



## Assembly Council

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### Twenty-sixth session

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Agenda item 13 of the Assembly

#### Report and recommendations of the Finance Committee

Agenda item 14 of the Council

#### Report of the Finance Committee

## Report of the Finance Committee

### I. Introduction

1. In the light of the decision to continue the twenty-sixth session of the International Seabed Authority into 2021, conveyed through a letter dated 22 January 2021 from the President of the Assembly and the President of the Council, the Finance Committee decided to continue its meetings during 2021 with a view to completing consideration of all items on its agenda and presenting a supplementary report to the Council and the Assembly before the end of the twenty-sixth session. The present report should be read in conjunction with the report of the Committee issued in 2020 ([ISBA/26/A/10-ISBA/26/C/21](#)).

2. During 2021, given that the coronavirus disease (COVID-19) pandemic prevented the holding of in-person meetings, the Committee held virtual meetings on 30 and 31 March, 18 May and 30 June 2021. The Committee continued to follow the modalities described in paragraphs 2 to 5 of document [ISBA/26/A/10-ISBA/26/C/21](#).

3. The following members of the Committee participated in the meetings: Andrzej Przybycin (Chair), Kenneth Wong (Vice-Chair), Frida María Armas-Pfirtner, Kejun Fan, Abderahmane Zino Izoura, Konstantin G. Muraviov, Didier Ortolland, Fujimoto Shoko, Kerry-Ann Spaulding, Yedla Umasankar and David Wilkens. On 22 March 2021, Phillip Dixon (United Kingdom of Great Britain and Northern Ireland) resigned from the Committee. Nyan Lin Aung (Myanmar) and Duncan Muhumuza Laki (Uganda) resigned on 30 March. In accordance with the established practice of the Committee, Eleanor Petch (United Kingdom) and Medard Ainomuhisha (Uganda) participated in meetings of the Committee before their formal election by the Assembly, which was held under silence procedure further to a decision confirmed in a letter dated 29 April from the President of the Assembly. On 4 May, the Secretary-General informed the Committee of the passing of Reinaldo Storani (Brazil), and the members of the Committee expressed their condolences and observed a moment of silence in his memory.

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\* New dates of the in-person meetings originally scheduled for July 2020 and then July 2021.



4. At its meeting on 30 March 2021, the Committee took note of the adoption by the Assembly on 31 December 2020 of decision [ISBA/26/A/19](#) relating to the budget of the Authority for the financial period 2021–2022. The Committee adopted a revised agenda ([ISBA/26/FC/1/Rev.1](#)) to incorporate the additional matters requiring its consideration in 2021, namely, implementation of the budget for the financial period 2019–2020, audit reports for 2019–2020, report on costs associated with the use of the Jamaica Conference Centre, report on the costs of participation by the Authority in the United Nations common system of organizations and appointment of an auditor.

## **II. Implementation of the budget for the financial period 2019–2020**

5. On 18 May, the Committee took note of a report on the implementation of the budget for the financial period from 1 January 2019 to 31 December 2020. The report showed total expenditure of \$18,032,051 against an approved budget provision of \$18,235,850. The secretariat presented information on budget lines with significant variation between planned and actual expenditure. The Committee requested and received clarifications on various matters, such as common staff costs and costs associated with the additional meetings of the Legal and Technical Commission and the open-ended working group of the Council in respect of the development and negotiation of the financial terms of a contract under article 13, paragraph 1, of annex III to the United Nations Convention on the Law of the Sea and section 8 of the annex to the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, as well as increases in rental and support equipment costs.

## **III. Audit report for 2019 and 2020**

6. The Committee considered the audit report for 2020 prepared by the auditor Ernst and Young. It noted with satisfaction that the Authority had received an unqualified audit report. The secretariat informed the Committee that, following the audit observations made in 2019, an independent actuary had provided an International Public Sector Accounting Standards 39-compliant valuation of post-employment benefit obligations, which had been accepted by the auditor.<sup>1</sup>

## **IV. Rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area pursuant to section 9, paragraph 7 (f), of the annex to the 1994 Agreement**

7. The Committee continued its discussion on the development of rules, regulations, and procedures on equitable sharing of financial and other economic benefits derived from activities in the Area. It recalled that, in 2019 and 2020, it had requested and been presented by the secretariat with reports that evaluated three alternative formulae for the fair and equitable allocation of any given sum of royalties available for distribution. The Committee had also requested, and been provided with,

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<sup>1</sup> Accounting for employee benefits resulted in a net defined benefit liability of \$2.203 million as at 31 December 2020, \$2.140 million as at 31 December 2019 and \$1.910 million as at 31 December 2018.

a web-based model to enable it to visualize and compare the impact of each formula on payments to members of the Authority under different scenarios.

8. The Committee considered whether an alternative or supplemental approach might be to establish a global fund to support global public goods, investment in human and physical capital or deep-sea research, and conservation. Consequently, it requested the secretariat to prepare a report further developing the concept of a global fund. In response, the secretariat, with the assistance of consultancy firm SDP Consult, prepared a report in 2021 on the structure and purpose of a “seabed sustainability fund”, which was considered by the Committee on 30 and 31 March.

9. The Committee also took note of a report of the Secretary-General ([ISBA/26/FC/8](#)) in which he had identified the proposed scope, purpose and structure of the seabed sustainability fund. It discussed the types of activities that could be potentially financed by the fund, such as: (a) projects to support specific actions identified by the members of the Authority through its strategic plan and high-level action plan; (b) projects proposed by members of the Authority and third parties through co-financing; and (c) the co-financing of the Enterprise through investments or loans. Having considered the various reports prepared for its consideration, the Committee reached the conclusion that it was timely to report its findings and considerations to the Council and the Assembly, with a view to seeking guidance on how to proceed. The report of the Committee to the Council and the Assembly on the issue of the equitable sharing of benefits, which summarizes all work done by the Committee on that issue between 2019 and 2021, was submitted as document [ISBA/26/A/24-ISBA/26/C/39](#).

## **V. Status of contributions and related matters, including indicative scale of assessed contributions of members of the Authority to the administrative budget for the financial period 2021–2022**

10. On 30 June 2021, the Committee was provided with an updated report on the status of contributions to the budget of the Authority. The Committee noted that, as at 10 June 2021, 74.7 per cent (\$5,557,815) of contributions to the 2021 budget had been received. It was also noted that 58.8 per cent of the members of the Authority had paid in full and that 15.9 per cent had partially paid their assessed contributions for 2021, leaving an outstanding balance of \$1,879,828.

11. The Committee expressed its concern over the amount of arrears and the large number of members in arrears for more than two years, amounting to a total of \$992,251, or 10.79 per cent of the budget. The Committee therefore urged the Secretary-General to continue his efforts to collect outstanding contributions from members of the Authority, including by facilitating discussions with the members concerned to address and resolve the issue of outstanding arrears.

12. The Committee was also provided with an updated report on the status of the Working Capital Fund. As at 30 May 2021, the balance of the Fund was \$670,805, with outstanding contributions of \$5,385 for 2021 and a further \$73,810 to be collected in the financial period 2023–2024.

## **VI. Status of the trust funds of the Authority and related matters**

13. The Committee took note of an updated report on the status of the trust funds of the Authority.

### **A. Endowment Fund for Marine Scientific Research in the Area**

14. As at 30 May 2021, the Endowment Fund for Marine Scientific Research in the Area had a total capital (including accumulated interest) of \$4,516,733, while available funds (i.e. interest less expenditure) stood at \$362,957. The balance will be available for use upon completion of the review of the terms of reference of the Fund, in accordance with the decision of the Assembly of December 2020 ([ISBA/26/A/18](#)).

### **B. Voluntary trust fund for the purpose of defraying the cost of participation of members of the Legal and Technical Commission from developing countries and members of the Finance Committee from developing countries in the meetings of the Commission and of the Committee**

15. As at 30 May 2021, the voluntary trust fund for the purpose of defraying the cost of participation of members of the Legal and Technical Commission from developing countries and members of the Finance Committee from developing countries had a balance of \$92,504. During 2021, contributions were received from France (\$20,000), the Philippines (\$7,500), DeepGreen Metals Inc. (\$15,000) and four contractors that made optional voluntary contributions of \$6,000 each.

### **C. Voluntary trust fund to support the participation of members of the Council of the International Seabed Authority from developing States in the meetings of the Council**

16. As at 30 May 2021, the balance of the voluntary trust fund to support the participation of members of the Council of the International Seabed Authority from developing States in the meetings of the Council stood at \$20,579.

### **D. Trust fund for extrabudgetary support for the International Seabed Authority**

17. As at 30 May 2021, the trust fund for extrabudgetary support for the International Seabed Authority had a balance of \$1,112,475.

### **E. Voluntary trust fund for the purpose of providing the requisite funds related to the work of the Special Representative of the Secretary-General of the International Seabed Authority for the Enterprise**

18. As at 30 May 2021, the voluntary trust fund for the purpose of providing the requisite funds related to the work of the Special Representative of the Secretary-General of the International Seabed Authority for the Enterprise had a balance of \$11,068. It is worth noting that the original budget proposal prepared by the

Secretary-General for the financial period 2021–2022 included a supplementary budget provision for the Enterprise (ISBA/26/A/5-ISBA/26/C/18, chap. IV). The Committee decided to reconsider the matter at its meetings in 2021, taking account of any recommendation by the Council. The secretariat clarified that the financial provision for the Enterprise had not been included in the budget proposal for the financial period 2021–2022 as finally submitted to the Council and Assembly and subsequently adopted (ISBA/26/A/5/Add.1/Rev.2-ISBA/26/C/18/Add.1/Rev.2).

## **VII. Report on costs associated with the use of the Jamaica Conference Centre**

19. The Committee was provided with a report on the costs associated with the use of the Jamaica Conference Centre, in compliance with its request made in 2020. The Committee noted that the Centre had no published rates for cost, which made it difficult to establish whether the Authority was being provided with the most favourable rates, bearing in mind that, under the Supplementary Agreement between the International Seabed Authority and the Government of Jamaica regarding the Headquarters of the International Seabed Authority and the Use of the Jamaica Conference Centre Complex, rates applied to the Authority for its use of the Centre must not be less favourable than those applicable to the Government, its agencies or any other local organizations or bodies (art. 9 (2)). The report also highlighted that the highest costs borne by the Authority stemmed from the maintenance of the audio system for the rooms provided by the Conference Centre, which were borne in addition to the payment by the Authority of rental for the rooms.

20. The Committee expressed concerns over the very high costs associated with the use of the Conference Centre and requested the secretariat to continue to liaise with the Government of Jamaica over the increases in costs and to report on the progress achieved at its following meeting.

## **VIII. Report on the costs of participation by the Authority in the United Nations common system of organizations**

21. The Committee took note of a report on the increases in the costs associated with the participation of the Authority in the United Nations common system. It was noted that some of the costs charged by the United Nations common system were constantly increasing and that the secretariat had no control over such costs. In particular, the cost of participation in the United Nations Appeals Tribunal would increase from \$9,600 per case to \$16,778 per case in 2021. The Secretary-General also highlighted underlying legal issues relating to the Authority's participation in the United Nations system of administration of justice, which might have future financial and budgetary implications. He informed the Committee that the Office of Legal Affairs was addressing the issue and that the Committee might need to revisit the matter in future.

## **IX. Appointment of an auditor**

22. The Committee was invited to select an independent auditor for the period 2021–2022, pursuant to regulation 12 of the Financial Regulations of the Authority. The Committee was informed that bids had been solicited from the three

internationally recognized independent auditing firms based in Jamaica<sup>2</sup> in December 2020. However, only the current auditor, Ernst and Young, had submitted a proposal.

23. The Committee suggested that, considering the limited number of international auditing firms in Jamaica, the Assembly may in future wish to consider the possibility to engage the Board of Auditors of the United Nations, possibly every 5 to 10 years. It was noted, however, that this would have significant financial and budgetary implications. The secretariat was requested to provide a cost comparison between the United Nations and private auditing for consideration by the Committee in 2022.

24. For the period 2021–2022, the Committee recommends the appointment of Ernst and Young as the independent auditor.

## **X. Other matters**

### **Report on future financing of the International Seabed Authority**

25. The Committee was presented with a report of the Secretary-General (ISBA/26/FC/7) in which he highlighted the historical progression of the budget of the Authority and projections based on the evolution of the responsibilities of the Authority anticipated over the next 10 years, as activities in the Area transitioned from exploration to exploitation, and in compliance with the “evolutionary approach” prescribed by the Convention.

26. The Committee took note of the steps taken by the Secretary-General to increase the capacity of the secretariat to perform the regulatory functions expected and required of the Authority in order to be adequately prepared for the exploitation phase. The Committee was informed of the establishment of the Compliance Assurance and Regulatory Management Unit, the funding of which would involve upfront costs, such as for processing applications for plans of work for exploration and exploitation, overseeing the activities of contractors, processing the reports, data and information submitted by contractors, and supporting the systematic publication and ongoing review of standards and guidelines. The receipt of an application for a plan of work would equally entail additional upfront costs, as there would be a need to organize extra meetings of the Legal and Technical Commission.

27. In his report, the Secretary-General noted that, in order to ensure the adoption of a robust and holistic regulatory framework for exploitation by the Council, more financial resources were required to accelerate work on the draft regulations. Consequently, there would be a need to increase the number of in-person meetings of the Council in 2022 by splitting its session into 2 three-week-long parts. In the event that savings could be realized from the overall conference services budget for the financial period 2021–2022, a third set of meetings of the Council in 2022 could also be considered.

28. The budget of the Authority for the financial period 2021–2022 is based on a scenario of eight weeks (42 days) of meetings with full services, as follows: Assembly (5 days), Council (12 days), Legal and Technical Commission (20 days) and Finance Committee (5 days). Within that overall cap, meeting days may be reassigned among organs with no financial impact.

29. It is likely that additional resources will also be needed for the voluntary trust fund to support the participation of members of the Council from developing States in additional meetings of the Council. On the assumption that three sets of meetings

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<sup>2</sup> Ernst and Young, KPMG and PwC.

of the Council would take place in 2022, the Secretary-General estimated that the additional requirement for the fund would be about \$130,000.

30. The Committee discussed the report thoroughly and considered its significant implications for future budget negotiations, including cross references to its work on the issue of equitable sharing of benefits. The Committee will continue to remain seized of the matter.

## **XI. Recommendations of the Finance Committee**

31. In view of the foregoing, the Committee recommends that the Council and the Assembly of the Authority:

(a) Urge the members of the Authority to pay as soon as possible their assessed contributions to the budget, on time and in full;

(b) Appeal to members of the Authority with outstanding contributions, including from previous years, to pay them as soon as possible;

(c) Take note of the estimated financial and budgetary implications associated with the expected evolution of the Authority in the next 5 to 10 years and the need to ensure that it is equipped with the capacity and resources necessary to fulfil its obligations under the Convention and the 1994 Agreement;

(d) Approve the appointment of Ernst and Young as auditor for the Authority for the financial period 2021–2022;

(e) Examine the report of the Committee on the issue of the equitable sharing of benefits ([ISBA/26/A/24-ISBA/26/C/39](#)) and give guidance to the Committee with regard to the questions contained in its annex II.

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