



SENSITIZATION SEMINAR ON THE WORK OF THE INTERNATIONAL SEABED AUTHORITY



Baidy Diene

Deputy Secretary –General

of The Senegal / Guinee Bissau Management and
Cooperation Agency

“The role of the Enterprise as a mechanism for the participation of developing States in the activities in the Area, and the possible benefits to be derived from developing states sponsorship of exploration.”

A-/Entreprise

- Arm of the Authority,
- Paralele system,
- Mechanism for a participationin of developing States in the activitie in the Area.

B-/Possibles benefits to derived from developing states sponsoringship of exploration.

RESSOURCES OF THE AREA

- (a) "resources" means all solid, liquid or gaseous mineral resources *in situ* in the Area at or beneath the seabed, including polymetallic nodules;
- (b) resources, when recovered from the Area, are referred to as "minerals".
- MANGANESE NODULES
- COBALT-RICH FERROMANGANESE CRUST
- POLYMETALIC SULFIDES

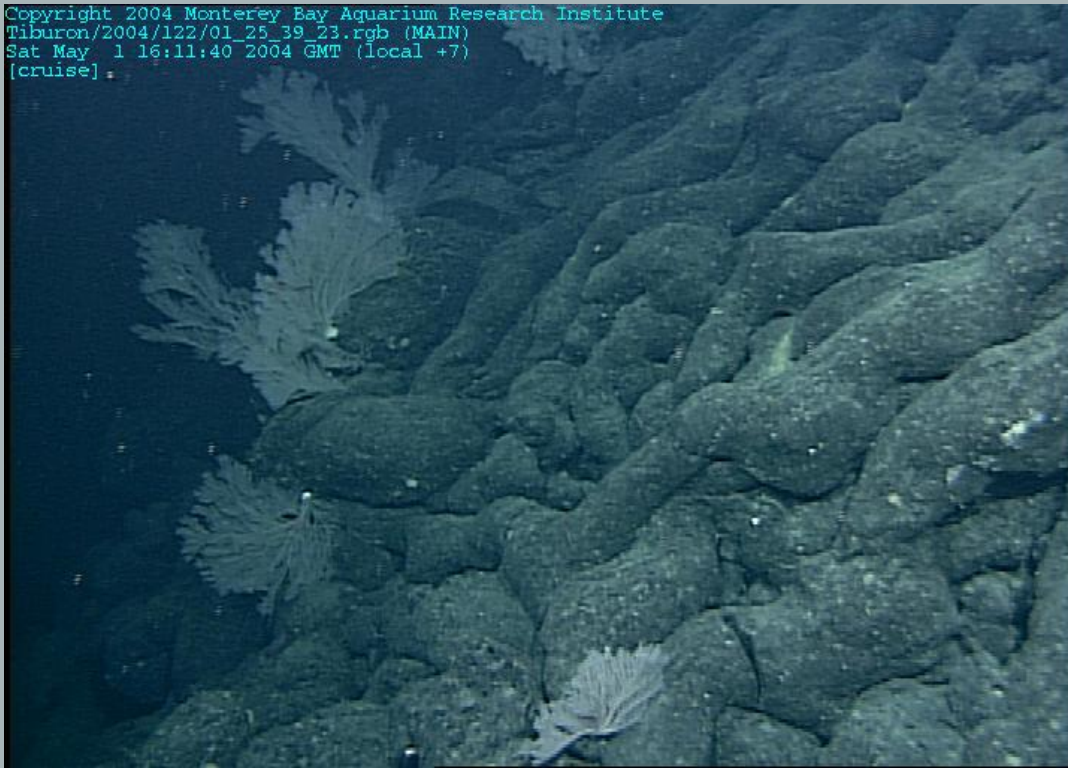






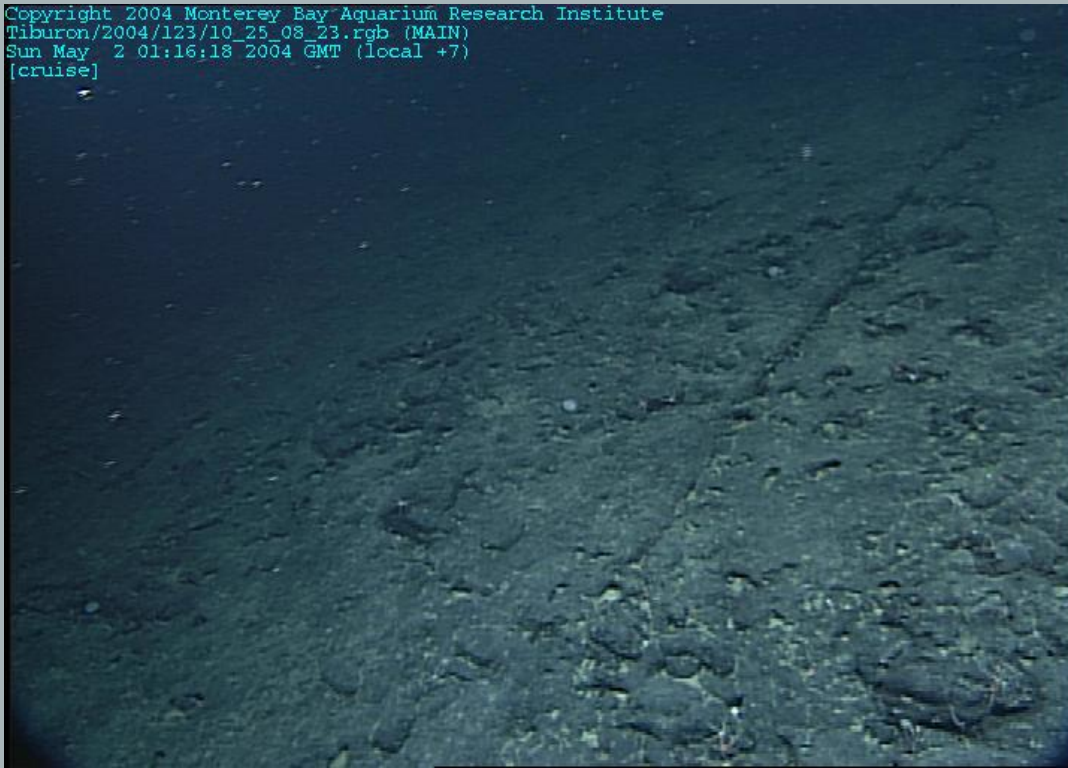
Example of rough seabed with crusts

Copyright 2004 Monterey Bay Aquarium Research Institute
Tiburon/2004/122/01_25_39_23.rgb (MAIN)
Sat May 1 16:11:40 2004 GMT (local +7)
[cruise]

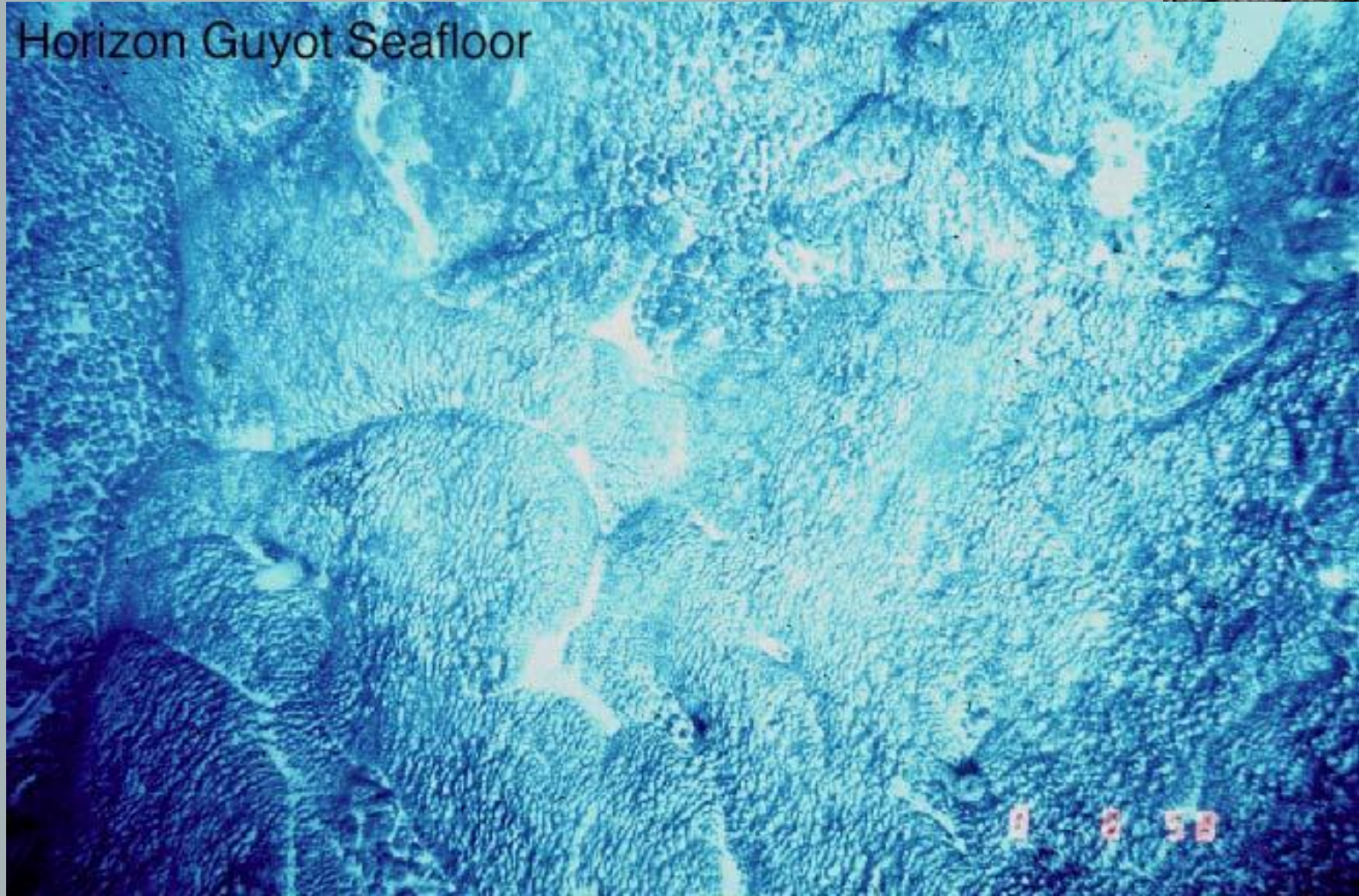


Example of smooth seabed with crust pavement

Copyright 2004 Monterey Bay Aquarium Research Institute
Tiburon/2004/123/10_25_08_23.rgb (MAIN)
Sun May 2 01:16:18 2004 GMT (local +7)
[cruise]

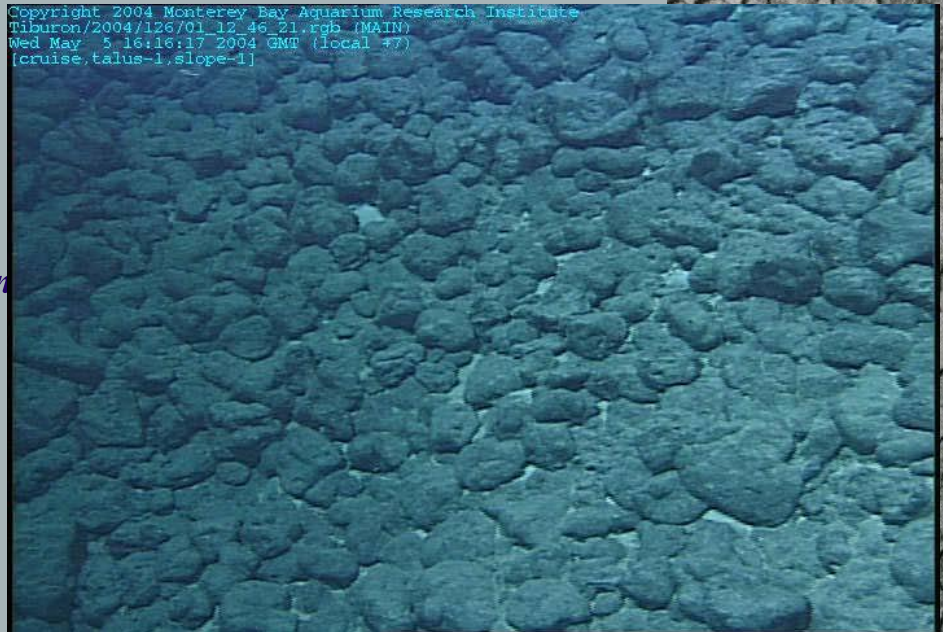


Horizon Guyot Seafloor



Global Tonnage and Area of Ferromanganese Crusts

- ✦ *Area of seafloor with crusts: 6.35 million km²*
- ✦ *Total dry bulk mass of crusts: 200 billion tonnes (2×10^{11} tonnes)*
- ✦ *Total amount of cobalt metal: 1 billion (10^9) tonnes*











ENTREPRISE

ENTREPRISE IS A KEY ELEMENT OF THE
PARALLEL SYSTEM FOR THE DISTRIBUTION OF
THE COMMON HERITAGE OF MANKIND
WITH POLICY OF A THE RESERVED AREA SYSTEM
IN THE AREA

THE ENTREPRISE IS THE OPERATIONNAL ARM
OF THE AUTHORITY

1. **The Enterprise shall be the organ** of the Authority which shall **carry out activities in the Area directly**, pursuant to article 153, paragraph 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, paragraph 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**.

ENTREPRISE

In the principle the ENTREPRISE is like any commercial
entity

BOARD OF DIRECTORS

GENERAL MANAGER

STAFF

FUNDS/FINANCES

ACTIVITIES /OPERATIONS/PROFITS

ENTREPRISE

ACCORDING TO THE AGREEMENT

1. 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.

(a) **Monitoring** and review of trends and developments relating to deep seabed mining activities, including regular analysis of world metal market conditions and metal prices, trends and prospects;

(b) **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;

- (c) **Assessment** of available data relating to prospecting and exploration, including the criteria for such activities;
- (d) **Assessment** of technological developments relevant to activities in the Area, in particular technology relating to the protection and preservation of the marine environment;
- (e) **Evaluation** of information and data relating to areas reserved for the Authority;

(f) **Assessment** of approaches to joint-venture operations;

(g) **Collection** of information on the availability of trained manpower;

(h) **Study** of managerial policy options for the administration of the Enterprise at different stages of its operations.

The Enterprise shall conduct its initial deep seabed mining operations through joint ventures. Upon the approval of a plan of work for exploitation for an entity other than the Enterprise, or upon receipt by the Council of an application for a joint-3. The obligation of States Parties to fund one mine site of the Enterprise as provided for in Annex IV, article 11, paragraph 3, of the Convention shall not apply and States Parties shall be under no obligation to finance any of the operations in any mine site of the Enterprise or under its joint-venture arrangements.

Article 153

System of exploration and exploitation

1. Activities in the Area **shall be organized, carried out and controlled by the Authority on behalf of mankind as a whole in accordance with this article as well as other relevant provisions of this Part and the relevant Annexes, and the rules, regulations and procedures of the Authority.**

2. Activities in the Area shall be carried out as prescribed in paragraph 3:

(a) by the Enterprise, and

(b) in association with the Authority by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, when sponsored by such States, or any group of the foregoing which meets the requirements provided in this Part and in Annex III.

rticle 9 Activities in reserved areas

1. The Enterprise shall be given an opportunity to decide whether it intends to carry out activities in each reserved area. This decision may be taken at any time, unless a notification pursuant to paragraph 4 is received by the Authority, in which event the Enterprise shall take its decision within a reasonable time. The Enterprise may decide to exploit such areas in joint ventures with the interested State or entity.
2. The Enterprise **may conclude contracts for the execution** of part of its activities in accordance with Annex IV, article 12. **It may also enter into joint ventures for the conduct of such activities with any entities which are eligible to carry out activities in the Area pursuant to article 153, paragraph 2(b).** When considering such joint ventures, **the Enterprise shall offer to States Parties which are developing States and their nationals the opportunity of effective** participation.

4. Any State Party which is a developing State or any natural or juridical person sponsored by it and effectively controlled by it or by other developing State which is a qualified applicant, or any group of the foregoing, may notify the Authority that it wishes **to submit a plan of work pursuant to article 6 of this Annex with respect to a reserved area**. The plan of work shall be considered if the Enterprise decides, pursuant to paragraph 1, that it does not intend to carry out activities in that area.

2. The Enterprise **shall conduct its initial deep seabed mining operations through joint ventures.** Upon the approval of a plan of work for exploitation for an entity other than the Enterprise, or upon receipt by the Council of an application for a joint-venture operation with the Enterprise, the Council shall take up the issue of the functioning of the Enterprise independently of the Secretariat of the Authority. If joint-venture operations with the Enterprise accord with sound commercial principles, the Council shall issue a directive pursuant to article 170, paragraph 2, of the Convention providing for such independent functioning.

4. The obligations applicable to contractors shall apply to the Enterprise. Notwithstanding the provisions of article 153, paragraph 3, and Annex III, article 3, paragraph 5, of the Convention, a plan of work for the Enterprise upon its approval shall be in the form of a contract concluded between the Authority and the Enterprise.

Today, the Authority has signed a number of **CONTRACTS or is going to signed** for exploration for mineral resources in the Area,

- for exploration for **polymetallic nodules**
- for exploration for **polymetallic sulphides**
- for exploration for **cobalt-rich ferromanganese crusts.**

The signing of these contracts has reinforced the strong commitment of these countries to the concept of the common heritage of mankind,

Contractant	Date d'entrée en vigueur	Etat(s) patronnant(s)	Emplacement de la zone d'exploration	Date d'échéance
Organisation mixte Interoceanmetal	29/03/2001	Bulgarie, Cuba, Fédération de Russie, Pologne, République Tchèque et Slovaquie	Zone de Clarion-Clipperton	28/03/2016
Yuzhmorgeologiya	29/03/2001	Fédération de Russie	Zone de Clarion-Clipperton	28/03/2016
Gouvernement de la République de Corée	27/04/2001		Zone de Clarion-Clipperton	26/04/2016
Association chinoise de recherche-développement concernant les ressources minérales des fonds marins	22/05/2001	Chine	Zone de Clarion-Clipperton	21/05/2016
Deep Ocean Resources Development Co.Ltd	20/06/2001	Japon	Zone de Clarion-Clipperton	19/06/2016
Institute français de recherché pour l'exploitation de la mer	20/06/2001	France	Zone de Clarion-Clipperton	19/06/2016
Gouvernement indien	25/03/2006	Allemagne	Bassin central de l'océan indien	24/03/2017
Institut fédéral des géosciences et des ressources naturelles	19/07/2011	Nauru	Zone de Clarion-Clipperton	18/07/2021
Nauru Ocean Resources Inc	22/07/2012	Tonga	Zone de Clarion-Clipperton	21/07/2026
Tonga Offshore Mining Limited	11/01/2013	Belgique	Zone de Clarion-Clipperton	10/01/2027
Global Sea Mineral Resources NV°	14/01/2013	Royaume -Uni de Grande Bretagne et d'Irlande du Nord	Zone de Clarion-Clipperton	13/01/2028
UK Seabed Resources Ltd	08/02/2013		Zone de Clarion-Clipperton	07/02/2028
Marawa Research and Exploitation Ltd	19/01/2015	Kiribati	Zone de Clarion-Clipperton	18/01/2030
Ocean Mineral Singapore Pte Ltd	Signé à Kingston le 15 mars 2015 à Singapour le 22	Singapour	Zone de Clarion-Clipperton	21/01/2030

Contractant	Date d'entrée en vigueur	Etat(s) patronnant(s)	Emplacement de la zone d'exploration	Date d'échéance
Association chinoise de recherché développement concernant les ressources minérales des fonds marins	18/11/2011	Chine	Dorsale sud-ouest indienne	17/11/2026
Gouvernement de la Fédération de Russie	29/10/2012	-	Dorsale médio-atlantique	28/10/2027
Gouvernement de la République de Corée	24/06/2014	-	Dorsale centrale indienne	23/06/2029
Institut français pour l'exploitation de la mer	18 /11/ 2014	France	Dorsale médio-atlantique	17/11/2029
Gouvernement indien	En attente signature	-	Dorsale indienne	-
Institut fédéral des géosciences et des ressources naturelles	En attente signature	Allemagne	Dorsale centrale indienne et dorsale sud-ouest indienne	-

UK Seabed Resources Ltd	En attente de signature	Royaume-Uni de Grande Bretagne et d'Irlande du Nord	Zone de Clarion-Clipperton	-
Cook Island Investment Corporation	En attente de signature	Iles Cook	Zone de Clarion-Clipperton	-

Contractant	Date d'entrée en vigueur	Etat(s) patronnant(s)	Emplacement de la zone d'exploration	Date d'échéance
Japan Oil, Gas and Metals National Corporation	27/01/2014	Japon	Océan Pacifique occidental	26 /01/2029
Association chinoise de recherche développement concernant les ressources minérales des fonds marins	29/05/2014	Chine	Océan Pacifique occidental	28/04/2029

Sponsoring State for POLYMTALIC NODULES

*Bulgaria, Cuba, Czech Republic, Poland, Russian Federation and Slovakia

*Russian Federation

Republic of Korea

*China

*Japan

*France

*Government of India

*Germany

*Nauru

*Tonga

*Belgium

*UK

*Kiribati

*Singapore

*UK

*Cook Islands

*****Contract for exploration for polymetallic sulfides**

-China

-Russian Federation

-France

-Government of India

-Germany

****Sponsoring states for cobalt-rich ferromanganese crusts**

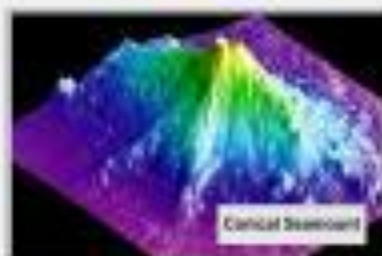
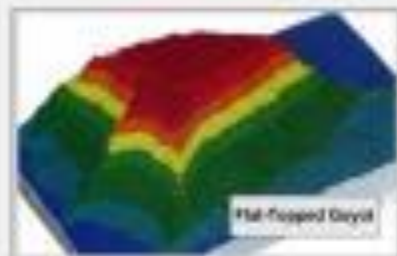
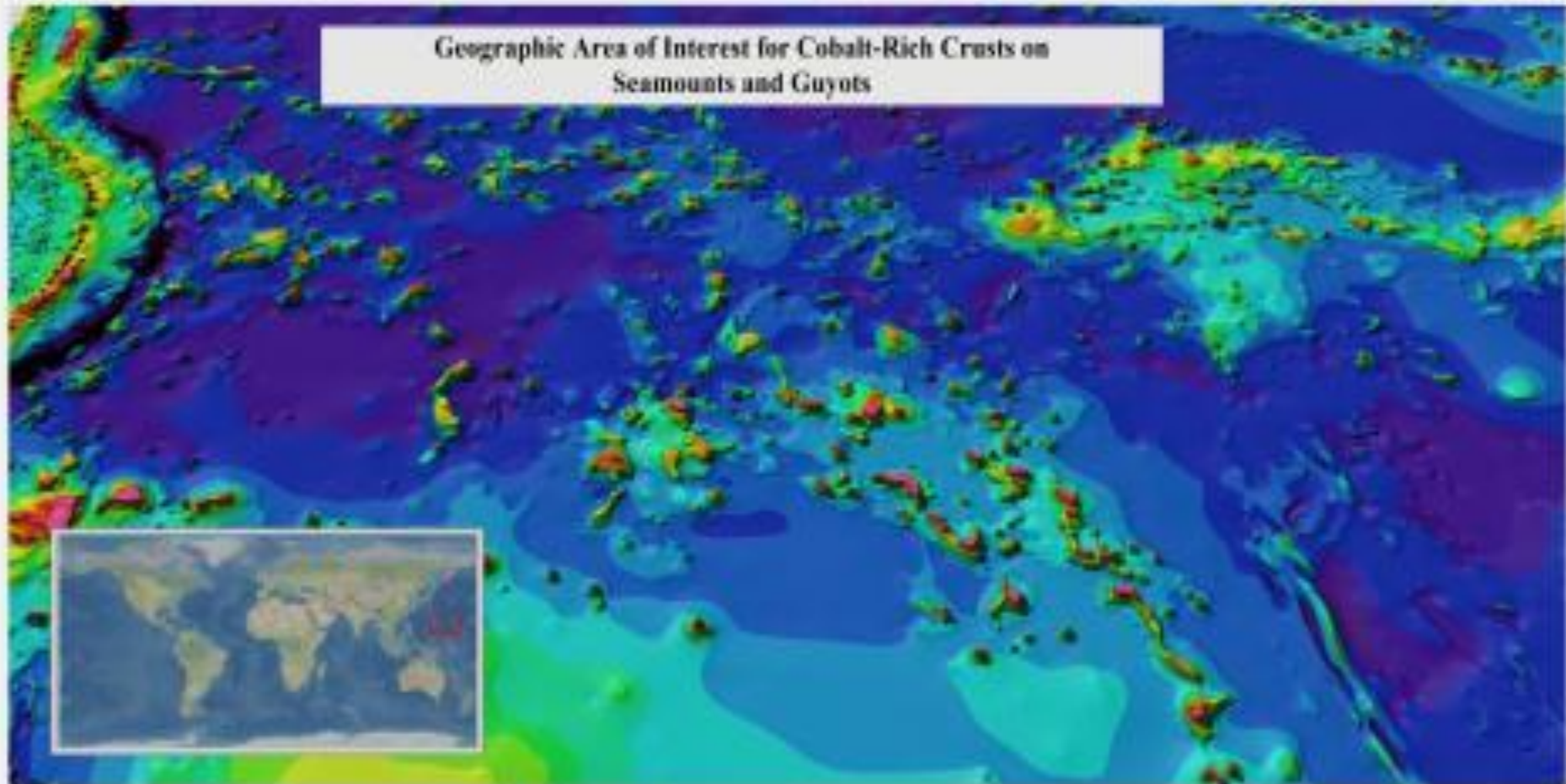
- *Japan

- *China

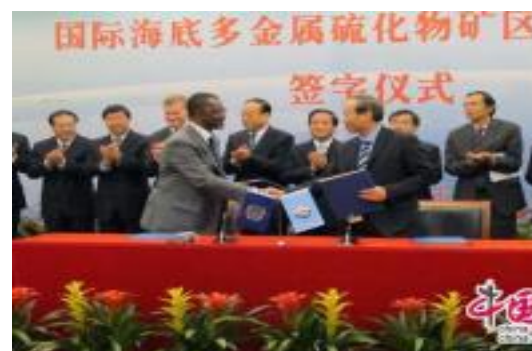
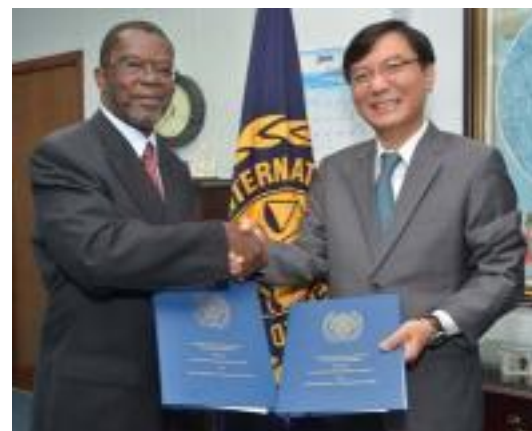
- *Russian federation

- *Brazil

Geographic Area of Interest for Cobalt-Rich Crusts on
Seamounts and Guyots



















Japan Oil Gas and Metal National Corporation



China Ocean Mineral Resources and
Development Association COMRA
SPONSORING STATE : China

western Pacific Ocean
april 2014 ----april 2029

LOOKING AT ALL THIS SLIDES
IT IS QUITE OBVIOUS THAT IT 'S NO AFRICAN
STATES

-AS CONTRACTOR

-AS SPONSORING STATE

DO WE WANT THIS SITUATION TO LAST...?

Any developing states from Africa as a whole or from SADC can have company with respect to the Convention and the Agreement and to the Code minier OF THE AREA

Each contractor is required to propose a programme for the training of nationals of developing States. The training programme, as agreed with the Authority, is incorporated into the contract as schedule 3.

Prior to the commencement of its programme of activities under the contract, **each contractor is also required to submit to the Secretary-General a contingency plan to respond effectively to incidents arising from its activities in the exploration area.**

As all future applicants must also do, each of the contractors came **to the Authority with the sponsorship of a State and provided information enabling the Council to determine that they are financially and technically capable of carrying out the activities they propose to undertake.** These activities are set out in a plan of work covering the period of their contract, to be updated every five years.

There is no doubt that for a developing country, the advantages and benefits of sponsoring a company operating in activities of research, exploration and exploitation of resources of the Zone are manifold.

- Sponsoring a contractor in the area can raise in the developing country's **awareness of the value of the deep sea.**

- The first effect of this awareness-raising consists in **triggering the harmonization of national legislation** with the United Nations Convention on the Law of the Sea and all agreements and texts

Sponsoring States have two kinds of obligations under the Convention and related instruments :

A. The obligation to ensure compliance by sponsored contractors with the terms of the contract and the obligations set out in the Convention and related instruments.

This is an obligation of « due diligence ». **The sponsoring State is bound to make best possible efforts to se.**

The standard of « due diligence » may vary over time and depends on the level of risk and on the activities involved.

This obligation **requires the sponsoring State to take measures within its legal system.** These measures must consist of laws and regulations and administrative measures. The applicable standard is that the measures must be « **reasonably appropriate** ».

*B. Direct obligations with sponsoring States must comply independently **of their obligation to ensure a certain conduct on the part of the sponsored contractors.***

The most important direct obligation of the sponsoring State are :

- (a) The obligation to assist the Authority set out in article 153, paragraph 4, of the Convention ;**
- (b) The obligation to apply a precautionary approach as reflected in principle 15 of the Rio Declaration and set out in the nodules Regulations and the Sulfites Regulations ; this obligation is also to be considered an integral part of the « due diligence » obligation of the sponsoring State and applicable beyond the scope of the two regulations ;**
- (c) The obligation to apply the « best environmental practices » set out in the Sulfites Regulations but equally applicable in the context of the Nodules Regulations ;**
- (d) The obligation to adopt measures to ensure the provision of guarantees in the event of an emergency order by the Authority for protection of the marine environment ; and**
- (e) The obligation to provide recourse for compensation.**

The sponsoring State is absolved from liability if it has taken « all necessary and appropriate measures to secure effective compliance » by the sponsored contractor with its obligations. This exemption from liability does not apply to the failure of the sponsoring State to carry out its direct obligations.

The liability of the sponsoring State and that of the sponsored contractor exist in parallel and are not joint and several. The sponsoring State has no residual liability.

There is no doubt that for a developing country, the **advantages and benefits of sponsoring** a company operating in activities of research, exploration and exploitation of resources of the Zone **are manifold**.

- Sponsoring can raise the developing country's **awareness of the value of the deep sea**.
- The first effect of **this awareness-raising consists in triggering the harmonization of national legislation** with the United Nations Convention on the Law of the Sea and all agreements and texts governing the sea.

Another effect would be to promote activities and operations in the Zone by Nationals but especially to be able to manage activities first in areas under national jurisdiction and then to think of the Zone when intervening at the level of the continental shelf and the Exclusive Eco

By sponsoring a private company, **agreements** will result from negotiations and these negotiations can give rise to possibilities of:

- **training**
- **transfert of technology**
- **taxes** (in the event of profits)
- **equity,share,bonus** for the State
- **job creation** (not many at the beginning)
- **prestige for the State** (not many States are present in the Zone).

**THANK YOU
FOR YOUR KIND
ATTENTION**