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Implementation of the decision of the Council in 2016 relating to the summary report of the Chair of the Legal and Technical Commission

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Report of the Secretary-General

I. Background

1. At its 220th meeting, on 19 July 2016, the Council of the International Seabed Authority adopted a decision relating to the summary report of the Chair of the Legal and Technical Commission on its work during the twenty-second session (ISBA/22/C/28). According to paragraph 15 of the decision, the Secretary-General was requested to update the Council at its present session on the implementation of the decision. The Council also requested that the update be incorporated into the Council's agenda as a standing item.

2. In accordance with the Council's request, the "Report of the Secretary-General on the implementation of the decision of the Council in 2016 relating to the summary report of the Chair of the Legal and Technical Commission" has been added as item 9 of the provisional agenda of the Council for 2017 (ISBA/23/C/L.1). The present document provides an update on the implementation of the decision of the Council.

II. Working draft exploitation regulations and priority deliverables for the development of the exploitation code

3. In paragraphs 2 and 3 of its decision, the Council welcomed the work of the Commission in relation to the framework for the exploitation regulations, in particular the provision of the first working draft of those regulations, and requested the Commission to continue its work the regulations as a matter of priority. The Council also endorsed the Commission's list of priority deliverables for the

* ISBA/23/C/L.1.



development of the exploitation code over the following 12 to 18 months, as set out in annex II to document [ISBA/22/C/17](#).

4. Immediately following the twenty-second session, the Commission issued a revised working draft of the exploitation regulations (including the standard clauses of the exploitation contract), along with a list of specific questions addressed to stakeholders. This revised working draft was made available to the members of the Authority and all stakeholders for comment, with a closing date of 25 November 2016.

5. The secretariat received a total of 43 submissions from the following stakeholder categories: member States of the Authority (6); non-member States (1); governments — other (2); international organizations (1); International Seabed Authority contractors (10); environmental non-governmental organizations (9); industry and other (2); academics (2) and private individuals (10). The secretariat consolidated all submissions for the Commission's consideration.

6. During its first meeting in 2017, the Commission began a detailed consideration of the revised working draft in the light of the comments provided by the stakeholders, as well as the responses to the specific questions identified by the Commission. The Commission had the opportunity to review, discuss and comment on each regulatory provision. It also highlighted and discussed a number of recurring themes in the stakeholder comments, including a need for clear timelines for both applicants and the Authority; consideration of the role of sponsoring States; the requirement for clear guidelines to implement regulatory provisions and the overall structure of the regulations.

7. In January 2017, the secretariat issued a discussion paper on the development and drafting of regulations on exploitation of mineral resources in the area (environmental matters). The document was introduced to the Commission for initial comments and review. The Commission noted that the international workshop on environmental management of deep seabed mining to be held in Berlin in March 2017 would provide a further opportunity for stakeholders to comment on the content of the discussion paper. The Commission also noted that a workshop in connection with the development of the payment regime was to be held in Singapore in April 2017 and it highlighted the importance of those workshops in contributing background information to the Commission's list of priority deliverables endorsed by the Council.

8. The Commission, taking account of the stakeholders' comments, reflected on the challenge of having separate, yet harmonized and integrated, regulations and the benefit of having uniform exploitation regulations (incorporating environmental and inspectorial provisions). Consequently, the Commission requested the secretariat to take note of its comments and other relevant expert input, including from the Berlin workshop, and to prepare a consolidated version of the draft regulations for consideration by the Commission at its second meeting in July/August 2017.

9. As highlighted above, and to advance the Commission's list of priority deliverables for the development of the exploitation code, two further workshops were held in 2017 relating to priority deliverables No. 4 (environmental assessment and management) and No. 2 (financial modelling for proposed financial terms and payment mechanism).

10. From 20 to 24 March 2017, in Berlin, the secretariat of the Authority organized an international workshop entitled "Towards an ISA Environmental Management Strategy for the Area" together with the German Federal Environmental Protection Agency and the Federal Institute for Geosciences and Natural Resources of Germany. The workshop provided a multi-stakeholder forum

in which experts in science, law and environmental management, among others, exchanged views and provided feedback from a multidisciplinary perspective on various issues in connection with the development of the environmental provisions of the mining code, based on the discussion paper on environmental matters and tentative regulatory provisions. Among the items discussed were environmental standards, environmental impact assessment procedures and criteria, the operationalization of “serious harm” (priority deliverable No. 6), adaptive management approach (priority deliverable No. 5) and regional environmental management, as well as a discussion on elements of a long-term environmental strategy for the Authority. The workshop was attended by some members of the Commission in their personal capacity.

11. The secretariat, as well as some members of the Commission attending in their personal capacity, participated in an external workshop connected with the development of a payment mechanism, held in Singapore in April 2017. The key focus of the workshop was the introduction to participating stakeholders of a working financial model to and a subsequent discussion of the components of the model and its underlying assumptions. A financial model is an important deliverable because it will allow the Commission to explore royalty-rate scenarios and payment mechanism options for the various phases of exploitation, and to discuss those scenarios with contractors and other stakeholders. To assist the Commission with further developing the workshop product into a viable working model and to incorporate suggested options, the Secretary-General intends to request contractors to provide their forecasted financial data to the secretariat to allow a range of such data to be modelled. The Singapore workshop also considered possible incentive mechanisms, including funds and bonds, to support the delivery of environmental objectives. Such mechanisms will require further investigation, including other market-based financial tools, and a related issue of the liability regime of the Area. A summary report of the workshop is available on the Authority’s website.

12. As to other priority deliverables, an update on the data management strategy and plan (priority deliverable No. 3) is presented in paragraph 25 below.

13. The Commission will continue its consideration of the draft exploitation regulations at its second meeting in 2017. It is expected that the Commission will also discuss a possible road map and timeline for regulatory development and make an appropriate recommendation to the Council, together with specific areas for action to better inform the regulatory development process and content of the regulatory provisions.

III. Contractor training programmes

14. In paragraph 4 of its decision, the Council expressed its appreciation to the contractors for their valuable commitment to bringing about a substantial increase in the number of training programmes over the following five years, noting that the number might reach as high as 200, and took note with satisfaction of the fact that, to manage the substantial workload relating to the training programmes, a position in the secretariat focused on training had been included in the next proposed budget of the Authority.

15. In relation to this matter, the Secretary-General is in a position to report that the dedicated training officer provided for in the budget for the financial period 2017-2018 has been recruited and started on 1 July 2017. It is noted that 23 new training opportunities have arisen so far in 2017, including 16 at-sea training opportunities offered by the Institut français de recherche pour l’exploitation de la mer (Ifremer) (1), the Republic of Korea (2), the Japan Oil, Gas and Metals National

Corporation (4), the Russian Federation (5) and the Federal Institute for Geosciences and Natural Resources of Germany (4); five fellowship training opportunities offered by the China Ocean Mineral Resources Research and Development Association (3) and by Ifremer (2); and two workshops offered by Global Sea Mineral Resources NV.

IV. Secretary-General's procedures to ensure the appropriate classification and secure handling of confidential data and information

16. In paragraph 7 of its decision, the Council noted the Commission's recommendation on the need to ensure the consistent application of the existing procedures relating to confidentiality formulated by the Secretary-General, and decided that the additional procedures for the handling of confidential data and information contained in annex II to the Secretary-General's Bulletin [ISBA/ST/SGB/2011/03](#) would apply, mutatis mutandis, to the Commission.

17. In relation to this matter, all new members of the Commission have been advised of the provisions of the Convention and the rules of procedure of the Commission relating to confidentiality and have been briefed on the procedures set out in annex II to the Secretary-General's Bulletin.

V. Review of the implementation of the environmental management plan for the Clarion-Clipperton Zone and other environmental management plans

18. In paragraphs 8 and 9 of its decision, the Council expressed its appreciation for the report of the Chair of the Commission regarding the review of the implementation of the environmental management plan for the Clarion-Clipperton Zone and noted that a workshop to review the implementation of the plan that was to have been convened before the twenty-second session, in 2016, had not taken place. The Council requested that that workshop be convened in 2017, before the present session.

19. At its first meeting in 2017, the Commission set up a working group to consider the request of the Council regarding an implementation workshop. The working group was of the opinion that the current environmental management plan for the Clarion-Clipperton Zone contained two types of area-based planning measures, namely areas of particular environmental interest outside contract areas and impact and preservation reference zones within each contract area. The working group considered the possibility to convene two separate workshops, one relating to areas of particular environmental interest and one relating to the design and implementation criteria for reference zones. These technical workshops would then provide the necessary input for a subsequent workshop to review the overall implementation of the environmental management plan for the Clarion-Clipperton Zone. In the interest of cost and efficiency, however, the working group was of the opinion that, unless there was an immediate urgency in confirming new areas of particular environmental interest, it would be more practical to incorporate a discussion on additional areas into the broader workshop on the implementation of the plan. In addition, given that more environmental data and information should be available by the end of 2017, following the submission of the annual reports by contractors and the populating of the Authority's database, the Commission thought it beneficial to defer until the first half of 2018 a three-day workshop dedicated to a

review of the status of implementation of the environmental management plan for the Clarion-Clipperton Zone and areas of particular environmental interest.

20. In paragraph 10 of its decision, the Council requested the Secretary-General to consider holding a workshop on impact reference zones and preservation reference zones, and encouraged the secretariat to work closely with the Commission to determine a suitable timing for that workshop and to ensure the broadest participation by all concerned States Parties.

21. In relation to this matter and based on the advice of the working group of the Commission, the secretariat will convene a technical workshop in 2017 on criteria for the selection of impact reference zones and preservation reference zones. Further information relating to this technical workshop will be made available in due course.

22. In paragraph 11 of its decision, the Council encouraged the Commission and the secretariat to make progress on the development of environmental management plans in other international seabed area zones, in particular where there were currently exploration contracts, recalling paragraph 60 of United Nations General Assembly resolution [70/235](#).

23. The Secretary-General has taken note of the views expressed by the Council in this regard and proposes to give consideration to how best to initiate action in this respect, taking into account budgetary constraints. The Commission has also held a general discussion on the approach to the development of environmental management plans and the need for environmental data from contractors and open sources to be made available for that purpose. The Commission and the Secretary-General have also taken note of external initiatives to develop a scientific basis for an environmental management plan in the Atlantic Ocean, and they intend to hold discussions with relevant stakeholders on how the outcomes of such initiatives may help to advance the work of the Authority. The Secretary-General also held preliminary discussions with the China Ocean Mineral Resources Research and Development Association regarding its interest in pursuing a cooperative effort with other contractors to develop an environmental management plan for the cobalt-rich ferromanganese crust zones in the Pacific Ocean. This initiative is welcomed and further discussions will be held in due course.

VI. Environmental data readily and publicly available

24. In paragraph 12 of its decision, the Council requested all contractors to make their environmental data readily and publicly available.

25. In this regard, the implementation of the data management strategy is in progress. It is recalled that funding was approved in the budget of the Authority for the financial period 2017-2018 to develop a new and improved database and to implement the data management strategy. The funding included the approval of two new posts within the secretariat: a database manager and a geographic information system officer. Recruitment to both positions was completed in April 2017.

26. In August 2016, the secretariat started to migrate all historical data provided by contractors into a digital format (reporting templates) and geo-referenced data (ArcGIS shapefile formats). To date, tabular migrated data have reached 1.7 million data points from areas under approved plans of work. This process will be followed by the implementation of the data management strategy and plan with the assistance of an external consultant. The secretariat is undertaking information technology design, acquisition and deployment. This task involves building the hardware for the virtual environment (storage, switches and servers) and factors in time for the

information technology architect contractor. Periodic progress reports are delivered to the Commission. The database structure and concept were presented to contractors at an informal meeting convened by the Secretary-General on 21 and 22 June 2017, in Kingston. During the meeting, technical discussions were held with individual contractors concerning gaps in data coverage, problems with data format and compatibility, and other technical problems. It is expected that the full implementation of the data management strategy will be finalized by the end of October 2018.

VII. Option of offering an equity interest in the regulations on prospecting and exploration for polymetallic nodules

27. In paragraph 13 of its decision, the Council requested the Commission to review the provisions of the regulations on prospecting and exploration relating to the option of offering an equity interest in a joint venture arrangement, with a view to aligning all regulations in that respect, and to make a recommendation thereon for consideration by the Council at its following session.

28. This matter was placed on the agenda of the Commission for 2017 and will be considered by the Commission accordingly.

VIII. Supporting the work of the Legal and Technical Commission

29. In paragraph 14 of its decision, the Council requested the Secretary-General to ensure that adequate time and resources continue to be made available to support the work of the Commission, especially on priority issues.

30. The Council is referred to the report of the review committee ([ISBA/23/A/3](#)), presented pursuant to article 154 of the United Nations Convention on the Law of the Sea, and the comments made by the Secretary-General thereon ([ISBA/23/A/5](#)). In this regard, the Council is invited to note that priority has been given to meetings of the Commission.

31. Finally, the Council is invited to take note of the present report and to provide such further direction as may be deemed necessary, including as to the format and content of future reports.
