



## Council

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**Twenty-third session**  
Kingston, 7-18 August 2017

### **Summary report of the President of the Council of the International Seabed Authority on the work of the Council during its twenty-third session**

1. The twenty-third session of the Council of the International Seabed Authority was held in Kingston from 8 to 14 August 2017.

#### **I. Adoption of the agenda**

2. At its 223rd meeting, on 8 August 2017, the Council adopted the agenda for the present session ([ISBA/23/C/1](#)).

#### **II. Election of the President and Vice-Presidents of the Council**

3. At the same meeting, the Council elected Ariel Fernández (Argentina) as President of the Council for the twenty-third session. Subsequently, following consultations of the regional groups, the Council elected the representatives of Algeria (African States Group), Singapore (Asia-Pacific States Group), Poland (Eastern European States Group) and Canada (Western European and other States Group) as Vice-Presidents.

#### **III. Report of the Secretary-General on the credentials of members of the Council**

4. At the 228th meeting, on 11 August, the Secretary-General of the Authority informed the Council that formal credentials issued by the Heads of State or Government, Ministries for Foreign Affairs or by persons authorized by the Ministers had been received from the following 28 members of the Council: Algeria, Argentina, Australia, Bangladesh, Brazil, Cameroon, Canada, Chile, China, Côte d'Ivoire, Czechia, France, Ghana, India, Jamaica, Japan, Mexico, Netherlands, Panama, Poland, Republic of Korea, Russian Federation, Singapore, South Africa, Spain, Tonga, Trinidad and Tobago and United Kingdom of Great Britain and Northern Ireland. Five letters of credentials had also been submitted by facsimile or in the form of initialled notes verbales from ministries, embassies, permanent missions to the United Nations, permanent missions to the International Seabed



Authority and other government offices or authorities from Fiji, Germany, Indonesia, Nigeria and Uganda.

5. In accordance with rule 18 of the Rules of Procedures of the Council, credentials had been submitted by the European Union and the following 25 members of the Assembly who were not members of the Council but entitled to participate in its meetings, pursuant to rule 74 of its Rules of Procedure, namely, Antigua and Barbuda, Belgium, the Cook Islands, Cuba, Ecuador, Egypt, Guyana, Kenya, Kuwait, Lebanon, Morocco, Mozambique, Myanmar, Nauru, New Zealand, Norway, Oman, Pakistan, the Philippines, Portugal, Saudi Arabia, Senegal, Thailand, Togo and Tuvalu.

#### **IV. Election to fill vacancies on the Legal and Technical Commission**

6. At its 223rd meeting, the Council elected Gastón Fernández Montero (Chile), Alonso Martínez Ruiz (Mexico) and Piotr Nowak (Poland) to fill the vacancies on the Legal and Technical Commission left by the resignation of Montserrat González Carrillo (Chile), Alfonso Ascencio-Herrera (Mexico) and Ryszard Andrzej Kotliński (Poland), respectively, for the remainder of their terms (see [ISBA/23/C/3](#)).

#### **V. Report of the Secretary-General on the status of contracts for exploration and related matters**

7. At its 224th meeting, on 9 August, the Council took note of the report of the Secretary-General on the status of contracts for exploration and related matters ([ISBA/23/C/7](#)).

#### **VI. Report of the Secretary-General on the status of national legislation relating to deep seabed mining and related matters**

8. Also at its 224th meeting, the Council considered the report of the Secretary-General on the status of national legislation relating to deep seabed mining and related matters ([ISBA/23/C/6](#)). The Council noted that, since the twenty-second session, France, Georgia, Kiribati, Nauru and the Netherlands had submitted information on their national legislation related to deep seabed mining. The delegations of China, Indonesia and the Republic of Korea referred to legislative processes and administrative developments on which they would report in due course, while the delegation of Fiji provided an update on its 2013 legislation. Reference was made to existing sources of model legislation and to the fact that the adoption of legislation, regulations and administrative measures was a due diligence obligation for States to discharge in accordance with their own legal systems. The Council requested the Secretary-General to provide a report on the status of national legislation relating to deep seabed mining and related matters at its twenty-fourth session.

## **VII. Report of the Secretary-General on the implementation of the decision of the Council in 2016 relating to the summary report of the Chair of the Legal and Technical Commission**

9. The Council took note of the report of the Secretary-General on the implementation of the decision of the Council in 2016 relating to the summary report of the Chair of the Legal and Technical Commission ([ISBA/23/C/8](#)). The Council expressed its satisfaction with the content and structure of the report and welcomed it as a means of increasing the transparency of the work of the Secretariat, assessing the implementation of decisions and building institutional memory. The Council requested the submission of a similar report at its twenty-fourth session and the addition of the matter as a standing item to its agenda.

## **VIII. Consideration, with a view to approval, of an application for approval of a plan of work for exploration for polymetallic sulphides in the Area by the Government of Poland**

10. At its 225th meeting, on 10 August, the Council considered the report and recommendations of the Legal and Technical Commission relating to an application for approval of a plan of work for exploration for polymetallic sulphides by the Government of Poland ([ISBA/23/C/11](#)).

11. Acting on the recommendation of the Commission, the Council approved the application and requested the Secretary-General to issue the plan of work in the form of a contract between the Authority and the Government of Poland (see [ISBA/23/C/14](#)). The delegation of Poland expressed its appreciation for the efficient process that had led to the approval of its application.

## **IX. Consideration, with a view to approval, of the application for a five-year extension of the contract for exploration for polymetallic nodules between the Government of India and the Authority**

12. Also at its 225th meeting, the Council considered the report and recommendation of the Legal and Technical Commission relating to an application for a five-year extension of the contract for exploration for polymetallic nodules between the Government of India and the Authority ([ISBA/23/C/9](#)).

13. Acting on the recommendations of the Commission, the Council approved the application for a five-year extension of the contract for exploration for polymetallic nodules between the Government of India and the Authority and requested the Secretary-General to execute the extension with effect from 25 March 2017 (see [ISBA/23/C/15](#)). The delegation of India expressed its satisfaction with the effectiveness of the procedure for considering its application and recalled its long-term involvement in exploration for polymetallic nodules in the Indian Ocean.

## **X. Report of the Chair of the Legal and Technical Commission on the work of the Commission**

14. On 11 August, the Chair of the Legal and Technical Commission introduced his report on the work of the Commission ([ISBA/23/C/13](#)). The Council expressed

its appreciation for the hard work of the Commission and commented mostly on the activities of contractors, the development, as a priority, of environmental management plans and the review of the environmental management plan for the Clarion-Clipperton Fracture Zone. The Council also commended the Commission on the significant progress made with regard to the draft regulations on the exploitation of mineral resources in the Area. In particular, the Council welcomed the transparency and the continued involvement of stakeholders in the development of the draft regulations (see section XIII below). The Council also echoed the satisfaction of the Commission with the progress made towards the implementation of the data management strategy of the Authority.

15. The deliberations of the Council on the report of the Chair of the Commission are reflected in decision [ISBA/23/C/18](#) of the Council.

## **XI. Report and recommendations of the Finance Committee**

16. On 10 August, the Chair of the Finance Committee presented the report of the Committee ([ISBA/23/A/8-ISBA/23/C/10](#)). The Council expressed its satisfaction with the quality of the report. The Council shared the Committee's concerns regarding the unsustainable level of the voluntary trust fund, which would compromise the operation of the fund beyond 2018. In that respect, the Council further amended the Committee's proposed revision to the criteria for the management and use of the fund. The Council welcomed the cost-saving measures but stressed the need to maintain the quality of interpretation services. The Council also noted that consultations would take place to discuss the overhead charges paid by contractors.

17. At its 228th meeting, the Council, acting on the recommendation of the Finance Committee, adopted a decision relating to financial and budgetary matters ([ISBA/23/C/17](#)).

## **XII. Revisions to the staff regulations of the Authority**

18. At its 225th meeting, on 10 August, the Council considered proposed amendments to the staff regulations of the Authority as a consequence of the revisions to the Staff Regulations of the United Nations, on which the former are based (see [ISBA/23/C/4](#)).

19. In the light of the above, the Council decided to adopt and apply provisionally, pending approval by the Assembly, the revisions to the staff regulations of the Authority, as set out in the annex to decision [ISBA/23/C/16](#) of the Council.

## **XIII. Draft regulations for exploitation of mineral resources in the Area**

20. The Council was informed that the consolidated draft regulations on the exploitation of mineral resources in the Area, which had been prepared by the Secretariat, a note on the process undertaken ([ISBA/23/C/12](#)) and a proposal by the delegation of the Netherlands ([ISBA/23/C/5](#)) were available on the website of the Authority. Reference was also made to a list of questions that stakeholders could consider in the preparation of their submissions (see [ISBA/23/C/12](#), annex).

21. Further to the general comments on the draft regulations for the exploitation of mineral resources in the Area made in the context of the report of the Chair of the

Legal and Technical Commission, the Council commended the Commission for its work on the draft regulations and on the road map towards their adoption (see [ISBA/23/C/13](#), annex). The Council also welcomed the circulation of the draft regulations to stakeholders and encouraged them to make submissions by 17 November 2017, and no later than 31 December 2017. The Council also thanked the Commission for its dedicated work to make progress in the development of the draft regulations, from the initial skeletal framework in 2015 to the current 107-page document.

22. A large number of delegations made preliminary comments on the process, structure and content of the draft regulations and the road map, acknowledging that they were a work in progress. It was underlined that adequate time and resources would be needed for the realization of each step that had been described in the road map. Regarding the process, all delegations underlined that transparency and continuous engagement with a wide array of stakeholders were key elements for the development of the regulations as a priority in the work of the Authority. A suggestion was also made to hold the twenty-fourth of the Council prior to that of the Legal and Technical Commission in order for the Council to be able to provide the Commission with additional comments. In that regard, it was further noted that the deliberations of the Assembly concerning a possible revision to the schedule of meetings would have an impact on the road map and cost-effectiveness of the process towards the adoption of the regulations.

23. With respect to the structure of the draft regulations, it was noted with satisfaction that the regulations had been consolidated into a single set, to which further improvements could be made to provide a more logical flow. It was pointed out that it remained important to determine how the environmental and directorate regulations and the financial mechanism would be integrated into the overall framework of the draft regulations. It was also noted that further work would be required to develop financial mechanisms.

24. Several views were expressed relating to the need to incorporate appropriate mechanisms for taking action to protect the marine environment as well as environmental and technological best practices. It was also mentioned that the provisions on dispute settlement in the draft regulations must conform with the dispute settlement provisions of the United Nations Convention on the Law of the Sea. Several delegations were of the view that further work would be needed to ensure a balance between rights and obligations and between economic development and environmental protection, and to provide regulatory certainty regarding, for example, the date of commercial production. References were also made to the use of existing land-based mining and oil regimes to further the development of the regulations.

#### **XIV. Report of the Secretary-General on the election of members of the Legal and Technical Commission**

25. The Council discussed on the report of the Secretary-General on the election of members of the Legal and Technical Commission ([ISBA/23/C/2](#)).

26. Several views were expressed, mostly with respect to the size of the Commission, the geographical distribution of membership and the range of expertise for the cost-effective exercise of functions and the representation of special interests. It was stated that there was a need for predictability in the composition of the Commission, a cap on its size and a range of expertise relevant to the plan of work of the next Commission. It was recalled that, in 2016, the Council had decided that, by no later than the twenty-fifth session of the Authority,

the Council would reach a clear and binding decision on a process to govern subsequent elections of members to the Commission. It was also noted that, given the time of its writing, the report of the Secretary-General could not include a consideration of the functioning of the Commission with its current membership of 30. It was also reiterated that the procedures for election, as set out in the decision of the Council on the future size and composition of the Commission and the process for future elections (see [ISBA/13/C/6](#)), should be strictly observed and no late candidacies would be accepted.

27. A joint proposal by the African Group and the Latin American and Caribbean Group was considered but no consensus was reached. It was thought to be premature to come to a decision at the present session of the Authority. The joint proposal would be further considered prior to the next election of the Commission. The Council also requested the Secretary-General to prepare an updated report on the cost-effectiveness of its current membership and a comparison between the 30-member Commission and the memberships of the Commission after the previous three elections.

## **XV. Dates of the next session of the Council**

28. The Secretariat stated that the dates for the twenty-fourth session of the Council would be announced in due time. It would be the turn of the Western European and other States Group to nominate a candidate for the presidency of the Council in 2018.

## **XVI. Other matters**

29. The President of the Council closed the session on 14 August.

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