

INTERNATIONAL SEABED AUTHORITY

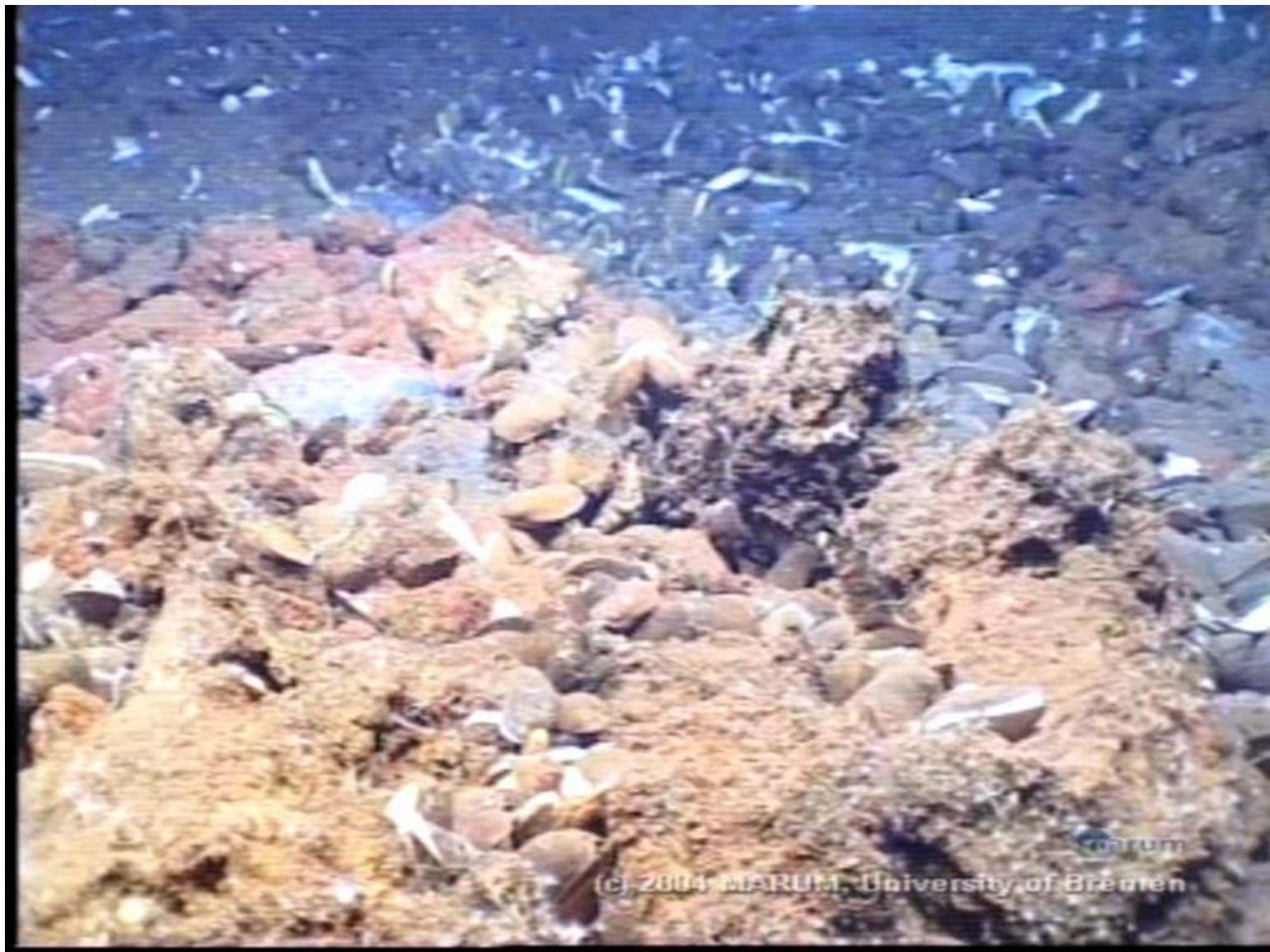
Workshop on Mining Cobalt- Rich Ferromanganese Crusts and Polymetallic Sulphides

KINGSTON

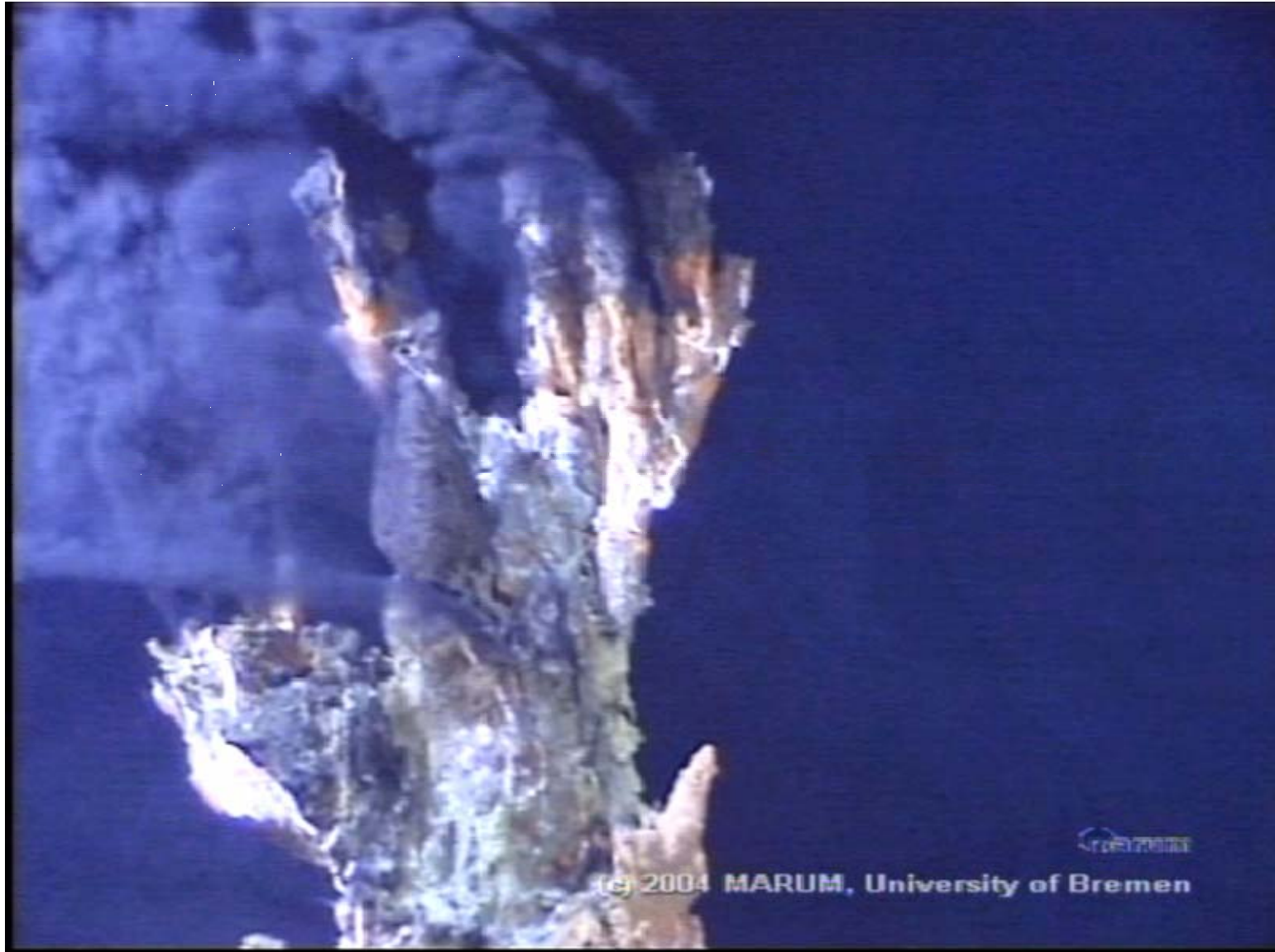
31 july to 04 august 2006

Baïdy Diene









MARUM

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DRAFT REGULATION

ON PROSPECTING AND EXPLORATION FOR POLYMETALLIC SULPHIDES AND COBALT-RICH FERROMANGANESE CRUSTS IN THE AREA (ISBA/10/C/WP.I)

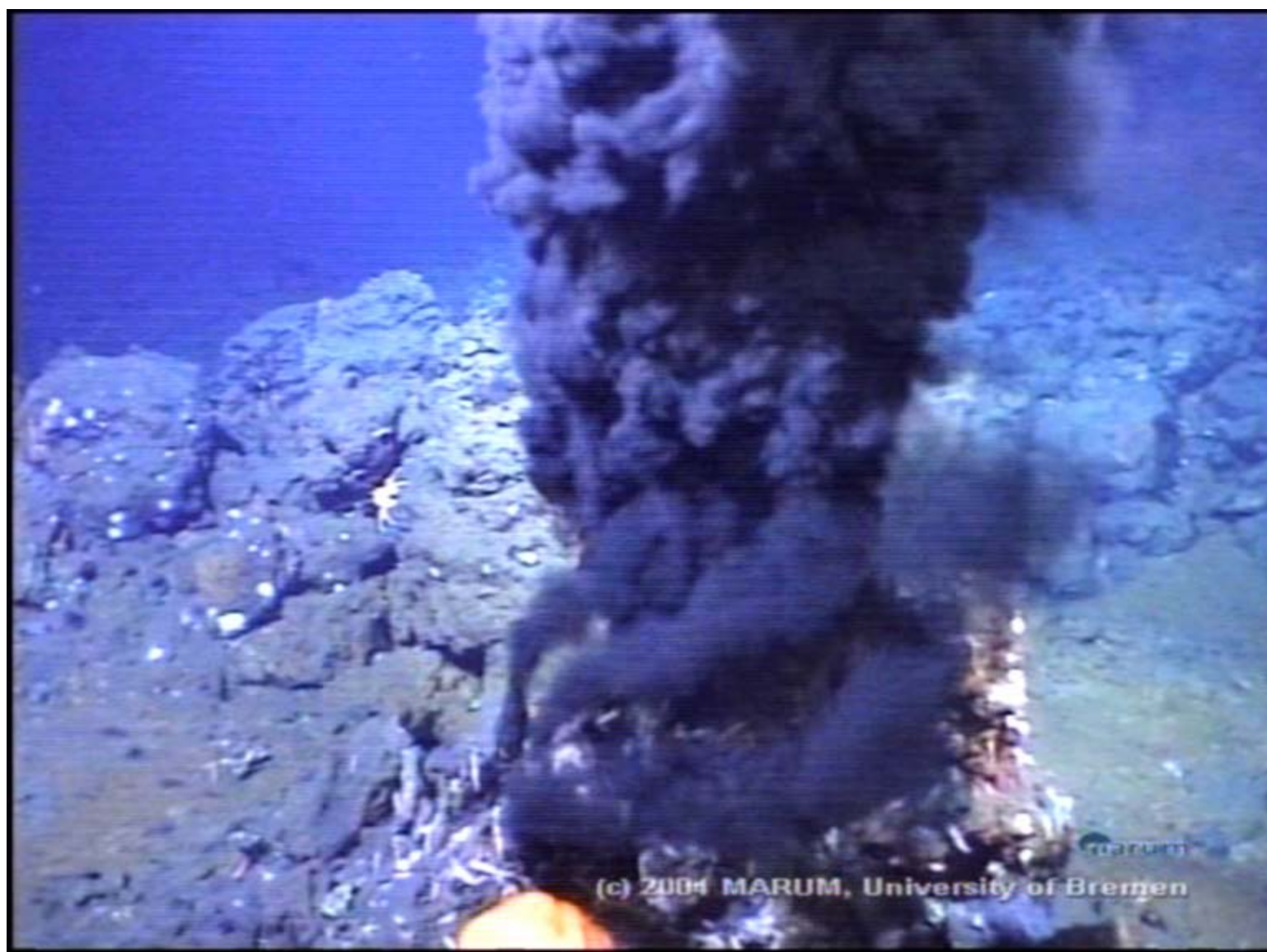
PRINCIPLE

In accordance with the United Nations [Convention on the Law of the Sea](#) (“the Convention”), the seabed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as well as its resources, [are the common heritage of mankind](#), the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, on whose behalf the International Seabed Authority acts. The objective of this set of Regulations is to provide for prospecting and exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts.



**(b) “cobalt crusts” means
hydroxide/oxide deposits of cobalt-rich
iron/manganese (ferromanganese) crust
formed from direct precipitation of
minerals from seawater onto hard
substrates containing minor but
significant concentrations of cobalt,
titanium, nickel, platinum, molybdenum,
tellurium, cerium, other metallic and rare
earth elements;**

“**polymetallic sulphides**” means hydrothermally formed deposits of **sulphide minerals which contain concentrations of metals including, inter alia, copper, lead, zinc, gold and silver;**



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PROSPECTING

“**prospecting**” means the search for deposits of polymetallic sulphides or **cobalt crusts in the Area, including estimation of the composition, sizes and distributions of deposits of polymetallic sulphides or cobalt crusts and their economic values, without any exclusive rights;**

Regulation 2

Prospecting

1. **Prospecting** shall be conducted in accordance with the **Convention** and these **Regulations** and **may commence** only after the prospector has been informed by the **Secretary-General** that its notification has been recorded pursuant to regulation 4, paragraph 2.

Prospecting shall not be undertaken in an area covered by an approved plan of work for exploration for polymetallic sulphides or cobalt crusts or in a reserved area; nor may there be prospecting in an area which the Council has disapproved for exploitation because of the risk of serious harm to the marine environment.

Prospecting shall not confer on the prospector any rights with respect to resources. A prospector may, however, recover a reasonable quantity of minerals, being the quantity necessary for testing, and not for commercial use.

· There shall be no time limit on prospecting except that prospecting in a particular area shall cease upon written notification to the prospector by the Secretary-General that a plan of work for exploration has been approved with regard to that area.

6. Prospecting may be conducted simultaneously by more than one prospector in the same area or areas.

Regulation 5

**Protection and preservation of
the marine environment during
prospecting**



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proposed prospector shall notify the **Notification of prospecting** Authority of its intention to engage in prospecting.

2. Each notification of prospecting shall be in the form prescribed in annex 1 to these Regulations, addressed to the Secretary-General, and shall conform to the requirements of these Regulations.

3. Each notification shall be submitted:

(a) in the case of **a State**, by the authority designated for that purpose by it;

(b) in the case of **an entity**, by its designated representative;

(c) in the case of **the Enterprise**, by its competent authority.

4. Each notification shall be in one **of the languages of the**

Authority and shall contain

- (a) the name, nationality and address of the proposed prospector and its designated representative;
- (b) the coordinates of the broad area or areas within which prospecting is to be conducted, in accordance with the most recent generally accepted international standard used by the Authority;
- (c) a general description of the prospecting programme, including the proposed date of commencement and its approximate duration;
- (d) a satisfactory written undertaking that the proposed prospector will:
 - (i) comply with the Convention and the relevant rules, regulations and procedures of the Authority concerning:
 - a. cooperation in the training programmes in connection with marine scientific research and transfer of technology referred to in articles 143 and 144 of the Convention; and
 - b. protection and preservation of the marine environment;
 - (ii) accept verification by the Authority of compliance therewith; and
 - (iii) make available to the Authority, as far as practicable, such data as **may be relevant to the protection and preservation of the marine environment.**

Consideration of notifications

1. The Secretary-General shall acknowledge in writing receipt of each notification submitted under regulation 3, specifying the date of receipt.
2. The Secretary-General shall review and act on the notification within 45 days of its receipt. If the notification conforms with the requirements of the Convention and these Regulations, the SecretaryGeneral shall record the particulars of the notification in a register maintained for that purpose and shall inform the prospector in writing that the notification has been so recorded.

The Secretary-General shall, within 45 days of receipt of the notification, inform the proposed prospector in writing if the notification includes any part of an area included in an approved plan of work for exploration or exploitation of any category of resources, or any part of a reserved area, or any part of an area which has been disapproved by the Council for exploitation because of the risk of serious harm to the marine environment, or if the written undertaking is not satisfactory, and shall provide the proposed prospector with a written statement of reasons. In such cases, the proposed prospector may, within 90 days, submit an amended notification. The Secretary General shall, within 45 days, review and act upon such amended notification.

1. A prospector shall, within 90 days of the end of each calendar year, submit a report to the Authority on the status of prospecting.

Such reports shall be submitted by the Secretary-General to the Legal and Technical Commission. Each such report shall contain:

- (a) a general description of the status of prospecting and of the results obtained;
- (b) information on compliance with the undertakings referred to in regulation 3, paragraph (4) (d);

(c) information on compliance with the relevant future guidelines in this regard.

2. If the prospector intends to claim expenditures for prospecting as part of the development costs incurred prior to the commencement of commercial production, the prospector shall submit an annual statement, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants, of the actual and direct expenditures incurred by the prospector in carrying out prospecting.

Regulation 7

**Confidentiality of data and
information from prospecting
contained in the
annual report**

with the exception of data for
environmental issues

The Secretary-General may, at any time, with the consent of the prospector concerned, release data and information relating to prospecting in an area in respect of which a notification has been submitted. If the Secretary-General determines that the prospector no longer exists or cannot be located, the Secretary-General may release such data and information.

Objects of an archaeological or historical nature

A prospector shall immediately notify the Secretary-General in writing of any finding in the Area of an object of an archaeological or historical nature and its location. The Secretary-General shall transmit such information to the Director-General of the United Nations Educational, Scientific and Cultural Organization.

EXPLORATION

exploration” means searching for deposits of polymetallic sulphides or **cobalt crusts in the Area with exclusive rights, the analysis of such deposits, the use and testing of recovery systems and equipment, processing facilities and transportation systems, and the carrying out of studies of the environmental, technical, economic, commercial and other appropriate factors that must be taken into account in exploitation;**

**Applications for approval of
plans of work for exploration in
the form of contracts**

Subject to the provisions of the Convention, the following may apply to the Authority for approval of plans of work for exploration:

(a) the Enterprise, on its own behalf or in a joint arrangement;

(b) States Parties, state enterprises or natural or juridical persons which possess the nationality of States or are effectively controlled by them or their nationals, when sponsored by such States, or any group of the foregoing which meets the requirements of these Regulations.

Regulation 10

Form of applications

1. Each application for approval of a plan of work for exploration shall be in the form prescribed in annex 2 to these Regulations, shall be addressed to the Secretary-General, and shall conform to the requirements of these Regulations.
2. Each application shall be submitted,
 - (a) in the case of a State by the authority :
designated for that purpose it;
 - (b) in the case of an entity, by its designated representative or the authority designated for that purpose by the sponsoring State or States;

Regulation 11

Certificate of sponsorship

REGULATION 12

Total area covered by the application

- 1. The area covered by each application for approval of a plan of work for exploration shall be comprised of not more than 100 blocks.**

block” means a cell of a grid as provided by the Authority, which shall be approximately 10 kilometres by 10 kilometres and no greater than 100 square kilometres;

2. For polymetallic sulphides or cobalt crusts the exploration area shall consist of contiguous blocks. For the purposes of this regulation two blocks that touch at any point shall be considered to be contiguous.

Notwithstanding the provisions in paragraph 1 above, where a contractor has elected to contribute a reserved area to carry out activities pursuant to annex III, article 9, of the Convention, in accordance with regulation 17, the total area covered by an application shall not exceed 200 blocks.

Regulation 13

Financial and technical capabilities

Each application for approval of a plan of work for exploration shall contain specific and sufficient information to enable the Council to determine whether the applicant is financially and technically capable of carrying out the proposed plan of work for exploration and of fulfilling its financial obligations to the Authority.

2. An application for approval of a plan of work for exploration by the Enterprise shall include a statement by its competent authority certifying that the Enterprise has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration.

3. An application for approval of a plan of work for exploration by a State or a state enterprise shall include a statement by the State or the sponsoring State certifying that the applicant has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration.

An application for approval of a plan of work for exploration by an entity shall include copies of its audited financial statements, including balance sheets and

if the applicant is a newly organized entity and a certified balance sheet

if the applicant is a subsidiary of another entity, copies of such financial statements of that entity and a statement from that entity

if the applicant is controlled by a State or a state enterprise, a statement from the State or state enterprise certifying

Each application shall include:

(a) a general description of the applicant's previous experience, knowledge, skills, technical qualifications and expertise

b) a general description of the equipment and methods expected to be used

(c) a general description of the applicant's financial and technical capability to respond to any incident or activity

Regulation 15

Undertakings

(a) accept as enforceable and comply with the applicable obligations created by the provisions of the Convention and the rules, regulations and procedures of the Authority, the decisions of the organs of the Authority and the terms of its contracts with the Authority;

(b) accept control by the Authority of activities in the Area, as authorized by the Convention; and

(c) provide the Authority with a written assurance that its obligations under the contract will be fulfilled in good faith.

Each applicant, including the Enterprise, shall, as part of its application for approval of a plan of work for exploration, provide a written undertaking to the Authority that it will:

(a) accept the Authority, the decisions of the organs of the Authority and the terms of its contracts with the Authority;

(b) accept control by the Authority of activities in the Area, as authorized by the Convention; and

(c) provide the Authority with a written assurance that its obligations under the contract will be fulfilled in good faith.

Regulation 16

Applicant's election of a reserved area contribution or equity interest or jointventure or production sharing participation . Each applicant shall, in the application, elect either to:

- (a) contribute a reserved area to carry out activities pursuant to Annex III, article 9, of the Convention, in accordance with regulation 17; or**
- (b) offer an equity interest in accordance with regulation 19; or**

(c) enter into a joint venture arrangement in accordance with regulation 19; or

(d) enter into a production-sharing contract in accordance with regulation 19.

Regulation 17

Data and information to be submitted before the designation of a reserved area

1. Where the applicant elects to contribute a reserved area, the area covered by the application shall be sufficiently large and of sufficient estimated commercial value to allow two mining operations. The applicant shall divide the blocks comprising the application into two groups of equal estimated commercial value and composed of contiguous blocks. The area to be allocated to the applicant shall be subject to the provisions of regulation 27

Regulation 19

Equity interest, joint venture or production sharing participation

- 1. Where the applicant elects to offer an equity interest, joint venture or a production sharing, it shall submit data and information in accordance with regulation 20. The area to be allocated to the applicant shall be subject to the provisions of regulation 27**

Equity interest: the Equity interest, which shall take effect at the time the applicant applies for a contract for exploitation, shall include the following:

The Enterprise shall obtain a minimum of 20 per cent of the equity participation in the venture arrangement on the following basis:

(a) Half of such equity participation shall be obtained without payment, directly or indirectly, to the applicant and shall be treated *pari passu* for all purposes with the equity participation of the applicant;

b) The remainder of such equity participation shall be treated *pari passu* for all purposes with the equity participation of the applicant except that the Enterprise shall not receive any profit distribution with respect to such participation until the applicant has recovered its total equity participation in the venture.

3. Joint venture: notwithstanding paragraph (2) above, the applicant shall nevertheless offer the Enterprise the opportunity to obtain up to 50 per cent participation in a joint venture on the basis of *pari passu* treatment with the applicant for all purposes:

(a) In the event the Enterprise elects not to accept 50 per cent of such equity participation, the Enterprise may obtain a lesser per cent on the basis of *pari passu* treatment with the applicant for all purposes for such lesser participation;

(b) Except as specifically provided in the agreement between the applicant and the Enterprise, the Enterprise shall not by reason of its participation be otherwise obligated to provide funds or credits or issue guarantees or otherwise accept any financial liability whatsoever for, or on behalf of, the joint venture arrangement, nor shall the Enterprise be required to subscribe for additional participation so as to maintain its proportionate participation in the joint venture arrangement.

4. PRODUCTION SHARING: A production sharing contract shall include a requirement that the applicant will be responsible for all the management and execution of the operations during the exploration phase with its own capital, manpower, technology and equipment at its sole risk and cost. During the exploitation phase, the applicant is entitled to recover these costs. Thereafter, profits will be split on a 50:50 basis between the applicant and the Enterprise.

Regulation 25

The contract

1. After a plan of work for exploration has been approved by the Council, it shall be prepared in the form of a contract between the Authority and the applicant as prescribed in annex 3 to these Regulations. Each contract shall incorporate the standard clauses set out in annex 4 in effect at the date of entry into force of the contract.

2. The contract shall be signed by the Secretary-General on behalf of the Authority and by the applicant. The Secretary-General shall notify all members of the Authority in writing of the conclusion of each contract.

Regulation 26

Rights of the contractor

1. The contractor shall have the exclusive right to explore an area covered by a plan of work for exploration in respect of **polymetallic sulphides or cobalt crusts**.

The Authority shall ensure that no other entity operates in the same area for resources other than **polymetallic sulphides or cobalt crusts** in a manner that might interfere with the operations of the contractor.

A contractor who has an approved plan of work for exploration only shall have a preference and a priority among applicants submitting plans of work for exploitation of the same area and resources.

Regulation 27

Size of area and relinquishment

- 1. The contractor shall relinquish the blocks allocated to it in accordance with paragraphs 2, 3 and 4 of this regulation.**

Duration of contracts

for a period of 15 years 1. A plan of work for exploration shall be approved. Upon expiration of a plan of work for exploration, the contractor shall apply for a plan of work for exploitation unless the contractor has already done so, has obtained an extension for the plan of work for exploration or decides to renounce its rights in the area covered by the plan of work for exploration.

Not later than six months before the expiration of a plan of work for exploration, a contractor may apply for extensions for the plan of work for exploration for periods of not more than five years each. Such extensions shall be approved by the Council,

THANK YOU