

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

General Policy on whistleblowing

Report of the Secretary-General

I. Introduction

1. The present report is submitted to assist the discussion of the Council of the outstanding issue of whistle-blowing procedures, in line with the draft list of outstanding issues presented by the Secretariat.¹

2. During the second part of the thirtieth session, most delegations agreed on the content of draft regulation 101bis on whistleblowing procedures in the Revised Consolidated Text², which has been retained as a placeholder pending further discussion on the content of a general whistleblowing policy of the Authority. While the establishment of mechanisms to promote integrity and accountability gathered support, some delegations expressed concern that embedding whistle-blowing provisions directly in the draft Regulations on Exploitation may exceed the scope of the Mining Code and raise issues of jurisdiction, enforceability and institutional coherence.

3. The present report is submitted following the discussions of the Council on the appropriate scope, legal basis and modalities of a whistle-blowing framework within the International Seabed Authority. It presents a proposal for the development of a General Policy on Whistle-blowing and Protection Against Retaliation applicable across the Authority as an institution, including its staff and, in due course, the staff of the Enterprise. It also examines the respective roles and responsibilities of sponsoring States, contractors and subcontractors in promoting appropriate whistle-blowing mechanisms in relation to activities in the Area, while remaining consistent with the Authority's mandate under the United Nations Convention on the Law of the Sea (the "Convention") and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (the "1994 Agreement").

4. The objective of the present report is to assist the Council in determining an appropriate institutional approach that is consistent with the Convention, the 1994 Agreement and the mandate and institutional framework of the Authority, while ensuring appropriate safeguards for accountability, transparency and the protection of individuals who report misconduct in good faith.

II. Rationale for a general policy on whistle-blowing

5. Whistle-blowing refers to the reporting, in good faith, of misconduct or wrongdoing by individuals associated with an institution. Effective whistle-blowing mechanisms contribute to institutional integrity by providing safe channels for reporting, protecting individuals from retaliation, safeguarding confidential information, and ensuring that allegations are addressed through competent oversight structures.

¹ [ISBA/31/C/CRP.4](#).

² [ISBA/30/C/CRP.1/Rev.2](#).

6. During the Council's recent deliberations, a majority of delegations agreed that, given the horizontal nature of whistle-blowing obligations and their relevance across all organs and activities of the Authority, any such regime should be developed as a general institutional policy applicable across all organs and activities of the Authority, rather than incorporated into the Mining Code, which governs exploitation activities in the Area and primarily concerns contractors.

7. A general policy would therefore:

- (a) ensure consistency across all organs of the Authority;
- (b) apply beyond a single set of regulations;
- (c) provide a sound administrative and legal foundation for a system of protection and reporting; and
- (d) avoid extending the Authority's regulatory reach beyond what is authorised under the Convention.

8. The adoption of a general policy on whistle-blowing would be consistent with the practice of other international organisations such as the United Nations, the International Atomic Energy Agency, and the World Health Organization.

III. Legal Basis and Institutional Competence

9. The Convention and the 1994 Agreement do not establish an express obligation for the Authority to adopt whistle-blowing procedures.

10. A legal basis can be however inferred from the powers of the different organs of the Authority.

11. In this respect, a distinction must be drawn between the general whistle-blowing policy as outlined in the present report, which falls under the competence of the Assembly in cooperation with the Council, and the specific measures that may be adopted to implement such policy within the respective spheres of competence of the organs of the Authority. In particular, the Council may adopt rules, regulations and procedures relating to activities in the Area, including measures applicable to contractors and inspectors, where appropriate and upon the recommendation of the Legal and Technical Commission. Any amendments to the Staff Regulations and Staff Rules necessary to implement the policy would fall within the competence of the Assembly, while administrative instructions and other internal administrative measures for their implementation would be adopted by the Secretary-General in her capacity as the chief administrative officer of the Authority.

12. For the purposes of the present report, the legal basis for the adoption of a general whistle-blowing policy is provided by article 160, paragraph 1, of the Convention and section 3, paragraph 1, of the annex to the 1994 Agreement, which empower the Assembly, in cooperation with the Council, to establish general policies in conformity with the relevant provisions of the Convention on any question or matter within the competence of the Authority.

IV. Proposed Scope of the General Policy

A. Staff of the Authority

13. The general policy should apply to all staff members of the Authority, including officials supporting the Assembly, Council, Legal and Technical Commission and other subsidiary bodies. Such a policy would establish procedures for reporting misconduct, define safeguards against retaliation, and articulate the obligations of staff to cooperate with authorised audits or investigations. In this regard, the policy would give practical effect to article 167 of the Convention, pursuant to which the staff of the Authority are international civil servants whose responsibilities are exclusively owed to the Authority and who shall neither seek nor receive instructions from any Government or from any other source external to the Authority. A whistle-

blowing framework may therefore contribute to safeguarding the independence, integrity and impartiality of the international civil service of the Authority by providing secure mechanisms through which concerns regarding misconduct, improper influence, breaches of duty or violations of applicable rules may be reported and addressed.

14. The general policy should therefore empower the Secretary-General – as the chief administrative officer of the Authority pursuant to article 166 of the Convention – to adopt specific whistle-blowing procedures applicable to the Staff of the Authority, as well as to other individuals which – despite not being part of the Staff of the Authority – work under the authority of the Secretary-General.

B. Inspectors

15. The policy should extend to inspectors, where relevant. Given the nature of their mandate and their role in monitoring compliance, inspectors must be provided with clear procedures and robust protection against retaliation.

C. The Enterprise

16. When the Enterprise becomes independent of the Secretariat, a dedicated whistle-blowing policy, aligned with the general policy of the Authority, should be adopted by its governing organs. The Enterprise, operating under the direction and control of the Council, should develop internal whistle-blowing arrangements consistent with the principles of the present policy and the provisions of the Convention including Annex IV and the 1994 Agreement.

D. Contractors, subcontractors and sponsoring States

17. In light of the limits on the Authority's jurisdiction, the Authority lacks the legal competence to impose binding whistle-blowing or anti-retaliation requirements covering the entirety of activities carried out by contractors. *Inter alia*, by way of example, internal labour, employment or corporate governance measures could not be prescribed. Such matters fall within the exclusive competence of sponsoring States, whose domestic legal systems regulate the internal labour protections and procedures applicable to entities under their jurisdiction.

18. In this respect, the Council may recommend that sponsoring States encourage entities they sponsor to adopt and implement national whistle-blowing policies consistent with their domestic legal systems. Such a recommendation would be aligned with States' obligations under Articles 139 and 153(4) of the Convention to ensure that contractors act in conformity with the applicable rules, regulations and procedures of the Authority.

19. The applicability of the proposed whistle-blowing procedures towards contractors must therefore necessarily be limited to "activities in the Area" as defined by the 2011 advisory opinion of the Seabed Dispute Chamber of the International Tribunal for the Law of the Sea. By way of example, misconduct of contractors in meeting their environmental obligations might fall within the scope of the rules adopted on the basis of the whistle-blowing policy. On the contrary, misconduct of contractors in the phase of processing of minerals – which is not an "activity in the Area" – could not be covered by such a policy.

20. The Authority has no direct contractual relationship with subcontractors. Consequently, any whistleblowing obligations applicable to Contractors cannot be imposed upon subcontractors directly. Compliance could only be ensured indirectly, by requiring Contractors to incorporate corresponding obligations into their contractual arrangements with subcontractors.

21. Based on the above, the rules, regulations and procedures adopted by the Council on the basis of a whistle-blowing policy should therefore address the position of individuals employed by contractors of the Authority and their subcontractors who wish to report misconduct relating to "activities in the Area" directly to the Authority.

V. Institutional Considerations

22. A whistle-blowing policy requires a mechanism for receiving complaints, ensuring confidentiality, protecting against retaliation and conducting follow-up reviews. The Authority may consider two options:

- (a) establishing its own internal mechanism; or
- (b) exploring potential future inclusion within the United Nations Ethics Office system.

23. Both options would require careful examination of legal, administrative and financial implications, including potential costs to be considered by the Finance Committee and approved by the Assembly. The latter approach may, however, offer advantages in aligning the Authority with established international best practices and reducing the need to establish an entirely new mechanism internally.

24. It is important to emphasize that the framework of the United Nations Ethics Office does not authorize or encourage the unrestricted disclosure of confidential information. Its purpose is to provide protected reporting channels through which information concerning alleged misconduct may be communicated to competent authorities while preserving the confidentiality of the information received. Any whistle-blowing mechanism adopted by the Authority would therefore need to operate in full conformity with article 168 of the Convention and with the applicable provisions of the Mining Code relating to industrial secrets, proprietary data and other confidential information entrusted to the Authority in the exercise of its functions.

VI. Conclusions and Recommendations

25. A general whistle-blowing policy will strengthen the Authority's system of governance and reinforce the shared commitment to transparency, accountability and integrity.

26. In light of the above, the Council is invited to:

- (a) take note of the analysis contained in the present report;
- (b) consider the draft decision of the Council contained in Annex I for the development of the general whistle-blowing policy contained in the Annex to such decision; and
- (c) invite the Assembly to consider the adoption of such a policy pursuant to Article 160, paragraph 1 of the Convention and Section 3 of the Annex to the 1994 Agreement.

Annex I

Draft decision of the Council of the International Seabed Authority to the Assembly of the International Seabed Authority on the adoption of a general whistle-blowing policy

The Council of the International Seabed Authority,

Recalling article 160 of the United Nations Convention on the Law of the Sea (the “Convention”), and Section 3, paragraph 1 of the Annex to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (the “1994 Agreement”), which empower the Assembly of the Authority to establish, in cooperation with the Council, general policies in conformity with the relevant provisions of this Convention on any question or matter within the competence of the Authority;

Recalling article 166 of the Convention, which identifies the Secretary-General as the chief administrative officer of the Authority,

Recalling Section 9, paragraph 7 of the 1994 Agreement, which requires decisions by the Assembly and the Council on the matters listed therein to take into account recommendations of the Finance Committee,

Recalling also its discussions at the thirtieth session on the institutional, compliance and governance measures necessary to support the implementation of Part XI of the Convention and the 1994 Agreement,

Recognizing the importance of strengthening transparency, accountability and integrity across all organs of the Authority,

Recognizing also that whistle-blowing mechanisms constitute an important element of good governance and institutional integrity within international organizations,

Taking note of the report of the Secretary-General on a general whistle-blowing policy for the Authority,

1. Requests the Secretary-General to consult with the United Nations Ethics Office regarding the feasibility, modalities, legal implications and potential costs of establishing a cooperation arrangement relating to whistle-blowing and protection against retaliation, and to submit a report thereon to the Council;

2. Requests the Finance Committee to examine the financial implications arising from the possible establishment of such a cooperation arrangement, including any financial contributions or cost-sharing arrangements that may be required, and to submit its recommendations thereon to the Council and the Assembly, including options for incorporating any associated costs into the budget of the Authority;

3. Further requests the Secretary-General, taking into account the recommendations of the Finance Committee, to include in the proposed programme and budget of the Authority the resources required for its implementation;

4. Encourages sponsoring States, consistent with their responsibilities under articles 139 and 153 of the Convention and section 4 of the Annex to the 1994 Agreement, to develop or strengthen, as appropriate, national legislation and internal policies relating to whistle-blowing and protections against retaliation, with a view to promoting transparency, accountability and responsible corporate governance in entities engaged in activities in the Area;

5. Further decides, upon consideration of the report of the Secretary-General referred to in paragraph 1 above and the recommendations of the Finance Committee referred to in paragraph 2 above, to finalize its consideration of the draft General Policy on Whistle-

blowing and Protection against Retaliation, with a view to recommending its adoption by the Assembly.

Annex

Draft General Policy of the International Seabed Authority on Whistle-blowing and Protection Against Retaliation

I. Purpose and Scope

1. The present general policy establishes the framework for reporting misconduct or wrongdoing within the International Seabed Authority (“the Authority”), and for protecting individuals who report such matters in good faith from any form of retaliation.
2. The policy applies to:
 - (a) Staff members of the Secretariat of the Authority;
 - (b) Inspectors of the Authority, where relevant;
 - (c) Staff of the Enterprise, once it becomes independent of the Secretariat;
 - (d) Other individuals acting under the authority of the Secretary-General, as appropriate.
3. The present policy shall also apply to contractors of the Authority with respect to activities in the Area, when incorporated into the relevant rules, regulations and procedures of the Authority.
4. The rules, regulations and procedures referred to in the preceding paragraph shall ensure that the obligations arising from the present policy are extended to subcontractors and agents of contractors through appropriate contractual arrangements between the Contractors and its subcontractors and agents of contractors.
5. Sponsoring States are encouraged to develop national legislation and internal policies promoting safe mechanisms for reporting wrongdoing committed by sponsored entities, and protection to individuals who report such matters in good faith from any form of retaliation relating, *inter alia* to internal labour, employment or corporate governance issues.
6. Members of the Authority are encouraged to act, as well as to ensure that they representatives act, consistently with the principles embodied in the present policy.

II. Definition and Principles

7. For the purpose of this policy, whistle-blowing means the reporting in good faith of information that an individual reasonably believes indicates misconduct, wrongdoing, breach of applicable rules or regulations, abuse of authority, fraud, corruption, or other violations of the standards of conduct expected within and by the Authority.

Retaliation means any direct or indirect detrimental action, recommendation or omission taken because an individual engaged in protected whistle-blowing activity.

8. The policy is guided by the following principles:

- (a) Integrity, transparency and accountability are essential for the Authority in fulfilling its mandate under the United Nations Convention on the Law of the Sea (“the Convention”) and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (“the 1994 Agreement”);
- (b) Individuals must be able to report wrongdoing without fear of retaliation;
- (c) Reports must be handled confidentially, impartially and in a timely manner;
- (d) The policy must respect the limits of the Authority’s jurisdiction, including on matters pertaining to contractors and sponsoring States.

9. Nothing in the present policy shall be interpreted as modifying, limiting or derogating from any obligation of confidentiality established under the Convention, the 1994 Agreement, the rules, regulations and procedures of the Authority, or any contractual arrangements concluded pursuant thereto.

10. The reporting of information under the present policy shall not authorize the disclosure, dissemination or public release of information that is subject to confidentiality obligations under applicable law. In particular, this policy shall be implemented in a manner consistent with:

(a) Article 168 of the Convention concerning the confidentiality obligations applicable to the staff of the Authority;

(b) Any provisions relating to confidential information contained in the rules, regulations and procedures of the Authority, including those forming part of the Mining Code;

(c) Any future regulations, standards, guidelines or procedures adopted by the Authority concerning the treatment and protection of confidential information; and

(d) Any confidentiality obligations arising under contracts approved by the Authority, to the extent consistent with the Convention and the rules, regulations and procedures of the Authority.

11. Information received pursuant to the present policy shall be handled in accordance with applicable confidentiality requirements. The competent authority responsible for receiving or reviewing a report shall take appropriate measures to protect confidential information while ensuring that allegations of misconduct or wrongdoing are properly assessed and, where appropriate, investigated.

III. Duties of Staff Members and Relevant Personnel

11. In accordance with Article 167 of the Convention, staff members of the Authority are bound to the highest standards of efficiency, competence and integrity.

12. The staff members of the Authority:

(a) Have the duty to report any breach of the regulations, rules or administrative instructions of the Authority through the designated channels;

(b) Shall not be retaliated against for reporting in good faith or for cooperating with duly authorised audits, investigations or oversight mechanisms;

(c) Shall not retaliate, threaten, intimidate or interfere with other individuals exercising their right or duty to report wrongdoing.

13. These duties shall apply to Inspectors, where relevant, and to staff members of the Enterprise, once it becomes independent of the Secretariat.

IV. Reporting Mechanisms

14. The Council shall, in accordance with the present general policy, develop specific policies to be pursued by the Authority on whistle-blowing, including where appropriate by adopting rules, regulations, procedures, standards and guidelines, as appropriate, applying to organs, contractors and inspectors of the Authority.

15. The Secretary-General shall establish confidential and secure reporting channels for whistle-blowers applicable to the Staff of the Authority, which may include:

(a) An internal reporting mechanism within the Secretariat; and

(b) A protected channel to the United Nations Ethics Office, subject to the establishment of an appropriate cooperation arrangement between the Authority and the United Nations Ethics Office.

16. Reports may be made anonymously; however, the ability to investigate may be limited in such circumstances.

17. Once the Enterprise becomes independent of the Secretariat, the Director-General of the Enterprise shall, in accordance with the present policy, adopt administrative rules and regulations on whistle-blowing applicable to the staff of the Enterprise, consistent with Annex IV of the Convention.

V. Protection Against Retaliation

18. No staff member of the Authority, inspector or staff member of the Enterprise shall be subject to retaliation for having reported wrongdoing in good faith or for having cooperated with authorised audits or investigations.

19. Retaliation, for the purposes of this policy, includes any direct or indirect act that adversely affects the employment, career, working conditions, security or dignity of the reporting individual.

20. Allegations of retaliation shall be promptly reviewed, and appropriate measures shall be taken to protect affected individuals, including interim protective measures if necessary.

21. Individuals who knowingly make false or malicious allegations may be subject to administrative or disciplinary action.

VI. Contractors and Subcontractors

22. The Council shall establish, upon recommendation of the Legal and Technical Commission and where appropriate, procedures enabling individuals to submit information concerning possible non-compliance by contractors with obligations relating to activities in the Area. Such reports shall be handled in accordance with the procedures established under this policy.

23. In addition to the rules, regulations and procedures adopted by the Council, contractors and subcontractors engaged in activities in the Area are encouraged to adopt internal whistle-blowing mechanisms and protections consistent with recognized international standards, in accordance with their obligations under national law and their sponsoring State.

24. It is recommended that such mechanisms:

- (a) Allow employees to report wrongdoing safely and confidentially;
- (b) Prohibit retaliation and provide remedies for individuals who experience retaliation;
- (c) Facilitate cooperation with investigations by sponsoring States or other competent authorities.

25. Nothing in this section shall be interpreted as extending the Authority's jurisdiction to impose internal governance requirements on contractors beyond its mandate under Part XI of the Convention.

VII. Sponsoring States

26. Sponsoring States play a central role in ensuring that contractors under their jurisdiction or control comply with the Convention, the 1994 Agreement, and the rules and regulations of the Authority.

27. Sponsoring States are encouraged to:

- (a) Develop or strengthen national legislation and internal policies providing protection against retaliation for individuals who report wrongdoing committed by their sponsored entities;

(b) Promote responsible corporate governance and transparency in entities engaged in activities in the Area;

(c) Facilitate coordination with the Authority, where appropriate.

VIII. Implementation and Review

28. The Council and Assembly may periodically review this policy to ensure its effectiveness, coherence with international practice, and alignment with the Authority's evolving institutional framework.

29. The present policy shall enter into force upon adoption by the Assembly of the International Seabed Authority.

30. The Secretary-General shall, within six months of the entry into force of this policy, submit to the Council a report on the measures taken or proposed to implement the present policy, including the establishment of reporting channels and the adoption of specific procedures.