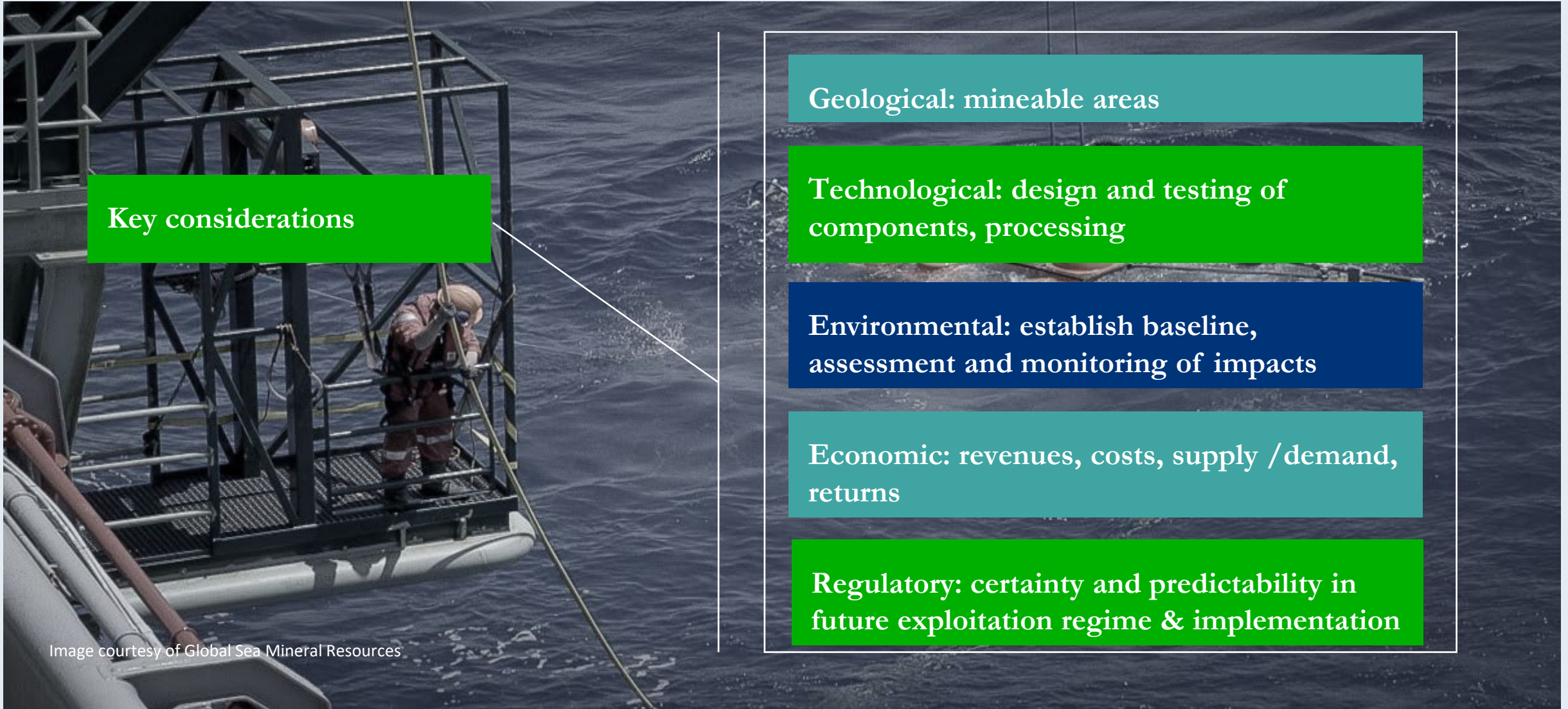


# EXPLORATION ACTIVITIES IN THE AREA: MINERAL RESOURCES AND AREAS OF INTEREST



 Polymetallic nodules     Polymetallic sulphides     Cobalt-rich crusts

# EXPLORATION CONTRACTS



## Key considerations

Geological: mineable areas

Technological: design and testing of components, processing

Environmental: establish baseline, assessment and monitoring of impacts

Economic: revenues, costs, supply /demand, returns

Regulatory: certainty and predictability in future exploitation regime & implementation

Image courtesy of Global Sea Mineral Resources



## 2. DRAFT EXPLOITATION REGULATIONS: DEVELOPMENT



# DRAFT REGULATIONS ON EXPLOITATION OF MINERAL RESOURCES IN THE AREA

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- Revised draft issued by ISA's Legal & Technical Commission to ISA Council, March 2019 (ISBA/C/25/WP.1)
- Builds on knowledge and outputs of the exploration framework
- Result of multi-disciplined stakeholder review and input over 5 years
- Sets out fundamental rights and obligations between the ISA and future mining operators
- To be supplemented by a suite of guidelines and standards (workshop in Pretoria this week)
- Continued development of regulatory framework to foster risk-based approach to regulation by the ISA and sponsoring States
- Ensure a level playing field across applicants and mining entities

# DRAFT REGULATIONS ON EXPLOITATION OF MINERAL RESOURCES IN THE AREA: CORE ELEMENTS

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- Guiding policies and principles
- Duty to cooperate and exchange of information across a number of actors
- Robust application and assessment process, including stakeholder participation
- Safety, labour and health standards
- Emergency response and contingency planning
- Environmental documentation & requirements, incl. environmental performance assessment
- Review mechanism
- Financial terms: royalty
- Inspection, compliance and enforcement
- Environmental compensation fund



# A RISK-BASED APPROACH

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- The “what” to regulate and “how” (and “when”) to regulate it
- Risk-based approach to regulation
  - Risk-based regulation (risk assessment framework)
  - Application of environmental and other standards
  - Evidence-based decision-making
  - Better alignment of regulatory resources
- Certainty and predictability
- Document policy approach to regulation



# OUTCOME OR RESULT-BASED REGULATION

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- A performance-based regime
- Focuses on producing the desired performance (e.g. environmental performance or safety) not the production of more rules
- Determine the output or performance levels e.g. objectives, criteria, quality standards, thresholds, trigger points (contractual requirements)
- Contractor flexibility in delivering the output or performance level: drive innovation
- Constraint: state of existing knowledge
- Focus on processes to get us there



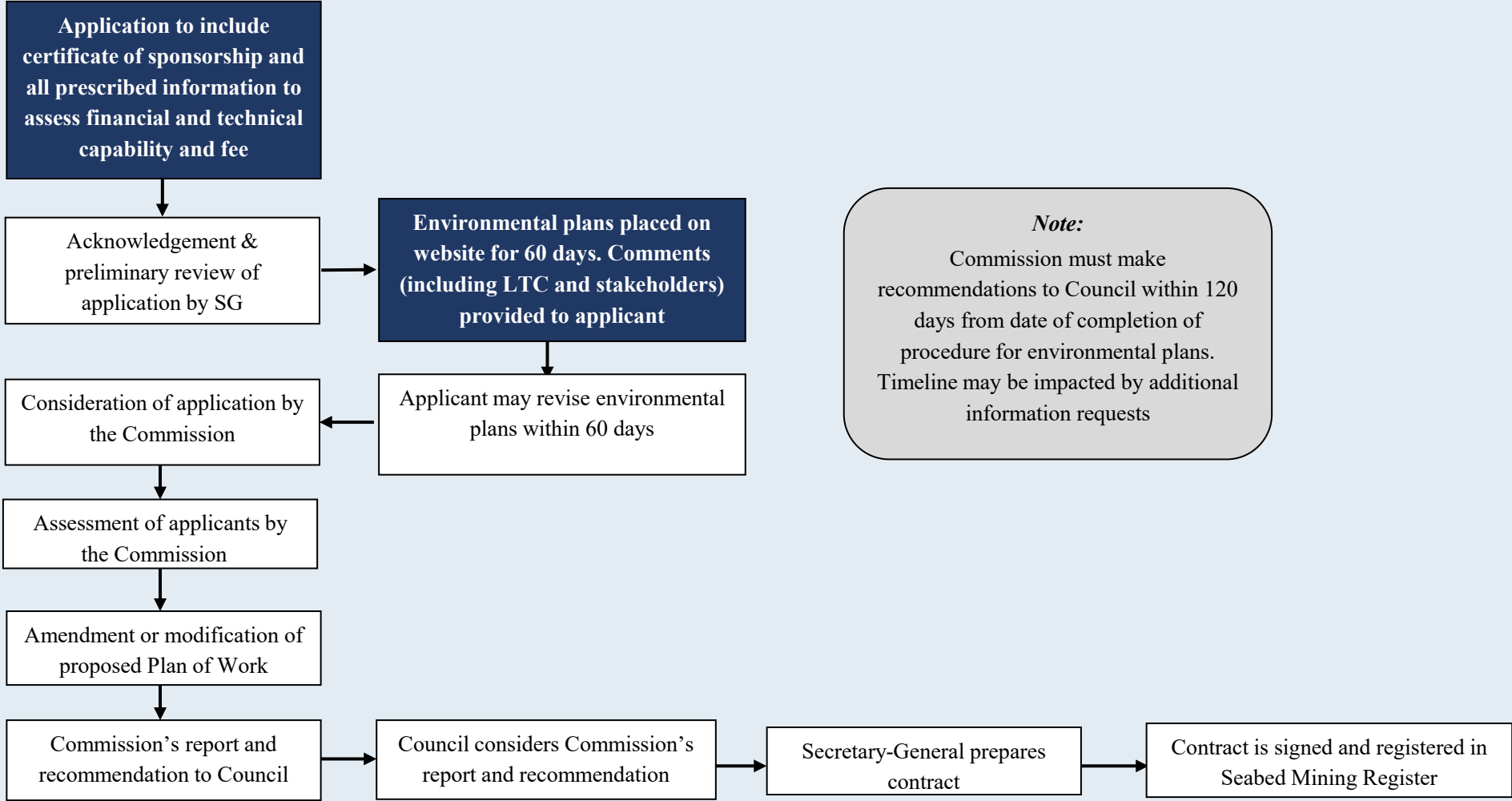
# DRAFT REGULATIONS ON EXPLOITATION OF MINERAL RESOURCES IN THE AREA: APPLICATION

**Application for  
Approval of a Plan  
of Work for  
Exploitation**

- 1. Exploration data and information**
- 2. Mining work plan**
- 3. Financing plan**
- 4. Environmental impact statement**
- 5. Emergency response and contingency plan**
- 6. Health and Safety Plan and a Maritime Security Plan**
- 7. Training plan**
- 8. Environmental management and monitoring plan**
- 9. Closure plan**

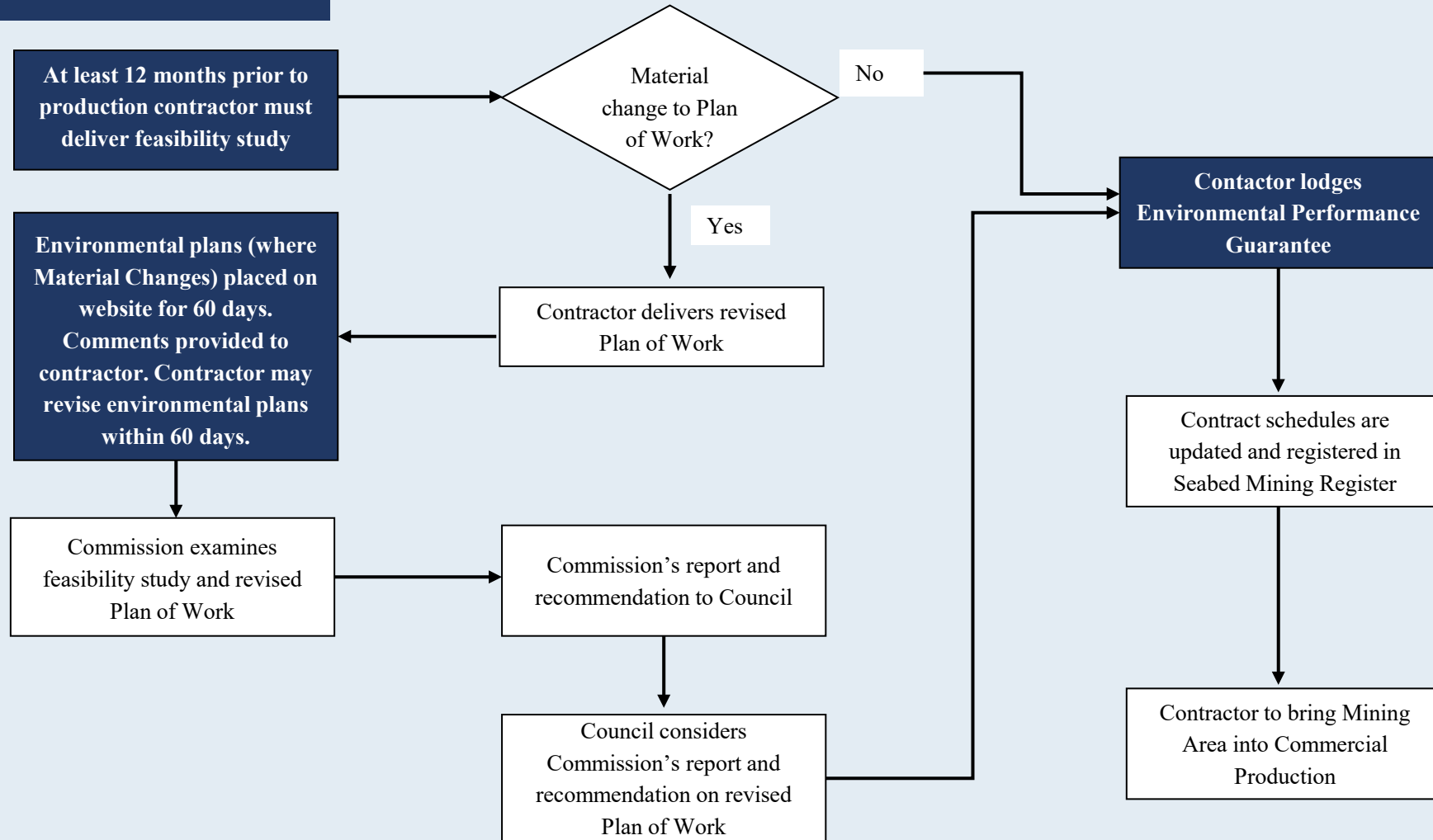
PROCESS: APPLICATION FOR APPROVAL OF A PLAN OF WORK FOR EXPLOITATION IN THE FORM OF A CONTRACT

**Application**



# PROCESS FOLLOWING APPROVAL OF A PLAN OF WORK FOR EXPLOITATION AND PRE-PRODUCTION

## After approval of a Plan of Work





## Overview of Contractor Activities

Contractor activities	Under EXPLORATION Contract		Under EXPLOITATION Contract					
	Exploration phase: +- 15 years	Contract continues in force	Indicative timings:	+ 5 years?	+ 3 years?	+ 2 years?	+ [20] years?	+ [5] years
			Feasibility	Construction	Production	Commercial Prodn.	Closure	
Pre-feasibility stage / study <sup>1</sup>	Est. mineable areas / grade & quality of resource (inferred / indicated); testing of components	[Application for Approval of a Plan of Work for Exploitation]	Continued exploration activities					
Environmental baseline, risk assessment, monitoring and management	Est. baselines; monitoring programme + Prior EIA for specific activities (e.g. testing)		Continued environmental assessment. Monitoring and management under Environmental Management and Monitoring Plan					
Feasibility stage / study (bankable) <sup>2</sup> (would include integrated pilot mining?)			FS required to raise investment capital (probable / proven reserve)					
Construction				Infrastructure (e.g. Mining vessel)				
Production: ramp up (commencement of mining activities)					[Per FS / Mining Plan]			
Commercial production						[Per FS / Mining Plan]		
Closure / Post closure monitoring								[Per Closure Plan]



## 3. NEXT STEPS



# NEXT STEPS

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1. Negotiation of regulatory text (adoption by July 2020)
2. Craft financial terms for contracts
3. Interfaces with sponsoring States and relevant international organizations (e.g. IMO)
4. Develop work programme for fit-for-purpose regulatory process and performance standards & guidelines, incl. risk assessment frameworks (Draw on experiences of regulatory approaches to natural resource and environmental regulation)
5. Document policy approach to regulation
6. Design a robust monitoring (remote), inspection and compliance mechanism



Thank you!

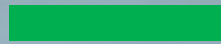


Image courtesy of Global Sea Mineral Resources