



# Council

Distr.: General  
6 May 2022

Original: English

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## Twenty-seventh session

Council session, part II

Kingston, 18–29 July 2022

Agenda item 13

### 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. In its decision [ISBA/26/C/57](#) of 10 December 2021, the Council of the International Seabed Authority requested the secretariat to prepare a report concerning the operationalization of the Economic Planning Commission, including its financial implications.

#### II. Economic Planning Commission

2. 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.

3. Like the Legal and Technical Commission, the Economic Planning Commission is composed of 15 members, elected by the Council from among the candidates nominated by the States parties. However, if necessary, the Council may decide to increase the membership of the Economic Planning Commission giving due regard to economy and efficiency. 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.<sup>1</sup>

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<sup>1</sup> United Nations Convention on the Law of the Sea, art. 164, para. 1.



4. 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.

5. 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.

6. 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 and the principles on which the policy is based. The principles include the provision of assistance under article 151, paragraph 10, 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.<sup>2</sup> 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.

### **III. Work of the Legal and Technical Commission in performing the functions of the Economic Planning Commission**

7. 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.<sup>3</sup> Recognizing the importance of the matter and bearing in mind the possible commencement of seabed mining in the foreseeable future, the Commission made several recommendations to the Council, including that the Council consider continuing to address the substantive issues identified in the study.

8. 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. To manage the fund, the Economic Planning Commission will need to set the criteria for access to the fund on the basis of a country's ability to demonstrate how it has been adversely affected by deep seabed mining owing to a decrease in the price or export volume of a mineral. The Commission will also determine on a case-by-case basis the amount, level and time frame of assistance that countries are to be granted from the fund.

9. 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

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<sup>2</sup> Regulation 5.8 of the Financial Regulations of the International Seabed Authority ([ISBA/6/A/3](#), annex).

<sup>3</sup> [ISBA/26/C/12](#), para. 17, and [ISBA/26/C/12/Add.1](#), paras. 17–19.

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, taking into account the work already done by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea.<sup>4</sup>

10. Furthermore, the Economic Planning Commission is to review the trends of and factors affecting the supply, demand and prices of 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.<sup>5</sup>

#### **IV. Establishment of the Economic Planning Commission and financial implications**

11. If the Council were to decide to establish the Economic Planning Commission, it would be necessary 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 would be in 2023. 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 minerals to be derived from the Area have a substantial bearing upon their economies.

12. Members of the Economic Planning Commission are to be elected for a term of five years. The Council may wish to consider synchronizing the terms of office of members of the Commission with those of other organs and bodies of the Authority to commence on 1 January 2024. Therefore, if the Commission were to be elected by the Council in 2023, and subject to the pattern of meetings of the Authority, the Commission could begin to meet in 2024.

13. 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. As with the rules of procedure of other organs of the Authority, 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.<sup>6</sup> Thus, the Commission would need to develop its workplan for the first five years of its operations. 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 annexed to the present report.

14. The establishment 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

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<sup>4</sup> 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).

<sup>5</sup> Convention, art. 164, para. (2) (b), and 1994 Agreement, annex, sect. 1, para. 5 (d).

<sup>6</sup> 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](#).

at the early stage of functioning is estimated at \$85,000. 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 2025 or 2026.

## **V. Recommendation**

15. The Council is invited to take note of the present report and to provide such guidance as may be necessary.

## Annex

### Indicative five-year workplan of the Economic Planning Commission (2024–2028)

<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 for the International Seabed Authority and for the International Tribunal for the Law of the Sea	<ul style="list-style-type: none"> <li>• Article 163, paragraph 10, of the United Nations Convention on the Law of the Sea</li> <li>• Final draft rules of procedure of the Economic Planning Commission prepared by the Preparatory Commission</li> </ul>
Development of five-year workplan	<ul style="list-style-type: none"> <li>• Article 164 of the Convention</li> <li>• 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</li> <li>• Work of the Preparatory Commission and work of the Legal and Technical Commission</li> </ul>
Study of 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, taking into account the work done in this regard by the Preparatory Commission	<ul style="list-style-type: none"> <li>• 1994 Agreement, annex, section 1, paragraph 5 (e), and section 7</li> <li>• Work of the Preparatory Commission and of the Legal and Technical Commission in performing the functions of the Economic Planning Commission</li> </ul>
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"> <li>• 1994 Agreement, annex, section 1, paragraph 5 (e), and section 7</li> <li>• Work of the Preparatory Commission and of the Legal and Technical Commission in performing the functions of the Economic Planning Commission</li> </ul>
Review of the trends and factors affecting the supply, demand and prices of minerals that are derived from the Area	<ul style="list-style-type: none"> <li>• Article 164, paragraph 2 (b), of the Convention</li> <li>• 1994 Agreement, annex, section 1, paragraph 5 (d)</li> </ul>
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 and for determining, on a case-by-case basis, the amount, level and time frame of assistance to be granted	<ul style="list-style-type: none"> <li>• 1994 Agreement, annex, section 7</li> <li>• Work of the Preparatory Commission and of the Legal and Technical Commission in performing the functions of the Economic Planning Commission</li> </ul>
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"> <li>• 1994 Agreement, annex, section 7</li> </ul>