

# **Briefing note on the revised consolidated text of the draft regulations on exploitation of mineral resources in the Area and associated modalities of work for the first part of the thirtieth session of the Council of the International Seabed Authority**

Prepared by the President of the Council

## **I. Introduction**

1. This briefing note seeks to introduce the Revised Consolidate Text of the draft regulations on exploitation of mineral resources in the Area (the “Draft Exploitation Regulations”) and to propose guidance as to the working modalities for the upcoming first part of the thirtieth session of the Council (17 to 28 March 2025).

## **II. Background**

2. The consolidated text of the Draft Exploitation Regulations was the central focus of the negotiations during the second part of the twenty-ninth session of the Council in July 2024. The plenary of the Council held 11 informal meetings on the President’s consolidated text, from 15 to 23 July 2024. The Council finished a first reading of the text, covering from draft regulation 35 to draft regulation 107, with the full participation of other members of the Authority and observers, in line with the road map approved by the Council in July 2023 ([ISBA/28/C/24](#)).

3. On the last day of the July 2024 meetings, 26 July, the Council took note of all oral reports by the facilitators and rapporteurs ([ISBA/29/C/9/Add.1](#), Annex I). The Council also took note of a list of the intersessional work for the remainder of the twenty-ninth session ([ISBA/29/C/9/Add.1](#), Annex II) and it was agreed that the deadline for the submission of proposals by the intersessional working groups would be 1 November 2024.

4. Also on 26 July 2024, the President introduced a revised road map, which was endorsed by the Council ([ISBA/29/C/9/Add.1](#), Annex III), to guide its work during the thirtieth session in 2025. The road map focuses on advancing the Draft Exploitation Regulations and the associated Standards and Guidelines. It was agreed that the deadline for submitting written proposals would be 23 September 2024, with the President committing to issue a Revised Consolidated Text by the end of November 2024.

5. On 8 November 2024, the President convened an online meeting with the Vice-Presidents of the Council, as well as the coordinators, facilitators, and rapporteurs of the intersessional working groups. During the meeting, the President provided a concise update on the progress made concerning the Revised Consolidated Text of the Draft Exploitation Regulations. The coordinators, facilitators, and rapporteurs also presented reports on the activities and achievements during the intersessional period.

6. On 27 November 2024, the President held an on-line Bureau meeting with the Vice-Presidents of the Council for a final review of the Revised Consolidated Text and to consider a draft Provisional Agenda of the Council for the thirtieth session.

7. On 29 November 2024, the President issued a Revised Consolidated Text of the Draft Exploitation Regulations ([ISBA/30/C/CRP.1](#)) and a Revised Suspense Document ([ISBA/30/C/CRP.2](#)) both of which have been disseminated to the members of the Authority. Subsequently, on 5 December 2024, the President presented the Compilation of Proposals for the Draft Exploitation Regulations ([ISBA/30/C/CRP.3](#)). All these documents have been made available on the Authority's website.

8. On 10 January 2025, the Secretariat issued the Provisional Agenda of the Council for the thirtieth session ([ISBA/30/C/L.1](#)) which has been disseminated among the members of the Authority and uploaded on the Authority's website.

9. On 17 January 2025, the Bureau held an online meeting. During the meeting, the President's briefing note and the draft Indicative Programme of Work were discussed by the Bureau members and finalized on 28 January 2025.

## **II. Introduction to the Revised Consolidated Text.**

10. A Consolidated Text of the Draft Exploitation Regulations was issued for the twenty-ninth session on 16 February 2024 ([ISBA/29/C/CRP.1](#)). The text underwent its first reading during the first and second parts of that session. Drawing on the oral comments and negotiations conducted during the twenty-ninth session, as well as written proposals submitted by Member States and stakeholders, the President of the Council, with assistance from the Secretariat, prepared and issued a Revised Consolidated Text of the Draft Exploitation Regulations ([ISBA/30/C/CRP.1](#)).

11. The primary objective of the Revised Consolidated Text is to facilitate informal discussions within the Council, harmonize and streamline the draft regulations, and support the Council in finalizing its work on the draft regulations.

12. Achieving legal certainty is a fundamental objective of this drafting process. The Revised Consolidated Text seeks to establish clear, enforceable provisions that minimize ambiguities, strengthen regulatory compliance, and foster confidence among stakeholders. This goal necessitates a thorough review of the document's language, structure, and cross-references to ensure its integrity and effectiveness as a codified legal instrument.

13. The Revised Consolidated Text has been instrumental in identifying and addressing areas of overlap, duplication, and omission. It has also enhanced alignment between various provisions and related annexes, ensuring consistency with the language of 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"). To support clarity and understanding, comment boxes have been incorporated throughout the text, providing explanations of revisions and highlighting the President's observations where appropriate.

14. The Revised Consolidated Text aims to transform ideas and proposals into a consensus-based document. While not every individual idea or proposal is explicitly incorporated, the options presented strive to reflect the overarching intent behind them. It is important to emphasize that this consolidated text is not yet finalized for adoption and remains subject to further negotiation and discussion. Proposals received, including 1,292 submissions since February 2024, have been thoroughly reviewed and integrated into the revised text wherever possible. These proposals address a broad spectrum of issues, reflecting a wide range of perspectives on regulatory, operational, and environmental considerations.

15. The Revised Consolidated Text includes only those proposals for which no explicit opposition was raised. This does not preclude their future consideration or the right of delegations to reintroduce proposals that were not incorporated into the current version of the text. The mark-up text in the Revised Consolidated Text has been accepted where no objections to its content were made. In instances where the President was uncertain about reaching consensus, square brackets have been added. New revisions are highlighted as mark-ups against the previous versions provided in the Consolidated Text. Ideas that reflect the general direction of discussions have been incorporated;

however, while the exact wording proposed by delegations may not always be reproduced verbatim, the text presented seeks to reflect a compromise that captures the core of those ideas and proposals.

16. Where general comments were made without specific drafting suggestions, or where multiple drafting suggestions aligned in a similar direction, the President has proposed wording for delegations' consideration. Square brackets have been used for proposals that require further conceptual discussion and where the Council may request additional work.

17. Throughout the text, alternatives have been presented to highlight different conceptual approaches. The order in which these options appear does not suggest any prioritization. Examples of alternative formulations include varying perspectives on financial mechanisms, environmental safeguards, and operational standards. By presenting these options transparently, the Council is better positioned to address complex issues and work toward balanced and effective regulatory outcomes.

18. This Revised Consolidated Text has been developed to ensure full consistency with the provisions of the Convention and the 1994 Agreement. Additionally, the process and its outcomes are intended to uphold, rather than undermine, existing relevant legal instruments, frameworks, and the mandates of pertinent global, regional, and sectoral bodies.

### **III. Other documents**

#### **A. Revised Suspense Document**

19. The Revised Suspense Document is a collation of the material removed from the consolidated text ([ISBA/29/C/CRP.1](#)) and the Revised Consolidated Text ([ISBA/30/C/CRP.1](#)) based on the discussions during the third part of the twenty-eighth session, the twenty-ninth session and the written proposals received.

20. Delegations and observers are reminded that, during the negotiations of the Draft Exploitation Regulations, many delegations requested that highly technical elements be moved from the Draft Exploitation Regulations to the relevant Standards and Guidelines, as well as other rules, regulations, and procedures. As a result, these sections have been placed in suspense, rather than discarded. The content will specifically inform the forthcoming discussions on Standards and Guidelines.

21. The Revised Suspense Document provides explanations and indicates the origins of the elements in the Draft Exploitation Regulations, along with their anticipated placement in future versions. Additionally, references to the original text contained in the relevant official documents of the Authority and the dates have been included to trace the development of the text.

#### **B. Compilation of all proposals**

22. The Compilation of Proposals is a "copy/paste" of the texts of the different groups provided for the third part of the twenty-eighth session and the first and second part of the twenty-ninth session. It includes all written proposals received from delegations and observers during and after the third part of the twenty-eighth session and during the twenty-ninth session.

23. It contains explanations and indication of where the elements originate from in the Draft Exploitation Regulations and where the proposals are anticipated to later be placed. Furthermore, the reference to the original ISBA text and date is inserted in order to trace the development of the text. This document is not to be confused with the Revised Consolidated Text ([ISBA/30/C/CRP.1](#)) that is the actual negotiated text.

24. This document is a collation of old texts that also contains a compilation of all written proposals received after the third part of the twenty-eight session and the twenty-ninth session. This compilation also contains oral proposals provided during the first and second part of the twenty-ninth session.

#### IV. Suggested working modalities on the Revised Consolidated Text.

25. The thirtieth session of the Council of the International Seabed Authority, as outlined in the roadmap prepared by the President of the Council and endorsed by the Council during its July 2024 meetings ([ISBA/29/C/9/Add.1](#), Annex III), is set to take place in two parts. The first part, scheduled from 17 to 28 March 2025, will consist of ten days. Of these, the Council shall conduct 7.5 day meetings for the negotiations on the Revised Consolidated Text in an informal setting, while 2.5 days will be dedicated to formal meetings in order to undertake standing items and items on the agenda requiring decisions by the Council, as well as the review of the progress on the Draft Exploitation Regulations and the high-level discussions on the associated Standards and Guidelines.

26. As a draft regulatory instrument, the Revised Consolidated Text must uphold the highest standards of legal precision and coherence. This requires ensuring that the outcomes of the negotiations are fully aligned with the ISA's mandate under the Convention and the 1994 Agreement. The process and its results should not undermine existing legal instruments or frameworks. Proposals that do not meet these criteria may need to be adjusted to comply with legal standards, while still reflecting the intent of the submitting Member States or stakeholders. The Revised Consolidated Text offers an opportunity for detailed negotiations aimed at closing gaps, resolving remaining differences, and achieving consensus.

27. Therefore, the President believes it is essential to guide the negotiations of the Revised Consolidated Text, **regulation by regulation**, and to encourage delegations to actively work towards reaching consensus on the remaining aspects. The primary objective is to accelerate progress on the Revised Consolidated Text as much as possible, with the goal of completing its first reading of the Revised Consolidated Text during the March 2025 meetings.

28. During the discussions, when a specific regulation or set of related regulations that formed part of the intersessional work is under consideration, the President will invite the facilitators or rapporteurs to present their report on the outcomes of that intersessional work. The discussions will then focus on the key contentious issues that require further dialogue to bridge gaps, resolve outstanding divergences, and build consensus toward finalizing the negotiations of the Revised Consolidated Text. The President will actively guide the process, addressing these differences and steering efforts toward achieving agreement on the text.

29. We are all aware of the excellent progress made during consultations led by some delegations during the intersessional period:

<i>Focus</i>	<i>Coordinator</i>	<i>Status/Outcome/Reporting</i>
<b>Underwater Cultural Heritage</b> (Draft regulation 35)	<i>Federated States of Micronesia</i>	<ul style="list-style-type: none"> <li><a href="#">Set of textual proposals on Underwater Cultural Heritage</a></li> </ul>
<b>Test Mining</b> (Draft regulation 48 ter)	<i>Germany</i>	Germany and Belgium hosted a technical workshop on the “Scientific and legal aspects of Test Mining”, Bremen, Germany, Dec. 16-17, 2024.
<b>Environmental Management and Monitoring</b> (Section 3 of Part IV, draft regulations 49-52 and Annex VII)	<i>Norway</i>	<ul style="list-style-type: none"> <li><a href="#">Joint Proposal of the IWG on Environmental Management and Monitoring</a></li> <li><a href="#">Joint Proposal of the IWG on Environmental Management and Monitoring (mark-up version)</a></li> </ul>

<i>Focus</i>	<i>Coordinator</i>	<i>Status/Outcome/Reporting</i>
<b>Equalization measure</b> (Draft regulation 64 bis and draft Equalization Standard)	<i>Australia</i>	<ul style="list-style-type: none"> <li>• <a href="#">Comments submitted by the Government of India</a></li> <li>• <a href="#">Report of the Intersessional Working Group on an Equalization Measure</a></li> <li>• <a href="#">Briefing Note on the Equalization Measure Subsidies State-Owned Enterprises State Contractors and the Enterprise</a></li> <li>• <a href="#">Amended Textual Proposal Intersessional Working Group on an Equalization Measure</a></li> </ul>
<b>Rights and interests of coastal States</b> (Cross cutting and draft regulation 93 ter)	<i>Portugal</i>	<ul style="list-style-type: none"> <li>• <a href="#">Textual proposal IWG on rights and interests of Coastal States</a></li> </ul>
<b>ICE mechanism</b> (Draft regulation 102)	<i>Norway</i>	<ul style="list-style-type: none"> <li>• <a href="#">Non-Paper of Spain on ICE Mechanism</a></li> <li>• <a href="#">IWG proposal for DR 102 ICE Mechanism</a></li> <li>• <a href="#">Presentation on IWG proposal for ICE mechanism</a></li> </ul>

30. To sustain the momentum of these important and valuable efforts, the President believes it is timely and appropriate to introduce "President's consultations", where delegations meet informally in smaller groups with the President to discuss specific, identified topics. Additionally, intersessional working groups are encouraged to hold informal discussions on contentious issues before morning meetings or during lunch breaks. These discussions should be coordinated by the rapporteurs or willing delegations, with the objective of fostering consensus.

31. Those facilitators or rapporteurs of the intersessional working groups should report back to the President on the last day of the first part of the thirtieth session on any progress achieved during those informal discussions held alongside the Council's March meetings. At that time, it would also be appropriate to assess the status of the work on the Revised Consolidated Text, determine whether further efforts are necessary, and identify any additional topics that may need attention. Based on this review, a plan for intersessional work for the second part of the thirtieth session can then be developed.

## V. Standard and Guidelines

32. As included in the road map endorsed by the Council during its July 2024 meetings ([ISBA/29/C/9/Add.1](#), Annex III), the first part of the thirtieth session should include a high level discussions on the Standards and Guidelines.

33. As the Council is aware, a matrix had been prepared for the third part of the twenty-eighth session ([ISBA/28/C/IWG/ENV/CRP.5](#)), which shows examples of which parts of different regulations could be moved to relevant Standards and Guidelines. The focus has been on the environmental Standard and Guidelines. Ten phase I Standards and Guidelines have already been prepared in 2022 and can be accessed via the Authority's website ([ISBA/27/C/3-12](#)). The President also draws delegations' attention to the Revised Suspense Document ([ISBA/30/C/CRP.2](#)), which has been prepared for the first part of the thirtieth session. This document consolidates the material proposed for removal from the Revised Consolidated Text and suggests its inclusion in the Standards and Guidelines, as well as other relevant rules, regulations, and procedures.

34. Building on the significant progress achieved on the Draft Exploitation Regulations since the release of the Standards and Guidelines in January 2022, the President wishes to propose that we prioritize the continuation of this essential work. In particular, the President recommends adhering to the road map and holding a high-level discussion during the March 2025 meetings, focusing on the development of additional Standards and Guidelines, especially for Phase I.

35. This discussion should aim to identify which Standards and Guidelines the Council is ready to review at this stage and determine which ones require updates from the Legal and Technical Commission before being presented to the Council. Such considerations are crucial, as certain aspects of the Draft Exploitation Regulations may have experienced significant changes, necessitating substantial revisions to maintain alignment and ensure consistency.

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36. The above, is of course, without prejudice to any work being carried out by the Council and it should be recalled that *“nothing is agreed until everything is agreed”*.

Olav Myklebust, 28 January 2025, Abu Dhabi.