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Agenda item 13

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

Report of the Chair of the Legal and Technical Commission on the work of the Commission during the resumed meetings of the twenty-sixth session, in 2021

Addendum

I. Introduction

1. The Legal and Technical Commission of the International Seabed Authority resumed its meetings of the twenty-sixth session in a virtual format for a total of six weeks (five weeks between 22 March and 1 July and from 27 to 30 September 2021). It held a total of 24 virtual plenary meetings. The working groups set up by the Commission also met frequently in virtual format to work on various agenda items.

2. At its meeting of 22 March, the Commission adopted a revised agenda¹ and elected Harald Brekke (Norway) as Chair and Thembile Joyini (South Africa) as Vice-Chair. Federico Gabriel Hirsch (Argentina), who was duly elected by the Council on 15 April for the remainder of the term of Martín Mainero (Argentina), participated in the meetings. One member of the Commission (Russell Howorth) was unable to attend any of the virtual meetings.

3. On 24 May, the members of the Commission observed one minute of silence in memory of their colleague, Milind P. Wadikar (India), who had passed away on 18 May, and they requested the Secretary-General to convey their deepest condolences to Mr. Wadikar's family. Following the established practice of the Commission, Sethuraman Ramesh (India) participated in the meetings held in September in his capacity as a candidate nominated by the Government of India in August for the election to fill a vacancy on the Commission.²

* New dates of the in-person meetings originally scheduled for July 2020 and then July 2021.

¹ ISBA/26/LTC/1/Rev.1.

² See ISBA/26/C/45.



4. In view of the virtual format of the meetings, the Commission also followed a silence procedure for its decision-making.

II. Activities of the contractors

A. Report on the status of the contracts for exploration and information on periodic reviews

5. On 22 March, the Commission took note of the information provided by the secretariat on the status of contracts and periodic reviews.³ It was noted that members of the Commission had, intersessionally, regularly provided feedback on periodic reviews to the secretariat.

B. Consideration of the annual reports of contractors

6. From 28 June to 1 July, the Commission considered 30 annual reports on activities carried out by contractors in 2020. The Commission welcomed the preliminary evaluations of those reports by the secretariat. In line with established practice, the Commission set up three working groups to review geological and technological aspects, legal, financial and training aspects and environmental aspects, respectively, of the reports. In addition to specific comments on each report to be conveyed by the Secretary-General to the individual contractors, the Commission made the general comments outlined below.

7. The Commission noted that most contractors had met the extended deadline⁴ set for the submission of their annual reports and followed the structure and format recommended by the Commission.⁵ However, it was also noted that a few contractors had either not met the deadline or not followed the reporting format, despite repeated requests from the Commission in that regard. In this connection, the Commission, in the specific comments to the relevant contractors, urged them to follow the requirements for the following year's reports.

8. In terms of the programmes of activities, the Commission recognized the efforts made by the contractors to make progress with their work despite the constraints resulting from the coronavirus disease (COVID-19) pandemic. In this regard, the Commission noted that some contractors had managed to adhere to their planned programmes of activities and, in some instances, appeared to have further advanced the implementation of planned activities. A number of contractors continued to carry out survey work and analyses of existing or new data and had made progress with environmental baseline studies. Several contractors had undertaken the synthesis of data collected over the past few years, in a way that would support future sampling efforts. The Commission also noted that a few contractors had made progress with technological developments aimed at testing collectors in their contract areas.

9. As could be expected, several contractors had had to reduce or adjust activities as a result of the COVID-19 pandemic. For those contractors the programme of activities of which had been more severely affected, the Commission had sought information on how they would overcome those obstacles. In this connection, the Commission suggested that those contractors provide an analysis of the exploration programme showing the impact of the pandemic, including an action plan for

³ The relevant information has since been updated and included in document [ISBA/26/C/4/Add.1](#).

⁴ In view of the coronavirus disease (COVID-19) situation, the Secretary-General had extended the deadline for submission of annual reports from 31 March to 30 April 2021.

⁵ See [ISBA/21/LTC/15](#).

addressing the identified impacts and determining whether there would be longer-term effects on their programme of activities.

10. More specifically, the Commission noted that the pandemic had had an overall adverse impact on the number and type of planned training activities. The Commission urged the relevant contractors to continue their dialogue with the secretariat to fulfil their training obligations, including by identifying any viable alternative modalities.

11. The Commission noted with appreciation that a number of contractors had improved the quality of their survey designs and enhanced the distribution and replication of sampling efforts in their environmental baseline studies. Several contractors were making significant efforts in completing their environmental baseline studies with a view to preparing applications for exploitation. The Commission, however, expressed concerns about whether sufficient samplings had been collected for environmental baseline studies across the range of environmental parameters to assess natural spatial and temporal variability. Sampling efforts by contractors tended to focus on examining spatial variations in biological and oceanographic patterns rather than seasonal or inter-annual changes. An emphasis had also been placed on sampling in the benthic environment, and some contractors would need to increase sampling in the pelagic environment in accordance with the recommendations contained in documents [ISBA/25/LTC/6/Rev.1](#) and [ISBA/25/LTC/6/Rev.1/Corr.1](#).

12. The Commission noted that, overall, there was a good collaboration among contractors, as well as with academia, in such aspects as taxonomic standardization and the collaborative identification of fauna in seabed images. It was also noted that several contractors had continued to work with other contractors by undertaking joint cruises and using the same scientific techniques and expertise to analyse data. Such cooperation among contractors could be efficient and would help with analyses on a regional scale.

13. The Commission stressed that contractors that had entered into more than one contract with the Authority were required to report on work done under each contract and in respect of each contract area separately. It highlighted that, for such contractors, the work undertaken under one contract was not sufficient to meet their obligations under another contract. Neither should those contractors repeat the description of work undertaken in one contract in their reports for work done under another contract. The Commission had highlighted those observations in its specific comments to the respective contractors.

14. The Commission reiterated its previous observation that a number of contractors were approaching the end of their initial contracts or extension periods. An element that was improving in some annual reports, but was still missing in many others, was a review of how the baseline data were building towards an adequate level to support a robust environmental impact assessment as part of an application for exploitation. The Commission suggested to contractors that such a “gap analysis” should also be reflected in sufficient detail in the annual report in relation to their planned activities for the following year.

15. The Commission noted that some contractors had made general references to information contained in previous reports, as well as to publications or other external sources, to present data and information collected under their programme of activities. In that regard, the Commission emphasized that, where important, those data and information should be summarized and included in future annual reports.

C. Status of the implementation of training programmes under plans of work for exploration and the allocation of training opportunities

16. On 24 March, the Commission heard an update on the implementation of training programmes. The training subgroup was invited to work with the secretariat on the selection of candidates. On 30 June, on the basis of the recommendations from the training subgroup, the Commission selected candidates for three training programmes offered by three contractors.⁶

17. During its virtual meetings held in late June, the Commission discussed the key findings of the review commissioned by the secretariat in 2020 on the capacity-building activities implemented by the Authority since 1994, as well as on the outcomes of the workshop on capacity development, resources and needs assessment held in February 2020 and the survey circulated to all members of the Authority between April and June 2020 to identify their capacity development priorities. Following the decision of the Assembly of December 2020 relating to the implementation of a programmatic approach to capacity development,⁷ the Commission identified the need to review the recommendations for the guidance of contractors and sponsoring States relating to training programmes under plans of work for exploration.⁸ The Commission, accordingly, requested the training subgroup to work with the secretariat intersessionally on that issue.

III. Consideration of applications for the extension of contracts for exploration

18. Seven applications for five-year extensions of approved plans of work for exploration were placed on the agenda of the Commission. They had been submitted by the following contractors: Interoceanmetal Joint Organization (18 September 2020); JSC Yuzhmorgeologiya (7 October 2020); Government of the Republic of Korea (30 October 2020); Deep Ocean Resources Development Co. Ltd. (7 December 2020); China Ocean Mineral Resources Research and Development Association (8 December 2020); Institut français de recherche pour l'exploitation de la mer (17 December 2020); and Federal Institute for Geosciences and Natural Resources of Germany (29 December 2020). The Commission was informed that all applicants had paid the required processing fee of \$67,000. The Commission was noted that one applicant (the Federal Institute for Geosciences and Natural Resources of the Federal Republic of Germany) was seeking an extension for the first time, while the other six contractors were applying for extensions for a second time.

19. During the two weeks of 12–15 and 26–29 April, the Commission considered the applications expeditiously and in the order of receipt, in accordance with paragraphs 8 and 13 of the procedures and criteria set out in the decision of the Council relating to the procedures and criteria for the extension of an approved plan of work for exploration pursuant to section 1, paragraph 9, 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 1982.⁹

20. The Commission set up three working groups to review the geological and technological aspects, the legal, financial and training aspects and the environmental aspects, respectively, of the applications.

⁶ See [ISBA/26/LTC/9](#).

⁷ [ISBA/26/A/18](#).

⁸ [ISBA/19/LTC/14](#).

⁹ [ISBA/21/C/19](#).

21. Following extensive deliberations in the plenary meeting held on the first week, members of the Commission raised various questions in relation to applications for a second extension concerning the fulfilment of the requirements set out in decision [ISBA/21/C/19](#). The questions were transmitted to the relevant applicants on 22 April. They covered the financial, technical, scientific and environmental data and information that had been submitted, and the Commission requested in particular further details on the analysis of results achieved during the extended five-year period, sampled parameters and baseline data collected over the entire period of the contracts, the sampling programme in the proposed plans of work, proposed training programmes and mining technology developments.

22. The responses were provided by the applicants by 27 April and reviewed by the Commission, which noted with appreciation that all the requested data and information had been duly supplied. The Commission recalled that, pursuant to paragraph 12 of the procedures and criteria, if it considered that a contractor had made efforts in good faith to comply with the requirements of the contract for exploration but that, for reasons beyond its control, had been unable to complete the preparatory work necessary for proceeding to the exploitation stage, or if the prevailing economic circumstances (such as those encountered in the global markets and low metal prices) did not justify proceeding to the exploitation stage, then it was to recommend the approval of the applications.

23. In addition, members of the Commission had suggestions regarding the proposed programme of activities during the extension period as submitted by the applicants. The suggestions are to be communicated to the applicants upon approval of the extensions by the Council, with a view to being taken into account by the applicants in drawing up the proposed programmes of activities for the extension period before their extension agreement is signed with the Secretary-General.

24. Having concluded that the data and information provided by the applicants met the criteria set out in decision [ISBA/21/C/19](#) and that all applicable procedures had been complied with, the Commission recommends that the Council approve the seven applications.

25. The recommendations of the Commission in respect of each of the applications are contained in documents [ISBA/26/C/31–37](#).

IV. Regulatory activities of the Authority

A. Development of standards and guidelines for activities in the Area

26. From 22 to 25 March, the Commission continued to consider the development of phase-one standards and guidelines for activities in the Area as a priority matter. On 8 April, it released the text of the following seven draft standards and guidelines for stakeholder consultation until 7 June, which was later extended to 3 July:¹⁰

- (a) Draft guidelines for the establishment of baseline environmental data;
- (b) Draft standard and guidelines for environmental impact assessments process;
- (c) Draft guidelines for the preparation of an environmental impact statement;
- (d) Draft guidelines for the preparation of environmental management and monitoring plans;

¹⁰ See <https://isa.org.jm/mining-code/standards-and-guidelines>.

(e) Draft guidelines on tools and techniques for hazard identification and risk assessment;

(f) Draft standard and guidelines for the safe management and operation of mining vessels and installations;

(g) Draft standard and guidelines for the preparation and implementation of emergency response and contingency plans.

27. From 27 to 30 September, the Commission considered the comments received from stakeholders, as well as comments on the three draft standards and guidelines that had been released for stakeholder consultation in 2020, namely:

(a) Draft guideline on the preparation and assessment of an application for the approval of a plan of work for exploitation;

(b) Draft standard and guidelines on the development and application of environmental management systems;

(c) Draft standard and guidelines on the form and calculation of an environmental performance guarantee.

28. Further details concerning the work of the Commission on the draft standards and guidelines will be included in a separate report, in line with its agreed process as outlined in enclosure II to the annex to document [ISBA/25/C/19/Add.1](#).

B. Matters relating to insurance for activities in the Area

29. On 23 March, on the basis of the outcome of a survey conducted by the secretariat, the Commission developed terms of reference for the preparation of a standard and/or guidelines to assist contractors in complying with regulation 36 on insurance obligations of the draft regulations on exploitation of mineral resources in the Area,¹¹ and it requested the secretariat to work on such draft standard and/or guidelines as part of the development of phase-two standards and guidelines.

C. Matters relating to a remote monitoring system in support of inspection and compliance in the Area

30. On 5 May, the secretariat held an informal workshop for the members of the Commission on the review and development of a remote monitoring system in support of inspection and compliance in the Area, which is required under regulation 102 of the draft regulations on exploitation of mineral resources in the Area. During the workshop, key outcomes of a study on that specific topic were presented by a consultant. On the basis of discussions on the presentation and the study, the Commission identified key points for the way forward and set up a working group to draft terms of reference for a list of mandatory parameters for remote monitoring and reporting.

31. On 1 July, the Commission endorsed the terms of reference prepared by the working group and requested the secretariat to prepare a draft standard and/or guidelines on an electronic monitoring system as a part of the development of phase-two standards and guidelines.

¹¹ [ISBA/25/C/WP.1](#).

D. Procedure and criteria for the consideration of requests for the transfer of rights and obligations under a contract for exploration

32. As work under several contracts for exploration is making substantive progress, which will pave the way for developing plans of work for exploitation, some contractors may seek to avail themselves of the possibility set out in the regulations on exploration to transfer their rights and obligations under a contract for exploration. While the provisions concerning such transfer under annex III to the United Nations Convention on the Law of the Sea and the regulations on exploration set out general requirements, they do not specify the actual procedure and criteria by which the Authority would consider a request for such transfer.

33. On 22 March, bearing in mind the need to ensure the timely and effective management of contracts, the Commission started to consider the issue of the procedure and criteria for the consideration of requests for the transfer of rights and obligations under a contract for exploration. A working group was set up to work on the issues raised by the Commission. After hearing a report from the working group on 28 June, the Commission decided to continue its consideration of the matter intersessionally, with a view to submitting recommendations to the Council in 2022.

V. Review of the implementation of the environmental management plan for the Clarion-Clipperton zone and development of other regional environmental management plans in the Area

34. At its virtual meetings held in May, the Commission conducted a review of the implementation of the environmental management plan for the Clarion-Clipperton zone, as requested by the Council. The review built on a previous review conducted by the Commission in 2016 and identified progress made since the adoption of the plan in 2012, including in relation to the effectiveness of the network of areas of particular environmental interest, as well as further actions to advance the implementation of the plan. On the basis of the review, the Commission formulated recommendations to the Council on the establishment of four additional areas of particular environmental interest to enhance the effectiveness of the network.¹²

35. The Commission noted the progress made by the secretariat in relation to the development of regional environmental management plans in other priority regions. Two virtual workshops had been held in 2020 to support the development of such plans for the areas of the northern Mid-Atlantic Ridge and the North-West Pacific Ocean. The discussion built on the outcomes of previous workshops held in Qingdao, China, for the North-West Pacific, and in Szczecin, Poland, and Evora, Portugal, for the northern Mid-Atlantic Ridge. Additional expert workshops are being planned to support the development of regional environmental management plans in priority regions identified by the Council.¹³ It is expected that the outcomes of those workshops will provide a robust scientific and technical basis to support the work of the Commission in preparing its recommendations on the development of regional environmental management plans for consideration by the Council.

36. The Commission established a working group to discuss how to progress work intersessionally on the regional environmental management plan for the Area in the northern Mid-Atlantic Ridge, drawing on the outcomes of the expert workshops held

¹² See [ISBA/26/C/43](#).

¹³ See [ISBA/24/C/8](#).

for that region. The working group met on 22 June and discussed the outline of the regional environmental management plan and the timeline for the work that it should undertake. In its deliberations on the outline, the working group considered the structure of the environmental management plan for the Clarion-Clipperton zone and the decision of the Council concerning a standardized approach for the development, approval and review of such plans in the Area¹⁴ and the relevant proposals for a procedure for the development, approval and review of the plans¹⁵ and a template with minimum requirements for them.¹⁶ On 23 September, the working group met again to discuss a zero draft of the regional environmental management plan for the northern Mid-Atlantic Ridge. It decided to continue its work intersessionally, with a view to submitting the draft plan for consideration by the Commission at its following session. In the light of the discussions on the outline of the draft plan, the working group also noted that the plan could contribute to the formulation of recommendations on a standardized approach for the development of regional environmental management plans, including a template with indicative elements, as requested by the Council in its decision [ISBA/26/C/10](#). On 30 September, the Commission noted the progress made by the working group.

VI. Implementation of the data management strategy of the Authority

37. On 30 June, the Commission heard an update on progress made in the development and implementation of the DeepData database and the management strategy of the Authority. With a view to improving the alignment of the data flow process with the structure of DeepData, and building on the outcomes of the workshop on DeepData held in September 2020, it was suggested that the templates for reporting geological and environmental data referred to in annex IV to document [ISBA/21/LTC/15](#) should be revisited and updated. The Commission requested the data management working group to work intersessionally with the secretariat on the proposed templates for reporting geological data, environmental data and metadata, and to report to the Commission.

38. On 30 September, the Commission heard an update on the work of the data management working group. On the basis of the recommendations of the working group, the Commission endorsed the updated templates for the reporting of geological and environmental data and metadata for the purpose of annual reports by the contractors, and annex IV to [ISBA/21/LTC/15](#) was amended to that effect.¹⁷ The Commission also recommended that the secretariat hold a series of training sessions to enable contractors to understand the template fields and use the updated reporting templates effectively when submitting digital data to the Authority.

VII. Other matters

39. On 23 March, the Commission took note of the information on the relinquishment of contract areas submitted by the Ministry of Natural Resources and Environment of the Russian Federation under a contract for exploration for

¹⁴ [ISBA/26/C/10](#).

¹⁵ See [ISBA/26/C/6](#).

¹⁶ See [ISBA/26/C/7](#).

¹⁷ See [ISBA/21/LTC/15/Corr.1](#).

polymetallic sulphides and by Global Sea Mineral Resources NV under a contract for exploration for polymetallic nodules.¹⁸

40. On 30 September, the Commission took note of the environmental impact statement from Nauru Ocean Resources Inc. (NORI) regarding its plans to carry out testing of a polymetallic nodule collector in the NORI-D contract area of the eastern Clarion-Clipperton zone, in the Central Pacific Ocean.¹⁹ The Commission set up a working group to review the statement intersessionally and submit recommendations to the Commission at its following session, in 2022.

¹⁸ See [ISBA/26/C/41](#) and [ISBA/26/C/42](#).

¹⁹ See [ISBA/26/LTC/10](#).