

**Comments and Remarks of the Russian Federation
on the Draft Regulations on Exploitation of Mineral Resources in the Area
(ISBA/25/C/WP.1, 2019)**

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
1.	Regulation 1	<p>Use of terms and scope</p> <p>1. Terms used in these regulations shall have the same meaning as those in the Rules of the Authority.</p> <p>2. In accordance with the Agreement, the provisions of the Agreement and part XI of the Convention shall be interpreted and applied together as a single instrument. These regulations and references in these regulations to the Convention are to be interpreted and applied accordingly.</p> <p>3. Terms and phrases used in these regulations are defined for the purposes of these regulations in the schedule.</p> <p>4. These regulations shall</p>	<p>It is proposed to point out in Regulation 1 that the Regulations apply to all three types of deep-sea minerals.</p>	<p>To ensure that the content of the document is clear and unambiguous.</p>

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		<p>not in any way affect the freedom of scientific research, pursuant to article 87 of the Convention, or the right to conduct marine scientific research in the Area pursuant to articles 143 and 256 of the Convention. Nothing in these regulations shall be construed in such a way as to restrict the exercise by States of the freedom of the high seas as reflected in article 87 of the Convention.</p> <p>5. These regulations are supplemented by Standards and Guidelines, as referred to in these regulations and the annexes thereto, as well as by further rules, regulations and procedures of the Authority, in particular on the protection and preservation of the Marine Environment.</p> <p>6. The annexes, appendices</p>		

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		<p>and schedule to these regulations form an integral part of the regulations and any reference to the regulations includes the annexes, appendixes and schedule thereto.</p> <p>7. These regulations are subject to the provisions of the Convention and the Agreement and other rules of international law not incompatible with the Convention.</p>		
2.	Regulation 1(1)	Terms used in these regulations shall have the same meaning as those in the Rules of the Authority.	It is suggested that the provision shall be read as follows: <i>“Terms used in these regulations shall have the same meaning as those in the Convention, the Agreement, as well as in rules, regulations and procedures of the Authority”</i> .	The original wording reflects the erroneous definition contained in the Schedule “Use of terms and scope”: <i>“Rules of the Authority” means the Convention, the Agreement, these regulations and other rules, regulations and procedures of the Authority as may be adopted from time to time</i> ”. It is inappropriate to use the wording <i>“Rules of the Authority”</i> when referring to the international legal norms established in international treaties – the UNCLOS and the Agreement relating to the implementation of Part XI of the UNCLOS.

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				This remark refers to all parts of these regulations where such wording is used.
3.	Regulation 1 (5)	These regulations are supplemented by Standards and Guidelines, as referred to in these regulations and the annexes thereto, as well as by further rules, regulations and procedures of the Authority, in particular on the protection and preservation of the Marine Environment.	It is suggested to omit this provision.	There is no legal burden arising from the content of this provision. The text of the Rules refers to the rules, regulations and procedures of the Authority, as well as to standards and guidelines, and sets out in which specific cases the standards, guidelines, rules, regulations and procedures of the Authority should be referred to.
4.	Regulation 2(e)(iv)	(iv) The application of “the polluter pays” principle through market-based instruments, mechanisms and other relevant measures;	It is suggested to omit the words “ <i>through market-based instruments, mechanisms and other relevant measures</i> ” so that the provision reads as follows: “(iv) <i>The application of “the polluter pays” principle;</i> ”	This suggestion is based on the fact that the formulation of the “ <i>polluter pays</i> ” principle, which has been recognized as a general principle of international environmental law, does not refer to any additional mechanisms and instruments. In this regard, reference to the Rio Declaration can also be made. Otherwise, it would be important to clarify what stands behind “ <i>market-based instruments, mechanisms and other relevant measures</i> ”, whereas the existing provision provides no legal clarity.

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5.	Regulation 7(2)(d)	d) Comply with the national laws, regulations and administrative measures of the sponsoring State or States made pursuant to articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention.	It is suggested to omit this provision.	Determination of such requirements is the exclusive prerogative of the sponsoring state that may establish them in its national legislation. Establishing such requirement would be outside the mandate of the Authority. Therefore, the applicant cannot undertake such a written commitment before the Authority in its application. Besides that, requirements listed in paragraph 2 shall also apply to the Enterprise, which also makes this provision irrelevant.
6.	Regulation 8(1)	Each application for approval of a Plan of Work shall define the boundaries of the area under application, by a list of coordinates in accordance with the most recent applicable international standard used by the Authority.	It is suggested that the provision shall be read as follows: <i>“Each application for approval of a Plan of Work shall define the boundaries of the area under application, by a list of geographical coordinates in accordance with the World Geodetic System 84”</i> .	In order to unify the regulations and, in particular, to provide clarity with respect to the usage of terminology, it is suggested to use the wording of paragraph 17 in Section II of Annex I and paragraph (b) of Annex II to the Regulations: <i>“list of geographical coordinates (in accordance with the World Geodetic System 84)”</i> .
7.	Regulation 12(4)(b)	b) Any advice or reports sought by the Commission or the Secretary-General from independent competent persons in respect of the	It is suggested to clarify this provision with respect to the procedure for outsourcing of <i>“independent competent persons”</i> .	This provision refers to <i>“independent competent persons”</i> . The same wording is used in Regulation 38(2)(h), Regulation 52(5)(c) and paragraph 1(b) in Annex VII.

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		<p>application to verify, clarify or substantiate the information provided, methodology used or conclusions drawn by an applicant;</p>		<p>Besides that, the Regulations refer to “<i>recognized experts</i>” in Regulation 94(1), “other experts” and “independent scientists” in paragraph 15 in Annex IV.</p> <p>In this regard, the following questions arise. How all the listed above persons differ from each other for the purposes of the Regulations and in the context of the used phrases? What are the criteria used to attract such persons? Who is considering and approving the candidates? Where is the list of such persons published?</p> <p>It is also worth mentioning that in accordance with Article 165(2)(e) of the UNCLOS, the Commission shall “<i>make recommendations to the Council <u>on the protection of the marine environment</u>, taking into account the views of recognized experts in that field</i>”.</p> <p>As a guide it is possible to use the Rules of Procedure of the Commission on the Limits of the Continental Shelf of 2008 (Rule 57 “<i>Advice by specialists</i>”):</p> <p>“1. <i>The Commission may, to the extent considered necessary and useful, consult specialists in any field relevant to the work of the Commission.</i></p>

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				<i>2. The Commission shall decide in each case the way in which such consultations may be conducted”.</i>
8.	Regulation 13(3)(b)	«...including the technical capability to monitor key environmental parameters and to modify management and operating procedures when appropriate»	It is proposed to clarify what is meant by “ <i>key environmental parameters</i> ”.	To ensure that the content of the document is clear and unambiguous.
9.	Regulation 18, title	Regulation 18 Rights and exclusivity under an exploitation contract	It is suggested that the title of this provision shall be read as follows: “ <i>Exclusive rights of a Contractor under an exploitation contract</i> ”.	The proposed title more accurately reflects the content of the regulation, as it deals with the exclusive rights of a Contractor under an exploitation contract.
10.	Regulation 18(1)(a)	(a) Explore for the specified Resource category in accordance with paragraph 7 below;	It is suggested to modify this provision so that it reads as follows: “ <i>a) Explore for the specified Resource in accordance with the rules, regulations and procedures of the Authority, where the approved Plan of Work provides for the stage of exploration;</i> ”	In accordance with Article 3(4)(c) of Annex III of the UNCLOS: “ <i>4. Every approved plan of work shall: ...</i> <i>(c) confer on the operator, in accordance with the rules, regulations and procedures of the Authority, the exclusive right to explore for and exploit the specified categories of resources in the area covered by the plan of work. If, however, the applicant presents for approval a plan of work covering only the stage of exploration or the stage of exploitation, the approved plan of work shall</i>

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				<p><i>confer such exclusive right with respect to that stage only</i>".</p> <p>In this regard, the modification suggested intends to clarify and specify the exclusive rights of a Contractor under an Exploitation Contract, where such contract provides for both exploration and exploitation stages.</p>
11.	Regulation 18		<p>It is suggested to amend this regulation with the paragraph of the following content: <i>"The Contractor shall exercise the exclusive rights provided for in this regulation in consistence with articles 87 and 147 of the Convention"</i>.</p>	<p>Such amendment establishes a legal framework for the exercise of the exclusive rights granted to a Contractor under an exploitation contract.</p>
12.	Regulation 20(6)	<p>The Commission shall recommend to the Council the approval of an application to renew an exploitation contract, and an exploitation contract shall be renewed by the Council, provided that ...</p>	<p>It is suggested that this provision shall be read as follows: <i>"The Commission shall recommend to the Council the approval of an application to renew an exploitation contract, and the Council approves the renewal application provided that..."</i>.</p>	<p>The need for clarification is justified by the difference in wording used in paragraphs 6 and 8 of this regulation:</p> <p>«6. ... and an exploitation contract shall be <u>renewed</u> by the Council ...»;</p> <p>«8. ... on the date that the Council <u>approves the renewal application</u>».</p>
13.	Regulation 21		<p>It is suggested to revert to the previous draft of this Regulation (July, 2018) and add para. 7 to it, which would state</p>	<p>This suggestion is justified by the need to provide legal clarity with regard to the obligations of a Contractor.</p>

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			that: <i>“7. Nothing in this regulation shall relieve a Contractor of any obligation or liability under its exploitation contract, and the Contractor shall remain responsible and liable to the Authority for the performance of its obligations under its exploitation contract in the event of any termination of sponsorship”.</i>	
14.	Regulation 22(4)(a)	a) Shall subscribe to any internationally adopted standards for the extractive industries which are widely accepted;	It suggested to clarify this provision with respect to words <i>“any”</i> and <i>“standards for the extractive industries”</i> .	To avoid legal uncertainty, the vagueness and ambiguity of the used wording should be eliminated. This would enable the Council to properly assess the beneficiary of the encumbrance for the purposes of expressing its consent.
15.	Regulation 22(4)(b)	b) Shall be properly regulated through a national financial conduct authority in accordance with the Guidelines.	It is suggested to clarify this provision with respect to words <i>“properly regulated through a national financial conduct authority”</i> .	To avoid legal uncertainty, the vagueness and ambiguity of the used wording should be eliminated. This would enable the Council to properly assess the beneficiary of the encumbrance for the purposes of expressing its consent.
16.	Regulation 23(1)	A Contractor may transfer its rights and obligations under an exploitation contract in whole or in part	It is suggested to amend the text of this paragraph with the word <i>“and with notification to the sponsoring State or States”</i> and read it as follows: <i>“A</i>	The amendment of this provision is necessary to establish internal links with other provisions of the Regulations, in particular, paragraphs 1 and 2 of Regulation 21.

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		only with the prior consent of the Council, based on the recommendations of the Commission.	<i>Contractor may transfer its rights and obligations under an exploitation contract in whole or in part only with the prior consent of the Council, based on the recommendations of the Commission and with notification to the sponsoring State or States”.</i>	
17.	Regulation 23(8)(c)	c) Recording by the Secretary-General of the transfer in the Seabed Mining Register.	It is suggested to omit this provision.	<p>Requirement of the transfer being effective only upon its recording in the Seabed Mining Register leads to the question of legal significance of the Register.</p> <p>In the case that the recording of certain information in the Register has an informative nature, then the mentioned provision is excessive.</p> <p>If, as appears from the text of this provision, the recording in the Register is a registration of a right, i.e. a legal fact giving rise to legal effects, a similar requirement should be included for an exploitation contract to enter into force. In the latter case, this should be explicitly stated in Regulation 17.</p> <p>However, as it follows from Regulation 92, the Register has an informative nature.</p>
18.	Regulation 24	The regulation in the new	It is proposed to supplement this	To ensure that the content of the document is

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		<p>edition is supplemented by paragraph 4: “Where the Secretary-General determines that, following a change of control, a Contractor may not have the financial capability to meet its obligations under its exploitation contract, the Secretary-General shall inform the Commission accordingly. The Commission shall submit a report of its findings and recommendations to the Council”</p>	<p>paragraph with possible varies for the decisions of the Council in such a situation. The current version of the paragraph looks unfinished.</p>	<p>clear and unambiguous.</p>
19.	Regulation 26(5)	<p>A Contractor shall, as a result of any review under paragraph 4 above, recalculate the amount of the Environmental Performance Guarantee within 60 Days of a review date and lodge a revised guarantee in favour of the Authority.</p>	<p>It is suggested to modify this provision taking into account paragraph 3 of this regulation.</p>	<p>Paragraph 3 of this regulation states that “<i>The amount of an Environmental Performance Guarantee may be provided by way of instalments over a specified period according to the relevant Guidelines</i>”.</p> <p>If paragraph 3 applies to the situation described in paragraph 5, then the relevant modification (availability of payment by way of instalments) should be made to the later.</p>

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20.	Regulation 28(2)	The Contractor shall notify the Secretary-General if it: a) Fails to comply with the Plan of Work; or b) Determines that it will not be able to adhere to the Plan of Work in future.	It is suggested to amend this provision with the words “ <i>and the sponsoring State or States</i> ” and read it as follows: “ <i>The Contractor shall notify the Secretary-General and the sponsoring State or States if it:</i> <i>a) Fails to comply with the Plan of Work; or</i> <i>b) Determines that it will not be able to adhere to the Plan of Work in future</i> ”.	Such amendment is suggested in order to ensure that a sponsoring State duly fulfils its obligations under the UNCLOS and the Agreement relating to the implementation of Part XI of the UNCLOS.
21.	Regulation 28(3) second sentence	<...> 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.	It is suggested to amend this provision with the words “ <i>and the sponsoring State or States</i> ” and read it as follows: “ <i>...A Contractor shall notify the Secretary-General and the sponsoring State or States 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</i> ”.	Such amendment is suggested in order to ensure that a sponsoring State duly fulfils its obligations under the UNCLOS and the Agreement relating to the implementation of Part XI of the UNCLOS.
22.	Part III, Section 3, title	Section 3 Safety of life and property at sea	It is suggested to omit words “ <i>and property</i> ” in the title and read it as follows: “ <i>Section 3 Safety of life at sea</i> ”.	This Section of the Regulations does not establish requirements for safety of property at sea. Regulation 30(1) does not refer to property, but to the condition of property (vessels, equipment, etc.) that would ensure

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				<p>safety at sea and, first of all, the protection of human life at sea. The essence of the institute for the protection of human life at sea includes requirements for the design of vessels, equipment, crew qualifications, etc.</p> <p>This remark is based on Article 146 of the UNCLOS, which states: “With respect to activities in the Area, necessary measures shall be taken to ensure effective protection of human life. To this end the Authority shall adopt appropriate rules, regulations and procedures <i>to supplement existing international law as embodied in relevant treaties</i>”.</p> <p>The main universal international treaty on this matter is the International Convention for the Safety of Life at Sea (SOLAS).</p>
23.	Regulation 30(2)	The Contractor shall ensure compliance with the applicable international rules and standards established by competent international organizations or general diplomatic conferences concerning the safety of life at sea, the pollution of the	It is suggested to amend the last part of this provision: “ <i>as well as any rules, regulations and procedures and Standards adopted from time to time by the Council relating to these matters</i> ” by replacing it with the following words: “ <i>as well as rules, regulations and procedures of the Authority on these matters</i> ”.	Such amendment is necessary in order to harmonize the usage of terms and definitions in the UNCLOS and the Regulations.

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		Marine Environment by vessels, the prevention of collisions at sea and the treatment of crew members, as well as any rules, regulations and procedures and Standards adopted from time to time by the Council relating to these matters.		
24.	Regulation 30(6)	A Contractor shall implement and maintain a safety management system, taking account of the relevant Guidelines.	It is suggested to clarify this provision so that it reads as follows: <i>“When conducting its operations, a Contractor shall develop, implement and maintain a safety management system, taking account of the relevant Guidelines”</i> .	Such amendment is required in order to clarify obligations of a Contractor.
25.	Regulation 34(5)	Where a complaint is made to a Contractor concerning a matter covered by these regulations, the Contractor shall record the complaint and shall report it to the Secretary-General within seven Days of the complaint being received	It is proposed to specify the persons whose complaints against a Contractor are meant in this provision.	To facilitate the application of the document.

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26.	Regulation 38(2)(e)	e) Health and safety information, including details of any accidents or Incidents arising during the period and actions taken in respect of the Contractor’s health and safety procedures;	It is suggested to modify this provision by omitting the words “ <i>including details of any accidents or Incidents arising during the period</i> ” and use these words in a separate paragraph. Paragraph (e) shall be read as follows: “ <i>information on compliance with health, labour and safety standards</i> ”.	Such amendments to this provision would allow a Contractor to fulfil his obligations set out in Regulations 30 and 33 in a more efficient way. The differentiation between the “ <i>health and safety information</i> ” and “ <i>details of any accidents or Incidents</i> ” can be explained by the fact that the former implies information on specific compliance measures, while the latter implies individual events, which may not occur at all, and a separate response to them.
27.	Regulation 41(2)	The Exploration for and Exploitation of such finds must be the subject of a separate application to the Authority, in accordance with the relevant Rules of the Authority.	It is suggested to modify this provision so that it reads as follows: “ <i>The Exploration for and Exploitation of resources referred to in paragraph 1 of this Regulation shall be the subject of a separate application to the Authority</i> ”.	Suggested modification is aimed at clarifying the text of the Regulation and providing inner consistency and logic of this Regulation.
28.	Regulation 45, the first paragraph	Environmental Standards shall be developed in accordance with regulation 94 and shall include the following subject matters:	It is suggested to add words “ <i>inter alia</i> ” after the words “ <i>shall include</i> ”, so that this provision reads as follows: “ <i>Environmental Standards shall be developed in accordance with regulation 94 and shall include, inter alia, the following subject matters:</i> ”.	Amendment of this provision with the words “ <i>inter alia</i> ” is substantiated by the relevant changes to Regulation 94, as well as by the fact that at the moment it is impossible to specify a complete list of all necessary and relevant environmental standards (for example, the issue of the ocean noise is currently topical). Therefore, the list of issues that may be covered by environmental

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				standards cannot be exhaustive in this case.
29.	Regulation 47(2)	An applicant or Contractor, as the case may be, shall prepare an Environmental Impact Statement in accordance with this regulation.	It is suggested to amend this provision with the words “ <i>based on the results of the environmental impact assessment</i> ” before the words “ <i>shall prepare</i> ” and read it is follows: “ <i>An applicant or Contractor, as the case may be, based on the results of the environmental impact assessment shall prepare an Environmental Impact Statement in accordance with this regulation</i> ”.	Amendment is suggested so that this provision better reflects the content of the Regulation 47.
30.	Regulation 57(2)	A Contractor shall notify the Secretary-General if it wishes to modify the Plan of Work. The Secretary-General shall, in consultation with the Contractor, consider whether a proposed modification to the Plan of Work constitutes a Material Change in accordance with the Guidelines. If the Secretary-General considers that the proposed modification constitutes a Material	It is suggested to amend this provision with the following sentence: “ <i>...Upon the Council’s approval of a Material Change to the Plan of Work, the Secretary-General or duly authorized representative and the designated representative or the authority designated by the Contractor shall sign [the relevant changes to the Contract/written documents with the changes to the Contract]</i> ”, putting it as the last one.	Amendments to the text of this paragraph are aimed at eliminating the existing gap in regulation. In accordance with the Regulations, it is “ <i>the Secretary-General or duly authorized representative and the designated representative or the authority designated by the Contractor</i> ” that sign an exploitation contract. Accordingly, the same persons must sign the relevant changes to the Contract.

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		Change, the Contractor shall seek the prior approval of the Council based on the recommendation of the Commission under regulations 12 and 16, and before such Material Change is implemented by the Contractor.		
31.	Regulation 70(4)	The Council may approve the payment of any royalty due by way of instalment where special circumstances exist that justify payment by instalment.	It is suggested to read this provision as follows: <i>“The Council may approve the payment of any royalty due by way of instalment where special circumstances exist that justify payment by instalment, taking account of rules, regulations and procedures of the Authority that provide for incentives, on a uniform and non-discriminatory basis, to contractors”</i> .	The adjustment of this provision is necessary in order to bring it in line with the provision of Article 13(14) of Annex III of the UNCLOS, based on the fact that the Authority may, taking into account any recommendations of the Economic Planning Commission and the Legal and Technical Commission, adopt rules, regulations and procedures that provide for incentives, on a uniform and non-discriminatory basis , to contractors.
32.	Regulation 71(1)(a), (1)(b)	1. A royalty return shall include the following information for each royalty return period: (a) The quantity in wet metric tons of mineral-bearing ore recovered from	It is necessary to align the draft Regulations and provisions of the Economic Model in terms of presentation of the volume of ore for the calculation of royalty. In accordance with international practice, it is proposed to carry out royalty	Regulation 71 of the draft Regulations provides for the calculation of royalty for the volume of mineral-bearing ore, estimated in wet metric tons. The presented Economic Models take into account the dry weight of mined nodules. Thus, there is no correspondence between the Draft Regulation

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		each Mining Area; (b) The quantity and value by Mineral in wet metric tons of the mineral bearing ore shipped from the Mining Area	calculations based on the weight of dry nodules.	and the Economic Model, which leads to distortions of the obtained results and calls into question the presented calculations.
33.	Regulation 73(4)	Where any final royalty return shows an amount to be refunded, the Secretary-General shall refund such amount provided he or she determines that such refund is properly due. The Secretary-General may request, and the Contractor shall provide, such additional information or confirmation, as he or she considers necessary to determine that such refund is correct and due to a Contractor.	It is suggested to modify the text of the first sentence by defining the terms in which the Secretary-General shall refund the Contractor provided that such refund is properly due. <i>“Where any final royalty return shows an amount to be refunded, the Secretary-General shall refund such amount in [...days] provided he or she determines that such refund is properly due”.</i>	The suggested modification is intended to protect the property interests of a Contractor and to balance the interests of a Contractor and the Authority.
34.	Regulation 90	Procedures to ensure confidentiality 1. The Secretary-General	It is proposed to detail the provisions about non-disclosure procedure regarding the members of the Council.	In addition to the general provision about non-disclosure obligation for the persons who have access to confidential information, this Regulation separately govern non-disclosure

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		<p>shall be responsible for maintaining the confidentiality of all Confidential Information and shall not, except with the prior written consent of a Contractor, release such information to any person external to the Authority. To ensure the confidentiality of such information, the Secretary-General shall establish procedures, consistent with the provisions of the Convention, governing the handling of Confidential Information by members of the Secretariat, members of the Commission and any other person participating in any activity or programme of the Authority. Such procedures shall include:</p> <p>(a) The maintenance of Confidential Information in secure facilities and the</p>		<p>procedures for members of the LTC and the Secretariat. Meanwhile, there are no similar detailed provisions for members of the Council, although they will face confidential information during their work also.</p>

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		<p>development of security procedures to prevent unauthorized access to or removal of such information; and</p> <p>(b) The development and maintenance of a classification, log and inventory system of all written information received, including its type and source and the routing from the time of receipt until final disposition.</p> <p>2. A person who is authorized pursuant to these regulations to access Confidential Information shall not disclose such information except as permitted under the Convention and these regulations. The Secretary-General shall require any person who is authorized to access Confidential Information to make a</p>		

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		<p>written declaration witnessed by the Secretary-General or duly authorized representative to the effect that the person so authorized:</p> <p>(a) Acknowledges his or her legal obligation under the Convention and these regulations with respect to the non-disclosure of Confidential Information; and</p> <p>(b) Agrees to comply with the applicable regulations and procedures established to ensure the confidentiality of such information.</p> <p>3. The Commission shall protect the confidentiality of Confidential Information submitted to it pursuant to these regulations or a contract issued under these regulations. In accordance with the provisions of article 163 (8), of the Convention,</p>		

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		<p>members of the Commission shall not disclose or use, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with article 14 of annex III to the Convention or any other Confidential Information coming to their knowledge by reason of their duties for the Authority.</p> <p>4. The Secretary-General and staff of the Authority shall not disclose or use, even after the termination of their functions with the Authority, any industrial secret, proprietary data which are transferred to the Authority in accordance with article 14 of annex III to the Convention or any other Confidential Information coming to their knowledge by reason of their</p>		

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		<p>employment with the Authority.</p> <p>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.</p>		
35.	Regulation 94	<p>1. The Commission shall, taking into account the views of recognized experts, relevant Stakeholders and relevant existing internationally accepted standards, make recommendations to the Council on the adoption and</p>	<p>It is suggested to modify this Regulation so that it reads as follows:</p> <p><i>“1. Standards and amendments thereto are binding on all persons operating in the Area.</i></p> <p><i>2. Standards are prepared by the Commission, which shall take into account the views of recognized</i></p>	<p>The proposed wording of this Regulation is based on the provisions of Article 160(2)(f)(ii) of the UNCLOS establishing the powers and functions of the Assembly, on the provisions of Article 145 of the UNCLOS establishing the principle of protection of the marine environment and its content with respect to activities in the Area, and on the provisions of Article 165(2)(f) of the UNCLOS establishing</p>

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		<p>revision of Standards relating to Exploitation activities in the Area, including standards relating to:</p> <p>(a) Operational safety;</p> <p>(b) The conservation of the Resources; and</p> <p>(c) The protection of the Marine Environment, including standards or requirements relating to the Environmental Effects of Exploitation activities, as referred to in regulation 45.</p> <p>2. The Council shall consider and approve, upon the recommendation of the Commission, the Standards, provided that such Standards are consistent with the intent and purpose of the Rules of the Authority. If the Council does not approve such Standards, the Council shall return the Standards to the Commission for</p>	<p><i>experts, relevant Stakeholders, and relevant existing international standards, and make recommendations to the Council on the adoption and revision of Standards. The Council shall consider and approve the Standards upon the recommendation of the Commission. If the Council does not approve such Standards, the Council shall return the Standards to the Commission for reconsideration in the light of the views expressed by the Council. The Standards 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. The Standards approved by the Council shall remain effective on a provisional basis until approved by the Assembly or until amended by the Council in the light of any views expressed by the Assembly.</i></p> <p>3. Standards may be adopted in relation to:</p> <p>(a) health, safety and labor matters;</p> <p>(b) the protection and conservation of the natural resources of the Area and</p>	<p>the legal framework for the activities of the Legal and Technical Commission.</p>

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		<p>reconsideration in the light of the views expressed by the Council.</p> <p>3. The Standards contemplated in paragraph 1 above may include both qualitative and quantitative standards, as well as the methods, process or technology required to implement the Standards.</p> <p>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.</p>	<p><i>the prevention of damage to the flora and fauna of the marine environment;</i></p> <p><i>(c) the prevention, reduction and control of pollution and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment, particular attention being paid to the need for protection from harmful effects of such activities as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations, pipelines and other devices related to such activities; and</i></p> <p><i>(d) other matters.</i></p> <p><i>4. Standards may include both qualitative and quantitative norms, as well as the methods, processes and technologies necessary to comply with the standards.</i></p>	
36.	Regulation 95	<p>1. The Commission or the Secretary-General shall, from time to time, issue Guidelines of a technical or administrative nature, taking</p>	<p>It is suggested to modify this Regulation so that it reads as follows:</p> <p><i>“1. Guidelines and amendments thereto issued by the Commission or by the Secretary-General shall be</i></p>	<p>The suggested text of the Regulation 95 brings the clarity to the logic of this provision and is aimed at distinguishing “Guidelines” from “Standards”. It is also formulated with the view to the amended version of Regulation 94.</p>

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
		<p>into account the views of relevant Stakeholders. Guidelines will support the implementation of these regulations from an administrative and technical perspective.</p> <p>2. The full text of such Guidelines shall be reported to the Council. Should the Council find that a Guideline is inconsistent with the intent and purpose of the Rules of the Authority, it may request that the guideline be modified or withdrawn.</p> <p>3. The Commission or the Secretary-General shall keep under review such Guidelines in the light of improved knowledge or information.</p>	<p><i>Advisory in nature and shall be intended to support the implementation of these Regulations.</i></p> <p><i>2. Guidelines are prepared by the Commission, which shall take into account the views of recognized experts and relevant Stakeholders.</i></p> <p><i>3. Guidelines are prepared in relation to matters of a technical or administrative nature.</i></p> <p><i>4. The full text of such Guidelines shall be reported to the Council. Should the Council find that a Guideline is inconsistent with the intent and purposes of the Authority, it may request that the guideline be modified or withdrawn.</i></p> <p><i>5. The Commission or the Secretary-General shall keep under review such Guidelines in the light of improved knowledge or information from Stakeholders”.</i></p>	
37.	Regulation 96(1)	The Council shall establish appropriate mechanisms for inspection, as provided for	It is suggested that this provision should be read as follows: <i>“The Council shall establish appropriate</i>	Suggestion is justified by the need to bring this provision in line with Article 162(2)(z) of the UNCLOS, which states that:

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
		in article 162 (2) (z) of the Convention.	<i>mechanisms for directing and supervising a staff of inspectors, as provided for in article 162(2)(z) of the Convention”.</i>	<i>“2. In addition, the Council shall: ... z) establish appropriate mechanisms for directing and supervising a staff of inspectors who shall inspect activities in the Area to determine whether this Part, the rules, regulations and procedures of the Authority, and the terms and conditions of any contract with the Authority are being complied with”.</i>
38.	Regulation 99(1)(d), (3)	<p>Inspectors’ power to issue instructions</p> <p>1. <....> the Inspector may give any instruction he or she considers reasonably necessary to remedy the situation, including:</p> <p><...> d) A requirement to undertake specific tests or monitoring and to furnish the Authority with the results or report of such tests or monitoring.</p> <p>3. Any instruction issued under paragraph 1 above shall be in force for a specified period, not exceeding seven Days, after</p>	It is proposed to adjust these provisions taking into account the actual time spending on specific tests or monitoring.	It is unclear, how it is possible to fulfill the requirement to undertake specific tests or monitoring and report to the Authority on the results of such tests or monitoring in seven days.

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
		which it lapses.		
39.	Regulation 102(2)	All mining vessels and mining collectors shall be fitted with an electronic monitoring system. Such system shall record, inter alia, the date, time and position of all mining activities. The detail and frequency of reporting shall be in accordance with the Guidelines.	It is suggested to amend this provision with the words “ <i>installations involved in exploitation activities</i> ” so that it reads as follows: “ <i>All mining vessels, installations involved in exploitation activities, and mining collectors shall be fitted with an electronic monitoring system. Such system shall record, inter alia, the date, time and position of all mining activities. The detail and frequency of reporting shall be in accordance with the Guidelines</i> ”.	
40.	Annex I, Section I, 16	Attach a certificate of sponsorship issued by the sponsoring State.	It is suggested to amend this provision with the words “ <i>or States</i> ” so that it reads as follows: “ <i>Attach a certificate of sponsorship issued by the sponsoring State or States</i> ”.	Such amendment aims to clarify and ensure uniformity of the wording used in the Regulations.
41.	Annex I, Section IV, 21(a)	a) If the application is made by the Enterprise, attach certification by its competent authority that the Enterprise has the necessary financial resources to meet the estimated costs of the	It is suggested to amend the text of this provision by replacing the words “ <i>competent authority</i> ” with the words “ <i>Director-General</i> ” and read it as follows: “ <i>If the application is made by the Enterprise, attach certification by its Director-General that the</i>	Such amendment is justified by Article 7(2) of Annex IV of the UNCLOS, which states that the Director-General “ <i>shall be the legal representative and chief executive of the Enterprise and shall be directly responsible to the Board for the conduct of the operations of the Enterprise</i> ”.

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
		proposed Plan of Work;	<i>Enterprise has the necessary financial resources to meet the estimated costs of the proposed Plan of Work;”</i> .	
42.	Environmental Impact Statement (Annex IV), paragraphs 4.3 and 5.3	<...> and the environmental reference baseline data collected for the Authority, as outlined in the exploration contract conditions, should accompany the Environmental Impact Statement.	It is proposed to exclude this provision as inappropriate.	Taking into account the likely large volumes of such baseline data and the fact that all of them will be submitted to the Authority for inclusion in the database by the time of submission of Application for exploitation, the question arises whether they should be re-submitted.
43.	Environmental Impact Statement (Annex IV), paragraphs 4.6, 7.5.	Para. 4.6: Physical oceanographic setting Provide a description of oceanographic aspects such as currents, sedimentation rates and waves. <...> Para. 7.5: Physical oceanographic setting Provide a description of the effects on the current speed/direction and sedimentation rates, etc. <..>	It is proposed to delete the words “sedimentation rates“ from this paragraph.	The sedimentation rate is geological (lithological) parameter, and not oceanographic one.
44.	Environmental	Para. 4.5: Geological setting	It is proposed to reflect in the text of	The sedimentation rate is geological

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
	Impact Statement (Annex IV), paragraphs 4.5, 7.4	Describe the nature and extent of the mineral resource and bedrock within a broader geological context. Describe the general geological landscape and topographic features of the site, including bathymetric maps. Para 7.4: Geological setting Provide a description of impacts the mining operation may have on the topography of the site or its geological/geophysical composition.	these paragraphs the need to study the sedimentation rate.	(lithological) parameter, and not oceanographic one.
45.	Environmental Impact Statement (Annex IV), paragraph 4.7	Chemical oceanographic setting Provide a description of water mass characteristics at the site and at various depths of the water column, in particular near the sea floor, that includes <...> geochemistry, etc.	It is proposed to delete the words “geochemistry” from this paragraph.	One can speak about geochemical characteristics as applied to geological objects (sediments, hard-rock substrates, ores, etc.), and not to water masses.

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
46.	Environmental Impact Statement (Annex IV), paragraphs 4.5, 4.8, 7.4, 7.7	<p>Para. 4.5: Geological setting</p> <p>Describe the nature and extent of the mineral resource and bedrock within a broader geological context. Describe the general geological landscape and topographic features of the site, including bathymetric maps.</p> <p>Para. 4.8: Seabed substrate characteristics</p> <p>Provide a description of substrate composition, including physical and chemical properties (e.g., sediment composition, pore-water profiles, grain size, sediment mechanics).</p> <p>Para. 7.4: Geological setting</p> <p>Provide a description of impacts the mining operation may have on the topography of the site or its geological/geophysical</p>	It is proposed to reflect in the text of these paragraphs (4.5 and 7.4, or 4.8 and 7.7, or in all four) the need to study geochemistry.	One can speak about geochemical characteristics as applied to geological objects (sediments, hard-rock substrates, ores, etc.), and not to water masses.

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
		<p>composition.</p> <p>Para. 7.7: Seabed substrate characteristics</p> <p>For example: changes in the sediment composition, grain size, density and pore-water profiles.</p>		
47.	Environmental Impact Statement (Annex IV), paragraphs 4.7, 7.6; 4.6, 7.5	<p>Para. 4.7: Chemical oceanographic setting</p> <p>Provide a description of water mass characteristics at the site and at various depths of the water column, in particular near the sea floor, that includes <...> temperature <...>, turbidity <...>.</p> <p>Para. 7.6: Chemical oceanographic setting</p> <p>Provide a description of the effects such as <...> the clarity of water <...> water temperature, <...> in all relevant levels of the water</p>	<p>It is proposed to edit the content of these paragraphs, taking into account the fact that the temperature of the water, its turbidity and clarity are the physical and not chemical characteristics of the water column.</p> <p>It is also needed to harmonize terminology (turbidity and clarity are different characteristics of the water column, although related to each other).</p> <p>It is proposed to add the list of the physical characteristics of the water column with salinity.</p>	<p>The water temperature, turbidity and clarity are the physical and not chemical characteristics of the water column.</p> <p>Salinity is very important because of its affect the vital functions of organisms. Besides that, it determines the stability of the stratification of the water column (together with water temperature).</p>

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
		<p>column. <...></p> <p>Para. 4.6: Physical oceanographic setting</p> <p>Provide a description of oceanographic aspects such as currents, sedimentation rates and waves. Seasonal variability is an important element. Detail is required on the regional setting, as well as the specific site, and should include changes in physical conditions and processes according to depth and horizontal distance from the proposed mine site (near-field, far-field)</p> <p>Para. 7.5: Physical oceanographic setting</p> <p>Provide a description of the effects on the current speed/direction and sedimentation rates, etc. A regional oceanographic model will be relevant to this section.</p>		

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
48.	Environmental Impact Statement (Annex IV), paragraph 4.6	Physical oceanographic setting <...> Detail is required on the regional setting, as well as the specific site, and should include changes in physical conditions and processes according to depth and horizontal distance from the proposed mine site (near-field, far-field)	It is proposed to clarify what is meant by “near-field” and “far-field”	To ensure that the content of the document is clear and unambiguous.
49.	Environmental Impact Statement (Annex IV), paragraph 4.7	Chemical oceanographic setting Provide a description of water mass characteristics at the site and at various depths of the water column, in particular near the sea floor <...>	It is proposed to change phrase “Provide a description of water mass characteristics at the site and at various depths of the water column, in particular near the sea floor” to “Provide a description of water mass characteristics above the site at various depths of the water column, in particular near the sea floor”.	If the site is a part of the seabed, then all water column (both at all depths and near the seabed) will be “at the site”.
50.	Environmental Impact Statement (Annex IV), paragraph 4.12	Summary of the existing physicochemical environment Summarize key findings and include notes on special	It is proposed to refer to the need to study oceanic fronts and eddies in the preceding paragraphs of the Environmental Impact Statement.	Paragraph 4.12 refers to key findings and special considerations regarding oceanic fronts and eddies, while above (in the preceding paragraphs) nothing is said about their study.

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
		considerations for hydrothermal vents, seeps, seamounts and oceanographic fronts or eddies. <...>		
51.	Environmental Impact Statement (Annex IV), paragraph 10	<p>Accidental events and natural hazard</p> <p><....> This section should outline the possibility/probability of accidental events occurring, the impact they may have, the measures taken to prevent or respond to such an event and the residual impact should an event occur.</p> <p>For each component include:</p> <p>(a) The nature and extent of any impact; <....>.</p>	It is proposed to adjust the content of this paragraph taking into account adequately assess the possibility of providing information on the nature and extent of the impact and the residual impact of the alleged accidental event before it occurs.	The question arises about the possibility of providing information on the nature and extent of the impact and the residual impact of the alleged accidental event before it occurs.
52.	Annex VI Health and Safety Plan and Maritime Security Plan	[To be populated following discussion with the International Maritime Organization secretariat, members of the Authority		In addition to reference to the IMO, it is suggested to add consultations with the International Labour Organization, which, among other issues, deals with the regulation of labor relations, including health and safety,

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
		and Stakeholders]		of seafarers.
53.	Standard clauses for exploitation contract (Annex X), paragraphs 12.3 and 12.4	<p>Clause 12.3: <...>The suspension or termination shall be effective 60 Days after such written notice, unless the Contractor within such period disputes the Authority 's right to suspend or terminate this Contract in accordance with Part XI, Section 5, of the Convention, in which case this Contract shall only be suspended or terminated in accordance with a final binding decision in accordance with Part XI, Section 5, of the Convention.</p> <p>Clause 12.4: If the Contractor takes such action, this Contract shall only be suspended or terminated in accordance with a final binding decision in</p>	It is proposed to delete the repeating phrase.	The final part of the last phrase 12.3 and clause 12.4 repeat each other.

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
		accordance with Part XI, Section 5, of the Convention		
54.	Appendix II Schedule of annual, administrative and other applicable fees		It is suggested to make this Schedule exhaustive and exclude the word “[Other]”.	The suggested modification is intended to protect the property interests of a Contractor and to balance the interests of a Contractor and the Authority.
55.	Schedule, Use of terms and scope	“Contractor” means a contractor having a contract in accordance with Part III and, where the context applies, shall include its employees, subcontractors, agents and all persons engaged in working or acting for them in the conduct of its operations under the contract.	It is suggested that this provision shall be read as follows: “ Contractor ” means a party to an exploitation contract in accordance with Part III of these regulations”.	As it follows from the Part III of the Regulations, none of the listed in the initial definition persons are endowed with the rights of a Contractor. A Contractor is the one who shall have the rights and obligations under an exploitation contract. A Contractor has the right to give other persons (agents, subcontractors) the right to act on its own behalf only within the limits of a separate contract concluded with such Contractor, therefore, direct reference to other persons in the definition is not appropriate. What concerns employees, it does not make sense to designate them as acting on behalf of a Contractor, as they do not fulfil the rights and obligations of such Contractor but perform certain work under an exploitation contract. A Contractor is the one liable to the Authority

	Regulation	Text of the Regulation	Comments / Remarks	Explanation
				under an exploitation contract, not employees.
56.	Schedule, Use of terms and scope	“Rules of the Authority” means the Convention, the Agreement, these regulations and other rules, regulations and procedures of the Authority as may be adopted from time to time.	It is suggested to modify this term so that it reads as follows: “ <i>Rules of the Authority</i> ” means these regulations and other rules, regulations and procedures of the Authority as may be adopted from time to time”.	It is inappropriate to use the wording “ <i>Rules of the Authority</i> ” when referring to the international legal norms established in international treaties – the UNCLOS and the Agreement relating to the implementation of Part XI of the UNCLOS.
57.	Schedule, Use of terms and scope		It is suggested to include into the Schedule the definition of “ <i>regional environmental management plan</i> ” mentioned in Regulations 2(e), 47(3)(c), 48(3)(b), and Para. 1 of Annex VIII to the Regulations.	The words “ <i>regional environmental management plan</i> ” are referred to in the 4 indicated provisions of the Regulations in connection with the obligations of a Contractor to implement measures aimed at protection and preservation of the marine environment. It is, therefore, necessary to clarify the meaning in order to enable a Contractor to perform its duties properly.

Additional proposals for the Draft:

- To facilitate the implementation of the document, point out separately which payments are to be made by the contractor in the period after the signing of the contract for exploitation prior to the commencement of industrial production.
- Resolve the issue of reimbursement of Contractor’s expenses incurred during exploration (one of the possible mechanisms in this regard may be the so-called “transitional period” for the contractor, which carried out exploration and signed the contract for exploitation. This solution has been already

suggested during the previous discussions. During such a period, the contractor could evaluate the possible risks and would be able to recover, at least partially, its expenses incurred during the exploration stage).

- Adopt measures for the development and adoption of environmental standards and guidelines, whereas otherwise the practical application of the Regulations on Exploitation will be extremely difficult.
- Resolve the issue of how should exploration activities be regulated, where those are carried out in the area falling within the contract on exploitation (decide which provisions of the Regulations on exploration will continue to apply in this regard).