

JAPAN's statements on July 15, 2019

RE: Financial Model

On behalf of the delegation of Japan, I congratulate you Madame President for your leadership and guidance in this second part of 25<sup>th</sup> Session. We are delighted to be able to work with you and other delegates for various tasks before us, especially for developing the Regulations on the Exploitation.

We are glad that the informal working group held last week in Kingston was successful with constructive engagements of various State Parties and stakeholders. We would like to join many other delegates in expressing our appreciation to the Chairman and MIT team for the excellent presentation on the possible payment options.

We would like to make brief general comments at this stage.

Our delegation is of the view that Exploitation Regulations should establish a proper balance between the principle of Common Heritage of Mankind and Sound Commercial principles. In respect of Sound Commercial principles provided in the paragraph 1(a), Section 6 of Annex to the 1994 Agreement, we consider it important that the financial regime should reflect the total costs of contractors such as their investments and environmental cost. Furthermore, considering that commercial mining of deep seabed is unexplored area, the risk the first movers must take should be taken into account, and there should be sufficient incentives for them to engage in deep-sea mining.

One of the Japanese Contractors, DORD had developed its own financial model for exploitation of polymetallic nodules back in 2014. This model is similar to that of MIT in basic structures. Nevertheless, different parameters input made their results quite different. There were significant differences in metallurgical recovery rates and metal price long term forecast. This demonstrates that depending on the parameters we input, those models could provide us both optimistic and pessimistic results. And those parameters such as future metal price are actually difficult to forecast.

Lastly, as mentioned in the chairs report, we understand MIT's financial model only applies to exploitation of polymetallic nodules and payment mechanisms for other resources must be considered separately. We look forward the third meeting of informal working group in 2020.

## Draft Regulations

Our delegation is appreciative for the efforts made by the LTC and the Secretariat for improving the text of draft Regulations, taking account of the comments submitted by States Parties and other stakeholders. Our delegation believes such opportunities for relevant stakeholders to submit their views are crucially important for developing practical and effective exploitation regulations, standards and guidelines.

### **Part I**

#### DR1

Our delegation would like to ask clarification on the meaning of “Rules of the Authority.” Other than the Convention and implementation Agreements, what would be included in the definition of Rules of the Authority? Would the mining codes, their Annexes, Appendices, rules of procedures and guidelines be included in the Rules of the Authority?

#### DR2

Regarding the new phrase of “the application of the polluter pays principle through market-based instrument, mechanisms and other relevant measures,” inserted to para. (e)(iv) of DR2, Japan considers it refers to the principle 16 of the Rio Declaration in which a State party should promote the internalization of environmental costs and the use of economic instruments taking into account the principle that the polluter should bear the cost of pollution without distorting international trade and investment. In order to make it clear, our delegation would like to propose to modify it to read “The application of the polluter pays principle as reflected in principle 16 of the Rio Declaration on Environment and Development.”

#### DR3

We had a concern that range of data, information and access that members of the Authority and contractors are obliged to provide to the Authority in accordance with paras. (a), (f) and (g) is vague and wide, so in order to take a balance Japan has proposed to add the phrase of “use their best endeavors to.” However, we would not stick to that wording if the range could be more specified.

#### DR4

In the previous text, the whole responsibility for issuing a compliance notice was on the Secretary-General alone. Our delegation is delighted to see the revisions that Serious Harm is institutionally determined by LTC and the Council, suspension of operations will be imposed

through an emergency order which can be issued by the Council and compliance notice is issued only in case where the serious harm is attributable to violation by a contractor. We believe these modifications bring these provisions into conformity with the provisions of the Convention. We appreciate the Secretariat and the Commission for their considerations.

Additionally, we understand that guidelines will be prepared for the assessment of “serious harm”. Considering that the determination of serious harm has crucial importance in handling of serious situations, our delegation is of the view that guidelines of serious harm should be developed before the regulations are adopted. The result of the workshop in Pretoria which gave the guidelines only third priority, should be revisited. Moreover, considering the importance of assessment of serious harm, our delegation considers legally-binding Standards may be appropriate rather than guidelines. We would like to hear other delegates’ opinions.