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Draft Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area

Prepared by the Secretariat, incorporating suggested amendments in the light of comments submitted by member States

Preamble

In accordance with the United Nations Convention on the Law of the Sea, the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction, and its resources, are the common heritage of mankind. All rights in such resources are vested in mankind as a whole, on whose behalf the International Seabed Authority acts. The objective of these Regulations is to provide for prospecting and exploration for those resources.

PART I - INTRODUCTION

Regulation 1

Use of terms

1. For the purposes of these Regulations:

(a) "activities in the Area" means all activities of exploration for, and exploitation of, the resources of the Area;


(c) "approved plan of work" means a plan of work which has been approved by the Council in accordance with these Regulations;

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(d) "Area" means the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction;

(e) "Authority" means the International Seabed Authority;

(f) "coordinates" means a list of the geographical coordinates of points in accordance with the most recent generally accepted international standard used by the Authority;

(g) "contractor" means a State or entity which has entered into a contract with the Authority to carry out activities in the Area and includes the Enterprise when it has entered into such a contract with the Authority;


(i) "Council" means the Council of the Authority;

(j) "Commission" means the Legal and Technical Commission, which is an organ of the Council.

(k) "Enterprise" means the organ of the Authority provided for in the Convention;

(l) "entity" means a natural or juridical person or persons or a group of such persons which possess the nationality of States Parties to the Convention or are effectively controlled by such States or their nationals, when sponsored by such States;

(m) "exploitation" means the commercial extraction of polymetallic nodules in the Area, including the construction and operation of commerical-scale mining, processing and transportation systems for the production of minerals, and includes prospecting and exploration;

(n) "exploration" means searching for deposits of polymetallic nodules in the Area on an exclusive basis, the analysis of such deposits, the design, construction and testing of the commercial feasibility of extraction methods and equipment, processing plants and facilities and transportation systems, and the carrying out of studies of the environmental, technical, economic, commercial and other appropriate factors that must be taken into account in exploitation, and includes prospecting but does not include exploitation;

(o) "marine environment" means the physical, chemical and biological components, conditions and factors which interact and determine the productivity, state, condition and quality of the marine ecosystem, including the coastal area, the waters of the seas and oceans and the airspace above those waters, as well as the seabed and ocean floor and subsoil thereof;

(p) "polymetallic nodules" means one of the resources of the Area consisting of any deposit of nodules, on or just below the surface of the deep seabed, which may contain, inter alia, manganese, nickel, cobalt or copper;
(q) "prospecting" means the search for deposits of polymetallic nodules in the Area, including estimation of the composition, sizes and distributions of polymetallic nodule deposits and their economic values, without any exclusive rights, but does not include exploration or exploitation;

(r) "provisional member" means a State or entity which is a member of the Authority on a provisional basis in accordance with subparagraph (a) of paragraph 12 of section 1 of the annex to the Agreement;

(s) "registered pioneer investor" means any State, State enterprise or entity which has registered a claim with the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea pursuant to the regime for pioneer investors under resolution II of the Third United Nations Conference on the Law of the Sea;

(t) "reserved area" means the area reserved for the Authority in accordance with the Convention;

(u) "resources" means all solid, liquid or gaseous mineral resources in situ in the Area at or beneath the seabed, including polymetallic nodules;

(v) "Secretary-General" means the Secretary-General of the Authority;

(w) "serious harm to the marine environment" means any effect from activities in the Area on the living or non-living components of the marine environment and associated ecosystems which represents a significant adverse change in the marine environment determined on the basis of internationally recognized standards and practices and the rules, regulations, procedures and guidelines adopted by the Authority;

(x) "State" means a State Party to the Convention and includes a State which is a provisional member of the Authority.

2. In accordance with the Agreement, its provisions and Part XI of the Convention are to 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.

3. The footnotes to these Regulations shall be read and interpreted as part of the regulations.

4. These Regulations do 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.
PART II - NOTIFICATION OF PROSPECTING

Regulation 2

Prospecting

1. Prospecting shall be conducted in accordance with the Convention and these Regulations and may commence only after the prospector has been informed by the Secretary-General that its notification has been recorded pursuant to regulation 4, paragraph 3.

2. Prospecting shall not be undertaken in an area covered by an approved plan of work or in a reserved area, nor may there be prospecting in an area where the Council has prohibited exploitation because of the risk of serious harm to the marine environment.

3. Prospecting shall not confer on the prospector any rights with respect to resources. A prospector may, however, recover a reasonable quantity of minerals to be used for testing, and not for commercial use.

4. There shall be no time limit on prospecting, except that prospecting in a particular area shall cease upon written notification to the prospector by the Secretary-General that a plan of work for exploration has been approved with regard to that area.

5. Prospecting may be conducted simultaneously by more than one prospector in the same area or areas.

Regulation 3

Notification of prospecting

1. A proposed prospector shall notify the Authority of its intention to engage in prospecting.

2. Each notification of prospecting shall be in the form prescribed in Annex 1 of these Regulations, addressed to the Secretary-General, and shall conform to the requirements of these Regulations.

3. Each notification shall be submitted:
   (a) in the case of a State, by the authority designated for that purpose by it;
   (b) in the case of an entity, by its designated representative;
   (c) in the case of the Enterprise, by its competent authority.

4. Each notification shall be in one of the languages of the Authority and shall contain:
   (a) the name, nationality and address of the proposed prospector and its designated representative;
(b) the coordinates of the area or areas within which prospecting is to be conducted;

(c) a general description of the prospecting programme, including the date of commencement and its approximate duration;

(d) a satisfactory written undertaking that the proposed prospector will:

(i) comply with the Convention and the relevant rules, regulations and procedures of the Authority concerning:

a. cooperation in the training programmes in connection with marine scientific research and transfer of technology referred to in articles 143 and 144 of the Convention;

b. protection of the marine environment;

(ii) accept verification by the Authority of compliance therewith.

Regulation 4

Consideration of notifications

1. The Secretary-General shall acknowledge in writing receipt of each notification submitted under Regulation 3, specifying the date of receipt.

2. The Secretary-General shall, within 30 days of receipt of the notification, inform the proposed prospector in writing if the notification includes any part of an area included in an approved plan of work, or any part of a reserved area, or any part of an area prohibited for exploitation by the Council because of the risk of serious harm to the marine environment, or if the written undertaking is not satisfactory. The Secretary-General shall also inform the proposed prospector in writing if the notification includes any part of an area included in a previous notification. The proposed prospector may amend its notification.

3. The Secretary-General shall review and act on the notification within 45 days of its receipt. If the notification conforms with the requirements of the Convention and these Regulations, the Secretary-General shall record the particulars of the notification in a register maintained for that purpose and shall inform the prospector in writing that the notification has been so recorded. If the Secretary-General determines that the notification does not conform with the requirements of the Convention and these Regulations, the Secretary-General shall provide the proposed prospector with a written statement of reasons. The proposed prospector may amend its notification.

4. The Secretary-General shall not release any particulars contained in the notification, including details of the identity of the prospector, except with the written consent of the prospector. The Secretary-General shall, however, from time to time inform all members of the Authority, without reference to a particular prospector, of the areas in which prospecting is being conducted.
Regulation 5

Annual report

1. A prospector shall inform the Secretary-General in writing of any change in the information contained in the notification.

2. A prospector shall, within 90 days of the end of each calendar year, submit a report to the Authority on the status of prospecting. Such reports shall be submitted by the Secretary-General to the Legal and Technical Commission. Each such report shall contain:

   (a) a description of the status of prospecting and the results obtained, and estimates of the composition, sizes and distributions of polymetallic nodule deposits and their economic values;

   (b) copies of all data, calculations, analyses, reports and maps concerning the location and composition of polymetallic nodules prepared by or for the prospector;

   (c) copies of all data, calculations, analyses, reports and maps concerning the marine environment prepared by or for the prospector;

   (d) a description of the prospecting equipment, techniques, methodologies and strategies used during the reporting period;

   (e) a map showing the track of any oceanographic cruises carried out and the geographical location of recovered data;

   (f) information on compliance with the undertakings referred to in Regulation 3, paragraph (4)(d);

   (g) observations on any incident involving safety at sea or accommodation with other marine activities and any location or finding in the area of objects of an archaeological or historical nature.

3. All data and information contained in the reports submitted to the Authority under this regulation shall become the property of the Authority. The Secretary-General shall ensure the confidentiality of all such data and information, which is proprietary to the prospector. Data and information of a commercially sensitive nature shall be kept confidential for a period of three years from the date of its submission to the Authority. If, prior to the expiration of such period, the prospector applies for approval of a plan of work for exploration in respect of the same area covered by a report, or part thereof, and such plan of work is approved in accordance with these Regulations, then such commercially sensitive data and information submitted in respect of the area covered by the approved plan of work for exploration

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1 A request by a registered pioneer investor for approval of a plan of work for exploration under paragraph 6(a)(ii) of section 1 of the annex to the Agreement shall be submitted within 18 months of the entry into force of the Convention.
shall be kept confidential in accordance with the contract for exploration and these Regulations.

PART III - APPLICATIONS FOR APPROVAL OF PLANS OF WORK FOR EXPLORATION TO OBTAIN A CONTRACT

Section 1 - General provisions

Regulation 6

General

Subject to the provisions of the Convention, the following may apply to the Authority for approval of plans of work for exploration:

(a) the Enterprise, on its own behalf or in a joint arrangement;

(b) States, state enterprises, or natural or juridical persons which possess the nationality of States or are effectively controlled by them or their nationals, when sponsored by such States, or any group of the foregoing which meets the requirements of these Regulations.

Regulation 7

Applications for approval of plans of work with respect to a reserved area

1. Any State which is a developing State or any natural or juridical person sponsored by it and effectively controlled by it or by any other developing State, or any group of the foregoing, may notify the Authority that it wishes to submit a plan of work with respect to a reserved area. The Secretary-General shall forward such notification to the Enterprise, which shall inform the Secretary-General in writing within six months whether or not it intends to carry out activities in that area. If the Enterprise intends to carry out activities in that area, it shall, pursuant to paragraph 4, also inform the contractor whose application for a plan of work for exploration originally included that area in writing.

2. An application for approval of a plan of work in respect of a reserved area may be submitted at any time after such an area becomes available following a decision by the Enterprise that it does not intend to carry out activities in that area or where the Enterprise has not, within six months of the notification by the Secretary-General, either taken a decision on whether it intends to carry out activities in that area or notified the Secretary-General in writing that it is engaged in discussions regarding a potential joint venture. In the latter instance, the Enterprise shall have one year from the date of such notification in which to decide whether to conduct activities in that area.

3. If the Enterprise or a developing State or one of the entities referred to in paragraph 1 does not submit an application for approval of a plan of work for activities in a reserved area within 15 years of the commencement by the Enterprise of its functions independent of the Secretariat of the
Authority or within 15 years of the date on which that area is reserved for
the Authority, whichever is the later, the contractor whose application for a
plan of work for exploration originally included that area shall be entitled
to apply for a plan of work for that area provided it offers in good faith to
include the Enterprise as a joint-venture partner.

4. A contractor has the right of first refusal to enter into a joint
venture arrangement with the Enterprise for exploration of the area which was
included in its application for a plan of work for exploration and which was
designated by the Council as a reserved area.

SECTION 2 - CONTENT OF APPLICATIONS

Regulation 8

Form of applications

1. Each application for approval of a plan of work shall be in the form
prescribed in Annex 2, addressed to the Secretary-General, and shall conform
to the requirements of these Regulations. 3

2. Each application shall be submitted:

(a) in the case of a State, by the authority designated for that
purpose by it;

(b) in the case of an entity, by its designated representative or the
authority designated for that purpose by the sponsoring State or States;

(c) in the case of the Enterprise, by its competent authority.

3. Each application by a State enterprise or one of the entities referred
to in subparagraph (b) of regulation 6 shall also contain:

(a) sufficient information to determine the nationality of the
applicant or the identity of the State or States by which the applicant is
effectively controlled; and

3 A request by a registered pioneer investor for approval of a plan of work
for exploration under paragraph 6(a)(ii) of section 1 of the annex to the
Agreement shall consist of documents, reports and other data submitted to the
Preparatory Commission both before and after registration and shall be
accompanied by a certificate of compliance, consisting of a factual report
describing the status of fulfilment of obligations under the registered
pioneer investor regime, issued by the Preparatory Commission in accordance
with resolution II, paragraph 11(a). The registered pioneer investor shall,
where such information has not already been provided, update the information,
using, as far as possible, the provisions of regulation 15 as a guide, and
submit its programme of work for the immediate future, including a general
assessment of the potential environmental impact of the proposed activities.
(b) the principal place of business or domicile and, if applicable, place of registration of the applicant.

4. Each application submitted by a partnership or consortium of entities shall contain the required information in respect of each member of the partnership or consortium.

Regulation 8

Certificate of sponsorship

1. Each application by a state enterprise or one of the entities referred to in subparagraph (b) of regulation 6 shall be accompanied by a certificate of sponsorship issued by the State of which it is a national or by which or by whose nationals it is effectively controlled. If the applicant has more than one nationality, as in the case of a partnership or consortium of entities from more than one State, each State involved shall issue a certificate of sponsorship.

2. Where the applicant has the nationality of one State but is effectively controlled by another State or its nationals, each State involved shall issue a certificate of sponsorship.

3. Each certificate of sponsorship shall be duly signed on behalf of the State by which it is submitted and shall contain:

(a) the name of the applicant;
(b) the name of the sponsoring State;
(c) a statement that the applicant is:
  (i) a national of the sponsoring State; or
  (ii) subject to the effective control of the sponsoring State or its nationals;
(d) a statement by the sponsoring State that it sponsors the applicant;
(e) the date of deposit by the sponsoring State of its instrument of ratification of, or accession to, the Convention and its consent to be bound by the Agreement or a statement that it is a member of the Authority on a provisional basis;

* In the case of a request by a registered pioneer investor for approval of a plan of work, the certifying State or States at the time of registration or their successors shall be deemed to be the sponsoring State or States provided such State or States are States Parties to the Convention or are provisional members of the Authority at the time of the request.
(f) a declaration that the sponsoring State assumes responsibility in accordance with article 139, article 153, paragraph 4, and annex III, article 4, paragraph 4, of the Convention.

4. States or entities in a joint arrangement with the Enterprise shall also comply with this regulation.

Regulation 10

Financial and technical capabilities

1. Each application for approval of a plan of work for exploration shall contain specific and sufficient information to enable the Council to determine whether the applicant is financially and technically capable of carrying out the proposed plan of work and of fulfilling its financial obligations to the Authority.¹

2. An application for approval of a plan of work for exploration submitted on behalf of a State or entity, or any component of such entity, referred to in resolution II, paragraph 1(a)(ii) or (iii), other than a registered pioneer investor, which has already undertaken substantial activities in the Area prior to the entry into force of the Convention, or its successor in interest, shall be considered to have met the financial and technical qualifications necessary for approval of a plan of work if the sponsoring State or States certify that the applicant has expended an amount equivalent to at least US$ 30 million in research and exploration activities and has expended no less than 10 per cent of that amount in the location, survey and evaluation of the area referred to in the plan of work.

3. An application by the Enterprise shall include a statement by its competent authority certifying that the Enterprise has the necessary financial resources to meet the estimated costs of the proposed plan of work.

4. An application by a State or a state enterprise, other than a registered pioneer investor or an entity referred to in resolution II, paragraph 1(a)(ii) or (iii), shall include a statement by the State or the sponsoring State certifying that the applicant has the necessary financial resources to meet the estimated costs of the proposed plan of work.

5. An application by an entity, other than a registered pioneer investor or an entity referred to in resolution II, paragraph 1(a)(ii) or (iii), shall include copies of its audited financial statements, including balance sheets and profit-and-loss statements, for the most recent three years; and

(a) if the applicant is a newly organized entity and an audited balance sheet is not available, a pro forma balance sheet certified by an appropriate official of the applicant;

¹ A registered pioneer investor requesting approval of a plan of work for exploration under paragraph 6(a)(ii) of section 1 of the annex to the Agreement shall be considered to have satisfied the financial and technical qualifications necessary for approval of a plan of work.
(b) if the applicant is a subsidiary of another entity, copies of such financial statements of that entity and a statement from that entity certifying that the applicant will have the financial resources to carry out the plan of work;

(c) if the applicant is controlled by a State or State enterprise, a statement from the State or State enterprise certifying that the applicant will have the financial resources to carry out the plan of work.

6. Where an applicant referred to in paragraph 5 intends to finance the proposed plan of work by borrowings, its application shall include the amount of such borrowings, the repayment period and the interest rate.

7. Except as provided for in paragraph 2, all applications shall include:

(a) a general description of the applicant's previous experience, knowledge, skills, technical qualifications and expertise relevant to the proposed plan of work; and

(b) a general description of the equipment and methods expected to be used in carrying out the proposed plan of work and other relevant non-proprietary information about the characteristics of such technology.

8. Where the applicant is a partnership or consortium of entities in a joint arrangement, each member of the partnership or consortium shall provide the information required by this regulation.

Regulation 11

Previous contracts with the Authority

Where the applicant or, in the case of an application by a partnership or consortium of entities in a joint arrangement, any member of the partnership or consortium, has previously been awarded any contract with the Authority, the application shall include:

(a) the date of the previous contract or contracts;

(b) the dates, reference numbers and titles of each report submitted to the Authority in connection with the contract or contracts; and

(c) the date of termination of the contract or contracts, if applicable.

Regulation 12

Undertakings

Every applicant, including the Enterprise, shall, as part of its application for approval of a plan of work for exploration, provide a written undertaking to the Authority that it will:
(a) accept as enforceable and comply with the applicable obligations created by the provisions of the Convention and the rules, regulations and procedures of the Authority in force as at the date the application is submitted, the decisions of the organs of the Authority and the terms of its contracts with the Authority;

(b) accept control by the Authority of activities in the Area, as authorized by the Convention; and

(c) provide the Authority with a written assurance that its obligations under the contract will be fulfilled in good faith.\(^5\)

**Regulation 13**

**Total area covered by the application**

Each application shall define the boundaries of the area under application by a list of coordinates. Applications other than those under regulation 7 shall cover a total area, which need not be a single continuous area, sufficiently large and of sufficient estimated commercial value to allow two mining operations. The applicant shall indicate the coordinates dividing the area into two parts of equal estimated commercial value. The area to be allocated to the applicant shall be subject to the provisions of regulation 21.

**Regulation 14**

**Data and information to be submitted before the designation of a reserved area**

1. Each application shall contain sufficient data and information, as prescribed in Annex 2, with respect to the area under application to enable the Council, on the recommendation of the Legal and Technical Commission, to designate a reserved area based on the estimated commercial value of each part. Such data and information shall consist of data available to the applicant with respect to both parts of the area under application, including the data used to determine their commercial value.

2. The Council, on the basis of the data and information submitted by the applicant, if found satisfactory, and taking into account the recommendation of the Legal and Technical Commission, shall designate the part of the area under application which is to be a reserved area. The area so designated shall become a reserved area as soon as the plan of work for the non-reserved area is approved and the contract is signed. If the Council determines that additional information, consistent with the regulations and Annex 2, is needed to designate the reserved area, it shall refer the matter back to the Commission for further consideration, specifying the additional information required.

\(^5\) Such undertaking shall also be provided by a registered pioneer investor requesting approval of a plan of work for exploration under paragraph 6(a)(ii) of section 1 of the annex to the Agreement.
3. Once the plan of work is approved and a contract has been issued, the data and information transferred to the Authority by the applicant in respect of the reserved area may be disclosed by the Authority in accordance with article 14, paragraph 1, of annex III to the Convention.

Regulation 15

Data and information to be submitted for approval of the plan of work

After the Council has designated the reserved area, the applicant, if it has not already done so, shall submit, with a view to receiving approval of the plan of work for exploration in the form of a contract, the following information:

(a) a general description and a schedule of the proposed exploration programme, including the programme of work for the immediate five-year period, such as studies to be undertaken in respect of the environmental, technical, economic and other appropriate factors that must be taken into account in exploration;

(b) a preliminary assessment of the potential effects of the proposed exploration activities on the marine environment;

(c) a description of the proposed measures for the protection and preservation of the marine environment;

(d) a description of a programme for oceanographic and environmental baseline studies in accordance with these Regulations and procedures and guidelines issued by the Authority that would enable an assessment of the potential environmental impact of the proposed exploration activities;

(e) data necessary for the Council to make the determination it is required to make in accordance with regulation 10, paragraph 1;

(f) a schedule of anticipated yearly expenditures in respect of the programme of work for the immediate five-year period.

SECTION 3 - FEES

Regulation 16

Fee for applications

1. The fee for processing applications for approval of a plan of work for exploration shall be US$ 250,000 or its equivalent in freely convertible currency. The fee shall be paid to the Authority by the applicant at the time...
of submitting an application.\footnote{In the case of a registered pioneer investor requesting approval for a plan of work for exploration under paragraph 5(a)(ii) of section 1 of the annex to the Agreement, the fee of US$ 250,000 paid pursuant to resolution II, paragraph 7(a), shall be deemed to be the fee referred to under paragraph 1 relating to the exploration phase.}

2. The amount of the fee shall be reviewed from time to time by the Council in order to ensure that it covers the administrative costs incurred by the Authority in processing the application.

3. If the administrative costs incurred by the Authority in processing the application are less than the fixed amount, the Authority shall refund the difference to the applicant directly after such costs have been determined.

\textbf{SECTION 4 - PROCESSING OF APPLICATIONS}

\textbf{Regulation 17}

\textbf{Receipt, acknowledgement and safe custody of applications}

1. The Secretary-General shall:

\begin{itemize}
  \item[(a)] acknowledge in writing receipt of every application for approval of a plan of work for exploration submitted under this Part, specifying the date of receipt;
  \item[(b)] notify the members of the Authority and the members of the Legal and Technical Commission of the receipt of such application and circulate to them information of a general nature which is not confidential regarding the application;
  \item[(c)] place the application together with the attachments and annexes thereto in safe custody and ensure the confidentiality of all data and information contained in the application.
\end{itemize}
Regulation 18

Consideration by the Legal and Technical Commission

1. Upon receipt of an application, the Secretary-General shall place consideration of the application as an item on the agenda for the next meeting of the Commission.

2. The Commission shall examine applications in the order in which they are received.

3. The Commission shall determine whether the applicant:

   (a) has complied with the procedures established in these Regulations;

   (b) has given the undertakings and assurances specified in regulation 12;

   (c) possesses the financial and technical capability to carry out the proposed plan of work as specified in regulation 10; and

   (d) has satisfactorily discharged its obligations under any previous contract with the Authority.

4. The Commission shall, in accordance with the requirements set forth in these Regulations and the procedures and guidelines issued by the Authority, determine whether the proposed plan of work:

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8 In the case of a request by a registered pioneer investor for approval of a plan of work for exploration under paragraph 6(a)(i) of section 1 of the annex to the Agreement, the Secretary-General shall ascertain whether:

   (a) the documents, reports and other data submitted to the Preparatory Commission both before and after registration are available;

   (b) the certificate of compliance, consisting of a factual report describing the status of fulfillment of obligations under the registered pioneer investor regime, issued by the Preparatory Commission in accordance with resolution II, paragraph 11(a), has been produced;

   (c) the registered pioneer investor has updated the information provided in the documents, reports and other data submitted to the Preparatory Commission both before and after registration and has submitted its programme of work for the immediate future, including a general assessment of the potential environmental impacts of the proposed activities; and

   (d) the registered pioneer investor has given the undertakings and assurances specified in regulation 12.

If the Secretary-General informs the Commission that the provisions of (a), (b), (c) and (d) have been satisfied by a registered pioneer investor, the Commission shall recommend approval of the plan of work.

/...
(a) will provide for effective protection of human health and safety;

(b) will provide for effective protection and preservation of the marine environment from harmful effects which may arise from the activities;

(c) will ensure that installations will not unreasonably interfere with the use of recognized sea lanes essential to international navigation or other established maritime activities in the area.

5. If the Commission determines that the applicant has met the requirements of paragraph 3 and that the proposed plan of work meets the requirements of paragraph 4, the Commission shall recommend approval of the plan of work to the Council.

6. The Commission shall not recommend approval of the plan of work if:

(a) part or all of the area covered by the proposed plan of work is included in an approved plan of work or a proposed plan of work previously submitted by a different applicant which has not yet been decided upon by the Council; or

(b) part or all of the area covered by the proposed plan of work is included in an area disapproved for exploitation by the Council in cases where substantial evidence indicates the risk of serious harm to the marine environment; or

(c) the proposed plan of work has been submitted or sponsored by a State which already holds:

(i) plans of work for exploration and exploitation or exploitation only in non-reserved areas that, together with either part of the area covered by the application, exceed in size 50 per cent of a circular area of 400,000 square kilometres surrounding the centre if either part of the area covered by the proposed plan of work;

(ii) plans of work for exploration and exploitation or exploitation only in non-reserved areas which, taken together, constitute 2 per cent of that part of the area which is not reserved or disapproved for exploitation pursuant to article 152, paragraph (2)(x), of the Convention.

7. Except in the case of applications by the Enterprise, on its own behalf or in a joint venture, and applications under regulation 7, the Commission shall not recommend approval of the plan of work if part or all of the area covered by the proposed plan of work is included in a reserved area or an area designated by the Council to be a reserved area.

8. If the Commission finds that an applicant has not complied with these regulations or that an application is otherwise incomplete or defective, it shall notify the applicant in writing, through the Secretary-General, indicating the reasons why the application is incomplete or defective. The applicant may, within 45 days of such notification, amend its application.
9. In reviewing a proposed plan of work, the Commission shall take into account the policies and objectives relating to activities in the Area as provided for in Part XI and annex III of the Convention and the Agreement.

10. The Commission shall consider applications expeditiously and shall submit its report and recommendations to the Council on the designation of the areas and on the plan of work at the first possible opportunity taking into account the schedule of meetings of the Authority.

11. In discharging its duties described in paragraphs 3 and 4 the Commission shall apply these Regulations and the procedures and guidelines issued by the Authority in a uniform and non-discriminatory manner.

Regulation 15
Consideration and approval by the Council

The Council shall consider the reports and recommendations of the Commission relating to approval of plans of work in accordance with the special procedure set out in its rules of procedure.9

PART IV - CONTRACTS FOR EXPLORATION

Regulation 20
The contract

1. After a plan of work has been approved by the Council, it shall be prepared in the form of a contract between the Authority and the applicant in the form prescribed in Annex 3. Each contract shall incorporate, as terms and conditions of the contract, the standard clauses set out in Annex 4 in effect at the date of execution of the contract, and the environmental procedures and guidelines established by the Authority pursuant to regulation 28.

2. The contract shall be executed by the Secretary-General on behalf of the Authority and by the applicant. The Secretary-General shall notify all members of the Authority in writing of the conclusion of each contract.

3. The contractor shall have the exclusive right to explore the area covered by the plan of work in respect of polymetallic nodules. The Authority shall ensure that no other entity operates in the same area for a different category of resources in a manner which might unreasonably interfere with the operations of the contractor.

9 In the case of a request by a registered pioneer investor for approval of a plan of work for exploration under paragraph 6(a)(ii) of section 1 of the annex to the Agreement, once the Commission recommends approval of the plan of work and submits its recommendation to the Council, the plan of work shall be considered approved by the Council in accordance with paragraph 6(a)(ii) of section 1 of the annex to the Agreement.
4. In accordance with the principle of non-discrimination, a contract with a State or entity or any component of such entity referred to in paragraph 6(a)(i) of section 1 of the annex to the Agreement shall include arrangements which shall be similar to and no less favourable than those agreed with any registered pioneer investor. If any of the States or entities or any components of such entities referred to in paragraph 6(a)(i) of section 1 of the annex to the Agreement are granted more favourable arrangements, the Council shall make similar and no less favourable arrangements with regard to the obligations assumed by the registered pioneer investors provided that such arrangements do not affect or prejudice the interests of the Authority.

5. A contractor which has an approved plan of work for exploration only shall have priority among applicants submitting plans of work for exploitation of the same area or resources. Such priority may be withdrawn by the Authority if the contractor has failed to comply with the requirements of its approved plan of work within the time period specified in a written notice from the Authority to the contractor indicating which requirements have not been complied with by the contractor. The time period specified in any such notice shall not be unreasonable.

Regulation 21

Size of area and relinquishment

1. The total area allocated to the contractor under the contract shall not exceed 150,000 square kilometres. The contractor shall relinquish portions of the area allocated to revert to the Area, in accordance with the following schedule:

   (a) 20 per cent of the area allocated by the end of the third year from the date of the contract;

   (b) an additional 10 per cent of the area allocated by the end of the fifth year from the date of the contract; and

   (c) an additional 20 per cent of the area allocated or such larger amount as would exceed the exploitation area decided upon by the Authority, after eight years from the date of the contract.

2. The contractor shall be deemed to have fulfilled the requirements of relinquishment provided that the total area allocated to it, upon approval of a plan of work, does not exceed 75,000 square kilometres.

3. In the case of a registered pioneer investor, the contract shall take into account the schedule of relinquishment, where applicable, in accordance with the terms of its registration as a registered pioneer investor.

4. The Council may, at the request of the contractor, in exceptional circumstances, defer the schedule of relinquishment by a period or periods not exceeding two years in the aggregate.

5. Notwithstanding the provisions of paragraphs 1 and 2, the Authority may determine the appropriate size of areas for exploration in accordance with
article 17, paragraph (2)(a) of annex III of the Convention, provided that no area shall exceed 150,000 square kilometres.

Regulation 22

Duration of contracts

1. A plan of work for exploration shall be approved for a period of 15 years. Upon expiration of a plan of work for exploration, the contractor shall apply for a plan of work for exploitation unless the contractor has already done so, has obtained an extension for the plan of work for exploration or decides to renounce its rights in the area covered by the plan of work for exploration.

2. A contractor may apply for extensions for the plan of work for exploration for periods of not more than five years each. Such extensions shall be approved by the Authority if the contractor has made efforts in good faith to comply with the requirements of the plan of work but for reasons beyond the contractor's control has been unable to complete the necessary preparatory work for proceeding to the exploitation stage or if the prevailing economic circumstances do not justify proceeding to the exploitation stage.

Regulation 23

Training

Pursuant to article 15 of annex III to the Convention, each contract shall include as a schedule a practical programme for the training of personnel of the Authority and developing States drawn up by the contractor in cooperation with the Authority and the sponsoring State or States. Training programmes shall focus on training in the conduct of exploration and may be revised and developed from time to time by mutual agreement.

Regulation 24

Periodic review of the programme of work

The contractor and the Secretary-General shall jointly undertake a periodic review of the programme of work under the contract at intervals of five years. For the purposes of the review, the Secretary-General may request the contractor to submit such additional data and information as may be required. The contractor shall make such adjustments to its programme of work as the Council and the contractor agree are necessary in the light of the review and shall indicate its programme of work for the following period.

Regulation 25

Termination of sponsorship

1. Each contractor shall have the required sponsorship throughout the period of the contract.
2. If a State terminates its sponsorship it shall promptly notify the Secretary-General in writing. Termination of sponsorship shall take effect six months after the date of receipt of the notification by the Secretary-General, unless the notification specifies a later date. The sponsoring State may inform the Secretary-General of the reasons for terminating its sponsorship.

3. In the event of termination of sponsorship the contractor shall, within the period referred to in paragraph 2, obtain another sponsor. Such sponsor shall submit a certificate of sponsorship in accordance with regulation 10. Failure to obtain a sponsor within the required period shall result in the termination of the contract.

4. A sponsoring State shall not be discharged by reason of the termination of its sponsorship from the financial and contractual obligations accrued while it was a sponsoring State, nor shall such termination affect any legal rights and obligations created during such sponsorship.

5. The Secretary-General shall notify the members of the Authority of the termination or change of sponsorship.

Regulation 26

Sponsorship by provisional members

An approved plan of work for exploration in the form of a contract for exploration sponsored by a State which was a member of the Authority on a provisional basis shall terminate if such membership ceases and the State concerned has not become a State-Party to the Convention and the Agreement.

Regulation 27

Responsibility and liability

1. The contractor shall have responsibility or liability for any damage arising out of wrongful acts in the conduct of its operations, account being taken of contributory acts or omissions by the Authority. Similarly, the Authority shall have responsibility or liability for any damage arising out of wrongful acts in the exercise of its powers and functions, including violations under article 169, paragraph 2, of the Convention, account being taken of contributory acts or omissions by the contractor. Liability in every case shall be for the actual amount of damage.

2. No State may impose conditions on a contractor that are inconsistent with Part XI of the Convention and the Agreement or the rules, regulations and procedures of the Authority. However, the application by a State to contractors sponsored by it, or to ships flying its flag, of environmental or other laws and regulations more stringent than those in the rules, regulations and procedures of the Authority shall not be deemed inconsistent with Part XI of the Convention and the Agreement.

3. Responsibility of States and, as appropriate, of international organizations to ensure that activities in the Area shall be carried out in
conformity with the Convention shall be governed by article 139 of the Convention.

4. Liability of States, international organizations, entities or contractors for failure to carry out their responsibilities or for damage arising out of wrongful acts or omissions shall be governed by article 139 and annex III, articles 4 and 22, of the Convention.

5. States, state enterprises and international organizations which undertake activities in the Area shall provide a written undertaking to waive immunity in cases of liability arising pursuant to paragraph 4.

PART V - PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

Regulation 28

Protection and preservation of the marine environment

1. Each contractor shall ensure the effective protection of the marine environment from serious harm which may arise from its activities in the Area and shall take precautionary measures to anticipate, prevent or minimize any adverse impacts on the marine environment in the Area as far as economically reasonable using the best available technology.

2. The Authority shall establish and keep under periodic review environmental procedures and guidelines to ensure the protection and preservation of the marine environment. Such procedures and guidelines may from time to time list activities which may be considered to have no potential for causing harmful effects on the marine environment. The Authority shall also develop procedures and guidelines for the establishment of environmental baselines against which to assess the likely effects on the marine environment of activities in the Area.

3. Each contract shall require the contractor, in cooperation with the Authority and the sponsoring State or States, to establish environmental baselines against which to assess the likely effects of its programme of work on the marine environment and a programme to monitor and report on such effects. The contractor shall cooperate with the Authority in the implementation of such monitoring programmes.

4. The contractor shall report annually in writing to the Secretary-General on the implementation and results of the monitoring programme referred to in paragraph 3 and shall submit data and information in accordance with the procedures and guidelines of the Authority. The Secretary-General shall transmit such reports to the Commission for its consideration pursuant to article 165 of the Convention.

5. Contractors, sponsoring States and other interested States or entities shall cooperate with the Authority in the establishment and implementation of programmes for monitoring and evaluating the impacts of deep seabed mining on the marine environment.
Regulation 29

Notification by coastal States

1. Any coastal State which has clear grounds for believing that any activity in the Area by a contractor is likely to cause serious harm to the marine environment under its jurisdiction or sovereignty may notify the Secretary-General in writing and request that the Secretary-General take such necessary action as may be within the competence of the Secretary-General to prevent such serious harm.

2. Upon receipt of such notification, the Secretary-General shall notify in writing the contractor and the sponsoring State or States, as well as other States that could be affected, and transmit the notification to the Commission and the Council. The Secretary-General shall provide the contractor and its sponsoring State or States with a reasonable opportunity to examine the evidence, if any, provided by the coastal State as the basis for its belief and shall transmit any response by the contractor to the notification to the coastal State and to the Commission and the Council.

Regulation 30

Emergency Orders

1. A contractor shall immediately notify in writing the Secretary-General of any incident or activity which causes serious harm to the marine environment arising from the contractor's activities in the Area.

2. In the event that the Secretary-General is notified of an incident or activity causing serious harm to the marine environment arising from a contractor's activities in the Area, he shall report thereof immediately to the Council, and to the Commission.

3. The Commission shall meet as soon as possible after having received the Secretary-General's report and shall consider, taking into account the measures already taken by the contractor, which measures are necessary to respond effectively to the incident or activity and to prevent, contain, minimize and repair the serious harm. It shall make recommendations to the Council.

4. The Council shall meet as soon as possible to consider the recommendations of the Commission.

5. The Council, taking into account the recommendations of the Commission, and any submissions made by the contractor, may issue emergency orders which may include orders for the suspension or adjustment of operations, to prevent, contain, minimize and repair serious harm to the marine environment arising out of activities in the Area.

6. Pending any action by the Council, the Secretary-General may take any immediate measures of a temporary nature, which shall remain in effect until the Council decides what measures, if any, to take, which should be practical
and reasonable in the circumstances, to prevent, contain, minimize and repair serious harm to the marine environment.

7. If a contractor does not promptly comply with an emergency order to prevent serious harm to the marine environment arising out of its activities in the Area, the Council may take by itself or through arrangements with others on its behalf, such measures as are necessary to prevent, contain, minimize and repair any such serious harm to the marine environment.

PART VI - CONFIDENTIALITY

Confidentiality of proprietary and commercially sensitive data and information

1. Data and information submitted or transferred to the Authority pursuant to these Regulations or a contract issued under these Regulations of a proprietary or commercially sensitive nature shall be considered confidential unless it is data and information which:

   (a) is generally known or publicly available from other sources;

   (b) has been previously made available by the owner to others without an obligation concerning its confidentiality; or

   (c) is already in the possession of the Authority with no obligation concerning its confidentiality.

2. The Secretary-General shall be responsible for maintaining the confidentiality of all such confidential data and information submitted or transferred to the Authority pursuant to these Regulations or a contract issued under these Regulations, subject to the limitation contained in regulation 5 with respect to data and information of a commercially sensitive nature, and shall develop appropriate procedures, consistent with the provisions of the Convention, to ensure the confidentiality of such data and information. Such procedures shall include:

   (a) maintenance of confidential data and information in secure facilities and development of security procedures to prevent unauthorized access to or removal of such data and information;

   (b) development and maintenance of a log or inventory system of all written data and information received, including its type and source and routing from the time of receipt until final disposition.

3. The Secretary-General shall authorize access to such data and information only for limited use in connection with the legitimate Authority functions and duties of the person seeking access.

4. The Commission shall protect the confidentiality of such data and information submitted to it pursuant to these Regulations or a contract issued
under these Regulations and shall abide by the provisions of article 163, paragraph 8, of the Convention.

5. The Secretary-General and staff of the Authority shall not disclose, even after the termination of their functions with the Authority, any confidential proprietary or commercially sensitive data and information which are transferred to the Authority or any other such confidential data and information coming to their knowledge by reason of their employment with the Authority.

PART VII - SETTLEMENT OF DISPUTES

Regulation 12

Disputes

Disputes concerning the interpretation or application of these Regulations shall be settled in accordance with Part XI, section 5, of the Convention.