

20 June 2023

Eighth Meeting of the Open-ended Working Group of the Council on the financial terms of a contract under article 13, paragraph 1 of Annex III to the United Nations Convention on the Law of the Sea and under section 8 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

10-11 July, Kingston

Briefing Note

Prepared by the Chair of the Open-ended Working Group of the Council (OEWG)

I. Introduction

1. The purpose of this briefing note is to assist the participants in the upcoming meeting of the Open-ended Working Group of the Council (OEWG) with a view to advancing the work on the system of payment and rates for polymetallic nodules as a priority.
2. The OEWG agreed at its meeting in March 2023 that I would prepare an update to the draft text presented in February 2023 before the upcoming meeting in July 2023. Furthermore, it was agreed that written suggestions to the draft could be submitted by 15 May 2023.

II. Progress

3. At the March 2023 meetings, the OEWG commenced (but did not complete) a second reading of the Chair's revised text covering Part VII and some relevant draft regulations in Part III (draft regulations 23, 27, 38 and 39). Draft regulation 89, Appendix IV, and certain draft Standards and Guidelines, were not discussed in the time available. General agreement was reached on several draft regulations. It was agreed that intersessional work would take place in relation to key conceptual issues, and further written submissions would be welcomed. I have received several proposals from both participants and the intersessional working groups.
4. In relation to the intersessional working groups, facilitated by Canada, and Australia and South Africa, respectively, two summary reports have been submitted to the Chair, along with copies of various presentations made at the intersessional meetings and updated Member (including the African Group) and Contractor submissions papers prepared following the meetings. No textual proposals have been made in relation to the proposed equalization measures or the proposed tax or levy on the transfer of rights.
5. In light of the proposals and to facilitate discussions of the OEWG, a further revised text has been prepared ("the Chair's further revised text") (ISBA/28/C/OEWG/CRP.4).

- (a) That Chair's further revised text includes some of the suggestions proposed, those

which I believe are likely to have consensus and required limited further discussion or drafting. Where the precise language is not settled, it has been included in square brackets, and I invite the participants to settle on final text.

- (b) Some other suggestions have not been included at this stage since they lie on conceptual approaches which may require further discussion in the OEWG.

III. Structure of the meeting and way forward

6. For the meeting in July 2023, I suggest we commence the meeting with the following agenda:

- a. Update from Canada on the intersessional work relating to a tax or levy on the transfer of rights under a contract given the jurisdiction of the Authority followed by a discussion on this matter.
- b. Presentation by MIT on the proposed equalization payment by way of an additional royalty or levy related to Sponsoring State income tax followed by a discussion on this matter.
- c. Reading of the further revised text (ISBA/28/C/OEWG/CRP.4), focusing on coming to an agreed position in respect of text which is still in square brackets or where options have been proposed.

7. In respect of the way forward, I will attempt to conduct the reading of the further revised text by focusing on the items that might need further discussions and try to avoid a detailed paragraph by paragraph reading, and in particular a grammatical and refinement reading, as it is recalled that the Council will conduct a harmonized reading of the entire Draft Regulations once all informal working groups have finalized their work.

8. I urge participants to provide concrete examples and focus on resolving the conceptual issues. Moreover, I encourage further consultations and intersessional work and that proponents and opponents of specific issues meet and attempt to resolve the potential differences and report back to the OEWG at the appropriate times.

Oslo, Norway, 20 June 2023.