

Thirty-first session

Council session, part II

Kingston,

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Draft decision of the Council of the International Seabed Authority relating to the establishment of a Compliance Committee

The Council of the International Seabed Authority,

PP1. Recalling its competence to exercise control over activities in the Area for the purpose of securing compliance in accordance with article 153(4), of the United Nations Convention on the Law of the Sea (the “Convention”),¹ and the rules, regulations and procedures of the Authority,

PP2. Recalling also that pursuant to articles 158(3) and 162 (2) (d) of the Convention the Council has the power to establish, as appropriate, and with due regard to economy and efficiency, such subsidiary organs as it finds necessary for the exercise of its functions in accordance with Part XI of the Convention,

OP1. Decides that a Compliance Committee is hereby established (the “Committee”) as a subsidiary organ of the Council to assist the Council in carrying out its responsibility to exercise control over activities in the Area for the purpose of securing compliance, as provided for under Part XI of the Convention and implemented through the 1994 Agreement and the rules, regulations and procedures of the Authority.

OP2. Decides that, except where expressly mandated by the Council to take decisions, the Committee shall have an advisory and recommendatory role.

OP3. [Decides that the Committee shall assist the Council to ensure compliance with and enforcement of the rules, regulations and procedures of the Authority as well as the terms and conditions of Contracts, through:

(a) development, in cooperation with the Legal and Technical Commission, of the Authority’s Inspection, Compliance and Enforcement Strategy, which shall set out the framework for the work to be undertaken by the Committee in the discharge of its functions, including modalities for interaction with other organs of the Authority. The Inspection, Compliance and Enforcement Strategy shall have the status of a Standard and shall be developed by applying *mutatis mutandis* the applicable procedure for the adoption of Standards set out in the Exploitation Regulations, and shall include consultation with the Legal and Technical Commission, for the consideration and provisional adoption of the Council until approved by the Assembly. The Inspection, Compliance and Enforcement Strategy shall not affect the legal rights and obligations of States Parties under the Convention and the 1994 Agreement;

(b) implementation and periodic review, in cooperation with the Legal and Technical Commission, of the Authority’s Inspection, Compliance and Enforcement Strategy;

(c) monitoring compliance of individual contractors; and

(d) where expressly mandated to do so by the rules, regulations and procedures of the Authority or by direction of the Council, taking compliance and enforcement measures directly; and making recommendations to the Council for the issue of emergency orders, without prejudice

¹ United Nations, *Treaty Series*, vol. 1833, No. 31363.

to the competence of the Commission under article 165(2)(k) of the Convention and appropriate penalties; and

(e) advise the Council on matters relating to the exercise of their functions.

OP4. [*Instructs* that the Committee shall exercise its functions in accordance with the guidance adopted by the Council, is accountable to the Council, and shall report at least annually to the Council.]

OP5. *Further* decides that the Committee is empowered to:

(a) request information from contractors, the Secretariat and other subsidiary organs to the Council;

(b) collaborate or share information as appropriate [with Sponsoring States, coastal States, port States, flag States and [competent organs of] relevant international organizations [in accordance with article 163, paragraph 13 of the Convention as necessary], acting through the Secretary-General;

(c) have member(s) of the Committee observe inspection activities as necessary and where resources and practicalities allow;

(d) [convene hearings with Contractors;]

[(e) request expert input or training;]

(f) [make][recommendation on] Standards relating to inspections, compliance or enforcement matters, [in consultation with the Legal and Technical Commission and after conducting public consultation, for the consideration and provisional adoption by the Council until approved by the Assembly] [without prejudice to the competence of the Council and the staff of inspectors under article 162, paragraph 2(z) of the Convention];

(f)bis develop Guidelines relating to inspection, compliance and enforcement matters, in consultation with the Legal and Technical Commission, where such Guidelines relate to matters within the competence of the Commission under article 165 of the Convention; and

(g) issue recommendations of a technical or administrative nature for the guidance of contractors to assist them in the implementation of the rules, regulations and procedures of the Authority

OP6. *Directs* that in performing any of its functions, the Committee shall apply the principles of independence, transparency, accountability, expertise, proportionality and probity, and act consistently with the Convention, the 1994 Agreement and the rules, regulations and procedures of the Authority.

OP7. *Establishes* that the procedure for nomination of candidates for the election to the Committee shall be as follows:

(a) at least six months before the opening of the session of the Authority at which the election is to be held, the Secretary-General shall address a written invitation to all Member States to submit their nominations of candidates for election to the Committee;

(b) nominations for election to the Committee shall be accompanied by a statement of qualification or curriculum vitae setting out the candidate's qualifications and expertise in fields relevant to the work of the Committee and shall be received not less than three months prior to the opening of the relevant session of the Authority; and

(c) the Secretary-General shall prepare a list in alphabetical order of the persons nominated for election to the Committee in accordance with paragraph (a) above, indicating the nominating member of the Authority, and containing an annex with the statements of qualification or curricula vitae submitted in accordance with paragraph (b) above; the list shall be circulated to all members

of the Authority not less than two months prior to the opening of the session at which the election is to be held.

OP8. Decides that the Council shall elect no more than 15 members for a term of five-years, eligible for re-election for one further term, [once renewable term] from among the candidates nominated by Member States. At the initial election, the Council shall ensure that the terms of members are staggered, by limiting the term for no more than half of the members to be two-years and hold subsequent elections every two years, so as to provide for continuity on the membership of the Committee. If necessary, the Council may decide to increase the size of the Committee, having due regard to economy and efficiency. Members of the Committee shall be elected on the basis of:

- (a) the highest standards of competence and integrity;
- (b) qualification in relevant fields, including compliance, inspection and enforcement;
- (c) specialized expertise relevant to activities in the Area;
- (d) gender balance; and
- (e) a balance across the membership of different necessary competences for the [effective exercise of the functions of the Committee, and
- (f) equitable geographical distribution and the representation of [special interest].

OP9. Decides that no Member State may nominate more than one candidate for the same subsidiary organ of the Council. No person shall be elected to serve on more than one subsidiary organ of the Council. The members of the Committee shall serve in an independent and personal capacity and shall not serve in [any other organs of the Authority or as a member of any delegation. Members of the Committee shall have no financial or other interest, whether direct or indirect, that may affect their independence in relation to activities in the Area. In particular, members shall not work for entities that hold exploration or exploitation contracts with the Authority, nor have worked for them in the [two] years prior to election to the Committee.][Former members of the Committee shall not, for a period of [two] years following the end of their term, accept employment or consultancy with any entity that holds an exploration or exploitation contract with the Authority]

OP10. Underlines that the Members of the Committee shall be subject to the Authority's code of conduct.

OP11. Decides that the Committee shall formulate its own Rules of Procedure and submit these to the Council for consideration and approval. The Rules of Procedure should enable agile working by the Committee that can accommodate urgent matters.

OP12. [Decides that the Committee shall review the mandate, procedures and effectiveness of the Committee five years from the adoption of this decision, and periodically thereafter as necessary, and may amend any element of this decision by a subsequent decision of the Council.]

OP13. Stresses that the functioning of the Committee shall not prejudice the [competence]/[exercise of the functions] of the Legal and Technical Commission under the Convention and the 1994 Agreement. For that purpose, the Committee and the Legal and Technical Commission shall consult, and cooperate, without any delay, with each other to avoid potentially overlapping in the exercise of their respective functions. In the event of issues arising from such overlapping the two bodies shall jointly or separately report such issues to the Council which shall determine a solution.

OP14. Requests the Secretary-General to provide administrative support to the Committee.

OP15. Requests the Secretary-General to include provision for the Committee in the draft budget of the Authority, and requests the Finance Committee to take this into account in its consideration of the Authority's budget.