

Briefing Paper on the work on the draft regulations

Prepared by the President of the Council

I. Background

1. This Briefing Paper provides information on the proposed organization of work on the draft exploitation regulations during the third part of the twenty-eighth session and in the lead-up to the twenty-ninth session.

2. The Council will recall that during the second part of the twenty-eighth session, the Council decided (ISBA/28/C/24) on a timeline and modalities for the work of the Council until July 2024 in order to provide predictability to all members of the Authority as well as other stakeholders. Therefore, this note is aimed at providing some suggestions on the work to be carried out.

3. In line with the Council's decision (ISBA/28/C/24), the informal working groups will continue their work in the same manner and with the same working modalities for the third part of the twenty-eighth session. I would like to remind delegations and observers that the facilitators and the chair will provide the texts for their respective informal working groups in the usual way. Furthermore, ahead of the meeting in November, and as requested by the Council, a collation of the current texts of the informal working groups will be provided. This collation is a "copy/paste" document of the texts and does not contain anything different from the texts to be released by the groups other than an identification of where the different elements originate from.

4. To progress the negotiations of the draft exploitation regulations in November 2023, I again suggest avoiding a paragraph-by-paragraph reading but instead to focus on identifying the conceptual elements that need to be resolved section by section and for delegations to provide actual textual proposals. I believe that this proved to be a fruitful approach during the meetings in July 2023. In this regard, I would encourage proponents of specific proposals to continue to meet with those who require further clarification or wish to advance alternative proposals to attempt to resolve the differences and report the outcomes of the work at each forthcoming informal meeting of the respective groups. I would further suggest that, in principle, and as far as possible, the November 2023 session should be the final round of meetings for the informal working groups, and that the facilitators and the chair deliver a report to the Council on the status of progress within each group as well as priority areas where discussions should be focused at the beginning of the twenty-ninth session.

5. During the meetings in March and July 2023, several delegations expressed an interest, at this stage of the negotiations, in making available a consolidated negotiating text of the draft regulations which would identify areas of overlap, duplications, omission and address the need for harmonization between the various provisions and related annexes. As agreed by the Council, the "consolidated negotiating text", which I shall aim to issue by the end of 2023, is a text that is not ready for adoption and that is still subject to further negotiation and discussion. I would further suggest that the

consolidated negotiating text will be a document that comprises all the work that have been carried out so far by the informal working groups and in the President's text, including the present revised standards and guidelines for phase I. In this way, we will have one single document that includes all the elements so far developed in respect of the draft exploitation regulations, prepared as a clean text without any mark-up or comment boxes and without duplication.

6. In anticipation of the preparation of the "consolidated negotiating text" I would encourage delegations to meet in breakout groups during the council meetings and intersessionally to work on drafting and refinement of specific elements of the overall package, with the understanding that any joint submissions for further refinement of the text should be submitted not later than 1 December 2023.

7. During 2024, negotiations on the "consolidated negotiating text" should continue to be conducted in an informal manner, in plenary and be led by the President of the Council. Where outstanding issues are identified, the President could get assistance from a rapporteur who may have previously been involved as one of the former facilitators or a coordinator of an intersessional working group. I would also recommend that it will be timely for consideration to be given to efficient working methodologies, including President's consultations with delegations on some identified topics and "*Informal informals*" on specific topics as appropriate.

8. The above is, of course, without prejudice to any work being carried out by the Council and the informal working groups and in that regard, I shall recall that "*nothing is agreed until everything is agreed*".

Kingston, 28 September 2023