

Deep-Sea Mining Year in Review: Regulatory Developments in the Industry

The International Seabed Authority: Slow Progress Toward a Mining Code

In our first insight, we address the multilateral framework governing deep-sea mining. While the United States has moved quickly under its domestic regime (as we will discuss in the second part of this series), the International Seabed Authority (“ISA”) has continued its long-running effort to adopt exploitation regulations, under new leadership and against a backdrop of mounting political pressure.

The ISA at a Glance

The ISA came into existence in 1994, although it operated only on a provisional basis until its first secretary-general was appointed in 1996. The ISA is based in Kingston, Jamaica, and every party to UNCLOS is automatically a member, so the ISA currently has 171 member states plus the European Union. Non-member states, such as the United States, may apply for observer status. This allows them to participate in meetings, but not to take decisions.

What sets the ISA apart is that it is a frontline resource regulator. Most international institutions develop rules and policies that states then implement. The ISA instead holds direct regulatory authority over deep seabed mining. It assesses mining applications, oversees compliance, establishes and protects royalties, and distributes financial and other benefits to member states. It is an autonomous institution with legal personality under international law, meaning it holds rights and obligations in its own name.

Its mandate is ambitious and potentially conflicting. The ISA must govern the mineral resources of the Area for the benefit of all mankind ([Article 140 UNCLOS](#)). At the same time, it must ensure the effective protection of

the marine environment from the harmful effects of mining ([Article 145 UNCLOS](#)). To that end, its core competencies are threefold: developing the seabed mining regime and adopting its regulatory framework, the Mining Code; controlling access to resources through a contractual system; and ensuring compliance with UNCLOS and the Mining Code.

The ISA works principally through the Assembly, the Council and the Secretariat. It is supported by four subsidiary organs: the Legal and Technical Commission (“**LTC**”), the Enterprise, the Finance Committee and the Economic Planning Commission. The Enterprise and the Economic Planning Commission are not yet fully operational. Until activities in the Area reach a stage that requires them, the Secretariat performs their functions (1994 Agreement, Annex, Section 1(3)).

The Council is the executive organ of the ISA with critical decision-making functions and powers to establish more specific ISA policies. Aside from policymaking powers, the Council can exercise legislative powers and has supervisory competencies as well as the power to issue emergency orders. Its 36 members are elected by the Assembly on a four-year rotation following a complex system to ensure equitable representation of major interests and geographical distribution. The Council meets twice a year, with each session split into two parts: a first part taking place in March and a second part taking place in July.

The Mining Code: What It Is and Where It Stands

The Mining Code is the body of rules that governs mining activities in the Area. Its overarching framework is provided by UNCLOS and elaborated in the 1994 Implementation Agreement (Annex, Section 1(5)). The Mining Code sets out the legal responsibilities of three groups: contractors holding ISA exploration or exploitation contracts, the states that sponsor them and the ISA itself. The Mining Code combines binding regulations and standards with non-binding guidance documents, which are recommendatory. Regulations are difficult to amend once adopted. Standards and guidance give the regime flexibility to respond to change, including a growing body of scientific knowledge. The ISA has issued 31 exploration contracts to 21 contractors, yet no commercial exploitation has been approved because the exploitation regulations remain unfinished.

Work on those regulations began in 2011. It took until 2019 for the LTC to present its first recommended draft to the Council (ISBA/25/C/WP.1). In June 2021, [the country of Nauru notified the ISA](#) that its sponsored contractor, NORI, intended to apply for an exploitation contract for its CCZ contract area within two years.¹ That notification triggered the so-called “two-year rule” (1994 Agreement, Annex, Section 1(15)(c)). Under that rule, if the ISA fails to finalise exploitation regulations within two years, it must nonetheless consider an application for approval of a plan of work for exploitation. Anticipating that the deadline would be missed, the Council confirmed in March 2023 that commercial exploitation should not be carried out without rules, regulations and procedures in place (ISBA/28/C/9, preambular paragraph 3). The two-year period expired in July 2023 without regulations having been adopted and without an exploitation plan of work having been

submitted. The pace of negotiations has, however, increased noticeably since then.

At its most recent session in July 2026, the Council was expected to adopt a new “roadmap” to frame the remaining work. However, it did not do so. Instead, the Council asked the Secretariat to prepare a draft roadmap for consideration at the next session, together with an updated list of outstanding issues (ISBA/31/C/L.13). This decision shifts the process from fixed deadlines to “milestones”, although what that term means in practice remains unclear and the text of the Council’s decision continues to stress the need for “timely adoption”. The decision reaffirms the 2023 position that commercial exploitation should not proceed without regulations. It introduces no additional pre-conditions or safeguards before exploitation applications can be considered.

The timetable is now defined (ISBA/31/C/38) and the draft roadmap is due by 31 Oct. 2026, followed by consultations until 31 Dec. 2026. A revised version is to be issued at least one month before the March 2027 Council meeting. New negotiating text must be circulated at least six weeks before that session. The Council is also signalling a move away from line-by-line negotiation towards thematic discussion.

A Year of Negotiations

ISA Secretary-General Leticia Carvalho began her four-year term on 1 Jan. 2025, succeeding Michael Lodge, with the stated ambition of completing the exploitation regulations by the end of 2026. Her early tenure has been marked by a firm public stance against unilateralism. In July 2025, she echoed [the UN Secretary-General’s warning](#) that “*the deep seabed cannot become the Wild West.*”

At Part II of the 30th Session, held from 7 to 21 July 2025, delegates completed a second reading of the draft exploitation regulations. Part I of the 31st Session, held from 9 to 19 March 2026, and Part II, held from 13 to 24 July 2026, again failed to deliver the outcomes many had hoped for. No exploitation activities were approved, and the Mining Code remains unfinished and deeply contested, with benefit-sharing, liability regimes and environmental compensation all unresolved.

The Compliance Inquiry Meets the Courtroom

In July 2025, through Council decision [ISBA/30/C/19](#), the Secretary-General was tasked to investigate contractors that may have acted inconsistently with the UNCLOS regime. In January 2026, Circular/2026/001 asked all 21 ISA-licensed contractors to provide information on their potential non-compliance. Among the respondents, NORI and TOML, two subsidiaries of NASDAQ-listed The Metals Company, responded asserting full compliance with their exploration licences. In March 2026, the ISA's LTC reported that it had identified a contractor requiring "specific attention". It then notified NORI and TOML of their identification for possible non-compliance arising from "*direct or indirect actions related to activities in the Area.*" Requests for clarification from NORI, TOML and their sponsoring states' went unanswered. It is widely reported that the inquiry was prompted by The Metals Company's pursuit of U.S. issued exploration and exploitation permits over the Area. In that way, the inquiry is considered a direct consequence of companies seeking to bypass the ISA by seeking to mine in the Area through a unilateral domestic process.

Then, in May 2026, NORI and TOML commenced proceedings before the Seabed Disputes Chamber of ITLOS seeking provisional measures to suspend the ISA's inquiry. At its July 2026 session, the LTC opened by reporting that it was, for the time being,

unable to continue the inquiry. Counsel for the ISA characterised NORI and TOML's claims as "strategic litigation" designed "*to destroy the Authority's power of control of the contractors, to make it entirely ineffective as a working institution, and to put it and its organs into years of limbo.*" In the middle of the Council session, [the SDC issued its order](#) on provisional measures. Rather than suspending the inquiry, it directed the ISA to proceed in accordance with due process. The case now moves to the merits, which we examine in Part Four of this series.

Following the SDC's order, the Council reaffirmed the importance of the inquiry in its decision on the reports of the LTC Chair. Yet the same decision gave contractors until July 2027 to respond, even though the inquiry had already been under way for a year. It set no deadline or indicative timeline for the LTC to conclude its work or for the Council to consider further action. Nor did it require the LTC to report on the matter at next year's sessions. The ISA has since asked to defer filing its defence in the ITLOS proceedings to 30 March 2027, pushing the litigation timetable back by several months. Further LTC questions or formal warning procedures could introduce even more delay. The practical result is that contractors under scrutiny keep their contractual rights and privileges while the process remains unresolved. The Council agreed to extend NORI's exploration contract notwithstanding the ongoing inquiry. This was possible because, under the prevailing interpretation of ISA rules, non-compliance cannot be taken into account in decisions to extend exploration contracts. Many member states stressed that the extension does not constitute an endorsement of NORI. The Council also retains the power to terminate the contract, following the applicable procedures and criteria, if the inquiry confirms violations. TOML's contract is due to expire in January 2027 and, on the same reasoning, is likely to be extended before the

inquiry concludes. Critics argue that this sends a troubling signal that contractors can continue to benefit from ISA contracts while serious allegations remain unresolved. More broadly, they question whether an ISA that struggles to regulate exploration effectively is equipped to regulate a full-scale exploitation industry.

Why Progress Is So Slow

Two structural pressures explain the ISA's pace. The first is that the ISA is transitioning to the exploitation phase. That phase will involve more consequential, and potentially irreversible, decisions. It will also require far more complex administrative systems to regulate large-scale mining operations day to day, a process now under way through negotiation of the draft exploitation regulations. The second structural pressure is that the ISA's mandate is under growing strain. There is increasing recognition of the complexity and fragility of the ocean environment, and no consensus that the ISA's resource exploitation and environmental protection mandates can be reconciled. The contested state of the industry has, in turn, given rise to calls for a moratorium.

These pressures go to the heart of the ISA's legitimacy. International organisations are created to pursue goals better managed collectively, and they derive part of their legitimacy from achieving those goals. Because the desirability of deep-sea mining is increasingly disputed, the ISA cannot rely on enabling mining as its measure of success. That places growing weight on process legitimacy, meaning how decisions are made and, in particular, administrative accountability. As the ISA's authority is exercised further away from the processes of state consent, such as ratification and domestic implementation, the responsiveness of its decision-making to those affected becomes an increasingly important source of legitimacy. The result is a self-reinforcing cycle: the more controversial the industry becomes, the more process-driven (and therefore slower) the ISA's decision-making becomes.

What This Means for Contractors and Investors

For any contractor that holds or is seeking ISA rights that overlap with a domestic mining regime, the ISA contractor inquiry leaves several questions open. It remains unclear whether a breach of an ISA contract may arise from any of four kinds of conduct: providing ISA-collected data to a sister company for use in a non-ISA application; publicly endorsing an alternative regulatory pathway; amending sponsorship agreements on the basis of that pathway; or maintaining ISA contracts to preserve exclusivity while the corporate group pursues parallel exploitation rights under a domestic regime. Until the inquiry and the ITLOS merits phase provide answers, corporate groups would be well advised to treat group structure, data-sharing and public positioning as compliance matters under their ISA contracts, not purely commercial decisions.

The ISA ends the year with a Mining Code that is more advanced but still heavily contested. Its roadmap is yet to be drafted and its regulatory authority is under pressure both from the U.S. regime and from the challenge to its own compliance inquiry. For contractors, an ISA exploration contract remains a valuable and uncontested legal position, and the year's extension decisions have, if anything, confirmed its durability. Yet the inquiry has shown that the way a corporate group engages with alternative regimes may carry consequences under the multilateral framework. While the debate over exploitation in the Area continues, much of the practical progress this year has come from activity within national jurisdiction, which we will examine in our third insight.