

**REPUBLIC OF KENYA**



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When replying please quote;

Ref. MOALF/SDF/ADM/62 A

**15<sup>th</sup> October, 2019**

**The Secretary-General**  
International Seabed Authority  
Kingston  
**JAMAICA**

**RE: COMMENTS OF THE GOVERNMENT OF THE REPUBLIC OF  
KENYA ON THE DRAFT REGULATIONS ON EXPLOITATION OF  
MINERAL RESOURCES IN THE AREA ('THE DRAFT  
REGULATIONS')**

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We have perused the above-stated Draft Regulations contained in the document referenced ISBA/25/C/WP.1 and wish to make comments on **Regulation 2 (b) (iv)**.

The provision stipulates as follows:

**'Regulation 2  
Fundamental policies and principles**

In furtherance of and consistent with Part XI of the Convention and the Agreement, the fundamental policies and principles of these regulations are, inter alia, to:

...

(b) Give effect to article 150 of the Convention by ensuring that activities in the Area shall be carried out in such a manner as to foster the healthy development of the world economy and the balanced growth of international trade, and to promote international cooperation for the overall development of all countries, especially developing States, and with a view to ensuring:

...  
(iv) Participation in revenues by the Authority and the transfer of technology to the Enterprise and developing States as provided for in the Convention and the Agreement...'

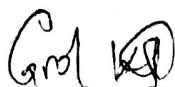
We have noted that this provision has been taken verbatim from Article 150 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS). Subsidiary instruments, such the present Draft Regulations, can be used to elaborate on substantive provisions of the main instrument, in this case UNCLOS, especially in light of prevailing circumstances of the present time. This would ensure that UNCLOS remains a dynamic treaty.

In that regard we propose a modification of the language used in this provision to include international cooperation of States in strengthening research, scientific and technical capacities of Member States in the developing and least-developed States categories, in order to ensure their optimal absorption and adaption of transferred technology.

Most countries in the developing and least-developed States categories are unable to optimally absorb and assimilate, which includes development of innovations, technologies transferred to them because of human and infrastructural capacity deficits that inhibit them from optimally utilizing, deriving value, innovating and developing themselves using technology transfer.

Consequently, for transfer of technology to be meaningful for Member States in the developing and least-developed States categories, they need assistance to develop their capacities so as to be able to optimize value from technology transfer for ultimate growth and development of their industries and economies.

International cooperation in meaningfully developing the capacities of the stated categories of Member States will likewise contribute to the realization of the aspiration contained in paragraph (vii) of enhancing opportunities for all States Parties, regardless of their social or economic systems, to participate in the development of the resources of the Area.



**Ms. Caroline Wamaitha**

**Senior State Counsel**

**FOR: PRINCIPAL SECRETARY**

Copy to:

**The Attorney General**

Office of the Attorney General and  
Department of Justice

Nairobi

**KENYA**

**The Cabinet Secretary**

Ministry of Foreign Affairs

Nairobi

**KENYA**

**The Principal Secretary**

State Department for Mining

Ministry of Petroleum and Mining

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**KENYA**