Deep-Sea Mining Year in Review: Regulatory Developments in Exclusive Economic Zones

By Louise Woods and Elena Guillet

While the International Seabed Authority ("**ISA**") continues to debate its Mining Code, the real action in deep-sea mining has moved closer to shore. In 2026, rare-earth mud was raised from 5,700 metres off Minamitorishima, the United States signed new minerals partnerships across the Pacific and Norway's licensing ambitions stalled for at least another parliamentary term. Coastal states are moving faster than the international regime, but they are not regulating in a vacuum. For investors, the gap between national ambition and international obligation creates both opportunity and risk.

In this third insight, we look at seabed mining within national jurisdiction: what coastal states can do, the constraints UNCLOS places on them and what investors should be doing now to protect their position.

Coastal states regulate seabed minerals in their own Exclusive Economic Zones ("**EEZs**") and continental shelves under domestic law, free of some, but not all, of the unresolved questions that affect the Area. Coastal states are not, however, free to regulate entirely as they please. Coastal states benefit from a range of rights and are subject to certain duties spelled out in the United Nations Convention on the Law of the Sea ("**UNCLOS**"). Notably, under Article 208 of UNCLOS, coastal states must develop a domestic regulatory regime governing pollution arising from seabed activities subject to their jurisdiction and ensure that this regime is "*no less effective than international rules, standards, and recommended practices and procedures*".

This obligation does not specify which international rules, standards and recommended practices and procedures need to be followed. However, standard principles of treaty interpretation suggest that it should include standards that have achieved widespread or general acceptance among the international community. This would include standards and measures created by the ISA itself. As the key international organisation established under UNCLOS and working on regulations regarding deep seabed activities, the ISA's own pollution protections should be central to the development of any domestic regime. This creates a conundrum for coastal states in circumstances where the ISA has not yet finalised its exploitation regulations and states try to regulate and advance the industry within their jurisdictions. The result is a moving target. A domestic regime built today may be measured against ISA standards that do not yet exist and a licence granted under it may later be said to fall short of the 'no less effective' benchmark. That is a regulatory risk investors should price in, and one that could lead to future disputes.

Nonetheless, free of some of the shackles of more bureaucratic processes, some of 2026's most concrete technical and commercial progress has taken place in EEZs. In this third part in our series, we survey key developments in Japan, the Cook Islands and Norway, along with the geopolitical competition that increasingly shapes them.

Japan

Japan is accelerating deep-sea efforts to reduce dependence on Chinese critical mineral exports, like many other states.

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In February 2026, the research vessel Chikyu retrieved rare-earth mud from approximately 5,700 metres near Minamitorishima Island, with full-scale extraction trials planned for February 2027. On 30 March 2026, Deep Ocean Resources Development Co. ("**DORD**") signed a memorandum of understanding with DEME Group subsidiary Global Sea Mineral Resources ("**GSR**") for a joint demonstration test on nodules in DORD's licence area; in 2021, GSR became the first company to test nodule collection technology in the Clarion-Clipperton Zone ("**CCZ**"). Notably, this test will take place not in Japan's EEZ but in the Area and under DORD's ISA exploration contract, showing how national champions are working both regimes at once.

Further, on 19 March 2026, Japan and the United States signed a Memorandum of Cooperation Regarding Deep-Sea Mineral Resource Development (the "**MOC**"), formalizing their collaboration on deep-sea mining efforts. After signing, the MOC was presented to the ISA. A central component of the MOC is the creation of a Japan-U.S. Working Group on Deep-Sea Mineral Resource Development (the "**Working Group**"), which aims to "*facilitate bilateral cooperation in science and technology, and support efforts to accelerate deep-sea mineral resource development*". The MOC tasks the Working Group with various responsibilities, including information sharing on deep-sea science and mining projects as well as related technology. This information sharing includes insights from Japan's recent rare-earth muds project near Minamitorishima Island, the easternmost territory belonging to Japan, which is believed to have significant potential for the long-term supply of certain critical minerals. The MOC ties Japan's state-backed programme to the U.S.'s own push for seabed minerals outside the ISA framework.

Cook Islands

The Cook Islands has one of the most developed domestic legal frameworks for seabed mining. The Seabed Minerals Act 2019, administered by the Cook Islands Seabed Minerals Authority ("**SBMA**"), establishes the legal framework for exploration and potential development of seabed mineral resources. The Seabed Minerals Act is aligned with the broader environmental framework, including the Marae Moana Act 2017, which designates an area of approximately 2 million square kilometres within the Cook Islands' EEZ as a multi-use marine park, requiring that all marine environments be either strictly protected or conserved under spatial planning rules. The SBMA has also opened several standards and guidelines on hazard identification and risk assessment, submission of samples, baseline environmental data collection and environmental impact statement to public comment.

In 2022, the Cook Islands government granted five-year exploration licences to three companies: Moana Minerals Limited, Cook Islands Cobalt Limited and Cobalt Seabed Resources Limited, formerly known as CIIC Seabed Resources Limited. The licensees have been gathering the data that any future exploitation application will depend on. CIC is mapping, sampling and building environmental baselines across its approximately 200,000 km² licence area. Moana Minerals has started deep-water mapping, bulk nodule recovery and environmental sampling in waters averaging around 5,200 metres deep.

All three licences are due for renewal in 2027, which makes next year a defining moment for the regime. Renewal will be the first real test of how the SBMA uses its discretion under the Seabed Minerals

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Act 2019. That includes which conditions it attaches, how it weighs the environmental data gathered so far and how it squares continued exploration with the protections required under the Marae Moana Act 2017. For licence holders and their investors, the terms on which renewal is granted, conditioned or refused will shape the value of years of exploration spending. It will also shape what legal recourse they have if the outcome is not what they expected. Now is the time to review the licence terms, the statutory renewal criteria and the investment structure.

In July and August 2026, NOAA Ocean Exploration conducted an expedition on NOAA Ship Okeanos Explorer to map, explore and characterize deep waters off the coast of the Cook Islands. The effort was in partnership with the Cook Islands Seabed Minerals Authority. The Government of the Cook Islands and the Government of the United States have agreed a non-binding Framework for Engagement and Cooperation to strengthen supply chains for critical minerals and rare earths, including cooperation relating to deep-sea minerals. The Framework establishes a structured basis for collaboration across research, exploration, investment facilitation, processing and supply chain development. It recognises the Cook Islands' leadership in ocean governance and regulatory practice, while reaffirming the Cook Islands' full sovereign control over its seabed minerals and decision-making. This is just another example of the growing U.S. interest in the Cook Islands. Most recently, on 1 Sept. 2026, the U.S. and New Zealand pledged a joint NZ$101 million (approx. US$60 million) infrastructure project to upgrade the port at Omoka on Penrhyn Island (Tongareva) in the northern Cook Islands. The improved port is designed to serve as a "friendly port" to bolster regional security, improve domestic supply lines for the Pa Enua (outer islands), combat illegal fishing and serve common geopolitical efforts in the region.

Other countries, which were initially at the forefront of the industry, have now witnessed serious delays in establishing their domestic frameworks.

Norway

Norway illustrates how quickly political winds can shift. In January 2024, the Storting voted to open parts of the Norwegian continental shelf to exploration for seafloor massive sulphides and cobalt-rich crusts. Less than two years later, on the night of 3 Dec. 2025, the budget agreement for 2026 included a request that the government not announce the first licensing round during the current parliamentary term. That is a postponement of at least four years. For companies that spent heavily preparing for a licensing round that may now never come in its expected form, the question is what, if any, protection they have.

What This Means for Investors

EEZ projects run on licences granted by a single sovereign. That entails a more efficient process, but also concentrated political risk. Licences can be delayed, refused on renewal, made subject to new environmental conditions or overtaken by a change of government. Three steps, taken early, can materially change an investor's position.

First, structure the investment with treaty protection in mind. Whether an investor can bring an international claim against a host state often depends on the nationality of the investing entity. Bilateral and multilateral investment treaties typically protect licences, concessions and associated expenditure as "investments", and offer remedies for expropriation, unfair and inequitable treatment and breach of

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legitimate expectations. But treaty coverage varies widely by host state, and tribunals have refused jurisdiction where a structure was put in place only once a dispute was foreseeable. Nationality planning needs to happen at the point of investment, not when the problem arises.

Second, look hard at the licence and the legislation. Stabilisation provisions, renewal criteria, dispute resolution clauses and the extent of regulatory discretion all shape the strength of any future claim. With all three Cook Islands exploration licences due for renewal in 2027, the terms and process of renewal will be a critical juncture for licence holders.

Third, anticipate the international overlay. UNCLOS Article 208 means a domestic regime can be challenged as falling short of international standards. Equally, a host state may rely on its UNCLOS obligations, or on ISA standards once finalised, to justify tightening the rules on existing licences. Investors should expect environmental obligations to be raised both as a sword and as a shield in any dispute, including potential counterclaims.

Norway's postponement shows these risks are not theoretical. As bilateral minerals partnerships with major powers multiply, investors should also consider how those state-to-state arrangements interact with their own contractual and treaty rights. Haynes Boone advises investors and states on structuring seabed minerals investments, licence and regulatory risk and investment treaty and commercial arbitration arising from them.

EEZ development offers a faster path than the Area, and Japan has shown what a determined, state-backed programme can achieve. But speed carries its own risks: domestic timetables can slip, environmental opposition is strong and partnerships with major powers bring geopolitical exposure. Where national and international regimes meet, disputes follow. In our fourth and final insight, we will examine the year's most significant legal development: the first contentious litigation over activities in the Area.

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