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Statement by the President on the work of the Council of the International Seabed Authority during the second part of the twenty-eighth session

Addendum

I. Resumption of the session

1. At the 302nd meeting of the Council of the International Seabed Authority, on 10 July 2023, the President of the Council, Juan José González Mijares (Mexico), declared open the second part of the twenty-eighth session of the Council. During the second part of the session, the Council held eight plenary meetings (302nd to 308th meetings) and 15 informal meetings, in line with the road map approved by the Council in December 2022.¹

II. Report of the Secretary-General on the credentials of members of the Council

2. At the 305th meeting, on 17 July, the Secretary-General reported that, as at that date, formal credentials had been received from 27 members of the Council and information concerning the appointment of representatives had been communicated by means of facsimile or initialled notes verbale from five members of the Council.

III. Election to fill a vacancy on the Legal and Technical Commission in accordance with article 163, paragraph 7, of the United Nations Convention on the Law of the Sea

3. At the 302nd meeting, the Council elected Rebecca Hitchin (United Kingdom of Great Britain and Northern Ireland) as a member of the Legal and Technical Commission for the remainder of the term of Jon Copley, who resigned on 27 January 2023.

¹ See [ISBA/27/C/21/Add.2](#), annex II, and para. 8 of the present report.



IV. Report of the Secretary-General on the status of national legislation relating to deep seabed mining and related matters

4. At the 305th meeting, the Council took note of the report of the Secretary-General on the status of national legislation relating to deep seabed mining and related matters.²

V. Report on proposed amendments to the statute of the International Civil Service Commission

5. At the 305th meeting, the Council took note of the report on proposed amendments to the statute of the International Civil Service Commission³ and recommended that the Assembly of the Authority accept the amendments to the statute adopted by the General Assembly of the United Nations in its resolution [77/256 A](#).

VI. Report of the Secretary-General on the implementation of the decision of the Council in 2022 relating to the reports of the Chair of the Legal and Technical Commission

6. At its 305th meeting, the Council took note of the report of the Secretary-General on the implementation of the decision of the Council in 2022 relating to the reports of the Chair of the Legal and Technical Commission.⁴

7. A number of delegations shared their concerns about the late submission by some contractors of their annual reports and the five-year periodic review reports. Some delegations supported a recommendation by the Secretary-General that the late submission of reports should trigger an automatic written warning and monetary penalty. However, other delegations expressed caution and highlighted that any penalty should be commensurate with the nature of the violation and should take into account any extenuating circumstances. Some delegations suggested better dialogue with contractors to address issues of incomplete or partial compliance. Some delegations also suggested that the criteria for the imposition of such penalties could be based on provisions applicable under national legislation and recalled that a reasonable opportunity should be given to contractors before resorting to monetary fines. Several delegations suggested that the Authority should develop a compliance strategy and policy and that the Commission should revisit the periodic review process and issue appropriate recommendations.

VII. Draft regulations on exploitation of mineral resources in the Area

8. The Council continued its work on the draft regulations on exploitation of mineral resources in the Area, working in informal meetings with the full participation of other members of the Authority and observers, in line with the road map approved by the Council in December 2022. The Open-ended Working Group in Respect of the

² See [ISBA/28/C/17](#).

³ See [ISBA/28/A/5-ISBA/28/C/14](#).

⁴ See [ISBA/28/C/15](#).

Development and Negotiation of the Financial Terms of a Contract held four meetings, on 10 and 11 July; the Informal Working Group on the Protection and Preservation of the Marine Environment held three meetings, on 12 and 13 July; the Informal Working Group on Inspection, Compliance and Enforcement held two meetings, on 13 July and 14 July; the Informal Working Group on Institutional Matters held four meetings, on 17, 18 and 19 July; and two meetings were dedicated to the consideration of the President's text, on 19 and 20 July.

9. At the 307th meeting, on 21 July, the Council took note of all oral reports by the Chair of the Open-ended Working Group and Facilitators and Co-Facilitators of the informal working groups, as well as the summary of the consideration of the President's text (see annex).

10. At its 304th meeting, on 14 July, the Council considered the report of the Co-Facilitators, Hugo Verbist (Belgium) and Tan Soo Tet (Singapore), on the informal intersessional dialogue established under Council decisions [ISBA/27/C/45](#) and [ISBA/28/C/9](#).⁵ At the request of the Council, the Co-Facilitators held informal consultations on the margins of the Council meetings.

11. At its 307th and 308th meetings, on 21 July, the Council considered a draft road map prepared by the President for the future organization of the Council's work on the draft regulations and associated standards and guidelines during the third part of the twenty-eighth session, to be held from 30 October to 8 November 2023, and for the first and second parts of the twenty-ninth session of the Council, to be held in March and July 2024, respectively. The Council also received oral reports from the Co-Facilitators of the informal intersessional dialogue on their consultations with delegations. After further informal consultations among interested delegations, two draft decisions were presented to the Council for its consideration. At the 308th meeting, the Council simultaneously adopted a decision on a timeline following the expiration of the two-year period pursuant to 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 Sea⁶ and a decision relating to the understanding and application of section 1, paragraph 15, of the annex to that Agreement.⁷

VIII. Matters relating to the Enterprise

12. At the 307th meeting, the Council considered a proposal submitted by the Group of African States and adopted a decision relating to the establishment of the position of interim director general of the Enterprise.⁸

IX. Operationalization of the Economic Planning Commission

13. At the 306th meeting, the Council agreed to keep the matter under review for further consideration at its meetings in November 2023.

⁵ The Co-Facilitators' second briefing note to the Council on the informal intersessional dialogue established under Council decisions [ISBA/27/C/45](#) and [ISBA/28/C/9](#) is available from www.isa.org.jm/session-28-council-part-2.

⁶ See [ISBA/28/C/24](#).

⁷ See [ISBA/28/C/25](#).

⁸ See [ISBA/28/C/23](#).

X. Report of the Chair of the Legal and Technical Commission

14. At the 303rd meeting, on 13 July, the Chair of the Legal and Technical Commission, Erasmo Lara Cabrera (Mexico), presented a report on the work of the Commission at the second part of its twenty-eighth session.⁹

15. The Council considered the report of the Chair of the Commission at its 306th meeting, on 20 July. Many delegations expressed strong support for the work undertaken by the Commission during the first and second parts of the twenty-eighth session and welcomed the level of detail contained in the report. Delegations also acknowledged with appreciation the efforts made under the contractor training programme, in particular to advance the empowerment and leadership of women in marine scientific research. They also welcomed the launch of the See Her Exceed mentoring programme under the Women in Deep-Sea Research project.

16. In relation to the review of annual reports of contractors, several delegations focused on the question of naming the contractors. Several delegations expressed disappointment at not seeing contractors named, as had been requested by the Council. Some delegations expressed interest in being informed of the legal aspects and other criteria considered by the Commission, noting that this would assist in developing a clear methodology on a non-discriminatory basis. Some delegations expressed concern about the position taken by some contractors to delay further exploration work pending greater clarity on the legal framework in place for exploitation. Concerns were also raised about the variation in work undertaken by contractors, noting that, while some had begun the testing of mining system components, others remained in the stage of conceptual design of mining systems and technology.

17. With respect to the development of binding environmental threshold values as a key component of the mining code, some delegations highlighted the urgency of this work and urged the Commission to prioritize it as part of phase I standards and guidelines. Some delegations expressed their concern about the limitation on the number of experts to be appointed to the intersessional expert groups established by the Commission, emphasizing the need to ensure broad representation, inclusivity and transparency. Some delegations also made suggestions on the nomination and selection process for experts, including to ensure the representation of relevant expertise and geographic representation.

18. A number of delegations highlighted that the development of the standardized procedure for regional environmental management plans should be prioritized. Some delegations highlighted the leading role of the Commission in the development and review of regional environmental management plans and the value, when the Commission deems it necessary, of consulting external experts.

19. Some delegations also welcomed the informal dialogue held on 12 July between some members of the Commission and the members of the Authority, and encouraged the Commission to make further efforts to increase outreach and ensure broad participation in the work of the Commission, including holding open meetings or webinars on the development of binding environmental thresholds and regional environmental management plans.

20. The Secretary-General made an appeal for contributions to the voluntary trust fund to support members of the Commission and highlighted that the robust work undertaken by the Commission was largely dependent on the availability of funding for full participation.

⁹ See [ISBA/28/C/5/Add.1](#).

21. At the same meeting, the Council adopted a decision on the deferral of the schedule of relinquishment upon request by the Government of India.¹⁰

22. The President of the Council invited the Council to consult intersessionally on the content of a decision on the report of the Chair of the Commission, to be considered and adopted at the third part of the session in November 2023.

XI. Cooperation with other relevant international organizations

23. At its 306th meeting, on 20 July, the Council approved an agreement of cooperation between the International Labour Organization and the Authority.¹¹

24. Under this agenda item, the secretariat of the Convention on Biological Diversity made a statement regarding ongoing collaboration with the secretariat of the Authority, which has been undertaken through the UN-Oceans coordination mechanism, as well as the exchange of a letter of cooperation signed by the two secretariats, in particular regarding the sharing of scientific expertise and experiences for biodiversity assessment and monitoring, the application of area-based management tools and biodiversity-inclusive environmental impact assessments, and capacity-building, among other things.

XII. Report of the Finance Committee

25. At its 305th meeting, the Chair of the Finance Committee, Mohammad Khurshed Alam (Bangladesh), presented the report of the Committee on its work during the twenty-eighth session.¹²

26. The Council approved a supplementary budget proposal for the financial period 2023–2024, as recommended by the Committee,¹³ for the purpose of establishing the post of interim director general of the Enterprise within the secretariat. Several delegations highlighted the exceptional nature of approving the supplementary budget proposal.

27. The Council welcomed the progress made by the Committee on the topic of equitable sharing of financial and other economic benefits derived from activities in the Area. In this respect, most delegations supported the possible creation of a Common Heritage Fund. While some expressed the view that it should be an alternative to direct distributions of monetary benefits, others supported a hybrid model that included the creation of the Fund along with direct distribution. On the objective of the Fund, most delegations agreed that it should be used to invest in capacity development, knowledge and competence related to the ocean. A delegation mentioned that the Fund should be used only to fund activities related to the Area and not to the high seas. Some delegations encouraged the Committee to continue its work on the topic and some also suggested that, in its future review of possible formulae for equitable distribution, it should also take into account the multidimensional vulnerability index to reflect the peculiar vulnerability to climate change and debt of some developing countries. Some delegations proposed that the topic of equitable sharing of financial and other economic benefits deriving from activities in the Area should be included as a stand-alone item in the agenda of the Council, so that a broader debate on the issue could take place.

¹⁰ See [ISBA/28/C/22](#).

¹¹ See [ISBA/28/C/16](#), annex.

¹² See [ISBA/28/A/4-ISBA/28/C/13](#).

¹³ See [ISBA/28/A/3-ISBA/28/C/12](#) and [ISBA/28/A/3/Add.1-ISBA/28/C/12/Add.1](#).

28. At the same meeting, the Council adopted a decision relating to financial and budgetary matters.¹⁴

XIII. Close of meeting

29. The second part of the twenty-eighth session of the Council was adjourned at 8.30 p.m. on 21 July. The Secretary-General made an appeal to all members of the Authority and observers to contribute to the voluntary trust fund to support the attendance of developing States members of the Council.

¹⁴ See [ISBA/28/C/21](#).

Annex**Reports on progress made by the working groups and on the President's text****I. Oral reports****A. Oral report delivered by the Chair of the Open-ended Working Group in Respect of the Development and Negotiation of the Financial Terms of a Contract, Olav Myklebust (Norway)**

1. The Open-ended Working Group in Respect of the Development and Negotiation of the Financial Terms of a Contract held its eighth meeting on 10 and 11 July 2023. The Chair's summary of the outcome of the meeting is provided below.

2. On the morning of 10 July, the Chair thanked all participants for their contributions through intersessional work and written proposals, and in particular Australia, Canada and South Africa for convening meetings on conceptual issues. The Chair introduced the work of the Open-ended Working Group, including the Chair's briefing note of 20 June (ISBA/28/C/OEWG/CRP.3) and the Chair's further revised text of the same date (ISBA/28/C/OEWG/CRP.4).¹

3. The meeting continued with presentations on the intersessional work. The first presentation, by Canada, was on the outcome of the intersessional work in relation to a tax or levy on the transfer of rights under a contract. The intersessional working group reported that it had reached agreement on many elements and that it expected to be able to provide a text proposal prior to the meeting in November. This was followed by a presentation by Australia on an additional royalty or levy that would constitute an equalization payment. Australia reported that there was broad consensus that a fairness mechanism was needed to establish a level playing field for land-based miners and deep-sea contractors.

4. Finally, Richard Roth of the Massachusetts Institute of Technology provided a presentation on some aspects of the intersessional work, including approaches to fairness, updates on base rates to meet fairness goals and the equalization mechanisms. In respect of the proposed equalization mechanism, Mr. Roth provided an overview of three proposals under consideration: an additional fixed royalty rate; an additional profit share; and a top-up profit share, which utilizes Global Anti-Base Erosion Rules (an Organisation for Economic Co-operation and Development global taxation system) to calculate relevant aspects of the contractors' corporate income tax payments. On the third option, some participants asked for further information on and examples of the use of similar multinational rules in the extractive industry or any other sector on a global scale. It was agreed that it was a task for the intersessional working group on the equalization mechanism to consult the relevant experts on Global Anti-Base Erosion Rules and report during the meeting in November.

5. The Open-ended Working Group commenced with the participants' questions and comments on the presentations made by Canada, Australia and the Massachusetts Institute of Technology. The intersessional work was greatly welcomed by all participants and general discussions were conducted. The Chair of the Open-ended Working Group reminded participants of the principles that should provide the basis for establishing rules, regulations and procedures for financial terms of contracts, as set out in section 8, paragraph 1, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea.

¹ Available from www.isa.org.jm/session-28-council-part-2.

6. Subsequently, the reading of the Chair's further revised text commenced from draft regulation 62 and followed the order of the text. The reading was conducted with a focus on conceptual discussions and substance, instead of a line-by-line, grammatical reading, which the Chair stated would be conducted once the different texts are consolidated. The Open-ended Working Group managed to read draft regulations 62 to 83 bis and draft regulations 23, 27 and 38. The Group achieved consensus on many of the draft regulations and has reached a level of comfort in respect of the wording. There were a few draft regulations that the Group did not manage to resolve. However, most comments added were accepted and adjustments will be made for the meeting in November, at which it is hoped that outstanding matters will be resolved. Some participants agreed to liaise intersessionally to provide written text proposals on various regulations.

7. The reading was followed by a discussion of the report on the value of ecosystem services and natural capital of the Area, in response to a call for proposals to undertake a study on the environmental costs of exploitation activities in the Area.

8. The intersessional working groups volunteered to continue their valued work and will attempt to provide consensus-based text to be included in the updated Chair's text for the meeting in November.

9. A third revised text will be provided for the session in November. A final round of written submissions will be included, and all proposals should be received before the deadline of 15 September 2023.

B. Oral report delivered by the Facilitator of the Informal Working Group on the Protection and Preservation of the Marine Environment, Raijeli Taga (Fiji)

10. The Informal Working Group on the Protection and Preservation of the Marine Environment held three meetings, on 12 and 13 July 2023. The Facilitator warmly welcomed all participants to the reading of the Facilitator's third revised text (ISBA/28/C/IWG/ENV/CRP.2/Rev.1).²

Reporting on intersessional work

11. The intersessional working group on the standardization of stakeholder consultation, led by the United Kingdom of Great Britain and Northern Ireland, updated the Informal Working Group on its work since the previous meeting. The delegation of the United Kingdom thanked all contributing States and asked for continued engagement on the matter, including to ensure alignment with other parts of the draft regulations. This was followed by an update by the intersessional working group on coastal State obligations, led by Mexico. The intersessional working group had held several discussions, but no proposals have been submitted yet. Subsequently, the intersessional working group on underwater cultural heritage, led by the Federated States of Micronesia, presented its work. The Federated States of Micronesia specifically referred to the ongoing discussions in the intersessional working group on the protection of tangible and intangible cultural heritage, in which support had been noted on tangible cultural heritage, but there were different views in the group as to whether to explicitly include it in the draft regulations.

12. Subsequently, the reading of the Facilitator's third revised text commenced, and the work of the other intersessional working groups was presented when relevant to the respective draft regulations.

² Available from www.isa.org.jm/session-28-council-part-2.

Specific comments on the Facilitator's further revised text

13. The work of the intersessional working group on streamlining and structuring of draft regulation 44 was presented by Spain. It was highlighted that the group's focus was on attempting to avoid repeating obligations throughout the regulation, but instead keeping them in one paragraph, as well as seeking alignment on environmental principles and international law. Most participants supported the continued work to simplify the text of the regulation. The Informal Working Group invited participants to meet face-to-face during the meeting for further discussion. Canada volunteered to coordinate the intersessional working group, together with Spain.

14. Germany presented the outcome of the work of the intersessional working group on streamlining draft regulation 45. The coordinator of the group underlined that there was general consensus in the group on the overall outlines and structure of the draft regulation, but consensus was not reached on all details. There was broad support for continuing the negotiations on the basis of the alternative draft regulation provided by the intersessional working group.

15. Several participants supported the clean-up of draft regulation 46, but also noted that some of the deleted parts should be partially reinserted. Furthermore, there was support among several participants to merge draft regulation 46 bis with draft regulation 46 ter and to move the consolidated regulation to section 4 on compliance with environmental management and monitoring plans and performance assessments, which should be renamed "Environmental monitoring".

16. Germany presented the intersessional work on scoping and steps in the environmental impact assessment process and the structuring of annex IV. It was highlighted that the environmental impact assessment procedures are spread over several regulations and have become more complex. There was general support for the overall structure, but some details needed to be amended. Several participants supported and appreciated the work and thanked the Facilitator for the implementation of the outline from the intersessional working group. Many participants stated that the provisions were much improved and could be used as a basis for further work.

17. Several participants supported the suggestion that draft regulation 47 bis should be moved to draft regulation 47, as draft regulation 47 bis concerned the purpose of the procedure and should include an overview of the structure of the process. The United Kingdom volunteered to continue the work on reordering the regulations in the new section 2. Several participants supported the work, using the text provided by the Facilitator as the basis for further negotiations. Regarding 47 ter, several participants suggested moving some details into the annexes or a standard.

18. On draft regulation 48 on environmental impact statements, several participants supported the suggestion that many elements could be moved to the standards. In this regard, most participants supported placing the whole of paragraph 4 in the relevant standard. On the proposed draft regulation 48 ter on test mining, the intersessional working group, led by Belgium and Germany, presented its work and noted that no consensus had been reached on the text. Several participants welcomed the amendments to the provision and exchanged further views on the main elements of the draft regulation, including the requirements for the appropriate timing of test mining. Most participants supported the suggestion that test mining should be fit-for-purpose and cost-effective, and that the draft regulation should be consistent with the draft regulations on environmental impact assessments and environmental mitigation and monitoring plans. Germany agreed to continue the work with the intersessional working group.

19. The meeting ended with an update from the intersessional working group on the closure plan.

Way forward

20. The Facilitator highlighted that the Informal Working Group had made progress in its work on the text and that all the hard work carried out by the intersessional working groups had proven extremely valuable.

21. In relation to intersessional work, the participants involved offered to continue the work to provide consensus-based text on relevant matters. The Facilitator encouraged the continuation of such work and urged the intersessional working groups to come together to try to resolve the various questions that had been raised during the meeting. Participants who are willing to join this intersessional work are encouraged to do so and to contact the secretariat, which will facilitate the contact.

22. It was agreed that greater focus should be placed on the standard and guidelines for the next meetings of the Informal Working Group. Furthermore, it was agreed that, before the next meeting, the Facilitator would attempt to identify, in a matrix or overview, what elements could be included in the existing standard and guidelines and what new standard and guidelines should be provided based on the development of the work in the group.

23. It was also agreed that the Facilitator would prepare a fourth revised text. The reading ended with draft regulation 48 and will be resumed from draft regulation 49 at the next meeting.

24. In line with the above, the Facilitator requested that all comments and suggestions for the entire text be submitted by participants by 15 September 2023, and that this would be the final round of written submissions.

C. Oral report delivered by the Facilitator of the Informal Working Group on Inspection, Compliance and Enforcement, Maureen Tamuno (Nigeria)

25. The Informal Working Group on Inspection, Compliance and Enforcement held its meetings in the afternoon of 13 July and in the morning of 14 July.

26. In the afternoon of 13 July, the Facilitator welcomed all participants and thanked them for the intersessional work and their textual proposals. The Facilitator then introduced the Facilitator's third revised text (ISBA/28/C/IWG/ICE/CRP.2).³

27. At the commencement of the meeting, the Facilitator reminded participants that the core task of the Informal Working Group was to decide on an appropriate mechanism for directing and supervising a staff of inspectors who will inspect activities in the Area, as envisaged by article 162 (2) (z) of the United Nations Convention on the Law of the Sea. In continuance thereof, Norway was invited to present the outcomes of discussions from intersessional meetings held by participants on such a mechanism. A hybrid model was presented, that would encompass a compliance committee established within the Legal and Technical Commission, with the committee being responsible for overall compliance and enforcement issues.

28. The work of the intersessional working group was warmly welcomed by participants, in particular the considerable efforts made to reach a compromise in relation to a hybrid model. Conceptual discussions were then conducted by the participants, on both the discussions on the mechanism and the content of draft regulation 96. Several participants supported the hybrid model and the newly proposed alternative draft regulation 96 and the newly proposed draft regulations 96 bis and 96 ter. Other participants maintained that it would be necessary to have a self-

³ Available from www.isa.org.jm/session-28-council-part-2.

standing compliance committee or that the compliance committee should be placed under the Council.

29. It was agreed that the intersessional working group would continue its discussions and that a consolidated and clean version of draft regulation 96 would be provided ahead of the meeting in November.

30. Thereafter, the Informal Working Group conducted its reading of draft regulations 97 to 105 bis. The participants welcomed the revised text, and several stated that the text had improved substantially. The participants agreed on many draft regulations and provided valuable input in respect of areas in which further clarification and amendments would be required. Furthermore, it was agreed that continued work would be carried out in respect of streamlining and resolving cross-cutting issues, such as the handling of underwater cultural heritage.

31. The Informal Working Group managed to finish the reading of the third revised text, and the Facilitator will provide a fourth revised text ahead of the meeting in November. Participants were requested to provide their comments and textual proposals no later than 15 September 2023, and it was highlighted that this would be the final round of written proposals.

D. Oral report delivered by the Co-Facilitators of the Informal Working Group on Institutional Matters, Salvador Vega Telias (Chile) and Gina Guillén-Grillo (Costa Rica)

32. The Informal Working Group on Institutional Matters met in the afternoon of 17 July 2023, in the morning and afternoon of 18 July 2023 and in the morning of 19 July 2023. The Co-Facilitators welcomed all participants to the meeting and thanked them for their written proposals.

33. The Co-Facilitators then presented the agenda for the meeting, which included a first reading of draft regulations 6 to 16 (ISBA/28/C/IWG/IM/CRP.1).⁴ Before beginning the reading, the Co-Facilitators gave a presentation on effective control and invited those States and observers that wished to do so to provide feedback on the presentation. Four participants made general contributions related to the presentation on effective control and welcomed it as being very useful. Several delegations noted that they would need more time to discuss this important topic and said that the webinar on effective control would be highly appreciated. The Co-Facilitators would share the slides on effective control before the webinar was held.

34. The Informal Working Group began the reading of the Co-Facilitators' text, projecting the text on the screen. It was explained to the participants that the Co-Facilitators' text was a compilation of the written proposals received and that there had not been an attempt to draft a consensus text as this was the first reading of these draft regulations, the proposals having been submitted in 2019.

35. In the afternoon of 17 July 2023, the Group conducted a reading of draft regulations 6 to 8 (3). Regarding draft regulation 6 on the certificate of sponsorship, several delegations requested that it be simplified and harmonized in line with the Exploration Regulations. It was also suggested that a request be included for more information on the identification of the contractor, such as the business number, in accordance with the international instruments in force.

36. In the morning of 18 July 2023, the Working Group resumed the reading of draft regulation 8. Regarding draft regulations 8 (3) and 8 (3 alt), the Working Group held discussions on the wording and on the version of paragraph 3 on which negotiations should be based. Numerous participants welcomed the new proposal for draft

⁴ Available at www.isa.org.jm/session-28-council-part-2.

regulation 8 (5), based on the recent negotiations on marine biological diversity of areas beyond national jurisdiction, which was considered a broader topic. Several proposals were submitted, and the United Kingdom of Great Britain and Northern Ireland offered to collaborate in improving the current wording, for which the Co-Facilitators expressed their appreciation and gratitude. Regarding regulation 9 (1) (a) on receipt, acknowledgement and safe custody of applications, the deadline for acknowledgement was discussed. There was also a provisional discussion of how to deal with issues of confidentiality, which will be considered again at the November meeting, when draft regulation 89 will be examined. Regarding draft regulation 9 (2), it was discussed whether this paragraph should be deleted or replaced, for example, by section 3. With respect to draft regulation 10 (1) on the preliminary review of application by the Secretary-General, several participants proposed clarifying that it was merely a review of the form and not a review of the substance.

37. In the afternoon of 18 July 2023, the reading of draft regulation 11 on the publication and review of environmental plans was conducted. Many participants showed flexibility regarding the insertion of draft regulation 11 (1) (c alt) with some amendments. Regarding draft regulation 11 (2 ter), there was discussion of the appropriate deadline for the applicant to make revisions. The reading of draft regulation 12 on the consideration of applications by the Commission was commenced.

38. In paragraph 2 of that draft regulation, one participant suggested introducing a deadline and a provision to suspend calculation of the deadline. Some participants welcomed future proposals in this regard, while others expressed concern about the imposition of deadlines. One participant suggested consulting the Legal and Technical Commission before setting any deadlines.

39. The session in the morning of 19 July 2023 began with the reading of paragraph 3 of draft regulation 12. Many different opinions were expressed on the paragraph and a discussion was held on the working methods. Some delegations asked for inclusion of the names of the delegations that had made contributions but others disagreed. The Co-Facilitators stated that the names would not be included in the compilation but that in the room they would be included on the screen so that delegations could verify that their comments had been reflected correctly. There was a suggestion to delete the texts that had not been defended in the room. The Co-Facilitators explained that because this was the first reading and given that comments could be submitted until mid-September, the Co-Facilitators' proposed text would include whatever was pertinent but no deletions would be initiated without waiting for feedback from delegations. The new draft regulation 12 bis, on the general obligations of contractors, was then presented and it was suggested that this regulation should replace draft regulation 7 (2). One delegation suggested deleting draft regulation 12 bis. With regard to draft regulation 13 on the assessment of applicants, the new wording and amendments to paragraph 1 were discussed and Germany offered to participate in the intersessional work in this regard, for which the Co-Facilitators expressed their gratitude. The meeting ended with the reading of draft regulation 13 (1).

40. The Co-Facilitators reported that it had not been possible to hold the webinar on effective control prior to the meeting but informed the Group that a webinar would be held on 1 September 2023. The proposed agenda for the webinar on effective control, as presented at the November 2022 meeting, would remain as follows: (1) legal aspects of the determination of effective control, (2) practical implications of effective control and (3) implications for the regulatory framework. The Co-Facilitators would contact delegations that had already shown interest in proposing presenters. If any other delegation had proposals regarding experts who might participate, they were welcome to contact the Co-Facilitators or the secretariat.

41. The Co-Facilitators assessed the progress made in the Informal Working Group and welcomed written suggestions from the participants. The deadline for the submission of written proposals was set as 15 September 2023. The Co-Facilitators would prepare a revised text that would include all the draft regulations assigned to the Informal Working Group, to serve as the basis for work during the third part of the twenty-eighth session.

II. Report on the review of the President's text

42. In the afternoon of 19 July 2023, the Council met in an informal setting to advance and negotiate the President's revised text (ISBA/28/C/WOW/CRP.1/Rev.1).⁵ The President introduced the revised text and the suggested working modalities.

43. First, the preamble was discussed, and the suggested amendments and streamlining were welcomed. Discussions were carried out in respect of the two alternatives and there seemed to be equivalent support for both. Several delegations expressed flexibility with regard to the preferred option. Several delegations also supported refraining from referencing the Sustainable Development Goals and their targets under the 2030 Agenda for Sustainable Development, as those Goals would be completed by 2030. However, several delegations and observers would like to include some reference to the Goals, and Belgium volunteered to provide textual proposals to that effect.

44. Subsequently, a second reading of the revised text was carried out, commencing with draft regulation 17. On draft regulation 18, conceptual discussions were carried out in respect of the reference to the Enterprise, as it was necessary to resolve whether reference should be made to "the Contractor and the Enterprise" throughout the regulations or whether it should be handled and resolved in the definition of "Contractor" in the schedule. In respect of draft regulation 18 bis, conceptual discussions were carried out in respect of whether it should be retained or deleted. Most delegations and observers favoured retention with some changes. It was suggested by several delegations and observers that paragraph 4 be moved to a relevant section on the sponsoring State.

45. In the morning of 20 July, the reading resumed with draft regulation 26 on the environmental performance guarantee. Discussions were held on whether the guarantee should be changed to a decommission bond. One regional group and a delegation supported this renaming, while several other delegations and observers were against such changes. On section 5 (draft regulations 32–35), there were several suggestions by delegations and observers to update the section once the appropriate inspection mechanism has been decided. In respect of the insurance requirements in draft regulation 36, there was broad consensus on regulating the types, terms and amounts of the insurance in the standards and/or guidelines. Several delegations and observers stressed that it should be regulated only in standards, considering the importance of having proper insurance in place. The reading ended with draft regulation 95 on the issuance of guidelines.

46. The President informed the delegations and observers that any textual proposals should be submitted by 15 September 2023, and underlined that this would be the final round of written proposals. A further revised text will be provided before the meeting in November, and the reading will resume from annex I on the application for approval of a plan of work to obtain an exploitation contract.

⁵ Available from www.isa.org.jm/session-28-council-part-2.