

# 中国大洋矿产资源研究开发协会

China Ocean Mineral Resources R & D Association(COMRA)



Secretariat,  
International Seabed Authority,  
14-20 Port Royal Street, Kingston, Jamaica

May 14, 2015

Dear Sir/ Madam,

Referring to the comment on the draft framework for the regulation of exploitation activities in the Area, COMRA avails itself of this opportunity to present its comments to the International Seabed Authority. Please find out the comments in the attachment.

COMRA is consent to make our comment and contact detail publicly available.

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With best regards,

A handwritten signature in black ink, appearing to be 'Liu Feng', with a long vertical line extending downwards from the bottom of the signature.

LIU Feng

Secretary-General

China Ocean Mineral Resources R&D Association

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TRANSLATION

## COMRA'S COMMENTS ON THE DRAFT FRAMEWORK

### FOR THE REGULATION OF EXPLOITATION ACTIVITIES IN THE AREA

#### The Brief Commentary on High Level Issues

High level issue	Commentary on Commentary
1.Information and data-what we know, what we don't know, what we need to know	The Authority should be aware that the insufficient data will be a long-existing problem, to some extent it is inevitable, this is because that the seabed is an unknown and needs to be continuously explored area, and also is an area that will continuously produce and enrich new data and knowledge with the application of new technology and equipment. The enrichment and improvement of the data and information should be a gradual process. The Authority should fully investigate and absorb the mining regulations of major countries, and arrange and make good use of

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	<p>the submitted information and data by the contractors as far as possible, so as to support the regulations making.</p>
<p>2. An interim framework</p>	<p>The existing laws and regulations should be fully absorbed for making the mining regulations. Regulations making is a process with repeatedly seeking for opinions, so more workshops are suggested to be held during the regulations making process, and to solicit opinions from all sides. After the fully study, once the framework issued, it should be relatively perfect and stable, so as to let the contractors have a relatively stable expectations.</p>
<p>3. One exploitation framework?</p>	<p>The mining regulations making can be divided into two stages: a unitized regulation framework text should be made at present stage, which should include the common elements for different resources development, and the core rule, principle, procedure, etc. should be suitable for different resources. On this basis, according to the characteristics of different resources, to respectively develop the</p>

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	<p>exploitation regulations for specific resources, so as to keep the consistency and connection with the exploration regulations. At present stage for developing the exploitation regulations, the core content and text structure should be paid more attention. As for the regulation of exploitation activities in the Area, while follow the convention, the legal rules for the mineral resources development should be also paid attention to, such as the explanation and definition of the mining right of the resources mining activities in the Area, etc. From the current proposed draft framework, the core contents and text structures need further supplement and adjustment.</p>
4. Activities in the Area – clearly defined boundary points?	<p>The coordination problem of different activities in the Area should be put on the agenda, especially considering that the operation time of exploitation activities in the Area in the future will be much longer than exploration activities, meanwhile the space involved is relatively clear, and it is time-consuming and inconvenient to move equipments. Authority should coordinate the different</p>

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	<p>activities in the Area according to the assigned functions by the Convention. We support ISA to function proactively and to coordinate with the related international affairs and institutions about the access and supervision mechanism related to seabed mining. ISA should consider the interests of the contractors within the limit of the contract, and when the exploitation activities in the Area are involved in other international affairs and institutions, such as ocean transportation, seabed cable, etc., the policy of first come, first served should be considered under the same conditions.</p>
5. The transition between exploration and exploitation phases	<p>There are differences and similarities lying in exploration and exploitation phases. For the first issue, the submission of the environment impact statement is necessary, although the environment management plan is required when the exploitation phase starts. For the second issue, if the exploration contract is forgone for the commercial or technical reasons, it is recommended that the priority exploitation right should be reserved with the reference of land mining. The application</p>

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	<p>procedures of the priority mining right need to be clearly defined, and the mining right should be approved with the satisfaction of exploration right and exploitation requirements.</p> <p>Meanwhile, the feasibility study (including mining, metallurgy, market, technology, economy, environment, law, government, etc) which is the basis of entrance of exploitation phase from exploration phase is required during the transition between the two phases.</p>
6. Risk assessment, evaluation and management	<p>It is agreed that the understanding and supervisory control of environmental, occupational health and safety and operational risk should be acquired through dialogue with contractors and other relevant experts. The risk assessment and risk management standards and systems must be established according to the existing risk frameworks in related sectors, including oil and gas. It is recommended that this risk part may be merged into the environment part.</p>
7. Time limits and costs	<p>There are numerous uncertain factors existing in the emerging deep-ocean mining industry, and the</p>

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	<p>exploitation process may be affected by market fluctuations. Based on the experiences of land mining, there are many cases that the exploitation time extends far beyond the prescribed time limits. It is recommended that the prescribed time is no less than 20 years, and extension application should be considered to encourage maximization of resource recovery.</p>
8. Confidentiality	<p>The business secrets of stakeholders should be preserved while complying with the transparency demands of economy and environment.</p>
9. Effective protection for the marine environment from harmful effects	<p>Under the principles of Convention and sustainable development, the regulatory frameworks in the Area should ensure the effective conservation of marine environment and effective mitigation of harmful effects. Meanwhile, the balance of exploitation and environment conservation should be obtained to promote the effective utilization of resources in the Area. For the specific framework development, firstly, it is important to establish and clarify feasible standards. Secondly, wording</p>

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	<p>identical to that contained in the Exploration Regulations should be applied when establishing the standards to avoid the differences, such as environment baseline, ecosystems, etc. Thirdly, standard implementation and environment conservation should be achieved by environment assessment before exploitation, environment management during exploitation and environment recovery after exploitation referring to land mining industry, and the reports submitted in different phases must be clarified. In addition, it is recommended that “Preservation Reference Zones” are unnecessary to be set in every block and environment management fee should be counted as expense.</p>
10. “Internationally recognized standards” and their significance in exploitation activities	<p>Standard(s) development should encourage the resource exploitation in the Area. It is important that the classification systems and standards of resources and reserves need to be clarified, especially the boundary values (grade and abundance, minimum area, and environment value) which involve in calculation in payment mechanism.</p>

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<p>11. Sponsoring State(s) and the Authority – a clear division of duties and responsibilities?</p>	<p>The consistency between sponsor obligation and actual control degree of sponsor states should be specified. As the supervising agency, the Authority could apply layer-management, and explicitly define the relationship between regulation function and obligation. A clear management system is expected so as to avoid imposing unnecessary management burdens to contractors.</p>
<p>12. “High-grading” of mineral deposits</p>	<p>“High-grading” of mineral deposits is determined by grade of resources, while the so-called “breakeven cut-off grades” are relevant to technology and economics. Even in the matured land-based mineral development fields, breakeven cut-off grades are dynamic indexes which vary with market and technology, and also vary with different mining areas. The fundamental objective of development of exploitation regulatory framework is to ensure maximized reserve recovery and make full use of deep sea minerals without unnecessary waste, therefore it is not appropriate to set breakeven cut-off grades. Besides, exploitation of high-grade minerals is not necessarily beneficial</p>

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	to environment protection.
13. Other: existing best practice, learning, co-operation and information-sharing	It is important to learn and share existing best practice, especially for exploitation of mineral resources in the Area, and it is worth noting that the existing patterns and habits of mineral exploitation of different states are fully considered under Common Heritage of Mankind (CHM) principle.

The Comments wished to make on the development of the regulatory framework:

1. As a legal document for exploitation of mineral resources in the Area, the definition and explanation of mineral rights is essential, and the potential applied forms of mineral rights are also needed to be defined and explained.
2. The interests of early investors need to be embodied, and considering the continuity of exploration contracts, it is necessary to clearly define and embody the exploitation priority of exploration contractors in contract areas. As prescribed

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in ANNEX III, article 16 of the Convention, the exclusive right could be defined, and inheritance of the exclusive right to explore and exploit could be considered. Besides, how to transform from exploitation priority to exclusive right of exploitation also need to be considered.

3. About the priority problems mentioned in Section 5, the suggestions are listed as follows:

(1) Use of terms and scope is suggested to be priority “A”, because the clear definition of terms and scope is essential and fundamental for the further discussions. For instance, the definition of “exploitation” needs to be specified, for “exploitation” is not equal to “mining”.

(2) About financial and technical capabilities, considering the current situation that deep sea mining tests have not yet conducted, it is difficult to make explicit demands to technology capability, therefore financial and technical capabilities are suggested to be priority “B”.

(3) About environmental impact statement, the environmental impact needs to be fully studied, however in current situation,

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environmental impact researches are not sufficient to draft *Guidelines for the Preparation and Evaluation of an Environmental Impact Statement*; therefore environmental impact statement is suggested to be priority “B”.

(4) Public review of the environmental impact statement and environmental management plan can be conducted only after assessment of environmental impact has finished; therefore, if environmental impact statement is set to be priority “B”, public review of the environmental impact statement and environmental management plan are correspondingly suggested to be priority “B”.

(5) The rights of the contractor need to be clearly defined as soon as possible so that contractors can have a relative stable expectation, thus rights of the contractor are suggested to be priority “A”.

(6) Environmental bonds and performance guarantees can be determined only after the related environment issues have been sufficiently studied, thus environmental bonds and performance guarantees are suggested to be priority “B”. Similarly, insurance is suggested to be priority “B”.