

Thirty-first session
Council session, part I
Kingston,
9-20 March 2026

Draft regulations on exploitation of Mineral resources in the Area

Draft indicative list of outstanding issues

Explanatory note

1. Pursuant to the Council's decision at its thirtieth session (ISBA/30/C/18), the elaboration of Rules, Regulations and Procedures for exploitation of Mineral resources in the Area shall continue through a thematic approach organised into four principal themes:
 - (i) environmental matters;
 - (ii) financial matters;
 - (iii) regulatory, procedural and institutional matters; and
 - (iv) governance matters.
2. The Council further requested the Secretariat to prepare a draft indicative list identifying key outstanding issues to facilitate focused negotiations.
3. The present list has been prepared by the Secretariat for the Council's review and decision, dedicated to key outstanding issues:
 - i) that require more immediate and substantive work to advance the negotiations;
 - ii) those on which the views of Council members have proven most difficult to reconcile;
 - iii) those with the most potential for impact at a cross-cutting level;
 - iv) those where lack of decision might block further progress of parts of the draft regulations.
 - v) those whose consideration has been postponed pending discussion of other matters;
 - vi) those on which agreement within the Council appears close to being reached;
 - vii) and those where the majority of proposals – submitted by delegations, working groups and Friends of the President and recalled below in the relevant description of the issue – consist primarily of suggestions for refinement.

(b) The second section is dedicated to additional cross-cutting issues, which cannot be considered as falling under a specific thematic area.

(c) The third section provides a recommendation of the Secretariat.
4. It is important to stress that this list is indicative in nature and remains subject to the review and decision of the Council.

I. KEY OUTSTANDING ISSUES

A. Environmental Matters

Issue 1: Conditions for beginning Exploitation of the Area

Relevant regulation: Draft regulations 2(3)

This issue determines the conditions under which the commencement of exploitation activities can begin and can significantly impact the timeline that will lead to such activities. Such conditions are currently set out in paragraph 3 of draft regulation 2. There is considerable debate among delegations on whether the paragraph should be retained, and if yes, what the wording should be.

Issue 2: Test Mining and Pilot Mining

Relevant regulation: Draft regulation 48ter (and draft regulations 7,11,12,13,46,48, 48bis, Annex VII and Schedule)

The discussion on Test and Pilot Mining might affect not only the draft Exploitation Regulations, but also the Exploration Regulations. While it is mainly contained in draft regulation 48ter, references to it affect several other draft regulations.

A [list of issues that need further attention](#) relating to this issue has been prepared by the Co-Facilitators of the Informal Working Group.

Issue 3: Environmental Compensation Fund

Relevant regulations: Section 4 (draft regulation 54-56)

The discussion of the principles and mechanisms underlying the establishment of the Environmental Compensation Fund is currently entrusted to a Friends of the President Group, and is contained in draft regulations 54, 55 and 56.

Certain aspects of the Environmental Compensation Fund have received considerable support – including, *inter alia*, its establishment and purpose; Other details relating for instance to the way in which the Environmental Compensation Fund would be funded, remain to be agreed.

Issue 4: Environmental Goals and Objectives

Relevant regulations: Draft regulation 44 ter

The formulation of Strategic Environmental Goals and Objectives of the Authority is currently entrusted to a Friends of the President Group. Currently, Goals and Objectives of the Authority are included in draft regulation 44ter. Considerations are still being given as to whether they should be moved to a standalone policy recommended by the Council and adopted by the Assembly. In the Further Revised Consolidated Text, draft regulation 44ter has been retained in line with the proposal of the Friends of the President.

Issue 5: Legal Status of REMPs

Relevant regulations: Draft regulation 44 bis (and draft regulations 7, 12, 14 and 15)

The legal nature of Regional Environmental Management Plans (REMPs) in the Regulations has been subject to considerable debate. While most delegations agree that a REMP should be in place in any area where exploitation activities are being undertaken, delegations expressed different views as to whether REMPs should be considered legally binding. The issue is currently entrusted to a Friends of the President Group, which has presented a [comprehensive proposal](#) for consideration by the Council.

Issue 6: Environmental Management and Monitoring

Relevant regulations: Draft regulations 49-52

The Informal Working Group on Environmental Management and Monitoring has provided proposals of draft regulation 49 to 52. The focus of the work in the past has been on the restructuring of the section. To finalize, the Council may wish to focus on substantive proposals.

Issue 7: Closure Plans

Relevant regulations: Draft regulations 59-61 and Annex VIII

Substantial changes have been made to Part VI concerning the Closure Plan. To finalize, the Council may now wish to focus on the new proposals.

Issue 8: Protection of Submarine Cables

Relevant regulations: Draft regulations 31 and 31 bis

In former sessions, efforts of the Council have been directed at ensuring that due regard is paid to other uses of the Area and to other activities in the marine environment, as prescribed under Art. 147 of the Convention. Among the most crucial activities that take place in the Area is the laying of cables and pipelines. The work on this matter is currently carried out in the context of a Friends of the President's Group, which has submitted a proposal ([available on the website of the Authority](#)) included in the Further Revised Consolidated Text. To finalize, the Council may wish to focus on agreeing language for these regulations.

Issue 9: Definition of "Incident" and "Notifiable Event"

Relevant regulations: Schedule

During the first part of the thirtieth session, some delegations highlighted the need for a more comprehensive definition of both "Incidents" and "Notifiable Events" in the Schedule of the Further Revised Consolidated Text. To finalize, the Council may wish to address the matter in a small drafting group to submit appropriate language.

B. Financial Matters

Issue 10: Payment system and Review of Payment Mechanism

Relevant regulations: Draft regulations 81-82, Draft Standard and Guidelines and Schedule

The Council must decide on the System of Payments and the review mechanism of said system. It is recalled that the Massachusetts Institute of Technology has provided different payment system models that must be decided upon. The fourth option (two-stage variable *ad valorem* royalty) has been implemented in the draft Standard and Guidelines which currently is available in the [Further Revised Suspense Document](#). It is recommended that this should be taken into consideration when finalizing the review mechanism in draft regulation 81. In respect of the review mechanism, reference is made to the [Friends of the President group](#) on draft regulations 81 and 82.

Issue 11: Equalization Measure

Relevant regulations: Draft regulations 64bis and draft equalisation standard

The equalization measure is designed to ensure that Contractors face similar rates of payment compared to land-based miners regardless of any Sponsoring State tax exemptions that they do, or do not, receive. The work on this issue has been carried out by the IWG, which has proposed the language contained in the Further Revised Consolidated Text (draft regulation 64bis). During the second part of the thirtieth session, a phrase has been added to properly reflect the peculiar situation of the Enterprise. The two substantive options for the equalization measure (the "hybrid model" and the "Profit Share model", as explained in the presentation made [during the second](#)

[part of the thirtieth session](#)) are currently being discussed within the Group, and the preferred alternative will be included in a specific Standard.

Issue 12: Environmental Externalities in Royalty System Design

Relevant regulations: Draft regulation 64ter

The payment of further royalties to compensate the environmental costs that activities in the Area might cause is currently provided for in draft regulation 64ter of the Further Revised Consolidated Text. The proposal follows a study commissioned in 2022 and published in 2023, available on [the website of the Authority](#). Following the publication of the study, the Council did not find consensus on the inclusion of a provision on environmental externalities: while some delegations were in favour, others considered that the proposal does not sufficiently reflect the “positive externalities”, meaning the positive effects that the activities might produce. To finalize, the Council may wish to address the matter in a small drafting group to submit appropriate language for further consideration.

Issue 13: Financial Incentives

Relevant regulations: Draft regulation 63

Incentives are regulated in draft regulation 63 and divergent views are presented in terms of how financial incentives should be handled. Therefore, the different alternatives should be considered. To finalize, the Council may wish to address the matter in a small drafting group to submit appropriate language for further consideration.

Issue 14: Transfer Profit Share

Relevant regulations: Draft regulations 65 (and draft regulation 23, paragraph 6 bis)

It has been proposed that the Authority shall levy a Transfer Profit Share in respect of transfer of rights. Previously it was handled as part of draft regulation 23, and now a newly proposed draft regulation 65 has been inserted. To finalize, the Council may wish to address the matter in a small drafting group to submit appropriate language for further consideration.

Issue 15: Monopolization

Relevant regulations: 23, 107 and Schedule

Under Art. 6 of Annex III to the Convention, the approval of a Plan of Work must not “permit a State Party or entities sponsored by it to monopolize the conduct of activities in the Area or to preclude other States Parties from activities in the Area”. During the thirtieth session, it has been highlighted by some delegations that the Regulations lack specific provision to prevent monopolization, as well as an agreed definition in the Schedule. To finalize, the Council may wish to address the matter in a small drafting group to submit appropriate language for further consideration.

C. Regulatory, Procedural and Institutional Matters

Issue 16: Effective Control

Relevant regulations: Draft regulations 5-7, 13, 21, 24, 24bis, 40, Annex I and Schedule

Art. 139 and 153 of the Convention require the Contractor to be sponsored by the State of nationality and the State by who or whose nationals the Contractor is “*effectively controlled*”. However, what such “*effective control*” constitutes is left undefined both in the Convention and the 1994 Agreement. The role of the Sponsoring State has been clarified in the 2011 Advisory Opinion of the International Tribunal for the Law of the Sea. In particular, the role of the Sponsoring State is not to provide a financial guarantee, but to ensure “that the obligations set out in the Convention, a treaty under international law which binds only States Parties thereto,

are complied with by entities that are subjects of domestic legal systems" (paragraph 75 of the Advisory Opinion).

The discussion of the issue in essence relates to the requirements for the identification of the State by whom or by whose nationals the applicant is "*effectively controlled*". During the second part of the thirtieth session, two proposals have been presented to reconcile the different views on this issue. The two proposals on the definition of effective control are currently included in the proposal of the [IWG on Effective Control](#).

Issue 17: ICE Mechanism and Establishment of the Compliance Committee

Relevant regulations: Part XI and in particular draft regulation 95 bis

As there seems to be agreement on the establishment of the Compliance Committee, the most recent efforts of the IWG on the ICE Mechanism have focused on the structure of the documents that will concern it. Reference is made not only to the newly proposed structure for draft regulation 95 bis (previously 102), but also to the proposed draft decision on the establishment of the Compliance Committee, as well as the proposed draft Rules of Procedure and draft Compliance Strategy of the Committee, all available on [the website of the Authority](#).

Some of the core outstanding issues in this respect is the placement of power and functions of the Compliance Committee and the interplay between the Compliance Committee and the LTC mandates. The Council may wish to consider deepening the discussions to find agreed language.

Issue 18: Resources Covered by the Regulations

Relevant regulations: Preamble

During the first part of the thirtieth session, several delegations suggested that the Regulations should specify the categories of resources covered by the Regulations, rather than rely on general references to "resources" or "mineral resources". The Convention provides that priority shall be given to the adoption of rules, regulations and procedures for the exploration and exploitation of polymetallic nodules. To conclude, the Council may wish to determine on whether the scope of the mineral domains could be considered in a differentiated manner, taking into account the three categories of regulated minerals.

Issue 19: Parent Company Liability

Relevant regulations: Draft regulations 23, paragraph 5(d), 24, Annex XI and Schedule

The issue of the liability of parent companies for damage cause by their controlled entities because of activities in the Area should be conceptually distinguished from the one of effective control. Sponsorship by a State that effectively controls an entity does not involve the provision of a financial guarantee. On the other hand, proposals to regulate this issue aim at ensuring financial accountability (in the form of liability) of the parent company that controls an entity carrying out activities in the Area. Proposals have been put forward by some delegations to ensure this outcome, notably through the introduction in the Regulations of the [Parent Company Liability Statement](#), meaning a written undertaking of the parent company to take responsibility for environmental damages caused by the controlled entity because of activities in the Area. The Council may wish to consider whether the establishment of a small drafting group might be helpful to find an agreed solution.

Issue 20: Treatment of the Enterprise and of Joint Ventures

Relevant regulations: Draft regulations 19 and Schedule

The treatment of the Enterprise in the Regulations essentially relates to the definition of "Contractor" in the Schedule of the Further Revised Consolidated Text. Under the Convention and the 1994 Agreement, the Enterprise is to be treated as a Contractor in most cases, while however being granted some privileges such as the exemption from payments to the Authority for the first ten years since its operationalisation. Two alternative wordings have been [proposed by the Interim Director-General of the Enterprise](#) to reflect the position of the Enterprise in the definition of "Contractor". A [paper has also been presented on the potential treatment of the](#)

Enterprise in the Regulations, accompanied by a table analysing references to the term “Contractor” in the draft Regulations considering the role of the Enterprise. It is important that the treatment of the Enterprise is discussed and decided upon as it plays an important role throughout the Regulations.

Issue 21: Non-compliance Notice, Suspension and Termination of the Contract

Relevant regulations: Draft regulation 103

A Friends of the President’s Group has provided substantial proposals for the handling of Non-Compliance Notice, Suspension and Termination of Exploitation Contracts. The proposals are incorporated in draft regulation 103 of the Further Revised Consolidated Text and should be further considered by the Council. The Council may wish to consider this issue in parallel with the further work on draft regulation 95 bis on the Compliance Committee.

Issue 22: Chief Inspector, Inspectors and Inspections

Relevant regulations: Draft regulations 95 bis, 96-101

During the second part of the thirtieth session, several delegations reserved their positions on this issue pending the further clarification of the structure and mandate of the Compliance Committee. The matter encompasses aspects relating to the Authority’s inspection mechanism for ensuring Contractors’ compliance. Among the points on which the Council still needs to hold further discussions and reach consensus are, *inter alia*: (a) the role of the Chief Inspector; (b) the procedures for the nomination and election of the Authority’s Inspectors, including the establishment of a Roster of Inspectors; and (c) the requirement of prior notification of forthcoming inspections.

Issue 23: Modification of a Plan of Work

Relevant regulations: Draft regulations 57

Modification of Plans of Work are currently covered by draft regulation 57, on which work is being carried out by a Friends of the President’s Group. In this regard, reference is made to the proposal submitted for inclusion in the Further Revised Consolidated Text. Based on the content of draft regulation 57, there might be need for further coordination with draft regulation 58 on review of the Plan of Work.

Issue 24: Seabed Mining Register

Relevant regulations: Draft regulations 92

The work on draft regulation 92 on the Seabed Mining Register is carried out under a Friends of the President’s Group. A proposal has been submitted for consideration of the Council to streamline the draft regulation and ensure consistency with other relevant regulations.

Issue 25: Confidential Information and Procedures to Ensure Confidentiality

Relevant regulations: Draft regulations 89-91

The discussion on the extent to which information may be regarded as Confidential Information, as well as on the procedures to ensure its confidentiality, is addressed in draft regulations 89 to 91. Among the aspects requiring further consideration, attention is drawn to the potential classification of environmental information, or parts thereof, as Confidential Information, an issue on which opposing views were expressed during the second part of the thirtieth session. To finalize, the Council may wish to address the matter in a small drafting group to submit appropriate language for further consideration.

Issue 26: Whistleblowing Protections

Relevant regulations: Draft regulations 101bis

During the second part of the thirtieth session, most delegations agreed on the current content of draft regulation 101bis on whistleblowing procedures, which has been retained as a placeholder pending further discussion on the content of a general whistleblowing policy of the Authority. The structure and content of such policy is yet to be discussed by the Council.

Issue 27: Prevention of Corruption

Relevant regulations: Draft regulations 40

Mechanisms for the prevention of corruption are currently provided for in draft regulation 40, covered by a Friends of the President's Group. [A proposal has been submitted](#) for inclusion on the Revised Consolidated Text, available on the website of the Authority. Some of the points that the Council might want to address relating to this issue are included in the [report of the Friends of the President's Group on draft regulation 40](#).

Issue 28: Review of the Regulations

Relevant regulations: Draft regulations 107

Draft regulation 107 deals with the review of the Regulations. During the second part of the thirtieth session, opposing views were expressed on the overall content of this draft regulation. Moreover, it is suggested that the provision might benefit from further alignment for instance with the periodic review of the inspection, compliance and enforcement mechanism (draft regulation 105bis).

D. Governance Matters

Issue 29: Rights and Interests of Coastal States

Relevant regulations: Draft regulations 4, 4bis and 93bis

The issue of rights and interests of coastal States, as well as of the mechanisms – such as consultation – to be put in place avoid infringement of such rights and interests is currently managed by a Working Group. The latest proposal of the Group – available on the [website of the Authority](#) – includes a comprehensive revision of draft regulations 4 and 93bis (previously 93ter), as well as a newly proposed draft regulation 4bis. The work in respect of rights and interests of Coastal States seems to be quite advanced and need further intention in order to land on a basis that can be implemented throughout the Regulations.

Issue 30: Underwater Cultural Heritage

Relevant regulations: Draft regulations 35 and 35 Alt

The inclusion of the Regulations on Underwater Cultural Heritage (UCH) – covered by a specific IWG on this matter – has been discussed in detail, but opposing views remain among delegations on specific points. Disagreement concerns in particular the forms of UCH that should be referenced in the Regulations (only tangible, or also intangible ones), as well as the modalities for its protection. Reservations have also been expressed to other elements of the [proposal submitted by the IWG](#), such as the reference to “cultural rights and interests” and the establishment of an Advisory Group of Experts on Cultural Matters.

II. ADDITIONAL CROSS-CUTTING ISSUES

Cross-Cutting Issue 31: Annexes and the Schedule

The consideration of the Annexes and the Schedule remain incomplete. The Annexes continue to contain alternatives, as well as deleted and bracketed text, which in some cases has been proposed for incorporation in the Standards and Guidelines. Definitions contained in the Schedule have not yet been examined by the Council, except insofar as they fall within the scope of a working group or Friends of the President group.

Cross-Cutting Issue 32: Standards and Guidelines

During the second part of the thirtieth session, a revised draft list of Standards and Guidelines was presented for consideration of the Council. The Council agreed to defer further consideration of this matter to its next session, under the agenda item relating to the draft regulations on exploitation.

In light of the progress to the Further Revised Consolidated Text, the list of anticipated Standards and Guidelines requires updating. It is proposed that the envisaged Standards and Guidelines be consolidated into a smaller number of instruments. It is further proposed that the Council agree upon a consolidated list and request the LTC to update the existing Phase I Standards and Guidelines, while commencing the development of the remaining Standards and Guidelines.

III. RECOMMENDATIONS

In light of the above, the Council may wish to consider:

1. Prioritising this list of key outstanding and cross-cutting issues and work towards their resolution;
2. Directing intersessional working groups and Friends of the President's groups to develop textual proposals addressing specific issues within assigned thematic areas;
3. Ensuring that cross-cutting issues are addressed across working groups and Friends of the President groups;
4. Ensuring that solutions to individual issues are considered in the context of the overall regulatory package.