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Consideration of requests for observer status in accordance with rule 82, paragraph 1 (e), of the rules of procedure of the Assembly

Guidelines for observer status of non-governmental organizations with the International Seabed Authority

Note by the Secretary-General

1. At its twenty-fourth session, in 2018, the Assembly of the International Seabed Authority requested the Secretary-General to prepare, for its consideration, more detailed guidelines and criteria for the consideration of applications for observer status submitted by non-governmental organizations (NGOs) (ISBA/24/A/12, para. 8). The Assembly formulated that request on the basis of a note prepared by the secretariat (ISBA/24/A/3). The present note has been prepared in response to that request.
2. To date, the Assembly has invited 28 NGOs to participate in its work as observers in accordance with rule 82, paragraph 1 (e), of its rules of procedure (see annex I).¹
3. Rule 82 (1) (e) provides for such participation by NGOs with which the Secretary-General has entered into arrangements in accordance with article 169, paragraph 1, of the United Nations Convention on the Law of the Sea, and other NGOs invited by the Assembly that have demonstrated their interest in matters under consideration by the Assembly.
4. Rule 82 (1) (e) does not provide details of the application process, assessment criteria or review process for the granting of observer status, and the Assembly has not yet adopted guidelines or objective criteria against which it can assess the merits of applications for observer status, in particular whether applicants have demonstrated their interest in matters under consideration by the Assembly, apart from a simple review of the information provided by them.
5. As highlighted in note ISBA/24/A/3, other international organizations, such as the International Maritime Organization (IMO), have established more detailed

* ISBA/25/A/L.1/Rev.1.

¹ A list of observers admitted under rule 82 is available at www.isa.org/jm/observers.



requirements in the form of guidelines that include criteria for assessing the merits of applications and the objectives and activities of applicants, together with a periodic review of NGOs granted observer status to determine whether the continuation of that status is merited.

6. Against this background, and further to the decision of the Assembly referred to in paragraph 1, the secretariat has considered comparable procedures for the Authority and drafted guidelines for consideration by the Assembly (see annex II).

7. In reviewing comparable procedures, and as referred to in document [ISBA/24/A/3](#), the secretariat mainly considered the IMO rules and guidelines for consultative status of non-governmental international organizations, which were initially adopted in 1961. Since then, they have been amended at least four times, most recently in 2013. Another useful reference document was the guidelines on relations between the International Oil Pollution Compensation Fund 1992 and intergovernmental organizations and international NGOs.

8. Both IMO and the Authority are specialized bodies within their fields, and they conduct their activities solely or partly in areas beyond national jurisdiction. Moreover, both organizations perform regulatory functions. The Authority is entrusted with adopting rules, regulations and procedures to administer and control mineral exploration and exploitation activities on the seabed beyond national jurisdiction. For its part, IMO is the global standard-setting authority for the safety, security and environmental performance of international shipping. Its main role is to create a regulatory framework for the shipping industry that is fair, effective, universally adopted and universally implemented. In 2016, IMO and the Authority concluded a cooperation agreement.

9. For those reasons, the IMO rules and guidelines were considered useful as they address comparable issues, and to that extent the secretariat has adapted them to provide guidance on the implementation of rule 82 (1) (e) of the rules of procedure of the Assembly.

10. Some aspects of the IMO rules and guidelines were not incorporated in the draft guidelines for the following reasons:

(a) The IMO rules and guidelines provide that observer status may only be granted to “non-governmental international organizations” which are “truly international” and are active and effective in the field. An organization should be deemed to be truly international only if it has members, component branches or affiliated bodies in a sufficient number of countries, taking into account its field of activity. In contrast, rule 82 (1) (e) of the rules of procedure of the Assembly refers only to “non-governmental organizations”;

(b) The IMO rules and guidelines include a category referred to as “consultative status on a provisional basis”, which has no parallel in rule 82 (1) (e) of the rules of procedure of the Assembly;

(c) The IMO rules and guidelines provide for the granting of reciprocal privileges, meaning that, in submitting an application, the applicant should be able to demonstrate how it would be possible for IMO to participate in the activities of the applicant (e.g., meetings, conferences, documents and publications). As the practice of the Authority is to address such matters by other means, such as cooperation arrangements or memorandums of understanding, it is suggested that reciprocal privileges need not be addressed in the draft guidelines.

11. In view of the above, the Assembly could adopt an incremental approach in building its process for granting observer status to NGOs by reviewing the draft

guidelines from time to time on the basis of experience gained over time with regard to their implementation.

Purposes of the guidelines

12. The purposes of the guidelines are threefold: First, they will assist prospective observers in ensuring that their requests meet all eligibility criteria before submission. Second, they will ensure that the Authority grants observer status to entities that contribute effectively to its mission and activities while ensuring that a balanced range of interests is represented. Third, they will simplify the process for the Assembly by providing a standardized format for applications.

Periodic review of observer status

13. On the basis of the points raised in note [ISBA/24/A/3](#), the Assembly is invited to consider introducing a process for a periodic review (e.g., every five years) of NGOs granted observer status in order to determine whether the continuation of their status is of mutual benefit. The draft guidelines suggest a process to that effect.

Recommendations

14. The Assembly is invited to review, with a view to adoption, the draft guidelines for observer status of NGOs with the Authority as contained in annex II to the present note, as well as the draft decision of the Assembly concerning those guidelines (annex III).

Annex I

List of non-governmental organizations with observer status as at 31 May 2019

- 1 African Minerals Development Centre
- 2 Center for Oceans Law and Policy, University of Virginia School of Law
- 3 Center for Polar and Deep Ocean Development, Shanghai Jiao Tong University
- 4 Committee for Mineral Reserves International Reporting Standards
- 5 Conservation International
- 6 Deep Ocean Stewardship Initiative
- 7 Deep Sea Conservation Coalition
- 8 Durham University Centre for Borders Research
- 9 Earthworks
- 10 Fish Reef Project
- 11 Greenpeace International
- 12 Institute for Advanced Sustainability Studies
- 13 International Association of Drilling Contractors
- 14 International Cable Protection Committee
- 15 International Dialogue on Underwater Munitions
- 16 International Marine Minerals Society
- 17 International Ocean Institute
- 18 International Policy Laboratory of the Massachusetts Institute of Technology
- 19 InterRidge
- 20 Japan Agency for Marine-Earth Science and Technology
- 21 Law of the Sea Institute
- 22 Mining Standards International
- 23 RESOLVE
- 24 Sargasso Sea Commission
- 25 The Pew Charitable Trusts
- 26 Thyssen-Bornemisza Art Contemporary
- 27 World Ocean Council
- 28 World Wildlife Fund International

Annex II

Guidelines for observer status of non-governmental organizations with the International Seabed Authority

I. Purposes

1. The present guidelines are aimed at facilitating the assessment by the Assembly of requests for observer status submitted by non-governmental organizations (NGOs) that have demonstrated their interest in matters under consideration by the Assembly, in accordance with rule 82, paragraph 1 (e), of its rules of procedure.
2. The guidelines also address the periodic review of the list of NGOs that the Assembly has invited as observers under rule 82 (1) (e).

II. Guidelines

A. Requests for observer status

3. The Assembly may extend invitations to participate as observers to NGOs that have demonstrated their interest in matters under consideration by the Assembly, in accordance with rule 82 (1) (e) of its rules of procedure.
4. Invitations to participate as observers should be extended to NGOs only if they can reasonably demonstrate their interest in matters under consideration by the Assembly.
5. In determining whether an NGO can reasonably demonstrate its interest in matters under consideration by the Assembly, reference should be made, inter alia, to:
 - (a) Whether the purposes of the organization are directly related to the purposes and work of the International Seabed Authority or whether the organization can make a contribution to the work of the Authority, for example by providing specialized information, advice or expertise, or by identifying or helping to procure the services of experts or consultants;
 - (b) Whether the activities of the organization have a direct bearing on the main purposes and work of the Authority;
 - (c) Whether the organization has demonstrated that it has expertise and the capacity to contribute, within its field of competence, to the work of the Authority, in particular in connection with the law of the sea, the offshore and deep-sea mining industry, technology, minerals processing and marketing, activities in the Area and marine scientific research in the Area, including the protection of the marine environment;
 - (d) Whether the organization has demonstrated its interest in and ability to support the capacity-building programmes and initiatives carried out by the Authority;
 - (e) Whether the organization has any programmes or projects that can reasonably demonstrate the relevance of its work and interests to those of the Authority.
6. If an applicant organization meets most, but not all, of the requirements in the present guidelines, the Assembly, when considering the application, may, if it considers that the circumstances so warrant, invite the applicant to resubmit its application for consideration at the following annual session of the Assembly,

drawing attention to any requirements that are not fulfilled in the case of that particular organization.

B. Purposes of observer status

7. The decision to grant observer status to an NGO should serve the following purposes:

(a) To enable the Authority to obtain information or expert advice from relevant NGOs with special knowledge in a particular sector of the Authority's activities;

(b) To enable such NGOs whose activities have an important and direct bearing on the work of the Authority to express their points of view to the Authority.

C. Objectives and activities of non-governmental organizations

8. Before inviting an NGO to participate as an observer, the Assembly should be satisfied that:

(a) The activities of the NGO concerned relate directly to the mandate, mission and strategic directions of the Authority, as defined in the United Nations Convention on the Law of the Sea, the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 and the strategic plan of the Authority;

(b) The objectives and functions of the NGO are in consonance with those of the Authority;

(c) The NGO has demonstrated that it has expertise and the capacity to contribute, within its field of competence, to the work of the Authority.

D. General undertakings

9. Observer status may not be granted to an NGO unless it undertakes to support the activities of the Authority.

E. Format and content of applications

10. Each application for observer status shall be submitted in the format prescribed in enclosure 1 and shall be addressed to the Secretary-General of the International Seabed Authority.

F. Submission of requests

11. Each applicant shall submit a request in writing no less than two months before the opening of the session of the Assembly at which the request is to be reviewed. Each applicant will be invited to introduce the request and remain available to provide any further information during the consideration of the request by the Assembly.

G. Periodic review of the list of non-governmental organizations

12. The Assembly may review every five years the list of NGOs to which it has granted observer status to determine whether the continuance of their status is of mutual benefit. The list is available on the Authority's website.

13. The Assembly may withdraw observer status from any organization that, during the period under review, did not make a substantial contribution to the work of Authority or if any conflict of interest arises or is likely to arise between the activities of the Authority and those of the organization concerned.

14. In assessing the contribution of an organization in this regard, particular account should be taken of the following factors:

(a) Attendance by representatives of the organization concerned at relevant sessions of the Assembly and of the Council of the Authority;

(b) Participation by representatives of the organization concerned in the work of meetings, workshops and conferences to which they have been invited, with particular reference to the number and type of submissions or other information provided in connection with such meetings, workshops or conferences;

(c) Efforts by the organization to disseminate and promote the work of the Authority.

15. In order to facilitate the periodic review of NGOs granted observer status, each organization is requested to provide a summary reflecting its contribution to the work of the Authority over the previous five years. The questionnaire provided in enclosure 2 should be used for that purpose.

16. The withdrawal of observer status may result either from the review of the organization's responses to the questionnaire in enclosure 2 or from any information brought to the attention of the Assembly by any member States or any organs of the Authority.

17. In the event of the withdrawal of status by the Assembly, no new application may be made until at least two years have elapsed since the withdrawal.

Enclosure 1

Format and content of applications

1. Name of organization
2. Address of headquarters
3. Addresses of all branches and/or regional headquarters
4. Telephone number
5. Fax number
6. Email address
7. Name, title and contact details of focal point
8. Background information on the organization
9. Purposes, objectives and activities of the organization (as set forth in its constitution, statutes or by-laws; an electronic copy should be provided separately)
10. Recent and planned activities of the organization
11. Detailed description of the organization's interest in matters under consideration by the Assembly, including a statement on the contribution that could be made to the work of the International Seabed Authority
12. Description of the extent to which the purposes of the organization relate to the work of the Authority
13. Undertaking that the organization will support the activities of the Authority and promote the dissemination of its work
14. Is the organization a member of, affiliated to or otherwise associated with another organization that has been granted observer status with the Authority?
15. Is the organization affiliated to consultants of the Authority, contractors with the Authority, entities in connection with the law of the sea, the offshore and deep-sea mining industry, research institutes or the mineral marketing and processing industry?
16. Relationships with intergovernmental organizations
17. Means by which the organization will support, promote and disseminate the work of the Authority
18. List of publications and/or other relevant documentation
19. Other information that the organization may wish to provide

Enclosure 2

Questionnaire to be completed by the non-governmental organization for the periodic review

Name and acronym:

Date:

1. Briefly outline your organization's interest in and contribution to the work of the International Seabed Authority in the past five years.
2. How many times has your organization attended meetings of the Assembly as an observer and has your organization made oral statements, and on which questions, within the scope of its activities?
3. Composition of the delegation of your organization at each meeting attended
4. Has your organization participated in workshops and sensitization seminars of the Authority or has it sponsored or co-hosted workshops with the Authority?
5. Has your organization provided extrabudgetary contributions or contributions in kind to the Authority to support its mission and work and the implementation of its strategic objectives?
6. Has your organization participated in public consultations of stakeholders by the Authority?
7. Has your organization contributed to the capacity-building programmes and the initiatives of the Authority (e.g., Secretary-General's award, voluntary commitments of the Authority)?
8. Briefly outline how your organization disseminates information on and promotes the work of the Authority to your membership and beyond. Has your organization held side-events on activities of the Authority? Has your organization referred to the work of the Authority in other forums?
9. Describe how your organization keeps abreast of the activities of the Authority between its sessions (e.g., newsletters, social media).

Annex III

Draft decision of the Assembly on the guidelines for observer status of non-governmental organizations with the International Seabed Authority

The Assembly of the International Seabed Authority,

Bearing in mind rule 82 of its rules of procedure,²

Having considered the need to streamline the application and review process with regard to observer status and to facilitate its consideration of requests for that status,

1. *Approves* the guidelines for observer status of non-governmental organizations with the International Seabed Authority contained in the annex to the present decision;
2. *Decides* that it may review the guidelines from time to time;
3. *Decides* to review, at its following session, the status of those observers that were granted observer status pursuant to paragraph 1 (e) of rule 82 of its rules of procedure prior to the twenty-second session of the Authority;
4. *Requests* the Secretary-General to communicate the guidelines to all non-governmental organizations having observer status with the Authority.

² ISBA/A/6.