



## Council

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### Twenty-eighth session

Council session, part I

Kingston, 16–31 March 2023

Item 14 of the provisional agenda\*

### **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 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 to familiarise themselves with the working methods of the Commission.

2. On 9 March 2023, the Commission adopted its provisional agenda<sup>1</sup> and elected as its Chair, Erasmo Lara Cabrera (Mexico) and as vice-Chair, Sissel Eriksen (Norway). 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 2023, the Commission considered the status of contracts for exploration on the basis of the report of the Secretary-General<sup>2</sup>. The Commission took note 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 Offshore Mining Ltd. The Commission also took note of the status of ongoing periodic reviews.

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\* ISBA/28/C/L.1

<sup>1</sup> ISBA/28/LTC/L.1

<sup>2</sup> ISBA/28/C/3

4. Some members of the Commission expressed concerns about the delayed submission of periodic reviews reports by two contractors. The Commission also requested clarification from the Secretariat on how the Commission's comment on periodic reviews were communicated 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 shortly. He also indicated that comments were taken on board by Contractors and the secretariat was developing a more streamlined process of interaction for contractors.

5. The Commission also took note of extension agreements signed with six contractors<sup>3</sup>.

### **III. Status of the relinquishment of areas under contract**

6. On 9 and 10 March 2023 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 2023, 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 exceptional and unforeseen circumstances, the Commission agreed to recommend to the Council to 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 2023, the Commission was briefed on the implementation and selection of candidates for training programmes since its meeting in July 2022. During the intersessional period, 40 training placements were successfully completed by contractors whilst a further 33 placements were selected by the Commission for the benefit of candidates from developing States.

9. On 14 March 2023, the Commission, on the basis of the recommendations of the training subgroup, selected two candidates for training programmes offered by Ifremer pursuant to its contract for exploration of polymetallic sulphides.<sup>4</sup>

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<sup>3</sup> Interoceanmetal Joint Organization, Deep Ocean Resources Development Co. Ltd, Federal Institute for Geosciences and Natural Resources of Germany, and the Government of India. The extension agreements with China Ocean Mineral Resources Research and Development Association (COMRA) and 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 Yuzhmoregeologiya have being finalised and will be signed in due course.

<sup>4</sup> 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 ISBA27/C/42 with respect to the development of environmental threshold values, noting that the development of these thresholds will be led by the Commission and supported by the scientific technical expertise of an intersessional expert group. The intersessional expert group will be expected to develop environmental threshold values focussed on the main environmental pressures potentially caused by deep-sea mining operations, as identified in the Council's decision. The Commission took note that these 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 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; expected deliverables and timelines (see annex). The intersessional expert group and its subgroups will be chaired by members of the Legal and Technical Commission and open to experts nominated by members of the 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. The Commission considered and revised the draft data management strategic plan for the period 2023-2028. It highlighted the importance of prioritising short-term strategic directives related to data quality, quantity, and accessibility in Deepdata, but also creating strategic, medium to long term objectives for data management. The Commission recommended that these objectives be included in the data management strategy of the Authority. It is projected that for the next meeting of Commission, the data management strategy of the Authority will be reviewed and finalized.

## **VII. Development of REMPs**

13. On 13 March 2023, 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 (REMPs) contained in ISBA/27/C/37 taking into account the Council's comments as well as written comments. The Commission noted that eight submissions, including five from member States, had been received. It was also noted that different opinions were expressed in the submissions on key issues concerning the nature of a REMP 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 analyzing the comments received, providing rationale on 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 Authority, a proposal was submitted for the consideration of Council 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 ISBA/27C/30.
2. Subsequently the Council decided (ISBA/27/C/42) to progress the development of environmental threshold values. 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 Commission and supported by scientific and technical expertise of an intersessional expert group.
3. During the first part of the twenty eighth session, the Legal and Technical Commission considered the Council decision, and has prepared these terms of reference for the development and operation of the Intersessional Expert Group (IEG).

#### **Mandate and objectives**

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

iii) 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/confidence should be included.

iv) 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 IEG 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 outcomes of its deliberations, while also reflecting any divergent and convergent opinions.

8. The ISA Secretariat will assist the LTC in carrying out this process.

### **Membership (*including nomination process and composition*)**

9. The IEG is to be chaired by one or more LTC members and include an appropriate number of recognized experts in the field. LTC co-chairs will lead the work of each of the three subgroups focusing on the abovementioned topic areas.

10. Each subgroup shall be composed of a maximum of 10 experts, based primarily on scientific and technical expertise and experience, taking into account geographic 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., government, intergovernmental organization, nongovernmental organization private sector, including ISA contractors, academic and research institutions). Selection of these additional nominations will be carried out by the LTC chairs of the IEG.

c) The experts shall have recognized competence in their field or fields of expertise. In light of this, nominations should consider scientists or individuals that:

- can understand and interpret scientific literature and environmental baseline data, including relevant deep-sea physical, chemical, oceanographic, geological, ecological and biological data;
- have access to appropriate proxy and/or experimental data for determining thresholds for deep-sea activities;
- have experience with technological/industry applications and their impacts on marine ecosystems, habitats and species relevant to threshold determination.

11. Nominated experts shall participate in the IEG in their personal capacity and not as a representative of a Government or of any authority external to ISA.

12. The experts shall be in a position to devote substantial amounts of time to the work of the IEG within the timeframe as described in this Terms of Reference. If an expert of the IEG for any cause can no longer perform their duties (including where this is due to pressure of other commitments) or wishes to resign, they shall immediately inform the LTC chairs. In that situation the LTC chairs can reassign the tasks to other experts or take steps to identify additional experts to ensure delivery within the agreed timetable.

13. The IEG may undertake ad hoc consultations with other experts identified by the

subgroup members and LTC co-chairs.

### **Meetings and communications**

14. The IEG will hold virtual meetings (videoconference). It is envisaged that there will be two meetings before the LTC convenes in July 2023. The first virtual meeting (likely during the fourth week of May 2023) would comprise LTC chairs of the IEG to review and confirm nominations from stakeholders for the full IEG, discuss the governance and timeline of 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 IEG members (either in plenary or subgroups) , discuss the status of data and information available to address the topic areas proposed by the Council and confirm the IEG plans of work.

15. Three additional meetings (one per subgroup, August - December 2023) will be held following the LTC deliberations to determine indicators and develop the threshold values. Additional meetings may be required depending on the needs of each subgroup. The IEG will then regroup to discuss the outcomes of subgroup results and undertake report preparation (January-February 2024) prior to the LTC meeting in March 2024. A final meeting will be held following the LTC deliberation 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 IEG and/or subgroups will liaise with any initiatives by other agencies or scientific organisations associated with threshold development.

17. The ISA Secretariat will assist the chairs in creating a dedicated working space for the IEG and provide secretariat services to the IEG.

## Expected deliverables and indicative timeline

<b>Mar/Apr 2023</b>	<b>May 2023</b>	<b>Jun 2023</b>	<b>Jul 2023</b>	<b>Aug-Dec 2023</b>
<p>ToR endorsed by LTC</p> <p>Open call for expert nominations (30-45 days)</p> <p>Appointment of LTC chairs</p>	<p>1<sup>st</sup> Meeting comprising LTC chairs of the IEG:</p> <ul style="list-style-type: none"> <li>-review and confirm IEG nominations</li> <li>-determine governance and timelines</li> <li>- scoping of initial plan of work</li> </ul>	<p>2<sup>nd</sup> Meeting comprising full IEG:</p> <ul style="list-style-type: none"> <li>-scope available data and information sources</li> <li>-develop workplan of subgroups.</li> </ul>	<p>LTC considers summary by IEG chairs and endorses workplans proposed for each subgroup</p>	<p>Remote meetings of IEG to determine indicators and develop thresholds</p>
<b>Jan - -Feb 2024</b>	<b>Mar 2024</b>	<b>Apr-May 2024</b>	<b>Jun 2024</b>	<b>Jul 2024</b>
<p>IEG chairs prepare report, covering discussions and subgroup conclusions</p>	<p>LTC considers draft report by IEG</p>	<p>Stakeholder consultation (45-60 days)</p>	<p>IEG review of comments, and revision of the draft of the IEG report</p>	<p>LTC considers the revised draft and makes recommendations to Council</p>