



## Legal and Technical Commission

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### Twenty-ninth session

Legal and Technical Commission, part II

Kingston, 1–12 July 2024

Agenda item 7

### Consideration of the annual reports of contractors

## Modalities for facilitating an exchange of views between contractors and members of the Legal and Technical Commission

### Issued by the Legal and Technical Commission

#### I. Introduction

1. In its decision relating to the reports of the Chair of the Legal and Technical Commission adopted at its twenty-eighth session ([ISBA/28/C/27](#)), the Council noted that contractors had complied with the reporting template issued by the Commission and had largely met the deadlines for submitting their annual reports. The Council also welcomed 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.

2. During the annual consultation between the secretariat and contractors held in Delft, Kingdom of the Netherlands, in December 2022, contractors were briefed on the annual reporting process and possible ways to further streamline and improve the responses to feedback from the Commission.<sup>1</sup> The topic was further discussed by the Commission at the second part of the twenty-eighth session on the basis of an informal note prepared by the secretariat. The Commission considered various avenues to facilitate the exchange of views between the Commission and contractors on matters pertaining to the implementation of their plans of work in order to improve performance by contractors. The Commission agreed that such an exchange of views could take place, as a flexible tool available to the Commission following the preliminary review of the annual reports and on a case-by-case basis.<sup>2</sup> Such an exchange of views will be at the initiative of the Commission.

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<sup>1</sup> [ISBA/28/C/15](#), para. 3.

<sup>2</sup> [ISBA/28/C/5/Add.1](#), para. 30.



3. The establishment of such an exchange of views, facilitated by the secretariat through Compliance Assurance and Regulatory Management Unit, received the support of several contractors during the sixth annual consultation with contractors, held in Dar es Salaam, United Republic of Tanzania, from 22 to 24 October 2023.

4. Under these modalities, a direct exchange of views between contractors and the Commission will be facilitated through the Compliance Assurance and Regulatory Management Unit, with two main objectives. First, to generate greater understanding between the Commission and contractors on the implementation of their plans of work for exploration. Second, to ensure that respective responsibilities are met and that the Council is better informed.

## **II. Modalities for exchange of views between contractors and the Commission**

5. The Compliance Assurance and Regulatory Management Unit will facilitate any exchange of views between contractors and the Commission according to the modalities contained in the annex, as set out below:

(a) The Commission will identify issues that may merit a specific exchange of views with a specific contractor;

(b) The Unit will assist in identifying the topics and issues to be discussed between the contractors and the Commission, including through its ongoing interactions with contractors and the Commission;

(c) The Commission will have the full discretion to accept or reject and prioritize any proposal from the Unit for an exchange of views;

(d) The exchange of views will be coordinated and organized by the Unit, in consultation with contractors and the Commission;

(e) The exchange of views between contractors and the Commission will be informal. Opinions expressed and statements or questions are considered to be informative and should not be interpreted as endorsements or recommendations by the Commission or the secretariat. All contractors engaging in such exchange of views will be requested to sign a “without prejudice declaration” (see appendix);

(f) The Unit will keep records of the discussions held during any exchange of views for internal purposes only;

(g) The Commission will report on the exchange of views through the reports of the Chair of the Legal and Technical Commission.

## Annex

### **Modalities for the exchange of views facilitated by the secretariat between contractors and members of the Legal and Technical Commission**

#### **I. Introduction and rationale**

1. Establishing a direct exchange of views between contractors and members of the Commission on matters of mutual interest offers a unique opportunity to increase mutual understanding and expectations in relation to the implementation of the plans of work for exploration and ultimately, optimal management of the Area and its resources for the benefit of humankind. Such an exchange of views, to be decided by members of the Commission on a case-by-case basis, could be a useful tool for assisting it in carrying out its work.
2. The modalities set out below outline the role of the secretariat in facilitating the exchange of views between members of the Commission and contractors, as well as the roles of the members of the Commission and contractors.

#### **II. Modalities**

##### **A. Roles of the secretariat**

3. The secretariat, through the Compliance Assurance and Regulatory Management Unit, will:
  - (a) Facilitate the exchange of views between contractors and members of the Commission;
  - (b) Assist in identifying, through ongoing interaction with contractors and the Commission, the topics and issues that would require or benefit from an exchange of views;
  - (c) Organize the meetings through which such an exchange of views would be facilitated between contractors and members of the Commission, including by preparing relevant information and materials to be shared with contractors and/or members of the Commission, where appropriate;
  - (d) Moderate the meetings between contractors and members of the Commission.

##### **B. Roles of the Commission**

4. The Commission will:
  - (a) Consider the need for an exchange of views, including the topics or issues to be discussed and make appropriate decisions as to when the meeting will be held and the mode of interaction;
  - (b) Inform the Compliance Assurance and Regulatory Management Unit of its wish to meet with a contractor or contractors, as well as of the topics or issues to be discussed;

(c) Allocate enough time for an effective exchange of views (i.e. in person, hybrid or virtual) with the contractor(s) concerned, considering the agenda of the Commission.

### **C. Roles of the contractor**

5. The contractor will:

(a) Inform the Compliance Assurance and Regulatory Management Unit of the topics or issues they consider would benefit from the eventual exchange of views;

(b) If a meeting is to take place, collaborate with the Unit in the preparation of the meeting including, where appropriate, by preparing a presentation and other relevant materials that may be necessary;

(c) Provide any additional information at the request of the Commission.

## Appendix

### Without prejudice declaration

As a precondition for entering into an exchange of views pursuant to the “Modalities for facilitating an exchange of views between contractors and members of the Legal and Technical Commission”, contractors will be expected to sign the following declaration [by no later than 15 working days prior to the first day of a scheduled exchange of views]:

1. [Insert contractor’s name] hereby irrevocably acknowledges and agrees that the conduct or communications of the Legal and Technical Commission of the International Seabed Authority or any of its members in the context of the exchange of views to be held on [insert date(s)] (“the exchange of views”) and facilitated by the secretariat, are strictly without prejudice to the rights and obligations of the Authority, and to the position of the Authority (and of the organs of the Authority) on any factual or legal matter concerning the conduct of [insert contractor’s name].
2. [Insert contractor’s name] hereby irrevocably waives the right to rely on the conduct or communications of the Legal and Technical Commission or any of its members in the context of the exchange of views in any other processes and/or legal proceeding.

Date and time:

Location:

Name and position title:

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