

U4 ISSUE 2026:9

Hannah Lily
Samantha Robb
Ellycia Harrould-Kolieb

Series editor
Robert Forster

Navigating private-sector contractor participation at the International Seabed Authority

Corruption erodes sustainable and inclusive development. It is both a political and technical challenge. The U4 Anti-Corruption Resource Centre (U4) works to understand and counter corruption worldwide.

U4 is part of the Chr. Michelsen Institute (CMI), an independent development research institute in Norway.

www.u4.no

u4@cmi.no

Read online

www.u4.no/r/IS2609

Amid growing interest in deep seabed mining and heightened scrutiny of its governance, the International Seabed Authority (ISA) should establish clear boundaries to manage the participation of for-profit regulated entities (contractors) in its institutional processes. For the ISA to give 'NGO observer' status as requested by the private sector contractors would obscure the important distinction between for-profit actors and civil society, deepen contractors' already significant influence, and further expose the ISA to risk of corporate capture.

Main points

- The ISA currently lacks clear, consistent rules for how private-sector contractors may participate in ISA processes. Recent applications for NGO observer status from contractor-affiliated entities have exposed gaps in the ISA's Rules of Procedure and inconsistencies in current practice.
- Contractors are also crucial operational partners for the ISA, particularly in providing scientific data and technical information to assist the ISA develop its own knowledge about the emerging deep seabed mining industry. However, unlike civil society observers, contractors have commercial interests in mining activities and reliance on contractor-generated information creates risks of bias.
- Private-sector contractors currently have equal, and in some cases better, levels of access within the ISA than NGO observers. This includes participation through sponsoring state delegations, intersessional

working groups, and direct engagement with the ISA via annual reporting and annual contractor meetings. In practice, some ISA processes create privileged avenues of access linked to contractors' specialised expertise.

- Establishing a new 'observer' category for private sector contractors would not, on its own, necessarily resolve concerns related to contractors participating within the ISA via informal or opaque ways. Other institutional measures are required to avoid inappropriate informal channels of private influence and reputational risks to the ISA, including policies on public disclosure, conflict-of-interest, and the regulation of lobbying.

Contents

1. Scene-setting: Contractor applications to the International Seabed Authority for observer status	2
1.1. Introduction	2
1.2. Applications for Non-governmental Observer Status to the International Seabed Authority from contractor-related entities	4
1.3. The Authority's response to the contractor-related NGO observer applications	6
1.4. The broader debate around the role of for-profit non-state actors in international environmental governance	7
2. The different roles and interests of contractors and non-governmental observers at the International Seabed Authority	9
2.1. Nature and access of non-governmental observers at the Authority	9
2.2. Non-governmental observers' role at the International Seabed Authority	10
2.3. Contractors' role at the International Seabed Authority	11
2.4. Opportunities for contractor involvement in the Authority's processes	12
3. Non-governmental observer status at the International Seabed Authority	17
3.1. Requirements for non-governmental observer accreditation at the Authority	17
3.2. Critique of the Authority's non-governmental observer guidelines	19
4. The way forward for the International Seabed Authority	21
4.1. Recommended questions for consideration by the Authority	21
4.2. Discussion	22
Conclusion	28
References	29
About the authors	33
Methodology	34

Abbreviations

BBNJ	Biodiversity Beyond National Jurisdiction (Refers to the UN treaty/process on marine biodiversity in areas beyond national jurisdiction)
BGR	Bundesanstalt für Geowissenschaften und Rohstoffe (German Federal Institute for Geosciences and Natural Resources)
BMJ	Blue Minerals Jamaica (An ISA contractor company)
CCZ	Clarion-Clipperton Zone (Major deep-seabed mining exploration area in the Pacific Ocean)
CIEL	Center for International Environmental Law
CSA	CSA Ocean Sciences Inc. (Marine environmental consultancy firm)
DEME	Dredging, Environmental and Marine Engineering (Belgian offshore engineering company active in seabed mining)
FENSA	Framework for Engagement with Non-State Actors (World Health Organization policy framework)
IMI	Impossible Metals Inc. (Private company involved in seabed mining technology)
IMO	International Maritime Organization
ISA	International Seabed Authority
LTC	Legal and Technical Commission (Key expert body within the ISA)
NORI	Nauru Ocean Resources Inc. (An ISA contractor; subsidiary of The Metals Company)
RRP / RRP's	Rules, Regulations and Procedures (Governing framework for ISA mining activities)
SMDA	Seafloor Mineral Developers Association (ISA Contractor)
TMC	The Metals Company (Major private deep-seabed mining company)
TOML	Tonga Offshore Mining Ltd. (ISA contractor; linked to TMC)
UNCLOS	United Nations Convention on the Law of the Sea
UNFCCC	United Nations Framework Convention on Climate Change
WHO	World Health Organization
WHA	World Health Assembly (Decision-making body of the WHO)

1 Scene-setting: Contractor applications to the International Seabed Authority for observer status

1.1. Introduction

Established under Part XI of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and operational since 1996, the International Seabed Authority (ISA) has a mandate to, inter alia:

1. organise and control mineral-related activities on the international seabed beyond national jurisdiction known as ‘the Area’, and
2. ensure effective protection of the marine environment from the harmful effects of those mineral-related activities.

The ISA carries out this bifurcated mandate as the steward of the deep sea and its resources which are collectively classified as the ‘common heritage of humankind.’¹ Seabed mineral exploration and exploitation may be carried out by the ISA’s not yet operationalised in-house mining arm, eg ‘the Enterprise’, by state parties to UNCLOS or when sponsored by an ISA member state by ‘state enterprises, or natural or juridical persons’.² The ISA is responsible for issuing contracts granting rights to explore or exploit the minerals of the Area. The ISA is also responsible to prepare, promulgate, monitor and enforce the rules, regulations and procedures (RRPs)³ that govern how such exploration or exploitation activities can be conducted in the Area. Because of this mandate, the ISA is designed to interact directly with commercial entities in a way different from most international organisations.⁴

ISA contractors are the operational agents with the commercial interests, technical expertise, and financial capacity through which exploration - and potentially exploitation - of deep seabed minerals will occur in areas beyond national jurisdiction. In this U4 Issue ‘contractors’ refers to the entities to whom the ISA awards contracts conferring rights over minerals of the Area. At the time of drafting

1. Article 136 and 137 (2) of UNCLOS 1982.

2. Articles 139 and 153 of UNCLOS 1982.

3. Article 153(4) of UNCLOS 1982.

4. Understood to include treaty based and non-treaty based inter- or trans-governmental bodies.

in June 2026, the ISA has awarded 31 contracts to 22 contractors for mineral exploration.⁵ Of these contracts, eight are held fully or partially by privately owned entities.⁶ Contractors are the means through which exploration and future potential exploitation of the minerals of the Area are to take place and thus, are a component of fulfilling one side of the ISA's mandate. However, they also bring commercial interests into a regime designed to serve collective global benefit; in which the resources of interest are designated as the common heritage of humankind. Their presence can create tension with other elements of the ISA's mandate.⁷ This relationship between public authority and private interest has been a recurring theme in debates about the ISA's legitimacy, transparency, and accountability.⁸

Recent developments have brought these issues into sharper focus. In July 2024 and July 2025, the ISA Assembly received several applications for 'NGO observer' status emanating from different entities associated with private-sector contractors. The Assembly's discussion of these applications highlighted unresolved questions about the appropriate role of contractors in ISA processes: should they be treated as stakeholders akin to civil society organisations or as regulated entities whose participation must be carefully circumscribed? Is there a middle ground between these positions?

These questions arise in the context of: (1) the ISA is developing rules to govern future mining by contractors where exploitation contracts may be worth billions of dollars, and (2) it is known that extractive industry governance, and associated international organisations, are vulnerable to corporate capture, corruption, conflicts of interest, and undue influence.⁹ One way in which the ISA regime can guard against such issues, and ensure public confidence, is to have transparent, rules-based and consistently-applied systems for contractors' participation in ISA processes. Such regulations would preserve the ISA's ability to draw on technical expertise and stakeholder perspectives, while protecting the ISA from conflicts of interest and corporate capture. This U4 Issue is therefore intended to inform the ISA Assembly as it moves from a preliminary debate to a determination on contractor participation.

5. ISA 2025.

6. Robb, Lily and Pecoraro 2024.

7. Article 136 of UNCLOS 1982.

8. Lily and Forster 2026.

9. Ibid.

1.2. Applications for Non-governmental Observer Status to the International Seabed Authority from contractor-related entities

In 2024, applications for NGO observer status were submitted to the ISA Assembly by different entities connected with contractors. These included, inter alia, the Seafloor Mineral Developers Association (SMDA), Impossible Metals Inc (IMI) and CSA Ocean Sciences Inc (CSA)¹⁰ (see textbox 1).

In 2025, the SMDA re-submitted its application for NGO observer status to the ISA, where the SMDA described its organisation's objectives as being to:

1. Represent the interests of polymetallic nodule contractors in the deep seabed mining industry.
2. Participate as an observer at the International Seabed Authority.
3. Deploy its members' scientific, technical and legal expertise to support the work of the Authority and contribute to the establishment of an environmentally sound and commercially viable regulatory regime in the Area supported by a robust regulatory framework that protects the marine environment from serious harm.¹¹

These applications sparked debate among the member states of the ISA's Assembly, calling into question whether contractor-affiliated entities could apply for NGO observer status.

10. ISA Assembly 2024.

11. SMDA 2025, p. 3

Entities submitting applications for observer status at ISA 2024/2025

SMDA is an entity created in 2024 by two ISA contractors: Nauru Ocean Resources Inc. (NORI, a Nauruan company), Tonga Offshore Mining Ltd. (TOML, a Tonga company). Membership in SMDA expanded in 2025 to include a third ISA contractor: Blue Minerals Jamaica (BMJ, a Jamaican company).¹² NORI and TOML are wholly owned subsidiaries of a Canadian corporation – The Metals Company (TMC).¹³ Meanwhile BMJ is owned by a Swiss-Dutch corporation AllSeas Group (who are also TMC’s principal subcontractor).¹⁴ Although SMDA describes itself as a ‘non-profit international non-governmental organization,’ the SMDA’s observer application provided no evidence that it is a distinct legal entity separate from the contractors who comprise its membership. The applications in 2024 and 2025 were submitted by representatives of NORI and TOML, with BMJ copied in the 2025 application.¹⁵ SMDA provides for itself the same contact details as TMC.¹⁶

IMI has been incorporated as a company in the US State of Delaware since 2020, and is self-described in its ISA observer application as a ‘US-based NGO’.¹⁷ At the time of application, IMI was not an ISA contractor, though it had committed to work on some at-sea mining equipment tests (presumably as a sub-contractor) with an ISA contractor, German State institute Bundesanstalt für Geowissenschaften und Rohstoffe (BGR).¹⁸ Subsequently IMI established a Bahraini subsidiary company and in September 2025 applied for its own ISA contract for exploration under Bahrain’s sponsorship, which the ISA is due to discuss and decide upon at its 31st session in July 2026.¹⁹

CSA self-describes as a marine environmental consultancy firm headquartered in the U.S. State of Florida.²⁰ It is wholly owned by another U.S. corporation called Continental Shelf Associates, Inc.²¹ The application for observer status notes that since 2019, CSA has been contracted by TMC to operate scientific observation equipment in NORI’s ISA contract area.

12. Question 10 in SMDA 2025.

13. TMC 2025 and Greenpeace 2026.

14. Greenpeace 2026.

15. SMDA 2024 and SMDA 2025.

16. Question 7 in SMDA 2025.

17. Impossible Metals 2024.

18. Impossible Metals 2026.

19. ISA Press Release 2025b.

20. CSA Ocean Sciences 2023.

21. See the footer of [CSA website](#): ‘CSA Ocean Sciences Inc. is a wholly owned subsidiary of Continental Shelf Associates, Inc.’, which links to [Continental Shelf Associates, Inc.](#) (CSA) is a multidisciplinary US corporation established in 1970.

1.3. The Authority's response to the contractor-related NGO observer applications

The applications by SMDA and IMI were not approved during the 2024 session of the Assembly following an intervention by Vanuatu which argued that those two applications did not reflect the spirit of NGO observers. In particular, Vanuatu noted that the applications were signed by the CEOs of ISA contractors and other entities from the private sector.²² Switzerland supported the objection raised by Vanuatu, requesting clarification on how the entities intended to function as NGOs.²³ Italy and China also intervened, querying what specific criteria should be applied to the application and proposing that this could be clarified with re-application permitted. Based on this brief exchange of interventions from ISA member states during the Assembly meeting, the Assembly President rejected SMDA and IMI applications. Conversely, the application for NGO observer status made by CSA, a private sector entity, working for a contractor, was not discussed or objected to and was therefore approved by the Assembly.

At the July 2025 Assembly meeting, SMDA's renewed application sparked more debate among member states. Chile and Costa Rica indicated that the applicant was comprised of ISA contractors already able to participate in ISA meetings and ISA work. These two countries expressed the view that observer status should be reserved for stakeholders other than contractors to enable them to engage with the ISA's work. Panama also raised concerns, citing a conflict of interest for such a contractor-affiliated NGO.²⁴ However, Nauru and Tonga, the sponsoring member states of two of SMDA's contractor members: NORI and TOML respectively, supported the application, indicating that SMDA was a not-for-profit industry association representing multiple contractors, and highlighted their expertise. Nauru and Tonga indicated their support for contractors to be involved in ISA processes through observer status as the ISA develops the Mining Code.²⁵ China and Singapore, also states who sponsor contractors, albeit not associated with these observer applications, also supported SMDA's application on the basis that the application complied with Rule 82 of the Assembly's Rules of Procedure which establishes the rules for observer participation, finding it acceptable that the

22. Observations from authors attending the Assembly meeting on observer delegations in July 2024 at the 2nd part of the ISA's 29th session in Kingston, Jamaica. On file with authors. It is noted that there are no formal written records produced by the ISA of these Assembly meetings. To the best of the authors knowledge, the ISA records these sessions, and the recordings can be accessed through the ISA on request. These statements were recorded in personal written notes of the authors while attending the ISA's meetings and cross-checked between themselves for reproduction in this paper.

23. Observations from authors attending the Assembly meeting on observer delegations in July 2024 at the ISA's 30th session in Kingston, Jamaica, particularly the morning session on 29 July 2024. On file with authors.

24. Observations from authors attending the Assembly meeting on observer delegations in July 2025 at the ISA's 30th session in Kingston, Jamaica, particularly the afternoon sessions, respectively, on 21 and 25 July 2025. On file with authors.

25. Ibid.

category of ‘NGOs’ could include contractors.²⁶ China further questioned the existence of other channels to which Chile had referred for contractors to participate in the ISA’s work.²⁷

The Assembly’s final response to this agenda item was to request that the Secretariat prepare a note for the Assembly to consider at its next session in July 2026 on how contractor-affiliated NGO observer applications should be treated and assessed, and to prepare draft guidelines for the consideration of such categories of observer applicants. This included specific requests from Brazil for advice on whether amendment to the Assembly’s rules of procedure would be needed, and from Germany for the note to include a comparison of similar rules of procedure in other international fora.²⁸ The Assembly deferred its decision on SMDA’s observer application and similar categories of observer applications pending the outcome of these further discussions. This outcome was left somewhat muddied by, in lieu of a formal record or decision on the matter, a later report from the President of the Assembly stating his understanding that the Assembly’s discussion had agreed in principle ‘that contractors could participate as observers in their individual capacity and not be treated differently from other stakeholders’ but that the remaining question was one of modalities.²⁹ In any event, the item has now been listed on the agenda for the Assembly’s 31st session in July 2026.³⁰

In the same 2025 Assembly session, observer status was granted to several other IGO and NGO applicants without contest.^{31, 32}

1.4. The broader debate around the role of for-profit non-state actors in international environmental governance

The role of for-profit non-state actors in international environmental governance has become an increasingly contested issue, with growing evidence that corporate interests systematically impede progress on ambitious, legally binding outcomes.³³ Within the United Nations Framework Convention on Climate Change (UNFCCC)

26. Rule 82, ISA Assembly 1994.

27. Observations from authors attending the Assembly meeting on observer delegations in July 2024 at the ISA’s 30th session in Kingston, Jamaica, particularly the morning session on 29 July 2024. On file with authors.

28. ISA Assembly 2025.

29. ISA Assembly 2025.

30. ISA Assembly 2026.

31. IGO observers include: the Western and Central Pacific Fisheries Commission, International Copper Study Group, International Lead and Zinc Study Group, International Nickel Study Group.

32. NGO observers include: the International Manganese Institute, the Cobalt Institute, the Earth Law Center, Ocean and Us, Kōrero o te ‘Ōrau, the China Oceanic Development Foundation, the World Resources Institute, and the Oceano Azul Foundation. See ISA Assembly 2025.

33. See eg Dambacher et al. 2020; Clapp 2005; Bernstein 2004; Dimitrov 2020; and Lund 2013.

for example, the numbers of fossil fuel lobbyists have come to outnumber almost all country delegations.³⁴ This uneven representation, and concern over corporate capture, led a broad coalition of civil society actors to call for robust conflict-of-interest policies comparable to those already applied to the tobacco industry under the World Health Organisation's Framework Convention on Tobacco Control.³⁵ These include measures to screen and disclosure procedures aimed to identify commercial interests, and to exclude industry from policy-making spaces where it has a vested interest. Similarly, in the negotiations toward a global plastics treaty after 2022, fossil fuel and petrochemical lobbyists were identified as outnumbering the combined diplomatic delegations from all 27 EU nations and the EU combined and were subsequently credited with contributing to the collapse of talks.³⁶ Analogous concerns have been raised in international fisheries organisations and the newly created Biodiversity Beyond National Jurisdictions treaty.³⁷

These controversies illustrate a structural challenge facing multilateral environmental governance: the question of whether it is possible to ensure that the for-profit corporate sector, while a legitimate stakeholder, does not exercise influence disproportionate to the public interest outcomes such fora are designed to deliver. These same dynamics are now under the microscope in the current debate at the ISA, but with an added layer of complexity. Unlike other multilateral processes, the ISA not only negotiates high-level norms but is directly drafting, interpreting, and enforcing detailed regulations and bilateral contract obligations over the very corporate entities seeking access to the negotiations.

34. Kick Big Polluters Out Coalition 2024.

35. Transparency International 2026.

36. InfluenceMap 2025; CIEL 2025.

37. Hutchins 2026.

2 The different roles and interests of contractors and non-governmental observers at the International Seabed Authority

2.1. Nature and access of non-governmental observers at the Authority

There are 67 NGO observers currently recognised at the ISA that range across global environmental NGOs, community associations (including indigenous peoples), universities, charitable foundations, science institutes, youth organisations, think tanks, and industry associations. The latter represent private interests but not ISA contractors, eg, fisheries, submarine cables, and metal markets.³⁸ In practice, active participation by NGO observers during ISA sessions, until recently, has been low both in terms of meeting attendance and frequency of interventions if in attendance.³⁹ States have generally taken a flexible approach to allowing NGO observer interventions with little or no restrictions in both formal proceedings and informal negotiations. In more recent sessions, the numbers of NGO observers have increased.⁴⁰ This has been accompanied by the President of the ISA's executive organ (the Council) occasionally suggesting notional time limits for observer intentions and asking different NGO observers to try to consolidate and combine similarly themed interventions.

Certain topics on the ISA's agenda, such as agreeing on the final wording in a Council decision, have been progressed in occasional 'informal informal' sessions. 'Informal informals' is a term used at the ISA (and other multilateral) negotiations but not found in the ISA's official rules of procedure. These can be defined as 'smaller, off-the-record sessions that tackle the most sensitive issues' focused on progressing a single topic.⁴¹ These discussions take place with limited participation

38. See ISA 2026a.

39. Authors' own observations, based on attendance at ISA sessions from 2012-2026. Also see Morgera and Lily 2022, which quotes the ISA Secretariat report showing an average of just 13 NGO observers attending ISA annual sessions between 2015 and 2019.

40. The following shows 30 NGO observers in 2020 and low actual attendance in 2019 (ISA Finance Committee 2020), compared to 67 observers in 2025 (ISA 2026a).

41. Cambridge Zero and University of Bath 2025.

and observers have typically been barred access to them. NGO observers' ability to participate in ISA proceedings has generally been viewed as adequate but insecure and under strain.⁴² Suggestions of restriction arise repeatedly. Though in many instances several member states have responded by speaking up in support of retaining observers' participation as important voices who bring useful inputs, transparency, and legitimacy to the ISA's function as a regulator.⁴³

2.2. Non-governmental observers' role at the International Seabed Authority

The ISA has a particular context: it is established to manage resources that are the common heritage of humankind, on behalf of humankind and in the best interests of humankind overall. The participation of NGO observers demonstrates that the ISA is not insulated from the societies whose interests it is mandated to represent. Many of these observers provide much-needed expertise and alternative perspectives without having a commercial interest in the activities being regulated. NGO observers representing historically marginalised groups, such as indigenous peoples, coastal communities and youth, can bring perspectives that may not be well-represented by the member states.

Many ISA contractors are member states: for example, 'the Government of India' and 'the Government of the Republic of Korea' directly hold three ISA exploration contracts each.⁴⁴ Those contractor-states are also member states of the ISA's Assembly and are likely to have representation on the ISA's Council - and also its subsidiary organs. That means some contractors are regulated by ISA organs in which they also participate. The participation of NGO observers can therefore provide a regulatory watchdog function at the ISA.⁴⁵ Their participation ensures that environmental and social concerns are not overshadowed by commercial or geopolitical interests. They can also act to counter regulatory capture and can bring a new avenue for pluralistic participation that does not rely on the member states. It is also notable that the issues involved in deep sea exploration and exploitation are highly technical, complex, specialised and novel, and many ISA member states may not have access to relevant in-house expertise in their delegation (or government, more generally).⁴⁶ In areas such as these, observers that offer technical expertise at the ISA, including scientific institutions, academic organisations, or law foundations,

42. Seascope Consultants 2016; Morgera and Lily 2022; Ardron, Lily, Jaeckel 2023.

43. Observations by authors attending the Assembly meeting on observer delegations, particularly in July 2025 at the 2nd part of the ISA's 30th session. On file with authors.

44. ISA 2025.

45. Willaert 2020.

46. Seascope 2016, World Bank 2017.

may assist representatives of member states in making informed decisions about complicated processes.⁴⁷

2.3. Contractors' role at the International Seabed Authority

The ISA contractors are crucial operational partners for the ISA. Indeed, the ISA is established specifically to oversee exploration and exploitation in the Area, and the ISA contractors are the entities designated to perform these activities. The ISA therefore holds both a contractual and regulatory relationship to contractors. The ISA contracts and the RRP set out obligations for contractors on issues such as environmental management, and payments due to the ISA from the contractor. The ISA is mandated to monitor and enforce compliance with those rules in conjunction with each contractor's sponsoring state.

Since 2001, the ISA has issued 32 exploration contracts of which one was terminated.⁴⁸ In the late 1990s and 2000s, contractors were member states holding contracts via government departments, state research institutes, state-owned enterprises, and in one case an inter-governmental organisation. From 2011, a new wave of private sector contractors emerged.⁴⁹ Applications submitted by NORI and TOML in 2011 marked a significant departure from the ISA's earlier practices, introducing a new model in which private-sector entities rather than state agencies or state-owned enterprises sought contracts for exploration in the Area. In a contemporaneous press release, the ISA Secretary-General publicly welcomed the emergence of private-sector applicants describing it as a 'new milestone' for the Authority and emphasising the significance of commercial investment in deep seabed exploration.⁵⁰ There are now 10 ISA contractors that can be characterised as either private sector or a public-private partnership. As noted above, each of these must – as a condition of the contract – have a sponsoring state who is also a member of the ISA.⁵¹

An important role that contractors currently play at the ISA is to provide scientific data and technical information to assist the ISA develop its own knowledge about this nascent industry. As an obligation of each exploration contract, contractors are required to collect and report scientific data to the ISA, both about geological potential to inform mining feasibility, and about the ecology of the sites to establish

47. Lily and Forster 2026.

48. ISA 2025.

49. Annex 1 for research article, Robb et al. 2024.

50. ISA Press Release 2011.

51. Article 139 (1), UNCLOS.

an environmental baseline against which impacts of future activities can be measured and managed. Contractor-supplied data forms most of the known information about the relevant sites and feeds directly into ISA decision-making.⁵² Similarly, contractors have been dominant sources of information for the ISA in developing financial models for deep seabed mining to inform the ISA's fiscal regime.⁵³ The usefulness and predominance of contractor-supplied data at the ISA heightens the importance of rules that separate technical input from policy influence; information provision should not create opportunities for undue sway over regulatory design or enforcement.

2.4. Opportunities for contractor involvement in the Authority's processes

The SMDA in its 2025 observer application (supported by Nauru, Tonga, and China) stated that there is no existing mechanism under the ISA's rules for contractors to participate in the agenda of ISA meetings, wherein the ISA is deliberating and discussing rules that will directly and materially affect the rights of contractors. This, however, is not correct for most of current ISA contractors who are public sector entities, including governments who hold ISA contracts directly – such as the governments of India, Korea, Poland, Russian Federation.⁵⁴ These contractors do not only observe ISA proceedings, they can sit in the 'driving seat' as their states are members of the ISA – even sitting on its executive body, the Council. This means that they are directly responsible for creating and establishing the RRP that will govern exploitation in the Area.

Contractors who are not public bodies are in a different situation. Nevertheless, they still must have a sponsoring state to whom they are affiliated and who is a member of the ISA Assembly (and in many cases, the Council also). Each contractor can therefore ask that state to raise issues of concern through its ISA membership.⁵⁵ In fact, common current practice is for contractor representatives from both the public and private sectors to be included in the respective member state delegations, serving as technical advisors to these delegations.⁵⁶ This enables contractor personnel to attend ISA meetings in-person, including to present at official side-events and attend intersessional working groups. In some instances, contractor representatives, even those from private sector companies, have been given the floor

52. Rabone et al 2023; ISA 2023.

53. Pickens et al 2024. See also, more recently Lassourd 2026.

54. There is also an ISA contract held by an international organisation, set up for this purpose (Interocean metal Joint Organization). See ISA 2025.

55. For example, ISA 2021 and ISA 2022.

56. Observations by authors attending the Assembly meeting on observer delegations in Kingston, Jamaica. The ISA's list of delegations shows ISA contractor personnel on state delegations, usually listed as an 'adviser' rather than a 'representative', see ISA 2026b.

by their member states to address the ISA during formal Council sessions.⁵⁷ Inclusion in member state delegations has also led to some instances of contractors having greater access than observers, including unfettered access to other states and to state-only meetings. For example, in 2025, the Council entered 'informal informals', negotiations from which observers were barred, where contractor representatives were permitted in the room by virtue of their state accreditation.

Some ISA processes are open to any stakeholder, including contractors, without requiring observer accreditation. For example, informal working groups to advance discussion on the draft regulations for exploitation of mineral resources in the Area are required from 2020 to be open to observers 'and other stakeholders' by order of a decision by the ISA's executive body, the Council.⁵⁸ Discussion at the time indicated that the wording was purposefully designed to enable inclusion of private sector contractors by recognising that use of the term 'observers' would otherwise exclude them.⁵⁹ Since 2017, contractors have also been invited *en masse* to an annual meeting between themselves, the Secretariat, and representatives from the Enterprise, the Legal and Technical Commission (LTC), and the host government, without any NGO observers present.⁶⁰ There is no equivalent annual meeting for NGO observers.

In practice, many ISA processes are so closely aligned with contractors' specialised expertise that they can unintentionally create privileged avenues of access and influence for commercial operators. There are examples of contractors being contacted proactively by ISA organs for inputs, where no other stakeholders are similarly provided such opportunities. An example of this includes a consultation run by the LTC on the ISA's data management strategy, which appears only to have been opened to contractors. Indeed, the finalised data management strategy has never been made available to other stakeholders, nor published.⁶¹ Similarly, where a contractor makes an application to the ISA in relation to their own contract, eg to extend their contract or to conduct a test of mining equipment that requires an environmental impact assessment, there is a bilateral exchange of information between the LTC and the contractor to inform the LTC's recommendation. There is no opportunity for observers to share information on such applications with the LTC. Moreover, in recent years ISA contractors have written letters to the ISA expressing opinions about the ISA's work in strong terms that have been distributed

57. See, for example, ISA 2019a. This has even extended to contract applicants – During the March 2026 Council meeting, a representative from Impossible Metals who was part of the Bahrain delegation intervened from Bahrain's seat during the Council session. Observed by the authors attending the Council meeting in March 2026. This followed previous examples in 2019 of ISA contractors speaking from their sponsoring states' seats in 2019 for Nauru and Belgium, respectively.

58. ISA Council 2020.

59. Observation by authors attending the February 2020 Council meeting in Kingston, Jamaica. See IISD 2020, p. 5.

60. ISA Press Release 2025a.

61. ISA Press Release 2024. The data management strategy cannot be accessed on the ISA's website.

to all member states and made publicly available via the ISA 's website.⁶² Until as recently as March 2026, NGO letters or reports have not similarly been distributed to all member states. Finally, UNCLOS reserves a special right for ISA contractors to challenge ISA decisions that affect their interests to a dedicated chamber of the International Tribunal for the Law of the Sea or via commercial arbitration. This option is not open to NGO observers, who are not even given standing to intervene in any such case.⁶³ Indeed it can be seen how ISA private sector contractors are currently using this judicial avenue to protest ISA regulatory compliance processes applied to them.⁶⁴

In addition to the above-listed forms of engagement for contractors with the ISA, contractors may be able to use less transparent channels. Scholars have highlighted institutional weakness and systemic opacity at the ISA, which may enable contractors to engage with or influence ISA processes by informal means.⁶⁵ For example, it has been noted that some individuals with contractor affiliations serve on the ISA's key advisory body, the Legal and Technical Commission (LTC), despite legal requirements that LTC members do not have financial interest in exploration of exploitation projects in the Area. An informal 'revolving door' can also be observed between ISA organs and contractor entities, including consultants or private sector firms who work in an advisory capacity for both.⁶⁶ These dynamics are reinforced by the ISA regime's current strong emphasis on the protection of contractor confidentiality, limiting external scrutiny and exposing the ISA to conflict of interest risks discussed by U4 elsewhere.⁶⁷

Contractor vs. non-governmental observer access within the International Seabed Authority: Options for decision-making

As evidenced above, contractors' points of view and information can be seen as already highly represented within the ISA. Table 1 below provides a comparison of the activities permitted at the ISA according to whether the actor is an NGO observer or a contractor.

62. Global Sea Mineral Resources et al. 2025; Global Sea Mineral Resources 2026.

63. Articles 187 and 188, and Annex VI of UNLCOS.

64. See [cases 34 and 35](#), and also an analysis of the applications which notes their potential motivation to exert undue influence over ISA decision-making: Lily, Pecoraro, and Singh 2026.

65. See for example: Lily and Forster 2026; Hvinden 2024; Ardron, Lily, Jaeckel 2023; Bosco, Jaeckel, Singh 2023; Morgera and Lily 2022; Ardron, Ruhl, Jones 2018.

66. Lily and Forster 2026; Bosco et al. 2023.

67. Ardron et al. 2018. For analysis on conflict of interest risks at the ISA, see Lily and Forster 2026.

Table 1. Rights and practice of ISA engagement with NGO observer vs. private contractors

Activity	NGO observer	Private contractors
Attend and observe ISA annual session meetings	Yes	Yes – where invited as a member of their sponsoring state delegation
Participate in ‘informal informal’ ISA negotiations	No	Yes – where invited as a member of their sponsoring state delegation
Oral interventions in negotiations (Assembly and Council)	Yes – if invited by the President, and subject to ad hoc restrictions that may be set, eg time limits	Maybe – directly as a member of their sponsoring state delegation, where the state gives permission; and/or indirectly via inputs to a state intervention
Written interventions in negotiations (Assembly and Council)	Yes	Yes
Engage in intersessional working groups on the draft Exploitation Regulations	Yes – open to any observer	Yes – open to any stakeholder
Engage in LTC working groups (eg developing environmental threshold Standards)	Maybe – subject to selection by the ISA based on assessment as to whether the individual has relevant expertise and/or data	Yes – subject to selection but contractor inherently able to meet the requirement to have relevant expertise and/or data
Participate in LTC-led regional environmental management plans	Maybe – subject to selection by the ISA based on assessment as to whether the individual has relevant expertise and/or data	Yes – if operating in the region as inherently able to meet the criteria to have relevant expertise and/or data.
Make written submissions to public consultations held by the ISA	Yes	Yes
Receive ISA mail-outs, including notification of formal proceedings	Yes – where the Secretariat includes the observer distribution list on the mail-out	Unknown to the authors
Present formal side-events during ISA annual sessions	Yes - subject to the Secretariat’s consent (however, recent practice has been to prioritise state-led events for available slots)	Yes - as a member of their sponsoring state delegation

Provide annual reports that are reviewed by the LTC and reported to the Council and Assembly	No	Yes – this is a contractual requirement
Attend a dedicated multi-day annual meeting with the ISA Secretariat, LTC members, and (other) ISA contractors	No	Yes
Invited for bilateral interaction for the purposes of consequential ISA deliberations*	No evidence that this happens	Yes
Right to bring disputes against ISA decisions to the International Tribunal for the Law of the Sea	No	Yes

* Eg (as discussed above) the ISA's data management strategy review and the LTC's review of individual project documents (annual reports, periodic reports, environmental impact assessment, contract extension requests).

Source: Compiled by authors from public source information and authors' own engagement in ISA processes.

Table 1 highlights that at present private contractors may be seen to have near-equal, if not better, means of representation within the ISA as NGO observers. Exceptions may include: (1) receiving official notifications and mail outs from the Secretariat (which they may receive from their sponsoring state, or indeed from the Secretariat using its database of contractors); and (2) being able to intervene orally during formal proceedings from the sponsoring state delegation, which is subject to the permission of the individual sponsoring member state and has been rarely done in practice.

Table 1 also shows instances where contractors may have greater access within the ISA than observers, for example, in working groups and processes where site-specific scientific data is a prerequisite for access; or in dedicated annual meetings, informal-informals, and bilateral communications with ISA organs.

3 Non-governmental observer status at the International Seabed Authority

3.1. Requirements for non-governmental observer accreditation at the Authority

The Rules of Procedure of the ISA Assembly were drafted in 1994 as the ISA first came into operation and have not been updated. Categories of observers at the ISA include non-UNCLOS member states,⁶⁸ political organisations and liberation movements that lack typical state recognition,⁶⁹ the UN, its specialised agencies and other inter-governmental organisations,⁷⁰ NGOs recognised by the Economic and Social Council of the United Nations,⁷¹ and NGOs invited by the Assembly which have demonstrated their interest in matters under the consideration by the Assembly.⁷² It is this last category into which the recent contractor-related observer applications fall and on which this U4 Issue has focused.

The features of being accredited observers at the ISA mean that organisations:⁷³

- Are permitted to attend ISA public meetings where they can observe negotiations.⁷⁴
- Are permitted to intervene in negotiations (of the Assembly and the Council) both orally and with written statements (formally, only when invited by the President).⁷⁵

Outside of the explicit Rules of Procedure, observers have in practice been routinely able to engage and take part in inter-sessional working groups, and workshops, that contribute to ISA negotiations, and to hold side events during the ISA's sessions at the ISA headquarters in Kingston (to which they would have no access, without observer status).

68. Rules of Procedure of the Assembly, Rule 82 (1) (a), ISA Assembly 1994.

69. Rule 82 (1) (b) and (c).

70. Rule 82 (1) (d).

71. Rule 82 (1) (e).

72. Rule 82 (1) (e).

73. Rules of Procedure of the Council, Rule 75 & Rules of Procedure of the Assembly, Rule 82, ISA Assembly 1994.

74. Rule 82 (5), ISA Assembly 1994.

75. Rule 75 and Rule 82 (5) and (6), ISA Assembly 1994.

Practically, observers are known to the ISA as interested stakeholders, and therefore usually receive mail-outs from the ISA that also go to the state membership, including notification of formal proceedings, and ad hoc consultation processes or workshop opportunities.

NGO observers do not pay any fees at the ISA.⁷⁶

In 2019, the Assembly adopted Guidelines applicable to the NGO observer category.⁷⁷ The ‘NGO Observer Guidelines’ were created to facilitate the assessment by the Assembly of NGO requests for observer status and clearly establish the information required in these applications. Neither the Rules of Procedure nor the Guidelines define what constitutes a non-governmental organisation of this category for the purposes of obtaining observer status. In practice, up until 2024, all applications tended to be accepted without any interrogation or discussion, perhaps in part due to a lack of detailed information about applications; no guidance on differentiating between types of NGO applications; and no means for collecting further information.

The NGO Observer Guidelines were developed from a draft provided to the Assembly by the ISA Secretary-General (SG) and were largely based on International Maritime Organisation (IMO) Guidelines.⁷⁸ In this regard, it is relevant to note that the IMO’s mandate does not include the issuing contracts to private actors bestowing rights over common resources, as the ISA does.

The SG’s Note to the Assembly about the draft Guidelines indicated that the purposes of the Guidelines included ensuring that the ISA grants ‘observer status to entities that contribute effectively to its mission and activities while ensuring that a balanced range of interests is represented.’⁷⁹ As per the NGO Observer Guidelines, the Assembly may have regard to the following in considering whether an NGO ‘demonstrated their interest in matters under consideration by the Assembly:’⁸⁰

- Whether the purposes or activities of the organisation are related to the purposes and work of the ISA or whether the organisation can contribute to the work of the ISA, for example by providing specialised information, advice or expertise or by identifying or helping to procure the services of experts or consultants.

76. In 2024 a recommendation was made by the Finance Committee in its report to Council and Assembly that they should consider payment of financial contributions to the ISA by observers (Para 25, ISA Assembly 2024a). It is unclear why the Finance Committee made this suggestion. The only similar suggestion can be traced to 2020 in a note where the Secretariat noted that most international organisations do not require financial contributions from observers, but setting out potential options and inviting the Finance Committee to take note of such options (ISA Finance Committee 2020). In 2024, this suggestion was quickly rejected by member states.

77. ISA Assembly 2019a.

78. Paras 8-9, ISA Assembly 2019b.

79. Para 12, ISA Assembly 2019b.

80. Para 4, ISA Assembly 2019a.

- Whether the organisation has the expertise and the capacity to contribute, within its field of competence, to the work of the ISA, in particular in connection with the law of the sea, the protection of the marine environment, the offshore and deep-sea mining industry, technology, minerals processing and marketing, activities in the Area and marine scientific research in the Area;
- Whether the organisation has an interest in or the ability to support the capacity-building programmes and initiatives carried out by the ISA.

3.2. Critique of the Authority's non-governmental observer guidelines

The criteria in the NGO Observer Guidelines notably do not distinguish 'for-profit' or 'not-for-profit' status, nor is there an exclusion of entities that have direct private financial interest in the outcome of the ISA's processes and decisions. As a result, ISA 'NGO observer' status has been granted in the past to, for example, private consultancy firms working with contractors, such as CSA (discussed above). Moreover, the ISA's current observer rules, like those of the IMO, do not include any provisions for preventing conflicts of interest or safeguards against corporate capture. There is no categorisation by type of NGO applicant, nor any effort to exclude high-risk actors.

In fact, the three criteria the Assembly is required to consider for NGO observer applications all relate to demonstrating interest in the ISA or assisting the ISA in a tangible form, eg, providing specialist information; having specialised expertise that enable it to contribute; supporting capacity-building initiatives of the ISA - all of which are important for the ISA to assess. However, these criteria do not include considerations that speak to the overarching critical function of NGO observers at inter-governmental organisations such as the ISA.

Civil society, represented by NGOs, has long been recognised as an important partner in global environmental governance. Such NGOs have played a role in informing and advancing environmental policies. NGOs are recognised as being uniquely situated to support states in the implementation of international law, global regulation and enhancing international environmental cooperation.⁸¹ Moreover, increased participation of NGOs in inter-governmental and treaty-based institutions fosters global environmental justice by increasing transparency and democratic accountability.⁸² Civil society broadens the base of information injected

81. Raustiala 1997; Gemmill and Bamidele-Izu 2002.

82. McCormick 1999; Zhao 2024.

into the decision-making process,⁸³ and thus is recognised as enhancing the democratic legitimacy of global institutions, particularly in their representation of the ‘voiceless’, and those who may be excluded from the formal decision-making.⁸⁴

Furthermore, given that international agreements often rely on national and, in the case of the ISA, contractor, self-reporting: NGOs have also been documented as playing an important role as an independent check on state and corporate behaviour, providing independent assessments of compliance and transparency.⁸⁵ They do this without conflict of interest, in the sense that they will not make profit from the decisions of the institutions they are working within. This contrasts with the industry groups that participate and are driven by profit motives. One ISA commentator characterised this distinction as NGOs being ‘normatively motivated’, as opposed to contractors being ‘materially motivated’.⁸⁶

There is a gap in the Assembly’s NGO Observer Guidelines, which do not:

- define the purpose of NGO observer status, eg, to hear a perspective of diverse voices to help the ISA take decisions in the interest of all of humankind; and
- delineate purposes that observer status should not be used for, eg, to allow a small cohort of investors access to influence ISA decision-makers in favour of private benefit.

83. Gemmill and Bamidele-Izu 2002.

84. Zhao 2024.

85. Raustiala 1997; McCormick 1999.

86. Hvinden 2024.

4 The way forward for the International Seabed Authority

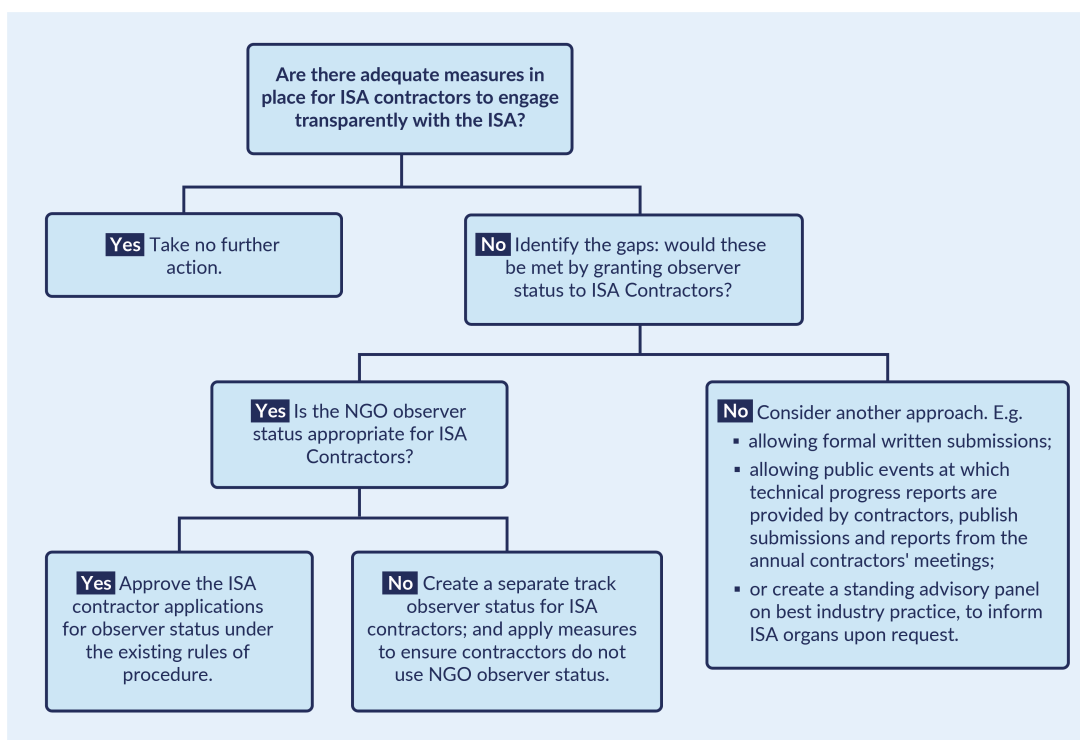
4.1. Recommended questions for consideration by the Authority

First, in considering whether to extend observer status to contractors or their affiliated organisations, the ISA Assembly would benefit from applying a structured set of objective questions to identify the specific gaps, and the best way to address these, while upholding institutional priorities. We suggest the following questions would be relevant:

1. Are there adequate and transparent avenues in existence whereby contractors can engage with the ISA's work? If yes, observer status is not needed.
2. If there are gaps that prevent transparent avenues of access by contractors, could they be filled only by granting observer status or by different approaches?
 - If observer status is preferred, is 'NGO observer' status appropriate for contractors given the different characteristics of contractors and NGO observers, or is a separate contractor observer category preferable? Or;
 - If a new observer status is to be established for contractors, how does this sit within, or require amendment to, the ISA's existing RRP's? Are there other (eg, for-profit or contractor-associated) observers currently in the NGO observer category who may be more appropriately located to this other new observer status? Should restrictions be placed on contractor participation in state delegations?
3. Do the existing ISA NGO Observer Guidelines adequately capture the purpose of NGO observers, and enable the Assembly to prevent inappropriate entities obtaining such status?

These questions can also be applied in a 'decision tree':

Figure 1. Decision tree considerations for action on granting observer status to contractors



Secondly, and separately from the observer status question, it should be noted that there are administrative measures the ISA should put in place with the aim of ensuring all ISA-contractor interaction or potential avenues for influence are transparent and managed, eg, anti-lobbying rules, conflict-of-interest management rules, cooling off periods to avoid revolving door syndrome, etc.⁸⁷

4.2. Discussion

As highlighted in section 2.4. above, contractors may already have sufficient opportunity to engage with ISA processes and decision-makers, thus, it may be argued that there is no specific need to grant contractors observer status.

However, private-sector contractors do suffer some access constraints compared to other contractors, or to NGOs. In addition, a lack of formal observer status may push contractors into more informal or opaque methods of engagement, which are less transparent and more susceptible to real or perceived risks of undue influence. For example, participation in ISA proceedings by a contractor as a member of the state

87. See Lily and Forster 2026.

delegation does not transparently declare those individuals' affiliations to other entities and can obscure the contractor's role and influence in ISA deliberations.

If contractors are to hold observer status, similar transparency rationale suggest the ISA should avoid conflating contractor observers and NGO observers. This is because the two different types of observers serve fundamentally different institutional functions. As noted above, NGO observers exist to provide independent expertise, scrutiny, and public-interest input. Contractors are commercial entities with a direct financial stake in regulatory outcomes. Treating them as equivalent risks collapsing the distinction between public-interest oversight and private-interest advocacy, weakening the checks and balances built into the ISA system. Separating them into distinct categories also allows the ISA organs to treat them differently, eg, in the event that there are certain negotiations or processes in which NGO observers could participate without exposing the ISA to risk, but contractor observers could not due to conflict-of-interest.

One method that the Assembly could employ to differentiate between the two categories, would be to clarify that the definition of 'NGO' excludes for-profit organisations, and further to specify that NGO observer accreditation shall not be awarded in instances where there is vested interest, specifically private financial benefit attached to ISA decisions. That would capture not only contractors, but also entities who work for or are directly affiliated with contractors and their interests.

If this approach is taken, then the ISA Assembly would have two remaining options to deal with the existing contractor-related applications for observer status:

(i) Reject the applications and provide additional approaches and avenues for contractor engagement at the International Seabed Authority

This could include, for example, transparent and structured opportunities for contractors to provide submissions to ISA proceedings, events at which technical progress reports can be provided to ISA delegates by contractors, publication of reports from the annual contractors' meeting, creation of a standing advisory panel populated by contractor representatives, who can provide data or advice on best industry practice to inform ISA organs upon request.

(ii) Establishing a new alternative 'observer' category for contractors

Where engagement occurs through such a 'contractor observer' category, those interactions would benefit from greater transparency. The ISA could simultaneously require that private sector contractors only participate via that observer seat, and not under a state delegation accreditation. This would prevent potential conflicts of interest that may arise from commercial actors participating from within a state delegation, where their role and influence are neither visible nor subject to observer-

level safeguards.⁸⁸ Different observer categories also would allow the ISA to establish rules and practices for what access is afforded to different observer groups, based on their accurate characterisation. For example, there may be topics under negotiation upon which the Council or Assembly decides that contractor-observers will not be permitted to speak from the floor or even be present in the room, due to inherent conflict of interest. One such example might be a situation in which a contractor is litigating against the ISA, and that case needs to be discussed by the Council.

(iii) Observer status for private sector actors: Precedents from other international organisations

Accurate characterisation of participants' roles via delegation allocation will allow the ISA to calibrate access and participation in a principled, rules-based way, reflective of the interests and risks associated with each observer category.

Nevertheless, the creation of a new, alternative 'observer' category for contractors would not necessarily resolve concerns regarding their participation in more informal or opaque modes of engagement within the ISA, which are less transparent and more susceptible to real or perceived risks of undue influence. Additional and different measures may also be needed in that regard.⁸⁹

Generally, the authors did not find many useful precedents from other intergovernmental processes for managing these issues, because other international organisations generally do not have equivalent companies with whom they directly contract and regulate.

One exception, and a pertinent example of NGO observer differentiation can be seen from the World Health Organisation's 2016 Framework for Engagement of Non-State Actors (FENSA), which represents one of the most developed attempts within the UN system to manage conflicts of interest, undue influence, and institutional capture by private interests. FENSA is explicitly designed to distinguish between engagement that enhances expertise and engagement that risks distorting public-interest decision-making, a balance that is also critical to the ISA being able to achieve its own dual mandate. While it has been critiqued as not going far enough,⁹⁰ for now, FENSA remains a unique model within the UN system, although it is viewed as a possible model for other international organisations wishing to strengthen and better manage engagement with non-state actors.⁹¹

88. Such conflicts of interest stem from direct commercial stakes in ISA decisions, a situation that does not typically apply to individuals associated with NGOs who may sit on state delegations.

89. See Lily and Forster 2026.

90. Moodie 2022; Buse and Hawkes 2016.

91. Gulibaud 2024.

FENSA distinguishes four types of non-state actor: NGOs, private sector entities, philanthropic foundations, and academic institutions. FENSA includes international business associations as private sector entities, stating that they are ‘private sector entities that do not intend to make a profit for themselves but represent the interests of their members, which are commercial enterprises and/or national or other business associations.’⁹² While FENSA guides engagement with all forms of non-state actor, there is a clear emphasis placed on the risks associated with private sector engagement. The WHO’s process to identify, assess and manage these risks, includes due diligence by the WHO into whether a non-state actor is influenced by the private sector in such a way that it should be regarded as a private sector entity even if it does not self-describe as such.⁹³ This is accomplished through a due diligence and risk assessment screening process to detect private sector influence⁹⁴ and includes consideration of how the entity is funded and whether there are private sector representatives in its governance and membership, along with its nature and objectives. The WHO FENSA creates bespoke categories to avoid distorting the NGO category and enhances transparency by making different observers’ status (and vested interests) explicit. Transparency is maintained via a register of all non-state actor engagements, contributions and collaborations and those with profit motives are excluded from the formulation of policies, norms and standards, including via technical drafting sessions and specialised secretariat briefings. FENSA also allows WHO to manage secondments into the organisation, and expert selection, to exclude any individuals with commercial conflicts.

This approach could equally be applied at the ISA, by way of a bespoke private sector observer status, which would include contractors, business associations, and other for-profit observers. Such an alternative track would allow the ISA to manage more transparently the nature of engagements and weight given to interventions according to the identity of the observer. The ISA could then apply a sub-division to its for-profit category to delineate those who are ISA contractors and those who are not. This is relevant because, as regulated entities, higher risks attach to ISA-contractor relations in terms of preventing undue influence and conflict-of-interest. It is important to note, this proposal would separate public sector contractors from private sector contractors. This division however seems unavoidable, given that ISA contractors can also be governments themselves (eg ‘the Government of India’), who cannot be separated from the government as a state delegation and ISA member. The ISA may wish to consider whether such a distinction between public sector and private sector contractors in terms of observer status would amount to differential

92. Para. 10, Annex, WHO 2016.

93. Para. 13, Annex, WHO 2016.

94. Paras 13 and 21, Annex, WHO 2016.

treatment that could lead to discriminatory and unfair outcomes, or whether it is a logical and justified distinction in the circumstances.

Another option in the ISA's particular context would be to have a more specific contractor observer category, which would include contractors as well as any other observers who have financial arrangements directly with contractors or objectives to serve contractors' interests. That category of contractor observers can also then be managed accordingly by the ISA, eg, contractor observers may be excluded from normative deliberations, or regulatory decisions that relate specifically to their own contracts. This approach would allow other private sector organisations to hold 'NGO observer' status.

To effect any changes that require new observer categories, the Assembly would need to establish first that such an approach is feasible under UNCLOS. This may be a matter of political will, rather than black-letter legal interpretation. UNCLOS and the Part XI Agreement contain many provisions about contractors, but nowhere do they specify that contractors may be ISA observers – but nor do they expressly prohibit it. It is interesting also that the Assembly in 2025, according to the President's Statement, 'decided' that there will be no need to amend or supplement existing rules of procedure. This may be because the most expedient approach is to see 'contractors' as a sub-set category, distinct from but coming within rule 82(1)(e)'s general category of 'other non-governmental organisations invited by the Assembly which have demonstrated their interest in matters under the consideration by the Assembly.'

The ISA would also need to ensure that the correct information is obtained from observer applicants to identify relevant characteristics for accurate categorisation. There may be some grey areas that the ISA will need to address in its rules, eg, not-for-profit scientific institutes who provide services under sub-contracts to contractors, or academic institutions who receive grants from contractors. Finally, thought would need to be given to re-examining existing NGO observers who may be for-profit or contractor affiliated.

Notably, the ISA Assembly's NGO Observer Guidelines authorise the ISA to review, every five years, the list of NGOs granted observer status and to withdraw such status where appropriate. In the context of such a review, observers may be required to provide information demonstrating their continued interest in matters under consideration by the Assembly. However, both the stated basis for conducting the review and for withdrawing observer status is currently limited to whether an organisation continues to demonstrate such interest.⁹⁵ If the ISA, in assessing

95. ISA Assembly 2019a, para 7 to 11.

contractor-affiliated NGO applicants, undertakes a broader reconsideration of the NGO Observer Guidelines (which, as has been suggested above, is likely necessary), this review mechanism should likewise be revisited to encompass criteria extending beyond mere demonstration of ongoing interest in ISA-related matters.

Conclusion

For the ISA's regime to work and have public confidence, the ISA needs to take all appropriate steps to guard against corporate capture, conflicts of interest, undue influence, inappropriate lobbying, bribery and other corruption risks. One aspect of this is having a transparent, rules-based and consistently applied system for contractors' participation in ISA processes.

Current practice suggests that contractors do have significant ability to access ISA processes and decision-makers. This could argue against needing additional access via an 'observer' accreditation. At the same time, absence of formal observer accreditation for contractors could contribute towards existing forms of contractor-ISA engagement lacking transparency.

A private sector ISA contractor, industry association, or firm providing services to a contractor, would appear to meet the minimum requirements under the ISA's existing NGO Observer Guidelines of demonstrating their interest of matters relating to the ISA. But they are comprised of employees of private companies that intend to make profit from activities in the Area that are governed by the ISA. By contrast, other observer NGOs are not-for-profit, are not linked to organisations that are for-profit, and do not stand to gain private benefit from decisions of the ISA. Giving private-sector contractor entities the same NGO observer status as is afforded to civil society organisations may therefore not be appropriate.

While there are observer regime precedents within other multilateral processes to which the ISA can have regard, caution may need to be applied in extrapolating rules from other inter-governmental organisations where there are not the same commercial contract, common heritage stewardship, and regulatory relationships in place as exist at the ISA. The WHO does have a robust regime that carefully segregates within its non-state observer categories, according to different interests.

How this contractors-as-observers issue is handled during the ISA's next Assembly session(s) will set an important benchmark for the ISA's future governance. It is an early test of how the ISA navigates the delicate boundary between regulator and regulated, and how it manages actual and perceived risks of undue influence as decisions about potential exploitation draw nearer.

There are different options open to the Assembly that could help promote transparency and appropriate management of private interests, eg, managing a 'for-profit' observer category, or a 'contractors' observer category. Our analysis suggests that the ISA will uphold transparency, accountability and public confidence better, if it finds a pathway that transparently manages the different interest groups, differently.

References

- Ardron, J. A., Ruhl, H., and D.O.B. Jones. 2018. Incorporating Transparency into the Governance of Deep-Seabed Mining in the Area. *Marine Policy* 89 (February): 58–66.
- Ardron, J., Lily, H., and A. Jaeckel. 2023. [Public participation in the governance of deep-seabed mining in the Area](#). In R. Rayfuse, A. Jaeckel, and N. Klein (Eds.), *Research handbook on international marine environmental law* (2nd edition, pp. 361-384). Northampton: Edward Elgar Publishing.
- Berman, A. 2021. [Between Participation and Capture in International Rule-Making: The WHO Framework of Engagement with Non-State Actors](#). *The European Journal of International Law*, 32(1):227-254.
- Bernstein, S. 2004. Legitimacy in Global Environmental Governance. *Journal of International Law & International Relations* 1 (1-2): 139–66.
- Bosco, D., A. Jaeckel, and P. Singh. 2023. [Ready to Regulate? The International Seabed Authority on the Brink of Commercial Mining](#). Working Paper. Ostrom Workshop. Indiana University.
- Buse, K., and S. Hawkes. 2016. Sitting on the FENSA: WHO Engagement with Industry. *The Lancet* 388 (10043): 446–47.
- Cambridge Zero and University of Bath. 2025. [Decoding UNFCCC Language, COP30](#). Cambridge Zero and University of Bath Institute for Policy Research.
- Center for International Environmental Law (CIEL). 2025. [Fossil Fuel and Petrochemical Lobbyists Overrun Plastics Treaty Negotiations](#).
- Clapp, J. 2005. [Transnational Corporations and Global Environmental Governance](#). In *Handbook of Global Environmental Politics*, edited by P. Dauvergne. Edgarr Elgar.
- CSA Ocean Sciences. 2023. [Application for Observer Status](#). CSA Ocean Sciences, June 30.
- Dambacher, B. M., M. T. Stilwell, and J. S. McGee. 2020. [Clearing the Air: Avoiding Conflicts of Interest within the United Nations Framework Convention on Climate Change](#). *Journal of Environmental Law* 32 (1): 53–81.
- Dimitrov, R. S. 2020. [Empty Institutions in Global Environmental Politics](#). *International Studies Review* 22 (3): 626–50.
- Global Sea Mineral Resources. 2026. [Open Letter from GSR to the ISA Secretary-General](#). Global Sea Mineral Resources, March 3.
- Global Sea Mineral Resources, Nauru Ocean Resources Inc, Interoceanmetal Joint Organization, et al. 2025. [Joint Letter to the President of the Council by Contractors](#). January 14.
- Greenpeace. 2026. Briefing by Greenpeace uploaded on the ISA website, [Inquiry on Potential Breaches by Contractors](#), March 2026
- Gemmill, B., and A. Bamidele-Izu. 2002. [The Role of NGOs and Civil Society in Global](#)

- Environmental Governance. In *Global Environmental Governance: Options & Opportunities*, edited by D. C. Esty and M. H. Ivanova. Yale school of forestry & environmental studies.
- Gulibaud, A. 2024. Negotiating the Opening of International Organization to Non-State Actors: The Case of the World Health Organization. *International Negotiation* 29: 357–83.
- Hutchins, R. 2026. High Seas Treaty Must Stop the Lobbyists and Bring the Science. *Oceanographic Magazine*, April 2.
- Hvinden, I. S. 2024. To Mine or Not to Mine the Deep Seabed? The Relative Influence of Competing NGO Views in Defining “Serious Harm” to the Marine Environment. *Maritime Studies* 23 (11).
- IISD. 2020. Summary Report: 1st Part of the 26th Annual Session of the International Seabed Authority. *Earth Negotiations Bulletin* 25 (224).
- IISD. 2026. Summary Report, 23 March – 2 April 2026: 3rd Session of the Preparatory Commission for the Entry into Force of the BBNJ Agreement and the Convening of the 1st Meeting of the Conference of the Parties to the Agreement. *Earth Negotiations Bulletin* 25 (262).
- Impossible Metals. 2024. Application for Observer Status. Impossible Metals, April 26.
- Impossible Metals. 2026. “Impossible Metals” Eureka III Test in BGR Contract Area of CCZ. Impossible Metals.
- InfluenceMap. 2025. Corporate advocacy on the UN Global Plastics Treaty: 2025 update. InfluenceMap.
- ISA. 2019a. Address to ISA Council, DeepGreen Metals. International Seabed Authority.
- ISA. 2019b. Address to ISA Council, DEME. International Seabed Authority.
- ISA. 2021. Nauru Requests President of ISA Council Complete the Adoption of the Rules and Regulations. *Press Release*, International Seabed Authority. June 29.
- ISA. 2022. Letter from Nauru. Letter. International Seabed Authority, June.
- ISA. 2023. ISA Fact-Check 2023/1 – Availability, Content and Accessibility of Data and Information of DeepData. International Seabed Authority, July.
- ISA. 2025. Exploration Contracts. International Seabed Authority.
- ISA. 2026a. Observers. International Seabed Authority.
- ISA. 2026b. List of Delegations, ISBA 31/C. International Seabed Authority, April.
- ISA Assembly. 1994. Rules of Procedure of the Assembly of the International Seabed Authority, First Session of the Assembly, ISBA/A/6. International Seabed Authority, July 7.
- ISA Assembly. 2019a. Decision of the Assembly on the Guidelines for Observer Status of Non-Governmental Organizations with the International Seabed Authority, Twenty-Fifth Session, ISBA/25/A/16. International Seabed Authority, July 26.
- ISA Assembly. 2019b. Guidelines for Observer Status of Non-Governmental Organizations with the International Seabed Authority, Twenty-Fifth Session, ISBA/25/A/7. International Seabed Authority, June 4.

ISA Assembly. 2024a. [Report of the Finance Committee, Twenty-Ninth Session, ISBA/29/A/9-ISBA/29/C/20](#). International Seabed Authority, July 12.

ISA Assembly. 2024b. [Request for Observer Status in Accordance with Rule 82, Paragraph 1 \(e\), of the Rules of Procedure of the Assembly by Impossible Metals Inc., Twenty-Ninth Session, ISBA/29/A/INF/14](#). International Seabed Authority, April 26.

ISA Assembly. 2025. [Statement by the President on the Work of the Assembly of the International Seabed Authority at Its Thirtieth Session, ISBA/30/A/14](#). International Seabed Authority, September 25.

ISA Assembly. 2026. [Provisional Agenda of the Assembly](#). The 31st Session of the International Seabed Authority. International Seabed Authority. 11 May.

ISA Council. 2020. [Decision of the Council Concerning Working Methods to Advance Discussions on the Draft Regulations for Exploitation of Mineral Resources in the Area, Agenda Item 12, ISBA/26/C/11](#). Twenty-sixth session Council session, part I. International Seabed Authority, February 21.

ISA Finance Committee. 2020a. [Possible Financial Contributions from Observers of the International Seabed Authority to Cover the Costs of Their Participation in Meetings, Twenty-Sixth Session, ISBA/26/FC/6](#). October 7.

ISA Press Release. 2011. [Four Pending Applications for Exploration Contracts Represent New Milestone for Seabed Authority](#). International Seabed Authority, June 13.

ISA Press Release. 2024. [ISA Concludes Successful Data Management Review and Reporting Template Training Sessions](#). International Seabed Authority, June 10.

ISA Press Release. 2025a. [The Eighth ISA Annual Contractors' Meeting Concludes in Goa, India](#). International Seabed Authority, September 26.

ISA Press Release. 2025b. [The Kingdom of Bahrain Sponsors Impossible Metals to Apply for a Deep-Sea Mining Exploration Contract in International Waters](#). International Seabed Authority, September 10.

Lassourd, T. 2026. [System Of Payment For The Exploitation Of Mineral Resources In The Area: Updated Fiscal Model And Considerations For The ISA Council](#). Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development, 10 March.

Lily, H., and R. Forster. 2026. [Managing Conflicts of Interest at the International Seabed Authority](#). U4 Issue 2026:05. U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute.

Lily, H., Pecararo, A., and P. Singh. 2026. [Case Concerning an Inquiry by the International Seabed Authority: Less a Defence of Due Process than an Attempt to Short-circuit It?](#). EJIL Talk!, 11 June.

Lund, E. 2013. [Environmental diplomacy: comparing the influence of business and environmental NGOs in negotiations on reform of the clean development mechanism](#). Environmental Politics, 22(5), 739-759.

Kick Big Polluters Out Coalition. 2024. [Fossil fuel lobbyists eclipse delegations from most climate vulnerable nations at COP29 climate talks](#). Press release. Global Witness.

- McCormick, J. 1999. The Role of Environmental NGOs in International Regimes. In *The Global Environment: Institutions, Law and Policy*, edited by N. J. Vig and R. S. Axelrod. Routledge.
- Moodie, A. R. 2022. “Conflicted” Conceptions of Conflict of Interest: How the Commercial Sector Responses to the WHO Tool on Conflict of Interest in Nutrition Policy Are Part of Their Standard Playbook to Undermine Public Health; Comment on “Towards Preventing and Managing Conflict of Interest in Nutrition Policy? An Analysis of Submissions to a Consultation on a Draft WHO Tool”. *International Journal of Health Policy and Management* 11 (2): 239–42.
- Morgera, E., and H. Lily. 2022. Public participation at the International Seabed Authority: An international human rights law analysis. *RECIEL*. 31(3):374-388.
- Pickens, C., Lily, H., Harrould-Kolieb, E., Blanchard, C., Chakraborty, A. 2024. From what-if to what-now: Status of the deep-sea mining regulations and underlying drivers for outstanding issues, *Marine Policy*, 169(105967)
- Rabone, M., Horton, T., Jones D.O.B., Simon-Lledó, E., Glover, A.G. (2023). A review of the International Seabed Authority database DeepData from a biological perspective: challenges and opportunities in the UN Ocean Decade, Database, Volume 2023, 2023.
- Raustiala, K. 1997. States, NGOs, and International Environmental Institutions. *International Studies Quarterly* 41 (4): 719–40.
- Robb, S., H. Lily, and A. Pecoraro. 2024. Effective Control and State Sponsorship in Deep Seabed Mining. *Marine Pollution Bulletin* 209 (117119).
- Seascope Consultants. (2016). Periodic Review of the International Seabed Authority pursuant to UNCLOS Article 154: Interim Report.
- SMDA. 2024. Application for Observer Status. Seafloor Minerals Developers Association, 29 April 2024.
- SMDA. 2025. Application for Observer Status. Seafloor Minerals Developers Association, 15 April 2025.
- TMC. 2025. Technical Report Summary-Initial Assessment of TOML and NORI Properties, Clarion-Clipperton Zone: TMC The Metals Company Inc., AMC Consultants, 4 August 2025.
- Transparency International. 2026. Addressing the corrupt influence of big polluters in climate negotiations.
- UNCLOS. 1982. United Nations Convention on the Law of the Sea.
- Willaert, K.. 2020. Public Participation in the Context of Deep-Sea Mining: Luxury or Legal Obligation?*Ocean Coastal Management* 198 (105368).
- WHO. 2016. Framework of Engagement with Non-State Actors, 69th Session, Agenda Item 11.3, WHA69.10. World Health Organization, May 28.
- World Bank. 2017. Precautionary management of deep sea minerals. Pacific possible series. Washington D.C.
- Zhao, B. 2024. Granting Legitimacy from Non-State Actor Deliberation: An Example of Women’s Groups at the United Nations Framework Convention on Climate Change. *Environmental Policy and Governance* 34 (3): 236–55.

About the authors

Hannah Lily

Hannah Lily is a British lawyer with 25 years of professional experience in good governance, working now as an independent expert in the regulation of deep seabed mining. She has been a regular participant at the International Seabed Authority for more than a decade, supporting many delegations in the negotiations.

Samantha Robb

Samantha Robb is a South African-qualified attorney who specialises in marine protection and Ocean governance. She currently works as a lawyer in the Ocean Litigation Department at Ocean Vision Legal, where her practice focuses on enforcing international marine protection obligations, with a particular focus on deep-seabed mining. She has been engaged in deep-seabed mining governance since 2022.

Ellycia Harrould-Kolieb

Ellycia Harrould-Kolieb is a human geographer with over two decades working within academia and environmental NGOs. Her research is focused on the governance of the global ocean and explores architectures of governance, including treaty regimes and international organisations, and their interactions, along with the roles that scientific knowledge and problem framing play in decision-making and the uptake of environmental issues on governance agendas.

Methodology

The paper employed a mixed methods approach that integrates legal analysis, academic research, publicly available information, and the authors' experience in the field. The methodology is designed to evaluate not only the formal legal architecture governing deep seabed mining but also the de facto procedural dynamics that occur during ISA sessions, particularly concerning observer participation.

The foundational analysis is grounded in the decisions of the ISA's Assembly and formal rules of procedure adopted by the ISA. Specifically, these instruments were analysed to establish the legal premise under which private entity observer applications are submitted and evaluated against the relevant UNCLOS provisions that govern observer participation at the ISA. Further, an analysis was undertaken of all the ways in which private entity contractors are entitled to engage in the ISA regime, based on public knowledge of such participation by these entities (eg from official documentation from the ISA, and information on the ISA website). In addition, the authors relied on academic research and secondary sources to draw comparisons between the ISA's institutional functioning and that of other international organisations.

The desktop research was complemented by the authors' practical engagements with the deep seabed mining sector and the ISA. The authors actively and closely monitor ISA proceedings and attend meetings as part of observer delegations, drawing on experience

ranging between them respectively from four to fifteen years. The collection of these insights was conducted using the following approach:

Direct observation of key ISA meetings: The authors attended and documented proceedings during ISA meetings regularly for more than a decade, including the pivotal July 2024 and 2025 sessions where the specific question regarding private entity observer applications arose. The authors themselves, participating within ISA NGO (and at times, IGO) delegations, can provide firsthand experience of how such observer engagement is managed by the ISA, and experienced by ISA NGO observers – which is a relevant aspect of the paper.

Note-Taking: The authors recorded detailed notes during open plenary sessions of the Assembly and the Council. These notes were recorded contemporaneously, with the aim to capture a comprehensive record of proceedings. They capture and attribute the different formal interventions made during ISA proceedings to the relevant speaker. These notes were collected because the ISA itself does not produce a detailed record of proceedings. Different authors collected their own notes of the same sessions independently, so there is an opportunity to collate and cross-verify these records. There are also summary records available from ISA 'President reports' of the meetings, and ENB IISD daily media reporting from the meetings, which can provide further corroboration.

The rules analysed by the authors provide a framework against which to compare what has been observed in meetings, and the observations in the meetings provide insights into how member states are considering this new issue against the existing rules. Further the

observations of the authors provide firsthand observations of how private entity contractors are permitted to engage during ISA meetings in practice to date. While this observational method provides critical context, it is subject to inherent limitations. As the authors attend these meetings as part of specific observer delegations with established mandates, there is an inherent positionality that shapes the lens through which procedural dynamics are interpreted. This is mitigated by having three different co-authors with three different organisational affiliations and primary mandates, and both U4 and peer review.

Contributor roles

Hannah Lily conceptualised the Study. Hannah Lily, Samantha Robb, and Ellycia Harrould-Kolieb performed the literature review, review of relevant ISA documents, and drafted the initial manuscript. Robert Forster contributed to review and restructuring. All authors reviewed, edited and approved the final manuscript.

Conflict of interest disclosure

The author(s) affirm that this research was conducted independently and received no financial support from entities that might gain from the findings or recommendations. Any opinions, findings, and conclusions expressed are solely those of the author(s).

Use of Artificial Intelligence

Hannah Lily used AI-assisted tools at times to enhance language and style of drafting. No substantive analysis, conceptual input, or original ideas were generated by AI.

Samantha Robb used AI-assisted tools at times to search for documents and enhance style of drafting. No substantive analysis, conceptual input, or original ideas were generated by AI.

Ellycia Harrould-Kolieb used AI-assisted tools at times to help search for documents or academic literature. No substantive analysis, conceptual input, or original ideas were generated by AI.

Keywords

anti-corruption measures – biodiversity – extractive industries – mining – conflict of interest – governance – integrity building – international institutions – lobbying – maritime – multilateral – multilateral organisation – private sector

How to cite

Lily, H.; Robb, S.; Harrould-Kolieb, E. 2026. Navigating private-sector contractor participation at the International Seabed Authority . Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute (U4 Issue 2026:9)

Publication

First published 30 June 2026

Disclaimer

All views in this text are the author(s)', and may differ from the U4 partner agencies' policies.

Cover photo

Andrea Izzotti/Shutterstock.com – license: copyrighted
<https://www.shutterstock.com/image-photo/cenotes-cave-diving-pit-mexico-582083413>

Creative commons

This work is licenced under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International licence (CC BY-NC-ND 4.0)



U4 partner agencies

German Federal Ministry for Economic Cooperation and Development – BMZ

Global Affairs Canada

Ministry for Foreign Affairs of Finland

Ministry of Foreign Affairs of Denmark / Danish International Development Assistance – Danida

Norwegian Agency for Development Cooperation – Norad

Swedish International Development Cooperation Agency – Sida

Swiss Agency for Development and Cooperation – SDC

UK Aid – Foreign, Commonwealth & Development Office

Corruption erodes sustainable and inclusive development. It is both a political and technical challenge. The U4 Anti-Corruption Resource Centre (U4) works to understand and counter corruption worldwide.

U4 is part of the Chr. Michelsen Institute (CMI), an independent development research institute in Norway.

U4 ANTI-CORRUPTION
RESOURCE CENTRE