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Draft regulations on exploitation of mineral resources in the Area

Draft guidelines on the preparation and assessment of an application for the approval of a Plan of Work for exploitation

Prepared by the Legal and Technical Commission

1. The regulations on exploitation of mineral resources in the Area (“regulations on exploitation”) require a Contractor to have an approved Plan of Work in place before undertaking exploitation of mineral resources in the Area.
2. The purpose of an application for the approval of a Plan of Work is for the Contractor to demonstrate, and for the International Seabed Authority to determine, that the proposed exploitation activities will comply with the United Nations Convention on the Law of the Sea; the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (the Part XI Agreement); the rules, regulations and procedures of the Authority, including the regulations on exploitation and related standards; the national laws, regulations and administrative measures of the sponsoring States; and the terms of the contract with the Authority. An application for approval of a Plan of Work shall demonstrate how a Contractor will comply with the provisions of the regulations on exploitation so that the Authority will have the necessary information to assess and approve or disapprove said application.
3. The present document is aimed at assisting an applicant:
 - (a) To prepare an application for approval of a Plan of Work in accordance with the regulations on exploitation;
 - (b) To understand the process through which the application will be reviewed and considered by the organs of the Authority.
4. The present document covers the requirements for an application and assessment of an application for a Plan of Work as set out in the regulations on exploitation.

* ISBA/27/C/L.1.



5. Specific information on the preparation of the component elements of an application is provided in the relevant regulations, standards and guidelines. The present document should therefore be used in conjunction with the regulations on exploitation, the regulations on prospecting and exploration for polymetallic nodules ([ISBA/19/C/17](#) and [ISBA/20/A/9](#)), polymetallic sulphides ([ISBA/16/A/12/Rev.1](#)) and cobalt-rich ferromanganese crusts ([ISBA/18/A/11](#)) in the Area, where necessary, as well as the relevant standards and guidelines.
6. Existing bodies of practice and international standards from other similar industries provide valuable information in preparing the components that comprise an application under the regulations on exploitation.
7. Annex I to the present document contains a checklist to assist applicants in ensuring that all required information and documents are included in the application. It is the responsibility of the Contractor to ensure familiarity with their obligations under the United Nations Convention on the Law of the Sea; the Part XI Agreement; the rules, regulations and procedures of the Authority, including the regulations on exploitation and related standards; and the national laws, regulations and administrative measures of the sponsoring States.
8. Annex II to this document contains a flow chart showing the process pursuant to which an application will be considered.

Annex I

Checklist for the preparation of an application for the approval of a Plan of Work for exploitation

*Regulatory requirement
(based on ISBA/25/C/WP.1)*

Application requirements

Form of applications
(regulation 7, annex I)

Does the application include the following information required pursuant to annex I of the regulations:

- Information concerning the applicant?
- Information relating to the area under application?
- Technical information?
- Financial information?
- The written undertakings required under draft regulation 7 (see “Written undertakings” below)?
- Information on previous contracts with the Authority?
- A list of all the attachments and annexes to the application (see “Material accompanying the application” below)?

Qualified applicants
(regulation 5)

Is the applicant one of the following:

- The Enterprise, on its own behalf or in a joint arrangement?
- A State party to the United Nations Convention on the Law of the Sea?
- A State enterprise?
- A natural or juridical person which possesses the nationality of States or is effectively controlled by them or their nationals, when sponsored by such States?
- Any group of the foregoing which meets the requirements of the regulations?

Was the application submitted:

- In the case of a State, by the authority designated for that purpose by it?
- In the case of the Enterprise, by its competent authority?
- In the case of any other qualified applicant, by a designated representative, or by the authority designated for that purpose by the sponsoring State or States?

If the applicant is a State enterprise or a natural or juridical person which possesses the nationality of States or is effectively controlled by them or their nationals, does the application contain:

- Sufficient information to determine the nationality of the applicant or the identity of the State or States by which, or by whose nationals, the applicant is effectively controlled?

*Regulatory requirement
(based on ISBA/25/C/WP.1)*

Application requirements

Certificate of sponsorship
(regulation 6)

- The principal place of business or domicile and, if applicable, the place of registration of the applicant?

If the applicant is a partnership or consortium of entities, does the application:

- Contain the information required by the draft regulations in respect of each member of the partnership or consortium?
- Specify a lead member of the consortium or group?

If the applicant is a State enterprise or a natural or juridical person which possesses the nationality of States or is effectively controlled by them or their nationals, is the application accompanied by a certificate of sponsorship issued by the State of which it is a national or by whose nationals it is effectively controlled?

Is the certificate of sponsorship duly signed on behalf of the State by which it is submitted?

Does the certificate of sponsorship contain the following information:

- The name of the applicant?
- The name of the sponsoring State?
- A statement that the applicant is:
 - A national of the sponsoring State; or
 - Subject to the effective control of the sponsoring State or its nationals?
- A statement by the sponsoring State confirming that it sponsors the applicant?
- The date of deposit by the sponsoring State of its instrument of ratification of, or accession or succession to, the United Nations Convention on the Law of the Sea, and the date on which it consented to be bound by the Part XI Agreement?
- A declaration that the sponsoring State assumes responsibility in accordance with articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention?

If the applicant has more than one nationality, as in the case of a partnership or consortium of entities from more than one State, has each State involved issued a certificate of sponsorship?

If the applicant has the nationality of one State but is effectively controlled by another State or its nationals, has each State issued a certificate of sponsorship?

*Regulatory requirement
(based on ISBA/25/C/WP.1)*

Application requirements

Written undertakings
(regulation 7)

Does the application contain the following written undertakings confirming that the applicant will:

- Accept as enforceable and comply with the applicable obligations created by the provisions of Part XI of the Convention, the rules, regulations and procedures of the Authority, the decisions of the organs of the Authority and the terms of its contract with the Authority?
- Accept control by the Authority of activities in the Area, as authorized by the Convention?
- Provide the Authority with a written assurance that its obligations under its contract will be fulfilled in good faith?
- Comply with the national laws, regulations and administrative measures of the sponsoring State or States made pursuant to articles 139 and 153 (4) of the Convention and article 4 (4) of annex III to the Convention?

Material accompanying the
application
(regulation 7)

Is the application accompanied by:

- The data and information to be provided pursuant to section 11.2 of the standard clauses for Exploration contracts, as annexed to the relevant Exploration Regulations?
- A Mining Workplan prepared in accordance with annex II to the regulations?
- A Financing Plan prepared in accordance with annex III to the regulations?
- An Environmental Impact Statement prepared in accordance with regulation 47 and in the format prescribed in annex IV to the regulations?
- An Emergency Response and Contingency Plan prepared in accordance with annex V to the regulations?
- A Health and Safety Plan and a Maritime Security Plan prepared in accordance with annex VI to the regulations?
- A Training Plan in fulfilment of article 15 of annex III to the Convention, prepared in accordance with the guidelines?
- An Environmental Management and Monitoring Plan prepared in accordance with regulation 48 and annex VII to the regulations?
- A Closure Plan prepared in accordance with regulation 59 and annex VIII to the regulations?
- An application processing fee in the amount specified in appendix II to the regulations?

*Regulatory requirement
(based on ISBA/25/C/WP.1)*

Application requirements

Area covered by the application
(regulations 7 and 8, and annex I)

Does the application define the boundaries of the area under application by a list of coordinates in accordance with the most recent applicable international standard used by the Authority?

Is the area under application defined in the form of blocks comprising one or more cells of a grid, as provided by the Authority?

If the proposed Plan of Work proposes two or more non-contiguous Mining Areas, does the application include a separate Environmental Impact Statement, Environmental Management and Monitoring Plan and Closure Plan for each Mining Area, unless it can demonstrate that a single set is appropriate?

Annex II

Application and review process for a Plan of Work for exploitation

