

# Finding a Social License on the Deep Seabed: Risks and Mitigations for Exploitation Activities in the Absence of Exploitation Regulations under UNCLOS

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## ABSTRACT

Part XI of the United Nations Convention on the Law of the Sea (**UNCLOS**) establishes a comprehensive regulatory framework for the conduct of deep seabed mining (**DSM**) of the seabed and ocean floor beyond the limits of national jurisdiction (the **Area**). Under that framework, DSM activities can only take place in the Area pursuant to an approved plan of work in the form of a contract with the International Seabed Authority (**Authority**). In relation to exploration activities, relevant plans of work have been approved in accordance with regulations governing exploration. Despite on-going work since 2014, the Authority is yet to finalise and adopt specific regulations governing exploitation (i.e., the actual recovery of mineral resources from the Area).

UNCLOS, though, still allows prospective applicants to submit applications for plans of work for exploitation in the absence of formal exploitation regulations. It also obliges the Authority to consider and provisionally approve such plans of work. This paper will establish what is required from applicants intending to undertake exploitation activities in the Area to ensure they have social license in the absence of formally adopted exploitation regulations. By analysing UNCLOS's existing regulations, oversight mechanisms, and standards, this paper will demonstrate the range of ways in which UNCLOS provides sufficient protections for social and environmental issues to ensure that such applicants can mitigate risks to their social license and public perceptions around their activities should their plan of work for exploitation be provisionally approved.

This paper will offer conclusions and recommendations for the Authority and prospective applicants that may wish to commence exploitation activities. This includes how the industry can navigate potential regulatory uncertainty and mitigate risks in these circumstances.