Discussion paper on possible updated ISA working methods and modalities

This paper is offered to assist ISA Member States in their discussions on working methods during the intersessional period, as called for by paragraph 4 of Council decision ISBA/31/C/38 ('the July 2026 Decision'). The UK has previously indicated its willingness to facilitate these informal working group discussions and shares this paper with that in mind. It sets out where Members are now, what appears to have slowed progress, and a possible package of actions for improving modalities. Its central message is about efficiency through the best use of the ISA and Member States' existing time and resources. It is a discussion paper, not a concrete proposal: comments and suggestions are welcome. While this paper draws some parallels with other multilateral negotiations, it is worth noting that the Regulations—which are detailed, technical and directly enforceable—are not the same as a high-level treaty text (and therefore may require more bespoke and specialised working modalities).

1. Background

The ISA has been working on exploitation regulations since 2014. Early work was done through expert workshops and studies, leading to a draft text submitted by the Legal and Technical Commission (LTC) to the Council in 2019. From 2020, the Council negotiated that text largely through informal working groups, whose leads produced 'facilitators' texts' in 2022/23. This work was compiled into a consolidated text in early 2024, which the Council considered during 2024. The Council has since worked through a Revised Consolidated Text and, most recently, a Further Revised Consolidated Text (Revision 3). Throughout, the Council has maintained that commercial exploitation should not take place without rules, regulations and procedures in place.

Since 2021, the ISA has adopted or worked to five roadmaps or work plans (Annex B). Some set target dates for adoption, while others outlined out a programme of work without a fixed date. The July 2026 Decision does not set a date; it asks the Secretariat to prepare a roadmap with milestones for "timely adoption", to be considered in March 2027.

Current working methods (Annex A) have developed incrementally rather than being comprehensively designed from the start. This includes facilitator-led groups now organised into four themes, with a growing number of issue-specific groups and Friends of the President, alongside an indicative list of outstanding issues. The proposals below would build on and complement the 2020 decision on modalities (ISBA/26/C/11), the outstanding issues list and the Secretariat's roadmap under paragraph 1 of the July 2026 Decision, rather than replace them.

2. Issues to address

Any changes to working methods should be targeted at the actual causes of slow progress. The following seem to us to be the main issues; others may see them differently, and we would welcome discussion.

- **No overall picture.** There is no single document mapping everything needed to complete the Mining Code—regulations, Standards and Guidelines—and the groups working on each. Without this, it is hard to see where gaps are, who owns what, which issues cut across several areas, and what the dependencies are. Nor is related ISA work visible alongside it: for example, the LTC's upcoming review of the CCZ EMP was directly relevant

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to Council discussions on REMPs through the thirty-first session, and not all delegations were aware of the planned timetable for this review.

- **Gaps in ownership.** Some parts of the text have an active facilitator and momentum, while others have no responsible person or group. This means that issues are being dealt with in different ways, reducing the scope to apply consistent working methods, share learning across workstreams and plan effectively for upcoming sessions.
- **Continuity of leadership.** The Council Presidency rotates annually between regional groups. Priorities therefore change each year, institutional memory can be lost, and no single person is responsible for driving work forwards on the regulations. The 2020 decision recognised this by asking facilitators to serve beyond a single session, but there is no equivalent at the level of the negotiation as a whole.
- **Sequencing.** The Council has repeatedly tried to settle detailed drafting before agreeing the underlying principle. Effective control and liability are the clearest examples: both cut across the text and need to be resolved in principle before being written up. Test and pilot mining is another. At the same time, some highly technical questions are debated on the floor of Council before experts have narrowed them down. This leads to repeated redrafting.
- **Prioritisation.** There is no agreed way of deciding which outstanding issues most need Council time. Although delegations indicate which topics they consider key, considerable time is spent on issues that could be addressed later, while some central questions remain unresolved.
- **Recognising agreement.** There is no settled way of testing whether something is agreed or ready for decision. Convergence is rarely recorded, so settled ground is reopened.
- **Use of Council time.** Sessions revisit ground already covered and spend time on drafting minutiae that could be done elsewhere, leaving too little time for the key policy and political questions only the Council can settle. Further, Council often tries to address outstanding policy issues through a line-by-line drafting approach, when using this space for proper discussions would result in more efficient drafting. Informal sessions meant for dynamic discussion often feel like plenary, with interventions listing every proposed change rather than genuine back-and-forth, and one-hour slots allow for little more than opening statements. Lastly, the late circulation of an Indicative Programme of Work and frequent changes to this during a session compound the problem, as delegations cannot prepare properly — experts sometimes leave before their topic is reached.
- **Intersessional periods.** Since 2022/23, a good deal of useful work has happened between sessions, but it is unscheduled, unevenly resourced, often inadequately recorded, inconsistently facilitated, and not consistently fed back into the text. There is more capacity here than is being used. Some groups have little engagement, few delegations can follow them all, and work is squeezed by text-submission deadlines; outcomes are then reopened in Council by those who did not take part. Participation also tends to cluster among a small number of well-resourced delegations, creating uneven access to intersessional influence. Different parts of the text are also at different stages of maturity, meaning that progress and levels of consensus vary across working groups.
- **Legal and Technical Commission's capacity.** The LTC's current working modalities and resources limit how quickly it can develop the Standards and Guidelines, risking them falling out of step with progress on the Regulations.

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- **Secretariat support.** Drafting support, cross-referencing and consistency checking are core Secretariat functions and already happen for some groups, but not systematically. Paragraph 3 of the July 2026 Decision, which calls for a harmonised and streamlined negotiating text, points in the right direction, but this arguably needs to become a standing function rather than a one-off, potentially with the help of specialised drafting/legislative experts.

3. Possible package of actions

The following actions are set out for discussion. They could be taken forward incrementally or individually, although they may work best together as a package. Some may have resource implications that would need to be accommodated within the ISA budget. Annex C summarises each action; Annex D provides an indicative delivery timetable and illustrates how the actions could operate together in practice.

- **A. A comprehensive plan/map of work for completing the Mining Code, extending thematic ownership across the whole regulatory framework.** Take stock of everything needed to complete the Mining Code, including the Regulations, Standards and Guidelines and related work, and map this against existing workstreams, including IWGs and Friends of the President. It also encompasses issues not strictly part of the Mining Code, such as benefit-sharing and compliance mechanisms. This could be done by (1) identifying gaps where no workstream or facilitator exists; (2) allocating ownership of outstanding issues, through thematic or area leads (and co-facilitators where possible to provide resilience); (3) identifying key cross-cutting outstanding policy and political issues, including themes such as benefit-sharing and developing State participation; and (4) understanding dependencies between different parts of the framework. The intention would be to increase visibility and ownership of topics, not to prescribe outcomes or limit what delegations can raise. As far as possible, this could be integrated into the Secretariat's roadmap under paragraph 1 of the July 2026 Decision, rather than developed as a separate process.
- **B. Continuity of leadership on regulations, in particular through a Special Rapporteur/Representative.** A named individual with a defined mandate, providing oversight across Presidencies, managing the roadmap, facilitating intersessional discussions, consulting delegations on red lines, and helping with preparation of Council sessions (potentially assisted by a co-rapporteur or lead facilitator to broaden representation). To avoid adding a further layer of coordination, any such role would need a clear mandate that complements, rather than overlaps with, the roles of the President, Bureau, Secretariat and facilitators. Additionally, or alternatively, we could consider a longer term for the Council President, while respecting regional rotation and the authority of the Council. This draws on the approach taken during the BBNJ negotiations, which had one President from 2018 to their successful conclusion. Thought could also be given to the role of the Bureau between sessions, including greater continuity in its membership, and how it could play a more significant part.
- **C. Sequencing and prioritisation.** Articulate a process for taking the cross-cutting policy or political questions first and settling them in principle before drafting or, at least, being clear whether consensus is possible. In practice this means the Council agreeing the concept, then remitting the drafting; and accepting that some provisions cannot sensibly be negotiated until earlier questions are resolved. It also means the Council's own time being

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spent on issues from the agreed outstanding list rather than on the text in order. The Council would maintain that list, and would agree how and when issues are taken. Member States could be invited to identify priority issues, and technical questions could be narrowed first by experts, including LTC members.

- **D. Tools for testing consensus and moving issues to decision.** This could include facilitator assessments, issue matrices, landing-zone papers, informal retreats, State-led textual proposals, targeted technical studies by the Secretariat, and a formal process for obtaining independent technical advice where a lack of understanding or data is inhibiting progress. A short set of agreed guiding principles could also assist leads in assessing consensus and deciding how to proceed where consensus cannot be achieved. The Council would then take decisions on items reported ready and give direction on those that are not.
- **E. Better use of Council time.** This could involve allowing three sessions per day where needed, strictly enforced time limits on interventions, more genuinely informal formats (including facilitated small-group informal discussions to address the most contentious issues), and parallel sessions running alongside plenary (which is routine in other negotiations, including BBNJ), with any necessary arrangements in place to ensure smaller delegations can participate effectively. A clearer separation within the Indicative Programme of Work between negotiation of the Regulations and the Council's other business (such as budgetary and contract-related matters) could also help, for example by dedicating specific weeks of the July session to each, or potentially extending that session. Improvements could also be made to ensure more efficient and consistent chairing, for instance by establishing central guidance and/or sending facilitators on an independent training course.
- **F. Better use of intersessional periods.** A published calendar of thematic sessions between Councils, possibly including a virtual ISA intersessional week or retreat, with clear outputs feeding back into the text. This would help ensure groups meet in good time ahead of submission deadlines. Alongside this, the Indicative Programme of Work could be settled earlier and not substantially revised once a session is under way. Guidance on common working methods across groups (for example, notice periods, how written comments are handled, facilitation guidelines, and when outputs feed into the text) would also help delegations plan ahead and allow groups to learn from one another, while ensuring sufficient flexibility to tailor modalities to the particular WG.
- **G. Updating the LTC's working modalities.** Review the LTC's working arrangements**,** for example to enable it to meet more regularly, including intersessionally and virtually, so that the Standards and Guidelines can keep pace with the Regulations.
- **H. Increasing the Secretariat's role in drafting and consistency checking.** Building on existing practice, give the Secretariat a standing role in cross-referencing, checking definitions, aligning annexes, correcting paragraph references, and producing clean texts, including flagging consequential changes during discussion rather than months later. Taking on this resource-intensive work frees up time during Council and intersessional sessions for substantive discussions. This support is intended to be technical rather than substantive. Given the specialist nature of the regulations, we could explore training and/or support from legislative drafting experts. Early thought could also be given to how the eventual legal and linguistic review of the final text will be organised, to avoid delays at the end of the negotiations.

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ANNEX A — Current working methods

Note: This is our broad understanding of the current working methods. It is not intended to be determinative or all-encompassing. We provide it here for ease of reference but not as a matter for negotiation.

- **Informal working groups.** The Open-ended Working Group on the financial terms of a contract was created in July 2018. In February 2020, decision ISBA/26/C/11 established three further informal working groups—on protection and preservation of the marine environment, on inspection, compliance and enforcement, and on institutional matters—each led by a facilitator nominated by a regional group. That decision established that groups are open to ISA Observers, meet in public unless otherwise decided, and facilitators are asked to commit beyond a single session for continuity and to "identify and build consensus". It is unclear if any of these informal working groups still exist, or have been supplanted by the different intersessional WGs.
- **A thematic approach.** At the thirtieth session the ISA applied a thematic structure for its negotiations, organised around four themes: environmental matters; financial matters; regulatory, procedural and institutional matters; and governance matters.
- **Issue-specific groups and Friends of the President.** Within the four themes, a growing number of issue-specific informal groups now operate (intersessional WGs and FoPs). By July 2026 these covered, among other things, effective control, inspection and compliance, the equalisation measure, coastal State rights and interests, underwater cultural heritage, environmental management and monitoring, test mining and closure plans, submarine cable protection, the payment mechanism and its review, changes to a plan of work by a contractor, the Environmental Compensation Fund, the Seabed Mining Register, and prevention of corruption.
- **An outstanding issues list.** The Secretariat has prepared an indicative list of issues needing further work and on which positions have been hardest to reconcile. It is intended to be updated as the Council goes along, with items removed where progress allows.
- **Intersessional work.** Much of the drafting now happens between sessions, often producing textual proposals tabled jointly by delegations, as well as by facilitators and by the Secretariat in preparing revised texts, with written comments invited at various stages.
- **Standards and Guidelines.** Generally developed by the LTC and presented to the Council through the Chair's report and, increasingly, webinars and side events.

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ANNEX B — Roadmaps

When	What was agreed	What was envisaged
December 2021	Roadmap for 2022, agreed at the resumed 26th session (ISBA/26/C/13/Add.1, annex), following the Secretary-General's proposed roadmap for 2022–23 (ISBA/26/C/44).	Programme of work for 2022, set against the two-year period ending 9 July 2023.
November 2022	Revised roadmap for 2023 (ISBA/27/C/21/Add.2, Annex II).	Programme of work for 2023.
July 2023	ISBA/28/C/24, after the two-year period triggered by Nauru expired on 9 July 2023.	Continued work "with a view to their adoption during the thirtieth session", i.e. 2025.
July 2024	Revised roadmap endorsed by the Council (ISBA/29/C/9/Add.1, Annex III).	Guided work in 2025 through a Revised Consolidated Text and associated Standards and Guidelines.
July 2026	ISBA/31/C/38.	A Secretariat roadmap with milestones for "timely adoption", for March 2027.

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ANNEX C — Possible package of actions

Action	What it involves	Considerations	Questions
A. Comprehensive plan/map of work and thematic ownership	Take stock of everything needed to complete the Mining Code, including Regulations, Standards, Guidelines and related ISA work, and map existing IWGs and FoPs against it. It should also encompass issues not strictly part of the Mining Code, such as benefit-sharing and compliance mechanisms. Aim is to identify gaps, allocate thematic or area leads, and identify cross-cutting issues and dependencies.	Provides the foundation for the other actions and makes gaps and dependencies visible. Works best if developed inclusively and phased.	Who prepares and agrees it? How are leads chosen? How are LTC Standards and Guidelines included?
B. Continuity of leadership through a Special Rapporteur/Representative	A named individual with a defined mandate providing oversight across Presidencies, managing the roadmap, facilitating intersessional discussions and helping prepare Council sessions, potentially with a co-rapporteur or lead facilitator. Longer Presidential terms could also be considered, as well as enhancing the Bureau's role between sessions.	Provides continuity and a consistent point of contact across Presidencies. Would need a clear mandate that supports, rather than replaces or duplicates, the roles of the President, Bureau, Secretariat and facilitators. Some support costs. Important to establish guardrails and expectations before appointment to ensure transparency and accountability.	Mandate, appointment, duration and who?
C. Sequencing and prioritisation	Settle cross-cutting political questions in principle before drafting. Focus Council time on a Council-maintained list of outstanding issues and agree the order of work. Invite views on priorities and have experts narrow technical questions first.	Gives effect to paragraph 4 of the July 2026 Decision and reduces repeated drafting. Needs a transparent, Member State-owned process for agreeing what is outstanding, with scope to return issues to Council.	Who proposes changes to the list? Hardest issues first, last or a combination? Which outstanding issues do Member States see as the highest priority?
D. Tools for testing consensus and moving issues to decision	Facilitator assessments, issue matrices, landing-zone papers, informal retreats and State-led proposals. Agreed principles for leads. Council decides on items reported ready.	Low-cost and flexible. Helps record agreement so settled ground is not reopened. Works best with transparent reporting to all delegations.	What signals readiness? How are the views of delegations not present captured?

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Action	What it involves	Considerations	Questions
E. Better use of Council time	Three sessions a day where needed, enforced time limits, more informal formats, possible parallel sessions alongside plenary, clearer separation of Regulations negotiations from other Council business, and more consistent chairing through central guidance or training.	The most direct way of increasing negotiating time. Need to ensure smaller delegations can continue to take part fully. Some interpretation and room costs, particularly if sessions are extended.	How agreed and enforced?
F. Better use of intersessional periods	A published calendar of thematic intersessional sessions, possibly a virtual ISA week or retreat. An earlier and stable Indicative Programme of Work. Guidance on common working methods across groups.	Makes better use of time between sessions and helps delegations plan. Attention needed to time zones, interpretation and funding. The location of any retreats would need careful consideration, including bearing in mind the role of Kingston as the seat of the Authority.	Who hosts retreats? How do outputs feed back? Funding?
G. Updating the LTC's working modalities	Review the LTC's working arrangements, for example to enable it to meet more regularly, including intersessionally and virtually, so that the Standards and Guidelines can keep pace with the Regulations.	Helps keep the Standards and Guidelines, which are to be agreed as a package with the Regulations, in step with progress on the Regulations. Would need to respect the LTC's role and expertise. Possible resource and budget implications.	Which changes would be most effective? How would they be agreed? Capacity and resourcing?
H. Increasing the Secretariat's role in drafting and consistency checking	A standing role in cross-referencing, definitions, annex alignment, paragraph references and clean texts, including flagging consequential changes during discussion. Supplemented by expert drafting assistance and/or training. Possible early planning for the eventual legal and linguistic review.	Improves the consistency of the text and frees Council time for substantive issues. Builds on existing practice. Intended to focus on technical, not substantive, drafting, with any changes flagged transparently. Resource implications to discuss with the Secretariat and Finance Committee.	Capacity and resourcing?

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ANNEX D — Indicative delivery timetable

When	What
October–December 2026	Paper discussed with Member States alongside the Secretariat's roadmap consultation (draft roadmap circulated by 31 October; comments by 31 December).
January–February 2027	Paper finalised in light of comments and shared with the Secretariat, following informal consultation.
March 2027	Working Group facilitator reports to Council under paragraph 4. The Council considers updated working methods alongside the roadmap and agrees steps to implement them, as far as possible, ahead of the July session.

If implemented as a package, the actions could operate as a simple cycle. If the Council agrees updated working methods in March 2027, as set out above, implementation could proceed as follows:

- **Set-up (March–July 2027).** In March, the Council agrees the updated working methods and gives direction for their implementation. The Secretariat, working with existing facilitators, then prepares: (1) a plan or map of work, an updated outstanding issues list and proposed thematic leads (action A); and (2) working-group principles, guidance and proposed consensus tools (action D). In July, the Council considers and agrees those detailed arrangements, including the allocation of leads, the order of work and any continuity arrangements.
- **Between sessions.** Leads take their issues forward through a published intersessional calendar (action F), with Secretariat drafting and consistency support (action H), and use consensus-testing tools to judge when issues are ready for decision (action D). The LTC progresses the related Standards and Guidelines in step with this work (action G).
- **Ahead of each session.** Leads report which issues are agreed, ready for decision or still open, and the Indicative Programme of Work is settled and circulated in good time (action F).
- **At each session.** Sessions are organised to make the best use of time (action E). The Council takes decisions on issues reported ready and gives direction on the rest (action D).
- **After each session.** The Council updates the outstanding issues list and the plan (actions A, C), and the cycle repeats, adjusting working methods as necessary.

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