



## 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**

**Issued by the Legal and Technical Commission\***

#### **I. Introduction**

1. The Legal and Technical Commission has taken the opportunity to revise its recommendations for the guidance of contractors and sponsoring States relating to training programmes under plans of work for exploration as contained in document [ISBA/19/LTC/14](#). The recommendations are intended to provide guidance to applicants for plans of work for exploration, applicants for extension of exploration contracts, contractors and the secretariat on their roles and responsibilities with regard to training programmes under plans of work for exploration. The amendments are based on the recommendations of the Commission since 2013 as well as the key findings of the review of capacity-building programmes and initiatives implemented by the International Seabed Authority between 1994 and 2019,<sup>1</sup> the outcomes of the workshop on capacity development, resources and needs assessment held in Kingston in February 2020<sup>2</sup> and the report of the Secretary-General to the Assembly.<sup>3</sup> The Assembly subsequently endorsed the recommendations contained in the report of the Secretary-General and adopted a decision calling for a programmatic approach to capacity development.<sup>4</sup> In August 2022, it also adopted the capacity-development strategy of the Authority.<sup>5</sup>

\* The present document replaces [ISBA/19/LTC/14](#).

<sup>1</sup> International Seabed Authority, *Review of capacity-building programmes and initiatives implemented by the International Seabed Authority 1994–2019*, August 2020. Available at [www.isa.org.jm/wp-content/uploads/2022/04/Review-Of-Capacity-Building-Programmes-And-Initiatives-By-ISA.pdf](http://www.isa.org.jm/wp-content/uploads/2022/04/Review-Of-Capacity-Building-Programmes-And-Initiatives-By-ISA.pdf).

<sup>2</sup> International Seabed Authority, report, *International workshop on capacity development, resources and needs assessment*, July 2020. Available at [www.isa.org.jm/wp-content/uploads/2022/04/Workshop-report-2-ebk.pdf](http://www.isa.org.jm/wp-content/uploads/2022/04/Workshop-report-2-ebk.pdf).

<sup>3</sup> [ISBA/26/A/7](#).

<sup>4</sup> [ISBA/26/A/18](#).

<sup>5</sup> [ISBA/27/A/11](#).



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 and applicants for extension of exploration contracts;

(b) The content of the training programmes;

(c) The process of allocating training opportunities to applicants;

(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 (1994 Agreement).

## **II. 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. The regulations on prospecting and exploration for polymetallic nodules, polymetallic sulphides and cobalt-rich ferromanganese crusts in the Area<sup>6</sup> provide that:

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 contracts<sup>7</sup> provides that:

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.

6. Under appendix I to the decision of the Council relating to the procedures and criteria for the extension of an approved plan of work for exploration pursuant to

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<sup>6</sup> ISBA/19/C/17, annex, ISBA/16/A/12/Rev.1, annex, and ISBA/18/A/11, annex, respectively.

<sup>7</sup> ISBA/19/C/17, annex IV, ISBA/16/A/12/Rev.1, annex 4, and ISBA/18/A/11, annex IV.

section 1, paragraph 9, of the annex to the 1994 Agreement,<sup>8</sup> the applicant for extension of an exploration contract is required to include: (a) a summary of training provided pursuant to the contract for exploration in the detailed summary of the work carried out by the contractor during the entire period of the contract to date; (b) the results obtained measured against the approved plan of work for exploration; and (c) a proposed training programme for the extension period in accordance with the relevant recommendations for the guidance of contractors issued by the Commission pursuant to the regulations.

### **III. Objectives and goals of the contractors' training programme**

7. The training programme shall be designed with a view to addressing the priority needs identified by developing States members of the Authority, in particular geographically disadvantaged States, the least developed countries, landlocked developing countries and small island developing States.

8. The training programme shall be carried out for the benefit of the trainee, the nominating State and personnel of the Authority.

9. 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.

10. 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 with the Secretary-General and inserted as schedule 3 to the contract prior to its signature and the commencement of exploration work.

11. Any applicant for approval of a plan of work for exploration and applicant for extension of an exploration contract 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.

12. Important as the training is, the use and sustainability of the skills and experience acquired by trainees and their nominating countries are even more critical to ensure that developing States can effectively participate in activities in the Area. All parties, but more particularly the Authority and the developing countries, must undertake to encourage the use of the training received by the trainees to increase developing States' involvement in activities related to the Authority and the Area.

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

14. The revised recommendations for guidance pertaining to specific steps in the implementation of training programmes are set out below.

### **IV. Review of proposed training programmes**

15. The regulations require that a plan of work include a component on training programmes. The usefulness of the proposed programme is directly reflected by the practical links that the training has to the contractor's plan of work, as well as the priority needs identified by developing States, in particular geographically

<sup>8</sup> ISBA/21/C/19.

disadvantaged States, the least developed countries, landlocked developing countries and small island developing States.

16. The responsibilities of each party are as follows:

(a) The applicant for a plan of work for exploration and applicant for extension of an exploration contract should provide:

(i) Details of the activities that it will undertake during its first five-year programme of activities that lend themselves to training, taking into account the priority needs identified by developing States as compiled and regularly updated by the secretariat;

(ii) A training summary sheet in the form contained in the annex to the present document, which includes:

a. 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;

b. A possible schedule of training activities, including a general description of the different training opportunities by discipline (environmental management and monitoring, geology, data management, law/policy, etc.) and type (on-board training, fellowships, doctor of philosophy programmes. etc.);

(iii) An assessment of the budget allocated to the proposed training programmes against the overall exploration cost;

(b) In preparation for each periodic review, each contractor should:

(i) Indicate any training programmes that have been developed in collaboration with sponsoring States;

(ii) 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;

(iii) Report on the number and types of training opportunities completed during the reporting period against those committed, providing a summary of the issues identified and successes achieved during execution of the training programmes;

(iv) Include a training summary in the form contained in the annex to the present document that includes the minimum number of training opportunities that will be made available each year during the next five years of the contract, including for personnel of the Authority, and estimates of the number of opportunities that will be available during each of the subsequent five-year periods of the contract, as applicable;

(v) Provide an assessment of actual expenditure for the completed training programmes against the overall exploration cost;

(vi) Provide an assessment of the budget allocated to proposed training programmes against the overall exploration cost;

(c) When considering an application for a plan of work for exploration, the Commission will:

(i) Review the summary of the proposed training plan in line with the requirements set out in subparagraph (a) above;

(ii) If necessary, hold discussions with the applicant regarding the summary of its proposed training plan when considering its plan of work;

- (iii) If necessary, make appropriate recommendations to the Secretary-General on the format, content and structure of the proposed training programme;
- (d) The Secretary-General should:
  - (i) Take into account the recommendations of the Commission when discussing and negotiating training programmes with applicants as part of schedule 3 of the exploration contract;
  - (ii) Maintain within the secretariat:
    - a. The list of priority needs identified by developing States members of the Authority;
    - b. When possible, a list identifying the future needs of the Enterprise;
    - c. A database of training candidates;
  - (iii) Keep a record of the budget allocated to the proposed training programmes the against overall exploration cost.

## V. Content of training programmes

17. Upon receipt of the notification from the Secretary-General of the approval of the application for plan of work or application for extension of an exploration contract, the applicant should submit a comprehensive proposal for the training programme to the Secretary-General as soon as possible, no later than one month following receipt of the notification.

18. In preparing the proposed training programme, the contractors must be guided by their legal obligations. As such, they must provide training that is practical and focused on the following two aspects:

- (a) Addressing the priority needs identified by developing States members of the Authority;
- (b) Exploration activities and, where practicable, all activities within the contractor's plan of work.

19. Once negotiated between the secretariat and the contractors, training programmes should be offered and conducted for the full term of a contract.

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

- (a) Contractors should:
  - (i) Settle on a range of training opportunities following consultations with the secretariat by giving preference, at a rate of 50 per cent, to at-sea training or technical equivalent training identified in cooperation with the secretariat;
  - (ii) Consider the training priority needs of developing States, as compiled and regularly updated by the secretariat, when developing their training programmes, so as to ensure as wide a range of practical skills development as possible;
  - (iii) As a minimum, provide for the training equivalent of at least 10 training opportunities during the first five years of the contract, including for personnel of the Authority, but exclude training opportunities to be specifically provided to nationals of sponsoring States, as well as estimates of the number of opportunities that will be available during each of the subsequent five-year periods of the contract; and, in the case of an application for extension of an

exploration contract for another five years, provide, as a minimum, the equivalent of at least 10 training opportunities during the extension period;

(iv) Provide a detailed schedule of training activities prepared in line with the programme of activities for the first five years that lend themselves to training, including a detailed description of the different training opportunities by discipline (environmental management and monitoring, geology, data management, law/policy, etc.) and type (on-board training, fellowships, doctor of philosophy programmes, etc.);

(v) Include an assessment of the budget allocated to the proposed training programmes against the overall exploration cost;

(vi) Identify additional training opportunities that may arise during the contract period, along with any proposed changes to the approved training schedules, if so required;

(vii) Make an ex gratia contribution to the Authority specifically earmarked for training purposes when circumstances dictate that training programmes cannot be implemented;

(viii) Make every attempt to avoid penalizing potential deserving candidates who take up training opportunities for issues beyond their control, such as language barriers or travel restrictions. In such cases, every attempt must be made to seek viable alternatives, including, where possible, the use of information and communications technology;

(b) The Secretary-General should:

(i) Take into account the recommendations of the Commission, if any, when negotiating training programmes with applicants as part of schedule 3 of the exploration contract;

(ii) Maintain within the secretariat:

a. The list of priority needs identified by developing States members of the Authority;

b. When possible, a list identifying the future needs of the Enterprise;

(iii) Facilitate the allocation of resources within the secretariat necessary to focus exclusively on training and capacity-building;

(iv) Ensure regular review of the training programmes provided by contractors to ensure that they are aligned with and address the priority needs of developing States as identified by them, in particular those of less technologically advanced States, the least developed countries, landlocked developing States and small island developing States;

(v) Facilitate the creation of an online application platform;

(vi) Leverage the national focal points nominated for matters relating to capacity development<sup>9</sup> for:

a. The dissemination of information on training opportunities;

b. The identification of potential partners and institutions at the national and regional levels with which the contractor could develop, in close cooperation, specific training and capacity development initiatives in line with the priority needs of developing States.

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<sup>9</sup> ISBA/26/A/18, para.4.

## **VI. Implementation of training programmes, including allocation of training opportunities**

21. With the increase in the number of training opportunities, the Authority must ensure that the required capacity, processes and resources are provided to ensure that training programmes meet the needs identified by developing States members of the Authority.

22. It is recommended that each party act as follows:

(a) The contractor should:

(i) Offer training placements in line with the priority needs identified by developing States;

(ii) Create enabling conditions, in cooperation with the secretariat, to develop specific measures promoting women's empowerment and leadership through the implementation of training programmes;

(iii) Provide the secretariat with all necessary information pertaining to the training programmes, including, as a minimum, available opportunities, number of places, dates and timeline for the training, specific qualification requirements, an outline of what provision will be made for the trainees, including visa, accommodation, transportation, medical insurance and other costs incidental to participation in the training;

(iv) The proposal shall be submitted to the secretariat at least one year in advance of the scheduled start date of the training. Only in exceptional cases when the contractor has a practical difficulty shall the training proposal be submitted within less than six months but not less than three months in advance of the start date of the training;

(v) Notify the secretariat of the start and end date of each training programme, no later than five business days after its commencement and five business days after its completion;

(vi) Be proactive in keeping the Secretary-General informed of new training opportunities and any changes to the training programme;

(vii) Encourage potential applicants and nominating States to apply to the Authority using the appropriate channel;

(viii) Once the candidates for training opportunities have been selected by the Commission, liaise with the secretariat and trainees by providing support to the latter with relevant logistics arrangements, for example in respect of issues such as visa, insurance requirements and contacts for third-party training institutions, and provide periodic updates to the former on any issues that may arise during the process that may have an impact on the delivery of training;

(b) The nominating State, in particular if it is also a developing country, should:

(i) Inform the secretariat of the full details of its nominated training candidates;

(ii) Ensure, as much as possible, that trainees will be provided with the opportunity to contribute to national efforts pertaining to the work of the Authority or the conduct of activities in the Area;

(iii) Inform the secretariat if it has training needs over and above its bilateral agreement that its contractor may not be able to satisfy;

- (c) The secretariat should:
    - (i) Ensure the outreach for and visibility of training opportunities;
    - (ii) Promote and encourage greater participation by women and nationals of developing countries in the training activities of the Authority;
    - (iii) Facilitate the participation of personnel of the Authority in the training programmes to give them more practical experience, especially in scientific cruises for environmental and resource-related research;
    - (iv) Provide a status update at each meeting of the Commission on the training offered and challenges faced in delivery and implementation;
    - (v) 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;
    - (vi) Maintain statistics on training programmes and former trainees, with particular emphasis on gender and geographic distribution (including for trainees from geographically disadvantaged States, the least developed countries and landlocked developing countries and small island developing States);
  - (d) At each of its meetings, the Commission will:
    - (i) Appoint a subcommittee or subgroup of the Commission to ensure that matters related to training programmes are reviewed and dealt with during the session and intersessionally;
    - (ii) Review all applications for training that have been referred to it and agree on a list of pre-approved candidates from the information received from the secretariat;
    - (iii) On the basis of transparent criteria, when selecting candidates, the subgroup should make a decision based on the qualifications of the candidates, in particular language proficiency, education, scientific research or marine management work experience, potential career development, reasons for seeking training and expected benefit to the trainee and nominating State, with due regard for equitable geographical distribution and gender balance, and taking into particular consideration the interests and needs of geographically disadvantaged developing States, the least developed countries, landlocked developing countries and small island developing States.
23. In exceptional cases when the contractor submits a training proposal within less than one year, but more than three months before the start of the programme, and it is not possible to wait for the selection of candidates to be conducted at the next session of the Commission, the following procedures should be followed:
- (a) The secretariat will:
    - (i) Advertise the training opportunities on the website of the Authority and through any other relevant channels;
    - (ii) Contact candidates on the roster of pre-selected candidates with the aim of ascertaining their interest in and availability for forthcoming training opportunities;
  - (b) The training subgroup of the Commission should:
    - (i) Review the list of eligible candidates and agree on a final selection;



- (ii) Submit its recommendations on the selection of candidates for training opportunities to the Commission for approval using email or other flexible means of communication;
- (iii) The subgroup should report on the selection of candidates for training opportunities at short notice to the Commission at its next session;
- (c) If a training programme is duly advertised but an insufficient number of suitable applications are received, the Commission can recommend that the opportunity be readvertised;
- (d) In that connection, the Commission, in consultation with the Secretary-General, may also suggest that the modality of a training programme be changed rather than allow for a training placement to be lost.

## VII. Reporting procedure

24. A formal process for reporting on training activities is necessary to meet accountability and transparency objectives as well as provide the information necessary to enable contractors, the secretariat and the Commission to ensure that the training programmes are practical and aligned with the priority needs of developing States identified by them as referred to in paragraph 7 above. The responsibilities of each party are as follows:

- (a) The contractor should:
  - (i) Include in its annual reports information on training completed in that reporting year and the total amount of resources allocated, as well as any changes to the training programmes;
  - (ii) Complete and submit to the secretariat a post-training survey no more than four weeks after the completion of each training programme to provide information on the suitability of trainees and any challenges faced in the delivery of the training;
- (b) Trainees should:
  - (i) Provide a post-training report within four weeks of the end of their training, which should include key performance indicators to assess the effectiveness of the activities and benefits of the experience to them. 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;
  - (ii) Submit the report to the secretariat, which will be in charge of sharing the information with the contractor and the nominating State;
  - (iii) Provide a supplementary report to the secretariat five years after the training has been completed, to allow for an assessment of the long-term benefits of the programme. The nominating State must ensure that this obligation is met;
  - (iv) Avail themselves of the opportunity to become active members of the Authority's capacity-development alumni network;
- (c) The secretariat should:
  - (i) Develop and collect post-training surveys (from contractors) and reports (from trainees) to enable feedback on the training programme and benefits gained;

- (ii) Issue certificates of completion to trainees once the post-training surveys and reports mentioned in paragraph 1 above have been received;
  - (iii) Provide regular reports to the members of the Authority on the implementation of the contractors' training programmes and their contribution to the overall programmatic approach of the Authority;
  - (iv) Make publicly available on the Authority's website statistical reports on the training programmes, including the gender and geographic distribution of former trainees (including of trainees from geographically disadvantaged States, the least developed countries, landlocked developing countries and small island developing States);
  - (v) Report to the nominating State, on an annual basis, the training programmes provided to their nationals so that they are aware and can readily identify trainees and include them as a part of the resource pool that could contribute to their engagement in the work of the Authority and in activities in the Area;
  - (vi) Establish and maintain the Authority's network of former trainees (alumni);
- (d) The Commission will:
- (i) 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;
  - (ii) 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;
  - (iii) Provide regular feedback to the Council as part of its normal reporting process.

## **VIII. Review process**

25. It is recommended that the secretariat monitor the performance of the contractors' training programmes under the present recommendations for guidance and carry out regular evaluations against the indicators and targets set for the programmes.

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

## **IX. Disclaimer**

27. 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 applicant)

<b>Minimum number and type of opportunities scheduled in the training programme</b>										
	Number of placements for individuals from developing States					Number of placements for personnel of the Authority				
	Y 1	Y 2	Y 3	Y 4	Y 5	Y 1	Y 2	Y 3	Y 4	Y 5
At-sea training										
Fellowship, national expert deployment programme										
.....										
Objectives and goals of the training programme	Opportunity 1					Objectives and goals				
	Opportunity 2					Objectives and goals				
	Opportunity 3					Objectives and goals				
	....					.....				
Skills that will be taught or developed										
<b>Schedule of training activities</b>										
Environment management and monitoring	(please describe)									
Geology and resources assessment	(please describe)									
Data management	(please describe)									
Law/policy*	(please describe)									
.....	(please describe)									
Any specific suggestions for selection of potential candidates (language requirements, minimum qualifications, etc.)										
Budget allocated (in United States dollars and as a percentage of the total exploration costs)										
<b>Partnership</b>										
Institutions involved (beyond the contractor)										

\* Related to activities in the Area.