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I certify that this is a true copy of the original.

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INFORMAL REVISION OF REGULATIONS 1 AND 22 TO 33 OF THE MINING CODE (ISBA/4/C/4/Rev.1) PREPARED BY THE SECRETARIAT TOGETHER WITH THE PRESIDENT OF THE COUNCIL

Introductory Note

The present document contains an informal revision of regulations 1 and 22 to 33 of the draft Mining Code proposed by the Legal and Technical Commission (ISBA/4/C/4/Rev.1) in light of the comments and proposals made during informal meetings of the Council on 10, 11, 12 and 13 August 1999.
1. For the purposes of these Regulations:

(a) "exploitation" means the commercial collection of polymetallic nodules in the Area, including the construction and operation of mining, processing and transportation systems, for the production of minerals;

(b) "exploration" means searching for deposits of polymetallic nodules in the Area with exclusive rights, the analysis of such deposits, the testing of collecting systems and equipment, processing 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;

(c) "marine environment" means the physical, chemical, sedimentological 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 these waters, as well as the seabed and ocean floor and subsoil thereof;

(d) "polymetallic nodules" means one of the resources of the Area consisting of deep sea accretionary deposits of oxy-hydroxides of manganese and iron, which may contain inter alia nickel, copper and cobalt, found on and within an unconsolidated sediment;

(e) "precautionary measures" means that where there are threats of serious or irreversible damage to the marine environment, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;

(f) "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;

(g) "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 according to the rules, regulations and procedures adopted by the Authority on the basis of internationally recognized standards and practices.

2. Terms used in the Convention shall have the same meaning in these Regulations.


4. These Regulations shall 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.
5. These Regulations may be supplemented by further rules, regulations and procedures, in particular on the protection and preservation of the marine environment. These Regulations shall be subject to the provisions of the Convention and the Agreement and other rules of international law not incompatible with the Convention.

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. Not later than six months before the expiration of a plan of work for exploration, 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 Council, on the recommendation of the Commission, 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 shall provide for full participation by such personnel in all activities covered by the contract. Such training programmes may be revised and developed from time to time as necessary 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 implementation of the programme of work under the contract at intervals of five years. The Secretary-General may request the contractor to submit such additional data and information as may be necessary for the purposes of the review. The Secretary-General shall report on the review to the Commission, which shall submit its recommendations to the Council. The contractor shall make such adjustments to its programme of work as are necessary in the light of the review and shall indicate its programme of work for the following five-year period. Such adjustments shall be agreed between the contractor and the Secretary-General and approved by the Council.
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. The sponsoring State should also inform the Secretary-General of the reasons for terminating its sponsorship. 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.

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 9. 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 any 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

[deleted]

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 168, 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. The responsibility of States and 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.

3. Liability of States and international organizations 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.
Regulation 27 bis
Application to the contractor of laws and regulations of States

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.

PART V - PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

Regulation 28
Protection and preservation of the marine environment

1. The Authority shall, in accordance with the Convention, establish and keep under periodic review environmental rules, regulations and procedures to ensure effective protection for the marine environment from harmful effects which may arise from activities in the Area.

2. Pursuant to article 145 of the Convention, each contractor shall take precautionary measures to anticipate, prevent or minimize adverse impacts on the marine environment arising from its activities in the Area as far as reasonably possible using the best available technology.

3. Each contract shall require the contractor to gather environmental baseline data and to establish environmental baselines, taking into account any recommendations issued by the Legal and Technical Commission pursuant to regulation 31 ter 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 recommendations issued by the Commission may, inter alia, list those exploration activities which may be considered to have no potential for causing harmful effects on the marine environment. The contractor shall cooperate, as appropriate, with the Authority and the sponsoring State or States in the establishment and implementation of such monitoring programme.

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, taking into account any recommendations issued by the Commission pursuant to regulation 31 ter. 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.

6. If the contractor applies for exploitation rights, it shall propose areas to be set aside and used exclusively as impact reference zones and preservation reference zones. "Impact reference zones" means areas to be used for assessing the effect of each contractor's activities in the Area on the marine environment and which are representative of the environmental characteristics of the Area. "Preservation reference zones" means areas in which no mining shall occur to ensure representative and stable biota of the seabed in order to assess any changes in the flora and fauna of the marine environment.
Regulation 29  
Notification by coastal States

[different, see 30 bis]

Regulation 30  
Emergency orders

1. In the event that the Secretary-General is notified of an incident resulting from or caused by a contractor's activities in the Area that has caused, or is likely to cause, serious harm to the marine environment, the Secretary-General shall notify in writing the contractor and the sponsoring State or States, and shall report immediately to the Legal and Technical Commission and to the Council.

2. The Commission shall meet as soon as possible after having received the Secretary-General's report and shall determine, based on the evidence provided to it and taking into account the measures already taken by the contractor, which measures are necessary to respond effectively to the incident in order to prevent, contain and minimize the serious harm, and shall make its recommendations to the Council.

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

4. The Council, taking into account the recommendations of the Commission and any information provided by the Contractor, may issue emergency orders, which may include orders for the suspension or adjustment of operations, as may be reasonably necessary to prevent, contain and minimize serious harm to the marine environment arising out of activities in the Area.

5. Pending any action by the Council, the Secretary-General may take such immediate measures of a temporary nature as are practical and reasonable in the circumstances to prevent, contain and minimize serious harm to the marine environment. Such temporary measures shall remain in effect for no longer than 90 days, or until the Council decides what measures, if any, to take pursuant to paragraph 4 of this regulation, whichever is the earlier.

6. 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 and minimize any such serious harm to the marine environment.

Regulation 30 bis  
Rights of coastal States

1. Nothing in these Regulations shall affect the rights of coastal States, in accordance with article 142, paragraph 3, of the Convention, to take such measures consistent with the provisions of Part XII of the Convention as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline, or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the Area.

2. Any coastal State which has 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 of the grounds upon which such belief is based. 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. If there are clear grounds for believing that serious harm to the marine environment is likely to occur, the Secretary-General shall act in accordance with regulation 30 and, if necessary, shall take immediate measures of a temporary nature as provided for in paragraph 5 of regulation 30.

**Regulation 30 ter**

**Objects of an archaeological or historical nature**

The Contractor shall immediately notify the Secretary-General in writing of any finding in the exploration area of an object of an archaeological or historical nature and its location. The Secretary-General shall transmit such information to the Director-General of the United Nations Educational, Scientific and Cultural Organization. Following the finding of any such object of an archaeological or historical nature in the exploration area, the Contractor shall take all reasonable measures to avoid disturbing such object.

**PART VI - CONFIDENTIALITY**

**Regulation 21**

**Confidentiality of data and information**

1. Data and information of commercial value submitted or transferred to the Authority pursuant to these Regulations or a contract issued under these Regulations, and identified by the Contractor as such, 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;

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

   (d) relates to protection and preservation of the marine environment and safety other than equipment design data.

2. Confidential data and information may only be used by the Authority as necessary for and relevant to the effective exercise of the powers and functions of the Authority. The Secretary-General shall authorize access to such data and information only for limited use in connection with legitimate Authority functions and duties of the person seeking access.

3. The Secretary-General shall be responsible for maintaining the confidentiality of all such confidential data and information and shall not, except with the prior written consent of the contractor, release such data and information to any person external to the Authority. The Secretary-General shall develop appropriate measures, 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;
4. Confidential data and information shall remain confidential for a period of ten years after the date of expiration of the contract for exploration. If the Contractor subsequently within such ten-year period enters into a contract for exploitation in respect of any part of the exploration area, such data and information relating to such area shall remain confidential.

5. The Legal and Technical Commission shall protect the confidentiality of data and information submitted to it pursuant to these Regulations or a contract issued under these Regulations. In accordance with the provisions of article 163, paragraph 8, of the Convention, members of the Commission shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with annex III, article 14, of the Convention or any other confidential information coming to their knowledge by reason of their duties for the Authority.

6. The Secretary-General and staff of the Authority shall not disclose, even after the termination of their functions with the Authority, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, article 14, of the Convention, or any other confidential information coming to their knowledge by reason of their employment with the Authority.

PART VI bis - GENERAL PROCEDURES

Regulation 31 bis

Notice and general procedures

1. Any application, request, notice, report, consent, approval, waiver, direction or instruction hereunder shall be made by the Secretary-General or by the designated representative of the prospector, applicant or contractor, as the case may be, in writing. Service shall be by hand, or by telex, facsimile or registered airmail to the Secretary-General at the headquarters of the Authority or to the designated representative.

2. Delivery by hand shall be effective when made. Delivery by telex shall be deemed to be effective on the business day following the day when the “answer back” appears on the sender’s telex machine. Delivery by facsimile shall be effective when the “transmit confirmation report” confirming the transmission to the recipient’s published facsimile number is received by the transmitter. Delivery by registered airmail shall be deemed to be effective 21 days after posting.

3. Notice to the designated representative of the prospector, applicant or contractor shall constitute effective notice to the prospector, applicant or contractor for all purposes under these Regulations, and the designated representative shall be the agent of the prospector, applicant or contractor for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.

4. Notice to the Secretary-General shall constitute effective notice to the Authority for all purposes under these Regulations, and the Secretary-General shall be the Authority’s agent for the service of process or notification in any proceeding of any court or tribunal having jurisdiction.
Regulation 31 ter

Recommendations for the guidance of contractors

1. The Legal and Technical Commission may from time to time issue recommendations of a technical or administrative nature for the guidance of contractors to assist them in the implementation of the rules, regulations and procedures of the Authority.

2. The full text of such recommendations shall be reported to the Council. Should the Council find that a recommendation is inconsistent with the intent and purpose of these Regulations, it may request that the recommendation be modified or withdrawn.

PART VII—SETTLEMENT OF DISPUTES

Regulation 32

Disputes

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

2. Any final decision rendered by a court or tribunal having jurisdiction under the Convention relating to the rights and obligations of the Authority and of the Contractor shall be enforceable in the territory of each State party to the Convention.

PART VIII—RESOURCES OTHER THAN POLYMETALLIC NODULES

Regulation 33

Resources other than polymetallic nodules

If a prospector or contractor finds resources in the Area other than polymetallic nodules, the prospecting and exploration for and exploitation of such resources shall be subject to the rules, regulations and procedures of the Authority relating to such resources in accordance with the Convention and the Agreement.