



28<sup>th</sup> Session  
**Selected  
decisions and  
documents**







28<sup>th</sup> Session

# Selected decisions and documents

**INTERNATIONAL SEABED AUTHORITY**

14-20 Port Royal Street

Kingston, Jamaica

Tel: +1-876-922-9105

Fax: +1-876-922-0195

[www.isa.org.jm](http://www.isa.org.jm)

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# Content

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## ASSEMBLY

### ■ **ISBA/28/A/2**

Report of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea

### ■ **ISBA/28/A/2/Corr.1**

Report of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea

### ■ **ISBA/28/A/4-ISBA/28/C/13**

Report of the Finance Committee

### ■ **ISBA/28/A/5-ISBA/28/C/14**

Proposed amendments to the statute of the International Civil Service Commission

### ■ **ISBA/28/A/6**

Report on the implementation by the Council of the strategic plan of the Authority for the period 2019–2023

### ■ **ISBA/28/A/7**

Consideration, with a view to adoption, of the draft strategic plan of the International Seabed Authority for the five-year period 2024–2028

### ■ **ISBA/28/A/8**

Implementation of the action plan of the International Seabed Authority in support of the United Nations Decade of Ocean Science for Sustainable Development

### ■ **ISBA/28/A/11**

Report on the implementation by the Assembly of the strategic plan of the Authority for the period 2019–2023

### ■ **ISBA/28/A/14**

Decision of the Assembly of the International Seabed Authority concerning amendments to the statute of the International Civil Service Commission

### ■ **ISBA/28/A/15**

Decision of the Assembly of the International Seabed Authority relating to financial and budgetary matters

### ■ **ISBA/28/A/16**

Decision of the Assembly of the International Seabed Authority on the second periodic review of the international regime of the Area pursuant to article 154 of the United Nations Convention on the Law of the Sea

### ■ **ISBA/28/A/18**

Statement by the President on the work of the Assembly of the International Seabed Authority at its twenty-eighth session

## **COUNCIL**

### ■ **ISBA/28/C/2**

Report of the Special Representative of the Secretary-General of the International Seabed Authority for the Enterprise

### ■ **ISBA/28/C/5**

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

### ■ **ISBA/28/C/5/Add.1**

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

### ■ **ISBA/28/C/6**

Report on the relinquishment of 50 per cent of the area allocated to the Government of the Republic of Korea under the contract for exploration for polymetallic sulphides between the Government and the International Seabed Authority

### ■ **ISBA/28/C/7**

Report on the relinquishment of 75 per cent of the area allocated to the Ministry of Natural Resources and Environment of the Russian Federation under the contract for exploration for polymetallic sulphides between the Ministry and the International Seabed Authority

### ■ **ISBA/28/C/8**

Decision of the Council of the International Seabed Authority on the deferral of the schedule of relinquishment upon request by the Government of the Republic of Korea

### ■ **ISBA/28/C/9**

Decision of the Council of the International Seabed Authority relating to the understanding and application of section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea

### ■ **ISBA/28/C/10**

Decision of the Council of the International Seabed Authority relating to the establishment of the position of an Interim Director General of the Enterprise

### ■ **ISBA/28/C/11**

Statement of the President on the work of the Council of the International Seabed Authority during the first part of the twenty-eighth session

### ■ **ISBA/28/C/11/Add.1**

Statement by the President on the work of the Council of the International Seabed Authority during the second part of the twenty-eighth session

### ■ **ISBA/28/C/11/Add.2**

Statement by the President on the work of the Council of the International Seabed Authority during the third part of the twenty-eighth session

### ■ **ISBA/28/C/15**

Implementation of the decision of the Council in 2022 relating to the reports of the Chair of the Legal and Technical Commission

### ■ **ISBA/28/C/19**

Report on the relinquishment of one third of the area allocated to the Ministry of Natural Resources and Environment of the Russian Federation under the contract for exploration for cobalt-rich ferromanganese crusts between the Ministry and the International Seabed Authority

### ■ **ISBA/28/C/21**

Decision of the Council of the International Seabed Authority relating to financial and budgetary matter

### ■ **ISBA/28/C/22**

Decision of the Council of the International Seabed Authority on the deferral of the schedule of relinquishment upon request by the Government of India

### ■ **ISBA/28/C/23**

Decision of the Council of the International Seabed Authority relating to the establishment of the position of an Interim Director General of the Enterprise

### ■ **ISBA/28/C/24**

Decision of the Council of the International Seabed Authority on a timeline following the expiration of the two-year period pursuant to section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea

### ■ **ISBA/28/C/25**

Decision of the Council of the International Seabed Authority relating to the understanding and application of section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea

### ■ **ISBA/28/C/27**

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





# Assembly

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## Twenty-eighth session

Kingston, 24–28 July 2023

Item 8 of the provisional agenda\*

**Annual report of the Secretary-General under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea**

## **Report of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea**

### **I. Introduction**

1. The present report is submitted to the Assembly of the International Seabed Authority pursuant to article 166, paragraph 4, of the United Nations Convention on the Law of the Sea of 1982. It provides information on the work of the Authority for the period from July 2022 to June 2023.

2. The Assembly will recall that, since 2020, the annual report of the Secretary-General has been presented in two formats. The present report provides information on the status of the Convention and related legal instruments, the status of the Area, the status of contributions to the budget of the Authority, the status of contracts for exploration in the Area, a summary of the main outcomes of the previous session of the Authority and other noteworthy information. It should be read in conjunction with the fully illustrated report, entitled “Just and equitable management of the common heritage of humankind”.

### **II. Membership of the Authority**

3. All States parties to the Convention are ipso facto members of the Authority.<sup>1</sup> As at 31 May 2023, there were 169 parties to the Convention (168 States and the European Union), and thus there were 169 members of the Authority. Rwanda became a party to the Convention on 18 May 2023. On the same date, Rwanda also became a party 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 (1994 Agreement), which means that there are now 152 parties to the 1994 Agreement.

4. There are 17 members of the Authority that became parties to the Convention before the adoption of the 1994 Agreement and have yet to become parties to it, namely Bahrain, the Comoros, the Democratic Republic of the Congo, Djibouti,

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\* ISBA/28/A/L.1.

<sup>1</sup> In accordance with article 156, paragraph 2, of the Convention.



Dominica, Egypt, the Gambia, Guinea-Bissau, Iraq, Mali, the Marshall Islands, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Somalia and the Sudan.

5. As provided under General Assembly resolution [48/263](#) and the 1994 Agreement itself, the provisions of the Agreement and of part XI of the Convention are to be interpreted and applied together as a single instrument. In the event of any inconsistency between the 1994 Agreement and part XI of the Convention, the provisions of the Agreement shall prevail. Although members of the Authority that are not parties to the 1994 Agreement participate in the work of the Authority under arrangements based on that Agreement, becoming a party to the Agreement would remove any incongruity that currently exists for those States. The Secretary-General encourages those States to become parties to the Agreement at the earliest possible opportunity. The secretariat sent a note verbale to each of those States on 3 February 2023.

### **III. The Area**

6. The Area is defined in the Convention as the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction. Establishing the exact geographical limits of the Area thus depends on the delineation of the limits of national jurisdiction, including the delineation of the continental shelf extending beyond 200 nautical miles from the baseline of the territorial sea. Pursuant to article 84, paragraph 2, of the Convention, coastal States are obliged to give due publicity to charts or lists of geographical coordinates and, in the case of those showing the outer limit lines of the continental shelf, to deposit a copy of each such chart or list with the Secretary-General of the Authority. As at 31 May 2023, 12 members of the Authority had deposited such charts and lists with the Secretary-General, namely Australia, the Cook Islands, Côte d'Ivoire, France (with respect to Guadeloupe, Guyana, the Kerguelen islands, Martinique, New Caledonia, Reunion and the Saint-Paul and Amsterdam islands), Ireland, Mauritius, Mexico, New Zealand, Niue, Pakistan, the Philippines and Tuvalu.

7. The Secretary-General urges all coastal States to deposit the charts or lists of coordinates as soon as possible after the establishment of the outer limit lines of their continental shelf, up to and beyond 200 nautical miles, in accordance with the relevant provisions of the Convention. Knowledge of the precise delineation of all areas of continental shelf up to and beyond 200 nautical miles will allow the geographical limits of the Area to be established with certainty. Each year, the secretariat sends out a note verbale requesting the deposit of such charts or lists of coordinates. The last such note was sent out on 27 January 2023.

### **IV. Permanent missions to the Authority**

8. As at 31 May 2023, the following 33 States, in addition to the European Union, maintained permanent missions to the Authority: Algeria, Antigua and Barbuda, Argentina, Bangladesh, Belgium, Brazil, Cameroon, Chile, China, Costa Rica, Cuba, Cyprus, Dominican Republic, France, Gabon, Germany, Indonesia, Italy, Jamaica, Japan, Malta, Mauritius, Mexico, Namibia, Nauru, Nigeria, Panama, Philippines, Republic of Korea, Russian Federation, South Africa, Spain and Trinidad and Tobago.

9. During the reporting period, the permanent representatives of six new States presented their credentials to the Secretary-General, namely Bangladesh, Chile, China, Germany, Japan and the Republic of Korea. On 20 February 2023, the first permanent representative of Zimbabwe to the Authority presented his credentials to the Secretary-General.

## **V. Protocol on the Privileges and Immunities of the International Seabed Authority**

10. The Protocol on the Privileges and Immunities of the International Seabed Authority was adopted by the Assembly on 27 March 1998 and entered into force on 31 May 2003. Greece acceded to the Protocol on 12 December 2022, bringing the total number of parties to 48: Albania, Antigua and Barbuda, Argentina, Austria, Brazil, Bulgaria, Burkina Faso, Cameroon, Chile, Croatia, Cuba, Czechia, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Ghana, Greece, Guinea, Guyana, India, Iraq, Ireland, Italy, Jamaica, Jordan, Lithuania, Mauritius, Mozambique, Netherlands (Kingdom of the), Nigeria, Norway, Oman, Panama, Poland, Portugal, Romania, Senegal, Slovakia, Slovenia, Spain, Togo, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland and Uruguay. A further 10 States have signed the Protocol but have yet to ratify it: Bahamas, Côte d'Ivoire, Indonesia, Kenya, Malta, Namibia, North Macedonia, Pakistan, Saudi Arabia and Sudan.

11. Members of the Authority that are not yet parties are strongly encouraged to take the steps necessary to become parties to the Protocol at their earliest convenience. The secretariat sent out a note verbale to that effect on 30 January 2023.

## **VI. Administrative matters**

### **A. Secretariat**

12. The secretariat is one of the principal organs of the Authority. In accordance with article 166 of the Convention, the secretariat comprises a Secretary-General and such staff as the Authority may require. The number of established posts in the secretariat as at 31 May 2023 was 52 (30 Professional, 2 National Professional Officers and 20 General Service).

13. During the reporting period, five job openings were advertised on the Inspira platform. As at the end of May 2023, four of the five vacancies had been filled, three staff members had separated from service and one staff member had retired; a total of 42 consultants were utilized. The secretariat attaches importance to ensuring a gender balance: 58 per cent of the Authority's staff members and 50 per cent of the senior management team are women. In view of the growing requirements resulting from the increase in the number of staff, the secretariat redesigned the workspace on the second floor of the headquarters building to accommodate additional workstations for new staff.

### **B. Participation in the common system of the United Nations**

14. The Authority applies the common system of salaries, allowances and other conditions of service of the United Nations and the specialized agencies of the United Nations system. It subscribed to the statute of the International Civil Service Commission (ICSC), with effect from January 2013.<sup>2</sup>

15. As a participant in the United Nations common system of organizations, the Authority contributes to and participates in the work of ICSC and uses common system services and tools such as Inspira, the United Nations Global Centre for Human Resources Services ("OneHR"), the Department of Safety and Security and the United Nations Appeals Tribunal. The secretariat also contributes to the United Nations security management system. This ensures access to disaster evacuation

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<sup>2</sup> See [ISBA/18/A/7](#).

arrangements and medical evacuations and enables the secretariat to participate in the Inter-Agency Security Management Network and relevant working groups on security training. The Authority is not currently a member of the United Nations System Chief Executives Board for Coordination (CEB) but is considering an invitation to join three relevant CEB networks as an observer, namely the Human Resources Network, the Finance and Budget Network and the Digital and Technology Network.

16. On 16 November 2022, the secretariat received a notification from CEB forwarding a proposal from the Fifth Committee of the United Nations General Assembly to amend articles 10 (b) and 11 (c) of the ICSC statute and requesting specialized and related agencies to provide written opinions on the proposed amendment and the process of obtaining a written notification of acceptance. On 12 December 2022, the Secretary-General of the Authority sent a letter to ICSC indicating that, in line with the legal process identified in articles 1 (3) and 30 and of the ICSC statute, the secretariat would need to notify the Council and the Assembly of the Authority at their next meetings in July 2023 of the proposed amendments prior to sending a written notification of acceptance. A separate report thereon has been prepared by the secretariat for the Assembly and the Council, for information.

## **VII. Financial matters**

### **A. Budget**

17. At its twenty-seventh session, the Assembly, following the recommendation of the Finance Committee, adopted the budget for the financial period 2023–2024 in the amount of \$22,256,000.<sup>3</sup>

### **B. Status of contributions**

18. In accordance with the Convention and the 1994 Agreement, the administrative expenses of the Authority are to be met by assessed contributions of its members until the Authority has sufficient funds from other sources to meet those expenses. The scale of assessments is based on the scale used for the regular budget of the United Nations, adjusted for differences in membership. As at 31 May 2023, 68 per cent of the value of contributions to the 2023 budget due from member States and the European Union had been received.

19. As at 31 May 2023, outstanding contributions from member States for prior periods (1998–2022) amounted to \$757,586. Notices are sent on a regular basis to member States, reminding them of the arrears. In accordance with article 184 of the Convention and rule 80 of the rules of procedure of the Assembly, a member of the Authority that is in arrears in the payment of its financial contributions shall have no vote if the amount of its arrears equals or exceeds the amount of contributions due from it for the preceding two years. As at 31 May 2023, the following 47 members of the Authority had been in arrears for two years or more: Bahrain, Barbados, Belize, Bolivia (Plurinational State of), Brazil, Burkina Faso, Chad, Comoros, Congo, Cuba, Democratic Republic of the Congo, Djibouti, Dominica, Equatorial Guinea, Gabon, Gambia, Guinea, Guinea-Bissau, Haiti, Honduras, Iraq, Lebanon, Lesotho, Liberia, Madagascar, Malawi, Mali, Marshall Islands, Mauritania, Mongolia, Montenegro, Myanmar, Nepal, Niger, Niue Island, North Macedonia, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Senegal, Seychelles, Solomon Islands, Somalia, Sudan, Suriname, Uganda and Yemen.

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<sup>3</sup> See [ISBA/27/A/10](#), [ISBA/27/A/3-ISBA/27/C/22](#), [ISBA/27/A/3/Add.1-ISBA/27/C/22/Add.1](#) and [ISBA/27/A/3/Add.1/Rev.1-ISBA/27/C/22/Add.1/Rev.1](#).

20. As at 31 May 2023, the balance of the working capital fund stood at \$717,541, against an approved level of \$750,000.

### **C. Voluntary trust fund for members of the Legal and Technical Commission and the Finance Committee**

21. The voluntary trust fund for the participation of members of the Legal and Technical Commission and the Finance Committee from developing countries was established in 2002. As at 31 May 2023, the total contributions to the fund over its lifetime amounted to \$1,383,780. During the reporting period, contributions were made by China (\$40,000), Norway (\$9,775) and the United Kingdom (\$10,000) and by contractors (\$18,000). As at 31 May 2023, the balance of the fund was \$40,004.

### **D. Voluntary trust fund for members of the Council**

22. At its twenty-third session, the Assembly requested the Secretary-General to establish a voluntary trust fund to support the participation of members of the Council from developing States.<sup>4</sup> As at 31 May 2023, the total contributions to the fund over its lifetime amounted to \$145,202. During the reporting period, contributions were made by the United Kingdom (\$10,000) and by contractors (\$25,500). As at 31 May 2023, the balance of the fund was \$548.

### **E. Voluntary trust fund for the Special Representative of the Secretary-General for the Enterprise**

23. At the first part of its twenty-fifth session, the Council requested the Secretary-General to establish a voluntary trust fund for the purpose of providing the requisite funds related to the work of the Special Representative of the Secretary-General for the Enterprise.<sup>5</sup> The fund was created on 1 March 2019. As at 31 May 2023, the balance of the fund was \$3,528.

### **F. International Seabed Authority Partnership Fund**

24. The International Seabed Authority Partnership Fund was established in line with the decision of the Assembly during the twenty-seventh session as a multi-donor trust fund pursuant to regulation 5.5 of the Financial Regulations of the International Seabed Authority.<sup>6</sup> The main objective of the Fund is to promote and encourage the conduct of marine scientific research in the Area for the benefit of humankind as a whole. Since August 2022, contributions to the Fund were made by France (\$122,124), Mexico (\$10,000), China (\$20,000) and Greece (\$52,520), in addition to the \$400,000 withdrawn from the Endowment Fund for Marine Scientific Research in the Area. Total contributions as at 31 May 2023 were \$604,644, and no expenditure from the Partnership Fund has been made to date.

### **G. Trust fund for extrabudgetary support for the Authority**

25. The Authority receives extrabudgetary funds from member States and other donors to support activities not funded by the approved budget of the Authority. These may be one-off contributions or funds to support multi-year programmes or projects,

<sup>4</sup> See [ISBA/23/A/13](#).

<sup>5</sup> See [ISBA/25/C/16](#).

<sup>6</sup> See [ISBA/27/A/10](#) and [ISBA/27/FC/3](#).

used in accordance with the terms agreed with the donors, including reporting and audit requirements.

26. In March 2018, the Secretary-General created a multi-donor trust fund for extrabudgetary support for the activities of the Authority. The fund was established pursuant to regulation 5.5 of the Financial Regulations of the Authority and is administered in accordance with the Financial Regulations. Since its creation, the fund has raised \$2,495,376 and had a net balance of \$627,199 as at 31 May 2023. Since March 2022, contributions have been made by the National Marine Biodiversity Institute of Korea (\$125,809) and Monaco (\$21,468). In addition, the European Union contributed \$208,024 to the Sustainable Seabed Knowledge Initiative project and \$123,000 to the Deep-Dive project.

## **VIII. Previous sessions of the Authority**

### **A. Twenty-seventh session**

27. The twenty-seventh session of the Assembly was held in Kingston from 1 to 4 August 2022. A total of seven meetings were held (191st to 197th), with a special commemorative event marking the fortieth anniversary of the adoption and opening for signature of the Convention. At its opening meeting, the Assembly elected Satyendra Prasad (Fiji) as its President and Ghana, Mexico and Norway as Vice-Presidents. Olav Myklebust (Norway) was designated acting President, to preside over the meetings in the absence of the President.

28. During the session, the Assembly considered the annual report of the Secretary-General, submitted in accordance with article 166, paragraph 4, of the Convention.<sup>7</sup> It elected 15 members of the Finance Committee for the period from 1 January 2023 to 31 December 2027, in accordance with section 9 of the annex to the 1994 Agreement. The Assembly also elected 18 members of the Council for a term lasting from 1 January 2023 to 31 December 2026. A decision relating to the budget of the Authority for the financial period 2023–2024 was adopted during its 194th meeting.<sup>8</sup> At the same meeting, the Assembly adopted a decision relating to the implementation of a programmatic approach to capacity development.<sup>9</sup>

29. The twenty-seventh session of the Council was held in three parts: the first part from 21 March to 1 April 2022, the second part from 18 to 29 July 2022 and the third part from 31 October to 11 November 2022. At the first part of the session, the Council elected Tomasz Abramowski (Poland) as President and Canada, Jamaica and Sierra Leone as Vice-Presidents.

30. During the meetings, the Council made progress in its negotiations on the draft regulations on exploitation as a priority. It considered the reports of the Legal and Technical Commission and adopted a decision relating to the implementation of the report of the Commission.<sup>10</sup> At its meetings in July, it elected 41 members of the Commission for the period from 1 January 2023 to 31 December 2027<sup>11</sup> and adopted a decision relating to the development of binding environmental threshold values.<sup>12</sup>

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<sup>7</sup> See [ISBA/27/A/2](#) and [ISBA/27/A/2/Add.1](#).

<sup>8</sup> See [ISBA/27/A/10](#).

<sup>9</sup> See [ISBA/27/A/11](#).

<sup>10</sup> See [ISBA/27/C/44](#).

<sup>11</sup> See [ISBA/27/C/41](#) and [ISBA/27/C/41/Add.1](#).

<sup>12</sup> See [ISBA/27/C/42](#).

31. The Council continued its consideration of the report of the Special Representative of the Secretary-General for the Enterprise<sup>13</sup> and adopted a decision relating to the possible scenarios and any other pertinent legal considerations in connection with section 1, paragraph 15, of the annex to the 1994 Agreement.<sup>14</sup> The Council approved a memorandum of understanding with the African Union.<sup>15</sup> It also adopted a decision on an application from the Government of India to extend its contract for exploration of polymetallic nodules.<sup>16</sup> Furthermore, the Council adopted decisions on the requests for deferral of the schedule of relinquishment by the Federal Institute for Geosciences and Natural Resources and the Institut français de recherche pour l'exploitation de la mer.<sup>17</sup>

## **B. First part of the twenty-eighth session of the Council**

32. The twenty-eighth session of the Council opened on 16 March 2023. The Council elected Juan José González Mijares (Mexico) as President. Canada, Ghana and the Republic of Korea were elected Vice-Presidents. The Council adopted a decision relating to the understanding and application of section 1, paragraph 15, of the annex to the 1994 Agreement.<sup>18</sup> It also adopted a decision relating to the establishment of the position of interim director general of the Enterprise<sup>19</sup> and a decision on the deferral of the schedule of relinquishment by one of the contractors.<sup>20</sup>

33. The Council continued its work on the draft regulations for exploitation of mineral resources in the Area following the road map adopted in 2022.<sup>21</sup>

## **IX. Status of contracts for exploration**

34. As at 31 May 2023, the Authority had 30 contracts for exploration in force (19 for polymetallic nodules, 7 for polymetallic sulphides and 4 for cobalt-rich ferromanganese crusts). Each contractor is required to submit an annual report to the Secretary-General within 90 days of the end of each calendar year, covering its programme of activities in the exploration area. For 2023, 30 annual reports in relation to 30 exploration contracts have been received by the secretariat.

35. Since 2017, the Secretary-General has held annual consultative meetings with contractors to discuss issues of common interest and share best practices in deep-sea exploration. In 2022, the meetings took place in Delft, Kingdom of the Netherlands, from 5 to 7 December, with logistical support from Allseas Group and the Delft University of Technology. It was attended by 64 representatives of exploration contractors. The next consultative meeting is expected to be held in October 2023.

## **X. United Nations General Assembly and meetings of States parties to the Convention**

36. On 8 December 2022, the Secretary-General participated in the commemoration by the United Nations General Assembly of the fortieth anniversary of the adoption

<sup>13</sup> See [ISBA/27/C/14](#), [ISBA/27/C/14/Corr.1](#) and [ISBA/27/C/34](#).

<sup>14</sup> See [ISBA/27/C/45](#).

<sup>15</sup> See [ISBA/27/C/29](#).

<sup>16</sup> See [ISBA/27/C/18](#).

<sup>17</sup> See [ISBA/27/C/19](#) and [ISBA/27/C/39](#).

<sup>18</sup> See [ISBA/28/C/9](#).

<sup>19</sup> See [ISBA/28/C/10](#).

<sup>20</sup> See [ISBA/28/C/8](#).

<sup>21</sup> See [ISBA/27/C/21/Add.2](#), annex II.

and opening for signature of the Convention, and delivered a statement on behalf of the Authority.<sup>22</sup>

37. On 9 December 2022, during the seventy-seventh session of the General Assembly, the Secretary-General made a statement under agenda item 72 (a), on oceans and the law of the sea. He reported on the achievements of the members of the Authority in 2022 and the adoption of a road map for continued work in 2023, highlighting that the completion of the regulatory regime was considered crucial for the Authority to fulfil its mandate of protecting the marine environment and the rights of all States parties. The Secretary-General pointed out that having clarity in the legal framework and the removal of regulatory uncertainty and risk were in the best interests of all members. He also highlighted the strategic framework put in place over the past five years, including the adoption of a strategic plan and the establishment of the International Seabed Authority Partnership Fund. These decisions are aimed at enhancing capacity-building opportunities and international collaboration. Furthermore, the Secretary-General emphasized the importance of implementing the action plan in support of the United Nations Decade of Ocean Science for Sustainable Development and the launch of the Sustainable Seabed Knowledge Initiative. He concluded his statement by expressing anticipation for the forthcoming meetings in Jamaica and the progress towards the mining code in 2023.<sup>23</sup>

38. The Authority will participate in the thirty-third Meeting of States parties to the Convention, to be held from 12 to 16 June 2023, presenting the activities of the Authority.

## **XI. Report on the implementation of the strategic plan of the Authority for the period 2019–2023**

39. For the 2022–2023 reporting period, the secretariat was assigned some responsibilities for 60 high-level actions, with 102 related outputs, as listed in annex II to the present report. In three cases, no specific output was identified and, therefore, the reporting specifically addresses the high-level action of interest (see high-level actions 3.2.2, 5.2.2 and 9.3.3). Accordingly, the total number of items identified for the reporting period is 105. The secretariat is identified as the “organ responsible” for 76 outputs, the “associated organ” for 20 other outputs and the “coordinating organ” for 9 outputs.

40. As at 30 May 2023, 87 assigned high-level actions and outputs (83 per cent) had been completed, while 17 (16 per cent) were still in progress and expected to be achieved by the end of the year (see annex I). One high-level action (3.3.2) under strategic direction 3 (“Protect the marine environment”) had been put on hold temporarily to allow the Council to advance its discussions on the matter. Outputs assigned for the reporting period under strategic directions 1 (“Realize the role of the Authority in a global context”), 2 (“Strengthen the regulatory framework for activities in the Area”), 6 (“Ensure fully integrated participation by developing States”), 8 (“Improve the organization performance of the Authority”) and 9 (“Commit to transparency”) are more than 80 per cent complete. Details of the work undertaken for all outputs have been compiled by the secretariat and are available in annex II.

<sup>22</sup> See [https://estatemts.unmeetings.org/estatemts/10.0010/20221208/k7a1T8gXAeEB/wQ1wIwa4ttI6\\_en.pdf](https://estatemts.unmeetings.org/estatemts/10.0010/20221208/k7a1T8gXAeEB/wQ1wIwa4ttI6_en.pdf).

<sup>23</sup> See [https://estatemts.unmeetings.org/estatemts/10.0010/20221209/eSmFLu8poyAI/Gzs0LulYuaqs\\_en.pdf](https://estatemts.unmeetings.org/estatemts/10.0010/20221209/eSmFLu8poyAI/Gzs0LulYuaqs_en.pdf).



## Annex I

### Status of completion of high-level actions assigned to the secretariat and related outputs for the 2022–2023 reporting period

<i>Strategic direction</i>	<i>Number of relevant items for reporting</i>	<i>Completed</i>		<i>In progress</i>	<i>On hold</i>	<i>Status of completion (percentage)</i>
		<i>Ongoing</i>	<i>Achieved</i>			
Strategic direction 1: Realize the role of the Authority in a global context	15	14	–	1	–	93
Strategic direction 2: Strengthen the regulatory framework for activities in the Area	6	5	–	1	–	83
Strategic direction 3: Protect the marine environment	14	6	3	4	1	64
Strategic direction 4: Promote and encourage marine scientific research in the Area	11	8	–	3	–	73
Strategic direction 5: Build capacity for developing States	11	5	3	3	–	73
Strategic direction 6: Ensure fully integrated participation by developing States	9	6	2	1	–	89
Strategic direction 7: Ensure equitable sharing of financial and other economic benefits	Not applicable	–	Not applicable	–	–	Not applicable
Strategic direction 8: Improve the organizational performance of the Authority	21	16	3	1	–	90
Strategic direction 9: Commit to transparency	18	16	–	2	–	89
<b>Total</b>	<b>105</b>	<b>76</b>	<b>11</b>	<b>17</b>	<b>1</b>	<b>83</b>

## **Annex II**

### **Status of implementation by the secretariat of the relevant high-level actions and associated outputs for the 2022–2023 reporting period**

The status of implementation by the secretariat of the relevant high-level actions and related outputs for the 2022–2023 reporting period is available (in English only) at the following link: [www.isa.org.jm/wp-content/uploads/2023/05/ISBA\\_28\\_A\\_2\\_Add\\_1\\_Annex\\_II.pdf](http://www.isa.org.jm/wp-content/uploads/2023/05/ISBA_28_A_2_Add_1_Annex_II.pdf).

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## Assembly

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20 July 2023

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### Twenty-eighth session

Kingston, 24–28 July 2023

Item 8 of the provisional agenda\*

**Annual report of the Secretary-General under  
article 166, paragraph 4, of the United Nations  
Convention on the Law of the Sea**

## **Report of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea**

### Corrigendum

#### Paragraph 29

The second sentence *should read*

At the first part of the session, the Council elected Tomasz Abramowski (Poland) as President and Canada, Jamaica, the Republic of Korea and Sierra Leone as Vice-Presidents.

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\* ISBA/28/A/L.1.





## Assembly Council

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### Twenty-eighth session

Kingston, 10–28 July 2023

Item 9 of the provisional agenda of the Assembly\*

### Report and recommendations of the Finance Committee

Agenda item 15 of the Council

### Report of the Finance Committee

## Report of the Finance Committee

### I. Introduction

1. During the twenty-eighth session of the International Seabed Authority, the Finance Committee held six formal meetings between 5 and 7 July 2023. The Committee also held informal virtual meetings on 18 April 2023 and 14 June 2023.

2. The following members of the Committee participated in the formal meetings: Anastasia Francilia Akubor, Christopher Hilton, Didier Ortolland, Fujimoto Shoko, Jens Benninghofen, Kajal Bhat, Kenneth Wong, Md Khurshed Alam, Medard Ainomuhisha, Sergey Litvinov, Solomon Korbich, Thiago Poggio Padua and Viola Walton. Kejun Fan resigned from the Committee on 23 April 2023 and Chaohong Xing was nominated for the by-election by the Assembly in July 2023.

3. On 5 July 2023, the Committee adopted its agenda ([ISBA/28/FC/1](#)) and elected Md Khurshed Alam as Chair and Kenneth Wong as Vice-Chair of the Committee.

### II. Implementation of the budget for the financial period 2021–2022

4. On 5 July, the Committee reviewed the implementation of the budget for the financial period 2021–2022 and noted that the total expenditure during this period amounted to \$19,261,222 against an approved budget provision of \$19,411,280, resulting in underexpenditure of \$150,058, or 0.77 per cent, over the financial period.

### III. Status of the Working Capital Fund

5. On 5 July, the Committee noted that, as at 30 June 2023, the balance of the Working Capital Fund was \$717,568, with a further \$32,432 to be collected in the financial period 2023–2024.

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\* [ISBA/28/A/L.1](#).



6. The Committee also noted that the level of the Working Capital Fund had not been reviewed since 2019. Currently, the Fund only represented 3 per cent of the budget, whereas it should be sufficient for 8 per cent (approximately one twelfth) of the budget. The Committee decided to include a review of the level of the Working Capital Fund in its agenda for 2024, in the context of the consideration of the Authority's budget for the financial period 2025–2026.

#### **IV. Status of contributions and related matters**

7. On 5 July, the Committee noted that, as at 30 June 2023, 89 per cent (\$7,493,831) of the contributions to the budget of the Authority for 2023 had been received, with 69 member States paying their contributions in full and 13 in part.<sup>1</sup> As at the same date, contributions outstanding from member States for prior periods (1998–2022) amounted to \$757,566. The Committee also noted with concern that nine member States had never paid their contributions since becoming party to the United Nations Convention on the Law of the Sea.

8. The Committee appreciated the efforts of the Secretary-General to collect the outstanding contributions, including sending out notices regularly, holding bilateral meetings with the relevant members and circulating relevant information on various occasions. The Committee encourages the Secretary-General to continue his efforts, including further raising awareness of the work of the Authority among those member States that are in arrears, in particular those that have never paid their contributions to the budget of the Authority.

#### **V. Audit report on the accounts of the International Seabed Authority for 2022**

9. The Committee reviewed the audited financial statements prepared by Ernst and Young. The Committee noted that, in the opinion of the auditor, the financial statements gave a true and fair view of the financial position of the Authority as at 31 December 2022, and of its financial performance and cash flows for the year then ended in accordance with International Public Sector Accounting Standards. No adverse observations had been made by the auditor.

10. From 5 to 7 July, the Committee considered the appointment of an auditor for the financial period 2023–2024. The Committee noted that the secretariat had invited five internationally recognized auditing firms in Kingston and that two proposals had been received from them.

11. The Committee acknowledged with appreciation that the secretariat had contacted the Board of Auditors of the United Nations as requested by the Committee in 2022. It was noted that the rate provided by the Board of Auditors was \$38,820 per year (the same rate for 2023 and 2024) with additional travel-related charges (round-trip tickets and daily subsistence allowance for assigned auditors), which was substantially more than the currently budgeted costs and significantly higher than other bids received.

12. The Committee considered that the two proposals from Jamaica-based auditors were technically competent and satisfied the requirements of the financial regulations of the Authority. Both companies had experience in auditing international organizations and government agencies. After further verification by the secretariat of the services with the referenced audited organizations and agencies, the Committee

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<sup>1</sup> As at the same date in 2022, 87 per cent of the contributions had been received.

decided to recommend the appointment of CalvertGordon Associates as auditor for 2023–2024, at a quoted cost of \$15,000 and \$15,750, respectively, noting that the same company had also audited projects funded by the World Bank, the Inter-American Development Bank, the European Union and the Embassy of Japan, among others.

## VI. Status of the trust funds of the Authority and related matters

13. The Committee took note of the information provided by the secretariat on the status of the trust funds of the Authority, as contained in the table below.

### Status of trust funds as at 30 June 2023

(United States dollars)

<i>Fund</i>	<i>Balance</i>
International Seabed Authority Partnership Fund	604 644
Voluntary trust fund for the purpose of defraying the cost of participation of members of the Legal and Technical Commission from developing countries and members of the Finance Committee from developing countries in the meetings of the Commission and of the Committee	34 986
Voluntary trust fund to support the participation of members of the Council of the International Seabed Authority from developing States in the meetings of the Council	548
Voluntary trust fund for the purpose of providing the requisite funds related to the work of the Special Representative of the Secretary-General of the International Seabed Authority for the Enterprise	3 528
Trust fund for extrabudgetary support for the International Seabed Authority	477 580

14. The Committee was informed about the measures taken by the secretariat to increase the yield on the investment of the funds of the Authority, noting that surplus funds were invested at 5 per cent in short-term repurchase contracts with Jamaica Money Market Brokers. The secretariat would continue to invest excess or surplus cash with Jamaica Money Market Brokers and, taking a cautious and security-minded approach, would continue to closely monitor market rates, noting that interest income was treated as miscellaneous income for the purposes of the budget.

## VII. Supplementary budget proposal for the financial period 2023–2024

15. The Committee considered the supplementary budget proposal for the financial period 2023–2024 ([ISBA/28/A/3-ISBA/28/C/12](#)) at the informal virtual meeting on 14 June 2023 and continued its consideration on 5 July. The Committee noted that the supplementary budget proposal made provision for one position of Interim Director General (P-5) and one Administrative Assistant, with the associated non-post costs. The Committee took note of the classification of the position at the ninety-fourth percentile of the P-5 level and reviewed further information provided by the secretariat comparing the costs associated with positions at the P-5 and D-1 levels. Considering the evolutionary approach and the progressive nature of the functions of the Interim Director General, including the current management requirement, and conscious of the financial implications of the decisions, the Committee agreed that the post should be set at the P-5 level at the initial stage, with the potential to be reclassified to the D-1 level in the future. After scrutinizing all other aspects of the proposed supplementary budget, the Committee requested the Secretary-General to

provide it with a revised proposal, which is contained in an addendum (ISBA/28/A/3/Add.1-ISBA/28/C/12/Add.1), amounting to \$456,940. The revised proposal covers the period from October 2023 to December 2024. It was noted that, if recruitment for the position could not take place before the end of 2023, the assessed contributions from members of the Authority would be reduced accordingly.

16. The Committee took note of the information provided by the Secretary-General concerning the possibility of meeting the revised proposed supplementary budget from within existing resources, noting that there was no scope for any further cost savings from the General Administrative Fund or the conference services budget. With respect to the programme budget, the Committee noted that the budget was fully committed in support of programmes and activities approved by the Council and the Assembly and that any transfer of funds from the programme budget would have a severe impact on the ability of the Authority to carry out its work programme. The Committee was satisfied with the justification given by the Secretary-General that the projected expenses for the supplementary budget proposal could not be accommodated within the current budget of the Authority. It noted with appreciation the possibility for the Secretary-General to reallocate \$10,000 from one programme to partially compensate for the reduction made to the supplementary budget proposal.

17. The Committee decided to recommend to the Council and the Assembly that they approve a supplementary budget for the financial period 2023–2024, as a separate part of the budget, in an amount not exceeding \$456,940, noting that, in accordance with the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (1994 Agreement), the Interim Director General would be a member of the staff of the Authority and would perform the functions listed in the annex to the 1994 Agreement. The Committee discussed the need for the operations of the Enterprise, including its finances, to be kept entirely separate from the funds of the Authority and the need to avoid any perception of conflict of interest in its operations. It also noted the possibility, without taking a decision on the matter, that contributions to the Enterprise by States parties could be considered advances to the Enterprise, to be recovered in due course.

## **VIII. Development of rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area pursuant to section 9, paragraph 7 (f), of the annex to the 1994 Agreement**

18. It is recalled that, at the twenty-seventh session of the Authority, the Committee decided to include in its programme of work for 2023 the topic of equitable sharing of financial and other economic benefits derived from activities in the Area and requested the secretariat to prepare a draft proposal for the establishment of a seabed sustainability fund.

19. It is also recalled that, in addition to a formula for equitable sharing of revenue derived from seabed activities, a possible alternative to a simple financial distribution could involve a qualitative distribution of the net financial benefits from the recovery of deep-sea minerals by establishing a global fund to invest in knowledge and competence related to the Area. This would also include basic and applied research, capacity-building, and fostering other public goods related to the deep sea. This fund is completely different from the environmental compensation fund being considered in the context of the draft regulations on exploitation, and its purpose is not to meet costs and liabilities that should be paid for by contractors.

20. On 6 July 2023, the Committee discussed the proposal of the Secretary-General for the establishment of a seabed sustainability fund as an alternative or adjunct to the direct distribution of monetary benefits (see [ISBA/28/FC/4](#)).

21. The Committee considered the guiding questions contained in paragraph 31 of the report and discussed whether the focus of the fund should be limited to the ocean or whether it should also help to address the challenges faced by other global commons. The Committee expressed the view that the focus of the fund should be the ocean.

22. In analysing the scope of the fund, the Committee considered that, in the light of the ocean as an ecological unit, it would be difficult to limit it to the Area and that the high seas should be included in the scope of the fund. The Committee also expressed the view that the fund should give initial priority to financing activities that build national capacity on ocean issues for members of the Authority.

23. With respect to the activities to be financed under the fund, the Finance Committee recognized the need to restrict the range of proponents to prevent the Authority being requested to handle an excessive number of requests. A comment was made that proposals from third parties could be channelled through member States. The Committee therefore recommended that proposals could be made by member States and competent international organizations or sponsored by at least one of them.

24. With respect to the question regarding the key elements of an adequate definition of incremental costs for the fund that would ensure the additionality of its investments and avoid a crowding-out effect of public investments, the Finance Committee agreed that the topic should be considered at a later stage.

25. The Committee considered the evolutionary approach to be adopted whereby established bodies such as the Finance Committee and the secretariat would be utilized initially to manage the fund. These existing bodies could function as the governing board, with the Finance Committee assuming the role of the effective governing board for the fund. In addition, the Legal and Technical Commission could serve as a scientific advisory board, while the secretariat could undertake the executive office functions of the fund, until a more comprehensive governance structure was required.

26. With a view to further discussing the topic, the Finance Committee also developed a tentative draft of the objectives of the fund, proposing that it be referred to as the Common Heritage Fund (initially proposed as the seabed sustainability fund). In the document (see annex), it is stipulated that, with the establishment of a Common Heritage Fund, the financial benefits from activities in the Area could be used to invest in people and in preserving and developing the Area sustainably. The rationale behind its establishment is to create and maintain inherent value for generations to come. In this regard, the objective of the Fund would be to invest in capacity development, knowledge and competence related to the ocean with a view to enhancing the contributions of the Authority to the implementation of the 2030 Agenda for Sustainable Development and the achievement of the Sustainable Development Goals. The Committee emphasized that its report on this matter should be considered preliminary and that it would continue to work on the subject of equitable distribution, with a view to providing a more comprehensive report to the Council and the Assembly in due course.



## **IX. Distribution of payments or contributions made through the Authority pursuant to article 82, paragraph 4, of the United Nations Convention on the Law of the Sea**

27. On 6 July, the Committee discussed the matter of the distribution of payments or contributions made through the Authority pursuant to article 82 (4) of the Convention on the basis of a report of the Secretary-General (ISBA/28/FC/3).

28. The Committee agreed that the geometric mean distribution formula previously developed for the equitable sharing of benefits under article 140 provided a useful starting point for consideration. However, the Committee requested the secretariat to provide an opportunity for the Committee to further discuss the formula and possible ways to improve it before its next meeting, in 2024.

29. Different views were expressed regarding whether payments received from coastal States should be distributed immediately or left to accumulate in an investment fund. In this respect, some members highlighted that article 82 did not provide for the creation of an investment fund or any fund as an alternative to direct distribution. Others considered a fund providing targeted benefits in line with the provisions of article 82 to be a more effective and efficient way to consider equitable distribution.

30. With respect to the management of payments made under article 82 (4), the Committee agreed that the actual and reasonable costs of managing the receipt and distribution of funds should be recovered by the secretariat and should not be considered part of the administrative budget of the Authority.

31. The Finance Committee also considered whether the Authority should recover additional costs incurred in cases where a coastal State opted to make contributions in kind. The Committee noted the practical difficulties involved in dealing with such contributions and agreed that the practice should be discouraged. It noted that any additional costs incurred by the Authority would have to be recovered from the contribution received, which would diminish the benefits available to be shared. The Committee agreed to keep the matter of article 82 (4) distributions on its agenda, with a view to compiling a clear recommendation in due course.

## **X. Future financing of the International Seabed Authority**

32. The Committee took note of the forecast budgetary requirements for the period 2025–2030 as reflected in the report of the Secretary-General (ISBA/28/FC/2). The Committee also took note of the future financial scenarios projected by the secretariat, including incremental increases in administrative and programme budget expenditure, the increased financial implications of ongoing work on current and future regional environmental management plans, the need for additional meetings of the Legal and Technical Commission and the Council in the event of the need to consider any future applications for approval of plans of work for exploitation in the Area, the possible establishment of the Economic Planning Commission, the appointment of an Interim Director General of the Enterprise and the future establishment of an inspection mechanism. The Committee also took note of the implications for contributions by States parties, noting the importance of the evolutionary approach as set out in the 1994 Agreement.

33. The Committee welcomed the report and requested the Secretary-General to present such information on the future financing of the Authority every two years in non-budget years. Some members also emphasized that it was a valuable planning

exercise, albeit subject to many external factors, including matters under discussion by the Council.

## **XI. Other matters**

### **A. Report on the implementation of the strategic plan of the International Seabed Authority**

34. On 6 July, the Committee considered a report on the implementation of the strategic plan of the Authority for the period 2019–2023. The Committee recalled that the Assembly, in its decision relating to the implementation of the strategic plan of the Authority for the period 2019–2023 (ISBA/25/A/15 and ISBA/25/A/15/Corr.1), committed to the strengthening of existing working practices of the Authority and, accordingly, invited members of the Authority and observers, as well as the organs of the Authority, to support the implementation of the strategic plan and the high-level action plan.

35. The Committee noted that, for the reporting period 2021–2023, it had been assigned some responsibilities for nine high-level actions and 10 related outputs listed in annex II to the aforementioned decision. In one case, no specific output had been identified and the reporting therefore specifically related to the high-level action of interest (see high-level action 7.1.2). Accordingly, the total number of items identified for the reporting period was 11.

36. The Committee was identified as the organ responsible for one of these outputs, the associated organ for nine other outputs and the coordinating organ for one. In order to reflect the different statuses of completion, in particular the fact that some outputs were recurring, two different subcategories of progress status had been identified: “ongoing”, which related to outputs understood as requiring ongoing attention and adjustment, and “achieved”, which related to outputs reported against a specific reporting period or action.

37. As at 15 May 2023, 91 per cent (10) of the assigned high-level actions and outputs had been completed while 9 per cent (1) were still in progress. All outputs assigned for the reporting period under strategic directions 2 (Strengthen the regulatory framework for activities in the Area) and 8 (Improve the organizational performance of the Authority) had been completed. Details of the work undertaken against all outputs have been compiled by the secretariat and are available at <https://www.isa.org.jm/wp-content/uploads/2023/06/FC-Status-implementation-HLAP.pdf>.

### **B. Contribution of Rwanda (new member)**

38. On 5 July, the Committee considered the information provided by the Secretary-General relating to the assessed contribution of Rwanda, which became a member of the Authority on 18 May 2023. The Committee recommends that Rwanda pay the assessed contributions in the amount below to the general administrative budget of the Authority for 2023 and 2024, as well as advances to the Working Capital Fund. Such contributions should be credited as miscellaneous income, in accordance with regulation 7.1 of the financial regulations of the Authority.

<i>New member State</i>	<i>Date membership began</i>	<i>United Nations scale of assessment (percentage)</i>	<i>Adjusted International Seabed Authority scale (percentage)</i>	<i>Contributions to the general administrative budget (United States dollars)</i>		<i>Advances to the Working Capital Fund (United States dollars)</i>	
		2023	2023	2023	2024	2023	2024
Rwanda	18 May 2023	0.003	0.01	518	829	1.40	2.25
<b>Total</b>				<b>518</b>	<b>829</b>	<b>1.40</b>	<b>2.25</b>

### C. Increased cost of translation of official documents

39. On 5 July, the Committee considered a report on the increased cost of translation of official documents of the Authority. The Committee noted that, with a view to reducing the high costs for the translation of official documents of the Authority, the secretariat had conducted a bidding process for translation services and received proposals from nine companies, of which two had provided translation services for intergovernmental organizations.

40. The Committee also noted that the high costs for translation, in particular in recent years, are related to the draft regulations on exploitation and associated draft standards and guidelines. After the adoption of those regulatory documents, the translation costs would decrease to a normal level.

41. In this regard, the Committee requested the secretariat to make every effort to make official documents succinct, in line with current practice, and to enter into negotiations with the relevant translation companies and make appropriate and practical arrangements for the translation of official documents for the twenty-ninth session of the Authority, including the option to maintain the current practice of translation by the Department for General Assembly and Conference Management of the United Nations Secretariat.

## XII. Recommendations of the Finance Committee

42. In view of the foregoing, the Committee recommends that the Council and the Assembly of the Authority:

(a) Approve a supplementary budget for the financial period 2023–2024 in an amount not exceeding \$456,940 as proposed by the Secretary-General in document [ISBA/28/A/3/Add.1-ISBA/28/C/12/Add.1](#);

(b) Authorize the Secretary-General, in line with the decision of the Assembly relating to financial and budgetary matters ([ISBA/27/A/10](#)), to adjust the assessed contributions for 2024 accordingly;

(c) Appeal to the members of the Authority, including those members with contributions in arrears for the period 1998–2022, to pay outstanding contributions to the budget of the Authority as soon as possible, to enable the Authority to deliver effectively on its mandate, and request the Secretary-General to continue his efforts to recover those arrears, including bilateral efforts;

(d) Express their appreciation to the donors that have made contributions to the voluntary trust funds of the Authority, and encourage Members, observers, contractors and other stakeholders to contribute financially to these trust funds;

(e) Decide that, in respect of Rwanda, which became a member of the Authority in 2023, the rate of assessment and the amounts of contribution to the

General Administrative Fund and the Working Capital Fund shall be as recommended in paragraph 38 of the present report;

(f) Take note of the forecast budgetary requirements associated with the anticipated evolution of the work of the Authority over the period 2025–2030, as indicated in the report of the Secretary-General, and of the need to ensure adequate capacity and resources to fulfil its obligations under the Convention and the 1994 Agreement;

(g) Appoint CalvertGordon Associates as the independent auditor for the Authority for the financial period 2023–2024.

## Annex

### Objectives of a Common Heritage Fund

1. The analysis of the possible establishment of a Common Heritage Fund as an alternative or adjunct to the direct distribution of monetary benefits derived from activities in the Area pursuant to article 140 of the United Nations Convention on the Law of the Sea has been conducted by the Finance Committee as recommended by the Council and the Assembly. The fund is not intended to build wealth, like a sovereign wealth fund, but rather to be spent on worthwhile initiatives and projects.

2. Generally speaking, with the establishment of a Common Heritage Fund, the financial benefits from activities in the Area could be used to invest in people and in preserving and developing the Area sustainably. Ongoing consultations with priority beneficiaries such as the least developed countries, landlocked developing countries and small island developing States could also generate some helpful ideas. Overall, the rationale behind its establishment is to pay for or execute projects and initiatives that will create and maintain inherent value for generations to come.

3. In this regard, the objective of the Fund would be to invest in capacity development, knowledge and competence related to the ocean with a view to enhancing the contributions of the Authority to the implementation of the 2030 Agenda for Sustainable Development and the achievement of the Sustainable Development Goals, in particular Goal 14, the least funded of all of the Goals.

4. As far as advancement of knowledge supporting Goal 14 is concerned, the Fund would be aimed at:

(a) Funding research into the environmental value of the ocean, in particular research that includes a special focus on deep-sea benthic habitats and migratory species present in the Area, that would provide good-quality information for the review of regional environmental management plans and for environmental impact assessments, which should be based on the best available knowledge;

(b) Scaling up the network and capacity on ocean data and science, including in support of the creation of area-based management tools in areas beyond national jurisdiction, and support for national- and regional-level investments in advancing scientific research and marine data;

(c) Establishing and running regional training centres in accordance with article 276 of the Convention and in conformity with the priorities identified under article 140;

(d) Funding research into best available techniques and best practices for the protection of the marine environment;

(e) Contributing to the implementation of the action plan of the Authority in support of the United Nations Decade of Ocean Science for Sustainable Development.

5. With respect to the development of competencies, the objective of the Common Heritage Fund could also be to develop tools for inclusion, to bring a large number of participants up to the highest level of knowledge and competence and to create the conditions for retaining and using these competencies locally. In particular, it would be aimed at:

(a) Funding education and training programmes on the protection of the marine environment, with particular regard to vulnerable communities and relevant stakeholders;

(b) Providing qualified scientists and technical personnel from developing States with opportunities to participate in international marine scientific research programmes, including through training, technical assistance and scientific cooperation programmes;

(c) Contributing to the design, development and implementation of dedicated capacity-development programmes and activities aligned with the priority needs identified by developing States members of the Authority;

(d) Developing and strengthening the institutional capacity of developing countries, including through assistance in the development of national legislation, ocean literacy and technology hubs and the generation and utilization of scientific information and data.

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# Assembly Council

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## Twenty-eighth session

Kingston, 10–28 July 2023

Item 14 of the provisional agenda of the Assembly\*

### Report on proposed amendments to the statute of the International Civil Service Commission

Agenda item 16 of the Council

### Report on proposed amendments to the statute of the International Civil Service Commission

## Proposed amendments to the statute of the International Civil Service Commission

### Report of the Secretary-General

#### I. Background

1. The present note contains a description of the recent amendments to the statute of the International Civil Service Commission (ICSC) adopted by the General Assembly in resolution [77/256 A](#), as proposed by the Fifth Committee. The General Assembly invited the organizations of the common system to complete their formal acceptance of the amended statute.

2. ICSC exists for the primary purpose of coordinating and regulating the conditions of service of the United Nations common system. In accordance with article 1 (2) of the ICSC statute, which the General Assembly approved in its resolution [3357 \(XXIX\)](#), the Commission is to perform its functions in respect of the United Nations and of those specialized agencies and other international organizations which participate in the United Nations common system and which accept the statute. Article 30 of the ICSC statute and rules of procedure ([ICSC/1/Rev.3](#)) provides that the statute may be amended by the General Assembly and that amendments are to be subject to the same acceptance procedure as the original statute. Furthermore, under article 1 (3), acceptance of the statute by such an agency or organization is to be notified in writing by its executive head to the Secretary-General.

3. The International Seabed Authority is an autonomous international organization, but it applies to its staff the common system of salaries, allowances and other conditions of service of the United Nations and its specialized agencies. In order to be considered a full participant in the common system of ICSC, the Secretary-General of the Authority notified the Secretary-General of the United Nations on 6 October

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\* [ISBA/28/A/L.1](#).



2012 of the Authority's acceptance of the statute of the Commission, with effect from 2013, as requested by the Assembly at its eighteenth session, on the recommendation of the Council.<sup>1</sup>

4. On 6 January 2013, the Authority was duly notified by ICSC that it was a full participant in the United Nations common systems of salaries, allowances and other conditions of service, with all associated benefits and obligations in accordance with article 1 (3) of the ICSC statute. Since then, the Authority participates in the sessions of the Commission.

## II. Revisions to the statute of the Commission

5. The amendments are aimed at streamlining the role of ICSC and the General Assembly in deciding on post adjustment multipliers for duty stations.

6. Those amendments are as follows:

### Article 10

The Commission shall make recommendations to the General Assembly on:

...

(b) The salary scales ~~of salaries~~ and the value of the post adjustments multiplier for staff in the Professional and higher categories;

...

### Article 11

The Commission shall establish:

...

(c) The ~~classification of duty stations for the purpose of applying~~ post adjustments applicable to each duty station.

7. Prior to the adoption of the above amendment, the ICSC statute did not properly reflect the relevant competencies of the General Assembly and ICSC regarding the establishment of post adjustment. This had led to litigation of more than 100 cases in the United Nations Dispute Tribunal between 2018 and 2020. This is owing to references in the statute to obsolete methodology that had been eliminated more than 30 years ago through rolling changes approved by the General Assembly. For example, the scale for salaries and scales for post adjustments had been eliminated but were still reflected in the Statute. In addition, classes of duty stations, as reflected in the statute, had been eliminated from the methodology of establishing post adjustments and replaced with post adjustment multipliers for each duty station.

8. By a letter dated 16 November 2022, the secretariat of the Authority was invited by the Chairman of ICSC to provide the views of the Authority, as a participant in the United Nations common system, on the following questions concerning amendments to the ICSC statute:

(a) Whether the Authority intended to take forward acceptance of the proposed amendment as stipulated in article 30 of the ICSC statute;

(b) The steps and projected timeline for the Authority's acceptance process.

9. The specialized and related agencies also received a letter dated 16 November 2022 from the United Nations System Chief Executives Board for Coordination, in

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<sup>1</sup> [ISBA/18/A/4-ISBA/18/C/12](#), para. 22; [ISBA/18/A/7](#), para. 7; and [ISBA/18/C/13](#), para. 7.



which the Board requested a response to the following questions raised by the Fifth Committee in section II of its draft decision [A/C.5/77/L.5 \(A/77/671](#), para. 11):

(a) The General Assembly is considering amending articles 10 and 11 of the statute of ICSC to reflect the current operational reality without altering the authority of the Assembly or the Commission. If such a surgical amendment either through the text or footnote were approved, does your organization intend to take forward acceptance of the proposed amendment in accordance with article 30 of the Commission's statute?

(b) What are the steps and projected timeline for your organization's acceptance process?

10. Unlike some other specialized agencies, the Authority has only two duty stations, in Kingston and in New York, and applies a uniform scale of post adjustment rates provided by the ICSC. Therefore, the proposed amendments have no budgetary or administrative implications.

11. However, as article 30 of the ICSC statute indicates that the statute may be amended by the General Assembly and that such amendments are to be subject to the same acceptance procedure as the statute, the same process undertaken in 2012 for subscription by the Authority to the statute applies to revisions thereto.

12. Accordingly, by a letter dated 12 December 2022, the Secretary-General of the Authority communicated to ICSC that the proposed amendments preserved and did not affect the current operational reality of ICSC vis-à-vis the Authority and that the amendments should be made directly in the articles of the ICSC statute in order to provide legal clarity in comparison with interpretative footnotes. In addition, he indicated that the Council and the Assembly would be notified of the proposed amendments at the twenty-eighth session, to be held in 2023, prior to sending a written notification of acceptance.

### **III. Recommendation**

13. The Council is invited to take note of the present report and to recommend to the Assembly that it accept the amendments to the ICSC statute adopted by the General Assembly in its resolution [77/256 A](#).

14. The Assembly is invited to accept the said amendments as suggested in the draft decision in the annex hereto, subject to the recommendation of the Council, and to request the Secretary-General to take the necessary steps to accept, on behalf of the Authority, the proposed amendments to the ICSC statute.

## Annex

### **Draft decision of the Assembly of the International Seabed Authority concerning amendments to the statute of the International Civil Service Commission**

*The Assembly of the International Seabed Authority,*

*Taking note* of the report of the Secretary-General,<sup>1</sup>

*Acting* on the recommendation of the Council,

1. *Accepts* the amendments to the statute of the International Civil Service Commission adopted by the General Assembly of the United Nations at its seventy-seventh session in its resolution [77/256 A](#) of 30 December 2022;

2. *Requests* the Secretary-General to notify to the Secretary-General of the United Nations of this acceptance.

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<sup>1</sup> [ISBA/28/A/5-ISBA/28/C/14](#).



# Assembly

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## Twenty-eighth session

Kingston, 24–28 July 2023

Item 8 of the provisional agenda\*

**Annual report of the Secretary-General under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea**

## **Report on the implementation by the Council of the strategic plan of the Authority for the period 2019–2023**

**Note by the secretariat**

### **I. Introduction**

1. The Council recalls that the Assembly, in its decision relating to the implementation of the strategic plan of the Authority for the period 2019–2023 ([ISBA/25/A/15](#) and [ISBA/25/A/15/Corr.1](#)), committed to the strengthening of existing working practices of the Authority and, accordingly, invited members of the Authority and observers, as well as the organs of the Authority, to support the implementation of the strategic plan and the high-level action plan.

2. For the reporting period 2021–2023, the Council has been assigned some responsibilities for 33 high-level actions and 38 related outputs, as listed in annex II to the aforementioned decision. In nine cases, no specific output has been identified and the reporting therefore specifically relates to the high-level action of interest (see high-level actions 2.2.1, 2.3.2, 3.1.4, 3.2.2, 3.2.4, 3.4.3, 3.5.2 and 3.5.4). Accordingly, the total number of items identified for the reporting period is 47.

3. The Council is identified as the organ responsible for 20 outputs, the associated organ for 24 other outputs and the coordinating organ for the remainder. In order to reflect the different statuses of completion, particularly the fact that some outputs are recurring, two different subcategories of progress status have been identified: “ongoing”, which relates to outputs understood as requiring ongoing attention and adjustment, and “achieved”, which relates to outputs reported against a specific reporting period or action.

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\* [ISBA/28/A/L.1](#).



4. As at 1 June 2023, 64 per cent (30) of the assigned high-level actions and outputs had been completed and 36 per cent (17) were still in progress. Further information is provided in the annex to the present report, and details of the work undertaken against all outputs have been compiled by the secretariat and are available at [www.isa.org.jm/wp-content/uploads/2023/05/ISBA\\_28\\_A\\_2\\_Add\\_1\\_Annex\\_II.pdf](http://www.isa.org.jm/wp-content/uploads/2023/05/ISBA_28_A_2_Add_1_Annex_II.pdf).

## **II. Recommendation**

5. The Assembly is invited to take note of the information provided in the present report.

## Annex

### Status of completion of high-level actions and associated outputs assigned to the Council for the reporting period 2021–2023

<i>Strategic direction</i>	<i>Number of items relevant to the reporting</i>	<i>Completed</i>				<i>Completion rate (percentage)</i>
		<i>Ongoing</i>	<i>Achieved</i>	<i>In progress</i>	<i>On hold</i>	
Strategic direction 1: realize the role of the Authority in a global context	2	1	–	1	–	50
Strategic direction 2: strengthen the regulatory framework for activities in the Area	10	9	–	1	–	90
Strategic direction 3: protect the marine environment	17	6	2	9	–	47
Strategic direction 4: promote and encourage marine scientific research in the Area	2	–	–	2	–	0
Strategic direction 5: build capacity for developing States	1	–	–	1	–	0
Strategic direction 6: ensure fully integrated participation by developing States	3	1	–	2	–	33
Strategic direction 7: ensure equitable sharing of financial and other economic benefits	–	–	–	–	–	Not applicable
Strategic direction 8: improve the organizational performance of the Authority	6	5	–	1	–	83
Strategic direction 9: commit to transparency	6	6	–	–	–	100
<b>Total</b>	<b>47</b>	<b>28</b>	<b>2</b>	<b>17</b>	<b>–</b>	<b>64</b>



# Assembly

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## Twenty-eighth session

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Item 12 of the provisional agenda\*

### Consideration and adoption of the draft strategic plan of the Authority for the five-year period 2024–2028

## Consideration, with a view to adoption, of the draft strategic plan of the International Seabed Authority for the five-year period 2024–2028

### Report of the Secretary-General

1. At its twenty-fourth session, the Assembly of the International Seabed Authority adopted the strategic plan of the Authority for the period 2019–2023, providing, inter alia, a uniform basis for the strengthening of existing working practices of the Authority (see [ISBA/24/A/10](#)).

2. In the above-mentioned decision, the Assembly recognized that the operative period of the strategic plan would be five years and emphasized the importance of ensuring that the plan was kept under regular review and the results monitored for effectiveness. The Assembly subsequently requested the Secretary-General to, inter alia, regularly inform members of the Authority on progress with respect to the plan.

3. With the term of the plan coming to an end, preparatory work was undertaken by the secretariat early in January 2023 to develop a revised strategic plan for the period 2024–2028 for consideration by the Assembly as its twenty-eighth session. This preparatory work was further informed by the findings of an analysis of the implementation of the strategic plan for the period 2019–2023 undertaken by a consultant. The consultant was selected following a public tender. The analysis carried out by the consultant was based on several reports prepared by the Authority since 2019 to keep members and observers informed on the status of the implementation of the strategic plan for the period 2019–2023<sup>1</sup> and the findings of

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\* [ISBA/28/A/L.1](#).

<sup>1</sup> See the annual reports of the Secretary-General under article 166 (4) of the United Nations Convention on the Law of the Sea, in particular those for 2020 ([ISBA/26/A/2](#)), 2021 ([ISBA/26/A/2/Add.1](#)), 2022 ([ISBA/27/A/2](#) and [ISBA/27/A/2/Add.1](#)) and 2023 ([ISBA/28/A/2](#)); the report on the implementation by the Assembly of the strategic plan for the period 2019–2023 ([ISBA/26/A/9](#)); the statement by the President on the work of the Assembly of the Authority at its twenty-sixth session ([ISBA/26/A/34](#)); the report of the Finance Committee ([ISBA/26/A/10-  
ISBA/26/C/21](#)); and the report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of its twenty-sixth session ([ISBA/26/C/12/Add.1](#)).



the independent report commissioned by the Secretary-General in 2021 to assess the contribution of the Authority to the achievement of the 2030 Agenda for Sustainable Development, as well as the action plan of the Authority in support of the United Nations Decade of Ocean Science for Sustainable Development<sup>2</sup> and the capacity development strategy of the Authority.<sup>3</sup>

4. To complement this approach, the consultant interviewed different stakeholders of the Authority with the aim of reflecting different interests, views and perspectives. A selection was made independently by the consultant, who identified a group of stakeholders on the basis of the diversity of views that they could bring to the discussion, taking into consideration their specific area of work and interest in the work of the Authority and providing the opportunity for the less active among them to share their views. A total of 25 stakeholders were contacted, and eventually 17 were interviewed. Ultimately, some delegations (eight) were not able to meet with the consultant, including two that never responded to the invitation (one intergovernmental organization and one non-governmental organization). In the light of the fact that, during the same period, many delegations were engaged in the work of the Council's intersessional working groups, an additional 10 stakeholders were contacted in June 2023 to allow them to contribute.

5. The secretariat launched an open consultation for all stakeholders on the draft strategic plan for 2024–2028 during the period from 26 May to 26 June 2023, inviting submissions and comments. A total of 18 submissions on the draft strategic plan were received. The largest number of submissions was made by members of the Authority (10),<sup>4</sup> followed by contractors (6).<sup>5</sup> Two submissions were made by observers.<sup>6</sup>

6. In the vast majority of submissions, it was recognized that the adoption of the strategic plan and associated high-level action plan for the period 2019–2023 had significantly contributed to the implementation of the mandate assigned to the Authority by the United Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, and to the achievement of the 2030 Agenda, notwithstanding the challenges faced, including during the coronavirus disease (COVID-19) pandemic. Several underscored that both the strategic plan and the high-level action plan had provided a clear framework for organizing the work and priorities of the Authority for a specific timeline.

7. It was also noted in a large number of submissions that the work of the Authority until the present had been successful in promoting the orderly, safe and responsible management of the resources of the Area for the benefit of humankind as a whole, including by developing the necessary regulatory framework to govern and control activities in the Area, promote and encourage marine scientific research and support capacity development. Accordingly, the majority of delegations recognized that the Authority represented a useful and robust model for the sustainable management of the global commons as steward of the Area and its resources.

8. In all submissions, it was recognized that the main priority of the Authority for the next five years was to ensure the effective protection of the marine environment, especially in the context of adopting rigorous environmental regulations during the

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<sup>2</sup> See [ISBA/26/A/17](#).

<sup>3</sup> See [ISBA/27/A/5](#) and [ISBA/27/A/11](#).

<sup>4</sup> Canada, Ecuador, Germany, Japan, Mexico, Nauru, Poland, Portugal, Russian Federation and Senegal.

<sup>5</sup> China Ocean Mineral Resources Research and Development Association, Global Sea Mineral Resources NV, Institut français de recherche pour l'exploitation de la mer, Interoceanmetal Joint Organization, Nauru Ocean Resources Inc. and Tonga Offshore Mining Limited.

<sup>6</sup> Deep Sea Conservation Coalition and the Pew Charitable Trusts.

exploitation phase. Most of the submissions also identified the development and adoption of the regulations on exploitation of minerals in the Area as a key priority. In several of them, the importance of advancing marine scientific knowledge to support the evidence base for decision-making was also noted.

9. In the majority of submissions, it was noted that the “context and challenges” and “expected outcomes” identified in the first strategic plan for the period 2019–2023 continued to be relevant. Some delegations noted the activation of the so-called “two-year rule” and the need for legal resolution of this issue as a current challenge. Some also noted the trend to promote a precautionary pause on deep-sea mining and the need for the Authority to respond to this challenge.

10. Building on the content and structure of the first strategic plan for the period 2019–2023, which was designed to be action-oriented, and placing emphasis on the highest priorities identified by member States for the Authority during the period 2019–2023, the strategic plan has been revised to address the comments received. The plan as revised appears in annex I to the present document and is presented for consideration by the Assembly.

11. The Assembly is invited to consider, with a view to adoption, the strategic plan of the Authority for the period 2024–2028 as contained in annex I to the present document. For that purpose, a draft decision is set out in annex II to the present document.



## Annex I

### **Draft strategic plan of the International Seabed Authority for the period 2024–2028**

#### **I. Introduction**

1. The present strategic plan embodies the vision of the International Seabed Authority for the implementation of part XI and other provisions relating to the Area under the United Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (1994 Agreement) during the five-year period 2024–2028. It takes into account that, pursuant to the 1994 Agreement, the setting up and the functioning of the Authority shall be based on an evolutionary approach in order that it may discharge effectively its responsibilities at various stages of the development of activities in the Area (*ibid.*, annex, sect. 1 (3)).

2. The Convention and the 1994 Agreement constitute an intricate and unitary system of rights, obligations, duties and responsibilities in connection with activities in the Area. The system involves a broad stakeholder base which includes States parties, sponsoring States, flag States, coastal States, State enterprises, private investors, other users of the marine environment and interested international and non-governmental organizations. All have a role in the development, implementation and enforcement of rules and standards for activities in the Area to ensure that these activities are carried out for the benefit of humankind as a whole. Through this plan, the Authority aims to engage with relevant stakeholders, including contractors, in implementing the regime for the Area accordingly. The strategic plan will be supplemented by an action plan, including key performance indicators, and will be kept under regular review by the Assembly.

3. The strategic plan consists of the following components:

- (a) Mission statement;
- (b) Context and challenges;
- (c) Strategic directions for 2024–2028;
- (d) Expected outcomes.

4. The guiding principles of the strategic plan are the following:

- (a) To ensure the realization of the principle relating to the common heritage of humankind for the Area and its resources;
- (b) To promote the orderly, safe and rational management of the resources of the Area for the benefit of humankind as a whole;
- (c) To support the implementation of the international legal regime of the Area, including the adoption by the Authority of rules, regulations and procedures for exploitation activities in the Area;
- (d) To ensure a better understanding and the effective protection of the marine environment;
- (e) To promote harmonized approaches to the protection of the marine environment and its resources;
- (f) To promote the exchange of best practices among States and contractors;
- (g) To provide broad public access to information;

(h) To ensure the use of the best available scientific information in decision-making;

(i) To require the application of the precautionary approach, as reflected in principle 15 of the Rio Declaration on Environment and Development,<sup>1</sup> best available techniques and best environmental practices;

(j) To ensure transparency and accountability.

5. The strategic directions and priorities identified in the plan are directed primarily by:

(a) The Convention, in particular:

(i) Article 145, in which it is stated that necessary measures shall be taken in accordance with the Convention with respect to activities in the Area to ensure effective protection for the marine environment from harmful effects which may arise from such activities;

(ii) Article 162 (2) (o) (ii), in which it is stated that priority shall be given to the adoption of rules, regulations and procedures for the exploration for and exploitation of polymetallic nodules;

(b) The 1994 Agreement, including:

(i) Annex, section 1 (5), which sets out the matters on which the Authority will concentrate between the entry into force of the Convention and the approval of the first plan of work for exploitation;

(ii) Annex, section 1 (5) (f), which requires the adoption of rules, regulations and procedures necessary for the conduct of activities in the Area as they progress and that such rules, regulations and procedures take into account the terms of the Agreement, the prolonged delay in commercial deep seabed mining and the likely pace of activities in the Area;

(iii) Annex, section 1 (5) (g), which requires the adoption of rules, regulations and procedures incorporating applicable standards for the protection and preservation of the marine environment;

(iv) Annex, section 1 (15), which requires the elaboration and adoption of rules, regulations and procedures necessary to facilitate the approval of plans of work for exploration or exploitation, and in particular the elaboration and adoption of rules, regulations or procedures regarding exploitation within two years of a request by a State party under section 1 (15) (a);

(v) Annex, section 2, with regard to those functions of the Enterprise that complement the relevant priorities as set out in section 1 (5) of the annex;

(vi) Annex, section 5, with regard to those principles, in addition to the provisions of article 144 of the Convention, governing the transfer of technology that complement the relevant priorities as set out in section 1 (5) of the annex;

(vii) Annex, section 6, with regard to those principles governing the production policy that complement the relevant priorities as set out in section 1 (5) of the annex.

<sup>1</sup> *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992*, vol. I, *Resolutions adopted by the Conference* (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution 1, annex I.

6. The strategic plan also takes into account:

(a) The current status of implementation by the Authority of the priorities set out in the 1994 Agreement, in particular those set out in section 1 (5) of the annex, and in the Convention, as well as activities mandated by the Council;

(b) The Authority's current and projected workload, resources and capacity for the period of the present strategic plan;

(c) Other relevant international agreements, processes, principles and objectives, including the 2030 Agenda for Sustainable Development, the Kunming-Montreal Global Biodiversity Framework and the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction.

## **II. Mission statement**

7. The mission of the Authority is to be the organization through which States parties organize and control activities in the Area, which is the common heritage of humankind, to promote the orderly, safe and responsible management and development of the resources of the Area for the benefit of humankind as a whole, including by ensuring the effective protection of the marine environment.

8. This will be accomplished, in accordance with sound principles of conservation, by contributing to agreed international objectives and principles, including the Sustainable Development Goals, and by developing and maintaining a comprehensive regulatory mechanism for commercial deep seabed mining that ensures the effective protection of the marine environment and of human health and safety, provides for a payment regime that treats contractors, the Authority and all humankind fairly, ensures that contractors move from exploration to exploitation in a lawful manner, ensures the equitable sharing of financial and other economic benefits from activities in the Area, and allows for the fully integrated participation of developing States through the exchange of knowledge and best practices consistent with the principle that the Area and its resources are the common heritage of humankind.

## **III. Context and challenges**

9. In an ever-changing world, and in its role as custodian of the common heritage of humankind, the Authority faces many challenges. As described in the present section, it needs to achieve an appropriate balance between multiple objectives.

### **Globalization and sustainable development**

10. In all its work, the Authority is guided by the 2030 Agenda, including the 17 Sustainable Development Goals adopted as part of this Agenda. Of most relevance to the Authority is Goal 14 (Conserve and sustainably use the oceans, seas and marine resources for sustainable development), but other Goals also have relevance to the work of the Authority.

11. The challenge for the Authority is to contribute to the timely and effective implementation of the Sustainable Development Goals, in particular Goal 14, by implementing the economic, environmental and social mandates assigned to it under the Convention and the 1994 Agreement. These mandates include: ensuring that activities in the Area are carried out for the benefit of humankind as a whole (Convention, art. 140 (1)); ensuring effective protection for the marine environment (*ibid.*, art. 145) and of human life (*ibid.*, art. 146); promoting and encouraging the

conduct of marine scientific research in the Area (*ibid.*, art. 143); and the effective participation of developing States in activities in the Area (*ibid.*, art. 148). Also included are the importance of fostering healthy development of the world economy and balanced growth of international trade (*ibid.*, art. 150); ensuring the development of the resources of the Area (*ibid.*, art. 150 (a)); the orderly, safe and rational management of the resources of the Area (*ibid.*, art. 150 (b)); the enhancement of opportunities for all States parties (*ibid.*, art. 150 (g)); and the development of the common heritage for the benefit of humankind as a whole (*ibid.*, art. 150 (i)).

12. In 2021, an independent study commissioned by the Secretary-General found that the Authority's mandate made a meaningful contribution to 12 of the 17 Sustainable Development Goals, including Goal 1 (End poverty in all its forms everywhere), Goal 8 (Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all), Goal 10 (Reduce inequality within and among countries), Goal 12 (Ensure sustainable consumption and production patterns), Goal 13 (Take urgent action to combat climate change and its impacts), Goal 14 (Conserve and sustainably use the oceans, seas and marine resources for sustainable development), Goal 15 (Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss), Goal 16 (Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels) and Goal 17 (Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development). The report contained several recommendations on where members of the Authority and the secretariat could strengthen working practices within the Authority and highlighted how resourcing constraints could limit the Authority's ability to be proactive in addressing its current challenges. The independent study also recognized the role of the Authority in addressing the challenges posed by climate change and the need to give careful consideration to the trade-offs that would need to be collectively agreed upon to find an appropriate balance between preserving the deep seabed and utilizing its resources sustainably for human development.

### **The need for regulations on exploitation**

13. The primary means by which the Authority is required to organize, carry out and control activities in the Area on behalf of humankind as a whole is to adopt and uniformly apply rules, regulations and procedures (*ibid.*, annex III, art. 17). The basis for these rules, regulations and procedures is annex III to the Convention, which complements part XI and is further governed by the 1994 Agreement. Annex III sets out the basic conditions for prospecting, exploration and exploitation in the Area. The 1994 Agreement stipulates that rules, regulations and procedures relating to the conduct of activities in the Area are to be adopted as those activities progress. Regulations governing exploration have been adopted, and the challenge now is to adopt sound and balanced regulations for exploitation that prioritize environmental protection. Such a priority has been recognized by the Authority following the request by Nauru to the Council, effective 9 July 2021, pursuant to section 1 (15) of the 1994 Agreement, that the Council complete, within two years, the adoption of the rules, regulations and procedures necessary to facilitate the approval of plans of work for exploitation in the Area. Rules, regulations and procedures for exploitation must reflect best international standards and practices, as well as internationally agreed principles of sustainable development.

14. Since 2015, substantial progress has been made in elaborating a regulatory framework for exploitation. While the regulatory framework remains incomplete, there is broad recognition that regulatory certainty, with clear requirements to ensure

environmental protection and clear financial terms, is critical prior to consideration of any application for a plan of work for exploitation. In this context, the Council reiterated, in March 2023, its commitment to the completion of the rules, regulations and procedures relating to exploitation in accordance with the Convention and the 1994 Agreement.<sup>2</sup>

### **Environmental protection**

15. Ensuring effective protection for the marine environment from harmful effects which may arise from activities carried out in the Area (*ibid.*, art. 145) receives detailed attention in the Convention and the 1994 Agreement. The 1994 Agreement provides that the adoption of rules, regulations and procedures incorporating applicable standards for the protection and preservation of the marine environment (1994 Agreement, annex, sect. 1 (5) (g)) is one of the matters on which the Authority will concentrate between the entry into force of the Convention and the approval of the first plan of work for exploitation. The Convention requires the Authority to adopt rules, regulations and procedures designed to prevent, reduce and control pollution and other hazards to the marine environment having the potential to interfere with the ecological balance of the marine environment. The Authority is also required to protect and conserve the natural resources of the Area, preventing damage to the flora and fauna of the marine environment (Convention, art. 145).

16. The challenge for the Authority is to adopt a policy and regulatory framework for environmental management that achieves the effective protection of the marine environment, under circumstances of considerable scientific, technical and commercial uncertainty. The framework should be effective, adaptive, practical and technically feasible. It must satisfy the extensive marine environmental protection requirements of the Convention, as well as take into account relevant aspects of the Sustainable Development Goals and other international environmental instruments, such as the Kunming-Montreal Global Biodiversity Framework and the Agreement under the Convention on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction. The process for developing the framework and its implementation must be transparent and allow for stakeholder input. The development of regional environmental assessments and management plans, in particular, demands a collaborative and transparent approach to both the collection and the sharing of environmental data. The process must ensure the fully integrated participation of developing States, not least in connection with international obligations to build technical capacity.

### **Promoting the sharing of the results of marine scientific research**

17. Marine scientific research plays a critical role in the responsible management of the oceans and their resources. Such research is also vital to scientific advancement and to the effective, efficient and commercially and environmentally sustainable conduct of activities in the Area. It is first mentioned in the preamble to the Convention, and an entire chapter of the Convention (part XIII) is devoted to the subject, which is also addressed in relation to the Area in part XI and in the 1994 Agreement. The contribution of the work of contractors to the realization of this goal is generally recognized, as they are one of the primary sources of information and data collected in the Area, which support the advancement of scientific knowledge and understanding of the deep-sea environment and its ecosystems.

18. Under article 143 (2) of the Convention, the Authority must promote and encourage the conduct of marine scientific research in the Area and coordinate and disseminate the results of such research and analysis when available. The Authority may

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<sup>2</sup> See [ISBA/28/C/9](#).

also carry out marine scientific research in its own right (Convention, art. 143 (2)). The need to ensure acquisition of scientific knowledge is identified as being among the priorities of the Authority (1994 Agreement, annex, sect. 1 (5) (i)). The contribution of the work of contractors in that respect is key. In addition, the Authority is required to encourage the design and implementation of appropriate programmes for the benefit of developing and technologically less developed States with a view to strengthening their research capabilities, training their personnel in the techniques and applications of research and fostering the employment of their qualified personnel in research in the Area.

19. Following the proclamation by the General Assembly at its seventy-second session, in 2017, of the United Nations Decade of Ocean Science for Sustainable Development from 2021 to 2030, the Assembly of the Authority adopted in December 2020 a dedicated action plan in support of the United Nations Decade.<sup>3</sup> The action plan is structured around six strategic research priorities, and it is recognized that its content will continue to evolve as new strategic research priorities are identified and endorsed by the members of the Authority. One of the flagship initiatives of the Authority for the implementation of the action plan is the Sustainable Seabed Knowledge Initiative, launched at the United Nations Conference to Support the Implementation of Sustainable Development Goal 14 held in Lisbon in 2022.

20. A key feature of the action plan, further reflected in the Women in Deep-Sea Research project and in several capacity-development activities realized by the Authority, is the priority assigned to the participation of women in marine scientific research. So far, nine contractors have pledged to allocate 50 per cent of their training opportunities to qualified women applicants, when possible. The challenge for the Authority therefore is to continue its action in favour of women's empowerment and leadership in marine scientific research, in particular for women scientists from developing States, including those from the least developed countries, landlocked developing countries and small island developing States, through increased mobilization of contractors in support of this objective.

21. The challenge for the Authority is to adopt strategies and to seek adequate resources to enable it to strengthen cooperation with States parties, the international scientific community, contractors and relevant international organizations, such as the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization, the Food and Agriculture Organization of the United Nations and the International Hydrographic Organization, and collaborative scientific research programmes such as the Seabed Mining and Resilience to Experimental Impact and DEEP REST (conservation and restoration of deep-sea ecosystems in the context of deep-sea mining) projects, to obtain, assess and disseminate quantitative and qualitative data and information in an open and transparent manner.

#### **Importance of capacity development and technology transfer in realizing the common heritage of humankind**

22. Capacity development and technology transfer are closely linked, and the Convention therefore sets out specific requirements to deal with them accordingly. The Authority is thereby required to take measures to acquire technology and scientific knowledge relating to activities in the Area (Convention, art. 144 (1) (a)) and to ensure a variety of both capacity-building and technology transfer mechanisms for developing States (*ibid.*, art. 274). In line with this, States are required by the Convention to cooperate actively with competent international organizations and the Authority to encourage and facilitate the transfer to developing States, their nationals

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<sup>3</sup> See [ISBA/26/A/17](#).

and the Enterprise of skills and marine technology with regard to activities in the Area (ibid., art. 273).

23. The challenge for the Authority is to ensure that capacity-development and technology transfer measures are developed and implemented effectively, subject to all legitimate interests, including the rights and duties of holders, suppliers and recipients of technology (ibid., art. 274), and that they reflect the needs of developing States, identified through transparent processes in which developing States are full participants. Among them, the training programmes carried out by contractors under article 15 of annex III to the Convention and the 1994 Agreement, have long played a key role in building the capacities of personnel from developing States. The capacity development strategy of the Authority, adopted by the Assembly in August 2022,<sup>4</sup> identified five key result areas with a view to guiding the development and implementation of tailored programmes, projects and activities to address the needs identified by developing States members of the Authority.

### **Facilitating the participation of developing States in activities in the Area**

24. The Authority must promote the participation of developing States in activities in the Area. This is explicit in the Convention and the 1994 Agreement. Activities in the Area shall be carried out with a view to ensuring the expansion of opportunities for participation in such activities consistent with articles 144 and 148 (ibid., art. 150 (c)); the enhancement of opportunities for all States parties, irrespective of their social and economic systems or geographical location, to participate in the development of the resources of the Area (ibid., art. 150 (g)); and the development of the common heritage for the benefit of humankind as a whole (ibid., art. 150 (i)). The challenge for the Authority is to identify mechanisms, including capacity-development programmes, to ensure fully integrated participation by developing States in activities in the Area at all levels. This includes establishing the necessary mechanisms for the independent operation of the Enterprise in a way that meets the requirements of the Convention and the 1994 Agreement.

### **Equitable sharing of benefits**

25. The Authority must adopt rules, regulations and procedures for the equitable sharing of financial and other economic benefits derived from activities in the Area (ibid., art. 140 (2)). Similar rules, regulations and procedures must also be adopted for the distribution of payments made through the Authority under article 82 (4) of the Convention, in respect of the exploitation of non-living resources on the continental shelf beyond 200 nautical miles (ibid., art. 82 (1)).

26. The challenge for the Authority in developing equitable sharing criteria is to understand the financial and economic model for deep seabed mining in an environment of considerable commercial uncertainty, including the trends of and the factors affecting supply, demand and prices of minerals which may be derived from the Area, bearing in mind the interests of both importing and exporting countries, and in particular of the developing States among them (ibid., art. 164 (2) (b)).

27. Although it is not yet known when commercial recovery of minerals from the Area will begin, the Finance Committee has considered, at a technical level, the conceptual basis for the development of equitable sharing criteria and possible options for distribution. It will be important during the period of this strategic plan to advance its work in parallel with the development of the regulations on exploitation and taking into account the views of all stakeholders, including potential beneficiaries identified under the Convention.

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<sup>4</sup> See [ISBA/27/A/11](#).

### **Organizational development**

28. In accordance with the 1994 Agreement, the setting up and the functioning of the organs and subsidiary bodies of the Authority shall be based on an evolutionary approach, taking into account the functional needs of the organs and subsidiary bodies concerned in order that they may discharge effectively their respective responsibilities at various stages of the development of activities in the Area. It is also emphasized in the 1994 Agreement that, in order to minimize costs to States parties, all organs and subsidiary bodies to be established under the Convention shall be cost-effective (1994 Agreement, annex, sect. 1 (2)).

29. The challenge for the Authority is to respond effectively and efficiently to the needs of the regulatory regime and to be ready to perform its functions as a supervisory body in anticipation of the commencement of the commercial exploitation of deep seabed minerals. The Authority must continue to adapt, enhance and increase its structural and functional capacities at a rate that keeps pace with progress in deep-sea mining, covers all necessary disciplines and ensures that adequate and appropriate levels of flexibility are built into the system while continuously scrutinizing the needs and costs for the establishment and functioning of any new organs and subsidiary bodies.

30. As highlighted in the independent report on the contribution of the Authority to the achievement of the 2030 Agenda, a key challenge to creating an Authority with the necessary institutional capacities is that the financial resources of the Authority have not increased in line with its expanding responsibilities. It will be critical to ensure that adequate funding is available to support the evolution of the institutional and regulatory framework, especially during the transition from exploration to exploitation. It is essential to plan well in advance for the future evolution of the organization and its subsidiary bodies.

### **Transparency**

31. Transparency is an essential element of good governance and is therefore a guiding principle for the Authority in the conduct of its business as a publicly accountable international organization. This includes transparency in the internal administration of the Authority, as well as its internal procedures, the procedures of its various organs and subsidiary bodies and its procedures towards States. Transparency plays a fundamental role in building trust in the Authority and in enhancing the Authority's accountability, credibility and support across its stakeholder base.

## **IV. Strategic directions**

### **Strategic direction 1**

#### **Realize the role of the Authority in a global context**

32. The Authority will implement the following mutually reinforcing strategic directions:

**Strategic direction 1.1.** Align its programmes and initiatives towards the realization of those Sustainable Development Goals which are relevant to its mandate.

**Strategic direction 1.2.** Establish and strengthen strategic alliances and partnerships with relevant subregional, regional and global organizations with a view to more effective cooperation in the conservation and sustainable use of ocean resources, in line with their respective mandates and responsibilities recognized by the United Nations Convention on the Law of the Sea and international law, including



the pooling of resources and funding, where appropriate, in particular in connection with marine scientific research and the development and implementation of regional environmental management plans, to avoid the duplication of efforts and to benefit from synergies.

**Strategic direction 1.3.** Build a comprehensive and inclusive approach to the development of the common heritage for the benefit of humankind as a whole that balances the three pillars of sustainable development and gives particular importance to the needs of developing States.

**Strategic direction 1.4.** Monitor and enforce the effective and uniform implementation of the international legal regime of the Area, including the Authority's rules, regulations and procedures, and engage with sponsoring States to inform the development of the regulatory regime and to avoid jurisdictional gaps or overlaps in controls and regulations.

**Strategic direction 1.5.** Strengthen cooperation and coordination with other relevant international organizations and stakeholders in order to promote mutual "reasonable regard" between activities in the Area and other activities in the marine environment and to effectively safeguard the legitimate interests of members of the Authority and contractors, as well as other users of the marine environment.

## **Strategic direction 2**

### **Strengthen the regulatory framework for activities in the Area**

33. The Authority will implement the following strategic directions:

**Strategic direction 2.1.** Adopt rules, regulations and procedures covering all phases of deep-sea mineral exploration and exploitation on the basis of the best available information and in line with the policies, objectives, criteria, principles and provisions set out in the Convention and the 1994 Agreement, in a timely manner.

**Strategic direction 2.2.** Ensure that the rules, regulations and procedures governing mineral exploitation incorporate best practices for environmental management, to ensure effective protection for the marine environment from harmful effects, are underpinned by sound commercial principles in order to attract investment on a "level playing field" among contractors and with respect to land-based mining, and reflect evolving best practices from land-based mining sector governance, in accordance with the Convention and the 1994 Agreement.

**Strategic direction 2.3.** Ensure that the legal framework for activities in the Area is adaptive and responsive to new technology, information and knowledge and advances in international law relating to the Area, in particular in connection with international law rules on responsibility and liability.

**Strategic direction 2.4.** Ensure that the regulatory framework gives due consideration to and promotes the participation of developing States in activities in the Area in accordance with the Convention and the 1994 Agreement.

**Strategic direction 2.5.** Advance the development of the regulatory framework for activities in the Area, taking into account trends and developments relating to deep seabed mining activities, including objective analysis of world metal market conditions and metal prices, trends and prospects, through a predictable process with clear timelines, based on consensus, that allows for stakeholder input in appropriate ways.

**Strategic direction 2.6.** Continue to monitor the potential impact of mineral production from the Area on the economies of developing land-based producers of those minerals that are likely to be most seriously affected, with a view to minimizing

their difficulties and assisting them in their economic adjustment, and develop possible criteria for economic assistance.

### **Strategic direction 3**

#### **Protect the marine environment**

34. The Authority will implement the following strategic directions:

**Strategic direction 3.1.** Develop, adopt, implement and keep under review an adaptive, practical and technically feasible regulatory framework, based on best environmental practices, for the protection of the marine environment from harmful effects which may arise from activities in the Area.

**Strategic direction 3.2.** Develop, implement and keep under review regional environmental assessments and management plans for all mineral provinces in the Area where exploration or exploitation is taking place to ensure sufficient protection of the marine environment as required by, inter alia, article 145 and part XII of the Convention.

**Strategic direction 3.3.** Ensure broad public access to information, including environmental information from contractors and the scientific community, by further developing and reinforcing the operational capabilities of DeepData, the Authority's database.

**Strategic direction 3.4.** Develop scientifically and statistically robust methodologies to assess the potential risk for activities in the Area to interfere with the ecological balance of the marine environment, including criteria for evaluating the adequacy of environmental baseline information.

**Strategic direction 3.5.** Develop appropriate regulations, procedures, thresholds, monitoring programmes and methodologies to prevent, reduce and control pollution and other hazards to the marine environment, as well as interference with the ecological balance of the marine environment, prevent damage to the flora and fauna of the marine environment and implement the relevant requirements relating to the protection of the marine environment as contained in part XII of the Convention.

**Strategic direction 3.6.** Ensure effective consultation with stakeholders, consistent with strategic direction 9.4, on all matters relating to the protection of the marine environment, including the development and implementation of the regulatory framework for activities in the Area.

### **Strategic direction 4**

#### **Promote and encourage marine scientific research in the Area**

35. The Authority will implement the following strategic directions:

**Strategic direction 4.1.** Continue to promote and encourage the conduct of marine scientific research with respect to activities in the Area, with particular emphasis on research related to the environmental effects of activities in the Area, to reduce unknowns and uncertainties.

**Strategic direction 4.2.** Collect and disseminate the results of research and analysis, when available.

**Strategic direction 4.3.** Strengthen and, as appropriate, establish strategic alliances and partnerships with relevant subregional, regional and global organizations, to advance the strategic research priorities of the action plan in support of the United Nations Decade of Ocean Science for Sustainable Development,<sup>5</sup>

<sup>5</sup> See [ISBA/26/A/17](#).

including the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization, the Food and Agriculture Organization of the United Nations and the International Hydrographic Organization as well as collaborative scientific research programmes, and the sharing of data and information in an open and transparent manner, avoid the duplication of efforts and benefit from synergies.

**Strategic direction 4.4.** Be proactive in engaging with the international scientific community through workshops and sponsored publications, in particular with contractors, to advance scientific research and knowledge of the Area, and by promoting access to non-confidential information and data, in particular those data relating to the marine environment.

**Strategic direction 4.5.** Compile summaries of the status of environmental baseline data and develop a process to assess the environmental implications of activities in the Area (Convention, art. 165 (2) (d)).

**Strategic direction 4.6.** Continue to promote and encourage the empowerment of women in deep-sea research, in particular those from developing States, including from the least developed countries, landlocked developing countries and small island developing States.

### **Strategic direction 5 Develop the capacity of developing States**

36. The Authority will implement the following strategic directions:

**Strategic direction 5.1.** Ensure that all capacity-development programmes and measures and their delivery are meaningful, tangible, efficient, effective and targeted at the needs of developing States, as identified by developing States.

**Strategic direction 5.2.** Develop the Authority's Partnership Fund as the main platform for resource mobilization, capacity development and the provision of technical assistance.

**Strategic direction 5.3.** Promote, prioritize and implement capacity-development measures in all projects and activities, as far as practicable, implemented by the Authority, alone and in partnership, with an emphasis on the needs identified by developing States.

**Strategic direction 5.4.** Build on the achievements of the contractors' training programmes and assess their long-term impact and contribution to the capacity development of developing States.

### **Strategic direction 6 Ensure fully integrated participation by developing States**

37. The Authority will implement the following strategic directions:

**Strategic direction 6.1.** Continue to promote and seek opportunities for fully integrated participation by developing States in the implementation of the regime for the Area, paying special attention to the needs of landlocked and geographically disadvantaged States, small island developing States and the least developed countries.

**Strategic direction 6.2.** Undertake a review of the extent of the participation by developing States in the Area, identify and understand any specific barriers to such participation and address them accordingly, including through targeted outreach and partnerships.

**Strategic direction 6.3.** In cooperation with States parties, initiate and promote measures providing opportunities to personnel from developing States for training in marine science and technology and for their full participation in activities in the Area (ibid., art. 144 (2) (b)).

**Strategic direction 6.4.** Carry out a detailed resource assessment of the reserved areas that are available to the Enterprise and developing States.

**Strategic direction 6.5.** Identify possible mechanisms for the independent operation of the Enterprise in a way that meets the objectives of the Convention and the 1994 Agreement.

## **Strategic direction 7**

### **Ensure equitable sharing of financial and other economic benefits**

38. The Authority will implement the following strategic directions:

**Strategic direction 7.1.** Adopt and apply in a transparent manner rules, regulations and procedures for the equitable sharing of financial and other economic benefits derived from activities in the Area.

**Strategic direction 7.2.** Adopt and apply in a transparent manner rules, regulations and procedures for the equitable sharing of payments and contributions in kind made pursuant to article 82 (4) of the Convention.

## **Strategic direction 8**

### **Improve the organizational performance of the Authority**

39. The Authority will implement the following strategic directions:

**Strategic direction 8.1.** Strengthen its institutional capacity and functioning through the allocation of sufficient resources and expertise to deliver its work programmes.

**Strategic direction 8.2.** Ensure a fuller, more active and more informed participation by members of the Authority and other stakeholders through the adoption of working methods that are efficient, focused, targeted and effective and delivered under enhanced conditions of transparency and accountability, leading to a more inclusive approach to decision-making.

**Strategic direction 8.3.** Keep work programmes and working methodologies under review such that they achieve the objectives set by members of the Authority within a reasonable time frame and in a cost-effective manner through improved planning and management.

**Strategic direction 8.4.** Assess long-term options for funding its operations.

## **Strategic direction 9**

### **Commit to transparency**

40. The Authority will implement the following strategic directions:

**Strategic direction 9.1.** Communicate information about its work in a timely and cost-effective manner.

**Strategic direction 9.2.** Ensure public access to non-confidential information.

**Strategic direction 9.3.** Adopt clear, open and cost-effective working practices and procedures and ensure that the chain of responsibility and accountability of all relevant actors is fully understood and properly managed in the development, implementation and enforcement of technical, environmental, operational, scientific and safety regulations and standards for activities in the Area.

**Strategic direction 9.4.** Implement a stakeholder communications and consultation strategy and platform which facilitates open, meaningful and constructive dialogue, including on stakeholder expectations.

## V. Expected outcomes

41. Successful implementation of the plan and its strategic directions will result in the delivery of:

(a) A comprehensive legal framework for carrying out activities in the Area for the benefit of humankind as a whole (*ibid.*, art. 140 (1)), including necessary measures to ensure:

(i) Effective protection for the marine environment (*ibid.*, art. 145);

(ii) Effective protection of human life (*ibid.*, art. 146);

(iii) Orderly, safe and rational management of the resources of the Area, including the efficient conduct of activities in the Area and, in accordance with sound principles of conservation, the avoidance of unnecessary waste (*ibid.*, art. 150 (b)), drawing on the best available scientific evidence and generally accepted applicable international rules and standards;

(iv) Rates and payments under the system within the range of those prevailing in respect of land-based mining of the same or similar minerals in order to avoid giving deep seabed miners an artificial competitive advantage or imposing on them a competitive disadvantage;

(b) An appropriate mechanism to provide for the equitable sharing of financial and other economic benefits derived from activities in the Area on a non-discriminatory basis (*ibid.*, art. 140 (2)), as further directed by the objectives, principles and requirements set out in article 13 (1) of annex III to the Convention and section 8 of the annex to the 1994 Agreement;

(c) The promotion and encouragement of the conduct of marine scientific research in the Area and the coordination and effective dissemination of the results of such research and analysis when available, as required under article 143 (2) of the Convention;

(d) The ability to acquire technology and scientific knowledge relating to activities in the Area and to promote and encourage the transfer to developing States of such technology and scientific knowledge so that all States parties benefit therefrom (*ibid.*, art. 144, and as further governed by the principles set out in the 1994 Agreement, annex, sect. 5) and to promote the effective participation of developing States in activities in the Area as specifically provided for in part XI (Convention, art. 148);

(e) An Authority with the institutional capacity, public acceptance, credibility and state of readiness needed to act as an effective regulator of activities in the Area by reference to contemporary benchmarks, and as a publicly accountable supervisory body that facilitates access to information and values contributions by stakeholders;

(f) Enhanced effectiveness and reach of the Authority in carrying out its functions under the Convention through meaningful two-way stakeholder communication;

(g) An effective contribution by the Authority to the achievement of relevant Sustainable Development Goals by alignment of its programmes and initiatives;

(h) Identification and prioritization of technical assistance needs for developing States, including those to help facilitate fully integrated participation in activities in the Area;

(i) The establishment of a monitoring programme to observe, measure, evaluate and analyse, by recognized scientific methods, on a regular basis, the risks or effects of pollution of the marine environment resulting from activities in the Area, ensure that existing rules, regulations and procedures are adequate and are complied with and coordinate the implementation of the monitoring programme (*ibid.*, art. 165 (2) (h));

(j) Monitoring and review of trends and developments relating to deep seabed mining activities, including objective analysis of world metal market conditions and metal prices, trends and prospects and the study of the potential impact of mineral production from the Area on the economies of developing land-based producers of those minerals which are likely to be most seriously affected, with a view to minimizing their difficulties and assisting them in their economic adjustment (1994 Agreement, annex, sect. 1 (5) (d) and (e));

(k) Operationalization of the Enterprise as foreseen in the Convention and the 1994 Agreement.

## Annex II

### **Draft decision of the Assembly of the International Seabed Authority relating to the strategic plan of the Authority for the period 2024–2028**

*The Assembly of the International Seabed Authority,*

*Recalling* its decision of 27 July 2018, at the twenty-fourth session of the International Seabed Authority,<sup>1</sup> by which it adopted the first strategic plan of the Authority for the period 2019–2023 with a view to providing, inter alia, a uniform basis for the strengthening of existing working practices of the Authority,

*Recalling also* that the operative period of the strategic plan for 2019–2023 is five years, as well as the importance of ensuring that the plan is kept under regular review and the results monitored for effectiveness,

*Acknowledging with appreciation* the efforts of the Secretary-General to regularly inform members of the Authority on progress with respect to the strategic plan,<sup>2</sup>

*Recognizing* the important progress achieved by the Authority in implementing the mandate and responsibilities assigned to it by the United Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, despite the challenges faced, including during the coronavirus disease (COVID-19) pandemic,

*Recognizing also* the importance of allocating sufficient resources to the Authority, especially during the transition from exploration to exploitation,

*Acknowledging* that 30 exploration contracts currently signed by the Authority will be in force during the period of the plan, and the need to adopt sound and balanced regulations for the exploitation of minerals in the Area,

1. *Adopts* the strategic plan of the International Seabed Authority for the period 2024–2028, as contained in the annex, which provides a uniform basis for the strengthening of existing working practices of the Authority;

2. *Invites* members of the Authority and observers as well as the organs of the Authority to support the implementation of the strategic plan;

3. *Requests* the Secretary-General, as a matter of priority, to prepare a high-level action plan and to include key performance indicators and a list of outputs for the next five years, taking into account available financial and human resources, for consideration by the Assembly at its twenty-ninth session;

4. *Also requests* the Secretary-General to continue to provide the Assembly with an overview of the implementation mechanisms for monitoring, evaluation and learning;

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<sup>1</sup> [ISBA/24/A/10](#).

<sup>2</sup> See the annual reports of the Secretary-General under article 166, paragraph 4, of the Convention, in particular those for 2020 ([ISBA/26/A/2](#)), 2021 ([ISBA/26/A/2/Add.1](#)), 2022 ([ISBA/27/A/2](#) and [ISBA/27/A/2/Add.1](#)) and 2023 ([ISBA/28/A/2](#)); the report on the implementation by the Assembly of the strategic plan for the period 2019–2023 ([ISBA/26/A/9](#)); the statement by the President on the work of the Assembly of the Authority at its twenty-sixth session ([ISBA/26/A/34](#)); the report of the Finance Committee ([ISBA/26/A/10-ISBA/26/C/21](#)); and the report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of its twenty-sixth session ([ISBA/26/C/12/Add.1](#)).

5. *Recognizes* that the operative period of the strategic plan will be five years, without excluding the possibility of adopting a longer-term plan in the future.

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Item 8 of the provisional agenda\*

**Annual report of the Secretary-General under article 166,  
paragraph 4, of the United Nations Convention on the  
Law of the Sea**

## **Implementation of the action plan of the International Seabed Authority in support of the United Nations Decade of Ocean Science for Sustainable Development**

### **Report of the Secretary-General**

#### **I. Introduction**

1. Pursuant to the United Nations Convention on the Law of the Sea<sup>1</sup> and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982,<sup>2</sup> the Authority is mandated to promote and encourage the conduct of marine scientific research in the Area. The Authority also has the duty to coordinate and disseminate the results of scientific research when available, and it may also carry out marine scientific research concerning the Area. In addition, the Authority is tasked with encouraging the design and implementation of appropriate programmes for the benefit of developing and technologically less developed States with a view to strengthening their capacity.<sup>3</sup>

2. In June 2022, at the United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development held in Lisbon, Member States recognized the importance of the United Nations Decade of Ocean Science for Sustainable Development<sup>4</sup> in achieving its vision for “the science we need for the ocean we want”.<sup>5</sup>

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\* [ISBA/28/A/L.1](#).

<sup>1</sup> United Nations Convention on the Law of the Sea, art. 143 (2).

<sup>2</sup> 1994 Agreement, para. 5 (h).

<sup>3</sup> United Nations Convention on the Law of the Sea, art. 143 (3).

<sup>4</sup> Proclaimed by the General Assembly in its resolution [72/73](#), para. 292.

<sup>5</sup> See the declaration entitled “Our ocean, our future, our responsibility” ([A/CONF.230/2022/14](#), chap. I).



3. The relevance of the Decade for the work of the Authority is highlighted in the strategic plan<sup>6</sup> and the high-level action plan<sup>7</sup> of the Authority for the period 2019–2023. Both documents reflect the commitment of the Authority to contributing to the achievement of relevant Goals and targets of the 2030 Agenda for Sustainable Development, in particular, Goal 14 (Conserve and sustainably use the oceans, seas and marine resources for sustainable development). In 2020, the Assembly of the Authority adopted an action plan in support of the Decade<sup>8</sup> to formalize and organize the contribution of the Authority to the Decade.<sup>9</sup> The action plan is structured around six strategic research priorities and will continue to evolve as new strategic research priorities are identified and endorsed by members of the Authority.<sup>10</sup> Argentina continues to serve as champion of the action plan with a view to mobilizing efforts for its achievement.

4. The long-standing cooperation between the Authority and the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (UNESCO) since 2000, with the signing of the memorandum of understanding, continues to support the implementation of the action plan. The secretariat engages actively in the meetings of the Ocean Decade Alliance sherpas and the Advisory Board of the United Nations Decade of Ocean Science for Sustainable Development to advance the planning and implementation of the Decade. In February 2023, the secretariat provided inputs, at the invitation of the secretariat of the Intergovernmental Oceanographic Commission, for a study commissioned to identify opportunities for facilitating the engagement of UN-Oceans members in the Decade. The importance of advancing coherence, coordination and communication in efforts to implement the Decade, in the light of existing frameworks and mandates, was recognized by several organizations as a critical element for ensuring synergies and avoiding duplication in the field of marine scientific research.

5. At the twenty-seventh session of the Assembly, in 2022, the Secretary-General presented a progress report on the first year of the implementation of the action plan.<sup>11</sup> The present report provides an overview of the second year of its implementation, from July 2022 to June 2023, through a description of progress with respect to the main activities.<sup>12</sup>

## II. Progress in the implementation

6. The present report follows the six strategic research priorities in the action plan for marine scientific research.

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<sup>6</sup> ISBA/24/A/10, annex.

<sup>7</sup> ISBA/25/A/15, annex II.

<sup>8</sup> ISBA/26/A/17, annex.

<sup>9</sup> ISBA/26/A/4.

<sup>10</sup> Ibid., para. 14.

<sup>11</sup> See ISBA/27/A/4.

<sup>12</sup> Four scientific objectives have been identified to guide the design and implementation of actions during the United Nations Decade of Ocean Science for Sustainable Development, namely: (a) to increase the capacity to generate, understand, manage and use ocean knowledge; (b) to identify and generate required ocean data, information and knowledge; (c) to build a comprehensive understanding of the ocean and ocean governance systems; and (d) to increase the use of ocean knowledge.

**A. Strategic research priority 1: advancing scientific knowledge and understanding of deep-sea ecosystems, including biodiversity and ecosystems functions, in the Area**

7. Advancing scientific knowledge and understanding of the deep-sea ecosystems and functions is essential to supporting informed decision-making processes and the continued application of the precautionary approach by the Authority.

8. In the framework of the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects, the secretariat co-organized, with the Division for Ocean Affairs and the Law of the Sea, two workshops aimed at informing the scoping process of the third World Ocean Assessment in Kingston, in September 2022. Multidisciplinary experts from more than 15 countries, including representatives of middle-income countries, landlocked developing countries and small island developing States, participated. As a follow-up, the secretariat contributed to the eighteenth Meeting of the Ad Hoc Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects, held in New York in March 2023. At that meeting, the secretariat highlighted the specific mandate and activities of the Authority to advance marine scientific research in the Area. The seabed and marine mineral resources were recognized as an important element to include in the third World Ocean Assessment as part of the overview of social and ecological systems. Building on those discussions and outcomes, a workshop is to be hosted by the Authority in Kingston in June 2023 in partnership with the Division so as to enable further discussions and progress on the preparation of the third World Ocean Assessment, which is planned to be released in 2025.

9. At the regional level, progress was made in relation to the collection of background scientific information in support of the development of the regional environmental management plan for the Area in the Indian Ocean. The scientific information compiled was discussed at the first workshop on the environmental management plan for the region, organized in May 2023 in Chennai, India, in collaboration with the Ministry of Earth Sciences and the National Institute of Ocean Technology of India. The event was attended by 32 experts from 15 countries nominated by States members of the Authority, as well as observers, contractors and academic institutions. The workshop led to the identification of parameters for defining an appropriate geographical boundary for the development of the regional environmental management plan and enabled the review of the environmental, geological and/or geophysical data, as well as the scientific knowledge available for the Indian Ocean. The regional environmental assessment will be completed based on the feedback and further inputs received during the workshop. In February 2024, the secretariat plans to organize a workshop to continue developing a regional environmental management plan for the Area in the North-West Pacific, in collaboration with Japan, building on the results of previous workshops for the region held in 2018 and 2020.

10. Continuing efforts to improve environmental baselines through enhanced ocean observations (also beyond contract areas) is important for the implementation of this strategic research priority. Additional scientific information on areas adjacent to the contract areas, such as the areas of particular environmental interest, will further support the effective management of activities in the Area. In June 2023, the secretariat will launch a call for proposals inviting experts to define the needs and priorities for, and the actors who will set up, sustained deep ocean observations that will include a data synthesis across the Clarion-Clipperton Zone, as a follow-up to existing scientific publications.

## **B. Strategic research priority 2: standardizing and innovating methodologies for deep-sea biodiversity assessment, including taxonomic identification and description, in the Area**

11. Significant progress was achieved in the implementation of the Sustainable Seabed Knowledge Initiative launched in 2022 at the Ocean Conference. The project is designed to improve the generation, standardization and sharing of deep-sea biodiversity data, tools and expertise, especially in deep-sea taxonomy, for the effective management of activities carried out in the Area, as well as other relevant global processes for sustainable ocean governance. It is anticipated that the contributions of the Initiative to improving and standardizing deep-sea biodiversity assessments will directly support the implementation of the draft agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, especially in establishing a robust scientific basis for developing environmental impact assessments and area-based management tools in areas beyond national jurisdiction.

12. The Initiative is aimed at delivering ambitious targets to advance deep-sea biodiversity knowledge, such as describing at least 1,000 new deep-sea species in the Area by 2030, and supporting the increased scientific capacity of developing countries on deep-sea biodiversity assessments. The Initiative will also effectively support the implementation of the new Kunming-Montreal Global Biodiversity Framework adopted at the fifteenth meeting of the Conference of the Parties to the Convention on Biological Diversity, in December 2022. During that meeting, the secretariat of the Authority and the secretariat of the Convention co-organized a side event, that demonstrated the importance of the Initiative's activities in advancing deep-sea biodiversity research, capacity and data for the successful implementation of the Global Biodiversity Framework. The secretariat of the Authority will continue to collaborate with the secretariat of the Convention to maximize the synergies between the implementation of the Authority's action plan on marine scientific research and that of the Global Biodiversity Framework.

13. In December 2022, in collaboration with the Ministry of Oceans and Fisheries of the Republic of Korea and the National Marine Biodiversity Institute of Korea and the European Commission,<sup>13</sup> the secretariat organized an inception workshop of the Sustainable Seabed Knowledge Initiative, in Seocheon, Republic of Korea.<sup>14</sup> The workshop was attended by a wide range of stakeholders, including non-governmental organizations, universities, think tanks, scientific networks and research institutes. The participants recognized the relevance of the Initiative in facilitating global actions to ensure a better knowledge of biodiversity and habitats in the Area. A multiannual project document (2023–2030) was developed, drawing from the results of the workshop and inputs received from experts. Implementation and monitoring mechanisms and indicators have been identified to deliver against five priority outcomes, namely: (a) increasing the knowledge of deep-sea biodiversity and improving the understanding of evolutionary history and the resilience of deep-sea ecosystems; (b) improving the consistency, efficiency and reusability of scientific data and information for biodiversity assessments through integrative tools;

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<sup>13</sup> In December 2022, the Council of the European Union, in its conclusions on international ocean governance for safe, secure, clean, healthy and sustainably managed oceans and seas, explicitly expressed its support for the Sustainable Seabed Knowledge Initiative as an opportunity for Member States to strengthen the scientific foundation of environmental protection and management in the vast deep-sea regions beyond national jurisdiction in line with the ISA Marine Scientific Research Action Plan, taking note with satisfaction of the fact that the Initiative is financially supported by the European Union (document 15973/22, para. 18).

<sup>14</sup> See [www.isa.org.jm/events/inception-workshop-sustainable-seabed-knowledge-initiative/](http://www.isa.org.jm/events/inception-workshop-sustainable-seabed-knowledge-initiative/).

(c) increasing the generation and flow of taxonomic data and information, including enhanced availability, accessibility and interoperability; (d) increasing global scientific capacity in deep-sea biodiversity assessments; and (e) enhancing the information considered during decision-making processes and relevant global policy agendas through improved knowledge of deep-sea biodiversity.

14. One of the activities initiated under the Initiative is the development of inventories of species in specific geographical areas or habitats to support environmental management through taxonomic harmonization of multiple baseline studies across the regions. In collaboration with the World Register of Marine Species, a species checklist is being developed for the Area of the Clarion-Clipperton Zone. In addition, the secretariat is currently preparing for the organization of a workshop in October 2023 in Viet Nam on advancing deep-sea taxonomy to improve data standardization, for participants to discuss best practices for generating findable, accessible, interoperable and reusable (FAIR) data, and to build capacity in sharing deep-sea biological data. The workshop will be the fourth edition of the workshop series on deep-sea taxonomic standardization convened since 2020.

### **C. Strategic research priority 3: facilitating technology development for activities in the Area, including ocean observation and monitoring**

15. Through this strategic research priority, the Authority is committed to monitoring and reviewing technology trends and developments relating to ocean observation, environmental monitoring and modelling, and mineral processing, including advanced automated and autonomous technological solutions and robotics relating to prospecting for and the exploration of mineral resources in the Area. In March 2023, India formally agreed to spearhead the work of the Authority in this area as a “Deep-Sea Technology Champion” through the leadership of the Ministry of Earth Sciences.

16. The secretariat commissioned a desktop review of the current scientific and industrial developments, including the identification of critical gaps. The review found that new autonomous technologies enable faster mineral resource identification and environmental assessments at a larger scale. It also concluded that technology transfer from other industries should be further explored, for example to design more efficient mineral resource assessment models. When comparing the technologies of mining systems and operations, most candidate technological systems have been developed and tested for polymetallic manganese nodules, while very limited trials have been carried out as yet for polymetallic sulphides and ferromanganese crusts. Lastly, it was recommended that state-of-the-art theoretical models developed in academic frameworks need to inform the action taken by industry with respect to advancing their technological application. These key findings will inform an upcoming workshop in 2023 on technological developments for responsible mining and environmental protection and monitoring.

17. The secretariat, in collaboration with the National Institute of Oceanography and Fisheries of Egypt, organized a side event at the twenty-seventh Conference of the Parties to the United Nations Framework Convention on Climate Change, held in November 2022 in Sharm el-Sheikh, Egypt, on the topic of technological and scientific knowledge in support of prospecting marine mineral resources in deep waters, including for Africa. Participants from diverse backgrounds discussed the importance of science, technology and capacity development in facilitating the sustainable use of the oceans. Participants highlighted that deep-sea minerals present a valuable opportunity to satisfy the increasing demand for critical minerals. In

particular, deep-sea exploration was mentioned as an important opportunity for African countries to advance the progress towards the blue economy.

18. The secretariat joined the advisory board of a project to develop a technology-based impact assessment tool for sustainable, transparent deep-sea mining exploration and exploitation (known as TRIDENT),<sup>15</sup> launched in January 2023. The initiative is led by the Institute for Systems and Computer Engineering, Technology and Science (Portugal), with a consortium of 22 European scientific partners, and is financially supported by the European Commission. The project is aimed at developing remote and automated monitoring systems for deep-sea mining. It will support the development of reliable and cost-effective systems for environmental impact monitoring of activities in the Area, which will also support strategic research priority 4.

19. In June 2023, the secretariat will present the progress under this research priority at the twenty-third meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea, on the theme “New maritime technologies: challenges and opportunities”.

20. Considering the growing interest in developing technologies for environmentally responsible management of activities in the Area, the work under this strategic research priority will be instrumental for developing a technology road map for the Authority, together with the support of interested stakeholders. Preliminary work for the development of the road map has been undertaken, with a view to exploring a pathway towards unlocking the full potential of technology development and innovation, in support of the sustainable development of activities in the Area, including through the use of smart tools, such as artificial intelligence and robotics.

#### **D. Strategic research priority 4: enhancing scientific knowledge and understanding of potential impacts of activities in the Area**

21. In response to the continued demand for enhanced understanding of the potential impacts of activities in the Area, the secretariat commissioned scientific studies to further provide data and information, with a view to supporting the work of the Authority on ensuring the sustainable management of activities in the Area based on the precautionary approach.

22. The secretariat commissioned an analysis of the spatial interaction of deep-sea fisheries with activities in the Area, which will be published as a technical study in August 2023. The results show a negligible overlap between the occurrence of fishing with gear that operate at or near the sea floor in areas beyond national jurisdiction. The findings also suggest that direct conflicts between fisheries and activities in the Area should be infrequent and readily managed. Discussions with the Food and Agriculture Organization of the United Nations have also progressed for the signing of a memorandum of understanding to enhance the cross-sectoral collaboration on promoting scientific research and a coherent approach to management measures in areas beyond national jurisdiction.

23. The Secretariat commissioned a literature review on the occurrence of microplastics in the deep sea, the results of which will be published as a scientific paper. It was found that deep-sea locations sampled for microplastics are widely spread over the world and that the reported concentrations vary largely. The experts are currently investigating the Authority’s potential contribution to understanding the impact of microplastics in the deep sea, including through the use of the data stored in DeepData.

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<sup>15</sup> See <https://cordis.europa.eu/project/id/101091959>.

24. In addition, a study was performed to examine the Authority's potential contribution to assessing and monitoring the health of the ocean. The majority of ocean health indicators currently refer to the sea surface or to the mid-water column, which could be complemented by the data contained in DeepData for a more comprehensive assessment of the health of the ocean. A dashboard with a selection of parameters will be created on DeepData to facilitate further research and raise awareness of the health of the deep sea.

25. The secretariat participated in two scoping meetings organized by the Joint Programming Initiative Healthy and Productive Seas and Oceans (JPI Oceans) in October 2022 and March 2023. These meetings served to identify knowledge gaps and research priorities to inform the potential successor project to the MiningImpact projects<sup>16</sup> that provided insights into the potential environmental impacts and risks of deep-sea mining.

#### **E. Strategic research priority 5: promoting dissemination, exchange and sharing of scientific data and deep-sea research outputs and increasing deep-sea literacy**

26. Pursuant to the Convention, the Authority has the duty to coordinate the dissemination of the research results carried out in the Area. Enhanced access to data and research outputs facilitates and enables further research, stakeholder participation and informed decision-making towards the conservation and sustainable use of deep-sea resources for the benefit of all. This plays a key role in raising awareness of the deep sea and the work of the Authority in ensuring effective management of seabed resources beyond national jurisdiction. With the launch of its DeepData database<sup>17</sup> in 2019, the Authority has developed a repository to share all environmental data and information collected in the Area in an open and transparent manner. As of May 2023, DeepData contains over 10 terabytes of data collected in the Area, and had approximately 2.4 million hits from 57,209 visitors and users between July 2022 and May 2023. Three countries account for approximately half of the total visitors: the United States of America (32 per cent); China (10 per cent); and the Russian Federation (8 per cent) of the total number of visitors.

27. The secretariat has engaged in several strategic partnerships to enhance the availability, accessibility and interoperability of data and information contained in DeepData. Building on the partnership with the Intergovernmental Oceanographic Commission, the secretariat participated in the second International Ocean Data Conference, held in Paris in March 2023. The opportunity to engage with the wider community of data experts increased the international visibility of DeepData and served to stimulate greater usage of the database and to initiate dialogues with potential partners for new collaborations.

28. While the linkage between DeepData and the Ocean Biodiversity Information System has expanded the sharing of environmental data and increased the visibility of DeepData, the secretariat has undertaken collaborative activities with various partners to improve the quality of the environmental data contained in DeepData so as to further increase the utility of the data. The quality of the taxonomic data has significantly improved following the review of more than 60,000 biological records across all regions in which exploration activities are taking place. Furthermore, a review and synthesis of more than 11,000 biological records for the Indian Ocean has been conducted, resulting in increased quality of biological data in DeepData to

<sup>16</sup> See [www.jpi-oceans.eu/en/miningimpact](http://www.jpi-oceans.eu/en/miningimpact).

<sup>17</sup> See <https://data.isa.org/jm/isa/map/>.

inform the ongoing process relating to the regional environmental management plan. The existing partnership with World Register of Marine Species adds an additional quality control mechanism by using new automated procedures for taxon match queries and scientific reviews by World Register of Marine Species editors.

29. By the end of June 2023, four exploration contractors are expected to have agreed to share their bathymetric data with the International Hydrographic Organization through the AREA2030 initiative.<sup>18</sup> The Interoceanmetal Joint Organization provided data collected from 1992 to 2001 in the Clarion-Clipperton Zone, Belgium's Global Sea Mineral Resources (GSR) has made data from its contract area publicly available, Japan's Deep Ocean Resources Development Co. Ltd. (DORD) provided data on areas of particular environmental interest in the Clarion-Clipperton Zone and Germany's Federal Institute for Geosciences and Natural Resources provided bathymetry data for a total of 120,000 km<sup>2</sup> of seabed in the Clarion-Clipperton Zone and for 188,500 km<sup>2</sup> of seabed along the Indian Ocean ridges.

30. The secretariat carried out an assessment of the quality of oceanographic data from the Indian Ocean and the North-West Pacific contained in DeepData. The data were compared to those of the World Ocean Database and World Ocean Circulation Experiment. The results highlighted the uniqueness of oceanographic data below 2,000 m water depth in DeepData. As a next step, the oceanographic data will be exchanged with the International Oceanographic Data and Information Exchange of UNESCO under the existing partnership. Additional assessment of oceanographic data will be carried out for the Clarion-Clipperton Zone, Mid-Atlantic Ridge and South Atlantic to support the work of the Authority and the Legal and Technical Commission.

31. A data management strategy is being developed in close collaboration with the Legal and Technical Commission. In parallel, structural components of DeepData have been redesigned and new features developed on the basis of feedback from stakeholders and users. The DeepData architecture was updated to accommodate revisions to the data reporting templates. The revised templates allow contractors to submit more information, such as resource information and assessments, as well as additional biological parameters. DeepData has been updated to accommodate the volume of additional data. New features were implemented to allow users of DeepData to visualize data availability in contract areas. Different modules were improved, for example, through interactive plots to visualize conductivity, temperature and depth measurements.

32. The secretariat has continued to undertake various initiatives to raise awareness of the Authority's mandates and activities carried out under the Convention and the 1994 Agreement, with particular emphasis on its contribution to the 2030 Agenda for Sustainable Development. Different educational tools have been developed and launched in 2023 to teach children between the ages of 4 and 12 about deep-sea research and the protection of the marine environment. Of note was the launch in March 2023, in six official languages of the Authority, of the Wakatoon digital colouring book,<sup>19</sup> and an activity book conceived with the Centre for Language and Culture in Kingston aimed at children between the ages of 3 and 6, entitled "Life under water: preschool companion".<sup>20</sup>

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<sup>18</sup> See [www.isa.org.jm/area-2030/](http://www.isa.org.jm/area-2030/).

<sup>19</sup> See [www.isa.org.jm/isa-wakatoon/](http://www.isa.org.jm/isa-wakatoon/).

<sup>20</sup> See [www.isa.org.jm/news/isa-launches-activity-book-for-children-3-to-6-years-old-to-promote-deep-sea-literacy-and-sensitization-to-conservation-and-sustainable-use-of-the-ocean-and-its-resources-2/](http://www.isa.org.jm/news/isa-launches-activity-book-for-children-3-to-6-years-old-to-promote-deep-sea-literacy-and-sensitization-to-conservation-and-sustainable-use-of-the-ocean-and-its-resources-2/).



## **F. Strategic research priority 6: strengthening deep-sea scientific capacity of Authority members, in particular developing States**

33. Part of the mandate assigned to the Authority to promote and encourage marine scientific research in the Area is the responsibility to support the development of scientific and technical capacities of developing States. This is done through dedicated training programmes and activities that establish a nexus between the action plan and the capacity development strategy adopted in 2022 (ISBA/27/A/5).

34. Continued progress has been made to advance women's empowerment and leadership in deep-sea research, in particular to support women scientists from the least developed countries, landlocked developing countries and small island developing States through the Women in Deep-Sea Research project. Since its launch, over 100 women have benefited from various training initiatives as part of the project, including the contractors' training programme. A pilot mentoring programme will be launched in June 2023, through which world-renowned scientists have agreed to serve as mentors for 10 young female researchers from developing States to assist in elevating their professional development over the course of a 12-month programme.

35. In order to complement those capacity-building efforts, a International Seabed Authority-Institut français de recherche pour l'exploitation de la mer (Ifremer) postdoctoral fellowship was launched in September 2022 to support the work of an expert to conduct an analysis of benthic foraminifera from samples collected in the Clarion-Clipperton Zone and to support research to advance automated image identification. The research will continue for one more year, and the results will be presented at events of the Sustainable Seabed Knowledge Initiative and other international scientific conferences. Three manuscripts are being prepared for submission to scientific peer-reviewed journals, including the description of new species.

36. One of the main efforts of the Authority to build scientific research capacity in developing States is the completion of the programme to deploy national experts implemented under the Africa Deep Seabed Resources project. The project, implemented in cooperation with the African Union and the Norwegian Agency for Development Cooperation, has enabled mid-career African experts to advance some of the Authority's core activities using the DeepData database. Between 2018 and 2022, 10 African experts carried out research within the secretariat. The themes ranged from fundamental topics, such as the characterization of the distribution of water masses, to applied research, for example the assessment of the geothermal energy in the Area, as well as technological advancement such as the development of an inspection tool to support the supervision of deep seabed mining activities.

37. In addition, an internship programme funded by the National Oceanography Centre of the United Kingdom of Great Britain and Northern Ireland took place during the reporting period. A junior woman scientist joined the secretariat for four months to add images to the image library for species recognition and catalogue those images. More than 30,000 image records were catalogued, but their use and sharing are currently limited by the lack of associated metadata. A second intern worked to enhance the quality of the biodiversity data relating to the Indian Ocean in preparation for the workshop on the regional environmental management plan, as well as the data available from the Mid-Atlantic Ridge and Northwest Pacific regions, adding a total of 18,520 biological records to DeepData and the Ocean Biodiversity Information System.

38. Following the signature of the memorandum of understanding (ISBA/26/C/16) with the Indian Ocean Rim Association in March 2022, the secretariat engaged in a joint project for strengthening deep-sea science and technology in the Indian Ocean

region to build and develop institutional, organizational and individual capacities of members of both organizations, in particularly least developed countries and small island developing States.

39. The secretariat and the Technology Bank for the Least Developed Countries developed a joint project framework with a view to implementing joint activities to develop the capacities of the least developed countries in support of the sustainable development of emerging sectors of the blue economy. The project framework is informed by the Doha Programme of Action for the Least Developed Countries for the decade 2022-2031. Pilot projects will be developed in Nepal and the United Republic of Tanzania. In May 2023, the secretariat and the Technology Bank co-organized an online side event on leveraging the power of ocean science, technology and innovation to support the 2030 Agenda during the eighth multi-stakeholder forum on science, technology and innovation for the Sustainable Development Goals. It underscored the role of marine science in achieving the 2030 Agenda and supported the broader dissemination of technology and innovation, especially to the most vulnerable countries.

40. The second training workshop of the Authority and the China Joint Training and Research Centre will be held in October 2023 and will target the participation of developing countries (especially least developed countries, landlocked developing countries and small island developing States). The participants will be invited to enrol for a two week in-person training in Qingdao, Shandong Province consisting of thematic and operational lectures linked to the mandates of the Authority, as well as field trips.

### **III. Engagement and resource mobilization**

41. The secretariat has been actively engaging with the scientific community, industries and policymakers to promote scientific research activities in the context of the action plan. It delivered more than 30 presentations at various international forums during the reporting period.

42. There has been increased momentum in efforts to advance marine scientific research. Diverse members of the Authority have committed or expressed interest in committing extrabudgetary contributions to further promote scientific research, especially to reinforce the science-policy interface.

43. In November 2022, the Authority and the Ministry of Oceans and Fisheries of the Republic of Korea signed a letter of cooperation to further strengthen their collaboration on advancing deep-sea research, scientific capacity and the sustainable development of seabed minerals, reaffirming the active engagement and support of the Republic of Korea in promoting marine scientific research in the Area. Additional partnerships to support the implementation of the action plan were established during the reporting period with the secretariat of the Convention on Biological Diversity, the National Research Council of Italy, the National Maritime Foundation in India, Ifremer, the Indian Ocean Rim Association and the Technology Bank for the Least Developed Countries

44. Following the establishment in 2022 of the International Seabed Authority Partnership Fund<sup>21</sup> with contributions from China, France, Germany, Greece, Japan, Mexico, Monaco, Nigeria, Norway, Republic of Korea, Spain, Tonga and the United Kingdom, other multiannual research initiatives will be developed, in line with the Fund's terms of reference. The first call for proposals will be launched before the end

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<sup>21</sup> [ISBA/27/A/10](#).

of 2023. The secretariat will continue to engage with potential donors with respect to the further development of activities and the sustainability of their outcomes. This multi-donor trust fund will provide an excellent pathway for preparing the Authority to facilitate the new era of marine scientific research under the United Nations Decade of Ocean Science for Sustainable Development.

#### **IV. Recommendations**

45. **The Assembly is invited to:**

- (a) Take note of the information provided in the present report;**
  - (b) Request the Secretary-General to continue his efforts to mobilize the necessary resources for the implementation and upscaling of the strategic research priorities under the action plan for marine scientific research;**
  - (c) Encourage all members of the Authority, other States, relevant international organizations, academic, scientific and technical institutions, philanthropic organizations, corporations and private persons to contribute to the implementation of the action plan for marine scientific research.**
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# Assembly

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## Twenty-eighth session

Kingston, 24–28 July 2023

Item 8 of the provisional agenda\*

**Annual report of the Secretary-General under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea**

## **Report on the implementation by the Assembly of the strategic plan of the Authority for the period 2019–2023**

**Note by the secretariat**

### **I. Introduction**

1. The Assembly recalls that, in its decision relating to the implementation of the strategic plan of the Authority for the period 2019–2023 ([ISBA/25/A/15](#) and [ISBA/25/A/15/Corr.1](#)), it committed to the strengthening of existing working practices of the Authority and, accordingly, invited members of the Authority and observers, as well as the organs of the Authority, to support the implementation of the strategic plan and the high-level action plan.

2. For the reporting period 2021–2023, the Assembly has been assigned some responsibilities for 34 high-level actions and 37 related outputs, as listed in annex II to the aforementioned decision. In seven cases, no specific output has been identified and the reporting therefore specifically relates to the high-level action of interest (see high-level actions 1.3.1, 2.3.2, 2.4.1, 3.2.2, 3.2.4, 3.4.3 and 3.5.4). Accordingly, the total number of items identified for the reporting period is 44.

3. The Assembly is identified as the organ responsible for 29 outputs, the associated organ for 12 other outputs and the coordinating organ for the remainder. In order to reflect the different statuses of completion, particularly the fact that some outputs are recurring, two different subcategories of progress status have been identified: “ongoing”, which relates to outputs understood as requiring ongoing attention and adjustment, and “achieved”, which relates to outputs reported against a specific reporting period or action.

4. As at 1 July 2023, 77 per cent (34) of the assigned high-level actions and outputs had been completed and 23 per cent (10) were still in progress. Further information is provided in the annex to the present report, and details of the work undertaken against all outputs have been compiled by the secretariat and are available at [www.isa.org.jm/wp-content/uploads/2023/07/Status-of-Assembly.pdf](http://www.isa.org.jm/wp-content/uploads/2023/07/Status-of-Assembly.pdf).

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\* [ISBA/28/A/L.1](#).



## **II. Recommendation**

5. The Assembly is invited to take note of the information provided in the present report.

## Annex

### Status of completion of high-level actions and associated outputs assigned to the Assembly for the reporting period 2021–2023

<i>Strategic direction</i>	<i>Number of items relevant to the reporting</i>	<i>Completed</i>		<i>In progress</i>	<i>On hold</i>	<i>Completion rate (percentage)</i>
		<i>Ongoing</i>	<i>Achieved</i>			
Strategic direction 1: realize the role of the Authority in a global context	15	15	–	–	–	100
Strategic direction 2: strengthen the regulatory framework for activities in the Area	4	1	–	3	–	25
Strategic direction 3: protect the marine environment	4	3	–	1	–	75
Strategic direction 4: promote and encourage marine scientific research in the Area	2	–	–	2	–	0
Strategic direction 5: build capacity for developing States	3	1	1	1	–	67
Strategic direction 6: ensure fully integrated participation by developing States	7	3	3	1	–	86
Strategic direction 7: ensure equitable sharing of financial and other economic benefits	–	–	–	–	–	Not applicable
Strategic direction 8: improve the organizational performance of the Authority	8	7	–	1	–	87.5
Strategic direction 9: Commit to transparency	1	–	–	1	–	0
<b>Total</b>	<b>44</b>	<b>30</b>	<b>4</b>	<b>10</b>	<b>–</b>	<b>77</b>



# Assembly

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## Twenty-eighth session

Kingston, 24–28 July 2023

Item 14 of the provisional agenda\*

### Report on proposed amendments to the statute of the International Civil Service Commission

## Decision of the Assembly of the International Seabed Authority concerning amendments to the statute of the International Civil Service Commission

*The Assembly of the International Seabed Authority,*

*Taking note* of the report of the Secretary-General,<sup>1</sup>

*Acting* on the recommendation of the Council of the International Seabed Authority,

1. *Accepts* the amendments to the statute of the International Civil Service Commission adopted by the General Assembly of the United Nations at its seventy-seventh session in its resolution [77/256 A](#) of 30 December 2022;

2. *Requests* the Secretary-General to notify the Secretary-General of the United Nations of this acceptance.

*197th meeting*  
*24 July 2023*

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\* [ISBA/28/A/L.1](#).

<sup>1</sup> [ISBA/28/A/5-ISBA/28/C/14](#).





# Assembly

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## Twenty-eighth session

Kingston, 24–28 July 2023

Item 9 of the provisional agenda\*

### Report and recommendations of the Finance Committee

## Decision of the Assembly of the International Seabed Authority relating to financial and budgetary matters

*The Assembly of the International Seabed Authority,*

*Taking into account* the recommendations of the Council of the International Seabed Authority,<sup>1</sup>

1. *Approves* a supplementary budget for the financial period 2023–2024 in an amount not exceeding \$456,940, as proposed by the Secretary-General;<sup>2</sup>

2. *Authorizes* the Secretary-General, in line with the decision contained in document [ISBA/27/A/10](#), to adjust the assessed contributions for 2024 accordingly;

3. *Appoints* CalvertGordon Associates as the independent auditor for the Authority for the financial period 2023–2024;

4. *Decides* that, in respect of Rwanda, which became a member of the Authority in 2023, the rate of assessment and the amounts of contribution to the General Administrative Fund and the Working Capital Fund shall be as reflected in paragraph 38 of the report of the Finance Committee;<sup>3</sup>

5. *Appeals* to members of the Authority, including those members with contributions in arrears for the period 1998–2022, to pay outstanding contributions to the budget of the Authority as soon as possible, to enable the Authority to deliver effectively on its mandate, and requests the Secretary-General to continue efforts to recover those arrears, including bilateral efforts;

6. *Expresses its appreciation* to the donors that have made contributions to the voluntary trust funds of the Authority, and encourages members, observers, contractors and other stakeholders to contribute financially to the trust funds;

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\* [ISBA/28/A/L.1](#).

<sup>1</sup> [ISBA/28/C/21](#).

<sup>2</sup> [ISBA/28/A/3/Add.1-ISBA/28/C/12/Add.1](#).

<sup>3</sup> [ISBA/28/A/4-ISBA/28/C/13](#).





7. *Takes note* of the forecast budgetary requirements associated with the anticipated evolution of the work of the Authority over the period from 2025 to 2030, as indicated in the report of the Secretary-General,<sup>4</sup> and of the need to ensure adequate capacity and resources necessary to fulfil its obligations under the United Nations Convention on the Law of the Sea<sup>5</sup> and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.<sup>6</sup>

*198th meeting  
24 July 2023*

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<sup>4</sup> ISBA/28/FC/2 and ISBA/28/FC/2/Corr.1.

<sup>5</sup> United Nations, *Treaty Series*, vol. 1833, No. 31363.

<sup>6</sup> *Ibid.*, vol. 1836, No. 31364.



# Assembly

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## Twenty-eighth session

Kingston, 24–28 July 2023

Agenda item 12

### Consideration and adoption of the draft strategic plan of the Authority for the five-year period 2024–2028

## Decision of the Assembly of the International Seabed Authority on the second periodic review of the international regime of the Area pursuant to article 154 of the United Nations Convention on the Law of the Sea

*The Assembly of the International Seabed Authority,*

*Recalling* that article 154, part XI, of the United Nations Convention on the Law of the Sea<sup>1</sup> provides that:

Every five years from the entry into force of this Convention, the Assembly shall undertake a general and systematic review of the manner in which the international regime of the Area established in this Convention has operated in practice. In the light of this review the Assembly may take, or recommend that other organs take, measures in accordance with the provisions and procedures of this Part and the Annexes relating thereto which will lead to the improvement of the operation of the regime,

*Recalling also* that the first periodic review of the Authority pursuant to article 154 of the Convention was completed in 2017,

*Conscious* that a second periodic review is due under article 154 of the Convention and would undoubtedly lead to further improvements in the operation of the regime and enhance the effectiveness of the Authority,

1. *Decides* to include the periodic review of the international regime of the Area pursuant to article 154 of the Convention as an agenda item for the twenty-ninth session of the Assembly in 2024, with a view to adopting a decision;

2. *Requests* the Secretary-General to include the above agenda item when drawing up the provisional agenda of the twenty-ninth session in accordance with rule 10 (c) of the rules of procedure of the Assembly;

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<sup>1</sup> United Nations, *Treaty Series*, vol. 1833, No. 31363.



3. *Requests* the Finance Committee to consider and provide recommendations to the Assembly at its twenty-ninth session on the budgetary implications pertaining to the undertaking of a second periodic review;

4. *Decides* to extend the strategic plan of the Authority for the period 2019–2023<sup>2</sup> by two years;

5. *Requests* the Secretary-General to review the high-level action plan for the period 2019–2023<sup>3</sup> with a view to extending it in line with the extension of the strategic plan and to report thereon in 2024.

*206th meeting  
28 July 2023*

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<sup>2</sup> [ISBA/24/A/10](#), annex.

<sup>3</sup> [ISBA/25/A/15](#) and [ISBA/25/A/15/Corr.1](#), annex II.



# Assembly

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**Twenty-eighth session**  
Kingston, 24–28 July 2023

## **Statement by the President on the work of the Assembly of the International Seabed Authority at its twenty-eighth session**

1. The twenty-eighth session of the Assembly of the International Seabed Authority was held in Kingston from 24 to 28 July 2023. A total of 10 meetings were held (197th to 206th meetings).

### **I. Adoption of the agenda**

2. At its 197th meeting, on 24 July, the Assembly considered the provisional agenda<sup>1</sup> and the supplementary list of agenda items for its twenty-eighth session. On 28 July, during its 206th meeting, the Assembly adopted the agenda.<sup>2</sup>

3. The Assembly did not adopt the proposals contained in the supplementary list of agenda items. However, with respect to the proposal submitted by Germany to include an additional item relating to the periodic review of the international regime of the Area pursuant to article 154 of the United Nations Convention on the Law of the Sea, the Assembly decided, at its 206th meeting, to include the item on the agenda of its twenty-ninth session in 2024.<sup>3</sup> In the same decision, the Assembly requested the Secretary-General to include the aforementioned agenda item when drawing up the provisional agenda pursuant to rule 10 (c) of the rules of procedure, and requested the Finance Committee to consider the budgetary implications of the proposal and to report to the Assembly during the twenty-ninth session.

4. With respect to the joint proposal submitted by Chile, Costa Rica, France, Palau and Vanuatu to include an item on the establishment of a general policy by the Assembly related to the conservation of the marine environment, including in consideration of the effects of the “two-year rule”, some delegations raised the issue of the incompatibility of that proposal with the Convention, the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (1994 Agreement) and the rules of procedure of the Assembly, leading the Assembly to agree that it would be open to the submission of

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<sup>1</sup> ISBA/28/A/L.1.

<sup>2</sup> ISBA/28/A/1.

<sup>3</sup> See ISBA/28/A/16.



a request by the proponents, pursuant to rule 10 (e) of the rules of procedure, to include an item in the provisional agenda of the twenty-ninth session of the Assembly in 2024 entitled “A general policy of the Authority for the protection and preservation of the marine environment”.

5. Several delegations noted that the adoption of the provisional agenda and the consideration of whether to adopt items contained in a supplementary list were separate matters and that the Assembly, at the current session and in future meetings, should proceed to adopt its provisional agenda separately from items contained in a supplementary list of agenda items, pursuant to its rules of procedure and following established practice in other intergovernmental forums.

## **II. Election of the President and Vice-Presidents of the Assembly**

6. At the 197th meeting, following the nomination of African States to preside over the Assembly, the Permanent Representative of Sierra Leone to the United Nations, Alhaji Fanday Turay, was elected President of the Assembly for its twenty-eighth session.

7. The representatives of Belgium (Western European and Other States), Singapore (Asia-Pacific States) and Trinidad and Tobago (Latin American and Caribbean States) were elected Vice-Presidents of the Assembly for the twenty-eighth session.

## **III. Appointment and report of the Credentials Committee**

8. At its 197th meeting, the Assembly appointed a Credentials Committee, consisting of the following members: China, Dominican Republic, Germany, Netherlands (Kingdom of the), South Africa, Trinidad and Tobago and Zimbabwe.

9. The Credentials Committee met on 26 July and elected Clemens Wackernagel (Germany) as its Chair. The Committee examined the credentials of representatives participating in the twenty-eighth session.

10. At the 203rd meeting, on 27 July, the Chair of the Credentials Committee presented the report of the Committee,<sup>4</sup> which was approved by the Assembly at the same meeting.<sup>5</sup>

## **IV. Requests for observer status in the Assembly**

11. At the 197th meeting, in accordance with rule 82, paragraph 1 (e), of the rules of procedure of the Assembly and the guidelines for observer status of non-governmental organizations with the Authority,<sup>6</sup> the Assembly considered and approved eight applications for observer status from the following applicants: China Biodiversity Conservation and Green Development Foundation,<sup>7</sup> Te Ipukarea Society,<sup>8</sup> Norwegian Forum for Marine Minerals,<sup>9</sup> Arayara International Institute,<sup>10</sup>

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<sup>4</sup> ISBA/28/A/10.

<sup>5</sup> See ISBA/28/A/17.

<sup>6</sup> ISBA/25/A/16, annex.

<sup>7</sup> See ISBA/28/A/INF/1.

<sup>8</sup> See ISBA/28/A/INF/2.

<sup>9</sup> See ISBA/28/A/INF/3.

<sup>10</sup> See ISBA/28/A/INF/4.

Minderoo Foundation,<sup>11</sup> Sustainable Ocean Alliance,<sup>12</sup> International Council on Mining and Metals<sup>13</sup> and Environmental Justice Foundation Charitable Trust.<sup>14</sup>

## V. Election to fill a vacancy on the Finance Committee

12. At the 197th meeting of the Assembly, in accordance with section 9, paragraph 5, of the annex to the 1994 Agreement, Xing Chaohong (China) was elected to fill the vacant seat on the Committee left by Kejun Fan for the remainder of his term, ending on 31 December 2027.<sup>15</sup>

## VI. Secretary-General's Award for Excellence in Deep-Sea Research

13. During the 198th meeting of the Assembly, on 24 July, the Secretary-General presented the fourth edition of his Award for Excellence in Deep-Sea Research to Rima Browne (Cook Islands), a geographer for the Cook Islands Seabed Minerals Authority, for her contribution to mapping the seabed. The Secretary-General expressed his appreciation to the Government of Monaco for its continuing contribution in support of the Award since its inception.

14. The delegation of Monaco congratulated Ms. Browne and reiterated the continued commitment of Monaco to the initiative, as well as to the promotion and encouragement of scientific research in the Area in support of the protection and preservation of the marine environment, placing emphasis on the advancement of women. The Prime Minister of the Cook Islands also expressed appreciation for the recognition of the efforts undertaken by Ms. Browne and the Cook Islands in adding to scientific knowledge of the seabed. Several other delegations congratulated Ms. Browne on receiving the award.

## VII. Annual report of the Secretary-General

15. At the 199th meeting of the Assembly, the Secretary-General presented his annual report, submitted in accordance with article 166, paragraph 4, of the Convention, comprising an official document<sup>16</sup> and an illustrated publication entitled *Just and Equitable Management of the Common Heritage of Humankind*.<sup>17</sup> Under the same agenda item, the Secretary-General also reported on the implementation of the action plan of the International Seabed Authority in support of the United Nations Decade of Ocean Science for Sustainable Development.<sup>18</sup> The Secretary-General opened his presentation by adding his voice to the commemoration of the African Day of Seas and Oceans, celebrated every year on 25 July, and commending the African States members of the Authority for their ongoing efforts to develop the necessary regulatory frameworks and institutions to fulfil the vision of the Convention in ensuring the sustainable management and protection of the ocean and its resources.

<sup>11</sup> See [ISBA/28/A/INF/5](#).

<sup>12</sup> See [ISBA/28/A/INF/6](#).

<sup>13</sup> See [ISBA/28/A/INF/7](#).

<sup>14</sup> See [ISBA/28/A/INF/9](#).

<sup>15</sup> See [ISBA/28/A/9](#).

<sup>16</sup> [ISBA/28/A/2](#).

<sup>17</sup> Available at [www.isa.org.jm/wp-content/uploads/2023/07/ISA\\_Secretary\\_General\\_Annual\\_Report\\_2023.pdf](http://www.isa.org.jm/wp-content/uploads/2023/07/ISA_Secretary_General_Annual_Report_2023.pdf).

<sup>18</sup> [ISBA/28/A/8](#).

16. During the 199th, 200th, 201st and 202nd meetings, on 25 and 26 July 2023, the Assembly conducted a general debate on the reports of the Secretary-General. One regional group, 53 members of the Authority and 10 observers made statements, in addition to one joint statement by Pacific Island States.<sup>19</sup> Statements were also made by Heads of State and Government and high-level representatives, namely: the President of Nauru, Russ Joseph Kun; the Prime Minister of the Cook Islands, Mark Brown; the State Minister in the Ministry of Foreign Affairs and Foreign Trade of Jamaica, Alando Terrelonge; and the Secretary of State for the Sea of France, Hervé Berville.

17. Delegations thanked the Government of Jamaica for its hospitality and commitment to the continued work of the Authority. They also thanked the Secretary-General, the Council of the International Seabed Authority, the Legal and Technical Commission, the Finance Committee and the facilitators of the informal working groups of the Council, as well as the staff of the secretariat for their hard work during the year.

18. The majority of delegations commended the Secretary-General for the comprehensive report he had submitted and noted with appreciation the illustrated publication, noting that it provided a very dynamic and detailed overview of the work carried out by the Authority, in particular, the extensive efforts of the secretariat in implementing a wide range of activities to further the mandate of the Authority, as well as the strategic directions and associated outputs outlined in the strategic plan and the high-level action plan of the Authority for 2019–2023.

19. The majority of delegations further noted with appreciation the extensive work carried out under all nine strategic directions set out in the strategic plan and high-level action plan of the Authority for 2019–2023 to deliver on the high-level actions and related outputs assigned for the reporting period. Several delegations specifically noted that those achievements would not have been possible without the dedication and commitment of the staff of the secretariat.

20. Most delegations welcomed the increase in membership of the Authority with the accession of Rwanda to the Convention and the 1994 Agreement, and expressed their strong commitment to the integrity of the Convention and the 1994 Agreement as the legal and normative basis for all activities carried out in the Area. Many delegations further stressed that the commitments echoed by Member States, during the high-level commemoration organized by the General Assembly in December 2022 to celebrate the fortieth anniversary of the adoption and opening for signature of the Convention, highlighted its continuing relevance in ensuring the effective and sustainable administration of the Area and its resources as the common heritage of humankind, with due regard to the protection of the marine environment.

21. Delegations noted the significant progress achieved by the Council in the development of the draft regulations on exploitation and welcomed the new road map for the remaining part of the twenty-eighth session and the first and second parts of the twenty-ninth session, with a view to the adoption during the thirtieth session of rules, regulations and procedures relating to exploitation.<sup>20</sup> Delegations also welcomed the goal of having a consolidated draft text of the regulations for a holistic review of the harmonized text after the third part of the twenty-eighth session of the Council. Notwithstanding the efforts to implement a road map, some delegations cautioned against the establishment of stringent timelines for the completion of the work remaining, stressing that the Authority should not be bound by a deadline if all

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<sup>19</sup> Delivered by the Cook Islands on behalf of the Cook Islands, Australia, Fiji, Kiribati, Micronesia (Federated States of), Nauru, New Zealand, Palau, Tonga and Vanuatu.

<sup>20</sup> See [ISBA/28/C/24](#).

the elements necessary to establish a robust legal framework were not in place. Several delegations highlighted that contracts for exploitation should not be granted until a consensus on the legal regime had been reached, while most delegations underscored that strong and robust exploitation regulations were the best way to ensure the effective protection of the marine environment. Delegations also expressed support for the ongoing work by contractors in exploration and research to promote and gather more environmental data to safeguard the fragile ecosystem in the oceans.

22. Most delegations highlighted the contribution of the Authority to the achievement of the 2030 Agenda for Sustainable Development, noting that it had already contributed to 12 of the 17 Sustainable Development Goals and, in particular, to Goal 14 on the conservation and sustainable use of the oceans, seas and marine resources. Delegations further welcomed the support of the Authority for the United Nations Decade of Ocean Science for Sustainable Development, as well as the active participation and representation of the Authority in the process leading to the adoption of an internationally legally binding instrument on marine biodiversity in areas beyond national jurisdictions. In that regard, many delegations welcomed the fact that the new international instrument recognized the stewardship of the Authority of the Area and its resources, while further reinforcing its unique mandate for the governance of the ocean.

23. Many delegations acknowledged with appreciation the Authority's contribution to other global and regional processes, such as the Kunming-Montreal Global Biodiversity Framework, as well as the continued productive and positive cooperation with United Nations agencies and organizations. Several delegations welcomed the approval by the Council of the agreement of cooperation between the International Labour Organization and the Authority,<sup>21</sup> with a view to ensuring the highest international standards on human health and safety and conditions of work on-board vessels used for activities in the Area, as required under article 146 of the Convention.

24. Several delegations highlighted the importance of ensuring that the legal mandate assigned to different organizations responsible for the protection and sustainable use of the marine environment was respected pursuant to the specific responsibilities recognized by the Convention, the 1994 Agreement and specific regional treaties in order to avoid overlap and enhance coordination among them. Recalling the exclusive responsibility recognized in the Convention and the 1994 Agreement of the Authority to regulate and organize activities in the Area, including in relation to the protection of the environment from potential harmful effects that might arise from such activities, and noting the recent adoption of a decision by the OSPAR Commission for the Protection of the Marine Environment of the North-East Atlantic to extend the scope of the North Atlantic current and Evlanov Sea basin marine protected area by including the Area, some delegations expressed concerns about the potential overlap of such a decision with the mandate of the Authority, as well as in relation to the consultation process followed, and requested the Secretary-General to prepare a report for the Council at its twenty-ninth session, detailing the communication that took place in that regard between the secretariat of the Authority and the OSPAR Commission regarding the decision, assessing the potential impact of the decision on the Authority's mandate, and providing recommendations on how to prevent interference with the Authority's mandate while enhancing cooperation and consultation with other relevant organizations. Delegations also noted that Japan would be hosting a workshop on the development of a regional environmental management plan for the Area in the North-West Pacific Ocean in February 2024, in Tokyo.

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<sup>21</sup> See [ISBA/28/C/16](#).



25. The majority of delegations welcomed the decision of the Council on the establishment of the post of Interim Director General of the Enterprise.<sup>22</sup> Several delegations shared the view that given the current advanced stage in the development of the draft regulations on exploitation of mineral resources in the Area by the Council, the operationalization of the Enterprise was an integral part of the necessary evolution of the legal regime of the Area, pursuant to article 153, paragraph 2 (a), and article 170 of the Convention, as well as section 2 of the annex to the 1994 Agreement. Many delegations highlighted the importance of making progress on the operationalization of the Economic Planning Commission.

26. A number of delegations expressed appreciation for the continued contributions from member States and stakeholders to the voluntary trust funds, highlighting the important role they played in ensuring the full participation and representation of developing States in the meetings of the Authority. Delegations also called upon member States in arrears with their assessed contributions to pay those arrears as soon as possible and urged the Secretary-General to continue to engage actively with such member States.

27. Delegations welcomed the establishment of the International Seabed Authority Partnership Fund and underlined the importance of the objectives of the Fund to promote and encourage the conduct of marine scientific research for the benefit of humankind as a whole and to develop the capacities of developing States members of the Authority, in particular, least developed countries, landlocked developing countries and small island developing States. Delegations noted that the establishment of the Fund was a crucial step towards achieving the shared goals of the Authority and encouraged other member States, observers and other stakeholders to donate to the Fund.

28. Many delegations commended the work and efforts invested by the Authority in enhancing the capacity of developing States in line with the key result areas set out in the capacity development strategy adopted in 2022. Many noted that between July 2022 and June 2023 more than 380 individuals had benefited from at least one capacity-building or capacity-development activity implemented by the Authority. Delegations expressed appreciation for the number of trainees in the contractor training programme (68 over the reporting period and more than 350 during the lifetime of the programme).

29. Several delegations noted the positive approach taken by the Authority of working through national focal points, with a view to ensuring effective coordination with member States and enhancing the level of applicants, and that, as of June 2023, 59 member States had nominated a national focal point. Several delegations welcomed the upcoming launch of the alumni network of former trainees to serve as a pool of knowledge for developing States. Many delegations welcomed the ongoing organization of expert webinars such as the “Deep DiplomaSea” series for diplomats and senior representatives of United Nations entities, as well as the recent launch of “Deep Dive”, the e-learning platform of the Authority, as a new mechanism to build and develop the capacities of developing States.

30. Several delegations noted with appreciation specific projects implemented to address the specific needs identified by developing States and members of the Authority, in particular, the Africa Deep Seabed Resources project jointly implemented by the African Union and the Authority, with the support of the Norwegian Agency for Development Cooperation, through which the latest workshop had been held in Abuja in October 2022; and the Abyssal Initiative for Blue Growth implemented jointly by the Authority and the Department of Economic and Social

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<sup>22</sup> [ISBA/28/C/23](#).

Affairs, with the support of the Norwegian Agency for Development Cooperation. Some delegations specifically expressed appreciation for the outcomes of the workshop held in Tonga in June 2022, aimed at discussing the elements pertaining to the equitable sharing of benefits from activities carried out in the Area.

31. Other delegations also welcomed the progress made by the International Seabed Authority-China Joint Training and Research Centre and the collaborative programmes launched, respectively, with the Indian Ocean Rim Association and the Technology Bank for the Least Developing Countries.

32. Many delegations commended the personal commitment of the Secretary-General to advancing women's empowerment and leadership in ocean affairs, including in deep-sea research and through the Impact Group on Research and Oceans for Women established in June 2022 through the International Gender Champions network. Many delegations further acknowledged the first conference on "Women in the Law of the Sea", organized in September 2022 in New York with the support of the Permanent Missions of Malta and Singapore to the United Nations, for the celebration of the fortieth anniversary of the adoption of the Convention. Several delegations also expressed appreciation for the success of the measures taken to promote gender parity among secretariat staff, including in senior professional roles, and the institution of family-friendly policies.

33. Many delegations specifically underscored the significant progress and outcomes of the Women in Deep-Sea Research project as a vital initiative to address the underrepresentation of women in deep-sea science and related disciplines. Many delegations acknowledged the launch, on World Oceans Day (8 June 2023), of "See Her Exceed", the first-ever global mentoring programme aimed at women scientists from developing States and, in particular, those from least developed countries, landlocked developing countries and small island developing States. Several delegations also noted with interest that, during the reporting period, more contractors had pledged to allocate 50 per cent of their training opportunities to suitably qualified female applicants under the Women in Deep-Sea Research project.

34. Many delegations welcomed the increase in collaboration and strategic partnerships established between the Authority and national, regional and international organizations, noting with appreciation the increased number of partnerships established with research organizations in developing States. Several delegations recognized with appreciation the cooperative arrangement between the Authority and the International Hydrographic Organization through the AREA2030 initiative launched in 2022, noting the significant contribution made to the global efforts undertaken by the Nippon Foundation-General Bathymetric Chart of the Oceans Seabed 2030 project. Delegations urged the Authority to further promote and encourage the advancement of marine scientific research in the Area and the transfer of technology to support equal and effective participation in the activities of the Authority by developing States in all regions, noting with appreciation initiatives and projects such as the Sustainable Seabed Knowledge Initiative and the TRIDENT project to develop a technology-based impact assessment tool for sustainable, transparent deep-sea mining exploration and exploitation.

35. Several delegations expressed satisfaction with the approach followed by the Authority, which was operating in an inclusive and transparent manner. Many delegations commended the work of the secretariat in advancing the deep-sea literacy of the general public on the legal regime of the Area and the work of the Authority, noting the quality of the publications and research papers produced by the secretariat to support the critical discussions conducted by different organs of the Authority, and invited the Secretary-General and the secretariat to continue their efforts in that respect.

36. While some delegations further noted with appreciation reforms undertaken over the years to equip the secretariat with the necessary resources to ensure that it was fit for purpose, Ghana, on behalf of the Group of African States, as well as other delegations from African member States, highlighted the importance of ensuring better geographical representation of African experts in the secretariat, in particular at the senior management level.

37. During the 206th meeting of the Assembly, several delegations made statements of a general nature. Several delegations expressed their national positions on deep seabed mining and the need to ensure robust regulatory frameworks for the protection of the marine environment, prior to the approval of a plan of work for exploitation. The delegation of France highlighted that the world was faced with the collapse of marine biodiversity, rising sea levels and an increase in ocean temperature caused by the effects of climate change, the results of which would mostly affect countries with low-lying and fragile coasts and island nations. Upon that premise, it called for members of the Authority to support a total ban on exploitation activities and prioritize the development of a robust framework for the effective protection of the marine environment, while undertaking scientific research to better understand the impacts of human activities on the seabed.

## **VIII. Statement by the President of the Council on the work of the Council at its twenty-seventh and twenty-eighth sessions**

38. The President of the Council, Juan José González Mijares (Mexico), gave an oral report on the work of the Council during the first part of the twenty-eighth session, which was held from 16 to 31 March 2023,<sup>23</sup> and the second part, held from 10 to 21 July 2023.<sup>24</sup> The Assembly took note of the report of the Council on the third part of the twenty-seventh session, held from 31 October to 11 November 2022.<sup>25</sup>

39. Delegations welcomed the various outcomes reached by the Council during its meetings, including the significant progress made in the development of the draft regulations on exploitation of minerals in the Area; decisions adopted with respect to the establishment of the position of an interim director general;<sup>26</sup> and two decisions relating to the timeline and understanding of the application of the two-year period, pursuant to section 1, paragraph 15, of the annex to the 1994 Agreement.<sup>27</sup>

## **IX. Report and recommendations of the Finance Committee**

40. At its 198th meeting, on 24 July 2023, the Assembly considered the report of the Finance Committee.<sup>28</sup> Delegations took note of the status of the various funds and commended member States and other stakeholders for donations made to the respective funds.

41. Delegations welcomed the work undertaken by the Committee in its assessment of the justifications provided by the Secretary-General on the proposed costs and budgetary impacts of the operationalization of the Enterprise, as well as the forecasted budgetary requirements associated with the anticipated work of the Authority for the

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<sup>23</sup> [ISBA/28/C/11](#).

<sup>24</sup> [ISBA/28/C/11/Add.1](#).

<sup>25</sup> [ISBA/27/C/21/Add.2](#).

<sup>26</sup> [ISBA/28/C/10](#), [ISBA/28/C/21](#) and [ISBA/28/C/23](#).

<sup>27</sup> [ISBA/28/C/24](#) and [ISBA/28/C/25](#).

<sup>28</sup> [ISBA/28/A/4-ISBA/28/C/13](#).

period 2025–2030,<sup>29</sup> in conformity with the evolutionary approach contained in the 1994 Agreement.<sup>30</sup>

42. With respect to the development of rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area, some delegations expressed or reiterated their preference for the establishment of a common heritage fund (formerly a seabed sustainability fund) over a mechanism that would favour direct distribution, while others suggested that both options should be considered. Some delegations also welcomed the proposed objectives and scope of the common heritage fund contained in the annex to the report of the Finance Committee, suggesting also that the scope of the fund should not be restricted to activities in the Area, and that the proceeds could be channelled towards addressing issues related to other global commons, such as climate change, or addressing global environmental issues such as marine plastic pollution. One delegation noted that the objective of capacity development should not diminish the obligation of contractors in that respect.

## **X. Consideration and adoption of a supplementary budget for the financial period 2023–2024**

43. At its 198th meeting, taking into account the recommendations of the Council and the Finance Committee,<sup>31</sup> the Assembly adopted a decision on financial and budgetary matters, including the adoption of a supplementary budget relating to the costs associated with the establishment of the position of Interim Director General for the Enterprise.<sup>32</sup>

## **XI. Consideration of the draft strategic plan of the Authority for the five-year period 2024–2028**

44. At the 203rd and 206th meetings of the Assembly, the Secretary-General presented his reports on the implementation of the strategic plan of the Authority for the period 2019–2023<sup>33</sup> and on the proposed draft strategic plan for the period 2024–2028.<sup>34</sup> The Secretary-General recalled that pursuant to the decision of the Assembly providing for a regular review of the strategic plan and monitoring of its impact, the secretariat had commissioned an independent assessment of the implementation of the strategic plan for the period 2019–2023, published on 25 May 2023.<sup>35</sup> The analysis carried out by the consultant had been based on several reports prepared by the Authority since 2019 to keep members and observers informed of the status of the implementation of the strategic plan<sup>36</sup> and the findings of the independent report commissioned by the Secretary-General in 2021 to assess the contribution of the Authority to the achievement of the 2030 Agenda for Sustainable Development, as well as the action plan of the Authority in support of the United Nations Decade of

<sup>29</sup> ISBA/28/FC/2.

<sup>30</sup> See 1994 Agreement, annex, sect. 1, para. 3.

<sup>31</sup> See ISBA/28/C/21, ISBA/28/A/3-ISBA/28/C/12 and ISBA/28/A/3/Add.1-ISBA/28/C/12/Add.1.

<sup>32</sup> ISBA/28/A/15.

<sup>33</sup> See ISBA/28/A/11.

<sup>34</sup> See ISBA/28/A/7.

<sup>35</sup> Available at [www.isa.org.jm/wp-content/uploads/2023/05/Review-of-implementation-of-ISA-SP-2019-2023-Final.pdf](http://www.isa.org.jm/wp-content/uploads/2023/05/Review-of-implementation-of-ISA-SP-2019-2023-Final.pdf).

<sup>36</sup> See the annual reports of the Secretary-General under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea, in particular those for 2020 (ISBA/26/A/2), 2021 (ISBA/26/A/2/Add.1), 2022 (ISBA/27/A/2 and ISBA/27/A/2/Add.1) and 2023 (ISBA/28/A/2); see also ISBA/26/A/9, ISBA/26/A/10-ISBA/26/C/21, ISBA/26/A/34 and ISBA/26/C/12/Add.1.

Ocean Science for Sustainable Development<sup>37</sup> and the capacity-development strategy of the Authority.<sup>38</sup>

45. The secretariat launched an open consultation for all stakeholders on the draft strategic plan for 2024–2028 during the period from 26 May to 26 June 2023, inviting submissions and comments. A total of 18 submissions were received. The majority of submissions came from members of the Authority (10),<sup>39</sup> followed by contractors (6).<sup>40</sup> Two submissions were made by observers.<sup>41</sup> A second consultation was launched from 26 June to 25 July 2023.

46. Several delegations noted that the strategic plan and high-level action plan for 2019–2023 had significantly contributed to advancing the implementation of the mandate of the Authority while ensuring coordination among the different organs.

47. Several delegations welcomed the draft strategic plan, noting that it provided continuity in the work of the Authority at a time when important developments were taking place in relation to the legal regime of the Area and the implementation of the evolutionary approach. It was noted that the Authority was still engaged in the preparatory phase of its mandate, based on the provisions of the 1994 Agreement, that is, the phase involving the development of the draft regulations on exploitation and the period before the approval of the first plan of work for exploitation.

48. Taking into account the concerns of some delegations as to the short period of time allowed for consultation on the draft strategic plan, including the need to ensure stability in the work of the Authority, the Assembly decided, at its 206th meeting, to extend the current strategic plan (for the period 2019–2023) by two years and requested the Secretary-General to review the high-level action plan for 2019–2023 with a view to extending it in line with the extension of the strategic plan.<sup>42</sup>

## **XII. Fostering international and regional cooperation in support of the stewardship of the Area**

49. At its 202nd meeting, the Assembly took note of and approved the signing by the Secretary-General, on behalf of the Authority, of two memorandums of understanding. The first memorandum of understanding was between the Authority and the International Relations Institute of Cameroon with a view to formalizing their cooperation in order to design and implement a dedicated capacity development programme to address the specific needs of member States in the region and establish a dedicated curriculum on part XI of the Convention for African diplomats, to support the development of enhanced knowledge and expertise in African countries, including by developing a series of activities for the dissemination of knowledge and expertise on the law of the sea and in relation to matters pertaining to the implementation of part XI of the Convention and the 1994 Agreement in Africa.<sup>43</sup> The second memorandum of understanding was between the Authority and the National Institute

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<sup>37</sup> See [ISBA/26/A/17](#).

<sup>38</sup> See [ISBA/27/A/5](#) and [ISBA/27/A/11](#).

<sup>39</sup> Canada, Ecuador, Germany, Japan, Mexico, Nauru, Poland, Portugal, Russian Federation and Senegal.

<sup>40</sup> China Ocean Mineral Resources Research and Development Association, Global Sea Mineral Resources NV, Institut français de recherche pour l'exploitation de la mer, Interoceanmetal Joint Organization, Nauru Ocean Resources Inc. and Tonga Offshore Mining Limited.

<sup>41</sup> Deep Sea Conservation Coalition and the Pew Charitable Trusts.

<sup>42</sup> See [ISBA/28/A/16](#).

<sup>43</sup> See [ISBA/28/A/12](#).

of Oceanography and Fisheries of Egypt for the establishment of a joint regional training and research centre.<sup>44</sup>

50. The delegation of Ghana, on behalf of the Group of African States, introduced both memorandums of understanding, noting that both initiatives would support the fulfilment of the Authority's responsibilities and obligations in relation to capacity-building, as well as technical and international cooperation for the development of knowledge and expertise through the active participation and involvement of relevant regional and national institutions, in line with the strategic directions identified in the Authority's strategic plan for the period 2019–2023 and its revised version, and the capacity development strategy.

### **XIII. Report on proposed amendments to the statute of the International Civil Service Commission**

51. At its 197th meeting, the Assembly took note of the report of the Secretary-General on the proposed amendments to the statute of the International Civil Service Commission<sup>45</sup> and adopted a decision in which it approved the amendments and requested the Secretary-General of the International Seabed Authority to notify the Secretary-General of the United Nations of the acceptance by the Authority of the proposed amendments to the statute.<sup>46</sup>

### **XIV. Dates of the next session of the Assembly**

52. The twenty-ninth session of the Assembly will be held in Kingston from 29 July to 2 August 2024. It will be the turn of Eastern European States to nominate a candidate for the presidency of the Assembly.

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<sup>44</sup> See [ISBA/28/A/13](#).

<sup>45</sup> See [ISBA/28/A/5-ISBA/28/C/14](#).

<sup>46</sup> See [ISBA/28/A/14](#).



# Council

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## Twenty-eighth session

Council session, part I

Kingston, 16–31 March 2023

Item 12 of the provisional agenda\*

**Consideration of matters relating to the Enterprise**

## **Report of the Special Representative of the Secretary-General of the International Seabed Authority for the Enterprise**

### **I. Introduction**

1. The present report is submitted in follow-up to the report of the Special Representative of the Secretary-General of the International Seabed Authority for the Enterprise submitted to the Council during the twenty-seventh session of the Authority, held from 21 March to 1 April 2022,<sup>1</sup> which was based on the decision of the Council of 10 December 2021 to extend the mandate of the Special Representative until the end of the twenty-seventh session.

2. In reporting to the Council at that time, the Special Representative reiterated comments made in previous reports on the need for timely action to ensure that the step-by-step approach provided for in the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, on the operationalization of the Enterprise, including the appointment of an interim director general, be implemented.

3. The Special Representative also recommended managerial policy options as well as administrative functions of the interim director general for the administration of the Enterprise for the period from July 2022 to December 2023, in the event that the Council took a decision on the appointment of an interim director general.

### **II. Activities undertaken by the Special Representative**

4. During the first two parts of the twenty-seventh session of the Council, the Special Representative participated actively in the deliberations of the Council and the work of the special working groups. In addition, he engaged in bilateral consultations with individual delegations, representatives of regional groups and civil

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\* ISBA/28/C/L.1.

<sup>1</sup> ISBA/27/C/14 and ISBA/27/C/14/Corr.1.



society on matters on the agenda of the Council, especially on issues related to the Enterprise, including its timely operationalization.

5. Owing to other commitments, the Special Representative was unable to participate in the third part of the twenty-seventh session of the Council, in November 2022. However, he kept abreast of the deliberations remotely and engaged in consultations with representatives of the Group of African States and others on the draft decision of the Council on the appointment of an interim director general.

6. It has, however, been observed that the Council did not request that the Secretary-General take any action to extend the mandate of the Special Representative of the Secretary-General for the Enterprise for its twenty-eighth session.

### **III. Future action required**

7. Accordingly, the Special Representative wishes to reiterate comments made in his report to the Council during the twenty-seventh session, as well as in other reports, on the need for appropriate and timely action to ensure that the step-by-step approach provided for in the 1994 Agreement on the operationalization of the Enterprise be realized through the appointment of an interim director general.

8. The required action by the Council would allow the Enterprise to:

(a) Perform the functions of the Enterprise as listed under section 2 of the annex to the Agreement;

(b) Continue to provide much-needed input on the development of the regulations on exploitation on an ongoing and not exceptional basis, as is currently the case;

(c) Represent the interests of the Enterprise in annual sessions of the Authority, as well as in other undertakings related to the implementation of part XI of the Convention and the Agreement.

9. The Council is invited to take note of the present report.

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# Council

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## Twenty-eighth session

Council session, part I

Kingston, 16–31 March 2023

Item 14 of the provisional agenda\*

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

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

### I. Introduction

1. The Legal and Technical Commission held its meetings from 7 to 15 March 2023. A total of 36 members attended the first part of the session. The first two days were dedicated to an orientation programme to assist new members in familiarizing themselves with the working methods of the Commission.

2. On 9 March, the Commission adopted its provisional agenda<sup>1</sup> and elected Erasmo Lara Cabrera (Mexico) as its Chair and Sissel Eriksen (Norway) as its Vice-Chair. In view of the reduced duration of meetings of the Commission during the twenty-eighth session, the Commission agreed to continue working on its agenda items intersessionally where possible.

### II. Status of contracts for exploration and report on the periodic reviews of the implementation of plans of work for exploration

3. On 9 March, the Commission considered the status of contracts for exploration on the basis of the report of the Secretary-General.<sup>2</sup> The Commission took note of the fact that three periodic reviews for the implementation of approved plans of work for exploration had been completed by the secretariat between May and December 2022, for Nauru Ocean Resources Inc, Cook Islands Investment Corporation and Tonga

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\* ISBA/28/C/L.1.

<sup>1</sup> ISBA/28/LTC/L.1.

<sup>2</sup> ISBA/28/C/3.



Offshore Mining Ltd. The Commission also took note of the status of ongoing periodic reviews.

4. Some members of the Commission expressed concern about the delayed submission of periodic review reports by two contractors. The Commission also requested clarification from the secretariat on how the Commission's comment on periodic reviews had been communicated to and implemented by the contractors. In response, the Secretary-General assured the Commission that the secretariat was diligently working to ensure that the matter would be resolved and reported on shortly. He indicated that comments had been taken on board by contractors and that the secretariat was developing a more streamlined process of interaction with them.

5. The Commission also took note of extension agreements signed with six contractors.<sup>3</sup>

### **III. Status of the relinquishment of areas under contract**

6. On 9 and 10 March, the Commission took note of the relinquishment by the Ministry of Natural Resources and Environment of the Russian Federation of an additional 25 per cent (in addition to 50 per cent already relinquished) of its originally allocated exploration area under its contract for exploration for polymetallic sulphides. This is the final relinquishment obligation for this contractor. The Commission also took note of the relinquishment by the Government of the Republic of Korea of 50 per cent of its originally allocated area under its contract for exploration for polymetallic sulphides.

7. On 13 March, the Commission considered a request for deferral of the second relinquishment by the Government of the Republic of Korea under its contract for exploration for polymetallic sulphides. Considering the unforeseen exceptional circumstances, the Commission agreed to recommend to the Council that it defer the second relinquishment by the Government of the Republic of Korea. This recommendation is contained in [ISBA/28/C/4](#).

### **IV. Status of implementation of training programmes under plans of work for exploration and the allocation of training opportunities**

8. On 9 March, the Commission was briefed on the implementation of training programmes and the selection of candidates for those programmes since its meeting in July 2022. During the intersessional period, 40 training placements were successfully completed by contractors while a further 33 candidates from developing States were selected by the Commission.

9. On 14 March, the Commission, on the basis of the recommendations of the training subgroup, selected two candidates for training programmes offered by the Institut français de recherche pour l'exploitation de la mer (Ifremer) pursuant to its contract for exploration for polymetallic sulphides.<sup>4</sup>

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<sup>3</sup> Interoceanmetal Joint Organization, Deep Ocean Resources Development Co. Ltd, Federal Institute for Geosciences and Natural Resources of Germany, and Government of India. The extension agreements with the China Ocean Mineral Resources Research and Development Association and the Institut français de recherche pour l'exploitation de la mer (Ifremer) were signed on 27 February 2023. The extension agreements with the Government of the Republic of Korea and JSC Yuzhmorgeologiya are being finalized and will be signed in due course.

<sup>4</sup> See [ISBA/28/LTC/4](#) for further detailed information.

## V. Development of standards and guidelines (environmental threshold values)

10. The Commission discussed the decision of the Council contained in [ISBA/27/C/42](#) with respect to the development of environmental threshold values, noting that the development of those thresholds would be led by the Commission and supported by the scientific technical expertise of an intersessional expert group. The intersessional expert group would be expected to develop environmental threshold values focused on the main environmental pressures potentially caused by deep-sea mining operations, as identified in the Council's decision. The Commission noted that those thresholds should be developed as binding standards and, as far as feasible, within phase 1 of the ongoing development of standards and guidelines.

11. In the light of the above, the Commission developed terms of reference for the intersessional expert group detailing the proposed nomination process and composition, working methods, frequency and method of meetings and expected deliverables and timelines (see annex). The group and its subgroups would be chaired by members of the Commission and open to experts nominated by members of the International Seabed Authority and other stakeholders.

## VI. Review of the data management strategy for the period 2023–2028

12. The Commission welcomed the progress made by the secretariat in the development of the draft data management strategy for the period 2023–2028. The Commission considered and revised the draft data management strategic plan for the same period. It highlighted the importance of prioritizing not only short-term strategic directives related to data quality, quantity and accessibility in the Authority's DeepData database, but also creating strategic, medium- to long-term objectives for data management. The Commission recommended that those objectives be included in the data management strategy of the Authority. It is projected that, at the next meeting of Commission, the data management strategy of the Authority will be reviewed and finalized.

## VII. Development of regional environmental management plans

13. On 13 March, the Commission considered the request by the Council (contained in paragraph 13 of [ISBA/27/C/44](#)) that the Commission should consider revising the draft standardized procedure for the development, review and approval of regional environmental management plans, contained in the annex to [ISBA/27/C/37](#), taking into account the Council's comments as well as written comments submitted by delegations. The Commission noted that eight submissions, including five from member States, had been received. It was also noted that different opinions had been expressed in the submissions on key issues concerning the nature of a regional environmental management plan and the need for the creation of an expert committee.

14. The Commission had a round of preliminary exchanges and decided that it would, through a working group, continue working intersessionally on analysing the comments received, providing rationales for its considerations and revising the draft guidance document for further consideration by the Commission at its next meeting.

## Annex

### **Terms of reference for an intersessional expert group on the development of binding environmental threshold values**

#### **Background**

1. In 2022, during the second part of the twenty-seventh session of the International Seabed Authority, a proposal was submitted for the consideration of Council of the Authority on the development of binding environmental threshold values. It was proposed that the establishment of such thresholds would be based on the environmental obligations as contained in the United Nations Convention on the Law of the Sea, focusing on the development of binding standards to set measurable thresholds as part of efforts to ensure the effective protection of the marine environment (see [ISBA/27/C/30](#)).

2. Subsequently, the Council decided to progress the development of environmental threshold values (see [ISBA/27/C/42](#)). These thresholds are to be developed as binding standards and, as far as feasible, within phase 1 of the ongoing development of standards and guidelines that support the development of the draft regulations on exploitation of mineral resources in the Area. Given the limited time and resources, an initial set of such standards should focus on the main pressures potentially caused by deep-sea mining operations. The development of these thresholds is to be led by the Legal and Technical Commission and supported by the scientific and technical expertise of an intersessional expert group.

3. During the first part of the twenty-eighth session, the Commission considered the Council decision and prepared the present terms of reference for the development and operation of the intersessional expert group.

#### **Mandate and objectives**

4. The intersessional expert group is tasked with developing binding environmental threshold values. It is expected to work in three subgroups, focusing primarily on the following specific topic areas as identified by the Council:

- (a) Toxicity;
- (b) Turbidity and settling of resuspended sediments;
- (c) Underwater noise and light pollution.

5. The objectives for each subgroup include:

(a) To synthesize and review existing information on thresholds. This may cover:

- (i) Existing scientific literature and relevant baseline data (including natural variability of measured parameters), as well as guidance documents produced by national and international agencies;
- (ii) Existing proxy and experimental data for deep-sea mining-related activities (e.g. field tests of mining components);
- (iii) Ecological analogues and assessment of applicability to potentially affected species;
- (iv) Existing thresholds and experiences for other industries (e.g. shipping, oil and gas, dredging and fishing);

- (b) To identify appropriate indicators to define threshold metrics;
  - (c) To define threshold levels, including early warning thresholds. In doing this, the groups may also consider a range of levels, as appropriate. Levels of uncertainty and confidence should be included;
  - (d) To evaluate critical gaps in knowledge related to threshold determination and recommend future required work.
6. This work will focus on thresholds for polymetallic nodules, but it is expected that thresholds will be similarly developed for cobalt-rich ferromanganese crusts and polymetallic sulphide resources.
7. The intersessional expert group will compile a report for consideration by the Commission, to be published on the website of the Authority, presenting the available options discussed by the experts and the outcomes of its deliberations, while also reflecting any divergent and convergent opinions.
8. The secretariat of the Authority will assist the Commission in carrying out this process.

### **Membership, including nomination process and composition**

9. The intersessional expert group is to be chaired by one or more Commission members and include an appropriate number of recognized experts in the field. Commission co-chairs will lead the work of each of the three subgroups focusing on the above-mentioned topic areas.
10. Each subgroup shall be composed of a maximum of 10 experts, chosen primarily on the basis of scientific and technical expertise and experience, taking into account geographical representation and gender balance, as follows:
- (a) One expert per subgroup will be nominated by each of the five regional groups of the Council;
  - (b) Up to five additional experts per subgroup will be selected from nominations by other stakeholders of the Authority (e.g. Governments, intergovernmental organizations, non-governmental organizations, the private sector, including Authority contractors, and academic and research institutions). Selection of these additional experts will be carried out by the Commission chairs of the expert group;
  - (c) The experts shall have recognized competence in their field or fields of expertise. In the light of this, nominees should be scientists or individuals that:
    - (i) Can understand and interpret scientific literature and environmental baseline data, including relevant deep-sea physical, chemical, oceanographic, geological, ecological and biological data;
    - (ii) Have access to appropriate proxy and/or experimental data for determining thresholds for deep-sea activities;
    - (iii) Have experience with technological and industry applications and their impacts on marine ecosystems, habitats and species relevant to threshold determination.
11. Nominated experts shall participate in the expert group in their personal capacity and not as representatives of a Government or of any authority external to the Authority.

12. The experts shall be in a position to devote substantial amounts of time to the work of the expert group within the time frame as described in the present terms of reference. If, for any reason, experts can no longer perform their duties (including when this is due to the pressure of other commitments) or wish to resign, they shall immediately inform the Commission chairs. In that situation, the chairs can reassign the tasks to other experts or take steps to identify additional experts to ensure delivery within the agreed timetable.

13. The expert group may undertake ad hoc consultations with other experts identified by the subgroup members and Commission co-chairs.

### **Meetings and communications**

14. The intersessional expert group will hold virtual meetings (videoconferences). It is envisaged that there will be two meetings before the Commission convenes in July 2023. The first virtual meeting (likely during the fourth week of May 2023) would comprise Commission chairs of the expert group, who will review and confirm nominations from stakeholders for the full expert group, discuss the governance and timeline of the process, create a dedicated working space for exchanging data and information relevant to the topics proposed by the Council and begin to develop an overall plan of work. The second meeting (late June 2023) will comprise all expert group members (either in plenary or subgroups), who will discuss the status of data and information available to address the topic areas proposed by the Council and confirm the expert group plans of work.

15. Three additional meetings (one per subgroup, between August and December 2023) will be held following the Commission's deliberations to determine indicators and develop the threshold values. Additional meetings may be required depending on the needs of each subgroup. The expert group will then reconvene to discuss subgroup conclusions and undertake report preparation (January–February 2024) prior to the Commission meeting in March 2024. A final meeting will be held following the Commission's deliberations and external stakeholder comments, likely in June 2024 (to be confirmed).

16. Where possible, electronic means will be used for communication and information management. It is also envisaged that the expert group and/or subgroups will liaise with any initiatives undertaken by other agencies or scientific organizations associated with threshold development.

17. The secretariat of the Authority will assist the chairs in creating a dedicated working space for the expert group and provide secretariat services to it.

## Expected deliverables and indicative timeline

### 2023

<i>March–April</i>	<i>May</i>	<i>June</i>	<i>July</i>	<i>August–December</i>
<p>Terms of reference are endorsed by the Commission</p> <p>Open call is issued for expert nominations (30–45 days)</p> <p>Commission chairs are appointed</p>	<p>First meeting, comprising Commission chairs of the intersessional expert group, is held:</p> <ul style="list-style-type: none"> <li>– To review and confirm expert group nominations</li> <li>– To determine governance and timelines</li> <li>– To scope initial plan of work</li> </ul>	<p>Second meeting, comprising the full expert group, is held:</p> <ul style="list-style-type: none"> <li>– To scope available data and information sources</li> <li>– To develop subgroup workplans</li> </ul>	<p>Commission considers summary by expert group chairs and endorses the workplans proposed for each subgroup</p>	<p>Remote meetings of the expert group are held to determine indicators and develop thresholds</p>

### 2024

<i>January–February</i>	<i>March</i>	<i>April–May</i>	<i>June</i>	<i>July</i>
<p>Expert group chairs prepare report, covering discussions and subgroup conclusions</p>	<p>Commission considers the draft report of the expert group</p>	<p>Stakeholder consultations are held (45–60 days)</p>	<p>Expert group reviews comments and revises the draft report of the expert group</p>	<p>Commission considers the revised draft and makes recommendations to the Council</p>



# Council

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## Twenty-eighth session

Council session, part II  
Kingston, 10–21 July 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

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

### Addendum

## I. Introduction

1. The second part of the twenty-eighth session of the Legal and Technical Commission of the International Seabed Authority was held from 28 June to 7 July 2023. A total of 33 members participated in the meetings. Adolfo Maestro Gonzalez, Malcolm Clark and Mark Alcock contributed to the consideration of agenda items by email. Following previous practice, Becky Hitchin participated in the meetings in her capacity as a candidate nominated by the Government of the United Kingdom of Great Britain and Northern Ireland for election to fill a vacancy on the Commission.

2. On 6 July, pursuant to rule 19 (2) of its rules of procedure,<sup>1</sup> the Commission nominated Michelle Walker to represent it at the forthcoming meetings of the Council and, at the invitation of the Council, to respond to questions when a matter of particular relevance or complexity relating to the work of the Commission was under consideration.

## II. Activities of the contractors

### A. Implementation of training programmes under plans of work for exploration and allocation of training opportunities

3. On 28 June, the Commission heard a briefing on the status of the contractor training programmes. Since March 2023, 2 training placements for the benefit of

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<sup>1</sup> ISBA/6/C/9, annex.





candidates from developing States had been successfully implemented; 25 were in progress and 23 were pending.<sup>2</sup>

4. The Commission noted the importance of capacity development and training programmes in building the sustainable expertise of member States. It discussed the overarching significance of the training programme as one of the capacity development programmes, activities and initiatives implemented by the Authority as part of the capacity development strategy adopted by the Assembly in 2022,<sup>3</sup> as well as its value with regard to the creation of a pool of experts from developing States. The Commission also noted efforts by the secretariat to establish an alumni network of former trainees of the contractor training programme and requested that updates on the initiative be provided at the twenty-ninth session.

5. The Commission continues to focus on the application of skills and the prospects available to trainees after training programmes to ensure overall professional development. It discussed strategies to increase the participation of women in deep-sea research, specifically to strengthen efforts undertaken by the Authority and contractors to advance the empowerment and leadership of women in marine scientific research.

6. The Commission noted with appreciation that since March 2023 an increasing number of contractors<sup>4</sup> had pledged to allocate 50 per cent of their training placements to qualified women and urged contractors that had not done so to join the pledge. The Commission discussed the contractor training programme selection process and factors such as gender and geographical balance in the evaluation of candidates, as well as the need to break barriers by balancing the consideration of factors such as age and career level with a view to creating opportunities for young women in scientific careers.

7. On the basis of the recommendations of the training subgroup, the Commission selected 17 candidates intersessionally for the training programmes provided under contracts for exploration with the following five contractors: Global Sea Mineral Resources NV, Institut français de recherche pour l'exploitation de la mer, Beijing Pioneer Hi-Tech Development Corporation, Interoceanmetal Joint Organization and the Republic of Korea.

8. On 5 July, on the basis of the recommendations of the training subgroup, the Commission selected 15 candidates for the remaining programmes offered by the following four contractors: Deep Ocean Resources Development Co. Ltd., Federal Institute for Geosciences and Natural Resources of Germany, Tonga Offshore Mining Limited and Nauru Ocean Resources Incorporated.

9. On 6 July, the Commission participated in the fourth end-of-training certificate presentation ceremony to recognize 29 trainees who had successfully completed contractor training programmes between July and December 2022. The awardees – 7 women and 22 men – were from 14 developing States.<sup>5</sup> The Commission commends the

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<sup>2</sup> [ISBA/28/LTC/4](#) and [ISBA/28/LTC/6](#).

<sup>3</sup> [ISBA/27/A/11](#).

<sup>4</sup> Federal Institute for Geosciences and Natural Resources of Germany, Blue Minerals Jamaica Limited, Companhia de Pesquisa de Recursos Minerais S.A. (a former International Seabed Authority contractor), Deep Ocean Resources Development Co. Ltd., Institut français de recherche pour l'exploitation de la mer, Marawa Research and Exploration Ltd., Nauru Ocean Resources Incorporated, Tonga Offshore Mining Limited and UK Seabed Resources Ltd.

<sup>5</sup> Including one small island developing State, eight least developed countries, one landlocked developing country and one country that is both a small island developing State and a least developed country.

contractors for their continued efforts to deliver training for the benefit of candidates from developing States.

## **B. Annual reports of contractors**

10. During the second part of its twenty-eighth session, the Commission considered 30 annual reports on activities carried out by contractors in 2022, submitted pursuant to section 10 of the standard clauses for exploration contracts. The Commission expressed appreciation to the secretariat for its support in the evaluation of the annual reports.

11. Following previous practice, the Commission set up three working groups to review the legal, financial and training aspects, the geological and technological aspects and the environmental aspects of the annual reports. It dedicated five of the eight days of meetings (on 30 June and from 3 to 6 July) to the consideration of the annual reports within the working groups.

12. In addition to specific comments on each report to be conveyed to the individual contractors by the Secretary-General, the Commission provided general comments, as set out below.

### **Legal, financial and training aspects**

13. The Commission acknowledged that the contractors had, in general, provided responses to the questions that it had raised during the previous year. It also noted that they had complied with the relevant templates for reporting and had largely met the deadline for the submission of annual reports. The Commission reminded contractors that had missed the deadline to ensure the timely submission of annual reports in the future, in accordance with the regulations.

14. While most contractors had complied with their plans of work, the Commission noted with concern that some still failed to carry out their agreed exploration activities and requested them to provide details to the Commission explaining the lack of progress. The Commission commended contractors for international cooperation initiatives and collaboration efforts. It noted, however, that such initiatives should not serve as a substitute for the obligation for contractors to carry out exploration activities in accordance with the terms of their contracts.

15. The Commission expressed concern that some contractors had indicated in their annual reports that the absence of a regulatory framework for exploitation had created legal uncertainty and served as an obstacle to proceeding with certain aspects of their plans of work, as a result of which they intended to limit efforts and focus mainly on desk-based study work. In the light of this, the Commission requested the Secretary-General to communicate such concerns to the relevant contractors and request them to specify the legal grounds for declining to implement certain aspects of their plans of work and the reasons for the suggested modifications in the absence of proper consultation with the Authority. While the Commission will continue to monitor the work of those contractors, with the expectation that their work will be carried out in accordance with their respective commitments, the Commission wishes to bring this concern to the attention of the Council.

16. The Commission noted that, although training activities had been disrupted by the coronavirus disease (COVID-19) pandemic, several contractors, after consultations with the secretariat, had amended their training plans and made significant progress in providing training opportunities. The Commission noted that, of the 98 training placements in 2022, 28 (29 per cent) had been allocated to women, with a projected selection rate of 65 per cent by the end of 2023. The Commission

noted with appreciation that two more contractors had joined the pledge to allocate 50 per cent of their training opportunities to qualified women, under the Women in Deep-Sea Research project, and urged contractors that had not done so to join the pledge to increase the number of qualified women applicants. Contractors that had deferred opportunities until 2024 were encouraged to make the effort to deliver those opportunities.

17. The Commission noted with regret that one contractor had not provided any training opportunities during its entire contract period. Noting the difficulties that the contractor had experienced, the Commission requested it nonetheless to fulfil its obligations in accordance with its plan of work and to provide information to the secretariat on its plans in that regard as soon as possible.

18. The Commission noted that expenditure levels for some contractors had been far lower than estimated and reminded those that had not yet done so to provide explanations of the variance. A review indicated that contractors' actual expenditures were less than planned in the calendar year 2022 and that they had cumulatively spent less on their programme of activities in the current five-year period. Of the 14 contractors (47 per cent) that had spent less than planned in 2022 and cumulatively less in their current five-year period, 9 had underspent by more than 30 per cent in 2022. The Commission also noted that, although expenditure remained lower than predicted for some contractors, encouraging improvements had been made compared with previous years. Conversely, on a positive note, some contractors had incurred far greater expenditure than expected.

#### **Geological and technological aspects**

19. The Commission acknowledged that the effects of the COVID-19 pandemic on exploration activity had decreased, as reflected in the number of cruises conducted. It noted that contractors had carried out 23 exploration campaigns in 2022, equal to the number of cruises conducted in 2021. The total number of cruises in the past five years (from 2018 to 2022) was 103, ranging from a low of 14 in 2020 due to the pandemic to 23 in 2021 and 2022. The Commission was satisfied with the trend towards returning to the levels of exploration activity before the pandemic.

20. The Commission noted that some contractors had not complied with all of the requirements in document [ISBA/21/LTC/15](#) and [ISBA/21/LTC/15/Corr.1](#), notably those in section III on the result of exploration work, such as ship track and bathymetry requirements. In addition, it noted that, for most contractors, the delivery of digital data should be improved using the DeepData database templates.

21. With regard to polymetallic nodule exploration activities, the Commission noted that there was a large difference among contractors in the degree of progress in developing mining and processing technology. It noted that some contractors had succeeded in testing components at sea, while others were still conducting conceptual designs of mining systems. Some contractors had not provided information regarding mining technology. The Commission requested that contractors consider cooperating or collaborating with other contractors in the development of mining systems and processing technology.

22. The Commission noted that some contractors' reports on the results of analyses and studies of samples collected in previous years did not indicate specific sources of data regarding the year of the cruise, and requested that those contractors provide information in accordance with the requirements set out in document [ISBA/21/LTC/15](#) and [ISBA/21/LTC/15/Corr.1](#). It further noted that the answers from contractors to the questions on geological and technical aspects raised in previous reports had been satisfactory.

23. The Commission requested that contractors whose contracts were coming to an end provide information on their strategies to prepare for the exploitation stage, as specified in Council decision [ISBA/21/C/19](#) and in paragraph 9, section 1, 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.

24. The Commission encouraged contractors to contribute bathymetric data to the Authority's Area 2030 initiative, the purpose of which is to compile all available bathymetric data from contractors for the various ocean areas with the aim of facilitating the complete mapping of the global ocean floor by 2030.

### **Environmental aspects**

25. The Commission noted that in 2022, owing partly to the continuing impacts of the COVID-19 pandemic, some contractors had focused on desk-based studies such as laboratory analyses. It noted that the environmental impact assessment and ongoing impact monitoring of the pilot mining tests by contractors were very encouraging, and it would be useful to understand the impact of mining tests on the deep-sea environment and for the establishment of regulatory regimes.

26. The Commission also noted that many of its comments on the annual reports for 2022 were similar to those made in reviews of previous annual reports and that some contractors had not complied with the requests contained in those comments. It noted that comments had repeatedly been made regarding the scope and format of the annual reports, the analyses requested and the results of the analyses. Relevant issues in that regard include the following:

(a) In one case in which a contractor holds licences for two exploration contract areas but conducts exploration work and baseline studies for only one of the contracts, the two annual reports overlapped considerably. Activities in each contract area should be kept separate, and not reported against another area;

(b) Some contractors limited their exploration work and environmental baseline studies to a limited part of their exploration contract area. Under the contract, exploration work and baseline studies need to be conducted across the exploration contract area;

(c) Some contractors reported on the workplan for scientific projects operating within or near their contract areas. Such work should be presented in appendices rather than in the body of the report, where it might appear that the contractor had been involved directly;

(d) Some contractors had not used the revised templates (see [ISBA/21/LTC/15/Corr.1](#)) for the submission of raw digital data to the secretariat.

27. The Commission recommends the following:

(a) Contractors should collaborate to share image libraries of species, as was done for the Clarion-Clipperton Zone, for improved consistency in species identification and more wide-ranging regional data;

(b) In instances in which contractors use standards developed outside those of the Authority, they are encouraged to collaborate in preparing a comparison table on the requirements of the standards used for their environmental studies and the recommendations provided in document [ISBA/25/LTC/6/Rev.2](#);

(c) The programme of activities for the following year should contain enough detail for the Commission to evaluate performance during its assessment of the report for the following year;

(d) The Commission appreciates that one contractor had included voluntary consideration of areas of high biodiversity or endemic fauna in its relinquishment processes. If other contractors are considering following this approach, the Commission encourages them to include such information in their annual reports.

28. The Commission considered the request by the Council to name contractors that had either responded inadequately or failed to respond to calls from the Council to address issues of concern in the implementation of their plans of work. In that regard, and to adequately address matters in the consideration of annual reports, the Commission identified a number of general trends that required further consideration with regard to the performance of contractors, as reflected in the previous paragraphs.

29. The Commission, having taken into consideration the legal aspects associated with the naming of contractors, agreed to continue its consideration of the issue, including by identifying criteria for naming contractors within the intersessional period, once contractors respond to the comments and questions formulated in the review of the annual reports for the current year, with the aim of addressing the Council's request. The Commission decided that it would 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 inadequately during the next reporting cycle.

30. In addition, the Commission considered a note prepared by the secretariat to facilitate dialogue between the Commission and contractors on matters pertaining to the implementation of their plans of work, which could significantly contribute to improved performance by contractors and the provision of better and more timely information to the Council. Such dialogue could take place following the preliminary review of the annual reports or, as the case may be, periodic reviews by the secretariat and on a case-by-case approach.

31. In addition, the Commission received a request from a contractor to consider creating an avenue for regular engagement with contractors, to ensure that they can advance their projects in alignment with the Commission's expectations. With that in mind, the Commission would hold such a dialogue within the context of the consideration of annual reports, on a case-by-case basis, as an opportunity to follow up on the progress of specific contractors in the implementation of their exploration activities, as well as on the concerns identified in the review of the annual reports of some contractors.

### **C. Relinquishment of areas under contracts for exploration for polymetallic sulphides and cobalt-rich ferromanganese crusts**

32. On 28 June, the Commission took note of the notification of relinquishment of one third of the area allocated to the Ministry of Natural Resources and Environment of the Russian Federation under its contract for exploration for cobalt-rich ferromanganese crusts.

33. On the same day, it reviewed a request from the Government of India and agreed to recommend that the Council approve the deferral of relinquishment of parts of the area under its contract for exploration for polymetallic sulphides. Information submitted as justification for the request is available in document [ISBA/28/LTC/7](#).

34. On 29 June, the Commission noted that the date requested by India for deferral of its relinquishment would mean that it would then be obliged to perform its first and second relinquishment at the same time.

### III. Regulatory activities of the Authority

#### A. Development of standards and guidelines (environmental threshold values)

35. On 28, 29 and 30 June, the Commission considered the development of standards and guidelines, taking note of comments conveyed to it by the Council during the first part of the twenty-eighth session. The Commission considered the comments and revised the proposed terms of reference with respect to the proposed terms of reference for an intersessional expert group to support the development of environmental threshold values.

36. The Commission decided to keep a maximum of 10 experts for each subgroup of the intersessional expert group. The decision was made in particular following the Council's request in its decision [ISBA/27/C/42](#) to complete the development of environmental thresholds within phase 1 of the ongoing development of standards and guidelines, thus providing a short time frame for the expert group to complete its work.

37. The Commission noted that a small group of experts would work more efficiently, taking into account that the intersessional expert group would be expected to work entirely online for cost-efficiency and timeliness, as also requested by the Council in its decision [ISBA/27/C/42](#). The online format, however, makes it difficult for large groups to participate adequately, in particular given that the geographical representation required in the groups would cover different time zones. It was highlighted that the limit of 10 participants for each subgroup is not exclusive of input from other stakeholders, as the selected experts can draw on their professional networks, allowing external information to be incorporated into the early stages of the development of the thresholds. A stakeholder consultation process will be launched on the draft reports of the intersessional expert group.

38. The Council decided in its decision [ISBA/27/C/42](#) that, as an initial step, the intersessional expert group should work on three specific topics: toxicity; turbidity and settling of resuspended sediments; and underwater noise and light pollution. Where additional environmental pressures potentially caused by deep-sea mining are identified, they may be addressed at a later stage.

39. The Commission agreed that the proposed timeline was indicative of and subject to the development of the subgroups' workplans. It considered that it would be appropriate to open a call for the submission of relevant data and information to support the work of the intersessional expert group, after an initial scoping by each of its subgroups.

40. The subgroups will have two Co-Chairs and one alternate Co-Chair, in addition to the 10 experts. Commission members will not be counted among the experts in each subgroup, and the composition of experts will be based primarily on scientific and technical expertise and experience, taking into account geographical representation and gender balance. The following members were appointed as Co-Chairs and alternate Co-Chairs of the subgroups of the intersessional expert group:

- Toxicity: Dao Viet Ha and Carsten Rühlemann; alternate: Moreno Andrés Camaño;
- Turbidity and settling of resuspended sediment: Malcolm Clark and Tomohiko Fukushima; alternate: Se-Jong Ju;
- Underwater noise and light pollution: Mark Alcock and Théophile Ndougsa Mbarga; alternate: Becky Hitchin.

41. A call for the nomination of experts is expected to be opened by the secretariat from 14 July to 15 September 2023. Member States and other stakeholders are invited to submit the names of nominees for the subgroups.

## **B. Review of the recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area**

42. On 29 June, the Commission took note of a report presented by the secretariat on a chronology of activities from 2021 to 2023 related to the conduct of the environmental impact statement evaluation by Nauru Ocean Resources Incorporated for a polymetallic nodule collector system component test campaign, as well as supervisory activities by the secretariat in relation to the investigation of the overflow event.

43. On 29 June and 3 and 4 July, the Commission considered the request by the Council in its decision [ISBA/27/C/44](#) for the Commission to revise [ISBA/25/LTC/6/Rev.2](#). In that decision, the Council noted that the current process for reviewing environmental impact statements in relation to the testing of mining components or other activities requiring an environmental impact assessment during exploration should be revised to ensure that recommendations of the Commission to the Secretary-General on the basis of paragraph 41 (e), including its underlying rationale, should be sent to the Council for informational purposes. The Council also requested that any recommendation, along with the final environmental impact assessment, should be published on the website of the Authority.

44. The Commission revised the recommendation in accordance with the request of the Council. The secretariat will reissue the revised recommendation as document [ISBA/25/LTC/6/Rev.3](#).<sup>6</sup>

## **IV. Environmental management planning**

### **Development of a standardized approach for the development, approval and review of regional environmental management plans**

45. The Commission discussed the revision of the draft guidance to facilitate the development of regional environmental management plans ([ISBA/27/C/37](#)), as requested by the Council in its decision [ISBA/26/C/10](#) and paragraph 13 of its decision [ISBA/27/C/44](#), in the light of written comments submitted by delegations. Following its preliminary consideration of the eight written submissions in March, the Commission considered the comments in different categories (legal and policy, process-related, and technical) and noted the need for further work on several key issues.

46. The Commission tasked its regional environmental management plan working group to undertake further revision of the draft guidance. The working group agreed on a schedule to meet during the intersessional period, in September and October

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<sup>6</sup> The revised text of paragraph 41 (e) will read: “The Commission will continue and finalize its review on the basis of annex I, paragraph 69 to the present recommendations and will provide a recommendation to the Secretary-General as to whether the environmental impact statement should be incorporated into the programme of activities under the contract. The Secretary-General will inform the contractor accordingly. Such a recommendation, including its underlying rationale, will be sent by the Secretary-General to the Council for informational purposes and will be published on the website of the Authority, along with the final environmental impact statement.”

2023, to discuss the necessary revisions. It was agreed that the intersessional work would facilitate the revisions needed to address the key issues identified in the written submissions and provide rationale and justifications related to its considerations, with a view to providing a revised version of the draft guidance for the consideration of the Commission at its next meeting.

47. The Commission took note of a preliminary summary of the outcomes of the workshop held from 1 to 5 May in Chennai, India, on the development of a regional environmental management plan for the Area in the Indian Ocean, with a focus on the mid-ocean ridges and the Central Indian Ocean Basin, and the continued work on the finalization of the workshop report and the background information documents by the workshop Co-Chairs.

48. The Commission also took note of the forthcoming workshop planned to be held in Tokyo in February 2024 on the development of a regional environmental management plan for the North-West Pacific Ocean. The workshop will build on the results of the previous workshops held in Qingdao, China, in 2018 and the online workshop on regional environmental management plans in 2020.

## **V. Data management**

### **Review of the data management strategy of the Authority for the period 2023–2028**

49. On 5 July, the Commission welcomed the significant progress made by the secretariat in relation to data management at the Authority. The Commission endorsed the direction and priorities set out in the draft strategic road map for the period 2023–2028 to leverage data for the implementation of the Authority’s action plan for marine scientific research prepared by the secretariat, and agreed to provide continued support for its implementation and monitoring.

50. The Commission will conduct intersessional work and organize an online meeting on 14 November to discuss and provide input to develop a workplan for implementing the strategic road map. The Commission will consider the results of this work at its next meeting during the twenty-ninth session.

51. The Commission took note of the DeepData user manual for the secretariat data manager persona and the DeepData reporting template guidance for the submission of digital data prepared by the secretariat.

## **VI. Matters referred to the Commission by the Council**

### **Use of the silence procedure in the adoption of decisions by the Commission and improvement of procedures for greater transparency**

52. The Commission was provided with a report by the secretariat summarizing the procedure and methodology adopted by the Commission in the use of the silence procedure during the twenty-sixth and twenty-seventh sessions.<sup>7</sup> The Commission noted that the procedure had been used to consolidate working practices at a time when in-person meetings were not possible, by ensuring the flexibility necessary for members of the Commission to consult and make progress in discussions. As a result, the use of the silence procedure became a tool at the disposal of the Commission to

<sup>7</sup> [ISBA/28/LTC/5](#).



work beyond the schedule of in-person meetings and ensure efficiency as well as continuity in its work. Furthermore, the Commission noted that the use of the silence procedure was a confirmatory process as objections can be raised but, if none are raised, it supports consensus-building.

53. The Commission noted that several aspects of its work had to be continuous in nature and sometimes time-sensitive, considering that not all members of the Commission are able to attend the whole of every meeting. The use of the silence procedure could continue to serve as a useful tool in assisting the Commission to advance with its work during the intersessional period, taking into account that the silence procedure was not incompatible with the rules of procedure of the Commission. 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.

54. The Commission noted that it would continue to use the silence procedure in combination with its remote and in-person plenary meetings and would consider the flexibility of the time limit of 72 hours depending on the nature of, and technicality or otherwise of, the report that needed to be adopted, taking also into consideration the time of the year. The Commission agreed to use the procedure contained in annex I to document [ISBA/28/LTC/5](#) as its guide.

## **VII. Other matters**

### **A. Implementation of the strategic plan of the Authority for 2019–2023**

55. On 6 July, the Commission took note of the report on and the status of the implementation of the strategic plan of the Authority for the period 2021–2023. It was recalled that the Assembly, in its decision [ISBA/25/A/15](#) and [ISBA/25/A/15/Corr.1](#) relating to the implementation of the strategic plan, had committed to strengthening the existing working practices of the Authority and had accordingly invited members of the Authority and observers, as well as the organs of the Authority, to support the implementation of the strategic plan and the high-level action plan.

56. The Commission noted that, owing to the impact of the COVID-19 pandemic on the work of the organs of the Authority, reporting for the period 2021–2022 could not be undertaken. Accordingly, the report presented to the Commission covered the period 2021–2023. The Commission noted that it had been assigned responsibility for 25 high-level actions and 30 associated outputs for the reporting period.

57. The Commission also noted that, as of May 2023, 16 (52 per cent) of the assigned high-level actions and outputs had been completed while 15 (48 per cent) were still in progress. All outputs assigned for the reporting period under strategic directions 1 (Realize the role of the Authority in a global context), 8 (Improve the organizational performance of the Authority) and 9 (Commit to transparency) had been completed.

58. The status of completion of the high-level actions and associated outputs assigned to the Commission for the reporting period 2021–2023 is provided in annex I to the present report. For further information and details compiled by the secretariat on the work undertaken for all outputs, see annex II.

## **B. Women in Deep-Sea Research project**

59. On 6 July, the Commission heard a briefing on the online World Ocean Day celebration organized by the secretariat on 8 June. The Commission was informed that, during the celebration, the See Her Exceed mentoring programme<sup>8</sup> initiated under the Women in Deep-Sea Research project<sup>9</sup> had been launched. The Commission noted that eight senior experts had been engaged to take up mentorship roles and that applications for mentees were open until 31 August 2023.

60. The Commission commended the project and the importance of its key expected outcome, namely to empower and enhance the leadership of women scientists from developing States by increasing their role and participation in deep-sea research. The Commission welcomed the invitation to act as an ambassador of See Her Exceed, including by supporting the dissemination of information and identifying potential mentees and mentors in their respective networks. The mentoring programme would aim to increase the representation of women scientists from developing States, including the least developed countries, landlocked developing countries and small island developing States, in deep-sea research.

## **C. International Seabed Authority engagement in intergovernmental conferences**

61. On 4 July, the Commission took note of an update to the activities of the secretariat on the topic of deep-sea plastic pollution, especially in the light of ongoing negotiations on an international legally binding instrument on plastic pollution. The secretariat reported that it was currently finalizing a consultancy to assess the potential contribution of the Authority to promoting the investigation of plastic pollution in the deep seabed. The consultancy included a study on the occurrence and distribution of microplastics in the deep sea, which will provide input on marine plastics to the development of an international legally binding instrument on plastic pollution. The Commission welcomed this work and took note of a potential project on developing an ocean health indicator for the deep seabed, which is being developed by the secretariat on the basis of the results of the work.

62. On 6 July, the Commission took note of the participation of the secretariat in the process of negotiation of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction. It noted that the Authority, by recommendation of its member States, had participated in the intergovernmental conference with the objective of representing the perspectives of the Authority and its mandate during the discussions, highlighting the relevance of the provisions of the international legally binding instrument for the Authority and identifying any potential overlap with its role and mandate and the possible contribution of the Authority to the successful implementation of the provisions.

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<sup>8</sup> See [www.isa.org/jm/widsr-mentoring-programme](http://www.isa.org/jm/widsr-mentoring-programme).

<sup>9</sup> See [www.isa.org/jm/capacity-development-training-and-technical-assistance/widsr-project](http://www.isa.org/jm/capacity-development-training-and-technical-assistance/widsr-project).

## Annex I

**Status of completion of high-level actions and related outputs assigned to the Legal and Technical Commission for the reporting period 2021–2023**

<i>Strategic directions</i>	<i>Number of items relevant to the reporting period</i>	<i>Completed</i>		<i>In progress</i>	<i>On hold</i>	<i>Completion rate (percentage)</i>
		<i>Ongoing</i>	<i>Achieved</i>			
Strategic direction 1: realize the role of the Authority in a global context	1	1	–	–	–	100
Strategic direction 2: strengthen the regulatory framework for activities in the Area	4	2	–	2	–	50
Strategic direction 3: protect the marine environment	14	4	3	7	–	71
Strategic direction 4: promote and encourage marine scientific research in the Area	1	–	–	1	–	Not applicable
Strategic direction 5: build capacity for developing States	5	–	1	4	–	20
Strategic direction 6: ensure fully integrated participation by developing States	3	2	–	1	–	67
Strategic direction 7: ensure equitable sharing of financial and other economic benefits	–	–	–	–	–	Not applicable
Strategic direction 8: improve the organizational performance of the Authority	1	1	–	–	–	100
Strategic direction 9: commit to transparency	2	2	–	–	–	100
<b>Total</b>	<b>31</b>	<b>12</b>	<b>4</b>	<b>15</b>	<b>–</b>	<b>52</b>

## Annex II

### **Status of implementation by the Legal and Technical Commission of the relevant high-level actions and related outputs for the reporting period 2021–2023**

The status of implementation by the Legal and Technical Commission of the relevant high-level actions and related outputs for the reporting period 2021–2023 is available (in English only) at the following link: [annex-II-LTC-Outputs-2021-2023-rev-19\\_05\\_23.pdf](#).

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# Council

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## Twenty-eighth session

Council session, part I

Kingston, 16–31 March 2023

Item 14 of the provisional agenda\*

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

## **Report on the relinquishment of 50 per cent of the area allocated to the Government of the Republic of Korea under the contract for exploration for polymetallic sulphides between the Government and the International Seabed Authority**

### **Note by the Secretariat**

1. The contract for exploration for polymetallic sulphides between the Government of the Republic of Korea (the contractor) and the International Seabed Authority was signed on 24 June 2014. The area under the contract covers 10,000 km<sup>2</sup>.
2. Pursuant to the schedule for fulfilling relinquishment obligations, as set out in regulation 27 (2) of the regulations on prospecting and exploration for polymetallic sulphides in the Area ([ISBA/16/A/12/Rev.1](#), annex), by the end of the eighth year from the date of the contract, the contractor must have relinquished at least 50 per cent of the original area allocated to it, and, by the end of the tenth year from the date of the contract, the contractor must have relinquished at least 75 per cent of the original area allocated to it.
3. Accordingly, the contractor was required to relinquish at least 50 per cent of its allocated area by 23 June 2022. By letter dated 17 June 2022, the contractor submitted to the Secretary-General of the Authority cartographic material that included shapefiles of relinquished and remaining cells and an overview map with the remaining exploration areas.
4. During the first part of its twenty-eighth session, held from 7 to 15 March 2023, on the basis of the technical review carried out by the secretariat, the Legal and Technical Commission noted that the contractor had complied with its relinquishment obligations pursuant to the applicable regulations and the recommendations for the guidance of contractors on the relinquishment of areas under exploration contracts for polymetallic sulphides or cobalt-rich ferromanganese crusts ([ISBA/25/LTC/8](#)).



5. The total original area, the maps of which are available at <https://bit.ly/3JdSLjM>, consists of 100 blocks, with each block consisting of 100 cells and each cell measuring 1 km x 1 km. The number of blocks per cluster varies from 5 to 34. A total of 5,000 cells, comprising an area of 5,000 km<sup>2</sup>, were relinquished from 100 blocks within eight clusters. After this relinquishment, the remaining area under exploration covers 5,000 km<sup>2</sup>.
6. The relinquished area has reverted to the Area.
7. The Council is invited to take note of the present note.

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## Twenty-eighth session

Council session, part I

Kingston, 16–31 March 2023

Item 14 of the provisional agenda\*

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

## **Report on the relinquishment of 75 per cent of the area allocated to the Ministry of Natural Resources and Environment of the Russian Federation under the contract for exploration for polymetallic sulphides between the Ministry and the International Seabed Authority**

### **Note by the Secretariat**

1. The contract for exploration for polymetallic sulphides between the Ministry of Natural Resources and Environment of the Russian Federation (the contractor) and the International Seabed Authority was signed on 29 October 2012. The area under the contract covers 10,000 km<sup>2</sup>.
2. Pursuant to the schedule for fulfilling relinquishment obligations, as set out in regulation 27 (2) of the regulations on prospecting and exploration for polymetallic sulphides in the Area ([ISBA/16/A/12/Rev.1](#), annex), by the end of the eighth year from the date of the contract, the contractor must have relinquished at least 50 per cent of the original area allocated to it, and, by the end of the tenth year from the date of the contract, the contractor must have relinquished at least 75 per cent of the original area allocated to it.
3. Accordingly, on 7 October 2020, the contractor submitted to the Secretary-General of the Authority a report on the relinquishment of 50 per cent of the area allocated to it under the exploration contract for polymetallic sulphides, including a list of relinquished cells and maps of the relinquished area. The Council of the Authority, acting on the recommendations of the Legal and Technical Commission, noted that the contractor had fulfilled the first part of the schedule of relinquishment obligations pursuant to regulation 27 (2) (a).<sup>1</sup> The relinquished area reverted to the Area.

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\* [ISBA/28/C/L.1](#).

<sup>1</sup> [ISBA/26/C/41](#) and [ISBA/26/C/13/Add.1](#).



4. Pursuant to regulation 27 (2) (b), the contractor was required to relinquish at least 75 per cent of the area allocated to it by 28 October 2022. By letter dated 10 October 2022, the contractor submitted to the Secretary-General a report on the relinquishment of 75 per cent of the area allocated to it under the original contract for exploration for polymetallic sulphides, with cartographic material that included shapefiles of relinquished and remaining cells and an overview map of the remaining exploration areas.
5. During the first part of its twenty-eighth session, held from 7 to 15 March 2023, on the basis of the technical review carried out by the secretariat, the Legal and Technical Commission noted that the contractor had complied with its relinquishment obligations pursuant to the applicable regulations and the recommendations for the guidance of contractors on the relinquishment of areas under exploration contracts for polymetallic sulphides or cobalt-rich ferromanganese crusts (ISBA/25/LTC/8). The Commission also noted that this was the final relinquishment obligation for the contractor.
6. The total original area, the maps of which are available at <https://bit.ly/3yx81mS>, consists of 100 blocks, with each block consisting of 100 cells and each cell measuring 1 km x 1 km. The number of blocks per cluster varies from 8 to 36. After the two relinquishments, a total of 7,500 cells, comprising an area of 7,500 km<sup>2</sup>, were relinquished from 10,000 cells. The remaining area under exploration covers 2,500 km<sup>2</sup>.
7. The relinquished area has reverted to the Area.
8. The Council is invited to take note of the present note.

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## Twenty-eighth session

Council session, part I

Kingston, 16–31 March 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 on the deferral of the schedule of relinquishment upon request by the Government of the Republic of Korea

*The Council of the International Seabed Authority,*

*Recalling* that, on 24 June 2014, the Government of the Republic of Korea entered into a 15-year contract for exploration for polymetallic sulphides with the Authority,

*Recalling also* regulation 27, paragraph 2, of the regulations on prospecting and exploration for polymetallic sulphides in the Area,<sup>1</sup> which refers to the schedule of relinquishments of the area allocated to contractors,

*Noting* that, according to the schedule, the Government of the Republic of Korea is required to submit a second and final relinquishment of at least 75 per cent of the original area allocated to it by 24 June 2024, being the end of the tenth year from the date of the contract,<sup>2</sup>

*Noting also* that the Government of the Republic of Korea requested to defer the schedule of relinquishment, owing to the impact of the coronavirus disease (COVID-19) pandemic on its operational activities,

*Recalling* that, pursuant to regulation 27, paragraph 6, of the regulations, the Council may, at the request of the contractor, and on the recommendation of the Legal and Technical Commission, in exceptional circumstances, defer the schedule of relinquishment and that such exceptional circumstances shall be determined by the Council and shall include, inter alia, consideration of prevailing economic circumstances or other unforeseen exceptional circumstances arising in connection with the operational activities of the contractor,

*Considering* that the Commission has found that the reasons presented by the contractor qualify as “unforeseen exceptional circumstances arising in connection

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<sup>1</sup> ISBA/16/A/12/Rev.1, annex.

<sup>2</sup> ISBA/28/LTC/3.



with the operational activities of the contractor”, and has recommended the deferment of the second and final relinquishment to 31 December 2026,

*Acting upon* the recommendation of the Commission,

1. *Determines* that the reasons presented by the Government of the Republic of Korea qualify as “unforeseen exceptional circumstances arising in connection with the operational activities of the contractor”;

2. *Defers* the schedule of the second and final relinquishment as recommended by the Legal and Technical Commission;<sup>3</sup>

3. *Requests* the Secretary-General to communicate the present decision to the Government of the Republic of Korea.

*300th meeting  
31 March 2023*

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<sup>3</sup> [ISBA/28/C/4](#).



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## Twenty-eighth session

Council session, part I

Kingston, 16–31 March 2023

Agenda item 10

**Consideration, with a view to adoption, of the draft regulations on exploitation of mineral resources in the Area**

### **Decision of the Council of the International Seabed Authority relating to the understanding and application of section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea**

*The Council of the International Seabed Authority,*

*Recalling* that pursuant to Article 145 of the United Nations Convention on the Law of the Sea of 10 December 1982<sup>1</sup> (Convention), necessary measures shall be taken in accordance with the Convention with respect to activities in the Area to ensure effective protection for the marine environment from harmful effects which may arise from such activities and that to this end, the Authority shall adopt appropriate rules, regulations and procedures (RRPs),

*Reaffirming* its commitment to the completion of the adoption of the RRP's relating to exploitation in accordance with the Convention and the Agreement relating to the Implementation of Part XI of the Convention<sup>2</sup> (Agreement),

*Considering* that the commercial exploitation of mineral resources in the Area should not be carried out in absence of such RRP's,

*Recalling* that according to Article 2, paragraph 1 of the Agreement, the provisions of the Agreement and Part XI of the Convention, shall be interpreted and applied together as a single instrument,

*Considering* that Section 3, paragraph 5 of the Annex of the Agreement provides that in taking decisions the Council shall seek to promote the interests of all the members of the Authority,

*Recalling* that activities in the Area shall be carried out for the benefit of humankind as a whole, irrespective of the geographical location of States, whether

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<sup>1</sup> United Nations, *Treaty Series*, vol. 1833, No. 31363.

<sup>2</sup> *Ibid.*, vol. 1836, No. 31364.



coastal or landlocked, and taking into particular consideration the interests and needs of developing States,

*Bearing in mind* the invocation of section 1, paragraph 15, of the Annex (paragraph 15) to the Agreement by the Republic of Nauru in June 2021, with an effective date of 9 July 2021,

*Conscious* that the prescribed time under subparagraph (b) of paragraph 15 will expire on 9 July 2023,

*Recognizing* the existence of a variety of views among members of the Council regarding the interpretation and application of paragraph 15,

*Noting with appreciation* the informal intersessional dialogue on paragraph 15 co-facilitated by Ambassador Hugo Verbist (Belgium) and Mr. Tan Soo Tet (Singapore), as well as the webinar held on March 8, 2023 and the briefing note of the facilitators to the Council identifying areas of commonality and consensus based on the views expressed during the dialogue, as well as issues and questions on which divergences in views remain,

*Recognizing* the expertise in various relevant fields of the Legal and Technical Commission (Commission) and its independent role in reviewing and providing appropriate recommendations to the Council in assessing an application for a plan of work for exploitation, in accordance with the Convention and the Agreement,

*Also recognizing* that a common understanding on paragraph 15 and its application would be beneficial for the Authority, its members, contractors and other stakeholders,

1. *Recalls* that pursuant to Article 153, paragraph 3, of the Convention, activities in the Area shall be carried out in accordance with a formal written plan of work drawn up in accordance with Annex III of the Convention and approved by the Council after review by the Commission;

2. *Also recalls* that pursuant to article 165, paragraph 2(b) of the Convention, the Commission shall review formal written plans of work for activities in the Area in accordance with article 153, paragraph 3 of the Convention, and submit appropriate recommendations to the Council based solely on the grounds stated in Annex III to the Convention and shall report fully thereon to the Council;

3. *Emphasizes* that in submitting appropriate recommendations to the Council, the Commission is under no obligation to recommend approval or disapproval of a plan of work, pursuant to section 3, paragraph 11(a), of the Annex to the Agreement, which provision also envisages a scenario in which the Commission does not make a recommendation;

4. *Recalls* that pursuant to article 163, paragraph 9, of the Convention the Commission shall exercise its functions in accordance with such guidelines and directives as the Council may adopt;

5. *Understands* that upon receiving appropriate recommendations from the Commission as well as its report pursuant to article 165, paragraph 2, subparagraph (b), of the Convention, the Council has the obligation to consider a plan of work but has the capacity to decide whether or not to provisionally approve it, consistent with paragraph 15, subparagraph (c), of the Annex to the Agreement;

6. *Requests* the Secretary-General to inform members of the Council, within three business days, of the receipt of an application for a plan of work for exploitation by the Secretariat;

7. *Decides* to continue the informal intersessional dialogue, building on the emerging consensus on some of the issues, as identified in paragraph 24 of the briefing note of the co-facilitators, and with a view to continuing making progress in the areas of divergence, as identified in paragraph 25 of said note:

(a) Is there a legal basis for the Council to postpone (i) the consideration and/or (ii) the provisional approval of a pending application for a plan of work under subparagraph (c), and if so, under what circumstances?

(b) Is article 165(2)(b) applicable and is the LTC therefore required to review a plan of work and submit appropriate recommendations to the Council as part of the process of consideration of such plan of work under subparagraph (c)?

(c) What guidelines or directives may the Council give to the LTC, and/or what criteria may the Council establish for the LTC, for the purpose of reviewing a plan of work under subparagraph (c)?

(d) What considerations and procedures apply after a plan of work for exploitation has been provisionally approved and leading up to the conclusion of a contract for exploitation?

8. *Also decides* on the following modalities for the continuation of the dialogue:

(a) The informal intersessional dialogue shall be open to all members of the Authority, observers and their designated experts and shall be co-facilitated by Hugo Verbist (Belgium) and Soo Tet Tan (Singapore);

(b) The dialogue shall be convened regularly between the date of adoption of the present decision and the next meeting of the Council, in July 2023, using virtual means, starting in April 2023;

9. *Further decides* that the Co-Facilitators of the above-mentioned dialogue shall prepare and present a new briefing note to the Council at its next meeting, in July 2023, for further consideration;

10. *Decides* to allocate at least two half-day sessions at the July 2023 Council meeting, to discuss the outcome of the intersessional dialogue, the briefing note of the co-facilitators, with a view of adopting a Council decision.

*301st meeting  
31 March 2023*



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## Twenty-eighth session

Council session, part I

Kingston, 16–31 March 2023

Agenda item 12\*

### Consideration of matters relating to the Enterprise

## Decision of the Council of the International Seabed Authority relating to the establishment of the position of an interim director general of the Enterprise

*The Council of the International Seabed Authority,*

*Recalling* article 170 of and annex IV to the United Nations Convention on the Law of the Sea,<sup>1</sup> which established the Enterprise as the organ of the Authority to carry out activities in the Area according to article 153 (2) (a) of the Convention, as well as the transporting, processing and marketing of minerals recovered from the Area,

*Recalling also* the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982,<sup>2</sup> which recognizes the need to follow an evolutionary approach for the step-by-step operationalization of the Enterprise, based on the functional needs of the Enterprise at each step,

*Considering* that the development of the draft regulations on exploitation of mineral resources in the Area is has continued advancing,

*Considering also* that the holders of 11 contracts for exploration currently in place are anticipating future joint ventures with the Enterprise, and that several reserved areas are also available for joint ventures,

*Taking into account* the report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its twenty-sixth session,<sup>3</sup> in which the Commission recommended the establishment, subject to the availability of the requisite funds, of the position of interim director general of the Enterprise,

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\* ISBA/28/C/1.

<sup>1</sup> United Nations, *Treaty Series*, vol. 1833, No. 31363.

<sup>2</sup> *Ibid.*, No. 31364.

<sup>3</sup> ISBA/26/C/12, para. 41.



*Recalling* that, in the original proposed budget for the Authority for the financial period 2023–2024,<sup>4</sup> the Secretary-General, as requested by the Council, had included financial provision of \$641,301 to cover the costs for one interim director general, one administrative assistant and other non-post costs consisting of travel, information and communications technology infrastructure, office space and other related costs, and indirect support costs,

*Recalling also* that the Finance Committee, at its meetings during the twenty-seventh session, had taken note of the information provided by the Secretary-General, but considered that it would need additional guidance from the Council on the nature of the work to be performed by the interim director general in order to properly assess the proposed costs,<sup>5</sup>

*Noting with appreciation* the proposed functions of the interim director general provided by the Special Representative of the Secretary-General of the International Seabed Authority for the Enterprise in his report at the first part of the twenty-seventh session,<sup>6</sup>

*Recalling* that the mandate of the Special Representative of the Secretary-General for the Enterprise had expired at the end of the twenty-seventh session,<sup>7</sup>

1. *Adopts* the recommendation of the Commission to establish the position of an interim director general for the Enterprise;

2. *Requests* the Secretary-General to provide for all proposed positions job classifications in conformity with the job classification standards of the International Civil Service Commission;

3. *Requests* the Secretary-General to explore all options to deliver the establishment of the proposed positions within the existing budget of the Authority as approved by the Assembly during the twenty-seventh session, and to provide information thereon to the Finance Committee; if it is not possible to deliver the establishment of the proposed positions within the existing budget to provide detailed justifications to the Finance Committee, explaining as such;

4. *Requests* the Secretary-General to submit to the Council a supplementary budget proposal in accordance with financial regulations 3.8 and 3.9 in an amount not exceeding \$641,301 for the financial period 2023–2024 to cover the costs of the interim director general as reflected in the original proposed budget, for consideration at the second part of the twenty-eighth session, in July 2023;

5. *Requests* the Finance Committee to consider expeditiously the supplementary budget proposal submitted by the Secretary-General and to report to the Council on the financial and budgetary implications of the proposal as well as its assessment of the Secretary-General's justifications explaining why any of the proposed costs cannot be covered by the existing budget of the Authority, no later than the second part of the twenty-eighth session;

6. *Requests* the Secretary-General to extend the contract and renew the terms of reference of the Special Representative of the Secretary-General for the Enterprise until the end of the second part of the twenty-eighth session.

*301st meeting  
31 March 2023*

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<sup>4</sup> ISBA/27/A/3-ISBA/27/C/22.

<sup>5</sup> ISBA/27/A/8-ISBA/27/C/36.

<sup>6</sup> ISBA/27/C/14 and ISBA/27/C/14/Corr.1.

<sup>7</sup> ISBA/26/C/57, para. 19.



# Council

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## Twenty-eighth session

Council session, part I

Kingston, 16–31 March 2023

## Statement of the President on the work of the Council of the International Seabed Authority during the first part of the twenty-eighth session

### I. Opening of the session

1. At its 297th meeting, on 16 March 2023, the President of the Council opened the first part of the twenty-eighth session. The Council met from 16 to 31 March.

### II. Adoption of the agenda

2. At its 297th meeting, the Council adopted the agenda for its twenty-eighth session ([ISBA/28/C/1](#)).

### III. Election of the President and Vice-Presidents of the Council

3. At the same meeting, the Council elected by acclamation Juan José González Mijares (Mexico) as President of the Council for the twenty-eighth session. The Council also elected Ghana (African States), the Republic of Korea (Asia-Pacific States) and Canada (Western European and other States) as Vice-Presidents.

### IV. Report of the Secretary-General on the credentials of members of the Council

4. At the 299th meeting, on 27 March 2023, the Secretary-General indicated that, as at that date, credentials had been received from 31 members of the Council.

### V. Status report of contracts

5. At its 299th meeting, the Council was presented with a report ([ISBA/28/C/3](#)), with updates provided by the Secretary-General. The Council took note of them.





## VI. Draft regulations on exploitation of mineral resources in the Area

6. In line with the road map endorsed by the Council in November 2022 (ISBA/27/C/21/Add.2, annex II), the Council has met largely in an informal setting to further elaborate consensus text and to address pending conceptual questions in its working groups. In his opening remarks, the President of the Council encouraged the facilitators and the participants to bridge gaps and set up smaller groups to forge consensus on questions where divergent views remained.

### *Progress made by the Council in an informal setting*

7. On 24 March, the Chair of the Open-Ended Working Group in Respect of the Development and Negotiation of the Financial Terms of a Contract reported on the outcomes of its seventh meeting and on the intersessional work.

8. On 31 March, the Council received oral reports with respect to the progress made within each informal working group, including proposed intersessional work, from the facilitator of the informal working group on the protection and preservation of the marine environment, the facilitator of the informal working group on inspection, compliance and enforcement and the co-facilitators of the informal working group on institutional matters.

9. The oral reports of the facilitators are reproduced in the annex to the present report and reflect the important progress towards consensus-based text, including the completion of a third reading of the text for some working groups. Progress made in relation to the President's text is also reproduced in the annex. A deadline of 15 May 2023 was set for the submission of written proposals relating to all parts of the regulations and for most of the outcomes of intersessional work in groups.

### *Intersessional work*

10. The Council recognized that already established intersessional working groups have provided important work for progressing towards consensus-based text for streamlining the text. They would continue their work with other intersessional working groups that have been created to deliver their output before the next meeting of the Council in July.

11. The list of the intersessional groups and the delegations coordinating the work of those intersessional groups is available on the website of the Authority, and participants are encouraged to contact the coordinators of the intersessional groups<sup>1</sup> directly.

### *Informal intersessional dialogue*

12. At the 298th meeting, on 24 March, the Council was presented with a briefing note on the outcomes of the informal intersessional dialogue which the co-facilitators Hugo Verbist (Belgium) and Tan Soo Tet (Singapore) had prepared pursuant to the decision of the Council relating to the possible scenarios and any other pertinent legal considerations in connection with section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea. In that decision, the Council established and set out the modalities of an informal intersessional dialogue to facilitate further discussion on the subject (ISBA/27/C/45).

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<sup>1</sup> See [www.isa.org/jm/news/isa-council-closes-part-i-of-its-28th-session/](http://www.isa.org/jm/news/isa-council-closes-part-i-of-its-28th-session/).

13. The briefing note contained a synthesis of the oral and written responses to a co-facilitator's briefing note for a webinar organized by the co-facilitators, with the assistance of the secretariat of the Authority, on 8 March 2023. The webinar was open to all members of the Authority, observers and their designated experts. The briefing note prepared by the co-facilitators contained commonalities and divergent views on remaining questions. The Council acknowledged the progress made intersessionally and noted the pending issues as identified in the co-facilitator's briefing note.

14. At its 301st meeting, on 31 March 2023, the Council adopted the decision of the Council of the International Seabed Authority relating to the understanding and application of section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea (see [ISBA/28/C/9](#)). It was also emphasized that this was a sensible, cautious and balanced compromise on key issues and on a process for the way forward that was acceptable to the Council. The informal dialogue would provide delegations with the opportunity to make submissions and offer their detailed views in advance of the Council meeting in July, with a minimum of two half-day sessions dedicated to this topic. The first step of an ongoing process, the informal dialogue provides an opportunity to further elaborate, refine and advance positions and lead to the identification of additional areas of convergence and common understanding for the Council to continue to make progress in addressing the important issues presented in section 1, paragraph 15, of the annex to the Agreement.

## **VII. Matters relating to the Enterprise**

15. At the 299th meeting, on 27 March 2023, the Council was presented with a report from the Special Representative of the Secretary-General for the Enterprise, in which he reiterated the importance of a timely step-by-step approach for the operationalization of the Enterprise at this advanced stage of the negotiations of the regulations on exploitation of mineral resources in the Area. The Council took note of the report and noted that the mandate of the Special Representative had expired since the end of the twenty-seventh session.

16. At the 301st meeting, on 31 March 2023, the Council adopted the decision of the Council of the International Seabed Authority relating to the establishment of the position of an interim director general of the Enterprise ([ISBA/28/C/10](#)). In that decision, the Council also requested the Secretary-General to extend the contract and renew the terms of reference of the Special Representative of the Secretary-General for the Enterprise until the end of the second part of the twenty-eighth session.

## **VIII. Operationalization of the Economic Planning Commission**

17. At the 299th meeting, on 27 March 2023, the Council decided to keep the matter under review for further consideration in the light of the report on the operationalization of the Economic Planning Commission, including its financial consideration ([ISBA/27/C/25](#)).

## **IX. Report of the Chair of the Legal and Technical Commission**

18. At the 300th meeting, on 31 March 2023, the Council considered the report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its twenty-eighth session ([ISBA/28/C/5](#)). The Council took note of the report.

19. In addition, the Council made some comments on the implementation of the training programmes by the contractors, on the progress made by the Commission on the standardized approach for the development, approval and review of regional environmental management plans and on the development of environmental threshold values. Some views were expressed on the nature of the regional environmental management plans as instruments of environmental policy. The development of the standardized approach to regional environmental management plans should be a priority and should draw on existing practices.

20. Concerning the development of environmental threshold values, concerns were raised over the proposed size of the group of experts and the time frame for their development. Several delegations stressed that contractors were significant providers of data and that this was critical for the development of environment threshold values.

21. At the same meeting, the Council considered and took note of the report on the relinquishment of 50 per cent of the area allocated to the Government of the Republic of Korea under the contract for exploration for polymetallic sulphides between the Government and the International Seabed Authority ([ISBA/28/C/6](#)) and the report on the relinquishment of 75 per cent of the area allocated to the Ministry of Natural Resources and Environment of the Russian Federation under the contract for exploration for polymetallic sulphides between the Ministry and the International Seabed Authority ([ISBA/28/C/7](#)).

22. Acting on the recommendation of the Legal and Technical Commission on a request by the Government of the Republic of Korea to defer relinquishment of part of its contract area ([ISBA/28/C/4](#)), the Council approved the deferral of the schedule of the second and final relinquishment of the allocated area to the contractor (see [ISBA/28/C/8](#)).

23. At the same meeting, the Secretary-General and the Council expressed their condolences to the delegation of the Russian Federation and the family of Judge and former President of the International Tribunal on the Law of the Sea, Vladimir Vladimirovich Golitsyn on his passing. They paid tribute to his personality and his legacy to the law of the sea.

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## Annex

### **Reports on progress made by the working groups and on the President's text**

#### **I. Oral reports**

##### **A. Oral report delivered by the Chair of the Open-ended Working Group in Respect of the Development and Negotiation of the Financial Terms of a Contract, Olav Myklebust (Norway)**

1. The Open-ended Working Group in Respect of the Development and Negotiation of the Financial Terms of a Contract held its seventh meeting on 16 and 17 March 2023. I have the honour to report on the outcome of that meeting.

2. On the afternoon of 16 March, the Chair welcomed and thanked all participants for their contributions through intersessional work and written proposals. The Chair introduced the consultants who had contributed to the work of the Working Group and the relevant documents for the meeting, including the Chair's briefing note of 27 February 2023 (ISBA/28/C/OEWG/CRP.1) and the Chair's revised text of the same date (ISBA/28/C/OEWG/CRP.2).

3. Following discussions on the work plan for the two days, the meeting continued with presentations relating to two conceptual topics, as well as updates to the financial model developed by the Massachusetts Institute of Technology. The first concept is an additional royalty or levy related to sponsoring State income tax, to establish a level playing field for land-based and sea-based contractors, by implementing an equalization payment. The second concept is a tax or levy on the transfer of rights under a contract. Alexandra Readhead and Thomas Lassourd of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development gave a presentation on some general aspects, including on the interaction between option 3 and option 4 for the payment system and sponsoring State taxes. The Forum also gave a presentation on the financial implications of a tax or levy on transfer of rights under a contract and responded to questions and comments from the delegations. Richard Roth of the Institute then presented the revised assumptions of its financial model in accordance with previous discussions in the Working Group and the effects of these changes in the Chair's revised text. The afternoon was concluded with Mr. Roth's presentation on the topic of the possible deduction of domestic and sponsoring State tax from (higher) royalty rates and in particular with a view on the numbers and calculations.

4. On the morning of 17 March, the Working Group commenced with the participants' questions and comments on the presentations given by the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development and the Massachusetts Institute of Technology. The presentations were welcomed by all participants, and general discussions were held in respect of the payment mechanism, the preferable options for capturing progressivity and simplicity and the need to ensure an equalization measure. In addition, the need to avoid volatilization was pointed out by one participant.

5. While some participants mentioned the issue of benefit sharing, in particular how the amounts received by the Authority should be allocated, it was recalled that this was beyond the scope of the Working Group, the mandate of which was only to recommend draft regulations on the financial terms of a contract. Likewise, it was recalled that the handling of environmental costs had thus far not been part of the Massachusetts Institute of Technology modelling. Reference was also made to the

decision of the Council relating to the commissioning by the secretariat of a study on the internalization of environmental costs (ISBA/27/C/43).

6. Thereafter, the second reading of the Chair's revised text covered Part VII and some relevant draft regulations in Part III (draft regulations 23, 27, 38 and 39).

7. General agreement was reached on several draft regulations. It was also agreed that, in places in the text where some participants had new proposals or were in opposition to the current text, there would be attempts, through intersessional groups with all interested proponents, to provide consensus-text proposals ahead of the next meeting, including on the harmonization of timelines. All proposals before the deadline of 15 May 2023 would be welcomed. A further revised Chair's text would be provided for discussion at the next meeting in July 2023.

8. Intersessional work was agreed, to take the process forward, inter alia on the two conceptual issues which had been identified and required further discussion. South Africa, on behalf of the African Group, agreed to co-host with Australia a meeting with interested participants on proposing a mechanism to develop equalization measures, to be supported by the Massachusetts Institute of Technology. Canada agreed to co-host with the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development a webinar on further considering the issue of tax or levy on transfer of rights under a contract.

#### **B. Oral report delivered by the facilitator of the informal working group on the protection and preservation of the marine environment, Raijeli Taga (Fiji)**

9. The informal working group on the protection and preservation of the marine environment held six meetings, from 20 to 22 March 2023.

10. On the morning of 20 March, the facilitator of the informal working group on the protection and preservation of the marine environment warmly welcomed all participants to the third reading of the facilitator's further revised text (ISBA/28/C/IWG/ENV/CRP.1) with a reminder on setting high standards, as in article 145 of the Convention.

11. As was planned, the intersessional working group led by the United Kingdom of Great Britain and Northern Ireland, which worked on the standardization of stakeholder consultation, was given the beginning of the session to update the group, as set out in note verbale No. 10/2023. During this work, they had tried to come up with solutions for a consistent approach to such consultation, ensuring transparency and good governance. The group still welcomed comments from the participants to progress the work. Participants also noted that stakeholder consultation related to environmental impact assessments and environmental impact statements could be examined in the intersessional work on a standardized approach for stakeholder consultation, which could allow further streamlining of the text.

#### **General comments on the facilitator's further revised text**

12. During the third reading, some cross-cutting issues were identified, including generic referencing, clarified definitions, streamlining and the coherence of the text. Consideration was also given to reflecting the discussions on the recently agreed draft agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction to somehow find consistency and alignment. Moving some details of some draft regulations to the standards and guidelines was discussed, as well as standardizing the phrasing used, for example, best available scientific evidence and best available information.

13. Discussions were had on compliance with the Convention regarding independent experts since the Legal and Technical Commission was already authorized to involve additional experts. It was also noted that the Federated States of Micronesia had offered to lead the intersessional working group on the discussion of underwater cultural heritage as some clarification and definitions had been requested by the participants.

**Specific comments on the facilitator's further revised text**

14. There was interest registered by Germany on the need to streamline and restructure regulation 45 and it was requested to lead the work on this.

15. In relation to draft regulations 46–46 bis (alt) on the environmental impact assessment process, most participants noted that, overall, there was a need for restructuring and streamlining. Some participants were satisfied with the additional elements to the environmental impact assessment process, while others suggested that some details might not be necessary. There were suggestions that consultation would take place at specific stages of the environmental impact assessment process and would include explicit reference to coastal States in the consultation process, which should be examined in the intersessional work on a standardized approach for stakeholder consultation. There was discussion on scoping and whether the details should be merged with other draft regulations or under the standards and guidelines. Norway had offered to lead the intersessional work in respect of scoping and further steps in the environmental impact assessment process. There were also suggestions for defining and clarifying some terms in the text, such as impacts and effects. Some participants commented that there should be a clear distinction between the responsibilities of the contractors and those of the sponsoring State regarding stakeholder consultation.

16. On proposed draft regulation 47, delegations suggested having a 90-day consultation period and that all documents related to an ongoing consultation should be available on the Authority's website.

17. On proposed draft regulation 48 bis on test mining, an alternative draft regulation 48bis.alt was introduced and welcomed by several delegations. Some delegations pointed to policy issues, in particular the timing and the interrelation between exploration and exploitation, that still need to be covered. The United Kingdom invited Germany, Belgium and other interested delegations to intersessional discussions.

18. On proposed draft regulation 50 on restriction on mining discharges, several delegations pointed to the need to streamline references to applicable maritime regulations of the International Maritime Organization. There were divergent views on whether such references in this (and other relevant regulations) should be broadened or narrowed. Written proposals would be submitted suggesting relevant changes to this.

19. The proposed amendments to draft regulations 59–61 on the closure plan were welcomed by most participants, with a request for more clarification on draft regulation 61, paragraph 4, in terms of the consequences of a contractor not meeting its obligations. Fiji offered to lead intersessional work on closure plans.

20. The reading of the draft regulations was completed with the reading of annex IV on the Environmental Impact Statement. There was an overarching conceptual discussion on this annex, regarding whether some details of the annex would be better placed in the standards and/or guidelines and the inclusion of some binding elements under relevant regulations and/or annexes. There was agreement among participants that high-level obligations would need to remain in annex IV and thereby as a part of

the regulations, and other elements would need to be moved to the standards. More work was needed to analyse the matter, and annex IV would, in this respect, be revisited during the July meeting. The intersessional working group on the environmental impact assessment process would work on a proposal on how to allocate and structure the content of the annex (structural questions within the framework). The conceptual discussion was followed by a reading of the annex.

21. The reading of the further revised text concluded with the reading of annex IV bis on Scoping Report, annex VII on the Environmental Management and Monitoring Plan, annex VIII on the Closure Plan, and Annex X ter on Design Criteria for Impact Reference Zones and Preservation Reference Zones. Finally, comments were received on the schedule on the use of terms and scope. Delegations highlighted the importance of having clear definitions for the terms introduced in the annex. There was also a discussion on whether some content in the annexes could be included in the standards and guidelines.

### Way forward

22. In relation to intersessional work, several delegations offered to advance work in smaller groups and to provide consensus-based text on relevant matters. This is warmly welcomed. The groups identified are shown in the table.

<i>Group no.</i>	<i>Provision</i>	<i>Focus</i>	<i>Coordinator</i>	<i>Deadline</i>
1		Standardized approach for stakeholder consultation	United Kingdom	1 June 2023
2		Coastal State obligations	Mexico	15 May 2023
3		Underwater cultural heritage	Micronesia	15 May 2023
4	Draft regulation 44	Streamlining and structuring	Spain	15 May 2023
5	Draft regulation 45, 1 (a)	Streamlining and structuring	Germany	15 May 2023
6	Draft regulation 46–46 bis (alt) and annex IV	Scoping and steps in the environmental impact assessment process and structuring of annex IV	Norway and Germany	1 June 2023
7	Draft regulation 48 bis	Test mining	Belgium/Germany	15 May 2023
8	Draft regulation 59–61	Closure plan	Fiji	1 June 2023

23. Any participants interested in joining any of the groups mentioned were welcome to contact the Authority's secretariat ([council@isa.org.jm](mailto:council@isa.org.jm)), which would assist in distributing the relevant information and contact details.

24. It was agreed that a third revised text would be provided before the July 2023 meeting. It was highlighted that both pdf and Word versions (depending on preference) would be made available before the July meeting.

25. In line with that, it was requested and I stressed that all comments and suggestions to the text be submitted by participants by 15 May 2023. This was to allow for sufficient time for review, including the intersessional work and also timely circulation of revised text to all participants.

**C. Oral report delivered by the facilitator of the informal working group on inspection, compliance and enforcement, Maureen Tamuno (Nigeria)**

26. The informal working group on inspection, compliance and enforcement held its meetings on 23 and 24 March 2023.

27. On the morning of 23 March, the facilitator welcomed participants and thanked them for their textual proposals and continued engagement. She went on to introduce the facilitator's further revised text (ISBA/28/C/IWG/ICE/CRP.1).

28. At the start of the meeting, Norway was invited to present the outcomes of discussions from intersessional meetings held by member States and observers on an independent inspectorate to be headed by an inspector-general. Several participants welcomed the proposal, on the basis that it implemented the core elements from the proposed inspectorate and compliance committee. The proposal was welcomed by several participants, who expressed the need to avoid duplication of roles and functions of other already established organs under the Convention and the 1994 Agreement.

29. On this note, conceptual discussions were conducted on the appropriate inspection mechanism for the Authority. There was consensus among participants on the need to develop a robust, operational and functional mechanism. Three main views and approaches were proposed. Several participants were in favour of an independent inspectorate, others maintained a preference for a compliance committee. Some other participants expressed preference for the Legal and Technical Commission to oversee compliance with the regulations. It was agreed by participants that further conceptual discussions would be undertaken during the intersessional period to focus on functions, reporting lines and workflow, inter alia.

30. The informal working group went on to commence its third reading of the facilitator's further revised text in relation to part XI of the draft regulations. The working group efficiently discussed the text with positive engagement. There was unanimity on several paragraphs such as the references in regulation 96 (1) bis, the title of regulation 100 and the deletion of paragraph 1 of regulation 102, as well as the deletion of the last three lines of regulation 104 (2). Regulation 105 also enjoyed broad consensus in its current form. Participants provided various views and promised to share textual proposals on the revised regulations. The group successfully finalized the reading of the facilitator's further revised text on the morning of 24 March.

31. On 24 March, as proposed by the facilitator, Norway presented an organization chart of a suggested inspection mechanism that identified the role of an independent compliance mechanism which would report directly to the Council and appoint and supervise a roster of inspectors, with administrative support from the secretariat. China was also invited to present its proposal and organization chart. In its proposal, the inspectors would report directly to the Legal and Technical Commission. The Commission would guide, appoint and supervise inspectors, as well as issue a code of conduct for inspectors. The Council would maintain enforcement powers such as issuing compliance notices and penalties, while the secretariat would undertake administrative functions and support.

32. Norway had agreed to work intersessionally with all delegations from the present to 15 May 2023 to gather consensus with a view to producing a revised organigramme for consideration by the working group at its meetings in July.



33. Delegations were requested to provide their comments and textual proposals no later than 15 May 2023 to allow sufficient time for consolidation. The facilitator would provide a third revised text ahead of the July 2023 meeting.

**D. Draft oral report presented by the co-facilitators of the informal working group on institutional matters by Gina Guillén-Grillo (Costa Rica) and Salvador Vega (Chile)**

34. The informal working Group on institutional matters met over three days. It met for half a day (2.15 hours) on 27 March 2023, a full day on 28 March and half a day on 29 March. The working group continued with its reading of the revised facilitator's text (ISBA/27/C/IWG/IM/CRP.1/Rev.1) and completed its first reading of parts II, V, VIII and appendix II. In view of the time available, the group proposed to undertake a third reading of the text from the beginning, and, at the end of its work, it undertook a reading of draft regulations 1 and 2. The text was projected on the screen, directly reflecting the suggestions of the participants.

**Regulations 57 and 58**

35. In relation to the Modification of a Plan of Work by a Contractor (draft regulation 57), there was general support for some paragraphs (paragraph 1; alt 1 version of paragraph 2; original paragraph 3). There was unanimity on the need to include a definition of what constitutes material change in the schedule. Delegations agreed that the role of determining whether a modification constituted material change should rest with the Legal and Technical Commission, which would make recommendations to the Council. Delegations agreed on the introduction of standards for the determination of material change.

36. Delegations expressed a preference for the role of making a non-material change to a plan of work to rest with the Secretary-General (para. 4) and reduce the workload and burden on the Commission.

37. Regarding draft regulation 58, on review of activities under a plan of work, several delegations emphasized the need to use more specific wording for the reference "relevant organ of the Authority" in the chapeau of the paragraph, as well as to ensure that there was no overlap in the functions of the respective organs.

38. Some delegations expressed a preference for changing the reference to Regional Environmental Management Plans to Standards (1 (*a ter*)).

39. There were also suggestions for streamlining language and terms; as well as the need to harmonize the content of the regulation with draft regulations 46 (2) and 52.

40. Several delegations shared the view that there was a need to streamline and simplify the process of review, and others requested the need to be more specific on the information and documentation, as well as the manner and the time frame in which the information from the contractors was to be provided (para. 4).

**Part VIII and appendix II**

41. The facilitators provided an overview on the need for the Finance Committee to review the substance more critically with respect to this part and provide feedback on the methodology and principles to be incorporated into the regulatory framework. Delegations discussed the issue of the fees to be paid by the contractors (regulations 84 and 85). On appendix II, some delegations supported its deletion in its entirety on the premise that the prescribed fees were better contained in decisions of the organs and/or guidelines for flexibility, while some delegations proposed including the appendix, albeit with only the headers and titles to provide future guidance. Some also indicated that the Open-Ended Working Group in Respect of the Development

and Negotiation of the Financial Terms of a Contract was still undergoing review on applicable fees for contractors.

### ***Regulations 1 and 2***

42. On draft regulation 1 (use of terms and scope), no comments were received on paragraphs 1, 2, 3, and 7 the text was seen as having consensus with minor suggestions. There was also consensus on moving paragraph 9 to draft regulation 2.

43. Discussions were had as to whether standards and guidelines should be included in paragraph 4. Some delegations expressed the need to include the reference to the legitimate interests of coastal States in line with article 142 of the Convention, without depriving all other States of their rights under the Convention.

44. In regulation 2, there was unanimity on changing the title to “Fundamental principles”. Delegations discussed the previous revisions, and some suggestions and amendments were made to the respective paragraphs. Delegations agreed that there was a need to ensure coherence in references to the Convention throughout this regulation. In paragraph 2, attention was drawn to the suggestion of taking into account the need for due regard for other activities in the marine environment and due regard to exploitation activities in articles 145 and 147 of the Convention. The group worked on the basis of proposals that had been provided on the floor during the previous reading.

45. Discussions were had as to adopting “precautionary principles or approach as appropriate” as a proposal that would reflect a broader position of delegations. It was agreed that wording would be provided to encapsulate traditional knowledge in the text, by the Federated States of Micronesia and the Kingdom of Morocco. It was agreed to include the term “effective stakeholder participation” in the text. There were indications of a need to submit textual proposals reflecting the possible harmonization of terms in the subsections under this paragraph, as well as proposals for any other concepts that delegations would wish to see included in this paragraph. Some paragraphs were accepted by consensus (5, 7).

46. Delegations expressed divergent views on the development of an environmental policy for the Authority (para. 4 bis) and whether the term “member States” (para. 6) should be changed to take into consideration the European Union. Delegations were invited to submit proposals in this respect.

47. The Special Representative of the Secretary-General for the Enterprise proposed an overarching amendment to the text to include the Enterprise wherever contractors were referenced in the text.

48. The co-facilitators welcomed written suggestions from participants with a view to releasing a new refreshed text before the Part II meetings in July 2023. This text would reflect changes except for the regulations dealing with effective control. The deadline for the submission of written proposals was set as 15 May 2023. They also informed participants that they would coordinate with the secretariat on effective control and invited delegations to propose speakers.

49. The Co-Facilitators thanked the delegates for their participation and the secretariat and interpreters, who made the work of the informal working group possible.

## **II. Report on the review of the President’s text**

50. On the afternoon of 29 March 2023, the Council met in an informal setting to develop and negotiate the President’s text. As the Council recalls, the parts of the

draft regulations and standards for phase I which are not allocated to any informal working groups of the Council are allocated to the Council in an informal setting (President's briefing note of 31 March 2022).

51. As the Council will also recall, during the meeting in November 2022, the President introduced the President's text (ISBA/27/C/WOW/CRP.1). During the meeting in November, the Council managed to finish a reading of the preamble and draft regulations 17–30.

52. The President reminded the Council that the text contained a full collation of textual proposals received by delegations and observers.

53. The first reading of the President's text was resumed from draft regulation 31, and this is based on an updated President's text (ISBA/28/C/WOW/CRP.1) released on 3 March 2023. The reading was successfully finished on the morning of 30 March 2023.

54. Several valuable suggestions were provided on the different elements of the President's text.

55. During the reading of draft regulations 33 and 34, several delegations and observers identified a need for other stakeholders to be notified, and in that regard it was highlighted that it would be necessary to look at this more broadly than for only these two regulations. In terms of draft regulation 35, it was requested by several delegations that an attempt be made to "unpack" the regulation, and a suggested approach by one delegation was welcomed by other delegations.

56. In relation to draft regulation 36 on insurance, several delegations asked for more clarity on what the insurance obligations would entail. One delegation suggested an alternative mechanism to insurance, considering the lack of a present market. It was agreed that further clarification would be provided ahead of the meeting in July 2023.

57. For part X on general procedures, standards and guidelines, it was proposed by one group that the application of the definitions be widened in order for them to apply to the entire text. Concerning the Schedule, use of terms and scope, several proposals for refinement were received as well as proposals for new terms. Several delegations and observers referred to the use of the definitions of the BBNJ treaty. Furthermore, several delegations asked for a consolidation of all terms and scope used in the informal working groups. It was agreed that the President would consolidate all terms and scope in the revised President's text.

58. The President informed the delegations and observers that any textual proposals by 15 May 2023 would be welcomed. A revised President's text would be provided before the July meeting.

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# Council

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**Twenty-eighth session**  
Council session, part II  
Kingston, 10–21 July 2023

## **Statement by the President on the work of the Council of the International Seabed Authority during the second part of the twenty-eighth session**

### **Addendum**

#### **I. Resumption of the session**

1. At the 302nd meeting of the Council of the International Seabed Authority, on 10 July 2023, the President of the Council, Juan José González Mijares (Mexico), declared open the second part of the twenty-eighth session of the Council. During the second part of the session, the Council held eight plenary meetings (302nd to 308th meetings) and 15 informal meetings, in line with the road map approved by the Council in December 2022.<sup>1</sup>

#### **II. Report of the Secretary-General on the credentials of members of the Council**

2. At the 305th meeting, on 17 July, the Secretary-General reported that, as at that date, formal credentials had been received from 27 members of the Council and information concerning the appointment of representatives had been communicated by means of facsimile or initialled notes verbale from five members of the Council.

#### **III. Election to fill a vacancy on the Legal and Technical Commission in accordance with article 163, paragraph 7, of the United Nations Convention on the Law of the Sea**

3. At the 302nd meeting, the Council elected Rebecca Hitchin (United Kingdom of Great Britain and Northern Ireland) as a member of the Legal and Technical Commission for the remainder of the term of Jon Copley, who resigned on 27 January 2023.

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<sup>1</sup> See [ISBA/27/C/21/Add.2](#), annex II, and para. 8 of the present report.



#### **IV. Report of the Secretary-General on the status of national legislation relating to deep seabed mining and related matters**

4. At the 305th meeting, the Council took note of the report of the Secretary-General on the status of national legislation relating to deep seabed mining and related matters.<sup>2</sup>

#### **V. Report on proposed amendments to the statute of the International Civil Service Commission**

5. At the 305th meeting, the Council took note of the report on proposed amendments to the statute of the International Civil Service Commission<sup>3</sup> and recommended that the Assembly of the Authority accept the amendments to the statute adopted by the General Assembly of the United Nations in its resolution [77/256 A](#).

#### **VI. Report of the Secretary-General on the implementation of the decision of the Council in 2022 relating to the reports of the Chair of the Legal and Technical Commission**

6. At its 305th meeting, the Council took note of the report of the Secretary-General on the implementation of the decision of the Council in 2022 relating to the reports of the Chair of the Legal and Technical Commission.<sup>4</sup>

7. A number of delegations shared their concerns about the late submission by some contractors of their annual reports and the five-year periodic review reports. Some delegations supported a recommendation by the Secretary-General that the late submission of reports should trigger an automatic written warning and monetary penalty. However, other delegations expressed caution and highlighted that any penalty should be commensurate with the nature of the violation and should take into account any extenuating circumstances. Some delegations suggested better dialogue with contractors to address issues of incomplete or partial compliance. Some delegations also suggested that the criteria for the imposition of such penalties could be based on provisions applicable under national legislation and recalled that a reasonable opportunity should be given to contractors before resorting to monetary fines. Several delegations suggested that the Authority should develop a compliance strategy and policy and that the Commission should revisit the periodic review process and issue appropriate recommendations.

#### **VII. Draft regulations on exploitation of mineral resources in the Area**

8. The Council continued its work on the draft regulations on exploitation of mineral resources in the Area, working in informal meetings with the full participation of other members of the Authority and observers, in line with the road map approved by the Council in December 2022. The Open-ended Working Group in Respect of the

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<sup>2</sup> See [ISBA/28/C/17](#).

<sup>3</sup> See [ISBA/28/A/5-ISBA/28/C/14](#).

<sup>4</sup> See [ISBA/28/C/15](#).

Development and Negotiation of the Financial Terms of a Contract held four meetings, on 10 and 11 July; the Informal Working Group on the Protection and Preservation of the Marine Environment held three meetings, on 12 and 13 July; the Informal Working Group on Inspection, Compliance and Enforcement held two meetings, on 13 July and 14 July; the Informal Working Group on Institutional Matters held four meetings, on 17, 18 and 19 July; and two meetings were dedicated to the consideration of the President's text, on 19 and 20 July.

9. At the 307th meeting, on 21 July, the Council took note of all oral reports by the Chair of the Open-ended Working Group and Facilitators and Co-Facilitators of the informal working groups, as well as the summary of the consideration of the President's text (see annex).

10. At its 304th meeting, on 14 July, the Council considered the report of the Co-Facilitators, Hugo Verbist (Belgium) and Tan Soo Tet (Singapore), on the informal intersessional dialogue established under Council decisions [ISBA/27/C/45](#) and [ISBA/28/C/9](#).<sup>5</sup> At the request of the Council, the Co-Facilitators held informal consultations on the margins of the Council meetings.

11. At its 307th and 308th meetings, on 21 July, the Council considered a draft road map prepared by the President for the future organization of the Council's work on the draft regulations and associated standards and guidelines during the third part of the twenty-eighth session, to be held from 30 October to 8 November 2023, and for the first and second parts of the twenty-ninth session of the Council, to be held in March and July 2024, respectively. The Council also received oral reports from the Co-Facilitators of the informal intersessional dialogue on their consultations with delegations. After further informal consultations among interested delegations, two draft decisions were presented to the Council for its consideration. At the 308th meeting, the Council simultaneously adopted a decision on a timeline following the expiration of the two-year period pursuant to section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea<sup>6</sup> and a decision relating to the understanding and application of section 1, paragraph 15, of the annex to that Agreement.<sup>7</sup>

## VIII. Matters relating to the Enterprise

12. At the 307th meeting, the Council considered a proposal submitted by the Group of African States and adopted a decision relating to the establishment of the position of interim director general of the Enterprise.<sup>8</sup>

## IX. Operationalization of the Economic Planning Commission

13. At the 306th meeting, the Council agreed to keep the matter under review for further consideration at its meetings in November 2023.

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<sup>5</sup> The Co-Facilitators' second briefing note to the Council on the informal intersessional dialogue established under Council decisions [ISBA/27/C/45](#) and [ISBA/28/C/9](#) is available from [www.isa.org.jm/session-28-council-part-2](http://www.isa.org.jm/session-28-council-part-2).

<sup>6</sup> See [ISBA/28/C/24](#).

<sup>7</sup> See [ISBA/28/C/25](#).

<sup>8</sup> See [ISBA/28/C/23](#).

## **X. Report of the Chair of the Legal and Technical Commission**

14. At the 303rd meeting, on 13 July, the Chair of the Legal and Technical Commission, Erasmo Lara Cabrera (Mexico), presented a report on the work of the Commission at the second part of its twenty-eighth session.<sup>9</sup>

15. The Council considered the report of the Chair of the Commission at its 306th meeting, on 20 July. Many delegations expressed strong support for the work undertaken by the Commission during the first and second parts of the twenty-eighth session and welcomed the level of detail contained in the report. Delegations also acknowledged with appreciation the efforts made under the contractor training programme, in particular to advance the empowerment and leadership of women in marine scientific research. They also welcomed the launch of the See Her Exceed mentoring programme under the Women in Deep-Sea Research project.

16. In relation to the review of annual reports of contractors, several delegations focused on the question of naming the contractors. Several delegations expressed disappointment at not seeing contractors named, as had been requested by the Council. Some delegations expressed interest in being informed of the legal aspects and other criteria considered by the Commission, noting that this would assist in developing a clear methodology on a non-discriminatory basis. Some delegations expressed concern about the position taken by some contractors to delay further exploration work pending greater clarity on the legal framework in place for exploitation. Concerns were also raised about the variation in work undertaken by contractors, noting that, while some had begun the testing of mining system components, others remained in the stage of conceptual design of mining systems and technology.

17. With respect to the development of binding environmental threshold values as a key component of the mining code, some delegations highlighted the urgency of this work and urged the Commission to prioritize it as part of phase I standards and guidelines. Some delegations expressed their concern about the limitation on the number of experts to be appointed to the intersessional expert groups established by the Commission, emphasizing the need to ensure broad representation, inclusivity and transparency. Some delegations also made suggestions on the nomination and selection process for experts, including to ensure the representation of relevant expertise and geographic representation.

18. A number of delegations highlighted that the development of the standardized procedure for regional environmental management plans should be prioritized. Some delegations highlighted the leading role of the Commission in the development and review of regional environmental management plans and the value, when the Commission deems it necessary, of consulting external experts.

19. Some delegations also welcomed the informal dialogue held on 12 July between some members of the Commission and the members of the Authority, and encouraged the Commission to make further efforts to increase outreach and ensure broad participation in the work of the Commission, including holding open meetings or webinars on the development of binding environmental thresholds and regional environmental management plans.

20. The Secretary-General made an appeal for contributions to the voluntary trust fund to support members of the Commission and highlighted that the robust work undertaken by the Commission was largely dependent on the availability of funding for full participation.

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<sup>9</sup> See [ISBA/28/C/5/Add.1](#).

21. At the same meeting, the Council adopted a decision on the deferral of the schedule of relinquishment upon request by the Government of India.<sup>10</sup>

22. The President of the Council invited the Council to consult intersessionally on the content of a decision on the report of the Chair of the Commission, to be considered and adopted at the third part of the session in November 2023.

## **XI. Cooperation with other relevant international organizations**

23. At its 306th meeting, on 20 July, the Council approved an agreement of cooperation between the International Labour Organization and the Authority.<sup>11</sup>

24. Under this agenda item, the secretariat of the Convention on Biological Diversity made a statement regarding ongoing collaboration with the secretariat of the Authority, which has been undertaken through the UN-Oceans coordination mechanism, as well as the exchange of a letter of cooperation signed by the two secretariats, in particular regarding the sharing of scientific expertise and experiences for biodiversity assessment and monitoring, the application of area-based management tools and biodiversity-inclusive environmental impact assessments, and capacity-building, among other things.

## **XII. Report of the Finance Committee**

25. At its 305th meeting, the Chair of the Finance Committee, Mohammad Khurshed Alam (Bangladesh), presented the report of the Committee on its work during the twenty-eighth session.<sup>12</sup>

26. The Council approved a supplementary budget proposal for the financial period 2023–2024, as recommended by the Committee,<sup>13</sup> for the purpose of establishing the post of interim director general of the Enterprise within the secretariat. Several delegations highlighted the exceptional nature of approving the supplementary budget proposal.

27. The Council welcomed the progress made by the Committee on the topic of equitable sharing of financial and other economic benefits derived from activities in the Area. In this respect, most delegations supported the possible creation of a Common Heritage Fund. While some expressed the view that it should be an alternative to direct distributions of monetary benefits, others supported a hybrid model that included the creation of the Fund along with direct distribution. On the objective of the Fund, most delegations agreed that it should be used to invest in capacity development, knowledge and competence related to the ocean. A delegation mentioned that the Fund should be used only to fund activities related to the Area and not to the high seas. Some delegations encouraged the Committee to continue its work on the topic and some also suggested that, in its future review of possible formulae for equitable distribution, it should also take into account the multidimensional vulnerability index to reflect the peculiar vulnerability to climate change and debt of some developing countries. Some delegations proposed that the topic of equitable sharing of financial and other economic benefits deriving from activities in the Area should be included as a stand-alone item in the agenda of the Council, so that a broader debate on the issue could take place.

<sup>10</sup> See [ISBA/28/C/22](#).

<sup>11</sup> See [ISBA/28/C/16](#), annex.

<sup>12</sup> See [ISBA/28/A/4-ISBA/28/C/13](#).

<sup>13</sup> See [ISBA/28/A/3-ISBA/28/C/12](#) and [ISBA/28/A/3/Add.1-ISBA/28/C/12/Add.1](#).



28. At the same meeting, the Council adopted a decision relating to financial and budgetary matters.<sup>14</sup>

### **XIII. Close of meeting**

29. The second part of the twenty-eighth session of the Council was adjourned at 8.30 p.m. on 21 July. The Secretary-General made an appeal to all members of the Authority and observers to contribute to the voluntary trust fund to support the attendance of developing States members of the Council.

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<sup>14</sup> See [ISBA/28/C/21](#).

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**Annex****Reports on progress made by the working groups and on the President's text****I. Oral reports****A. Oral report delivered by the Chair of the Open-ended Working Group in Respect of the Development and Negotiation of the Financial Terms of a Contract, Olav Myklebust (Norway)**

1. The Open-ended Working Group in Respect of the Development and Negotiation of the Financial Terms of a Contract held its eighth meeting on 10 and 11 July 2023. The Chair's summary of the outcome of the meeting is provided below.

2. On the morning of 10 July, the Chair thanked all participants for their contributions through intersessional work and written proposals, and in particular Australia, Canada and South Africa for convening meetings on conceptual issues. The Chair introduced the work of the Open-ended Working Group, including the Chair's briefing note of 20 June (ISBA/28/C/OEWG/CRP.3) and the Chair's further revised text of the same date (ISBA/28/C/OEWG/CRP.4).<sup>1</sup>

3. The meeting continued with presentations on the intersessional work. The first presentation, by Canada, was on the outcome of the intersessional work in relation to a tax or levy on the transfer of rights under a contract. The intersessional working group reported that it had reached agreement on many elements and that it expected to be able to provide a text proposal prior to the meeting in November. This was followed by a presentation by Australia on an additional royalty or levy that would constitute an equalization payment. Australia reported that there was broad consensus that a fairness mechanism was needed to establish a level playing field for land-based miners and deep-sea contractors.

4. Finally, Richard Roth of the Massachusetts Institute of Technology provided a presentation on some aspects of the intersessional work, including approaches to fairness, updates on base rates to meet fairness goals and the equalization mechanisms. In respect of the proposed equalization mechanism, Mr. Roth provided an overview of three proposals under consideration: an additional fixed royalty rate; an additional profit share; and a top-up profit share, which utilizes Global Anti-Base Erosion Rules (an Organisation for Economic Co-operation and Development global taxation system) to calculate relevant aspects of the contractors' corporate income tax payments. On the third option, some participants asked for further information on and examples of the use of similar multinational rules in the extractive industry or any other sector on a global scale. It was agreed that it was a task for the intersessional working group on the equalization mechanism to consult the relevant experts on Global Anti-Base Erosion Rules and report during the meeting in November.

5. The Open-ended Working Group commenced with the participants' questions and comments on the presentations made by Canada, Australia and the Massachusetts Institute of Technology. The intersessional work was greatly welcomed by all participants and general discussions were conducted. The Chair of the Open-ended Working Group reminded participants of the principles that should provide the basis for establishing rules, regulations and procedures for financial terms of contracts, as set out in section 8, paragraph 1, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea.

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<sup>1</sup> Available from [www.isa.org.jm/session-28-council-part-2](http://www.isa.org.jm/session-28-council-part-2).

6. Subsequently, the reading of the Chair's further revised text commenced from draft regulation 62 and followed the order of the text. The reading was conducted with a focus on conceptual discussions and substance, instead of a line-by-line, grammatical reading, which the Chair stated would be conducted once the different texts are consolidated. The Open-ended Working Group managed to read draft regulations 62 to 83 bis and draft regulations 23, 27 and 38. The Group achieved consensus on many of the draft regulations and has reached a level of comfort in respect of the wording. There were a few draft regulations that the Group did not manage to resolve. However, most comments added were accepted and adjustments will be made for the meeting in November, at which it is hoped that outstanding matters will be resolved. Some participants agreed to liaise intersessionally to provide written text proposals on various regulations.

7. The reading was followed by a discussion of the report on the value of ecosystem services and natural capital of the Area, in response to a call for proposals to undertake a study on the environmental costs of exploitation activities in the Area.

8. The intersessional working groups volunteered to continue their valued work and will attempt to provide consensus-based text to be included in the updated Chair's text for the meeting in November.

9. A third revised text will be provided for the session in November. A final round of written submissions will be included, and all proposals should be received before the deadline of 15 September 2023.

**B. Oral report delivered by the Facilitator of the Informal Working Group on the Protection and Preservation of the Marine Environment, Raijeli Taga (Fiji)**

10. The Informal Working Group on the Protection and Preservation of the Marine Environment held three meetings, on 12 and 13 July 2023. The Facilitator warmly welcomed all participants to the reading of the Facilitator's third revised text (ISBA/28/C/IWG/ENV/CRP.2/Rev.1).<sup>2</sup>

**Reporting on intersessional work**

11. The intersessional working group on the standardization of stakeholder consultation, led by the United Kingdom of Great Britain and Northern Ireland, updated the Informal Working Group on its work since the previous meeting. The delegation of the United Kingdom thanked all contributing States and asked for continued engagement on the matter, including to ensure alignment with other parts of the draft regulations. This was followed by an update by the intersessional working group on coastal State obligations, led by Mexico. The intersessional working group had held several discussions, but no proposals have been submitted yet. Subsequently, the intersessional working group on underwater cultural heritage, led by the Federated States of Micronesia, presented its work. The Federated States of Micronesia specifically referred to the ongoing discussions in the intersessional working group on the protection of tangible and intangible cultural heritage, in which support had been noted on tangible cultural heritage, but there were different views in the group as to whether to explicitly include it in the draft regulations.

12. Subsequently, the reading of the Facilitator's third revised text commenced, and the work of the other intersessional working groups was presented when relevant to the respective draft regulations.

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<sup>2</sup> Available from [www.isa.org.jm/session-28-council-part-2](http://www.isa.org.jm/session-28-council-part-2).

**Specific comments on the Facilitator's further revised text**

13. The work of the intersessional working group on streamlining and structuring of draft regulation 44 was presented by Spain. It was highlighted that the group's focus was on attempting to avoid repeating obligations throughout the regulation, but instead keeping them in one paragraph, as well as seeking alignment on environmental principles and international law. Most participants supported the continued work to simplify the text of the regulation. The Informal Working Group invited participants to meet face-to-face during the meeting for further discussion. Canada volunteered to coordinate the intersessional working group, together with Spain.

14. Germany presented the outcome of the work of the intersessional working group on streamlining draft regulation 45. The coordinator of the group underlined that there was general consensus in the group on the overall outlines and structure of the draft regulation, but consensus was not reached on all details. There was broad support for continuing the negotiations on the basis of the alternative draft regulation provided by the intersessional working group.

15. Several participants supported the clean-up of draft regulation 46, but also noted that some of the deleted parts should be partially reinserted. Furthermore, there was support among several participants to merge draft regulation 46 bis with draft regulation 46 ter and to move the consolidated regulation to section 4 on compliance with environmental management and monitoring plans and performance assessments, which should be renamed "Environmental monitoring".

16. Germany presented the intersessional work on scoping and steps in the environmental impact assessment process and the structuring of annex IV. It was highlighted that the environmental impact assessment procedures are spread over several regulations and have become more complex. There was general support for the overall structure, but some details needed to be amended. Several participants supported and appreciated the work and thanked the Facilitator for the implementation of the outline from the intersessional working group. Many participants stated that the provisions were much improved and could be used as a basis for further work.

17. Several participants supported the suggestion that draft regulation 47 bis should be moved to draft regulation 47, as draft regulation 47 bis concerned the purpose of the procedure and should include an overview of the structure of the process. The United Kingdom volunteered to continue the work on reordering the regulations in the new section 2. Several participants supported the work, using the text provided by the Facilitator as the basis for further negotiations. Regarding 47 ter, several participants suggested moving some details into the annexes or a standard.

18. On draft regulation 48 on environmental impact statements, several participants supported the suggestion that many elements could be moved to the standards. In this regard, most participants supported placing the whole of paragraph 4 in the relevant standard. On the proposed draft regulation 48 ter on test mining, the intersessional working group, led by Belgium and Germany, presented its work and noted that no consensus had been reached on the text. Several participants welcomed the amendments to the provision and exchanged further views on the main elements of the draft regulation, including the requirements for the appropriate timing of test mining. Most participants supported the suggestion that test mining should be fit-for-purpose and cost-effective, and that the draft regulation should be consistent with the draft regulations on environmental impact assessments and environmental mitigation and monitoring plans. Germany agreed to continue the work with the intersessional working group.

19. The meeting ended with an update from the intersessional working group on the closure plan.

#### **Way forward**

20. The Facilitator highlighted that the Informal Working Group had made progress in its work on the text and that all the hard work carried out by the intersessional working groups had proven extremely valuable.

21. In relation to intersessional work, the participants involved offered to continue the work to provide consensus-based text on relevant matters. The Facilitator encouraged the continuation of such work and urged the intersessional working groups to come together to try to resolve the various questions that had been raised during the meeting. Participants who are willing to join this intersessional work are encouraged to do so and to contact the secretariat, which will facilitate the contact.

22. It was agreed that greater focus should be placed on the standard and guidelines for the next meetings of the Informal Working Group. Furthermore, it was agreed that, before the next meeting, the Facilitator would attempt to identify, in a matrix or overview, what elements could be included in the existing standard and guidelines and what new standard and guidelines should be provided based on the development of the work in the group.

23. It was also agreed that the Facilitator would prepare a fourth revised text. The reading ended with draft regulation 48 and will be resumed from draft regulation 49 at the next meeting.

24. In line with the above, the Facilitator requested that all comments and suggestions for the entire text be submitted by participants by 15 September 2023, and that this would be the final round of written submissions.

#### **C. Oral report delivered by the Facilitator of the Informal Working Group on Inspection, Compliance and Enforcement, Maureen Tamuno (Nigeria)**

25. The Informal Working Group on Inspection, Compliance and Enforcement held its meetings in the afternoon of 13 July and in the morning of 14 July.

26. In the afternoon of 13 July, the Facilitator welcomed all participants and thanked them for the intersessional work and their textual proposals. The Facilitator then introduced the Facilitator's third revised text (ISBA/28/C/IWG/ICE/CRP.2).<sup>3</sup>

27. At the commencement of the meeting, the Facilitator reminded participants that the core task of the Informal Working Group was to decide on an appropriate mechanism for directing and supervising a staff of inspectors who will inspect activities in the Area, as envisaged by article 162 (2) (z) of the United Nations Convention on the Law of the Sea. In continuance thereof, Norway was invited to present the outcomes of discussions from intersessional meetings held by participants on such a mechanism. A hybrid model was presented, that would encompass a compliance committee established within the Legal and Technical Commission, with the committee being responsible for overall compliance and enforcement issues.

28. The work of the intersessional working group was warmly welcomed by participants, in particular the considerable efforts made to reach a compromise in relation to a hybrid model. Conceptual discussions were then conducted by the participants, on both the discussions on the mechanism and the content of draft regulation 96. Several participants supported the hybrid model and the newly proposed alternative draft regulation 96 and the newly proposed draft regulations 96 bis and 96 ter. Other participants maintained that it would be necessary to have a self-

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<sup>3</sup> Available from [www.isa.org.jm/session-28-council-part-2](http://www.isa.org.jm/session-28-council-part-2).

standing compliance committee or that the compliance committee should be placed under the Council.

29. It was agreed that the intersessional working group would continue its discussions and that a consolidated and clean version of draft regulation 96 would be provided ahead of the meeting in November.

30. Thereafter, the Informal Working Group conducted its reading of draft regulations 97 to 105 bis. The participants welcomed the revised text, and several stated that the text had improved substantially. The participants agreed on many draft regulations and provided valuable input in respect of areas in which further clarification and amendments would be required. Furthermore, it was agreed that continued work would be carried out in respect of streamlining and resolving cross-cutting issues, such as the handling of underwater cultural heritage.

31. The Informal Working Group managed to finish the reading of the third revised text, and the Facilitator will provide a fourth revised text ahead of the meeting in November. Participants were requested to provide their comments and textual proposals no later than 15 September 2023, and it was highlighted that this would be the final round of written proposals.

**D. Oral report delivered by the Co-Facilitators of the Informal Working Group on Institutional Matters, Salvador Vega Telias (Chile) and Gina Guillén-Grillo (Costa Rica)**

32. The Informal Working Group on Institutional Matters met in the afternoon of 17 July 2023, in the morning and afternoon of 18 July 2023 and in the morning of 19 July 2023. The Co-Facilitators welcomed all participants to the meeting and thanked them for their written proposals.

33. The Co-Facilitators then presented the agenda for the meeting, which included a first reading of draft regulations 6 to 16 (ISBA/28/C/IWG/IM/CRP.1).<sup>4</sup> Before beginning the reading, the Co-Facilitators gave a presentation on effective control and invited those States and observers that wished to do so to provide feedback on the presentation. Four participants made general contributions related to the presentation on effective control and welcomed it as being very useful. Several delegations noted that they would need more time to discuss this important topic and said that the webinar on effective control would be highly appreciated. The Co-Facilitators would share the slides on effective control before the webinar was held.

34. The Informal Working Group began the reading of the Co-Facilitators' text, projecting the text on the screen. It was explained to the participants that the Co-Facilitators' text was a compilation of the written proposals received and that there had not been an attempt to draft a consensus text as this was the first reading of these draft regulations, the proposals having been submitted in 2019.

35. In the afternoon of 17 July 2023, the Group conducted a reading of draft regulations 6 to 8 (3). Regarding draft regulation 6 on the certificate of sponsorship, several delegations requested that it be simplified and harmonized in line with the Exploration Regulations. It was also suggested that a request be included for more information on the identification of the contractor, such as the business number, in accordance with the international instruments in force.

36. In the morning of 18 July 2023, the Working Group resumed the reading of draft regulation 8. Regarding draft regulations 8 (3) and 8 (3 alt), the Working Group held discussions on the wording and on the version of paragraph 3 on which negotiations should be based. Numerous participants welcomed the new proposal for draft

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<sup>4</sup> Available at [www.isa.org/jm/session-28-council-part-2](http://www.isa.org/jm/session-28-council-part-2).

regulation 8 (5), based on the recent negotiations on marine biological diversity of areas beyond national jurisdiction, which was considered a broader topic. Several proposals were submitted, and the United Kingdom of Great Britain and Northern Ireland offered to collaborate in improving the current wording, for which the Co-Facilitators expressed their appreciation and gratitude. Regarding regulation 9 (1) (a) on receipt, acknowledgement and safe custody of applications, the deadline for acknowledgement was discussed. There was also a provisional discussion of how to deal with issues of confidentiality, which will be considered again at the November meeting, when draft regulation 89 will be examined. Regarding draft regulation 9 (2), it was discussed whether this paragraph should be deleted or replaced, for example, by section 3. With respect to draft regulation 10 (1) on the preliminary review of application by the Secretary-General, several participants proposed clarifying that it was merely a review of the form and not a review of the substance.

37. In the afternoon of 18 July 2023, the reading of draft regulation 11 on the publication and review of environmental plans was conducted. Many participants showed flexibility regarding the insertion of draft regulation 11 (1) (c alt) with some amendments. Regarding draft regulation 11 (2 ter), there was discussion of the appropriate deadline for the applicant to make revisions. The reading of draft regulation 12 on the consideration of applications by the Commission was commenced.

38. In paragraph 2 of that draft regulation, one participant suggested introducing a deadline and a provision to suspend calculation of the deadline. Some participants welcomed future proposals in this regard, while others expressed concern about the imposition of deadlines. One participant suggested consulting the Legal and Technical Commission before setting any deadlines.

39. The session in the morning of 19 July 2023 began with the reading of paragraph 3 of draft regulation 12. Many different opinions were expressed on the paragraph and a discussion was held on the working methods. Some delegations asked for inclusion of the names of the delegations that had made contributions but others disagreed. The Co-Facilitators stated that the names would not be included in the compilation but that in the room they would be included on the screen so that delegations could verify that their comments had been reflected correctly. There was a suggestion to delete the texts that had not been defended in the room. The Co-Facilitators explained that because this was the first reading and given that comments could be submitted until mid-September, the Co-Facilitators' proposed text would include whatever was pertinent but no deletions would be initiated without waiting for feedback from delegations. The new draft regulation 12 bis, on the general obligations of contractors, was then presented and it was suggested that this regulation should replace draft regulation 7 (2). One delegation suggested deleting draft regulation 12 bis. With regard to draft regulation 13 on the assessment of applicants, the new wording and amendments to paragraph 1 were discussed and Germany offered to participate in the intersessional work in this regard, for which the Co-Facilitators expressed their gratitude. The meeting ended with the reading of draft regulation 13 (1).

40. The Co-Facilitators reported that it had not been possible to hold the webinar on effective control prior to the meeting but informed the Group that a webinar would be held on 1 September 2023. The proposed agenda for the webinar on effective control, as presented at the November 2022 meeting, would remain as follows: (1) legal aspects of the determination of effective control, (2) practical implications of effective control and (3) implications for the regulatory framework. The Co-Facilitators would contact delegations that had already shown interest in proposing presenters. If any other delegation had proposals regarding experts who might participate, they were welcome to contact the Co-Facilitators or the secretariat.

41. The Co-Facilitators assessed the progress made in the Informal Working Group and welcomed written suggestions from the participants. The deadline for the submission of written proposals was set as 15 September 2023. The Co-Facilitators would prepare a revised text that would include all the draft regulations assigned to the Informal Working Group, to serve as the basis for work during the third part of the twenty-eighth session.

## II. Report on the review of the President's text

42. In the afternoon of 19 July 2023, the Council met in an informal setting to advance and negotiate the President's revised text (ISBA/28/C/WOW/CRP.1/Rev.1).<sup>5</sup> The President introduced the revised text and the suggested working modalities.

43. First, the preamble was discussed, and the suggested amendments and streamlining were welcomed. Discussions were carried out in respect of the two alternatives and there seemed to be equivalent support for both. Several delegations expressed flexibility with regard to the preferred option. Several delegations also supported refraining from referencing the Sustainable Development Goals and their targets under the 2030 Agenda for Sustainable Development, as those Goals would be completed by 2030. However, several delegations and observers would like to include some reference to the Goals, and Belgium volunteered to provide textual proposals to that effect.

44. Subsequently, a second reading of the revised text was carried out, commencing with draft regulation 17. On draft regulation 18, conceptual discussions were carried out in respect of the reference to the Enterprise, as it was necessary to resolve whether reference should be made to "the Contractor and the Enterprise" throughout the regulations or whether it should be handled and resolved in the definition of "Contractor" in the schedule. In respect of draft regulation 18 bis, conceptual discussions were carried out in respect of whether it should be retained or deleted. Most delegations and observers favoured retention with some changes. It was suggested by several delegations and observers that paragraph 4 be moved to a relevant section on the sponsoring State.

45. In the morning of 20 July, the reading resumed with draft regulation 26 on the environmental performance guarantee. Discussions were held on whether the guarantee should be changed to a decommission bond. One regional group and a delegation supported this renaming, while several other delegations and observers were against such changes. On section 5 (draft regulations 32–35), there were several suggestions by delegations and observers to update the section once the appropriate inspection mechanism has been decided. In respect of the insurance requirements in draft regulation 36, there was broad consensus on regulating the types, terms and amounts of the insurance in the standards and/or guidelines. Several delegations and observers stressed that it should be regulated only in standards, considering the importance of having proper insurance in place. The reading ended with draft regulation 95 on the issuance of guidelines.

46. The President informed the delegations and observers that any textual proposals should be submitted by 15 September 2023, and underlined that this would be the final round of written proposals. A further revised text will be provided before the meeting in November, and the reading will resume from annex I on the application for approval of a plan of work to obtain an exploitation contract.

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<sup>5</sup> Available from [www.isa.org.jm/session-28-council-part-2](http://www.isa.org.jm/session-28-council-part-2).





# Council

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## Twenty-eighth session

Council session, part III

Kingston, 30 October–8 November 2023

### **Statement by the President on the work of the Council of the International Seabed Authority during the third part of the twenty-eighth session**

#### **Addendum**

#### **I. Resumption of the session**

1. The third part of the twenty-eighth session of the Council of the International Seabed Authority was held from 30 October to 8 November 2023 in Kingston. The Council held four plenary meetings (309th to 312th meetings) and 14 informal meetings.

#### **II. Report of the Secretary-General on the credentials of members of the Council**

2. At the 312th meeting of the Council, on 8 November, the Secretary-General gave a report on the credentials of representatives to the third part of the Council. He informed that at that date, formal credentials had been received from 29 Council members and information concerning the appointment of representatives had been communicated by means of facsimile or initialled notes verbale from 2 Council members.

#### **III. Election to fill a vacancy on the Legal and Technical Commission in accordance with article 163, paragraph 7, of the United Nations Convention on the Law of the Sea**

3. At the 309th meeting, on 30 October, the Council elected Juan Pablo Paniego (Argentina) to fill a vacancy on the Legal and Technical Commission caused by the resignation of Federico Gabriel Hirsch (Argentina), for the remainder of his term until 31 December 2027.<sup>1</sup>

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<sup>1</sup> See [ISBA/28/C/26](#).



#### **IV. Draft regulations on the exploitation of mineral resources in the Area**

4. The Council continued its work on the draft regulations on exploitation of mineral resources in the Area through informal meetings with the full participation of other members of the Authority and observers, in line with the road map approved by the Council in December 2022.

5. The Informal Working Group on Inspection, Compliance and Enforcement held meetings on 31 October. The informal working group on the protection and preservation of the marine environment held meetings on 1 and 2 November. The Open-ended Working Group in Respect of the Development and Negotiation of the Financial Terms of a Contract held meetings on 3 and 6 November. The Informal Working Group on Institutional Matters held meetings on 7 November 2023. Discussions on the President's text were undertaken for half a day on 8 November.

6. At the 311th meeting, on 8 November, the Council took note of all oral reports by the Chair of the Open-ended Working Group, Facilitators and Co-Facilitators of the informal working groups, as well as the summary of the consideration of the President's text (see annex I).

7. During the same meeting, the Council discussed a road map presented by the President for the organization of the Council's work on the draft regulations during the first and second parts of the twenty-ninth session in 2024 (see annex II).

#### **V. Operationalization of the Economic Planning Commission**

8. At the 312th meeting, the Council discussed the report of the Secretary-General on the operationalization of the Economic Planning Commission.<sup>2</sup> Delegations reiterated the importance of prioritising the operationalization of the Commission in view of the advanced stage of the negotiations on the exploitation regulations. Delegations equally stressed the importance of the role of the Commission in assisting developing countries that may suffer serious adverse effects on their export earnings or economies when exploitation commences, as well as the importance of ensuring the establishment of the Economic Assistance Fund for provision of assistance to such countries in accordance with the Convention and the 1994 Agreement.<sup>3</sup> Others stressed that the composition of the Commission when operationalized, should take into consideration equitable geographical distribution and gender balance.

9. It is understood that this matter will remain on the agenda of the Council for further consideration during the next session.

#### **VI. Report of the Chair of the Legal and Technical Commission**

10. At the 312th meeting, the Council adopted a decision on the reports of the Chair of the Legal and Technical Commission.<sup>4</sup>

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<sup>2</sup> [ISBA/27/C/25](#).

<sup>3</sup> See United Nations Convention on the Law of the Sea, article 151, para. 10, and section 7 of the annex to the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.

<sup>4</sup> [ISBA/28/C/27](#).

## **VII. Dates of the next session**

11. The third part of the twenty-eighth session of the Council closed on 8 November. The first part of the twenty-ninth Session of the Council will be held from 18 to 29 March 2024. It will be the turn of the Western European and Other States Group to nominate a candidate for the presidency of the Council in 2024.

## Annex I

### **Reports on progress made by the working groups and on the President's text**

#### **I. Oral reports**

##### **A. Oral report delivered by the Facilitator of the Informal Working Group on Inspection, Compliance and Enforcement, Maureen Tamuno (Nigeria)**

1. The Informal Working Group on Inspection, Compliance, and Enforcement held its sixth meeting on 31 October. The Facilitator welcomed all participants and thanked them for the intersessional work and their textual proposals. The Facilitator then introduced her fourth revised text (ISBA/28/C/IWG/ICE/CRP.3).

2. At the outset, the Facilitator reminded participants that an outstanding item in the Informal Working Group was to identify the most appropriate mechanism for directing and supervising a staff of inspectors to inspect activities in the Area as envisaged by Article 162 (2) (z) of the Convention. The Facilitator pointed out three focus points for the meeting, namely: (a) clarify the placement and composition of a compliance committee, (b) identify the functions of the relevant organs of the Authority with respect to inspection, compliance and enforcement, and (c) identify the specific details of the mechanism for it to work independently and transparently.

3. The intersessional working group on formulation of an appropriate inspection mechanism, coordinated by Norway was invited to present the outcome of discussions from its intersessional meeting. Norway, as the coordinator of the group, reported that the group had continued the discussions of the optimal inspection mechanism, but needed more time to reach a conclusion. The intersessional working group welcomed the suggested hybrid model and associated diagram as a solid basis for further deliberations.

4. General discussions were carried out in the Informal Working Group on the mechanism, with a particular focus on the relationship of a compliance committee with the existing organs of the Authority and the separation of powers. Several participants welcomed the introduction of a compliance committee. One regional group and several participants suggested that the compliance committee should be placed under the Council instead of within the Legal and Technical Commission. The delegation of Germany introduced a "mixed model", according to which the compliance committee would be placed under the Council and be composed of a number of Council members and five members of the Commission. Several participants welcomed the mixed model and suggested it continue to be explored. Regarding other general comments, several participants suggested that the compliance committee must be established before any exploitation activities can commence.

5. Thereafter, the Informal Working Group conducted a reading of section 1 of the fourth revised text, including the clean and streamlined version of draft regulation 96. Participants welcomed the streamlined text and appreciated that it was much easier to work with. Several participants suggested replacing the reference to "the Commission" in draft regulation 96 with "the Council" regarding what organ should establish the compliance committee. In draft regulation 96 ter, paragraph 2, discussions were carried out on inspections without prior notifications and divergent views were expressed. The extent and possible limits of powers conferred upon inspectors were also discussed. Concerning draft regulation 99 on inspectors' power to issue instructions, several participants addressed whether the reference to underwater cultural heritage should be include, and divergent views were expressed.

6. In draft regulation 101 bis, whistle-blowing procedures, a few participants requested the retention of this regulation; others suggested that such procedures do not belong in the mining code, or at least not in this part, and instead should be a whistle-blowing policy adopted by the Assembly.

7. The group continued the reading of sections 2, 3, and 4, which were welcomed by most participants with some suggested amendments, including clarifying the process in case of a breach of contract. The meeting was concluded with a further report from Norway on intersessional work, following which Norway offered to continue the coordination of the Intersessional Working Group. The group completed the reading of the fourth revised text, and the Facilitator thanked the group for their hard work.

**B. Oral report delivered by the Facilitator of the Informal Working Group on the Protection and Preservation of the Marine Environment, Raijeli Taga (Fiji)**

8. The Informal Working Group on the Protection and Preservation of the Marine Environment held its sixth meeting on 1 and 2 November. The Facilitator of the Informal Working Group on the Protection and Preservation of the Marine Environment warmly welcomed all participants to the meeting and introduced the Facilitator's fourth revised text (ISBA/28/C/IWG/ENV/CRP.3). Furthermore, the Facilitator introduced a matrix and an explanatory note (ISBA/28/C/IWG/ENV/CRP.4 and ISBA/28/C/IWG/ENV/CRP.5), prepared as a working tool for the continued work on the placement of environmental regulation in the exploitation regulations and associated standard and guidelines.

9. Several participants welcomed the Facilitator's suggested matrix, as a useful tool in enhancing the text and for future use in revising the standard and guidelines.

**Reports on intersessional work**

10. The intersessional working group on the standardization of stakeholders consultation, coordinated by the United Kingdom of Great Britain and Northern Ireland, updated the group on its work since the meeting held in July 2023 and presented proposed revised wording for draft regulation 93 bis, that reflects discussions in the intersessional working group and elements from the Agreement on Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ Agreement). Many participants supported the work and welcomed the suggested text. The reporting was followed by an introduction of draft regulation 93 ter, a proposal from Portugal, on coastal State consultation, which was welcomed by many participants, and discussions were carried out in respect of its compatibility with article 142 of the Convention. This was followed by an update from the intersessional working group on streamlining and structuring of draft regulation 44.

11. The intersessional working group on underwater cultural heritage, led by the Federated States of Micronesia, presented its work. It was noted that the work of the group straddled across other parts of the draft exploitation regulations. The Federated States of Micronesia specifically referred to the ongoing discussions on the protection of tangible and intangible cultural heritage and the suggested updates to draft regulation 45, including the proposed implementation of reference to relevant work of the United Nations Educational, Scientific and Cultural Organization (UNESCO). Many participants welcomed the proposal, some asked for further development and others disagreed with the reference to UNESCO Conventions. It was agreed that the group would continue its work, in particular, with respect to intangible cultural heritage.

**Specific comments on the Facilitator's further revised text**

12. The group resumed its reading of the fourth revised text from draft regulation 49 on pollution control. Most participants welcomed the newly proposed streamlined version of draft regulation 49 alt and preferred to continue the negotiations based on that, with some amendments in respect of better alignment with the wording of article 145 of the Convention and reference to "harmful effects". One participant requested clarification in relation to what the reference "other hazards" meant.

13. Belgium presented a proposal on draft regulation 2 concerning suggested reference to the Kunming-Montreal Global Biodiversity Framework. After that, the reading of the text continued with section 4 on compliance with environmental management and monitoring plans and performance assessments. On draft regulation 51, several participants suggested streamlining the regulation further and deciding on the placement of the requirement of monitoring as same is referenced in several other regulations, especially in relation to draft regulation 46 bis and 46 ter. Several participants welcomed the replacement of draft regulation 52 with draft regulation 50 bis and thereby also section 3 on pollution control and management of waste.

14. The negotiations continued with the discussions on section 5, on the environmental compensation fund. In respect of draft regulation 52, there was consensus for rules and procedures being in place before the approval of a first plan of work for an exploitation contract. On draft regulation 55, participants agreed that the polluter pays principle should apply and that the fund should be residual, for use where Contractors are unable to meet their liability in full. Several participants suggested continuing the negotiations based on the newly drafted draft regulation 55 alt.

15. In the afternoon, the newly proposed wording on part VI on closure plans was discussed. The wording had been prepared by the intersessional working group on closure plans, coordinated by Fiji. The work was appreciated by participants, and general proposals were discussed for further refinement. With respect to draft regulation 61, discussions focused on the contractors' reporting period with some participants proposing that this should be explicitly stated as a minimum requirement while others proposed that reporting should be more frequent than yearly and, where possible, should be in real-time.

16. The morning meeting on 2 November commenced with the reading of Annex IV on the environmental impact statement. Many participants supported the Facilitator's suggestion to move elements from annex IV to standard and guidelines. The United Kingdom together with the Kingdom of the Netherlands and others offered to provide a joint proposal on annex IV and what should be moved to standard and guidelines.

17. General discussions were also carried out with respect to the interplay between the exploitation regulations and the associated standard and guidelines, including the nature of each placement. Several participants supported that more discussions should be carried out in this respect. The United Kingdom offered their considerations, in light of annex IV, suggesting that (a) formatting templates should be included in the standard and guidelines; (b) high-level requirements of what to include in each report/plan should be placed in annexes; (c) detailed requirements for how to meet such high-level requirements in the regulations and annexes should be placed in standards; and (d) detailed guidance on what is recommended to meet regulations, annexes and standards should be placed in guidelines. On annex VIII (closure plan), some participants agreed that the content is high-level and as such should remain in the annex. On annex X ter, discussions took place on the placement and need for multiple preservation reference zones. Participants read the annexes and the schedule thereby completing the reading of the Facilitator's text.

18. Discussions continued with the reading of draft regulations 44–48, which had been revised following negotiations in July 2023. On draft regulation 44, several participants welcomed the alternative version prepared by the intersessional working group. A few participants expressed doubts related to the use of flag State. Some participants stated that the reference to “traditional and Indigenous knowledge” from draft regulation 44 should also be inserted in the alternative draft, and negotiations should continue on that basis. With respect to regional environmental management plans governed by draft regulation 44 bis, most participants preferred the wording in the previous version, which stated that the commission shall only consider an application for a Plan of Work if a regional environmental management plan has been adopted. Furthermore, some participants also supported the newly added paragraph 2. On draft regulation 45, with respect to newly added text in paragraph 3, participants reiterated the phased approach to the development of standards and guidelines, as previously discussed by the Council. On draft regulation 46, there was a suggestion to merge draft regulation 46 bis and draft regulation 46 ter.

19. Finally, during the afternoon meeting, the environmental impact assessment process was discussed in depth, and many participants welcomed the joint proposals received from the United Kingdom and others with proposed amendments. The meeting ended with the reading of draft regulation 47. Most participants preferred 47 alt, and some queried the reference to independent experts.

### Way forward

20. Considering the council decision on a timeline (ISBA/28/C/24), the Facilitator encouraged intersessional work to continue on the following focus areas:

<i>Draft regulation</i>	<i>Focus area</i>	<i>Coordinator(s)</i>
	Coastal State obligations	Mexico
	Underwater cultural heritage	Federated States of Micronesia
44	Streamlining and structuring of draft regulation 44 concerning the general obligations	Spain/Canada
48 bis	Test mining	Germany
59–61	Closure plan	Fiji

21. In terms of prioritized areas that would still need focus, the Facilitator proposed the following, inter alia:

- Environmental compensation fund
- Environmental impact assessment/Environmental impact statement
- Closure plans
- Stakeholder consultation
- Impact on coastlines and tangible/intangible cultural heritage
- Regional environmental management plans
- Definition of serious harm

22. It was agreed to continue to focus on the development of environmental standard and guidelines. The Facilitator encouraged participants to submit proposals for the

matrix in relation to possible placements and updates of the standard and guidelines and agreed to provide a revised matrix based on proposals received during this meeting and written proposals received before 10 December.

**C. Oral report delivered by the Chair of the Open-ended Working Group in Respect of the Development and Negotiation of the Financial Terms of a Contract, Olav Myklebust (Norway)**

23. The Open-ended Working Group in Respect of the Development and Negotiation of the Financial Terms of a Contract held its ninth meeting on 3 and 6 November 2023.

24. On the morning of 3 November, the Chair thanked all participants for their contributions through intersessional work and written proposals and in particular Australia and Canada for convening meetings on conceptual issues. The Chair introduced the work of the Open-ended Working Group, including the briefing note of 9 October 2023 (ISBA/28/C/OEWG/CRP.5) and third revised text of the same date (ISBA/28/C/OEWG/CRP.6).

25. The meeting continued with presentations on the intersessional work. The first presentation, by Canada, was on the outcome of the intersessional work in relation to profit share payment on the transfer of rights under a contract. This was followed by a presentation by Australia on intersessional work being carried out on identifying a mechanism to develop equalization measures. Australia reported that there was broad consensus that a fairness mechanism is needed and introduced a newly proposed hybrid model that takes into consideration the three previous proposals under consideration. Richard Roth, of the Massachusetts Institute of Technology, gave a presentation on some aspects of the intersessional work on the equalization mechanisms. In respect of the proposed equalization mechanism, Mr. Roth provided a brief review of the concept of “fairness” as a guiding principle for choosing the right system, and this was followed by explanations on equalization, with a focus on the concept and approaches. The Open-ended Working Group continued with participants’ questions and comments on the presentations made by Canada, Australia and the Massachusetts Institute of Technology.

26. The intersessional work was greatly welcomed by all participants and general discussions were carried out. The group discussed the possible incorporation of an economic valuation of ecosystem services, including the supplementary report issued on “Guidance on the economic valuation of ecosystem services and natural capital of the Area”. Some participants asked for the authors of the environmental cost studies to be invited to give a presentation on the reports and answer questions during the March 2024 meeting. Others suggested that it would be better to decide upon it when the working modalities for the twenty-ninth session are clear. Furthermore, Germany offered to provide reporting and relevant proposals for the meeting in March 2024.

27. The reading of the Chair’s third revised text commenced with the base royalty in appendix IV, and the related draft standard and guidelines. A few comments were provided in respect of appendix IV, including the role of the Economic Planning Commission in setting the royalty rate, and in general throughout the financial regulations. It was also suggested that various references should be harmonized in the text, including references to standard and guidelines.

28. On the draft standard, certain more technical provisions were discussed, including the two periods of commercial production, and the references to Mining Area versus Contract Area. In respect of the draft guidelines, it was discussed whether the worked examples should be retained herein. Some participants found them useful and suggested retaining them, at least until actual calculations can be disclosed, or that they be included online instead of in the guidelines.



29. The group discussed the newly proposed regulations on the determination of the applicable equalization measure in draft regulations 64 bis to 64 qui. It was proposed that the current wording was too detailed, and that several elements could be moved to the standards, and others simplified and streamlined. The remaining part of the afternoon of 3 November was spent on textual negotiations of draft regulations 62 and 63. Progress was made on streamlining the draft provisions, including through elimination of alternative textual proposals and removal of square brackets.

30. The morning of 6 November, the discussions were resumed on draft regulation 63 on incentives, and a refined version of the Chair's proposed text was projected to the screen. Several proposals were provided, and it was agreed that moving forward, the group would work based on the Chair's proposal. The remaining part of the morning session was spent on textual negotiations of draft regulations 70, 71 and 73. In the afternoon, participants continued the reading of the Chair's text and ended with draft regulation 81. In respect of draft regulation 81, on review of system of payments, Canada volunteered to conduct intersessional work and provide a proposal for the March 2024 meeting.

31. The intersessional work on the equalization measure facilitated by Australia and others offered to continue its work and report back at the March 2024 meeting.

**D. Oral report delivered by the Co-Facilitators of the Informal Working Group on Institutional Matters, Salvador Vega Telias (Chile) and Gina Guillén-Grillo (Costa Rica)**

[Original: Spanish]

32. After once more expressing our gratitude for the trust placed in us, as Co-Facilitators of this Informal Working Group on Institutional Matters, we have the honour to report to the Council on the work done by the Working Group during the third part of the twenty-eighth session.

33. In accordance with the agenda for the twenty-eighth session of the Council of the International Seabed Authority, the Informal Working Group on Institutional Matters met throughout the day on 7 November 2023. The Co-Facilitators welcomed all participants to the meeting and warmly thanked them for their contributions.

34. The Co-Facilitators' text (ISBA/28/C/IWG/IM/CRP.2) was introduced and the reading of draft regulation 90, on procedures to ensure confidentiality, began. In that regard, participants discussed the addition of "good cause" in relation to the procedures for ensuring confidentiality and the possible cases in which there might be a legal obligation or just cause for the transfer of such information. Some delegations requested the deletion of this insertion. Other delegations suggested alternative wording that would continue to reflect intentions and address possible scenarios where the transfer of information was necessary, as well as the deadline for the Authority to notify the Contractor or sponsoring State about a possible leak of information.

35. Negotiations continued on regulation 91, on information to be submitted upon expiration of an exploitation contract. Various textual proposals were put forward in relation to the deadline for providing data and information, and the need to take into account a situation in which a request for extension or early termination of the contract was pending. The newly proposed regulation 91, paragraph 1 bis, regarding the possibility for Contractors to seek advice from the Commission with regard to the required information, was discussed. Several delegations suggested the deletion of this paragraph, as the relevant information was contained in paragraph 1, in the reference to the Standards and Guidelines. When the Facilitators asked delegations whether any of them had a strong preference for retaining regulation 91, paragraph 1 bis, no one

requested it, so it was agreed that it should be deleted preliminarily. Most delegations suggested the deletion of paragraph 2, as its content was covered by paragraph 1.

36. Negotiations on draft regulation 92, on the Seabed Mining Register, continued, with a focus on the type of documentation that such a register should contain. In addition, joint proposals were presented for regulation 92 and the addition of 92 bis on the publication of environmental data and information in relation to the Contract Area.

37. Discussions then continued on draft regulation 106, on the settlement of disputes. General discussions were conducted on the addition of regulations to provide a mechanism for the settlement of administrative disputes. Several delegations indicated that they did not support the establishment of mechanisms in addition to those already provided for by the United Nations Convention on the Law of the Sea. Some delegations suggested that regulation 106 be deleted, since the dispute settlement process was already largely covered by the Convention, or that reference be made only to such processes under the Convention. Other delegations indicated their willingness to explore other options for more agile mechanisms.

38. Regulation 107, which refers to the review of the regulations on exploitation of mineral resources in the Area after their approval, was then discussed. The African Group offered to conduct intersessional work on paragraph 1 and suggested that the paragraph be divided into two sections, one focused on mandatory review and the other on subsequent review. General discussions were also conducted on the degree of stakeholder participation in the regulatory review process. The deletion of the regulation was proposed, as the review process was already covered by the Convention. Several delegations supported this proposal. Other delegations asked that the regulation be retained to ensure clarity with regard to the review mechanism and stakeholder participation.

39. The Co-Facilitators proposed that appendices II and III be discussed at the next meeting. The Co-Facilitators also suggested the postponement of the discussions on the definition of effective control, as they considered it advisable that another intersessional workshop be held on the topic.

40. The draft text was then read again, starting with regulation 1, with regard to which the use of the terms set out in the appendix relating to the rules, regulations and procedures of the Authority and their relationship with the Standards and Guidelines was discussed.

41. Lastly, the Co-Facilitators evaluated the progress made by the Informal Working Group and thanked the participants for their constructive participation in the first reading of regulations 90–92 bis, 106–107 and 1.

42. The Co-Facilitators wish to thank the delegations for their active and constructive participation, and are grateful for the unwavering and invaluable support of the Legal Department, starting with its director, Mariana Durney, and including its outstanding team members: Lea Kolmos, Talatu Akindolire and Alyssa Allen. We are particularly grateful to the Conference Services team, which works so hard before, during and after each session, and to the interpreters.

#### **E. Report on the review of the President's text**

43. In the morning of 8 November 2023, the Council met in an informal setting to negotiate the President's further revised text (ISBA/28/C/WOW/CRP.2).

44. The reading resumed from annex I on the application for approval of a plan of work. In general, delegations suggested to streamline the annex. Discussions were carried out on section III, draft regulations 20 bis and 20 ter. In respect of draft regulation 20 ter, delegations questioned whether the new insertion was necessary, or

whether the appropriate regulations from the exploration regulations could be inserted.

45. On annex II on the mining workplan, delegations discussed whether the reference to test mining should be retained in subparagraph d, though some delegations supported, it was understood that it would remain in square brackets since the concept of test mining remained undecided. Few textual proposals were provided on annex III on the financing plan and annex V on Emergency Response and Contingency Plan. In respect of annex V on Emergency Response and Contingency Plan, one delegation suggested to reorganize subparagraphs i to xix of paragraph c. Discussions were then carried out in respect of the level of detail and some delegations pointed to items that could be better placed in the standard and guidelines.

46. On annex VI, health and safety plan and maritime security plan. One delegation questioned the relevance of annex VI due to existence of flag State responsibilities, others maintained that flag State responsibilities do not cover mining operations. Canada offered to carry out intersessional work on annex VI.

47. Negotiations of the text ended with the reading of annex IX on exploitation contracts, schedule and annex X regarding standard clauses for exploitation contracts.

## Annex II

### **Organization of work for discussions of the Council on the draft regulations on exploitation of mineral resources in the Area during the first and second parts of the twenty-ninth session of the Council**

#### **I. Introduction and background**

1. The present annex, prepared by the President of the Council, reflects the common understanding of the Council on the proposed organization of work and modalities for discussions on the draft regulations on exploitation of mineral resources in the Area during the first and second part of the twenty-ninth session of the Council. These working modalities take into account Council decision [ISBA/28/C/24](#).

#### **II. Consolidated text**

2. As indicated in the annex to decision [ISBA/28/C/24](#), it was agreed that a consolidated text of the draft regulations would be prepared as an outcome of the twenty-eighth session. In respect of the format of the consolidated text, this will be one single document that reflects all the work carried out so far by the informal working groups and in the president's text.

3. The consolidated text for the March meeting will be prepared under the leadership of the President of the twenty-eighth session with the technical assistance of the Secretariat. The consolidated text will be prepared using the same working modalities used for the facilitators' texts. In this regard, the facilitators of the informal working groups and the chair of the Open-ended Working Group have provided their reports to the Council on the progress made within each group. The outcome of work provided during the November meeting will feed into the consolidated text. It is reminded that this consolidated text will be subject to further negotiation and discussion. Its main objective will be to better harmonize and clean the text based on what has been agreed and discussed by delegations so far. The principle that "nothing is agreed until everything is agreed" still applies.

4. To be able to prepare the consolidated text, delegations are invited to submit proposals if deemed necessary, and preferably as joint proposals. This is without prejudice to continuing negotiations on the text. Proposals must be submitted by 10 December 2023. The consolidated text will be made available well in advance of the first part of the twenty-ninth session.

#### **III. The working modalities to progress discussions of the Council**

5. Delegations exchanged views on the modalities of work for continuing the discussions and negotiations on the basis of the consolidated text, in conformity with the road map annexed to decision [ISBA/28/C/24](#).

6. Intersessional work will continue in the same manner as before, and to the extent possible, the input from delegations will be added to the consolidated text, if it is delivered before 10 December 2023. If the work is delivered after 10 December 2023, the intersessional working groups would be invited to deliver an outcome report during the first part of the twenty-ninth Session, and the outcomes would be taken into consideration. The group's work would be based on the respective texts as they

have been presented during the November meeting. Furthermore, it was agreed that informal intersessional work should also continue, and that delegations work on submitting joint proposals on identified thematic topics.

7. On the working methods for the next session, it is understood that negotiations will continue in the Council on the basis of a consolidated text. It was further understood that the President may receive assistance from rapporteurs on thematic issues, where such a rapporteur had a special knowledge within the area. It is envisaged that the meetings will proceed under the leadership of the President, or person(s) appointed by them with the option to use informal informals where necessary to address thematic as well as cross-cutting issues.

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# Council

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## Twenty-eighth session

Council session, part II  
Kingston, 10–21 July 2023  
Agenda item 11

**Report of the Secretary-General on the implementation of the decision of the Council in 2022 relating to the reports of the Chair of the Legal and Technical Commission**

## **Implementation of the decision of the Council in 2022 relating to the reports of the Chair of the Legal and Technical Commission**

### **Report of the Secretary-General**

#### **I. Background**

1. At its 296th meeting, on 11 November 2022, the Council of the International Seabed Authority adopted a decision relating to the reports of the Chair of the Legal and Technical Commission ([ISBA/27/C/44](#)). In paragraph 26 of the decision, the Council requested the Secretary-General to report to it on the implementation of the decision at its twenty-eighth session, and that such annual reporting remain on the agenda of the Council as a standing item. Part II of the present report provides information on the steps taken by the Secretary-General to respond to the specific requests made by the Council in the decision. Part III covers the work undertaken by the Commission to respond to various requests made by the Council, and part IV provides an update on the status of the voluntary trust fund to support the participation of members of the Council from developing States in the meetings of the Council.

#### **II. Actions to be taken by the Secretary-General**

2. In paragraph 6 of its decision, the Council 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, and requested the Secretary-General to continue the practice of communicating the various issues identified during the Commission's review of contractors' annual reports to the relevant contractors and sponsoring States, to follow up in writing with those contractors that repeatedly perform inadequately 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.

3. By the end of August 2022, the Secretary-General had communicated to individual contractors the comments and recommendations of the Commission following the Commission's evaluation of the annual reports. Where relevant, contractors have provided responses to these comments in their annual reports of 2023, which will be reviewed by the Commission. During the annual consultation between the secretariat and contractors held in Delft, Kingdom of the Netherlands, from 5 to 7 December 2022, contractors were briefed on the annual and periodic reporting process, and possible ways to further streamline and improve the responses to feedback from the Commission were discussed. This topic will be further developed with the Commission in July 2023.

4. In paragraph 8 of its decision, the Council requested the Secretary-General to continue to report to it on an annual basis, identifying instances of alleged non-compliance and regulatory action in accordance with the United Nations Convention on the Law of the Sea, the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 and the regulations on prospecting and exploration, including any monetary penalties to be imposed by the Council.

5. As at 31 May 2023, the Secretary-General had not identified any instances of alleged non-compliance by contractors in relation to their operations at sea or in the conduct of their plans of work for exploration.

6. It is noted, however, that two periodic review reports were submitted very late. According to the regulations and standard clauses,<sup>1</sup> the contractor and the Secretary-General shall, not later than 90 days prior to the expiration of each five-year period of the contract, jointly undertake a periodic review of the implementation of a plan of work for exploration at intervals of five years. The Secretary-General may request the contractor to submit such additional data and information as may be necessary for the purposes of the review. In the light of the review, the contractor is required to make such adjustments to its plan of work as are necessary and to indicate its programme of activities for the following five-year period, including a revised schedule of expected yearly expenditure. While this provides for the beginning of the undertaking of the joint review and not for its completion, it remains the case that, the longer the submission of the periodic review takes, the more time is needed to complete the review process with the necessary adjustments with the next five-year programme of activities.

7. As indicated in the report on the status of contracts and periodic reviews (ISBA/28/C/3), which the Secretary-General presented, with updates, to the Council at its meeting in March 2023, two contractors submitted their five-year periodic reports with excessive delays – one of 9 months and the other of 15 months – despite repeated requests.

8. While in both cases the contractors concerned cited extenuating circumstances for the delay, including challenges in developing the proposed programme of

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<sup>1</sup> See regulation 28 of the regulations on prospecting and exploration for polymetallic nodules in the Area (ISBA/19/C/17, annex), regulation 30 of the regulations on prospecting and exploration for polymetallic sulphides in the Area (ISBA/16/A/12/Rev.1, annex), regulation 30 of the regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area (ISBA/18/A/11, annex) and standard clause 4.4 of the contracts for exploration.

activities for the next five-year period, such excessive delay is also problematic from the perspective of effective administration of the contract. In addition, the late submission of annual reports and periodic reports is a technical breach of the regulatory provisions and of the standard clauses of the contract, which prescribe specific timelines. This matter is brought to the attention of the Council, which is invited to provide guidance to the Secretary-General, including on whether the review process should be further refined, such as by issuing recommendations for the guidance of contractors by the Commission and by imposing a penalty. This would also be to avoid such precedents constituting a trend in the future.

9. It is the responsibility of the Council to exercise control over activities in the Area in accordance with article 153, paragraph 4, of the Convention and the rules, regulations and procedures of the Authority (see article 162, para. 2 (l), of the Convention). The Commission may also from time to time issue recommendations of a technical or administrative nature for the guidance of contractors in their implementation of the rules, regulations and procedures of the Authority. However, the Secretary-General, who acts on behalf of the Authority as a party to the contract, has no independent authority either to issue a written warning to a contractor in breach of the regulations and the standard clauses of the contract or to impose a monetary penalty. The Secretary-General can only report an issue to the Council.

10. To address this situation in the future, it is recommended that the Council consider authorizing the Secretary-General, on behalf of the Council, in the case of the late submission by more than 30 days of an annual report or by more than 45 days in the case of a five-year periodic report, to issue an automatic written warning to the contractor and a monetary penalty equivalent to one half of the annual overhead charge (currently \$80,000). The issuance of an automatic warning and the imposition of any such penalty would be reported to the Council at its next meeting. It is noted that the Council may not execute a decision involving a monetary penalty until the contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to it pursuant to part XI, section 5, of the Convention and to section 21 of the standard clauses of the contract.

11. In paragraph 9 of its decision, the Council requested the Secretary-General to continue to pursue dialogue with contractors who had not yet submitted public templates on their plans of work. It is recalled in this regard that, starting in 2019, contractors have voluntarily submitted information on their contracts in a previously agreed public information template. At present, information on four contracts has not been provided. Since March 2023, several contractors have submitted updated information on eight contracts as a result of contract extensions or new five-year programmes of activities. Dialogue with contractors continues on a regular basis, including in the context of the annual consultation with contractors.

12. In paragraph 11 of its decision, the Council requested the Secretary-General to remind applicants for approval of a plan of work for exploration of the requirements of article 153 of the Convention. There have been no new applications during the reporting period.

13. In paragraph 22 of its decision, the Council welcomed the progress made by the secretariat towards the implementation of the data management strategy of the Authority including public access to non-confidential data, its continued collaboration with the International Hydrographic Organization in relation to the compilation of bathymetric data, including through the Area 2030 initiative, and continued scientific work and interpretation from its DeepData database with the assistance of experts from developing countries.

14. The secretariat continued to make progress towards strengthening the data management of the Authority. In particular, it prepared a draft data management



strategy for the period 2023–2028 for consideration by the Commission. In March 2023, the Commission established a working group on data management and provided recommendations on the elements of the strategy. Based on the recommendations, the secretariat revised the strategy, highlighting short-term as well as medium- to long-term objectives. The working group will review the revised data management strategy for finalization by the Commission in July 2023. The secretariat also completed several updates to the DeepData database, creating additional functionalities to further support the work of the Commission related to relinquishments and improve user experience and data visualization. Accordingly, the DeepData user manuals and guidance on the reporting templates were revised for consideration by the Commission in July 2023.

### **III. Actions to be taken by the Legal and Technical Commission**

15. In its decision, the Council made several requests to the Commission.

16. In paragraph 7 of its decision, the Council requested the Commission, beginning at the twenty-eighth session of the Authority, to annually name those contractors that had responded inadequately, or had failed to respond, to the calls from the Council to address issues of concern identified by the Commission in relation to their contractual obligations. The Secretary-General conveyed the request to the Commission and the matter will be addressed during the consideration by the Commission of the annual reports of contractors in 2023.

17. In paragraph 12 of its decision, concerning the development of a draft procedure and criteria for consideration of a request for the transfer of rights and obligations under a contract for exploration, the Council requested the Commission to continue to revise its draft once the Council had considered issues relating to the transfer of rights and obligations under a contract in the draft regulations for exploitation, as well as relevant issues related to effective control. The Commission has taken note of this request.

18. In paragraph 13 of its decision, the Council expressed appreciation for the Commission's development of the draft standardized procedure for the development, review and approval of regional environmental management plans and the template with the minimum requirements, and requested the Commission to revise the draft standardized procedure, taking into account the Council's comments as summarized by the President of the Council, the submissions in 2019 by Germany and the Kingdom of the Netherlands, co-sponsored by Costa Rica, and written comments to be submitted by delegations by 15 January 2023, and provide the rationale for its decisions. Eight written comments had been received by 15 January 2023, including five from member States. In March 2023, the Commission held a round of preliminary exchanges on the written submissions received from delegations and decided to continue its work on revising the draft guidance document in July 2023.

19. In paragraph 14 of its decision, the Council expressed its appreciation for the Commission's development of the draft regional environmental management plan for the Area of the northern Mid-Atlantic Ridge and requested the Commission to review the draft after the standardized procedure for the development, review and approval of regional environmental management plans and the template had been adopted by the Council, in the light of the Council's comments. The Commission has taken note of this request.

20. In paragraph 16 of its decision, the Council requested the Commission to clarify the criteria for the use of the silence procedure in the adoption of decisions. This matter has been placed on the agenda of the Commission for July 2023.

21. In paragraph 17 of its decision, the Council requested the Commission, in relation to its current process for reviewing environmental impact statements in relation to the testing of mining components or other activities requiring an environmental impact assessment during exploration, contained in paragraph 41 of [ISBA/25/LTC/6/Rev.2](#), to include in the steps of the process that any recommendation of the Commission to the Secretary-General on the basis of paragraph 41 (e), including its underlying rationale, also be sent to the Council for informational purposes and that the recommendation, along with the final environmental impact assessment, be published on the website of the Authority. This matter has been placed on the agenda of the Commission for July 2023.

22. In paragraph 18 of its decision, the Council urged the Commission to hold open meetings, where appropriate, and to allow for greater transparency in its work. In paragraph 19 of the decision, the Council also requested 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. This request was brought to the attention of the Commission in March 2023 and the matter remains under consideration by the Commission.

#### **IV. Status of contributions to the voluntary trust fund to support the participation of members of the Council of the Authority from developing States in the meetings of the Council**

23. In paragraph 25 of its decision, the Council called for contributions to the voluntary trust fund to support the participation of members of the Council from developing States in the meetings of the Council. For the meetings of the Council in March 2023, the Authority was able to provide assistance from the fund to five representatives of developing States. At the end of the first part of the twenty-eighth session, in March 2023, the fund was in deficit. The Secretary-General issued an urgent appeal to members of the Authority, observers to the Authority and contractors for contributions to the fund in March 2023 and again in May 2023. Contributions were received from two contractors (Nauru Ocean Resources Inc. and Tonga Offshore Mining Ltd.), of \$3,750 each. On 26 May, another contractor, UK Seabed Resources Limited, made a contribution of \$6,000. As at 31 May 2023, the balance of the fund was \$548.

#### **V. Recommendations**

24. The Council is invited to take note of the present report and to provide such guidance as may be necessary.



# Council

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## Twenty-eighth session

Council session, part II  
Kingston, 10–21 July 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

## Report on the relinquishment of one third of the area allocated to the Ministry of Natural Resources and Environment of the Russian Federation under the contract for exploration for cobalt-rich ferromanganese crusts between the Ministry and the International Seabed Authority

### Note by the secretariat

1. The contract for exploration for cobalt-rich ferromanganese crusts between the Ministry of Natural Resources and Environment of the Russian Federation (the contractor) and the International Seabed Authority was signed on 10 March 2015. The area under the contract covers 3,000 km<sup>2</sup>.
2. Pursuant to the schedule for fulfilling relinquishment obligations, as set out in regulation 27 (1) of the regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area ([ISBA/18/A/11](#), annex), by the end of the eighth year from the date of the contract, the contractor must have relinquished at least one third of the original area allocated to it.
3. Accordingly, the contractor was required to relinquish at least one third of its allocated area by 10 March 2023. On 9 March 2023, the contractor submitted to the Secretary-General of the Authority cartographic material that included shapefiles of relinquished and remaining cells and an overview map of the remaining exploration areas.
4. During the second part of its twenty-eighth session, held from 28 June to 7 July 2023, on the basis of the technical review carried out by the secretariat, the Legal and Technical Commission noted that the contractor had complied with its relinquishment obligations pursuant to the applicable regulations and the recommendations for the guidance of contractors on the relinquishment of areas under exploration contracts for polymetallic sulphides or cobalt-rich ferromanganese crusts ([ISBA/25/LTC/8](#)).



5. The total original area, the maps of which are available at <https://bit.ly/3r7R2XV>, consists of 150 blocks, with each block consisting of 16 cells and each cell measuring approximately 1.12 km x 1.12 km. The number of relinquished cells per cluster varies from 24 to 265. A total of 800 cells, comprising an area of 1,000 km<sup>2</sup>, were relinquished from 150 blocks within nine clusters. The remaining area under exploration covers 2,000 km<sup>2</sup>.
6. The relinquished area has reverted to the Area.
7. The Council is invited to take note of the present note.

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# Council

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## Twenty-eighth session

Council session, part II  
Kingston, 10–21 July 2023  
Agenda item 15

### Report of the Finance Committee

## Decision of the Council of the International Seabed Authority relating to financial and budgetary matters

*The Council of the International Seabed Authority,*

*Taking into account* the recommendations of the Finance Committee of the International Seabed Authority,<sup>1</sup>

1. *Recommends* that the Assembly of the Authority approve a supplementary budget for the financial period 2023–2024 in an amount not exceeding \$456,940, as proposed by the Secretary-General.<sup>2</sup>

2. *Recommends* that the Assembly adopt the following draft decision:

*The Assembly of the International Seabed Authority*

1. *Approves* a supplementary budget for the financial period 2023–2024 in an amount not exceeding \$456,940, as proposed by the Secretary-General;

2. *Authorizes* the Secretary-General, in line with the decision contained in document [ISBA/27/A/10](#), to adjust the assessed contributions for 2024 accordingly;

3. *Appeals* to the members of the Authority, including those members with contributions in arrears for the period 1998–2022, to pay outstanding contributions to the budget of the Authority as soon as possible, to enable the Authority to deliver effectively on its mandate, and requests the Secretary-General to continue his efforts to recover those arrears, including bilateral efforts;

4. *Expresses its appreciation* to the donors that have made contributions to the voluntary trust funds of the Authority, and encourages members, observers, contractors and other stakeholders to contribute financially to these trust funds;

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<sup>1</sup> See [ISBA/28/A/4-ISBA/28/C/13](#).

<sup>2</sup> See [ISBA/28/A/3/Add.1-ISBA/28/C/12/Add.1](#).



5. *Decides* that, in respect of Rwanda, which became a member of the Authority in 2023, the rate of assessment and the amounts of contribution to the General Administrative Fund and the Working Capital Fund shall be as recommended in paragraph 38 of the report of the Finance Committee;

6. *Takes note* of the forecast budgetary requirements associated with the anticipated evolution of the work of the Authority over the period from 2025 to 2030, as indicated in the report of the Secretary-General, and of the need to ensure adequate capacity and resources necessary to fulfil its obligations under the United Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982;

7. *Appoints* Calvert Gordon Associates as the independent auditor for the Authority for the financial period 2023–2024.

*305th meeting  
17 July 2023*

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# Council

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## Twenty-eighth session

Council session, part II  
Kingston, 10–21 July 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 on the deferral of the schedule of relinquishment upon request by the Government of India

*The Council of the International Seabed Authority,*

*Recalling* that, on 26 September 2016, the Government of India entered into a 15-year contract for exploration for polymetallic sulphides with the Authority,

*Recalling also* regulation 27, paragraph 2, of the regulations on prospecting and exploration for polymetallic sulphides in the Area,<sup>1</sup> which refers to the schedule of relinquishments of the area allocated to contractors,

*Noting* that, according to the schedule, the Government of India is required to submit a first relinquishment of at least 50 per cent of the original area allocated to it by 26 September 2024, being the end of the eighth year from the date of the contract,<sup>2</sup>

*Noting also* that the Government of India requested to defer the schedule of relinquishment, owing to the impact of the coronavirus disease (COVID 19) pandemic on its operational activities,

*Recalling* that, pursuant to regulation 27, paragraph 6, of the regulations, the Council may, at the request of the contractor, and on the recommendation of the Legal and Technical Commission, in exceptional circumstances, defer the schedule of relinquishment and that such exceptional circumstances shall be determined by the Council and shall include, inter alia, consideration of prevailing economic circumstances or other unforeseen exceptional circumstances arising in connection with the operational activities of the contractor,

*Considering* that the Commission has found that the reasons presented by the contractor qualify as “unforeseen exceptional circumstances arising in connection

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<sup>1</sup> ISBA/16/A/12/Rev.1, annex.

<sup>2</sup> ISBA/28/LTC/7.



with the operational activities of the contractor”, and has recommended the deferment of the first relinquishment to 30 September 2026,

*Acting upon* the recommendation of the Commission,

1. *Determines* that the reasons presented by the Government of India qualify as “unforeseen exceptional circumstances arising in connection with the operational activities of the contractor”;

2. *Defers* the schedule of the first relinquishment as recommended by the Legal and Technical Commission;<sup>3</sup>

3. *Requests* the Secretary-General to communicate the present decision to the Government of India.

*306th meeting  
20 July 2023*

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<sup>3</sup> ISBA/28/C/20.





# Council

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## Twenty-eighth session

Council session, part II  
Kingston, 10–21 July 2023  
Agenda item 12

### Consideration of matters relating to the Enterprise

## Decision of the Council of the International Seabed Authority relating to the establishment of the position of an interim director general of the Enterprise

*The Council of the International Seabed Authority,*

*Recalling* article 170 of and annex IV to the United Nations Convention on the Law of the Sea,<sup>1</sup> which established the Enterprise as the organ of the Authority to carry out activities in the Area according to article 153 (2) (a) of the Convention, as well as the transporting, processing and marketing of minerals recovered from the Area,

*Recalling also* the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982,<sup>2</sup> which recognizes the need to follow an evolutionary approach for the step-by-step operationalization of the Enterprise, based on the functional needs of the Enterprise at each step,

*Recalling further* the decision of the Council of 31 March 2023 relating to the establishment of the position of an interim director general of the Enterprise,<sup>3</sup> in which the Council decided to adopt the recommendation of the Legal and Technical Commission to establish the position of an interim director general for the Enterprise and requested the Secretary-General to submit a supplementary budget proposal for that purpose,

*Noting* that the Finance Committee, at its meetings during the twenty-eighth session, after considering the supplementary budget proposed by the Secretary-General,<sup>4</sup> decided to recommend that the Council and the Assembly of the Authority approve the supplementary budget for the financial period 2023–2024, as a separate part of the budget, in an amount not exceeding \$456,940, noting that, in accordance with the 1994 Agreement, the interim director general would be a member of the staff

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<sup>1</sup> United Nations, *Treaty Series*, vol. 1833, No. 31363.

<sup>2</sup> *Ibid.*, vol. 1836, No. 31364.

<sup>3</sup> [ISBA/28/C/10](#).

<sup>4</sup> [ISBA/28/A/3-ISBA/28/C/12](#) and [ISBA/28/A/3/Add.1-ISBA/28/C/12/Add.1](#).



of the Authority and would perform the functions listed in the annex to the 1994 Agreement,<sup>5</sup>

1. *Requests* the Secretary-General to implement the decision of the Council;
2. *Also requests* the Secretary-General to include provision for the interim director general of the Enterprise in the proposed budget of the Authority for the financial period 2025–2026, as a separate part of the budget.

*307th meeting  
21 July 2023*

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<sup>5</sup> See [ISBA/28/A/4-ISBA/28/C/13](#).



## Council

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### Twenty-eighth session

Council session, part II  
Kingston, 10–21 July 2023  
Agenda item 10

### Consideration with a view to adoption, of the draft regulations on exploitation of mineral resources in the Area

## **Decision of the Council of the International Seabed Authority on a timeline following the expiration of the two-year period pursuant to section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea**

*The Council of the International Seabed Authority,*

*Reaffirming* its decision [ISBA/28/C/9](#) relating to the understanding and application of section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea<sup>1</sup> (the Agreement),

*Considering* that the commercial exploitation of mineral resources in the Area should not be carried out in the absence of rules, regulations and procedures relating to exploitation,

*Noting* that no plan of work has been received under section 1, paragraph 15, of the annex to the Agreement after the expiration of the two-year deadline on 9 July 2023,

*Recognizing* that agreeing on a timeline and modalities for the work of the Council until July 2024 would provide predictability to all members of the Authority as well as other stakeholders,

1. *Intends* to continue the elaboration of rules, regulations and procedures relating to exploitation in accordance with the United Nations Convention on the Law of the Sea<sup>2</sup> and the Agreement relating to the Implementation of Part XI of the Convention with a view to their adoption during the thirtieth session of the Authority;

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<sup>1</sup> United Nations, *Treaty Series*, vol. 1836, No. 31364.

<sup>2</sup> *Ibid.*, vol. 1833, No. 31363.



2. *Requests* the secretariat to convene Council meetings in November 2023 and in March and July 2024 on the dates and with the modalities detailed in the road map annexed to the present decision;

3. *Decides* to assess, at the end of its July 2024 meeting, in the event that rules, regulations and procedures relating to exploitation are not completed, the remaining work that would be needed prior to their adoption and to consider another road map to that end;

4. *Also decides*, if an application for a plan of work for exploitation is submitted before the rules, regulations and procedures relating to exploitation have been adopted, to consider at its first meeting, as a matter of priority, the understanding and application of section 1, paragraph 15, of the annex to the Agreement with a view to reaching a decision.

*308th meeting  
21 July 2023*

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## Annex

### **Road map for continued work in relation to the draft regulations on exploitation of mineral resources in the Area during the third part of the twenty-eighth session of the Council of the International Seabed Authority in 2023 and the first and second parts of the twenty-ninth session of the Council in 2024**

#### **I. Introduction and background**

1. The following road map has been prepared by the President of the Council and endorsed by the Council in its decision ISBA/28/C/24 for the organization of its work on the draft regulations on exploitation of mineral resources in the Area and associated standards and guidelines during the third part of the twenty-eighth session in 2023 (30 October–8 November 2023) and for the first and second parts of the twenty-ninth session of the Council in 2024 (March–July 2024).

2. The road map takes into account the progress made by the Council to date, including at its meetings during the twenty-eighth session. It is based on the assumption that the current working modalities will be continued at least for the third part of the twenty-eighth session and that the allocation of time to each informal working group and to the plenary of the Council will reflect the work still to be completed by the respective working groups, including any work required on relevant standards and guidelines. It is understood that, once an informal working group completes its work, more time could be allocated to the remaining working groups.<sup>3</sup>

#### **II. Consolidated negotiating text**

3. As proposed by the facilitators of the informal working groups, substantive written textual submissions are invited by 15 September 2023. Coordinators of the various informal intersessional working groups are also invited to submit the outcomes of any intersessional discussions by 15 September, to the extent possible.

4. 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, duplication and omission and address the need for harmonization between the various provisions and related annexes. It is therefore proposed to issue such a consolidated negotiating text after finalization during the third part of the twenty-eighth session. This is without prejudice to the negotiations that will still be conducted on the consolidated negotiating text and respect for the principle that “nothing is agreed until everything is agreed”. The delegations considered that “consolidated negotiating text” means a text that is not ready for adoption and that it is still subject to further negotiations and discussions.

5. The Council decided to assess, at the end of its July 2024 meeting, in the event that regulations on exploitation are not completed, the remaining work that would be needed prior to their provisional adoption and to consider another road map to that end.

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<sup>3</sup> In respect of the organization of the work and information on the informal working groups, reference is made to [ISBA/26/C/11](#) and [ISBA/27/C/21](#).

### **III. Collation of texts – preparation for the November meeting**

6. Ahead of the meeting in November 2023, a collation of the current texts of the informal working groups will be provided. This collation will be a “copy/paste” of the texts of the different groups, with the source of the various elements clearly identified. The respective texts of each group will also be released as usual. The aim is to release the collation on 16 October 2023. The informal working groups will continue their work in the same manner and with the same working modalities during the November meeting.

### **IV. Going forward**

7. Delegates exchanged views on the modalities of work that will be used in developing the continued discussions on the consolidated negotiating text, in conformity with the road map. It was agreed to continue the discussions on the working modalities at the end of the meeting in November 2023.

8. To enable delegations to organize themselves efficiently, an indicative schedule of work will be issued at least one month before each meeting, indicating the precise dates when each informal working group is expected to convene.

<i>Organ</i>	<i>Date</i>	<i>Working methods relating to draft regulations</i>	<i>Tentative agenda</i>
Council (intersessional work between delegations as required)			
The deadline for submission of comments on facilitators' texts is 15 September 2023.			
Revised texts to be issued as soon as possible thereafter.			
Collation text: tentative date is 16 October 2023.			
<i>Third part of the twenty-eighth session (30 October–8 November 2023)</i>			
Council	30 October–8 November 2023 (8 days)	<p>Formal meeting (0.5 days)</p> <p>Informal meetings of working groups and of the Council in plenary (subject to progress made by each group during the second part of the twenty-eighth session):</p> <p>(a) Open-ended Working Group in Respect of the Development and Negotiation of the Financial Terms of a Contract (2 days)</p> <p>(b) Informal Working Group on the Protection and Preservation of the Marine Environment (2 days)</p> <p>(c) Informal Working Group on Inspection, Compliance and Enforcement (1 day)</p>	<p>Standing items and remaining items on the agenda requiring decisions by the Council</p> <p>(a) To continue its work on the basis of progress made at the Council's meeting in July 2023, with a view to finishing its work and reporting to the plenary</p> <p>(b) To continue its work on the basis of progress made at the Council's meeting in July 2023, with a view to finishing its work and reporting to the plenary</p> <p>(c) To continue its work on the basis of progress made at the Council's meeting in July 2023, with a view to finishing its work and reporting to the plenary</p>

<i>Organ</i>	<i>Date</i>	<i>Working methods relating to draft regulations</i>	<i>Tentative agenda</i>
		(d) Informal Working Group on Institutional Matters (1 day)	(d) To continue its work on the basis of progress made at the Council's meeting in July 2023, with a view to finishing its work and reporting to the plenary
		(e) Council, in plenary (1.5 days)	(e) To continue its work on the basis of progress made at the Council's meeting in July 2023, with a view to finishing its work and reporting to the plenary
		Formal meeting	
		<ul style="list-style-type: none"> <li>• Review of the progress on the regulations</li> <li>• Reports by the facilitators</li> <li>• Review of modalities of ongoing work</li> </ul>	
Council (intersessional work between delegations as required)			
<i>First part of the twenty-ninth session (4–29 March 2024)</i>			
Legal and Technical Commission	4–15 March 2024 (10 days)		
Council	18–29 March 2024 (10 days)	<ul style="list-style-type: none"> <li>• Plenary and standing agenda items</li> <li>• Consideration of the consolidated negotiating text, which is to be facilitated by the President.</li> </ul> Informal meetings as appropriate and of the Council in plenary (subject to progress made by each group and the Council during the third part of the twenty-eighth session)	Precise agenda to be agreed on the basis of the outcomes of the third part of the twenty-eighth session in November 2023



<i>Organ</i>	<i>Date</i>	<i>Working methods relating to draft regulations</i>	<i>Tentative agenda</i>
Council (intersessional work between delegations as required)		<ul style="list-style-type: none"> <li>• Review of the progress on the regulations</li> <li>• Adoption of the regulations (in the event that they are ready for adoption)</li> </ul>	
<i>Second part of the twenty-ninth session (1 July –2 August 2024)</i>			
Legal and Technical Commission	1–12 July 2024 (10 days)		
Finance Committee	10–12 July 2024 (3 days)		
Council	15–26 July 2024 (10 days)	<ul style="list-style-type: none"> <li>• Consideration of the consolidated negotiating text, which is to be facilitated by the President. Informal meetings as appropriate and of the Council in plenary</li> <li>• Adoption of the regulations (in the event that they are ready for adoption)</li> </ul>	Precise agenda to be agreed on the basis of the outcomes of the first part of the twenty-ninth session in March 2024
Assembly	29 July–2 August 2024 (5 days)		



# Council

Distr.: General  
21 July 2023

Original: English

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## Twenty-eighth session

Council session, part II  
Kingston, 10–21 July 2023  
Agenda item 10

**Consideration, with a view to adoption, of the draft  
regulations on exploitation of mineral resources in the Area**

### **Decision of the Council of the International Seabed Authority relating to the understanding and application of section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea**

*The Council of the International Seabed Authority,*

*Recalling* its decision [ISBA/28/C/9](#) relating to the understanding and application of section 1, paragraph 15, of the annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea<sup>1</sup> (the Agreement),

*Reiterating* that commercial exploitation of mineral resources in the Area should not be carried out in the absence of rules, regulations and procedures (RRPs) relating to exploitation,

*Reaffirming its commitment* to the adoption of the RRP's relating to exploitation in accordance with the United Nations Convention on the Law of the Sea<sup>2</sup> and the Agreement in a timely manner,

*Bearing in mind* the invocation of section 1, paragraph 15, of the annex to the Agreement (paragraph 15) by the Republic of Nauru in June 2021, with an effective date of 9 July 2021,

*Conscious* that the prescribed time under subparagraph (b) of paragraph 15 expired on 9 July 2023 and that the Council has not completed the elaboration and adoption of the RRP's relating to exploitation,

*Recognizing* that a common understanding on paragraph 15 and its application would be beneficial for the Authority, its members, contractors and other

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<sup>1</sup> United Nations, *Treaty Series*, vol. 1836, No. 31364.

<sup>2</sup> *Ibid.*, vol. 1833, No. 31363.



stakeholders, in the event that an application for a plan of work for exploitation is submitted before the Council has completed the RRP's relating to exploitation,

*Noting with appreciation* the informal intersessional dialogue on paragraph 15 co-facilitated by Ambassador Hugo Verbist (Belgium) and Mr. Tan Soo Tet (Singapore), the two webinars held on 8 March and 30 May 2023, as well as the two briefing notes of the co-facilitators presented to the Council on 24 March and 14 July 2023,

1. *Reiterates its request* to the Secretary-General to inform members of the Council, within three business days, of the receipt of an application for a plan of work for exploitation by the secretariat in the absence of RRP's relating to exploitation;

2. *Decides* to further consider actions that the Council may take if an application for a plan of work for exploitation were to be submitted before the Council has completed the RRP's relating to exploitation;

3. *Also decides*, if an application for a plan of work for exploitation is submitted before the Council has completed the RRP's relating to exploitation, to continue at its next meeting and prior to the Legal and Technical Commission finalizing its review, its consideration of the understanding and application of paragraph 15 with a view to reaching, as a matter of priority, a common understanding and accordingly reaching a decision, including the possible issuance of guidelines or directives, without prejudice to the mandate of the Commission.

*308th meeting  
21 July 2023*



# Council

Distr.: General  
8 November 2023

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## 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,<sup>1</sup> the hard work and considerable achievements of the Commission over the past seven years (2017–2023) and the report of the Secretary-General on the 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;<sup>2</sup>

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 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

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<sup>1</sup> [ISBA/28/C/5](#) and [ISBA/28/C/5/Add.1](#).

<sup>2</sup> [ISBA/28/C/15](#).



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. *Reaffirms 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,<sup>3</sup> notes that such information is important to assist the Council with respect to compliance, and also 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,<sup>4</sup> the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982<sup>5</sup> and the regulations on prospecting and exploration identified by the Commission, 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 coronavirus disease (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,<sup>6</sup> 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 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 prioritize this work as a matter of urgency and to 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 adoption by the Council so that regional environmental management plans 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,

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<sup>3</sup> See [ISBA/27/C/44](#).

<sup>4</sup> United Nations, *Treaty Series*, vol. 1833, No. 31363.

<sup>5</sup> *Ibid.*, vol. 1836, No. 31364.

<sup>6</sup> See [ISBA/27/C/35](#).

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. *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 by the Commission of the criteria for the use of the silence procedure in the adoption of decisions, including its confirmation that thorough discussions within the Commission will always take place before any document is placed 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, as well as the publication of the step-by-step process for the Commission to reach consensus on any draft recommendation or draft report, 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. *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;<sup>7</sup>

15. *Notes* the importance of transparency in the Authority, recalls its request to the Commission to hold open meetings, where appropriate, so as to allow for greater transparency in its work, in that regard welcomes the Commission's initiative in holding an informal dialogue in the margins of the second part 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 participation in the meetings of the Authority by developing States, including in the Council, the Legal and Technical Commission and the Finance Committee;

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*

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<sup>7</sup> See ISBA/25/LTC/6/Rev.3, which replaces ISBA/25/LTC/6/Rev.1, ISBA/25/LTC/6/Rev.1.Corr.1 and ISBA/25/LTC/6/Rev.2.



