



## Council

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### **Thirty-first session**

Council session, part I

Kingston, 9-20 March 2026

Agenda item 15

### **Operationalization of the Economic Planning Commission**

## **Election mechanisms of the members of the Economic Planning Commission**

### **Report of the Secretary-General**

#### **I. Introduction**

1. The objective of the present report is to provide an overview to the Council on the proposed mechanisms for the election of the members of the Economic Planning Commission, pursuant to paragraph 2 of Council decision ISBA/30/C/17, which requests the secretariat to prepare a proposal, in consultation with the Legal and Technical Commission for technical input only, for consideration by the Council during the first part of its thirty-first session.

#### **II. Background**

2. The Economic Planning Commission is established as a subsidiary organ of the Council under articles 163 and 164 of the United Nations Convention on the Law of the Sea, and sections 1 and 7 of the annex to the 1994 Agreement relating to the Implementation of Part XI of the Convention (the 1994 Agreement).

3. In the two previous reports on the operationalization of the Economic Planning Commission to the Council,<sup>1</sup> the Secretary-General recalled that the Economic Planning Commission plays a central role in assessing the economic impacts of activities in the Area, particularly on developing land-based producer States, and in supporting the implementation of the economic assistance mechanisms envisaged under article 151 of the Convention and section 7 of the annex to the 1994 Agreement.

4. The Council has repeatedly emphasized the importance of operationalizing the Economic Planning Commission before the approval of the first plan of work for exploitation, while recognizing the need to address institutional, financial and procedural considerations within an evolutionary approach.

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<sup>1</sup> ISBA/27/C/25 and ISBA/30/C/11.

5. At its thirtieth session, the Council adopted a decision on the operationalization of the Economic Planning Commission (ISBA/30/C/17), recognizing the advanced stage of the negotiations on the draft regulations on exploitation of mineral resources in the Area and the need to ensure institutional preparedness for the transition to the exploitation phase. Therefore, the Council decided to initiate necessary steps with a view to operationalizing the Economic Planning Commission as a subsidiary organ of the Council in accordance with the relevant provisions of the Convention and the 1994 Agreement. Among other tasks, it requested the secretariat to conduct a consultation to the Legal and Technical Commission to prepare a proposal for the election of members of the Economic Planning Commission.
6. A note on the Election mechanisms for members of the Economic Planning Commission was prepared by the Secretariat for consideration of the Legal and Technical Commission.<sup>2</sup>
7. The Legal and Technical Commission, following consideration of the noted prepared by the Secretariat, formulated the recommendation contained in the Annex to the Report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its thirty-first session for the consideration of the Council.<sup>3</sup>
8. The present report must therefore be read in conjunction with the above-mentioned documents.

### **III. Work of the Legal and Technical Commission in performing the functions of the Economic Planning Commission**

9 As required in the 1994 Agreement, the Legal and Technical Commission has to date performed the functions of the Economic Planning Commission, as provided for in the 1994 Agreement, pending a decision by the Council on the assumption of those functions by the latter. Thus, at its twenty-sixth session, the Legal and Technical Commission took note of a study of the potential impact of polymetallic nodule production from the Area on the economies of the developing land-based producers of metals that were likely to be the most seriously affected.<sup>4</sup> The Commission made several recommendations to the Council, including that the Council consider continuing to address the substantive issues identified in the study.

10 The Legal and Technical Commission also recommended that the Council consider initiating a process for establishing an economic assistance fund in accordance with the 1994 Agreement. The Economic Planning Commission will need to set the criteria for developing countries adversely affected by activities in the Area to access the fund.

11 In addition, the Legal and Technical Commission recommended that the Council considers whether the Economic Planning Commission should be operational before the approval of the first plan of work for exploitation, so as to be in a position to consider and study, in a structured and systematic way, the impacts on developing land-based producer States. In that regard, one of the tasks on which the Authority is to concentrate before the approval of a plan of work for exploitation is the study of the potential impact of mineral production from the Area on the economies of developing land-based producers of those metals that are likely to be most seriously

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<sup>2</sup> ISBA/31/LTC/4.

<sup>3</sup> ISBA/31/C/4, Annex.

<sup>4</sup> ISBA/26/C/12, para. 17; ISBA/26/C/12/Add.1, paras. 17–19; Technical Study 32, <https://www.isa.org.jm/publications/21773/>

affected, with a view to minimizing their difficulties and assisting them in their economic adjustment, taking into account the work already done by the Preparatory Commission.<sup>5</sup>

12 Furthermore, the Economic Planning Commission is to review the trends of and factors affecting the supply, demand and prices of metals that will be processed from minerals that may be derived from the Area, bearing in mind the interests of both importing and exporting countries, and in particular of the developing States among them.<sup>6</sup>

#### **IV. Operationalization of the Economic Planning Commission**

13 As recalled in ISBA/30/C/11, the operationalization of the Economic Planning Commission does not imply the immediate assumption of all its substantive responsibilities. Rather, it requires an evolutionary approach, beginning with the establishment of the Commission through the election of its members, followed by the adoption of its rules of procedure, the development of its initial workplan, and the gradual commencement of its substantive functions. The present report addresses exclusively the first of these steps, namely the establishment of the Commission through the election of its members.

14 The substantive functions of the Economic Planning Commission are set out in article 164, paragraph 2, of the Convention. The 1994 Agreement contains several important modifications to the Commission's functions and the early performance thereof.

15 First, it is provided that the functions of the Economic Planning Commission are to be carried out by the Legal and Technical Commission until such time as the Council decides otherwise, or until the approval of the first plan of work for exploitation.

16 Second, the implementation of article 151, paragraph 10, of the Convention, is further qualified in section 7 of the annex to the 1994 Agreement, which serves to define the policy of the Authority in relation to assisting developing countries that suffer serious adverse effects on their export earnings or economies caused by activities in the Area and the principles on which the policy is based. The principles include the provision of assistance under section 7, paragraph 1 (a), of the 1994 Agreement, through an economic assistance fund created from a portion of the Authority's funds exceeding those necessary to cover its administrative expenses of the Authority. The amount set aside for this purpose is to be determined by the Council upon recommendation of the Finance Committee. Only funds from payments received from contractors, including the Enterprise, and voluntary contributions are to be credited to the fund.<sup>7</sup> All related provisions of the Convention, including article 164, paragraph 2, on the original functions of the Economic Planning Commission, are to be interpreted accordingly.

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<sup>5</sup> 1994 Agreement relating to the Implementation of Part XI of United Nations Convention on the Law of the Sea of 10 December 1982, annex, sect. 1, para. 5 (e).

<sup>6</sup> Convention, art. 164, para. (2) (b), and 1994 Agreement, annex, sect. 1, para. 5 (d).

<sup>7</sup> Regulation 5.8 of the Financial Regulations of the International Seabed Authority (ISBA/6/A/3, annex).

## V. Election mechanisms of members of the Economic Planning Commission

17 In accordance with article 163, paragraph 2, of the Convention, and rule 77 of the Rules of Procedure of the Council,<sup>8</sup> the Economic Planning Commission is to be composed of 15 members, elected by the Council from among candidates nominated by the members of the Authority. However, the Council may decide to increase the size of the Commission giving due regard to economy and efficiency.

18 According to article 163, paragraph 3, and article 164, paragraph 1, of the Convention, nominations are to be candidates of the highest standards of competence and integrity, with appropriate qualifications, taken collectively, in relevant fields such as mining, management of mineral resource activities, international trade or international economics.

19 Article 163, paragraph 4 of the Convention, and rule 78 of the Rules of Procedure of the Council, mandate that in the election of members of the Commission, due account shall be taken of the need for equitable geographical representation and the representation of special interests. In addition, article 164, paragraph 1, of the Convention requires that the Commission include at least two members from developing States whose exports of the categories of metals processed from minerals to be derived from the Area have a substantial bearing upon their economies.

20 In line with the recommendation of the Commission as contained in the Annex to document ISBA/31/C/4, based on its accumulated institutional experience, including the establishment of its membership and election processes, the Council may wish to consider the possibility that the composition of the Economic Planning Commission reflects the composition of regional groups. The Council may further wish to refer to paragraph 15(d) and (e) of section 3 of the annex to the 1994 Agreement as providing relevant guidance for such allocation, particularly with respect to the application of equitable geographical distribution and the representation of special interests. as reflected in paragraphs 15(d) and 15(e) of Section 3 of the Annex to the 1994 Agreement.

21 Members of the Economic Planning Commission are to be elected by the Council for a term of five years. In this regard, the Secretary-General recommends that the Council may wish to consider electing the members of the Commission during the session immediately preceding the year in which the Commission is to commence its mandate, which begins on 1 January of that year.

22 In preparing a proposal of mechanisms in the process of the election of the members of the Economic Planning Commission, the Secretary-General has been guided by the relevant provisions of the Convention and the 1994 Agreement, as well as by the recommendation of the Legal and Technical Commission mentioned in previous paragraphs, existing procedure and practice within the Authority with respect to elections to subsidiary organs of the Assembly and of the Council, and the need to ensure transparency, inclusiveness and sufficient time for Member States to nominate suitably qualified candidates.

23 The Secretary-General is of the view that the election of the members of the Economic Planning Commission could follow, *mutatis mutandis*, with appropriate adaptations reflecting the specific mandate of the Economic Planning Commission, the procedures applied by the Assembly for the election of the members of the Finance

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<sup>8</sup> ISBA/C/12

Committee and by the Council for the members of the Legal and Technical Commission, with appropriate adaptations reflecting the specific mandate, composition and qualification requirements of the Economic Planning Commission.

24 In this regard, the Secretary-General notes that the Council may wish to consider that the mechanisms for the election of the members of the Economic Planning Commission could include, *inter alia*, the following set of election mechanisms:

- a) A written invitation by the secretariat, on behalf of the Council, issued at least four months prior to the election at the meeting of the Council, inviting all Member States to submit nominations for membership of the Economic Planning Commission of candidates of the highest standards of competence and integrity;
- b) Along with the written invitation, the secretariat will include a list of developing States whose exports of the categories of minerals to be derived from the Area have a substantial bearing upon their economies and a list of developing States Parties representing special interests. Any list of special interests would be indicative rather than determinative;
- c) Nominations for election to the Commission shall be accompanied by a statement of qualifications or a curriculum vitae detailing the candidate's competence, experience and expertise such as those relevant to mining, management of mineral resource activities, international trade or international economics, and shall be received by the secretariat at least two months prior to the date of the election;
- d) The preparation by the secretariat of a consolidated list, in alphabetical order, of the persons nominated for election to the Commission, indicating the nominating Member State of the Authority, with an annex containing the statements of qualifications or curricula vitae of the nominees;
- e) The circulation by the secretariat, at least six weeks in advance of the election, of the consolidated list of nominees submitted by Member States, together with the corresponding statements of qualifications or curricula vitae, to all members of the Council;
- f) In accordance with article 163, paragraph 5, of the Convention, and rule 79 of the Rules of Procedure of the Council, no State party may nominate more than one candidate for election to the Commission and no person shall be elected to serve on more than one Commission;
- g) Members of the Commission shall hold office for a term of five years and they shall be eligible for re-election for a further term, in accordance with article 163, paragraph 6, of the Convention, and rule 80, paragraph 1, of the Rules of Procedure of the Council;
- h) The conduct of the election by the Council in accordance with its Rules of Procedure, including rule 56 and section XIV, "Elections to the Economic Planning Commission and Legal and Technical Commission" -rule 77 to rule 82 of the Rules of Procedure of the Council,<sup>9</sup> and established voting practices;
- i) The general rule that decision-making in the Council should be by consensus, according to rule 56, paragraph 1, of the Rules of Procedure of the Council;
- j) In accordance with rule 56, paragraph 2, and rule 77, paragraph 3, if all efforts to reach a decision by consensus have been exhausted, the election of the members of the Commission or the increase of its size, shall be taken by a two-thirds majority of

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<sup>9</sup> ISBA/C/12.

members present and voting, provided that such decisions are not opposed by a majority in any one of the chambers referred to in rule 56, paragraph 5, of the Rules of Procedure of the Council;

k) The application of the criteria set out in article 163, paragraphs 2 and 4, article 164, paragraph 1, of the Convention, and rules 81 and 82 of the Rules of Procedure of the Council, including the requirements relating to qualifications, equitable geographical representation, representation of special interests and the representation of developing States whose economies are substantially affected by exports of the relevant categories of metals;

## **VI. Recommendation**

25 The Council is invited to:

- a) consider the proposed elements of the mechanisms for the election of the members of the Economic Planning Commission, as outlined in the present report, as well as the recommendation of the Legal and Technical Commission as contained in the Annex to document ISBA/31/C/4;
- b) Adopt the draft decision annexed to the present report.

## Annex

### Draft decision of the Council on the Election mechanisms of the members of the Economic Planning Commission

*The Council of the International Seabed Authority,*

*Recalling* 163 and 164 of the United Nations Convention on the Law of the Sea, and sections 1 and 7 of the annex to the 1994 Agreement relating to the Implementation of Part XI of the Convention,

*Recalling* its decision ISBA/30/C/17,

*Welcoming* the report of the Secretary-General on the election mechanisms of the members of the Economic Planning Commission,

*Expressing appreciation for* the technical inputs provided by the Legal and Technical Commission in its recommendation annexed to the Report of the Chair of the Legal and Technical Commission on the on the work of the Commission at the first part of its thirty-first session<sup>10</sup>,

1. *Decides that:*

a) the Economic Planning Commission shall be composed of 15 members who shall have appropriate qualifications, such as those relevant to mining, management of mineral resource activities, international trade or international economics, and shall reflect the highest standards of competence and integrity;

b) the Council shall endeavour to ensure that the membership of the Economic Planning Commission reflects all appropriate qualifications;

c) the Economic Planning Commission shall include at least two members from developing States whose exports of the categories of minerals to be derived from the Area have a substantial bearing upon their economies;

d) members of the Economic Planning Commission shall be elected by the Council during the session immediately preceding the year in which the Commission is to commence its mandate;

e) in accordance with article 163, paragraph 5, of the Convention, no State party may nominate more than one candidate for election to the Commission and no person shall be elected to serve on more than one Commission;

f) in accordance with article 163, paragraph 6, of the Convention, members of the Commission shall hold office for a term of five years and shall be eligible for re-election for a further term;

2. *Further decides* that the procedure for the election of the Economic Planning Commission shall be as follows:

a) At least four months prior to the election of members of the Economic Planning Commission at the meeting of the Council, the Secretary-General shall issue a written invitation to all Member States to submit nominations for membership of the Commission of candidates of the highest standards of competence and integrity;

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<sup>10</sup> ISBA/31/C/4, Annex.

b) Along with the written invitation, the secretariat shall include a list of developing States whose exports of the categories of minerals to be derived from the Area have a substantial bearing upon their economies and a list of developing States Parties representing special interests. Any such list of special interests shall be indicative;

c) Nominations for election to the Commission shall be accompanied by a statement of qualifications or a curriculum vitae detailing the candidate's competence, experience and expertise such as those relevant to mining, management of mineral resource activities, international trade or international economics, and shall be received by the secretariat at least two months prior to the date of the election;

d) The secretariat shall prepare a consolidated list, in alphabetical order, of the persons nominated for election to the Commission, indicating the nominating Member State of the Authority, with an annex containing the statements of qualifications or curricula vitae of the nominees;

e) The secretariat shall circulate, at least six weeks in advance of the election, the consolidated list of nominees submitted by Member States, together with the corresponding statements of qualifications or curricula vitae, to all members of the Council;

f) The conduct of the election by the Council in accordance with its Rules of Procedure, including rule 56 and section XIV, "Elections to the Economic Planning Commission and Legal and Technical Commission", in particular rule 77 to rule 82 of the Rules of Procedure of the Council, and the established voting practices.

3. *Further decides* to keep the matter under review.