

The Permanent Mission
of the Kingdom of Morocco
to the United Nations
New York



البعثة الدائمة للمملكة المغربية
لدى الأمم المتحدة
نيويورك

ATL/726/18

La Mission Permanente du Royaume du Maroc auprès des Nations Unies présente ses compliments au Secrétariat de l'Autorité Internationale des Fonds Marins et suite à la note N° ISA/OLA/2018/227 du 10/9/2018, a l'honneur de lui faire parvenir ci-joint, copie des commentaires des autorités marocaines compétentes (Office National des Hydrocarbures et des Mines) sur le projet de règlement révisé d'exploitation dans la zone.

La Mission Permanente du Royaume du Maroc auprès des Nations Unies saisit cette occasion pour renouveler au Secrétariat de l'Autorité Internationale des Fonds Marins, l'assurance de sa très haute considération.



New York, le 9 octobre 2018

Secrétariat de l'Autorité Internationale des Fonds Marins
Cc : Division des Affaires Maritimes et du Droit de la Mer,
Bureau du Conseiller Juridique.

ONHYM Comments on the draft of (AIFM)

Structure and organization of the Draft Regulations

The structure and flow of the Regulations may need a reexamination to facilitate understanding and implementation, a table of contents should also be added, and some parts of the Draft need a reordering for a better understanding for end users.

Content

The method of using guidance rather than imposing the regulations is a pragmatic approach, especially when it focuses on public access to environmental data, guaranteeing transparency in the decision-making process, and the effect of mining activities in the vicinity of other contract areas.

The definitions of "contract area" and "mining area" need to be clearly presented in the Draft Regulations in order to avoid confusions for end - users of the Draft Regulations.

While the environmental data and its sharing should undoubtedly be available to public, the concept of confidential information remains vague and too broad, it is recommended to define a mechanism for determining confidential information or to define a specific list identifying confidential and/or non - confidential information and presented to states parties. It should be noted that there is no mention of an **Environmental Committee** that could be endorsed by the ISA's Legal and Technical Commission. The Environmental Committee would ensure transparency and address the many scientific uncertainties surrounding potential impacts of mining on deep-sea ecosystems.

Regarding the role of sponsoring states and their relations with the future contractors, the Draft Regulations should provide more information on how the Authority and sponsoring States will cooperate, interact, and share information. Clarity is needed on the legal aspects concerning the termination of the contracts, transfer of obligations, etc....

The Draft Regulations need to consider the payment mechanism as a priority, and to set it as a financial obligation for all stakeholders, in order to provide an equitable return to the common heritage of mankind, balances commercial interests and supports technological development.

Terminology used and concordance with the provisions of the United Nations Convention on the Law

While the provisions of UNCLOS enjoy a general support and consensus for their clarity, the use of terms such as "reasonable", "satisfied", "optimize", etc... on the Draft Regulations are subjective and require clearer explanations.

Precision is required on the different roles of the Secretary-General, Council, and the Commission as regards oversight in the regulatory process. Roles and procedures could be reexamined and clearly incorporated, in order to provide certainty under the evaluation process and decision-making procedures.