

## **General comments on “Inspection, compliance and enforcement” of the Draft Regulations**

China agrees that any inspection and compliance mechanism must comply with the provisions of the Convention and should not affect the functional authorization of existing institutional bodies under the Convention. Under the Convention, the Legal and Technical Commission (LTC) has broad functions in inspection and compliance. The current “hybrid model” is consistent with the provisions of the Convention and should be the basis for further discussions among parties.

1. China supports the establishment of an inspection and compliance mechanism under the LTC (LTCCC), which is in line with the provisions of the Convention and has gathered the greatest consensus among all parties. China believes that the division of labor between different bodies can be clarified in the context of discussions on specific texts, and that rules of procedure for the LTCCC can be established as necessary. However, these rules of procedure should be part of the rules of procedure of the LTC, and the members of the LTCCC should be composed of members of the LTC.

2. With regard to the establishment of a chief inspector or a standing committee, China supports the option of a standing committee. China believes that, first, collective decision-making is more stable than individual decision-making; second, the Compliance Committee is a standing body that has fully taken into account the objective need to respond in a timely manner.

3. China supports the establishment of a transparent system that meets the functional needs of the inspection and compliance mechanism, and also believes that by improving the relevant rules of the LTCCC, requirements for transparency and inclusiveness of reporting and data information can be met.

4. China agrees to conduct regular reviews of the inspection and compliance mechanism to continuously improve the mechanism.

## **General comments on “ protection and preservation of the marine environment” of the Draft Regulations**

(i) The Regulations shall strike a balance between resource exploitation and marine environmental protection, and formulate scientific, reasonable, fair and equitable regulations, standards and guidelines for environmental issues.

(ii) **With regard to the adjustment of the text**, it is recommended to further streamline the provisions by incorporating overly technical or detailed content into standards or guidelines. The scoping terminology like Coastal States, Adjacent Coastal States, and environmental terminology such as Environmental Monitoring, Environmental Management Systems, and Environmental Impact Assessment should be clarified. The relationship of provisions such as Article 47 and Article 47bis regarding Environmental Impact Assessment are unclear and are suggested to be further clarified. Article 47ter, "Environmental Impact Assessment Scoping Report," should be considered as a part of the environmental impact assessment process and not as a separate provision parallel to Environmental Impact Assessment.

(iii) **With regard to independent experts**, the participation of independent experts in relevant environmental work shall be in accordance with the provisions of the Convention and the cost-effective principle. The Draft Regulations provide the implementation of monitoring programme by independent experts and the requirement of peer review by competent independent experts before being reviewed by the Legal and Technical Commission(LTC), which, on the one hand, unnecessarily put extra pressure on contractors and, on the other hand, may adversely affect the decision-making of the LTC. The involvement of the independent experts shall be strictly in accordance with the Convention. In addition, the opinions of independent experts should not have any legal effect and should not prejudice or replace the decisions of the relevant organs of the Authority. The provisions of the Draft Regulations relating to independent experts shall fully respect the powers of the LTC and avoid negatively affecting the existing mechanisms of the Authority.

(iv) **With regard the role of other international agreements,** the Exploitation Regulations are the rules for implementing the UNCLOS and 1994 Agreement, and regulating deep-sea exploitation activities. They differ from other international rules such as the BBNJ Agreement in terms of main objectives, scope of application, and implementation methods. In the process of formulating the Exploitation Regulations, other international rules that are not contradictory to the spirit of the UNCLOS and the 1994 Agreement can be appropriately considered. However, the original text should not be directly quoted, and other international agreements should not become a prerequisite for the formulation of the Regulations.

## **General comments on the "Financial terms" of the Draft Regulations**

(i) Polymetallic nodules can be valued in different ways at different stages. At the early stage of commercial exploitation, or when the trading volume of polymetallic nodules is low and a trading price for polymetallic nodule ores has not yet been established, it is relatively fair and reasonable to value polymetallic nodules based on the price of the contained metal. In the future, if a trading price for polymetallic nodule ores is formed, it is recommended that the valuation be based directly on the trading price of the ores and that appropriate royalty rates be set accordingly.

(ii) The valuation of polymetallic nodules is currently based on the total metal value, i.e., the value of the three metals plus the value of the manganese ore. This approach solves the previous difficulties in valuing manganese, and China supports it.

(iii) The current method of calculating the royalty rate is to use the effective tax rate of land-based mining enterprises as a measure of equity, and the royalty rate is determined by financial modeling calculations. It is not clear whether the effective tax rate for analogical land mining enterprises is appropriate and this should be further studied; and it is recommended that the Authority conduct periodic reviews of the effective tax rate in the future.

(iv) The 1994 Implementing Agreement provides that " The system of payments to the Authority shall be fair both to the contractor and to the Authority ", so that the determination of the royalty rate based on the effective tax rate must also consider the economic benefits of the Contractor, such as the internal rate of return (IRR) of the Contractor.

(v) The sensitivity analysis of different equalization measures to prices and costs and the comparative analysis of equalization measures need to be further strengthened, and make sure that Contractors can choose a preferred equalization measure according to their needs in the future .