



Council

Advance Unedited Version
8 November 2023

English only

Twenty-eighth session

Council session, part III

Kingston, 30 October-8 November 2023

Agenda item 14

Report of the Chair of the Legal and Technical Commission on the work of the Commission at its twenty-eighth session

Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission

The Council of the International Seabed Authority,

Recalling its decision ISBA/27/C/44,

1. *Takes note with appreciation* of the reports of the Chair of the Legal and Technical Commission on the work of the Commission at the first and second parts of its twenty-eighth session,¹ the hard work and considerable achievements of the Commission over the past seven years (2017–2023) and the report of the Secretary-General on implementation of the decision of the Council in 2022 relating to the reports of the Chair of the Legal and Technical Commission, noting that it represented the sixth such report of the Secretary-General;²

2. *Notes with appreciation* the Commission's consideration of annual reports on activities carried out by contractors in 2022, and takes note of the fact that contractors have complied with the template issued by the Commission, have generally responded to questions raised by the Commission in the previous year, and have largely met the deadlines for submitting annual reports and expresses concern that some contractors are not meeting the deadlines;

3. *Reminds* contractors that failed to carry out their exploration activities in accordance with their agreed plans of work, to provide details in the annual report to the Commission explaining their lack of progress and how it will be addressed, in order to enable the Authority to take appropriate further action as necessary;

4. *Welcomes* the Secretary-General's engagement, through the Compliance Assurance and Regulatory Management Unit of the secretariat, with individual contractors on matters raised by the Commission and the secretariat's review of the responses of individual contractors, and requests the Secretary-General to continue the practice of communicating the various issues identified during the Commission's review of

¹ ISBA/28/C/5 and ISBA/28/C/5/Add.1.

² ISBA/28/C/15.

contractors' annual reports to the relevant contractors and sponsoring States, to follow up in writing with those contractors that repeatedly perform insufficiently or incompletely against an approved plan of work or that have indicated that the implementation of the plan of activities will be made conditional on external factors regardless of the applicable contractual requirements, to request meetings with them and to write to the respective sponsoring States to bring that issue to their attention and request a meeting with the sponsoring States to address it and to provide relevant information to the Council as necessary;

5. *Reaffirming with renewed urgency* its request to the Commission to annually name those contractors that have responded insufficiently or incompletely, or failed to respond, to the calls from the Council to address issues of concern identified by the Commission in relation to their contractual obligations,³ notes that such information is important to assist the Council with respect to compliance, and notes that the Commission has considered this request and will consider the matter during the first part of the twenty-ninth session, with the aim of naming contractors that either do not respond or respond insufficiently or incompletely during the next reporting cycle;

6. *Requests* the Secretary-General to continue to report to the Council on an annual basis the instances of alleged non-compliance and regulatory action in accordance with the United Nations Convention on the Law of the Sea,⁴ the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982⁵ and the regulations on prospecting and exploration, identified by the Commission, inter alia taking into account the results of the Secretary-General's consultation with contractors, and urges the relevant sponsoring States to provide any information relating to such non-compliance and measures taken to ensure compliance under contracts for exploration, in accordance with article 139 of the Convention;

7. *Commends* the progress made towards increasing the transparency of exploration contracts, and requests the Secretary-General to continue to pursue dialogue with contractors who have not yet submitted public templates on their plans of work;

8. *Welcomes* the training programmes and opportunities offered by contractors, pursuant to their contracts for exploration with the Authority, since the twenty-seventh session in spite of disruptions caused by the COVID-19 pandemic;

9. *Takes note of* the Commission's development of a draft procedure and criteria for consideration of a request for the transfer of rights and obligations under a contract for exploration,⁶ and requests the Commission to continue to revise its draft once the Council has considered issues relating to the transfer of rights and obligations under a contract for exploitation in the draft regulations for exploitation, as well as relevant issues related to effective control;

10. *Expresses its appreciation for* the Commission's work on revising the draft standardized procedure for the development, review and approval of regional environmental management plans (REMPs) and the template with the minimum requirements including the Commission's preliminary consideration of the written submissions received from delegations and the Commission's decision to continue this work, requests the Commission to prioritise this work as a matter of urgency and report back to the Council at the first meeting of the next session with a revised standardized framework including the standardized procedure and template, with the objective of its

³ ISBA/27/C/44.

⁴ United Nations, Treaty Series, vol. 1833, No. 31363.

⁵ Ibid., vol. 1836, No. 31364.

⁶ See ISBA/27/C/35.

adoption by the Council so that REMPs can be adopted in accordance with the standardized procedure and template;

11. *Welcomes* the work done by the Commission to implement Council decision ISBA/27/C/42 relating to the development of binding environmental threshold values, requests the Commission to report to the Council on the next steps foreseen for the Intersessional Expert Group and its subgroups and highlights the need to conduct an inclusive and transparent process in the development through these groups;

12. *Also expresses its appreciation* for the Commission's work on the development of the draft regional environmental management plan for the Area of the northern Mid-Atlantic Ridge, and requests the Commission to review the draft after the standardized procedure for the development, review and approval of regional environmental management plans and the template have been adopted by the Council, in the light of the Council's comments;

13. *Appreciates* the clarification of the criteria for the use of the silence procedure in the adoption of decisions by the Commission, including its confirmation that thorough discussions within the Commission will always take place before placing any document under silence procedure, as the procedure is a means for decision-making at the end of, and not a substitute for, the consultation process in the Commission,⁷ as well as the publication of the step-by-step process for the Commission to reach Consensus on any draft recommendation or draft report⁸ and requests the Commission for further clarifications on any issues for which the silence procedure may not be used and how the silence procedure is used consistently with its Rules of Procedure;

14. *Also welcomes* the Commission's updates to the process for reviewing environmental impact statements in relation to the testing of mining components or other activities requiring an environmental impact assessment during exploration and invites the Commission to consider holding consultations with stakeholders on the revised guidance document;⁹

15. *Noting* the importance of transparency in the ISA, recalls its request to the Commission to hold open meetings, where appropriate, so as to allow for greater transparency in its work and in that regard welcomes the Commission's initiative in holding an informal dialogue in the margins of Part II of the Council's twenty-eighth session, and encourages the Commission to continue this practice;

16. *Requests* the Commission to provide recommendations to the Council on how the procedures of the Commission could be further improved to provide for more transparency while maintaining its effective operation and recognizing the need to ensure the confidentiality of data and information;

17. *Welcomes* the significant progress made in relation to data management at the Authority and the ongoing work of the secretariat and the Commission to this end, including the holding of stakeholder consultations;

18. *Calls upon* contributions to the Voluntary Trust Funds to support the participation in the meetings of the Authority by developing States, including in the Council, the Legal and Technical Commission and the Finance Committee;

⁷ See ISBA/25/LTC/6/Rev.6, which replaces ISBA/25/LTC/6/Rev.2, ISBA/25/LTC/6/Rev.1 and ISBA/25/LTC/6/Rev.1.Corr.1.

⁸ See ISBA/25/LTC/6/Rev.6, which replaces ISBA/25/LTC/6/Rev.2, ISBA/25/LTC/6/Rev.1 and ISBA/25/LTC/6/Rev.1.Corr.1.

⁹ See ISBA/25/LTC/6/Rev.6, which replaces ISBA/25/LTC/6/Rev.2, ISBA/25/LTC/6/Rev.1 and ISBA/25/LTC/6/Rev.1.Corr.1.

19. *Requests* the Secretary-General to report to the Council on the implementation of the present decision at its twenty-ninth session, in 2024, and that such annual reporting remain on the agenda of the Council as a standing item.

312th Meeting
8 November 2023
