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Report of the Chair of the Legal and Technical Commission on the work of the Commission at its twenty-eighth session

Report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its twenty-eighth session

I. Introduction

1. The Legal and Technical Commission held its meetings from 7 to 15 March 2023. A total of 36 members attended the first part of the session. The first two days were dedicated to an orientation programme to assist new members in familiarizing themselves with the working methods of the Commission.

2. On 9 March, the Commission adopted its provisional agenda¹ and elected Erasmo Lara Cabrera (Mexico) as its Chair and Sissel Eriksen (Norway) as its Vice-Chair. In view of the reduced duration of meetings of the Commission during the twenty-eighth session, the Commission agreed to continue working on its agenda items intersessionally where possible.

II. Status of contracts for exploration and report on the periodic reviews of the implementation of plans of work for exploration

3. On 9 March, the Commission considered the status of contracts for exploration on the basis of the report of the Secretary-General.² The Commission took note of the fact that three periodic reviews for the implementation of approved plans of work for exploration had been completed by the secretariat between May and December 2022, for Nauru Ocean Resources Inc, Cook Islands Investment Corporation and Tonga

* ISBA/28/C/L.1.

¹ ISBA/28/LTC/L.1.

² ISBA/28/C/3.



Offshore Mining Ltd. The Commission also took note of the status of ongoing periodic reviews.

4. Some members of the Commission expressed concern about the delayed submission of periodic review reports by two contractors. The Commission also requested clarification from the secretariat on how the Commission's comment on periodic reviews had been communicated to and implemented by the contractors. In response, the Secretary-General assured the Commission that the secretariat was diligently working to ensure that the matter would be resolved and reported on shortly. He indicated that comments had been taken on board by contractors and that the secretariat was developing a more streamlined process of interaction with them.

5. The Commission also took note of extension agreements signed with six contractors.³

III. Status of the relinquishment of areas under contract

6. On 9 and 10 March, the Commission took note of the relinquishment by the Ministry of Natural Resources and Environment of the Russian Federation of an additional 25 per cent (in addition to 50 per cent already relinquished) of its originally allocated exploration area under its contract for exploration for polymetallic sulphides. This is the final relinquishment obligation for this contractor. The Commission also took note of the relinquishment by the Government of the Republic of Korea of 50 per cent of its originally allocated area under its contract for exploration for polymetallic sulphides.

7. On 13 March, the Commission considered a request for deferral of the second relinquishment by the Government of the Republic of Korea under its contract for exploration for polymetallic sulphides. Considering the unforeseen exceptional circumstances, the Commission agreed to recommend to the Council that it defer the second relinquishment by the Government of the Republic of Korea. This recommendation is contained in [ISBA/28/C/4](#).

IV. Status of implementation of training programmes under plans of work for exploration and the allocation of training opportunities

8. On 9 March, the Commission was briefed on the implementation of training programmes and the selection of candidates for those programmes since its meeting in July 2022. During the intersessional period, 40 training placements were successfully completed by contractors while a further 33 candidates from developing States were selected by the Commission.

9. On 14 March, the Commission, on the basis of the recommendations of the training subgroup, selected two candidates for training programmes offered by the Institut français de recherche pour l'exploitation de la mer (Ifremer) pursuant to its contract for exploration for polymetallic sulphides.⁴

³ Interoceanmetal Joint Organization, Deep Ocean Resources Development Co. Ltd, Federal Institute for Geosciences and Natural Resources of Germany, and Government of India. The extension agreements with the China Ocean Mineral Resources Research and Development Association and the Institut français de recherche pour l'exploitation de la mer (Ifremer) were signed on 27 February 2023. The extension agreements with the Government of the Republic of Korea and JSC Yuzhmorgeologiya are being finalized and will be signed in due course.

⁴ See [ISBA/28/LTC/4](#) for further detailed information.

V. Development of standards and guidelines (environmental threshold values)

10. The Commission discussed the decision of the Council contained in [ISBA/27/C/42](#) with respect to the development of environmental threshold values, noting that the development of those thresholds would be led by the Commission and supported by the scientific technical expertise of an intersessional expert group. The intersessional expert group would be expected to develop environmental threshold values focused on the main environmental pressures potentially caused by deep-sea mining operations, as identified in the Council's decision. The Commission noted that those thresholds should be developed as binding standards and, as far as feasible, within phase 1 of the ongoing development of standards and guidelines.

11. In the light of the above, the Commission developed terms of reference for the intersessional expert group detailing the proposed nomination process and composition, working methods, frequency and method of meetings and expected deliverables and timelines (see annex). The group and its subgroups would be chaired by members of the Commission and open to experts nominated by members of the International Seabed Authority and other stakeholders.

VI. Review of the data management strategy for the period 2023–2028

12. The Commission welcomed the progress made by the secretariat in the development of the draft data management strategy for the period 2023–2028. The Commission considered and revised the draft data management strategic plan for the same period. It highlighted the importance of prioritizing not only short-term strategic directives related to data quality, quantity and accessibility in the Authority's DeepData database, but also creating strategic, medium- to long-term objectives for data management. The Commission recommended that those objectives be included in the data management strategy of the Authority. It is projected that, at the next meeting of Commission, the data management strategy of the Authority will be reviewed and finalized.

VII. Development of regional environmental management plans

13. On 13 March, the Commission considered the request by the Council (contained in paragraph 13 of [ISBA/27/C/44](#)) that the Commission should consider revising the draft standardized procedure for the development, review and approval of regional environmental management plans, contained in the annex to [ISBA/27/C/37](#), taking into account the Council's comments as well as written comments submitted by delegations. The Commission noted that eight submissions, including five from member States, had been received. It was also noted that different opinions had been expressed in the submissions on key issues concerning the nature of a regional environmental management plan and the need for the creation of an expert committee.

14. The Commission had a round of preliminary exchanges and decided that it would, through a working group, continue working intersessionally on analysing the comments received, providing rationales for its considerations and revising the draft guidance document for further consideration by the Commission at its next meeting.

Annex

Terms of reference for an intersessional expert group on the development of binding environmental threshold values

Background

1. In 2022, during the second part of the twenty-seventh session of the International Seabed Authority, a proposal was submitted for the consideration of Council of the Authority on the development of binding environmental threshold values. It was proposed that the establishment of such thresholds would be based on the environmental obligations as contained in the United Nations Convention on the Law of the Sea, focusing on the development of binding standards to set measurable thresholds as part of efforts to ensure the effective protection of the marine environment (see [ISBA/27/C/30](#)).
2. Subsequently, the Council decided to progress the development of environmental threshold values (see [ISBA/27/C/42](#)). These thresholds are to be developed as binding standards and, as far as feasible, within phase 1 of the ongoing development of standards and guidelines that support the development of the draft regulations on exploitation of mineral resources in the Area. Given the limited time and resources, an initial set of such standards should focus on the main pressures potentially caused by deep-sea mining operations. The development of these thresholds is to be led by the Legal and Technical Commission and supported by the scientific and technical expertise of an intersessional expert group.
3. During the first part of the twenty-eighth session, the Commission considered the Council decision and prepared the present terms of reference for the development and operation of the intersessional expert group.

Mandate and objectives

4. The intersessional expert group is tasked with developing binding environmental threshold values. It is expected to work in three subgroups, focusing primarily on the following specific topic areas as identified by the Council:
 - (a) Toxicity;
 - (b) Turbidity and settling of resuspended sediments;
 - (c) Underwater noise and light pollution.
5. The objectives for each subgroup include:
 - (a) To synthesize and review existing information on thresholds. This may cover:
 - (i) Existing scientific literature and relevant baseline data (including natural variability of measured parameters), as well as guidance documents produced by national and international agencies;
 - (ii) Existing proxy and experimental data for deep-sea mining-related activities (e.g. field tests of mining components);
 - (iii) Ecological analogues and assessment of applicability to potentially affected species;
 - (iv) Existing thresholds and experiences for other industries (e.g. shipping, oil and gas, dredging and fishing);

- (b) To identify appropriate indicators to define threshold metrics;
 - (c) To define threshold levels, including early warning thresholds. In doing this, the groups may also consider a range of levels, as appropriate. Levels of uncertainty and confidence should be included;
 - (d) To evaluate critical gaps in knowledge related to threshold determination and recommend future required work.
6. This work will focus on thresholds for polymetallic nodules, but it is expected that thresholds will be similarly developed for cobalt-rich ferromanganese crusts and polymetallic sulphide resources.
7. The intersessional expert group will compile a report for consideration by the Commission, to be published on the website of the Authority, presenting the available options discussed by the experts and the outcomes of its deliberations, while also reflecting any divergent and convergent opinions.
8. The secretariat of the Authority will assist the Commission in carrying out this process.

Membership, including nomination process and composition

9. The intersessional expert group is to be chaired by one or more Commission members and include an appropriate number of recognized experts in the field. Commission co-chairs will lead the work of each of the three subgroups focusing on the above-mentioned topic areas.
10. Each subgroup shall be composed of a maximum of 10 experts, chosen primarily on the basis of scientific and technical expertise and experience, taking into account geographical representation and gender balance, as follows:
- (a) One expert per subgroup will be nominated by each of the five regional groups of the Council;
 - (b) Up to five additional experts per subgroup will be selected from nominations by other stakeholders of the Authority (e.g. Governments, intergovernmental organizations, non-governmental organizations, the private sector, including Authority contractors, and academic and research institutions). Selection of these additional experts will be carried out by the Commission chairs of the expert group;
 - (c) The experts shall have recognized competence in their field or fields of expertise. In the light of this, nominees should be scientists or individuals that:
 - (i) Can understand and interpret scientific literature and environmental baseline data, including relevant deep-sea physical, chemical, oceanographic, geological, ecological and biological data;
 - (ii) Have access to appropriate proxy and/or experimental data for determining thresholds for deep-sea activities;
 - (iii) Have experience with technological and industry applications and their impacts on marine ecosystems, habitats and species relevant to threshold determination.
11. Nominated experts shall participate in the expert group in their personal capacity and not as representatives of a Government or of any authority external to the Authority.

12. The experts shall be in a position to devote substantial amounts of time to the work of the expert group within the time frame as described in the present terms of reference. If, for any reason, experts can no longer perform their duties (including when this is due to the pressure of other commitments) or wish to resign, they shall immediately inform the Commission chairs. In that situation, the chairs can reassign the tasks to other experts or take steps to identify additional experts to ensure delivery within the agreed timetable.

13. The expert group may undertake ad hoc consultations with other experts identified by the subgroup members and Commission co-chairs.

Meetings and communications

14. The intersessional expert group will hold virtual meetings (videoconferences). It is envisaged that there will be two meetings before the Commission convenes in July 2023. The first virtual meeting (likely during the fourth week of May 2023) would comprise Commission chairs of the expert group, who will review and confirm nominations from stakeholders for the full expert group, discuss the governance and timeline of the process, create a dedicated working space for exchanging data and information relevant to the topics proposed by the Council and begin to develop an overall plan of work. The second meeting (late June 2023) will comprise all expert group members (either in plenary or subgroups), who will discuss the status of data and information available to address the topic areas proposed by the Council and confirm the expert group plans of work.

15. Three additional meetings (one per subgroup, between August and December 2023) will be held following the Commission's deliberations to determine indicators and develop the threshold values. Additional meetings may be required depending on the needs of each subgroup. The expert group will then reconvene to discuss subgroup conclusions and undertake report preparation (January–February 2024) prior to the Commission meeting in March 2024. A final meeting will be held following the Commission's deliberations and external stakeholder comments, likely in June 2024 (to be confirmed).

16. Where possible, electronic means will be used for communication and information management. It is also envisaged that the expert group and/or subgroups will liaise with any initiatives undertaken by other agencies or scientific organizations associated with threshold development.

17. The secretariat of the Authority will assist the chairs in creating a dedicated working space for the expert group and provide secretariat services to it.

Expected deliverables and indicative timeline

2023

<i>March–April</i>	<i>May</i>	<i>June</i>	<i>July</i>	<i>August–December</i>
<p>Terms of reference are endorsed by the Commission</p> <p>Open call is issued for expert nominations (30–45 days)</p> <p>Commission chairs are appointed</p>	<p>First meeting, comprising Commission chairs of the intersessional expert group, is held:</p> <ul style="list-style-type: none"> – To review and confirm expert group nominations – To determine governance and timelines – To scope initial plan of work 	<p>Second meeting, comprising the full expert group, is held:</p> <ul style="list-style-type: none"> – To scope available data and information sources – To develop subgroup workplans 	<p>Commission considers summary by expert group chairs and endorses the workplans proposed for each subgroup</p>	<p>Remote meetings of the expert group are held to determine indicators and develop thresholds</p>

2024

<i>January–February</i>	<i>March</i>	<i>April–May</i>	<i>June</i>	<i>July</i>
<p>Expert group chairs prepare report, covering discussions and subgroup conclusions</p>	<p>Commission considers the draft report of the expert group</p>	<p>Stakeholder consultations are held (45–60 days)</p>	<p>Expert group reviews comments and revises the draft report of the expert group</p>	<p>Commission considers the revised draft and makes recommendations to the Council</p>