

# International Seabed Authority

Press Release



**Twenty-First Session  
Kingston, Jamaica  
13 - 24 July 2015**

Council (AM)

**SB/21/9  
20 July 2015**

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## **SEABED COUNCIL APPROVES CHINA'S NODULES EXPLORATION CONTRACT; DISCUSSES FINANCIAL IMPLICATIONS OF DEVELOPING EXPLOITATION REGULATIONS; TAKES NOTE OF REPORTS ON COOPERATION WITH OTHER ORGANIZATIONS**

The Seabed Council, acting on recommendations of the Legal and Technical Commission at a meeting in Kingston, this morning approved the plan of work for exploration for polymetallic nodules submitted by China Minmetals Corporation.

By its decision (document ISBA/21C/L.3), the Council requested the Secretary-General to issue a contract between the Authority and China Minmetals Corporation in accordance with the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area.

The Corporation, which is sponsored by the People's Republic of China, submitted its application to the Secretary-General on 8 August 2014. The region under application covers a surface area of 72,745 km<sup>2</sup> within the reserved areas in the Clarion-Clipperton Fracture Zone of the Pacific Ocean. The area consists of eight blocks, which are distributed across the Fracture Zone.

The Legal and Technical Commission recommended to the Council approval of the plan of work by China Minmetals Corporation.

The Corporation in its application stated that it attached great importance to the mutual accommodation of activities in the Area and in the marine environment, as stipulated in article 147 of the Convention and relevant provisions of the Regulations. In accordance with relevant international law, it declared that it would take all necessary measures to ensure the proper protection of submarine cables or pipelines. It also indicated its willingness to cooperate actively and fully with the Authority and the owners and operators of submarine cables or pipelines.

Supporting the application, Fiji and France joined Cameroon in commending China on its expressed intention to cooperate with all entities that would operate in the deep seabed. The representative of France said that with China's vast knowledge of the marine environment its promise of cooperation and later to practise sustainable exploitation was a rational and necessary

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approach. Chile said that regardless of the experience of a contractor there should be mechanisms in place to ensure they assumed responsibility to protect and preserve the marine environment.

Responding to Brazil on training obligations of contractors, the Deputy Secretary-General and Legal Counsel, Michael Lodge, reminded the Council that applicants were required to provide details about their training programmes in accordance with Regulation 27 and section 8 of annex IV of the Regulations on Prospecting and Exploration for polymetallic nodules in the Area. Ten training opportunities over a five-year period, along with a detailed programme of work, which the contractor was required to submit with its application, would be reviewed periodically by the Legal and Technical Commission. China had met all requirements for training, the Legal Counsel said.

### **Financial and budgetary matters**

The Council then proceeded to consider the following draft decision relating to financial and budgetary matters (ISBA/21/C/L.4):

1. The Council of the International Seabed Authority recommends that the Assembly of the International Seabed Authority:
  - a) Appoint KPMG as independent auditor for 2015-2016;
  - b) Request the Secretary-General to consult with the United Nations Joint Staff Pension Fund and other United Nations bodies, as well as an investment counsellor, on the steps that might be taken to generate a higher rate of return from the Endowment Fund and to report to the Committee in 2016, on the status and outcomes of those consultations. He is also to make recommendations on the investment of the Endowment Fund;
  - c) Take note of the new format as recommended by the Finance Committee to be used in presenting the Authority's budget for 2017-2018;
  - d) Request the Secretary-General to endeavour to allocate sufficient resources in the 2015-2016 budget to the priority deliverables identified in the draft action plan and to report to the Committee on the progress made and the resources used;
  - e) Strongly encourage those contractors that are still considering their position on the annual overhead charge related to the administration and supervision of their contracts to accept the relevant amendments to the standard terms of contract in order to ensure equitable burden-sharing among all contractors.
  - f) Urge the members of the Authority to pay their assessed contributions to the budget on time and in full;

- g) Appeal once more to the members of the Authority to pay outstanding contributions to the budget of the Authority from previous years as soon as possible and request the Secretary-General, at his discretion, to continue his efforts to recover those amounts.
  - h) Strongly encourage members to make voluntary contributions to the Endowment Fund for Marine Scientific Research in the Area and the Voluntary Trust Fund of the Authority.
  - i) Acknowledge with appreciation the work of the Finance Committee and commend the Secretary-General on the audit report for 2013-2014.
2. Decide to set the fee for processing an application for extension of a plan of work for exploration at \$67,000 and adopt paragraphs 4-6 of the draft procedures and criteria contained in document ISBA/21C.WP.1, as adjusted, accordingly.

Nigeria proposed an amendment to paragraph 1 (d) which would then read as follows:

Request the Secretary-General to endeavour **to identify sources of funding for the priority deliverables identified** in the draft action plan and to report to the Committee on the progress made and the resources used.

Trinidad and Tobago was of the view that the draft decision contained the necessary elements for adoption but raised no objection to the change suggested by Nigeria.

The representative said he was satisfied with the language in paragraph 1 (e) and hoped it would result in greater compliance among contractors with the amendments to the standard clauses.

With regard to paragraph 1 (b) Argentina warned that the option of investing in the stock market should be explicitly ruled out as this would be a high-risk investment.

Germany suggested that the Council should delay the adoption of the draft decision in light of paragraph 2, which concerned an unfinished discussion on the recommendations of the Legal and Technical Commission on procedures and criteria for processing applications for contract extensions.

In response to Nigeria, Secretary-General Nii Allotey Odunton said he was in complete agreement with the representative, adding that he could not identify resources required until the tasks had been costed. At that point a decision would be made on what deliverables action could be taken upon and the rest would have to be incorporated into the 2017-2018 budget. He reiterated that appropriate reports would be made to the Finance Committee as to the source of the funds.

The Secretary-General and Council President Peter Thomson (Fiji) agreed with the representative of Germany that it would be appropriate to delay the decision on the recommendations of the Finance Committee until consensus was reached on the entire text.

### **ISA cooperation with other relevant international organizations**

The Council then took note of a request by the Secretary-General for approval of his efforts to consult and cooperate with three other international organizations as provided for in Article 169 (para 1) of the United Nations Convention on the Law of the Sea.

The organizations are: OSPAR Commission (ISBA/21/9\*); International Maritime Organization (ISBA/21/10); and the Pacific Community (ISBA/21/C/11).

### **OSPAR Commission**

A report of the Secretary-General, presented by the Legal Counsel, invited the Council to take note of consultations in the past year between the Secretariats of the Authority and the OSPAR Commission for the Protection of the Marine Environment of the North-East Atlantic and to provide an appropriate direction,

The report (ISBA/31/9) gave details on the first session of the “Collective arrangement” of international organizations involved in the North-East Atlantic, organized by the OSPAR Commission and the North-East Atlantic Fisheries Commission (NEAFC) in London on 27 and 28 April 2015. The Secretariat of the Authority was unable to attend but participated by teleconference in part of the meeting on 27 April. Annexed to the report is an aide-mémoire with details of the discussions.

The OSPAR Commission and NEAFC, a regional fishery management organization established by the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries of 1980, signed a memorandum of understanding in August and September 2008. Denmark (in respect of the Faroe Islands and Greenland), Iceland, Norway, the Russian Federation and the European Union are members of NEAFC, and the Authority as well.

Under Article 169 (para 1) of the United Nations Convention on the Law of the Sea, the Secretary-General can make, with the approval of the Council, arrangements for consultation and cooperation with international and non-governmental organizations recognized by the Economic and Social Council of the United Nations.

Germany welcomed the information presented on the progress made in contacts with those organizations and found great merit in such cooperation. It encouraged the Secretary-General to seek more of such opportunities. The Netherlands joined Germany in hoping that the Authority would eventually join the collective arrangement, especially in the context of new developments taking place at the United Nations.

Cameroon said it was logical for the Authority to show interest in the way in which different organizations were working with regard to the protection of the marine environment. The Authority should continue to work alongside OSPAR in the interest of coherence of approach, while taking time to work in accordance to developments at the level of the United Nations.

Argentina noted that OSPAR was a regional and not an international organisation. The agreement was non-binding. The representative cautioned that joining the collective arrangement would be premature. Mexico endorsed that view and said it would be worthwhile to await the results and decisions emerging from the ongoing talks in the United Nations Working Group on the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction.

France supported Germany and the Netherlands and agreed with Cameroon that the Authority should work with organizations such as OSPAR to be able to honour its commitment to protect the marine environment. Norway added that cooperation was essential to ensure coordination rather than duplication of efforts.

### **International Maritime Organization**

The Council was similarly requested to approve a proposed agreement of cooperation between the International Maritime Organization (IMO) and the International Seabed Authority. The text is annexed to a note (document ISBA/21/C/10) to the Council by the Authority's Secretary-General.

The note recalls an exchange of letters on the ongoing discussions between the secretariats of the two organizations regarding the possibility of the establishment of the cooperation agreement. In his letter of 27 April 2015 to the IMO head, the Secretary-General highlighted that the Authority was working towards the formulation of a regulatory framework for the exploitation of seabed resources in the Area and that closer collaboration between the two organizations in fields of common interest would be valuable.

The IMO Secretary-General in a response dated 6 May 2015 said his organization was ready to assist once the formalities to establish the agreement of cooperation were completed. He confirmed that the draft agreement between the Authority and IMO would be submitted to the Council of IMO at its 114th session, to be held in London from 29 June to 4 July 2015.

The International Maritime Organization is a specialized agency of the United Nations responsible for improving the safety and security of international shipping and the prevention of pollution from ships. It is also involved in legal matters, including liability and compensation issues and the facilitation of international maritime traffic. IMO was established by the Convention on the International Maritime Organization, adopted under the auspices of the United Nations in Geneva on 6 March 1948. It currently has 171 member States and three associate members.

The Trinidad and Tobago delegation saw the agreement of cooperation between IMO and the Authority as very progressive as it consolidated future cooperation between the bodies. Cameroon called on the Council to “follow the path which the IMO has already paved for us”.

### **Pacific Community**

The Secretary-General in document ISBA/21/C/11 invited the Council to approve a proposed memorandum of understanding between the Authority and the Pacific Community to formalize their relationship. The memorandum, annexed to the document, also aimed to promote the development of regional and national regulatory frameworks that supported the interests of Pacific Island States and their efforts to regulate and manage activities undertaken under their effective control in the international seabed Area.

The Pacific Community has 26 members, 17 of which are also members of the Authority, namely: Australia, Cook Islands, Fiji, France, Kiribati, Marshall Islands, Micronesia (Federated States of), Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu,

The proposed memorandum of understanding would enter into effect upon its signature by the Director General of the Pacific Community and the Secretary-General of the Authority, or by persons duly authorized by them. It might be terminated by a written notice by either party six months prior to the proposed date of termination.

Australia, Cameroon, Federated States of Micronesia, Fiji, France, Jamaica, Marshall Islands, New Zealand, Tonga, and Trinidad & Tobago were joined by Cook Islands Observer in supporting the approval of the proposed memorandum of understanding between the Authority and the Pacific community which was granted observer status with the Authority at the beginning of this session. Pointing to the long-standing relationship between the Authority and the Pacific Community, Jamaica said the memorandum of understanding was in the interest of small island developing States. Responding to the decision, the representative of the Pacific Community thanked the Council for its approval.

The President of the Council noted that deliberation on agenda item 13 – Consideration, with a view to adoption, of draft regulations governing exploitation of seabed mineral resources in the Area - would begin at the afternoon meeting. The Council will be guided by the report of the Legal and Technical Commission on the revised draft framework highlighting the working structure for the exploitation regulations.

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