



Embassy of Japan

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JAMAICA

ISA 003 /15

The Permanent Representative of Japan to the International Seabed Authority (hereinafter referred to as the “ISA”) presents his compliments to the ISA and, with reference to the latter’s Note No.96/15 dated 13 March 2015 and Note No.123/15 dated 13 April 2015, has the honour to state that the Government of Japan highly evaluates ISA’s attitude toward formulation of the exploitation code, attaching importance to stakeholder’s views and maintaining communications with them.

The Permanent Representative of Japan to the ISA has further the honour to submit the attached comments by the Japanese contractors, namely, DORD and JOGMEC on the report entitled “Developing a Regulatory Framework for Mineral Exploitation in the Area” and the “Discussion Paper on the Development and Implementation of a Payment Mechanism in the Area”, enumerating comments as the Permanent Representative of Japan to the ISA as follows.

1. Appropriate sharing of mineral resources in the Area as the common heritage of mankind presupposes that companies enter deep-sea mining industry in the Area. The Permanent Representative of Japan to the ISA appreciates ISA’s attitude to invite the Members of the ISA and stakeholders to submit their opinions. However discussions seem to be held without viewpoints of specialists who have knowledge for mineral resources exploitation. The Secretariat of the ISA should specially arrange the opportunity to hear the opinions from companies which engage in mineral resources exploitation.
2. Taking into consideration the technical and economic difficulty of exploiting mineral resources in the Area, it would be difficult to lead to the fruitful conclusion, if discussions were advanced without establishment of mining technology and more exact and economic efficiency evaluation through pilot exploitation tests by contractors in the real exploitation area and entrustment of mining simulations from the ISA to suitable companies.
3. Especially, it is not appropriate to discuss the payment mechanism without clear definition, such as what royalty is for. It is undesirable to discuss royalty rate in advance of discussions on conditions of exploitation code, since it is impossible to calculate total cost unless the conditions, such as cost of environmental measures, are defined.

4. The exploitation activity in the Area needs to be conducted with careful consideration of likely impact on the environment. However the regulation should be rational to realize sustainable development, harmonizing exploitation with the conservation of marine environment. Consideration has to be made to avoid that no companies enter deep-sea mining industry by establishing too strict regulation.

The Permanent Representative of Japan to the ISA has further the honour to agree to disclose the comments including the Note.

The Permanent Representative of Japan to the ISA avails himself of this opportunity to renew to the ISA assurances of his highest consideration.

Kingston, 29 May 2015

International Seabed Authority
14-20 Port Royal Street
Kingston
Jamaica



Comments on Developing a Regulatory Framework for Mineral Exploitation in the Area (March 2015)

by Japan Oil, Gas and Metals National Corporation(JOGMEC)

15thMay, 2015

1. It is appreciated that a draft regulatory framework of mineral exploitation has been launched.

2. The draft framework covers a very wide range of regulatory subjects and there are various options and parameters for each item, and it is too early to fix key and material factors in detail at this moment. For example, there are several types of mining royalty formulas and each type has its characteristics. It is hard to decide which type of royalty calculation be adopted for mineral exploitation in the Area before development of actual mining technology and operation conditions. Key technological features for deep sea mineral exploitation are mining and lifting of ore, and treatment of tailing material and waste water etc..

3. ISA should encourage contractors to promote technological development and to conduct pilot scale mining test as soon as possible. ISA should show road map which includes time frame toward establishment of exploitation regulation and commencement of commercial development.

4. Payment mechanism and environment regulations are very important components for the legal framework of mineral exploitation. As interest for deep sea mining by investors and contractors is essential for smooth start of deep sea mining projects, it is important that deep sea mining projects are recognized as feasible investment target in accordance with sound commercial principle. Most of the contractors have no cash flow from commercial activities and rely on public funding or internal reserve to keep exploration contract. Any discussion on heavy duty or regulation at this phase should be avoided to encourage them to progress to exploitation phase.

5. It is important to establish a regulatory framework to create an appropriate environment where contractors can start commercial operation in the future. As the role of ISA is equivalent to that of land based regulator, settlement of regulation for environment impact by ISA would be prioritized. For that purpose, it is preferable to determine what subjects should be discussed.

6. It is important to clear various issues including specific boundary points among international organizations. London Convention excludes treatment of tailing material and waste water which can become a key bottle neck for the deep sea mineral exploitation in consideration of feasibility and environment impact. ISA should focus on these issues and lead discussion to search common ground for effective, environmental friendly and sound commercial development. ISA also should consider if it can take initiative to carry out data collection and research to settle standard and criteria of environment impact assessment and environment protection measures on behalf of the contractors at their expense.

7. As any pilot exploitation test has not been performed yet, it is not appropriate to discuss actual operation conditions and any regulatory standards and parameters at this moment. It is recommended that discussion of such standards and parameters for the effective and practical management plan and regulatory framework should be started after execution of pilot scale tests and overall assessments including comments from the stakeholders.

8. Preparatory work for the framework development of mineral exploitation needs highly expertized knowledge and experience. It is recommended to establish a special commission if necessary works exceed the capacity of current LTC.

9. Comments on discussion paper
(Section2, Part II)

i) Feasibility study

'Independent expert(s)' should include not only 'mining engineer', but also relevant experts who are familiar and experienced with the operation of sub-sea mining equipment, ore lifting and vessel operation.

ii) Environment management plan (EMP)

More discussion is required for the definition of 'remediation', 'restoration' and 'rehabilitation', in comparison with 'reclamation' for land based mining activity.

iii) Closure plan

A bond system obligation should be adopted, instead of guarantee system.

iv) Size and location of exploitation area(s) covered by the plan of work

Determinant of size may be regulated by RRP, however, 'mining block order' should be determined by contractor. RRP for balanced exploitation of 'high-grading' and 'low grading' should be adopted to minimize environmental footprint.

10. Contact detail

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