

9 October 2023

Eighth Meeting of the Open-ended Working Group of the Council on the financial terms of a contract under article 13, paragraph 1 of Annex III to the United Nations Convention on the Law of the Sea and under section 8 of the Annex to the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982

3 – 6 November, Kingston

Briefing Note

Prepared by the Chair of the Open-ended Working Group of the Council (OEWG)

I. Introduction

1. The purpose of this briefing note is to assist the participants in the upcoming meeting of the Open-ended Working Group of the Council (OEWG).
2. The OEWG agreed at its meeting in July 2023 that I would prepare a third revised draft text before the upcoming meeting in November 2023. Furthermore, it was agreed that written suggestions to the draft could be submitted by 15 September 2023.

II. Progress

3. At the July 2023 meetings, the OEWG commenced (but did not complete) a third reading of the Chair's revised text covering Part VII and some relevant draft regulations in Part III (draft regulations 23, 27, and 38). Draft regulations 39, 89, Appendix IV, and certain draft Standards and Guidelines, were not discussed. General agreement was reached on several draft regulations. It was agreed that intersessional work would take place in relation to key conceptual issues, and further written submissions would be welcomed. I have received several proposals from both participants and the intersessional working group.
4. In relation to the intersessional working group, facilitated by Australia, an outcome report and a text proposal has been submitted to the Chair.
5. In light of the proposals and to facilitate discussions of the OEWG, a third revised text has been prepared ("the Chair's third revised text") (ISBA/28/C/OEWG/CRP.6).
 - (a) The third revised text includes some of the suggestions proposed, those which I believe are likely to have consensus and required limited further discussion or drafting. Where the precise language is not settled, it has been included in square brackets, and I invite the participants to settle on final text.
 - (b) The text proposal on equalization measures, with further suggested amendments to align with existing text proposals, has been included, and additional proposed

definitions have been included for discussion purposes in Enclosure V. If there is broad support for the proposal reflected in the text of DR 64Bis to DR 64Qui, I would propose that the text is moved into the various other draft regulations where similar issues are dealt with, for example moving some text to Appendix IV and the relevant Standards, and some text to the other draft regulations which deal with audit requirements, etc.

- (c) Some other suggestions have not been included at this stage since they lie on conceptual approaches which may require further discussion in the OEWG.

III. Structure of the meeting and way forward

6. For the meeting in November 2023, I suggest we commence the meeting with the following agenda:

- a. Update from Australia on the intersessional work on the equalization measure.
- b. Presentation by MIT on the proposed equalization measures, followed by a discussion on this matter.
- c. Reading of the third revised text (ISBA/28/C/OEWG/CRP.6), commencing with regulations directly related to the royalty and proposed equalization measures, including Appendix IV and relevant draft standards and guidelines, and then proceeding with the remainder of the text and focusing on coming to an agreed position in respect of text which is still in square brackets or where options have been proposed.

7. In respect of the way forward, I will attempt to conduct the reading of the further revised text by focusing on the items that might need further discussions and try to avoid a detailed paragraph by paragraph reading, and in particular a grammatical and refinement reading.

9 October 2023.