



Legal and Technical Commission

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Recommendations for the guidance of contractors and sponsoring States relating to training programmes under plans of work for exploration

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Introduction

1. The present recommendations are intended to provide guidance to applicants for plans of work for exploration, contractors and sponsoring States on their responsibilities with regard to training programmes under plans of work for exploration.
2. The recommendations cover the following components of the design and implementation of training programmes:
 - (a) The process of reviewing and approving the proposed training programmes submitted by applicants for plans of work for exploration;
 - (b) The content of the training programmes, including participation by sponsoring States;
 - (c) The process of allocating training applicants to training opportunities;
 - (d) Procedures for reporting on training activities.
3. The fundamental importance of international technical and scientific cooperation with regard to activities in the Area, including training of personnel of the Enterprise and nationals of developing States, is recognized in articles 144 and 148 of the United Nations Convention on the Law of the Sea as read with section 5 of the annex to the Agreement relating to the implementation of Part XI of the Convention.



I. Legal obligations

4. The legal obligations of contractors with regard to training are contained in article 15 of annex III to the Convention and are elaborated on in the Regulations adopted by the Authority relating to prospecting and exploration. Regulation 27 of the Regulations on prospecting and exploration for polymetallic nodules (the nodules regulations)¹ reads as follows:

Pursuant to article 15 of annex III to the Convention, each contract shall include as a schedule a practical programme for the training of personnel of the Authority and developing States and drawn up by the contractor in cooperation with the Authority and the sponsoring State or States. Training programmes shall focus on training in the conduct of exploration, and shall provide for full participation by such personnel in all activities covered by the contract. Such training programmes may be revised and developed from time to time as necessary by mutual agreement.

5. Section 8 of the standard clauses for exploration contracts² provides:

8.1 In accordance with the Regulations, the Contractor shall, prior to the commencement of exploration under this contract, submit to the Authority for approval proposed training programmes for the training of personnel of the Authority and developing States, including the participation of such personnel in all of the Contractor's activities under this contract.

8.2 The scope and financing of the training programme shall be subject to negotiation between the Contractor, the Authority and the sponsoring State or States.

8.3 The Contractor shall conduct training programmes in accordance with the specific programme for the training of personnel referred to in section 8.1 hereof approved by the Authority in accordance with the Regulations, which programme, as revised and developed from time to time, shall become a part of this contract as schedule 3.

II. Training programme objectives and goals

6. Training programmes are designed and carried out for the benefit of the trainee, the nominating country and, more broadly, members of the Authority, especially the developing countries. Members of the Authority who may contribute to the development of the Enterprise should also benefit by having access to the same training opportunities.

7. Every attempt must be made to ensure that the planning and formulation of training programmes are carried out in good faith and that best practice is followed at all times. As such, all parties must make every effort to ensure that training contributes to the training and capacity development needs of the participants' country of origin.

¹ Regulation 29 of the sulphides and crusts regulations.

² In annex 4 of the nodules, sulphides and crusts regulations.

8. The training programme must be given due prominence in the contractor's programme of work and, as such, should be drawn up in pre-contract discussions and negotiations and inserted as schedule 3 to the contract prior to its signature and the commencement of exploration work.

9. Any contractor applying for approval of a plan of work for exploration must act in good faith and understand that the provision of training is no more or no less important than any other activity in its proposed plan of work and, as such, must be afforded the same priority in terms of time, effort and financing.

10. As important as the training is the use and sustainability of the skills and experience acquired by trainees and their nominating countries. All parties, but more particularly the Authority and the developing countries, must undertake to encourage the use of the training received for the benefit of the trainee and the country's involvement in activities related to the Authority and the Area.

11. All parties must commit to free and open channels of communication to ensure optimum delivery of training programmes, timely reporting and improved performance monitoring.

12. Recommendations for guidance pertaining to specific steps in the implementation of training programmes are set out below.

III. Approval of training programmes

13. The regulations require that an application for a plan of work include a component on training programmes. The usefulness of the proposed programme is directly reflected by the practical links the training has to the contractor's plan of work. It is logical that the two should be considered together.

14. The responsibilities of each party are as follows:

A. The applicant for a plan of work for exploration should:

1. Include in the application details of the activities it will undertake during its first five-year programme of activities which lend themselves to training;
2. Based on the above, include in the application a possible schedule of activities under a proposed training programme, including a general description of the training;
3. Include a summary of the minimum number of training opportunities that will be made available each year during the first five years of the contract and estimates of the number of opportunities that will be available during each of the subsequent five-year periods of the contract;
4. Submit a training summary sheet in the format contained in the annex to the present document for each type of training opportunity identified in subparagraph 2 above;
5. Indicate any training programmes that have been developed in collaboration with sponsoring States;

6. Indicate instances in which the contractor intends to support training programmes in addition to the activities covered by its plan of work;
 7. Indicate instances in which part or the whole of a training programme has been developed in collaboration with the sponsoring State, national institutes in the sponsoring State, organizations or any other State party;
- B. The sponsoring State will indicate whether it is to provide any other specific input or support to the applicant's training programme;
- C. When considering an application for a plan of work for exploration, the Legal and Technical Commission will:
1. Review the training opportunities, programme and matching plan of work of the contractor;
 2. Review the training applications, fully appreciating the training and capacity development needs of the nominating developing country and the secretariat;
 3. Hold discussions with the contractor regarding its proposed training programme when discussing its plan of work;
 4. Advise and make appropriate recommendations to the Secretary-General on the format, content and structure of the proposed training programme;
 5. Review the proposed training programme against the present recommendations for guidance;
- D. The Secretary-General should:
1. Take into account the recommendations of the Legal and Technical Commission when discussing and negotiating training programmes with contractors;
 2. Maintain within the secretariat a database of training candidates and training needs of developing countries, while also identifying and including the future needs of the Enterprise.

IV. Content of training programmes

15. When in doubt, contractors must be guided by their legal obligations. As such, they must provide training which is practical. It should be focused on exploration activities and, where practicable, on all activities within the contractor's plan of work. Training programmes should be offered and run for the full term of a contract.

16. The following recommendations are made regarding the content of training programmes:

- A. Contractors should:
1. As soon as practicable, discuss opportunities, scheduling, and possible training programmes with the Legal and Technical Commission;

2. Settle on a range of training opportunities following consultations with the Commission and the sponsoring State;
 3. Consider the training and capacity-building needs of developing countries and the secretariat (Enterprise) when developing their training programmes, so as to ensure as wide a range of skill development as possible;
 4. As a minimum, provide for the training equivalent of at least 10 trainees during each five-year period of the contract;
 5. Identify additional training opportunities that may arise during the contract period, along with any proposed changes to the approved training schedules, if so required;
 6. Make an ex gratia contribution to the Authority specifically earmarked for training purposes when circumstances dictate that training programmes cannot be implemented;
 7. Make every attempt to avoid penalizing potential deserving candidates who take up training opportunities for issues beyond their control, such as language barriers. In such cases, every attempt must be made to seek viable alternatives;
- B. The Legal and Technical Commission should:
1. Be as fully aware as possible of the training needs of the developing States that have nominated candidates for training;
 2. Be aware of the training and capacity development needs required for the development of the Enterprise;
 3. Be aware of practical training opportunities that may arise from a contractor's five-year plan of work;
 4. Be aware of performances under past training programmes to guide future planning and programming;
- C. The Secretary-General should:
1. Develop capacity and resources within the secretariat to focus exclusively on training and capacity-building. A key area of focus would be to develop an information system initially, and eventually, a database, of training needs of developing countries;
 2. In the short term, develop appropriately designed (electronic) application and nomination forms, which allow for optimum identification of candidate and training needs;
 3. Identify and store information on other training opportunities, institutions and potential partners;
 4. Draw up and maintain a longer-term programme based on needs and priorities of countries for planning purposes, for use by the Commission in its discussions with contractors;
 5. Take into account the recommendations of the Commission when discussing and negotiating training programmes with contractors.

V. Allocating training opportunities

17. Identification of training opportunities has to date been a reactive process driven by the making of an offer by a contractor, followed by the canvassing of interest from countries and, finally, the taking of a decision following the short-listing of candidates by the Commission. If training is to be needs-based, then a proactive process is necessary. The Authority must establish the required capacity, processes and a system whereby it can become proactive in steering any training programme, rather than being a mere conduit and a respondent to ad hoc offers.

18. It is recommended that each party acts as follows:

A. The contractor should:

1. Provide as much information to the secretariat as possible about its plan of work and the related available opportunities for training, including the number of trainee places, dates and other specific requirements necessary for carrying out the training activity;
2. Be proactive in keeping the Authority informed with regard to new opportunities and any changes;
3. Encourage potential applicants and nominating States to apply to the Authority using the appropriate forms;
4. Once a training programme is approved, maintain liaison with the secretariat regarding the final selection of candidates that will receive training, for example, in respect of issues such as visa requirements and academic qualifications;

B. The sponsoring State, particularly if it is also a developing country, should:

1. Inform the secretariat of the full details of its nominated training candidates;
2. Whenever possible, ensure that its training requirements are based on a bilateral agreement and a requirement of its sponsorship;
3. Inform the secretariat if it has training needs over and above its bilateral agreement which its contractor may not be able to satisfy;

C. The secretariat should:

1. In the short term, advertise as widely and as soon as possible information about training opportunities. This should be through official notifications to member States as well as direct contact with members of the Commission, relevant international organizations, scientific institutions and other interested parties;
2. Investigate ways in which to encourage greater participation by nationals of developing countries in the training activities of the Authority;

3. Develop a capacity-building programme and develop the required capacity, policies, strategies and programmes:
 - a. Receive training applications and prepare a roster of qualified candidates;
 - b. Coordinate applications for training, including maintaining a database of country needs and qualified applicants;
 - c. Provide a status update at each meeting of the Commission on training and applications received from interested candidates;
 - d. Assist in matching suitable candidates from a roster pre-approved by the Commission, or subgroup thereof, to opportunities as they arise, in consultation with contractors;
 4. Ensure that the Commission is at all times fully briefed with up-to-date information so that it can perform its duties as efficiently and effectively as possible;
- D. At each meeting of the Legal and Technical Commission, the Commission will:
1. Appoint a subcommittee or subgroup of the Commission to ensure that matters related to training programmes are reviewed and dealt with as thoroughly as possible;
 2. Review all applications for training that have been referred to it;
 3. On the basis of transparent criteria, agree on a list of pre-approved candidates from the information received from the secretariat;
 4. Provide guidance regarding the type and preferred allocation of candidates, based on available opportunities;
 5. Conduct regular reviews to ensure that the goal of equitable geographic sharing of opportunities is being followed.

VI. Reporting procedure

19. A formal process for reporting on training activities is necessary to meet accountability and transparency objectives. The following process would allow for a better analysis of the training carried out and enable future programmes to be planned more effectively to meet the demands and requirements of developing States. The responsibilities of each party are as follows:

- A. The contractor:
1. Shall include in its annual reports information on training completed in that reporting year;
 2. Shall include in its plans of work information on any changes to training programmes;
 3. Should consider guidance from the Commission when presenting its initial training programme and also in adjusting its training programme in the light of new developments, when necessary;

- B. Trainees should be required to:
1. Provide a report at the end of their training on how they have benefited from the opportunity. If possible, they should indicate objectively whether their expectations have been met. The report shall be made available to the Authority, the contractor and the nominating State. Nothing in the trainee's report should impinge on or jeopardize the rights of the contractor as it might relate to matters of commercial sensitivity, intellectual property rights or anything of a confidential nature;
 2. Provide a report five years after training has been completed, to allow for assessment of long-term benefits. The nominating State must ensure that this obligation is met;
 3. Provide any comments or information that may assist the Commission in providing guidance for future training programmes. The trainee should report any benefits received or passed on as a result of the training;
 4. Indicate that, if required, they could make themselves available for the Enterprise or developing country;
- C. The secretariat should:
1. Report any developments in training programmes at each meeting of the Commission, including which candidates have been placed into training positions and what new applications for training have been received, in order to enable the members of the Commission to provide guidance;
 2. Maintain contact with past trainees to monitor the benefits of the training and future availability;
 3. Report on the progress of any capacity-building programme it has initiated, including but not limited to, the status of the Enterprise;
 4. Provide an annual report to the Commission on the status of training and capacity development programmes, including outputs of relevant training achieved through the Endowment Fund and through any collaboration with other institutions and United Nations bodies;
- D. The Legal and Technical Commission will:
1. Provide additional guidance on training based on the reports received, including the format, content and structure of future training programmes, and provide advice on the selection criteria required of future candidates;
 2. Maintain, where possible, a watching brief on all activities within the Area and identify areas of potential scientific or technology opportunities or gaps that could be the target of future training or marine scientific research programmes;
 3. Provide regular feedback to the Council as part of its normal reporting process.

VII. Review process

20. It is recommended that the secretariat monitor the performance of training under the present recommendations for guidance and carry out an evaluation on a regular basis.

21. The present recommendations should be reviewed and updated from time to time.

VIII. Disclaimer

22. Nothing in the present recommendations for guidance should be inconsistent with the intent and purpose of the Regulations.

Annex**Training summary template**

(To be completed by the contractor) Type of opportunity (indicate total number to be provided)	
If additional institutions are involved (beyond the contractor), these should be listed	
Objectives and goals of the training programme	
Skills that will be taught or developed	
Schedule of training activities	
Years in which training will occur	
Number of trainees that will be accommodated and in which years	
Any specific suggestions with regard to the selection of potential candidates (language requirements, minimum qualifications, etc.)	