

Report of the Co-Facilitators of the Working Group on the Rights and Interests of Coastal States

1. The small Working Group on the Rights and Interests of Coastal States (“**SWGCS**”) met intersessionally for two informal meetings on Tuesday, 30 September 2025 and Thursday, 2 October 2025. During these two informal meetings, the SWGCS discussed a revised version of the draft textual proposal for Regulation 4 of the exploitation regulations (“**DR 4 Alt**”), which had been updated with reference to comments made by delegations during Part II of the 30th session of the Council of the International Seabed Authority (“**ISA**”).

2. The informal meetings were well attended. Apart from the co-facilitators **Portugal and Singapore, Argentina, Australia, Chile, China, the Federated States of Micronesia, Finland, France, India, Japan, Mexico, Netherlands, Norway, the Philippines, Singapore, South Africa, United Kingdom, PEW Charitable Trusts and The Metals Company** also tuned in virtually. Following the meetings, the co-facilitators further revised draft Regulation 4 and prepared a new version of draft Regulation 93 ter (“**DR 93 ter Alt**”). The **Argentine** delegation also prepared a revised version of draft Regulation 4 bis (“**DR 4 bis**”), which was a proposal it had submitted for the SWGCS’ consideration in a previous meeting. These textual proposals were circulated to the SWGCS on 18 November 2026 for further written comments in advance of the submission deadline of 1 December 2025. Written comments were received from **Argentina, Chile, Japan and Singapore** on the compiled textual proposals. The discussion text which was used during the informal meetings and the compiled set of textual proposals which was circulated for written comments can be respectively found at **Annex A** and **Annex B** to this report.

3. The following section is a broad summary of the discussions of the SWGCS during the informal meetings and the written comments received between July and December 2025, without purporting to be an exhaustive record of all the comments expressed during said meetings or submitted to the co-facilitators.

DR 4 Alt

Paragraph 1

4. The text for paragraph 1 (new proposals in **red** and underlined) which was considered during the meetings is as follows.

Nothing in these Regulations shall affect the rights and legitimate interests of coastal States under the Convention, including but not limited to Article 142 ~~and other relevant provisions of the Convention.~~

5. There were no objections expressed in respect of the amendments to paragraph 1. As such, the co-facilitators took in the proposed amendments and submitted it for compilation in the Further Revised Consolidated Text on 1 December 2025.

Paragraph 2

6. The text for paragraph 2 (new proposals in red and underlined) which was considered during the meetings is as follows.

[Applicants.] Contractors, as well as the Enterprise, shall take all necessary measures to ensure that their activities [and foreseen activities] [in the Area] are conducted with due regard to the rights and legitimate interests of the [relevant] [potentially affected] coastal States [under the Convention and] in accordance with applicable Regulations and Standards.

7. There were no objections expressed in respect of the reference to “Applicants”, “and foreseen activities”, “in the Area”, “legitimate interests”, “under the Convention” and “in accordance with applicable Regulations and Standards.”

8. As regards the distinction between “relevant” and “potentially affected”, one delegation expressed its preference for “relevant” in this context, noting the specific circumstances where the due regard obligation in Article 142(1) applies. The same delegation also commented that the scope of “potentially affected” coastal States, which is still being developed in paragraph 4, is likely to go beyond the scope of Article 142(1).

9. Although no other delegation expressed a view on “relevant” as opposed to “potentially affected” during the period covered by this report, the co-facilitators noted that this issue was a key one which could benefit from further discussion. For the purposes of the 1 December 2025 deadline, the co-facilitators took in the amendments described at paragraph 7 above, and left “relevant” and “potentially affected” in square brackets for the SWGCS’s further consideration. The version of paragraph 1 which was submitted to the ISA Secretariat on 1 December 2025 is as follows.

Applicants, contractors, as well as the Enterprise, shall take all necessary measures to ensure that their activities and foreseen activities in the Area are conducted with due regard to the rights and legitimate interests of the [relevant] [potentially affected] coastal States under the Convention and in accordance with applicable Regulations and Standards and taking into account Guidelines.

Paragraph 3

10. The text for paragraph 3 (new proposals in red and underlined) which was considered during the meetings is as follows.

Without prejudice to other necessary measures taken pursuant to paragraph 2, applicants, contractors or the Enterprise shall engage/consult with potentially affected coastal States, at an early stage including prior to submitting an application, plan of work, from the stage of approval of plan of work and throughout the exploitation contract, in accordance with applicable Regulations and Standards, and taking into account Guidelines.

11. Discussions during the informal meetings were focused on the issue of how to clearly define the best timeframe in which Applicants, Contractors or the Enterprise ought to engage with coastal States concerned should be. In this regard, the SWGCS discussed a possible redraft of paragraph 3, which was subsequently circulated for written comments. The redrafted text for paragraph 3 (new proposals in red and underlined, with the co-facilitators' proposed way forward in yellow highlight) is as follows.

Without prejudice to other necessary measures taken pursuant to paragraph 2, applicants, contractors or the Enterprise shall engage with potentially affected coastal States, including by conducting consultations, at an early stage [Alt A : [Alt 1: including] prior to [Alt2: and after] submitting an application] [Alt B: from the stage of approval of plan of work] and throughout the exploitation contract, in accordance with applicable Regulations and Standards, and taking into account Guidelines.

12. There appeared to be general support for the redrafted paragraph 3, with two delegations in particular expressing support for the co-facilitators' proposed way forward. For the purposes of the 1 December 2025 deadline, the co-facilitators took in the amendments reflected in yellow highlight above at paragraph 10. The version of paragraph 3 which was submitted to the ISA Secretariat on 1 December 2025 is as follows.

Without prejudice to other necessary measures taken pursuant to paragraph 2, applicants, contractors or the Enterprise shall engage with potentially affected coastal States, including by conducting consultations, at an early stage including prior to and after submitting an application and throughout the exploitation contract, in accordance with applicable Regulations and Standards, and taking into account Guidelines.

Paragraph 4

13. The text for paragraph 4 which was considered during the meetings is as follows.

The potentially affected coastal States referred to in paragraph 3 above shall include:

- a) Coastal States across whose jurisdiction the resources related to the activity may lie.
- b) Following the submission of a written notification to the [Contractor] [Applicant] that it wishes to participate in the consultation process pursuant to Regulation 93ter, the following:
 - i. Coastal States, which may include those that are adjacent to any Contract Area, whose sovereign rights for the purpose of exploring and exploiting, conserving or managing Marine

- ii. natural resources, in accordance with the Convention, may be affected by any activity by the Contractor in the Contract Area, Coastal States, which may include those that are adjacent to any Contract Area, whose exercise of jurisdiction with regard to the Protection and Preservation of the Marine Environment, in accordance with the Convention may be affected by any activity by the Contractor in the Contract Area.

14. Regarding paragraph 4a), one delegation suggested to add the phrase “deposits of” for greater consistency with Article 142(1) of UNCLOS. When circulating the compiled textual proposals, the co-facilitators commented that the addition would be useful but suggested to phrase it as “resource deposits” instead to cohere with the text of Article 142(1). There was no objection expressed to this proposal.

15. Regarding paragraph 4b), one delegation indicated support for its substantive content but suggested some revisions to it for reasons of clarity.

16. For the purposes of the 1 December 2025 deadline, the co-facilitators added “resource deposits” to paragraph 4a) and included the proposed redraft of paragraph 4b) as paragraph 4 b) Alt, for the further consideration of the SWGCS. The text for paragraph 4 which was submitted is as follows.

The potentially affected coastal States referred to in paragraph 3 above shall [include][comprise]:

- a) *Coastal States across whose jurisdiction the resource deposits related to the activity may lie.*
- b) *[Following the submission of a written notification to the [Applicant][as well as the Enterprise] that it wishes to participate in the consultation process pursuant to Regulation 93ter, the following:*
 - i. Coastal States, which may include those that are adjacent to any Contract Area, whose sovereign rights for the purpose of exploring and exploiting, conserving or managing Marine natural resources, in accordance with the Convention, may be affected by any activity by the Contractor in the Contract Area,
 - ii. Coastal States, which may include those that are adjacent to any Contract Area, whose exercise of jurisdiction with regard to the Protection and Preservation of the Marine Environment, in accordance with the Convention, may be affected by any activity by the Contractor in the Contract Area.]

[b Alt) Coastal States that are adjacent to any Contract Area which, following the submission of a written notification to the Contractor [and Enterprise] that it wishes to participate in the consultation process pursuant to Regulation 93ter, [may include] [comprising] those:

- i. whose sovereign rights for the purpose of exploring and exploiting, conserving or managing Marine natural resources, in accordance with the Convention, may be affected by any activity by the Contractor in the Contract Area; and

- ii. whose exercise of jurisdiction with regard to the protection and preservation of the marine environment, in accordance with the Convention, may be affected by any activity of the Contractor in the Contract Area.]

Paragraph 5

17. The text for paragraph 5 (new proposals in red and underlined, with the co-facilitators' proposed way forward denoted in yellow highlight) which was circulated for consideration during the meetings is as follows.

Potentially affected coastal States may, during the consultation [Alt: process pursuant to DR 93ter] [prior to the approval of Plan of Work] submit to the Authority scientific data and assessments on potential effects likely to be caused by the activities of the contractor and may request modifications to mining plans if risks are identified.

Delegations were reminded that the SWGCS had agreed in previous meetings that paragraph 5 would be moved to a redrafted DR 93ter and were invited to look at the co-facilitators' proposed placement in the enclosed text for DR 93ter. In the interests of clarity, the co-facilitators also proposed alternative text in square brackets for the SWGCS's consideration.

18. The SWGCS's comments on the placement of paragraph 5 will be dealt with at paragraphs 36 to 38 below. There were no objections received with respect to the co-facilitator's proposed way forward for the content of paragraph 5.

Proposed Regulation 4 bis

19. An earlier version of DR 4 bis had been submitted by the delegation of Argentina for this SWGCS's consideration prior to the July meeting of the Council for Part II of its 30th session. Based on comments expressed during the informal held in Part II of the 30th session of the ISA Council, the Argentine delegation proposed revisions to draft Regulation 4 bis (in red and underline). Per the request of the Argentine delegation, the co-facilitators included the revised DR 4 bis in the compiled set of textual proposals for the SWGCS's consideration. The co-facilitators understand that Argentina has made changes to bring the language of DR 4 bis more in line with Article 6 of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction ("**BBNJ Agreement**").

Regulation 4bis.

~~Sovereignty, sovereign rights of jurisdiction-Without prejudice~~

These regulations including any acts, measures, decisions or activities undertaken on the basis thereof, shall be without prejudice to, and shall not be relied upon as a basis for asserting or denying any claims to, sovereignty, sovereign rights or jurisdiction, including in respect of any disputes relating thereto. ~~In no case shall the implementation of these regulations be interpreted as recognition or non recognition of any claims to sovereignty, sovereign rights or jurisdiction.~~

20. Two delegations submitted comments on DR 4bis. One delegation reserved its position on the draft proposal and the other raised questions about the competence of the SWGCS to make decisions on text which appeared to touch on broader concerns than the rights and legitimate interests of coastal States per se. As it appeared that further consideration of this proposal would be necessary, the co-facilitators placed submitted the draft proposal in square brackets for the purposes of the 1 December 2025 deadline.

DR 93 ter Alt – Consultation with Coastal States

21. During the informal meetings on Tuesday, 30 September 2025 and Thursday, 2 October 2025, the SCWGS decided that the co-facilitators should prepare a revised version of DR 93 ter to take into account the changes in DR 4 Alt. The co-facilitators revised the text and circulated DR 93 ter Alt for the SWGCS's comments, as well as an explanatory aide which is annexed to this report as **Annex C**.

22. The revised DR 93 ter Alt draws from the previous DR 93 ter as well as DR 94 quater. The co-facilitators proposed that the two provisions be streamlined into a single DR 93 ter Alt provision that addresses consultations for coastal States. The co-facilitators further proposed that DR 93 ter Alt be moved before DR 93 bis when the draft exploitation regulations are scrubbed before final adoption, so as to reflect the procedural order in which the consultation process is proposed to take place. One delegation expressed support for the proposed reordering of DR 93 ter Alt and DR 93 bis.

Paragraph 1

23. The text for paragraph 1 which was circulated for consideration is as follows.

<p>Prior to preparing [the documents referred to in Regulation 7] [the Plan of Work], the Applicant shall:</p> <ol style="list-style-type: none">a. Notify the coastal States across whose jurisdiction resource deposits related to the proposed activity may lie of the Applicant's intention to apply for a Plan of Work.b. Request that the Secretary-General inform all other [coastal][Member] States [for the purpose of the procedure in paragraph 4(b) of Regulation 4] [of the Applicant's intention to apply for a Plan of Work]
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Apart from commenting on the text itself, delegations were invited to reflect on the following guiding questions in relation to paragraph 1:

- (1) Should the Contractor notify Coastal States directly? Or is it possible to just ask the Secretary-General to do so on its behalf? Would asking the Secretary-General to do so be sufficient to satisfy the notification obligation in Article 142(1) of UNCLOS?

(2) Should the Contractor’s notification follow a template? If so, would it be useful to add a new template to the draft exploitation regulations?

24. Responding to question (1), there was general support for the Applicant notifying coastal States through the Secretary-General. One delegation reasoned that this approach of notifying States through the Secretary-General would be consistent with that taken in other draft regulations. The same delegation suggested that a time limit for the Secretary-General to notify coastal States upon receiving such a request from the Applicant could be useful in the context of this paragraph.

25. Responding to question (2), one delegation considered that a template could be useful but was doubtful as to whether it was necessary to include one at this stage of negotiations.

26. In view of the comments received on paragraph 1, the co-facilitators made the following changes (in red and underlined) to the version of the said paragraph that was submitted for compilation on 1 December 2025.

<p>Prior to preparing [the documents referred to in Regulation 7] [the Plan of Work], the Applicant shall <u>request the Secretary-General to, within 7 days:</u></p> <ul style="list-style-type: none">a. Notify the coastal States across whose jurisdiction resource deposits related to the proposed activity may lie of the Applicant’s intention to apply for a Plan of Work.b. <u>Request that the Secretary-General</u> inform all other [coastal][Member] States [for the purpose of the procedure in paragraph 4(b) of Regulation 4] [of the Applicant’s intention to apply for a Plan of Work]
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Paragraph 2

27. The text for paragraph 2 which was circulated for consideration is as follows.

<p>[Upon receipt of] [Within 30 days of receiving] the Secretary-General’s notification, any coastal State falling within paragraph 4(b) of Regulation 4 may inform the Applicant in writing that it wishes to participate in the Applicant’s consultations with coastal States.</p>
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Delegations were invited to reflect on the guiding question of whether there should be a time limit for submitting notifications, and if so, whether the co-facilitators’ tentative proposal of 30 days was appropriate.

28. There was general support for including a time limit for submitting notifications, but most delegations were of the view that the period of 30 days was too short. In this regard, one delegation suggested that the period be set at 60 days. It was further suggested by another delegation that it might be good for coastal States falling within paragraph 4(b) of draft Regulation 4 to provide more information and relevant data on their concerns to the Applicant, so that the Applicant could better address the coastal States’ concerns, and the same delegation submitted a textual proposal to this end.

29. In view of the comments received on paragraph 2, the co-facilitators made the following changes (in red and underlined) to the version of the said paragraph that was submitted for compilation on 1 December 2025.

[Upon receipt of] [Within ~~30~~ 60 days of receiving] the Secretary-General's notification, any coastal State falling within paragraph 4(b) of Regulation 4 may inform the Applicant in writing that it wishes to participate in the Applicant's consultations with coastal States. [A Coastal State writing to the Applicant pursuant to this paragraph shall also include the reasons, as well as scientific data and assessments or other relevant data and information, where available, in support of its view that the activities of the applicant or contractor as well as the Enterprise are likely to cause adverse potential effects to the rights and interests under paragraph 4(b) of Regulation 4.]

Paragraph 3

30. The text for paragraph 3 which was circulated for consideration is as follows.

Applicants shall invite the coastal States referred to in paragraph 1(a) above, as well as any other coastal States which have written to the Applicant pursuant to paragraph 2 above, to submit written comments on the following draft documents:

- a. [Plan of Work]
- b. Scoping reporting;
- c. Environmental Impact Assessment;
- d. Environmental Impact Statement;
- e. Environmental Management and Monitoring Plans;
- f. Performance of Assessment of the Environmental Management and Monitoring Plans; and
- g. Closure Plans.

Delegations were invited to reflect on the guiding question of what documents coastal States should be consulted on at this point of the application process.

31. One delegation proposed adding "including" so as not to limit the documents to be consulted at this point. Another delegation preliminarily noted that there was sense in consulting coastal States on the documents listed from paragraph 3b to paragraph 3g.

32. In view of the comments received on paragraph 3, the co-facilitators made the following changes (in red and underlined) to the version of the said paragraph that was submitted for compilation on 1 December 2025.

Applicants shall invite the coastal States referred to in paragraph 1(a) above, as well as any other coastal States which have written to the Applicant pursuant to paragraph 2 above, to submit written comments [including] on the following draft documents:

- a. [Plan of Work]
- b. Scoping reporting;
- c. Environmental Impact Assessment;
- d. Environmental Impact Statement;
- e. Environmental Management and Monitoring Plans;
- f. Performance of Assessment of the Environmental Management and Monitoring Plans; and

g. Closure Plans.

Paragraph 4

34. The text for paragraph 4 which was circulated for consideration is as follows.

Where appropriate, the Secretariat, [Contractor, Sponsoring State and/or other States or relevant bodies] should provide [technical, financial and advisory] support to developing States, including small island developing States, upon request, to identify potential effects of the planned activity on Marine areas and their resources under their jurisdiction. [This support should encompass an assistance mechanism, along with training and mentorship programs, to bolster local capacities.]

The co-facilitators explained that this paragraph was based on paragraphs 3 and 4 of the former DR 93 ter. The co-facilitators proposed merging the content of both paragraphs as they dealt with similar subject matter.

34. There was some support for merging the content of former paragraphs 3 and 4 of DR 93 ter. One delegation proposed deleting the final sentence making reference to an assistance mechanism and training and mentorship programs, on the basis that assistance should be based on needs, on request and specific to the relevant case, within available resources.

35. In view of the comments received on paragraph 4, the co-facilitators made the following changes (in red and underlined) to the version of the said paragraph that was submitted for compilation on 1 December 2025.

Where appropriate, the Secretariat, [Contractor, Sponsoring State and/or other States or relevant bodies] should provide [technical, financial and advisory] support to developing States, including small island developing States, upon request, to identify potential effects of the planned activity on Marine areas and their resources under their jurisdiction. [~~This support should encompass an assistance mechanism, along with training and mentorship programs, to bolster local capacities.~~]

Paragraph 5

36. The text for paragraph 5 which was circulated for consideration is as follows.

[...][Procedures for consultations with potentially most affected coastal States shall be further developed in Standards and Guidelines.]

In addition to the draft text for paragraph 5, delegations were invited to reflect upon:

- (1) Whether the placeholder text from paragraph 5 of DR 4 Alt would be suitably placed at the start of this paragraph; and
- (2) Whether paragraph 5 was necessary.

37. Two delegations considered that paragraph 5 could be deleted, with one delegation stating that paragraph 5 was superfluous since DR 4 Alt was clear enough. In response to the co-facilitators' guiding question, the delegation which wished to add language to paragraph 2 of DR 93 ter regarding the submission of more information and relevant data to the Applicant reiterated its position that this language should be placed at the end of paragraph 2 instead.

38. In view of the comments received on paragraph 5, the co-facilitators deleted the proposed paragraph 5 and shifted the placeholder text from paragraph 5 of DR 4 Alt down. Additional text (in **red** and **underline**) was added for further clarity in paragraph 5 of the DR 93 ter that was submitted for compilation on 1 December 2025.

[Potentially affected coastal States may, during the consultation process pursuant to DR 93ter, submit to the Authority scientific data and assessments or other relevant data and information on potential effects likely to be caused by the activities of the applicant or contractor as well as the Enterprise and may request modifications to mining plans if risks are identified.]

Paragraph 6

39. The text for paragraph 6 which was circulated for consideration is as follows:

The Applicant shall consider the contributions received from coastal States during this consultation period and, as appropriate, revise the proposal accordingly or respond to substantive contributions not reflected in the revised proposal.

The co-facilitators included a marginal comment to explain that paragraph 6 had been redrafted from the original paragraph addressing the same content in DR 93 ter, with reference to Article 21(5) of the BBNJ Agreement as the said Article 21(5) was clearer.

40. Delegations which commented on paragraph 6 expressed support for the re-draft and the co-facilitators submitted it for compilation unchanged on 1 December 2025.

Paragraph 7

41. The text for paragraph 7 which was circulated for consideration is as follows:

[Where the planned activity may result in the exploitation of resources lying within the national jurisdiction of a coastal State, the prior consent of the coastal State must be obtained] in writing before the Applicant submits its application for a Plan of Work.

42. One delegation commented that it would be appropriate to lift the bracket on paragraph 7. The co-facilitators thus submitted paragraph 7 without brackets for the purposes of the compilation on 1 December 2025.

Next steps

43. The co-facilitators will present the submitted textual proposals to the Council during Part I of its 31st session in March 2026. On the basis of the Council's comments, the co-facilitators will make recommendations to the SWGCS on how our work should be taken forward.

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Date: 5 March 2026