

**Written Responses by Singapore to the Co-Facilitators' Questions in the context of the  
Informal Intersessional Dialogue pursuant to Council Decisions ISBA/27/C/45 and  
ISBA/28/C/9**

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This document sets out Singapore's written responses to the two questions posed in paragraph 6 of the "*Co-Facilitators' Note on the Webinar on 30 May 2023 in the context of the informal intersessional dialogue established under Council decision ISBA/27/C/45 and Council decision ISBA/28/C/9*" (as attached to the Secretariat's Note No. ISA/OLA/2023/107). Singapore's written responses are strictly limited to the possible scenarios and other pertinent legal considerations in connection with section 1, paragraph 15, of the annex to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea ("the Part XI Agreement"), in particular the legal interpretation of the said provision and other relevant legal provisions, and are without prejudice to Singapore's right to amend or add to its positions on the matters addressed.

***Question (1). Is there a legal basis for the Council to postpone (i) the consideration and/or (ii) the provisional approval of a pending application of a plan of work under subparagraph (c), and if so, under what circumstances?***

2. The provisions of the United Nations Convention on the Law of the Sea ("UNCLOS") and the Part XI Agreement do not *expressly* provide for the Council to postpone (i) the consideration and/or (ii) the provisional approval of a plan of work.

3. In the absence of adopted rules, regulations and procedures relating to exploitation ("RRPs"), section 1, paragraph 15(c) of the Annex to the Part XI Agreement requires the Council to "*none the less consider and provisionally approve*" an application for approval of a plan of work based on the criteria listed in that provision. In this regard, Article 6(1) of Annex III to UNCLOS provides that the Authority (of which the Council is the executive organ pursuant to Article 162(2)) shall take up for consideration proposed plans of work "[s]ix months after entry into force of the Convention, and thereafter each fourth month".

4. Pursuant to Articles 157(4) and 300 of UNCLOS, the Council must fulfil in good faith its obligation under the said paragraph 15(c) and Article 6(1) of Annex III to UNCLOS, in accordance with the applicable procedures set out in UNCLOS and the Part XI Agreement (in particular, Articles 153(3) and 165(2)(b) of UNCLOS, and section 3, paragraph 11(a) of the Annex to the Part XI Agreement).

5. Singapore also notes the following points in relation to provisions concerning timelines for decision-making by the Council, which have been referenced by a number of delegations:

- (a) Section 3, paragraph 11(a) of the Annex to the Part XI Agreement provides that if the Council does not take a decision on a recommendation by the LTC for approval of a plan of work within a prescribed period, which shall normally be 60 days, the recommendation shall be deemed to have been approved by the Council at the end of that period. Section 3, paragraph 11(a) allows the Council to "provide for a longer period" within which it must decide on the LTC's recommendation. However, this presupposes a situation where the LTC has

already reviewed a plan of work and has made a recommendation to the Council for approval or provisional approval.

- (b) Section 3, paragraph 6 of the Annex to the Part XI Agreement allows the Council to “defer the taking of a decision in order to facilitate further negotiation”. However, this applies only in a situation where “it appears that all efforts at achieving consensus on a question have not been exhausted”.

6. When applying the above provisions in section 3, paragraph 11(a) and paragraph 6, the Council must act in good faith, and in conformity with the general policies established by the Assembly as well as the provisions of UNCLOS and the Part XI Agreement (including but not limited to Article 145 of UNCLOS on the effective protection of the marine environment from harmful effects which may arise from activities in the Area).

***Question (2). What guidelines or directives may the Council give to the LTC, and/or what criteria may the Council establish for the LTC, for the purpose of reviewing a plan of work under subparagraph (c)?***

7. Pursuant to Article 163(9) of UNCLOS, the LTC shall exercise its functions in accordance with such guidelines and directives as the Council may adopt. The Council’s guidelines and directives to the LTC must be in compliance and consistent with the provisions of UNCLOS and the Part XI Agreement (including as regards the scope of the powers and functions of the Council and the LTC), and cannot contravene or circumvent these provisions. In Singapore’s view, the guidelines and directives issued by the Council to the LTC must not have the effect of derogating from or impeding the LTC’s exercise of the specific powers and functions conferred on the LTC under UNCLOS and the Part XI Agreement, such as with regard to the review of plans of work for activities in the Area and the submission of appropriate recommendations to the Council in accordance with Articles 153(3) and 165(2) of UNCLOS.