



Facilitators

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Institutional Matters Informal Working Group

Informal WG Mandate

- An informal working group on institutional matters including the role and responsibilities of the various organs of the International Seabed Authority, timelines, recourse to independent expertise, and stakeholder participation.

What is understood by “institutional matters” or arrangements?

- A set of agreements on the division of the respective responsibilities of the different organs and stakeholders of an organization. The success of institutional arrangements is dependent on the existence of a clear division and assignment of responsibilities, as well as a clear definition of the rights of each organ and stakeholder, to avoid misunderstandings, duplication of work or omission of significant elements of work.

For assigning specific roles to the different organs, States Parties should take into consideration the type of role (nature) to be assigned and the mandate of the organ (technical, administrative, consultative,, decision making).

In order to ensure timely response State Parties may want to adopt processes and mechanisms to guarantee prompt actions by the appropriate organ.

Scope: what
will be
covered by the
WG?

- No specific sections or provisions of the draft exploitation regulations have been suggested, either by the title of the working group or by recently adopted “roadmap” .
- The facilitators suggest the followings:

PART I

This sections refers to :

Use of terms, scope,
Policies and Principles,
Duty to cooperate,
Protection measures in
respect of Coastal States

How should these principles be meaningfully applied in the regulations?

Are all fundamental principles included in the draft regulations? Should the term "Fundamental Policies "be applied? What does it mean?

Do principles have a higher hierarchy than policies?

What language we want/need to ensure transparency and public participation?

What are the roles of the Legal and Technical Commission ("LTC") and the Council in the event of Serious Harm or a threat of Serious Harm?

Should there be mandatory inspections upon notification of coastal states of possible harm, how and when?

PART I

Might the ISA instead develop a suite of policy documents that could be cross-referenced (e.g. production policy, environmental policy, sustainability policy, gender and inclusivity policy)?

Is DR 3 sufficient to ensure the ISA gathers the data it needs, both within and outside contractor areas, to both understand and manage regional and cumulative impacts from multiple mining operations?

Part II Applications for approval of Plans of Work in the form of contracts

- **These section pertains to the roles and responsibilities of various organs of the Authority in their assessment of applications and approvals of Plans of Work**

- **Are the timelines for acknowledging receipt (by the SG) and commencing review (by the LTC) adequate?**
- **Against which criteria should the SG make its evaluation and what are its duties after making this initial review?**
- **Should the opportunity for comment be opened beyond Stakeholders (as defined)?**
- **Should the applicant be required to respond to those comments**
- **What is the LTC's authority (or responsibility) to disapprove an application that fails to meet the required criteria?**
- **Should there be a process for the LTC to access additional capacity or expertise?**

Part II Applications for approval of Plans of Work in the form of contracts (cont)

- **What should be the scope of the LTC's responsibility for responding to stakeholder comments? What specifics should be required in explaining its rationale?**
- **What should be the role of the Finance Committee in contributing to a review?**
- **What should be the role the SG in advising the LTC?**

Part V Review and modification of a Plan of Work

- **This section prescribes the circumstances and process for reviewing and making modifications to an approved Plan of Work.**

Should the regulations specify what modifications to a Plan of Work would constitute a material change? Should Standards be developed to that effect? (DR 57 (2))]

What should be the role of the Secretary General in modifying the Plan of Work? (DR 57 (4))

What consultations may be required before a modification can be approved?

In addition to periodic intervals, what subjective criteria should trigger the review of a Plan of Work?

Which ISA organs should be involved in the review?

Should independent experts be engaged in the review?

Part VIII Annual, administrative, and other applicable fees

- **Provides the fee structure**

- **Are the fees envisioned adequate to ensure the ISA's capacity to perform the functions intended in the regulations ?**

Part IX Information gathering and handling

- **This section outlines the requirements for Contractor data submission and publication and criteria for determining confidentiality of information.**

What kind of data should be considered confidential information? (DR 89 (1))

Should there be consistency between data classification standards for exploration and exploitation regimes? (DR 89 (2))

How should the procedures to ensure confidentiality align with the ISA's wider data management strategy? (DR 90)

What should be the timeline to hand over data and information to the Authority about the contract area, upon the expiration of an exploitation contract? (DR 91)

What should be the components of a Seabed Mining Register? (DR 92)

Part XIII Review of these regulations

- **This part of the draft deals with procedures for the Authority to amend and review provisions of the regulations**
- **What should be the role of different stakeholders in future amendments to the regulations and the standards and guidelines? (DR 107)**
- **How should any amendments to the regulatory regime be applied to existing contracts? (DR 107 (5)).**

Additional Institutional Matters

- The regulations may require the creation or operationalization of additional subsidiary organs of the ISA

Are the provisions of the Regulations that apply to Contractors, as currently drafted, appropriate also for application to the Enterprise?

Are additional provisions required to regulate specific circumstances that may arise where the Enterprise is conducting activities in the Area

What is the role of the Economic and Planning Commission in setting policies or reviewing applications for Plan of Work?

Should there be a separate "environmental" arm of the Secretariat or the Commission?

Should the Regulations include mechanisms that facilitate issues to be raised proactively with the ISA e.g. a whistle-blowing scheme, a public complaints procedure

There are many generic references to “the Authority” that do not specify which organ of the Authority is required to act.

ISBA/25/C/6 “It is therefore self-evident that the Council may delegate its functions”, but functions \neq responsibility. The responsibility is non delegable, but it can be shared.

THE ORGANS OF THE AUTHORITY

ASSEMBLY

COUNCIL

SECRETARIAT

SECRETARY-GENERAL

LEGAL AND TECHNICAL COMMISSION

FINANCE COMMITTEE

ECONOMIC PLANNING COMMISSION

ENTERPRISE

Assembly

The supreme organ of the Authority. The Assembly shall have the power to establish general policies in conformity with the relevant provisions of the Convention on any question or matter within the competence of the Authority.

(Article 160, UNCLOS)

Council (Art.162)

The Council is the executive organ of the Authority. The Council shall have the power to establish, in conformity with the Convention and the general policies established by the Assembly, the specific policies to be pursued by the Authority on any question or matter within the competence of the Authority.

In addition:

- Approve plans of work in accordance with Annex III, article 6
- Exercise control over activities in the Area.
- Take, upon the recommendation of the E P C, necessary and appropriate measures to provide protection from the adverse economic effects specified therein.

Make the selection from among applicants for production authorizations pursuant to Annex III, article 7

Institute proceedings on behalf of the Authority before the Seabed Disputes Chamber in cases of non-compliance;

Issue emergency orders, which may include orders for the suspension or adjustment of operations, to prevent serious harm to the marine environment arising out of activities in the Area;

Disapprove areas for exploitation by contractors or the Enterprise in cases where substantial evidence indicates the risk of serious harm to the marine environment;

Establish appropriate mechanisms for directing and supervising a staff of inspectors who shall inspect activities in the Area

The Secretary-General

Article 166 UNCLOS:

- The Secretary-General shall be the chief administrative officer of the Authority, and shall act in that capacity in all meetings of the Assembly, of the Council and of any subsidiary organ, and shall perform such other administrative functions as are entrusted to the Secretary-General by these organs.
- The Secretary-General shall make an annual report to the Assembly on the work of the Authority.
- Other functions in Art. 169, 172 and Rules of Procedure of ISA, among others.

Legal and Technical Commission (Art. 165, UNCLOS)

Make recommendations with regard to the exercise of the Authority's functions upon the request of the Council.

Supervise, upon the request of the Council, activities in the Area, where appropriate, in consultation and collaboration with any entity carrying out such activities or State or States concerned and report to the Council;

Prepare assessments of the environmental implications of activities in the Area;

Keep such rules, regulations and procedures under review and recommend to the Council from time to time such amendments thereto as it may deem necessary or desirable;

The Enterprise (Art. 170, Annex IV UNCLOS & Agreement Part XI, Sec. 2)

- (a) Monitoring and review of trends and developments relating to deep seabed mining activities, including regular analysis of world metal market conditions and metal prices, trends and prospects;
- (b) Assessment of the results of the conduct of marine scientific research with respect to activities in the Area, with particular emphasis on research related to the environmental impact of activities in the Area;

The Finance Committee (Agreement Part XI, Sec. 9)

Decisions by the Assembly and the Council on the following issues shall take into account recommendations of the Finance Committee:

- a) Draft financial rules, regulations and procedures of the organs of the Authority and the financial management and internal financial administration of the Authority;
- e) Financial obligations of States Parties arising from the implementation of this Agreement and Part XI as well as the administrative and budgetary implications of proposals and recommendations involving expenditure from the funds of the Authority;
- f) Rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the decisions to be made thereon.

Thanks
for your attention!!!