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Comments by the Secretary-General on the recommendations contained in the final report on the periodic review of the International Seabed Authority pursuant to article 154 of the United Nations Convention on the Law of the Sea

Report of the Secretary-General

1. In its decision [ISBA/21/A/9/Rev.1](#) of 24 July 2015, the Assembly of the International Seabed Authority decided to undertake, pursuant to article 154 of the United Nations Convention on the Law of the Sea, a general and systematic review of the manner in which the international regime of the Area established in the Convention has operated in practice. The Assembly also decided that such a review should be carried out under the oversight of a review committee comprising the President and the Bureau of the Assembly and the President of the Council of the Authority, with the President of the twenty-first session of the Assembly remaining a member of the Review Committee until the completion of the review, and that the Chairs of the regional groups might also participate as observers in the Review Committee.

2. By a letter dated 3 February 2017, the Chair of the Review Committee, Helmut Tuerk (Austria) transmitted to the Secretary-General the final report of the Committee ([ISBA/23/A/3](#)). The report contains 19 recommendations, which are to be considered by the Assembly at its twenty-third session.

3. The present report is intended to assist the Assembly in its consideration of those recommendations by providing responses to those recommendations that are addressed to the Secretary-General or concern the secretariat.

4. In general, the Secretary-General welcomes the recommendations put forward by the Review Committee. Several of the recommendations, including those aimed at improving internal processes within the secretariat, have been acted upon already. Before responding to the specific recommendations, the Secretary-General wishes to make the following general observations:

(a) A strategic plan, adopted for a five-year period, would greatly assist in ensuring sound budgetary planning and the proper allocation of resources to work programmes and improve accountability and transparency;



(b) Low participation by member States in the activities and meetings of the Authority is a major problem. This needs to be addressed on multiple fronts, including by reorganizing the meeting schedule of the various organs of the Authority, better communication with permanent missions and member States and increased outreach and communications activities;

(c) The issue of data management, including a strategy for providing public access to open data, urgently needs to be resolved. Financial resources have been allocated for this in the 2017-2018 budget, with a specific work programme for data management, and progress has already been made towards implementation of the work programme;

(d) The Authority's important role in promoting and encouraging marine scientific research in the Area and in coordinating and disseminating the results of such research for the benefit of developing States has been neglected in the past, with any activities being limited in scope. This should be addressed through initiatives such as collaborative scientific partnerships with the Authority and capacity-building programmes.

Recommendation 1

Sponsoring States are invited, if they have not already done so, to review their respective national legislation to control activities by entities with whom they have entered into contracts for exploration, drawing on the advisory opinion of the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea.

5. The recommendation is addressed to sponsoring States and the Secretary-General has no comment to make.

Recommendation 2

The Secretary-General should be requested to complete and continually update the compilation of the relevant national laws, regulations and administrative measures of sponsoring States with respect to activities in the Area.

6. The Secretary-General welcomes the recommendation. As noted in the final report of the Review Committee, the Council had requested the Secretary-General to update, on an annual basis, the study of the laws, regulations and administrative measures adopted by sponsoring States and other members of the Authority with respect to activities in the Area and to invite, for that purpose, sponsoring States and other members of the Authority to provide texts of relevant national laws, regulations and administrative measures to the secretariat (see decision [ISBA/18/C/21](#)). This has been done, and details of the information provided by members of the Authority, including the full text of relevant laws and regulations, are available through the website of the Authority.

7. Although a proposal had been made in a meeting of the Council for the secretariat to undertake a comparative study of the existing national legislation with a view to deriving common elements from the national legislation submitted to it, resources have not permitted such a study to be completed to date. Should such a study be considered useful, the Secretary-General could undertake to produce it before the end of 2018.

Recommendation 3

Continued investment in better data management and data-sharing mechanisms is needed, including a review of the quality and consistency of data gathered.

8. The Secretary-General attaches the highest importance to this recommendation. Funding was provided in the 2017-2018 budget to develop and implement a database and to recruit a database manager. Implementation of this project began in January 2017. At the time of reporting, a database manager has been recruited and is in post. Following an international tender, in accordance with established procedures, the secretariat has engaged external consultants to design and build the database. The requisite hardware has also been procured. Most of the old data in the possession of the secretariat have been analysed and migrated to the new database format. In June 2017, the Secretary-General will convene a meeting of contractors to inform them of progress, review the database structure and enlist their assistance to fill in gaps in data coverage.

Recommendation 4

New contracts, including all extensions, should be prescriptive, with standard terms and conditions and detailed plans of work that set clear objectives and that can be monitored and enforced. The Assembly should be informed of the state of all contracts at least once every five years.

9. The Secretary-General takes note of this recommendation. A report on the status of contracts is provided to the Council on an annual basis. There would be no difficulty in presenting a similar report to the Assembly every five years.

Recommendation 5

Deficiencies of the current process [of reviewing annual reports and plans of work] lie in the area of reporting to the Council and providing meaningful feedback to contractors. The present schedule of meetings of the Legal and Technical Commission and the Council therefore needs to be revisited.

10. The Secretary-General appreciates the sentiment behind this recommendation. It is noted that the recommendation was developed on the basis of a detailed explanation of the process of reviewing annual reports provided to the Review Committee by the Secretary-General. For the benefit of the Assembly, the gist of that explanation is set out below.

11. There is no doubt that, over the years, the system of reviewing the annual reports of contractors has become cumbersome and time-consuming both for the secretariat and for the members of the Legal and Technical Commission, particularly as the number of annual reports has increased (from 6 in 2001 to 26 in 2017), as well as their length and complexity. The average word count of a contractor report in 2006 was 2,562 words, compared with 18,082 words in 2016. While it is clearly important for the Legal and Technical Commission to understand and be informed of the activities of contractors, it is difficult to objectively evaluate the value of the current paper review exercise. It is well recognized, including by the Commission, that the current system has become unmanageable, and therefore changes have been introduced to make the process more efficient.

12. At present, the annual reports by contractors are submitted by 31 March of each year. Most are received in one of the working languages of the secretariat, but some are received in one of the other official languages and need to be translated. This adds an additional burden to the work of the secretariat, as well as additional cost. For example, in 2016, the cost of translating just one report came to \$26,035. Reports are received in narrative format, accompanied in some cases by photographs, graphs and charts, and data in various media formats. They are subjected to internal analysis by technical staff in the secretariat and a summary is prepared for the use of the members of the Legal and Technical Commission. At the same time, the reports and supporting documentation are loaded onto a secure

website, accessible only to members of the Commission, for their private study and review.

13. The process of reviewing the annual reports is extremely time-consuming for the secretariat. Assuming all 26 reports are received by the end of March, it would take three Professional staff members working full-time three months to complete the review process. While some members of the Commission may review some aspects of the reports individually, most do not have time to do so. The Commission therefore relies on the summary reports produced by the secretariat. During the July session, approximately 10 days (60 meeting hours) is allocated to the Commission, which means that even if there was no other business for the Commission to consider, a maximum of 2.3 hours could be spent on each of the annual reports (not including time for reading). In reality, the pressure of other business means that the study of annual reports is relegated to lunchtimes, evenings and weekends.

14. After review, the Commission prepares a document in the form of an “evaluation report” for submission to the Secretary-General. This document contains the Commission’s general comments on the reports, which are subsequently forwarded to the Council, as well as specific comments on the reports of each individual contractor. These individual comments are conveyed to the contractors by the Secretary-General, usually in the form of a letter. Responses by the contractors and any follow-up action would be reflected in the annual report for the following year.

15. Several measures have already been taken by the Commission and by the secretariat to improve the process. In 2016, the Commission adopted a revised reporting template for contractors, requiring the submission of raw data in a standardized Microsoft Excel format that can be entered directly into the Authority’s database. Once the new database is fully operational, contractors will be able to submit data directly through a secure web portal. This will significantly reduce the time necessary for secretariat staff to manually review data and will enable them to allocate time more profitably to analysing data. The same reporting template also requires contractors to submit an executive summary of their annual reports in a standardized format. If all contractors follow the template, this would relieve the secretariat of the need to compile a summary of the reports for the Commission and reduce the amount of reading required of the members of the Commission.

16. In January 2017, internal processes within the secretariat were streamlined through the establishment of the Contract Management Unit, which will act as the focal point for the submission of reports by contractors and will better manage the internal workflow for the review of annual reports. This will also reduce the time needed to review annual reports internally. A meeting of contractors will be convened in June 2017 to introduce contractors to the new database structure, complete any remaining gaps in data coverage and explain the process of annual report submission to contractors (see para. 8 above).

17. Several further measures are being explored. The proposal to introduce page limits for annual reports is potentially useful, although the ability to submit data electronically should resolve the issues with long narrative reports. The submission of very long reports in languages other than the working languages of the secretariat of English and French adds a substantial cost burden and should be discouraged. The Legal and Technical Commission has already signalled its intention to review its internal working methods.

18. As noted in the Review Committee’s recommendation, the greatest deficiencies of the current process are in the areas of reporting to the Council and providing meaningful feedback to contractors. In the view of the Secretary-General, the process of providing necessary feedback to the contractors can be improved

through the holding of more regular meetings of the contractors in Kingston, as well as through direct bilateral contacts at technical levels. Issues concerning the schedule of meetings of the Commission and the Council is taken up under recommendation 15.

Recommendation 6

The Secretary-General should be requested to consider adding expertise in the fields of environmental policy, management and planning in the secretariat as a matter of priority, taking into account budgetary implications. Furthermore, the sharing and accessing of environmental data collected by contractors seems to require improvement.

19. The Secretary-General takes note of the recommendation and will take up the matter in the context of the next budget cycle and ongoing review of the needs of the secretariat. The issue of sharing of environmental data should be resolved with the implementation of the new database.

Recommendation 7

The Secretary-General should be encouraged to consider how to engage more extensively with the scientific community and deep-sea science projects and initiatives related to the Area.

20. The Secretary-General attaches the highest importance to the implementation of the Authority's mandate to promote and encourage marine scientific research in the Area and to coordinate and disseminate such knowledge for the benefit of all States parties, but particularly the developing countries. In this regard, better engagement with the global scientific community and relevant deep sea science projects and initiatives related to the Area is indispensable. As noted by the Review Committee, the promotion and encouragement of marine scientific research is the subject of programme 2.5 of the workplan and budget for 2017-2018, with a financial provision of \$167,800 over the biennium. This is clearly insufficient to carry out any original scientific research or to organize activities and coordinate results on a global scale. Nevertheless, the Secretary-General takes note of the recommendation and will consider how to use the available resources in the most effective way, including by seeking to leverage extrabudgetary funds to engage with the scientific community and support relevant initiatives.

Recommendation 8

Although the primary responsibility for developing relevant marine technology should rest with the contractors, the Authority should place emphasis on the specification of the agreed performance standards in the context of the work on the exploitation regulations under the mining code.

21. The Secretary-General takes note of the recommendation.

Recommendation 9

The Secretary-General should be requested to produce a report for each session of the Council recalling the decisions that were adopted at the previous session and reporting on the implementation of those decisions as they relate to action required of the secretariat and/or subsidiary organs.

22. The Secretary-General welcomes the recommendation. The first such report has been prepared for 2017 and the Secretary-General welcomes feedback from the Council as to how the report may be improved in future years.

Recommendation 10

An increase in the number of meetings of the Council should be considered in the light of the relevant provision of the Convention and the development of the workload of the Council.

23. The Secretary-General welcomes the recommendation. Issues concerning the schedule of meetings of the Commission and the Council is taken up under recommendation 15 below.

Recommendation 11

The Secretary-General should be requested to keep under review the required skills and available expertise within the secretariat and to make adjustments when necessary. These could include proposals for additional established posts, subject to the required justification, taking into account article 167 (2) of the Convention.

24. The Secretary-General welcomes the recommendation. Since assuming office, the Secretary-General has restructured the secretariat to improve efficiency and respond to a changing and ever increasing workload. A detailed external audit of information and communications technology infrastructure was conducted in January 2017. An assessment of the future needs of the Office of Legal Affairs and the Office for Environmental Monitoring and Mineral Resources will be carried out in late 2017. Any proposals for additional established posts would be taken up in the next budget cycle, following a full assessment of the need for additional capacity within the secretariat.

Recommendation 12

The Legal and Technical Commission should be requested to continue to address the issue of the operationalization of the Enterprise as an important matter in the light of developments with respect to deep-sea mining. However, the appointment of an Interim Director-General of the Enterprise would not be advisable at this point in time.

25. The Secretary-General takes note of the recommendation, which is addressed to the Legal and Technical Commission.

Recommendation 13

The Secretary-General should be requested to make every possible use of the new mechanisms available for enhancing communication and coordination within the secretariat.

26. The Secretary-General welcomes the recommendation.

Recommendation 14

The Legal and Technical Commission should be encouraged to continue its practice of setting up working groups dealing with particular areas of expertise. In this context, the establishment of a working group dealing with environmental issues should be considered.

27. The Secretary-General takes note of the recommendation, which is addressed to the Legal and Technical Commission.

Recommendation 15

The meeting schedule of the various organs of the Authority should be revised if possible, as of 2018, also in the light of budgetary considerations, on the basis of a proposal by the Secretary-General to be submitted in 2017. The meetings of the Legal and Technical Commission and the Finance Committee should thus be convened early in the year so that their reports can be dealt with by the Council and the Assembly at the meetings of these organs at a later date.

28. The Secretary-General welcomes the recommendation, which is related to recommendations 5 and 10 above. As requested by the Review Committee, the Secretary-General has prepared a proposal for a revised schedule of meetings in 2018 and 2019, elaborated in annexes I and II to the present report.

Recommendation 16

The Legal and Technical Commission should be encouraged to hold more open meetings in order to allow for greater transparency in its work. To improve the balance of expertise of the Commission, details on the required areas of specialities should be provided in the letter from the Secretary-General to member States inviting the nomination of candidates. In order to enable the Commission to cope with its increasing workload, the current meeting schedule should be re-examined.

29. The Secretary-General takes note of the recommendation, which is addressed to the Legal and Technical Commission.

Recommendation 17

The Secretary-General should be requested to submit a draft strategic plan to the Assembly, if possible at its twenty-fourth session, in 2018.

30. The Secretary-General welcomes the recommendation and would have no difficulty in submitting a draft strategic plan to the Assembly in 2018.

Recommendation 18

Non-confidential information, such as that relating to the protection and preservation of the marine environment, should be shared widely and be readily accessible.

31. The Secretary-General welcomes the recommendation. As stated previously, non-confidential information will be available through the new database in a user-friendly format.

Recommendation 19

Attention should be paid to transparency as the finance provisions in the rules and regulations of the Authority in connection with the regime of benefit-sharing are developed, which will have an impact on the ability of the Authority to act on behalf of mankind, with special consideration given to the needs of developing States.

32. The Secretary-General takes note of the recommendation, which appears to be related to the process concerning the development of the mining code.

Annex I

Revised meeting schedule for 2018 and 2019

Proposal by the Secretary-General

1. The Secretary-General proposes the below schedule of meetings for 2018 and 2019. The schedule has been developed following extensive internal consultations, as well as consultations with member States, the host Government and conference-servicing staff. It should be noted that all proposed dates are indicative only and are subject to the availability of the Jamaica Conference Centre facility, as well as interpretation services. Efforts have been made, however, to avoid early February (Jamaica Diplomatic Week) and the main session of the General Assembly (September to December).

2. In preparing the proposal contained in the present annex, the following guiding principles have been taken into account:

(a) The schedule of meetings must be cost-effective for the Authority and for member States. As far as possible, it should be possible to accommodate the revised meeting schedule within the existing budget for conference services;¹

(b) Sufficient time needs to be allowed between meetings of the subsidiary bodies (the Legal and Technical Commission and the Finance Committee) and the meetings of the Council to allow for the reports of the subsidiary bodies to be finalized, translated and published so that members of the Council have sufficient time in advance to study and consider those reports;

(c) The position of the Assembly as the supreme organ of the Authority must be respected and meetings organized in such a way as to maximize attendance by members of the Authority and to ensure that the Assembly has a substantive workload;

(d) The revised meeting schedule should provide for additional meetings of the Council, recognizing the increased workload of the Authority (recommendation 10);

(e) The meetings of the Legal and Technical Commission and the Finance Committee should be held early in the year so that their reports can be dealt with by the Council and the Assembly at the meetings of those organs at a later date (recommendation 15).

Twenty-fourth session, first part (March 2018)²

3. The Legal and Technical Commission will meet for nine days to consider the following items:

(a) Draft exploitation regulations;

¹ The Authority currently budgets for 60 to 64 meetings per year (128 for the biennium). The present proposal involves a significant increase in the number of meetings to 78 in 2018 and 72 in 2019 (150 for the biennium). However, meeting services makes up approximately 30 per cent of the total conference budget, with documentation accounting for approximately 45 per cent. As a result of measures proposed by the Finance Committee in 2016, including reductions in the numbers of New York-based conference-servicing staff, as well as savings in the costs of documentation, it is expected that the increased number of meetings can be accommodated with no additional cost to the budget.

² Thirteen days, 34 meetings, including one week of parallel meetings (Finance Committee and Legal and Technical Commission).

- (b) Standing agenda items (training, applications for approval of plans of work, etc.);
 - (c) Any items referred by the Council in 2017;
 - (d) Preparation of a report to the Council for consideration in July 2018;
 - (e) Presentation of an interim report to the Council in March 2018.
4. The Finance Committee will meet for four days (in parallel with the Legal and Technical Commission) to consider the following items:³
- (a) Draft budget proposals for 2019-2020;
 - (b) Draft financial reports;
 - (c) Standing agenda items;
 - (d) Other matters requiring the consideration of the Finance Committee.
5. The Council will meet for four days following the meeting of the Legal and Technical Commission to consider the following matters:
- (a) Matters pending from the twenty-third session (including draft exploitation regulations);
 - (b) Report of the Legal and Technical Commission on contractors' activities in 2017;
 - (c) Interim report of the Legal and Technical Commission;
 - (d) Standing agenda items, including any applications for approval of plans of work;
 - (e) Draft report to the Assembly.

Twenty-fourth session, second part (July 2018)⁴

6. The Legal and Technical Commission will meet for nine days to consider:
- (a) Draft exploitation regulations;
 - (b) Standing agenda items (training, applications for approval of plans of work, etc.);
 - (c) Annual reports of contractors (to be reported to the Council in March 2019);
 - (d) Additions and updates to the report of the Commission to the Council.
7. The Finance Committee will meet, if required, for two to three days (in parallel with the Legal and Technical Commission) to consider:
- (a) The audit report from 2017;
 - (b) Financial statements;
 - (c) Unfinished business from the first part of the session.

³ The Finance Committee will meet for five days in 2018 because 2018 is a budget year, so the Finance Committee will need to consider the proposed budget of the Authority for 2019-2020. Holding the meeting early in the year means an additional workload for the secretariat in terms of preparing budget proposals several months earlier than usually expected, but this cannot be avoided.

⁴ Nineteen days, 38-44 meetings, including two to three days of parallel meetings (Finance Committee and Legal and Technical Commission).

8. The Council will meet for five days following the meeting of the Legal and Technical Commission to consider:
- (a) The report of the Legal and Technical Commission from the first part of the session;
 - (b) Budget and scale of assessed contributions for 2019-2020;
 - (c) Standing agenda items, including any applications for approval of plans of work;
 - (d) Finalization of the first draft report to the Assembly (to be presented in 2019).
9. The Assembly will meet for five days following the meeting of the Council to consider:
- (a) The annual report of the Secretary-General;
 - (b) The draft strategic plan proposed by the Secretary-General;
 - (c) The budget and scale of assessed contributions for 2019-2020;
 - (d) The election of members of the Council;
 - (e) Standing agenda items.

Twenty-fifth session, first part (March 2019)⁵

10. The Legal and Technical Commission will meet for nine days to consider the following items:
- (a) Draft exploitation regulations;
 - (b) Items referred to the Commission by the Council during the twenty-fourth session;
 - (c) Standing agenda items (training, applications for approval of plans of work, etc.);
 - (d) Preparation of a report to the Council for consideration in July 2019;
 - (e) Presentation of an interim report to the Council in March 2019.
11. The Finance Committee will meet for two days, if required (in parallel with the Legal and Technical Commission or possibly remotely) to consider the following items:⁶
- (a) Draft budget proposals for 2019-2020;
 - (b) Draft financial reports;
 - (c) Standing agenda items;
 - (d) Other matters requiring the consideration of the Finance Committee.
12. The Council will meet for four days following the meeting of the Legal and Technical Commission to consider the following matters:

⁵ Eighteen days, 36 meetings.

⁶ There may be no need for the Finance Committee to meet twice in a non-budget year, or, if required, a second meeting could be held by videoconference. It may be noted, however, that the agenda of the Finance Committee will continue to evolve. At a certain point it will be required to take up the matter of regulations for the equitable sharing of financial and other economic benefits from deep-sea mining.

- (a) Matters pending from the twenty-fourth session (including draft exploitation regulations);
 - (b) Report of the Legal and Technical Commission on contractors' activities in 2018;
 - (c) Interim report of the Legal and Technical Commission;
 - (d) Standing agenda items, including any applications for approval of plans of work;
 - (e) Draft report to the Assembly.
13. The Assembly will meet for five days, following the meeting of the Council, to consider:
- (a) The annual report of the Secretary-General;
 - (b) The report of the Council (from 2018);
 - (c) Implementation of the strategic plan;
 - (d) Standing agenda items.

Twenty-fifth session, second part (July 2019)⁷

14. The Legal and Technical Commission will meet for nine days to consider:
- (a) Draft exploitation regulations;
 - (b) Standing agenda items (training, applications for approval of plans of work, etc.);
 - (c) Annual reports of contractors (to be reported to the Council in March 2020);
 - (d) Additions and updates to its report to the Council.
15. The Finance Committee will meet for three to four days (in parallel with the Legal and Technical Commission) to consider:
- (a) The audit report from 2018;
 - (b) Financial statements;
 - (c) Budget performance;
 - (d) Pre-budget proposals for the next financial period;
 - (e) Preparation of a report to the Council and Assembly for the 2020 session.
16. The Council will meet for five days following the meeting of the Legal and Technical Commission to consider:
- (a) The report of the Legal and Technical Commission from the first part of the session;
 - (b) The budget and scale of assessed contributions for 2019-2020;
 - (c) Standing agenda items, including any applications for approval of plans of work;
 - (d) Finalization of the draft report to the Assembly for 2020.

⁷ Fourteen days, 32-36 meetings, including three to four days of parallel meetings (Finance Committee and Legal and Technical Commission).

Annex II

Revised meeting format for 2018 and 2019

Twenty-fourth session (2018)

	<i>Week 1</i>	<i>Week 2</i>	<i>Week 3</i>	<i>Week 4</i>	<i>Maximum number of meetings</i>
<i>First part (March 2018)</i>					
Legal and Technical Commission	4 days	5 days			18
Finance Committee		4 days			8
Council			4 days		8
Total number of meetings					34
<i>Second part (July 2018)</i>					
Legal and Technical Commission	4 days	5 days			18
Finance Committee		2-3 days (if required)			6
Council			5 days		10
Assembly				5 days	10
Total number of meetings					44
Total meetings for 2018					78

Twenty-fifth session (2019)

	<i>Week 1</i>	<i>Week 2</i>	<i>Week 3</i>	<i>Week 4</i>	<i>Maximum number of meetings</i>
<i>First part (March 2019)</i>					
Legal and Technical Commission	4 days	5 days			18
Council			4 days		8
Assembly				5 days	10
Total number of meetings					36
<i>Second part (July 2019)</i>					
Legal and Technical Commission	4 days	5 days			18
Finance Committee		3-4 days			8
Council			5 days		10
Total number of meetings					36
Total meetings for 2019					72