

# International Seabed Authority

Press Release



**Sixteenth Session  
Kingston, Jamaica  
26 April - 7 May 2010**

Round-up of Session

**SB/16/21  
7 May 2010**

---

## **SEABED AUTHORITY CONCLUDES SIXTEENTH SESSION IN KINGSTON**

### **Adopts draft regulations on polymetallic sulphides; Elects new Council members; Adopts decision on revision of Staff Regulations**

A further framework for the future development of the mineral resources of the deep seabed was realized at the sixteenth session of the International Seabed Authority with the approval of regulations to govern prospecting and exploration for polymetallic sulphides in the Area.

It took several sessions, hard bargaining and compromise in the Council, but in the end the members of the Authority unanimously adopted the regulations marking another milestone in its progressive development of a comprehensive set of rules, regulations and procedures to govern prospecting, exploration and exploitation of marine minerals.

The first instrument was Regulations on Prospecting and Exploration for Polymetallic Nodules adopted by the Authority on 13 July, 2000. Next, it will take up a set of draft regulations for cobalt-rich ferromanganese crust, oxidized deposits found throughout the global oceans on the flanks and summits of seamounts, ridges and plateaux that are important potential source for many other metallic and rare earth elements such as titanium, cerium, nickel, platinum, manganese, phosphorus, thallium, tellurium, zirconium, tungsten, bismuth and molybdenum.

The Authority, an autonomous international body, was established in 1994 with the entry into force that year of the 1982 United Nations Convention on the Law of the Sea as refined by the 1994 Agreement relating to the Implementation of the Convention's Part XI (seabed provisions). The Convention defines the deep seabed beyond the limits of national jurisdiction as "the common heritage of mankind", with the Authority assigned the task of organizing and controlling all mineral-related activities in that area ("the Area"). The 160-member Authority has a relationship agreement with the United Nations.

- more -

---

### Draft regulations on polymetallic sulphides

The text of the draft regulations on prospecting and exploration for polymetallic sulphides consists of a preamble, and 44 regulations organized into ten parts and four annexes. The regulations deal only with prospecting and exploration phases, and apply only to polymetallic sulphides. The preamble spells out the principles underlying the Regulations - that the seabed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind. Their exploration and exploitation are to be carried out for the benefit of mankind as a whole with the International Seabed Authority acting on its behalf.

Part I and Regulation 1 deal, respectively, with introduction and the use of terms and scope. In accordance with the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 ("the Agreement"), the provisions of the Agreement and Part XI of the Convention shall be interpreted and applied together as a single instrument. The Regulations shall not "in any way affect the freedom of scientific research" or "the right to conduct marine scientific research in the Area" as provided for in the Convention. The exercise by States of the freedom of the high seas shall not be restricted. The Regulations may be supplemented by further rules, regulations and procedures, particularly on the protection and preservation of the marine environment.

Part II addresses prospecting; and Part III deals with the applications for approval of plans of work for exploration in the form of contracts. It is divided into two sections with general provisions, including the category of people who may apply and the content of applications. Each application for approval of a plan of work for exploration shall be in the form prescribed in annex 2 to the Regulations and shall be addressed to the Secretary-General. Part IV covers contracts for exploration.

Part V of the Regulations covers the protection and preservation of the marine environment, including the procedure for the application of emergency orders in accordance with provisions of the Convention. Part VI deals with confidentiality of data and information and procedures to ensure it. Part VII contains general procedures for the implementation of the Regulations. There is a provision by which the Legal and Technical Commission may, from time to time, issue recommendations for the guidance of contractors to assist them in the implementation of the rules, regulations and procedures of the Authority.

Part VIII deals with the settlement of disputes, while Part IX outlines the procedure to be followed should the prospector or contractor locate resources other than polymetallic sulphides. Part X provides the guideline for the review of the Regulations five years after its approval by the Assembly of the Authority.

Annex 1 is the form of notification of intention to engage in prospecting and Annex 2 is a specimen form for application for approval of a plan of work for exploration. Annex 3 is the contract which sets out the names of the parties; describes the subject matter; the entry into force and contract terms. Annex 4 contains the standard clauses for an exploration contract, covering matters many of which are dealt with in the regulations. There are certain obligations a contractor must follow as well as measures to be taken to prevent, reduce and control pollution and other hazards to the marine environment in Area.

- more -

The Authority's Secretary-General would have to be notified in writing about the discovery in the exploration area of any human remains of an archaeological or historical nature, or any object or site of a similar nature and its location, including the preservation and protection measures taken. The Secretary-General shall transmit such information to the Director-General of the United Nations Educational, Scientific and Cultural Organization and any other competent international organization.

A contractor shall, prior to the commencement of exploration under the contract, submit to the Authority for approval proposed training programmes for personnel of the Authority and developing countries, including the participation of such personnel in all of the contractor's activities under the contract. Annual reports are to be submitted by a contractor in accordance with a format recommended by the Legal and Technical Commission.

### **Cobalt-rich crusts regulations**

The Council took up consideration of the draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area contained in document ISBA/16/C/WP.2 prepared by the Legal and Technical Commission. It noted that the draft text would require further revision to bring them into alignment with the text of the Regulations on prospecting and exploration for polymetallic sulphides in the Area. In a brief exchange of views on the subject, it became clear that more time would be required to consider issues such as appropriate size and configuration of areas for exploration. The Council agreed to take the matter up at its next session in 2011.

### **Legal and Technical Commission**

The Council, after reviewing a Secretariat Note on the functioning of the Legal and Technical Commission, decided that for the 2011 election, the size of the Commission may be increased up to 25 members, having due regard to economy and efficiency and without prejudice to future elections. The Council expressed satisfaction with the work of the Commission and the manner in which it had functioned over the past five years. The Council took note of the view expressed by the Commission through its Chairman that its current size had not prevented it from carrying out its work effectively and efficiently. The Council emphasized that the Commission needed to maintain a wide range of expertise to enable it to carry out its complex work.

In its report to the Council (document ISBA/16/C7), the Commission recommended that the contractors prospecting and exploring for polymetallic nodules in the Area under contract with the Authority, should be requested to provide with their next annual report a revised historical breakdown of reported expenditure in accordance with the Commission's 2009 recommendations. It expressed concern that the contractors were still not providing raw data despite numerous requests from both the Commission and the Secretary-General. Most of the eight contractors would be completing five-year period of the 15-year exploration contracts granted them by the Authority.

## Finance

The Assembly adopted the budget of the Authority for the financial period 2011-2012 in the amount of \$13,014,700. It also decided to increase the level of the Working Capital Fund from \$438,000 to \$560,000, as recommended by the Finance Committee, to spread over the next two financial periods. The Assembly took note of the efforts of the Secretary-General to affect savings in the Authority's budget during the financial year 2010 – 2011.

The Assembly adopted the recommendations of the Finance Committee that it authorizes the Secretary-General to establish the scale of assessment for the biennium 2011 and 2012 based on the scale used for the regular budget of the expenses of the United Nations for 2010. Members of the Authority were urged to pay their assessed contributions to the budget on time and in full.

An appeal was also made to Members, other States, relevant international organizations, academic, scientific and technical institutions, philanthropic organizations, corporations, and private persons to contribute to the International Seabed Authority Endowment Fund for Marine Scientific Research and the Voluntary Trust Fund. The Endowment Fund, established in 2006, has to-date disbursed \$254,312 through six awards for activities that promote capacity-building.

As at 1 March 2010, the balance of the Voluntary Trust Fund stood at \$83,913, including accrued interest of \$6,574. A total of \$255,979 of has been paid out of the Voluntary Trust Fund which was established in 2002 to facilitate the participation of members of the Finance Committee and the Legal and Technical Commission from developing countries.

## Staff Regulations

The Assembly adopted revisions to the Staff Regulations of the International Seabed Authority annexed to the text. These became necessary following changes to the United Nations Staff Regulations on which those of the Authority were based, and in particular, by the abolition of the United Nations Administrative Tribunal which took effect from 31 December 2009, and the reform of the system of administration of justice within the Organization.

The amendments to the Staff Regulations proposed by the Secretariat are to (a) recognize the competence of the new United Nations Appeals Tribunal to hear and pass judgement on applications filed by staff members of the Authority; and (b) at the same time, reflect a number of changes that have been made to the Staff Regulations of the United Nations since those of the Authority were adopted. Previously, in implementing the Staff Regulations, the Authority, like the International Tribunal for the Law of the Sea and a number of the specialized agencies of the United Nations, had accepted the jurisdiction of the United Nations Administrative Tribunal for the resolution of disputes between staff members and the Authority.

The Staff Regulations of the Authority were approved by its Assembly on 10 July 2001 (ISBA/7/A/5), having been applied provisionally since 2000 following their adoption by the Council at the Authority's Sixth session in 2000. Prior to that, the Authority had applied, *mutatis mutandis*, the Staff regulations of the United Nations in accordance with the Assembly's decision of 29 August 1996 (ISBA/A/15).

### **Request for Advisory Opinion from the Seabed Disputes Chamber**

The Assembly of the International Seabed Authority, on the recommendation of the Council (ISBA/16/C/L.4/Rev/1), decided that the Authority, in accordance with Article 191 of the Convention, would request the Seabed Disputes Chamber of the International Tribunal of the Law of the Sea, pursuant to Article 131 of the Tribunal's Rules, to render an advisory opinion on the following questions:

What are the legal responsibilities and obligations of States parties to the Convention with respect to the sponsorship of activities in the Area in accordance with Part XI of the Convention?

What is the extent of liability of a State Party for any failure to comply with the provisions of Part XI of the Convention by an entity whom it has sponsored under Article 153, paragraph 2 (b), of the Convention?

What are the necessary and appropriate measures that a State Party must take in order to fulfill its responsibility under Article 139 and Annex III, article 4, of the Convention?

The Government of Nauru, which had sponsored an application by Nauru Ocean Resources Inc. for a plan of work to explore for polymetallic nodules in the Area, had originally requested the advisory opinion by the Seabed Disputes Chamber in a communication to the Authority's Secretary-General last March (ISBA/16/C/6). It considered it crucial that guidance be provided on the interpretation of the relevant section of Part X of the Convention pertaining to responsibility and liability of Sponsoring States. That would enable developing States to assess whether it was within their capabilities to effectively mitigate such risks and in turn make an informed decision on whether or not to participate in activities in the area. It sought clarification in a number of areas including what the responsibilities and obligations of sponsoring States were under Part XI of the Convention.

### **Presentation from the International Marine Minerals Society (IMMS)**

A presentation on the International Marine Minerals Society (IMMS) and its Code for environmental management of marine mining was delivered to members of the Authority on Wednesday, 28 April 2010 by Dr. Philomene A. Verlaan, oceanographer and Executive Board Member of the Society. She also addressed the Legal and Technical Commission earlier.

The objective of the IMMS Code is "to anticipate and integrate environmental considerations for responsible marine mining in adaptive guidelines that are responsive to experience with their implementation, improvements in best environmental practices, technological developments and regulatory changes". The Code is intended to serve marine mining companies, governments, local communities and stakeholders, intergovernmental and non-governmental organizations and other groups with an interest in research, exploration, and/or marine mining activities. It does not prescribe specific practices, but rather, sets a framework and benchmarks, in the context of shared values in marine mineral exploration and environmental management.

### **Elections of Council members**

On 7 May the Assembly elected 17 members to the Council for a four-year term from 2011 to 2013. The election, based on lists drawn up by the various groups represented on the Council, was uncontested.

The Council membership is drawn from five groups of States members of the Authority. Four of these have special interests in aspects of seabed mining and the fifth is a group chosen to ensure equitable geographical balance in the Council as a whole.

The agreed allocation of seats on the Council is 10 seats to the African Group, 9 seats to the Asian Group, 8 seats to the Western European and Others Group, 7 seats to the Latin American and Caribbean Group and 3 seats to the Eastern European Group. Since the total number of seats allocated according to that formula is 37, it is understood that, in accordance with the understanding reached in 1996 (ISBA/A/L.8), each regional group other than the Eastern European Group will relinquish a seat in rotation. The regional group which relinquishes a seat will have the right to designate a member of that group to participate in the deliberations of the Council without the right to vote during the period the regional group relinquishes the seat.

Council members elected at this session begin for a four-year term as from 1 January 2011, subject to the understandings reached in the regional and interest groups.

The breakdown of the Council membership, following the election, is as follows:

Group A (4 States from among the largest consumers or net importers of minerals to be derived from seabed mining): Italy and Russian Federation were elected for new four-year terms. China and Japan (terms expire 31 December 2012). It was agreed that Italy would relinquish its seat in Group A in favour of the United States if that country became a member of the Authority. This does not prejudice the position of any country with respect to any intervening election to the Council.

Group B (4 States from those with the largest investment in seabed mining): the Republic of Korea, France and Germany were elected new members; and India (term expires 2012).

Group C (4 States that are major land-based net exporters of minerals found in the seabed): Canada, and South Africa (terms expire 31 December 2012); Australia and Indonesia (re-elected/ new members). Indonesia was elected for a four-year term as a member of Group C with the understanding that it will relinquish its seat to Chile after two years and will take up the seat in Group E that was previously occupied by Chile for the remainder of the four-year term.

Group D (6 developing States representing special interests, including those with large populations, the land-locked or geographically disadvantaged, islands, major mineral importers, or potential producers, and the least developed): Egypt, Fiji and Jamaica whose terms expire at the end of the year were re-elected today for a further four years. The four-year terms of Bangladesh, Brazil, and Sudan expire on 31 December 2012.

**- more -**

Group E (18 States reflecting the principle of geographical representation, as well as balance between developed and developing States): Angola, Argentina, the Czech Republic, Guyana, Kenya, Namibia, the Netherlands, Poland, Senegal, Spain, Trinidad and Tobago the United Kingdom (terms expiring on 31 December 2012). Cameroon, Chile, Côte d'Ivoire, Mexico, Nigeria, Qatar, and Viet Nam were re-elected today. Qatar was elected with the understanding that it will relinquish its seat to Sri Lanka after two years for the remainder of the four-year term. Chile was elected with the understanding that it will relinquish its seat to Indonesia after two years for the remainder of the four-year term.

### **Other elections**

Jesús Silva-Fernández of Spain, a nominee of the Western European and Others Group, was elected President of the sixteenth session of the Assembly. Four Vice Presidents, representing the other regional groups, were also elected: Trinidad and Tobago (Latin America and the Caribbean); Bangladesh (Asia); Uganda (Africa); and the Czech Republic (Eastern Europe).

The Seabed Council elected Syamal Kanti Das, Adviser to the Government of India on Earth Sciences as its President for the Sixteenth session on 28 April. The Council also elected four Vice Presidents for the session. They are: Trinidad and Tobago, who is also a Vice President of the Assembly (Latin American and Caribbean Group); Côte d'Ivoire (African Group); Poland (Eastern European Group); and Italy (West European and Others Group).

The Assembly elected Zaw Ming Aung (Myanmar) and Pradip Kumar Choudhary (India), to fill vacancies on the Finance Committee, replacing their compatriots Soe Lynn Han and Neeru Chadha who had resigned. The new members will serve for the remainder of the terms of their predecessors which were to end on 31 December 2011.

### **Report of the Secretary-General**

The Secretary-General's report, (ISBA/16/A/2), submitted under article 166, paragraph 4 of the United Nations Convention on the Law of the Sea, provided a detailed account of the Authority's work over the past year as well as an overview of the outcomes of its 2008-2010 programme of work. It also outlined the main trends of the proposed programme of work for 2011-2013 covering such matters as supervision of contracts for exploration and award of new ones; progressive development of the regulatory regime for activities in the Area; promotion and encouragement of marine scientific research in the Area and data base development.

The Secretary-General reported that by February 28, 2010 the Authority's membership had grown to 160 after Switzerland, the Dominican Republic and Chad became parties to the Convention and the 1994 Agreement in 2009. There are still 22 members of the Authority that have not yet become parties to the Agreement.

With regard to the status of contributions to the Authority's budget, the Secretary-General stated that contributions outstanding from member States for prior periods (1998-2008) totalled \$314,731. He said that 43 members were in arrears for a period of two years or more.

A number of studies and workshops are planned or envisaged, according to the report. An international workshop will be convened during 2010 to review further a proposal under consideration by the Legal and Technical Commission for the establishment of a network of areas of particular environmental interest in the Clarion-Clipperton fracture zone of the Central Pacific Ocean. The objective of the workshop will be to obtain the best possible scientific and policy advice on the formulation of an environmental management plan at the regional scale for the area.

A preliminary study by a commission is envisaged to look at some of the issues associated with the development of an exploitation code, including relevant experience from offshore oil and gas development, as well as comparisons with fiscal regimes for land-based mining.

It is also planned to convene an expert group meeting to help prepare draft recommendations to the Council and the Assembly on the implementation by the Authority of article 82, paragraph 4 of the Convention on the Law of the Sea. This covers payments or contributions in kind in respect of exploitation of non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

In concluding observations, the report states that the efforts of the current contractors with the Authority were primarily directed at long-term geological and environmental studies, rather than commercially driven research and development. Investment in mining technology in particular remained at a very preliminary stage. "In these circumstances, it appears unlikely that any of the present contractors will move to commercial exploitation of polymetallic nodules in the near future" the report asserts.

On the other hand, the report adds that private sector investment in research on and prospecting for marine mineral deposits continued, both in deep seas of national jurisdiction and in the Area, indicating strong interest in seabed minerals as a future source of metals. To further encourage private sector participation in the development of the minerals in the Area, the report suggests consideration of a sector of the mining code related to exploitation of polymetallic nodules.

### **Statement by Jamaica's Minister of State in the Ministry of Foreign Affairs and Foreign Trade**

Minister of State in Jamaica's Ministry of Foreign Affairs and Foreign Trade, Senator Ronald Robinson on Wednesday, 5 May assured the Assembly of the International Seabed Authority of his government's full support of the Authority's plans to increase public awareness and understanding of its work as the membership moved towards marking thirty years since the signature of the United Nations Convention on the Law of the Sea in 1982. As the international community achieved progress in the equitable management of the resources of the world's oceans and the deep seabed, he said, more and more countries would be encouraged to become parties to the Convention and the Authority.

Noting that one of the main characteristics of the Convention was its emphasis on the protection of the marine environment from harmful effects, he said the recent oil spill in the Gulf of Mexico underscored the vulnerability of marine resources to the impact of pollution. Members of the Authority must ensure that the ocean's resources were utilized in a manner that protected and respected the marine environment, particularly in this International Year of Biodiversity.

Jamaica looked forward to the establishment of the proposed Marine Mineral Museum in the Authority's headquarters which would benefit students, delegates and the wider Jamaican public, the Senator noted. As host to the International Seabed Authority, he said Jamaica remained committed to providing the best facilities possible for the conduct of its annual meetings as well as for the Authority's headquarters

### **Credentials Committee's report**

Of the Authority's 160 members, the credentials of 70 were presented at the sixteenth session. The Credential Committee's report (ISBA/16/A/7) was presented to the Assembly by its Chairman, Amadou Dame Sall (Senegal). The Credentials Committee consisted of the following nine members: Australia, China, Haiti, Namibia, Russian Federation, Senegal, Spain, Suriname and Viet Nam.

### **Observers**

The Assembly approved two requests for observer status submitted by the International Cable Protection Committee Ltd., which promotes the safeguarding of submarine cables against man-made and natural hazards; and by OSPAR Commission, a body established by the 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic.

### **In memoriam**

During the session, the Assembly paused to remember victims of the earthquakes in Haiti, Chile and China. A minute of silence was also observed for the recent passing of the following: the President of Poland, Lech Kacsynski, the former President of the International Olympic Committee, Juan Antonio Samaranch; and one of the pioneers of the key figures in the negotiations leading to the adoption of the 1982 United Convention on the Law of the Sea and a former Judge of the International Tribunal for the Law of the Sea, Paul Engo of Cameroons; and the President of Nigeria, Alhaji Umaru Yardua.

### **Invitations**

Uganda's representative, on behalf of his Government, extended an invitation to delegations to attend the first review conference of the Rome Statute which established the International Criminal Court, to be held in Kampala, Uganda, from 31 May to 11 June 2010.

The South Africa representative extended an invitation to the entire membership of the Authority, as well as Observers, to attend the FIFA 2010 World Soccer Cup from 11 June to 11 July.

- more -

## Membership and Attendance

The ISA membership consists of all parties to the United Nations Convention on the Law of the Sea. The members are listed below, with an asterisk (\*) marking those which participated in the session.

Albania, Algeria, Angola, Antigua and Barbuda, \*Argentina, Armenia, \*Australia, Austria, \*Bahamas, Bahrain, \*Bangladesh, Barbados, \*Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, \*Brazil, Brunei Darussalam, \*Bulgaria, \*Burkina Faso, \*Cameroon, \*Canada, Cape Verde, Chad, \*Chile, \*China, Comoros, \*Cook Islands, Costa Rica, \*Côte d'Ivoire, Croatia, \*Cuba, Cyprus, \*Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, \*Egypt, Equatorial Guinea, \*European Union, Federated States of Micronesia, \*Fiji, \*Finland, \*France, Gabon, Gambia, Georgia, \*Germany, \*Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, \*Guyana, \*Haiti, Honduras, Hungary, Iceland, \*India, \*Indonesia, \*Iraq, Ireland, \*Italy, \*Jamaica, \*Japan, Jordan, Kenya, Kiribati, \*Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, \*Mexico, Monaco, Mongolia, \*Morocco, \*Mozambique, \*Myanmar.

Also, \*Namibia, \*Nauru, Nepal, \*Netherlands, \*New Zealand, \*Nicaragua, \*Nigeria, \*Norway, \*Oman, \*Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Philippines, \*Poland, \*Portugal, \*Qatar, \*Republic of Korea, \*Romania, \*Russian Federation, \*Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, \*Samoa, Sao Tome and Principe, \*Saudi Arabia, \*Senegal, Serbia and Montenegro, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, \*South Africa, \*Spain, Sri Lanka, \*Sudan, \*Suriname, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Togo, Tonga, \*Trinidad and Tobago, \*Tunisia, Tuvalu, \*Uganda, Ukraine, \*United Kingdom, \*United Republic of Tanzania, Uruguay, Vanuatu, \*Viet Nam, \*Yemen, \*Zambia and Zimbabwe.

Observers to the Authority are: United States, United Nations Division for Ocean Affairs and the Law of the Sea; UNESCO/IOC; World Wildlife Fund; and added this year, the OSPAR Commission and the International Cable Protection Committee. Observers may take part in all deliberations, without the right to vote.

\* \* \* \* \*