

Information note on matters for consideration before the Council of the International Seabed Authority during the first part of the twenty-fifth session of the Authority

Introduction

1. This information note has been prepared to inform members and observers of the International Seabed Authority of the work of the Council of the Authority at its forthcoming session, which is scheduled to be held for its first part from 25 February to 1 March 2019 (the “February – March session of the Council”).
2. As a result of the revised schedule of meetings for 2018 and 2019 ([ISBA/23/A/13](#), section D, OP.1) owing to the increase in the workload of the Authority, the twenty-fifth session of the Council will be held in two parts. For the first part, the Council will hold ten meetings from 25 February to 1 March 2019, at the headquarters of the Authority in Kingston immediately prior to the two-week meetings of the Legal and Technical Commission. The second part of the session of the Council is scheduled to be held from 15-19 July 2019, following the meetings of the Commission (1-12 July 2019) and preceding the meetings of the Assembly (22-26 July 2019).
3. Members of the Council will also recall that last year the Assembly adopted the terms of reference for the voluntary trust fund to support the participation of members of the Council from developing States in meetings of the Council, as contained in the annex to the decision ISBA/24/A/11.
4. This note outlines the items of the provisional agenda ([ISBA/25/C/L.1](#)) for consideration by the Council at its February – March session only. The provisional agenda for the Council and the indicative programme of work have been placed on the Authority’s website.

Adoption of the agenda

5. The Council will open its session on Monday, 25 February 2019. The first decision of the Council will be the adoption of its agenda for the two parts of its 2019 session. For the first part of the session, a total of 13 items out of 18 currently listed on the provisional agenda of the Council will be considered by the Council as indicated on the indicative programme of work.

Elections of the bureau

6. Following the adoption of the agenda, the Council will proceed with the election of the bureau. Pursuant to rule 22 of the Rules of Procedure of the Council, each year at its first regular session, the Council elects a President and four Vice-Presidents from among its members, so that each regional group is represented by one officer. Members of the Council of the Authority are reminded that for the twenty-fifth session, it is the turn of the Group of African States to nominate a candidate for the presidency of the Council in 2019. In this regard, it would be very helpful to the Secretariat, and also so as to facilitate the smooth running of the session, if regional groups could coordinate on the candidate nominations for these positions in advance of the opening of the session of the Council, and to provide this information to the secretary of the Council, Gwenaëlle Le Gurun at glegurun@isa.org.jm at the earliest available opportunity.

Credentials

7. Among the standing item of business for the Council is the report on credentials of members of the Council. According to the Rules of Procedure of the Council, each member of the Council is represented at the meetings of the Council by an accredited representative, who may be accompanied by alternate representatives and advisers. Credentials of representatives and the names of alternate representatives and advisers of members of the Council must be submitted to the Secretary-General if possible not later than twenty-four hours after their taking of seats on the Council. The credentials are issued either by the Head of State or Government, by the Minister for Foreign Affairs or a person authorized by him or her or, in the case of entities referred to in article 305, paragraph 1 (f), of the Convention, by another competent authority.

8. Furthermore, any member of the Authority not represented on the Council, attending a meeting of the Council, must submit credentials for the representative appointed by it to the Secretary-General not less than twenty-four hours before the meetings attended by the accredited representative. The credentials of representatives of members of the Council as well as those of members of the Authority not represented on the Council will be examined by the Secretary-General, who will submit a report to the Council for approval during the first part of the session of the Council.

9. Observers referred to in rule 82 of the Rules of Procedure of the Assembly may designate representatives to participate, without the right to vote, in the deliberations of the Council, upon the invitation of the Council, on questions affecting them or within the scope of their activities.

10. Members of the Council and any member of the Authority not represented on the Council are cordially invited to submit credentials for their representatives. In that regard, there are two options:

(a) either delegations present credentials for attendance at the February-March session of the Council only and will further submit credentials for the second part of the session of the Council and for the session of the Assembly in July 2019;

or (b) delegations may opt for the submission of credentials for the entire twenty-fifth session of the Authority.

11. Observers referred to in paragraph 1(d) and (e) of rule 82 of the Rules of Procedure of the Assembly are also cordially invited to submit their letters of accreditation at the earliest possible opportunity prior to the meetings for the March session of the Council only or for the entire twenty-fourth session of the Authority.

12. Credentials and letters of accreditation can be emailed to the office manager, Christine Griffith at cgriffiths@isa.org.jm and the original presented to the Protocol office upon arrival at the headquarters of the Authority.

Election to fill a vacancy on the Legal and Technical Commission

13. At the time of writing the Secretariat has been informed of the resignation of Ms. Dorca Achapa and of the imminent nomination of a candidate by the Government of Kenya. Following the resignation of a member of the Commission, and pursuant to Rule 80 paragraph 3 of the Rules of Procedure of the Council, the Council will elect a candidate to serve for the remainder of the term of the member who resigned in late 2018.

Status of Contracts for exploration and related matters

14. Among the routine items of business for the Council is the review of the status of contracts for exploration and related matters, including information on the periodic review of the implementation of plans of work for exploration. For this purpose Members of the Council will be presented with a report contained in the document [ISBA/25/C/9](#).

Reports of the Secretary-General on the implementation of the decision of the Council adopted in 2018 relating to the reports of the Chair of the Legal and Technical Commission

15. Upon request from the Council last year and as a standing item on the Council's agenda, the Secretary-General will report to the Council on the implementation of the Council's decision relating to the reports of the Chair of the Legal and Technical Commission as of January 2019 (ISBA /24/C/22, OP. 20). At the February-March meeting, the report to the Council ([ISBA/25/C/12](#)) will cover mainly the progress made in relation to the draft regulations on exploitation of mineral resources in the Area, in relation to contractors, in relation to the implementation of the data management strategy of the Authority as well as to the status of the voluntary trust fund for defraying the costs of participation for members of the Legal and Technical Commission and for members of the Finance Committee. The question of the development of regional environmental management plans (REMPs) under the auspices of the Authority for key mineral provinces for where exploration activities under contracts are carried out is the subject of a separate document ([ISBA/25/C/13](#)). Supplementary reports will be presented in July to cover other points raised in last year's decision of the Council.

Draft Regulations on exploitation of mineral resources in the Area

16. Last year, in informal setting, the Council continued its consideration as a matter of priority of the draft exploitation regulations on the basis primarily of the revised draft regulations on the exploitation of mineral resources in the Area prepared by the Commission ([ISBA/24/LTC/WP.1/Rev.1](#)) together with a note from the Commission highlighting matters requiring the Council's attention ([ISBA/24/C/20](#)). Last year, the Council made comments on the revised draft regulations ([ISBA/24/C/8/Add.1](#), annex I) and also agreed to provide specific comments on the revised draft regulations to the secretariat by 30 September 2018. Bearing in mind the roadmap towards the adoption and approval of the Regulations ([ISBA/23/C/13](#), Annex), the revised indicative programme of work for the first part of the session of the Council has been prepared with a view for the Council to continue its review of the revised draft regulations on exploitation of mineral resources in the Area ([ISBA/24/LTC/WP.1/Rev.1](#)).

17. Since the last session, the following developments have taken place. In response to the Council's request, the secretariat received some [42 submissions](#) from members of the Authority and other stakeholders to the text of the revised draft regulations. These have been posted on the Authority's [website](#)¹. Additionally, the Secretariat has prepared an overview of the main thematic issues raised in the written submissions ([ISBA/25/C/2](#)) to supplement the comments made by the Council in July 2018 ([ISBA/24/C/8/Add.1](#), annex I). The overview identified eight critical areas for discussion by the Council during the February-March meeting with a view to providing further direction and guidance to the Commission as it continues its review of the regulatory text and framework. To assist the deliberations of the Council, the Secretariat has prepared the following documents:

- [ISBA/25/C/3](#) (Content and development of standards and guidelines for activities in the Area under the Authority's regulatory framework);
- [ISBA/25/C/4](#) (Relationship between the draft exploitation regulations and regional environmental management plans);
- [ISBA/25/C/5](#) (Implementing an inspection mechanism for activities in the Area);
- [ISBA/25/C/6](#) (Delegation of functions by the Council and regulatory efficiency);
- [ISBA/25/C/8](#) (Implementing the precautionary approach to activities in the Area);
- [ISBA/25/C/10](#) (Consideration of a mechanism and process for the independent review of environmental plans and performance assessments under the draft exploitation regulations); and
- [ISBA/25/C/11](#) (Key terms: distinguishing the use of good industry practice and best practices under the draft exploitation regulations).

18. In respect of the development of a payment mechanism, last year the Council agreed on a proposal made by the delegation of Germany to set up an open-ended working group to discuss the financial model and in particular to review the comparative study of alternative models to be prepared by the Massachusetts Institute of Technology (MIT). (see [ISBA/24/C/8/Add.1](#), Annex II). The first meeting of an open-ended informal working group of the Council in respect of the development and negotiation of the financial terms of a contract has been scheduled to be held on 21-22 February 2019 in Kingston at the Jamaican Conference Center under the chairmanship of the President of the Council for the twenty-fourth session of the Council, H. E. Olav Myklebust. To assist the work of the open-ended working group of the Council, participants are invited to refer to the briefing note from the President, the provisional agenda and the indicative programme of work along with the comparative study prepared by MIT together with links to models used in the comparative study, for reference purposes. All those are available at the following address: <http://bit.ly/Council-wg> .

¹ <http://bit.ly/Council-wg>

Report on matters relating to the Enterprise

19. During the twenty-fourth session, the Council considered a report of the Secretary-General on considerations relating to a proposal by the Government of Poland for a possible joint-venture operation with the Enterprise (ISBA/24/C/12). The Council took note of the report and noted that a full proposal for a joint-venture operation with the Enterprise was also expected to feature on the agenda of the Council in 2019. The Council requested the Secretary-General to make any necessary arrangements in that regard. The Council also considered a proposal submitted by the Group of African States relating to the future operation of the Enterprise independently of the secretariat of the Authority.

20. On the basis of the discussions in the Council and guided by the principles of cost-effectiveness and independence, the Secretary-General appointed Mr. Eden Charles from Trinidad and Tobago, as a Special Representative for the Enterprise for a period from 29 August 2018 to 1 March 2019. The Special Representative was requested to analyze and evaluate the proposals submitted with respect to a joint venture proposal and make a report to the Council with recommendations for such further action as may be required. A letter dated 17 December 2018 was received from the Special Representative which conveys his report on the proposal for a joint-venture operation with the Enterprise made by the Government of Poland. The letter and the report which is annexed to it are contained in document [ISBA/25/C/7](#). The Council is invited to take note of the report and consider the recommendations by the Special Representative as contained in the report.

20. During the twenty-fourth session, the Secretary-General also provided the Council with a progress update on the study of the issues relating to the operation of the Enterprise, in particular on the legal, technical and financial implications for the Authority and for States Parties. This study has now been completed and is under review prior to publication. A draft of the study will be submitted to the Legal and Technical Commission for comments at its meetings immediately following the meetings of the Council in March 2019. The full report will be published as an ISA technical study in due course.

Cooperation with other relevant international organizations

21. Since the last session of the Authority, the Asian-African Legal Consultative Organization and the International Seabed Authority have entered into a memorandum of understanding setting out the areas of cooperation between the two organizations.

Kingston
18 January 2019