

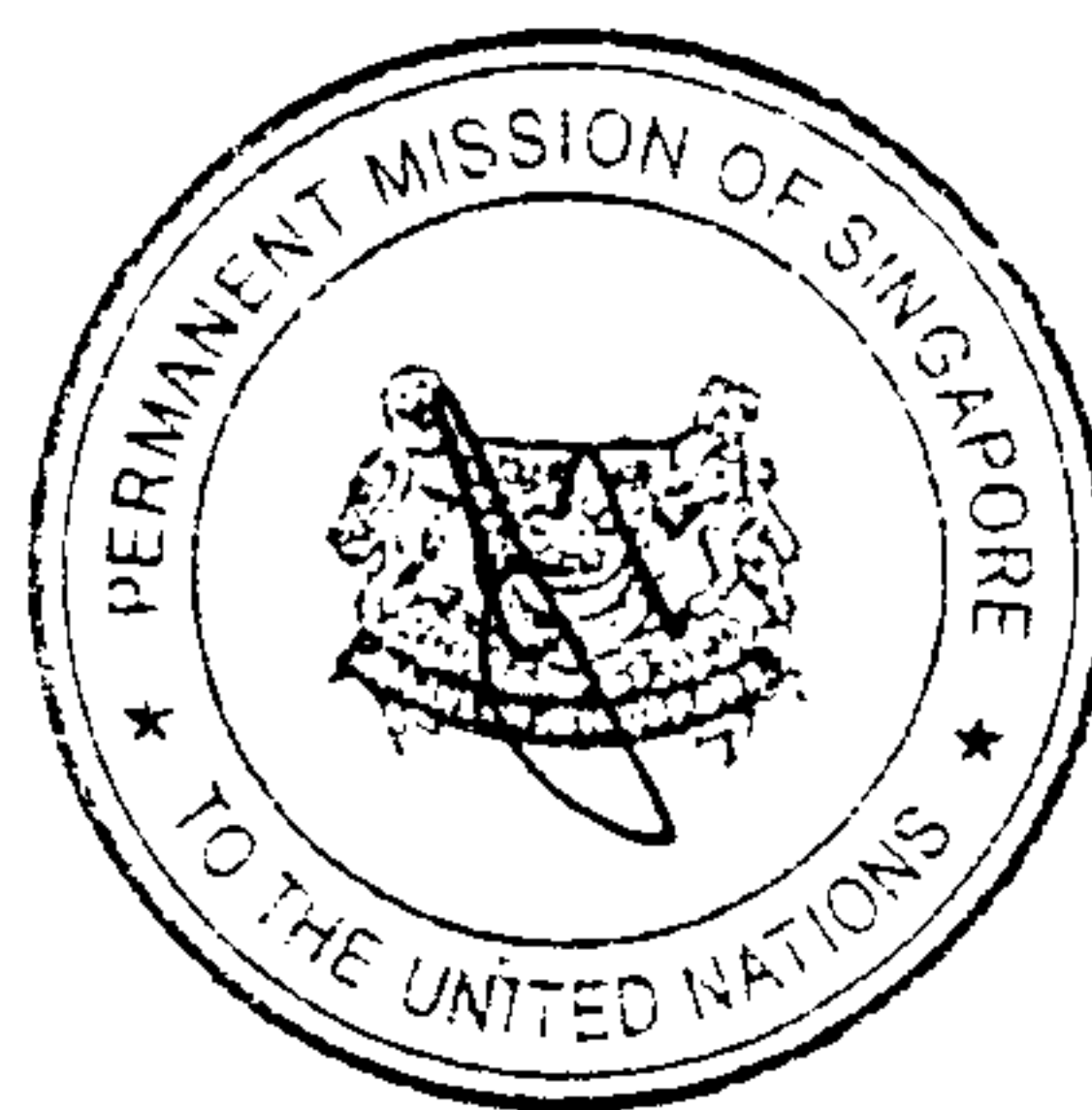
Note No: SMUN 238/2015

The Permanent Mission of the Republic of Singapore to the United Nations presents its compliments to the Secretariat of the International Seabed Authority and has the honour to refer to the latter's Note No: 96/15 of 13 March 2015 and Note No: 123/15 of 13 April 2015 conveying a report entitled "*Developing a Regulatory Framework for Mineral Exploitation in the Area*" and a "*Discussion Paper on the Development and Implementation of a Payment Mechanism in the Area*" respectively.

The Permanent Mission of the Republic of Singapore has the further honour of submitting Singapore's responses to the said report and discussion paper at Annexes A and B respectively.

The Permanent Mission of the Republic of Singapore avails itself of this opportunity to renew to the Secretariat of the International Seabed Authority the assurances of its highest consideration.

NEW YORK
27 May 2015



Secretariat of the International Seabed Authority
Kingston

Singapore's Response to the International Seabed Authority's Report on Developing a Regulatory Framework for Mineral Exploitation in the Area

Introduction

The deep seabed mining industry has seen further developments in recent years. Increasing commercial interest coupled with technological advancements has brought us a step closer to mineral exploitation of the resources in the deep seabed. As such, it is timely that the International Seabed Authority (ISA), together with its stakeholders, continues work to develop the regulatory framework for mineral exploitation in the Area.

As an active participant in the ISA's ongoing stakeholder engagements, Singapore remains fully committed to supporting the ISA's efforts to prepare this regulatory framework. Singapore is a developing country with no natural resources. Hence we appreciate the opportunities provided by the ISA to developing countries to participate in activities in the Area.

In this regard, Singapore has sponsored Ocean Mineral Singapore Pte Ltd (OMS), a Singapore-incorporated company, which has signed a contract with the ISA to explore for polymetallic nodules in the Clarion-Clipperton Zone. Singapore enacted the Deep Seabed Mining Act earlier this year. The Act is intended to fulfil Singapore's obligations under UNCLOS in relation to deep seabed mining activities and enable Singapore companies to capitalise on growing opportunities in the deep seabed mining industry. We have established a licensing regime to ensure that companies undertake exploration and exploitation activities in a responsible manner, thereby effectively protecting the marine environment. This is achieved in part by requiring that the licenced contractor complies with the relevant provisions of UNCLOS, the Part XI Agreement, the ISA regulations and the terms of its contract with the ISA.

This document builds on Singapore's earlier inputs on the stakeholder engagement survey. We will continue to engage the ISA during future rounds of consultations and look forward to further collaborations with other stakeholders on this important endeavour.

Singapore's Response to the Report

Singapore supports the development of the regulatory framework on mineral exploitation in the Area that is in line with the following principles: (a) the framework should ensure that the exploitation of resources in the Area is conducted in an environmentally sustainable yet commercially feasible manner; (b) the terms for exploitation should be determined on the basis of fairness which encourages wider participation from members of the Authority,

including developing countries, and; (c) the framework should be consistent with international law, including UNCLOS. Our further preliminary inputs are as follows:

Section 2: Draft framework for the Exploitation Regulations

Part II: Applications for approval of plans of work for exploitation in the form of contracts

In general, Singapore believes in the importance of developing a fair and transparent regime to regulate mineral exploitation in the Area. The application process and the criteria by which the ISA considers the award of contracts for exploitation must be made clear to all potential applicants in order to encourage wider participation amongst members of the Authority. The criteria should be consistent with ISA regulations and existing norms in international law, including UNCLOS.

Undertakings: Singapore understands that the LTC is contemplating the use of specific undertakings contained in Annex III, Article 4(6) of the Convention to include specific and fundamental contract terms, for e.g. in respect of unfair economic practices anticipated by Annex, Section 6(1)(b) of the Agreement. Singapore would support the development of a technical working paper on this area. Singapore also notes that any additional undertakings proposed should take into account the rights and obligations that are already enshrined in relevant trade agreements.

Environmental Impact Statement (EIS) / Environmental Management Plan (EMP): Singapore also notes that there are plans for the content of the EIS to be further defined or finalised, and the draft EIS template in Technical Study No. 10 to be reviewed and updated. Singapore refers to our earlier inputs for the 2014 Stakeholder Survey and reiterates our support for a framework to assess and manage potential environmental impacts. In Singapore's view, requirements relating to EIS should be designed specifically in relation to the deep seabed environment, rather than lift from other sectors where the context may not be as relevant to the exploitation of resources.

Social Impact Assessments and Action Plans: Singapore has taken note that the Legal and Technical Commission (LTC) may be proposing a discussion on having a social action plan for the Area, and will call upon stakeholders to make contributions to this discussion. Singapore would be open to participate in future discussions on this issue.

Public Review of Studies: Singapore is supportive of the suggestion for the circulation of a working paper on the issue of public review of studies. We support the need for transparency of decision making. At the same time, Singapore notes the importance of setting out the modalities clearly for such public review. These modalities should include how the results of such public reviews can or should be taken into account by the LTC or Council in its decision whether to recommend or grant approval for an application for a contract for exploitation. Additionally, it is important to ensure that the confidentiality of commercially sensitive information/data is not compromised through such public reviews.

Part III: Contracts for exploitation

Generally, Singapore supports the ISA's efforts to develop specific guidelines that delineate contractual issues such as: (a) the nature and scope of exploitation activities that contractors are allowed to undertake within a particular area, (b) performance expectations of the contractors and (c) the renewal process for the contracts. This would reduce ambiguity and instil greater confidence and stability in the regulatory regime.

Duration of Contracts: Singapore concurs with the ISA's assessment that the issue of determining the duration of contracts is a pressing issue and discussions should begin by July 2015. The length of the contract for exploitation should be of sufficient length to allow contractors to exploit the area for commercial viability, while balancing against the need to promote wider participation amongst members of the Authority.

On the suggestion for a substantive review period, Singapore notes that the length of time, specific conditions and scope of the review should not inadvertently undermine the certainty needed to ensure commercial viability for exploitation. We recommend that ISA reach an industry consensus on the period of certainty needed before the review is conducted.

The ISA may also wish to consider whether Contractors that have been awarded an exploratory contract should be given priority to bid for exploitation contract in a particular area, since they would have invested a significant amount of resources for exploration and would be more familiar with the area.

Part IV: Protection and Preservation of the Marine Environment

Singapore supports the intent of the ISA to put in place a robust framework, including regulatory guidelines, to protect the marine environment. The ISA is the key international body with the relevant technical expertise for the industry and will be best placed to determine the necessary regulatory measures for deep seabed activities.

Singapore supports the ISA's development of a regulatory framework to protect the marine environment that draws reference from relevant best practices and adapting them to the context of deep seabed mining. This framework should detail the specific obligations of both the contractor and the ISA in assessing the potential impacts on the marine environment, as well as guidelines on the monitoring and reporting obligations for contractors.

Singapore also supports the ISA's development of a clear waste management framework, to prevent the disposal of waste from deep seabed mining activities from damaging the marine environment.

The proposals for a seabed sustainability fund and an environmental liability fund are potentially far-reaching. Singapore suggests that the ISA conduct further discussions with the relevant stakeholders on the feasibility of these two proposed funds. This would entail setting out clearly the terms and conditions for the management, operation and funding of

these funds. Additionally, revenue for the funds should not place an unduly heavy burden on the contractors, lest it discourages participation in the exploitation of deep sea minerals.

Section 4: Summary of high level issues & Section 5: Draft action plan

Information and Data: Singapore agrees that there is an urgent need to develop a fit-for-purpose data management strategy for the ISA. We believe that such a strategy should be formulated based on the principle of transparency while ensuring that the data maintained by the ISA can be accessed freely by all relevant stakeholders.

Sponsoring State(s) and the Authority: Singapore recognises the importance of cooperation between the ISA and the sponsoring State(s) to safeguard the common heritage of mankind. We continue to stand ready to support the work of the Authority. We also concur on the need for a clear division of duties and responsibilities between the Authority and the sponsoring State(s) to ensure seamless regulatory oversight over contractors' activities. As such, Singapore looks forward to participating in the dialogue scheduled for 2016. A key deliverable of this dialogue could be the development of a matrix, which sets out the duties and responsibilities of the sponsoring State(s) and the ISA.

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Singapore's Response to the International Seabed Authority's Discussion Paper on the Development and Implementation of a Payment Mechanism in the Area for consideration by Members of the Authority and all stakeholders

Introduction

Singapore is pleased to continue our active participation in the International Seabed Authority (ISA)'s ongoing stakeholder engagements. As a responsible member of the international community, Singapore supports the development of a fair and transparent financing mechanism. This should take into account the interests of all stakeholders, in particular, developing countries, bearing in mind that the resources are the common heritage of mankind.

Singapore notes that the discussions on the payment mechanism are complex. We are at a critical juncture where the discussions on the financing mechanism could influence the appetite and willingness of entities to enter or continue investing in this industry. Given that commercial entities need to invest significant resources to explore/exploit a particular area, the development and implementation of the financing mechanism should not inadvertently undermine the sustainability and commercial viability of this fledgling industry.

To complement our inputs on the draft regulatory framework for mineral exploitation in the area and 2014 Stakeholder Survey, Singapore has prepared a preliminary response on the financing mechanism. Given that the specific details of the eventual payment mechanism remain vague, further clarification on the modalities and intent of the payment mechanism would facilitate more meaningful discussion. Singapore stands ready to work with the ISA and other stakeholders on this important issue.

Singapore's Comments

Singapore is of the view that the financing mechanism should broadly take into account the following points:

A) Phased/Transitional Approach

Given that the industry is still nascent, Singapore agrees that there should be a gradual stabilisation of the terms and parameters of a financial mechanism. The ISA could begin by putting in place a financial mechanism that will collect nominal payments/royalties until the ventures typically become profitable.

The transitional mechanism should provide sufficient predictability to encourage early movers into the industry but at the same time, outline the principles that would apply to the eventual system. This will provide some degree of certainty to encourage long term

investments in the industry. To this end, the ISA could also continue to share information on the intended direction of the development and implementation of the financing mechanism, including the proposed timeline and key milestone events.

The ISA may also wish to reach a clear industry consensus on the length of time required in the initial period, to ensure that the industry has a chance to become sustainable and commercially viable. If a short review period for the financing mechanism is implemented, the ISA may wish to consider grandfathering existing exploitation contracts to provide more certainty for Contractors.

B) Modalities of the Payment Mechanism

Singapore notes that there needs to be a more in-depth examination of the proposed payment mechanism (e.g. royalty or profit share system) to facilitate further meaningful discussion. The eventual mechanism should take into account the following issues:

- a) As far as possible, the mechanism should be simple, clear and transparent. This would make it easy for the Authority to administer and for Contractors to implement.
- b) The mechanism should account for factors such as the volatility of metals and minerals prices.
- c) The ISA may also wish to consider not only the revenue but also the significant upfront capital costs involved in the exploitation of resources.

Singapore is of the view that it would also be helpful to consider how the funds collected from the annual fee and royalties could be utilised by the ISA. More clarity could be provided on the relationship between the funds and the proposed seabed sustainability fund and environmental liability fund.

C) Regulation of Payment Mechanism

Singapore is of the view that it is important to develop a system of checks and balances to ensure the appropriate collection, distribution and use of the monies collected from the payment mechanism. We also look forward to more details on the roles and responsibilities of the various stakeholders on the implementation of the financing mechanism. In addition, Singapore supports the need to ensure transparency in the fiscal regime to ensure stability and confidence in the system.