

Summary of Intersessional Meeting of the Equalization Measure Informal Working Group

21 and 22 January 2026

Australia hosted two intersessional meetings of the Informal Working Group on an Equalization Measure on 21 and 22 January, to facilitate the broadest attendance possible across varying time zones.

Status of discussions on the Equalization Measure

Ms Robyn Frost, previous facilitator of the IWG, summarised the thematic discussion on the equalization measure during last July's Council meeting (Part II of the 30th session of the Council), confirming that substantial progress has been made and there was general support for an equalization measure.

In terms of the implementation of the equalization measure, it was noted that Draft Regulation 64bis, which is still contained in square brackets in the Further Revised Consolidated Text (ISBA/31/C/CRP.2 of 23 December 2025), was considered a good basis for moving forward for consideration by the Council where delegations could formally consider the text, including potential amendments.

Participants in the thematic discussion favoured the second option for the equalization measure, an additional profit share (Option 2). This was on the basis that Option 2 is simpler, would be easier for the Authority to administer and is similar to land-based mining taxation arrangements.

The application of the equalization measure to the Enterprise was also discussed, with a paper with proposed textual amendments submitted to the Secretariat by the Interim Director General of the Enterprise.

Presentation by Daniel Wilde of the Commonwealth Secretariat

Dr Daniel Wilde delivered a presentation providing an overview of the rationale for an equalization measure, and the operationalisation of this measure through the proposed additional profit share model, targeting a 43% effective tax rate. Dr Wilde's presentation will be made available on the Authority's website.

Key takeaways from Dr Wilde's presentation include:

- The IGF's recent analysis supports this IWG's findings on the equalization measure.
- The equalization measure aims to ensure a level playing field and disincentivize tax avoidance.

- Consensus is forming around the additional profit share equalization measure (option 2). Detailed text is already drafted which is, from a tax advisory perspective, sound.
 - The detail of this drafted text has been moved into the Further Revised Suspense Document (ISBA/31/C/CRP.3 of 23 December 2025), for consideration of its inclusion in a Standard.
- On the basis of this building support, the remaining work to be done on this measure includes:
 - Moving to textual drafting on the additional profit share equalization measure and removing the alternative Hybrid Option from the Suspense Document.
 - Revert to discussions concerning the overall payment regime to finalise the exact form and rates of the royalty (noting the consensus around the 43% effective tax rate) and any agreed exemptions from the payment regime for the Enterprise and Enterprise joint ventures.

Day 1 – comments and questions

Attendees: Japan, Singapore, India, Japan, Russia, GSR, DORD, IOM

- Q: One participant queried what the next steps would be for the equalization measure, whether we were still accepting comments and questions on these proposals and how we would reflect in the documents that consensus is being built around the measure and the additional profit share model?

A: Our proposal is, subject to comments received from delegations by 29 January, to submit this Summary to the Secretariat for publication on the ISA website as a record of the progress of our discussions. We then propose to proceed to drafting discussions in the Council on Draft Regulation 64bis and the draft Standard contained in the Suspense Document.

- Q: One participant noted that without commenting on the text or substance of the proposal they were considering the implications of implementing the measures including the ability to calculate the additional profit share margin where there is a market and price for nodules, but this will not be as easy where there is no market. Additionally, it was noted that if a contractor registered in a particular country conducts both mining and activities in the Area and runs a metallurgical plant on land for metal extraction from nodules mined from the Area, where there is a difference in the domestic taxation regime and the equalisation measure, this could lead to profit-shifting behaviour.

A: Dr Wilde acknowledged that these were relevant considerations but noted that these situations have been encountered before and there are mechanisms by which to address these concerns. Dr Wilde also emphasised the importance of establishing a payment audit capacity within the ISA soon after the introduction of the Exploitation Regulations, to ensure that this behaviour may be addressed.

Day 2 – comments and questions

Attendees: India, Netherlands, Jamaica, Canada, Cook Islands, Chile, Nauru, Argentina, DORD, NORI, Pew, IGF, Interim Director-General of the Enterprise

- Q: One participant noted the importance of ring-fencing profits and sought clarity on its inclusion in the Draft Regulations.

A: Mr Wilde agreed that this was an important aspect of the equalization measure and noted that the detail of how these profits were to be ring-fenced was included in the Suspense Document.

- Comment: The Interim Director-General of the Enterprise noted the relevance and operation of Article 10 of Annex IV to the way in which the equalization measure may be applied to the activities of the Enterprise.
- Q: One participant queried the proposed approach to consideration of this issue on the Council, noting the IGF has prepared further work on the overall financial mechanism and that given the relationship between these two topics they could be considered together, in the first week of the Council meeting in March.

A: Australia agreed this was a sensible approach and while the indicative programme of work and the thematic groupings are pending finalisation and circulation by the ISA Secretariat, we had no in-principle objections to these issues being considered together during the Council meeting in March.

Following the intersessional meetings, one participant commented on the drafting of DR64bis, referring to the clarification made during the July Council meeting on the relevant point in time at which liability for the equalization measure arises/payment is owed. Given the equalization measure is levied against Contractors' profits and expenses relevant to those calculations may be incurred by a Contractor *prior* to commencement of Commercial Production, in order to include these expenses in the profit calculation, liability for the equalisation measure should apply as at the date of the approval of the Plan of Work. In contrast, payment should only be owed once profits have been realised.

On this basis we have proposed two options for consideration, noting that delegations may wish to propose potential amendments to the text of DR 64bis:

1. One option would be to make it clearer in the text of DR 64bis when the liability for the equalization measure starts, and not when payments under the equalization measure may be made. This could be achieved through a slight change in drafting to DR 64 bis:

'A Contractor, from the date that its Plan of Work has been approved, shall ~~pay~~ be liable for the equalization measure as determined in accordance with the applicable Standard governing the equalization measure.'

2. A second option would be for DR 64bis to be silent on when a Contractor is liable for the equalization measure, and to address this issue in the Equalization Measure Standard. However, this option would require the issue of Contractor liability to be addressed clearly in the relevant Standard. DR 64bis could be amended as follows:

'A Contractor, ~~from the date that its Plan of Work has been approved~~, shall pay the equalization measure as determined in accordance with the applicable Standard governing the equalization measure.'