

GIBSON DUNN

Geopolitical Strategy & International Law and
International Arbitration Update

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US Moves to Reduce Deep-Sea Mining Permit Times Under New NOAA Rule

Gibson Dunn's Geopolitical Strategy and International Law team—together with our International Arbitration, and ESG Risk Advisory teams—can help investors understand and navigate these multi-dimensional challenges and opportunities.

In a significant move that will potentially reshape the economic opportunities available in the 'deep sea', the United States (the U.S.) is streamlining regulations to enable commercial deep-sea mining for critical minerals. Following up on Executive Order 14285, issued in April 2025, the Trump Administration implemented a rule in January 2026 to accelerate the approval process for deep-sea mining permits. The United States is now considering applications for mining rights in international waters. The legal framework applicable to this opportunity, and other recent deep-sea mining developments, are further explored below.

The U.S. Procedure for Licensing and Permitting Mining of the Deep Sea

Although not all States are party to it, a large portion of the UN Convention on the Law of the Sea (UNCLOS) is widely recognized as reflecting customary international law on the law of the sea. Under Part XI of UNCLOS, the International Seabed Authority (the ISA) regulates deep-seabed mining in areas beyond national jurisdiction for countries that are party to UNCLOS. Whilst the U.S. is not a full member of the ISA (as it has not ratified UNCLOS), it has historically participated as an observer at the ISA.

As a non-member of the ISA, the U.S. has its own regime for deep-seabed mining activities in ocean floor areas beyond the U.S.'s national jurisdiction. Before a U.S. company can engage in those activities, it must first obtain government authorizations. Pursuant to the U.S.'s Deep Seabed Hard Mineral Resources Act 1980 (the DSHMRA), those authorizations are granted by the U.S. National Oceanic and Atmospheric Administration (the NOAA) in a two-stage process. The NOAA issues both (i) licenses for exploration; and (ii) permits for commercial recovery.[\[1\]](#)

The U.S.'s Move to Streamline the Licensing and Permitting Process

On 21 January 2026, the NOAA issued a new rule: "*Deep Seabed Mining: Revisions to Regulations for Exploration License and Commercial Recovery Permit Applications*" (the New Rule).[\[2\]](#) The New Rule revises some provisions of the DSHMRA's implementing regulations for exploration licenses and commercial recovery permit applications. In particular, under the New Rule, applicants can choose to apply for a consolidated license and permit, instead of the two-step application process noted above (whereby an exploration license had to be granted first, prior to the commercial recovery permit).[\[3\]](#) While the NOAA has not yet stated how much time the consolidated process will save applicants, it is almost certain that the change will shorten the overall approval time. Certain companies are already pursuing permits under the updated framework for project areas in the Pacific Ocean.[\[4\]](#)

Deep-Sea Mining Developments Elsewhere

Whilst the U.S. pushes to advance its deep-sea mining capabilities, other countries are taking a considerably more cautious approach. In December 2025, Norway postponed its planned deep-sea mining activities in the Arctic until the end of 2029, following international pressure.[\[5\]](#) The European Union's (the EU) stance on deep-sea mining more generally, remains strongly precautionary. The European Parliament has expressed support for an international moratorium on deep-sea mining activities, as have several EU Member States, including France, Germany, and Spain.[\[6\]](#) In total, 40 nations have now expressed support for this moratorium.[\[7\]](#)

Deep-sea mining, however, continues to gain traction—at least in areas within States' Exclusive Economic Zones (the EEZs). In January 2026, Japan launched a government-backed deep-sea mining field test within its EEZ. The Cook Islands has recently announced cooperation with the U.S. on seabed mining within its EEZ. The Cook Islands is also exploring deep-sea mining cooperation with China.[\[8\]](#)

China has, however, been insisting publicly on the need to develop the complete regulatory framework for deep-sea research and mining beyond national jurisdictions through the ISA (discussed further below), and has, in the past, expressed opposition to unilateral licensing or mining activities by individual States in that context.[\[9\]](#)

The ISA Rules Remain Stalled

Under UNCLOS, the ISA is tasked with developing and applying its Mining Code, which sets out the international framework governing deep-sea mining. However, the ISA has not yet adopted regulations that allow for commercial mining operations. Negotiations for regulations are set to

continue during 2026—but these are likely to be challenging given the widespread calls for a moratorium noted above.

The negotiations may also be made more complex given the recent entry into force of the Agreement on Biodiversity Beyond National Jurisdiction (the BBNJ Treaty) (previously reported on [here](#)). While deep-sea mining is not explicitly referenced in the BBNJ Treaty, it emphasizes the “*precautionary principle*” approach to human activities on the seabed, as well as in the high seas, which may dissuade signatory states from pushing the adoption of commercial mining regulations. The BBNJ Treaty also contains strict Environmental Impact Assessment (EIA) obligations on States, where activities in the high seas may cause significant harmful changes to the marine environment. The EIA regime in the BBNJ Treaty foresees public disclosure, and, potentially, international review of the proposed activities.

Comment

Deep-sea mining in areas beyond national jurisdiction remains a priority for the Trump Administration and others which consider the pace of progress in the development of the international regulatory framework at the ISA level to be too slow. At the same time, concerns about the role that the ISA (and wider UNCLOS framework) can and will provide—particularly over the governance of rights to the deep sea-bed—continue. So too do concerns about the potential impact of deep-sea mining on the environment. Given these divergent positions, a range of disputes may proliferate amongst States or between States and commercial actors. Investors should therefore carefully assess the risks involved and how these can be mitigated.

Gibson Dunn’s Geopolitical Strategy and International Law team—together with our International Arbitration, and ESG Risk Advisory teams—can help investors understand and navigate these multi-dimensional risks.

[1] For ocean floor areas within U.S. national jurisdiction, the primary legal authority for offshore mining activities is the Outer Continental Shelf Lands Act, which is separately administered by the Department of the Interior’s Bureau of Ocean Energy Management.

[2] See Federal Register, *Deep Seabed Mining: Revisions to Regulations for Exploration License and Commercial Recovery Permit Applications*, 91 FR 2642, 21 January 2026 (the New Rule), available at: <https://www.federalregister.gov/documents/2026/01/21/2026-01044/deep-seabed-mining-revisions-to-regulations-for-exploration-license-and-commercial-recovery-permit>.

[3] The New Rule, *Rule 13 adding § 971.214 (Consolidated license and permit procedures)*, available at: <https://www.federalregister.gov/documents/2026/01/21/2026-01044/deep-seabed-mining-revisions-to-regulations-for-exploration-license-and-commercial-recovery-permit#sectno-citation-971.214>.

[4] See, e.g., The Metals Company, *TMC USA Files First Consolidated Deep-Seabed Mining Application, Increasing Expected Commercial Recovery Permit Area to 65,000 km²*, 22 January

2026, available at: <https://investors.metals.co/news-releases/news-release-details/tmc-usa-files-first-consolidated-deep-seabed-mining-application>.

[5] See Greenpeace, *Norway puts Arctic deep-sea mining on ice until 2029*, 3 December 2025, available at: <https://www.greenpeace.org.uk/news/norway-puts-arctic-deep-sea-mining-on-ice-until-2029/>.

[6] See EU Parliament, European Parliament resolution on Norway's recent decision to advance seabed mining in the Arctic (2024/2520(RSP)), P9_TA(2024)0068, 7 February 2024, para. L, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2024-0068_EN.html.

[7] See Deep Sea Conservation Coalition, *Deep-Sea Mining Moratorium*, as of 2 February 2026, available at: <https://deep-sea-conservation.org/solutions/no-deep-sea-mining/>.

[8] See Ministry of Foreign Affairs and Immigration of the Cook Islands, *The Cook Islands and China commit to deepening Blue Economy Cooperation*, 21 February 2025, available at: <https://mfai.gov.ck/news-updates/cook-islands-and-china-commit-deepening-blue-economy-cooperation>.

[9] See, e.g., The International Seabed Authority, *China, Togo and seven international research and exploration entities join the ISA in a Call for Action in support of science, technology and innovation for the stewardship of the Area and its resources for the benefit of all humanity*, 20 June 2024, available at: <https://isa.org.jm/news/china-togo-and-seven-international-research-and-exploration-entities-join-the-isa-in-a-call-for-action-in-support-of-science-technology-and-innovation-for-the-stewardship-of-the-area-and-its-resourc/>.

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