

Submission of the United Kingdom Government in response to the March 2019 draft Regulations on Exploitation of Mineral Resources in the Area

During the July 2019 meeting of the Council of the International Seabed Authority (ISA) there was discussion under agenda item 11 of the draft Exploitation Regulations which had been prepared by the Legal and Technical Commission (LTC). The UK, along with many other delegations, commented during the Council meeting on a number of different elements of the draft text. As there was not sufficient time during the meeting to cover all of the comments on all aspects of the text, participants were invited to submit comments to the ISA Secretariat in writing.

In general the UK welcomes the progress that has been made in drawing up this latest draft of the Regulations and thanks the LTC for all their work in moving the drafting forwards.

As we noted during our oral interventions at the ISA Council meeting in July, there are still a few elements which would benefit from further focus and consideration. Key priorities from a UK perspective include ensuring the highest possible environmental standards; the importance of developing key Standards and Guidelines; the importance of defining key terminology such as ‘Ecosystem Approach’; the importance of transparency and consultation; determining the core purpose of the Environmental Compensation Fund; and agreeing the approach to financial arrangements.

With the deadline of 2020 set by Council for agreeing the Exploitation Regulations, it is important that the focus is now on ensuring that all the essential elements are covered in the text of the Regulations. We have therefore looked carefully at the draft text and have included below only comments which we believe are essential to address in working towards a final version of the Regulations.

REFERENCE	CURRENT TEXT OF REGULATION (ISBA/25/C/WP.1)	SUGGESTED AMENDMENTS TO TEXT OF REGULATION	COMMENTS/EXPLANATION
PART I: Introduction			
2. Fundamental policies and principles	(e)(i) A fundamental consideration for the development of environmental objectives shall be the effective protection of the Marine Environment, including biological diversity and ecological integrity;	(e)(i) A fundamental consideration for the development of environmental objectives shall be the effective protection, <u>conservation and, where practicable, restoration</u> of the Marine Environment, including biological diversity and ecological integrity;	<p>Previous drafts of the Regulations included “protection and conservation” of the Marine Environment. This has become simply “protection” in the current draft, which is a significant change to the meaning and expectations, not just a change to the language. UNCLOS 145 2(b) includes the “protection and conservation” of the natural resources of the Area. We would prefer the language here to track that of UNCLOS Art 145 in order to embed the necessary concepts of consented harm and subsequent management</p> <p>Ideally would also include a reference to ‘restoration’. We would draw the ISA’s attention to the wording in the EU Marine Strategy Regulations: “protect and preserve the marine environment, prevent its deterioration or, <i>where practicable, restore</i> marine ecosystems in areas where they</p>

			have been adversely affected”, which we consider to represent best practice in this matter.
	(e)(ii) The application of the precautionary approach, as reflected in principle 15 of the Rio Declaration on Environment and Development;	(e)(ii) The application of the precautionary principle; approach, as reflected in principle 15 of the Rio Declaration on Environment and Development;	UK remains of the view that this should refer to the precautionary ‘principle’.
	(e)(iii) The application of an ecosystem approach;	(e)(iii) The application of an e Ecosystem a Approach;	‘Ecosystem Approach’ will need careful definition in the Schedule on Use of Terms
	(e)(v) Access to data and information relating to the protection and preservation of the Marine Environment;	(e)(v) Access to data and information relating to the protection and <u>conservation and, where practicable, restoration</u> of the Marine Environment;	See comments on 2(e)(i) above.
	(e)(vii) Encouragement of effective public participation;	(e)(vii) Encouragement of <u>The right to</u> effective public participation;	Public participation needs to be more than simply encouraged – it is fundamental to transparency and therefore should be more categorical as a principle.
	-	<u>2(e)(x) Contractors shall take all measures necessary to ensure that their activities are conducted so as not to cause serious harm to the marine environment including, but not restricted to, pollution.</u>	This additional sub-paragraph reflects the provision of Regulation 4 in respect of areas under the sovereignty or jurisdiction of coastal states.
3. Duty to cooperate and exchange of information	(a) Members of the Authority and Contractors shall use their best endeavours to cooperate with the Authority to provide such data and information as is reasonably necessary for the Authority to discharge its duties and responsibilities under the Convention;	(a) Members of the Authority and Contractors shall use their best endeavours to cooperate with the Authority to provide such data and information as is reasonably necessary for the Authority to discharge its duties and responsibilities under the Convention;	Language needs to be strengthened throughout Regulation 3 to reflect that these duties are mandatory, not optional. The phrase “best endeavours” should therefore be removed throughout Regulation 3 (except for certain elements of 3(f) – see below).
	(f) Members of the Authority and Contractors shall use their best endeavours, in conjunction with the Authority, to cooperate with each other, as well as with other contractors and national and international scientific research and technology development agencies, with a view to:	(f) Members of the Authority and Contractors shall use their best endeavours, in conjunction with the Authority, to cooperate with each other, as well as with other contractors and national and international scientific research and technology development agencies, with a view to: (i) S sharing, exchanging and assessing	Proposed re-ordering of section 3(f) to clarify which obligations are appropriate to which entity.

	<p>(i) Sharing, exchanging and assessing environmental data and information for the Area;</p> <p>(ii) Identifying gaps in scientific knowledge and developing targeted and focused research programmes to address such gaps;</p> <p>(iii) Collaborating with the scientific community to identify and develop best practices and improve existing standards and protocols with regard to the collection, sampling, standardization, assessment and management of data and information;</p> <p>(iv) Undertaking educational awareness programmes for Stakeholders relating to activities in the Area; and</p> <p>(v) Promoting the advancement of marine scientific research in the Area for the benefit of mankind as a whole;</p> <p>(vi) Developing incentive structures, including market-based instruments, to support and enhance the environmental performance of Contractors beyond the legal requirements, including through technology development and innovation;</p>	<p>environmental data and information for the Area;</p> <p><u>(fbis) Members of the Authority and Contractors shall use their best endeavours, in conjunction with the Authority to cooperate with each other, as well as with other contractors and national and international scientific research and technology development agencies with a view to:</u></p> <p>(ii) Identifying gaps in scientific knowledge and developing targeted and focused research programmes to address such gaps;</p> <p>(iii) Collaborating with the scientific community to identify and develop best practices and improve existing standards and protocols with regard to the collection, sampling, standardization, assessment and management of data and information;</p> <p>(iiiiv) Undertaking educational awareness programmes for Stakeholders relating to activities in the Area; and</p> <p>(iv) Promoting the advancement of marine scientific research in the Area for the benefit of mankind as a whole;</p> <p>(vi) Developing incentive structures, including market-based instruments, to support and enhance the environmental performance of Contractors beyond the legal requirements, including through technology development and innovation;</p>	
	<p>(g) In order to assist the Authority in carrying out its policy and duties under section 7 of the annex to the Agreement, Contractors shall use their best endeavours, upon the</p>	<p>(g) In order to assist the Authority in carrying out its policy and duties under section 7 of the annex to the Agreement, Contractors shall use <u>their best endeavours</u>, upon the</p>	<p>See comments on 3(a) above.</p>

	request of the Secretary-General, to provide or facilitate access [...]	request of the Secretary-General, to provide or facilitate access [...]	
PART II: Applications for approval of Plans of Work in the form of contracts			
Section 1: Applications			
7. Form of applications and information to accompany a Plan of Work	4. Where the proposed Plan of Work proposes two or more non-contiguous Mining Areas, the Commission may require separate documents under paragraphs 3 (d), (h) and (i) above for each Mining Area, unless the applicant demonstrates that a single set of documents is appropriate taking account of the relevant Guidelines.	4. Where the proposed Plan of Work proposes two or more non-contiguous Mining Areas, the Commission may require separate documents under paragraphs 3 (b), (d), (h) and (i) above for each Mining Area, unless the applicant demonstrates that a single set of documents is appropriate taking account of the relevant Guidelines.	We think the omission of a reference to paragraph 3(b) may have been done in error.
Section 2: Processing and review of application			
9. Receipt, acknowledgement and safe custody of applications	1(c)(i) Notify the members of the Authority of the receipt of such application and circulate to them information of a general nature which is not confidential regarding the application	1(c)(i) Notify the members of the Authority of the receipt of such application and circulate to them <u>the contents of the application save for any Confidential information contained in the application</u> information of a general nature which is not confidential regarding the application	For transparency, and with the exception of Confidential information (as defined), we consider that the contents of the applications should be transmitted to all members of the Authority, rather than any high level summary of a general nature, which is what the current draft implies.
10. Preliminary review of application by the Secretary-General	1. The Secretary-General shall [...] determine whether the applicant has preference and priority in accordance with article 10 of Annex III to the Convention	<i>Adding in afterwards</i> <u>(1 bis) The Secretary-General shall notify the members of the Authority of the determination made, if any, as to whether the applicant has preference and priority.</u>	Without this addition, it seems that members of the Authority will not be informed of the results of the Secretary-General's determination under paragraph 1.
	2. Where an application is not complete, the Secretary-General shall, within 45 Days of receipt of the application, notify the applicant, specifying the information which the applicant must submit in order to	2. Where an application is not complete, the Secretary-General shall, within 45 Days of receipt of the application, notify the applicant, specifying the information which the applicant must submit in order to	A written justification is unnecessary, because there is already a requirement to provide this information.

	complete the application, together with a justification in writing as to why the information is necessary and a date by which the application must be completed. [...]	complete the application, together with a justification in writing as to why the information is necessary and a date by which the application must be completed. [...]	
11. Publication and review of the Environmental Plans	5. The Commission shall prepare a report on the Environmental Plans. The report shall include details of the Commission's determination under regulation 13(4)(e) as well as a summary of the comments or responses made under regulation 11(2). The report shall also include any amendments or modifications to the Environmental Plans recommended by the Commission under regulation 14. Such report on the Environmental Plans or revised plans shall be published on the Authority's website and shall be included as part of the reports and recommendations to the Council pursuant to regulation 15.	5. The Commission shall prepare a report on the Environmental Plans. The report shall include details of the Commission's determination under regulation 13(4)(e) as well as a summary of the comments and <u>summary of the comments and</u> or <u>responses made under regulation 11(2) as well as any further information provided by the Secretary-General under regulation 11(2).</u> The report shall also include any amendments or modifications to the Environmental Plans recommended by the Commission under regulation 14 <u>and changes subsequently made to application documents by the applicant.</u> Such report on the Environmental Plans or revised plans shall be published on the Authority's website and shall be included as part of the reports and recommendations to the Council pursuant to regulation 15.	It is important to ensure the best and widest possible level of consultation and transparency. All comments on the application for a Plan of Work - as noted in 11(2) - should be publicly and widely available, as well as the applicant's responses to those comments and any changes subsequently made to application documents. This would also apply to any extra information provided by the Secretary General.
	5. The Commission shall prepare a report on the Environmental Plans. The report shall include details of the Commission's determination under regulation 13(4)(e) as well as a summary of the comments or responses made under regulation 11(2).	5. The Commission shall prepare a report on the Environmental Plans. The report shall include details of the Commission's determination under regulation 13(4)(e) as well as a summary of the comments or responses submitted made <u>submitted made</u> under regulation 11(2) paragraph 2 above.	Drafting point as refers to paragraph in the same Regulation – this drafting makes this paragraph consistent with paragraph (3) of this Regulation.
Section 3: Consideration of applications by the Commission			
12. General	2. The Commission shall consider applications expeditiously and shall submit its reports and recommendations to the Council no	2. The Commission shall consider applications expeditiously and shall submit its reports and recommendations to the Council no	The date in Regulation 11(1)(a) is not the completion of the review, but rather the time in which the Secretary General must put the details of the Environmental Plan on the website

	later than 120 Days from the date of the completion of the requirements for review of the Environmental Plans, in accordance with regulation 11(1)(a) and subject to regulation 14(2).	later than 120 Days from the date of the completion of the requirements for review of the Environmental Plans, in accordance with regulation 11(4)(1)(a) and subject to regulation 14(2).	for comment. We think that Regulation 11(4) and 14(2) may be the better cross-reference.
15. Commission's recommendation for the approval of a Plan of Work	1. If the Commission determines that the applicant meets the criteria set out in regulations 12(4) and 13, it shall recommend approval of the Plan of Work to the Council.	1. If the Commission determines that the applicant meets the criteria set out in regulations 12(4) and 13 <u>regulation 13(4)</u> , it shall recommend approval of the Plan of Work to the Council.	We think this may be an error in the cross-reference, since the criteria are set out in Regulation 13(4).
	4. If the Commission determines that the applicant does not meet the criteria set out in regulations 12(4) and 13, it shall [...]	4. If the Commission determines that the applicant does not meet the criteria set out in regulations 12(4) and 13 <u>regulation 13(4)</u> , it shall [...]	See comment on 15(1) above.
PART III: Rights and obligations of Contractors			
Section 1: Exploitation contracts			
20. Term of exploitation contracts	2. An application to renew an exploitation contract shall be made in writing addressed to the Secretary-General and shall be made no later than one year before the expiration of the initial period or renewal period, as the case may be, of the exploitation contract.	2. An application to renew an exploitation contract shall be made in writing addressed to the Secretary-General and shall be made no later than one year <u>two years</u> before the expiration of the initial period or renewal period, as the case may be, of the exploitation contract.	Making this a longer time period would make clear that the process of renewal may take considerable time.
	3. The Contractor shall supply such documentation as may be specified in the Guidelines. If the Contractor wishes to make any changes to a Plan of Work and such changes are Material Changes, the contractor shall submit a revised Plan of Work.	3. The Contractor shall supply such documentation as may be specified in the Guidelines. If the Contractor wishes to make any changes to a Plan of Work and such changes are Material Changes, the contractor shall submit a revised Plan of Work <u>including an updated EIA.</u>	We would suggest the whole Plan of Work is submitted including the updated EIA.
23. Transfer of rights and obligations under an exploitation contract	4(e) Meets the criteria set out in regulations 12(4) and 13 [...]	4(e) Meets the criteria set out in regulations 12(4) and 13 <u>regulation 13(4)</u> [...]	See comment on 15(1) above.

Section 2: Matters relating to production

<p>25. Documents to be submitted prior to production</p>	<p>3. Provided that, where applicable, the procedure under regulation 11 has been completed, the Commission shall, at its next meeting, provided that the documentation has been circulated at least 30 Days before the meeting, examine the Feasibility Study and any revised Plan of Work supplied by the Contractor under paragraph 1 above, and in the light of any comments made by members of the Authority, Stakeholders and the Secretary-General on the Environmental Plans.</p>	<p><i>Adding in afterwards</i> (3 bis) <u>An application to renew an exploitation contract shall be accompanied by updated Environmental Plans to be reviewed in accordance with the provisions of regulation 11.</u></p>	<p>Additional paragraph in order to clarify the requirements for an application to renew. This might be added here, or might be more suitable under Regulation 20 – the UK does not have a strong preference either way.</p>
<p>28. Maintaining commercial production</p>	<p>3. Notwithstanding paragraph 1 above, the Contractor shall temporarily reduce or suspend production whenever such reduction or suspension is required to protect the Marine Environment from Serious Harm or a threat of Serious Harm or to protect human health and safety. A Contractor shall notify the Secretary-General of such a reduction or suspension of production as soon as is practicable and no later than 72 hours after production is reduced or suspended.</p>	<p>3. Notwithstanding paragraph 1 above, the Contractor shall temporarily reduce or suspend production whenever such reduction or suspension is required to protect the Marine Environment from Serious Harm or a threat of Serious Harm or to protect human health and safety. A Contractor shall notify the Secretary-General of such a reduction or suspension of production as soon as is practicable and no later than 72<u>24</u> hours after production is reduced or suspended.</p>	<p>Discrepancy between timelines in Regulation 28 (72 hours) and Regulation 33 (24 hours) in the event of a Serious Harm incident – it would be clearer if there was just one timeline. Therefore recommend that timeline references should be aligned to 24 hours - in line with international guidance for pollution reporting - since continuing exploitation activities could prevent effective management of an incident. Under MARPOL, 'the master or other person having charge of any ship involved in an incident referred to in article 6 must report the particulars of the incident without delay and to the fullest extent possible in accordance with the provisions of this Order' [...] 'A report must be made by the fastest telecommunications channels available with the highest possible priority to the nearest coastal State'. With Shipboard Oil Pollution Emergency Plan (SOPEP) often enforcing an additional reporting limit of 24hrs.</p>

Section 8: Annual reports and record maintenance

<p>39. Books, records and samples</p>	<p>3. To the extent practical, a Contractor shall keep, in good condition, a representative portion of samples or cores, as the case may be, of the Resource category, together with biological samples,</p>	<p>3. To the extent practical, a <u>A</u> Contractor shall keep, in good condition, a representative portion of samples or cores, as the case may be, of the Resource category, together with biological samples,</p>	<p>Language needs strengthening - maintenance is very important and not optional.</p>
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	obtained in the course of Exploitation until the termination of the exploitation contract. Samples shall be maintained taking into account the relevant Guidelines, which shall provide the option for the Contractor to maintain them itself or to have such maintenance performed on its behalf in whole or in part by a third party.	obtained in the course of Exploitation until the termination of the exploitation contract. Samples shall be maintained taking into account the relevant Guidelines, which shall provide the option for the Contractor to maintain them itself or to have such maintenance performed on its behalf in whole or in part by a third party.	
PART IV: Protection and preservation of the Marine Environment			
Section 1: Obligations relating to the Marine Environment			
44. General obligations	(a) Apply the precautionary approach, as reflected in principle 15 of the Rio Declaration on Environment and Development, to the assessment and management of risk of harm to the Marine Environment from Exploitation in the Area;	(a) Apply the precautionary <u>principle, approach, as reflected in principle 15 of the Rio Declaration on Environment and Development,</u> to the assessment and management of risk of harm to the Marine Environment from Exploitation in the Area;	UK remains of the view that this should refer to the precautionary 'principle'.
	-	<u>(a bis) Apply the Ecosystem Approach to the assessment and management of risk of harm to the Marine Environment from Exploitation in the Area;</u>	It is important to include the principle of an Ecosystem Approach in the Regulations, so there is an integrated approach to management of the Area, to ensure that the conservation of biodiversity is balanced alongside sustainable use and benefit sharing.
Section 2: Preparation of the Environmental Impact Statement and the Environmental Management and Monitoring Plan			
47. Environmental Impact Statement	(a) Identifies, predicts, evaluates and mitigates the biophysical, social and other relevant effects of the proposed mining operation;	(a) Identifies, predicts, evaluates and mitigates the biophysical <u>physiochemical and biological</u> , social and other relevant effects of the proposed mining operation;	Change to align with wording elsewhere in the Regulations and existing EIA Framework.
	(c) Includes an impact analysis to describe and predict the nature and extent of the Environmental Effects of the mining operation; and	(c) Includes an impact analysis to describe and predict, <u>among others,</u> <u>the spatial and temporal</u> nature and extent of the Environmental Effects of	As above

		the mining operation, <u>including cumulative impacts</u> ’; and	
48. Environmental Management and Monitoring Plan		4 (bis) The contractor shall <u>monitor and assess compliance with the EMMP and publish the results of the assessment in the annual report.</u>	Compliance with the EMMP should be included in the Annual Report.
Section 5: Environmental Compensation Fund			
54. Establishment of an Environmental Compensation Fund			The UK considers that there remain many questions about the working of an Environmental Compensation Fund – including who is responsible, who would administer, and how much is the ‘prescribed percentage’? Once we have more agreed details then it will be clearer whether these should be included in the text of the Regulations, or covered in the rules and procedures of the Fund.
55. Purpose of the Fund	(b) The promotion of research into methods of marine mining engineering and practice by which environmental damage or impairment resulting from Exploitation activities in the Area may be reduced; (c) Education and training programmes in relation to the protection of the Marine Environment; (d) The funding of research into Best Available Techniques for the restoration and rehabilitation of the Area; and	(b) The promotion of research into methods of marine mining engineering and practice by which environmental damage or impairment resulting from Exploitation activities in the Area may be reduced; (c) Education and training programmes in relation to the protection of the Marine Environment; (d) The funding of research into Best Available Techniques for the restoration and rehabilitation of the Area; and	Further consideration is required about the purpose of the Environmental Compensation Fund. As items (b-d) are not examples of compensation, they should be deleted from this Regulation 55.
PART VI: Closure plans			
59. Closure Plan	1. A Closure Plan shall set out the responsibilities and actions of a Contractor for the decommissioning and closure of activities in a Mining Area, including the post-closure management and monitoring of residual and natural Environmental Effects. Closure also includes a	1. A Closure Plan shall set out the responsibilities and actions of a Contractor for the decommissioning and closure of activities in a Mining Area, including the post-closure management and monitoring of residual and natural Environmental Effects. Closure also includes a	Removal of ‘post-closure’ as Closure Plan should involve both pre- and post-decommissioning works This sub-paragraph (1) contains language not used elsewhere in terms of environmental impact i.e. ‘residual and natural Environmental Effects’ – suggest the wording remains the same throughout the Regulations.

	temporary suspension of mining activities.	temporary suspension of mining activities.	
60. Final Closure Plan: cessation of production	1. A Contractor shall, at least 12 months prior to the planned end of Commercial Production, or as soon as is reasonably practicable in the case of any unexpected cessation, submit to the Secretary-General, for the consideration of the Commission, a final Closure Plan, if such cessation requires a Material Change to the Closure Plan, taking into account the results of monitoring and data and information gathered during the exploitation phase.	1. A Contractor shall, at least 12 <u>24</u> months prior to the planned end of Commercial Production, or as soon as is reasonably practicable in the case of any unexpected cessation, submit to the Secretary-General, for the consideration of the Commission, a final Closure Plan, if such cessation requires a Material Change to the Closure Plan, taking into account the results of monitoring and data and information gathered during the exploitation phase.	Extend the time period, to make clear that the process (including public consultation) may take considerable time.
PART VII: Financial terms of an exploitation contract			
Section 3: Royalty returns and payment of royalty			
70. Payment of royalty shown by royalty return	4. The Council may approve the payment of any royalty due by way of instalment where special circumstances exist that justify payment by instalment.	4. The Council may approve the payment of any royalty due by way of instalment where s Special e Circumstances exist that justify payment by instalment.	Include definition of these Special Circumstances in Schedule on Use of Terms below.
71. Information to be submitted	1(a) The quantity in wet metric tons of mineral-bearing ore recovered from each Mining Area		The UK considers that it is important to clarify the link between this reference to 'wet metric tons' and the process of 'determination of royalty liability' covered in Appendix IV – which just uses the phrase 'gross value per metric ton'. It may be more appropriate to use the same terminology in both places.
PART IX: Information-gathering and handling			
89. Confidentiality of information	1. There shall be a presumption that any data and information regarding the Plan of Work, exploitation contract, its schedules and annexes or the activities taken under the exploitation contract are public, other than Confidential Information.	1. There shall be a presumption that any <u>All</u> data and information regarding the Plan of Work, exploitation contract, its schedules and annexes or the activities taken under the exploitation contract shall be <u>are</u> public, other than Confidential Information.	The creation of a presumption in drafting terms here is confusing; this drafting amendment is to clarify what this means in practice.

90. Procedures to ensure confidentiality	5. Taking into account the responsibility and liability of the Authority pursuant to article 22 of annex III to the Convention, the Authority may take such action as may be appropriate against any person who, by reason of his or her duties for the Authority, has access to any Confidential Information and who is in breach of the obligations relating to confidentiality contained the Rules of the Authority.	5. Taking into account the responsibility and liability of the Authority pursuant to article 22 of annex III to the Convention, the Authority may take such action as may be appropriate against any person who, by reason of his or her duties for the Authority, has access to any Confidential Information and who is in breaches <u>any</u> of the obligations relating to confidentiality contained <u>in</u> the Rules of the Authority. <u>In the case of a breach of the obligations relating to confidentiality, the Authority shall notify the relevant Contractor and Sponsoring State.</u>	Slight amendments here to clarify the language on breaches of obligations. In the case of a breach of confidentiality obligations, the Authority should also notify the Contractor and the Sponsoring State to ensure they are aware of the breach.
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PART X: General procedures, standards and guidelines

94. Adoption of standards	4. Standards adopted by the Council shall be legally binding on Contractors and the Authority and may be revised at least every five years from the date of their adoption or revision, and in the light of improved knowledge or technology	4. Standards adopted by the Council shall be legally binding on Contractors and the Authority and may be revised <u>the Commission shall review these Standards</u> at least every five years from the date of their adoption or revision <u>and advise the Council, and</u> in the light of improved knowledge or technology, <u>as to whether any revision is required.</u>	The review of Standards adopted by the ISA should be mandatory and not optional.
95. Issue of Guidelines	3. The Commission or the Secretary-General shall keep under review such Guidelines in the light of improved knowledge or information.	3. The Commission or the Secretary-General shall keep under review such Guidelines <u>which shall be reconsidered, and revised as needed, at least every five years from the date of their adoption or revision, and</u> in the light of improved knowledge or information.	Including more detail on the provision for review of the Guidelines.

PART XI: Inspection, compliance and enforcement

Section 3: Enforcement penalties

103. Compliance notice and termination of exploitation contract

1. At any time, if it appears to the Secretary-General on reasonable grounds that a Contractor is in breach of the terms and conditions of its exploitation contract, the Secretary-General shall issue a compliance notice to the Contractor requiring the Contractor to take such action as may be specified in the compliance notice.

2. A compliance notice shall:

- (a) Describe the alleged breach and the factual basis for it; and
- (b) Require the Contractor to take remedial action or other such steps as the Secretary-General considers appropriate to ensure compliance within a specified time period.

3. For the purposes of article 18 of annex III to the Convention, a compliance notice issued under this regulation constitutes a warning by the Authority.

4. The Contractor shall be given a reasonable opportunity to make representations in writing to the Secretary-General concerning any aspect of the compliance notice. Having considered the representations, the Secretary-General may confirm, modify or withdraw the compliance notice.

5. If a Contractor, in spite of warnings by the Authority, fails to implement the measures set out in a compliance notice and continues its activities in such a way as to result in serious, persistent and wilful violations of the fundamental terms of the contract, Part XI of the Convention and the rules, regulations and procedures of the Authority, the Council may

(2 bis) A copy of the compliance notice shall be sent to the Sponsoring State.

Additional clarification about how the compliance notice process will work, including the role of the Secretary-General.

	<p>suspend or terminate the exploitation contract by providing written notice of suspension or termination to the Contractor in accordance with the terms of the exploitation contract.</p> <p>6. In the case of any violation of an exploitation contract, or in lieu of suspension or termination under paragraph 5 above, the Council may impose upon a Contractor monetary penalties proportionate to the seriousness of the violation.</p> <p>7. Save for emergency orders under article 162 (2) (w) of the Convention, the Council may not execute a decision involving monetary penalties, suspension or termination until the Contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to it pursuant to section 5 of Part XI to the Convention.</p>	<p><u>(5 bis) The Secretary-General shall provide an annual report to the Council in respect of any compliance notices issued.</u></p> <p><u>(7 bis) The Secretary-General shall notify the Council as soon as reasonably practicable of any matter requiring the Council to issue an emergency order under article 162(2)(w) of the Convention.</u></p>	
ANNEXES			
Annex - ESR			Reinsert annex on the Environmental Scoping Report as in previous draft of Regulations.
Annex I - 17 Annex II (b)	[...] coordinates in accordance with the World Geodetic System [...]	[...] coordinates in accordance with the World Geodetic System <u>most recent applicable international standards used by the Authority [...]</u>	Replace this reference with language already used in Regulation 8(1), in order to future-proof this reference.
Appendix IV: Determination of a royalty liability	Valuation of mineral-bearing ore 1. The value of the mineral-bearing ore shall be an assumed gross value per metric ton at the Valuation Point.		See point above at Regulation 71 about the phrase 'wet metric tons'
Schedule 1 Use of terms and scope	<i>[definitions of terms]</i>	<u>Ecosystem Approach</u> <u>Special Circumstances</u>	Needs definitions added for the terms noted here. For the definition of Ecosystem Approach there are possible examples of language which could be drawn upon from the Convention on Biological Diversity. All definitions of terms included in this schedule should involve consultation to ensure that all parties are agreed as to the essential features.