

# **General Comments on the Draft Regulations on Exploitation of Mineral Resources in the Area**

**(Submitted by the Government of China)**

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## **(1) Test Mining and Pilot Mining**

Both Test Mining and Pilot Mining are part of activities in the Area, but they are of different natures.

The essence of Test Mining is industrial study. It should be regulated by the Exploration Regulations and reflected in an exploration contract between the ISA and a Contractor.

The essence of Pilot Mining is industrial production. It should be regulated by the Exploitation Regulations and reflected in an exploitation contract between the ISA and a Contractor.

No matter it is Test Mining or Pilot Mining, environmental protection issues need to be studied and addressed. In performing an exploration contract, the conduct of Test Mining itself includes the study of its environmental impact, and the exploration phase can only be transferred to the exploitation phase in cases where environmental requirements have been satisfied. In performing an exploitation contract, the conduct of Pilot Mining itself also includes the study of its environmental impacts, and the pre-commercial production phase can only be shifted to the commercial production phase in cases where environmental requirements have been satisfied.

In the formulation of the Exploitation Regulations, it is necessary and important to distinct Test Mining and Pilot Mining. The main considerations are as follows:

First, such distinction is in line with the common practice of the mining industry. In the practice of land mining, Test Mining and Pilot Mining are two different phases. The former focuses on the testing of mining equipment and systems, which is a kind of small-scale mining work. The latter focuses on the testing of industrial production capacity, which is a kind of larger scale mining work. The two phases may have different impacts on the deep-sea environment.

Second, such distinction complies with the existing rules of the ISA. The Exploration Regulations defines the term “exploration”, which refers to “the use and testing of recovery systems and equipment, processing facilities and transportation systems”. In 2019, the LTC issued the “Recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area”, which defines Test Mining as “the use and testing of a fully integrated and functional mining system”. In cases where Test Mining and Pilot Mining are distincted, the concept of “Test Mining” is in line with what has been regulated in the above- mentioned ISA documents. On the contrary, if there is no distinction between “Test Mining” and “Pilot Mining”, the terminology “Test Mining” in the current draft Exploitation Regulations (see ISBA/29/C/CRP.1, Regulation 48ter) is obviously different from the term “Test Mining” in the context of the ISA’s Exploration Regulations and the LTC document.

Third, such distinctions is conducive to enhancing environmental

protection. In cases where Test Mining and Pilot Mining are distincted, a Contractor shall take a two-step approach to engage in a commercial production of deep-sea minerals: Step One is to sign an exploitation contract with the ISA. Prior to this step, a series of work including Test Mining must be completed and the relevant environmental requirments have to be satisfied. Alternatively, if the applicant plans to use mature mining technologies that have been widely proven to be technically and environmentally feasible, Test Mining is not required. In this case, relevant supporting materials in relation to the mature mining technologies should be provided when submitting the application for the Plan of Work. Step two is to enter into actual commercial mining. Prior to this step, a series of work including Pilot Mining must be completed and the relevant environmental requirments have to be satisfied. As far as possible environmental impact to be concerned, no matter it arises from “Test Mining” or “Pilot Mining”, it shall be reviewed by the LTC and then proceed to final decisions by the Council. Such mechanism is good enough to ensure that commertial production of deep-sea minerals be carried out on the basis of the fulfillment of environmental requiremnts.

## **(2) ICE mechanism**

Any ICE mechanism shall be consistent with the provisions of the UNCLOS and shall not affect the mandate of existing bodies under the UNCLOS. According to the Convention, the LTC has a wide range of

functions in inspection and compliance. The establishment of the compliance mechanism (LTCCC) under the LTC is in line with the provisions of the UNCLOS and embodies the greatest consensus among all parties. It is in line with the UNCLOS and should serve as the basis for further discussions among all parties.

### **(3) The rights of coastal States**

The rights of coastal States in the Area are clearly stipulated in Article 142 of the UNCLOS and should not go beyond the provisions of the UNCLOS. As a stakeholder, the rights of coastal states to participate in the consultations should be considered in the context of the overall stakeholder consultations, rather than enjoying separate privileges beyond the provisions of the UNCLOS.