General Comments from Australia
on Draft Regulations on Exploitation of Mineral Resources in the Area
September 2018

Australia appreciates the opportunity to provide written comments on the Draft Regulations on Exploitation of Mineral Resources in the Area, as issued on 9 July 2018 (ISBA/24/LTC/WP.1/Rev1). To assist the ISA in its consideration of the Draft Regulations, Australia provides initial views as set out in this paper and its attached table, pending further consideration by Government.

We welcome the improvements reflected in this version, including the increased detail around environmental and closure plans and consideration of other marine users. The points in this submission should be considered in conjunction with our previous submissions, in particular our last submission in December 2017 and the comments from our Delegation to the meetings of the International Seabed Authority (ISA) Council and Assembly in March and July this year.

The regulations must be considered in their entirety. We do not consider that there are "non-controversial elements" that can be agreed in advance of the overall package. It is too early to make a final judgment about the balance of rights and obligations within the regulations, particularly given the standards and guidelines – which will give further content to the overall package – have not yet been developed. We consider it important not to rush, particularly given the imperative for key objectives to be considered fully and operationalised effectively.

Our firm view is that environmental protections are central to the viability of the regulations. It is acceptable for some of their detail to be contained in subsidiary documents, such as guidelines, but it would not be acceptable for these protections to be non-binding or relegated to a lower tier of the hierarchy as a whole. Australia reiterates its position that the regulations should be progressed in parallel to the development of standards and guidelines and not independently of them. Further, we advocate adopting and operationalising a precautionary approach. We emphasise the importance of remaining flexible to respond to advances in scientific understanding and technology, including through the use of adaptive management mechanisms.

Australia remains of the view that the regulations need to be strengthened further to ensure the ISA can review contractors' compliance with environmental obligations, penalise for breach of their environmental obligations and take swift action, pre-emptively if necessary, to protect the marine environment. We continue to consider that applications for Plans of Work must be accompanied by a plan to respond to environmental incidents. We again emphasise the importance of strong liability and enforcement mechanisms in the regulation for deterring environmental harm or safety violations. The penalties added under Draft Regulation 101(6) are a positive addition in this respect.
We reiterate that there needs to be more detail regarding the liability of a sponsoring state and how it can take responsibility for ensuring exploitation is undertaken in a safe and environmentally responsible manner.

As per our previous comments, Australia considers that further work should be directed towards ensuring the draft regulations take into account other users of the marine environment and provide sufficient substance to the obligation in Art 147 of UNCLOS to ensure that activities in the Area are carried out with reasonable regard for other activities in the marine environment, such as the laying and protection of submarine cables and pipelines, and fisheries.

Australia notes the considerable amount of work that is still required on the financial aspects of the regulations, including the determination of administrative and fixed fees and performance guarantees, the development of equitable sharing criteria for economic benefits from exploitation activities in the Area, as well as payments arising from Article 82.

Australia remains concerned by the heavy burden placed on the Commission under the regulations. A process needs to be developed and incorporated in the regulations to strengthen the environmental and scientific capacity of the Commission. The Commission needs to be able to access independent expertise to support its work, in a manner consistent with the Convention. The German and Belgian papers on this issue represent useful starting points for discussion.

We consider that decision-making must be based on appropriate and sufficient levels of evidence. This includes providing sufficient levels of information for approvals and in the Environmental Impact Assessment. Governance arrangements must satisfy principles of transparency and accountability with respect to decision-making, the bodies and processes established under the draft regulations, and the organisations and companies that are being regulated. Working with the Council, the Legal and Technical Commission should consider mechanisms to promote open engagement in its decision making process (for instance establishing public submissions and open sessions as part of the EIA process). There must be accountability to the wider community of the rationale for decisions made under the regulations.

The regulations should also address the potential for real or perceived conflicts of interest within the ISA's decision-making structures where representatives are from sponsoring states. In this regard, we note there are provisions under UNCLOS and the Commission's Rules of Procedure that apply to members of the Commission. We consider similar provisions should apply to members of other ISA decision-making entities, such as the Council and Secretary-General to require them to recuse themselves to avoid direct or indirect conflicts of interest. This is particularly important because under the current proposed structure, these entities can make decisions on both commercial and environmental and safety matters. More broadly, consideration needs to be given as to how competing commercial and environmental interests will be resolved.

Significant work is required on the draft regulations pertaining to safety. At present, there is minimal consideration of design or process safety, no details on the content of the Health and Safety Plan, and there is no reference to dive safety. These are essential components, which must be fully considered and articulated, given the high-hazard nature of operations and the generally remote locations where these activities will occur, with limited access to emergency medical assistance.

Australia welcomes the inclusion of the need to protect the interests of developing states with land-based mining activities under Fundamental Principles. It is unclear, however, how this principle will be operationalised. Australia considers this needs to be extrapolated further within the regulations.

Australia looks forward to the opportunity to review and provide further comments on the next iteration of the draft regulations, along with more detailed versions of the various annexed plans as they become available.

In addition to the general comments set out above, Australia has prepared the attached detailed table setting out our views on specific draft regulations for the Authority's consideration.

Reasonable regard for other activities in the marine environment		
Part I, Introduction, Use of Terms and Scope	DR 1(4)	1. Australia continues to recommend that the Article 87 high seas freedoms be specifically enumerated in this DR, including the freedom to lay submarine cables and pipelines.
Part II, Applications for approval of Work Plans, Section 3, Consideration of applications by the Commission	DR 13(4)(d)	2. Insofar as this provision relates to submarine cables and pipelines, it does not sufficiently give effect to the 'reasonable regard' requirement of UNCLOS Article 147(1). It does not make reference to existing cables and pipelines and the right of States to maintain and repair them, nor does it operationalise or provide content to how Exploitation activities are to be carried out with reasonable regard for other activities in the Marine Environment. 3. Specifics should be included in this regulation such that contractors are required to consult with relevant entities/other marine users and provide evidence of this as part of the application process. Australia considers this to be an important inclusion to ensure that both the contractor and other marine users are aware of planned and current activities occurring in the contract area. 4. The Regulations should be consistent with and not undermine the obligations under UNCLOS (including Articles 87 and 147), keeping in mind that UNCLOS is a package deal that sets out States' rights and obligations. These rights and obligations cannot be curtailed in the context of one particular use of the ocean.
Part III, Rights and obligations of contractors, Section 4, Other users of the Marine Environment	DR 33(1)	Other users of the Marine Environment: 5. Australia notes that subparagraph 1 essentially restates Article 147 of UNCLOS with some additions. The first sentence refers to the obligation on Contractors to comply with 'any applicable international rules and standards established by competent international organizations'. However, it does not make reference to national laws and regulations which is critical given that there is no competent international organization with responsibility for the protection and regulation of submarine cables. However, Article 113 of UNCLOS makes clear that it is up to 'Every State' to adopt laws and regulations necessary to punish the breaking of or damage to submarine cables. Australia suggests that a reference to 'relevant national laws and regulations of contracting states and flag states' be included in the first sentence for this reason. 6. The second sentence of Regulation 33(1) simply provides 'In particular, each Contractor shall exercise due diligence to ensure that it does not cause damage to submarine cables or pipelines in the Contract Area.' The content of the obligation of due diligence has been spelled out in jurisprudence but its application to

		this situation is not entirely clear. This Regulation does not spell out what Contractors need to do to ensure they do not cause damage to existing submarine cables or pipelines. In contrast, Reg 37 (which relates to human remains and objects and sites of an archaeological or historical nature) requires that where human remains are discovered, 'no further Exploration or Exploitation shall take place, within a reasonable radius, until such time as the Council decides otherwise…' (emphasis added). In addition, this aspect of the Regulations does not make any reference to liability for damage to submarine cables. Further, it also only applies to existing submarine cables and pipelines instead of referring to the Article 87 freedom to lay submarine cables or pipelines. ○ we suggest that specific measures be enumerated to protect existing submarine cables and pipelines (such as an easement or an exclusion of mining activity within a reasonable radius of a planned or existing submarine cable or pipeline). ○ we further suggest that the LTC should consider an assessment of the risk to existing submarine cables and pipelines and that it should withhold its approval if the Plan of Work would pose a reasonable risk of damage to a submarine cable or pipeline. ○ we also suggest there should be a performance guarantee for Contractor activities conducted in proximity to an existing submarine cable or pipeline and the ability to withhold repayment or release of the performance guarantee in the event the Contractor damages a submarine cable or pipeline. ○ furthermore, in our view the obligations of 'reasonable regard' and 'due diligence' should be specifically spelled out to include specific procedures for identifying in-service and planned submarine cables and pipelines. ○ these concerns are exacerbated by the sizes of the Mining Areas that seem to be contemplated. The definition of 'Mining Area' is not clear but we understand this to be the area where mining activities can take place within a Contract Area. One way to address some of these concerns would alternatively be to reduce the size of the Mining Area, which would be consistent with terrestrial mining practice.
Part III, Rights and obligations of contractors, Section 4, Other users of the Marine Environment	DR 35(2)(a) DR 35(2)(c)	7. Preventing and Responding to Incidents. This provision requires contractors to notify its sponsoring state/s and the Secretary-General immediately in the event of an incident. This should include a specific time-frame from the incident occurring, eg "immediately but no later than X hours from the incident occurring". This timeframe should not exceed 24-hours and ideally be within hours of the incident occurring. 8. Requires the contractor to undertake "promptly" any instructions from the Secretary-General in consultation with the relevant states. This provision should be expanded to give the Secretary-General the flexibility/ability to impose a timeframe that the contractor must comply with. When preventing or responding

		to incidents, the Secretary-General's instructions should not be arbitrary. This will be important in the event of an incident to ensure the Secretary General can obtain the required information early to make inform subsequent decisions.
Part III, Rights and obligations of contractors, Section 4, Other users of the Marine Environment	DR 36 (5)	9. This provision requires contractors to record any complaints made to a contractor about a matter in the regulations and report to the Secretary-General. Australia is of the view this provision should specify a timeframe for doing so i.e. 'the contractor shall report the complaint to the Secretary General within x days of the complaint being received'. This ensures the Secretary General receives the most up to date information regarding a contractor and their activities in a timely manner.

Integration of environmental protections		
Preamble		10. We note that this Preambular text is based on the Preambles of the three Exploration Regulations. Nevertheless, we reiterate our view, as stated in the Australian Government Submission of November 2016, that the objective of the regulations should explicitly reference protection of the marine environment, consistent with Article 145 of UNCLOS.
Part I, Introduction, Use of Terms and Scope	DR 1(5)	11. Australia considers environmental protections are central to the viability of the exploitation regulations and need to be prominent in the regulations. It is acceptable for some of their detail to be contained in guidelines and standards, but it would not be acceptable for these protections to be relegated to a lower tier of the hierarchy as a whole (notwithstanding our position that environmental standards and protections must be binding). Australia reiterates its position that the regulations should be progressed in parallel to the development of standards and guidelines and not independently.
Part I, Introduction, Fundamental Principles	DR 2(5)	12. In describing the fundamental principles of the Exploitation Regulations, paragraph 5 makes reference to '[p]rovid[ing] for the effective protection of the Marine Environment … in accordance with the Authority's environmental policy and regional environmental management plans, if any…' This reference to a regional environmental management plan (REMP) appears to suggest that such a plan is optional. We understand that the Council has previously described the adoption of an REMP for the Clarion-Clipperton Zone as a measure that is 'appropriate and necessary' for the effective protection of the marine environment. We suggest that REMPs be included as a pre-condition to the granting of an exploitation contract.

	DR 2(5)(a) DR 2(5)(c)	13. The provision importantly gives recognition to 'biological diversity and ecological integrity' which reflects the requirement set out in Article 145 UNCLOS to prevent 'interference with the ecological balance of the marine environment'. 14. Note that this is the only time 'ecosystem approach' is mentioned in the draft regulations. UNGA expressly encouraged the ISA to take an ecosystem approach into their mandates in UNGA Resolution 67/78 para 174. We consider the term 'ecosystem approach' ought to be defined in the draft regulations.
Part I, Introduction, Duty to cooperate and exchange of information	DR 3(e)	15. We note the use of the term "Best Environmental Practices". Australia would like to emphasise the need for the definition of this term to ensure it is not a static concept. We suggest a definition along the lines of the definition of "Best Available Techniques" would be more appropriate.
Part 1,Introduction, Rights of Coastal States	DR 4 DR 4(2) DR 4(3)	16. Australia considers there should be an obligation on the contractor to consult with coastal states near the proposed exploitation area prior to submitting a plan of work to the Commission for assessment, and on an ongoing basis for the life of the activity. 17. Australia reiterates the comment from its Submission of November 2016, that this provision should include "or under a Plan of Work" after the words "by a contractor" to include all activities under Plans of Work under these regulations. 18. Australia reiterates the comment from its Submission of November 2016, of adding "or a threat of serious harm" after the words "that serious harm", to reflect the coastal State's belief.
Part II, Applications for approval of Work Plans, Section 1, Applications, Certificate of Sponsorship	DR 6(1)	19. In circumstances where an applicant has multiple sponsorship (ie where the applicant has the nationality of one state and is effectively controlled by another state), and one of those states exercises its decision not to sponsor, clarity is required as to whether the issuing of the certificate by the other state implies it has accepted full liability. 20. Australia considers the regulations should seek to prevent 'sponsors of convenience' and further consideration is required as to how this can be achieved.
Part II, Applications for approval of Work Plans,	DR 6(3)(a)	21. Australia considers there would be merit in including contact details on the certificates of sponsorship.

Section 1, Applications, Certificate of Sponsorship	DR 6(3)(c)(ii)	22. Australia welcomes the work of the Legal Working Group on Liability highlighting the need to clarify the meaning of 'effective control' as it appears in both UNCLOS and the draft Regulations, and in particular, its implications for the role of parent companies and states that directly, or through their nationals, have effective control over their contractors. Australia agrees that the term 'effective control' requires greater clarification.
Part II, Applications for approval of Work Plans, Section 1, Applications, Form of applications and accompanying information	DR 7	23. We note Annex V ('Emergency Response and Contingency Plan'), which is to accompany applications for approval for a plan of work, contains provisions for responding to environmental incidents. The requirements for responding to environmental incidents should be fully laid out in this Annex, as well as requirements for the Environmental Management and Monitoring Plan and the Closure Plan.
Part II, Applications for approval of Work Plans, Section 2, Processing and review of Applications	DR 9(2)	24. This DR provides for the Commission to consider the applications. On timeframe, see point under 'Sequencing of Procedural Steps' regarding the potential insufficiency of 30 days. 25. More broadly, it is good regulatory practice for the environmental and safety requirements for an activity to be considered by an agency independent of that which considers other elements such as the financial or commercial considerations.
Part II, Applications for approval of Work Plans, Section 2, Processing and review of Applications	DR 11(1)(a)	26. Publication and review of the environmental plans. Australia is pleased the environmental plans will be published on the website for 60 days to enable stakeholders to submit any comments. However, Australia needs to review the guideline that will be developed that outlines how the comments are to be received. There should also be notification to members when plans are published so that members do not have to continually monitor the website.
Part II, Applications for approval of Work Plans, Section 3, Consideration of applications by the Commission	DR 12	27. This section provides for the consideration of applications by the Commission and raises a number of questions, primarily how the Commission will be able to perform this role, given the extensive amount of information covering a range of fields and expertise. Decision-making should be based on appropriate and sufficient level of evidence, including for approvals (and Environmental Impact Assessments). We suggest a process be set out in the regulations for seeking, receiving and incorporating independent advice into the decision-making process, further to DR12(5)(b). The German and Belgian papers provide some ideas on how to incorporate expert advice, which require further consideration. Any mechanism must be consistent with the existing UNCLOS framework.

Part II, Applications for approval of Work Plans, Section 3, Consideration of applications by the Commission	DR 13(2)(b) DR 13(3)(e)	28. DR13(2)(b)(ii) also requires the Commission to determine whether the applicant can commit or raise sufficient financial resources to cover the estimated costs of the proposed exploitation activities, including implementation of environmental plans. Australia recommends this include the financial capability to restore and remediate the environment in case of a significant incident. We would welcome further information as to what guidance will be provided to the Commission to help it determine costs. 29. Australia endorses the addition of the new concept of 'Best Available Techniques' in this version of the regulations, especially with regards to minimising the impact on the marine environment. We agree with the Note by the Commission that criteria for Best Available Techniques will need to be developed due to the dynamic nature of this concept.
Part II, Applications for approval of Work Plans, Section 3, Consideration of applications by the Commission	DR 14(3)	30. Due to the deletion of previous draft regulation 21(2), there is no longer a requirement for the Commission to prepare a report on the Environmental Plans. Australia suggests it be reinserted, together with further guidance regarding the matters that should be taken into account by the Commission when preparing its report.
Part II, Applications for approval of Work Plans, Section 3, Consideration of applications by the Commission	DR 16(2)(c)	31. This appears to be the only reference to UNCLOS Article 162(2)(x) in these regulations. This Article empowers the Council to disapprove areas for exploitation in cases where 'substantial evidence indicates the risk of serious harm to the marine environment' (ie. MPAs). Australia would welcome clarity as to what guidance will be provided to the Council on criteria for when to disapprove areas under art 162(2)(x), what the standard of 'substantial evidence' is, and whether such guidance will be provided in these regulations. 32. Australia would also be interested as to whether there has been any discussion of including 'preservation reference zones' in which no mining is allowed, as used in the Exploration Regulations, as well as Areas of Particular Environmental Interest.
Part II, Applications for approval of Work Plans, Section 3, Consideration of applications by the Commission	DR 16(4)	33. This regulation should have a line inserted that the '*Commission shall so inform the applicant, <u>in writing</u>. By providing the reasons…'*
Part III Rights and	DR 27	34. In principle Australia supports the Environmental Performance Guarantee (EPG) but, as highlighted in

Obligations of Contractors, Section 2, Matters relating to production		the Note of the Legal and Technical Commission of 10 July 2018, we endorse the need for the ISA to explore further the objective and purpose of such a guarantee (page 8), together with the rationale and implications of this regulation.
	DR 27(2)	35. This provision states the form and amount of the EPG shall reflect the likely costs of: premature closure of exploitation activities; decommissioning and final closure of exploitation activities; and the post closure monitoring and management of residual environmental effects. We recommend that it also include the likely cost of responding to and remediation in the event of a significant environmental incident.
	DR 27(4)	36. This provision, which deals with reviewing and updating the amount of the EPG, does not currently reflect the need to take into account inflation and other market/economic conditions that can impact on the amount of the guarantee that must be held.
	DR 27(7)	37. This provision provides that the EPG will be applied in a uniform and non-discriminatory manner. Australia considers it might be appropriate to apply in a non-uniform manner. While discrimination on the basis of sponsoring country should not occur, there are other circumstances where it would be appropriate for additional guarantee/security to be given, eg, a new company with less experience, a company with a poor international environmental or safety record, the location of the activity and proximity to sensitive receptors or cables. These factors should be considered at a minimum when determining the EPG.
Part IV, Protection and preservation of the Marine Environment, Section I, Obligations relating to the Marine Environment	DR 46	38. Australia endorses the reference in DR 46(a) to the application of the Precautionary Approach to the assessment and management of the risk of harm to the marine environment from exploitation in the area. However, we consider a reference should also be made to principles of sustainable development. As per Australia's comment in its December 2017 submission, we suggest more clarity needs to be provided to the applicant on how to apply the precautionary approach. We also emphasise the need to ensure that the precautionary approach is practically applied throughout the Exploitation Regulations. 39. DR 46 (b) refers to "Best Available Techniques". Australia emphasises the need to define this term to ensure it is not a static concept.
Part IV, Protection and preservation of the Marine Environment,	DR 46bis	40. Australia welcomes the increased detail in the body of the regulations on the requirements for the Environmental Impact Statement (EIS) and the Environmental Management and Monitoring Plan. However, we note that the requirement for an applicant to undertake an Environmental Impact Assessment (EIA) has

Section I, Obligations relating to the Marine Environment		now been moved from DR 13 to this regulation concerning the Environmental Impact Statement. The LTC has included in its Note, that 'the requirements for the delivery of a comprehensive environmental impact assessment need further discussion: the Commission has asked the secretariat to give this due consideration as to timing and process for development.' Consistent with previous comments, Australia considers it necessary for an applicant to undertake an EIA to ensure compliance with UNCLOS Art 206 and the 1994 Agreement, Annex Section 1(7), and fulfilment of the ISA's mandate to 'give special emphasis to ensuring that the marine environment is protected from any harmful effects which may arise from mining at activities including exploration and exploitation'. The obligation to conduct an EIA is also an obligation under customary international law, and UNCLOS, Article 206. Suggest further information regarding the scope and content of the EIA Process needs to be incorporated into the regulations to ensure compliance with our international obligations. 41. With respect to the EIS, we suggest that Sponsoring States retain supervisory authority over this process, for example, by being required to review a contractor's proposed EIS ahead of its submission to the ISA.
Part IV, Protection and preservation of the Marine Environment, Section I, Obligations relating to the Marine Environment	DR 47 and DR 48	42. Australia endorses the new articles addressing pollution control and mining discharge. However, we note that we will undertake a closer review of these provisions in light of the obligations under UNCLOS and, for those states that are also contracting Parties to the London Protocol, the obligations under the London Protocol prior to the next session.
Part IV, Protection and preservation of the Marine Environment, Section I, Obligations relating to the Marine Environment, Section 2 Pollution Control	DR 48 (2)	43. Restriction on mining discharges. DR 48(1) states that a contractor may not dispose, dump or discharge any sediment where it constitutes a mining discharge unless it is in accordance with the assessment framework for Mining Discharges in the guidelines and the Environmental Management and Monitoring Plan. DR 48(2) provides the caveat that DR 48(1) does not need to be complied with where action is necessary for the safety of life or the preservation of property. There should be further guidance and clarification on the definition of unauthorised discharge to avoid unnecessary disposal. Any mining discharge in such circumstances should be considered an 'Unauthorised Mining Discharge' and constitute a Notifiable Event under Appendix 1 (and thus need to comply with the associated timeframes).
Part IV, Protection and preservation of the Marine Environment,	DR 49	44. Compliance with Environmental Monitoring and Management Plan. The obligations in this regulation place a heavy weight on the EMMP, which is the product of a consultative process with the LTC. As a result, they therefore place a heavy burden on the LTC to ensure the EMMP is sufficient and effective in protecting

Section I, Obligations relating to the Marine Environment, Section 3, Compliance with Environmental plans and performance assessments		the Marine Environment. As per Australia's comment in its December 2017 submission, we note the need for appropriate safety and environmental expertise to fulfil these functions.
Part IV, Protection and preservation of the Marine Environment, Section 3, Obligations relating to the Marine Environment, Section 3, Compliance with Environmental plans and performance assessments	DR 50 DR 50 (2) DR 50 (3) DR 50 (6) DR 50(8)(b)	45. We would welcome further clarity as to how this regulation interacts with DR 27 regarding Performance Guarantees, as well as DR 50 which provides for a five-yearly review of activities under a Plan of Work. 46. Performance assessments of the Environmental Management and Monitoring Plan. As per previous Australian comments, given the high levels of uncertainty of the potential environmental impacts of exploitation in the Area, Australia considers it is more appropriate that regular, annual environmental performance reviews be mandated. 47. This provision provides that a contractor compiles and submits a performance report to the Secretary-General. Suggest that this provision outline the minimum content the contractor's review report should contain, as per DR 49 in the draft Environmental Regulations. 48. This provision provides that where the Commission considers a performance assessment cannot be undertaken satisfactorily by a Contractor in accordance with the Guidelines, the Commission may ask the Secretary-General to procure an independent, competent person to undertake the assessment and compile the report. We consider that if the contractor cannot undertake the performance assessment satisfactorily, it is grounds for further action against the contractor. The guidelines will also need to be developed for Australia to provide further commentary on if *'….a performance assessment cannot be undertaken satisfactorily by a contractor in accordance with the guidelines*..' is adequate. 49. Where the Commission's review under DR 50(4) concludes a Contractor has failed to meet its obligation, we consider that depending on the severity of the compliance issues, this should also be grounds for the contractor stopping the activity/operations immediately or having its contract terminated.
Part IV, Protection and preservation of the	DR 51	50. Emergency Response and Contingency Plan. These plans should be tested on a regular basis, annually at minimum to ensure adequacy and relevance of the contents.

Marine Environment, Section 3, Compliance with Environmental plans and performance assessments		51. Clarity is also required around the acceptance criteria for these documents and the standards they should adhere to.
Part IV, Protection and preservation of the Marine Environment, Section 4, Environmental Liability Trust Fund	DR 53 DR 53 (e)	52. This DR covers the purpose of the Liability Trust Fund and currently includes measures designed to prevent, limit or remediate damage to the Area the costs of which cannot be recovered from the contractor or sponsoring states (ie the liability gap), but also extends to research, training etc (see DR 53(b)-(d)). Australia welcomes the introduction of this fund, as recommended by the Seabed Disputes Chamber of ITLOS. However its functions and purposes should, in our view, be limited to addressing the gap in liability identified by the Seabed Disputes Chamber and that proposed purposes that do not address the gap (such as funding research and training programs) should be financed through other means. 53. This provision provides that the liability fund will also be used for restoration and rehabilitation of the Area when technically and economically feasible. Australia considers that this should be considered on a project basis and form part of decommissioning/rehabilitation and closure report, and not be for the fund to pay for.
Part IV, Protection and preservation of the Marine Environment, Section 4, Environmental Liability Trust Fund	DR 54	54. Australia considers that funds for the Liability Trust Fund should come from Sponsoring States and contractors. ISA members not involved in activities in the Area should not be required to contribute. This should be reflected in the provisions.
Annex IV Environmental Impact Statement Template	4.3 and 5.3	55. “Studies completed”. Australia considers that it is critical to establish sufficient baseline data to understand fully what impacts the proposed mining will have on the site, and how these impacts can be minimized and managed. Consideration is required as to whether the baseline data collected for the Authority, as per the requirements in the Exploration Regulations, is sufficient to achieve this purpose. 56. In the “Studies completed” paragraphs for physicochemical (4.3) and biological (5.3), we recommend that a description of the methods used for completing the studies be included and that those methods reflect best practice. For example: • Describe prior research/Exploration (including methods reflecting best scientific practice) that could provide relevant information for this Environmental Impact Statement and future activity.

Annex IV Environmental Impact Statement Template	7,8 and 9	57. We recommend that the assessment of impacts sections (sections 7, 8 & 9) also require a description of the methods used for determining impacts, in particular the assumptions used for impact modelling. For example, inserting a new subparagraph (b) as follows: "The preferred approach for this template is to include for each component a description of: a) The nature and …; b) *The methods used to determine impacts (including the assumptions of any impact modelling undertaken);* c) Measures that will … ; and d) The unavoidable (residual) impacts that will remain."
Annex IV Environmental Impact Statement Template	11	58. Australia recommends reinserting the definition of 'environmental management system'. This term is currently undefined in this version of the regulations. However, we note that the previous version of the draft Environmental Regulations (before they were merged) included a definition of the term and a draft regulation (Regulation 28) which outlined the requirements for an Environmental Management System. 59. The environmental management system was defined as, "that part of the overall management system applied by a Contractor that includes organizational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing and maintaining environmental policy, goals and environmental performance'.
Annex VII Environmental Management and Monitoring Plan	2 (e)	60. This provision provides that the Environmental Management and Monitoring Plan shall contain an assessment of the potential Environmental effects of the proposed activities on the Marine Environment and any significant changes likely to result. We consider there needs to be better linkages between these elements, for example setting out what are the impacts and risks, and what are the proposed control and mitigation measures, how will this reduce the risk to the environment, and whether the residual risk is acceptable. 61. A prerequisite to determine the potential environmental effects of the proposed Exploitation activities on the marine environment is the establishment of an environmental baseline against which to assess the impacts of mining on the marine environment. Consideration should be given as to whether this requirement has been met in the draft regulations.

	2 (o)	62. This provision states that the plan will contain details of Mining Discharges, including a waste assessment and prevention audit. Further information is required on how these discharges will be managed to an acceptable level, and what incentives the contractor will have to continually improve these.
Annex VIII Closure Plan	4 (e)	63. This provision states that the Closure Plan shall include, amongst other things, details of the closure implementation and timetable, including descriptions of the decommissioning arrangements for vessels, plants and equipment. We consider the obligation for contractors to remove all equipment and remediate the environment should be explicitly included here.

Governance Arrangements		
Part II, Applications for approval of Work Plans, Section 1, Applications, Form of applications and accompanying information	DR 7(3)(f)	64. The Annex for the Health, Safety and Maritime Security Plan is still blank on the 9 July version. Australia would need to see this document before commenting. We suggest they be two separate Plans, one for Health and Safety, and the other for Maritime Security.
Part II, Applications for approval of Work Plans, Section 1, Applications, Form of applications and accompanying information	DR 7(4)	65. This section requires separate documentation under paras 3(d), (h) and (i) for multiple mining areas unless the applicant demonstrates that a single set of documents is appropriate according to the Guidelines. Australia suggests this should be demonstrated to the satisfaction of the Commission and that the Commission should have recourse to reject the consolidated documents if it is not appropriate.
Part II, Applications for approval of Work Plans, Section 2, Processing and review of Applications	DR 9(2)	66. As a general comment, governance arrangements must satisfy principles of transparency and accountability, of decision making and of the bodies and processes established under the draft regulations and down to the organisations/companies that are being regulated (including the contractors), and providing accountability to the wider community of the rationale for decisions made under the ISA regulations.
Part II, Applications for approval of Work Plans, Section 2, Processing and review of Applications	DR 10	67. DR 10 provides for the Secretary-General to review an application for approval of a Plan of Work to determine if it is complete. Where the Secretary-General is from the sponsoring state, consideration should be given to some form of provision to avoid a perceived conflict of interest.
Part II, Applications for approval of Work Plans,	DR 13	68. This DR relates to the assessment of applications. We would again suggest provision so the Commission can determine if an applicant has a satisfactory record of past performance both within the Area and in other

Section 3, Consideration of applications by the Commission	DR 13(1) (e) DR 13 (1)(f)	states' jurisdictions. 69. This provision refers to the financial and technical capability of an applicant. We would recommend including reference to 'capacity' here as well, as an applicant might have the capability, but not the capacity due to other commitments. 70. This provision requires the Commission to determine whether the applicant has demonstrated the economic viability of the project. Details need to be provided on the criteria which will be used to determine commerciality before it is possible to comment on this provision.
Part X, General Procedures, Standards and Guidelines,	DR 92(2)	71. Australia endorses the new provision regarding the adoption of standards. However, we suggest that provision also needs to be made for amending the standards. Further, there needs to be a corresponding obligation on the contractor to implement the standards, as amended from time to time, to ensure universal implementation of the standards. We acknowledge that sufficient notice of an amendment to the standards would need to be given to existing contractors.
Part X, General Procedures, Standards and Guidelines,	DR 93	72. Australia endorses the amendment of the term 'recommendations' to 'guidelines'. However, as per Australia's previous submission on this regulation, we note that it is still not clear where the LTC will get its mandate to issue guidelines. Suggest the Council should have a role in endorsing the LTC's guidelines. Further, we suggest it is not appropriate for the Secretary-General to be able to issue guidelines, especially where it is then responsible for providing advice on the implementation of them (such as the Material Change guidelines under draft regulation 55) and there is a delay between the issue of the guidelines and the reporting of those guidelines to the Council.

Sequencing of Procedural Steps		
Part II, Applications for approval of Work Plans, Section 2, Processing and review of Applications	DR 9(1)(a) DR 9 (2)	73. This DR provides that the Secretary-General will notify in 14 days the receipt of every application for approval of a Plan of Work. Australia notes that the timeframe for acknowledging receipt of applications under the Exploration Regulations is 30 days (ie. Polymetallic Sulphides Regs, regulation 22) and query why the timeframe has been reduced. 74. 30 days before the next Commission meeting is not sufficient for consideration of all of the information set out in DRs 5-7. Suggest this should be a minimum of 90 days. There should also be scope to delay to the

		next meeting if the application is overly complex.
Part II, Applications for approval of Work Plans, Section 2, Processing and review of Applications	DR 10	75. DR 10 provides for the Secretary-General to review an application for approval of a Plan of Work to determine if it is complete. Where the Secretary-General is from the sponsoring state, consideration should be given to some form of provision to avoid a real or perceived conflict of interest.
Part II, Applications for approval of Work Plans, Section 2, Processing and review of Applications	DR 12(3) DR 12(5)(d)	76. We suggest there should be provision for the Commission to delay its report under DR 12(3) where the application is overly complex or incomplete information has been submitted i.e. at an intial review the application might appear to be complete but through the course of assessing the application, it becomes evident that the applicant needs to submit additional information. 77. This provision should make it clear the applicant can't continually submit new information for assessment (the risk being there would be a never-ending assessment). This could be achieved by requiring new information to be requested by the Commission.
Part II, Applications for approval of Work Plans, Section 3, Consideration of applications by the Commission	DR 15 DR 15(a)	78. Amendments to the proposed Plan of Work. As a general point, there needs to be further consideration on what a request for additional information means for assessment timeframes. While the applicant has 90 days to respond to a requested modification, there is no similar timeframe for a response for requests for additional information. Preferred approach would be for the consideration period to recommence in both circumstances, including the period for requesting additional information. 79. This provision seeks to restrict the Commission from requesting additional information from the applicant outside of the 30 day timeframe from when the application is first considered. The Commission should be able to request information at any time prior to making its recommendation to Council in order to make an informed decision.
Part II, Applications for approval of Work Plans, Section 3, Consideration of applications by the Commission	DR 16 (4) DR 16 (5)	80. DR 16 covers the Commission's recommendation for the approval of a plan of work. Australia would be grateful for confirmation that if the Commission determines the application does not meet the criteria, the application does not proceed to the Council for consideration. 81. DR 16(5) requires the Commission to consider representations from applicants providing they are circulated at least 30 days in advance of the next meeting, then consider the application afresh. Further consideration should be given as to if the 30 day time-frame is sufficient.

Part II, Applications for approval of Work Plans, Section 4, Consideration of an Application by the Council	DR 17	82. As per comment above relating to the Secretary-General, consideration should be given as to whether members of the Council who represent the sponsoring states should have to recuse themselves due to a potential conflict of interest.
Part III, Section 3, matters related to production	DR 26(3)	83. Documents to be submitted prior to production. The provision sets down another 30 day timeframe ahead of the next Commission meeting for consideration of revised documents. If the Plan of Work has been revised significantly, this may not be sufficient.
Part III Rights and Obligations of Contractors, Section 2, Matters relating to production	DR 28	84. Commencement of production. Suggest this provision include a requirement for the Contractor to notify the Secretary-General, who in turn must notify member states, in particular any neighbouring states, that production has commenced and where.
Part V, Review and Modification of a Plan of Work	DR 55	85. Modification of a Plan of Work by a Contractor. As a general principle, we consider all changes should be notified and assessed. 86. Australia would welcome further guidance on what will determine a "Material Change". However, we suggest it is not appropriate for the Secretary-General to be responsible for drafting the Material Change Guidelines (under draft regulation 93), and determining whether specific modification falls within those Guidelines.
Part V, Review and Modification of a Plan of Work	Dr 56	87. Review of activities under a plan of work – currently required at intervals of at least five years from the date of signature of the exploitation contract, except in a range of circumstances detailed within the provision. We would also like to see added in where there is a new environmental risk identified, or a significant change to existing risk calculations.
Part XI, Closure Plans and post-closure monitoring	DR 58	88. This provision again uses the "30 days in advance of the next meeting" timeframe which we do not consider is necessarily adequate time to consider new information ahead of meetings.
Part XI, Inspection,	DR 102	89 Power to take remedial action. Australia suggests this regulation requires clarification of the remedial

Compliance and Enforcement, Section 3, Penalties		works or measures that are available to the Authority. Note the similarity of this provision to provisions in the Exploration Regulations (see Nodules, Reg 33(7); Sulphides, Reg 35(7), and Crusts Reg 35(7)). Such a provision allows for the ISA to promptly respond to pollution emergencies, whilst upholding the polluter-pays principle. However, it appears as if this provision may be broader than the abovementioned provisions as it not solely linked to emergency orders.
Part XIII, Review of these Regulations	DR 105	90. This provision provides circumstances for review of the Regulations and for the Council to adopt and apply provisionally pending approval by the Assembly. Australia would like to underline the importance of any changes being properly assessed, approved and adopted.

Balance of rights and obligations of contractors		
Part III, Section 1, Exploitation Contracts	DR 19(1)(b)	91. Australia acknowledges the Note by the Legal and Technical Commission which states that, with regards to contract area and mining area, the Commission considers that the draft regulations now provide clear definitions for, and distinction between, these two areas. The Commission notes it will keep these concepts under review as the regulations progress, and revert to the Council for any guidance. Australia notes the pressure from contractors to maximise the size of contract areas, regardless of the resource available in the area. While we have no concerns with the current definitions on their face, the Authority will need to ensure that the size of contract areas is reasonable. For example, an indicator of an appropriate difference in size of an exploration contract to an exploitation contract can be found in Article 17(2)(a) of Annex III of the convention which provides that, '[t]he Authority shall determine the appropriate size of areas for exploration which may be up to twice as large as those for exploitation. The size of area shall be calculated to satisfy the requirements of article 8 of this Annex on reservation of areas as well as state production requirements consistent with article 151…'Areas shall be neither smaller nor larger than are necessary to satisfy this objective'.
	DR 19 (6)	92. Rights and exclusivity under an exploitation contract. DR 19(6) would give contractors the exclusive right to apply for a renewal of its exploitation contract. It should not be a given that the renewal will occur. Further assessment should be required, particularly as the initial term may be as long as 30 years, and the renewal for up to 10 years. Renewal of contracts can be supported if a thorough enough assessment of the contractor's ability to continue exploitation has been undertaken, similar to that when obtaining a contract,

		and so long as the resource is still commercially viable.
Part III, Section 1, Exploitation Contracts	DR 21(2) DR 21(3) DR 21(6)	93. An application to renew should be accompanied by a review of the documentation underpinning the contract, including the environmental plans. 94. This DR provides some criteria for renewals – Australia notes that this criteria is not thorough enough where the renewal could be 30 years after the initial contract is entered into. 95. Provides for continuity of Sponsoring State sponsorship – we consider the Sponsoring State should reconfirm their sponsorship as part of the renewal process. 96. Note DR 21 has been reworked in 9 July version with a process for Commission consideration (again 30 days before a given meeting). There has been no change to the criteria for renewal (ie still does not appear a thorough enough process).
Part III, Section 1, Exploitation Contracts	DR 22 (3) DR 22(6)	97. Termination of sponsorship. If the State terminates its sponsorship on the basis that the Contractor is negligent or not meeting terms of the contract, or has withdrawn because of the environmental damage, the Contractor shouldn't be given the opportunity to find sponsorship elsewhere. Suggest there might need to be further consideration of when it would be appropriate to find alternative sponsorship. 98. Australia considers that a contractor should suspend its mining operations when sponsorship is terminated pending the submission of a new certificate of sponsorship.
Part III, Section 1, Exploitation Contracts	DR 23, 24, 25	99. These provisions cover: • Use of the exploitation contract as security; • Transfer of rights and obligations; • Change of control These DRs need to be assessed carefully to ensure they are compatible with developing state preferential access, ie where commercial contractors with licenses obtained via developing states use contracts as collateral, it does not result in effective control passing to a third state, with no benefit accruing to the developing state.
Part III, Section 1,	DR 25	100. The way the DR 25 is currently framed, there is no ability for the Secretary-General to make a

Exploitation Contracts		determination that following a Change of Control the contractor no longer able to meet its obligations. We suggest the Secretary-General should be empowered to make that determination and that the consequences of such a determination be set out. 101. The DR also enables contractors to provide notification to the Secretary-General after the event. We consider the Secretary-General should be notified in advance of the change of control taking place, not after. There should not be circumstances whereby an activity is taking place without the Secretary-General having full confidence that the environmental performance guarantee is being met. The DRs should also cover what happens if the change of control is not deemed acceptable by the Secretary-General, eg whether the contract ceases immediately.
Part III, Section 2, Matters related to production	DR 30 (2) DR 30 (4)	102. Reduction or suspension in production due to market conditions. Note that UNCLOS Annex III, Article 17(c), provides that the Authority shall within reasonable limits and taking into consideration all relevant factors require the operator to maintain commercial production throughout the period of the plan of work. In principle, we can support that suspension may be needed. However there needs to be a point at which the contract is terminated due to no activity occurring. There cannot be an indefinite term of non-production when another contractor may be able to develop the resource in the Area. 103. Provides that a contractor shall temporarily reduce or suspend production whenever it is required to protect the marine environment or to protect human health and safety, and notify the Secretary-General within 72 hours. Suggest this be revised down, as reduction and suspension are generally known events, and cases where it is to protect human life or the marine environment are major events and the Secretary-General should be notified within 24 hours or less. The Secretary General should also be notified within a set timeframe of when operations re-commence.
Part III, Section 3, Safety of life and property at sea	DR 32	104. Safety, labour and health standards. The level of safety regulation is insufficient and not commensurate with the risks of the high hazard offshore industry. There does not appear to be any focus on process safety and design safety. Things that need further consideration include: - Identification of hazards and assessment risks - Measures to eliminate and control risks - Monitoring, audit, review and continuous improvement - Safety management system

		There are no regulations that cover off on safety for dive personnel. 105. Australia would like to review and provide input into the Health, Safety and Maritime Security Plan/s when drafted (Annex VI). 106. There is also a low likelihood that emergency medical and evacuation assistance will be possible given the location of these activities. This would warrant further consideration of whether there is a requirement for medical staff on board the vessels or installations that are operating and engaged in the exploitation activities.
	DR 32 (3)	107. Australia notes the ongoing work between the Authority and the International Maritime Organisation regarding jurisdictional competence and areas of cooperation, and the development of a matrix of duties and responsibilities of regulatory actors, including sponsoring states, flag states and port states. We note that this provision is one which will benefit from the clarification of these roles and with which laws the contractors are obliged to comply.
Part III, Rights and obligations of contractors, Section 5, Incidents and Notifiable Events	DR 37	108. Human remains and objects and sites of an archaeological or historic nature. This provision sets out the actions to be taken in the event of such discoveries. At present, the requirement is for the contractor to notify the Secretary General in writing immediately. We consider this provision should have more parameters i.e. the find should be reported within a specified time period, to be followed by a written report within a specified time period. It also states that no further exploration or exploitation should happen within a "reasonable radius" of the site – this needs to be defined by the ISA at the time and may differ depending on the scale of the find. We support the council having scope to suspend operations.
Part III, Rights and obligations of contractors, Section 6, Insurance Obligations	DR 38 (1)	109. This provision requires contractors to maintain in full force and effect, and also its subcontractors, appropriate insurance policies. Australia acknowledges the advice by the Commission in its Note of 10 July 2018 that this provision is a placeholder and is subject to further investigation as to specific insurance requirements (inc insurance requirements and what categories of insurance). We encourage this ongoing investigation to ensure that Contractors are provided with specific guidance as to the appropriate level of insurance required. We suggest this provision specify insurance for liabilities that may arise after the contract period ends – eg insurance for environmental issues following the expiration of the contract.

	DR 38 (4)	110. This provision requires contracts to have the Secretary-General's consent prior to materially modifying or terminating insurance – we consider this should be tightened further such that the Secretary-General should be consulted before any changes, to ensure maintenance of an appropriate level of insurance.
Part III, Rights and obligations of contractors, Section 8, Annual Reports and Maintenance	DR 40	111. Sets out the requirement for an annual report within 90 days of the end of each calendar year. It is positive this draft regulation now sets out in detail the contents of the report. However, there also needs to be an assessment process, to ensure its contents are accurate and that the contractor is meeting is obligations, with consequences, ie failure may result in termination of the contract.

Financial terms of an exploitation contract		
Part VII, Financial terms of an exploitation contract, Section 1, General		112. The royalty regime needs to be developed and agreed as this will have direct bearing on the financial elements of the regulations. Australia considers that an ad valorem model may best meet the requirements outlined in Section 8 of the Annex to the 1994 Agreement, which provides that 'the system should not be complicated and should not impose major administrative costs on the Authority or on a contractor'. In our view, an ad valorem model would streamline the regulations, be easier to implement and a lower risk than a profit-based model. Any resource tax regime will need to be effectively administered, enforced, monitored and likely adapted over time by the Authority. Limiting reliance on transfer pricing principles may make the regime easier to comply with and more simple to administer.
Part VII, Financial terms of an exploitation contract, Section 1, General	DR 61 (2)	113. Financial incentives. This DR provides that the Council may provide financial incentives to those Contractors entering into joint arrangements with the Enterprise under article 11 of annex III to the Convention, and developing states or their nationals, to stimulate the transfer or technology thereto and to train the personnel of the Authority and of developing states. We would welcome clarity as to what this will consist of and what would be the obligations on other states such as Australia.
Part VII, Financial terms of an exploitation contract, Section 6,	DR 77	114. Interest on unpaid royalty. We would suggest that both monetary penalties and cancellation of exploitation contract be possible consequences of failure to pay royalties.

Interest and Penalties		

Confidentiality of Information		
Part IX, Information gathering and handling	DR 87	115. Confidentiality of information. Australia endorses the addition of the new category of confidential information following stakeholder support, namely the category of 'data and information which have been categorised as Confidential Information by the Council'. We note that the process to develop the list and the timing is yet to be addressed.
Part IX, Information gathering and handling	DR 88	116. Procedures to ensure confidentiality. DR88(3) and (4) should require the Commission members, the Secretary-General and ISA staff to not disclose, but also not use, any industrial secrets etc coming to their knowledge through work at the ISA.
Part IX, Information gathering and handling	DR 89	117. Information to be submitted upon expiration of an exploitation contract. This draft regulation should also cover circumstances where a contract is terminated and provide a specified timeframe for submission upon termination.

Inspection, Compliance and Enforcement		
Part XI, Inspection, Compliance and Enforcement, Section 1, Inspections	DR 94	118. As a general comment on these provisions, consideration should be given as to whether there should be responsibility on the sponsoring states to also inspect and manage for compliance, given their obligations and liabilities. 119. Australia would like to reiterate the comment from its earlier submission regarding the following issues: (1) we recommend the Authority draw on similar schemes from regional fisheries management organisations, (2) it might be helpful to set out a risk assessment process to provide guidance on how the authority would determine which activities are to be inspected; (3) suggest exploring whether sponsoring states can provide their own observers; and (4) explicitly addressing the role of flag state consent for the inspection of vessels. . 120. The power to undertake inspections should extend to the offices of subcontractors and other providers

		who are mentioned in the plan of work or supporting document, such as third parties who may be contracted to provide emergency services, emergency performance guarantees etc. 121. Australia considers this provision should set out the trigger points for inspections or a regular inspection schedule.
Part XI, Inspection, Compliance and Enforcement, Section 1, Inspections	DR 97	122. This DR sets out the Inspector's power to issue instructions, including the ability to issue written instructions to suspend mining activities. We consider this provision should also explicitly include the ability to issue instructions to prohibit certain activities. 123. The provision currently only allows the instructions to last for 7 days, after which it lapses. In our view, this is insufficient, especially if it is an instruction to suspend activities, which would imply that a serious breach has occurred. Seven days is not sufficient time for it to be rectified or for the Authority to consider and take appropriate action. We would suggest the timeframe should be outlined in the instruction.
Part XI, Inspection, Compliance and Enforcement, Section 1, Inspections	DR 98	124. Australia endorses the new reporting provision which details the requirement for both Inspectors and the Secretary-General to report on inspections. Suggest the provision be split into two, to make clear the reporting obligations of both the Inspector, and the Secretary-General.
Part XI, Inspection, Compliance and Enforcement, Section 3, Penalties	DR 101(6)	125. Compliance notice and termination of exploitation contract. We would like to emphasise the importance of adequate liability and enforcement mechanisms in the regulation for deterring environmental harm or safety violations. The monetary penalties added under Draft regulation 101(6) are a positive addition in this respect.

Specific drafting comments		
Part I, Introduction, Use of Terms and Scope	DR 1(1)	126. Note that the equivalent provision in the three Exploration Regulations is drafted as follows, "Terms used in the Convention shall have the same meaning in these Regulations" (emphasis added). 127. It is not clear why the terms 'Regulations' and 'Convention' have been inverted in these DRs. In our view, the way this paragraph is currently drafted appears contradictory to paragraph 3 which then states that 'terms and phrases used in these Regulations shall be defined in …Schedule 1'. In our view, the approach taken in the Exploration Regulations makes more sense and would avoid this apparent contradiction.

Part II, Applications for approval of Work Plans, Section 1, Applications, Qualified Applicants	DR 5 DR 5(3)	128. This section no longer contains the broad point that an application for a plan will not be accepted by persons who have conducted unauthorised activities previously. Suggest reinserting a similar provision. 129. As per our November 2016 Submission, Australia suggests the application should contain the name of the applicant and be in one of the languages of the ISA. This would more closely align these Exploitations Regulations with the Exploration Regulations.
Part II, Applications for approval of Work Plans, Section 1, Applications, Certificate of Sponsorship	DR 6(1)	130. This paragraph reads: 'Each application by a State enterprise or one of the entities referred to in regulation 5 (1) (b)…' As a State enterprise is referred to in Reg 5(1)(b) we suggest that this language be reframed to read: 'Each application by a State enterprise or one **another** of the entities referred to in regulation 5 (1) (b)…'
Part II, Applications for approval of Work Plans, Section 3, Consideration of applications by the Commission	DR (16)(2)(d)	131. Suggest including a definition of 'Reserved Area' in Schedule 1 as per the definition in the Exploration Regulations, ie. '"Reserved Area" means any part of the Area designated by the Authority as a Reserved Area in accordance with Annex III, Article 8 of the Convention'.
Part IV, Protection and preservation of the Marine Environment, Section I, Obligations relating to the Marine Environment	DR 47	132. Endorse the new provision on pollution control. However, suggest that this should be amended to read '*all* necessary measures' (emphasis added) to be consistent with Article 194 UNCLOS.