

Council

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Resumed third session

Kingston, Jamaica

18-29 August 1997

STATEMENT OF THE PRESIDENT ON THE WORK OF THE COUNCIL
DURING THE RESUMED THIRD SESSION

1. The second part of the third session of the Assembly of the International Seabed Authority was held at Kingston, Jamaica from 18-29 August 1997. Among the matters considered by the Council during this part of the session were the budget for 1998, assessment of contributions of members of the Authority, the rules, regulations and procedures necessary for conduct of activities in the Area as they progress with a view to the adoption of these rules (otherwise known as the draft Mining Code), and requests for approval of plans of work for exploration submitted by seven registered pioneer investors. According to the agenda adopted during the first part of the present session (ISBA/3/C/2), the Council was also to consider the Staff Regulations and Financial Regulations of the Authority. As work on these matters was not complete, the Council was unable to take up these items during the present session.

2. In accordance with the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 ("the Agreement"), the decision of the Council on the proposed budget for 1998 and the scale of assessed contributions took into account the recommendations of the Finance Committee. With respect to the draft Mining Code, pursuant to article 162, paragraph 2 (o) of the Convention, the Council shall adopt and apply provisionally, pending approval by the Assembly, the rules, regulations and procedures for prospecting, exploration and exploitation in the Area. The rules, regulations and procedures are to be formulated and submitted to the Council by the Legal and Technical Commission.

Report of the Legal and Technical Commission

3. The Legal and Technical Commission met during the first week of the session and continued work on the provisional text of the draft Mining Code prepared by the Commission

during the first part of this session. At the 16th meeting of the Council, on 18 August 1997, the representative of Brazil, on behalf of the Group of 77, reminded the Council of the request made by him to the Council at the end of the first part of the third session to open the meetings of the Commission to participation by observers. This request was supported by several other delegations, who noted the need for transparency in the discussions relating to the draft Mining Code. A number of delegations noted that the Commission was an expert body and reminded the Council that, in their discussions on the matter during the first part of this session, the members of the Commission had unanimously agreed that observers should not be permitted to attend their meetings.

4. Following informal consultations between interested delegations and the Chairman of the Legal and Technical Commission an understanding was reached whereby the Commission saw the possibility for the presence of a limited number of observers at its meetings relating to discussions on the draft Mining Code. It was agreed that the presence of observers would be on a first come, first served basis and normally should not exceed 15. Seats for observers would be clearly defined and observers would not participate in the discussions.

5. At the 20th meeting of the Council, on 26 August 1997, the Chairman of the Legal and Technical Commission, Mr. Jean-Pierre Lenoble (France) reported to the Council on the work done by the Commission in relation to the draft Mining Code during its meetings and an informal draft of a provisional text of the Code was circulated to all members of the Council. The Commission reported that it was not yet in a position to submit this text for the formal consideration of the Council, but that it intended to complete its work on the text at an early stage in its next meeting. The Council was informed that the Commission welcomed comments on the draft text and agreed that such comments should be provided, at the latest, by 31 December 1997, in order to enable the Commission to take the comments into account in preparing the final text of the Code.

Requests for approval of plans of work for exploration submitted by the registered pioneer investors

6. At its 18th meeting, on 20 August 1997, the Council was informed by the Secretary-General that, in accordance with paragraph 6(a) (ii) of section 1 of the annex to the Agreement, the following registered pioneer investors had submitted requests for approval of plans of work for exploration: the Government of India, the Institut francais de recherche pour l'exploitation de la mer (IFREMER) / Association francaise pour l'etude et la recherche des nodules (AFERNOD) (France), Deep Ocean Resources Development Co. Ltd. (DORD) (Japan), Yuzhmoregeologiya (Russian Federation), China Ocean Minerals Research and Development Association (COMRA) (China), Interoceanmetal Joint Organization (IOM) (Bulgaria, Cuba, Czech Republic, Poland, Russian Federation and Slovakia) and the Government of the Republic of Korea.

7. In accordance with paragraph 6(a)(ii) of section 1 of the annex to the Agreement, in the case of a registered pioneer investor, the plan of work for exploration shall consist of documents, reports and other data submitted to the Preparatory Commission both before and after registration and shall be accompanied by a certificate of compliance, consisting of a factual

report describing the status of fulfillment of obligations under the pioneer investor regime, issued by the Preparatory Commission in accordance with resolution II paragraph 11 (a). Such a plan of work shall be considered approved.

8. The Council noted the report and recommendation of the Legal and Technical Commission on the requests for approval of plans of work submitted by the registered pioneer investors referred to in paragraph 6, and further noted that, in accordance with paragraph 6 (a) (ii) of section 1 of the annex to the Agreement, the plans of work are considered to be approved. The Council requested the Secretary-General of the Authority to take the necessary steps to issue the plans of work in the form of contracts incorporating the applicable obligations under the provisions of the Convention, the Agreement and resolution II and in accordance with the regulations on prospecting and exploration for polymetallic nodules in the Area and a standard form of contract to be approved by the Council. The decision of the Council on this matter is contained in ISBA/3/C/9.

Budget of the Authority for 1998

9. The Council considered the proposed budget for the Authority for 1998 as contained in the report of the Secretary-General (ISBA/3/C/5 and ISBA/3/C/5/Add.1). In reviewing the proposed budget, the Council took into account the recommendations of the Finance Committeeman contained in its report of 22 August 1997 (ISBA/3/C/8). The Council decided to recommend to the Assembly that it adopt the budget of the Authority in the sum of US\$4,703,900 (ISBA/3/C/5/Add.1, subject to the adjustments recommended by the Finance Committee in paragraphs 4 and 5 of its report). In accordance with the recommendation of the Finance Committee, the Council also decided to recommend to the Assembly the establishment of a Working Capital Fund of US\$392,000, with US\$196,000 to be paid in 1998 and US\$196,000 to be paid in 1999, with the proviso that an enabling Assembly resolution will authorize the Secretary-General to utilize all available funds at his disposal in case of shortfalls in the Authority's cash flow. The decision and recommendation of the Council relating to the budget of the Authority for 1998 is contained in ISBA/3/C/10.

10. The Council also considered the proposed scales of assessment for the contributions of members to the administrative budget of the Authority and the Working Capital Fund and decided to recommend to the Assembly the adoption of a scale of assessments based on the scale used for the regular budget of the United Nations.

Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the International Seabed Authority

11. During the first part of the session, the Council began consideration of the Agreement between the International Seabed Authority and the Government of Jamaica regarding the headquarters of the Authority (ISBA/3/C/L.3). As a result of concerns expressed by some members of the Council, the President of the Council held informal consultations with interested delegations in order to resolve outstanding issues. It was not, however, possible to resolve all the remaining areas of difficulty, in particular with respect to the matters contained in article 2 of the draft Agreement, and it was therefore agreed to defer further consideration of the draft

headquarters agreement to the August session. Owing to the pressure of other business, and in view of the possibility of further developments, I propose to defer this matter to be placed on the agenda for the next session of the Council.

Extension of provisional membership

12. The Council recalled that, by its decisions, ISBA/C/9 of 29 August 1996 and ISBA/3/C/3 of 20 March 1997, the membership of the Authority, on a provisional basis, of a number of States had been extended for a period of one year from 16 November 1996 on the basis of requests made by those States. In view of the fact that the next session of the Authority will be in March 1998, the Council decided that any such State which, submits a request for a further extension of membership on a provisional basis beyond 16 November 1997 prior to the next session of the Council shall be deemed to be a member of the Authority on a provisional basis until the end of the next session of the Council, at which time the Council will deliberate on the request.

Presidency of the Council

13. The Chairmen of the regional groups met and finally agreed on a nominee for the presidency of the Council in 1998 from, the Western European and Other Group. African Group support was made contingent on the firm understanding that the African Group would provide the President of the Council in 1999. The agreement of the Eastern European Group was qualified by its concern that it had not so far had an opportunity to occupy the Presidency of either the Assembly or the Council.

Next meeting of the Council

14. Subject to the decision of the Assembly on the schedule, of meetings for 1998, the next meeting of the Council will take place at Kingston from 16 to 27 March 1998.