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Agenda item 16

Report of the Secretary-General concerning the operationalization of the Economic Planning Commission

Operationalization of the Economic Planning Commission

Report of the Secretary-General

I. Introduction

1. The purpose of this report is to provide an update the Secretary-General's previous report on the operationalization of the Economic Planning Commission, dated 6 May 2022,¹ in light of the advanced stage of the negotiations on the draft regulations on exploitation of minerals in the Area, and to propose to the members of the Council the next steps toward the Commission's operationalization.

II. Background

2. At its 288th meeting, on 29 July 2022, during the second part of its twenty-seventh session, the Council took note of the 2022 report² and discussed the legal and policy basis for the Economic Planning Commission, suggested composition and immediate focus which would be to review the trends of and factors affecting the supply, demand and prices of metals that will be processed from minerals that 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. Most delegations in the Council agreed with the need to ensure the operationalization of the Commission before the approval of the first plan of work for exploitation. At the same time, some delegations shared the view that further consideration would be required owing to the financial implications of its operationalization on the budget of the Authority. The Council agreed to continue to keep this matter on its agenda.

3. At its 312th meeting, on 8 November 2023, during the third part of its twenty-eighth session in 2023, the Council discussed again the Secretary-General's report on the operationalization of the Economic Planning Commission³ and emphasized the need to

¹ ISBA/27/C/25

² ISBA/27/C/25

³ ISBA/27/C/25

prioritize the Commission's operationalization, given the advanced stage of negotiations on the exploitation regulations. The delegates highlighted the Commission's important role in supporting developing countries that may experience serious adverse economic impacts from the activities in the Area and underlined the importance of establishing the economic assistance fund in line with the Convention and the 1994 Agreement. Some delegates also called for equitable geographical representation and gender balance in the composition of the Commission.

III. Economic Planning Commission

4. As stated in the previous report by the Secretary-General,⁴ the Economic Planning Commission is a subsidiary organ of the Council. The relevant provisions concerning the Commission are found in articles 151, 163 and 164 of the United Nations Convention on the Law of the Sea and in sections 1 and 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. These provisions address the establishment, membership and functions of the Commission.

5. According to article 163, paragraph 2, of the Convention, the Economic Planning Commission is composed of 15 members, elected by the Council from among the candidates nominated by the States parties. States parties are to nominate candidates of the highest standards of competence and integrity with qualifications in the domain of competence of the Commission. Members of the Commission must have appropriate qualifications such as those relevant to mining, management of mineral resource activities, international trade or international economics. The Council must endeavour to ensure that the membership of the Commission reflects all appropriate qualifications.⁵

6. The substantive functions of the Economic Planning Commission are set out in article 164, paragraph 2, of the Convention. The 1994 Agreement contains several important modifications to the Commission's functions and the early performance thereof.

7. First, it is provided that the functions of the Economic Planning Commission are to be carried out by the Legal and Technical Commission until such time as the Council decides otherwise, or until the approval of the first plan of work for exploitation.

8. Second, the implementation of article 151, paragraph 10, of the Convention, is further qualified in section 7 of the annex to the 1994 Agreement, which serves to define the policy of the Authority in relation to assisting developing countries that suffer serious adverse effects on their export earnings or economies caused by activities in the Area and the principles on which the policy is based. The principles include the provision of assistance under section 7, paragraph 1 (a), of the 1994 Agreement, through an economic assistance fund created from a portion of the Authority's funds exceeding those necessary to cover its administrative expenses of the Authority. The amount set aside for this purpose is to be determined by the Council upon recommendation of the Finance Committee. Only funds from payments received from contractors, including the Enterprise, and voluntary contributions are to be credited to the fund.⁶ All related provisions of the Convention, including article 164, paragraph 2, on the original functions of the Economic and Planning Commission, are to be interpreted accordingly.

⁴ ISBA/27/C/25

⁵ United Nations Convention on the Law of the Sea, art. 164, para. 1.

⁶ Regulation 5.8 of the Financial Regulations of the International Seabed Authority (ISBA/6/A/3, annex).

IV. Work of the Legal and Technical Commission in performing the functions of the Economic Planning Commission

9. As required in the 1994 Agreement, the Legal and Technical Commission has to date performed the functions of the Economic Planning Commission. Thus, at its twenty-sixth session, the Legal and Technical Commission took note of a study of the potential impact of polymetallic nodule production from the Area on the economies of the developing land-based producers of metals that were likely to be the most seriously affected.⁷ The Commission made several recommendations to the Council, including that the Council consider continuing to address the substantive issues identified in the study.

10. The Legal and Technical Commission also recommended that the Council consider initiating a process for establishing an economic assistance fund in accordance with the 1994 Agreement. The Economic Planning Commission will need to set the criteria for developing countries adversely affected by activities in the Area to access the fund.

11. In addition, the Legal and Technical Commission recommended that the Council consider whether the Economic Planning Commission should be operational before the approval of the first plan of work for exploitation, so as to be in a position to consider and study, in a structured and systematic way, the impacts on developing land-based producer States. In that regard, one of the tasks on which the Authority is to concentrate before the approval of a plan of work for exploitation is the study of the potential impact of mineral production from the Area on the economies of developing land-based producers of those metals that are likely to be most seriously affected, with a view to minimizing their difficulties and assisting them in their economic adjustment, taking into account the work already done by the Preparatory Commission.⁸

12. Furthermore, the Economic Planning Commission is to review the trends of and factors affecting the supply, demand and prices of metals that will be processed from minerals that 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.⁹

V. Operationalization of the Economic Planning Commission and financial implications

13. During its meetings in the twenty-ninth in 2024 and the first part of its thirtieth session, the Council reiterated that negotiations on the draft exploitation regulations are at an advanced stage. It also recalled the revised roadmap for the thirtieth session,¹⁰ which was endorsed by the Council and reflects the shared determination to conclude negotiations on the exploitation regulations within the thirtieth session. In this context, the Council may consider that the operationalization of the Economic Planning Commission has become a matter of priority.

14. The Council may note that the operationalization of the Economic Planning Commission does not imply that it will assume immediately its substantive responsibilities. For its operationalization, the first step is to have a clear road map for the election of its members, for the beginning of its meetings, for defining its workplan and to prioritise its activities.

⁷ ISBA/26/C/12, para. 17; ISBA/26/C/12/Add.1, paras. 17–19; Technical Study 32, <https://www.isa.org.jm/publications/21773/>

⁸ 1994 Agreement relating to the Implementation of Part XI of United Nations Convention on the Law of the Sea of 10 December 1982, annex, sect. 1, para. 5 (e).

⁹ Convention, art. 164, para. (2) (b), and 1994 Agreement, annex, sect. 1, para. 5 (d).

¹⁰ ISBA/29/C/9/Add.1, annex III.

15. As mentioned in the previous report by the Secretary-General,¹¹ to operationalize the Economic Planning Commission, the Council would have to hold an election for that purpose. Considering the need to provide ample opportunity for all States parties to nominate candidates for election, it is assumed that the earliest such an election could be held is in 2026.

16. It is noted that, in electing members of the Commission, due account must be taken of the need for equitable geographical representation and the representation of special interests. In addition, article 164, paragraph 1, of the Convention requires that the Commission include at least two members from developing States whose exports of the categories of metals processed from minerals to be derived from the Area have a substantial bearing upon their economies.

17. Members of the Economic Planning Commission are to be elected by the Council for a term of five years. The Council may wish to consider electing the members of the Commission during the second part of its thirty-first session in 2026, which could start its mandate on 1 January 2027. The Council may note that at this time it is not possible to synchronise the terms of office of the members of the Commission with those of the Legal and Technical Commission, since the current period of its membership finishes at the end of 2027.

18. The operationalization of the Economic Planning Commission would have financial implications for the budget of the Authority. It would be necessary to allocate sufficient resources to service its meetings, prepare documentation and provide interpretation services. The cost of servicing a one-week meeting of the Commission at the early stage of functioning is estimated at \$115,000 (rent of the appropriate room at the Jamaica Conference Center, \$2,500; documentation, \$17,500; interpretation, \$88,000; miscellaneous services, \$7,000). This figure may increase once the Commission begins its substantive work and requires more documentation, staff and meeting time and, thus, a greater allocation of resources. However, this is not expected until 2028 or 2029.

19. In that regard, the Council may request the recommendation of the Finance Committee in respect to the resources to be included in the 2027-2028 budget of the Authority necessary for the operationalisation of the Commission from 1 January 2027.

VI. Work ahead on the Economic Planning Commission

20. The first item of business of the Economic Planning Commission, before it could commence its substantive work, would be to formulate and submit its rules of procedure to the Council for approval. In that regard, it is noted that the Preparatory Commission prepared final draft rules of procedure for the Economic Planning Commission. While these would need to be modified to bring them into conformity with the provisions of the 1994 Agreement, they would serve as a basis for initial consideration by the Commission.¹²

21. Thus, the Commission would need to develop its workplan for the first five years of its operations. As indicated in the report on 2022¹³, a list of possible items for consideration by the Commission in the first five years based on article 164, paragraph 2, of the Convention, as modified by the Agreement, and taking into account the work of the Preparatory Commission, is included in the annex of the present report.

¹¹ [ISBA/27/C/25](#)

¹² See the final draft rules of procedure of the Economic Planning Commission (LOS/PCN/WP.36/Rev.2) as contained in document [LOS/PCN/WP.52/Add.3](#).

¹³ [ISBA/27/C/25](#), annex.

VII. Recommendation

22. In light of the foregoing, the Council is invited to consider adopting the draft Decision set out in the annex.

Annex

Draft decision of the Council of the International Seabed Authority on the operationalization of the Economic Planning Commission

The Council of the International Seabed Authority,

Recalling the relevant provisions of articles 151, 163 and 164 of the United Nations Convention on the Law of the Sea, and sections 1 and 7 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 which address the establishment, membership and functions of the Economic Planning Commission,

Recalling also that the Economic Planning Commission should be operational before the approval of the first plan of work for exploitation, so as to be in a position to consider and study, in a structured and systematic way, the impacts on developing land-based producer States, with a view to minimizing their difficulties and assisting them in their economic adjustment, taking into account the work already done by the Preparatory Commission for the International Seabed Authority,

Considering that the Economic Planning Commission is composed of 15 members, to be elected every five years by the Council from among the candidates nominated by the States parties,

Taking note of the 2022 and 2025 reports of the Secretary-General on the operationalization of the Economic Planning Commission,

Recognizing the critical role of the Economic Planning Commission in supporting the work of the Authority, particularly in relation to the potential economic impacts of activities in the Area on affected developing land-based producer States, as well as the establishment and management of the Economic Assistance Fund,

Recognizing also the advanced stage of negotiations on the draft regulations on exploitation of minerals in the Area and the need to ensure institutional preparedness for the transition to the exploitation phase,

1. *Decides* to operationalize the Economic Planning Commission as a subsidiary organ of the Council in accordance with the relevant provisions of the Convention and the 1994 Agreement;
2. *Requests* the Secretary-General to prepare, in accordance with established procedures, the necessary arrangements for the election of the 15 members of the Economic Planning Commission by the Council at its thirty-first session in 2026 and the appropriate arrangements for the Commission to convene from 1 January 2027;
3. *Also requests* the Secretary-General to include a provision for the Economic Planning Provision in the proposed budget of the Authority for the financial period 2027-2028, as a separate part of the budget;
4. *Requests* the Finance Committee to consider the financial implications of the establishment of the Economic Planning Commission and to make appropriate recommendations to include sufficient resources in the proposed budget of the Authority for the financial period 2027–2028 to support the effective functioning of the Commission from 1 January 2027;
5. *Decides* to hold the election of the 15 members of the Economic Planning Commission at its thirty-first session in 2026, in accordance with article 163 of the Convention, taking into account the need for equitable geographical representation, representation of special

interests and the qualifications of candidates, including at least two members from developing States whose exports of the categories of metals from minerals to be derived from the Area have a substantial bearing upon their economies;

6. *Requests* the Secretary-General to publish a short list of members from developing States whose exports of the categories of metals from minerals to be derived from the Area have a substantial bearing upon their economies;

7. *Decides* that the first item of business of the Economic Planning Commission, prior to the commencement of its substantive work, shall be to formulate and submit its rules of procedure to the Council for approval, drawing on the draft rules prepared by the Preparatory Commission and adapted to the institutional framework of the Authority under the 1994 Agreement;

8. *Further decides* that, following the adoption of its rules of procedure, the Economic Planning Commission shall develop a detailed workplan for the first five years of its operations, based on the functions set out in article 164 of the Convention as modified by the 1994 Agreement, and taking into account the elements listed in the annex of this decision, as well as any relevant decisions of the Council;

9. *Requests* the Secretary-General, through the Secretariat, to provide administrative and technical support to facilitate the operationalization of the Commission, including preparatory work in advance of the election and convening of the Commission;

10. *Decides* that the Legal and Technical Commission will continue to perform the functions of the Economic Planning Commission until the latter is convened in 2027 or until the approval of the first plan of work for exploitation, whichever occurs first;

11. *Decides* to keep the matter under review.

Annex [of the Draft decision]**Indicative five-year workplan of the Economic Planning Commission (2027–2031)**

<i>Activities</i>	<i>References</i>
Preparation of draft rules of procedure of the Economic Planning Commission based on the final draft rules of procedure prepared by the Preparatory Commission.	<ul style="list-style-type: none"> • Article 163, paragraph 10, of the United Nations Convention on the Law of the Sea • Final draft rules of procedure of the Economic Planning Commission prepared by the Preparatory Commission
Development of five-year workplan	<ul style="list-style-type: none"> • Article 164 of the Convention • 1994 Agreement relating to the Implementation of Part XI of United Nations Convention on the Law of the Sea of 10 December 1982, annex, sections 1 and 7 • Work of the Preparatory Commission and work of the Legal and Technical Commission
Study of the potential impact of metal production from minerals derived from activities in the Area on the economies of developing land-based producers of those metals that are likely to be most seriously affected, with a view to minimizing their difficulties and assisting them in their economic adjustment, taking into account the work done in this regard by the Preparatory Commission	<ul style="list-style-type: none"> • 1994 Agreement, annex, section 1, paragraph 5 (e), and section 7 • Work of the Preparatory Commission and of the Legal and Technical Commission in performing the functions of the Economic Planning Commission
Study of the limitations affecting the ability of developing land-based producer States to eliminate the effects of seabed mineral production on their export earnings or economies and to control those effects to identify long-term remedial measures that take into account the elimination of those limitations	<ul style="list-style-type: none"> • 1994 Agreement, annex, section 1, paragraph 5 (e), and section 7 • Work of the Preparatory Commission and of the Legal and Technical Commission in performing the functions of the Economic Planning Commission
Review of the trends and factors affecting the supply, demand and prices of metals processed from minerals that are derived from the Area	<ul style="list-style-type: none"> • Article 164, paragraph 2 (b), of the Convention • 1994 Agreement, annex, section 1, paragraph 5 (d)
Initiate a process for establishing an Economic Assistance Fund, addressing issues such as the governance of the fund and the criteria for granting countries access to the fund.	<ul style="list-style-type: none"> • 1994 Agreement, annex, section 7 • Work of the Preparatory Commission and of the Legal and Technical Commission in performing the functions of the Economic Planning Commission
Make recommendations on cooperation with existing global or regional development institutions with infrastructure and expertise to carry out assistance programmes	<ul style="list-style-type: none"> • 1994 Agreement, annex, section 7