

**BRIEFING NOTE AND REVISED PROPOSAL ON MONOPOLIZATION**

**Submitted by Trinidad and Tobago as Friend of the President**

The present report is prepared with the aim of summarising intersessional work carried out from March to June 2026 on the outstanding issue of Monopolization, as well as of providing a final proposal from the Friend of the President based on the outcome of such work.

Following the discussions carried out during the first part of the thirty-first session, the Friend of the President prepared a [first briefing note with guiding questions](#) for consideration of the participants. Based on the written inputs received, a [second briefing note](#) was prepared, with a first tentative proposal annexed, which was subsequently discussed on 6 May 2026.

As a result of the views expressed during the meeting and the written submissions, a [revised proposal](#) was prepared and discussed on 26 May 2026.

The present document must therefore be read in conjunction with the previous ones, and is prepared on the basis of the views expressed during that meeting, as well as of subsequent submissions received.

From the feedback received from participants, it appears that there is a common understanding on the following points:

- The provisions of Article 6, paragraphs 3(c) and 4 of Annex III to the Convention only apply to polymetallic nodules. As such, they cannot be used to determine what constitutes a case of monopolization for all resource categories.
- Moreover, while the provisions of Article 6(3)(c) of Annex III can be used as a useful basis to determine cases of monopolization, the language of paragraph (4) clarifies that they cannot be used as a definition of monopolization.
- Monopolization should be prevented in the phase of consideration and approval of the plan of work, and the relevant requirements should be applicable in cases where a change of control or nationality of the applicant occurs.

Participants also seemed comfortable with the proposal of specifying the substantive criteria to define monopolization in Standards and Guidelines, while focusing in the Regulations referenced on the procedure to prevent it. It is suggested that such Standards could be included among those developed by the Commission and associated with the Regulations.

These aspects have been reflected in the annexed proposal. Following the last intersessional meeting, the main aspect that remains to be discussed is the treatment of monopolization in the phase of approval of the Plan of Work.

The main point to be discussed concerns the specific language to regulate the treatment of monopolization in the phase of consideration of the Plan of Work. In the previous version of the proposal, this aspect was included only in draft regulation 15. One participant suggested however to also include monopolization among the criteria that the Commission would need to assess under draft regulation 13. As this suggestion has been included in the proposal below, future discussions of the group might need to focus especially on draft regulations 13 and 15.

As agreed during the last intersessional meeting, the reference to the Economic Planning Commission in draft regulation 107, added in the first proposal, has been deleted as falling outside the scope of this group. As some participants seemed to support this approach, Trinidad and Tobago has informed the delegation of Belgium – as Friend of the President on the issue of Review of these Regulations (draft regulation 107) – of requests to add such reference.

Trinidad and Tobago wishes to thank all delegations that have constructively participated to the work of the group and provided valuable inputs.

## Annex

### Regulation 13

#### Assessment of Applicants and application

[...]

[11. The Commission shall assess, in accordance with the applicable Standard, whether the proposed Plan of Work, individually or in combination with any existing Contracts held or controlled by the Applicant, or associated arrangements, would result in a concentration of control by any State or entity over activities in, or the resources of, the Area that is inconsistent with the anti-monopolisation provisions of UNCLOS Part XI.]

#### Comments

- This text is based on the proposal of one participant and has not yet been discussed in the group. It has been placed in a new paragraph 11 pending further discussion.

### 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) such approval would permit a State Party ~~[Alt.1 or entities sponsored by it]~~ ~~[Alt.2 submitting or sponsoring the concerned Plan of Work]~~ to monopolize the conduct of activities in the Area or preclude other States Parties from activities in the Area, in accordance with ~~[Article 6, paragraphs 3(c) and 4 of Annex III to the Convention (where applicable),]~~ the applicable Standards and taking into account Guidelines.]

[(e)Alt. ~~[it would contravene article 6(3)(c)(i) or (ii) of Annex III to the Convention, and the Authority has not, in accordance with article 6(4) [the applicable Standards and taking into account Guidelines], determined]~~ 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) such 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~~~~

#### Comments

- In the original version, the reference to the Convention has been placed in brackets. One participant suggested that if the Standard are referenced, they could in turn reference provisions of the Convention. Views are welcome on this aspect.

- One participant also suggested that the alternative version might be interpreted in a way to mean that a proposed plan of work can be approved if the ISA has not made any determination on monopolization at all. As this might not be the preferred outcome, both alternatives have been retained despite the second one being slightly more supported. Participants are invited to express their views.

## 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.

## 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.

## Schedule

### Use of terms and scope

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|----------------------------------|--|
| <p><del>["Monopolize"]</del></p> | <p><del>[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.]</del></p> |
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