



Finance Committee

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Agenda item 5

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

Summary on options for a seabed sustainability fund

Report of the Secretary-General

1. At its meetings in 2020, the Finance Committee continued its consideration of the development of 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 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982.
2. Without prejudice to its ongoing discussions in relation to a formula for equitable distribution, the Committee also considered whether an alternative or supplemental approach might be the establishment of a global fund that could be used to support global public goods, investment in human and physical capital or deep-sea research and conservation. Such a fund could support and enhance knowledge about the deep sea, which is a global public good. Such knowledge includes, for example, scientific knowledge about the marine environment of the Area, capacity-building for the sustainable development of deep seabed mining (such as enlarging the number of nationals with seabed technical competence), and research and development of new technology that minimizes the environmental impact of deep seabed mining. A suggestion was also made that the fund could also support the establishment of regional marine science and technology centres.
3. Without reaching any decision, and without prejudice to its overall discussion on the issue of equitable sharing, the Committee requested the secretariat to provide it with a report further developing the concept of a global fund, which should include, inter alia, the following elements: (a) how such a fund could be administered and what options there may be for access, monitoring and evaluation of outcomes; and (b) an overview of how other neutrally sourced funds are administered by international bodies in order to learn about the strengths and weaknesses of current or past attempts.

* Reissued for technical reasons on 21 April 2021.

** New dates of the in-person meetings originally scheduled for July 2020.



4. The Committee emphasized the importance of leveraging other organizations' practices, looking at both efficiency and equity, studying empirical evidence and learning from their experience. The Committee also emphasized the need to base its considerations on the objectives of the United Nations Convention on the Law of the Sea and to take into consideration the strategic plan of the International Seabed Authority, specifically the aspects of development assistance, promoting autonomy and regional distribution among appropriate stakeholders.

5. In accordance with the Committee's request, the secretariat issued a call for proposals for a consultant to prepare a report on the options for a seabed sustainability fund. The consulting firm SDP-Consult (De Pinte, Belgium) was appointed and submitted a final report on 8 March 2021. The report will be presented to the Committee at a webinar on 30 March 2021. The purpose of the present report is to summarize the main findings and recommendations in the SDP-Consult report and to suggest some guiding questions for further discussion by the Committee.

6. The SDP-Consult report comprises three parts. Some theoretical considerations are outlined in the first part. Institutional regulations and other considerations are discussed in the second part. In line with the Committee's request, the way existing comparable institutions have handled relevant issues and lessons learned are examined in the third part.

Theoretical considerations

7. SDP-Consult states in its report that a qualitative distribution of net financial benefits from deep-sea mining could be a credible adjunct or alternative to simple financial distribution and arguably would be more in line with a precautionary approach. The resulting financial benefits would be invested in people and in preserving and developing the Area sustainably, so that its value is maintained for future generations. Evidence shows how difficult it is for multilateral institutions to mobilize financial resources for common purposes and the Authority is no exception. A better understanding and knowledge of the deep sea and its ecosystems will not only ensure rigorous management of the Area but also benefit all countries, since all depend on the ocean for essential ecosystem services.

Scope and purpose of a seabed sustainability fund

8. The proposed objective of a seabed sustainability fund would be to invest in knowledge and competence related to the Area, including in basic and applied research, capacity-building and other public goods related to the seabed. SDP-Consult notes in its report that the purposes identified in the draft regulations on exploitation of mineral resources in the Area ([ISBA/25/C/WP.1](#), regulation 55) appear to be a good basis for discussion (see annex).

9. In its report, SDP-Consult notes that many of the activities described as being within the scope of a seabed sustainability fund should ideally be carried out before deep-sea mining starts. Consideration may therefore need to be given to front-loading the fund by co-financing or borrowing against future revenue. However, it may take several years to build up sufficient revenue before significant investments can be made. A liquidity simulation is provided in the report for illustrative purposes. These issues would need to be addressed by the governance mechanism for the fund.

Governance

10. In its report, SDP-Consult reviews various options for the governance of a seabed sustainability fund and identifies the need for four basic components: (a) a management body; (b) a scientific guidance board; (c) a performance audit mechanism; and (d) an executive office or secretariat. After reviewing the need for

these components, SDP-Consult suggests that, in line with the evolutionary approach identified in the Agreement, the need to create new institutions could be avoided in the early stages of operation of the fund, by using the existing institutional mechanisms of the Authority. In this scenario, the Finance Committee would act as the management body, the Legal and Technical Commission would provide scientific guidance (possibly with additional external expert input) and the secretariat would act as the secretariat of the fund. Conducting a performance audit could be outsourced to existing institutions, for example, the Board of Auditors. This approach would also be cost-effective during the early years of the fund.

Activities to be financed by the seabed sustainability fund

11. It is suggested that the seabed sustainability fund could support three types of projects:

(a) Projects to support specific actions identified by the members of the Authority, for instance through the Authority's strategic plan and high-level action plan, as well as any other strategic frameworks endorsed by the Authority's Assembly;

(b) Projects proposed by members of the Authority and third parties through co-financing;

(c) Co-financing the Enterprise, for example through investment or loans to the Enterprise.

12. These options are not mutually exclusive and could be enriched with other ideas from a scientific guidance body or a demand analysis (like the capacity-building needs analysis carried out in 2020). Some examples of cooperative action are provided, such as JPI Oceans. SDP-Consult also identifies inclusivity as an important objective and suggests that consideration be given to regional offices hosted by regional institutions, with the Authority playing the role of a global network coordinator and facilitator. An analysis of the benefits and risks of such an approach is provided in the report.

Lessons learned from other funds, organizations and bodies

13. In its report, SDP-Consult finds that no other existing institution is providing the services that could be provided by a seabed sustainability fund. Many institutions with much larger budgets than the Authority exist, but almost no funding is allocated to the Area. Areas beyond national jurisdiction and the Area in particular are orphan domains and for that reason the fund would be the only practical option for directing significant financial and intellectual efforts towards the Area.

14. Some useful lessons can be learned from the way in which other funds, organizations and agencies operate, including with regard to the importance of a mechanism for performance evaluation, transparency in decision-making, capacity-building and the use of blended finance involving the private sector.

Recommendations

15. The Committee is invited to review the report of SDP-Consult on options for a seabed sustainability fund and to provide feedback as appropriate. The Committee may wish to address the following specific questions, which are proposed as a starting point for its discussions:

(a) Does the Committee consider the concept of a seabed sustainability fund worth exploring further as an alternative model for equitable sharing?

(b) Does the Committee consider that the objects and purposes of the fund, as outlined in the report of SDP-Consult (and replicated in the annex to the present document), are appropriate as a starting point for further consideration?

(c) In terms of institutional governance, does the Committee agree with the evolutionary approach outlined in the report, whereby the initial management body would be the Finance Committee, supported by the Legal and Technical Commission acting as the scientific guidance body?

(d) What is the view of the Committee regarding the proposed nature of the activities to be financed by the fund?

(e) Does the Committee agree that a regional approach is desirable?

(f) How does the Committee wish to report to the Council and the Assembly?

Annex**Purposes of the seabed sustainability fund**

The main purposes of the seabed sustainability fund include:

- (a) The promotion of research into marine mining engineering methods and practices that may reduce environmental damage or impairment resulting from exploitation activities in the Area;
 - (b) The funding of education and training programmes on the protection of the marine environment, with particular regard to vulnerable communities and relevant stakeholders;
 - (c) The funding of research into best available techniques and best environmental practices for the restoration and rehabilitation of the Area;
 - (d) The restoration and rehabilitation of the Area and of the maritime zones of coastal States, when technically and economically feasible and supported by best available scientific evidence; and
 - (e) The funding of research into the environmental value of the Area, in particular research that includes a special focus on deep-sea benthic habitats and migratory species present in the Area, that would provide good quality information for the review of regional environmental management plans and for environmental impact assessments, which should be based on the best available knowledge.
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