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Draft regulations on exploitation of mineral resources in the Area

Letter dated 17 February 2022 from the Secretary-General of the International Seabed Authority to the President of the Council of the International Seabed Authority

I have the honour to transmit herewith the document submitted by the Permanent Representation of Belgium to the International Seabed Authority through a note verbale dated 4 February 2022 (see annex). I should be grateful if you would bring the present letter and its annex to the attention of the members of the Council.

(Signed) Michael W. Lodge

* ISBA/27/C/L.1.



**Annex to the letter dated 17 February 2022 from the
Secretary-General of the International Seabed Authority to the
President of the Council of the International Seabed Authority**

**Rules concerning the application of the Agreement relating to the
implementation of part XI of the United Nations Convention on
the Law of the Sea of 10 December 1982, annex, section 6,
paragraph 1 (d), in the draft regulations on exploitation of mineral
resources in the Area**

Submitted by the delegation of Belgium

I. Introduction

1. Recently it has been brought to our attention that, aside from the partial copy of paragraph 1 (d) of section 6 of the annex to the Agreement relating to the implementation of part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (hereinafter “the Agreement”), no effort has been made in the draft regulations on exploitation of mineral resources in the Area (hereinafter “the draft regulations”) to provide for the application of that paragraph.

2. When looking into the activities directly before and after the activities regulated by the draft regulations, the legal requirements to be fulfilled upon arrival of the minerals in a port have come to our attention. Sometimes, a certificate of origin is required by the customs authorities of third countries when importing. The certificate of origin is the official administrative document certifying the non-preferential origin of goods. For goods originating from Belgium, certificates of origin are issued by the bodies designated by the Minister of Economy, namely the chambers of commerce and the Antwerp World Diamond Centre.

II. Reason for submitting

3. Without further rules in the draft regulations, Belgium sees multiple ways in which annex, section 6, paragraph 1 (d), to the Agreement can be applied. Therefore, an additional rule must be added to the draft regulations.

III. Objective

4. Belgium wishes to remove the legal uncertainty concerning the issuing of certificates of origin.

IV. Certificates of origin

5. As they stand, the draft regulations do not provide certainty about how annex, section 6, paragraph 1 (d), to the Agreement must be applied and thus, who will have to provide the certificate of origin for each shipment of minerals going to shore.

6. Belgium sees two ways to apply annex, section 6, paragraph 1 (d), to the Agreement, but there may be more:

(a) The minerals originate from the Area, and thus outside national jurisdiction. In this case, the Authority must provide the certificates or delegate this

task in the draft regulation. This also means that the minerals are imported goods and are subject to import taxes everywhere, even for the sponsoring State;

(b) The draft regulations provide for some kind of extraterritorial competences for the sponsoring State, allowing it to claim that the minerals extracted by its sponsored contractor originate from the sponsoring State. In this case, the sponsoring State is responsible for providing the certificates of origin, and the minerals are considered coming from the internal market in that sponsoring State and in the countries that work under single market rules with that country.

V. Recommendation

7. The Council is invited to take note of the information provided and to request the Legal and Technical Commission to use the information provided in the present request, as appropriate, when it considers the matter of the implementation of paragraph 1 (d) of section 6 of the annex to the Agreement.
