

**Thirty-first session**  
Council session, part II  
Kingston,  
13-24 July 2026

## **Draft regulations on exploitation of Mineral resources in the Area**

### **Updated draft indicative list of outstanding issues**

#### **Explanatory note**

1. Pursuant to the decision of the Council 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 themes:

- (i) environmental matters;
- (ii) financial matters;
- (iii) regulatory, procedural and institutional matters; and
- (iv) governance matters.

2. In its decision, the Council further requested the Secretariat to prepare a draft indicative list of outstanding issues that would potentially fall under the four main themes above.

3. During the first part of the thirty-first session, the Council examined the draft indicative list of outstanding issues prepared by the secretariat ([ISBA/31/C/CRP.4](#)).

4. At its 354th meeting, the Council endorsed the request by the President to the Secretariat to prepare and circulate an updated list of outstanding issues ahead of the second part of the thirty-first session (ISBA/31/C/19/Rev.1, para 49), reflecting:

- a) the progress achieved;
- b) the areas requiring further consideration; and
- c) to include a priority section identifying cross-cutting and thematic issues that require political guidance from the Council.

5. The present updated list is therefore presented for examination of the Council. Based on the proposal of the President, the list is divided into four sections:

a) the first section includes those issues covered by a group that – based on the request of the relevant facilitator or Friend of the President, or in light of the status of negotiations – are no longer to be considered as outstanding. The inclusion of an issue in this section is without prejudice to any further discussion in the Council. It reflects that the Council has reached a sufficient degree of convergence on the approach to the issue in principle, while acknowledging that drafting refinements may still be required.

b) the second section includes an updated list of issues that are still to be considered outstanding and which might also be considered cross cutting issues and for which a political guidance from the Council is needed as a matter of priority.

c) the third section includes issues that are distinct from those in sections a) and b) in two respects. Unlike the issues in section b), which remain outstanding and require priority political guidance from the Council, the issues in this section have advanced to a stage where convergence on the underlying approach appears within reach. Unlike the issues in section a), however, the

degree of convergence reached does not yet allow them to be considered as no longer outstanding: substantive work and further negotiation remain necessary before an agreement in principle can be confirmed. Their inclusion in this section reflects the expectation that, with continued effort, these issues may progress to the level of section a).

d) The fourth section contains a separate list of institutional topics that do not form part of the draft Exploitation Regulations. Their inclusion in this section does not pre-empt the adoption of the draft Regulations or imply that they should be addressed within the current regulatory negotiations. Rather, they concern broader institutional matters that may arise in the longer-term implementation of Part XI of the Convention. They are therefore reproduced in a separate section, without prejudice to their merits, for the Council to be aware that they will warrant further consideration.

6. It is stressed that this list is indicative in nature and remains subject to the review and decision of the Council.

## **I. ISSUES TO BE NO LONGER CONSIDERED AS OUTSTANDING**

### **Non-Issue 1: Equalization Measure**

*Relevant regulations:* Draft regulations 64bis and draft equalization standard

During the first part of the thirty-first session, broad support was expressed for the inclusion of the equalization measure in draft regulation 64bis and for its application from the commencement of commercial production. Some delegations emphasised the need to ensure that the regulation maintains reference to the exemptions of the Enterprise consistent with article 10 of Annex IV to the Convention. While further work will need to be carried out on the dedicated Standard specifying the details of the equalization measure, the inclusion in the Regulations and the current language of draft regulation 64bis have received no objection in principle.

### **Non-Issue 2: Modification of a Plan of Work (draft regulation 57)**

*Relevant regulations:* Draft regulations 57 and 58, Annex X

The Friend of the President on the issue of Modification of a Plan of Work has submitted a [revised textual proposal on draft regulation 57](#), as well as a [report of intersessional work](#) and a [flowchart setting out the operation of the revised textual proposal for draft regulation 57](#). In the report of intersessional work, the Friend of the President has suggested that the work on draft regulation 57 is well advanced and should no longer be a key outstanding issue. The group has nevertheless indicated that it intends to continue focusing on issues related to draft regulation 57, including the terms of draft regulation 58, Section 16 (Modification of terms and conditions of this Contract) of Annex X (Standard clauses for Exploitation Contract), and other draft regulations that interact with draft regulation 57. On that basis, and without prejudice to such further refinement work, the issue is considered no longer outstanding.

### **Non-Issue 3: Seabed Mining Register**

*Relevant regulations:* draft regulation 92

The Council expressed support for the inclusion of draft regulation 92 – requiring the Secretary-General to establish a Seabed Mining Register – and for the language provided during the first part of the thirty-first session by the Friend of the President on this issue. Discussions focused in particular on the type of information to be included in the Register and on the need to protect the confidentiality of sensitive information. A [new proposal](#) has been submitted by the Friend of the President for the second part of the thirty-first session, addressing those outstanding points of refinement.

### **Non-Issue 4: Prevention of corruption**

*Relevant regulations:* draft regulation 40

A [new proposal on the issue of prevention of corruption](#) has been presented by the Friend of the President, accompanied by a [report on the status of intersessional work](#). The report states that “it was decided that Draft Regulation 40 should no longer be treated as a key outstanding issue”, this being “without prejudice to any further discussions in the Council on Draft Regulation 40 at the appropriate stage”. Some delegations also stressed the need for a more general policy to cover internal matters of corruption or conflict of interest within the Authority itself, which may be addressed through a separate instrument.

### **Non-Issue 5: Treatment of the Enterprise**

*Relevant regulations:* Schedule (definition of “Contractor”); cross-cutting

During the first part of the thirty-first session, the [paper submitted by the Interim Director-General of the Enterprise and the United Kingdom](#) was discussed. The Council agreed with the approach proposed in the paper, and in particular with the first alternative addition to the definition of contractor therein proposed, namely “Except where expressly excluded in these Regulations, the term ‘Contractor’ shall also include the Enterprise”. As no objection was raised, the issue has been moved to this section of the list. The proposal will be implemented following the second part of

the thirty-first session in line with the [Annex to the paper of the Interim Director-General of the Enterprise and the United Kingdom.](#)

## II. KEY OUTSTANDING ISSUES

### Key outstanding issue 1: 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 whom or by 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 were presented to reconcile the different views on this issue, both of which are reflected in the latest proposal of the [Working Group on Effective Control](#). Upon request of the facilitator, discussion of this issue was deferred to the second part of the thirty-first session, where it will need to be taken up as a matter of priority. Given its cross-cutting nature – bearing on sponsorship, nationality, and effective oversight across multiple draft regulations – this issue requires political guidance from the Council in order to advance negotiations.

### Key outstanding issue 2: Underwater Cultural Heritage

*Relevant regulations:* draft regulation 35; cross-cutting

The work of the Intersessional Working Group on Underwater Cultural Heritage (UCH) has advanced in the intersessional period between March and July 2026, and a [revised proposal](#) has been submitted by the co-facilitators and included in the Rev.3 of the Further Revised Consolidated Text. During the first part of the session, the Council expressed support for proceeding on the basis of the alternative text proposed by the working group and endorsed the continuation of intersessional work to resolve the remaining points of disagreement. As noted by the co-facilitators, a number of key outstanding issues remain to be agreed, including those pertaining to key terms of art (e.g., whether to use the concept of Underwater Cultural Heritage or the Convention-inspired language on “*objects and sites of an archaeological or historical nature*”; whether to refer to cultural rights or interests and/or the specific rights of Indigenous Peoples or of, as appropriate, local communities; and whether to refer to “pure” intangible UCH, venerated sites, or a similar alternative concept).

### Key outstanding issue 3: Test and Pilot Mining

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

As highlighted in the [report of the Working Group on Test and Pilot Mining](#) on the intersessional work carried out between the first and the second part of the thirty-first session, some outstanding elements remain to be agreed on as a matter of priority on this matter. Outstanding points include, *inter alia*, a clear distinction between Test Mining and Pilot Mining, the situations in which the Contractor can be exempted from Test Mining, and the approval procedures for the Pilot Mining report.

### Key outstanding issue 4: Authority’s working modalities

*Relevant regulations:* cross-cutting

In its report on the status of intersessional work, the Friend of the President on the issue of Modification of the Plan of Work (draft regulation 57) has identified changes to the working modalities of the Authority as an important cross-cutting institutional issue that requires separate consideration. The group noted that it is inevitable that the working modalities of the Authority

will need to adapt to the demands of regulating exploitation activities, in particular those of the Legal and Technical Commission and the Council. New modalities under consideration include the use of virtual meetings and written procedures. As this issue has cross-cutting implications for the institutional design and decision-making capacity of the Authority, and has not yet been discussed in detail by the Council, it is included in the present section so that the Council may provide the necessary guidance on how it should be taken forward.

#### **Key outstanding issue 5: Environmental Compensation Fund**

*Relevant regulations:* draft regulations 54, 55 and 56

Despite the agreement of the Council on the need to establish an Environmental Compensation Fund, several substantial elements concerning its establishment remain to be agreed on. As specified in the [statement of the President on the work of the Council during the first part of the thirty-first session](#), these include for instance the form in which such establishment should be provided (in the Regulations or in a standalone draft decision); or additional elements to be specified, such as the trustees and beneficiaries of the Fund. It was suggested that it might not be appropriate to include those additional details in a Standard.

#### **Key outstanding issue 6: Environmental Goals and Objectives**

*Relevant regulations:* draft regulation 44ter

During the first part of the thirty-first session, the Friends of the President group on Environmental Goals and Objectives held a meeting and has continued its intersessional work, and has submitted a [report and a textual proposal](#) for further discussion. Several delegations suggested that strategic environmental goals should be addressed in a separate instrument applicable to both exploration and exploitation activities, and that the level of detail currently contained in draft regulation 44ter would be more appropriately placed in a Standard. As a result of this unresolved disagreement on the appropriate placement and legal status of the provision, this issue requires substantive political guidance from the Council as to where it should be placed.

#### **Key outstanding issue 7: Inspection, Compliance and Enforcement Mechanism**

*Relevant regulations:* draft regulations 95 bis and 96 to 101

During the first part of the thirty-first session, Council welcomed the newly proposed draft regulation 95bis on the Compliance Committee.

Following intersessional progress, the Informal Working Group on Inspection, Compliance and Enforcement (ICE), has submitted a revised draft Council decision on the establishment of a Compliance Committee accompanied by a revised draft regulation 95bis for consideration by the Council at the second part of the thirty-first session. The intersessional process has resulted in substantial convergence on the key elements of the framework. A focused set of issues remains to be addressed by the Council as a matter of priority, including: the timing of adoption of the Council decision establishing the Committee (whether at the July 2026 session or at a later stage linked to the adoption of the exploitation regulations); the precise delineation between measures the Committee may take directly and recommendations to the Council, in particular with respect to enforcement measures and emergency orders; and the accountability of the Chief Inspector.

The Council also needs to discuss and reach consensus, *inter alia*, the following components of the inspection mechanism: (a) the role of the Chief Inspector; (b) the procedures for the nomination and election of the inspectors of the Authority, including the establishment of a Roster of Inspectors; and (c) the requirement of prior notification of forthcoming inspections. During the first part of the thirty-first session, discussions conducted on this matter still showed lack of alignment among delegations.

#### **Key outstanding issue 8: Conditions for beginning Exploitation of the Area**

*Relevant regulations:* draft regulation 2, paragraph (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. Discussions held during the first part of the thirty-first session have confirmed that this remains one of the most controversial matters. It should be noted that the dispute is not limited to the wording of the three sub-paragraphs: a number of delegations questioned the inclusion of paragraph (3) as such, and the Council has not yet reached agreement on whether the provision is necessary at all. This fundamental disagreement on the need for the paragraph – alongside divergent positions on the content of each sub-paragraph – will require political guidance from the Council at the second part of the session.

#### **Key outstanding issue 9: Resources covered by the Regulations**

*Relevant regulations:* cross-cutting

During the first part of the thirty-first session, a discussion was conducted on the issue of which resources should be covered by the draft Regulations on Exploitation. Some delegations suggested that the Regulations should focus only on polymetallic nodules. However, views were expressed suggesting that in line with its nature of “regulatory framework”, the Regulations could focus on different resource categories, while resource-specific provisions could be included in Standards and Guidelines.

#### **Key outstanding issue 10: Phase 1 Standards**

During the first part of the thirty-first session, the Council endorsed the proposal by the President to request the Legal and Technical Commission, *inter alia*, to revise the list of Standards and Guidelines that should be ready by the time of the adoption of the Regulations (Phase 1 Standards). The Council will need to consider the ten Phase 1 Standards developed by the Commission and of the potential additional Phase 1 Standards that the Commission might recommend.

#### **Key outstanding issue 11: Whistleblowing**

*Relevant regulations:* draft regulation 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. However, due to time constraints, the issue was not discussed during the first part of the thirty-first session. For the purpose of the second part of the thirty-first session, the secretariat has prepared a [draft note on the establishment of a general policy on whistleblowing](#) to assist the discussion of the Council.

#### **Key outstanding issue 12: Annexes and Schedule**

The consideration of the Annexes and the Schedule remains incomplete. During the first part of the thirty-first session, the Council conducted a reading of Annexes I to III. Following this discussion, and in line with the statement of the President, Annexes I to III have been consolidated by the Secretariat in the Revision 3 of the Further Revised Consolidated Text. The rest of 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. The Council will therefore need to consider how to organise the reading of the outstanding Annexes and the Schedule.

### III. ISSUES WITH ADVANCING CONVERGENCE

#### **Issue 1: Rights and interests of Coastal States**

*Relevant regulations:* draft regulations 4, 4bis and 93bis

In the intersessional period between the first and the second part of the thirty-first session, substantive work has been carried out by the working group on Rights and Interests of Coastal States. A [revised proposal](#) on draft regulations 4, 4bis and 93bis has been submitted by the co-facilitators of the group for the second part of the thirty-first session.

#### **Issue 2: Environmental Management and Monitoring and Closure Plan**

*Relevant regulations:* draft regulations 49 to 53bis

Following the first part of the session, the facilitators of the working groups on Environmental Management and Monitoring (EMM) and on Closure Plan have worked in close cooperation, in order to ensure consistency between the two workstreams. As a result, a [joint textual proposal](#) has been presented to streamline the section on EMM and Closure Plan, by incorporating the latter into the Environmental Management and Monitoring Plan.

#### **Issue 3: Legal Status of Regional Environmental Management Plans (REMPs)**

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

During the first part of the thirty-first session, several delegations expressed support for the proposal presented by the facilitator of the working group on REMPs. Based on the outcomes of the further intersessional work carried out, the facilitator has presented a [textual proposal on draft regulations 44bis and 58](#), as well as a [proposal to address reference to REMPs throughout different draft regulations](#).

#### **Issue 4: Protection of Submarine Cables and Pipelines**

*Relevant regulations:* draft regulations 31 and 31bis

The Friend of the President on Protection of Submarine Cables and Pipelines has continued to carry out work intersessionally and has submitted a [revised textual proposal](#) on draft regulations 31 (Accommodation of activities in the Area and in the marine environment) and 31bis (Reducing risks of damage to submarine cables and pipelines). Some outstanding elements remain, including: the respective roles of contractors and the Authority in identifying or acquiring information about other uses or activities in the marine environment; the standard of protection to be afforded to submarine cables and pipelines; and the scope of the reference to “planned” submarine cables and pipelines and to other uses and activities. The full list of outstanding elements can be found in the [report of intersessional work](#) submitted by the Friend of the President.

#### **Issue 5: Payment Mechanism and Review of Payment Mechanism**

*Relevant regulations:* draft regulation 81 and 82

The Friends of the President group on the Review of the Payment Mechanism has made considerable progress during the first part of the thirty-first session. There is broad agreement on most of the text across paragraphs under draft regulations 81 and 82. For both draft regulations, there is an outstanding question on whether the review applies to all resource categories or just polymetallic nodules. This is a more general question relevant to the exploitation regulations currently under negotiation. With respect to draft regulation 81, the key outstanding issue is whether a change in the system of payments applies to existing contracts or contract areas that have started commercial production. Similarly, with respect to draft regulation 82, disagreement remains on whether a change to the rates of payments applies to all contracts or whether those that have yet to complete the five first years of commercial production are exempt. The Council is well-placed to address these outstanding issues during the second part of the thirty-first session. Given the overall level of convergence achieved, the Review of the Payment Mechanism

under draft regulations 81 and 82 is expected to be among those that can be brought to a conclusion at the current session.

### **Issue 6: Non-Compliance Notice, Suspension and Termination of Contract**

*Relevant regulations:* draft regulations 103 to 105

The Friend of the President group on Non-Compliance Notice, Suspension and Termination of Contract has provided a [revised textual proposal](#) addressing also draft regulations 104 and 105 (the latter suggested deleted).

During the first part of the thirty-first session, support was expressed for the principle that enforcement measures should be proportionate to the nature of non-compliance. The group also agreed to include draft regulations 104 and 105 within the scope of its work, with a view to advancing draft regulations 103 to 103 quat. in a coherent manner. The principal points that may benefit from further consideration by the Council include the need to clarify the respective roles of the Compliance Committee and the Council in the enforcement process, and the relationship between this framework and the Legal and Technical Commission, particularly with regard to emergency orders. These points are closely linked to the broader discussions on the ICE mechanism and are expected to be addressed also in that context. Given the general support expressed for the revised framework and the focused nature of the remaining questions, this issue is well-positioned to be resolved during the second part of the thirty-first session.

### **Issue 7: Monopolization**

*Relevant regulations:* draft regulations 13, 15, 24 and 24bis; Schedule

Following the discussion conducted during the first part of the thirty-first session, a Friend of the President has been established to cover the issue of Monopolization. The group held two intersessional meetings, in which participants showed alignment on a number of points, namely: a) that the provisions of article 6, paragraphs 3(c) and 4 of Annex III to the Convention only apply to polymetallic nodules and, as such, they cannot be used to determine what constitutes a case of monopolization for all resource categories; b) that 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; and c) that 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. The group has presented a [textual proposal](#) for consideration of the Council during the second part of its thirty-first session.

### **Issue 8: Review of these Regulations**

*Relevant regulations:* draft regulation 107

In the intersessional period between the first and the second part of the thirty-first session, a Friend of the President group has been established to cover the issue of the Review of these Regulations. The Friend of the President has submitted a [proposal on draft regulation 107](#) for consideration of the Council at the second part of the thirty-first session.

### **Issue 9: Potentially Polluting Wrecks**

*Relevant regulations:* yet to be defined

The issue of potentially polluting wrecks (PPW) has not been discussed yet, but a reference is contained in paragraph (10) of draft regulation 35, stating that: “[i]n cases involving potentially polluting wrecks, regulation [X] shall also apply”. A delegation has accepted to become Friend of the President on this issue, and discussions will be conducted during the second part of the thirty-first session.

### **Issue 10: Definition of “Incident” and “Notifiable Event”**

*Relevant regulations:* draft regulations 33 and 34; Schedule

During the first part of the thirty-first session, delegations have reiterated that the two definitions of “Incidents” and of “Notifiable Events”, as well as their treatment in the Regulations, require a more consistent and coordinated approach.

### **Issue 11: Parent Company Liability**

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

During the first part of the thirty-first session, the Council discussed the issue of parent company liability. Council supported the proposal to include in the Regulations a Parent Company Liability Statement. This represents a significant step forward, as the introduction of such a mechanism in the Regulations has received broad support in principle. It is important to note that this issue is conceptually distinct from that of effective control: while effective control concerns the identification of the sponsoring State, parent company liability addresses the financial accountability of the corporate parent for environmental damages, and does not involve a financial guarantee from a State. Two focused points of refinement remain to be addressed: first, the particular situation of State-owned companies and of the Enterprise, in respect of which some delegations have expressed concerns; and second, the coordination with the compliance and enforcement framework set out in draft regulation 103, including the question of whether the Statement should be treated as a precondition for the approval of a plan of work. Given the broad support for the approach and the focused nature of the outstanding questions, this issue is well-placed for resolution during the second part of the thirty-first session.

### **Issue 12: Non-confidentiality of Environmental Data**

*Relevant regulations:* draft regulation 89, paragraph (3)(f)

In the first version of the draft indicative list of outstanding issues, this issue was presented as “Confidential Information and procedures to ensure confidentiality”, covering draft regulations 89 to 91. However, during the first part of the thirty-first session, most delegations seemed comfortable with the general structure of the three draft regulations. It is therefore suggested to narrow the scope of this outstanding issue to the non-confidentiality of environmental data, provided for in paragraph 3(f) of draft regulation 89. There are currently three versions of this provision, on which the Council is invited to focus its attention.

### **Issue 13: Transfer Profit Share on Transfer of Rights**

*Relevant regulations:* draft regulations 23 and 65

During the first part of the thirty-first session, the Council discussed the inclusion in the Exploitation Regulations of a profit share mechanism applicable to the transfer of rights under an exploitation contract, whether direct or indirect. The rationale advanced by proponents is threefold: to ensure parity with profit-sharing arrangements applicable to transfers in land-based mining jurisdictions; to discourage speculative trading of contracts of the Authority; and to ensure that the Authority benefits from any uplift in value generated from resources that constitute the common heritage of humankind. Broad support was expressed for the inclusion of such a mechanism in principle. The principal questions that remain to be resolved concern: the placement of the provision (whether as paragraphs 6bis and 6ter of draft regulation 23 or in a new standalone draft regulation 65 within Part 7); the sequencing of the profit share payment vis-à-vis the Council’s approval of the transfer; and the development of an associated standard defining key concepts, including the notion of “gain”. Pending resolution of those drafting questions, this issue is included in this section as one that is substantively advanced and well-placed for further progress at the second part of the thirty-first session.

### **Issue 14: Financial Incentives**

*Relevant regulations:* draft regulation 63

During the first part of the thirty-first session, the Council considered the bracketed text in draft regulation 63 concerning financial incentives that the Authority may offer to contractors. Several delegations expressed the view that any financial incentives must be strictly limited to what is already provided for in the Convention and that the current draft text as bracketed potentially broadens the scope of permissible incentives beyond what the Convention authorises. Concerns

were also raised that incentives granted selectively could create an unlevel playing field between contractors, or between deep seabed mining and land-based mining, which the equalization measure is otherwise designed to prevent. The Council is invited to confirm the permissible scope of financial incentives and to provide guidance on whether – and in what form – the bracketed text in draft regulation 63 should be retained.

#### **IV. INSTITUTIONAL MATTERS OUTSIDE THE SCOPE OF THE DRAFT EXPLOITATION REGULATIONS**

##### **Complementary issue 1: Development of phase 2 and 3 Standards and Guidelines**

Phase 2 and 3 Standards and Guidelines are deemed necessary to be in place – respectively – before the receipt of an application of a plan of work for exploitation and before commercial mining activities commence in the Area. While their development does not constitute a prerequisite for the adoption of the draft Regulations on Exploitation, they represent an important component of the broader Mining Code and will contribute to ensuring that an appropriate technical and regulatory framework is in place by the time of commencement of exploitation activities.

##### **Complementary issue 2: Benefit sharing mechanism**

The equitable sharing of financial and other economic benefits derived from activities in the Area is a legal obligation for the Authority pursuant to, *inter alia*, article 140 of the Convention. While the draft Exploitation Regulations establish elements of the financial regime applicable to contractors, broader institutional arrangements for the future distribution of benefits may require further consideration by the Authority. The Convention leaves discretion as to the appropriate means to ensure such equitable sharing through the rules, regulations and procedures of the Authority adopted pursuant to articles 160(2)(f)(i) and 162(2)(o)(i) of the Convention and based, in accordance with Section 9, paragraph 7(f) of the Annex to the 1994 Agreement, on recommendation of the Finance Committee.

During the thirtieth session, the Assembly invited the Secretariat to further develop the concept of a Common Heritage Fund as one possible mechanism for the future distribution of benefits (ISBA/30/A/11, para. 4).

##### **Complementary issue 3: Economic Planning Commission**

During the second part of the thirtieth session, the Council adopted decision ISBA/30/C/17 on the operationalization of the Economic Planning Commission. In the decision, the Council requested the secretariat to prepare a proposal for election mechanisms of the Economic Planning Commission, 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. The Council also requested the Finance Committee to report to the Council during the second part of its thirty-first session detailing the financial implications of the establishment of the Economic Planning Commission and provide a report on the most practical timelines for the Commission to commence its work.

During the first part of the thirty-first session, the Council considered and took note of the Report of the Secretary-General on election mechanisms of the members of the Economic Planning Commission (ISBA/31/C/11). The Council also considered the draft decision of the Council on the election and establishment of the Economic Planning Commission, annexed at the report of the Secretary-General. As some delegations suggested amendments to the text, the President invited delegations to send proposals to be included in a revised draft decision circulated by the Secretariat ([ISBA/31/C/CRP.6](#)). The consideration of the draft decision will continue during the second part of the thirty-first session of the Council.

##### **Complementary issue 4: Operationalization of the Enterprise**

In accordance with article 170 of the Convention and section 2 of the annex to the 1994 Agreement, the Enterprise shall be the organ of the Authority that shall carry out activities in the Area directly, as well as the transporting, processing and marketing of minerals recovered from the Area. Its eventual independent functioning represents an essential component of the principle of the common heritage of humankind.

The independent functioning of the Enterprise may be triggered by either of two events: (a) the receipt by the Council of an application for a joint venture operation with the Enterprise; or (b) the approval of a plan of work for exploitation for an entity other than the Enterprise. In accordance with Section 2(2) of the Annex to the 1994 Agreement, if the trigger event is an

application for a joint venture operation with the Enterprise, the Council will also need to consider whether such a proposed joint venture accords with “sound commercial principles”.

## **V. 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 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.