# A. Regulation 4.alt — Rights and legitimate interests of coastal States

## A.1 Paragraph 2 — "potentially affected" qualifier

Bracketed text: *"...rights and legitimate interests of [Alt 1: the potentially affected] coastal States] [Alt 2: coastal States] under the Convention..."*

1. What is the practical/legal difference between referring to "coastal States" generally versus qualifying them as "potentially affected"? Does the qualifier narrow the scope of States entitled to protection under this paragraph?
2. Does Article 142(2) of the Convention already imply a "potentially affected" limitation, or would adding the qualifier here create a standard that is narrower or broader than the Convention text?
3. Does the choice of qualifier here need to be consistent with how "potentially affected" is used elsewhere in the text (e.g., paragraph 4 chapeau, and Regulation 93bis paragraph 5)?

## A.2 Paragraph 3 — "engage" vs. "consult"

Bracketed text: *"...applicants, contractors or the Enterprise shall [engage] [consult] with potentially affected coastal States..."*

1. What distinct legal or procedural obligations, if any, attach to "engage" versus "consult"? Is one term understood to imply a lower or higher threshold of interaction (e.g., information-sharing only vs. a structured dialogue with the possibility of influencing outcomes)?
2. Should this paragraph instead cross-reference Regulation 93bis directly (as flagged in the facilitators' note), given that 93bis is the mechanism that operationalizes this same obligation, rather than restating a free-standing "engage/consult" obligation in Regulation 4 itself? Would an explicit cross-reference better make clear that paragraph 3 and Regulation 93bis describe one single obligation rather than two separate ones?
3. If the term chosen here ("engage" or "consult") differs from the terminology used in Regulation 93bis, could that create an apparent (even if unintended) inconsistency between the general obligation and the procedure that implements it? Should the same verb be used in both places?

## A.3 Paragraph 4(b) — scope of coastal States entitled to participate in consultations

Two competing formulations:

- **Main text (b)(i)-(ii):** coastal States "which **may include** those adjacent to any Contract Area" whose sovereign rights/jurisdiction "may be affected."
- **Alt (b Alt):** coastal States "**that are adjacent to** any Contract Area" whose sovereign rights/jurisdiction "may be affected."

1. Should eligibility to participate in consultations be limited strictly to coastal States adjacent to the Contract Area, or should it extend more broadly to any coastal State that could show its rights/jurisdiction "may be affected," regardless of adjacency?
2. What are realistic scenarios in which a non-adjacent coastal State's rights or jurisdiction could be affected by activity in a Contract Area (e.g., transboundary currents, migratory species, shared resource deposits)? Should the regulation anticipate these?
3. Does limiting participation to "adjacent" States create a bright-line, more predictable/administrable rule, at the cost of potentially excluding legitimately affected but non-adjacent States?
4. Does the broader "may include...adjacent" formulation risk opening the consultation process to an unmanageable or contested number of participating States?

# C. Regulation 93bis.alt — Consultation with Coastal States

## C.1 Paragraph 1 — trigger document

Bracketed text: *"Prior to preparing [the documents referred to in Regulation 7] [the Plan of Work]..."*

1. At what stage of the application process should the Secretary-General's notification obligation to coastal States be triggered — before the applicant prepares the documents referenced in Regulation 7, or before preparation of the Plan of Work itself?
2. Does one option provide coastal States with earlier notice (and therefore more time to prepare a substantive response) than the other? Is earlier notice necessarily preferable, given it may occur before some environmental/technical information exists?
3. Which option better aligns with the timing contemplated in Regulation 7 and the overall Plan of Work approval sequence?

## C.2 Paragraph 1(b) — which States must be informed

Bracketed text: *"Inform all [Member] States for the purpose of paragraph 4(b) of Regulation 4..."*

1. Should the Secretary-General's information obligation extend to all Member States of the Authority, or only to a defined subset (e.g., only those with a plausible interest)? What would be the administrative burden of notifying all Member States for every application?
2. If limited to Member States, does this create a gap for any coastal State that is not an ISA Member but could nonetheless be affected under Regulation 4, paragraph 4(b)?

## C.3 Paragraph 2 — response window

Bracketed text: *"Within [60][90] days of receiving the Secretary-General's notification..."*

1. Is 60 or 90 days a more realistic period for a coastal State to assess, gather supporting data, and decide whether to request participation in consultations?

2. Should the period reflect the practical capacity constraints of developing States or small island developing States to mobilize the "supporting reasons, scientific data and assessments" the paragraph asks them to submit? If so, which option better addresses this?
3. Does a longer window (90 days) create a corresponding delay in the overall Plan of Work application timeline, and is that an acceptable trade-off?

## C.4 Paragraph 4 — support to developing States (entire paragraph bracketed)

Bracketed text: *"[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...]"*

The facilitators' note records that positions are not yet aligned even on whether to retain this paragraph.

1. Should this obligation be included in the regulations at all, or is it better addressed elsewhere (e.g., in capacity-building provisions, a trust fund, or non-binding guidelines)?
2. If retained, who should bear the obligation to provide support — the Secretariat alone, or should Contractors and/or Sponsoring States and other relevant bodies also be named? What are the implications of naming Contractors specifically (e.g., potential conflict of interest, cost allocation)?
3. What types of support should be covered — technical only, or also financial and advisory? Are there concerns about financial support obligations being placed on Contractors or Sponsoring States without clearer parameters (amount, mechanism, funding source)?
4. Is "upon request" a sufficient trigger, or should there be a more proactive obligation to offer support to eligible developing States?