

Discussion Paper on "Environmental Regulations"

Developing a Regulatory Framework for Mineral Exploitation in the Area

A Discussion Paper on the development and drafting of Regulations on Exploitation for Mineral Resources in the Area

(Environmental Matters)



Regulatory Development: *Discussion Paper on the "Environmental Regulations" – approach and challenges*

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20 March 2017



Title

Towards an ISA Environmental Management Strategy for the Area
Berlin, March 2017

Developing a Regulatory Framework for Deep-sea Mineral Exploitation in the Area

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Disclaimer

A whistle-stop tour....

- Provide some background to the Discussion Paper
- Take a look at the structure of the tentative working draft
- Present some of the challenges and gaps
- Q&A (time permitting)

Aim of talk

Discussion Paper on "Environmental Regulations"

Background

Structure

**Challenges &
gaps**

Q&A

Content

Developing a Regulatory Framework for Deep-sea Mineral Exploration in the Area

Background

Content

Developing a Regulatory Framework for Deep-sea Mineral Exploration in the Area

What is the main goal here?

To develop a set of regulatory provisions that ensure the approval process for a Plan of Work for exploitation **fully integrates environmental considerations** and that such considerations **continue throughout** the life (including closure) of a mining project in the Area

And particularly.....

 Main goal

Main goal

- to prescribe for key procedural obligations with regard to environmental assessment and management
- contribute to the delivery of Article 145 RRPs requirement (effective protection of the marine environment)
- to deliver expectations for applicants as to documentation requirements / evaluation process
- build on requirements under existing Exploration regulations / exploration contract
- to further promote access to information & consultation in the environmental process

The paper and tentative draft.....

- Draw on the Convention and good national practices, and
- Wealth of workshops & stakeholder submissions over the last years

Key questions: para 13.1 DP (page 17)

"to ensure effective protection for the marine environment from harmful effects..." (Article 145)

Objectives for Article 145?

Targets?
(Qualitative / quantitative mix)

Monitoring / assessing Performance / Management responses
(Note: development of "environmental incentives")

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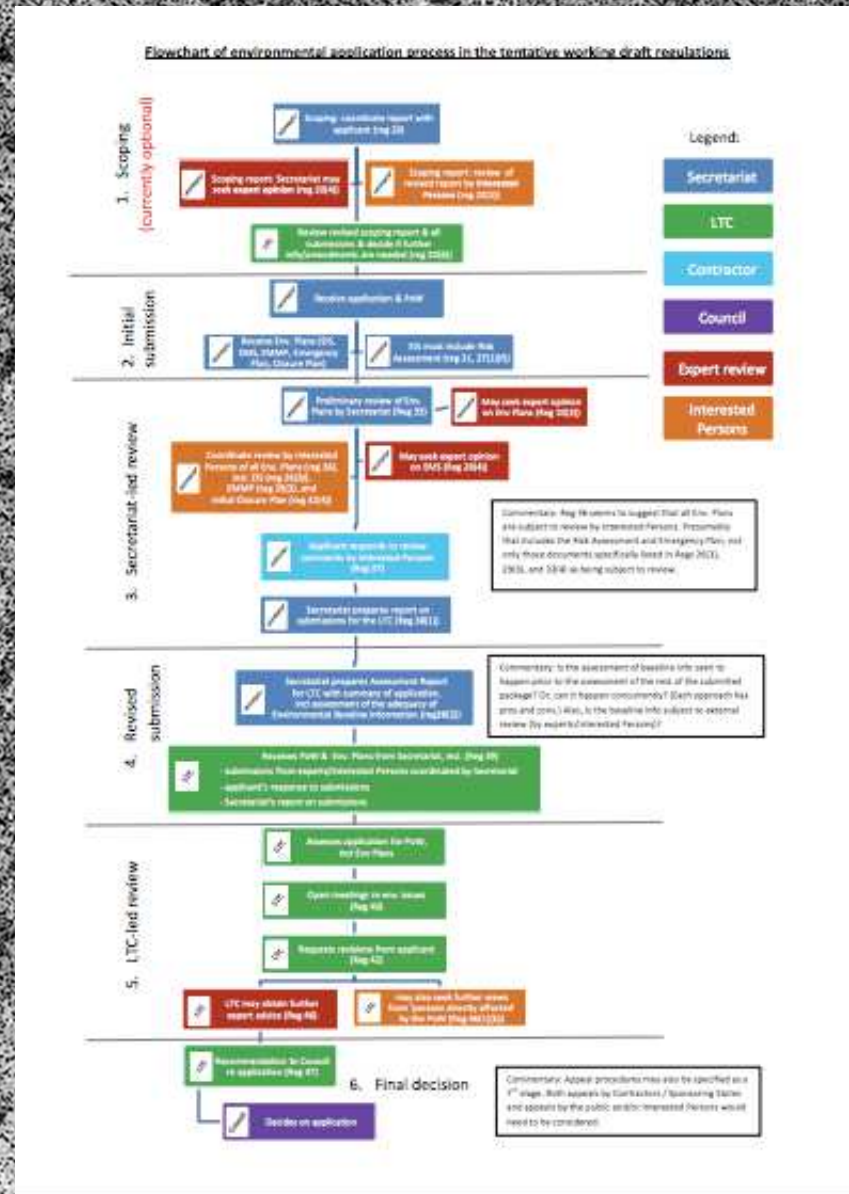
Structure

Content

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- Split into XVI Parts + Annexes
- Varying degrees of content population
- Application Process: flowchart



Part II Guiding values

- A number of guiding values / approaches
- Best Available Scientific Evidence
- Precautionary approach: application throughout framework
 - rationale for its application to be stated
- Best environmental practices
 - dynamic / requires criteria
- Access to environmental information
- Consultation

Overview of tentative draft I**Part III –
Environmental
assessment**

- Impact area
- Baseline
(adequate?)
- Risk assessment

**Part IV – Content of
Plans**

- EIS
- [EMS]
- EMMP
- Closure Plan
- [ERCP]

**Part V – Review by
Authority**

- Further
information

**Part VI – Publicity
and Consultation**

- Review by
Interested
Persons
- Applicant's
response
- Assessment
report for LTC

**Part VII –
Consideration by LTC**

- Matters for
consideration
- Conditions
- EMMP delivery
- "Bond"
- Criteria for
evaluation
- Report to Council

**Part VIII –
Modification /
Periodic Review**

- Review of
environmental
performance
- Public availability

Overview of tentative draft II

Part IX – Environmental management & monitoring

- AM
- Dealing with incidents
- [needs more detail + contract content]

Part XII – Compensatory measures

- Trust fund(s)
- [needs more work: link to liability]

Part X – Social and cultural management

- [TBD]

Part XIII – Data and information management

- [TBD]

Part XI – Closure

- Final closure plan
- Post-closure monitoring & management

Part XIV – Compliance, supervision, enforcement

- Necessary measures
- Emergency orders
- [Role of s/State?]

Overview of tentative draft III

Part XV – Annual reporting

- [template / detail]

Part XVI – Other administrative matters

- Avoidance of duplication
- Public register

Annexes

- Content of Plans
- Standard contract terms (more work)

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Challenges & gaps

Content

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Challenges and gaps

- Relevant technical expertise / input e.g. risk assessment (DR 21)
- Structure: clearer, logical sequence?
- Timelines: responsive and time-bound decision-making process
- "Authority": who and how? experts, staff of inspectors, day-to-day functioning as regulator + resourcing?

- Stakeholder expectations: a process of what, when and how
- Role of sponsoring States
- "Confidentiality": exploitation regulations
- Building blocks & developing the "detail"
(regulations, guidelines, recommendations, standards)
- Regional (strategic) planning and management

- **Adaptive management** (see background document by Neil Craik & questions p. 62 of DP)
- **Technical and economic constraints**
- **Costs of compliance and regulations**

Definitions (Schedule 1)

- Content to drive definitions
- Best environmental practice / Best available techniques: examples of dynamic terms perhaps needing criteria
- Serious harm.....

Siri, how to define serious harm?

Serious harm I



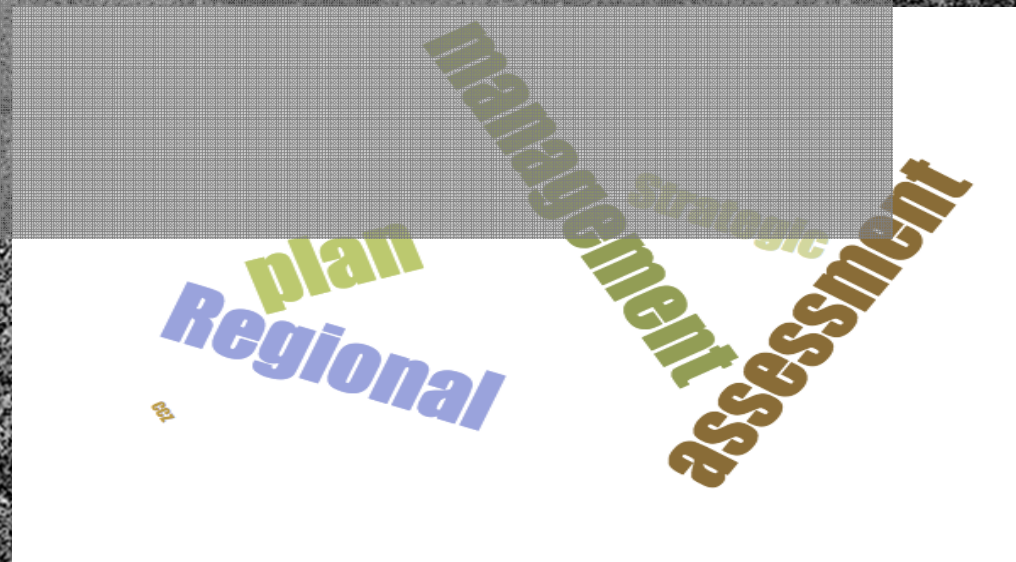
"serious harm to the marine environment" means any effect from activities in the Area on the living or non-living components of the marine environment and associated ecosystems **beyond that which is negligible or which has been assessed and judged to be acceptable by the Authority** pursuant to these regulations and the relevant rules and regulations adopted by the Authority and which represent:

- a. significant adverse changes in the living and non-living components of the marine and atmospheric environment;
- b. significant adverse changes in the ecosystem diversity, productivity and stability of the biological communities within the environment; or
- c. loss of scientific or economic values which is unreasonable in relation to the benefit derived from the activity in question.

PrepCom 1990

So, acceptable impact criteria for assessment & evaluation?

- Let's not get too hung up on terminology: content is key
- But stick to Convention / generally accepted



Content

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Q&A

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There is some way to go....but we have a good base to work from

Finale / Q&A

