

Deep Sea Conservation Coalition

ISA Council

DSCC Intervention 15 July 2019

Draft Regulations Part 1

Madam President, these comments on Part 1 relate to DR 2, the Fundamental Principles, which have been changed to Fundamental Policies and Principles.

We associate ourselves with comments by Costa Rica that policies should not be combined with principles. This change fundamentally alters the function and purpose of the Fundamental Principles. We also associate ourselves with the observations of the African Group that there should be clear standalone article with fundamental principles.

Principles such as common heritage of mankind, effective protection of the marine environment and precautionary principle or approach will lose their force if weighed against policies such as those in article 150.

As Costa Rica noted, principles should not be weighed against policies. In most legal systems, a principle is a binding norm or rule that has to be followed while a policy is a guideline, a set of ideas or plans. They cannot be weighed against each other on the same level.

Secondly, it is not explained why the policies in Article 150 are fundamental. Rather, they are often competing policies which must be weighed against each other. For example, (v) reads that “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”.

Firstly, that is at odds with (viii) The protection of developing countries from serious adverse effects on their economies.

Secondly, there is nothing to suggest that a postulated need for minerals from the Area is a fundamental policy. This is contrary to SDG 12, which calls for sustainable consumption and production patterns, as well as the UNEP [2019 Global Resources Outlook](#) calling for de-linking resource use from growth.

Madam President, another issue with DR 2 is that: what is now DR 2(e)(i) used to read that “A fundamental consideration for the development of environmental objectives shall be the effective protection and conservation of the Marine Environment, including biological diversity and ecological integrity.”

The deletion of ‘conservation’ in the current text is inconsistent with Article 145, which provides for “ensure effective protection for the marine environment” and “(b) the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment.”

In paragraph (vii), “encouragement” of public participation is not enough: it should instead read “ensuring” public participation.