

Report of the Intersessional Working Group on Test Mining

Submitted by Belgium on behalf of Germany and Belgium

Germany and Belgium organized a Workshop on Scientific and Legal Aspects of Test Mining. It was conducted on 16 – 17 December 2024, Bremen, Germany.

The workshop, which was designed to be technical in nature and not a negotiating forum, was attended by over 60 participants, with representation from Member States, the ISA Secretariat, observers, contractors, scientific entities, researchers and civil society groups.

An ambitious agenda and various presentations from scientists and contractors as well as the many in depth discussions, led to a workshop that was deemed very constructive and helpful by participants. In particular, the very participatory formats of the workshops (world café, campfire discussions, break-out groups) allowed for extensive and open deliberations.

There was general consensus among workshop participants on the need for a mandatory test mining as part of an exploitation contract in principle, as well as on a number of specific aspects of test mining. However, consensus could not be reached concerning a specific proposal for test mining as a requirement in the exploitation regulations.

A number of questions remain, inter alia, regarding the point in time in the process when test mining needs to be undertaken. Contractors argued for flexibility, whereas Contracting Parties requested good governance in order to ensure that no negative effects may occur to the marine environment and to avoid becoming liable due to “avoidable” damages to the marine environment. They stressed their responsibilities to maintain and protect the common heritage of mankind in the interest of all.

At the workshop, there seemed to be consensus that test mining is necessary as only field data allow for a realistic assessment of potential effects of a specific technique. A majority of participants seemed to be in favor of mandatory test mining prior to an application, and for test mining in several steps. Small-scale, but meaningful test mining before the application is submitted and an additional second step of test mining - more or less ‘full scale’ - before the start of commercial mining.

The workshop discussed the factual/scientific requirements of test mining projects, but consensus could not be reached. There was a general consensus that the factual/scientific requirements need to be determined according to the general regulatory concept of test mining – before or after the application or as a two-step approach.

There was also consensus that modelling will need to be used in order to submit an Environmental Impact Assessment. It was highlighted that there is a need to understand better the modelling opportunities, challenges and risks in order to determine what kind of field data are in fact required.

The workshop also discussed the topic of benefit-sharing, i.e., the sharing of revenues that are gained from test mining activities. There was broad agreement that test mining activities should not be used as a pretext for actual mining, and therefore, safeguards should be put in place – including through having a clear legal definition for commercial production. Nevertheless, since there is the potential of revenue generation from testing activities, there is the need to design a proper accounting mechanism as well as

the designation of the legal obligation for such revenues to be paid into the benefit-sharing mechanism (which is currently under negotiation).

Finally, the workshop briefly discussed a first draft standard presented by the hosts as a means to stimulate discussions, which could perhaps be used as a basis for further consideration. Written comments to the draft were also received after the workshop.

In summary, although no consensus concerning a specific proposal could be reached, the detailed discussions during the workshop clarified the perspectives and the concerns which need to be further considered by state parties in future elaborations on this topic.

Subsequent to the meeting, the organizers of the workshop drafted a report. This report includes written contributions by participants sent in afterwards. All documentation, including the report, written feedback, and presentation slides, are available on the website of the Authority.