# Africa's Deep-Seabed Resources Project

Third Workshop 1-3 June 2021



Day 2 Presentations

**Project partners** 

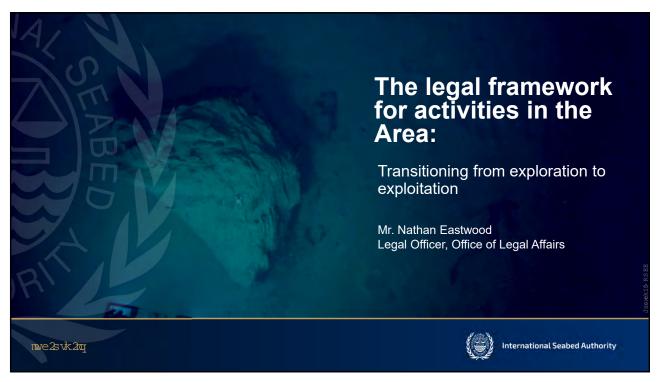






Workshop co-host









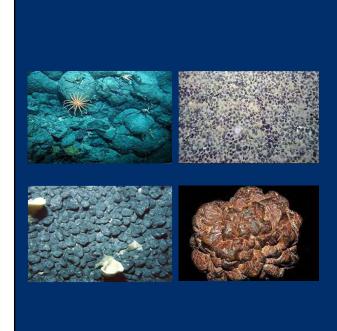
# The Legal Framework -

#### Sources of Law

- > UNCLOS, the 1982 United Nations Convention on the Law of the Sea (Part XI, Annexes III and IV)
- 1994 Agreement for the Implementation of Part XI of the 1982 Convention, contains the procedural and administrative requirements necessary to give effect to Part XI of UNCLOS
- Regulations, Rules and Procedures of the International Seabed Authority (the "Mining Code") refers to the whole of the comprehensive set of rules, regulations and procedures issued by ISA to regulate prospecting, exploration and exploitation of marine minerals in the international seabed Area (defined as the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction).
- Rules of International Law, not incompatible with UNCLOS, including customary international law principles concerning the environment and investment
- Decisions of International Courts & Tribunals, including the Deep Seabed Chamber of the International Tribunal for the Law of the Sea



3



#### Fundamental Principles of UNCLOS

- > Article 136 The Area and its recourses are the common
- > Article 137 No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources. All rights in the resources of the Area are vested in mankind as a whole (represented by the ISA) and no State or natural or juridical person shall exercise mineral rights except in accordance with Part XI
- > Article 140 Activities in the Area shall be carried out for the benefit of mankind as a whole
- Article 141 The Area shall be open to use exclusively for peaceful purposes by all States



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#### **Exploration Regulations:**

#### Overview & Status



- The International Seabed Authority has entered 31 contracts for exploration for polymetallic nodules, polymetallic sulphides and cobalt-rich ferromanganese crusts in the deep seabed with 22 contractors
- > 15-year duration with a 5-year extension option
- **Exploration Regulations for Polymetallic Nodules** (ISBA/19/C/17)
- Exploration Regulations for Polymetallic Sulphides (ISBA/16/A/12 Rev.
   1)
- Exploration Regulations for Cobalt-rich Ferromanganese Crusts (ISBA/18/A/11)
- Core features: (i) Prospecting Notification; (ii) Applications for a Plan of Work for Exploration; (iii) Protection and preservation of the marine environment; and (iv) Confidentiality of Data



5



#### **Draft Regulations on Exploitation:**

Overview. Process & Status

- Revised Draft Exploitation Regulations issued by the Legal and Technical Commission, March 2019 (ISBA/25/C/WP.1)
- Comments on the Draft Exploitation Regulations from Stakeholders, issued by the Secretariat, December 2019, (ISBA/26/C/2)
- Informal working groups established, decision of the Council, 21 February 2020 (ISBA/26/C/11): (i) protection and preservation of the marine environment; (ii) inspection compliance and enforcement; and (iii) institutional matters (role and responsibilities of the ISA)
- Open-ended working group of the Council, for the development and negotiation of the financial terms of a contract.
- > Exploitation Regulation to be supplemented with Standards & Guidelines
- Comprehensive regulatory regime consisting of 13 Parts. 10 Annexes, 4 Appendices and 1 Schedule
- > Provides for the **effective protection** of the Marine Environment
- Ensures a level playing field for applicant Contractors (both States and private entities)





#### **Draft Regulations on Exploitation:**

#### Core features and obligations

- Fundamental Policies and Principles, including the development of Resources in the Area for all Mankind and the protection of the Marine Environment
- Robust application and assessment process, including external stakeholder participation and consultation and review by Legal and Technical Commission
- Transparency of information and duty to exchange information
- Requirement for Environmental Impact Assessments, Environmental Monitoring & Management Plan, Environmental Performance Guarantees, Insurance and contributions to an Environmental Compensation Fund
- Financial terms, including the payment of royalties, fees and penalties
- > Safety, labour and health standards
- > Inspection, compliance and enforcement
- > Dispute Settlement provisions



7

7

# Standards & Guidelines: Overview, Process & Status

#### Three-phased approach

- Phase 1 S&G in place by the adoption of the drafters
- Phase 2 S&G in place prior to receipt of an application
- Phase 3 S&G in place before mining activities commence

#### Stakeholder consultations

#### Adoption / Issuance

- Standards adopted by the Council and approved by the Assembly
- Guidelines issued by the LTC and reported to Council

#### Phase 1

- Preparation and assessment of an application for the approval of a plan of work for exploitation
- Environmental Impact Assessments and Environmental Impact Statement
- Preparation of Environmental Management and Monitoring Plans
- Development and application of Environmental Management Systems
- Tools and techniques for hazard identification and risk assessments
- Safe management and operation of mining support vessels
- Form and calculation of an Environmental Performance Guarantee
- Preparation and implementation of emergency response and contingency plans
- Expected scope and standard of baseline data collection

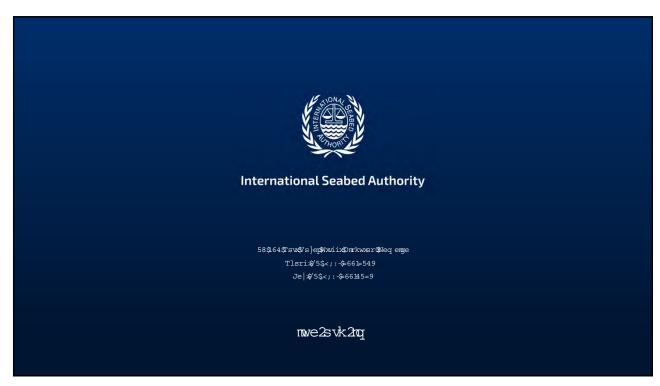


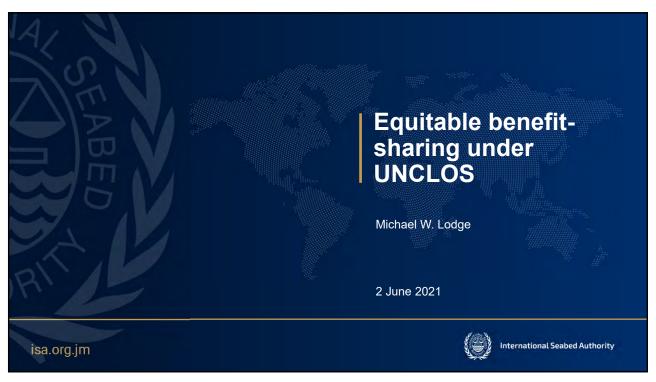
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8



**Next Steps:** Transitioning to Exploitation • Informal Working Groups (IWG) continue to advance discussion on the draft Exploitation Draft Regulations • Revised text to be prepared by IWG for the consideration of Council **Exploitation** • Open-ended working group in respect of the development and negotiation of the financial terms of a contract continues Regulations • All phase one standards and guidelines have been released for stakeholder consultation Draft Commission to consider stakeholder comments and proposed revisions • Commission to finalise all phase one standards and guidelines and prepare a report to the Standards & Council with the final phase one standards and guidelines with reasons for decisions taken in respect to those standards and guidelines Guidelines Council to consider and adopt Standards and/or Guidelines prepared by the Legal & Technical Commission at its February 2022 meeting



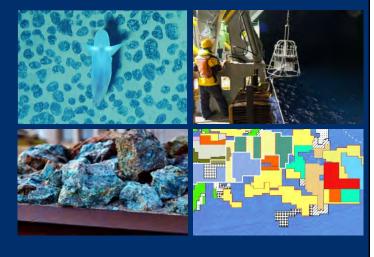




# Monetary and Non-Monetary Benefits

Some forms of non-monetary benefits are recognized in Part XI

- 1. Training
- 2. Capacity-building
- 3. Environmental protection
- 4. Increased scientific knowledge
- 5. Expansion of world mineral resources
- 6. Preferential access rights for developing countries





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# **Monetary Benefits**

Revenue stream from DSM payment mechanism

- 1. ISA Administrative expenses
- 2. [Prior contributions of members]
- 3. Economic Assistance Fund (Art. 151(10))
- 4. [Funds allocated to the Enterprise]
- 5. Equitable distribution



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#### Mankind as a whole

#### Article 140.

Activities in the Area shall be carried for the benefit of mankind as a whole irrespective of geographic location of states, whether coastal or landlocked, and taking into particular consideration interests and needs of developing states and peoples who have not attained full independence or self-governing status [as recognized by the UN]

States Parties or all States?

What is a developing State?

What interests and needs should be taken into consideration?

Which non-independent and non-self-governing peoples?

The Authority shall provide for the equitable sharing of financial .. benefits through any appropriate mechanism on a non-discriminatory basis ...



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## What is equitable?

#### Formula for equitable sharing

- 2. Art. 140 desired remedial effect is socio-economic and redistributive.
- Possible to develop progressive formula based on average GNI per capita and share of population adjusted by social distribution weight.
- 4. Alternative could be a 'Seabed Sustainability Fund'



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6



## Seabed Sustainability Fund?

Alternative to direct distribution?

- 1. Capacity development in deep sea science.
- 2. Environmental management plans.
- 3. Long-term scientific research projects.
- 4. Regional centres?
- 5. Project-based funding (like GEF)?
- 6. Raises questions of administration and fair access to funding.



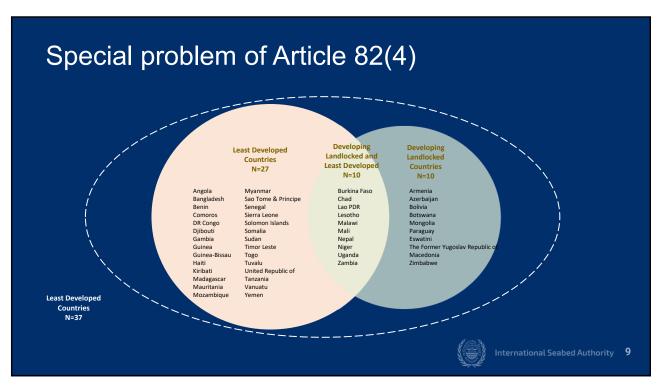
# Special problem of Article 82(4)

Revenue-sharing from non-living resource exploitation on extended continental shelf.

In this case revenues must be distributed through the Authority.

Equitable sharing criteria to be developed must take into account the interests and needs of developing States, but particularly 'the least developed and land-locked among them'.







Revenue-sharing from non-living resource exploitation on extended continental shelf.

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Equitable sharing criteria to be developed must take into account the **interests and needs** of developing States, but particularly 'the **least developed and land-locked** among them'.

Remedial effect is socio-economic and geographic.

Can apply different social distribution weight to favour specified countries (but others will lose out)



#### **Process**

Equitable benefit-sharing rules must be approved by ISA Assembly on recommendation of Council.

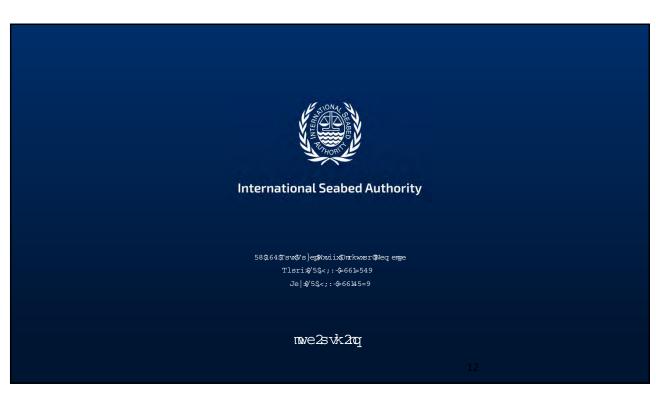
**But** Council and Assembly must take into account recommendations of Finance Committee.

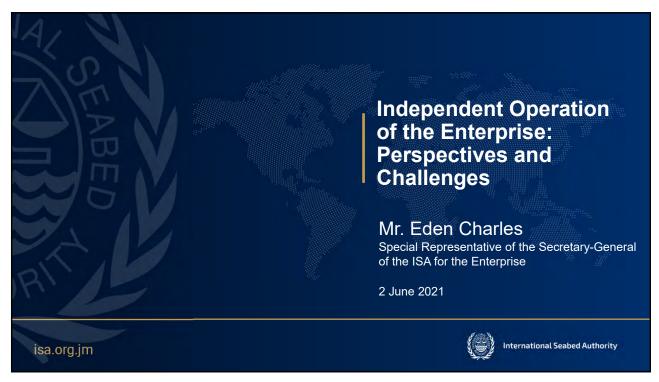
Under consideration by Finance Committee since 2019. Report to Assembly expected by end 2021



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# Historical Background

- The issue of the Enterprise was first discussed in 1971 in the Seabed Committee's Sub-Committee I
- The Third United Nations Conference on the Law of the Sea began in New York in 1973
- Nine years later, adoption of the United Nations Convention on the Law of the Sea (UNCLOS or Convention) in Montego Bay, Jamaica
- Adoption of the 1994 Agreement on the Implementation of Part XI of the Convention



# Rationale for the Enterprise

The 1971 Paper from the thirteen members of the Group of Latin America and Caribbean countries introduced the idea of the Enterprise.

The paper made clear that the Enterprise was going to give effect to the principle of the 'common heritage of mankind' and any agreed arrangement for the exploitation of the Area must be consistent with this objective.



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#### Section 2, paragraphs 1 and 2 of the annex of the 1994 Implementation Agreement

The Secretariat of the Authority shall perform the functions of the Enterprise until it begins to operate independently of the Secretariat. The Secretary-General of the Authority shall appoint from within the staff of the Authority an interim Director-General to oversee the performance of these functions by the Secretariat.



# Section 2, paragraphs 1 and 2 of the annex of the 1994 Implementation Agreement

These functions, among others, shall be:

- Assessment of the results of the conduct of marine scientific research with respect to activities in the Area, with particular emphasis on research related to the environmental impact of activities in the Area;
- Assessment of technological developments relevant to activities in the Area, in particular, technology relating to the protection and preservation of the marine environment; and
- Assessment of approaches to joint-venture operations.

The Enterprise shall conduct its initial deep seabed mining operations through joint ventures.



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Pending the independent operation of the Enterprise, the Secretary-General of the ISA is to appoint from within the staff of the ISA an interim Director-General to oversee the performance of the Enterprise during its interim status as part of the Secretariat.

Workload and capacity constraints have impaired the Secretariat's ability to perform the functions assigned to the Secretariat until the Enterprise begins to operate independently.

Based on a decision of the Council, the Secretary-General has appointed a Special Representative for the Enterprise with a very limited mandate.

The limited resources and the unpredictable nature of the funding under the Voluntary Trust Fund have also affected the ability of the Special Representative to adequately discharge the limited mandate.



#### The Legal and Technical Commission (LTC) recommendations on the Study Related to Issues on the Operationalization

In March 2021, the LTC adopted the recommendations, including the following contained in the study of the Enterprise as follows:

- The LTC further recalls that the 1994 Agreement, adopting an 'evolutionary approach', provided for operationalization of the Enterprise through a step-by-step progression based on functional needs of the Enterprise at each of the steps.
- The LTC recognized that the development of the draft regulations on exploitation of mineral resources in the Area is at an advanced stage and there is an expectation that these draft regulations will be adopted in the not-too-distant future.
- At such time, joint ventures with the Enterprise may be initiated.
- The LTC recommends that the Council, taking into consideration the current circumstances of the work of the Authority, consider requesting the Assembly, subject to the availability of the requisite funds, to establish the position of the interim Director-General within the Secretariat, and for the Secretary-General to appoint a person into this position to oversee the specified functions listed in section 2 (1) of the Annex to the 1994 Agreement.



# Disadvantages arising from the delay of the operationalization of the Enterprise

- The delay in operationalizing the Enterprise places the entity at a significant disadvantage in relation to other stakeholders.
- Unlike others, it has no fixed seat at the table, and only participates in the negotiations on the draft exploitation code, on an exceptional basis.
- This situation has to be rectified as the exploitation code would govern the future operations of the Enterprise.
- The capacity of the Enterprise to deliver on the objective of equitable sharing of benefits encapsulated in the 'common heritage' principle has been undermined and will continue to be undermined for as long as it remains non-operational.



## Disadvantages..

- Some of the draft Regulations such as 2(2)(c) on transfer of technology and 20 on joint arrangements clearly anticipate the proper functioning of the Enterprise.
- The ISA's own Strategic Plan has set 2023 as the completion date for the Exploitation Code and financial regime for the Area.
- The ISA is currently considering the design of the system of payments for exploitation of minerals in the Area.
- Regulations 16 and 19 of the applicable regulations (ISBA/16/A/12/Rev.1 and ISBA/18/A/11 respectively), applicants for plans of work for exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts are required to choose between either providing a reserved area, or offering an equity interest in a future joint venture arrangement with the Enterprise.



9

## Disadvantages..

- Eleven contractors, entering into contracts for exploration of polymetallic sulphides or cobalt-rich ferromanganese crusts between 2011 and 2018, have taken up the option to offer an equity interest in a future joint venture arrangement with the Enterprise.
- The terms and conditions upon which such equity participation will take place requires additional elaboration and this work remains outstanding.
- The Enterprise itself will be the most appropriate organ within the ISA to contribute to this work.



## **Future Action by States**

Urgent tasks required to enable the evolutionary approach envisioned for the operationalization of the Enterprise:

Implementation of the recommendation of the LTC in its report contained in paragraph 5, dated 3 March 2020 on the appointment of an interim Director-General for the Enterprise.

This would enable the Enterprise to:

- Make much needed input into the development of the Exploitation Regulations;
- Collaborate with the Secretariat on economic modelling to ascertain the potential financial benefits of exploitation to be carried out by the Enterprise, as compared to other contractors, in order to inform the elaboration of the ISA's payment regime; and
- Develop proposed conditions under which joint ventures in future contracts may operate, with the Enterprises' equity participation.



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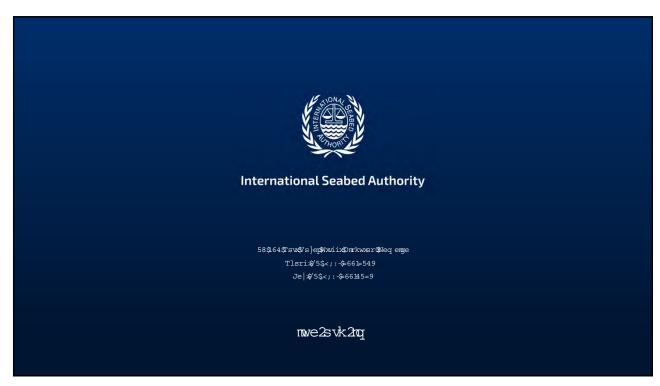
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#### Conclusions

- The 'common heritage of mankind' is not just a principle that should guide activities of the States, their nationals and other entities in the Area and the exploitation of the resources of the Area.
- It involves the enjoyment of important rights and the assumption of onerous obligations by States Parties under the Convention in relation to the Area.
- Failure to operationalize the Enterprise would leave the principle of the 'common heritage of mankind' as a dream deferred.
- It would also undermine the letter and spirit of the Convention, but will also destroy the carefully constructed balance of rights and obligations relating to the Area.



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## **Protection of the Marine Environment**

(Article 145, UNCLOS)

Necessary measures shall be taken....to ensure the effective protection of the marine environment from harmful effects which may arise from activities in the Area

To this end, ISA shall adopt appropriate rules, regulations and procedures











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# ISA Strategic Plan (2019-2023) (ISBA/24/A/10)

- SD3.1: Adaptive, practical and technically feasible regulatory framework
- SD3.2: Regional environmental Assessments and Management Plans
- SD3.3: Access to environmental information
- SD3.4: Monitoring programmes and methodologies
- SD3.5: EIA/risk assessment







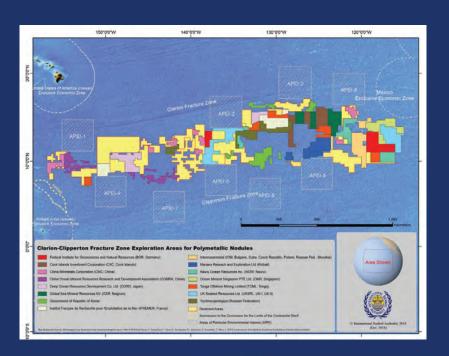
# Regional Environmental Management Plans (REMPs)

- Provides relevant organs of ISA, contractors and sponsoring states, with proactive measures and tools to support informed decision-making
- Established by a decision of the Council, on recommendations of the LTC



## **CCZ Environmental Management Plan**

- Adopted by Council in 2012
- Measures at different scales
- Network of 9 APEIs (~1.4 million sq. km<sup>2</sup>)



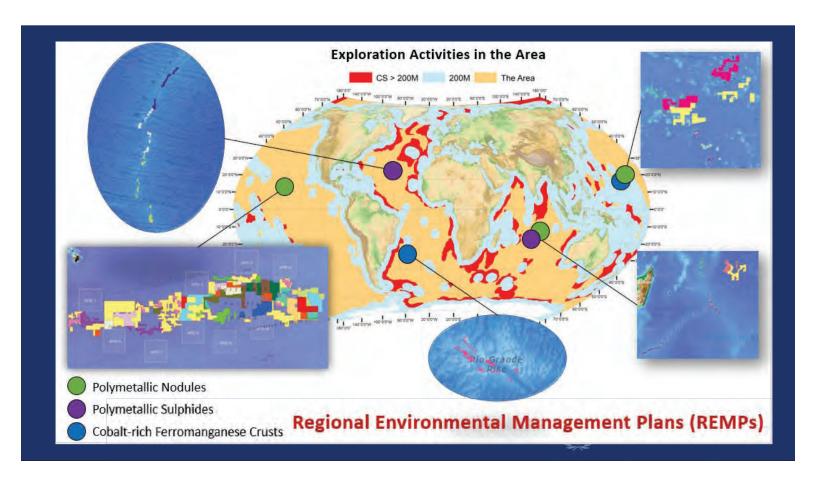


#### Review of the CCZ-EMP

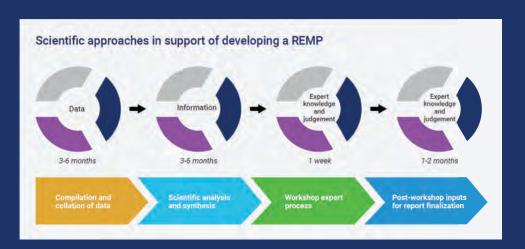
- Expert workshop in October 2019
- Scientific synthesis of patterns of biodiversity and ecosystem function across the CCZ
- Assessment of the representativity of APEI network



Friday Harbor, Washington, USA, 1-4 October 2019



Priority regions as	2019	2020	2021
identified in			
ISBA/25/C/13			
CCZ-EMP	Washington, USA,		
(Scientific review of	1-4 October		
APEI network)	(completed)		
Mid-Atlantic Ridge	Evora, Portugal, 25-29 November (completed)	Virtual workshop, 23 November to 4 December (completed)	
Indian Ocean triple			India
junction ridge			(Date: To be confirmed)
& nodule-bearing province			
North-west Pacific		Virtual workshop, 26 October to 6 November (completed)	
South Atlantic for			Venue/Date
seamounts			(To be confirmed)
			(focusing on capacity-
			building)













# **EIA** in ISA regulations

ISBA/19/C/17, ISBA/16/12/Rev. 1, ISBA/18/A/11

- Legal and Technical Commission: develop and implement procedures
- Contractors: gather environmental baseline data
- Contractors and sponsoring States: implementing programmes for environmental monitoring and evaluation







# Recommendations for the guidance of contractors (ISBA/25/LTC/6 Rev. 1)





Data collection, reporting and archival protocol



Cooperative research





Explanatory commentary (BAT and methodologies)



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# **Environmental Baseline Studies**

- Physical Oceanography
- Chemical Oceanography
- Geological properties
- Biological Communities
- Bioturbation
- Fluxes to the sediment
- Sediment oxygen consumption
- Food web structure

Marine mammals and other large vertebrates Bird aggregations

Pelagic and benthic boundary layer communities

Micro-, Meio-, Macro-, Megafauna Demersal scavangers

Resource-associated fauna

Habitats

Surface

Bottom topography
Depth

Seabed and sediment characteristics
Abundance and mineral type

 $\checkmark$  Robust sampling design

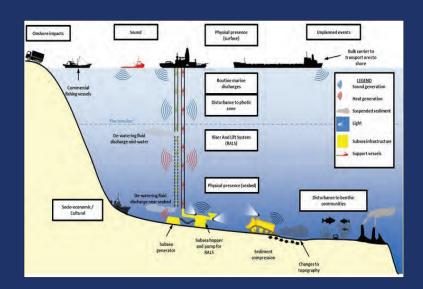
√ Standard methodologies

√ Statistical power

√ Spatial-temporal variation



# **EIA** during exploration

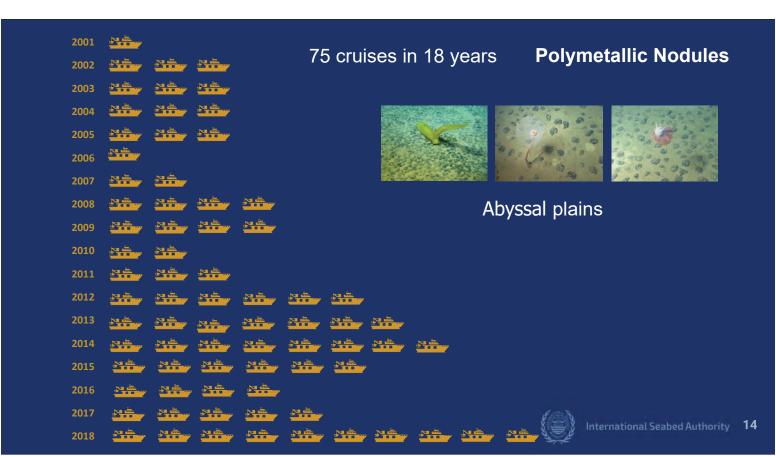


#### Activities requiring EIA

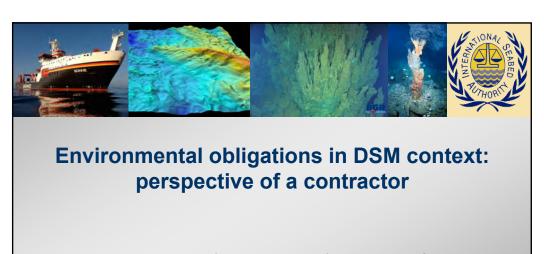
- Use of sediment disturbance systems that create artificial disturbances and plumes on the sea floor;
- Testing of mining components;
- Test-mining;
- Testing of discharge systems and equipment;
- Drilling activities using on-board drilling rigs;
- Sampling with epibenthic sled, dredge or trawl, or similar technique, in nodule fields, that exceeds 10,000 m2;
- Taking of large samples to test land base processes.



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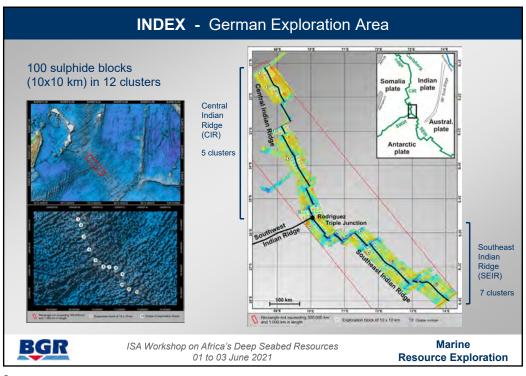


Thomas Kuhn<sup>1</sup>, Cornelia Kriete<sup>1</sup>, Terue Kihara<sup>2</sup>

<sup>1</sup> Federal Institute for Geosciences & Natural Resources (BGR), Hannover, Germany
<sup>2</sup> Integrated Environmental Solutions (INES) Wilhelmshaven, Germany



ISA Workshop on Africa's Deep Seabed Resources 01 to 03 June 2021 Marine Resource Exploration





**ISA Regulations** ISA Environmental requirements summarized and published in 2020: Marine Policy 30 pages The current status of environmental requirements for deep seabed mining 100 mandatory issued by the International Seabed Authority requirements Stefan Bräger<sup>a,\*</sup>, Gabriela Q. Romero Rodriguez<sup>b</sup>, Sandor Mulsow \* International Seabed Authority, 14-20 Part Royal Street, Khuguum, Jamaica <sup>10</sup> Unidad de Austus Ambientalia, Drobièri de Acateulusia, Sabservastia de Poice y Acateulusia, Chile 12 themes ARTICLE INFO Valid for PM Nodules - PM Sulfides - CR Crusts (partially different) Marine BGR ISA Workshop on Africa's Deep Seabed Resources 01 to 03 June 2021 **Resource Exploration** 

# During exploration: contractors are obligated to spend 50 % of time and expenditures for environmental studies → Environmental aspects Same weight as economic interest Results will be considered for exploitation regulations Historical chance for environmental regulations being available, BEFORE Mining starts! + chance for science: Obligation for 15 years ongoing environmental research in same area - for EACH license area!

01 to 03 June 2021

**Resource Exploration** 

**General Objective** 1. Abiotic: 2. Biotic: Physical **Biological** Chemical (Microbiological **Ecological**) Geological Requirements cover whole water column, benthic boundary layer, hydrothermal field, seafloor outside hydrothermal fields Marine BGR ISA Workshop on Africa's Deep Seabed Resources 01 to 03 June 2021 **Resource Exploration** 

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#### **General Objective**

Baseline studies: Identification and

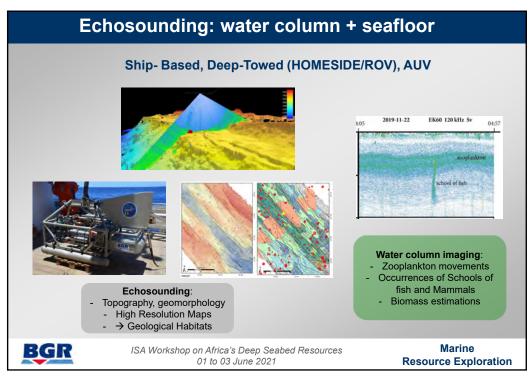
documentation of current status of environment

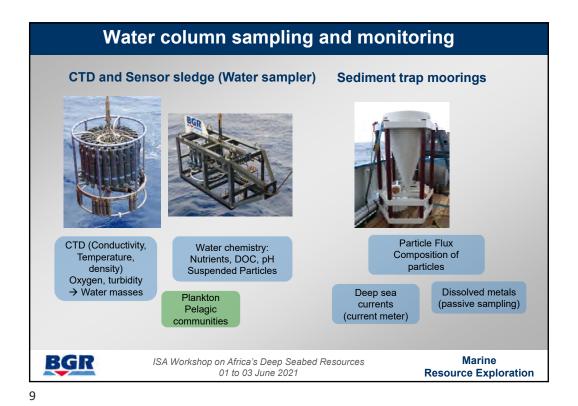
Monitoring during mining component tests:

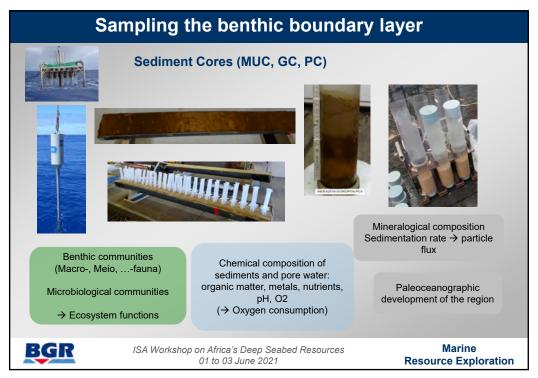
Assessment of impact of anthropogenic activities

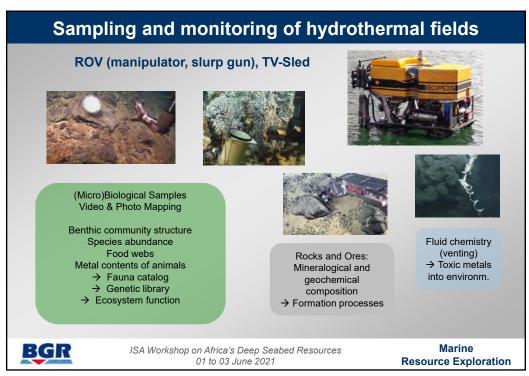
BGR

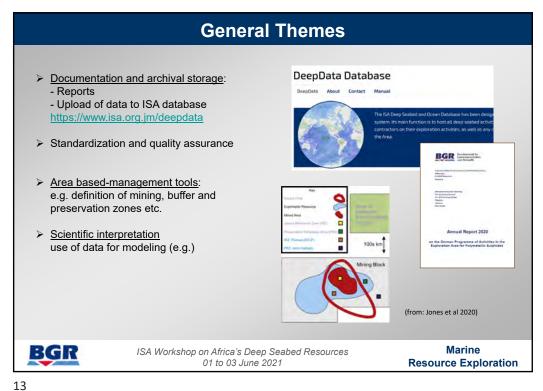
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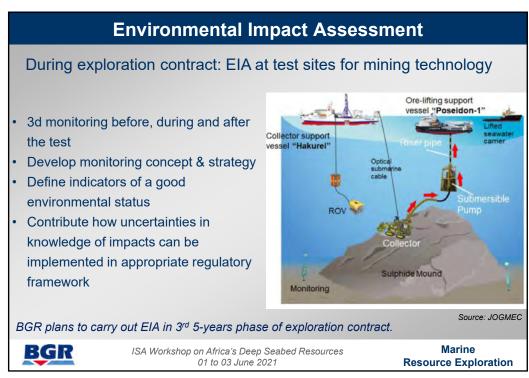














# AFRICA's DEEP-SEA RESOURCES Project

Workshop 1-3 June 2021

Legal regime governing the conduct of MSR in the AREA

Mr. Elie Jarmache

Legal and Technical Commission/ISA

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### Presentation

- Introducing MSR in UNCLOS
- MSR in Part XI
- Stakeholders and MSR in the Area
- Some lessons to conclude...

#### MSR in UNCLOS

- MSR key element in the new Order for oceans
- > P. XIII both Governance and Rules
- ➤ Governance: Principles in article 240
- ✓ Peaceful purposes and appropriate means
- ✓ No interference with other activities
- ✓ MSR respecting marine environment

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# MSR in UNCLOS (ctd)

- Rules: the « summa divisio » in LOS:
- √ within NJ or beyond NJ depending of the maritime spaces,
- ✓ Consent regime or Freedom of the MSR.
- MSR in the AREA is the second branch (256) although the word « freedom » is not used
- ✓ « All States, competent IO have the right to conduct MSR in the Area » (reference P.XI)

# Part. XI and MSR regime

- One single article 143 as a basis for MSR/Area
- Two main stakeholders are mentionned:
- Art.143,2: the ISA to know more about the marine environment and the resources (note resources not qualified mineral),
- ➤ ISA may enter into contracts
- ➤ Important role in coordination, disseminating the results

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# P. XI and MSR regime (ctd)

- ➤ Art. 143,3: States Parties (note the drafting is different from 256 « all States »),
- ➤ Very ambitious and precise tasks for S.Parties:
- ✓ Participating in international programmes,
- ✓ Programmes (through ISA) for the benefit of of developing States (strenghtening their research capabilities as well the ISA personal)
- ✓ Idea linked with Training or Capacity Building

### Some lessons

- Same weakness: the lack of MSR definition,
- Do we have any experience: does the Legal Regime in the Area be implemented?
- MSR, specific activity not covered by art. 157:
- « ISA shall organize and control activities in the Area, particularly administering the resources »
- What about conflict of activities?
- « Glass half empty? »



# WORKSHOP FOR THE PROMOTION OF SUSTAINABLE DEVELOPMENT OF AFRICA'S DEEP SEABED RESOURCES IN SUPPORT TO AFRICA'S BLUE ECONOMY, VIRTUAL SESSION, PORT LOUIS-KINGSTON-YAOUNDE, 1-3 June 2021

**SESSION VI:** Management and dissemination of geological, mineral and environmental information



Theme 2: Geological, mineral and environmental data as a critical tool to inform decision-making processes, investments and governance of mineral activities in the Area



Ву







Former Director in charge of mining exploration in Cameroon's Ministry of mines





#### **OBJECTIVES:**

- Clarify key concepts and definitions related to the management of geoscientific, mining and environmental data;
- State the legal basis for the management of geo-scientific, mining and environmental data as a constraint on mining activities in the Area;



Identify the role of key tool for decision-making for investment and governance of mining activities in the Area;



Make a link with Africa's blue economy & geo-scientific, mining & environmental knowledge management of the Area;



Explore some routes for the active participation of African States Parties.

# CONTENT



- DEFINITIONS OF KEY CONCEPTS & TERMS
- LEGAL FOUNDATIONS GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AS A CONSTRAINST OF MINING ACTIVITIES IN THE AREA
- GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A USEFULL TOOL IN MAKING DECISION IN MINING ACTIVITIES INVESTMENT IN THE AREA



- GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A KEY TOOL FOR A GOOD GOVERNANCE OF THE MINING ACTIVITIES IN THE AREA
- Norad

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GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AND THE RELATIONSHIP WITH THE AFRICA'S BLUE ECONOMY



**CONCLUSIONS & RECOMMANDATIONS** 

# CONTENT



- **DEFINITIONS OF KEY CONCEPTS & TERMS**
- LEGAL FOUNDATIONS GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AS A CONSTRAINST OF MINING ACTIVITIES IN THE AREA
- GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A USEFULL TOOL IN MAKING DECISION IN MINING ACTIVITIES INVESTMENT IN THE AREA



- GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A KEY TOOL FOR A GOOD GOVERNANCE OF THE MINING ACTIVITIES IN THE AREA
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- GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AND THE RELATIONSHIP WITH THE AFRICA'S BLUE ECONOMY



CONCLUSIONS & RECOMMANDATIONS

### **DEFINITIONS OF KEY CONCEPTS & TERMS**



#### **□** INTRODUCTION

- The discovery of mineral indices & deposits is tailored by geoscientific data as well as the environmental and mining data are playing a key role in the development of a mineral resource deposit.
- The access to existing data sets by investors is a very important for the risk assessment and reduction during prospecting/exploration and exploitation phases, which incorporate high risk in a long term view.



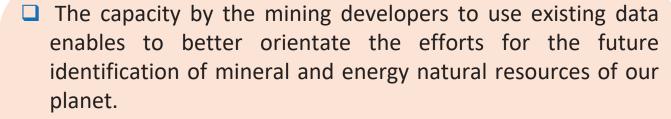




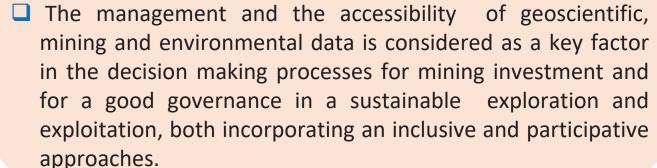
# **DEFINITIONS OF KEY CONCEPTS & TERMS (cont'd)**

### ☐ INTRODUCTION (Cont'd)















- **☐** INTRODUCTION (End)
- ☐ The geoscientific, mining and environmental data support:
  - The effective discovery of a new generation of vast low-cost mineral and energy resources and their optimal development and sustainable exploitation;
  - o Infrastructure development and spatial planning on the continent and the delimitation and sustainable use of maritime spaces and corridors:
  - Sustainable and efficient management and conservation of continental and marine ecosystems.









# **DEFINITIONS OF KEY CONCEPTS & TERMS (cont'd)**



- ☐ THE CONCEPT OF DATA MANAGEMENT & ACCESSIBILITY

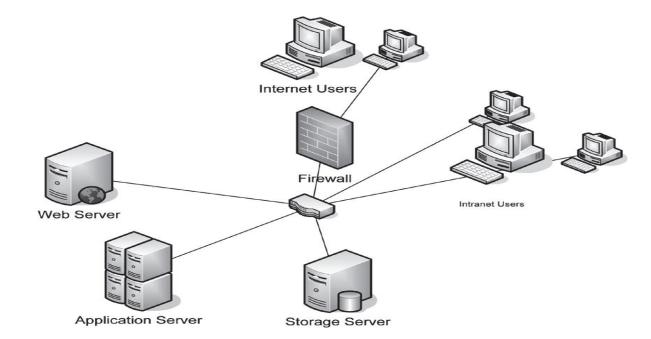




1. Data management and dissemination is the set of mechanisms implemented to process, model, interpret, store and make data accessible in variable standards and normative formats with the use of various data access codes nomenclatures.



#### ☐ THE CONCEPT OF DATA MANAGEMENT & ACCESSIBILITY





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# **DEFINITIONS OF KEY CONCEPTS & TERMS (cont'd)**



THE CONCEPT OF GEOSCIENTIFIC, MINING AND ENVIRONMENTAL DATA MANAGEMENT & DISSEMINATION



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2. The management and dissemination of geoscientific, mining and environmental data is the set of technological means implemented to process, model, interpret, store and make these data from ground, sea or airborne surveys or field surveys, accessible in standard and standardized variable formats (maps, 2D or 3D digital models, photographic and / or statistical representations) with various access codes.



#### **DEFINITIONS OF SOME KEY TERMS**







**3. Geoscientific data:** They constitute the body of knowledge contained within the geoscience infrastructure, which includes geological, geophysical, topographic and bathymetric maps and associated databases. They present fundamental geoscience information for the extractive sector and related activities such as water and environmental resource management, land and marine use, geohazard management and infrastructure works.

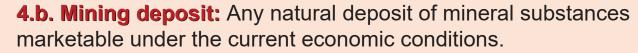
# **DEFINITIONS OF KEY CONCEPTS & TERMS (cont'd)**



#### □ DEFINITIONS OF SOME KEY TERMS

**4.a. Mining data:** They are composed of all the knowledge relating to the structure of a mineral deposit including the physical parameters of the ore such as its geometry of distribution, its content, its volume or tonnage, the density of the mineral (or minerals) with commercial value, the mine life and the mine planning, etc.







**4.c. Mineral deposit:** A concentration of mineral substances within a specific area of the earth's crust (continental or marine).





#### **□** DEFINITIONS OF SOME KEY TERMS







**5. Environmental data:** It is the set of environmental knowledge including the data relating to the behaviour of the continental and marine ecosystems with their fauna and flora vis-à-vis the impacts resulting from the mining activities, including the battery of measures of mitigation and management to take during the implementation of the mining project to avoid, reduce, mitigate or offset negative environmental and social impacts.

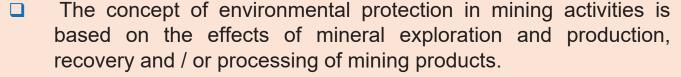
# **DEFINITIONS OF KEY CONCEPTS & TERMS (cont'd)**



#### □ DEFINITIONS OF SOME KEY TERMS

### 6. Protection of the environment in mining activities:







This activity which induced effects and impacts on the physical environment (including fauna and flora) and human, requires a response from the point of view of prevention, mitigation and remediation of the different environmental, physical and social impacts that can occur.





#### □ DEFINITIONS OF SOME KEY TERMS

#### 6. Protection of the environment in mining activities (end):









7. Good governance in mining activities consists of achieving these activities in an optimal and sustainable manner, i.e so as to be economically profitable, ecologically acceptable, inclusive and participatory of all stakeholders involved or impacted by these activities including those related to.

# **DEFINITIONS OF KEY CONCEPTS & TERMS (cont'd)**



#### □ DEFINITIONS OF SOME KEY TERMS

**8. The Area:** It is the seabed and their subsoil beyond the limits of national jurisdiction. It is rich in mineral resources such as polymetallic nodules, polymetallic sulphides and cobalt-rich ferromanganese crusts.



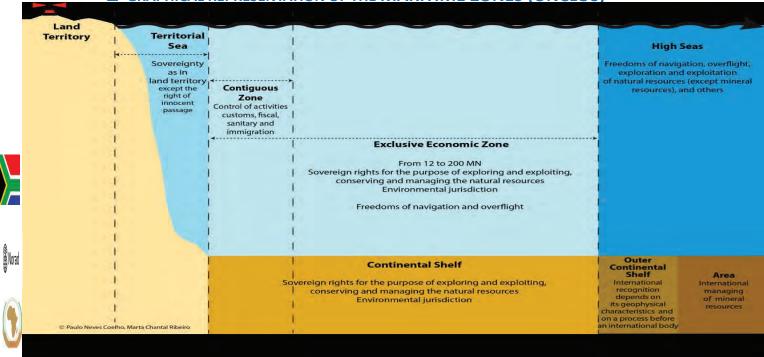




□ The Convention divides the ocean into six major maritime areas. Four of these areas are under the jurisdiction of the coastal State: the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf. The other two correspond to maritime areas beyond national jurisdictions: the high seas and the seabed area beyond the continental shelf, called the « Area ».



☐ GRAPHICAL REPRESENTATION OF THE MARITIME ZONES (UNCLOS)



# **DEFINITIONS OF KEY CONCEPTS & TERMS (cont'd)**



#### □ DEFINITIONS OF SOME KEY TERMS: MINERAL TYPES IN THE AREA

**9. Polymetallic nodules(PMN):** It is any deposit or agglomerate of nodules, located on the surface of the deep seabed or just below it, which contains manganese, nickel, cobalt and copper.



PMN





PMS

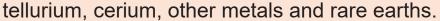


**10. Polymetallic sulphides(PMS):** It is deposit of sulphide minerals of hydrothermal origin and associated mineral resources containing concentration of metals such as copper, lead, zinc, gold and silver.



#### □ DEFINITIONS OF SOME KEY TERMS: MINERAL TYPES IN THE AREA (end)

11. Cobalt-rich ferromanganese crust: These are deposits of oxides and hydroxides of ferromanganese crust enriched with minerals, formed by direct precipitation of seawater minerals on solid substrates containing significant amounts of cobalt, titanium, nickel, platinum, molybdenum,









All geoscientific, mining and environmental knowledge related to mining activities (prospecting, exploration and mining) in the Area, is the key in making investment decisions and governance of mining activities in the said marine area.

# CONTENT



**DEFINITIONS OF KEY CONCEPTS & TERMS** 















**CONCLUSIONS & RECOMMANDATIONS** 

# LEGAL FOUNDATIONS OF GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AS A CONSTRAINST FOR MINING ACTIVITIES IN THE AREA

- The letter and spirit of the United Nations Convention on the Law of the Sea (UNCLOS) in general, encourages the collection of data relating to the improvement of geoscientific (geological, geophysical, bathymetric, etc.), mining and environmental of the Area, whose resources are considered as the Common Heritage of Human Kind (CHHK).



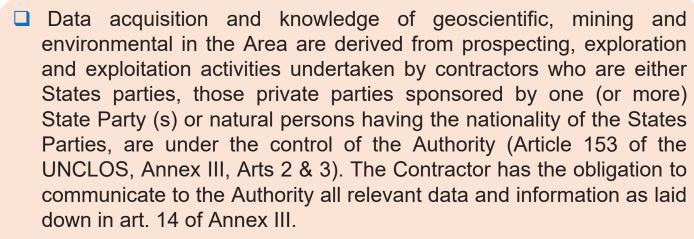




In Part XI, the collection and management of the three types of data and knowledge derived from them constitutes the binding basis for all mining activities in the Area, from prospecting, exploration to exploitation stage for the three classes of mineral resources identified on the seabed. The Authority (ISA) has all the administration rights over the resources of the Area (art.137, par.3 of UNCLOS).

# LEGAL FOUNDATIONS OF GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AS A CONSTRAINST FOR MINING ACTIVITIES IN THE AREA(cont'd)







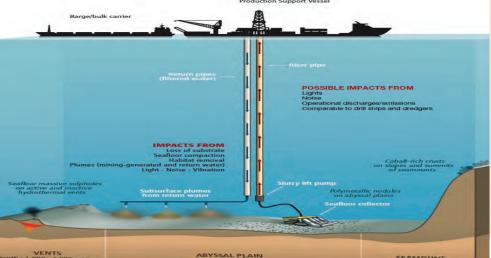


■ In addition, the Authority is authorized to carry out marine scientific research on the Area or may enter into contracts for this purpose (Article 143 UNCLOS).

# LEGAL FOUNDATIONS OF GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AS A CONSTRAINST FOR MINING ACTIVITIES IN THE AREA (cont'd)



The Authority coordinates the management and dissemination of the results and analyses of marine scientific research when they are available (art.143, par.2 of UNCLOS)





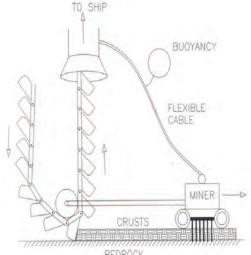


# LEGAL FOUNDATIONS OF GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AS A CONSTRAINST FOR MINING ACTIVITIES IN THE AREA (ctd)

☐ GEOSCIENTIFIC DATA & KNOWLEDGE (GEOLOGICAL, GEOPHYSICAL, BATHYMETRIC, ETC.)



■ The Contractor must first provide the Authority with a request for approval of a work plan of knowledge and information (in the form of maps) relating to the physical and geoscientific characteristics such as geographical coordinates, the topography of the seabed, the bathymetry and bottom currents, geological description of facies, etc. (ISBA / 19 / C / 17, Annex II, sec.II, para.19 a).



Combined continuous line and hydraulic system (Cheung, 1994, Mavistra, 2000)



#### LEGAL FOUNDATIONS OF GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AS A CONSTRAINST FOR MINING ACTIVITIES IN THE AREA (cont'd)



#### □ DATA AND MINING KNOWLEDGE

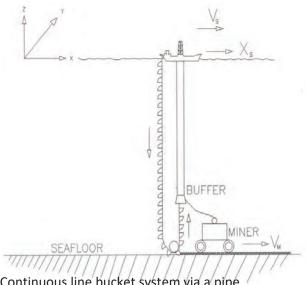








The Contractor must first provide the Authority with a request for approval of a work plan with knowledge and information on the average density of minerals of interest, economic composition including their content (ISBA / 19 / C / 17, Appendix II, sec.II, para.19 a).

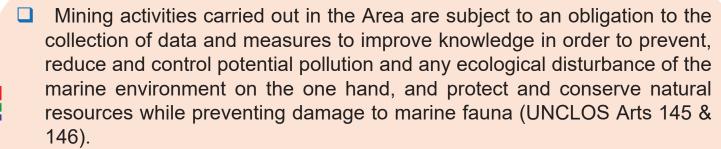


Continuous line bucket system via a pipe (Cheung, 1994, Mavistra, 2000)

#### **LEGAL FOUNDATIONS OF GEOLOGICAL, MINING & ENVIRONMENTAL** DATA MANAGEMENT AS A CONSTRAINST FOR MINING ACTIVITIES IN THE AREA (cont'd)



#### ENVIRONMENTAL DATA & KNOWLEDGE







☐ The Contractor must provide to the Authority prior to the approval of a plan of work, the knowledge and information relating to the environment (speed & direction of winds, salinity & water temperature, biogenesis (ISBA / 19 / C / 17, Annex II, sec.II, para.19 (b)) and shall take necessary measures to monitor the environment and report annually to the SG (ISBA / 19 / C / 17. Annex IV. art.5 ).



#### **LEGAL FOUNDATIONS OF GEOLOGICAL, MINING & ENVIRONMENTAL** DATA MANAGEMENT AS A CONSTRAINST FOR MINING ACTIVITIES IN THE AREA (end)



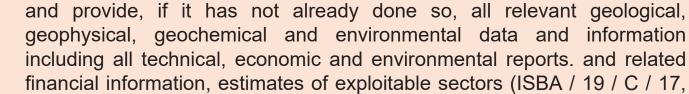
#### **□** ANNUAL REPORT OBLIGATIONS



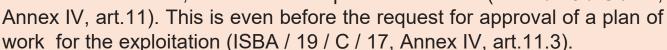
The Contractor is required to submit an annual report no later than 90 days after the end of each calendar year to the SG, including all relevant geological, mining and environmental data and information from its space activities, in accordance with the relevant contractual clauses (ISBA / 19 / C / 17, Annex IV, Article 10).

☐ The Contractor shall, upon the expiry or termination of a contract, submit











# CONTENT



**DEFINITIONS OF KEY CONCEPTS & TERMS** 



LEGAL FOUNDATIONS GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AS A CONSTRAINST OF MINING ACTIVITIES IN THE AREA



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GEOLOGICAL. MINING & ENVIRONMENTAL DATA & INFORMATIONS: A USEFULL TOOL IN DECISION MAKING PROCESSES IN MINING ACTIVITIES INVESTMENT IN THE AREA



GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A KEY TOOL FOR A GOOD GOVERNANCE OF THE MINING ACTIVITIES IN THE AREA

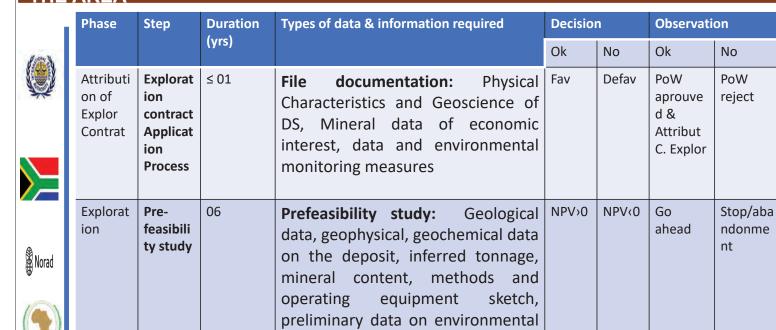


GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AND THE RELATIONSHIP WITH THE AFRICA'S BLUE ECONOMY



**CONCLUSIONS & RECOMMANDATIONS** 

# GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A USEFULL TOOL IN DECISION MAKING PROCESSES IN MINING ACTIVITIES INVESTMENT IN THE AREA



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# GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A USEFULL TOOL IN DECISION MAKING PROCESSES IN MINING ACTIVITIES INVESTMENT IN THE AREA

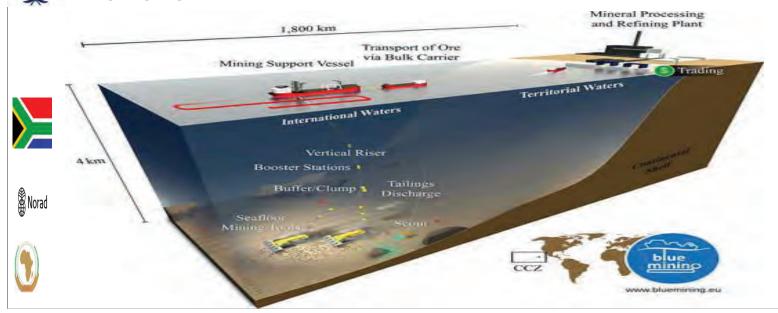
	Phase	Step	Dura tion (yrs)	Types of data & information required	Decision		Observation	
***					Ok	No	Ok	No
<u>}</u>	Explorati on (End)	Feasibili ty study	04	Feasibility study: Refinement of geological, geophysical, geochemical data and information on the deposit, determination of probable and proven mineral reserves, mineral content, determination of mining and mineral processing methods and equipment, determination of impacts and completion of EIA and proposal for environmental protection measures.	NPV>0	NPV<0	Go ahead for invest ment	Stop /abandon ment
Norad	Exploitat ion	Investm ent	03	Investment: Order & purchase of production and processing equipments, refinement of information on the effects of these equipments on marine ecosystems, refinement of the impact management plan, setting up equipment and production tests.	Complies with the environm ental requirem ents	Impro per	Go ahead	Recalibrati on of equipment to comply

# GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A USEFULL TOOL IN DECISION MAKING PROCESSES IN MINING ACTIVITIES INVESTMENT IN THE AREA

	Exploita tion (end)	Step	Dura tion (yrs)	Types of data& information required	Decision		Observation	
Jan X					Ok	No	Ok	No
Norad		Produc tion	≥20	Update of geoscientific, mining & environmental information: Monitoring and evaluation of the production plan, Monitoring and evaluation of the implementation of the measures to protect the marine environment and the management of environmental impacts, evaluation of compliance with the requirements of production plans, protection of the marine environment and environmental impact management.	Complia nt	Not compli ant	Producti on continue	Stop & remediat ion
		Closure & remedi ation	≤05?	<b>Update of environmental information:</b> Monitoring and evaluation of closure and dismantling, monitoring and evaluation of the behaviour of the marine environment.	Meets environ mental requirem ents?	Not compli ant?	Environ ment preserve d?	?

# GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A USEFULL TOOL IN DECISION MAKING PROCESSES IN MINING ACTIVITIES INVESTMENT IN THE AREA

#### PLACE OF GEOSCIENTIFIC & MINING KNOWLEDGE IN THE INVESTMENT DECISION CHAIN



# CONTENT



- DEFINITIONS OF KEY CONCEPTS & TERMS
- LEGAL FOUNDATIONS GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AS A CONSTRAINST OF MINING ACTIVITIES IN THE AREA
- GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A USEFULL TOOL IN DECISION MAKING PROCESSES IN MINING ACTIVITIES INVESTMENT IN THE AREA



- GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A KEY TOOL FOR A GOOD GOVERNANCE OF THE MINING ACTIVITIES IN THE AREA
- Norad
- GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AND THE RELATIONSHIP WITH THE AFRICA'S BLUE ECONOMY



**CONCLUSIONS & RECOMMANDATIONS** 

# GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A KEY TOOL FOR A GOOD GOVERNANCE OF THE MINING ACTIVITIES IN THE AREA



Good governance of mining activities implies sustainable, optimal management of mineral resources through an inclusive and participatory process of all the stakeholders of the CHM.



It is the responsibility of the Contractor under the supervision of the Authority, on the basis of geoscientific, mining and environmental data, knowledge and information, to proceed to: (1) the reservation of sectors, (2) the definition of reference for the conservation of marine ecosystems and reserved areas (Annex 3, art.8 of UNCLOS), (3) the inventory of data and information to be provided for the protection of the environment by the Contractor (ISBA / 19 / C / 17, arts.18b, c & d, 31).



□ In order to effectively protect the marine environment, the Authority and the sponsoring States apply the precautionary principle of Principle 15 of the Rio Declaration and the Best Environmental Practices (ISBA / 16 / A / 12 / Rev.1) by carrying up evaluations.



# GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A KEY TOOL FOR A GOOD GOVERNANCE OF THE MINING ACTIVITIES IN THE AREA



Good governance of mining activities implies sustainable, optimal management of mineral resources through an inclusive and participatory process of all the stakeholders of the CHM (end).

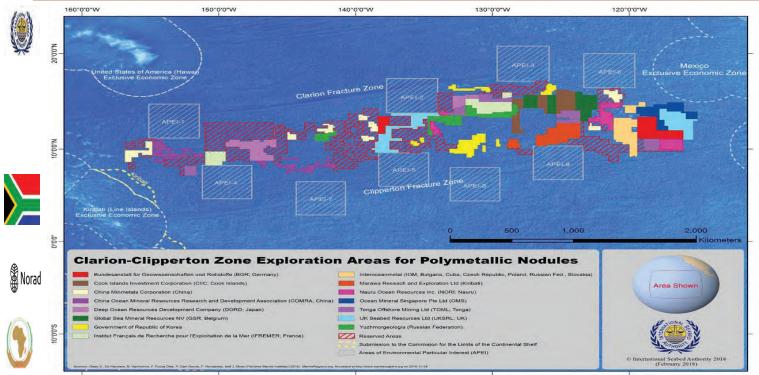




■ Recommendation ISBA / 19 / LTC / 8 sets guidelines for the assessment of potential environmental impacts related to the exploration of marine minerals in the Area, while ISBA / 21 / LTC / 15, Annex V sets ISA standards for reporting on mineral exploration assessments, mineral resources and mineral reserves.



# GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A KEY TOOL FOR A GOOD GOVERNANCE OF THE MINING ACTIVITIES IN THE AREA



# CONTENT



- DEFINITIONS OF KEY CONCEPTS & TERMS
- LEGAL FOUNDATIONS GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AS A CONSTRAINST OF MINING ACTIVITIES IN THE AREA
- GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A USEFULL TOOL IN DECISION MAKING PROCESSES IN MINING ACTIVITIES INVESTMENT IN THE AREA



- GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A KEY TOOL FOR A GOOD GOVERNANCE OF THE MINING ACTIVITIES IN THE AREA
- V
- GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AND THE RELATIONSHIP WITH THE AFRICA'S BLUE ECONOMY



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**CONCLUSIONS & RECOMMANDATIONS** 

# GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AND THE RELATIONSHIP WITH THE AFRICA'S BLUE ECONOMY



□ Africa's blue economy is made up of resources contained in mainland rivers and lakes, groundwater, oceans and seas. Several states have initiated its implementation at the national level by its inclusion in the national strategic development plans (exple: Côte d'Ivoire, Mauritius, Comoros, etc.)



Norad



□ A large number of African states (46) are UNCLOS State Parties, which means that, they have the right to actively participate in the collection and management of geoscientific, mining and environmental data and information in the Area, within the framework of UNCLOS, in order to implement at the national or regional level their blue economy policy.

# GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AND THE RELATIONSHIP WITH THE AFRICA'S BLUE ECONOMY (end)



It is imperative to create at the level of the African States the interest relating to the collection of geoscientific, mining and environmental data and information by pooling efforts for their participation in the activities carried out in the Area, in accordance with the provisions of Article 148 of UNCLOS, because who holds such data even being preliminary information, can easily play the role of the sponsoring State for exploration and exploitation activities, in view of the fact that they constitute an essential element in the decision making process for investment in exploration activities, prior to the exploitation of deposits discovered







# CONTENT



DEFINITIONS OF KEY CONCEPTS & TERMS



LEGAL FOUNDATIONS GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AS A CONSTRAINST OF MINING ACTIVITIES IN THE AREA



GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A USEFULL TOOL IN DECISION MAKING PROCESSES IN MINING ACTIVITIES INVESTMENT IN THE AREA



IV )

GEOLOGICAL, MINING & ENVIRONMENTAL DATA & INFORMATIONS: A KEY TOOL FOR A GOOD GOVERNANCE OF THE MINING ACTIVITIES IN THE AREA





GEOLOGICAL, MINING & ENVIRONMENTAL DATA MANAGEMENT AND THE RELATIONSHIP WITH THE AFRICA'S BLUE ECONOMY



VI

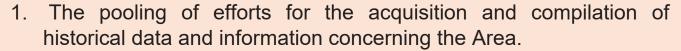
CONCLUSIONS & RECOMMANDATIONS

#### **CONCLUSIONS & RECOMMANDATIONS**



Geoscientific, mining and environmental data & information constitute a key tool for a sustainable management and implementation of good governance in the Area's mining activities. In that vein it becomes urgent for Africa's States for their active participation in that movement to set up:





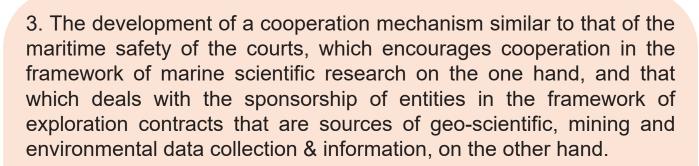




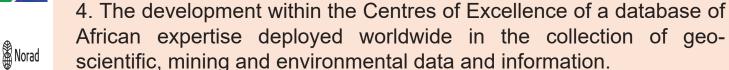
The development of legal instruments to incentive frameworks at the national and sub-regional level, in order to make them being capable to stimulate private investment in data collection and the establishment of mineral resource database systems, not only on the continental shelf (CS) but also beyond the CS.

#### **CONCLUSIONS & RECOMMANDATIONS**













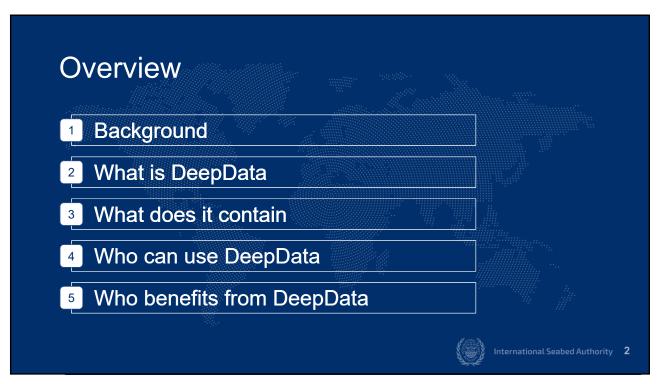












# Background

- ISA administers the mineral resources
- Control and organize current & future exploration activities
- Under Article 143, Par 2 of UNCLOS, ISA required to promote and encourage MSR
- ISA SD 4.3 Share data in an open and transparent manner
- ISA SD 4.4 Promote access to non-confidential information & data



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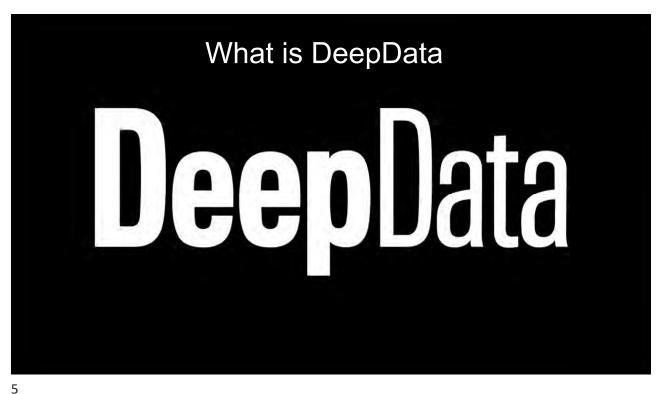


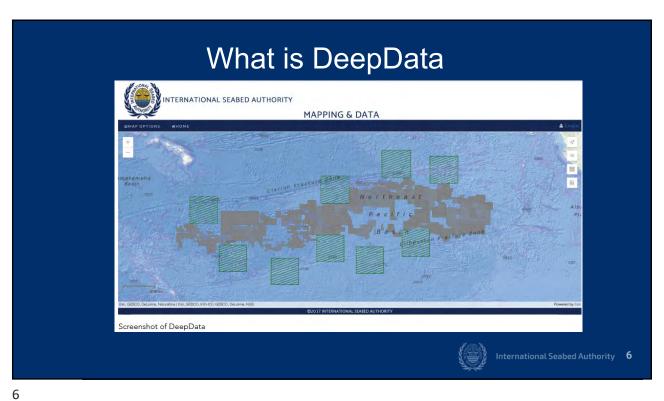
# History

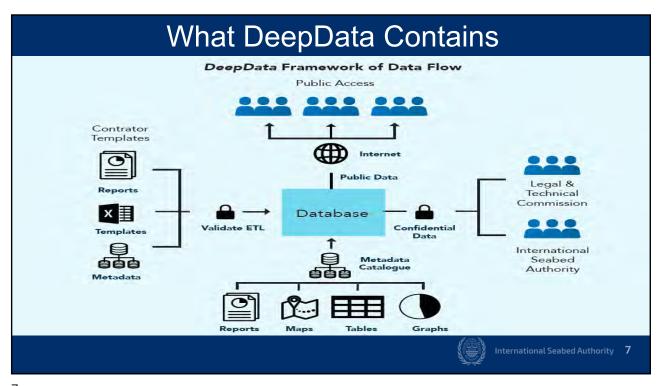
- Database started as POLYDAT
- Evolved to become CDR in 2003
- DeepData born from LTC Data Management Strategy request in 2015
- ISA **Deep** Seabed and Ocean **Data**base (DeepData was launched during 25th Session of ISA

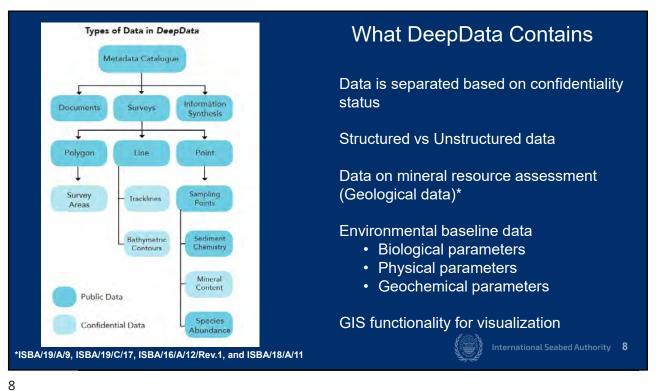


64









### Users of DeepData



**Contractors** - Submit data, annual reports, and supplementary information

LTC members - Review contractor's performance through the review of annual reports, including digital data submission

**Secretariat** - Manage incoming data, and ensure overall maintenance of *DeepData* 

**Public (including scientists)** - Access /download data relating to marine environment of the Area; analyze and synthesize data and produce various forms of data products



9

### Benefits of DeepData for Users

- · Promote scientific knowledge for mankind
- Ensure regulation of prospecting, exploration and exploitation of deep-seabed mineral resources
- · Aid in the protection of the marine environment
- · Aid in the evaluation of applications
- · Enable data gap analysis to guide contractors
- · Assess changes in the marine environment
- · Increase knowledge in MSR for the scientific community and general public



10

