

**PART I OF 25TH SESSION OF ISA COUNCIL MEETINGS
AGENDA ITEM 11 ON
DRAFT REGULATIONS FOR EXPLOITATION OF
MINERAL RESOURCES IN THE AREA:
DELEGATION OF FUNCTIONS BY THE COUNCIL AND
REGULATORY EFFICIENCY**

INTERVENTION BY SINGAPORE

Madam President,

1 We would like to thank the Secretariat for preparing this paper for consideration and Mr Chris Brown for presenting on this item.

2 Article 162 of UNCLOS is clear in naming the Council as the executive organ of the Authority. The Council has the power to establish policies to be pursued by the Authority on any question or matter within the competence of the Authority. Nonetheless, there are practical constraints in having the Council decide on all things. Therefore, there is a need to strike a balance between the decisions that should be made by the Council itself, and the decisions that may be delegated to the Secretary-General or other organ of the Authority. At the same time, any such delegation must be consistent with the provisions contained in UNCLOS and in the 1994 agreement.

3 In our view, the starting point for the consideration of what decisions can be delegated is to examine what decisions should NOT be delegated. These are decisions that should, in all instances, be made by the Council itself. One such decision is the decision on whether to approve an application for a plan of work for exploitation. Another such decision is a decision on whether to suspend or terminate a contract. We note that in the Annex to the discussion paper, under Draft Regulation 101(1), a question has been raised as to whether

the Secretary-General should be given the power to suspend or terminate the contract. In our view, given the serious consequences of suspension or termination, this is a decision that should not be delegated.

4 Having determined what decisions should not be delegated, we can then look at what decisions can be delegated and the basis for such delegation. We think that there are broadly two kinds of decisions that could reside with the Secretary-General or other organ of the Authority. First, decisions that can be delegated in order for work to be efficient. Given that the Council only meets once or twice a year, and the brevity of each session, it would not be possible for the Council to deliberate on all issues. For example, for administrative efficiency, we agree that the Secretary-General could assess whether an application is complete before submitting it to the LTC for further processing. There is little value-add for the Council to perform this function. Second, decisions that have to be delegated out of functional necessity, such as decisions requiring urgent attention. These may include decisions surrounding the prevention and response to incidents, especially when the Council is not in session. We note, for example, that Draft Regulation 35 (2)(b), which deals with preventing and responding to incidents, allows the Secretary-General to take immediate, temporary measures. This, we suggest, is an appropriate situation in which the decision making can be delegated. We note, however, that the suggestion is for the Secretary-General to make annual reports. In our view, the Secretary-General should notify the Council each time he/she considers it necessary to take such immediate, temporary measures. This will provide the Council with sufficient lead time to fully discuss the matter, in case follow-up actions and decisions on the part of the Council are required. In a similar vein, we support the proposal just made by Germany that during emergency situation, we can look into possible options, including remote meeting of the Council to discuss the issue at hand.

Madam President,

5 Singapore supports the enhancement of transparency and accountability in the furtherance of good governance. We note that the Secretariat has made suggestions in the Annex to this end, a number of which are for the consideration of the LTC. We look forward to the outcome of the LTC's consideration.

6 Before I conclude, Singapore notes the suggestion for the development of a specific policy on regulatory approaches, including guidance for delegated decision making. This idea has some merit and is worth further consideration.

7 Thank you Madam President.

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