

BRIEFING NOTE AND FIRST PROPOSAL ON MONOPOLIZATION

Submitted by Trinidad and Tobago as Friend of the President

Introduction

On 10 April 2026, the Friend of the President on Monopolization submitted a [first briefing note with guiding questions](#) on the issue covered by the Group, for the consideration of participants. The present briefing note must therefore be read in conjunction with (and as a continuation of) the previous one.

Two submissions were received from participants to the group, addressing in particular the guiding questions contained in the first briefing note. Trinidad and Tobago wishes to extend its gratitude to all delegations that have shown interest in participating in the group, as well as to those who have submitted comments.

Submissions received are included in the proposal set out in the Annex (using as a basis the Further Revised Consolidated Text) for consideration by participants at the first online intersessional meeting of the Group, to be held on 5 May 2026. The remainder of the intersessional calendar following the meeting of 5 May is provided below:

- 11 May: Deadline for submission of proposals by delegations to the Secretariat.
- 18 May: Circulation of the revised proposal from the Facilitator.
- 25 May - 2:00pm UTC: Second intersessional meeting of the Group.

Answers to the questions made in the first briefing note

On question 1 (potential definition of “Monopolize” or “Monopolization”, as appropriate), participants expressed support for using as a basis the text of Article 6, paragraphs 3(c) and 4 of Annex III to the Convention. One participant highlighted the resource-specific nature of paragraph 3(c), which only applies to polymetallic nodules. It is therefore acknowledged that the present issue might be linked to the outcome of the discussion on the scope of the draft Regulations.

Another participants highlighted that, despite being an appropriate basis, Art. 6(3)(c) mostly focuses on geographical size rather than economic influence, and that – also in light of evolution of companies structures – some degree of flexibility might therefore be desirable in making reference to other criteria. It is suggested that such flexibility might be achieved through the ordinary mechanism of the review of the Regulations. To this end, a reference to

the Economic Planning Commission – mandated under article 164 of the Convention to address the economic impacts of activities in the Area – could be included in paragraph 2 of draft regulation 107. The proposal is set out in the Annex below for the consideration of participants.

On question 2, participants seemed comfortable with the idea of addressing prevention of monopolization already in the phase of the consideration and recommendation for approval of the Plan of Work by the Commission. In this respect, it is reminded that the first briefing note suggested the addition of a new para 2(g) to draft regulation 13.

However, based on the answers received in respect to the first question, it is suggested that – if the provisions of Art. 6(3)(c) are used to define what constitutes an instance of monopolization – it might be more appropriate to directly include that language in the procedure provided for in the Regulations, rather than including it in the Schedule. This would be done especially to properly reflect and respect the procedure provided under paragraph 4 of the same Article, which still grants the Authority discretion in determining whether the criteria provided in para 3(c) amount to an instance of monopolization.

In order to fully reflect the comments received on question 1, it is therefore suggested that the language of both paragraph (3)(c) and 4 of Art. 6 of Annex III to the Convention could be included in a new paragraph 2(e) of draft regulation 15. This would also entail the deletion of para 3(a) of the same draft regulation. It is highlighted that the proposal set out in the Annex would leave the word “monopolize” undefined in the last part of paragraph 2(e) of draft regulation 15. Participants are invited to express their views on the solution proposed in the Annex below.

It is also again underscored that such solution would cover monopolization only in relation to polymetallic nodules, but it would not apply for different resource categories. Pending discussion on the scope of Regulation, delegations are therefore welcome, if deemed useful, to submit proposals on the potential treatment of other resources.

With regard to question 3, one participant suggested that amendments to draft regulation 23 are unnecessary, as paragraph 4 already requires compliance with draft regulations 13 and 15 (which, in the present context, would address monopolization). It was, however, suggested that paragraph 1bis of draft regulation 24 and paragraph 2 of draft regulation 24bis should include a reference to paragraph 2(g) of draft regulation 13, in line with the approach outlined

in the first briefing note. Consistent with the rationale set out above, the reference has therefore been changed to reflect the newly introduced paragraph 2(e) of draft regulation 15.

Annex

Regulation 15

Commission's recommendation for the approval or disapproval of a Plan of Work

[...].

2. The Commission shall not recommend approval of a proposed Plan of Work if:

[...]

(e) the Application has been submitted or sponsored by a State Party which already holds:

(i) Plans of Work for Exploitation of polymetallic nodules in non-reserved areas that, together with either part of the area covered by the Application, exceed in size 30 per cent of a circular area of 400,000 square kilometres surrounding the centre of either part of the area covered by the proposed Plan of Work;

(ii) Plans of Work for the Exploitation of polymetallic nodules in non-reserved areas which, taken together, constitute 2 per cent of the total seabed area which is not reserved or disapproved for exploitation pursuant to article 162, paragraph (2)(x) of the Convention;

unless the Commission determines that such approval would 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.

3. The Commission shall not recommend the approval of a proposed Plan of Work if it determines that:

~~(a) sSuch approval would permit a State party or entities sponsored by it to Monopolize the conduct of activities in the Area with regard to the Resource category in the proposed Plan of Work in accordance with applicable Standards, taking into account the Guidelines [or significantly control the production of a single Mineral or Metal produced globally]; or~~

Regulation 24

Change of Control

[...]

1.bis Where there is a proposed Change of Control of a Contractor, regulation 15, paragraph 2(e), regulation 21, paragraph 1, regulation 21, paragraph 3, regulation 21, paragraph 3.bis, regulation 21, paragraph 4 and regulation 21, paragraph 7 shall apply *mutatis mutandis* and the Contractor shall have the appropriate sponsorship in place prior to the Change of Control. Failure to have the appropriate sponsorship in place results in the automatic termination of the Exploitation Contract upon the Change of Control, unless a State Party or States Parties have submitted a certificate or certificates of sponsorship and the Commission or Council, as applicable, is still reviewing whether the Contractor has the appropriate sponsorship.

Comments

- The paragraph was presented in mark-up in the Further Revised Consolidated Text. It has been included here in a clean version only to highlight the addition of the reference to para 2(e) of draft regulation 15.

Regulation 24 bis

Change of Nationality

[...]

2. Where there is a proposed Change of Nationality of a Contractor or a Controlling National, the State Party or States Parties, as applicable, that become the new State of nationality of the Contractor or the Controlling National shall submit a certificate or certificates of sponsorship in accordance with regulation 6 as if the Contractor were an Applicant. Regulation 15, paragraph 2(e), Regulation 21, paragraph 1, regulation 21, paragraph 3, regulation 21, paragraph 3.bis, regulation 21, paragraph 4 and regulation 21, paragraph 7 shall apply mutatis mutandis to this situation.

Comments

- Also in this case, the paragraph has been included here in a clean version only to highlight the addition of the reference to para 2(e) of draft regulation 15.

Regulation 107

Review of these Regulations

[...]

2. [When in the light of improved knowledge, technological advancements, implementation experience or identification of regulatory gaps, it becomes evident that these Regulations are not adequate, a]ny State party, the Commission, the Economic and Planning Commission, the Enterprise, any Contractor (through its Sponsoring State), or Stakeholder (through a State party) may [following the completion of the first review] [request]/[suggest] the Council to consider, at its next ordinary session, revisions to these Regulations and the matter shall be included in the provisional agenda of the Council for that session.

Comments

- The addition of the reference to the EPC in this draft regulation would allow the EPC to recommend amendments to the Regulations, including by suggesting a revised treatment of monopolization, if deemed necessary in light of the experience.

Schedule

Use of terms and scope

~~["Monopolize"]~~

~~[means the ability to control over 75 per cent of the estimated annual volume of similar Mineral bearing ore exploited, produced or removed from the Area after Commercial Production has occurred in respect of at least 2 Exploitation Contracts.]~~