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Report
on the outcomes of the deliberations
of the Intersessional Work on „Test Mining“ (TM)

This report intends to summarize and report back the main aspects of the discussions held intersessionally. It is not intended to be exhaustive.

Procedural aspects

- (1) The mailing list of the intersessional group entailed more than 60 entries with a good regional representation.
- (2) The group met twice, on 22 of August and on 12 of September 2023. The meetings were attended by 30 to 40 participants.

Substantive aspects

- (1) Basis for our discussions was the joint draft of the leads of intersessional work on TM (BEL/GER) before the July meeting.
- (2) Most participants stressed that they did not have a mandate to formally negotiate. Thus, all following deliberations need to be understood as an initial and informal exchange of views.
- (3) Almost all participants were of the view, that TM as an in-situ testing of the techniques is necessary in order to provide the required evidence to inform the application for a plan of work.
- (4) One country argued that testing under artificial circumstances would also be sufficient.
- (5) Most countries and other stakeholders were of the view that TM should be undertaken before the submission of an application for a PoW.
- (6) One country argued that the effects of a mining operation on the environment could only be tested under full scale conditions. Thus, TM should be a requirement only before commercial production is about to commence.
- (7) The majority were of the view that TM should be undertaken to inform the application as a whole. Thus, amendments to paragraph 1 and 3 were proposed and supported by most participants. For paragraph 3, a reference to all requirements set in Draft regulation 13 was proposed and included.
- (8) One country, supported by others, stated that it should be expressed that the primary focus of TM is to provide evidence with regard to the potential effects on the marine environment. See the addition in paragraph 1.

(9) One country, supported by some, raised the point, that cumulative effects cannot be detected through TM. Others were of the view, that an initial detection should be undertaken.

(10) The IWG TM raised three aspects which still need more in-depth discussions. Some countries saw a need also for a in depth legal analysis with regard to these three aspects:

- The placement of TM in the overall procedure and the need for an approval procedure for TM projects was supported by most.
How does the approval procedure for a test mining project fit with the UNCLOS concept of exploration and exploitation? Is there a need for an intermediate phase during which the approval procedure can take place? Is there a need for a specific contract for TM project in case the existing exploration contract does not foresee a mandatory TM project? Or should a provisional exploitation contract be concluded for the TM project?

What are the criteria for granting an approval for TM project? What are the procedural requirements (EIA, EIS, stakeholder involvement) ?

- The concept of a „validation monitoring system“ after the approval was regarded as necessary: How does such a VMS fit into the regular monitoring system? Aspects which need further deliberations: Deadline ? Endpoint ? Special monitoring phase for validation needed? Is there a need for specific measures in case of non-compliance? Is the regulation on Test mining the appropriate place to regulate the VMS ?

One contractor stated that [ISBA/27/C/6](#) (Draft guidelines for the preparation of Environmental Management and Monitoring Plans) should be consulted in this context.

- The economic benefits which contractors may receive through the collection of mineral resources during TM (addressed in Paragraph 5): What has to be transferred to the Authority ? Only royalties or the full profit? At which stage in the overall process?

One contractor stated that the revenue will be very small.

The group was of the view that the Finance Committee and/or the OWEG should be involved in further discussions on this matter.

(11) In the Annex, additional textual suggestions are shown.