



INTERNATIONAL SEABED AUTHORITY

Rules of Procedure and Guidelines of the Joint Appeals Board

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RULES OF PROCEDURE AND GUIDELINES OF THE JOINT APPEALS BOARD OF THE INTERNATIONAL SEABED AUTHORITY

I. GENERAL

Rule 1

Definitions

For the purpose of these rules of procedure, unless otherwise indicated:

"Authority" means the International Seabed Authority.

"Appeal" shall mean a complaint which is being pursued under Chapter XI of the Staff Rules, beginning with the request for administrative review and concluding with the decision taken by the Secretary-General on the report of the Joint Appeals Board Panel.

"Appellant" shall mean any individual who has initiated a complaint under the provisions of Chapter XI of the Staff Rules.

"Board" or **"JAB"** shall mean the Joint Appeals Board of the Authority, including the Chairman, Members appointed by the Secretary-General and Members elected by the staff.

"Calendar" shall mean the chronological list of appeals pending before the Board.

"Chairman" means the Chairman of the Board appointed under Staff Rule 111.1 (b) (i), and includes an Acting Chairman appointed by the Chairman when he or she is unable to act.

"Conciliating Officer" shall mean the Member of the Board designated by the Chairman to assist the parties in settling the case.

"Conciliation" shall mean the procedure under Staff Rule 110.4 (b) (ii) or Staff Rule 111.2(b) and Chapter XII of the Staff Rules aimed at reaching a conciliatory conclusion with the assistance of a Conciliating Officer.

"Counsel" shall mean the representative of the appellant. Counsel may be any person who agrees to assist an appellant or prospective appellant in presenting, settling or conciliating an appeal under Chapters XI and XII of the Staff Rules.

"Day" shall mean regular calendar day, unless otherwise indicated.

"Executive session" shall mean a meeting of the JAB Panel in camera.

"Notice" shall mean written notice unless otherwise stated. If time is not sufficient to assure receipt of written notice sent by messenger, regular mail or pouch, notice may be given by cable or by telephone and confirmed in writing. Notice may also be given by email, receipt of which shall be acknowledged.

"Members of the Board" shall include the Chairman of the Board, Members appointed by the Secretary-General and Members elected by the staff under Staff Rule 111.1.

"Members of the Panel" shall mean the three persons on the Panel which is constituted to consider an appeal.

"Panel" shall mean the three-person body which is constituted under Staff Rule 111.2(e) to consider an appeal, and shall consist of a Chairperson, a Member appointed by the Secretary-General and a Member elected by the staff.

"Parties" shall mean the appellant and respondent. Wherever "parties" is mentioned in these rules, the term "and/or their representatives" is implied also, unless otherwise indicated.

"Representative" shall mean representative of either of the parties.

"Representative of the Secretary-General" shall mean the officer designated by the Secretary-General to represent him in an appeal.

"Respondent" shall mean the Secretary-General of the Authority or his representative as defined above.

"Review" shall, unless otherwise indicated, mean administrative review under Staff Rule 111.2(a).

"The secretariat" or **"the JAB secretariat"** (as opposed to the Secretariat of the Authority with a big "S") shall mean the secretariat of the Board.

"Secretary of the Panel" shall mean the officer who is serving as Secretary to a Panel constituted to consider an appeal.

"Secretary-General" means the Secretary-General of the Authority.

"Settlement" shall mean a binding resolution of the appeal by the parties.

"Staff member" shall mean a current or former staff member (holding or having held a contract under the Staff Regulations and Rules).

"Staff Rules" or **"Rules"** shall mean the Staff Rules of the International Seabed Authority promulgated by the Secretary-General under the Staff Regulations of the International Seabed Authority.

"These rules" or **"rules"** shall mean the rules of procedure of the Board (as differentiated from the "Staff Rules").

"Time-limit" shall mean the deadline for filing of a submission or the taking of an action. For the purpose of these rules the time-limit shall take effect upon the close of business on the date on which the submission is due or the action is to be taken, in accordance with the Staff Rules, these rules of procedure, or with a ruling made by the Chairman of the Board or by the Panel. If a time-limit falls on a weekend or on an official holiday, the time-limit shall be deemed to extend to the close of business on the first working day thereafter.

Rule 2 Interpretation

The Board shall, to the extent required, interpret these rules of procedure.

Rule 3 Amendments

These rules of procedure may be amended by an absolute majority vote of the Members of the Board (that is to say, three votes in favour are required).

II. ORGANIZATION

Rule 4 Chairman of the JAB

The Chairman directs the work and operation of the Board. The-Chairman, *inter alia*, shall:

- (a) represent the Board and preside at meetings of the Board;
- (b) supervise and implement time-limits described in Staff Rule 111.2;
- (c) set alternative time-limits for the consideration of appeals;
- (d) ensure the maximum dispatch of cases, *inter alia* by utilizing the provisions of rules 17 and 20, below;
- (e) designate Conciliating Officers;

- (f) take all procedural decisions concerning individual appeals for which Panels have not yet been constituted, including but not limited to the following:
 - i) setting or extending time-limits for submission of supplementary material;
 - ii) ruling on the validity of submissions;
 - iii) determining whether a case should be considered as abandoned and when a case should be restored to the calendar.

Rule 5
The JAB Secretariat

The secretariat of the Board shall consist of a secretary and such other staff as may be required for its proper functioning. The secretariat supports the functioning of the JAB in an independent and confidential manner. In this connection, the secretariat assists and advises the Chairman in the performance of his/her functions, and provides support to JAB Panels in their consideration of appeals against administrative decisions. The secretariat, *inter alia*, advises on substantive legal issues, including relevant precedent, and on technical and procedural matters pertaining to individual cases.

Rule 6
Meetings of the Board

1. The Chairman shall convene a meeting of the Board when, in his/her opinion, such a meeting is necessary to deal with a question affecting the administration or operation of the Board. A meeting may also be called by any two Members of the Board. Notice of the convening of a meeting shall be given to the Members of the Board not less than five working days in advance of the date of the meeting.
2. Meetings of the Board may take place by tele-conference or video-conference.
3. Decisions of the Board shall be taken by an absolute majority vote of the Members of the Board (that is to say, three votes in favour are required).
4. A decision may be taken without the convening of a meeting of the Board, provided that all Members of the Board agree that the decision in question may be taken in this way.

III. PROCEDURES

Rule 7
Request for review

As the first step in the appeals procedure, a written request for review of the contested administrative decision must be submitted to the Secretary-General within two months of receiving notification of the decision (Staff Rule 111.2(a)). An appeal may not be filed prior to the request for administrative review.

Rule 8
Conciliation initiated under Staff Rule 111.2(b)

When a staff member, the Secretary-General or the Chairman decides to invoke Staff Rule 111.2(b) with a view to reaching a conciliatory conclusion on the matter, the time-limit in filing an appeal shall be suspended pending the conclusion of the conciliatory effort. The conciliation

proceedings should be normally completed within two months but may be extended by the Chairman if there are grounds to believe that conciliation may be achieved by a reasonable extension beyond the two-month period. If the parties are satisfied with the conclusion and the Secretary-General accepts the result, the matter shall not be entertained by the Joint Appeals Board. Otherwise the time-limits for submitting an application to the Joint Appeals Board shall be the same as stipulated in Staff Rule 111.2(a)(i) and (ii). If conciliation fails, the time-limit set forth in the Staff Rule 111.2(a)(ii) starts running.

Rule 9

Settlement initiated after the appeal has been filed

After the filing of an appeal with the Joint Appeals Board, if an amicable resolution of the matter is being pursued, time-limits for submission of material may be extended as provided in Staff Rule 112.1 (b).

Rule 10

Filing an appeal

A full statement of appeal, in accordance with rule 16.1, below, shall be submitted to the Board, through its secretariat, within the applicable time-limits (see Staff Rule 111.2(a)(i)).

Rule 11

Incomplete statement of appeal

An incomplete statement of appeal will be accepted by the Board for the purpose of establishing the date of filing of the appeal. The secretariat of the Board will, upon receipt of an incomplete statement, request in writing that the appellant provide to the Board, within one month, a full statement of appeal, containing all of the elements described in rule 16.1, below. If the appellant, without explanation, fails to submit a full statement of appeal within the month, the appeal shall be deemed to have been abandoned (see rule 21.3, below), and shall be removed from the calendar.

Rule 12

Receivability of appeals

An appeal is receivable only if it complies with the time-limits set forth in Staff Rule 111.2(a) and (b), or if the Panel considering the appeal decides to waive the time-limits (see rule 13, below).

Rule 13

Waiver of time-limits for late filing

1. When appeal is challenged solely on the ground that it is not receivable, a panel shall be constituted to consider the receivability challenge. If it determines that the appeal is receivable, the Panel shall remand the case to the party raising the receivability issue, with reasons, and direct that party to submit a reply on substance. When an appeal is challenged on procedure and substance, the Panel constituted to consider the appeal shall decide, at its own discretion, whether to consider receivability as a preliminary issue or in conjunction with the whole appeal. In either situation the Panel may request statements, supporting evidence and comments relating specifically to this issue and shall decide, on the basis thereof, if "exceptional circumstances" justify a waiver of the time-limits under Staff Rule 111.2(f), bearing in mind that the onus of proving exceptional circumstances lies with the appellant.

2. Conciliation proceedings initiated during the review stage but not completed within the time-limit specified for review, shall constitute a valid ground for the Board's waiver of time-limits for the filing of an appeal.

Rule 14

"Suspension of Action" procedure

1. Upon a request of the appellant, the Panel may, under Staff Rule 111.2(c), recommend to the Secretary-General the suspension of the administrative decision that is the subject of the appeal.
2. The Panel shall normally be constituted for the purpose of considering the request within one week of the receipt of the request. No additional written submissions are required; the parties may make oral statements. The Panel will limit its considerations to the issue of suspension. The case should not be considered on its merits at this summary hearing in accordance with Staff Rule 111.2 (c). The Panel will submit its report and recommendations to the Secretary-General, whenever possible within three working days of the completion of its consideration. The findings of the Panel on a request for suspension shall not prejudice a later determination on the merits.

Rule 15

Written submissions by the parties

1. Each written submission and document shall be presented to the Board or Panel through its secretariat. All such material which is presented to the Board or Panel, either prior to or during the consideration of the case, shall be submitted as an original (where available) with four copies. Each copy shall be a true and complete copy of the original. The original and the required copies shall be submitted to the Secretary of the Panel for distribution to the other party, his/her representative, and to Panel members. When the original of a document is not available, the Panel may require that certified true copies be submitted. A Panel may require that any document be produced by the party in possession. The provisions of this paragraph requiring an original plus copies need not be applied if the secretariat has indicated that the Chairman of the Board or the Chairperson of the Panel is willing to accept a submission or document by fax or email.
2. Submissions to the Board or Panel will normally be in English or French. The Chairman or Panel may, in the interest of justice, authorize an appellant to make submissions in any other working language of the Assembly of the Authority where the circumstances so warrant. Any document submitted in connection with an appeal, not drawn up in one of the working languages of the Assembly, shall be accompanied by a certified translation into English or French.
3. A copy of each written submission and document furnished to the Board or Panel in connection with an appeal will generally be communicated by the JAB secretariat, upon receipt, to the other party. If a party or witness refuses to produce a document on the grounds of confidentiality, the Panel may demand its production for the limited purpose of determining whether its relevance overrides its confidentiality, without first transmitting a copy to the other party. Should it be so determined, a copy of such document, or only the relevant parts thereof, may be transmitted to the other party.

4. When defects in the written submissions do not affect the substance of the appeal, i.e., erroneous dates or typographical errors, the JAB secretariat, with notification to the submitting party, may make the necessary corrections.

Rule 16

The Statement of Appeal, the respondent's reply and observations

1. Statement of Appeal: In order to submit a Statement of Appeal the appellant will complete the Form of Appeal, which appears in appendix A of these rules. The Statement of Appeal shall include:
 - (a) the name of the appellant and his or her present or former status with the International Seabed Authority;
 - (b) an identification, description and date of the administrative decision being contested and the terms of appointment and/or provisions of Staff Regulation or Rule which have not been observed;
 - (c) a statement of when the request for administrative review was submitted; copies of the request and the reply of the respondent, if any, shall be annexed;
 - (d) a clear statement of the relevant facts in chronological order whenever appropriate;
 - (e) A description of the specific remedy requested;
 - (f) The name of counsel representing the appellant, if any (any subsequent selection or change of counsel must be immediately communicated to the Board);
 - (g) An index of all documents annexed in full and numbered;
 - (h) A request for oral hearing, if desired; and
 - (i) The signature of the appellant or of counsel, and the date of submission.

Failure by the appellant to comply with this rule may lead to the statement of appeal being treated as incomplete (see rule 11, above).

2. A Statement of Appeal shall normally not exceed ten one-sided double-space pages. In case of a longer submission, a two-page synopsis of the full Statement of Appeal shall be provided.
3. The respondent's reply: Staff Rule 111.2(g) provides that the representative of the Secretary-General shall submit a written reply within one month after the receipt of the appeal. Failure to submit in accordance with the time-limit specified may be dealt with as provided in rule 20 below.
4. The respondent's reply shall be transmitted to the appellant and/or counsel inviting written observations, if any, to be submitted within one month in respect of a staff member stationed in Jamaica, or if elsewhere, within two months.

Rule 17

Additional submissions

1. In addition to the Statement of Appeal and the respondent's reply thereto, the proceedings before a Panel shall normally be limited under Staff Rule 111.2(h) to "brief statements and rebuttals" which may be made either orally or in writing. The Panel may accept additional

written or oral submissions from the parties. The Panel may also request the production of additional material or oral statements. The time-limit for written submissions by either party shall generally be no more than two weeks in respect of appellants stationed in Jamaica or one month for appellants elsewhere.

2. Additional written submissions shall be limited so as to avoid repetition of previously presented information and shall be made in accordance with stipulated time-limits.
3. Additional written submissions and documents shall also conform to rules 15.1 and 15 2, above.

Rule 18

Written interrogatories

The Panel may request any necessary information from any party, witness or expert by written interrogatory. The Panel shall have the discretion to decide whether it will seek such material through its secretary or whether it will request that it be obtained by one of the parties within a stated time-limit. Copies of the questions and answers constituting the written interrogatory and reply thereto shall be provided to the parties, each of whom will have the opportunity to comment thereon.

Rule 19

Extension of time-limits for submission of supplementary material

1. Time-limits for submission of supplementary material may be extended by the Panel upon a written request for an extension before the time-limit has expired, indicating the reason for the delay and the time required for the completion of the submission. Notice of such request shall be given to the other party.
2. Further extensions of time-limits for submission of additional written material may be granted where the interest of justice so warrants.
3. Only in exceptional circumstances will the consideration of a case be delayed for an extended period of time for the purpose of receiving written submissions. Such an extension will be granted only upon a showing that:
 - (a) such written submissions are absolutely essential and gross injustice would otherwise result, or
 - (b) the interest of justice would not otherwise be served, or
 - (c) the information cannot be presented orally.

Rule 20

Consideration of an appeal in the absence of a reply

The failure of the respondent to submit a reply within the time-limit will not delay the consideration of an appeal. If the Representative of the Secretary-General requests an extension of the time-limit for reasons stated, the Chairman of the Board upon notice to the appellant, may grant the request and set a new deadline. In the absence of such request, or at the expiration of any extension, a Panel shall be constituted to consider the appeal. During the course of its consideration of the appeal, the Panel shall determine how to obtain from the respondent any material or information it may require.

Rule 21
Abandonment of an appeal

1. It is the obligation of an appellant who intends to pursue his/her appeal to keep the Board informed of any change of address or telephone number.
2. If the Board makes two successive attempts to communicate with the appellant at the last known address and receives no response within a reasonable period of time, or if a communication is returned marked "addressee unknown," the Chairman may deem the appeal to have been abandoned.
3. Where an appellant has submitted an incomplete appeal but has failed to submit a full statement of appeal within the specified time-limit without explanation, the appeal may be deemed to have been abandoned upon the expiry of the time limit.
4. An abandoned appeal may be restored upon adequate explanation. If the appeal was deemed abandoned for failure by the appellant to submit a full statement of appeal, any such motion to restore a case must be accompanied by the full statement of appeal.

Rule 22
Withdrawal of an appeal

An appellant may withdraw his/her appeal at any time prior to being notified that the Panel has submitted its report to the Secretary-General. Withdrawal of an appeal must be in writing, and signed by the appellant or counsel.

Rule 23
Settlement of an appeal

1. An appeal may be settled at any stage in the proceedings prior to notification to the appellant that the Panel has submitted its report to the Secretary-General. Once the Panel has begun its consideration of the case, the parties may be granted, if they so request, an adjournment of the proceedings for the purpose of conducting settlement negotiations. If settlement has not been reached during that period, consideration will be resumed.
2. If a settlement is reached, the appellant or counsel shall submit a written statement to the Board or Panel that the parties have reached a settlement and are withdrawing the appeal.
3. As settlement efforts are deemed to be without prejudice, such efforts or the terms considered prior to the hearing, are inadmissible as evidence and may not be referred to in the course of the Panel's consideration of the appeal.

IV. CONSIDERATION OF THE APPEAL

Rule 24
Constitution of the Panel and notice to the parties

As soon as Panel is constituted under Staff Rule 111.2(e), the composition of the Panel shall be notified to the parties in writing. As far as possible, the membership of the Panel shall be maintained to the conclusion of the appeal.

Rule 25
Disqualification of a Panel Member

1. A request by either party under Staff Rule 111.2(e)(iii) for disqualification of a member of the Panel shall be made in writing within five working days of receipt of notice of the composition of the Panel, and shall state the reason for requesting such disqualification. If, however, either party becomes aware for the first time of information which it considers grounds for disqualification of a Panel member, after the five days have passed, it may then present such a request. The decision on such requests shall be made by the Chairman of the Board or, in the case of a challenge to the Panel membership of the Chairman of the Board, by a Member of the Board, chosen by lot, who is not a member of the Panel.
2. Notwithstanding 1 above, a Member of the Board shall be disqualified from serving on a Panel if he/she has a pending appeal before the JAB. He/she will again be eligible to participate on a Panel after conclusion of the appeal by issuance of the Secretary-General's decision or any other means.
3. A Member of the Board shall not serve as counsel in cases before the JAB.

Rule 26
Meetings of the Panel

1. The Panel may meet either in executive sessions or hold hearings. At all meetings, the entire Panel and the Secretary of the Panel must be present.
2. Meetings of the Panel, including hearings, may take place by tele-conference or video-conference, if the Panel so decides.
3. A decision may be taken without the convening of a meeting of the Panel, provided that all members of the Panel agree that the decision in question may be taken in this way.

Rule 27
Request for hearing

1. Either party may request a hearing. Such request must be in writing, and shall be submitted, at the latest, upon receipt of notice of the composition of the Panel. The Panel shall decide whether or not to grant such request. It may also decide, on its own initiative, that a hearing is necessary.
2. In determining whether a hearing is required, the Panel will consider whether the written submissions have adequately covered the issues involved, whether the testimony of the parties, witnesses or experts would substantially add to the material being considered and whether relevant and necessary additional information could be adduced in the course of a hearing.

Rule 28
Notice of hearing

If a hearing is scheduled, notice of the date, time and place, and whether the hearing will be by tele-conference/video-conference, will be sent to the parties by the Secretary of the Panel. For continuation of a hearing, oral notice may be given followed by written confirmation.

Rule 29
Presentation at hearing

1. At a hearing (either on a preliminary issue or on the merits of the appeal), both parties must be invited to participate.
2. At the hearing, in order to avoid repetition of material contained in the written submissions, except for an opening or closing presentation normally limited to ten minutes, the parties shall be limited to the presentation of new material or the response to new material submitted by the other party, or to questions from the Panel. The Panel may determine relevance of new material and limit oral presentation accordingly.
3. A hearing may include presentations by the parties, and testimony by witnesses or experts (see rule 29.4 below). The Panel may call witnesses and experts on its own initiative. The Panel may also permit either of the parties to call witnesses and experts upon a showing that their testimony would be relevant.
4. The normal sequence of the hearing is as follows:
 - (a) The hearing is convened by the Chairperson
 - (b) The appellant or the appellant's counsel makes an opening statement.
 - (c) The respondent makes an opening statement.
 - (d) The members of the Panel may ask questions at any point during or after the presentations.
 - (e) Witnesses or experts may be questioned by the members of the Panel and by the parties.
 - (f) Closing statements may be made, first by the respondent so as to permit the appellant or his/her counsel to have the opportunity to speak last.

The order of the presentations may be altered to accommodate special situations or requests, i.e., the appearance of witnesses or experts who are available during a limited period only. The Chairperson shall be responsible for the conduct of the proceedings, including conveying the rulings of the Panel.

Rule 30
The report of the Panel

1. In accordance with Staff Rule 111.2(n), the Panel's report and recommendation shall be submitted to the Secretary-General. The Secretary of the Panel will notify the appellant of the date on which the Panel's report was submitted to the Secretary-General. Any request in accordance with Staff Rule 111.2 (p) for a copy of the Panel's report must be made in writing.
2. The report of the Panel constitutes the official record of the proceedings. It may be agreed to unanimously or by a majority of the Panel. In the latter case, the Panel member who disagrees with the majority position may prepare a dissenting opinion to be appended to the majority report.
3. Since, under Article 7.3 of the Statute of the United Nations Administrative Tribunal (UNAT), the designation of a case as "frivolous" (e.g., totally devoid of merit) has serious implications, such designation can be applied only by unanimous decision of the Panel considering the

case. Once declared frivolous, a case cannot then be the subject of an application to UNAT. The unanimous designation of a case as frivolous renders it not receivable by UNAT, under Article 7.3 of the Statute of UNAT.

Rule 31
Travel expenses and visas

The Board has no provision for expenses related to appeals, travel or issuance of visas.

Adopted on 28 April 2008 by the Joint Appeals Board of the International Seabed Authority in accordance with Staff Rule 111.1(e)



JOINT APPEALS BOARD

Request to File an Appeal Against an Administrative Decision
You are requested to limit your submission to ten pages (not including attachments); if it is longer, please provide a two-page synopsis

Name of Appellant (family name first):

Mailing Address:

Index

No: Email:

Telephone No: Fax

No:

Type of Appointment: Function Title:

Dept/Office:

Specify the administrative decision you are appealing (please attach a copy):

Date of Decision

Have you requested an administrative review by the Secretary-General of the decision you are appealing?

NO Stop here. You must, as a first step, submit a request for administrative review to the Secretary-General (Staff Rule 111.2(a)). If YES, on what date?

What remedy or remedies do you seek?

Do you have Counsel? YES NO If YES, name and contact information of Counsel:

May we correspond with you or your Counsel by electronic mail? YES NO

Signature:

Date:

IMPORTANT: Please attach your statement of appeal, together with any additional material in support of your claim. Number each attachment and include an index of attachments. Please include a copy of your original request for administrative review. All submissions shall be presented to the Board or Panel through its secretariat. All such material shall be submitted as an original (where available) with four copies. However, submission or document by fax or email shall be acceptable if the secretariat has indicated that the Chairman of the Board or Chairperson of the Panel is willing to accept it that way.