



PERMANENT MISSION OF THE REPUBLIC OF INDONESIA
TO THE UNITED NATIONS
NEW YORK

No: 360/POL-703/IX/19

The Permanent Mission of the Republic of Indonesia to the United Nations presents its compliments to the Secretariat of the International Seabed Authority (ISA) and with reference to the decision made by the Council of the ISA, during its twenty-fifth session held in Kingston, 15-19 July 2019 (Agenda item 11), on the time limit of submission of comments concerning Draft Regulations on Exploitation of Mineral Resources in the Area by the Member States, has the honor to transmit to the latter General Comments of the Republic of Indonesia on the Draft Regulations on Exploitation of Mineral Resources in the Area (ISBA/25/C/WP.1), as attached.

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



New York, 20 September 2019

The Secretariat of the International Seabed Authority
14-20 Port Royal Street
Kingston, Jamaica, W.I.
Tel: +1 (876) 922 9105, Fax: +1 (876) 922 0195

Cc:
Office of the Permanent Observer for
the International Seabed Authority to the United Nations
One United Nations Plaza, Room 1140
New York, NY 10017
Tel: +1 (212) 963-6470, Fax: +1 (212) 963-0908

**General Comments on the Draft Regulations
on Exploitation of Mineral Resources in the Area
(ISBA/25/ C/ WP.1)**

Submitted by The Government of Republic of Indonesia

PART I. INTRODUCTION:

1. Indonesia welcomes the Secretary General's calls upon contribution to the discussion on ISA Regulation on Exploitation (hereinafter "Regulation") and appreciates the improvement to the text based on reflection to inputs of members of Authority and other stakeholders. In this regard, we commend the role of secretariat in improving the legal drafting aspect of the draft, designing the working plan and further facilitating the discussions toward the completion of the code, including Secretariat's effort to clarify specific terminologies such as provided in the document **ISBA/25/C/11**.
2. Indonesia agrees that a working timeline is undeniably important to facilitate more focus-driven discussion. Nevertheless, Indonesia holds the view that the deliberation on the Regulation should not be guided only by the tight and detailed scheduled agreed on. Rather, it should also be driven by the needs to strike the exact balance between economic development, environmental protection, and spirit of cooperation among nations in detailed manner by taking into account the voices and inputs of all relevant stakeholders. Moreover, we encourage the discussion to interrelated with ongoing discussion on the instrument for Preservation and Conservation of Biodiversity Beyond National Jurisdiction (hereinafter "BBNJ").
3. As one of the largest producers of key minerals and archipelagic state whose jurisdictions lie across or adjacent to international seabed area of the two great oceans, Indonesia holds significant-strategic interests to activities in the Area. Indonesia sees the Regulation as a key instrument defining not only the state of Indonesian national economy and marine environment but also the state of global environment and economic in the years to come. It is, therefore, critical that the Regulation, in its entirety, reflects the principle of Common Heritage of Mankind and be based on the provision of United Nations Convention of the Law of the Sea 1982 (hereinafter "UNCLOS 1982") and Agreement Relating to the Implementation of Part XI of UNCLOS 1982.
4. In this respect, Indonesia appreciates the addition of new provisions fully reflecting article 150 of the Convention and welcomes the adoption of polluter pays principle in the regulation regarding fundamental policies and principles. That said, Indonesia believes that DR 2 is still missing a key principle namely the rights and legitimate interest of coastal states.

5. Indonesia holds position that pursuant to article 142 of the Convention, protection of rights and legitimate interest of Coastal States whose jurisdiction across / adjacent to the exploitation area should be an integral part of the principles of the Regulation.
6. In a more comprehensive note, Indonesia believes that in order to achieve its objectives and provide equitable benefit to all mankind pursuant to the Convention and the Agreement, the Regulation should be guided by, at least, key elements and principles as follows:
 - a. The Area as the Common Heritage of Mankind whereby activities, are solely aimed, for the benefits of all mankind.
 - b. Effective Protection of the Marine Environment,
 - c. Respect of the rights and legitimate interests of coastal State whose jurisdiction lies across / adjacent to the exploitation site, especially regarding the threats of serious transboundary harms.
 - d. Protection of developing countries from the adverse effects of exploitation in the Area toward their economies or on their exports' earning
 - e. Expansion of opportunities and effective participation for activities in the Area consistent, in particular, with Articles 144 and 148 of the Convention (UNCLOS 1982).

A. THE COMMON HERITAGE OF MANKIND PRINCIPLE FOR THE BENEFIT OF ALL MANKIND

7. Consistent with the convention, the very aim of activities in the Area under the auspices of ISA is to benefit all mankind in accordance with Common Heritage of Mankind Principle. Hence, Indonesia would like to reaffirm its position that the management of activities in the Area, especially regarding exploitation shall be in line with the objectives set out in article 150 of the convention, in particular point (g), (h), and (i).
8. In order to comply with principles and objectives of activities in the Area, the operation of ISA's roles and authorities as the "authority" mandated by international community is crucial. Indonesia believes that striking the right balance between economic benefit and preservation of marine environment is key to achieve sustainable exploitation activities. Thus, we reaffirm our position that any measures to create cost-effective industrial exploitation by curbing burdensome regulation should not render ISA ineffective in carrying out its mandates.

Indonesia General comment - ISBA/25 C/ P.1

9. ISA should gain more authorities to effectively overseeing business process which may affect direct responsibility of contractors in fulfilling its contract's obligation. We hold the view that the provisions regarding *termination of sponsorship, transfer of right and obligations, and change of control*, shall gain greater attention of state parties. This is crucial to ensure the business process does not create moral hazard in the future.
10. With respect to provision on change of control in R 24, Indonesia submits the view that the term "where practicable" and 90 days timeframe proposed as time limit to inform the transfer of ownership within the body of Contractor may cause complexity in imposing financial responsibility to contractor whenever liability issues occur during assessment on the capability of the new controller to meet its financial obligation as outlined in the contract.
11. Indonesia, therefore, calls all members of the authority to develop thorough mechanism regulating the discharge of responsibility and obligation of contractor and its sponsoring state(s) in the event of sponsorship be terminated or transferred as outlined in R 21, particularly in the light of the possibility of incident during the period of assessment. R 21 also need a new provision that clarify how many times termination and transfer of sponsorship may occur and how it would affect the credibility of contractor.
12. In addition, given that the process of transferring the majority of control within business entity normally demand meticulous and time-consuming process and that information technology has provided means to communicate virtually from any part of the globe, Indonesia proposes that the phrase "where practicable" to be removed from R 21 and be replaced with another phrase such as phrase used in R 36 that is "as soon as reasonably practicable but no later than 24 hours"

B. EFFECTIVE PROTECTION TO MARINE ENVIRONMENT.

13. Indonesia agrees that incomprehensive knowledge on ocean should not impede us from taking effective protection measures for marine environment. Therefore, it is imperative that the precautionary principle be fully operational and regulated in detail, especially regarding provision on the mitigation of negative effects of seabed mining to the marine environment.
14. Indonesia commends and appreciates the adoption of the above principles/elements in the Regulation. In particular we commend the adoption of *precautionary approach principle* and *ecosystem approach* as well as bold emphasizing on the importance of *good industry practice using best available technology or technique* within the Regulation. The adoption of precautionary principle is crucial given that ocean is dynamic and we lack comprehensive information on the fragility of ocean and the effects of human activities in the seabed to coastal ecosystem or ocean as a whole.

15. With respect to the importance of precautionary approach, Indonesia welcomes and supports inputs from United Kingdom and African Group emphasizing that precautionary should not be regarded merely as an approach but should be translated as an overarching principle of law founded in jurisprudence and prevailing instrument or agreements, such as United Nations Fish Stock Agreement and International Convention on Biodiversity.
16. Indonesia is of the view that the implementation of precautionary principle does not require reference to principle 15 of the Rio Declaration. We are concerned that such a reference may rise an interpretation that member states have common but differentiated responsibilities when it comes to the implementation of precautionary principle in seabed mining. Indonesia believes that equal obligation to implement the principle is essential not only as manifestation of non-discriminatory nature of law, but also central to ensure the Regulation does not contradict its aim to benefit all mankind.
17. One of the key issues in relation to protection of marine environment is the proposal to establish a fully developed REMP. In this regard, Indonesia shares the view and supports Germany's position that the existence of fully developed REMP and mining test are prerequisite for granting the exploitation license by ISA. Furthermore, we see the establishment of REMP as crucial and could serve as a key measure that incorporates the precautionary and ecosystem approach while respecting the rights and legitimate interests of coastal states.
18. Indonesia submits its position that some key elements and provision should be strengthened and regulated in details to extensively reflect the key principles, especially regarding marine protection. In this regard, Indonesia supports the view that technical aspects of the regulation and further the standard and guidelines should not be less stringent than the provision of the Convention provided in Article 145, 146, 192, 194, 195 and prevailing instruments or agreement set out by the competent international organisations.
19. On a more specific note, Indonesia supports Australia's view that plan of work should be attended with documents that outline prevention, mitigation, and respond plan on the possibility of transboundary marine pollution. Furthermore, we appreciate the improvement made to the provisions on the amendment and revision of the plan of work and support the use of contractors' compliance report as one of the basic references of the commission in considering the revision or amendment of the plan of work.
20. With regard to mitigation, contingency and respond plan, Indonesia is of the view that the Regulation should also be equipped with clear guidance on liability, sanctions, and enforcement mechanism towards each actor involved in environmental incidents. In particular, given the fact that exploitation process potentially be conducted by utilizing mother vessels as the centre of the activity,

then the share of responsibility among contractor, flag state, sponsoring state, company owning the vessels, and operators should be clearly defined and in accordance with the instruments of IMO. Moreover, the regulation should also be clear in defining or differentiate the correlation of compensation and liability mechanism between this Regulation and prevailing instruments of IMO, especially with respect to transboundary pollution

C. PROTECTION OF THE RIGHTS AND LEGITIMATE INTERESTS OF COASTAL STATE WHOSE JURISDICTION ACROSS / ADJACENT TO THE EXPLOITATION SITE

21. Indonesia pays special attention to DR 3 and DR 4 and appreciates as well as acknowledges the consideration on protection of rights and interests of coastal states in the Regulation. Nevertheless, Indonesia is of the view that the proposed title and the existing rules has not yet provided sufficient space that fully reflecting the spirit of the Convention and accommodate the **due regard principle** to ensure the protection and preservation of the marine environment of coastal state from negative impacts of exploitation in the Area.
22. With regard to the draft Regulation on the rights and legitimate interests of coastal state, Indonesia' main position is that coastal state whose jurisdiction lies across / adjacent to exploitation site (relevant coastal state) should be regarded as a key stakeholders in relation to communication, consultation, and exchange of information as long as relating to the result of Environmental Impact Assessment (hereinafter EIA), REMP, Mitigation and Respond Plan to incident, especially the transboundary one, the consideration on contractor's application as well as the review on the compliance of contractor by the Authority. It is in our view that the online publication mechanism proposed in DR 11 and 12 is insufficient in accommodating the *due regard* principle provided by article 142 of Convention.
23. Indonesia, in particular, emphasise the need to provide further classification and detail mechanism on how and which coastal states whose jurisdiction lies across or adjacent to exploitation site that should primarily enjoy special considerations to be prior notified, consulted and communicated formally with regard to consideration on environmental aspects of contractors' application and concern to protect and preserve marine environment within its jurisdiction. Similar proposal had been proposed in the negotiation concerning BBNJ.
24. Indonesia holds the view that special consideration could be established based on proximity to exploitation site as well as special geographical characteristic such as the effects of ocean gyre to its marine environment. In Indonesia's case, our position between Indian and Pacific Ocean and ocean gyre traversing our maritime jurisdictions creates vulnerability from threat of serious harm coming from exploitation sites in both oceans.

25. Furthermore, in order to protect rights and legitimate interests of coastal State, Indonesia believes that in the event of the occurrence of visible pollution resulting in direct loss to economy and damage to marine environment of a coastal state, the regulation should provide a mechanism for which a coastal state can directly activate inspection mechanism under framework this regulation, as soon as possible but not later than 24 hours, to assess the activities carried out by contractor across or adjacent to its maritime jurisdictions. The operational status of the site(s) in question should be determined by the result of such evaluation/inspection.
26. To give currency to the principle of inclusive participation and transparency in the regulation Indonesia holds the view that coastal state should be able to consult and communicate with other institution outside ISA framework in order to obtain independent overview regarding the result of environmental impact assessment and mitigation and respond plan. This is to ensure that coastal states equip with sufficient knowledge on the potential effects of exploitation toward its marine environment and capacity to utilize resources under its jurisdiction.

D. PROTECTION OF THE ECONOMY OF (A) STATE(S) FROM THE EFFECTS OF ACTIVITIES IN THE AREA

27. Indonesia appreciates the formulation of provision regarding protection of developing states from the adverse effects of activities in the Area. However, considering the inherent value of article 150 (h), Indonesia believes that the formulated provision has not yet provided equal policy space among relevant stakeholders. Draft Regulation 30, while providing extensive policy space for contractor to mend its competitiveness due to market condition does not provide similar space for developing-land-based producer. There is no mechanism in place within the current text which enables land-based producers to appeal for similar effects.
28. Taking into account the concern above, Indonesia appreciates and support the proposal of China on the importance of benefit sharing mechanism in the exploitation regulation as it reflects the spirit of section 7 of the Annex of Agreement relating the Implementation of Part XI of UNCLOS 1982.

E. EXPANSION OF OPPORTUNITIES FOR DEVELOPING STATES THROUGH MARINE RESEARCH, CAPACITY BUILDING, AND TRANSFER OF TECHNOLOGY.

29. Indonesia believes that expansion of opportunities to carry out activities in the Area as mandated by Article 144 and 148 are essential to benefit all mankind. Nevertheless, Indonesia discards the view seeking to expand the opportunities by relaxing capacity requirements or lessening certain safeguards. Therefore, in order to genuinely expand the opportunities and enhance the capacity of

Indonesia General comments - ISBA/25/C/MP.1

developing states, land-locked, and geographically disadvantaged states, Indonesia calls all stakeholders to put greater attention on mechanism to enhance the capacity of states in question. The regulation should be equipped with a clear framework and measurable working plan and key activities to expedite the improvement of capacity and transfer of technology for developing countries.

30. Indonesia further affirms that it is importance for the Exploitation Code to has clear and measurable framework in order to enhancing the capacity of developing countries in the Area, including the use of incentive method through **market-based mechanism** as proposed for the improvement of contractor's compliance.
31. With regard to Marine Scientific Research (hereinafter MSR), Indonesia believes that MSR in the proposed exploitation area is crucial not only to provide baseline for rehabilitation and restoration of seabed ecosystem -whenever it is technically and economically possible- but also essential as it expands the opportunities of developing state to carrying out activities in the Area and strengthening cooperation between state parties.
32. With respect to DR 41, Indonesia is of the view that in fulfilling contractors' obligation for capacity building in particular regarding training on mitigation and contingency plan for transboundary marine pollution, participation of coastal states whose jurisdictions lie across / adjacent to the exploitation site should be ensured. This is important to ensure that coastal states and contractor attain similar level of capability to prevent and respond for marine pollution originated by activities in the Area.

CLOSING:

33. Finally, Indonesia reiterate its appreciation and gratitude for the opportunity to participate in the development of the Regulation through this general comment. In conjunction with the general comment, Indonesia has also prepared specific comments on certain aspects of the developing Regulation in the form of the table attached. That said, Indonesia still reserves its rights to provide further comments on the other part of the Regulation.
34. Indonesia looks forward for the opportunity to review and provide further comments on the next distribution of the draft regulations and annexes as they become available.

- oOOo -

**INDONESIA'S SPECIFIC COMMENTS ON DRAFT REGULATIONS
ON EXPLOITATION OF MINERAL RESOURCES IN THE AREA**

NO	DRAFT REGULATION REVISION ISBA/25/C/WP.1 - (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
1	<p>Preamble</p> <p>In accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 ("the Convention"),</p> <p>Reaffirming the fundamental importance of the principle that the Area and its Resources are the common heritage of mankind,</p> <p>Emphasizing that the Exploitation of the Resources of the Area shall be carried out for the benefit of mankind as a whole, on whose behalf the International Seabed Authority acts, in accordance with Part XI of the Convention and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 ("the Agreement"),</p> <p>Considering that the objective of these Regulations is to provide for the Exploitation of the Resources of the Area consistent with the Convention and the Agreement.</p>		
	<p>Part I</p> <p>Introduction</p> <p>Regulation 1</p> <p>Use of terms and scope</p> <p>1. Terms used in these Regulations shall have the same meaning as those in the Rules of the Authority.</p> <p>2. In accordance with the Agreement, the provisions of the Agreement and Part XI of the Convention shall be interpreted and applied together as a single instrument. These Regulations and</p>	<p>To maintain clear reference and consistency with the Convention and prevailing regulations of the Authority, Indonesia holds that text of R 1(1) should be restored to its original text.</p>	<p>Keep the original text: <u>Terms used in these Regulations shall have the same meaning as those in the Convention.</u></p>

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>references in these Regulations to the Convention are to be interpreted and applied accordingly.</p> <p>3. Terms and phrases used in these Regulations are defined for the purposes of these Regulations in Schedule 1.</p> <p>4. These Regulations shall not in any way affect the freedom of scientific research, pursuant to article 87 of the Convention, or the right to conduct marine scientific research in the Area pursuant to articles 143 and 256 of the Convention. Nothing in these Regulations shall be construed in such a way as to restrict the exercise by States of the freedom of the high seas as reflected in article 87 of the Convention.</p> <p>5. These Regulations are supplemented by Standards and Guidelines, as referred to in these Regulations and the Annexes thereto, as well as by further rules, regulations and procedures of the Authority, in particular on the protection and preservation of the Marine Environment.</p> <p>6. The Annexes, Appendices and Schedule 1 to these Regulations form an integral part of these Regulations and any reference to these Regulations includes a reference to the Annexes, Appendices and definitions in Schedule 1 relating thereto.</p> <p>7. These Regulations are subject to the provisions of the Convention and the Agreement and other rules of international law not incompatible with the Convention.</p>		
	<p>Regulation 2 Fundamental policies and principles</p> <p>In furtherance of and consistent with Part XI of the Convention and the Agreement, the fundamental policies and principles of these Regulations are, inter alia, to:</p>	<p>▪ In general, Indonesia agrees with the element of principles set out in R 2 as it is reflecting some of Indonesia's main concern. That said, Indonesia holds that pursuant to article 142 of the Convention, the R 2 should add a new principle.</p>	

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 - (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>(a) Recognize that the rights in the Resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act;</p> <p>(b) Give effect to article 150 of the Convention by ensuring that activities in the Area shall be carried out in such a manner as to foster the healthy development of the world economy and the balanced growth of international trade, and to promote international cooperation for the overall development of all countries, especially developing States, and with a view to ensuring:</p> <ol style="list-style-type: none"> i. The development of the Resources of the Area; ii. Orderly, safe and rational management of the Resources of the Area, including the efficient conduct of activities in the Area and, in accordance with sound principles of conservation, the avoidance of unnecessary waste; iii. The expansion of opportunities for participation in such activities consistent, in particular, with articles 144 and 148 of the Convention; iv. The Participation in revenues by the Authority and the transfer of technology to the Enterprise and developing States as provided for in the Convention and the Agreement; v. Increased availability of the minerals derived from the Area as needed in conjunction with minerals derived from other sources, to ensure supplies to consumers of such minerals; vi. The promotion of just and stable prices remunerative to producers and fair to consumers for minerals derived both from the Area and from other sources, and the promotion of long-term equilibrium between supply and demand; 	<p>Indonesia also encourages member states to utilize original structure using number instead of letter to avoid unnecessary confusion.</p> <p>We further call all member states to fully reflect on the Convention and therefore does not seek to contradict its provisions, in particular regarding article 144, 148 and 152 (2) of the Convention</p> <p>Indonesia supports the adoption of precautionary approach as one of overarching element of the regulation. Yet Indonesia is of the view that precautionary approach should not be regarded merely as an approach but as a principle of law founded in jurisprudence and binding international instruments and agreements. Moreover, the precautionary principle does not need a reference to the principle 15 of Rio Declaration as it may rise an interpretation that the precautionary approach be subject to different capabilities of members of the authority.</p> <p>Indonesia believe that removing reference to Rio Declaration is required should we seek to establish a non-discriminatory and non-contradictory rule with uniform requirements and standards to all member states, especially in relation to protection and preservation of Marine Environment.</p> <p>Indonesia agrees that establishing Regional Environment Management Plan is crucial and could serve as a key measure</p>	<p>New (c) bis: Give effect to article 142 of the Convention by ensuring that activity in the area shall be conducted with due regards to rights and legitimate interests of any coastal state across / adjacent whose jurisdiction such deposits lie, and with a view to ensuring:</p> <ol style="list-style-type: none"> i. Consultation, including a system of prior notification to be maintained with coastal state concerned to avoiding infringement of such rights and interests; ii. Neither the principle and policies or provisions in the regulation shall affect the rights of coastal state to take such measures consistent with relevant provisions of Part XII as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interest from pollution or threat thereof or from hazardous occurrences resulting from or caused by any activities in the Area <p>Proposed revision for R.2 (e) (ii) (b): The application of the precautionary approach principle, as reflected in principle 15 of the Rio Declaration on Environment and Development;</p> <p>Provision on R.2 (f) to be terminated from draft as it merely repeating the provision of R.2 (e). (f) Provide for the prevention, reduction and control of pollution and other hazards to the Marine Environment, including the coastline;</p>

NO	DRAFT REGULATION REVISION ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>vii. The enhancement of opportunities for all States Parties, irrespective of their social and economic systems or geographical location, to participate in the development of the resources of the Area and the prevention of monopolization of activities in the Area;</p> <p>viii. The protection of developing countries from serious adverse effects on their economies or on their export earnings resulting from a reduction in the price of an affected Mineral or in the volume of exports of that Mineral, to the extent that such reduction is caused by activities in the Area;</p> <p>ix. The development of the common heritage for the benefit of mankind as a whole; and</p> <p>x. Conditions of access to markets for the imports of minerals produced from the resources of the Area and for imports of commodities produced from such minerals shall not be more favourable than the most favourable applied to imports from other sources.</p> <p>(c) Ensure that the Resources of the Area are Exploited in accordance with sound commercial principles, and that Exploitation is carried out in accordance with Good Industry Practice;</p> <p>(d) Provide for the protection of human life and safety;</p> <p>(e) Provide, pursuant to article 145 of the Convention, for the effective protection for the Marine Environment from the harmful effects that may arise from Exploitation, in accordance with the Authority's environmental policy, including regional environmental management plans, based on the following principles:</p> <p>i. A fundamental consideration for the development of environmental objectives shall be the effective protection for the Marine</p>	<p>that incorporates the precautionary and ecosystem approach while ensuring the right legitimate interests of coastal state are protected. We, therefore, support the removal of "if any" phrase from from R 2 (e) as voiced by Germany delegation and the African Group.</p>	

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>Environment, including biological diversity and ecological integrity;</p> <p>ii. The application of the precautionary approach, as reflected in principle 15 of the Rio Declaration on Environment and Development;</p> <p>iii. The application of an ecosystem approach;</p> <p>iv. The application of the polluter pays principle through market-based instruments, mechanisms and other relevant measures; and</p> <p>v. Access to data and information relating to the protection and preservation of the Marine Environment;</p> <p>vi. Accountability and transparency in decision-making; and</p> <p>vii. Encouragement of effective public participation;</p> <p>(f) Provide for the prevention, reduction and control of pollution and other hazards to the Marine Environment, including the coastline;</p> <p>(g) Incorporate the Best Available Scientific Evidence into decision-making processes;</p> <p>(h) Ensure the effective management and regulation of the Area and its Resources in a way that promotes the development of the common heritage for the benefit of mankind as a whole; and</p> <p>(i) Ensure that these Regulations, and any decision-making thereunder, are implemented in conformity with these fundamental policies and principles.</p>		
	<p>Regulation 3 Duty to cooperate and exchange of information</p> <p>(a) In matters relating to these Regulations: Members of the Authority and Contractors shall use their best endeavours to cooperate with the Authority to provide such data and information <u>as is reasonably necessary</u> for the Authority to discharge its duties and responsibilities under the Convention;</p>	<p>▪ In order to enable the Authority to effectively discharge its mandate, members of the Authority effectively, Indonesia believes that provision regarding duty to exchange information should be well-founded as mandated by Article 200 of the Convention. We, therefore propose to remove the phrase "as is reasonably necessary" from DR 3 (a).</p>	<p>The DR 3 (a), (d) and (e) should be reconstructed as follows:</p> <p>(a) Members of the Authority and Contractors shall cooperate with the Authority to provide such data and information as is reasonably necessary for the Authority to discharge its duties and responsibilities under the Convention;</p>

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 - (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>(b) The Authority, sponsoring States and flag States shall cooperate towards the avoidance of unnecessary duplication of administrative procedures and compliance requirements;</p> <p>(c) The Authority shall develop, implement and promote effective and transparent participation procedures, in accordance with Good Industry Practice;</p> <p>(d) The Authority shall consult and cooperate with sponsoring States, flag States, competent international organizations and other relevant bodies as appropriate, to develop measures to:</p> <ol style="list-style-type: none"> i. Promote the health and safety of life and property at sea and the protection of the Marine Environment; and ii. Exchange information and data to facilitate compliance with and enforcement of applicable international rules and standards; <p>(e) Contractors, sponsoring States and members of the Authority shall cooperate with the Authority in the establishment and implementation of programmes to observe, measure, evaluate and analyse the impacts of Exploitation on the Marine Environment, to share the findings and results of such programmes with the Authority for wider dissemination and to extend such cooperation and collaboration to the implementation and further development of Best Environmental Practices in connection with activities in the Area;</p> <p>(f) Members of the Authority and Contractors shall use their best endeavours, in conjunction with the Authority, to cooperate with each other, as well as with other contractors and national and international scientific research and technology development agencies, with a view to:</p>	<p>DR 3 (d) and (e) should be constructed by reflecting to the <i>Due Regard</i> principle mandated by Article 141 (1). Thus, to fully recognize the rights and legitimate interest of [relevant adjacent] coastal state. Indonesia suggest to adding coastal state in the draft.</p> <p>Indonesia is also of the view that to fully reflect the intention of article 150 (c) of the Convention and to effectively support the spirit of proposed Regulation 3 (f), the incentive structures that would be devised should not be directed only to support research and innovation that would enhance the capacity of contractors in complying with the Regulation but also [and for Indonesia is most crucial] to empower and enhance the opportunities of developing states to participate in the Area. In this regard Indonesia proposing additional text to complement the proposed regulation 3 (f)(iii)</p>	<p>(d) The Authority shall consult and cooperate with sponsoring States, [relevant adjacent] coastal states, flag States, competent international organizations and other relevant bodies as appropriate, to develop measures to:</p> <ol style="list-style-type: none"> i. Promote the health and safety of life and property at sea and the protection of the Marine Environment; and ii. Exchange information and data to facilitate compliance with and enforcement of applicable international rules and standards; <p>(e) Contractors, sponsoring States, [relevant adjacent] coastal states, and members of the Authority shall cooperate with the Authority in the establishment and implementation of programmes to observe, measure, evaluate and analyse the impacts of Exploitation on the Marine Environment, to share the findings and results of such programmes with the Authority for wider dissemination and to extend such cooperation and collaboration to the implementation and further development of Best Environmental Practices in connection with activities in the Area;</p> <p>Proposed text Regulation 3 (f)(vi):</p> <p>(vi) Developing incentive structures, including market-based instruments, to support transfer of technology and capacity enhancement of developing states and to enhance the environmental performance of Contractors beyond the legal requirements, including through technology development and innovation; and</p>

NO	DRAFT REGULATION REVISION ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>i. Sharing, exchanging and assessing environmental data and information for the Area;</p> <p>ii. Identifying gaps in scientific knowledge and developing targeted and focused research programmes to address such gaps;</p> <p>iii. Collaborating with the scientific community to identify and develop best practices and improve existing standards and protocols with regard to the collection, sampling, standardization, assessment and management of data and information;</p> <p>iv. Undertaking educational awareness programmes for Stakeholders relating to activities in the Area; and</p> <p>v. Promoting the advancement of marine scientific research in the Area for the benefit of mankind as a whole;</p> <p>vi. Developing incentive structures, including market-based instruments, to support and enhance the environmental performance of Contractors beyond the legal requirements, including through technology development and innovation; and</p> <p>(g) In order to assist the Authority in carrying out its policy and duties under section 7 of the annex to the Agreement, Contractors shall use their best endeavours, upon the request of the Secretary-General, to provide or facilitate access to such information as is reasonably required by the Secretary-General to prepare studies of the potential impact of Exploitation in the Area on the economies of developing land-based producers of those Minerals which are likely to be most seriously affected. The content of any such studies shall take account of the relevant Guidelines.</p>		

NO	DRAFT REGULATION REVISION ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
Regulation 4 Protection measures in respect of coastal States	<p>1. Nothing in these Regulations affects the rights of coastal States in accordance with article 142 and other relevant provisions of the Convention.</p> <p>2. Contractors shall take all measures necessary to ensure that their activities are conducted so as not to cause Serious Harm to the Marine Environment, including, but not restricted to, pollution, under the jurisdiction or sovereignty of coastal States, and that such Serious Harm or pollution arising from incidents in its Contract Area does not spread into areas under the jurisdiction or sovereignty of a coastal State.</p> <p>3. Any coastal State which has grounds for believing that any activity under a Plan of Work in the Area by a Contractor is likely to cause Serious Harm or a threat of Serious Harm to its coastline or to the Marine Environment under its jurisdiction or sovereignty may notify the Secretary-General in writing of the grounds upon which such belief is based. The Secretary-General shall immediately inform the Commission, the Contractor and its sponsoring State or States of such notification. The Contractor and its sponsoring State or States shall be provided with a reasonable opportunity to examine the evidence, if any, and submit their observations thereon to the Secretary-General within a reasonable time.</p> <p>4. If the Commission determines, taking account of the relevant Guideline 5, that there are clear grounds for believing that Serious Harm to the Marine Environment is likely to occur, it shall recommend that the Council issue an emergency order pursuant to article 165(2)(k) of the Convention.</p> <p>5. If the Commission determines that the Serious Harm or threat of Serious Harm to the Marine Environment, which is likely to occur or has</p>	<ul style="list-style-type: none"> ▪ In order to fully reflect the Convention, Indonesia holds the view that the Heading of Regulation 4 should be restored to the original text, namely Rights of Coastal State. ▪ Indonesia understands that proposed text of R 4 (3) strives to strike a right balance for both contractors and coastal states. That said, Indonesia notes that present text may produce significant additional burden to coastal state, especially the developing ones with very limited resources. In this respect, to fully respect the concern of coastal state adjacent to or across the exploitation site, Indonesia suggest that new provisions are to be added after regulation 3 ▪ Moreover, Indonesia also notes that some phrase used in the text such as “reasonable opportunity” and “reasonable time” may generate ambiguity should the timeframe is not clearly defined in this regulation or further in the standard and guidelines, ▪ Indonesia also holds that in the event of the occurrence of visible pollution resulting in direct loss to economy and damage to marine environment of a coastal state, the regulation should provide a mechanism for which a coastal state can directly activate controlling and evaluation mechanism under ISA and request for inspection, no later than 24 hours, toward the activities carried out by contractor whose site adjacent to its jurisdiction. We therefore suggest other two new paragraphs added to DR 4. 	<p>The new paragraph to be added after R 3 (4) (bis)</p> <p>the Coastal states in providing the evidence of potential serious harm or a threat of serious harm to marine environment under its jurisdiction may submit the result of independent overview on the result of environmental impact assessment and mitigation and respond plan of the contractor site whose site adjacent or across to its jurisdiction.</p> <p>The new R (5) (6) (bis)</p> <p>(5) In the event of pollution causing serious harm to marine environment and livelihood of coastal community, [relevant adjacent] Coastal States which have grounds for believing that pollution is originating from activities in the Area, shall notify Secretary General in writing through appropriate channels of the grounds upon which such belief is based and request for prompt inspection as regulated in R 96</p> <p>(6) The Secretary General, upon request of [relevant adjacent] Coastal States, shall instruct prompt inspection in which affected Coastal states shall be invited to accompany the inspection, no later than 24 hours after such request was made by affected coastal states to assess whether pollution is attributable to activities in the Area.</p>

NO	DRAFT REGULATION REVISION ISBA/25/C/WP.1 - (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
6.	<p>occurred, is attributable to the breach by the Contractor of the terms and conditions of its exploitation contract, the Secretary-General shall issue a compliance notice pursuant to regulation 103 or direct an inspection of the Contractor's activities pursuant to article 165 (2) (m) and part XI of these Regulations.</p>		
	<p>Part II Applications for approval of Plans of Work in the form of contracts:</p> <p>Regulation 11 Publication and review of the Environmental Plans</p> <p>1. The Secretary-General shall, within 7 Days after determining that an application for the approval of a Plan of Work is complete under regulation 10:</p> <p>(a) Place the Environmental Plans on the Authority's website for a period of 60 Days, and invite members of the Authority and Stakeholders to submit comments in writing taking account of the relevant Guidelines; and</p> <p>(b) Request the Commission to provide its comments on the Environmental Plans within the comment period.</p> <p>2. The Secretary-General shall within 7 days following the close of the comment period, provide the comments submitted by members of the Authority, Stakeholders, the Commission and any comments by the Secretary-General to the applicant for its consideration. The applicant shall consider the comments and may revise the Environmental Plans or provide responses in reply to the comments and shall submit any revised plans or responses within a period of 30 Days following the close of the comment period.</p>		<p>We suggest the text to be reformulated in this fashion:</p> <p>a. Notify [the relevant adjacent] coastal states in writing and Place the Environmental Impact Statement, the [Regional] Environmental Management and Monitoring Plan and the Closure Plan on the Authority's website for a period of 60 Days, and invite members of the Authority and Stakeholders to submit comments in writing in accordance with the Guidelines;</p>

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>3. The Commission shall, as part of its examination of an application under regulation 12 and assessment of applicants under regulation 13, examine the Environmental Plans or revised plans in the light of the comments made under paragraph 2 above, together with any responses by the applicant, and any additional information provided by the Secretary-General.</p> <p>4. Notwithstanding the provisions of regulation 12 (2), the Commission shall not consider an application for approval of a Plan of Work until the Environmental Plans have been published and reviewed in accordance with this regulation.</p> <p>5. The Commission shall prepare a report on the Environmental Plans. The report shall include details of the Commission's determination under regulation 13(4)(e) as well as a summary of the comments or responses made under regulation 11(2). The report shall also include any amendments or modifications to the Environmental Plans recommended by the Commission under regulation 14. Such report on the Environmental Plans or revised plans shall be published on the Authority's website and shall be included as part of the reports and recommendations to the Council pursuant to regulation 15.</p>		
	<p>Section 3 Consideration of applications by the Commission</p> <p>Regulation 12: General</p> <p>1. The Commission shall examine applications in the order in which they are received by the Secretary-General.</p>	<p>See our comments on the protection of rights and legitimate interests of Coastal State:</p>	<p>We propose the addition of a new paragraph to be reformulated as R 12 (4) (b) with formulation as follows:</p> <p>4. In considering the proposed Plan of Work, the Commission shall take into account:</p> <p>a. Any reports from the Secretary-General;</p> <p>b. (bis)</p>

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 - (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
2.	<p>The Commission shall consider applications expeditiously and shall submit its reports and recommendations to the Council no later than 120 Days from the date of the completion of the requirements for review of the Environmental Plans, in accordance with regulation 11 (1)(a) and subject to regulation 14 (2).</p> <p>The Commission shall, in considering a proposed Plan of Work, apply the Rules of the Authority in a uniform and non-discriminatory manner, and shall have regard to the principles, policies and objectives relating to activities in the Area as provided for in Part XI and annex III of the Convention, and in the Agreement, and in particular the manner in which the proposed Plan of Work contributes to realizing benefits for mankind as a whole.</p>		<p>Any concern of [relevant adjacent] coastal states with respect to the plan of work, REMP, and closure Plan submitted;</p> <p>c. d.</p>
4.	<p>In considering the proposed Plan of Work, the Commission shall take into account:</p> <p>(a) Any reports from the Secretary-General; (b) Any advice or reports sought by the Commission or the Secretary- General from independent competent persons in respect of the application to verify, clarify or substantiate the information provided, methodology used or conclusions drawn by an applicant; (c) The previous operating record of responsibility of the applicant; and (d) Any further information supplied by the applicant prior to, and during the period of, the Commission's evaluation.</p>		
<p>Regulation 21 Termination of sponsorship</p>	<p>1. Each Contractor shall ensure it is sponsored by a sponsoring State or States, as the case may be, throughout the period of the exploitation contract in accordance with regulation 6, and to the extent necessary to comply with regulations 6(1) and (2).</p>	<p>Indonesia is of the view that members of the authority should develop thorough mechanism regulating the discharge of responsibility and obligation of contractor and its sponsoring state in the event of sponsorship be terminated or transferred due to breach of obligation</p>	<p>The formulation of DR 22 (6) to be transformed as follows: After a sponsoring State has given a written notice in accordance with paragraph 2 above, the Council, based on the recommendations of the Commission which shall take account of the reasons for the termination of sponsorship,</p>

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 - (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
2.	<p>A State may terminate its sponsorship by providing to the Secretary-General a written notice describing the reasons for terminating its sponsorship. Termination of sponsorship takes effect no later than 12 months after the date of receipt of the notification by the Secretary-General, save that where such termination is due to a Contractor's non-compliance under its terms of sponsorship, termination of sponsorship shall take effect no later than 6 months after the date of such notification.</p> <p>3. In the event of termination of sponsorship, the Contractor shall, within the period referred to in paragraph 2 above, obtain another sponsoring State or States in accordance with the requirements of regulation 6, and in particular in order to comply with regulation 6 (1) and (2). Such State or States shall submit a certificate of sponsorship in accordance with regulation 6. The exploitation contract terminates automatically if the Contractor fails to obtain a sponsoring State or States within the required period.</p> <p>4. A sponsoring State or States is not discharged from any obligations accrued while it was a sponsoring State by reason of the termination of its sponsorship, nor shall such termination affect any legal rights and obligations created during such sponsorship.</p> <p>5. The Secretary-General shall notify the members of the Authority of a termination or change of sponsorship.</p> <p>6. After a sponsoring State has given a written notice in accordance with paragraph 2 above, the Council, based on the recommendations of the Commission which shall take account of the reasons for the termination of sponsorship, may require the Contractor to suspend its mining operations until such time as a new certificate of sponsorship is submitted.</p>	<p>(non-compliance) as outlined in DR 22 (2), particularly in the light of the possibility of incident occurring during ad-interim period and assessment conducted by the Commission.</p> <ul style="list-style-type: none"> ▪ In order to prevent the possibility of incidents occurring during ad-interim or transfer period, Indonesia suggests the provision in DR 22 (6) to be reformulated by requesting the Commission to immediately suspend contractor mining operations, especially in the light of the fact that the . ▪ DR 21 should also clarify how many times termination and transfer sponsorship may occur and how it would affect the credibility of contractor. 	<p>[especially in the case of termination of contract is attributable to breach of compliance], should require the Contractor to suspend its mining operations until such time as a new certificate of sponsorship is submitted.</p>

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
Regulation 24 Change of control	<p>1. For the purposes of this regulation, a "change in control" occurs where there is a change in 50 per cent or more of the ownership of the Contractor, or of the membership of the joint venture, consortium or partnership, as the case may be, or a change in 50 per cent or more of the ownership of the entity providing an Environmental Performance Guarantee.</p> <p>2. Where there is a change of control of the Contractor, or there is a change of control in any entity providing an Environmental Performance Guarantee on behalf of a Contractor, the Contractor shall, where practicable, notify the Secretary-General in advance of such change of control, but in any event within 90 Days thereafter. The Contractor shall provide the Secretary-General with such details as he or she shall reasonably request of the change of control.</p> <p>3. After consulting the Contractor or entity providing the Environmental Performance Guarantee, as the case may be, the Secretary-General may:</p> <p>(a) Determine that, following a change of control of the Contractor or the entity providing the Environmental Performance Guarantee, the Contractor will continue to be able, and in particular will have the financial capability, to meet its obligations under the exploitation contract or Environmental Performance Guarantee, in which case the contract shall continue to have full force and effect; or</p> <p>(b) In the case of a Contractor, treat a change of control as a transfer of rights and obligations in accordance with the requirements of these Regulations, in which case regulation 23 shall apply; or</p> <p>(c) In the case of an entity providing an Environmental Performance Guarantee, require the Contractor to lodge a new Environmental Performance Guarantee in accordance with</p>	<ul style="list-style-type: none"> ▪ With respect to provision on change of control, Indonesia holds view that the term "where practicable" and 90 days window of time proposed in DR 24 may render ISA ineffective in discharging effective control role. The provision may also produce complexity to impose financial responsibility to contractor whenever liability occur during assessment on capability of the new controller to meet its financial obligation as outlined in the contract. ▪ In addition, given that the process of transferring the majority of control within business entity normally demand meticulous and time-consuming process and that information technology has provided means to communicate virtually from any part of the globe, Indonesia proposes the phrase "where practicable" and "90 days thereafter" to be removed from R 24 and be replaced with another phrase such as phrase used in DR 36 that is "as soon as reasonably practicable but no later than 24 hours" 	<p>R 24 (1):</p> <p>Where there is a change of control of the Contractor, or there is a change of control in any entity providing an Environmental Performance Guarantee on behalf of a Contractor, the Contractor shall, where practicable, as soon as reasonably practicable but no later than 24 hours, notify the Secretary-General in advance of such change of control, but in any event within 90 Days thereafter. The Contractor shall provide the Secretary-General with such details as he or she shall reasonably request of the change of control.</p>

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>regulation 26, within such time frame as the Secretary-General shall stipulate.</p> <p>4. Where the Secretary-General determines that following a change of control, a Contractor may not have the financial capability to meet its obligations under its exploitation contract, the Secretary-General shall inform the Commission accordingly. The Commission shall make a report of its findings and recommendations to the Council.</p>		
	<p>Regulation 29 Reduction or suspension in production due to market conditions</p> <ol style="list-style-type: none"> 1. Notwithstanding regulation 28, a Contractor may temporarily reduce or suspend production due to market conditions but shall notify the Secretary-General thereof as soon as practicable thereafter. Such reduction or suspension may be for a period of up to 12 months. 2. If the Contractor proposes to continue the reduction or suspension for more than 12 months, the Contractor shall notify the Secretary-General in writing, and 30 Days prior to the end of the 12-month period, giving its reasons for seeking a further reduction or suspension of that length of time. The Commission shall, upon determining that the reasons for the reduction or suspension are reasonable, including where the prevailing economic conditions make Commercial Production impracticable, recommend approval of the suspension to the Council. The Council shall, based on the recommendation of the Commission, consider the reduction or suspension requested by the Contractor. The Contractor may apply for more than one suspension. 3. In the event of any suspension in mining activities, the Contractor shall continue to monitor and manage the Mining Area in accordance with the Closure Plan. Where suspension continues for a period of more than 12 months, the Commission 	<ul style="list-style-type: none"> Pursuant to article 150 (h) of the Convention, Indonesia believes that the formulated provision has not yet provided equal policy space among relevant stakeholders. Draft Regulation 30, while providing extensive policy space for contractor to amend its competitiveness does not yet provide similar space for developing-land-based producer. Indonesia is of the view that a mechanism to amend distortion to the economy of developing state(s) through sharing benefit mechanism and economic assistance fund is significantly essential and thus should be fully operational. Taking into account the concern above, Indonesia appreciates and support the proposal of China on the importance of benefit sharing mechanism in the exploitation regulation as it reflects the spirit of section 7 of the Annex of Agreement relating the Implementation of Part XI of UNCLOS 1982. 	<p>The comprehensive proposal text on establishment of economic assistance fund and sharing benefit mechanism to be further discussed in the meeting.</p>

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>may require the Contractor to submit a final Closure Plan in accordance with regulation 60. Where the Contractor suspends all production for more than 5-years, the Council may terminate the exploitation contract and the Contractor shall be required to implement the final Closure Plan.</p> <p>4. A Contractor shall notify the Secretary-General as soon as it recommences any mining activities, and no later than 72 hours after such recommencement, and, where necessary, shall provide to the Secretary-General such information as is necessary to demonstrate that the issue triggering a reduction or suspension has been addressed. The Secretary-General shall notify the Council that production has recommenced.</p>		
	<p>Regulation 33 Preventing and responding to Incidents</p> <p>1. The Contractor shall not proceed or continue with Exploitation if it is reasonably foreseeable that proceeding or continuing would cause or contribute to an incident, or prevent the effective management of such Incident.</p> <p>2. The Contractor shall, upon becoming aware of an Incident:</p> <p>(a) Notify its sponsoring State or States and the Secretary-General immediately, but no later than 24 hours from the incident occurring;</p> <p>(b) Immediately implement, where applicable, the Emergency Response and Contingency Plan approved by the Authority for responding to the Incident;</p> <p>(c) Undertake promptly, and within such timeframe stipulated, any instructions received from the Secretary-General in consultation with the sponsoring State or States, flag State, coastal State or relevant international organizations, as the case may be;</p> <p>(d) Take any other measures necessary in the circumstances to limit the adverse effects of the Incident; and</p>	<p>With respect to our view on the rights and legitimate interest of Coastal State, and prevailing international instrument regarding pollution such as OPRC, we suggest the text in R 33 to be reformulated by taking into account the position of adjacent coastal state as one of the key stakeholders.</p>	<p>The R 33 (2)(a) and R 33 (3) to be reformulated as follows:</p> <p>2. The Contractor shall, upon becoming aware of an Incident:</p> <p>a. Notify its sponsoring State or States, [relevant adjacent] Coastal States and the Secretary-General immediately, as soon as reasonably practicable but no later than 24 hours from the incident occurred ;</p> <p>b.</p> <p>1. The Secretary-General shall report any Contractor that fails to comply with this regulation to its sponsoring State or States, [relevant adjacent] Coastal States and the flag State of any vessel involved in the incident for consideration of the institution of legal proceedings under national law.</p>

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>(e) Record the Incident in the Incidents Register, which is a register to be maintained by the Contractor on board a mining vessel or Installation to record any Incidents or notifiable events under regulation 34.</p> <p>3. The Secretary-General shall report any Contractor that fails to comply with this regulation to its sponsoring State or States and the flag State of any vessel involved in the Incident for consideration of the institution of legal proceedings under national law.</p> <p>4. The Secretary-General shall report such Incidents, and measures taken to the Commission and the Council at their next available meeting.</p>		
<p>Regulation 34 Notifiable events</p> <p>1. A Contractor shall immediately notify its sponsoring State or States and the Secretary-General of the happening of any of the events listed in appendix I to these Regulations.</p> <p>2. The Contractor shall, as soon as reasonably practicable, but no later than 24 hours after the Contractor becomes aware of any such event, provide written notification to the Secretary-General of the event, including a description of the event, the immediate response action taken (including, if appropriate, a statement regarding the implementation of an Emergency Response and Contingency Plan) and any planned action to be taken.</p> <p>3. The Secretary-General shall consult with the sponsoring State or States and other regulatory authorities as necessary.</p> <p>4. The Contractor shall ensure that all regulatory authorities are notified and consulted, as appropriate.</p> <p>5. Where a complaint is made to a Contractor concerning a matter covered by these Regulations, the Contractor shall record the complaint and</p>		<p>With respect to our view on the rights and legitimate interest of Coastal State, and prevailing international instrument regarding pollution such as OPRC, we suggest the text in R 34 to be reformulated by taking into account the position of adjacent coastal state as one of the key stakeholders.</p>	<p>The proposal of text changes to R 34 is as follows:</p> <ol style="list-style-type: none"> 1. A Contractor shall immediately notify its sponsoring State or States, and the Secretary-General, and relevant [adjacent] Coastal States of the happening of any of the events listed in appendix I to these Regulations. 3. The Secretary-General shall consult with the sponsoring State or States, relevant [adjacent] coastal state and other regulatory authorities as necessary.

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 - (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>shall report it to the Secretary-General within 7 Days of the complaint being received.</p> <p>Section 7 Training commitment Regulation 37: Training Plan</p> <ol style="list-style-type: none"> The Contract or shall conduct and carry out the training of personnel of the Authority and developing States on an ongoing basis in accordance with the approved Training Plan commitment under schedule 8 to the exploitation contract, these Regulations and any training Guidelines. The Contractor, the Authority and the sponsoring State or States may, from time to time, as necessary, revise and develop the Training Plan by mutual agreement, taking into account the shortage of any skills and requirements of the industry in the undertaking of activities in the Area and the training Guidelines. Any mutually agreed modification of or amendment to the Training Plan shall become part of schedule 8 to the exploitation contract. 	<p>1. With respect to R 37, Indonesia is of the view that special consideration to participation of adjacent coastal state in training regarding mitigation and contingency plan of transboundary pollution may be essential to ensure similar respond capability between contractor and its adjacent coastal state.</p>	<p>We suggest an addition of paragraph 4 as follows:</p> <p>4. In the case of specific training on mitigation and the prevention of pollution from the Area, participation of representative of the adjacent coastal state should be ensured.</p>
	<p>Regulation 44 General obligations</p> <p>The Authority, sponsoring States and Contractors shall each, as appropriate, plan, implement and modify measures necessary for ensuring the effective protection for the Marine Environment from harmful effects in accordance with the rules, regulations and procedures adopted by the Authority in respect of activities in the Area. To this end, they shall:</p> <ol style="list-style-type: none"> Apply the precautionary approach, as reflected in principle 15 of the Rio Declaration on Environment and Development, to the assessment and management of risk of harm to the Marine Environment from Exploitation in the Area; Apply the Best Available Techniques and Best Environmental Practices in carrying out such measures; Integrate Best Available Scientific Evidence in environmental decision making, including all risk 	<p>In the light of our comments regarding the protection of rights and legitimate interest of Coastal State in paragraph 8 and 9 of general comments as well our comment in DR 2, we suggest the reference to Rio Declaration in R 44 (a) to be removed</p>	<p>The new formulation of DR 46 (a) should be</p> <p>(a) Apply the precautionary principle approach, as reflected in principle 15 of the Rio Declaration on Environment and Development, to the assessment and management of risk of harm to the Marine Environment from Exploitation in the Area;</p>

NO	DRAFT REGULATION REVISIONS ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>assessments and management undertaken in connection with environmental assessments, and the management and response measures taken under or in accordance with Best Environmental Practices;</p> <p>1. Promote accountability and transparency in the assessment, evaluation and management of Environmental Effects from Exploitation in the Area, including timely release of and access to relevant environmental data and information and opportunities for stakeholder participation.</p>		
	<p>Regulation 45 Development of Environmental Standards</p> <p>Environmental Standards shall be developed in accordance with regulation 9 4 and shall include the following subject matters:</p> <p>(a) Environmental quality objectives, including on biodiversity status, plume density and extent, and sedimentation rates;</p> <p>(b) Monitoring procedures; and</p> <p>Mitigation measures.</p>		
	<p>Regulation 53 Emergency Response and Contingency Plan</p> <p>1. A Contractor shall maintain:</p> <p>(a) The currency and adequacy of its Emergency Response and Contingency Plans based on the identification of potential incidents and in accordance with Good Industry Practice, Best Available Techniques, Best Environmental Practices and the applicable standards and Guide lines; and</p> <p>(b) Such resources and procedures as are necessary for the prompt execution and implementation of the Emergency Response and Contingency Plans and any Emergency Orders issued by the Authority.</p>	<p>We hold position that [relevant adjacent] Coastal shall be included in the mechanism of consultation between Contractors authority and Sponsoring States.</p>	<p>In this regard, we propose DR 51 (2) to be reformulated as follows:</p> <p>2. Contractors, the Authority and sponsoring States shall consult together with, [relevant adjacent] Coastal States, as well as other States and organizations which appear to have an interest, in relation to the exchange of knowledge, information and experience relating to Incidents, using such knowledge and information to prepare and revise standards and operating guidelines to control hazards throughout the mining life cycle, and shall cooperate with and draw on the advice of other relevant international organizations.</p>

NO	DRAFT REGULATION REVISION ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
2.	<p>Contractors, the Authority and sponsoring States shall consult together, as well as with other States and organizations which appear to have an interest, in relation to the exchange of knowledge, information and experience relating to Incidents, using such knowledge and information to prepare and revise standards and operating guidelines to control hazards throughout the mining life cycle, and shall cooperate with and draw on the advice of other relevant international organizations.</p>		
<p>Regulation 58 Review of activities under a Plan of Work</p> <p>1. At intervals not exceeding five years from the date of signature of the exploitation contract, or where, in the opinion of the Secretary-General, there have occurred any of the following events or changes of circumstance:</p> <p>(a) A proposed Material Change in the implementation of the Plan of Work;</p> <p>(b) Any Incident;</p> <p>(c) Recommendations for improvement in procedures or practices following an inspection report under regulation 100</p> <p>(d) A performance assessment which requires action under regulation 52 (8);</p> <p>(e) Changes in ownership or financing which may adversely affect the financial capability of the Contractor;</p> <p>(f) Changes in Best Available Techniques;</p> <p>(g) Changes in Best Available Scientific Evidence; or</p> <p>(h) Operational management changes, including changes to subcontractors, the Secretary-General may review with the Contractor the Contractor's activities under the Plan of Work, and shall discuss whether any modifications to the Plan of Work are necessary or desirable.</p> <p>2. A review of activities shall be undertaken in accordance with the relevant regulations, Standards and Guidelines. The Secretary-General or the Contractor may invite the sponsoring State or States to participate in the review of activities.</p>	<p>see our comments on rights and legitimate interest of a coastal state(s)</p>	<p>2. A review of activities shall be undertaken in accordance with the relevant regulations, Standards and Guidelines. The Secretary-General or the Contractor may invite the sponsoring State or States to participate [adjacent] coastal state or states to participate in the review of activities</p>	

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 - (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
3.	<p>The Secretary-General shall report on each review to the Commission and Council, and the sponsoring State or States. Where, as a result of a review, the Contractor wishes to make any changes to a Plan of Work and such changes are Material Changes requiring the approval of the Council, based on the recommendation of the Commission, the Contractor shall seek that approval in accordance with regulation 57 (2) and, where applicable, regulation 57 (3).</p> <p>4. For the purpose of the review, the Contractor shall provide all information required by the Secretary-General in the manner and at the times the Secretary-General requests.</p> <p>5. Nothing in this regulation shall preclude the Secretary-General or the Contractor from making a request to initiate discussions regarding any matter connected with the Plan of Work, exploitation contract or the activities under the exploitation contract in cases other than those listed in paragraph 1 above.</p> <p>1. The Secretary-General shall make publicly available the findings and recommendations resulting from a review of activities under this regulation.</p>		
	<p>Part XI Inspection, compliance and enforcement Section 1: Inspections Regulation 96 Inspections: general</p> <p>1. The Council shall establish appropriate mechanisms for inspection as provided for in article 162 (2) (2) of the Convention.</p> <p>2. The Contractor shall permit the Authority to send its Inspectors who may be accompanied by a representative of its State or other party concerned in accordance with article 165 (3) of the Convention, aboard vessels and Installations, whether offshore or onshore, used by the Contractor to carry out Exploitation activities under an exploitation contract, as well as to enter</p>	<p>In the light of our comments regarding provisions on the rights of coastal state, we suggested additional text to be added in R</p>	<p>Proposed text changes for 96 (2)</p> <p>2. The Contractor shall permit the Authority to send its Inspectors who may be accompanied by a representative of its State or other party concerned, in particular affected coastal states in accordance with article 142 and 165 (3) of the Convention, aboard vessels and Installations, whether offshore or onshore, used by the Contractor to carry out Exploitation activities under an exploitation contract, as well as to enter its offices wherever situated. To that end, Members of the Authority, in particular the sponsoring</p>

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>its offices wherever situated. To that end, Members of the Authority, in particular the sponsoring State or States, shall assist the Council, the Secretary-General and Inspectors in discharging their functions under the Rules of the Authority.</p> <p>3. The Secretary-General shall give reasonable notice to the Contractor of the projected time and duration of inspections, the names of the Inspectors and any activities the Inspectors are to perform that are likely to require the availability of special equipment or special assistance from the personnel of the Contractor, save in situations where the Secretary-General has reasonable grounds to consider the matter to be so urgent that notice cannot be given, in which case the Secretary-General may, where practicable, exercise the right to conduct an inspection without prior notification.</p> <p>4. Inspectors may inspect any relevant documents or items which are necessary to monitor the Contractor's compliance, all other recorded data and samples and any vessel or installation, including its log, personnel, equipment, records and facilities.</p> <p>5. The Contractor and its agents and employees shall facilitate the actions of the Inspectors in the performance of their duties, and shall:</p> <p>(a) Accept and facilitate the prompt and safe boarding and disembarkation of vessels and installations by Inspectors;</p> <p>(b) Cooperate with and assist in the inspection of any vessel or installation conducted pursuant to this regulation;</p> <p>(c) Provide access to all relevant areas, items and personnel in offices or on vessels and installations at all reasonable times;</p> <p>(d) Provide access to monitoring equipment, books, documents, papers, records and passwords which are necessary and directly pertinent to verify the expenditures referred</p>		<p>State or States, shall assist the Council, the Secretary-General and Inspectors in discharging their functions under the Rules of the Authority.</p>

NO	DRAFT REGULATION REVISI ISBA/25/C/WP.1 – (UNIFIED TEXT)	COMMENTS	PROPOSED TEXT CHANGES
	<p>to in the Plan of Work or necessary to determine compliance with the financial payments due under the exploitation contract and these Regulations;</p> <p>(e) Answer fully and truthfully any questions put to them;</p> <p>(f) Accept the deployment of remote real-time monitoring and surveillance equipment, where required by the Secretary-General, and facilitate the activities of Inspectors in deploying such equipment and having access thereto; and</p> <p>(g) Not obstruct, intimidate or interfere with Inspectors in the performance of their duties.</p> <p>6. Inspectors shall:</p> <p>(a) Follow all reasonable instructions and directions pertaining to the safety of life at sea given to them by the Contractor; the captain of the vessel or other relevant safety officers aboard vessels and Installations; and</p> <p>(b) To the maximum extent possible, refrain from any undue interference with the safe and normal operations of the Contractor and of vessels and Installations unless the Inspector has reasonable grounds for believing that the Contractor is operating in breach of its obligations under an exploitation contract.</p>		