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The Permanent Mission of Australia to the United Nations presents its compliments to the International Seabed Authority and has the honour to refer to Note No. 205/16 of 15 August 2016 regarding the Interim Report of the Periodic Review of the International Seabed Authority pursuant to Article 154 of the United Nations Convention on the Law of the Sea (UNCLOS), and notes the opportunity to provide written observations on the interim report in accordance with ISBA22/A/11.

The Permanent Mission of Australia to the United Nations has the further honour to submit Australia's response as an attachment to this Note.

The Permanent Mission of Australia to the United Nations avails itself of this opportunity to renew to the International Seabed Authority the assurances of its highest consideration.



NEW YORK
14 October 2016

Comments by the Government of Australia on the Interim Report of the Periodic Review of the International Seabed Authority (ISA) pursuant to Article 154 of the United Nations Convention on the Law of the Sea (UNCLOS)

October 2016

Introduction

1. Australia has considered and welcomes the interim report by Seascope Consultants Limited, dated 15 May 2016, which was tabled during the 22nd session of the International Seabed Authority (ISA) and pursuant to article 154 of the United Nations Convention on the Law of the Sea (UNCLOS).
2. Australia has also considered the comments on the interim report by the Review Committee, the Legal and Technical Commission (LTC), the Finance Committee and the Secretariat, the oral report by the Chair of the Review Committee and the deliberations of the Assembly under agenda item 9 of the 22nd Session of the ISA in July 2016.
3. Australia welcomes this further opportunity to submit written observations on the interim report.

Comments on the interim review report

4. This review of the Authority's operations, pursuant to Article 154 of UNCLOS, is urgently needed. While the ISA has performed well, its working methods and processes need to be optimised, to assist in the Authority's overall efficiency and effectiveness.
5. This is particularly so at a time when the Authority and its subsidiary bodies are facing a mounting workload, and the move towards exploitation of the deep seabed.
6. The interim report provides some useful recommendations for ensuring that the Authority will be "fit for purpose" for the next phase of its work. Some of these recommendations can, and should, be put into practice in the short term while others are longer term improvements.
7. To assist States Parties in considering the value and timing of implementation, Australia would encourage the reviewers to include some prioritisation of the recommendations in the revised interim report.
8. The timing and resourcing needs for adoption of various recommendations will need to be carefully considered, as part of the ISA's forward planning. Any recommendations with financial implications or requiring legal or technical expertise should not be adopted without prior consideration by the Finance Committee or LTC respectively.

The regime for exploration and exploitation of seabed minerals in the Area

9. Australia places a high priority on the LTC's agreed work on exploitation regulations. We echo the comments by the Review Committee and reiterate that while work continues in developing the draft mining regulations, we also need to devote considerable attention to developing the accompanying environmental regulations. One cannot proceed without the other.
10. Australia takes this opportunity to continue to urge the ISA to proceed with caution, based on science, in managing the mineral resources of the Area while ensuring that the marine environment is protected from any harmful effects which may arise from mining exploration and exploitation.
11. We would welcome some consideration in the final report as to how institutional improvements in the ISA could be taken up concurrently with the development of the mining code – and be mutually supportive of that work.

Strategic planning

12. Clearly prioritised deliverables are required for an effective Authority. The LTC in particular must be adequately resourced to deliver on its work plan.
13. The Council is well placed within the ISA to highlight the issues which should be taken forward over the coming year and make specific requests of the LTC and Secretariat (**Recommendation 16**). Australia supports the strategic decisions taken by the Council for the past three years, including most recently ISBA/22/C/28. Such decisions improve the coherence of work across the Authority, and enhance the cooperation between the organs of the Authority. We particularly welcome paragraph 16 of ISBA/22/C/28 which requests the Secretary-General to update the Council on implementation of the work program, and requests that such an update should be placed on the Council's agenda as a standing item.
14. Australia is supportive of the proposal (in **Recommendation 31**) to develop a strategic plan to guide the Authority's activities, with budgeting decisions based on agreed priorities. The first strategic plan should reinforce the existing priority on exploitation regulations and scale up work on environmental management.
15. We suggest that the Secretary-General could prepare an initial high-level document, with the LTC, the Finance Committee and the Secretariat invited to comment. A first draft could be considered and refined by the Council. The initial draft should consider how the strategic plan could guide budgeting decisions, according to a programme of work (**Recommendation 32**).
16. A timetable for implementation, and review, of the strategic plan would be beneficial.

Capacity and enhanced working methods

17. To support a strong strategic approach to the ISA's work, we can see the need to improve the human capacity and working methods of all organs and subsidiary organs of the Authority.

18. Australia supports proposals to reinforce skills and experience in the Secretariat to support the ISA's strategic priorities (**Recommendations 37 and 38**). We think increasing the level of environmental expertise in the Authority, especially in the LTC and the Secretariat (as proposed in **Recommendation 9**), is necessary to support crucial work on the protection and management of the marine environment. Australia places a high priority on such work by the Authority, and we encourage the Authority to consider a range of methods to improve its capacity to meet the environmental challenges of the work ahead.
19. In the nomination of LTC members, we support a strong focus on appropriate expertise, greater continuity, a focused remit and alternative modes of working (**Recommendations 26, 27, and 28**).
20. In order to keep up with growing workload and data capacity needs, the storage, use, analysis and communication of data and information needs to be reviewed and addressed with urgency (**Recommendation 49**).
21. We support revisiting the structure and timing of the work of the Authority's main organs (as described in **Recommendation 44**) to encourage greater participation, and to enable the LTC to work most effectively (**Recommendations 26, 27, and 28**).

Transparency

22. Australia would welcome a list of decisions of the Council with a timetable for addressing them (**Recommendation 16**). This would enhance transparency and ensure that issues are not forgotten.
23. Increasing LTC transparency (as proposed in **Recommendation 17**) would provide opportunities for experts and stakeholders to input to ongoing work, in a way that benefits all. Nevertheless, the Authority must carefully consider and discharge its obligations for treating commercially confidential matters. To this end, Australia also looks forward to the timely preparation of the stakeholder consultation and participation strategy by the Secretariat, as noted in the LTC's summary report during the 22nd session of the ISA.

Communications

24. A dedicated communications strategy (**Recommendation 40**) would also improve transparency and levels of engagement. The details of all workshops should be clearly published on the ISA website in advance. Past decisions of the Authority should be listed by title as well as reference number.

Advisory opinions

25. While Australia supports the Authority seeking guidance as appropriate, careful consideration would be required within the Authority before seeking an advisory opinion on issues relevant to questions of law from the Seabed Disputes Chamber (as proposed in **Recommendation 33**).

Next steps

26. Australia looks forward to the delivery of the draft final report by 15 April 2017.