

Selected Decisions and Documents of the Twenty-Fourth Session

5-9 March | 16-27 July 2018





SELECTED DECISIONS AND DOCUMENTS
OF THE TWENTY-FOURTH SESSION
5-9 March 2018 | 16-27 July 2018

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Report of the Secretary-General of the International Seabed Authority under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea

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I. Introduction

1. The present report is submitted to the Assembly of the Authority pursuant to article 166, paragraph 4, of the 1982 United Nations Convention on the Law of the Sea (“the Convention”). The report provides information on the work of the Authority during the period from July 2017 to May 2018.

2. The Authority is an autonomous international organization established under the Convention and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea (“the 1994 Agreement”). It is the organization through which States parties to the Convention, in accordance with the Convention and the 1994 Agreement, organize and control activities in the Area, in particular with a view to administering the resources of the Area.

3. The Authority has a number of other obligations under the Convention, including the obligation to distribute to States parties payments or contributions in kind derived from the exploitation of the resources of the continental shelf beyond 200 nautical miles, pursuant to article 82, paragraph 4, of the Convention.

4. Pending the approval of the first plan of work for exploitation, the Authority is to concentrate on the 11 areas of work listed in paragraph 5 of section 1 of the annex to the 1994 Agreement. The main focus is on the following areas:

(a) Supervisory functions with regard to contracts for exploration;

(b) Monitoring of trends and developments relating to deep seabed mining activities, including world metal market conditions and metal prices, trends and prospects;

(c) Study of the potential impact of mineral production from the Area on the economies of developing land-based producers of those minerals which are likely to be most seriously affected;

(d) Promotion and encouragement of marine scientific research in the Area through, among other things, a continuing programme of technical workshops, the dissemination of the results of such research and collaboration with contractors and the international scientific community;

(e) Monitoring the development of marine technology, in particular technology relating to the protection and preservation of the marine environment;

(f) Information-gathering and the establishment and development of databases of scientific and technical information, with a view to obtaining a better understanding of the deep ocean environment;

(g) Development of a regulatory framework for the exploitation of the mineral resources of the Area, including applicable standards for the protection and preservation of the marine environment.

5. Following the request made by member States at the twenty-third session of the Authority, a draft strategic plan for the Authority for the 2019–2023 has been prepared and will be presented to the Assembly at its twenty-fourth session (see section III). The plan will provide direction for the development and implementation of the Authority’s mandate under the Convention.

II. The Area

6. The Area is defined as the seabed and subsoil thereof beyond the limits of national jurisdiction. Establishing the exact geographic limits of the Area thus

depends on the delimitation of the limits of national jurisdiction, including the delineation of the continental shelf extending beyond 200 nautical miles from the baseline of the territorial sea. Pursuant to article 84, paragraph 2, of the Convention, coastal States are obliged to give due publicity to charts or lists of geographical coordinates of points and, in the case of those indicating the outer limit lines of the continental shelf, to deposit a copy of such charts or lists with the Secretary-General of the Authority.

7. As at 31 May 2018, eight members of the Authority have deposited such charts and lists with the Secretary-General, namely: Australia, France (with respect to Martinique, Guadeloupe, Guyana, New Caledonia and the Kerguelen islands), Ireland, Mauritius, Mexico, Niue, Pakistan and the Philippines.

8. The Secretary-General would urge all coastal States to deposit such charts or lists of coordinates as soon as possible after the establishment of the outer limit lines of their continental shelf, in accordance with the relevant provisions of the Convention.

III. Implementation of article 82, paragraph 4, of the United Nations Convention on the Law of the Sea

9. The Authority has the responsibility, under article 82, paragraph 4, of the Convention, to distribute to States parties payments or contributions in kind derived from the exploitation of the resources of the continental shelf beyond 200 nautical miles. Among other things, this will require the Authority to develop equitable sharing criteria in respect of such payments and contributions.

10. In 2012, the Authority convened a workshop in Beijing on issues associated with the implementation of article 82. Participants in the workshop sought to draw up guidelines for the implementation of article 82 and the formulation of a model agreement between the Authority and an outer continental shelf State for receiving payments and distribution. One recommendation was to prepare a comparative study of key terms in article 82. To this end, the secretariat commissioned such a comparative study to assist in identifying possible paths for a practical approach and in developing the understanding of terminological issues in realistic settings.¹

IV. Membership of the Authority

11. In accordance with article 156, paragraph 2, of the Convention, all States parties to the Convention are, ipso facto, members of the Authority. As at 31 May 2018, there were 168 parties to the Convention (167 States and the European Union) and thus 168 members of the Authority. On the same date, there were 150 parties to the 1994 Agreement. There were no further ratifications of or accessions to the Convention or the 1994 Agreement during the period covered by the present report.

12. There are therefore still 18 members of the Authority that became parties to the Convention before the adoption of the 1994 Agreement and that have yet to become parties to the Agreement. These are: Bahrain, Bosnia and Herzegovina, Comoros, Democratic Republic of the Congo, Djibouti, Dominica, Egypt, Gambia, Guinea-Bissau, Iraq, Mali, Marshall Islands, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Somalia and Sudan.

¹ International Seabed Authority, "ISA Technical Study No. 15: a study of key terms in article 82 of the United Nations Convention on the Law of the Area". Available at: https://www.isa.org.jm/sites/default/files/files/documents/ts15-web_0.pdf.

13. As provided by General Assembly resolution [48/263](#) and the 1994 Agreement itself, the provisions of the 1994 Agreement and Part XI of the Convention are to be interpreted and applied together as a single instrument. In the event of any inconsistency between the 1994 Agreement and Part XI of the Convention, the provisions of the 1994 Agreement would prevail. Although members of the Authority that are not parties to the 1994 Agreement necessarily participate in the work of the Authority under arrangements based on that Agreement, becoming a party to the 1994 Agreement would remove any incongruity that currently exists for those States.

14. Each year, the Secretary-General circulates a note to those members not yet party to the 1994 Agreement drawing their attention to the abovementioned provisions and encouraging them to become parties to the Agreement at the earliest possible opportunity. The last such note was dated 4 April 2018.

V. Permanent missions to the Authority

15. As at 31 May 2018, the following 25 States, in addition to the European Union, maintained permanent missions to the Authority: Algeria, Argentina, Antigua and Barbuda, Bangladesh, Belgium, Brazil, Cameroon, Chile, China, Cuba, France, Gabon, Germany, Italy, Jamaica, Japan, Mexico, Nigeria, Panama, Republic of Korea, Russian Federation, Saint Kitts and Nevis, South Africa, Spain and Trinidad and Tobago.

16. The Secretary-General also held briefing sessions for the permanent missions to the Authority in November 2017 and in February and June 2018 on the progress of the Authority's work and its Strategic Plan. Separate visits to the headquarters were made by the representatives of the European Union and China and a delegation from Côte d'Ivoire. Credentials were presented by the permanent representatives of Cuba, China, Japan, Italy, Nigeria and the Republic of Korea.

VI. Protocol on the Privileges and Immunities of the International Seabed Authority

17. The Protocol on the Privileges and Immunities of the International Seabed Authority was adopted by consensus at the fourth session of the Assembly, on 26 March 1998 (see [ISBA/4/A/8](#)). In accordance with article 18 of the Protocol, it entered into force 30 days after the date of deposit of the tenth instrument of ratification, approval, acceptance or accession, on 31 March 2003.

18. The Protocol deals with the privileges and immunities of the Authority in relation to those matters which are not already covered in the Convention (articles 176 to 183) and is based substantially on articles I, II, IV, V, VI and VII of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946. The Protocol, *inter alia*, provides essential protection to representatives of members of the Authority who attend meetings of the Authority or who travel to and from those meetings. It also accords to experts on mission for the Authority such privileges and immunities as are necessary for the independent exercise of their functions, while on mission, and for the time spent on journeys in connection with their mission.

19. During the reporting period, three States acceded to the Protocol: Burkina Faso, on 6 October 2017; Jordan, on 21 December 2017; and Georgia, on 4 April 2018. This brings the total number of parties to 46: Albania, Antigua and Barbuda, Argentina, Austria, Brazil, Bulgaria, Burkina Faso, Cameroon, Chile, Croatia, Cuba, Czechia, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Ghana, Guinea,

Guyana, India, Iraq, Ireland, Italy, Jamaica, Jordan, Lithuania, Mauritius, Mozambique, Netherlands, Nigeria, Norway, Oman, Panama, Poland, Portugal, Senegal, Slovakia, Slovenia, Spain, Togo, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland and Uruguay. A further 11 States have signed the Protocol but have yet to ratify it: Bahamas, Côte d'Ivoire, Greece, Indonesia, Kenya, Malta, Namibia, Pakistan, Saudi Arabia, Sudan and the former Yugoslav Republic of Macedonia.

20. In an attempt to encourage other members of the Authority to become parties to the Protocol, on 2 March 2018, the Secretary-General circulated a note to that effect and drawing also the attention of members to paragraph 79 of General Assembly resolution [72/73](#), in which the Assembly calls upon States that have not done so to consider ratifying or acceding to the Protocol. Members of the Authority that are not yet parties are strongly encouraged to take the necessary steps to become parties to the Protocol at their earliest convenience.

VII. Administrative matters

A. Secretariat

21. The secretariat is one of the principal organs of the Authority. In accordance with article 166 of the United Nations Convention on the Law of the Sea, the secretariat shall comprise a Secretary-General and such staff as the Authority may require. The staff of the secretariat shall consist of such qualified scientific and technical and other personnel as may be required to fulfil the administrative functions of the Authority. The number of established posts in the secretariat as at January 2018 was 40 (22 Professional, 2 National and 16 General Service).

22. Some of the concerns regarding the resourcing, structure and coordination of the secretariat were reflected in the final report on the review conducted pursuant to article 154 of the Convention (see [ISBA/23/A/3](#)). During the twenty-third session and midway through the biennium, the Secretary-General announced certain changes to the organizational structure of the secretariat in order to address those concerns (see [ISBA/23/A/4](#)). The evolving organizational structure of the secretariat is reflected in the budget proposal for the financial period 2019–2020, with a focus on developing a culture of continuous learning, high performance and managerial excellence. During the reporting period, two staff members retired, one separated and five vacant positions were filled, in addition to changes in temporary staffing arrangements.

B. Participation in the common system of the United Nations

23. The Authority applies the common system of salaries, allowances and other conditions of service of the United Nations and the specialized agencies of the United Nations system. Under the terms of the relationship agreement concluded with the United Nations in 1997, which entered into force on 26 November 1997, following its approval by the Assembly of the Authority (see [ISBA/3/A/3](#)) and the General Assembly of the United Nations (see resolution [52/27](#), annex), both organizations agree to apply common personnel standards, methods and arrangements. At its 139th meeting, on 27 July 2012, the Assembly of the Authority, acting upon a recommendation of the Council, decided that it would be desirable for the Authority to subscribe to the statute of the International Civil Service Commission (ICSC) with effect from January 2013 (see [ISBA/18/A/7](#)).

24. The secretariat was represented at the eighty-sixth session of ICSC, held at United Nations Headquarters in March 2018. The agenda included resolutions and

decisions adopted by the General Assembly at its seventy-second session relating to the work of ICSC, the conditions of service applicable to both categories of staff and post adjustment issues.

25. The Authority has implemented the revised ICSC compensation package (effective 1 October 2017) and in doing so availed itself of the opportunity to verify and record historical data, which also contributed to the successful implementation of the International Public Sector Accounting Standards and a more focused and accurate budget estimation on future staffing costs.

26. In Jamaica, the secretariat is an active participant in the work of the United Nations Country Team, the Operations Management Team and the Security Management Team, which include all the United Nations agencies present in Kingston. Each team has its mandate and, collectively in the reporting period, have focused on moving offices to be co-located with the Authority; needs assessment and long-term planning for common services; and improved and expanded the radio network for emergency communications to all staff.

C. Cost-saving measures

27. The latest cost-saving actions taken within the secretariat include the introduction of remote interpretation, using state-of-the-art technology. This produced significant savings with respect to the travel and hiring of United Nations interpreters, leading to overall savings on conference servicing costs of approximately 20 per cent, notwithstanding an increase in the number and frequency of meetings. The installation of light emitting diode (LED) lighting fixtures in the secretariat building generated additional savings on energy costs (see [ISBA/24/FC/3](#)). The secretariat is exploring the potential for further cost savings in the areas of travel procurement and records management.

VIII. Financial matters

A. Budget

28. At its twenty-second session, the Assembly adopted the budget for the financial period 2017–2018 in the amount of \$8,408,100 (see [ISBA/22/A/7/Rev.1-ISBA/22/C/19/Rev.1](#) and [ISBA/22/A/13](#)).

B. Status of contributions

29. In accordance with the Convention and the 1994 Agreement, the administrative expenses of the Authority shall be met by assessed contributions of its members until the Authority has sufficient funds from other sources to meet those expenses. The scale of assessments shall be based on the scale used for the regular budget of the United Nations, adjusted for differences in membership. As at 30 April 2018, 55 per cent of the value of contributions to the 2018 budget due from member States and the European Union had been received, while 30 per cent of the membership of the Authority had fully paid their 2018 assessed contribution amounts.

30. Contributions outstanding from member States for prior periods (1998–2017) amounted to \$946,983 as at 30 April 2018. Notices are sent on a regular basis to member States, reminding them of the arrears. In accordance with article 184 of the Convention and rule 80 of the rules of procedure of the Assembly, a member of the Authority which is in arrears in the payment of its financial contribution shall have

no vote if the amount of its arrears equals or exceeds the amount of financial contribution due from it for the preceding two years. As at 30 April 2018, the following 52 members of the Authority had been in arrears for two years or more: Angola, Barbados, Belize, Benin, Botswana, Brazil, Burkina Faso, Cape Verde, Chad, Comoros, Congo, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, the Gambia, Grenada, Guinea, Guinea-Bissau, Honduras, Iraq, Lebanon, Lesotho, Liberia, Malawi, Malaysia, Maldives, Mali, Marshall Islands, Mauritania, Mongolia, Montenegro, Namibia, Niger, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Seychelles, Sierra Leone, Somalia, Sudan, Suriname, Swaziland, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tunisia, Tuvalu, Uganda, Vanuatu, Yemen, Zambia and Zimbabwe.

31. As at 31 March 2018, the balance of the working capital fund stood at \$589,925 against an approved level of \$660,000.

C. Voluntary Trust Fund for the members of the Legal and Technical Commission and the Finance Committee

32. The Voluntary Trust Fund for the participation of members of the Finance Committee and the Legal and Technical Commission from developing countries was established in 2002. Provisional terms and conditions for the use of the Fund were adopted by the Assembly in 2003 and amended in 2004 (see [ISBA/9/A/5-ISBA/9/C/5](#), para. 6 and annex, and [ISBA/9/A/9](#), para. 14) and in 2017 (see [ISBA/23/A/8-ISBA/23/C/10](#), section XI and annex). The Fund is made up of voluntary contributions. As at 30 April 2018, the total contributions to the Fund over its lifetime amount to \$700,570. Thus far in 2018, contributions were made by Argentina (\$5,000), China (\$20,000) and the United Kingdom (\$13,969). As at 30 April 2018, the balance of the Fund was \$12,357.

D. Voluntary Trust Fund for the members of the Council

33. At its twenty-third session, the Assembly requested the Secretary-General to establish a Voluntary Trust Fund to support the participation of members of the Council from developing States (see [ISBA/23/A/13](#)). As at 30 April 2018, the total contributions to the fund amounted to \$80,000, from Global Sea Mineral Resources NV, UK Seabed Resource Development Ltd, Nauru Ocean Resources Inc. and Ocean Mineral Singapore PTE Ltd (\$20,000 each). As at 9 May 2018, the balance of the Fund was \$72,527.

E. Endowment Fund for Marine Scientific Research in the Area

34. The Assembly established the Endowment Fund for Marine Scientific Research in the Area in 2006 (see [ISBA/12/A/11](#)). Detailed rules and procedures for the administration and utilization of the Fund were adopted in 2007 (see [ISBA/13/A/6](#), annex). The Fund aims to promote and encourage the conduct of marine scientific research in the Area for the benefit of humankind as a whole, in particular by supporting the participation of qualified scientists and technical personnel from developing countries in marine scientific research programmes, including through training, technical assistance and scientific cooperation programmes. The Fund is administered by the secretariat. Members of the Authority, other States, relevant international organizations, academic, scientific and technical institutions, philanthropic organizations and private persons may make contributions to the Fund.

35. As at 30 April 2018, the capital of the Fund stood at \$3,478,315. At the same date, a total amount of \$550,076 had been disbursed from the interest accrued on the capital in the form of awards for projects. The most recent, and sole, contribution to the Fund during 2018 was made by the Institut français de recherche pour l'exploitation de la mer (Ifremer) in February 2018 in the amount of \$5,000. Over the past three years, total contributions to the Fund amounted to \$22,777. Over the same period, the Fund generated interest of \$126,048, and expenditures were \$84,380.

IX. Satya N. Nandan Library

36. The Satya N. Nandan Library, named after the first Secretary-General of the Authority, is the main information resource for the secretariat, members of the Authority, permanent missions and other researchers seeking specialist information on the law of the sea, ocean affairs, deep seabed mining and seabed resources. Its principal objective is to service the reference and research needs of its clientele and to provide essential support for the work of the secretariat. The Authority is committed to developing the specialized research capability of the existing collection through an acquisitions programme aimed at responding to the changes in the delivery and formats of information and knowledge, building on and strengthening the Library's comprehensive collection.

37. Work is ongoing on modernization and improved library technologies, collaborations and shared services, and online repositories. The objective is to strengthen infrastructure and services to help to lower the cost of providing scientific and legal information and to position the library as a high-quality research centre. In 2017, a new library management system was implemented using a commercially available digital cloud system. This enables the exploration of library materials using an online public access catalogue, bringing together print and digital publications, articles and web resources. Following software deployment and training, the library catalogue and system were made available and can be accessed at the computer terminals in the Library.

38. The library facilities available to visitors, including conference delegates, consist of a reading room with access to the collection for reference purposes and computer terminals for email and Internet usage. Library services include the provision of information, reference and research support and resources, as well as the distribution of the official documents and publications of the Authority. The Library is an active member of the International Association of Aquatic and Marine Science Libraries and Information Centres and the Library and Information Association of Jamaica. The library continues to strengthen its collaboration with the International Tribunal for the Law of the Sea and is a partner in the United Nations System Electronic Information Acquisition Consortium. This is a system-wide United Nations consortium that generates considerable savings for participating agencies and continues to be beneficial to both agencies.

39. The Library continues its regular acquisition programme to develop the collection. During the reporting period, the holdings were further augmented by generous donations from organizations and individuals. Donors included: the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat; the International Tribunal for the Law of the Sea; the United Nations Environment Programme; the Food and Agriculture Organization of the United Nations; the United Nations Development Programme; the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (UNESCO); the International Maritime Organization; the UNESCO; the World Bank; the Korean Society of Oceanography;

the Polish Geological Institute; Springer Nature publishing company; Tokyo Institute of Technology; Interoceanmetal Joint Organization; the Center for Oceans Law and Policy of the University of Virginia; the Law of the Sea Institute at the University of California, Berkeley; the United States Institute of Peace; the Planning Institute of Jamaica; and the Ministry of Science, Energy and Technology of Jamaica. Individual donations were also received from Philomene Verlaan, University of Hawai'i at Manoa, Honolulu, United States of America; Malcolm Clarke, National Institute of Water and Atmospheric Research, New Zealand; Edwin Egede, Cardiff University, United Kingdom; and Kaiser DeSouza, Economic Commission for Africa. The Secretary-General is grateful to all who supported the library during the reporting period.

40. The Library receives numerous requests for research assistance, many of which reflect the increasing interest in the work of the Authority. The main focus is on the activities of the Authority, its structure, functions and future challenges, including work on the regulatory framework for seabed mining and information on fellowships and training opportunities.

X. Communications and information technology services, website and public information and outreach

A. Communications and information technology services

41. The Communications and Information Technology Service unit within the Office for Administrative Services supports the substantive work of the secretariat by administering the communications and information technology infrastructure and services and by providing technical support and training to staff members. The unit also provides support to conference services and to delegates.

42. The Secretary-General, as part of an improved governance structure to oversee the implementation and review of the communications and information technology plan and the evaluation and monitoring of other major projects of the Authority, established a Communications and Information Technology Steering Committee in October 2017 (see [ISBA/ST/SGB/2017/8](#)). The Steering Committee, consisting of senior personnel from each functional unit, has met twice during the reporting period, considered the biennial budget for all communications and information technology matters and reviewed the implementation of major projects in that area. In addition to monitoring the provision of and support for information and information technology infrastructure and services, a focus area of the Steering Committee will be on the assessment and management of risk across the communications and information technology functions, in particular disaster management and recovery plans and cybersecurity.

B. Website and public information

43. The Authority continues to maintain an online presence through its main website, providing access to general information, official documents and digital publications on a cross-browser platform. It also maintains a mobile app, ISBA-HQ, that is accessible through any mobile device or tablet and features snapshots of the functions of the Authority, its members and information about the membership of the organs of the Authority, as well as a newsfeed and access to e-book publications.

C. Outreach

44. In April 2018, the Authority participated in the Offshore Technology Conference, held in Houston, Texas, United States of America, in the capacity of the invited organization. In addition to an exhibition booth highlighting the work of the Authority and its contractors, the Authority also hosted a discussion panel on “Progress and prospects in deep sea mining — 50 years on”.

45. In May 2018, the Authority exhibited at the “Long Night of the Consulates” event, hosted by the International Tribunal for the Law of the Sea in Hamburg, Germany, and highlighting the relationship between the Tribunal and the Authority alongside the Division for Ocean Affairs and the Law of the Sea, the Food and Agriculture Organization of the United Nations (FAO), the Intergovernmental Oceanographic Commission and the International Maritime Organization (IMO).

46. Other outreach tools include a quarterly newsletter, available by digital subscription, as well as social media on Twitter (@ISBAHQ) and Facebook. These are used to inform members and the public of the Authority’s work and joint efforts with other organizations. The Authority also regularly issues briefing papers and technical studies summarizing legal and technical scientific workshops and seminars hosted by the Authority or jointly coordinated with other legal and scientific institutions.

XI. Relationship with the United Nations and other relevant international organizations and bodies

A. United Nations

47. The Authority actively contributed to the work and discussions of the United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development, held in New York from 5 to 9 June 2017. On that occasion, the Authority registered a series of voluntary commitments with a view to (a) enhancing the role of women in marine scientific research through capacity-building; (b) encouraging dissemination of research results through the Authority Secretary-General’s Award for Excellence in Deep-Sea Research; (c) improving the assessment of essential ecological functions of the deep sea oceans through long-term underwater oceanographic observatories in the Area; and (d) enhancing deep sea marine biodiversity assessment through the creation of online taxonomic atlases linked to deep mining activities in the Area. Additional voluntary commitments were registered in partnership with other agencies, notably with the Department of Economic and Social Affairs of the United Nations Secretariat (on the abyssal initiative for Blue Growth: advancing Sustainable Development Goal 14 and the quest for a Blue Economy through the promotion of socioeconomic benefits for developing countries, including small island developing States, and increasing scientific knowledge and research capacity) and with the African Minerals Development Centre (on fostering cooperation to promote the sustainable development of Africa’s deep seabed resources in support to Africa’s Blue Economy and mapping the Blue Economy of Africa to support decision-making, investment and governance of activities undertaken on the extended continental shelf and in adjacent international seabed areas).

48. The Authority has taken action to launch the implementation of these voluntary commitments. For instance, on 22 March 2018, in partnership with the Office of the High Representative for the Least Developed Countries, Landlocked Developing

Countries and Small Island Developing States, the Authority co-hosted a joint side event on the margins of the sixty-second session of the Commission on the Status of Women. This side event, entitled “Enhancing the role of women in deep sea scientific research to achieve the goals and targets of the 2030 Agenda for sustainable development by vulnerable countries”, was aimed at raising awareness among vulnerable countries and discussing ways and means of improving access to deep-sea marine scientific research for women from developing countries.

49. The Secretary-General’s Award for Excellence in Deep-Sea Research was launched in November 2017, following the publication of guidelines for the award ([ISBA/ST/SGB/2017/6](#)) and the appointment in August 2017 of an advisory committee of internationally recognized experts in the field of deep-sea science, social sciences and humanities with experience in the law of the sea, international law or management of marine resources. The members of the advisory committee, who will serve for a period of 3 years are Annick de Marffy-Mantuano, Biliana Cicin-Sain, Chunhui Tao, David Billet and Lawrence Folajimi Awosika. Nine nominations were received for the inaugural edition of the award. The name of the winner will be announced during the twenty-fourth session of the Assembly.

50. Important progress has been made in the establishment of long-term underwater oceanographic observatories in the Area and in the enhancement of deep sea marine biodiversity assessment through the creation of online taxonomic atlases. It is expected that these two distinct voluntary commitments will be implemented by 2018 or early 2019.

51. In cooperation with the Department of Economic and Social Affairs of the United Nations Secretariat and the Pacific Community, the Authority will organize, in November 2018 in Tonga, a consultation workshop with officials of Pacific small island developing States to make progress on the implementation of the abyssal initiative for Blue Growth project. The implementation of the voluntary commitment established of fostering cooperation to promote the sustainable development of Africa’s deep seabed resources in support to Africa’s Blue Economy, launched in partnership with the African Minerals Development Centre of the United Nations Economic Commission for Africa, will begin with the organization of a workshop to be held in Abidjan, Côte d’Ivoire, in October 2018.

B. UN-Oceans

52. UN-Oceans is a United Nations inter-agency mechanism mandated to strengthen and promote the coordination and coherence of United Nations systems and activities related to ocean and coastal areas; regularly share information about the ongoing and planned activities of participating organizations within the framework of relevant United Nations and other mandates, with a view to identifying possible areas for collaboration and synergy; facilitate, as appropriate, inputs by its participating organizations to the annual reports of the Secretary-General of the United Nations on oceans and the law of the sea; and facilitate interagency information exchange, including the sharing of experiences, best practices, tools and methodologies and lessons learned in ocean-related matters.

53. The secretariat of the Authority is a member of UN-Oceans and participates in its meetings, as appropriate, and in accordance with its mandate. During the reporting period, the secretariat participated in a number of teleconferences and contributed to discussions on the indicators of Sustainable Development Goal 14 (c) on enhancing the conservation and sustainable use of oceans and their resources by implementing international law, as reflected in the United Nations Convention on the Law of the Sea and as recalled in paragraph 158 of General Assembly resolution [66/288](#), entitled

“The future we want”. The secretariat also participated in the seventeenth face-to-face meeting of UN-Oceans at the headquarters of the Intergovernmental Oceanographic Commission of UNESCO, in Paris.

C. International Tribunal for the Law of the Sea and Commission on the Limits of the Continental Shelf

54. Since its inception, the Authority has enjoyed a harmonious working relationship with the International Tribunal for the Law of the Sea. On 4 December 2017, at the office of the Permanent Observer for the Authority to the United Nations, the Secretary-General and the Deputy to the Secretary-General met with the incoming President and the Registrar of the Tribunal for informal discussions on matters of mutual interest, in particular general administrative and staffing matters. Given that the informal meeting was the first such meeting since 2014, both institutions welcomed the resumption of these series of informal annual meetings. Information was exchanged on recent activities and discussions took place on, among other issues, opportunities for the organization of joint seminars and issues related to the implementation of the ICSC revised compensation package, ongoing implementation of the 2014 memorandum of agreement to form a partnership for the acquisition of electronic resources through the United Nations System Electronic Information Acquisition Consortium (see section IX).

D. Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization

55. In a joint meeting held on 27 March 2018, both secretariats discussed common activities to implement the existing memorandum of understanding. Both entities agreed to exchange seafloor bathymetric information to contribute to Seabed 2030. Once the database of the Authority will be fully functional, further exchange of information will take place, in particular with the Ocean Biogeographic Information System database of the Intergovernmental Oceanographic Commission. Among other cooperation activities, on 16 April 2018, the secretariat participated at a side event organized by the Commission and co-sponsored by the Governments of Belgium and Nauru, during the organizational meeting of the intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

56. In May 2017, the Authority was invited by the Intergovernmental Oceanographic Commission to co-develop the conception of and proposal for the International Decade of Ocean Science for Sustainable Development. In February 2018, moving to the design phase, the Commission invited the Authority to be an integral part of the preparation process. Subsequently, in March 2018 the International Seabed Authority and Commission teams reviewed further ways and means of joint cooperation to advance the design of the Decade of Ocean Science, incorporating the Authority into the planning group that the Commission’s Council expects to establish in July 2018.

E. International Maritime Organization and the World Maritime University

57. During the reporting period the Authority increased substantially dialogue and cooperation with IMO as part of the implementation of the 2016 cooperation

agreement concluded between both organizations. It was also necessary to explore the applicable legal and institutional frameworks of both organizations in connection with the ongoing development of draft exploitation regulations. In this connection, an informal meeting took place with the Office for the London Convention/Protocol and Ocean Affairs of the Marine Environment Division to exchange information on recent activities and institutional best practices. In addition, IMO invited the Authority to consider joining the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (see paras. 59–62 below) as a sponsoring organization. An informal meeting was also held with the Director of the International Oil Pollution Compensation Funds for a general exchange of views on the work of both entities.

58. On 14 February 2018, the Secretary-General paid a courtesy visit to the Secretary-General of IMO. The occasion offered a good opportunity for both to exchange general views on the work of both institutions. The Secretary-General of the Authority described the ongoing process of regulatory development and the need to understand each organization's legal and institutional functions and responsibilities in the context of issues related to activities in the Area and maritime transportation of the ore recovered from the Area. It was proposed to organize a joint meeting between the legal and scientific and technical teams of both organizations to discuss the matter. The Secretary-General of IMO offered to host such a meeting, which was scheduled to take place in June 2018. The Secretary-General of the Authority and the Legal Counsel also met informally with the Director of the Legal Affairs and External Relations Division of IMO to exchange views on general legal and institutional matters.

59. In May 2018, the Secretary-General of the Authority participated, along with the Secretary-General of IMO, the President of the International Tribunal for the Law of the Sea and the Deputy Prime Minister of Sweden, Isabelle Lovin, in the Global Ocean Conference of the World Maritime University, held on 8 and 9 May 2018 in Malmo, Sweden. At the Conference, the World Maritime University-Sasakawa Global Ocean Institute was inaugurated. The Secretary-General and the President of the World Maritime University held informal discussions on a memorandum of understanding between the two institutions, which is being developed further at the secretariat level.

F. Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection

60. The Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection is an advisory body, established in 1969, that provides independent advice to the United Nations system on the scientific aspects of marine environmental protection. The Joint Group of Experts acts as a mechanism for coordination and collaboration among the sponsoring organizations. Its functions are to conduct and support marine environmental assessments, to undertake in-depth studies, analyses and reviews of specific topics and to identify emerging issues regarding the state of the marine environment. At present the Joint Group of Experts is jointly sponsored by nine United Nations entities. The United Nations sponsors are: IMO, FAO, the Intergovernmental Oceanographic Commission of UNESCO, the World Meteorological Organization, the World Health Organization, the International Atomic Energy Agency, the United Nations, the United Nations Environment Programme and the United Nations Industrial Development Organization.

61. Based on the invitation addressed to the Authority by IMO, the secretariat finalized the necessary procedures for the Authority to become the tenth sponsoring organization of the Joint Group of Experts. The Secretary-General appointed the

Director of the Office of Environmental Management and Mineral Resources as the Authority's technical secretary participating in the Joint Group's Executive Committee. By joining the Joint Group, the different organs of the Authority will benefit in terms of enhanced scientific cooperation and expert advice in matters relating to the protection of the marine environment. In particular, the members of the Joint Group of Experts could potentially assist the Legal and Technical Commission in the exercise of its functions by providing options for consulting experts² and in making recommendations to the Council on the protection of the marine environment, taking into account the views of recognized experts in that field.³

62. The primary functions of the Executive Committee are to plan and approve the Joint Group's budget and work plan, select members of the Joint Group from the pool of experts, propose provisional agendas for Joint Group sessions and adopt terms of reference for its working groups.

63. Currently, the Joint Group's working group 42 is working on the impacts of wastes and other matter in the marine environment from mining operations. This subject is of relevance to the work of the Authority in the area. The objective of that working group is to provide independent advice on what environmental impacts could arise from both land-based tailings and marine minerals mining wastes. The outcomes will be made public by the Joint Group in the form of a report.

G. International Cable Protection Committee

64. In February 2018, the Secretary-General and the Deputy to the Secretary-General met informally with the Chairman of the International Cable Protection Committee and the International Cable Law Adviser. The objective of the informal meeting was to discuss the preparation of a second workshop on deep seabed mining and submarine cables, which is likely to be held in late October 2018. Additionally, the meeting gave the opportunity to both entities to discuss general issues of mutual interest. Both entities were of the view that the informal encounter served to further implement the memorandum of understanding concluded in 2010.

H. OSPAR Commission for the Protection of the Marine Environment in the North-East Atlantic

65. The secretariat of the Authority and the secretariat of the OSPAR Commission for the Protection of the Marine Environment in the North-East Atlantic have cooperated over the years, exchanging information on matters of mutual interest on the basis of the 2011 memorandum of understanding between the two organizations.

66. In March 2018, the secretariat was invited by the OSPAR Commission and the North-East Atlantic Fisheries Commission to participate in the fourth meeting under the collective arrangement for the management of selected areas in the north-east Atlantic, jointly organized by the two Commissions, held on 7 and 8 May at the Ministry of Fisheries, Berlin. Although the secretariat was unable to participate in this meeting, it was able to send, for the second year in a row, a written statement for its circulation at that meeting. This time, the written statement focused on the report of the Secretary-General to the Council outlining a preliminary strategy for the development of regional environmental management plans in parts of the Area where there are currently contracts for exploration ([ISBA/24/C/3](#)). It was also suggested that the Authority's upcoming international workshop on developing a framework for

² United Nations Convention on the Law of the Sea, article 163(13).

³ *Ibid.*, article 165(2)(e).

regional environmental management plans for polymetallic sulphides deposits in mid-ocean ridges represented a good opportunity for the two Commissions to contribute to these processes under the auspices of the Authority with available environmental data and scientific analyses. It was also highlighted that the OSPAR contribution on exchange of information would also serve to further implement the objectives reflected in the 2011 memorandum of understanding on issues related to inter-agency cooperation, information exchange and encouraging the conduct of marine scientific research.

I. Relationship with other organizations

67. The Authority participated as an observer at the Convention on Biological Diversity expert workshop to develop options for modifying the description of ecologically or biologically significant marine areas, for describing new areas and for strengthening the scientific credibility and transparency of this process, which was held in Berlin, from 5 to 8 December 2017. As a follow-up to the workshop, the secretariat was invited by the Convention on Biological Diversity secretariat to participate in the peer review process concerning the report of the expert workshop to support the preparation of the relevant document for the 22nd meeting of the Subsidiary Body on Scientific, Technical and Technological Advice. The secretariat submitted comments emphasizing its role as the competent international organization in relation the Area, in accordance with part XI of the Convention. Regrettably, those comments were not reflected in the official Subsidiary Body note prepared by the Convention on Biological Diversity secretariat, containing an annex with options for modifying the description of ecologically or biologically significant marine areas, for describing new areas and for strengthening the scientific credibility and transparency of the process. According to the Convention on Biological Diversity secretariat, a separate information document will be issued in the coming weeks with the contributions submitted during the peer review, including that made by the Authority's secretariat.

XII. Relations with the host country

68. The secretariat enjoys an excellent and cordial working relationship with the host country. During the period covered by the present report, meetings were organized between the Secretary-General and Kamina Johnson Smith, Minister of Foreign Affairs and Foreign Trade of Jamaica, to discuss matters of common interest, including issues relating to the condition of the secretariat building and the implications for the Authority of the proposed relocation of the United Nations agencies present in Jamaica to the building currently occupied by the Authority.

XIII. Previous session of the Authority

A. Implementation of the decision of the Assembly relating to the final report on the first periodic review of the international regime of the Area pursuant to article 154 of the United Nations Convention on the Law of the Sea

69. At its twenty-third session, the Assembly approved the final report on the periodic review of the Authority pursuant to article 154 of the Convention (see [ISBA/23/A/13](#)). At the same time, a number of requests were addressed to the Secretary-General in connection with the implementation of the decision of the

Assembly pertaining to the final report of the review committee. The following requests were actioned during the reporting period: the revised meeting schedule endorsed by the Assembly was implemented for 2018, with additional meetings being facilitated from within existing budgetary resources; a voluntary trust fund has been set up to defray the costs of participation of Council members from developing countries (see section VIII.C above), and the secretariat continues to update national laws relating to activities in the Area (see section XV.C).

70. Other requests made by the Assembly are being addressed by the secretariat as appropriate. These include carrying out a comparative study of existing national laws before the end of 2018; making progress on the implementation of the database; the continued review of staffing requirements within the secretariat; the focus on development and performance of staff; and, in collaboration with the Legal and Technical Commission, the review of and improvements to the annual contractor reporting process. Additionally, the Assembly encouraged the Secretary-General to enhance coordination and cooperation with other relevant international organizations and stakeholders (see section XI above) and to consider ways to engage more extensively with the scientific community.

B. Strategic plan for the Authority for the five-year period 2019–2023

71. Following the request made by member States at the twenty-third session (see [ISBA/23/A/13](#)), a draft strategic plan for the Authority for the period 2019–2023 has been prepared for consideration by the Assembly at its twenty-fourth session.

72. Preparatory work for the draft strategic plan included consultation with the permanent representatives to the Authority in Kingston and an open briefing to members of the Authority at United Nations Headquarters in New York. A first draft of a strategic plan was presented in February 2018 in English and French, the two working languages of the Authority. As part of the consultation efforts of the Secretary-General, an open informal briefing took place on 7 March 2018 on the margins of the first part of the session of the Council. This briefing was open to members of the Authority and those observers present in Kingston. Several suggestions and comments were made on that occasion.

73. From 12 March to 27 April 2018, the draft strategic plan was opened for consultation to members of the Authority and stakeholders. A total of 23 submissions were received from members of the Authority (15), observers (4), contractors (3) and an individual (1). The Secretary-General has revised the draft strategic plan, taking into account the suggestions and comments made during the consultation period and at the various meetings and briefing sessions. The plan, as revised, is presented for consideration and adoption by the Assembly (see [ISBA/24/A/4](#)).

C. Twenty-third session

74. The twenty-third session of the Authority was held in Kingston from 8 to 18 August 2017. The Assembly held its 162nd to 170th meetings and elected Eugénio João Muíanga (Mozambique) as its President. During the session, the Assembly considered and debated the annual report of the Secretary-General of the Authority, submitted in accordance with article 166, paragraph 4, of the Convention (see [ISBA/23/A/2](#) and a summary of the debate in [ISBA/23/A/14](#)). The Assembly considered the final report of the Review Committee established to oversee the implementation of the Convention under article 154 (see [ISBA/23/A/3](#)) and adopted a decision on the final report and recommendations of the Review Committee (see [ISBA/23/A/13](#) and a summary of the debate in [ISBA/23/A/14](#)). Acting on the

recommendations of the Council, the Assembly adopted, respectively, a decision on amendments of the staff regulations of the Authority (see [ISBA/23/A/11](#)) and a decision on financial and budgetary matters (see [ISBA/23/A/12](#)).

75. The Council held its 223rd to 230th meetings and elected Ariel Fernández (Argentina) as its President. During the session, the Council took note of the report on the status of contracts for exploration in the Area (see [ISBA/23/C/7](#)), the report on the status of national legislation relating to deep seabed mining (see [ISBA/23/C/6](#)) and the report on the implementation of the decision of the Council in 2016 relating to the summary report of the Chair of the Commission (see [ISBA/23/C/8](#)). Acting on the recommendation of the Commission, the Council approved an application for the approval of a plan of work for exploration for polymetallic sulphides submitted by the Government of Poland 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/11](#)). Also acting on the recommendation of the Commission, the Council approved the application for a five-year extension of the contract for exploration for polymetallic nodules submitted by the Government of India (see [ISBA/23/C/15](#)). The Council considered the summary report of the Chair of the Commission on the work of the Commission during the twenty-third session ([ISBA/23/C/13](#)) and adopted a decision relating to that report ([ISBA/23/C/18](#)). During the consideration of the draft exploitation regulations, the Council welcomed the continued work of the secretariat and the Commission in this respect and requested the work on draft regulations to continue as a matter of priority. The Council also welcomed the circulation of the draft regulations to stakeholders and encouraged them to make submissions no later than 31 December 2017. The Council requested that the revised draft regulations be circulated in sufficient advance to allow for substantive consideration and discussion by the Council at its next session (see [ISBA/23/C/18](#)). Acting on the recommendation of the Finance Committee, the Council adopted a decision relating to financial and budgetary matters (see [ISBA/23/C/17](#)). The Council considered proposed amendments to the staff regulations of the Authority and decided to adopt and apply provisionally the proposed amendments (see [ISBA/23/C/4](#) and [ISBA/23/C/16](#), annex).

D. First part of the twenty-fourth session of the Authority

76. Owing to the increased workload of the Authority, the Assembly endorsed a revised schedule of meetings for 2018 and 2019 ([ISBA/23/A/13](#), sect. D, para. 1). Accordingly, the Council held 10 meetings from 5 to 9 March 2018, immediately prior to the two-week session of the Legal and Technical Commission. The second part of the session will be held from 16 to 20 July 2018, after the meetings of the Commission and before the meetings of the Assembly.

77. The Council elected Olav Myklebust (Norway) as President of the Council for the twenty-fourth session. Subsequently, following consultations among the regional groups, the Council elected the representatives of Côte d'Ivoire (African States), India (Asia-Pacific States), Poland (Eastern European States) and Brazil (Latin American and Caribbean States) as Vice-Presidents.

78. The Council elected Ahmed Farouk (Egypt) to fill a vacancy on the Legal and Technical Commission. The Council also approved the memorandum of understanding between the Asian-African Legal Consultative Organization and the Authority, which sets out the areas for cooperation between the two organizations. The Council also took note of reports on the implementation of the decision of the Council in 2017 relating to the summary report of the Chair of the Legal and Technical Commission and endorsed a more coherent strategy for the development of regional environmental management plans. The Council also met in an informal setting to

provide guidance to the Commission in relation to the development of the regulations on exploitation of mineral resources in the Area. The statement of the President on the work of the Council during March 2018 is contained in document [ISBA/24/C/8](#).

XIV. Ongoing supervision of contracts for exploration and award of new contracts as necessary

79. At the core of the Authority's functions, as the organization through which States parties to the Convention administer the resources of the Area, is the responsibility to approve and issue contracts to qualified entities wishing to explore for or exploit deep-sea mineral resources. The contractual nature of the relationship between the Authority and those wishing to conduct activities in the Area is fundamental to the legal regime established by Part XI of the Convention and the 1994 Agreement. Annex III to the Convention, in which the "Basic conditions of prospecting, exploration and exploitation" are set out, also forms an integral part of that legal regime, which is further elaborated in the rules, regulations and procedures adopted by the Authority.

A. Status of contracts for exploration

80. As at 30 April 2018, 29 contracts for exploration had entered into force (17 for polymetallic nodules, 7 for polymetallic sulphides and 5 for cobalt-rich ferromanganese crusts). This includes two new contracts. A contract for exploration for polymetallic sulphides with the Government of Poland came into force on 11 February 2018, and a contract for exploration for cobalt-rich ferromanganese crusts was signed with the Government of the Republic of Korea on 27 March 2018.

81. Following the decision of the Council to approve a five-year extension of the contract for exploration for polymetallic nodules with the Government of India ([ISBA/23/C/15](#)), the extension agreement was signed in Kingston on 27 March 2018.

B. Status of annual reports submitted by the contractors

82. Each contractor is required to submit an annual report to the Secretary-General within 90 days of the end of each calendar year, covering its programme of activities in the exploration area. As at 30 April 2018, the full complement of 27 expected annual reports had been received by the secretariat.

C. Informal meeting of the contractors

83. In continuation of a practice started from 2017, the Secretary-General intends to convene an informal meeting of contractors during 2018, most likely in September. The purposes of the meeting will include updating the contractors on the new database of the Authority and holding informal exchanges on other matters of concern, including the status of the development of the regulatory framework for the exploitation of mineral resources.

XV. Progressive development of the regulatory regime for activities in the Area

84. The Authority's mandate includes the continued development of a regulatory regime governing the exploration for and exploitation of mineral resources in the Area, consistent with the Convention and the 1994 Agreement, which provides adequate security of tenure, the development of the common heritage of mankind on the basis of sound commercial principles and ensuring effective protection for the marine environment. The regulatory regime would ultimately be contained in a mining code, which would comprise the whole of the comprehensive set of rules, regulations and procedures issued by the Authority to regulate the prospecting, exploration and exploitation of mineral resources in the Area, including applicable standards, and technical and administrative guidelines issued by the Authority.

A. Prospecting and exploration

85. There are currently three sets of regulations covering prospecting and exploration for polymetallic nodules ([ISBA/19/C/17](#), annex), polymetallic sulphides ([ISBA/16/A/12/Rev.1](#), annex) and cobalt-rich ferromanganese crusts ([ISBA/18/A/11](#), annex). In addition to specifying the application process for the approval of a plan of work for exploration, the regulations set out the standard terms and conditions, applicable to all entities, of contracts for exploration concluded with the Authority.

86. The regulations are supplemented by recommendations for the guidance of contractors issued by the Legal and Technical Commission. At present, recommendations that have been issued by the Commission include:

(a) Recommendations for the guidance of contractors and sponsoring States relating to training programmes under plans of work for exploration ([ISBA/19/LTC/14](#));

(b) Recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area ([ISBA/19/LTC/8](#));

(c) Recommendations for the guidance of contractors for the reporting of actual and direct exploration expenditure ([ISBA/21/LTC/11](#)); and

(d) Recommendations for the guidance of contractors on the content, format and structure of annual reports ([ISBA/21/LTC/15](#)).

87. The recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area is currently under review by a working group in the Commission. A revised document will be presented by the working group for consideration by the Commission in July 2018 (see [ISBA/24/C/9](#)).

B. Exploitation

88. It is recalled that in August 2017 the secretariat issued a set of draft regulations on exploitation of mineral resources in the Area (see [ISBA/23/C/12](#)) for stakeholder comment. The consolidated draft regulations were built on a first working draft issued by the Legal and Technical Commission in July 2016 and incorporated provisions relating to the protection of the marine environment, inspection and regulations for the calculation and administration of a royalty liability. During the final quarter of 2017, the secretariat engaged experts at the Massachusetts Institute of Technology to

develop a working financial and economic model for the Authority in connection with the development of financial terms for future exploitation contracts.

89. During the first part of the twenty-fourth session, in March 2018, the Council met in an informal setting to consider an informal briefing note prepared by the secretariat on submissions by members of the Authority and other stakeholders in relation to the draft regulations on exploitation of mineral resources in the Area and to advance its first substantive discussion on the draft exploitation regulations, including financial terms. This discussion benefited from a workshop hosted by the Foreign and Commonwealth Office of the United Kingdom and the Royal Society, held in London on 12 and 13 February 2018, which addressed a number of common themes arising from submissions to the draft regulations. The Council requested the Legal and Technical Commission to address a number of points and actions during its meetings in 2018 (see [ISBA/24/C/8](#)).

90. At its meetings in March 2018, the Commission considered the requests made by the Council together with submissions made by members of the Authority and other stakeholders with respect to the draft exploitation regulations (see [ISBA/24/C/9](#)). The Commission requested that the secretariat prepare a revised text of the draft regulations for its consideration in July 2018 in the light of discussions held in the Commission. A revised text has been made available as a working paper as document [ISBA/24/LTC/WP.1](#). A commentary for the benefit of the Commission, members of the Authority and other stakeholders has been issued as document [ISBA/24/LTC/6](#).

91. The Council also requested that the Commission collaborate with the Finance Committee and make recommendations to the Council on the respective roles and responsibilities of the Commission and the Committee in order to facilitate cooperation in the development of the draft regulations, in particular the payment mechanism and, more specifically, administrative fees, and the development of equitable sharing criteria. A joint meeting between the Commission and the Council will be held on 13 July 2018. To aid in that discussion, the secretariat has produced a note to clarify the functions of the respective organs of the Authority in relation to the preparation of rules, regulations and procedures on exploitation of mineral resources in the Area and in relation to the system of compensation envisaged under article 151 (10) of the United Nations Convention on the Law of the Sea ([ISBA/24/C/10](#)).

C. National laws and regulations relating to deep seabed mining

92. At the seventeenth session of the Authority, in 2011, the Council requested the Secretary-General to prepare a report on the laws, regulations and administrative measures adopted by sponsoring States and other members of the Authority with regard to activities in the Area, and invited, for that purpose, sponsoring States and other members of the Authority, as appropriate, to provide the secretariat with information on, or the texts of, relevant national laws, regulations and administrative measures (see [ISBA/17/C/20](#), para. 3). Subsequently, the secretariat established an online database of the information on, or the texts of, national laws, regulations and administrative measures that had been submitted to it and submitted an annual report on the status of such national legislation to the Council ([ISBA/18/C/8](#) and Add.1, [ISBA/20/C/12](#), [ISBA/20/C/11](#) and Corr.1 and Add.1, [ISBA/21/C/7](#), [ISBA/22/C/8](#) and [ISBA/23/C/6](#)).

93. On 26 March 2018, the secretariat circulated a note verbale inviting sponsoring States and other members of the Authority to submit to the secretariat texts of their relevant national laws, regulations and administrative measures or related

information. In response to that note, Tuvalu submitted the Tuvalu Seabed Minerals Act 2014. China submitted three regulatory documents issued by the State Oceanic Administration relating to exploration activities in the Area. Montenegro provided some legislation relating to law of the sea matters.

94. As at 31 May 2018, the following 29 States had provided information on, or the texts of, relevant national laws, regulations and administrative measures: Belgium, Brazil, China, Cook Islands, Cuba, Czechia, Dominican Republic, Fiji, France, Georgia, Germany, Guyana, India, Japan, Kiribati, Mexico, Montenegro, Nauru, Netherlands, New Zealand, Nigeria, Niue, Oman, Republic of Korea, Singapore, Tonga, Tuvalu, United Kingdom, United States of America and Zambia. A submission was also received from the secretariat of the Pacific Community.

XVI. Promotion and encouragement of marine scientific research in the Area

95. The promotion of marine scientific research with respect to activities in the Area, with particular emphasis on research related to the environmental impact of activities in the Area, is a key focus area for the Authority. The Authority has engaged in several international initiatives as a partner in support of marine scientific research.

96. In February 2017, the Office of Environmental Management and Mineral Resources of the secretariat participated in the second Joint Programming Initiative Healthy and Productive Seas and Oceans (JPI Oceans) MiningImpact meeting, held in Bremen, Germany, on the theme “Ecological Aspects of Deep-Sea Mining”. JPI Oceans is funded by the European Union Horizon 2020 research and innovation programme. The Authority has become an official partner of the JPI Oceans MiningImpact project.

97. In September 2017, the Authority organized a workshop in Berlin in collaboration with the International Marine Minerals Society and the Pew Environment Group. The workshop dealt with the definition and use of area-based management tools for environmental assessment during exploitation as required in the regulations for each of the three minerals. The regulations foresee the design of impact reference zones and preservation reference zones prior to exploitation. The workshop brought together contractors and stakeholders to provide recommendations to the Legal and Technical Commission to help in their design.

98. From October 2017, the secretariat engaged in the organization of a scientific cruise entitled “Plumex” with R/V Sally Ride off the shores of California, United States of America, to study experimental plume releases. This cruise took place in March 2018 and was organized by the Massachusetts Institute of Technology, JPI Oceans, and the Belgian contractor GSR in collaboration with the Scripps Institution of Oceanography, University of California, San Diego. The secretariat also engaged with the University of Hawaii and the International Atomic Energy Agency in a collaborative effort to implement a long-term monitoring system in the area, specifically in the Clarion-Clipperton Fracture Zone. This initiative forms the core of a voluntary commitment for the sustainable development goals of UN-Oceans.

99. It is understood that processing technologies can cost up to 70 per cent of a total seabed mining project, thus having a major impact on the economic feasibility of deep-sea mining. A workshop on processing technologies, metal recoveries and their impact on the economic feasibility of deep-sea mining has been proposed and is to be held in Poland in September 2018, in collaboration with Interoceanmetal Joint Organization and the Polish Ministry of Environment.

XVII. Regional environmental management plans

100. The Council adopted the first-ever environmental management plan for the Area in the Clarion-Clipperton Zone in 2012.⁴ This process included the designation of a network of nine areas of particular environmental interest through a collaborative process involving relevant stakeholders. Since 2012, the Council has repeatedly called upon the secretariat and the Legal and Technical Commission to make progress on the development of similar regional environmental management plans in other parts of the Area, in particular where contracts for exploration currently exist.⁵ These calls have been reflected in the resolutions of the General Assembly.⁶

101. In March 2018, the Council took note of the preliminary strategy for the development of regional environmental management plans under the auspices of the Authority for key provinces where exploration activities under contracts are carried out.⁷ The Council also agreed with the priority areas that had been identified on a preliminary basis as the Mid-Atlantic Ridge, the Indian Ocean triple junction ridge and nodule-bearing province, as well as the North-west Pacific and South Atlantic for seamounts. The Council also noted that the preliminary strategy laid out a coherent and coordinated approach to the process and identified as essential that plans be developed in a transparent manner under the auspices of the Authority, in the light of its jurisdiction under the Convention and the Agreement relating to the implementation of Part XI of the Convention.⁸

102. Implementation of this preliminary strategy has started with the organization of two workshops. The first workshop, organized in collaboration with China Ocean Mineral Resources Research and Development Association, will take place in Qingdao, China, in May 2018 and will focus on building a road map for a regional environmental management plan in the cobalt-crust area of the North-west Pacific. The second workshop will take place in Szczecin, Poland, in June 2018 and will address the design of regional environmental management plans for polymetallic sulphides. Meanwhile, during the second half of 2018, a workshop will be held to review the status of implementation of the 2012 environmental management plan established for the Clarion-Clipperton Zone region.

XVIII. Data management strategy

103. The database management programme is currently in phase six of a nine-phase implementation plan. Phase six will see the delivery of a fit-for-purpose database and application interface to store the Authority's digital data. This phase also includes stakeholder training and the production of a database management user manual. The conclusion of phase seven of the implementation plan (integration and acceptance testing) will see the end of active development on the project, with the remaining phases being phase eight (correction and documentation), and phase nine (one-year implementation support). The implementation of the database management programme is expected to be completed in October 2018, with a soft launch of the application to various user groups. In parallel with the launch of the application, the secretariat will initiate the migration and insertion of data from various sources, the most important of which are the historic template data and data that have been

⁴ See [ISBA/17/LTC/7](#), [ISBA/17/C/19](#) and [ISBA/18/C/22](#).

⁵ See, inter alia, [ISBA/20/C/31](#), para. 9; [ISBA/21/C/20](#), para. 10; [ISBA/22/C/28](#), para. 11; and [ISBA/23/C/18](#), para. 16.

⁶ See resolutions [69/245](#), para. 51; [70/235](#), para. 60, and [72/73](#), para. 71.

⁷ See [ISBA/24/C/3](#).

⁸ See [ISBA/24/C/8](#), para. 10.

extracted from various sources and geo-referenced using geographic information system technology by the secretariat.

104. The secretariat has also initiated work on the evaluation of information and data relating to the areas reserved for the Authority, which will be an important requirement for the future operationalization of the Enterprise. A series of maps have been prepared, which would be compiled as a preliminary atlas and updated periodically.

XIX. Capacity development and training

105. The Authority carries out its mandate of promoting marine scientific research in the Area and building the capacity of developing States in deep-sea research and technology⁹ through the Authority's contractor training programmes, its Endowment Fund for Marine Scientific Research in the Area and its internship programme.

A. Contractor training programme

106. Authority contractors have a legal obligation to provide and fund training opportunities for trainees from developing States and the Authority. Between 2013 and 2017, a total of 69 training places were provided by 11 contractors. The types of training included at-sea training; engineering training; fellowship training, including master's and PhD programmes; internships; workshops; and seminars. Among the selected trainees, 26 were from the African group, 22 from the Asia-Pacific group, 2 from the Eastern European group and 19 from the Group of Latin American and Caribbean States. A total of 22 of the 69 trainees were women.

107. As at 31 May 2018, in the previous year, 21 candidates had been selected for training placements under nine exploration contracts (six from the African group, seven from the Asia-Pacific group, one from the Eastern European group and seven from the Group of Latin American and Caribbean States). A total of 11 of the successful candidates were women. All training opportunities are advertised on the Authority's website and are circulated to members of the Authority.

108. If all existing contracts and approved plans of work are implemented according to the recommendations made by the Legal and Technical Commission with respect to training programmes, approximately 200 training places will be made available by contractors between 2017 and 2021.

B. Endowment Fund for Marine Scientific Research in the Area

109. The Endowment Fund for Marine Scientific Research in the Area aims to promote and encourage the conduct of marine scientific research in the Area for the benefit of mankind as a whole, in particular by supporting the participation of qualified scientists and technical personnel from developing countries in marine scientific research programmes and offering them opportunities to participate in training, technical assistance and scientific cooperation programmes. Pursuant to the agreed procedures, a new advisory panel was appointed by the Secretary-General in 2017 to evaluate applications for assistance from the Fund and make recommendations to the Secretary-General. The names of the members are listed in the annex to the present report. The panel will serve for a three-year period ending in November 2020.

⁹ United Nations Convention on the Law of the Sea, articles 143 and 144.

110. In 2017, with the award of \$10,000 from the Endowment Fund, the Second Institute of Oceanography, China, was able to start the preparatory work for the international cooperative study of seafloor sulphides on slow and ultra-slow spreading ridges, to be conducted under the framework of InterRidge, an international scientific collaboration. The project will span two years and is expected to be completed in 2019. In late 2018, an academic workshop, supported by the grant from the Endowment Fund, will be held on resources exploration and assessment of seafloor massive sulphides on slow and ultra-slow spreading ridges. Two young scientists from developing countries will be selected to participate in this project.

111. An award of \$8,000 to the Second Institute of Oceanography, China, was used to provide scholarships to seven candidates (from Brazil, Cameroon, India, Kenya, Malaysia and Thailand) to attend the 2017 “Summer academy on deep seabed mining: interaction of science, technology and legal development”, convened by Shanghai Jiao Tong University, China. An award of \$4,000 to the Center for Oceans Law and Policy, University of Virginia, enabled two candidates from China to attend the 2017 summer session of the Rhodes Academy. An award of \$8,960 allowed InterRidge to offer fellowships to post-doctoral researchers from India and the Islamic Republic of Iran.

112. The fifteenth meeting of the advisory panel was held on 15 March 2018. The funds available for use in 2018 totalled approximately \$58,000. The panel recommended awards from the Fund as follows: \$12,000 to the Deep-Ocean Stewardship Initiative to support the attendance of postgraduate students and researchers from developing countries to the fifteenth International Deep-Sea Biology Symposium and a Deep-Ocean Stewardship Initiative workshop to be held from 9 to 14 September 2018 in Monterey, California, United States of America; \$5,000 to the Center for Oceans Law and Policy, University of Virginia, for the 2018 session of the Rhodes Academy; \$7,500 to Xiamen University, China, for the 2018 summer session of the Marco Polo-Zheng He Academy of Oceans Law and Policy; and \$13,000 to Shanghai Jiao Tong University to support its 2018 summer academy.

113. As at 31 May 2018, a total of 126 young scientists or government officials from 45 countries had benefitted from the Fund. The beneficiaries include representatives of all regional groups: the African group (Angola, Cameroon, Egypt, Kenya, Madagascar, Mauritania, Mauritius, Namibia, Nigeria, Sierra Leone, South Africa and Tunisia); the Asia-Pacific group (Bangladesh, China, the Cook Islands, Fiji, India, Indonesia, Malaysia, Micronesia (Federated States of), Palau, Papua New Guinea, the Philippines, Sri Lanka, Thailand, Tonga and Viet Nam); the Eastern European group (Bulgaria and the Russian Federation); the group of Latin American and Caribbean States (Argentina, Bolivia (Plurinational State of), Brazil, Chile, Costa Rica, Guyana, Jamaica, Suriname and Trinidad and Tobago); the Western European and other States group (Greece, Malta and Norway); and Observer States (Colombia, the Islamic Republic of Iran, Peru and Turkey). Of the 126 beneficiaries to date, a total of 47 (or 37.3 per cent) were women.

114. The secretariat will continue to take steps to generate interest in the Endowment Fund on the part of potential donors and institutional partners. It is also noted that, during the twenty-third session, the Council of the Authority, in its decision relating to financial and budgetary matters, strongly encouraged members of the Authority to make voluntary contributions to the fund (*ISBA/23/C/17/Rev.1*). Regrettably, there has been only one contribution to the Fund since 2016 in the amount of \$5,000 from Ifremer on 12 February 2018. The Fund is one of the principal mechanisms for enabling capacity-building in the field of marine scientific research in the deep ocean, and the Secretary-General wishes to encourage members of the Authority, other States, relevant international organizations, academic, scientific and technical

institutions, philanthropic organizations, corporations and private persons to contribute to it.

C. Internship

115. The purpose of the Authority's internship programme is twofold: (a) to provide a framework through which students and young government officials from diverse academic backgrounds gain exposure to the work and functions of the Authority in order to enhance their educational experience and gain experience in the work of the Authority; and (b) to enable the Authority to benefit from the assistance of qualified students and young government officials specialized in various skills within the scope of activities of the Authority. The Authority accepts interns on a limited basis, depending on the specific needs of respective offices and their capacity to effectively support, accommodate and supervise the interns.

116. As at 31 May 2018, a total of 27 university graduates or governmental officials from Australia, Belgium, Brazil, Chile, China, Colombia, the Cook Islands, Ecuador, Fiji, France, Germany, Italy, Jamaica, Japan, Norway, Papua New Guinea, Tonga, the United Kingdom and the United States of America have participated in the internship programme.

117. Interns are responsible, where appropriate, for obtaining the necessary visas and arranging their travel to and from Kingston, as well as accommodation and travel in Kingston. Costs and arrangements for travel, visas, accommodation and living expenses are also the responsibility of the interns or their sponsoring institutions. They are not financially remunerated by the Authority. One consistent and major constraint in providing internships, especially to individuals from developing countries, is that the Authority has no funding to support interns, who must therefore find their own financial support for travel and subsistence. The Secretary-General would welcome any possible extrabudgetary support for the internship programme to benefit individuals from developing countries.

Annex

Members of the advisory panel of the International Seabed Authority Endowment Fund for Marine Scientific Research in the Area

(2017–2020)

Georgy Cherkashov (reappointed)

Deputy Director
Institute for Geology and Mineral Resources of the Ocean, Russian Federation

Tian Qi

Permanent Representative to the International Seabed Authority and Ambassador Extraordinary and Plenipotentiary of the People's Republic of China to Jamaica

Jean-Michel Despax (reappointed)

Permanent Representative to the International Seabed Authority and Ambassador Extraordinary and Plenipotentiary of the Republic of France to Jamaica

Inés Fors Fernández

Permanent Representative to the International Seabed Authority and Ambassador Extraordinary and Plenipotentiary of the Republic of Cuba to Jamaica

Janet Omoleegho Olisa

Permanent Representative to the International Seabed Authority and Ambassador Extraordinary and Plenipotentiary of the Federal Republic of Nigeria to Jamaica

Dorca Auma Achapa

Head of the International Law Division
Office of the Attorney-General, Kenya

Alan Evans

Marine Science Policy Adviser
National Oceanography Centre, Southampton, United Kingdom



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Report and recommendations of the Finance Committee

Agenda item 13 of the Council

Report of the Finance Committee

Report of the Finance Committee

I. Introduction

1. During the twenty-fourth session of the International Seabed Authority, the Finance Committee held eight meetings between 9 and 12 July 2018. On 13 July, the Finance Committee and the Legal and Technical Commission held a joint meeting in an informal setting.
2. The following members of the Committee participated in the meetings during the twenty-fourth session: Frida María Armas-Pfirter, Duncan M. Laki, Konstantin G. Muraviov, Hiroshi Onuma, Didier Ortolland, Andrzej Przybycin, Kerry-Ann Spaulding, Ahila Sornarajah, Reinaldo Storani, Zhi Sun, Ye Minn Thein, Umasankar Yedla, David Wilkens and Kenneth Wong. James Ndirangu Waweru had informed the Secretary-General that he would be unable to attend the meetings.
3. On 9 July 2018, the Committee adopted its agenda ([ISBA/24/FC/1](#)) and re-elected Andrzej Przybycin as Chair and Ye Minn Thein as Vice-Chair.

II. Implementation of the budget for the financial period 2017

4. The Committee was provided with a report on the implementation of the budget for 2017 ([ISBA/24/FC/9](#)) following the new format by programme as introduced in the 2017 budget. The report indicates an implementation rate of 87.1 per cent. The Committee requested and received clarification of a number of issues, such as underexpenditure in general, including expenses on furniture, the implementation of the compensation package, official travel, participation in various United Nations common services and the implementation of International Public Sector Accounting Standards (IPSAS), which will be followed by the development of an enterprise resource planning system. The Committee took note of the report on the budget performance for the financial period 2017.

* [ISBA/24/A/L.1](#).



III. Review of costs of conference services and implementation of other cost-saving measures

5. The Committee received a detailed report on cost-saving measures, including cross-cutting measures resulting in savings of 20 per cent on conference costs for the twenty-fourth session (ISBA/24/FC/8). The Committee commended the Secretary-General for his efforts and achievements in adopting significant cost-saving measures, especially those to reduce the costs of conference services, and encouraged him to pursue them further. In particular, the Committee recommended that the possibility of purchasing air ticket fares through the liaison office in New York from the travel agent used by the United Nations be explored to benefit from a wider competitive market.

6. The Committee was satisfied with the use of remote interpretation, but requested some technical improvements. In view of the significant cost savings that could be made, the Committee recommended that the Assembly and the Council revisit the possibility of using remote interpretation services for their respective meetings if outstanding technical issues, including the quality of the interpretation, could be resolved.

IV. Status of the implementation of the International Public Sector Accounting Standards

7. The Committee was presented with a report on the progress made by the Authority towards the implementation of IPSAS (see ISBA/24/FC/6). The Committee took note of the fact that, for the first time, the financial statements had been prepared in full compliance with IPSAS with the application of the IPSAS standards related to employee benefits, the disclosure of financial instruments and intangible assets. The Committee also noted the plan for the full implementation of IPSAS over the biennium 2019–2020 by exploring the options of performing the necessary upgrades to the existing software or switching to a platform embedded in an enterprise resource planning system.

V. Audit report by Ernst and Young on the accounts of the International Seabed Authority for 2017

8. The Committee took note of the report of the auditor and its opinion that the financial statements of the Authority reflected fairly and truly the financial position of the Authority as at 31 December 2017. The Committee also noted the Authority's financial performance and cash flows for the year in accordance with the financial regulations of the Authority and in compliance with IPSAS.

9. The Committee expressed its satisfaction with the quality and clear presentation of the audit report as well as with the management letter that had been submitted for the first time, identifying certain shortcomings in the system of internal control structure. The Secretary-General indicated that steps for improvements were already being taken, such as the monthly reconciliation of funds.

10. With regard to long-standing arrears and doubtful provisioning, the Committee agreed with the Secretary-General's view, contrary to the recommendation of the auditor, that unpaid assessed contributions could not be written off, as they were sovereign debts and obligations of members of the Authority. Nevertheless, the Committee highlighted its concern that arrears were at a stage where the auditor had questioned the Authority's proper accounting. In that regard, the Committee

reaffirmed the significance of paying assessed contributions in full and in a timely manner. The fact that 52 member States had been in arrears for more than two years was of particular concern, as the Authority was committed to critical strategic programmes to implement its mandate. Furthermore, the Committee noted that member States in arrears for more than two years lost their voting rights and that the continued increase in those numbers posed a serious policy concern for the Authority. Reference was made to the use of appointing a focal point in New York responsible for raising awareness among States of the need to address their arrears.

11. The Committee commended the Secretary-General for the Authority's proper accounting records, as highlighted by the auditor in its report.

12. The Committee thanked the Secretary-General for the additional information provided.

VI. Status of the Endowment Fund for Marine Scientific Research in the Area and 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

13. The Committee took note of the balance of the Endowment Fund for Marine Scientific Research in the Area in the amount of \$3,549,808 as at 30 June 2018 (see [ISBA/24/FC/5](#)), including interest accrued in 2018 of \$32,433 intended to be used to support the participation of qualified scientists and technical personnel from developing countries in marine scientific research and approved programmes. With respect to the voluntary trust fund established on 18 August 2017 to support the participation of members of the Council of the Authority from developing States in the meetings of the Council, the balance was \$69,667 as at 30 June 2018.

14. The Committee also reviewed the provisional terms of reference for the administration of the voluntary trust fund from its creation, which have been promulgated in the form of a Secretary-General's bulletin ([ISBA/ST/SGB/2017/9](#)). The Committee endorsed the terms with two amendments and made a recommendation. For practical reasons, the Committee specified that the use of the fund was for participation in one of the two parts of the session of the Council. The Committee also recommended the insertion of a sunset clause for any amounts remaining in the funds at the end of 2019. The Committee further recommended that the list of members in the annex to the provisional terms of reference be amended after each election of members of the Council by the Assembly. The amended terms of reference are reproduced in the annex to the present report.

VII. Status of 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 in the meetings of the Commission and of the Committee, and related matters

15. The Committee expressed its deep concern over the negative balance of the voluntary trust fund in the amount of \$45,299, fully advanced from the regular budget of the Authority as at 30 June 2018 (see [ISBA/24/FC/7](#)).

16. In view of the importance of the full participation of members from developing countries in the meetings of the Legal and Technical Commission and of the Finance Committee, especially during the development of the Authority's regulations on the exploitation of mineral resources in the Area, the Committee recommended that the Assembly and the Council request the Secretary-General to redouble efforts to encourage members of the Authority, as well as other States, relevant international organizations, academic, scientific and technical institutions, philanthropic organizations, corporations and private individuals, to make contributions.

17. The Committee welcomed the fact that some members who were eligible to request assistance from the fund had not availed themselves of that facility and invited and encouraged other members from middle income countries that were able to follow that example to do so.

18. The renewed appeals in 2017 for voluntary contributions have not been sufficient. If the current situation is not addressed immediately, members of the Legal and Technical Commission from developing countries and members of the Finance Committee from developing countries that depend on assistance will not be able to participate in their respective meetings.

19. In order to address a recurrent shortfall in the voluntary trust fund, the Committee requested the Council to consider the feasibility of one of the following options:

(a) A \$2,500 contribution to the voluntary trust fund be included in the annual overhead charge invoice to contractors on a mandatory basis. This option will ensure some contributions to make up for a shortfall in the voluntary trust fund but may not be sufficient to respond to all requests for assistance from the fund without adequate contributions. The amount approximately reflects the proportion of costs attributable to the work on the supervision of the activities of contractors of the Commission's members who requested assistance from the fund. The contributions will be allocated as a deposit to the voluntary trust fund under regulation 7.1 (h) of the Financial Regulations of the Authority;

(b) As an interim solution and on a voluntary basis, an additional contribution of \$6,000 or less¹ would be added to the annual overhead charge invoice to contractors on an opt-out basis. Contributions will be allocated as a contribution to the voluntary trust fund. This option maintains the voluntary nature of the contributions, while the use of "opt-out" makes it more likely that there will be more contributions to the fund than at present.

20. Alternatively, a one-off solution for the next financial period could be a transfer of \$100,000 in the form of a reimbursable advance from the accumulated surplus of the Authority's administrative budget. Such a solution is clearly not sustainable and will affect the assessed contributions of the members, which would not be in line with the voluntary nature of the contributions to the fund.

VIII. Working Capital Fund

21. The Committee was provided with a report on the status of the working capital fund (ISBA/24/FC/2) with updates provided by the secretariat. The level of the Working Capital Fund has increased to \$660,000, with the most recent increase of

¹ In the past, the average annual cost of funding participation in the meetings of the Commission and the Committee for members from developing countries amounted to \$170,000. The amount of \$6,000 represents the amount necessary from each contractor to provide the fund with \$170,000.

\$100,000 approved by the Assembly in 2016. The assessed amount of the advances is \$659,995. As at 30 June 2018, the balance of the Working Capital Fund was \$585,067, with a further \$74,928 to be collected between 2018 and 2020. The Committee took note of the report on the status of the Working Capital Fund.

IX. Status of overhead charges for the administration and supervision of contracts for exploration and their reflection of costs actually and reasonably incurred

22. As requested in 2017, the Committee received a detailed assessment of the costs incurred for the administration and supervision of contracts for exploration after consultations with contractors on possible cost-saving measures (see [ISBA/24/FC/3](#)). The Committee also recalled that, in 2017, it had suggested that it would likely recommend an adjustment of overhead charges in 2018.

23. Based on an extrapolation method used by the secretariat, the report shows updated estimate of annual overhead costs of \$63,908 per contract, an amount that reflects the variation of different factors since the establishment of those charges in 2013 (see [ISBA/19/A/2](#)).

24. The Committee agreed that there was a need to increase the overhead charges. Taking into account possible inaccuracies from the extrapolation method and following a conservative approach, the Committee recommended an amount of \$60,000.

25. The Committee requested the secretariat to establish a more accurate methodology benefiting from the ongoing implementation of IPSAS in the accounting of the secretariat and to report by the twenty-sixth session the exact costs for the supervision and administration of the contracts for exploration for the Committee to take up that question accordingly. The Committee also recommended that the amount be reviewed more regularly in the light of the collection of data and revised methodology.

X. 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

26. The Committee took note of the report of the Secretary-General ([ISBA/24/FC/4](#)), in which the complexity and the number of issues to be addressed for the development of equitable sharing criteria were highlighted.

27. As a way forward, the Committee requested that the Secretary-General prepare a study including suggested sharing criteria for consideration at the twenty-fifth session of the Authority. The Committee agreed to establish an informal group to work intersessionally to enable progress on this important issue, including through the exchange of views on macroeconomic, legal and political factors in a forum on the website of the Authority. The Committee also requested that the matter be kept on its agenda for its session in 2019 and that sufficient time be reserved for discussion at its next meeting. The Committee noted the importance of advancing the implementation of article 82 of the Convention in parallel, while avoiding the duplication of work.

XI. Proposed budget for the financial period 2019–2020

28. The Committee examined the proposed budget for the financial period 2019–2020 in the amount of \$18,470,900 (see [ISBA/24/A/5-ISBA/24/C/11](#)).

29. The Committee expressed its appreciation for the clear and thorough preparation of the proposed budget. The proposed budget represents an increase of 7.8 per cent, from \$17,130,700 for the previous biennium to \$18,470,850. This increase in nominal value represents a 2.5 per cent increase in the contributions of the member States of the Authority. The proposed budget is composed of \$12,288,310 for the administration of the secretariat, \$3,084,000 for the costs of conference services and \$3,098,540 for programme expenditure.

30. The Committee considered the increase in the core work of the Authority, namely, finalizing the regulatory framework for deep sea mining and the protection of the environment and the development of the regional environment management plans. It welcomed the significant reduction in the costs of conference services, by more than 20 per cent, and commended the Secretary-General for the transparency and reliability of the proposal. It asked about the increase in the “established posts” budget line, from \$6,200,000 to \$7,140,461, or 15.2 per cent. The Committee requested clarification of the “general temporary assistance” budget line, and the secretariat confirmed that two United Nations Volunteers for the archives digitization project and for support to the information technology unit had been included therein.

31. The Committee noted that the creation of four new regular positions would require additional expenditure of \$900,000 over the biennium. In view of the Secretary-General’s explanation, the Committee noted the need of those posts to strengthen and enhance the capabilities of the Authority and enable it to meet new demands.

32. The Committee requested explanations on the large increase (20.2 per cent) in official travel. The Secretary-General explained that that budget line had always been underbudgeted (28.3 per cent overspending in 2017) and that the increase reflected the need for a larger travel budget. He added that the previous practice was inconsistent in that travel had sometimes been included in programme budgets.

33. The Committee also sought clarifications with respect to consultants, training, external printing, supplies and materials, hospitality, the redesign of the website of the Authority, the United Nations common system and IPSAS. The Secretary-General gave necessary and adequate responses and, in particular for the IPSAS budget line, explained that there had been no expenditure as all training had been received and that the budget line had been kept to finance the survey necessary for the design or selection of an enterprise resource planning system to enable the Authority to have administrative and financial processes that were IPSAS compliant.

34. Following the provision of supplementary information, including on the four new proposed posts, and the discussion in the Committee, the Secretary-General provided the Committee with a revised budget proposal for the financial period 2019–2020 in the amount of \$18,235,850 (see [ISBA/24/A/5/Corr.1-ISBA/24/C/11/Corr.1](#)).

35. The Committee decided to recommend the approval of the proposed budget for the financial period 2019–2020 in the amount of \$18,235,850, which represents a nominal increase of 6.5 per cent.

36. The Committee expressed its gratitude to the Secretary-General for providing further detail and explanation upon request and recommended that the Secretary-General be authorized to transfer between sections, subsections and programmes up to 20 per cent of the amount of each section, subsection or programme.

XII. Indicative scale of assessed contributions of members of the Authority to the administrative budget for the financial period 2019–2020

37. The Committee recommended that, in line with article 160, paragraph 2 (e), of the United Nations Convention on the Law of the Sea, the scale of assessments to the administrative budget of the Authority for 2019 and 2020 be based on the scale of assessments to the regular budget of the United Nations for the years 2016, 2017 and 2018 for the year 2019, taking into account the ceiling assessment rate of 22 per cent and the floor assessment rate of 0.01 per cent, differences in membership and the contribution of the European Union.

XIII. Other matters

A. Implementation of the budget from 1 January 2018 to 31 May 2018

38. The Committee noted with satisfaction the report on the budget performance in the first five months of 2018, with additional information provided on staffing, travel and workshops.

B. United Nations House project

39. The Committee took note of a report of the Secretary-General on the implications for the Authority of the United Nations House project, in which it was outlined that participation in the first phase would cost \$31,643.24, payable in 2018. The Committee requested the Secretary-General to continue to inform the Committee on future developments.

XIV. Recommendations of the Finance Committee

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

(a) Approve the budget for the financial period 2019–2020 in the amount of \$18,235,850, as proposed by the Secretary-General (see [ISBA/24/A/5/Corr.1-ISBA/24/C/11/Corr.1](#));

(b) Take note with appreciation of the significant reduction in the costs of conference services and the transfer of the resources made available by those savings to the programmes of the Authority;

(c) Authorize the Secretary-General to establish the scale of assessments for 2019 and 2020 on the basis of the scale used for the regular budget of the United Nations for the years 2016, 2017 and 2018 for the year 2019, taking into account that the maximum assessment rate will be 22 per cent and the minimum rate 0.01 per cent;

(d) Authorize the Secretary-General, for 2019 and 2020, to transfer between sections, subsections and programmes up to 20 per cent of the amount of each section, subsection or programme;

(e) Urge the members of the Authority to pay their assessed contributions to the budget on time and in full;

(f) Note with concern the increasing amounts of outstanding contributions, 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;

(g) Urge members and other possible donors to make voluntary contributions to the Endowment Fund and voluntary trust funds of the Authority;

(h) Express its deep concern over the negative balance of 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 in the meetings of the Commission and of the Committee and consider the feasibility of one of the options identified in paragraphs 19 and 20 of the present report;

(i) Recommend an increase in the annual overhead charge referred to in section 10.5 of the standard clauses for exploration contracts, from \$47,000 to \$60,000 effective 1 January 2019;

(j) Revisit the possibility of using remote interpretation services for the meetings of the Assembly and the Council if outstanding technical issues, including the quality of the interpretation, can be resolved;

(k) Adopt the terms of reference for the voluntary trust fund to support the participation of members of the Council of the Authority from developing States in the meetings of the Council as contained in the annex to the present report.

Annex

Terms of reference for 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

1. Pursuant to the financial regulations of the International Seabed Authority, a voluntary trust fund has been established to support the participation of members of the Council of the Authority from developing States.

I. Object and purpose of the trust fund

2. In its decision [ISBA/23/A/13](#) dated 18 August 2017 relating to the final report on the first periodic review of the international regime of the Area pursuant to article 154 of the United Nations Convention on the Law of the Sea, the Assembly requested the Secretary-General to establish a voluntary trust fund to support the participation of members of the Council from developing States in the second annual meeting of the Council.

3. The objective of the fund is to defray the cost of participation of members of the Council from developing States in one of the two parts of the annual session of the Council scheduled for 2018 and 2019, respectively, during the time where there are two meetings of the Council per year.

II. Establishment

4. The fund is established pursuant to financial regulation 5.5 and shall be administered in accordance with the financial regulations of the Authority, as provided in financial regulation 5.6.

III. Contributions to the fund

5. Member States, observers and other stakeholders are encouraged to contribute financially to the voluntary trust fund. Other stakeholders may include, but are not limited to: other States; contractors with the Authority; relevant international organizations; academic, scientific and technical institutions; philanthropic organizations; corporations and private individuals; and non-governmental organizations.

IV. Implementing office

6. The Office for Administrative Service of the Secretariat is the implementing office for the fund and provides the services for its operation.

V. Report on the status of the fund

7. The Secretary-General shall report annually to the Finance Committee for its review of the use and status of the fund. The Secretary-General shall also report annually to the Assembly on the status of the fund.

VI. Terms of reference for the administration of the fund

8. The use of the fund is subject to the following conditions:

(a) A formal request by the Government of the State, containing the name of the delegate to be supported, must be communicated to the Secretariat no later than three months prior to the opening of the respective meeting of the Council. Late requests shall not be considered;

(b) Only members of the Council from developing States are eligible for support from the fund. However, in the event that the amount available in the fund is not sufficient to meet all requests for support, priority shall be given to members of the Council from least developed countries. A list of eligible States based on the composition of the Council for 2018 is attached in the annex to the present terms of reference, subject to revision following each election of the members of the Council;

(c) The fund shall be used to support the participation of one member of the delegation of an eligible developing State member of the Council in only one of the two meetings of the Council per year, as normally scheduled in February/March and July/August;

(d) For each member of the Council, only one delegate may benefit from support from the fund;

(e) Support shall be limited to economy class airfare by the most economical and direct route from either the capital or the official place of posting and to a daily subsistence allowance for up to a maximum of five days;

(f) The Secretary-General should inform the Government concerned of the outcome of the request in a timely manner.

9. Unless the Assembly of the Authority decides otherwise, any funds remaining by the end of the year 2019 will be transferred to 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 in the meetings of the Commission and of the Committee, and the fund will be closed.

Annex

Developing States members of the Council in 2018

Algeria	China	Jamaica	Singapore
Argentina	Côte d'Ivoire	Lesotho	South Africa
Bangladesh	Fiji	Mexico	Trinidad and Tobago
Brazil	Ghana	Morocco	Tonga
Cameroon	India	Nigeria	Uganda
Chile	Indonesia	Panama	

Least developed countries members of the Council in 2018

Bangladesh	Lesotho	Uganda
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Assembly

Distr.: General

26 July 2018

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Twenty-fourth session

Kingston, 2–27 July 2018

Agenda item 13

Election to fill vacancies on the Council, in accordance with article 161, paragraph 3, of the Convention

Decision of the Assembly of the International Seabed Authority relating to the election to fill the vacancies on the Council of the Authority in accordance with article 161, paragraph 3, of the United Nations Convention on the Law of the Sea

The Assembly of the International Seabed Authority,

Recalling that, in accordance with article 161, paragraph 3, of the United Nations Convention on the Law of the Sea,

“Elections shall take place at regular sessions of the Assembly. Each member of the Council shall be elected for four years”,

Elects the following to fill the vacancies in the Council of the International Seabed Authority for a four-year period as from 1 January 2019, subject to the understandings reached in the regional and interest groups:¹

Group A

Italy²

Russian Federation

¹ The agreed allocation of seats on the Council is 10 seats to the African Group, 9 seats to the Asian Group, 8 seats to the Western European and Others Group, 7 seats to the Latin American and Caribbean Group and 3 seats to the Eastern European Group. Since the total number of seats allocated according to that formula is 37, it is understood that, in accordance with the understanding reached in 1996 (ISBA/A/L.8), each regional group other than the Eastern European Group will relinquish a seat in rotation. The regional group that relinquishes a seat will have the right to designate a member of that group to participate in the deliberations of the Council without the right to vote during the period the regional group relinquishes the seat.

² Italy would relinquish its seat in group A in favour of the United States of America if the United States became a member of the Authority; this does not prejudice the position of any country with respect to any intervening election to the Council.



Group B

France
Germany
Republic of Korea

Group C

Australia³
Chile⁴

Group D

Fiji
Jamaica
Lesotho

Group E

Cameroon
Ghana
Indonesia⁵
Mexico
Mozambique
Nigeria
Singapore
Tonga

*177th meeting
26 July 2018*

³ Australia is re-elected for a period of four years (2019–2022), on the understanding that, in 2021, it will relinquish its seat in group C to Indonesia. Australia will be a member of group E in 2021.

⁴ Chile is re-elected for a period of four years (2019–2022), on the understanding that, in 2020, it will relinquish its seat in group C to Indonesia. Chile will be a member of group E in 2020.

⁵ Indonesia is re-elected for a period of four years (2019–2022), on the understanding that, in 2020, it will relinquish its seat in group E to Chile and will occupy the seat in group C relinquished by Chile, and that, in 2021, it will relinquish its seat in group E to Australia and will occupy the seat in group C relinquished by Australia.



Assembly

Distr.: General
27 July 2018
Original: English

Twenty-fourth session
Kingston, 2–27 July 2018

Decision of the Assembly of the International Seabed Authority relating to the strategic plan of the Authority for the period 2019–2023

The Assembly of the International Seabed Authority,

Recalling its decision of 18 August 2017, at the twenty-third session of the International Seabed Authority,¹ to request, inter alia, the Secretary-General, in view of the importance of a long-term plan defining the strategic direction and aims of the Authority, to submit a draft strategic plan to the Assembly for consideration at its twenty-fourth session, in 2018, and to regularly inform member States on progress with respect to the plan,

Recalling also that all twenty-nine exploration contracts currently signed by the Authority will be in force during the period of the plan,

Acknowledging the challenges for the Authority raised by the transition from exploration to exploitation,

Emphasizing the importance of ensuring that the strategic plan is kept under regular review and the results monitored for effectiveness,

1. *Adopts* the strategic plan of the International Seabed Authority for the period 2019–2023, as contained in the annex, which provides a uniform basis for the strengthening of existing working practices of the Authority;
2. *Invites* members of the Authority and observers, as well as the organs of the Authority, to support the implementation of the strategic plan;
3. *Requests* the Secretary-General, as a matter of priority, to prepare a high-level action plan and to include key performance indicators and a list of outputs for the next five years, taking into account available financial and human resources, for consideration by the Assembly at its twenty-fifth session;
4. *Also requests* the Secretary-General to provide the Assembly with a detailed overview of the implementation mechanisms to be established, including for monitoring, evaluation and learning;

¹ [ISBA/23/A/13](#).



5. *Emphasizes* the importance of ensuring that the implementation mechanisms also include provision for midterm and final evaluation, to enable an assessment of the implementation and impact of the strategic plan, enhancing organizational development effectiveness and accountability, as well as informing, with lessons learned, the development of the next strategic plan;

6. *Recognizes* that the operative period of the strategic plan will be five years, without excluding the possibility, once the first review is undertaken, of adopting a longer-term plan in the future.

*178th Meeting
26 July 2018*

Annex**Strategic plan of the International Seabed Authority for the period 2019–2023****I. Introduction**

1. The present strategic plan embodies the vision of the International Seabed Authority for the implementation of part XI and other provisions relating to the Area under the United Nations Convention on the Law of the Sea of 10 December 1982 and 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 during the five-year period 2019–2023. It takes into account that, pursuant to the 1994 Agreement, the setting up and the functioning of the Authority shall be based on an evolutionary approach in order that it may discharge effectively its responsibilities at various stages of the development of activities in the Area (1994 Agreement, annex, sect. 1 (3)).

2. The Convention and the 1994 Agreement constitute an intricate and unitary system of rights, obligations, duties and responsibilities in connection with activities in the Area. The system involves a broad stakeholder base which includes States parties, sponsoring States, flag States, coastal States, State enterprises, private investors, other users of the marine environment and interested global and regional intergovernmental organizations. All have a role in the development, implementation and enforcement of rules and standards for activities in the Area to ensure that these activities are carried out for the benefit of mankind as a whole. Through this Plan, the Authority aims to engage with stakeholders in implementing the regime for the Area accordingly. The strategic plan will be supplemented by an action plan, including key performance indicators, and will be kept under regular review by the Assembly.

3. The strategic plan consists of the following components:

- (a) Mission statement;
- (b) Context and challenges;
- (c) Strategic directions for 2019–2023;
- (d) Expected outcomes.

4. The guiding principles of the strategic plan are the following:

- (a) To reaffirm that the Area and its resources are the common heritage of mankind;
- (b) To promote the orderly, safe and rational management of the resources of the Area for the benefit of mankind as a whole;
- (c) To support the implementation of the international legal regime of the Area, including the Authority's rules, regulations and procedures;
- (d) To promote the exchange of best practices among States and contractors;
- (e) To ensure a better understanding and the effective protection of the marine environment;
- (f) To promote harmonized approaches to the protection of the marine environment and its resources;
- (g) To provide public access to environmental information;

- (h) To ensure the use of best available scientific information in decision-making;
 - (i) To require the application of the precautionary approach, as reflected in Principle 15 of the Rio Declaration on Environment and Development,¹ best available techniques and best environmental practices;
 - (j) To ensure the transparency of and accountability for results.
5. The strategic directions and priorities identified in the plan are directed primarily by:
- (a) The Convention, and in particular article 162 (2) (o) (ii), in which it is stated that: priority shall be given to the adoption of rules, regulations and procedures for the exploration for and exploitation of polymetallic nodules;
 - (b) The 1994 Agreement, including:
 - (i) Annex, section 1 (5), which sets out the matters on which the Authority will concentrate between the entry into force of the Convention and the approval of the first plan of work for exploitation;
 - (ii) Annex, section 1 (5) (f), which requires the adoption of rules, regulations and procedures necessary for the conduct of activities in the Area as they progress and that such rules, regulations and procedures take into account the terms of the Agreement, the prolonged delay in commercial deep seabed mining and the likely pace of activities in the Area;
 - (iii) Annex, section 2, with regard to those functions of the Enterprise that complement the relevant priorities as set out in section 1 (5) of the annex;
 - (iv) Annex, section 5, with regard to those principles, in addition to the provisions of article 144 of the Convention, on transfer of technology, that complement the relevant priorities as set out in section 1 (5) of the annex;
 - (v) Annex, section 6, with regard to those principles for a production policy that complement the relevant priorities as set out in section 1 (5) of the annex.
6. The Plan also takes into account:
- (a) The current status of implementation by the Authority of the priorities set out in the 1994 Agreement, in particular those set out in section 1 (5) of the annex, and in the Convention, as well as activities mandated by the Council;
 - (b) The Authority's current and projected workload, resources and capacity for the period of the present strategic plan;
 - (c) Other relevant international agreements, processes, principles and objectives, including the 2030 Agenda for Sustainable Development.

II. Mission statement

7. The mission of the International Seabed Authority is to be the organization through which States parties organize and control activities in the Area, which is the common heritage of mankind, to promote the orderly, safe and responsible management and development of the resources of the Area for the benefit of mankind as a whole, including by ensuring the effective protection of the marine

¹ *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992*, vol. I, *Resolutions adopted by the Conference* (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution 1, annex I.

environment in accordance with sound principles of conservation and contributing to agreed international objectives and principles, including the Sustainable Development Goals. This will be accomplished by developing and maintaining a comprehensive regulatory mechanism for commercial deep seabed mining that incorporates effective protection of the marine environment and of human health and safety, the equitable sharing of financial and other economic benefits from activities in the Area and that allows for the fully integrated participation of developing States through the exchange of knowledge and best practices consistent with the principle that the Area and its resources are the common heritage of mankind.

III. Context and challenges

8. In an ever-changing world, and in its role as custodian of the common heritage of mankind, the Authority faces many challenges. As described in the present section, it needs to achieve an appropriate balance between multiple objectives.

Globalization and sustainable development

9. The United Nations has adopted a new development agenda, entitled “Transforming our world: the 2030 Agenda for Sustainable Development” (General Assembly resolution 70/1). As part of this new agenda, 17 Sustainable Development Goals have been adopted. Of most relevance to the Authority is Goal 14 (Conserve and sustainably use the oceans, seas and marine resources for sustainable development), but other Goals also have relevance to the work of the Authority (see appendix I).

10. The challenge for the Authority is to contribute to the timely and effective implementation of the Sustainable Development Goals, in particular Goal 14, through implementing the economic, environmental and social mandates assigned to it under the Convention and the 1994 Agreement. These mandates include: ensuring that activities in the Area are carried out for the benefit of mankind as a whole (Convention, art. 140 (1)); ensuring effective protection for the marine environment (*ibid.*, art. 145); and of human life (*ibid.*, art. 146); promoting and encouraging the conduct of marine scientific research in the Area (*ibid.*, art. 143); and the effective participation of developing States in activities in the Area (*ibid.*, art. 148). Also included are the importance of fostering healthy development of the world economy and balanced growth of international trade (*ibid.*, art. 150); ensuring the development of the resources of the Area (*ibid.*, art. 150 (a)); the orderly, safe and rational management of the resources of the Area (*ibid.*, art. 150 (b)); the enhancement of opportunities for all States parties (*ibid.*, art. 150 (g)); and the development of the common heritage for the benefit of mankind as a whole (*ibid.*, art. 150 (i)).

The need for exploitation regulations

11. The primary means by which the Authority is required to organize, carry out and control activities in the Area on behalf of mankind as a whole is to adopt and uniformly apply rules, regulations and procedures (*ibid.*, annex III, art. 17). The basis for these rules, regulations and procedures is annex III to the Convention, which complements part XI and is further governed by the 1994 Agreement. Annex III sets out the basic conditions for prospecting, exploration and exploitation in the Area. The 1994 Agreement stipulates that rules, regulations and procedures relating to the conduct of activities in the Area are to be adopted as those activities progress. Regulations governing exploration have been adopted, and the challenge now is to

adopt sound and balanced regulations for exploitation. Regulations for exploitation must reflect best international standards and practices, as well as agreed principles of sustainable development.

12. In planning its work, the Authority must carefully analyse the prospects for commercial deep seabed mining, as well as deep sea technology development. Although market uncertainty and volatility are major factors driving commercial investment, and such factors are beyond the control of the Authority, the need for regulatory certainty, with clear requirements to ensure environmental protection and clear financial terms, is a critical element in advancing deep seabed mining.

Environmental protection

13. Ensuring effective protection for the marine environment from harmful effects which that may arise from such activities in the Area (*ibid.*, art. 145) receives detailed attention in the Convention and the 1994 Agreement. The 1994 Agreement provides that the adoption of rules, regulations and procedures incorporating applicable standards for the protection and preservation of the marine environment (1994 Agreement, annex, sect. 1 (5) (g)) is one of the matters on which the Authority will concentrate between the entry into force of the Convention and the approval of the first plan of work for exploitation. The Convention requires the Authority to adopt rules, regulations and procedures designed to prevent, reduce and control pollution and other hazards to the marine environment having the potential to interfere with the ecological balance of the marine environment. The Authority is also required to protect and conserve the natural resources of the Area, preventing damage to the flora and fauna of the marine environment (Convention, art. 145).

14. The challenge for the Authority is to adopt a policy and regulatory framework for environmental management that achieves the effective protection of the marine environment, under circumstances of considerable scientific, technical and commercial uncertainty. The framework should be adaptive, practical and technically feasible. It must satisfy the extensive marine environmental protection requirements of the Convention, as well as take into account relevant aspects of the Sustainable Development Goals and other international environmental targets, such as the Aichi Biodiversity Targets. The process for developing the framework and its implementation must be transparent and allow for stakeholder input. The development of regional environmental assessments and management plans, in particular, demands a collaborative and transparent approach to both the collection and the sharing of environmental data. The process must ensure the fully integrated participation of developing States, not least in connection with international obligations to build technical capacity.

Promoting the sharing of the results of marine scientific research

15. Marine scientific research plays a critical role in the responsible management of the oceans and their resources. Such research is also vital to scientific advancement and to the effective, efficient and commercially and environmentally sustainable conduct of activities in the Area. It is first mentioned in the preamble to the Convention, and an entire chapter of the Convention (part XIII) is devoted to the subject, which is also addressed with regard to the Area in part XI (e.g., art. 143), and in the 1994 Agreement. As explicitly stated, it is among the priorities of the Authority, notably with regard to the need to ensure acquisition of scientific knowledge (1994 Agreement, annex, sect. 1 (5) (i)).

16. Under article 143 (2) of the Convention, the Authority must promote and encourage the conduct of marine scientific research in the Area and coordinate and disseminate the results of such research and analysis when available. The Authority

may also carry out marine scientific research in its own right (Convention, art. 143 (2)).

17. The challenge for the Authority is to adopt strategies and to seek adequate resources to enable it to strengthen cooperation with States parties, the international scientific community, contractors and relevant international organizations, such as the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Atomic Energy Agency (IAEA) and the International Hydrographic Organization, and collaborative programmes such as the European Union joint programming initiative on healthy and productive seas and oceans (JPI Oceans), to obtain, assess and disseminate quantitative and qualitative data and information in an open and transparent manner.

The importance of capacity-building and technology transfer in realizing the common heritage of mankind

18. Capacity-building and technology transfer are closely linked and the Convention therefore sets out specific requirements to deal with them accordingly. The Authority is thereby required to take measures to acquire technology and scientific knowledge relating to activities in the Area (*ibid.*, art. 144 (1) (a)) and to ensure a variety of both capacity-building and technology transfer mechanisms for developing States (*ibid.*, art. 274). In line with this, States are required by the Convention to cooperate actively with competent international organizations and the Authority to encourage and facilitate the transfer to developing States, their nationals and the Enterprise of skills and marine technology with regard to activities in the Area (*ibid.*, art. 273).

19. The challenge for the Authority is to ensure that capacity-building and technology transfer measures are developed and implemented effectively, subject to all legitimate interests, including the rights and duties of holders, suppliers and recipients of technology (*ibid.*, art. 274) and that they reflect the needs of developing States, identified through transparent processes in which developing States are full participants.

Facilitating the participation of developing States in activities in the Area

20. The Authority must promote the participation of developing States in activities in the Area. This is explicit in the Convention and the 1994 Agreement. Activities in the Area shall be carried out with a view to ensuring the expansion of opportunities for participation in such activities consistent with articles 144 and 148 (*ibid.*, art. 150 (c)); the enhancement of opportunities for all States Parties, irrespective of their social and economic systems or geographical location, to participate in the development of the resources of the Area (*ibid.*, art. 150 (g)); and the development of the common heritage for the benefit of mankind as a whole (*ibid.*, art. 150 (i)). The challenge for the Authority is to identify mechanisms, including capacity-building programmes, to ensure fully integrated participation by developing States in activities in the Area at all levels. This includes identifying possible approaches to the independent operation of the Enterprise in a way that meets the requirements of the Convention and the 1994 Agreement.

Equitable sharing of benefits

21. The Authority must adopt rules, regulations and procedures for the equitable sharing of financial and other economic benefits derived from activities in the Area (*ibid.*, art. 140 (2)). Similar rules, regulations and procedures must also be adopted for the distribution of payments made through the Authority under article 82 (4) of

the Convention, in respect of the exploitation of non-living resources on the continental shelf beyond 200 nautical miles (*ibid.*, art. 82 (1)).

22. The challenge for the Authority in developing equitable sharing criteria is to understand the financial and economic model for deep seabed mining in an environment of considerable commercial uncertainty, including the trends of and the factors affecting supply, demand and prices of minerals which may be derived from the Area, bearing in mind the interests of both importing and exporting countries, and in particular of the developing States among them (*ibid.*, art. 164 (2) (b)).

Organizational development

23. In accordance with the 1994 Agreement, the setting up and the functioning of the organs and subsidiary bodies of the Authority shall be based on an evolutionary approach, taking into account the functional needs of the organs and subsidiary bodies concerned in order that they may discharge effectively their respective responsibilities at various stages of the development of activities in the Area. It is also emphasized in the 1994 Agreement that, in order to minimize costs to States parties, all organs and subsidiary bodies to be established under the Convention shall be cost-effective (1994 Agreement, annex, sect. 1 (2)).

24. The challenge for the Authority is to respond effectively and efficiently to the needs of the regulatory regime and to be ready to perform its functions as a supervisory body in anticipation of the commencement of the commercial exploitation of deep seabed minerals. The Authority must adapt, enhance and increase its structural and functional capacities at a rate that keeps pace with progress in deep sea mining, covers all necessary disciplines and ensures that adequate and appropriate levels of flexibility are built into the system. A major challenge to creating an Authority with the necessary institutional capacities will be to secure adequate funding, especially during the transition from exploration to exploitation. This makes it essential to plan well in advance for the future evolution of the organization and its subsidiary bodies.

Transparency

25. Transparency is an essential element of good governance and is therefore a guiding principle for the Authority in the conduct of its business as a publicly accountable international organization. This includes transparency in the internal administration of the Authority, as well as its internal procedures, the procedures of its various organs and subsidiary bodies and its procedures towards States. Transparency plays a fundamental role in building trust in the Authority and in enhancing the Authority's accountability, credibility and support across its stakeholder base.

IV. Strategic directions

Strategic direction 1

Realize the role of the Authority in a global context

26. The Authority will implement the following mutually reinforcing strategic directions:

Strategic direction 1.1. Align its programmes and initiatives towards the realization of those Sustainable Development Goals which are relevant to its mandate.

Strategic direction 1.2. Establish and strengthen strategic alliances and partnerships with relevant subregional, regional and global organizations with a view to more effective cooperation in the conservation and sustainable use of ocean resources, consistent with the United Nations Convention on the Law of the Sea and international law, including the pooling of resources and funding, where appropriate, in particular in connection with marine scientific research, to avoid the duplication of efforts and to benefit from synergies.

Strategic direction 1.3. Build a comprehensive and inclusive approach to the development of the common heritage for the benefit of mankind as a whole that balances the three pillars of sustainable development.

Strategic direction 1.4. Promote the effective and uniform implementation of the international legal regime of the Area, including the Authority's rules, regulations and procedures, and pay particular attention to the needs of developing States.

Strategic direction 1.5. Strengthen cooperation and coordination with other relevant international organizations and stakeholders in order to promote mutual "reasonable regard" between activities in the Area and other activities in the marine environment and to effectively safeguard the legitimate interests of members of the Authority and contractors, as well as other users of the marine environment.

Strategic direction 2

Strengthen the regulatory framework for activities in the Area

27. The Authority will implement the following strategic directions:

Strategic direction 2.1. Adopt rules, regulations and procedures covering all phases of deep sea mineral exploration and exploitation on the basis of best available information and in line with the policies, objectives, criteria, principles and provisions set out in the Convention and the 1994 Agreement.

Strategic direction 2.2. Ensure that the rules, regulations and procedures governing mineral exploitation incorporate best practices for environmental management and are underpinned by sound commercial principles in order to promote investment on a "level playing field".

Strategic direction 2.3. Ensure that the legal framework for activities in the Area is adaptive and responsive to new technology, information and knowledge and advances in international law relating to the Area, in particular in connection with international law rules on responsibility and liability.

Strategic direction 2.4. Ensure that the regulatory framework gives due consideration to and promotes the participation of developing States in activities in the Area in accordance with the Convention and the 1994 Agreement.

Strategic direction 2.5. Advance the development of the regulatory framework for activities in the Area, taking into account trends and developments relating to deep seabed mining activities, including objective analysis of world metal market conditions and metal prices, trends and prospects, through a predictable process with clear timelines, based on consensus, and that allows for stakeholder input in appropriate ways.

Strategic direction 2.6. Conduct a study of the potential impact of mineral production from the Area on the economies of developing land-based

producers of those minerals that are likely to be most seriously affected, with a view to minimizing their difficulties and assisting them in their economic adjustment, taking into account the work done in this regard by the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (1994 Agreement, annex, sect. 1 (5) (e)), and develop possible criteria for economic assistance.

Strategic direction 3

Protect the marine environment

28. The Authority will implement the following strategic directions:

Strategic direction 3.1. Progressively develop, implement and keep under review an adaptive, practical and technically feasible regulatory framework, based on best environmental practices, for the protection of the marine environment from harmful effects which may arise from activities in the Area.

Strategic direction 3.2. Develop, implement and keep under review regional environmental assessments and management plans for all mineral provinces in the Area where exploration or exploitation is taking place to ensure sufficient protection of the marine environment as required by, inter alia, article 145 and Part XII of the Convention.

Strategic direction 3.3. Ensure public access to environmental information, including environmental information from contractors, and participation by stakeholders, as appropriate.

Strategic direction 3.4. Develop scientifically and statistically robust monitoring programmes and methodologies to assess the potential risk for activities in the Area to interfere with the ecological balance of the marine environment.

Strategic direction 3.5 Develop appropriate regulations, procedures, monitoring programmes and methodologies to prevent, reduce and control pollution and other hazards to the marine environment, as well as interference with the ecological balance of the marine environment, prevent damage to the flora and fauna of the marine environment and implement the relevant requirements relating to the protection of the marine environment as contained in Part XII of the Convention.

Strategic direction 4

Promote and encourage marine scientific research in the Area

29. The Authority will implement the following strategic directions:

Strategic direction 4.1. Continue to promote and encourage the conduct of marine scientific research with respect to activities in the Area, with particular emphasis on research related to the environmental effects of activities in the Area.

Strategic direction 4.2. Collect and disseminate the results of research and analysis, when available.

Strategic direction 4.3. Strengthen and, as appropriate, establish strategic alliances and partnerships with relevant subregional, regional and global organizations, including the Intergovernmental Oceanographic Commission of

UNESCO, IAEA and the International Hydrographic Organization and collaborative programmes such as JPI Oceans, to share data and information in an open and transparent manner, avoid the duplication of efforts and benefit from synergies, for example, by aligning with the United Nations Decade of Ocean Science for Sustainable Development, which will address knowledge gaps to be identified by the First Global Integrated Marine Assessment (World Ocean Assessment I).

Strategic direction 4.4. Be proactive in engaging with the international scientific community through workshops and sponsored publications and by promoting access to non-confidential information and data, in particular those data relating to the marine environment.

Strategic direction 4.5. Compile summaries of the status of environmental baseline data and develop a process to assess the environmental implications of activities in the Area (Convention, art. 165 (2) (d)).

Strategic direction 5

Build capacity for developing States

30. The Authority will implement the following strategic directions:

Strategic direction 5.1. Ensure that all capacity-building programmes and measures and their delivery are meaningful, tangible, efficient, effective and targeted at the needs of developing States, as identified by developing States.

Strategic direction 5.2. Seek and maximize funding opportunities for the Endowment Fund for Marine Scientific Research in the Area and its beneficiaries, together with participation in global financing mechanisms.

Strategic direction 5.3. Enable capacity-building measures to be mainstreamed into relevant initiatives.

Strategic direction 5.4. Build on the achievements of contractor training programmes and assess their long-term impact on capacity-building.

Strategic direction 6

Ensure fully integrated participation by developing States

31. The Authority will implement the following strategic directions:

Strategic direction 6.1. Continue to promote and seek opportunities for fully integrated participation by developing States in the implementation of the regime for the Area, paying special attention to the needs of land-locked and geographically disadvantaged States, small island developing States and the least developed countries.

Strategic direction 6.2. Undertake a review of the extent of the participation by developing States in the Area, identify and understand any specific barriers to such participation and address them accordingly, including through targeted outreach and partnerships.

Strategic direction 6.3. In cooperation with States parties, initiate and promote measures providing opportunities to personnel from developing States for training in marine science and technology and for their full participation in activities in the Area (Convention, art. 144 (2) (b)).

Strategic direction 6.4. Carry out a detailed resource assessment of the reserved areas that are available to the Enterprise and developing States.

Strategic direction 6.5. Identify possible approaches to the independent operation of the Enterprise in a way that meets the objectives of the Convention and the 1994 Agreement while taking into account that the Enterprise lacks capital and is limited to operating through joint ventures.

Strategic direction 7

Ensure equitable sharing of financial and other economic benefits

32. The Authority will implement the following strategic direction:

Strategic direction 7.1. Adopt and apply in a transparent manner rules, regulations and procedures for the equitable sharing of financial and other economic benefits derived from activities in the Area.

Strategic direction 8

Improve the organizational performance of the Authority

33. The Authority will implement the following strategic directions:

Strategic direction 8.1. Strengthen its institutional capacity and functioning through the allocation of sufficient resources and expertise to deliver its work programmes.

Strategic direction 8.2. Ensure a fuller, more active and more informed participation by members of the Authority and other stakeholders through the adoption of working methods that are focused, targeted and effective and delivered under enhanced conditions of transparency and accountability, leading to a more inclusive approach to decision-making.

Strategic direction 8.3. Keep work programmes and working methodologies under review such that they achieve the objectives set by members of the Authority within a reasonable time frame and in a cost-effective manner through improved planning and management.

Strategic direction 8.4. Assess long-term options for funding its operations.

Strategic direction 9

Commit to transparency

34. The Authority will implement the following strategic directions:

Strategic direction 9.1. Communicate information about its work in a timely and cost-effective manner.

Strategic direction 9.2. Ensure access to non-confidential information.

Strategic direction 9.3. Adopt clear, open and cost-effective working practices and procedures and ensure that the chain of responsibility and accountability of all relevant actors is fully understood and properly managed in the development, implementation and enforcement of technical, environmental, operational, scientific and safety regulations and standards for activities in the Area.

Strategic direction 9.4. Build a stakeholder communications and consultation strategy and platform which facilitates open, meaningful and constructive dialogue, including on stakeholder expectations.

V. Expected outcomes

35. Successful implementation of the plan and its strategic directions will result in the delivery of:

(a) A comprehensive legal framework for carrying out activities in the Area for the benefit of mankind as a whole (Convention, art. 140 (1)), including necessary measures to ensure:

(i) Effective protection for the marine environment (*ibid.*, art. 145);

(ii) Effective protection of human life (*ibid.*, art. 146);

(iii) Orderly, safe, and rational management of the resources of the Area, including the efficient conduct of activities in the Area and, in accordance with sound principles of conservation, the avoidance of unnecessary waste (*ibid.*, art. 150 (b)), drawing on the best available scientific evidence and generally accepted applicable international rules and standards.

(b) An appropriate mechanism to provide for the equitable sharing of financial and other economic benefits derived from activities in the Area on a non-discriminatory basis (*ibid.*, art. 140 (2)), as further directed by the objectives, principles and requirements set out in article 13 (1) of annex III to the Convention and section 8 of the annex to the 1994 Agreement.

(c) The ability to promote and encourage the conduct of marine scientific research in the Area and to coordinate and disseminate the results of such research and analysis when available, as required under article 143 (2) of the Convention.

(d) The ability to acquire technology and scientific knowledge relating to activities in the Area and to promote and encourage the transfer to developing States of such technology and scientific knowledge so that all States Parties benefit therefrom (*ibid.*, art. 144, and as further governed by the principles set out in the 1994 Agreement, annex, sect. 5) and to promote the effective participation of developing States in activities in the Area as specifically provided for in part XI (Convention, art. 148).

(e) An Authority with the institutional capacity, public acceptance, credibility and state of readiness to act as a “fit-for-purpose” regulator of activities in the Area by reference to contemporary benchmarks, and as a publicly accountable supervisory body that facilitates access to information and values contributions by stakeholders.

(f) Enhanced effectiveness and reach of the Authority in carrying out its functions under the Convention through effective two-way stakeholder communication.

(g) An effective contribution by the Authority to the achievement of relevant Sustainable Development Goals by alignment of its programmes and initiatives.

(h) Identification and prioritization of technical assistance needs for developing States, including those to help facilitate fully integrated participation in activities in the Area.

(i) The establishment of a monitoring programme to observe, measure, evaluate and analyse, by recognized scientific methods, on a regular basis, the risks

or effects of pollution of the marine environment resulting from activities in the Area, ensure that existing regulations are adequate and are complied with and coordinate the implementation of the monitoring programme (*ibid.*, art. 165 (2) (h)).

(j) Monitoring and review of trends and developments relating to deep seabed mining activities, including objective analysis of world metal market conditions and metal prices, trends and prospects and the study of the potential impact of mineral production from the Area on the economies of developing land-based producers of those minerals which are likely to be most seriously affected, with a view to minimizing their difficulties and assisting them in their economic adjustment, taking into account the work done in this regard by the Preparatory Commission (1994 Agreement, annex, sect. 1 (5) (d) and (e)).

(k) Operationalization of the Enterprise as foreseen in the Convention and the 1994 Agreement.

Appendix I

Contribution by the International Seabed Authority to the achievement of the Sustainable Development Goals

<i>Sustainable Development Goal</i>		<i>Contribution by the International Seabed Authority</i>
Goal 1	End poverty in all its forms everywhere	Through the distribution of payments received by the Authority in accordance with equitable sharing criteria
Goal 4	Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all	Through the promotion of the transfer of skills and knowledge through training programmes and scholarships to least developed countries, small island developing States and African countries
Goal 5	Achieve gender equality and empower all women and girls	Encouragement of gender equality through dedicated efforts to increase opportunities for qualified women from developing States to participate in marine scientific research programmes
Goal 8	Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all	Through its contribution to: (a) sustainable economic growth and the promotion of access for least developed countries to the Area and its resources; and (b) the protection of labour rights for those engaged in activities in the Area in conjunction with the International Labour Organization
Goal 9	Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation	Through its contribution to improving the technological capabilities of developing countries
Goal 12	Ensure sustainable consumption and production patterns	Through the encouragement of sustainable production practices
Goal 13	Take urgent action to combat climate change and its impacts	Through the development of specific research programmes designed to improve the assessment of essential ecological functions of the deep sea oceans through long-term underwater oceanographic observatories in the Area
Goal 14	Conserve and sustainably use the oceans, seas and marine resources for sustainable development	Through its contribution to increasing scientific knowledge, developing research capacity, transferring marine technology and advancing a common and uniform approach, consistent with the Convention and international law, to the sustainable use of ocean resources
Goal 16	Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels	Through: (a) the promotion of the rule of law; (b) the development of effective, accountable and transparent institutions at all levels; (c) responsive, inclusive, participatory and representative decision-making at all levels; and (d) the broadened and strengthened participation of developing countries in the institutions of global governance
Goal 17	Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development	Through fostering strategic partnerships, including with the World Bank and the International Monetary Fund, to enhance the Global Partnership for Sustainable Development and to support the achievement of the Sustainable Development Goals



Assembly

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Twenty-fourth session

Kingston, 2–27 July 2018

Agenda item 10

Adoption of the budget of the Authority

Decision of the Assembly of the International Seabed Authority relating to the budget of the Authority for the financial period 2019–2020

The Assembly of the International Seabed Authority,

Taking into account the recommendations of the Council of the International Seabed Authority,¹

1. *Approves* the budget for the financial period 2019–2020, in the amount of \$18,235,850, as proposed by the Secretary-General;²

2. *Takes note with appreciation* of the significant reduction in the costs of conference services and the transfer of the resources made available by those savings to the programmes of the Authority;

3. *Authorizes* the Secretary-General to establish the scale of assessments for each of the years 2019 and 2020 on the basis of the scale used for the regular budget of the United Nations for the years 2016, 2017 and 2018, taking into account that the ceiling assessment rate will be 22 per cent and the floor rate 0.01 per cent;

4. *Also authorizes* the Secretary-General, for 2019 and 2020, to transfer between sections, subsections and programmes up to 20 per cent of the amount in each section, subsection or programme;

5. *Urges* the members of the Authority to pay their assessed contributions to the budget on time and in full;

6. *Notes with concern* the increasing amounts of outstanding contributions, appeals once more to the members of the Authority to pay contributions to the budget of the Authority outstanding from previous years as soon as possible, and requests the Secretary-General, at his discretion, to continue his efforts to recover those amounts;

¹ See ISBA/24/C/21.

² See ISBA/24/A/5–ISBA/24/C/11 and ISBA/24/A/5/Corr.1–ISBA/24/C/11/Corr.1.



7. *Urges* members and other potential donors to make voluntary contributions to the Endowment Fund for Marine Scientific Research in the Area and the existing voluntary trust funds of the Authority;

8. *Decides* to increase the annual overhead charge referred to in section 10.5 of the standard clauses for exploration contracts, from \$47,000 to \$60,000, effective 1 January 2019;

9. *Also decides* as an interim solution and on a voluntary basis, to add an additional contribution of \$6,000 to the annual overhead charge invoice to the contractors on an opt-out basis. Contributions will be allocated as a contribution to the voluntary trust fund for the purpose of defraying the cost of participation of members of the Legal and Technical Commission and of the Finance Committee from developing countries in the meetings of the Commission and of the Committee.

10. *Further decides* to revisit the possibility of using remote interpretation services for the meetings of the Assembly and the Council, if outstanding technical issues, including the quality of interpretation, can be resolved;

11. *Adopts* the terms of reference for the voluntary trust fund to support the participation of members of the Council from developing States in meetings of the Council, as contained in the annex to the present decision.

*177th meeting
26 July 2018*

Annex

Terms of reference for the voluntary trust fund to support the participation of members of the Council of the International Seabed Authority from developing States in meetings of the Council

1. Pursuant to the financial regulations of the International Seabed Authority, a voluntary trust fund has been established to support the participation of members of the Council of the Authority from developing States.

I. Object and purpose of the trust fund

2. In its decision [ISBA/23/A/13](#) dated 18 August 2017 relating to the final report on the first periodic review of the international regime of the Area pursuant to article 154 of the United Nations Convention on the Law of the Sea, the Assembly requested the Secretary-General to establish a voluntary trust fund to support the participation of members of the Council from developing States in the second annual meeting of the Council.

3. The objective of the fund is to defray the cost of participation of members of the Council from developing States in one of the two parts of the annual session of the Council scheduled for 2018 and 2019, respectively, during the time where there are two meetings of the Council per year.

II. Establishment

4. The fund is established pursuant to financial regulation 5.5 and shall be administered in accordance with the financial regulations of the Authority, as provided in financial regulation 5.6.

III. Contributions to the fund

5. Member States, observers and other stakeholders are encouraged to contribute financially to the voluntary trust fund. Other stakeholders may include, but are not limited to: other States; contractors with the Authority; relevant international organizations; academic, scientific and technical institutions; philanthropic organizations; corporations and private individuals; and non-governmental organizations.

IV. Implementing office

6. The Office for Administrative Service of the Secretariat is the implementing office for the fund and provides the services for its operation.

V. Report on the status of the fund

7. The Secretary-General shall report annually to the Finance Committee for its review of the use and status of the fund. The Secretary-General shall also report annually to the Assembly on the status of the fund.

VI. Terms of reference for the administration of the fund

8. The use of the fund is subject to the following conditions:

(a) A formal request by the Government of the State, containing the name of the delegate to be supported, must be communicated to the Secretariat preferably three months but no later than one month prior to the opening of the respective meeting of the Council. Late requests shall not be considered;

(b) Only members of the Council from developing States are eligible for support from the fund. However, in the event that the amount available in the fund is not sufficient to meet all requests for support, priority shall be given to members of the Council from least developed countries. A list of eligible States based on the composition of the Council for 2018 is attached in the enclosure to the present terms of reference, subject to revision following each election of the members of the Council;

(c) The fund shall be used to support the participation of one member of the delegation of an eligible developing State member of the Council in only one of the two meetings of the Council per year, as normally scheduled in February/March and July/August;

(d) For each member of the Council, only one delegate may benefit from support from the fund;

(e) Support shall be limited to economy class airfare by the most economical and direct route from either the capital or the official place of posting and to a daily subsistence allowance for up to a maximum of seven days;

(f) The Secretary-General should inform the Government concerned of the outcome of the request in a timely manner.

9. Unless the Assembly of the Authority decides otherwise, any funds remaining by the end of the year 2019 will be transferred to the voluntary trust fund for the purpose of defraying the cost of participation of members of the Legal and Technical Commission and of the Finance Committee from developing countries in meetings of the Commission and of the Committee, and the fund will be closed.

Enclosure**Developing States members of the Council in 2018**

Algeria	China	Jamaica	Singapore
Argentina	Côte d'Ivoire	Lesotho	South Africa
Bangladesh	Fiji	Mexico	Trinidad and Tobago
Brazil	Ghana	Morocco	Tonga
Cameroon	India	Nigeria	Uganda
Chile	Indonesia	Panama	

Least developed countries members of the Council in 2018

Bangladesh	Lesotho	Uganda
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Assembly

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Kingston, 2–27 July 2018

Statement by the President of the Assembly of the International Seabed Authority on the work of the Assembly at its twenty-fourth session

1. The twenty-fourth session of the Assembly of the International Seabed Authority was held in Kingston from 23 to 27 July 2018.

I. Adoption of the agenda

2. At its 171st meeting, on 23 July, the Assembly adopted the agenda of its twenty-fourth session ([ISBA/24/A/1](#)).

II. Election of the President and Vice-Presidents

3. At the same meeting, Mariusz Orion Jędrysek (Poland), nominated by the Eastern European States group, was elected as President of the Assembly for the twenty-fourth session. Following consultations in the regional groups, representatives of Bangladesh (Asia-Pacific States group), Belgium (Western European and other States group), Mexico (Latin American and Caribbean States group) and Morocco (African States group) were elected Vice-Presidents.

III. Appointment and report of the Credential Committee

4. At the same meeting, the Assembly appointed a Credential Committee consisting of the following nine members: Belgium, Chile, Germany, Jamaica, Myanmar, Poland, Senegal, South Africa and Tonga.

5. The Credential Committee held one meeting, on 25 July, during which it elected Urs Daniel Engels (Germany) as its Chair. The Committee examined the credentials of the representatives participating in the present session of the Assembly.

6. At the 177th meeting, on 26 July, the Chair of the Credential Committee presented the report of the Committee ([ISBA/24/A/7](#)), which the Assembly approved (see [ISBA/24/A/8](#)).



IV. Consideration of requests for observer status

7. At its 171st meeting, the Assembly considered requests for observer status in accordance with rule 82, paragraph 1 (e), of its rules of procedure submitted by Earthworks, the Japan Agency for Marine-Earth Science and Technology and Mining Standards International (see [ISBA/24/A/INF/1](#), [ISBA/24/A/INF/2](#) and [ISBA/24/A/INF/3](#), respectively) and granted observer status to all three organizations.

8. The Assembly also considered a note by the secretariat on the application process and other procedures for non-governmental organizations for observer status ([ISBA/24/A/3](#)) and requested the secretariat to develop more detailed guidelines and criteria for assessing the merits of observer applicants, for consideration by the Assembly at its twenty-fifth session.

V. Annual report of the Secretary-General

9. At the 172nd meeting, on 23 July, the Secretary-General introduced his annual report ([ISBA/24/A/2](#)) under article 166, paragraph 4, of the United Nations Convention on the Law of the Sea. He acknowledged the excellent working relationship with the host country, Jamaica, and initiatives to build on that relationship. He urged coastal States to deposit with him charts and geographical coordinates regarding the outer limits of their continental shelves, in conformity with article 84 of the Convention. He noted that, as at 23 July 2018, 72 per cent of the contributions to the 2018 budget had been received, 62 per cent of the members of the Authority had paid their contributions to the 2018 budget in full, and outstanding contributions from prior periods (1998–2017) had been reduced from \$946,983 to \$370,072. The Secretary-General reported that 50 members of the Authority had been in arrears for two years or more. He emphasized the positive results of the cost-saving measures taken by the secretariat, which had notably cut conference servicing costs by 20 per cent. He also provided updates on the voluntary trust fund for the members of the Legal and Technical Commission and of the Finance Committee and on the voluntary trust fund for the members of the Council. He thanked Argentina, China and the United Kingdom of Great Britain and Northern Ireland for their contributions to the fund for the members of the Commission and of the Committee, and Norway for its contribution pledge, and called for further voluntary contributions from member States and observers. Lastly, the Secretary-General thanked Global Sea Mineral Resources NV, UK Seabed Resources Ltd., Nauru Ocean Resources Inc., Ocean Mineral Singapore Pte. Ltd. and Pew Environment Group for contributing to the voluntary trust fund for the members of the Council.

10. The Secretary-General also reported on a number of initiatives, including the evolving structure of the secretariat, the implementation of the revised International Civil Service Commission compensation package and of the International Public Sector Accounting Standards, recent cost-saving measures and the implementation of a new library management system that used a commercially available digital cloud system. He underlined the increased collaboration between the Authority and other international organizations. He highlighted the progress made in the development of regional environmental management plans, referring to a workshop held in May 2018 in Qingdao, China, on the development of such a plan for cobalt-rich ferromanganese crusts in the north-west Pacific, and another held in June 2018 in Szczecin, Poland, on the development of such a plan for polymetallic sulphides in mid-ocean ridges. The Secretary-General further reported that the implementation of the database management programme was expected to be completed in October 2018. He reaffirmed the importance of marine scientific research in the Area and pointed out that the Authority had become the tenth sponsoring organization of the Joint Group

of Experts on the Scientific Aspects of Marine Environmental Protection, which would benefit the different organs of the Authority in terms of enhanced scientific cooperation and expert advice in matters related to the protection of the marine environment. He also provided delegates with an update on the implementation of the voluntary commitments registered by the Authority at the United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development, in 2017, as well as on the implementation of the training and capacity-building programmes.

11. The Assembly discussed the report of the Secretary-General at its 173rd and 174th meetings, on 24 July, and 175th meeting, on 25 July. At the first of those meetings, the Minister of State, Minister of Foreign Affairs and Foreign Trade of Jamaica, Parnell P. Charles Jr., welcomed the members of the Authority to the session. He encouraged the secretariat to continue its sustained outreach efforts to achieve universal acceptance of the Convention. He urged member States that were in arrears with their contributions to fulfil their financial obligations towards the Authority as soon as possible and appealed to member States to contribute to the Endowment Fund for Marine Scientific Research in the Area and the voluntary trust funds. He reaffirmed the support of Jamaica for the Authority's efforts to reach an agreement on measures to explore and exploit the mineral resources in the Area in a responsible manner and to avoid any possible negative environmental consequences that might arise from those activities.

12. The following delegations made interventions relating to the annual report of the Secretary-General: Algeria (on behalf of the African States group), Antigua and Barbuda, Bahamas, Bangladesh, Brazil, Cameroon, New Zealand (also speaking on behalf of Australia and Canada), Chile, China, Cook Islands, Côte d'Ivoire, Ecuador, Fiji, France, Gambia, Germany, Ghana, India, Italy, Japan, Kenya, Kiribati, Mexico, Micronesia (Federated States of), Morocco, Monaco, Myanmar, Nauru,¹ Nepal, Norway, Poland, Philippines, Singapore, South Africa, Tonga and United Kingdom. Representatives of the following observers also made statements: Holy See, Deep Sea Conservation Coalition, International Union for Conservation of Nature and Natural Resources, Pew Environment Group, Shanghai Jiao Tong University Center for Polar and Deep Ocean Development, and United Nations (through its Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs).

13. Delegations took note with appreciation of the comprehensive and informative report of the Secretary-General and commended him and his staff for the notable achievements made internally and externally during the reporting period.

14. Several delegations underlined the necessity to establish the exact geographic limits of the Area. It was noted that many members of the Authority had completed the delimitation or delineation of the outer limits of their continental shelf, or were in the final stage of doing so. Those members were encouraged to deposit the corresponding charts and geographical coordinates with the Secretary-General.

15. With regard to financial and budgetary matters, a number of delegations urged member States in arrears with their contributions to fulfil their financial obligations. Many delegations welcomed the secretariat's cost-saving measures and encouraged the secretariat to explore other areas that had the potential for creating savings on costs and expenses.

¹ The representative of Nauru made two interventions: one in his national capacity, and the other on behalf of 10 States of the Pacific: Australia, Cook Islands, Fiji, Kiribati, Micronesia (Federated States of), Nauru, New Zealand, Papua New Guinea, Tonga and Tuvalu.

16. Delegations voiced their support for the work on the regulatory framework for the exploitation of mineral resources in the Area, which would be another significant milestone in the evolution of the Authority towards the effective discharge of its mandate and responsibilities. A number of delegations expressed their satisfaction and gratitude to the Legal and Technical Commission for preparing a revised draft of the regulations on exploitation. Many delegations emphasized that the principle of the common heritage of mankind must be reflected in the regulations. Many also reaffirmed the importance of the protection of the marine environment, and it was suggested that the precautionary principle be translated into adaptive rules and that flexible and adaptive management mechanisms be taken into account. Some delegations underlined that a balance should be achieved between the exploitation of mineral resources and the protection of the marine environment in the Area. It was stated that scientific evidence, technological development, economic expertise and the socioeconomic impacts of future exploitation activities in the Area should be taken into consideration. Several delegations stressed the need for exploitation activities to be undertaken with reasonable regard for other activities in the marine environment, such as fishing and the laying and maintenance of submarine cables. It was also suggested that various guidelines and standards referred to in the draft regulations be developed in parallel, and that the Authority have the necessary regulatory functions and capacity to monitor compliance with the regulations. Several delegations appreciated the transparent and consultative approach adopted for the regulatory development and recommended that the Commission hold public meetings where no confidential information was involved. Some delegations welcomed the joint meeting between the Commission and the Finance Committee and suggested that the Committee continue to work on matters that were within its purview, such as the determination of administrative fees and environmental performance guarantee. It was also suggested to continue to develop equitable-sharing criteria for economic benefits from exploitation activities in the Area and a payment regime under article 82 of the Convention. Some delegations stated that the Authority should take note of other available financial models, in addition to the model presented by the team from the Massachusetts Institute of Technology, and that any model must take into account the potential negative effect of the exploitation of certain minerals on the economy of developing States. Many delegations stressed the importance for the Enterprise to operate independently, considering its special significance to the participation of developing States in the activities in the Area.

17. Many delegations appreciated the increase in training opportunities provided by contractors, as well as those made possible by the Endowment Fund. Some delegations highlighted the importance of training opportunities for individuals from developing countries as one of the immediate non-monetary benefits resulting from the implementation of Part XI of the Convention and of the related 1994 Agreement. It was suggested that the training programmes be targeted to address the needs of developing countries, while ensuring gender parity. The Authority was encouraged to continue to hold technical workshops and information seminars, run its training and internship programmes and organize other capacity-building activities.

18. Delegates noted with appreciation that the secretariat had made great progress in the implementation of its data management strategy, which would facilitate information-sharing among the Authority, the contractors and the scientific community. It was proposed that the Authority work with contractors to ensure that the data management system struck the right balance between transparency and confidentiality. Given the progress made in data management, some delegations encouraged the Authority to launch training programmes in this field for stakeholders.

19. Many delegations commended the secretariat for its dedication to the development of regional environmental management plans and encouraged it to

continue to support studies and workshops in that respect. Some delegations emphasized that the development of such plans would require a collaborative and transparent approach, as well as inclusive mechanisms under the auspices of the Authority, with the full engagement of all relevant stakeholders, including the scientific community and regional ocean and fisheries management organizations. Some delegations stated that lessons should be drawn from the design and implementation of the Environmental Management Plan for the Clarion-Clipperton Zone when developing plans in other priority areas. As for the future regional environmental management plan for cobalt-rich ferromanganese crusts in the north-west Pacific, it was recommended that the adjacent coastal States be adequately consulted, given the potential for activities in that region to have a direct impact on those States.

20. Some delegations commended the progress made by the secretariat in promoting and encouraging marine scientific research, referring in particular to its work on issues relating to the environmental impact of activities in the Area. It was stated that the means and methodologies used to mobilize adequate resources for marine scientific research were fundamental and should be identified and planned for in future. The interface between contractors and the scientific research community should also be enhanced to facilitate the conduct of studies, and the results of research should be disseminated widely.

21. A number of delegates expressed their concerns over the financial status of the voluntary trust funds and the Endowment Fund and made a call for contributions. Some delegations stated that the Authority should seek other stable sources of funding in addition to voluntary contributions. Several delegations urged the secretariat to explore innovative means of funding to support the participation of young officials and students from developing countries in the internship programme of the Authority. Attention was also drawn to the need for providing travel assistance to support the participation of developing States in the meetings of the Assembly, in particular least developed States, small island developing States and landlocked developing countries.

22. Many delegations welcomed the actions taken by the secretariat to implement the voluntary commitments made at the United Nations Ocean Conference to Support the Implementation of Sustainable Development Goal 14, including the introduction of the Secretary-General's Awards for Excellence in Deep-Sea Research. Some delegations noted with appreciation the workshop to be held in Tonga in September 2018, in cooperation with the Department of Economic and Social Affairs of the United Nations and the Pacific Community, to make progress with the implementation of the Abyssal Initiative for Blue Growth, and welcomed the workshop to be held in Abidjan in October 2018 to start the implementation of the voluntary commitment to fostering cooperation to promote the sustainable development of Africa's deep seabed resources, in support for Africa's blue economy. One delegation noted that the Secretary-General of the Authority was a focal point in the Community of Ocean Action for supporting the implementation of international law as reflected in the Convention, and it suggested that the Authority's work in this regard be included in the following report of the Secretary-General.

23. Several delegations emphasized the need for continued cooperation between the Authority and other international organizations, in particular on the marine environment.

24. Many delegations expressed their support for the involvement of the Authority in the negotiation process of an international legally binding instrument on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. Delegations were encouraged to keep in mind the possible links

and common issues being considered by the Authority and in the negotiation process, such as environmental impact assessments, the administration of exploitation activities in the Area and the need to take into account the potential impacts on the interests of adjacent coastal States. It was emphasized that the perspective of the Authority and its mandate should be taken duly into account in the negotiations.

25. Some delegations highlighted the need for greater transparency and inclusiveness in the work of the Authority. They commended the secretariat for the first live streaming of the Council and Assembly meetings and encouraged the continuation of such practice at future sessions of the Authority. Some delegations welcomed the proposals to improve the working methods of the Authority in order to enhance its efficiency and effectiveness in the delivery of its mandate. The early notification of forthcoming workshops and a detailed schedule of training opportunities, in particular, would allow for early preparation, broader dissemination and the maximization of applications.

26. The proposal to establish a museum to commemorate the previous Secretary-General, Nii Allotey Odunton was recalled by several delegations. The Finance Committee was encouraged to consider this matter at its earliest opportunity.

27. The Secretary-General thanked delegates and observers for their contributions to the discussion on his report. He also thanked Germany for its recent offer to contribute to the voluntary trust fund to support the members of the Legal and Technical Commission and of the Finance Committee. Lastly, he thanked the National Oceanography Centre of the United Kingdom for its contribution to support prospective interns from developing countries.

VI. Consideration and adoption of the Strategic Plan of the Authority for the period 2019–2023

28. At the 175th meeting, the Secretary-General presented the draft strategic plan of the Authority for the period 2019–2023 (see [ISBA/24/A/4](#), annex).

29. Many delegations welcomed the first strategic plan in the history of the Authority, deeming it essential to ensure that the organs of the Authority worked in a focused, efficient and prioritized manner. Many delegations commended the transparency and consultation process in developing the draft strategic plan.

30. At the 177th meeting, a number of modifications to the draft strategic plan were proposed and discussed by delegates. Following further discussions, the Assembly adopted a decision relating to the strategic plan ([ISBA/24/A/10](#)) at its 178th meeting, on 26 July.

VII. Report of the Finance Committee

31. At its 176th meeting, on 25 July, the Assembly considered the report of the Finance Committee ([ISBA/24/A/6–ISBA/24/C/9](#)), presented by the Chair of the Finance Committee, Andrzej Przybycin (Poland).

32. At its 177th meeting, the Assembly adopted a decision relating to the budget of the Authority for the financial period 2019–2020 ([ISBA/24/A/11](#)), with the understanding that those contractors that are not in a position to pay the full amount of the revised overhead charge in 2019 may inform the Secretary-General to defer payment of the balance of the full amount to 2020.

VIII. Election to fill vacancies on the Council

33. At its 177th meeting, the Assembly adopted a decision relating to the election to fill vacancies on the Council ([ISBA/24/A/9](#)). The Bureau met three times to discuss matters related to the election. It was noted that the total number of seats in the Council would be 37 thereafter and that it would be the turn of the African States group to relinquish one seat on the Council at the twenty-fifth session. The African States group agreed to designate Mozambique to participate in the deliberations of the Council without the right to vote during the twenty-fifth session.

IX. Dates of the next session

34. The twenty-fifth session of the Assembly will be held from 22 to 26 July 2019. It will be the turn of the Latin American and Caribbean States group to nominate a candidate for the presidency of the Assembly.

X. Other matters

35. At the 171st meeting, the President of the Council, Olav Myklebust (Norway), introduced his statement on the work of the Council during the twenty-fourth session ([ISBA/24/C/8](#) and [ISBA/24/C/8/Add.1](#)). The Assembly endorsed the proposal that the statement by the President of the Council in this respect be a standing item on the agenda of future sessions of the Assembly.

36. On 23 July, the Assembly attended the inaugural ceremony for the first Secretary-General's Award for Excellence in Deep-Sea Research. Diva Amon (Trinidad and Tobago) was announced as the winner of the Award for her work on deep-sea ecology and her dedication to raising awareness of those remote ecosystems. The Secretary-General presented Ms. Amon with a trophy contributed by Tonga Offshore Mining Limited. Many delegations extended their congratulations to Ms. Amon and emphasized the importance of promoting the participation of women in marine scientific research.

COUNCIL

ISBA/24/C/3	Preliminary strategy for the development of regional environmental management plans for the Area
ISBA/24/C/4	Information relating to compliance by contractors with plans of work for exploration
ISBA/24/C/6	Implementation of the decision of the Council in 2017 relating to the summary report of the Chair of the Legal and Technical Commission
ISBA/24/C/8	Statement by the President of the Council on the work of the Council during the first part of the twenty-fourth session
ISBA/24/C/8/Add.1	Statement of the President on the work of the Council during the second part of the twenty-fourth session. Addendum
ISBA/24/C/9	Report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its twenty-fourth session
ISBA/24/C/9/Add.1	Report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of its twenty-fourth session
ISBA/24/C/10	Functions of the organs of the Authority in relation to the preparation of rules, regulations and procedures on exploitation of mineral resources in the Area and in relation to the system of compensation envisaged under article 151 (10) of the United Nations Convention on the Law of the Sea
ISBA/24/C/20	Draft regulations on exploitation of mineral resources in the Area
ISBA/24/C/21	Decision of the Council of the International Seabed Authority relating to the budget of the Authority for the financial period 2019-2020
ISBA/24/C/22	Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission
Consolidated Index to the Selected Decisions and Documents of the International Seabed Authority	



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Report of the Secretary-General on the implementation of the decision of the Council in 2017 relating to the summary report of the Chair of the Legal and Technical Commission

Preliminary strategy for the development of regional environmental management plans for the Area

Report of the Secretary-General

I. Introduction and background

1. The purpose of the present report is to provide the Council with the outline of a coordinated strategy for developing regional environmental management plans under the auspices of the Authority, in line with relevant decisions of the Council.
2. A first regional environmental management plan for the Clarion-Clipperton Zone was approved by the Council in 2012, on the recommendation of the Legal and Technical Commission (see [ISBA/18/C/22](#)). In approving the plan, the Council recalled the provisions of articles 145 and 162 of the United Nations Convention on the Law of the Sea, as well as the reaffirmation by the General Assembly, in its resolution [63/111](#), of the need for States, individually or through competent international organizations, to urgently consider ways to integrate and improve, based on the best available scientific information and the precautionary approach and in accordance with the Convention and related agreements and instruments, the management of risks to marine biodiversity. The Council also considered that a comprehensive environmental management plan at the regional level was one of the measures appropriate and necessary to ensure the effective protection of the marine environment of the Area from harmful effects that might arise from activities in the Area, in accordance with article 145 of the Convention.
3. Since 2012, the Council has repeatedly called upon the secretariat and the Commission to make progress on the development of similar regional environmental management plans in other parts of the Area, in particular where there are currently contracts for exploration.¹ Those calls have also been reflected in the resolutions of

* [ISBA/24/C/L.1](#).

¹ See, for example, [ISBA/20/C/31](#), para. 9, [ISBA/21/C/20](#), para. 10, [ISBA/22/C/28](#), para. 11, and [ISBA/23/C/18](#), para. 16.



the General Assembly.² In addition, in 2014, and in the context of the Commission's work on regulatory development, the Council requested the Commission to consider, as appropriate, a submission by the Netherlands on environmental management plans (see [ISBA/20/C/31](#)).

4. Little progress has been made on this matter to date, although the Commission has reported regularly to the Council on the implementation of the regional environmental management plan for the Clarion-Clipperton Zone (see, for example, [ISBA/23/C/8](#), para. 19), and has also held a general discussion on the approach to the development of regional environmental management plans and the need for environmental data from contractors and open sources to be made available for that purpose. In March 2017, the role of such plans in managing activities in the Area was further discussed at the international workshop entitled "Towards an ISA Environmental Strategy for the Area" that was held in Berlin.³ In his report to the Council of July 2017, the Secretary-General indicated that he had taken note of the views expressed by the Council in relation to the importance of regional environmental management plans and proposed to give consideration to how best to initiate action in that respect, taking into account budgetary constraints (*ibid.*, para. 23).

II. Broad objectives and guiding principles of regional environmental management plans for the Area

5. In broad terms, the objective of regional environmental management plans is to provide the relevant organs of the Authority, as well as contractors and their sponsoring States, with a proactive area-based management tool to support informed decision-making that balances resource development with conservation. Regional environmental management plans also provide the Authority with a clear and consistent mechanism to identify particular areas thought to be representative of the full range of habitats, biodiversity and ecosystem structures and functions within the relevant management area, and provide those areas with appropriate levels of protection, thus helping the Authority to meet internationally agreed targets, such as Aichi Biodiversity Target 11.

6. In the context of the regional environmental management plan for the Clarion-Clipperton Zone, for example, a network of nine areas of particular environmental interest was identified on the basis of robust scientific criteria adopted through a collaborative process involving relevant stakeholders. Such networks and other area-based management tools identified in the context of regional plans have great potential to contribute to the effective conservation and management of biodiversity in marine areas beyond national jurisdiction and to help to build the resilience of deep-sea benthic ecosystems to the impacts of climate change on the ocean. Regional environmental management plans will also contribute materially to the implementation of Sustainable Development Goal 14, namely to "conserve and sustainably use the oceans, seas and marine resources for sustainable development", including, for example, by conserving at least 10 per cent of coastal and marine biodiversity (target 14.5). In addition, those areas may serve as scientific reference areas for monitoring natural variability and long-term change in the marine environment, which will be particularly important for enabling the Authority to carry out its responsibility to manage the effects of mining activities. Regional environmental management plans will also provide an important framework to guide

² See resolutions [69/245](#), para. 51, [70/235](#), para. 60, and [72/73](#), para. 71.

³ See International Seabed Authority, *Towards an ISA Environmental Management Strategy for the Area: ISA Technical Study No. 17* (Kingston, 2017).

contractors and researchers in the collection and compilation of the environmental data needed to manage deep seabed mining and other related activities in the marine environment.

III. Development of regional environmental management plans and challenges for the Authority

7. The development and implementation of regional environmental management plans in the Area are part of the Authority's policy framework for environmental management. These activities require a collaborative and transparent approach, including the compilation and analysis of available data from multiple sources, as well as consultation with recognized experts from the international scientific community, contractors and relevant international organizations. Considering the unique jurisdiction of the Authority and the status of the Area and its resources as the common heritage of mankind, it is essential that such processes facilitate full participation by developing countries. In the case of the regional environmental management plan for the Clarion-Clipperton Zone, initial scientific work had been supported by the J. M. Kaplan Fund and the Pew Charitable Trusts before the process was brought under the auspices of the Authority. The plan was then developed through several international expert workshops convened by the Authority and subsequent consideration by the Commission.

8. In the report of the Secretary-General to the Council issued in 2017, it was noted that the Commission and the Secretary-General had taken note of current external initiatives to develop a scientific basis for an environmental management plan in the Atlantic Ocean, and that they intended to hold discussions with relevant stakeholders on how the outcomes of such initiatives might help to advance the work of the Authority. The Secretary-General also welcomed the interest of the China Ocean Mineral Resources Research and Development Association (COMRA) in pursuing a cooperative effort with other contractors and stakeholders to develop an environmental management plan for the cobalt-rich ferromanganese crust zones in the Pacific Ocean. Further discussion of this initiative will take place in January 2018 and will be reported on to the Council in due course. While external scientific initiatives are to be welcomed, it is considered important, given the mandate and role of the Authority, including in relation to the conduct of marine scientific research in the Area, that regional environmental management plans be developed under the auspices of the Authority, in a transparent manner, and with the full engagement of the relevant organs of the Authority.

9. Unfortunately, this also presents certain challenges for the Authority. The single greatest challenge at present is a lack of specific funding within the financial period 2017–2018 to support the development and implementation of regional environmental management plans. Resources will be needed to support workshops, data compilation and scientific analyses and, importantly, to finance the participation of developing countries in the process. In due course, it will also be necessary to secure funding for long-term independent monitoring programmes to ensure the effectiveness of areas of particular environmental interest.

10. A key aim for the secretariat will be to expand the breadth and depth of its strategic partnerships with relevant organizations and researchers, including exploring opportunities for new partnerships. In this regard, the Authority's database will play a critical role as the permanent and authoritative host for data relating to the Area, thus creating a data archive that is available to present and future generations. Initiatives currently being undertaken by the secretariat include cooperation and collaboration with the University of Hawaii to improve the assessment of essential

ecological functions of the deep sea oceans through long-term underwater oceanographic observatories in the Area,⁴ and a joint effort with contractors to enhance knowledge of the status of deep sea marine biodiversity through the creation of online taxonomic atlases.⁵

11. Contractors also have a critical role to play in the development of regional environmental management plans, given their contractual obligation to undertake environmental baseline studies, which makes them the primary providers of environmental data. This important contribution has been noted by the Council, which stated that the Authority needed all contractors to collect samples consistently and to fully report environmental data to support the development of regional environmental management plans (see ISBA/23/C/18, para. 13). During the twenty-third session of the Authority, the Commission also encouraged the emerging trend of collaboration between contractors, which has extended to environmental surveys and data collection, potentially enabling an improved regional understanding of environmental patterns. In that regard, the Commission noted improved taxonomic standardization, collaboration between contractors, linkages between contractors and international research programmes, sampling conducted in areas of particular environmental interest as well as contract areas, and several joint contractor voyages in recent years.

IV. Short-term strategy and recommendations

12. In the light of such constraints and considering the current status of exploration in the Area, the priority areas for development of regional environmental management plans in the Area have been identified on a preliminary basis as the Mid-Atlantic Ridge,⁶ the Indian Ocean triple junction ridge and nodule-bearing province,⁷ as well as the North-west Pacific and South Atlantic for seamounts.⁸

13. As a first step, it is proposed to convene an international workshop in the first quarter of 2018 in Kingston in order to consider an appropriate methodology for the development of regional environmental management plans in all parts of the Area where there are contracts for exploration for polymetallic sulphides. The workshop participants would be able to review the status of existing data and scientific initiatives and make recommendations for a process for the development of such plans under the auspices of the Authority.

14. As noted in paragraph 8 above, discussions are ongoing with COMRA regarding an initiative to launch a cooperative process to develop an environmental management plan for the cobalt-rich ferromanganese crust zones in the Pacific Ocean. During the

⁴ See #OceanAction17746: Improving the assessment of essential ecological functions of the deep sea oceans through long-term underwater oceanographic observatories in the Area. Available from <https://oceanconference.un.org/commitments/?id=17746>.

⁵ See #OceanAction17776: Enhancing deep sea marine biodiversity assessment through the creation of online taxonomic atlases linked to deep sea mining activities in the Area. Available from <https://oceanconference.un.org/commitments/?id=17776>.

⁶ On the Mid-Atlantic Ridge, contracts for exploration for polymetallic sulphides have been signed with the Government of the Russian Federation, Institut français de recherche pour l'exploitation de la mer and the Government of Poland.

⁷ At the triple junction ridge, contracts for exploration for polymetallic sulphides have been signed with the Federal Institute for Geosciences and Natural Resources of Germany, and the Government of India. The Government of India holds a contract for exploration for polymetallic nodules in the Central Indian Ocean Basin.

⁸ In the Northwest Pacific, contracts for exploration for cobalt-rich ferromanganese crusts have been signed with Japan Oil, Gas and Metals National Corporation, COMRA, the Ministry of Natural Resources and the Environment of the Russian Federation and the Government of the Republic of Korea. Companhia de Pesquisa de Recursos Minerais (sponsored by Brazil) is a contractor for exploration for cobalt-rich ferromanganese crusts in the South Atlantic.

second half of 2018, a workshop will be held to review the status of implementation of the regional environmental management plan for the Clarion-Clipperton Zone on the basis of newly available data, including data that are expected to become available early in 2018. In line with the decision of the Council (see [ISBA/23/C/18](#), para. 15), the secretariat will make every effort to ensure the broadest participation of all concerned States parties and other stakeholders, taking into account the extreme budgetary constraints for 2018. In this regard, additional financial and in-kind contributions to support this process would be welcomed.

15. The Council is invited to take note of the present report, including the proposed programme of workshops for 2018 aimed at developing a more coherent strategy for the development of regional environmental management plans.

16. It should be noted that, in order to move this strategy forward, significant investment will be required to support the compilation of available data, scientific analyses and the identification of data gaps, capacity-building and the participation of developing countries in a programme of regional workshops. Support for those elements will be factored into the proposals for the budget of the Authority for the financial period 2019–2020.



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Report of the Secretary-General on the implementation of the decision of the Council in 2017 relating to the summary report of the Chair of the Legal and Technical Commission

Information relating to compliance by contractors with plans of work for exploration

Report of the Secretary-General

I. Introduction

1. In paragraph 12 of its decision [ISBA/23/C/18](#), dated 15 August 2017, the Council requested the Secretariat and/or the Legal and Technical Commission to provide further details on cases of non-compliance in circumstances in which the relevant contractor had not complied with a specific request in a letter received from the Secretary-General, including details regarding the relevant contractor, details with respect to repeated instances of non-compliance and recommendations to ensure compliance in the future, to enable the Council to discharge its functions under article 162, paragraph 2, of the United Nations Convention on the Law of the Sea.
2. That decision was taken in response to the report of the Chair of the Legal and Technical Commission on the work of the Commission in 2017, in which it was noted that there had been some cases of non-compliance with regard to reporting requirements ([ISBA/23/C/13](#), sect. D, paras. 15 (c–h)).
3. The purpose of the present report is to provide the Council with relevant background information on the issue of monitoring compliance with plans of work for exploration, including a review of the relevant rules, regulations and procedures of the Authority, and the related responsibilities of the Council, the Legal and Technical Commission and the secretariat. Recommendations are made with a view to improving the Council's ability to discharge its functions under article 162, paragraph 2, of the Convention.

* [ISBA/24/C/L.1](#).



II. Monitoring compliance

4. Under article 162, paragraph 2 (l), of the Convention, the Council shall exercise control over activities in the Area in accordance with article 153, paragraph 4, of the Convention and the rules, regulations and procedures of the Authority. Under article 153, paragraph 4, the Authority is required to exercise such control over activities in the Area as is necessary for the purpose of securing compliance with the relevant provisions of part XI of the Convention and the annexes relating thereto, and the rules, regulations and procedures of the Authority, and the approved plans of work.

5. Monitoring compliance with plans of work for exploration approved in the form of contracts is also one of the functions of the Authority pursuant to section 1, paragraph 5 (c), 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 (1994 Agreement). At present, the primary monitoring mechanisms available to the Authority are the annual reports submitted by contractors pursuant to section 10 of the standard clauses for exploration contracts and the periodic reviews of the plans of work for exploration under section 4.4 of the standard clauses. In due time, the Council will be required to establish an appropriate inspection mechanism pursuant to article 162, paragraph 2 (z), of the Convention. Although such an inspection mechanism does not exist at present, it is expected that the establishment thereof will be addressed in the context of the exploitation regulations.

6. The plan of work for exploration is the fundamental document by which a contractor sets out the objectives of its proposed exploration programme. Pursuant to the regulations on prospecting and exploration, the plan of work for exploration comprises a general description and a schedule of the proposed exploration programme, including the programme of activities for the immediate five-year period, as well as a description of a programme for oceanographic and environmental baseline studies, taking into account any recommendations issued by the Commission, a preliminary environmental impact assessment of the proposed exploration activities and a schedule of expected yearly expenditure in respect of the programme of activities. Upon approval of the plan of work by the Council, the programme of activities for the immediate five-year period becomes schedule 2 of the contract for exploration. Under the contract, the contractor is required to submit an annual report to the Secretary-General within 90 days of the end of each calendar year covering its programme of activities in the exploration area (sect. 10.1 of the standard clauses). The report must be in the format recommended from time to time by the Commission.

7. Under sections 4.1 and 4.2 of the standard clauses, the contractor is required to adhere to the time schedule stipulated in its programme of activities and to spend in each contract year no less than the amount specified in the programme. The programme of activities, including expenditure, may be modified by a contractor with the consent of the Authority, insofar as any changes may be necessary and prudent in accordance with good mining industry practice, taking into account the market conditions for the constituent metals and other relevant global economic conditions.

8. In accordance with section 4.4 of the standard clauses, the contractor and the Secretary-General shall jointly undertake a review of the implementation of the plan of work for exploration. The Secretary-General may require the contractor to submit such additional data and information as may be necessary for the purposes of the review. Following the review, the contractor is required to make any necessary adjustments to its plan of work and to indicate its programme of activities for the following five years, including a revised schedule of expected yearly expenditure. Schedule 2 of the contract is then adjusted accordingly.

9. In carrying out its programme of activities, the contractor must implement, as far as reasonably practicable, any recommendations that may be issued from time to time by the Commission. The ability of the contractor to implement such recommendations, however, will primarily be linked to the specific programme of activities to which the contractor has committed itself under schedule 2 of the contract. Environmental baseline data, for example, would be collected as exploration activities progress and develop (sect. 5.2 of the standard clauses).

III. Role of the organs of the Authority

10. The various organs of the Authority have specific and clearly defined roles and responsibilities in relation to monitoring compliance with plans of work for exploration, which are derived from the Convention, the 1994 Agreement, the regulations and the standard clauses for exploration contracts.

11. The responsibilities of the Secretary-General are to:

(a) Review annual reports of contractors and require contractors to submit additional data and information as necessary (sect. 10 of the standard clauses);

(b) Submit data and information from environmental monitoring programmes to the Commission for consideration pursuant to article 165, paragraph 2 (d), of the Convention;

(c) Agree on adjustments to the programme of activities under schedule 2 of the contract (sect. 4.3 of the standard clauses);

(d) Jointly undertake a periodic (five-year) review of the implementation of the plan of work for exploration and agree on a revised schedule 2 (sect. 4.4 of the standard clauses);

(e) Inspect vessels and installations (sect. 14.2 of the standard clauses), and provide relevant information to the contractor and sponsoring State(s) arising from the inspection reports (sect. 14.7 of the standard clauses);

(f) Report incidents giving rise to emergency orders and take immediate temporary measures (regulation 33);¹

(g) Notify member States of the termination or change of sponsorship (regulation 29).

12. The functions of the Legal and Technical Commission are set out in article 165, paragraph 2, of the Convention and are closely related to the functions of the Council under article 162. The system is designed to ensure that, in making decisions on important issues, the Council acts on the basis of the best available scientific and legal advice. The obligations placed on the Commission are mainly of an advisory or recommendatory nature and fall into the following four broad functional categories:

(a) Reviewing and making recommendations on plans of work for exploration (art. 165, para. 2 (b));

(b) Supervising activities in the Area (art. 165, paras. 2 (a, c, i, j, k and m));

(c) Formulating and reviewing rules, regulations and procedures (art. 165, paras. 2 (f and g));

¹ For the purposes of the present report, reference is made to the regulations on prospecting and exploration for polymetallic nodules in the Area (ISBA/19/C/17, annex).

(d) Assessing the environmental implications of activities in the Area (art. 165, paras. 2 (d, e, h and l).

13. Two of the general functions of the Commission under article 165 are directly related to the implementation of plans of work for exploration, namely, the responsibilities, under article 165, paragraph 2 (c), to supervise, upon the request of the Council, activities in the Area and, under article 165, paragraph 2 (d), to prepare assessments of the environmental implications of activities in the Area.

14. Consistent with article 165, paragraph 2, the regulations empower the Commission to issue recommendations of a technical or administrative nature for the guidance of contractors to assist them in the implementation of the rules, regulations and procedures of the Authority. Under the standard clauses, the contractor is required to observe those recommendations as far as reasonably practicable in carrying out their programmes of activities.

15. In order to enable the Commission to carry out its responsibility to prepare assessments of the environmental implications of activities in the Area pursuant to article 165, paragraph 2 (d), and make appropriate recommendations to the Council on the protection of the marine environment, data and information from environmental monitoring programmes submitted by contractors must be transmitted by the Secretary-General to the Commission (regulation 32, para. 2).

16. The Commission must also consider the reports of the Secretary-General on the periodic reviews of the implementation of plans of work for exploration (regulation 28, para. 3).

17. The functions of the Council are to:

(a) Approve plans of work in accordance with paragraph 11 (a) in section 3 of the annex to the 1994 Agreement;

(b) Consider the reports of the Secretary-General on the periodic reviews of the implementation of plans of work for exploration (regulation 28, para. 3);

(c) Invite the attention of the Assembly of the Authority to cases of non-compliance (art. 162, para. 2 (a));

(d) Exercise control over activities in the Area in accordance with article 153, paragraph 4, and the rules, regulations and procedures of the Authority (art. 162, para. 2 (l));

(e) Institute proceedings on behalf of the Authority before the Seabed Disputes Chamber in cases of non-compliance (art. 162, para. 2 (u));

(f) Establish appropriate mechanisms for directing and supervising a group of inspectors who shall inspect activities in the Area to determine whether part XI of the Convention, the rules, regulations and procedures of the Authority and the terms and conditions of any contract with the Authority are being complied with (art. 162, para. 2 (z));

(g) Suspend or terminate contracts if, in spite of written warnings from the Authority, a contractor has conducted its activities in such a way as to result in serious persistent and wilful violations of the fundamental terms of the contract, part XI of the Convention, the 1994 Agreement and the rules, regulations and procedures of the Authority;

(h) Alternatively, or in the event of lesser violations, impose monetary penalties upon a contractor proportionate to the seriousness of the violation.

IV. Consequences of non-compliance

18. Non-compliance denotes a failure or refusal to comply with a regulatory requirement and must be distinguished from inadequate or incomplete performance against an approved plan of work. Not every case of inadequate or incomplete implementation of a plan of work amounts to non-compliance.

19. Depending on the gravity of the failure or refusal, non-compliance may have serious consequences for contractors. For example, under section 21 of the standard clauses, the Council may suspend or terminate a contract or impose monetary penalties, as described in paragraphs 17 (g and h) above. In specified circumstances, outlined in regulation 24, non-compliance may lead to the withdrawal of the preference and priority accorded to contractors for exploration among applicants submitting plans of work for exploitation of the same area and resources. To date, no enforcement action has been taken by the Council with respect to any contractor. No written warnings have been issued, and no monetary penalties have been imposed.

V. Cases of non-compliance noted by the Legal and Technical Commission in 2017

20. Based on the review of annual reports by the Commission, the issues referred to as non-compliance in the report of the Chair of the Commission may be categorized as follows:

- (a) The failure to submit annual reports on time;
- (b) The failure to follow recommended reporting formats and methodologies, including the failure to use reporting templates as recommended by the Commission;
- (c) Reported delays in advancing activities under the plan of work.

21. In addition, there is a general concern that, in many cases, contractors' actual expenditure is lower than planned expenditure.²

VI. Discussion

22. A preliminary review of the issues referred to in paragraphs 20 and 21 above revealed that there is some confusion with regard to the difference between the monitoring of compliance against a plan of work, in the sense of a failure or refusal to comply with a regulatory requirement, and the monitoring of performance against the programme of activities. In view of the potential consequences of non-compliance (outlined in section IV above), it is important that the difference between those activities be well articulated and that the process for monitoring compliance and the responsibilities of the various organs of the Authority in relation thereto be clearly understood.

23. The annual reporting process and the quinquennial periodic review undertaken by the Secretary-General serve as important monitoring tools. They facilitate the measurement of the progress of the exploration work carried out on an annual basis against a contractor's approved plan of work, including its programme of activities, and serve to highlight proposed adjustments to that programme. The annual reporting process also provides the Authority with much needed data and information, for

² For 2016, reported expenditure was lower than planned expenditure in 12 cases. Percentages varied from 3 to 99 per cent. In four cases, expenditure was not reported in the format requested by the Commission.

example, to evaluate, analyse and assess the environmental effects of exploration activities, and to help the Authority to formulate relevant rules, regulations and procedures concerning the protection of the marine environment and safety. This is particularly important in connection with the data and information made available to the Commission to facilitate the fulfilment of its obligations under article 165, paragraph 2, of the Convention to provide guidance and recommendations to the Council.

24. Certain deficiencies in the current reporting process were highlighted in the final report on the periodic review of the International Seabed Authority pursuant to article 154 of the Convention, together with comments by the Secretary-General. Among the measures taken to date to improve efficiency are the establishment of a dedicated contract management unit to streamline internal processes and improve the flow of communication between contractors and the Authority, and a regular annual meeting of contractors at which issues of mutual concern can be discussed. The launch of the Authority's new database, scheduled for 2018, is expected to improve significantly the flow of data and information among contractors, the Secretary-General and the Commission. The new database will also result in greater transparency, with secure access to confidential data for authorized users, and an intuitive and informative website that includes a geographic information system for public access to non-confidential data and information. In addition, external visibility of the respective programmes of activities of contractors would also contribute to greater transparency and facilitate greater collaboration and cooperation among contractors.

25. A careful review of the relevant provisions of the Convention and the regulations revealed a clear separation of the functions in the organs of the Authority between licensing (approving plans of work in the form of contracts) and subsequent compliance with and enforcement of such contracts. For example, the function of directing and supervising an inspectorate, as well as taking enforcement action, rests exclusively with the Council. The day-to-day responsibility for managing the implementation of plans of work for exploration and for reporting any instances of non-compliance lies with the Secretary-General, who exercises the powers and functions allocated to that position in a manner consistent with the Convention and the regulations. An inherent conflict of interest exists when the body that approves contracts for exploration and the financial terms thereof is the same body that is responsible for ensuring compliance.

26. In terms of distinguishing non-compliance from inadequate or incomplete performance against an approved plan of work, a more effective validation process is needed to determine whether a matter identified as potential non-compliance is in fact a case of non-compliance with the regulations. Improvements to the current process are ongoing, but a clearer understanding as to why certain reporting requirements recommended by the Commission have not been met or fulfilled would improve the Authority's understanding of the programmes and timelines of contractors.

27. The Authority is in a transitional phase from managing and administering contracts for exploration activities in the Area, including the gathering of geological and environmental data, to its role as a future regulator of mining activities in the Area. One of the key principles of good international governance is transparency. In that regard, the current working draft of the exploitation regulations recognizes an exploitation contract, including the activities carried out thereunder, to be a public document, except for confidential information.

VII. Recommendations

28. The Council is invited to:

(a) Take note of the matters contained in the present report and consider requesting contractors to provide more information on the reasons for delays in implementing plans of work and for reductions in projected expenditure;

(b) Take note of the respective responsibilities of the Secretary-General, the Legal and Technical Commission and the Council in relation to the reporting of activities carried out under plans of work for exploration;

(c) Request the Secretary-General to provide an annual report to the Council identifying instances of alleged non-compliance and the regulatory action that is recommended or to be taken, including any monetary penalties to be imposed by the Council;

(d) Request the Secretary-General to include in his reports on the status of all contracts greater detail on the periodic review of implementation of plans of work for exploration in accordance with regulation 28;

(e) Request sponsoring States to provide details of any measures taken to ensure compliance under a contract for exploration, in accordance with article 139 of the Convention;

(f) Request the Secretary-General to explore with contractors the possibility of making contracts for exploration and associated programmes of activities publicly available, taking into account the confidentiality obligations under such contracts.



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Implementation of the decision of the Council in 2017 relating to the summary report of the Chair of the Legal and Technical Commission

Report of the Secretary-General

I. Background

1. At its 230th meeting, on 14 August 2017, the Council adopted a decision relating to the report of the Chair of the Legal and Technical Commission on the work of the Commission during the twenty-third session (ISBA/23/C/18). In paragraph 20 of that decision, the Council requested the Secretary-General to provide it with an update on the implementation of the decision at the twenty-fourth session and that such an annual update remain a standing item on the agenda of the Council. The present report responds to that request by providing an interim update on the implementation of the decision of the Council as of January 2018. A supplementary report will be presented during the second part of the session of the Council, in July 2018.

II. Work on draft exploitation regulations and priority deliverables for the development of the exploitation code

2. The Council welcomed the development of a single set of draft exploitation regulations and requested that work on the regulations continue as a matter of priority. The Council also requested that the Commission's recommendations regarding the consolidated regulations, which were issued by the secretariat in August 2017 (ISBA/23/LTC/CRP.3*), and the next iteration of the draft regulations be circulated sufficiently in advance of the meetings of the Council in March 2018 to allow for in-depth consideration and discussion, and emphasized the need for openness and

* ISBA/24/C/L.1.



transparency. Relevant developments since the twenty-third session are described below.

A. Submission by stakeholders and the draft regulations

3. Immediately following the twenty-third session, on 25 August 2017, the secretariat issued a note on the consolidated regulations mentioned in paragraph 2 above, along with a list of related questions for comment by stakeholders (ISBA/23/C/12). As at 8 January 2018, the secretariat had received 52 written submissions from stakeholders, which have been posted on the Authority's website. Those submissions will be analysed by the secretariat with a view to preparing a summary report to assist the Council and the Commission.

4. A workshop will be held in London on 12 and 13 February 2018, to be jointly hosted by the Royal Society and the Foreign and Commonwealth Office of the United Kingdom of Great Britain and Northern Ireland, with the objective of stimulating informal discussion among members of the Council and the Commission and experts on key policy, legal and institutional issues that need to be addressed in the development of the exploitation regulations. The outcomes of the workshop will be made available to the Council.

B. Progress made related to the priority deliverables

5. Members of the Council will recall that a workshop was held in Singapore in April 2017 with the objective of discussing a possible financial model for the exploitation of polymetallic nodules. That was the third in a series of independent workshops on a payment regime for deep seabed mining.¹ The final reports of those workshops have been considered by the Commission.

6. Following discussion in the Commission concerning the need for an independent financial model, the secretariat engaged the Massachusetts Institute of Technology to build such a model and test the underlying assumptions put forth during the payment regime workshops. As agreed, the Secretary-General requested contractors, on a voluntary basis, to provide a forecast of financial data for that purpose. Several contractors responded to that request. Those data were anonymized and transmitted to experts at the Massachusetts Institute of Technology to assist them in modelling a range of data and payment mechanisms for future consideration by the Commission and the Council. A presentation of the financial model will be made by the Massachusetts Institute of Technology to the Commission on 21 March 2018. Subsequently, a consultation paper will be issued for stakeholder comment.

7. Since September 2017, a legal working group convened by the International Law Research Programme of the Centre for International Governance Innovation in collaboration with the Commonwealth Secretariat and the Authority has been working to explore the core matters that need to be addressed to advance the definition of a liability regime in the Area. A first workshop, hosted by the Commonwealth Secretariat, was convened in September 2017 in London to prepare a workplan for

¹ Deep Seabed Mining Payment Regime Workshop, No. 1, Scripps Institute of Oceanography, University of California, held in La Jolla, United States of America, on 17 and 18 May 2016 (final report available from www.isa.org.jm/files/documents/EN/Pubs/2016/DSM-ConfRep.pdf); Deep Seabed Mining Payment Regime Workshop, No. 2, held in London, on 1 and 2 December 2016 (final report available from www.resolv.org/site-dsm/files/2016/10/DSM-PRW2-Workshop-Summary-FINAL1.pdf); Deep Seabed Mining Payment Regime Workshop, No. 3, held in Singapore, from 19 to 21 April 2017 (final report available from www.isa.org.jm/files/documents/EN/Regs/DraftExpl/DSM-PRW-3.pdf).

conducting research on key questions, including the concept of effective control and its relevance in the context of liability. Six areas were identified: (1) the purpose and scope of the regime; (2) channelling liability/effective control; (3) actionable damage; (4) procedures; (5) standards of liability; and (6) compensation mechanisms. A second workshop will be convened on 8 and 9 February 2018 with the objective of finalizing papers on the identified key questions. That preliminary work is aimed at providing the Authority with a foundational overview of the issues to make progress on the development of the liability regime applicable to the exploitation of minerals in the Area.

III. Development of regional environmental management plans for the Area

8. In paragraph 16 of its decision, the Council encouraged the Secretariat and the Commission to make progress on the development of regional environmental management plans for the Area. The Secretary-General has submitted a separate report on this matter ([ISBA/24/C/3](#)).

IV. Activities of contractors

A. Contractor training programmes

9. In paragraph 7 of its decision, the Council acknowledged the implementation of training programmes, including the allocation of new training opportunities. Since the twenty-third session, the following six contractors have provided information concerning 17 new training opportunities: the Federal Institute for Geosciences and Natural Resources (2); the Government of the Republic of Korea (4); Global Sea Mineral Resources NV (5); China Ocean Mineral Resources Research and Development Association (2); Institut français de recherche pour l'exploitation de la mer (2); and the Interoceanmetal Joint Organization (2).

10. Those opportunities have been advertised through the Authority's website and other means, and qualified candidates from developing countries will be selected by the Commission at its meetings in March 2018. Assistance provided by Member States in facilitating the nomination of qualified candidates, especially female candidates, is very helpful in matching at-sea training and internship opportunities with qualified candidates. The nomination of female candidates suitably qualified to apply for those training opportunities is strongly encouraged, given that one of the seven voluntary commitments made by the Authority in 2017 at the United Nations Conference to Support the Implementation of Sustainable Development Goal 14 was to enhance the role of women in marine scientific research through capacity-building.

B. Cases of non-compliance

11. In paragraph 12 of its decision, the Council requested that the Secretariat and/or the Commission provide further details on cases of non-compliance in circumstances in which the relevant contractor has not complied with a specific request in a letter received from the Secretary-General, including details regarding the relevant contractor, details with respect to repeated instances of non-compliance and recommendations to ensure compliance in the future, to enable the Council to discharge its functions under article 162, paragraph 2 of the United Nations Convention on the Law of the Sea of 10 December 1982. A detailed analysis of

compliance by contractors has been prepared for consideration by the Council in March 2018 ([ISBA/24/C/4](#)).

V. Implementation of the data management strategy for the Authority

12. In paragraph 17 of its decision, the Council welcomed progress towards the full implementation of the data management strategy of the Authority by the end of October 2018. Since the twenty-third session, the Secretariat has continued to make progress with that project. In particular, a data entry assistant has been hired and all software and hardware necessary to enter into the testing phase of the database have been acquired. A detailed technical report and presentation on the progress made will be provided to the Commission in March 2018.

VI. Supporting the work of the Legal and Technical Commission

13. In paragraph 18 of its decision, the Council requested the Secretary-General to ensure that adequate time and resources continue to be made available to support the work of the Commission, in particular on priority matters.

14. In that regard, the revised schedule of meetings for 2018 and 2019 has maintained the pace of two meetings a year to allow the Commission more time, in recognition of its heavy workload. Efforts will also continue to be made to facilitate the review by the Commission of the annual reports of contractors in a timely and efficient manner.

VII. Recommendations

15. The Council is invited to take note of the present report and to provide such guidance as may be necessary.



Council

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Statement by the President of the Council on the work of the Council during the first part of the twenty-fourth session

I. Opening of the session

1. In 2017, acting on the recommendation of the Committee established by the Assembly to carry out a periodic review of the international regime of the Area pursuant to article 154 of the United Nations Convention on the Law of the Sea, the Assembly endorsed the revised schedule of meetings for 2018 and 2019 ([ISBA/23/A/13](#), sect. D, para. 1), owing to the increased workload of the Authority. Accordingly, the twenty-fourth session of the Council is being held in two parts. For the first part, the Council held 10 meetings from 5 to 9 March 2018, at the headquarters of the Authority in Kingston, immediately prior to the two-week session of the Legal and Technical Commission. The second part of the session will be held from 16 to 20 July 2018, after the meetings of the Commission and before the meetings of the Assembly.

II. Adoption of the agenda

2. At its 231st meeting, on 5 March 2018, the Council adopted the agenda for both parts of its twenty-fourth session ([ISBA/24/C/1](#)).

III. Election of the President and Vice-Presidents of the Council

3. At the same meeting, the Council elected Olav Myklebust (Norway) as President of the Council for the twenty-fourth session. Subsequently, following consultations among the regional groups, the Council elected the representatives of Côte d'Ivoire (African States), India (Asia-Pacific States), Poland (Eastern European States) and Brazil (Latin American and Caribbean States) as Vice-Presidents.



IV. Report of the Secretary-General on the credentials of members of the Council

4. At the 234th meeting, on 8 March 2018, the Secretary-General informed the Council that formal credentials issued by the Heads of State or Government, Ministers for Foreign Affairs or persons authorized by the Ministers had been received from the following 22 members of the Council: Argentina, Australia, Bangladesh, Brazil, Chile, China, Côte d'Ivoire, France, Ghana, India, Italy, Jamaica, Japan, Mexico, Netherlands, Norway, Poland, Republic of Korea, Russian Federation, Singapore, Tonga and United Kingdom of Great Britain and Northern Ireland. Nine 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 Authority and other government offices or authorities from Algeria, Cameroon, Canada, Germany, Morocco, Nigeria, Panama, South Africa and Uganda.

5. In accordance with rule 18 of the rules of procedure of the Council, credentials had been submitted by the European Union and the following 12 members of the Assembly who were not members of the Council but were entitled to participate in its meetings, pursuant to rule 74 of its rules of procedure, namely, Belgium, the Congo, Costa Rica, Egypt, Jordan, Kenya, Nauru, Portugal, Qatar, Senegal, Spain and Ukraine.

V. Election to fill a vacancy on the Legal and Technical Commission

6. At its 231st meeting, the Council elected Ahmed Farouk (Egypt) to fill the vacancy on the Legal and Technical Commission left by the resignation of Mahmoud Samy (Egypt), for the remainder of his term until 31 December 2021 (see [ISBA/24/C/2](#)).

VI. Status of contracts for exploration

7. At the same meeting, the Council took note of the total number of contracts for exploration granted by the Authority, which amounted to 28 (see [ISBA/24/C/5](#)) with the entry into force, on 12 February 2018, of the contract for exploration for polymetallic sulphides with the Government of Poland. It also took note of the scheduled signature of the contract for exploration for cobalt-rich ferromanganese crusts with the Government of the Republic of Korea on 27 March 2018 and that of the extension agreement with the Government of India on 15 March 2018.

VII. Implementation of the decision of the Council in 2017 relating to the summary report of the Chair of the Legal and Technical Commission

8. Also at the 231st meeting, the Secretary-General provided an interim update on the implementation of the decision of the Council relating to the summary report of the Chair of the Legal and Technical Commission during the twenty-third session (see [ISBA/24/C/6](#)). A separate report of the Secretary-General was presented, with a focus on a preliminary strategy to make progress on the development of regional environmental management plans under the auspices of the Authority for key provinces where exploration activities under contracts were being carried out

(see [ISBA/24/C/3](#)). Another report was also presented, which included details on issues relating to contractor compliance, in response to a request made in the Council decision of 2017 (see [ISBA/24/C/4](#)).

A. Development of regional environmental management plans for the Area

9. At the 231st meeting, the Council took note of the preliminary strategy, including the proposed programme of workshops for 2018, with the aim of developing a more coherent strategy for the development of regional environmental management plans (see [ISBA/24/C/3](#)). The Council noted that the preliminary strategy laid out a coherent and coordinated approach to the process. The Council agreed with the priority areas that had been identified on a preliminary basis as the Mid-Atlantic Ridge, the Indian Ocean triple junction ridge and nodule-bearing province, as well as the North-west Pacific and South Atlantic for seamounts. The Council supported the expansion by the secretariat of the breadth and depth of its strategic partnerships with relevant organizations and researchers, including exploring opportunities for new strategic partnerships, as the availability of data was the driver of the development of regional environmental management plans. The Council encouraged further outreach and consultation with the relevant stakeholders, including both contractors and research organizations, in order to collect and analyse the environmental data so that the Authority had sufficient scientific basis for proceeding with the development of regional environmental management plans for the priority areas identified. The Council expressed its appreciation for the initiative by the China Ocean Mineral Resources Research and Development Association to convene a workshop, jointly with the Authority, on the development of such a plan in the Pacific Ocean, to be held from 26 to 29 May 2018. The Council also noted the challenges faced by the Authority and the need for significant investment to compile available data and identification gaps. The Council requested the secretariat to explore ways to broadly disseminate the outcomes of the joint workshop and encouraged broad participation in the programme of workshops as a whole.

10. It was considered essential that plans be developed in a transparent manner under the auspices of the Authority, in the light of its jurisdiction under the United Nations Convention on the Law of the Sea and 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 Council also considered the relationship between the regional environmental management plans and the draft regulations on exploitation.

B. Issues of compliance by contractors

11. At the 232nd, 234th, 235th and 236th meetings, on 5, 8 and 9 March, the Council considered a detailed analysis relating to compliance by contractors (see [ISBA/24/C/4](#)). The Council noted that that was a complex issue, which was being raised for consideration at a timely moment, when regulations on exploitation were being drafted. Several delegations commented on the necessity of striking a balance between the need for transparency and respect for confidentiality over time and in the context of the organs involved in the monitoring of compliance, such as an inspection mechanism within the secretariat, the Legal and Technical Commission, the sponsoring State(s), the Council and the Secretary-General. References were also made to the launching of the database, which would facilitate the availability of non-confidential data and information. The Council also noted the need for a more effective validation process for distinguishing non-compliance from inadequate or incomplete performance arising out of technological and site-related challenges

against an approved plan of work. The point was also made that the Authority was in a transitional phase to its new role as a future regulator of mining.

12. The Council took note of the matters relating to compliance by contractors with plans of work for exploration (see [ISBA/24/C/4](#)) and invited the Secretary-General to request contractors to provide more information on the reasons for delays in implementing plans of work and for reductions in projected expenditure.

13. The Council also took note of the respective responsibilities of the Secretary-General, the Commission and the Council in relation to the reporting of activities carried out under plans of work for exploration.

14. The Council requested the Secretary-General to report annually to the Council, identifying instances of alleged non-compliance and the regulatory action recommended or to be taken in accordance with the Convention, the Agreement and the regulations on prospecting and exploration, including any monetary penalties to be imposed by the Council, and invited the relevant sponsoring States to provide any information relating to such non-compliance and measures taken to ensure compliance under a contract for exploration, in accordance with article 139 of the Convention.

15. The Council requested the Secretary-General to include in reports on the status of all contracts greater detail on the periodic review of implementation of plans of work for exploration in accordance with the relevant provisions of the regulations on prospecting and exploration.

16. The Council also requested the Secretary-General to explore with contractors the possibility of making contracts for exploration and associated programmes of activities publicly available, taking into account the confidentiality obligations under such contracts, and to report to the Council at its twenty-fifth session.

VIII. Draft regulations on exploitation of mineral resources in the Area

17. From 6 to 9 March, the Council met in an informal setting to consider the briefing note on the submissions in relation to the draft regulations on exploitation of mineral resources in the Area ([ISBA/24/C/CRP.1](#)). The Council noted with appreciation the 55 submissions, including 18 from member States and 1 from a regional group (African States), received by the secretariat in response to the draft regulations. It also noted the questions addressed to stakeholders (see [ISBA/23/C/12](#), annex). The Council acknowledged the contribution of the workshop on the draft regulations, hosted jointly by the United Kingdom and the Royal Society and held in London on 12 and 13 February, and the report on the outcome of that workshop.

18. During its meetings, the Council discussed six common themes arising from the responses to the draft regulations, as set out in the issue notes annexed to the briefing note. The main objective of the discussion was to provide action-oriented advice to the Legal and Technical Commission to facilitate its forthcoming deliberations on the draft regulations, to be held from 12 to 23 March 2018, on the basis of the six themes presented to the Council.

19. It was highlighted that the draft regulations must reflect the provisions of the Convention and the Agreement, including the policies relating to activities in the Area and the need to adopt the measures necessary to ensure the effective protection of the marine environment from harmful effects that might arise from such activities. In the continuing development of the draft regulations, the Council highlighted the need for a transparent and inclusive approach to the drafting of their content. Consequently,

the Commission was requested to give due consideration, in its subsequent reports, to the responses of member States and other stakeholders to the draft regulations and to outline the rationale for any amendment or modification to the draft text.

20. The Commission was requested to provide, in advance of the second part of the Council session to be held in July, a working paper on the draft regulations, in the six official languages. The working paper should include:

- (a) A revised and annotated set of draft exploitation regulations;
- (b) A briefing note highlighting matters requiring further investigation or study;
- (c) Any matters requiring the Council's direction or guidance.

21. In the light of the deliberations by the Council on the six common themes, the Commission was requested to address, to the extent possible, the following points and actions during its forthcoming meetings.

A. Issue note 1: understanding the pathway to exploitation and beyond

22. In connection with the structure, content and flow of the draft regulations, the Commission was requested:

(a) To strengthen the principle of the common heritage of mankind in operative provisions of the draft regulations and in accordance with the Convention. The principle and its implementation for the benefit of all of humanity were to be prioritized in the development of the draft regulations, including regard paid, during the application process, to how a plan of work would contribute to the implementation of the principle;

(b) To examine the interaction and cohesion between the workflows of the exploration regulations and the draft exploitation regulations, in particular by:

- (i) Identifying the necessary requirements in the exploration phase;
- (ii) Assessing whether information flowing from the exploration regulations and contracts would allow for the proper development of documentation needed for an application for a plan of work for exploitation;
- (iii) Re-examining the definition of "exploitation" in the draft regulations (which differs from that given in the exploration regulations);
- (iv) Determining how exploration activities under an exploitation contract would be regulated;

(c) To review the relevant draft regulations reflected in attachment 2 to issue note I in annex I of the briefing note and consider any further regulatory provisions required to cover the respective exploitation process and phases;

(d) To identify any further elaboration required under guidelines or procedures to ensure that standards could evolve into good industry practices, from the commercial and environmental perspectives;

(e) To consider the concept of "best available technology", its incorporation into the draft regulations and ways to foster its adoption and development;

(f) To ensure that regulatory provisions were technologically, scientifically and environmentally viable;

- (g) To consider the commercial viability of the regulatory provisions;

(h) To consider a progressive reporting and auditing mechanism that would cover the relevant stages of the exploitation contract, not only whether there has been a change of circumstances in the marine environment, while reflecting a precautionary approach;

(i) To formulate an update and review mechanism for the financing plan (annex III to the draft regulations) to ensure continued financial capability under an exploitation contract;

(j) To collaborate with the Finance Committee and make recommendations to the Council on the respective roles and responsibilities of the Commission and the Committee in order to facilitate cooperation in the development of the draft regulations, in particular the payment mechanism and, more specifically, administrative fees, and the development of equitable sharing criteria, which is on the agenda of the Committee for consideration at its meetings in July 2018. A summary report of the discussions held between the Commission and the Committee was to be provided to the Council, including a work programme for the development of the payment mechanism (including administration and other fees) and of the equitable sharing criteria;

(k) To provide the Council with a more detailed flowchart to facilitate understanding of the regulatory processes and workflows;

(l) To consider the requirement for resource-specific provisions in the draft regulations;

(m) To examine the approaches taken to the draft regulations with regard to the balance between certainty and predictability, as well as flexibility and adaptability;

(n) To discuss, together with the Secretary-General, the need to strengthen institutional resources and expertise to implement the regulations;

(o) With regard to the structure of the draft regulations and specific regulatory provisions:

(i) To re-examine the structure and flow of the parts (for example, the current part XI might be placed after part IV and the current part X after part VII);

(ii) To ensure that the appropriate balance of a contractor's rights and obligations was properly reflected in the draft regulations;

(iii) To ensure that draft regulation 7 (4) (d) was clear in relation to the health and safety of crew and third parties alike who might be directly affected by the proposed activities;

(iv) To examine the rationale and objectives for the performance guarantee (for example, the terms of closure and the content of a closure plan);

(v) To ensure that articles 142 and 147 of the Convention were properly reflected in the draft regulations;

(vi) To examine ways and means to pay reasonable regard to other activities in the marine environment, such as navigation, the laying of submarine cables and pipelines, fishing and scientific research;

(vii) To clarify the definitions of "contract area" and "mining area";

(viii) To reconsider the basis for an administrative review mechanism in the light of the existing dispute settlement mechanisms set out in the Convention;

- (ix) To review all timelines and deadlines across the draft regulations, in particular the need for certainty in the consideration and assessment of a plan of work, including the necessary consultations;
- (x) To clarify insurance requirements under draft regulation 27;
- (xi) To elaborate on the categories of monetary penalties in appendix III to the draft regulations.

B. Issue note 2: payment mechanism

23. Discussion in the Council on the issue of a fair and equitable payment mechanism was facilitated by a presentation by the Director of the Materials Systems Laboratory of the Massachusetts Institute of Technology, Richard Roth, on the economics of seabed mining for polymetallic nodules. The Council understood that Mr. Roth would make a presentation to the Commission on 21 March 2018.

24. The Council noted the objectives and principles relating to the development of financial terms and of a system of payments under the Convention (annex III, art. 13) and the Implementation Agreement (annex, sect. 8), respectively, and requested the Commission to keep such objectives and principles under consideration as a model to evaluate the payment mechanism when it was developed.

25. In connection with the Commission's forthcoming meeting with Mr. Roth together with the secretariat, the following areas were highlighted by the Commission for further exploration and investigation, in connection with the development of the models created by the Institute to evaluate the payment mechanism for the Authority by assessing the underlying assumptions and data in the cost, price forecast and cash flow components of the model, specifically:

- (a) Revenue forecasts and metal pricing, in particular assumptions for manganese pricing (relevant purity and grade);
- (b) Production and downtime assumptions;
- (c) Insurance assumptions and impact on risk mitigation;
- (d) Constituent metals used for revenue forecasts;
- (e) Data assumptions for pre-feasibility, feasibility and other costs;
- (f) Environmental cost assumptions;
- (g) Assumptions made for currency fluctuations;
- (h) Factoring in mining efficiencies;
- (i) Specific considerations for other resource categories and the flexibility of the model to reflect such considerations;
- (j) Mechanisms to compensate the common heritage of mankind, which should include royalty and profit share and model different scenarios, and the principles and timing of review under the model;
- (k) The principles of no artificial advantage or disadvantage, namely, how to achieve neutrality;
- (l) Understanding the impact of the Authority as part of the cost structure for contractors;
- (m) Supporting the Massachusetts Institute of Technology in collating data and information for the model;

(n) Incentive mechanisms, such as the use of funds, for reducing environmental impacts.

26. The Commission was also requested, in performing the functions of the Economic Planning Commission, to examine the requirements under the Convention and the Implementation Agreement with regard to protecting developing countries from adverse effects resulting from exploitation activities in the Area and to make the necessary recommendations to the Council on how to address the issue. The Commission was further requested, together with the secretariat, to initiate a study of the potential impact of mineral production from the Area, in accordance with section 1, paragraph 5 (e), of the annex to the Agreement, and to provide the Council with an update on the timing of the study during the second part of its session, in July 2018.

27. While it was noted that part VII of the draft regulations, on financial terms of an exploitation contract, was a work in progress, the Commission was requested:

(a) To clarify the meaning of “special circumstances” in draft regulation 60 (4);

(b) To reflect on a standard for the measuring and valuation equipment required for the purposes of draft regulation 65;

(c) To consider the use of other internationally accepted accounting principles under draft regulations 39 (1) and 64 (2);

(d) To re-examine the basis of the calculation of an annual fixed fee under draft regulation 49, possibly on the active mining area and taking into account abundance and grade;

(e) To examine definitions, including “commercial production”, “relevant mineral”, “monetary value”, “financial capability”, “resources” and “reserves”.

28. The Commission was requested to investigate recent changes to and developments in extractive industry fiscal regimes, in order to draw upon best current practices.

29. The Commission and the Secretary-General were requested to make the arrangements necessary for continued engagement with and the receipt of deliverables from the Massachusetts Institute of Technology.

30. The Commission was also requested to explore options in respect of the payment mechanism and make recommendations to the Council on which options would best help to achieve the objectives and principles set out in the Convention and the Agreement.

C. Issue note 3: the role of the sponsoring States

31. The Commission was requested to formulate a matrix of duties and responsibilities of the Authority and the sponsoring States and to consider extending that, where practicable, to reflect the roles of the flag States and the coastal States.

32. As to the draft regulations, it was suggested that the Commission might wish to address the following points:

(a) The review of the contractor’s track record prior to a change of sponsoring State;

(b) Issues relating to multiple sponsoring States;

(c) Provisions on cooperation between the Authority and the sponsoring State(s), identification of which organ of the Authority a sponsoring State was to communicate with, the form of such communication and the points of contact;

(d) The adoption and implementation of the uniform application of the rules, regulations and procedures of the Authority under article 17 (1) of annex III to the Convention, to ensure a level playing field for contractors.

33. The Commission was asked to take the following action with regard to the relevant regulatory provisions:

(a) Re-examine the rationale for a 12-month period under draft regulation 14, compared with a 6-month period under the exploration regulations;

(b) Clarify that a change of sponsoring State must respect the effective control requirements (draft regulation 14);

(c) Consider the deletion of wording in draft regulation 15 (1) reading “which is not to be unreasonably withheld or delayed”, given that the decision to sponsor was a sovereign act of a State;

(d) Assess whether draft regulation 15 (4) should refer to the registration of securities and guarantees;

(e) Specify which organ of the Authority should issue consent (draft regulation 16 (1));

(f) Clarify the roles of the Authority and sponsoring State(s) in draft regulation 17;

(g) Consider the issue of international responsibility (draft regulation 91).

34. The Council supported the convening of a workshop on the roles and responsibilities of sponsoring States, flag States, coastal States and port States in monitoring and enforcement measures to clarify those issues in the draft regulations. The Council emphasized the need to hold workshops in a transparent and open manner.

D. Issue note 4: role and legal status of standards, recommendations and guidelines

35. It was noted that there was a need for the development of an appropriate mix of performance and procedure-related standards, including an inclusive and transparent process for their development, and a need to re-examine the legal status of the Commission’s recommendations for the guidance of contractors under the exploitation regime.

36. The Commission was requested to consider the development of relevant guidelines under a consensus-based approach.

37. The Commission was asked to consider a mechanism under the draft regulations to strike a balance between flexibility, adaptability and stability in the regulatory framework in the review, modification and adoption of standards and guidelines.

38. The Commission was invited to formulate a suggested process, which should be inclusive and transparent, for the development of the standards and guidelines, together with an indicative list of such standards and guidelines by subject matter.

39. The Commission should consider the timing of a workshop dedicated to the development of standards and guidelines and consider the legal nature of such standards and guidelines.

E. Issue note 5: broader environmental policy and the regulations

40. The Commission was requested:

(a) To bear in mind the importance of environmental protection, recognized as a core part of the draft regulations;

(b) To ensure that a precautionary approach and the best available scientific evidence were adequately reflected in the regulations and accorded the appropriate weighting;

(c) To reflect on relevant content for an environmental policy framework and to make recommendations to the Council, taking into account the Authority's draft strategic plan;

(d) To assess comments by member States and other stakeholders in connection with the incorporation of regional environmental management plans into the draft regulations and to make recommendations to the Council;

(e) To examine and expand, as appropriate, on the provisions under part IV of the draft regulations relating to the effective protection of the marine environment, including by:

(i) Determining the requirements for the delivery of a comprehensive environmental impact assessment, including applicable standards;

(ii) Assessing the requirements for a comprehensive environmental management and monitoring plan;

(iii) Reviewing the definitions of "interested persons", "good industry practice", "best environmental practices", "independent" and "serious harm" in the draft regulations in the light of the submissions by member States and other stakeholders;

(iv) Elaborating on the general principles under draft regulation 17 and considering their operation;

(f) To consider a specific provision regulating mining discharges in accordance with applicable standards, keeping in mind the technological realities and challenges, including possible alignment with existing relevant legal instruments;

(g) To consider frequency in the reporting and review of environmental performance;

(h) To underline the importance of making data available to underpin environmental protection through informed decision-making.

F. Issue note 6: roles of the Council, the Secretary-General and the Legal and Technical Commission in implementing the regulations

41. The Commission was invited to provide clarification on the respective roles of the Council, the Secretary-General and, as appropriate, the Assembly and to consider specifying which body of the Authority was responsible when reference was made to the Authority.

42. The Commission was requested to review the balance of authority, in particular between the Council and the Secretary-General, taking into account the fact that the Council was the executive body of the Authority, the need for efficient decision-making, including possible provisional decision-making authority for the Secretary-General, and current provisions in the exploration regulations, for example.

IX. Approval of the memorandum of understanding between the Asian-African Legal Consultative Organization and the International Seabed Authority

43. At its 232nd meeting, on 5 March 2018, the Council approved the memorandum of understanding between the Asian-African Legal Consultative Organization and the International Seabed Authority, in which the scope of cooperation between the two organizations is specified ([ISBA/24/C/7](#)).



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Statement by the President of the Council on the work of the Council during the second part of the twenty-fourth session

Addendum

I. Introduction

1. The second part of the twenty-fourth session of the Council took place from 16 to 20 July 2018, during which time the Council held 10 meetings.

II. Report of the Secretary-General on the credentials of members of the Council

2. At the 241st meeting of the Council, on 19 July, the Secretary-General indicated that, as at that date, credentials had been received from 32 members of the Council, as well as 28 members of the Assembly who were not members of the Council but were entitled to participate in its meetings, pursuant to rule 74 of the rules of procedure of the Council.

III. Elections to fill two vacancies on the Legal and Technical Commission

3. At its 238th meeting, on 16 July, the Council elected Martín Mainero (Argentina) to fill the vacancy on the Legal and Technical Commission left by the resignation of Andrés Sebastián Rojas (Argentina), for the remainder of his term, that is, until 31 December 2021 (see [ISBA/24/C/16](#)). At the same meeting, the Council elected Shengxiong Yang (China) to fill the vacancy on the Commission left by the resignation of Jun Wu (China) for the remainder of her term, that is, until 31 December 2021 (see [ISBA/24/C/17](#)).



IV. Status of national legislation relating to deep seabed mining and related matters, including a comparative study of existing national legislation

4. At its 239th meeting, on 17 July, the Council considered a report of the Secretary-General on the status of national legislation relating to deep seabed mining ([ISBA/24/C/13](#)). The Council took note of the report, including the ongoing comparative study of existing national legislation conducted with a view to deriving common elements, due for completion by the end of 2018. The Council requested the Secretary-General to submit a report on the status of national legislation relating to deep seabed mining and related matters for consideration by the Council in 2019.

V. Draft regulations on the exploitation of mineral resources in the Area

5. From 17 to 20 July, the Council continued its consideration of the draft regulations on the exploitation of mineral resources in the Area, in the same informal setting as during part I of the session, in March.

6. The Council based its consideration primarily on the revised draft regulations on the exploitation of mineral resources in the Area prepared by the Commission ([ISBA/24/LTC/WP.1/Rev.1](#)), a note by the Commission identifying areas for further work and matters requiring guidance from the Council ([ISBA/24/C/20](#)) and a briefing note from the President of the Council dated 15 June.¹

7. While noting that the draft regulations were still a work in progress, the Council commended the Commission for the considerable work that it had accomplished and encouraged it to pursue its efforts at its meetings in 2019. The Council reiterated its views that regulations on the exploitation of mineral resources should be adopted as a matter of urgency.

8. Members of the Council agreed to submit specific comments on the revised draft regulations by 30 September 2018, in order to provide further guidance to the Commission on the matters identified in its note for incorporation into the next iteration of the draft regulations. The Council requested the secretariat to prepare a compilation of those comments to assist the work of the Commission at its meetings in 2019. The Council decided to resume its consideration of the revised draft regulations during the first part of its 2019 session.

9. On 17 July, the Chair of the Legal and Technical Commission reported to the Council on the outcomes of the first joint meeting of the Commission and the Finance Committee, held in response to a request made by the Council. In her report, the Chair outlined areas of collaboration identified in document [ISBA/24/C/10](#) and the methodology for collaboration. Mention was also made of preliminary discussions on the Legal and Technical Commission acting as the Economic Planning Commission. The Council took note of the oral report and welcomed this timely initiative.

10. The Council provided general comments on the first eight parts of the draft regulations and on areas on which the Commission had requested guidance from the Council. A summary of those comments is contained in annex I to the present report. The Council also referred to the need to learn lessons from the division of the session of the Council into two parts and the time needed to reflect on revisions to the draft regulations made by the Commission immediately before the meetings of the Council.

¹ See www.isa.org.jm/files/documents/EN/24Sess/BNote.pdf.

11. On 16 July, the Council continued its discussions on a payment mechanism after a presentation by the Director of the Materials Systems Laboratory of the Massachusetts Institute of Technology, Richard Roth, entitled “Update on Financial Payment Systems: Seabed Mining for Polymetallic Nodules”. Mr. Roth pointed out that baseline data came from several sources, including historical market data, publicly available price forecasts from mining industry experts and data collected from existing contractors. He explained that, given the mandate of the Authority, the model that he had developed focused on collector costs and not processing costs, and did not yet assess monitoring costs for the Authority. The presentation was followed by a question-and-answer session, during which it was specified that the model included environmental costs, such as monitoring and treating slug water, but not the valuation of potential environmental damage.

12. It was also noted that various economic models, studies and concepts had recently been prepared by members of the Authority. As a way forward to develop the payment mechanism regime, the Council agreed on a proposal made by the delegation of Germany (see annex II)

VI. Report of the Chair of the Legal and Technical Commission on the work of the Commission at its twenty-fourth session

13. At the 241st meeting, the Chair of the Legal and Technical Commission reported to the Council on the work of the Commission during both parts of the twenty-fourth session (see [ISBA/24/C/9](#) and [ISBA/24/C/9/Add.1](#)).

14. The Council commended the Commission on the breadth and quality of its work. While recognizing its heavy workload and that priority had been given to the preparation of the draft regulations on the exploitation of mineral resources, the Council urged the Commission to make progress with matters referred to it by the Council. The Council also underscored the importance of the work of the Commission on the annual reports of contractors on their activities in order to identify possible shortcomings, and reaffirmed the importance of advancing environmental objectives.

15. The deliberations of the Council on the work of the Commission during the twenty-fourth session are reflected in Council decision [ISBA/24/C/22](#).

16. In addition, the Council considered an overview of existing measures, means and actions relating to the protection and conservation of the marine environment in areas beyond national jurisdiction, which had been submitted by the delegation of the Netherlands ([ISBA/24/C/15](#)). The Council took note of the overview and requested the secretariat to update the information therein on a regular basis.

VII. Report and recommendations of the Finance Committee, budget of the International Seabed Authority for the financial period 2019–2020 and scale of assessment for contributions to the budget of the Authority

17. At its 242nd meeting, on 19 July, and 243rd and 244th meetings, on 20 July, the Council considered the report of the Finance Committee ([ISBA/24/A/6–ISBA/24/C/19](#)) and the report of the Secretary-General on the proposed budget of the Authority for the financial period 2019–2020 ([ISBA/24/A/5–ISBA/24/C/11](#) and [ISBA/24/A/5/Corr.1–ISBA/24/C/11/Corr.1](#)).

18. The decision of the Council relating to the budget of the Authority for the financial period 2019–2020 is contained in document [ISBA/24/C/21](#).

19. The Council expressed concerns over the status of the voluntary trust fund and stressed the importance of enabling participation from members of the Finance Committee and the Commission from developing countries in meetings of those subsidiary organs to ensure legitimate decision-making. The Council considered the options proposed by the Committee to address as a matter of urgency the shortfall in the voluntary trust fund. In line with the voluntary nature of the fund, the Council decided, as an interim solution and on a voluntary basis, to add an additional contribution to the annual overhead charge invoice to the contractors on an opt-out basis (see [ISBA/24/C/21](#), para. 9).

20. The Council expressed its appreciation to the Governments of Argentina, China, Norway and the United Kingdom of Great Britain and Northern Ireland for their generous contributions to the voluntary trust fund.

VIII. Election of members of the Legal and Technical Commission

21. At its 243rd meeting, the Council took note of the information contained in report of the Secretary-General on the election of members of the Commission ([ISBA/24/C/14](#)). The question of the election will be included in the agenda of the Council in 2019 in view of the forthcoming election of members of the Commission in 2020. The importance of environmental expertise in the Commission was stressed.

IX. Dates of the next session

22. The first part of the twenty-fifth session of the Council will take place from 25 February to 1 March 2019.

X. Other matters

23. At its 243rd meeting, the Council considered a report of the Secretary-General on considerations relating to a proposal by the Government of Poland for a possible joint-venture operation with the Enterprise ([ISBA/24/C/12](#)). The Secretary-General also provided the Council with a progress update on the study on the operationalization of the Enterprise, which is expected to be presented for consideration at the twenty-fifth session of the Council. A statement was made by the delegation of Poland. The Council took note of the report and noted that a full proposal for a joint-venture operation with the Enterprise was also expected to feature on the agenda of the Council in 2019, requesting the Secretary-General to make any necessary arrangements in that regard.

24. At its 244th meeting, the Council took note of the suggestions for facilitating the work of the Authority submitted by the delegation of Germany ([ISBA/24/C/18](#)), which included the circulation of annotated agendas before meetings of the Council and the Assembly and the timely notification of forthcoming workshops and related meetings and timely publication of outcome reports.

25. The President of the Council closed the session on 20 July.

Annex I

Comments on the structure and flow of the revised draft regulations on the exploitation of mineral resources in the Area

I. General comments on the revised draft regulations

1. Overall, the Council was satisfied with the improvements made by the Commission to the revised draft regulations on the exploitation of mineral resources in the Area ([ISBA/24/LTC/WP.1/Rev.1](#)) with respect to the general structure and flow, and it requested the Commission to continue to improve it, including by updating the table of contents as the text evolved and reviewing the transition between exploration and exploitation, as well as adverse impacts on the economies of developing countries resulting from deep seabed mining. The Council also noted the greater emphasis put on the role of sponsoring States and flag States. The Council requested further clarification on the consultations being held, the evaluation process and responsibilities, and invited the secretariat to prepare a matrix in that regard.

II. General comments on parts I to VIII of the revised draft regulations and other matters on which the Commission had requested guidance from the Council

Part I

2. The Commission is invited to:

(a) Add a principle referring to the balance between resource exploitation and the protection of the marine environment;

(b) Elaborate on freedom of the high seas and the due regard clause;

(c) Further review the definition of serious harm, maintain in the regulations the distinction between “conserving” and “preserving” made in the United Nations Convention on the Law of the Sea (see draft regulation 2, para. 5 (a)) and clarify the provision on compliance notices (see draft regulation 4, para. 3);

(d) Review the reference to “if any” in association with regional environmental management plans in draft regulation 2, paragraph 5;

(e) Consider including consultations with nearby coastal States in the application process in the context of article 142 of the Convention (see draft regulation 4);

(f) Review the issue of compliance notices by the Secretary-General in draft regulation 4, paragraph 3;

(g) Review the issues of multiple sponsorship and effective control (see draft regulation 6);

(h) Develop, in parallel with the regulations, a list of priorities for the development of standards and guidelines (such as those in draft regulation 7, para. 3), which may need to be sequential, and of standards for mining discharges.

Part II

3. The Commission is invited to:

(a) Examine the use of the disclaimer “where applicable” in draft regulation 13, paragraph 3 (a);

(b) Consider the need to take account of regional environmental management plans in draft regulation 14;

- (c) Elaborate provisions on monopolization (see draft regulations 16 and 24);
- (d) Review time frames during the application process and the duration of the contract;
- (e) Consider transparency issues throughout the application process;
- (f) Consider elaborating on options for refusing an application;
- (g) Clarify objectives, standards, thresholds and the relationship among best environmental practices, best available scientific evidence, best available techniques and good industry practices.

Part III

4. The Commission is invited to:

- (a) Elaborate on adaptive management with criteria and procedures, taking into account the principle of mutual consent to contract amendments and the need for security of tenure, and review the payment of applicable fees (see draft regulation 19);
- (b) Consider replacing the word “optimize” with “ensure”, “manage” or “achieve” in draft regulation 29, paragraph 1;
- (c) Consider replacing the word “optimal” with “sound” in draft regulation 31 and review the intent and purpose of the reference to “inefficient mining practices” in draft regulation 31, paragraph 1 (a);
- (d) Review draft regulation 31, paragraph 4, in the context of the jurisdiction of the Authority;
- (e) Make applicable international rules and standards function as the minimum standards to avoid the risk of less stringent national laws remaining applicable (see draft regulation 32, para. 3 (a));
- (f) elaborate on the environmental performance guarantee through a transparent process and binding guidelines and clarify the language in section 9.

Part IV

5. Improvements are welcome and the Commission is invited to continue to elaborate on this part. The Commission is invited in particular to:

- (a) Include references to the ecosystem principle and the polluter pays principle;
- (b) Strengthen provisions relating to environmental protection, monitoring, evaluation and the closure plan to provide a robust environmental framework in the body of the text rather than in annexes, with inputs from all stakeholders;
- (c) Consider making regional environmental management plans mandatory and include those plans in the overarching environmental policy and framework of the Authority and the environmental obligations of the contractors, and consider taking into account broader regulatory frameworks in the development of regional environmental management plans;
- (d) Factor regional environmental management plans into environmental reports, such as environmental impact assessments, environmental impact statements and environmental management and monitoring plans, and into applications;
- (e) Consider sociocultural impacts in the environmental impact assessment and in the review by the Authority of environmental impact assessments by contractors;

(f) Clarify the language in draft regulations 47 (disclaimer and references to articles 209 and 215 of the Convention) and 50;

(g) Give further consideration to the purposes of funding the environmental liability trust fund and their impact on the nature of the fund;

(h) Consider giving access to the liability environmental trust fund to coastal States affected by the potential transboundary impacts of mining;

(i) Clarify compensation mechanisms for environmental damage.

Part V

6. The Commission is invited to:

(a) Consider that modifications to environmental plans could be permitted by the Secretary-General if those modifications do not constitute a material change (see draft regulation 55);

(b) Review the period and include an independent scientific assessment, as well as a list of triggers, and consider a mechanism for reporting to the Commission, the Council and the Secretary-General (see draft regulation 56).

Part VI

7. The Commission is invited to further elaborate on the objective, assessment and review of closure plans and on their costs and effects (see draft regulation 58) and to consider making them public.

Part VII

8. The Commission is invited to:

(a) Further develop the financial payment regime, considering the written report that the Massachusetts Institute of Technology will deliver ahead of the meetings of the Council and the Commission in 2019. Several views were expressed, some delegations preferring the royalty option, while others favoured the profit-sharing option, or a combination thereof;

(b) Continue its work on the financial and payment mechanism and elaborate on incentives to contractors, including in relation to benefit-sharing and environmental objectives (see draft regulation 61);

(c) Elaborate on unpaid royalty and the issue of compliance notices (see draft regulation 77).

Part VIII

9. The Commission is invited to:

(a) Further examine the purpose, rationale (cost or service) and function of the fee and consider whether it may be set off against royalty;

(b) Ensure a clear and consistent reference to the exchange rate to be used throughout the regulations, for fees as well as royalties.

Part IX

10. With respect to the confidentiality of information, the Council expressed its satisfaction with the approach followed in the revised draft regulations, which balanced access by the public to environmental data and the protection of confidentiality of industry and business aspects.

11. A suggestion was made to remove draft regulation 87, paragraph 2, to ensure a level playing field and to clarify the use for which information was needed. Another suggestion was made to provide more weight to the independent assessment of performance reports.

Part X

12. With respect to inspection and enforcement mechanisms, the Commission is invited to:

(a) Continue its consideration of those important questions and explore appropriate remote monitoring technology and the administrative and operative costs that it entails (see draft regulation 100);

(b) Review draft regulation 101 in the light of the responsibilities of sponsoring States.

Annex II

Proposal by the delegation of Germany

1. To keep the momentum on the development of a financial model, the German delegation proposes to organize efforts in a systematic manner.
2. First, the Council should ask Mr. Roth of the Massachusetts Institute of Technology to compare and synthesize the reports and studies listed below and, on that basis, to prepare a document in which he would describe the pros and cons of the different payment models, namely, the ad valorem model, the profit-based model and a combination of both:
 - The submission by the African Group on 9 July 2018 relating to the payment regime and other financial matters
 - The economic model of the China Ocean Mineral Resources Research and Development Association, presented on 17 July 2018 during a side event
 - The economic study by Germany on the economic benefits of commercial deep sea mining operations, of 30 September 2016
 - The economic model developed by the Massachusetts Institute of Technology, as presented to the Council in its revised version on 16 July 2018
3. The German delegation would like to highlight that, in conducting such a comparative analysis and synthesis, the Institute should also take due account of the potentially diverse assumptions upon which those reports and calculations have been based.
4. Second, the Massachusetts Institute of Technology should make the results of its work public and initiate a public consultation through the website of the International Seabed Authority, inviting comments from member States, observers and all interested stakeholders. The Institute should also be asked to take due account of the comments received and compile them into its report. The consolidated document should be submitted to the Authority no later than 31 December 2018, to give member States and observers sufficient time to review the report well before the twenty-fifth session of the Council.
5. Third, the German delegation would like to ask the Council to establish an open-ended working group on the present matter. Participation in the working group should be open to all members of the Assembly, the Council, the Legal and Technical Commission and the Finance Committee, as well as to contractors and observers. The working group should be mandated to meet before the twenty-fifth session of the Council to discuss the report prepared by the Massachusetts Institute of Technology. The working group would report to the Council on the result of those discussions at the twenty-fifth session.
6. It is well known that developing a financial model is of utmost importance for the continuation of the Authority's work, as well as to give the fullest effect to the principle of the common heritage of mankind. Against this background, the delegation of Germany considers the present proposal to be both a necessary and sensible way forward.



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Report of the Chair of the Legal and Technical Commission on the work of the Commission at its twenty-fourth session

Report of the Chair of the Legal and Technical Commission on the work of the Commission at the first part of its twenty-fourth session

I. Introduction

1. The 2018 session of the Legal and Technical Commission of the International Seabed Authority has been divided into two parts. Part I was held from 12 to 23 March, and part II will be held from 2 to 13 July.
2. On 12 March, the Commission adopted its agenda ([ISBA/24/LTC/1](#)) and elected Michelle Walker as Chair and Harald Brekke as Vice-Chair.
3. The Commission noted with satisfaction that as many as 90 per cent of its members attended part I of its 2018 session. Malcolm Clark, Elie Jarmache and Alonso Martínez Ruiz were unable to attend; however, Mr. Clark was able to contribute by email to the discussions.

II. Activities of the contractors

A. Status of contracts for exploration

4. On 12 March, the Commission took note of the report on the status of contracts signed by the Authority for exploration for polymetallic nodules, polymetallic sulphides and cobalt-rich ferromanganese crusts ([ISBA/24/LTC/2](#)).

B. Status of implementation of training programmes under contracts for exploration and allocation of training opportunities

5. On the same date, the Commission was briefed on the selection of candidates for training programmes since July 2017. At the twenty-third session, in 2017, the Commission had agreed that the training subgroup would work with the secretariat



intersessionally to identify appropriate candidates for training opportunities (ISBA/23/C/13, para. 7). During that period, 11 first-ranked and 14 alternate candidates were selected on the basis of the recommendations of the subgroup.

6. During part I of its session, the Commission was invited to select 11 additional candidates for five training programmes being offered by four contractors pursuant to their contracts for exploration with the Authority. On the basis of the recommendations of the subgroup, 10 first-ranked and 14 alternate candidates were selected by the Commission (see ISBA/24/LTC/5).

7. During the general discussion of the implementation of the training programmes, some members reiterated the importance of monitoring the impact that former trainees were having on their countries of origin, as well as the need to monitor the benefits to trainees who were receiving long-term training, for example those pursuing doctoral and master's degrees.¹

C. Additional measures to improve efficiency in the process for reviewing annual reports

8. On 12 March, the Commission considered a report on the evaluation of annual reports of contractors and on monitoring compliance with plans of work for exploration (ISBA/24/LTC/3). The Commission took note of the report and requested the Secretary-General to provide further details and analysis on the implementation of the five-year programme of activities and to discuss with contractors the need for more clearly defined programmes of activities, reflecting the request made by the Assembly at the twenty-third session (see ISBA/23/A/13).

III. Regulatory activities of the Authority

A. Consideration and adoption of the draft regulations on the exploitation of mineral resources in the Area

9. On the same date, the Commission was briefed by the secretariat on the proposed workflow and expected outcomes for the current session in respect of the draft exploitation regulations. On 13 March, the Commission discussed the requests made by the Council, as contained in the statement by the President of the Council on the work of the Council during the first part of the twenty-fourth session (ISBA/24/C/8). The Commission set up three working groups to explore the following areas: the reinforcement of the principle of the common heritage of mankind in the operative provisions of the draft regulations; the need to protect developing countries from the adverse effects of mineral production in the Area on their economies; and the role and legal status of standards, recommendations and guidelines, including the preparation of terms of reference for a workshop dedicated to the development of standards and guidelines.

10. From 13 to 16 March, the Commission considered a number of key issues relating to the draft regulations, identified as a result of prior discussions in the Commission and stakeholder responses to the draft regulations, as well as the discussions held by the Council immediately before the meetings of the Commission. Those issues included the structure of and workflow under the draft regulations; key definitions (good industry practice, best environmental practice, serious harm and best available technology); confidentiality; the use of exploitation contracts as

¹ In accordance with the Commission's recommendation outlined in ISBA/19/LTC/14, para. 19, subsect. (C).

security; the protection of developing countries from adverse effects; performance guarantees; the concepts of “contract area”, “mining area” and “interested persons”; and public consultation. The Commission also discussed other issues, including documentation requirements for applying for a plan of work, matters relating to production, termination of sponsorship and environmental scoping. The Commission requested the secretariat to consider those discussions in revising the draft regulations.

11. On 19 March, the Commission considered a proposal submitted by the working group on the terms of reference for a workshop on the development of standards and guidelines. The Commission recommended that standards and guidelines be developed separately and that a workshop on the development of standards be organized in the first half of 2019. The Commission adopted the terms of reference for an initial workshop on the development of standards and requested the secretariat to finalize those terms. It was decided that the terms of reference for a workshop on the development of guidelines would be considered during part II of the session.

12. On the same date, the Commission discussed the possibility of collaborating with the Finance Committee to facilitate cooperation in the development of the draft regulations, in particular with regard to the payment mechanism and equitable sharing criteria. The Commission agreed with the proposal made by the secretariat to hold a joint meeting with the Committee during part II of the session and requested the secretariat to make the necessary arrangements.

13. On 21 March, Richard Roth and Randolph Kirchain from the Massachusetts Institute of Technology made a presentation on the economics of seabed mining for polymetallic nodules and on the work undertaken to date on a financial model for the Authority, which included further analysis following Mr. Roth’s discussion with the Council. The Commission concurred with the fundamental principles applied and the approach taken by the Institute’s team to the development of the model. During its discussion with the team, the Commission highlighted areas for further consideration and analysis by the team, especially in connection with metal price forecasts and underlying cost assumptions. While acknowledging the work performed by the team in respect of a payment mechanism, the Commission considered that it was premature to make recommendations to the Council on options to best realize the objectives and principles set out in the United Nations Convention on the Law of the Sea and in 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 Commission and the secretariat discussed focus areas to be explored by the team on the basis of the relevant items in the statement by the President of the Council and noted that the Secretary-General would make the arrangements necessary for the team to continue its work. The Commission will report to the Council in July 2018 on the status of the model and possible payment options, in addition to the outcome of its joint meeting with the Finance Committee.

14. On 20 and 22 March, the Commission considered a revised and annotated version of the draft regulations, including provisions suggested by the working groups. The Commission requested the secretariat to incorporate its suggestions and comments into the text and to produce a further revised version, with the necessary comments as an attachment. The secretariat noted that the further revised draft regulations would be prepared as a working paper in the official languages for consideration by the Commission and the Council at their meetings. A briefing note would also be prepared to highlight the key matters discussed by the Commission, together with any matters requiring the Council’s direction or guidance.

B. Recommendations for the guidance of contractors for the assessment of possible environmental impacts arising from the exploration for marine minerals in the Area

15. On 13 March, the Commission received a report summarizing the comments submitted by 13 contractors and several technical experts in respect of the draft revised recommendations. The Commission requested the working group on environmental matters to review those comments and prepare an annotated document for consideration by the Commission. On 22 March, the Commission discussed a working paper prepared by the working group on general comments and suggested responses, in particular on the key issues of the legal status and level of detail of the recommendations, the environmental impact assessment template and timing of submission, the design of preservation reference zones and impact reference zones, and test mining and testing of components. The Commission requested the working group to continue to consider the key issues and to submit a further revised document for consideration during part II of the session.

IV. Implementation of the data management strategy of the Authority

16. On 12 March, the Commission received an update on the implementation of the data management strategy, the first phase of which is expected to be completed by October 2018. The Commission noted with satisfaction the progress made by the secretariat since initiating the implementation of the strategy and expressed its willingness to assist the secretariat with future implementation. The Commission acknowledged the importance of migrating and loading historical data into the Authority's database. The Commission endorsed the use of proprietary software in the implementation of the database management project to ensure the long-term sustainability of the application. The Commission also emphasized the importance of developing and strengthening communications with contractors to ensure that all stakeholders were adequately represented.

17. On 22 March, the working group on data management met the data manager of the secretariat, who provided more details about the database being developed for the Authority.

V. Matters referred to the Commission by the Council

18. On 16 March, the Commission received a detailed report on the legal and policy-related aspects of the possible alignment of the Authority's regulations on prospecting and exploration with respect to the offer of an equity interest in a joint venture arrangement ([ISBA/24/LTC/4](#)). Differing legal and policy views were expressed by the members of the Commission. Considering that the priority task was the development of the exploitation regulations, and in the light of those divergent views, the Commission decided to defer consideration of the item until part II of its session.

19. On 19 March, recalling the request of the Assembly that the Commission continue to address the question of the operationalization of the Enterprise as an important matter in the light of developments with respect to deep-sea mining, the Commission considered issues relating to the operation of the Enterprise and endorsed the draft terms of reference for a study on those issues ([ISBA/20/LTC/12](#), annex). The Commission requested that the study be ready for review or that an update be provided on progress in this respect for part II of its session.

VI. Other matters

20. On 20 March, the Secretary-General informed the Commission with regret of the sharp deficit in the voluntary trust fund for the purpose of defraying the cost of participation of members of the Commission and members of the Finance Committee from developing countries in the meetings of the Commission and of the Finance Committee. The Commission expressed its grave concern over the matter, in particular at such a time, given the Council's recent in-depth request to the Commission regarding progress on the draft exploitation regulations. Furthermore, many members of the Commission, in particular those from Africa, Asia and Latin America and the Caribbean, would not be able to participate in the meetings of the Commission owing to a lack of financial support from the fund, which could raise the issue of a quorum at the meetings of the Commission in July. The Commission urged the Secretary-General to make every effort to solicit contributions to the fund and to bring the issue to the Council's attention during part II of its session.

21. On 22 March, the Commission was briefed on the outcome of the two meetings of a legal working group, convened in London in September 2017 and February 2018, on liability for environmental harm from activities in the Area.

22. On 23 March, the Commission had an extensive discussion on holding open meetings during part II of its session. The Commission reaffirmed the importance of transparency with regard to issues that were of general interest to members of the Authority and that did not involve discussions of confidential information. The Commission noted that the Council had held informal meetings during part I of its session to allow observers to participate in discussions of the draft exploitation regulations and that the secretariat had been facilitating stakeholder contributions to the development of a regulatory framework since 2014. Considering the Commission's agenda and expected workload for part II of the session, together with the schedule of meetings for the Commission and the Council, as well as the joint meeting with the Finance Committee, the Commission concluded that it would not be feasible to host an open meeting in July. The Commission requested the secretariat to prepare a discussion paper on how open meetings could be best structured in the future to facilitate meaningful input and exchanges in respect of particular subjects, including regulatory development.



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Report of the Chair of the Legal and Technical Commission
on the work of the Commission at its twenty-fourth session

Report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of its twenty-fourth session

I. Introduction

1. Part II of the 2018 session of the Legal and Technical Commission of the International Seabed Authority was held from 2 to 13 July 2018.
2. Twenty-seven members of the Commission attended the meetings. Théophile Ndougisa Mbarga was unable to attend. Andres Sebastian Rojas and Jun Wu resigned in May and June 2018, respectively. Following the previous practice, Shengxiong Yang participated in the meetings in his capacity as a candidate nominated by the Government of China for the election to fill vacancies on the Commission.

II. Activities of the contractors

A. Implementation of training programmes under contracts for exploration and allocation of training opportunities

3. On 2 July, the Commission was briefed on the selection of candidates for training programmes since part I of the 2018 session, held from 12 to 23 March, when it had been agreed that the training subgroup would work with the Secretariat in the intersessional period to identify appropriate candidates for training opportunities. Seven first-ranked and six alternate candidates were selected in the intersessional period on the basis of the recommendations of the training subgroup. The training places are as follows:

- (a) One fellowship offered by Global Sea Mineral Resources (GSR) pursuant to its contract for polymetallic nodules to pursue a two-year master's degree programme in marine and lacustrine science and management (oceans and lakes) starting in the third quarter of 2018;



(b) Six theoretical and at-sea training opportunities offered by JSC Yuzhmorgeologiya under its 2018/19 training programme pursuant to its contract for polymetallic nodules.

4. At part I of the 2018 session, the Commission had been invited to select an additional 11 candidates for three training programmes being offered by three contractors pursuant to their contracts for exploration with the Authority. On the basis of the suggestions of the training subgroup, 11 first-ranked and 11 alternate candidates were selected by the Commission. The training places are as follows:

(a) Five at-sea placements being offered by Deep Ocean Resources Development under its 2019 training programme;

(b) Two offshore internship placements being offered by GSR for the beginning of 2019 pursuant to its contract for polymetallic nodules;

(c) Four at-sea placements offered by China Minmetals Corporation broken down as follows: two places in 2018 and two in 2019.

5. Details on the selections are contained in document [ISBA/24/LTC/9](#).

B. Annual reports of contractors

6. The Commission considered 27 annual reports on activities carried out by contractors in 2017, noting that two contractors did not need to report at that time on their activities in 2017 because the contracts had been signed recently. Of the reports reviewed, 17 were related to exploration for polymetallic nodules, 6 to exploration for polymetallic sulphides and 4 to exploration for cobalt-rich ferromanganese crusts. Following its previous practice, the Commission set up three working groups to review the geological and technological, environmental, and legal, financial and training aspects of the annual reports. In addition to specific comments on each report to be conveyed to the relevant contractor by the Secretary-General, the Commission made the following general comments:

(a) The Commission finds that most contractors met the reporting requirements under the standard clauses of the contracts. However, there were a few cases where the contractors were not completely fulfilling their contractual obligations;

(b) One contractor had again, during the period under review, not reported any substantive work, while another three contractors had continued not to fulfil the Commission's recommendations;

(c) The Commission welcomes the presentation of well-structured annual reports complying with the template it issued in 2015 ([ISBA/21/LTC/15](#)) by the overwhelming majority of contractors. However, several contractors are mixing the reporting of data in two contract areas or reporting by multiple contractors. The Commission reminds contractors that the commitments established under each contract represent a separate obligation. Each contract must be reported on separately and a work programme delivered for one contract cannot fulfil a contractor's obligations against another. Contractors' attention is drawn to the obligation to deliver all reported environmental and geological data in a digital and spatially georeferenced format compatible with the Authority's requirements (see [ISBA/21/LTC/15](#), annex IV);

(d) Most contractors provided the financial statements in the format recommended by the Commission. The contractors that did not follow the recommended format have been brought to the attention of the Secretary-General, who is requested to remind those contractors to file their financial reports in

accordance with the recommended format. The Commission further notes that a number of contractors had not expended funds to the estimated levels of expenditure, falling short in some cases by as much as 80 per cent;

(e) The Commission welcomes the fact that most contractors had performed very well in this area of training. However, there is still a need to remind a few remaining contractors to fully implement their respective training programmes as agreed with the Secretary-General and included in their contracts as schedule 3;

(f) The Commission notes the larger number of cruises conducted in 2017 (14) and days at the sea (more than 1,000);

(g) The Commission notes that the Authority's system for resources classification is being adopted by contractors as mature exploration programmes. The Commission recalls that the identification of indicated or measured resources is expected to be completed by all contractors by the end of the contract for the exploration's term;

(h) The Commission considers that the completion of high resolution bathymetric surveys at an adequate scale to assist future exploitation plans of work is particularly important for contractors that have entered into a period of extension. The Commission welcomes the research to operationalize the development of seabed mining, in particular metallurgical studies and experiments in technologies for the extraction of the three types of marine resources;

(i) The Commission notes that at the current rate of progress, some contractors risk being unable to deliver the commitments for the initial five-year period of the plan of work established in its contract for exploration. The obligation to deliver the contract for exploration commitments applies to all contractors equally and is monitored by the Commission;

(j) Data provision by many contractors is good, but a number have not provided digital data for the last year. An ongoing issue to be addressed by some contractors is a reluctance to provide data prior to separate scientific publication or where they have been collected as part of an international research programme. The Commission stresses to contractors that data must be provided under the terms of the contract, and notes that data can be treated as confidential for a period, where necessary or appropriate;

(k) Most contractors have made good progress in the collection or analysis of baseline environmental data, making further progress in the analysis of existing or new data or in some cases taking stock of previous data and undertaking a review of many years of data collection that will support future sampling efforts. Two contractors have not advanced towards environmental objectives at all for two years in a row;

(l) In general, the Commission is pleased with the quality of the environmental studies being conducted. Contractors have all largely been following methodology as detailed in the recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area (ISBA/19/LTC/8). Environmental studies, especially for biological communities, remain focused on seafloor data, but the Commission notes an increasing level of mid-water sampling, especially in cobalt-rich crust environments. There were again some issues with small sample sizes and insufficient numbers of sampling stations for describing environmental variability in some areas, as well as some differences in methodology or sampling equipment that may constrain regional-scale analyses;

(m) Some contractors have taken less notice than expected of the Commission's evaluation on previous annual reports. The Commission goes to considerable lengths to review reports and provide constructive advice to contractors where the Commission feels improvements in the collection or analysis of environmental data can be made. While the Commission acknowledges that the responsibility to carry out the plan of work rests with the contractor, the Commission will continue to advise contractors in order to ensure that the quality of the baseline data being collected is as high as possible;

(n) The Commission notes, and expresses support for, the continuing trend of collaboration between contractors in such areas as methodological and analytical standardization, linkages between contractor scientists and international research programmes, sampling in areas of particular environmental interest and exploration areas, and shared vessel time between contractors.

7. It is recommended that the Secretary-General communicate the various issues identified during the review to the respective contractors and request the contractors to address those issues.

C. Report on the periodic reviews of the implementation of plans of work for exploration

8. On 2 July 2018, the Commission took note of the report on the periodic reviews of the implementation of plans of work for exploration (see [ISBA/24/LTC/8](#)) and welcomed the invitation by the Secretary-General to review the reports and other information provided by the contractors and to make such recommendations as might be deemed appropriate to assist him in carrying out his responsibilities under the regulations, including recommendations on any additional data and information that might be necessary for the purposes of the reviews. The Commission will consider ways to give effect to that invitation at its next session, in March 2019.

III. Regulatory activities of the Authority

A. Consideration and adoption of the draft regulations on the exploitation of mineral resources in the Area

9. The Commission devoted the first week of meetings to a review of the draft regulations on the exploitation of mineral resources in the Area (see [ISBA/24/LTC/WP.1](#) and [ISBA/24/LTC/WP.1/Add.1](#)), reflecting its discussions at its March 2018 meetings, together with a review of the note by the secretariat on the draft regulations (see [ISBA/24/LTC/6](#)). The Commission made available a revised text of the draft regulations (see [ISBA/24/LTC/WP.1/Rev.1](#)) for consideration by the Council. In addition and at the request of the Council (see [ISBA/24/C/8](#), para. 20), the Commission prepared a briefing note for the Council on matters requiring further examination by the Commission and matters on which it seeks the Council's direction or guidance (see [ISBA/24/LTC/20](#)).

B. Recommendations for the guidance of contractors for the assessment of possible environmental impacts arising from the exploration for marine minerals in the Area

10. On 12 July, the Commission considered the draft revised recommendations for the guidance of contractors for the assessment of possible environmental impacts arising from the exploration for marine minerals in the Area ([ISBA/19/LTC/8](#)) and agreed to work on and adopt the draft intersessionally and submit the final revised recommendations to the Council at its March 2019 session.

IV. Development of other environmental management plans in the Area

11. On 10 July, the secretariat reported on the outcomes of the Qingdao workshop held in May 2018 on the development of regional environmental management plans (REMPs) for cobalt-rich crusts in the north-west Pacific and of the Szczecin workshop held in June 2018 on development of REMPs for polymetallic sulphides in mid-ocean ridges. The outcomes of both workshops would be published as technical studies of the Authority. The Commission commended the workshops for having developed road maps for the development of REMPs. It was suggested that in developing new REMPs, lessons should be learned from the implementation of the existing REMP in the Clarion-Clipperton Zone. Some members also suggested that the geographic extent of REMPs should take into account appropriate environmental conditions and ecological biogeography. It was suggested that in developing a REMP for the cobalt-rich ferromanganese crust in the north-west Pacific, consideration should be given to collaborating with the coastal states. The possibility of using historic data in the development of the REMP could be explored.

V. Implementation of the data management strategy of the Authority

12. On 10 July 2018, the secretariat made a presentation on the status and projections of the database, which was followed by a live demonstration of the operability of the database. The Commission noted with appreciation that the database is scheduled to come on stream in October 2018, commended the secretariat for its work in that respect and encouraged it to continue its ongoing work and add further functions, such as some standard spatial analysis and mapping routines to assist in making informed decisions. The Commission considered that the full implementation of the data management strategy of the Authority would facilitate the work of the Authority, the contractors and other users. It was suggested that the capabilities of the database could be expanded by creating linkages between the database of the Authority and other databases.

VI. Other matters

13. On 4 and 11 July, the Commission considered both environmental impact assessments and their associated monitoring plans, submitted by the German Federal Institute for Geosciences and Natural Resources and GSR, respectively, to test mining components. It took note of the progress made by the Secretariat in the review process, which is projected to be finalized by end-September 2018. In the light of the review, the Commission was pleased to see that the contractors had been following its recommendations as contained in document [ISBA/19/LTC/8](#). The Commission agreed that a working group would continue the review process intersessionally to ensure the completeness, accuracy and statistical reliability of both submissions, and would communicate its comments to the Secretary-General at

the earliest opportunity. The Commission also agreed to set up another working group to consider the process for its review of the proposal of an environmental impact assessment for test mining or test mining components in the future.

14. On 10 July, the Commission took note of a report submitted by the legal working group on liability for environmental harm and decided to consider the report and subsequent actions at its next session, in March 2019.

15. During this session, the Commission established a working group to investigate a systematic approach to facilitate the secretariat's management of the relinquishment of areas under the contracts for exploration for polymetallic sulphides and for cobalt-rich ferromanganese crusts. The working group expects to be able to report the outcomes of its investigation to the Commission at its March 2019 session.



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Draft regulations for exploitation of mineral resources in the Area

Functions of the organs of the Authority in relation to the preparation of rules, regulations and procedures on exploitation of mineral resources in the Area and in relation to the system of compensation envisaged under article 151 (10) of the United Nations Convention on the Law of the Sea

Note by the secretariat

I. Introduction

1. In discussions in the Council during the first part of the twenty-fourth session of the International Seabed Authority, several delegations requested greater clarity on the functions of the organs of the Authority with regard to the process of drafting and approving rules, regulations and procedures relating to the exploitation of mineral resources in the Area. The purpose of the present note is to review the relevant provisions of the United Nations Convention on the Law of the Sea and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 and to explain the specific functions of the Assembly, the Council, the Legal and Technical Commission and the Finance Committee.

2. In the note, the provisions of the Convention, as read with the Agreement, are also reviewed in relation to the system of compensation envisaged under article 151 (10) of the Convention, given that the changes made in that system under the Agreement will affect how the organs of the Authority carry out their functions. For ease of reference, the content of the note is summarized in tabular format in the annex.



II. Functions of the organs in relation to the drafting of rules, regulations and procedures on exploitation of mineral resources in the Area

A. Assembly

3. The supreme organ of the Authority is the Assembly, to which all other organs are accountable (art. 160 (1)). Under article 160 (2) (f) (ii), the Assembly is required to consider and approve the rules, regulations and procedures of the Authority, including those relating to prospecting, exploration and exploitation, and any amendments thereto, provisionally adopted by the Council pursuant to article 162 (2) (o) (ii). If the Assembly does not accept the recommendation of the Council on any such matter, it returns the matter to the Council for further consideration. The Council then considers the matter in the light of the views expressed in the Assembly.

4. The Assembly must also consider and approve, upon the recommendation of the Council, the rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to article 82, taking into particular consideration the interests and needs of developing States and peoples who have not attained full independence or other self-governing status (art. 160 (2) (f) (i)). If the Assembly does not approve the recommendations of the Council in relation to the matters referred to in article 160 (2) (f) (i), it returns them to the Council for further consideration in the light of the views expressed by the Assembly.

5. In addition, under article 160 (2) (g), the Assembly, acting on its own behalf, decides upon the equitable sharing of financial and other economic benefits derived from activities in the Area.

6. The role of the Assembly in relation to the economic assistance fund is dealt with in section III of the present note.

B. Council

7. Under article 162 (2) (o) (i), the function of the Council is to recommend to the Assembly rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to article 82, taking into particular consideration the interests and needs of the developing States and peoples who have not attained full independence or other self-governing status. Furthermore, under article 162 (2) (o) (ii), it adopts and applies provisionally, pending approval by the Assembly, the rules, regulations and procedures of the Authority, and any amendments thereto, taking into account the recommendations of the Legal and Technical Commission or other subordinate organ concerned. Those rules, regulations and procedures relate to prospecting, exploration and exploitation in the Area. The scope of the matters covered by the regulations is set forth in greater detail in article 17 of annex III to the Convention, on basic conditions of prospecting, exploration and exploitation.

8. Decisions of the Council in relation to the above-mentioned matters are made by consensus.

9. The Council is also responsible for establishing appropriate mechanisms for directing and supervising a staff of inspectors whose task will be to inspect activities in the Area (art. 162 (2) (z)).

C. Legal and Technical Commission

10. The task of the Legal and Technical Commission under article 165 (2) (f) is to formulate and submit to the Council the rules, regulations and procedures referred to in article 162 (2) (o), taking into account all relevant factors, including assessments of the environmental implications of activities in the Area. This comprehensive provision makes clear that, except where otherwise specified in the Convention or the Agreement, the primary responsibility for formulating regulations, including on all the matters specified in article 17 of annex III, rests with the Commission.

11. The Commission will also make recommendations to the Council regarding the direction and supervision of the staff of inspectors referred to above (art. 165 (2) (m)).

D. Finance Committee

12. The Finance Committee was established under the Agreement and its functions are specified under section 9 of the annex to that Agreement. Those functions affect the way in which other organs of the Authority perform their functions under the Convention in several ways. In particular, the Assembly and the Council must take into account the Committee's recommendations in their decisions on any of the matters listed in section 9 (7), including the administrative and budgetary implications of proposals and recommendations involving expenditure from the funds of the Authority; and rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the decisions to be made thereon.

13. In addition, section 7 (1) (a) of the Agreement provides that, in connection with the system of compensation to be established by the Authority under article 151 (10) of the Convention, the amount to be set aside for the economic assistance fund¹ will be determined by the Council, upon the recommendation of the Committee. That aspect is discussed further in section III of the present note.

14. Based on the above-mentioned provisions, the role of the Committee is to make recommendations to the Council on:

(a) The rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the decisions to be made thereon. That is a matter solely within the competence of the Committee;

(b) The amount to be set aside for the economic assistance fund, once that fund has been established. Only funds from payments received from contractors, including the Enterprise, and voluntary contributions are used for this purpose;

(c) Financial matters with administrative and budgetary implications for the funds of the Authority that arise in connection with the exploitation regulations. In the current draft (ISBA/24/LTC/WP.1), this would include:

(i) Draft regulations 82, 84 and 85: annual, administrative and other applicable fees. The draft regulations provide for an annual reporting fee, an application processing fee and other administrative fees. Appendix II to the draft regulations contains a list of administrative fees. They would be charged for all services

¹ Based on the Agreement, the form of assistance for developing countries that suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area, is to be limited to an economic assistance fund created from the payments made by contractors, including the Enterprise, and voluntary contributions.

provided by the Authority at a rate to be fixed from time to time by the Council to ensure that they cover the Authority's expected administrative costs of the service provided (draft regulation 86 (1)). Any Council decision in that regard must be based on the Committee's recommendations (Agreement, sect. 9 (7) (e));

(ii) Draft regulation 83: annual fixed fee from the date of commencement of commercial production. The fee will be set by the Council (Agreement, sect. 8 (1) (d)). Although there is no reference in the Agreement to the Finance Committee in that regard, it should be consulted because the fee will have budgetary implications, given that it will have the effect of offsetting the assessed contributions of member States to the administrative budget of the Authority;

(iii) Draft regulation 27: environmental performance guarantee. The form and amount of any such guarantee would need to be established by the Legal and Technical Commission. The Committee would need to be consulted with regard to the appropriate financial rules and procedures for holding such guarantees (for instance, if they were provided in cash);

(iv) Draft regulations 52–54: environmental liability trust fund. The purpose of such a fund and options for financing are yet to be discussed by the Council. Should it be established, the Committee would need to be consulted with regard to its rules of procedure and the method of its funding.

III. System of compensation under article 151 (10) and the role of the Economic Planning Commission

15. Article 151 of the Convention, which deals with the Authority's production policies, was largely superseded by the Agreement. Article 151 (10), albeit considerably modified by the Agreement, provides for the establishment by the Assembly, upon the recommendation of the Council and based on advice from the Economic Planning Commission, of a system of compensation or the adoption of other measures of economic adjustment assistance, including cooperation with specialized agencies and other international organizations, to help developing countries that suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area.

16. The implementation of article 151 (10) of the Convention is modified considerably by the Agreement. The functions of the Economic Planning Commission are, pursuant to the Agreement, being carried out by the Legal and Technical Commission until such time as the Council decides otherwise, or until the approval of the first plan of work for exploitation. Those functions, which are set out in article 164 of the Convention, are also limited by the Agreement to a study of the potential impact of mineral production from the Area on the economies of developing land-based producers of those minerals that are likely to be most seriously affected, with a view to minimizing their difficulties and assisting them in their economic adjustment (sect. 1 (5) (e)).

17. The Agreement further provides that the policy of the Authority with regard to assisting developing countries that suffer serious adverse effects on their export earnings or economies is to be based on a series of principles set forth under section 7. They include that assistance under article 151 (10) should be provided through an economic assistance fund created from a portion of the Authority's funds exceeding those necessary to cover the administrative expenses of the Authority. The amount of the fund is to be determined by the Council, based on a recommendation of the

Finance Committee. Only funds from payments received from contractors, including the Enterprise, and voluntary contributions are to be used for this purpose. All related provisions of the Convention are to be interpreted accordingly.

IV. Conclusion

18. The Council is invited to take note of the present note, which is presented for information purposes only.

Annex

Summary of the functions of the organs of the Authority in relation to the preparation of rules, regulations and procedures on exploitation of mineral resources in the Area and in relation to the system of compensation envisaged under article 151 (10) of the United Nations Convention on the Law of the Sea

<i>Task</i>	<i>Organ responsible</i>	<i>Comments</i>
Approval of rules, regulations and procedures relating to exploitation	Assembly	Approval of rules, regulations and procedures, as provisionally adopted by the Council. If the Assembly does not approve, it returns the matter to the Council for further consideration.
Approval of rules, regulations and procedures on the equitable sharing of financial and other economic benefits (and the payments and contributions made pursuant to article 82)	Assembly	Approval upon recommendation of the Council. If the Assembly does not approve, it returns the matter to the Council for further consideration.
Decisions on equitable sharing of benefits	Assembly	No prior consideration or recommendation of the Council is required.
Recommendation to the Assembly of rules, regulations and procedures on the equitable sharing of financial and other economic benefits (and payments and contributions made pursuant to article 82) (art. 162 (2) (o) (i))	Council (by consensus)	Decisions of the Assembly and Council must take into account the recommendations of the Finance Committee where they concern rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the decisions to be made thereon (Agreement, sect. 9 (7) (f)).
Adoption and provisional application, pending approval by the Assembly, of rules, regulations and procedures relating to prospecting, exploration and exploitation in the Area (art. 162 (2) (o) (ii))	Council (by consensus), taking into account recommendations of the Legal and Technical Commission or other subordinate body concerned	Decisions of the Assembly and Council must take into account the recommendations of the Finance Committee where they concern administrative and budgetary implications of proposals and recommendations involving expenditure from the funds of the Authority (Agreement, annex, sect. 9 (7) (e)).
Establishment of an appropriate mechanism for directing and supervising a staff of inspectors (art. 162 (2) (z))	Council	

<i>Task</i>	<i>Organ responsible</i>	<i>Comments</i>
Formulation and submission to the Council of the rules, regulations and procedures referred to in article 162, (2) (o), taking into account all relevant factors, including assessments of the environmental implications of activities in the Area (art. 165 (2) (f))	Legal and Technical Commission	
Submission of recommendations to the Council regarding the direction and supervision of a staff of inspectors (art. 165 (2) (m))	Legal and Technical Commission	
Submission of recommendations to the Council regarding the establishment of a monitoring programme to observe, measure, evaluate and analyse the risks or effects of pollution of the marine environment resulting from activities in the Area (art. 165 (2) (h))	Legal and Technical Commission	
Establishment of a system of compensation or other measures of economic adjustment assistance to assist developing countries that suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area (art. 151 (10))	Assembly, upon the recommendation of the Council and based on advice from the Finance Committee and Economic Planning Commission (art. 160 (2) (1) as modified by the Agreement, annex, sect. 7)	(1) The functions of the Economic Planning Commission are to be performed by the Legal and Technical Commission until such time as the Council decides otherwise or until the approval of the first plan of work for exploitation (Agreement, annex, sect. 1 (4)). (2) The policy of the Authority of assisting developing countries will be based on an economic assistance fund established using a portion of the funds of the Authority which exceeds those necessary to cover its administrative expenses. The amount set aside for that purpose will be determined by the Council upon the recommendations of the Finance Committee. Only funds from payments received from contractors, including the Enterprise, and voluntary contributions shall be used (Agreement, annex, sect. 7).
Determination of the amount of the economic assistance fund	Council	Upon the recommendation of the Finance Committee

<i>Task</i>	<i>Organ responsible</i>	<i>Comments</i>
Provision of advice to the Council on the establishment of the economic assistance fund and on the matters referred to in article 164 (2)	Legal and Technical Commission (performing the functions of the Economic Planning Commission)	



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Draft regulations on exploitation of mineral resources in the Area

Note by the Legal and Technical Commission

I. Introduction

1. At its meetings in March 2018, the Legal and Technical Commission continued its discussion on the draft regulations on the exploitation of mineral resources in the Area. This included consideration of the requests made by the Council to the Commission (see [ISBA/24/C/8](#), sect. VIII), and responses made by members of the Authority and other stakeholders to the draft regulations issued in August 2017 by the secretariat.¹
2. In the light of the Commission's comments, the secretariat prepared a revised text for the Commission's consideration at its July meetings (see [ISBA/24/LTC/WP.1](#) and [ISBA/24/LTC/WP.1/Add.1](#)). A note providing an overview of the structure and content of the revised draft and other matters for the Commission's inputs, together with a flowchart of the application approval process was also prepared by the secretariat (see [ISBA/24/LTC/6](#)). At its July 2018 meetings, the Commission made further progress in developing the draft regulations and has issued a revised text ([ISBA/24/LTC/WP.1/Rev.1](#)).²
3. The purpose of the present note is to provide an update to the Council on the requests made to the Commission and to highlight those matters requiring further investigation or study by the Commission and matters requiring the Council's direction or guidance (see [ISBA/24/C/8](#), para. 20). In addition, to assist the Council in its forthcoming deliberations on the draft regulations, the annex to the present note provides commentary on specific draft regulations. The present note addresses the majority of the requests made by the Council in relation to the draft regulations and

¹ [ISBA/23/LTC/CRP.3](#).

² The revised document incorporates document [ISBA/24/LTC/WP.1/Add.1](#) (draft environmental impact statement template). Text boxes are used in document [ISBA/24/LTC/WP.1/Rev.1](#) to highlight key changes to the regulatory text of [ISBA/24/LTC/WP.1](#). There is no change either to the structure of the parts or to the draft regulation numbering between the documents.



highlights key matters discussed by the Commission and, where applicable, action to be taken.

4. The present note does not provide an update on the development of an economic model for mining activities in the Area and associated financial terms for future exploitation contracts. Following on from a joint meeting with the Finance Committee on 13 July 2018 to discuss a work programme for the payment mechanism and equitable sharing criteria (as requested by the Council: see [ISBA/24/C/8](#), para. 22 (j)), an oral report will be made to the Council by the respective chairs of the Committee and the Commission, which will include an update on the work to be undertaken by both the Committee and the Commission.

II. Key matters requiring further investigation or study by the Commission

5. There are a number of areas that require continuing examination by the Commission. These are as follows:

6. **Common heritage of mankind** (see [ISBA/24/C/8](#), para. 22 (a)). The Council requested that the Commission consider ways in which the principle of the common heritage of mankind can be reinforced in the operative provisions in the regulations, including assessment at the application process. While the Commission examined this issue and has proposed specific regulatory text,³ the Commission considers that this remains an ongoing issue for examination as the regulations undergo further development. This will include, in particular, the extent to which a proposed plan of work contributes to realizing benefits for mankind as a whole, and how this will be assessed (see draft regulation 12, para. 4).

7. **Information flowing from activities under an exploration contract and an application for the approval of a plan of work for exploitation** (see [ISBA/24/C/8](#), para. 22 (b)). The Commission examined the documentation and information requirements under section 11 of a standard exploration contract and its relevance in supporting an application for exploitation. The Mining Workplan (draft regulations, annex II) now reflects this data and information requirement, recognizing the continuum between exploration and exploitation activities. The Commission notes that guidelines will be required to clarify specific information requirements against the content headings of the Mining Workplan. The data and information requirements flowing from section 11 of the standard clauses of the exploration contract, together with the accompanying pre-feasibility or feasibility study, will be key to the review of an application by the Commission.

8. **Determining how exploration activities under an exploitation contract would be regulated** (see [ISBA/24/C/8](#), para. 22 (b) (iv)). The Commission continued to examine how exploration activities under an exploitation contract would be regulated (see [ISBA/24/LTC/6](#), paras. 26–28).

9. *Resource-specific provisions* (see [ISBA/24/C/8](#), para. 22 (l)): The Commission will keep this matter under review and proposes that resource-specific requirements could be dealt with in annexures to the regulations. To this end, the Commission has asked the secretariat to reflect on a suggested process for the adoption of technical annexures, with reference to existing best practice under other international instruments.

10. **Timelines and deadlines** (see [ISBA/24/C/8](#), para. 22 (o) (ix)). The Commission concurs with the requirement for certainty in the regulatory process, both at the stage

³ See draft regulations 2 (1) and (2), 12 (4) and 16 (1).

of application and ongoing regulation. While a number of regulatory provisions do specify clear timelines for decision-making and review processes, there remain a number of references to, for example, the Commission's consideration of documentation "at its next available meeting" (e.g., draft regulation 9, para. 2; draft regulation 21, para. 3; draft regulation 24, para. 3). Similarly, the timing of meetings of the Council will also impact timelines. The Commission considers that the institutional functioning of the Authority must be kept under review for the purpose of regulatory approvals, and ways and means identified to facilitate the approvals process.

11. **Adverse effects on developing countries** (see [ISBA/24/C/8](#), para. 26). At its March 2018 meetings, the Commission reflected on the relevant text from the United Nations Convention on the Law of the Sea and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea. In connection with advancing a study of the potential impact of mineral production from the Area, the Commission notes that the terms of reference for a study remains work in progress by the Commission and will be presented to the Commission for adoption in March 2019. The timing of an impact study will be provided to the Council in July 2019. The Commission does note that a new draft regulation (draft regulation 3 (g)) was inserted to anticipate a need for data and information to prepare future impact studies as exploitation activities advance.

12. **Matters relating to sponsoring States** (see [ISBA/24/C/8](#), paras. 31–33). The Commission notes the importance of clarifying the respective roles of the Authority and sponsoring States. The Commission understands that the secretariat is advancing discussions with the International Maritime Organization as regards jurisdictional competence and areas of cooperation and will examine these matters in connection with sponsoring States with a view to the development of a matrix of duties and responsibilities of regulatory actors.

13. **Standards and guidelines** (see [ISBA/24/C/8](#), paras. 35–39). In connection with standards development, the Commission has prepared broad terms of reference for a multi-stakeholder workshop to examine and draw up a list of standards relevant to activities in the Area. The workshop will consider a process for the development of standards, together with the preparation of an indicative list of standards by subject area. The workshop will also reflect on the issue of which standards should be legally binding and how standards are best reflected and incorporated into the regulations. The Commission has requested the secretariat to develop a workplan based on the terms of reference, with a view to facilitating a first workshop in the first quarter of 2019. The Commission also requested that the terms of reference draw upon the work already undertaken at a workshop held in Berlin in March 2017.⁴

14. As to the development of guidelines, the Commission requested the secretariat to provide a list of those guidelines referred to in the draft regulations, together with indicative content, and for the Commission's review and recommendations on a way forward in March 2019, including consideration of a subsequent workshop.

15. **Environmental policy framework** (see [ISBA/24/C/8](#), para. 40 (c)). The Commission notes the importance of developing an overarching environmental policy framework and the significance of regional environmental management plans under such a framework. In view of two recent workshops on regional environmental

⁴ ISA Technical Study No. 17, *Towards an ISA Environmental Management Strategy for the Area, Report of an International Workshop convened by the German Environment Agency (UBA), the German Federal Institute for Geosciences and Natural Resources (BGR) and the Secretariat of the International Seabed Authority (ISA) in Berlin, Germany, 20–24 March 2017.*

management plans⁵ and the existing environmental management plan for the Clarion-Clipperton Fracture Zone, the Commission will reflect on the specific content of a framework at its March 2019 meetings.

16. **Contract area and mining area** (see [ISBA/24/C/8](#), para. 22 (o) (vii)). The Commission considers that the draft regulations now provide clear definitions for, and distinction between, these two areas. The Commission will keep these concepts under review as the regulations progress, and revert to the Council for any guidance.

17. **Amendments to the proposed Plan of Work** (draft regulation 15 (2)). This draft regulation allows the Commission to suggest amendments to the proposed Plan of Work, prior to the Commission's recommendations to the Council. The regulation provides that an applicant may agree to or reject the suggested amendments or make an alternative proposal to the Commission, but does not provide clarity on what happens if an applicant rejects outright any proposed amendment by the Commission. The Commission will continue to consider the content and implementation of this draft regulation.

18. **Terminology**. the Commission highlights that a number of terms and phrases in the current draft text may require further consideration to provide certainty in operationalizing the legal framework, either in the draft regulations or subsequent guidelines, for example, the use of the word "optimize" (see draft regulation 29, para. 1). The Commission notes that other terms referred by the Council (e.g., the definition of commercial production: see [ISBA/24/C/8](#), para. 27 (e)) remain for further examination by the Commission.

III. Matters requiring the Council's direction, guidance or comment

19. The Council is invited to consider the following items as part of its review of the revised draft regulations and to provide the Commission with further direction, guidance or comments.

20. **Structure of the draft regulations** (see [ISBA/24/C/8](#), para. 22 (o) (i)). The Commission has re-examined the structure and activity flow of the relevant parts of the draft regulations. While this matter will remain under review, the Commission welcomes any further observations from the Council as to the structure and flow of the parts and underlying regulations.

21. **Balance of rights and obligations** (see [ISBA/24/C/8](#), paras. 22 (o) (ii) and 40 (e)). Does the Council now consider that the draft regulations (a) reflect the appropriate balance of a contractor's rights and obligations, in particular in part III, and (b) that part IV (together with VI and related annexures) adequately addresses the effective protection of the marine environment (bearing in mind the need to develop an appropriate mix of standards and guidelines)?⁶

22. **Balance between certainty and predictability, as well as flexibility and adaptability** (see [ISBA/24/C/8](#), para. 22 (m)). The Commission is conscious of the need to develop a regulatory framework that provides certainty, predictability and

⁵ Workshop for Developing a Framework for Regional Environmental Management Plans for Polymetallic Sulphide Deposits in Mid-Ocean Ridges, held in Szczecin, Poland from 27 to 29 June 2018; Workshop on Development of a Regional Environmental Management Plan, held in Qingdao, Shandong Province, China, from 26 to 29 May 2018.

⁶ The Commission takes note of the Council's request at paragraphs 22 (f) and (g) of document [ISBA/24/C/8](#) relating to the viability of the regulations from a technology, scientific and environmental perspective, and in considering the commercial viability of the regulatory provisions, and will keep these under review as the regulatory framework progresses.

stability for the contractor base and other stakeholders, while at the same time providing flexibility and adaptability to adjust the framework as the industry develops and new knowledge becomes available. That balance, at times, is a delicate one. Subject to draft regulations 50, 55 and 56, the Authority's ability to amend an individual exploitation contract and underlying plan of work is restricted by the contract, in particular the security of tenure provision. That said, under an exploitation contract, a contractor must comply with the regulations, and other rules of the Authority, as amended from time to time (see sect. 3.3 (a), Standard clauses for exploitation contract, [ISBA/24/LTC/WP.1/Rev.1](#)). Equally, a contractor must carry out its activities in accordance with good industry practice, which includes the standards adopted by the Authority. It must also observe any guidelines, as far as reasonably practicable (see draft regulations, sect. 3.3 (c), Standard clauses for exploitation contract, annex X). Any amendments to the regulations, adoption of standards or the issue of guidelines having a material impact on contractor operations should be consulted on in advance of any amendments or adoption. In the light of these provisions, does the Council consider that the existing provisions provide an appropriate balance between certainty and predictability, as well as providing flexibility and adaptability?

23. **The roles of organs of the Authority and the balance of authority** (see [ISBA/24/C/8](#), para. 42). This was a matter placed before the Council in March 2018 as one of six common themes ([ISBA/24/C/CRP.1](#), annex VI), including consideration of the need for efficient decision-making in the implementation of the regulations.

24. The Commission has examined the balance of authority in the draft regulations. Compared with earlier drafts, the draft regulations now requiring the consent or approval of the Council are draft regulation 23 (Use of exploitation contract as security); draft regulation 24 (Transfer of rights and obligations); and draft regulation 26 (Documents to be submitted prior to production). The Secretary-General has decision-making authority in connection with draft regulation 25 (Change of control); draft regulation 31 (Optimal Exploitation under a Plan of Work); draft regulation 38 (Insurance (modification)); and draft regulation 101 (Compliance notice and termination of exploitation contract).

25. It is noted that draft regulations 26 and 55 (Modification of a Plan of Work by a Contractor) do give rise to potential delays in the recommendation (Commission) and approval (Council) processes. The Commission noted the Council's observation that provisional decision-making by the Secretary-General may be an option. This may give rise to uncertainty and risk in the legal framework, if such decisions are implemented by a contractor but subsequently overturned by the Council. Consequently, the Commission invites guidance or comments from the Council as to whether the provisions of the draft regulations set out in paragraph 24 above reflect an appropriate balance of authority, bearing in mind the time taken for decision-making. In particular, the Council is requested to provide guidance on whether there are functions that could be delegated to the Secretary-General under an appropriate authority and guidance framework.

26. **Confidentiality of information** (draft regulation 87). The Commission is of the view, in the light of prior stakeholder submissions and of the need for transparency in data and information availability, that the starting point for confidentiality of information is one of a presumption of the public availability of data and information in relation to an exploitation contract and the activities undertaken under such a contract. From this starting point, a list of confidential data and information would be developed. The Commission invites the Council to consider whether the proposed starting point for the development of a confidentiality regime, as set out in draft regulation 87, paragraph 1, is appropriate.

27. **Annual fixed fee** (draft regulation 83, para. 5). Under section 8, paragraph 1 (d) of the annex to the 1994 Agreement, an annual fixed fee is payable from the date of commencement of commercial production and may be credited against other payments due by a contractor under the system of payments adopted. While the basis for the calculation of the fee is being evaluated by the Commission, the Council is invited to provide guidance on the circumstances under which the annual fixed fee would be credited against other payments.

IV. Other matters

28. In the course of the Commission's discussions, a number of other matters were raised for future consideration by the Commission, including the following.

29. **Inspection mechanism** (part XI). In the course of its review of this part, the Commission noted its obligation to make recommendations to the Council regarding the direction and supervision of a staff of inspectors (see Convention, art. 165 (2) (m)). The Commission requested that the secretariat outline possible inspection mechanisms, including the focal points for such inspections, interaction with sponsoring States mechanisms, developing a code of conduct for inspectors and the use of remote monitoring technologies.

30. It was noted that, as part of a comprehensive environmental (and social) assessment process that additional consideration be given to the potential for adverse socioeconomic impacts of future mining activities (e.g., on fisheries, including any impacts on small island developing States). It was considered that, while the environmental impact statement provided for such consideration,⁷ future environmental impact assessment guidelines would need to reflect the potential for such impacts.

⁷ See draft Environmental Impact Statement template, sect. 9 ([ISBA/24/LTC/WP.1/Rev.1](#), annex IV).

Annex

<i>Draft regulation (see ISBA/24/LTC/WP.1 /Rev.1)</i>	<i>Regulation heading</i>	<i>Reference to ISBA/24/C/8 (where applicable)</i>	<i>Comments by the Commission on the text of specific regulations</i>
2	Fundamental principles	Para. 40 (e) (iv)	Paragraph 8 of this draft regulation promotes the application of these key principles and that activities are undertaken in conformity with such principles. The wording will be revisited given the circular nature of the language in paragraph 8 and the introductory paragraph.
3	Duty to cooperate and exchange of information		The duty to cooperate is fundamental to the implementation of the regulations, and the text of this draft regulation has been expanded and moved to part I (i.e., as compared with its content and positioning in earlier drafts).
13	Assessment of applicants		The Commission noted that guidelines would be needed to support implementation of the criteria and the parameters for the Commission's determination of the financial capability and technical capability of an applicant, and that a plan of work is technically achievable and economically viable (draft regulation 13 (4) (a)).
14	Consideration of the environmental plans by the Commission		The Commission will examine this regulation, in particular the criteria to be applied for its determination under paragraph 2 and the relevant spatial scale.
19	Rights and exclusivity under an exploitation contract	Para. 22 (o) (ii) and (vii)	This draft regulation clarifies a contractor's exclusive right to Explore for, and Exploit the mineral resource by reference to the definitions in schedule 1.
21	Term of exploitation contracts		The Commission will consider further the documentation requirements under paragraph 2 as regards a renewal, including a revised plan of work.
22	Termination of sponsorship	Para. 33 (a)	The 12-month termination period under draft regulation 22 (2) remains an open issue for discussion. The rationale for increasing the term to 12 months (from 6 months under the exploration regulations) is in recognition that it could take some time for a contractor to locate another sponsoring State.
23	Use of exploitation contract as security	Para. 33 (c)	This remains a complex and technical regulation to implement. To advance thinking on this matter, the Commission requires a number of questions to be addressed, including: what are the alternatives for raising finance? What are the potential financing structures and the location of financing vehicles? What are the typical terms of any potential encumbrance? In what jurisdiction would any claim be enforced? What is the position of the original transferor? The Commission has requested that the secretariat advance discussions with contractors to understand possible financing arrangements, and their implications.

<i>Draft regulation (see ISBA/24/LTC/WP.1/Rev.1)</i>	<i>Regulation heading</i>	<i>Reference to ISBA/24/C/8 (where applicable)</i>	<i>Comments by the Commission on the text of specific regulations</i>
24	Transfer of rights and obligations		The Commission will consider the implications of paragraph 10 of this draft regulation and section 14.3 of the standard clauses for exploitation contract. The Commission noted that a number of national regimes provide for a tax, or other such levy, on the transfer of rights for mining or petroleum production and that this should be considered as part of ongoing discussions on the system of payments.
25	Change of control		This draft regulation is not related to a change of control per se, but the consequences of such change on the financial capability of a contractor. That is, there is no requirement for prior consent but a review as to whether the contractor will continue to meet its financial obligations, including that of the Environmental Performance Guarantee.
26	Documents to be submitted prior to production		Substantive changes have been made following discussions within the Commission as regards delivery of a feasibility study and the subsequent review and approval mechanism. The focus is now placed on any Material Changes to the plan of work approved at the application stage. The language in this draft regulation is a major departure from the original text of draft regulation 29 in document ISBA/23/LTC/CRP.3 .
27	Environmental performance guarantee	Para. 22 (o) (iv)	The content of this draft regulation has been expanded as to the purpose of an environmental performance guarantee and events that would trigger a review of the amount of the guarantee. The content is considered provisional until discussion is advanced, in particular with regard to the objective and purpose of such a guarantee, and in connection with other environmental incentive approaches (in particular, funds, insurance, fees, liability).
31	Optimal Exploitation under a Plan of Work		The Commission noted a number of concerns expressed by stakeholders in connection with this draft regulation, as it is perceived as regulating the production rate per se, and may not be the most effective way to ensure that mining activities are commercially efficient and environmentally sensitive. Suggestions from stakeholders included that the Authority should make recommendations of an advisory nature or provide for a notification procedure where the production rate deviates by a particular percentage from a mining workplan. The Commission notes that the intention of this draft regulation is not to regulate commercial production but for the Authority to have oversight in ensuring that the resources of the common heritage are being mined and processed according to good industry practice. The Commission further notes a similar provision in section 51 of the Mineral and Petroleum Resources Development Act of South Africa. The revised text in document ISBA/24/LTC/WP.1/Rev.1 now reflects a more consultative approach between the contractor and the Secretary-General in the implementation of this regulation, rather than the Secretary-General being in a position to issue corrective measures. This

<i>Draft regulation (see ISBA/24/LTC/WP.1 /Rev.1)</i>	<i>Regulation heading</i>	<i>Reference to ISBA/24/C/8 (where applicable)</i>	<i>Comments by the Commission on the text of specific regulations</i>
			recognizes that an approved Mining Workplan is in place, but that its modification may be required for the circumstances contemplated under the draft regulation.
33	Reasonable regard for other activities in the Marine Environment	Para. 22 (o) (v)	While document ISBA/24/LTC/WP.1 now reflects a reciprocal obligation in respect of reasonable regard, the Commission notes that any future processes, such as that of consultation with other users, may require outlining, in particular with regard to the roles and responsibilities of the Authority, sponsoring States and contractors in such consultation processes.
38	Insurance	Para. 22 (o) (x)	This draft regulation is a placeholder and is subject to further investigation as to specific insurance requirements. Insurance requirements, and what categories of insurance are or will be commercially available (e.g., environmental liability insurance), remain to be investigated, together with post-closure obligations and their duration.
46 bis.	Environmental Impact Statement	Para. 40 (e) (i)	The requirements for the delivery of a comprehensive environmental impact assessment need further discussion: the Commission has asked the secretariat to give this due consideration as to timing and process for development.
46 ter.	Environmental Management and Monitoring Plan	Para. 40 (e) (ii)	Comments as for draft regulation 46 bis.
48	Restriction on Mining Discharges	Para. 40 (f)	The Authority is now a sponsoring organization of the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection. Working group 42 of the Joint Group is considering the impacts of wastes and other matter in the marine environment from mining operations. The Commission considers that the work of this group is of relevance to the International Seabed Authority, and will consider the working group's report, currently under preparation, in due course.
52–54	Environmental Liability Trust Fund	Para. 25 (n)	These draft regulations are placeholders for further discussion as to the most appropriate environmental performance incentive tools and for compensation for environmental damage. The concept of such a fund was put forward by the Seabed Disputes Chamber in its Advisory Opinion of 1 February 2011 to cover, specifically any environmental liability gap. The rationale for such a fund, its purpose (and its sources of funding) requires discussion as part of an overall environmental incentive mechanism.

55	Modification of a plan of work by a contractor		This draft regulation is now focused on a material change and the related process and approval mechanism, including with regard to a material change to the environmental plans. What constitutes a material change will need to be informed by guidelines. The Commission has requested the secretariat to seek best practice guidance on this and to examine the definition of material change in schedule 1.
61	Incentives	Paras. 25 (n) and 28	The Commission has requested that the secretariat update its study of mining fiscal regimes in the light of recent changes to and developments in extractive industry fiscal regimes. This will also include a review of possible incentive structures for consideration by the Commission.
83	Annual fixed fee	Para. 27 (d)	The Commission notes that this annual fee, its purpose, function and basis for calculation requires re-evaluation.
87	Confidentiality of information		<p>In the light of stakeholder responses, the Commission considers that developing a list of what constitutes confidential information is a good basis on which to advance the issue of confidentiality in a practical way. While the Commission acknowledges that certain broad categories of information (e.g., environmental information) should be made publicly available, other categories, such as technological data, may be kept confidential for some time. That is, certain information will only become publicly available at different times. While it may be too early to identify a definitive list, an indicative list should be prepared which would be considered dynamic in nature, and populated with further detail over time. The Commission considers the following questions as key to advance discussion:</p> <ul style="list-style-type: none"> • What is the starting point? A presumption of public availability? • What are the criteria for building a list of confidential data? • What goes into the list, i.e., with regard to the degree of specificity? • What is the process, including that for amending the list, and a process for validating the list (e.g., Council decision?). <p>The Commission also identified a practical issue in connection with the development of standards and how the issue of confidentiality would impact this. The Commission noted that the Guidelines for reporting and submission of offshore petroleum data of the Government of Australia could be a useful reference point in developing an information classification list.</p> <p>Further advice will be sought in connection with intellectual property protection regimes.</p>

<i>Draft regulation (see ISBA/24/LTC/WP.1 /Rev.1)</i>	<i>Regulation heading</i>	<i>Reference to ISBA/24/C/8 (where applicable)</i>	<i>Comments by the Commission on the text of specific regulations</i>
104	Settlement of disputes	Para. 22 (o) (viii)	The administrative review mechanism contained in draft regulation 93 in document ISBA/23/LTC/CRP.3 has been deleted, in the light of stakeholder feedback, in particular that of member States of the Authority expressing concern that such a mechanism could undermine the finely crafted dispute mechanism in the United Nations Convention on the Law of the Sea.
Appendix IV	Determination of a royalty liability		The Commission has established a working group to consider the design of the metals baskets and their valuation for the three mineral resource categories, recognizing the variation in constituent metals, and metal grades.
Schedule 1	Best available techniques	Para. 22 (e)	The Commission considered the value of incorporating the concept of best available techniques into the draft regulations, in order to both guide and foster the development of technology, while recognizing that further work is required to develop the concept, on its placement in the relevant parts of the regulations and on ongoing development and review mechanisms. Given the dynamic nature of this concept, and facilitating the necessary adaptability and flexibility to develop technology, criteria for best available techniques must be developed. Note: A workshop on risk will be held in November 2018 to discuss and to suggest criteria for best available techniques.
Schedule 1	Best environmental practice		Given the dynamic nature of this concept, the Commission considers that criteria must be developed for its operationalization.
Schedule 1	Exploit and Exploitation	Para. 22 (b) (iii)	The definition for Exploitation has reverted to that in the exploration regulations, except for the addition of “with exclusive rights”, decommissioning and closure, and reflecting the boundary of activities in the Area.
Schedule 1	Good Industry Practice	Para. 40 (e) (iii)	This content of this definition remains as a placeholder for further discussion.
Schedule 1 (ISBA/23/LTC/CRP.3)	<i>Environmental Impact Area</i> (deleted)		The Commission considered that the concept of an “environmental impact area” may be misleading under the exploitation regulations (as highlighted by some stakeholders), not least the relationship with area-based monitoring tools such as impact reference zones and preservation reference zones. The concept of an “impact area” (project area) will be identified in the environmental impact assessment process, as modified by the environmental impact assessment process itself and under a subsequent environmental management and monitoring plan. The Commission noted that, as regards such “impact areas”, thought must be given to those impacts having the potential to affect areas beyond the boundary of the contract area, and what considerations or requirements must be reflected to take account of this.



Council

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Agenda item 14

Budget of the International Seabed Authority

Decision of the Council of the International Seabed Authority relating to the budget of the Authority for the financial period 2019–2020

The Council of the International Seabed Authority,

Taking into account the recommendations contained in the report of the Finance Committee of the International Seabed Authority,¹

1. *Recommends* that the Assembly of the International Seabed Authority approve the budget of the Authority for the financial period 2019–2020, in the amount of \$18,235,850, as proposed by the Secretary-General;

2. *Also recommends* that the Assembly adopt the following draft decision:

The Assembly of the International Seabed Authority,

1. *Approves* the budget for the financial period 2019–2020, in the amount of \$18,235,850, as proposed by the Secretary-General;

2. *Takes note with appreciation* of the significant reduction in the costs of conference services and the transfer of the resources made available by those savings to the programmes of the Authority;

3. *Authorizes* the Secretary-General to establish the scale of assessments for each of the years 2019 and 2020 on the basis of the scale used for the regular budget of the United Nations for the years 2016, 2017 and 2018, taking into account that the ceiling assessment rate will be 22 per cent and the floor rate 0.01 per cent;

4. *Also authorizes* the Secretary-General, for 2019 and 2020, to transfer between sections, subsections and programmes up to 20 per cent of the amount in each section, subsection or programme;

¹ [ISBA/24/A/6–ISBA/24/C/19](#).



5. *Urges* the members of the Authority to pay their assessed contributions to the budget on time and in full;

6. *Notes with concern* the increasing amounts of outstanding contributions, appeals once more to the members of the Authority to pay contributions to the budget of the Authority outstanding from previous years as soon as possible, and requests the Secretary-General, at his discretion, to continue his efforts to recover those amounts;

7. *Urges* members and other potential donors to make voluntary contributions to the Endowment Fund for Marine Scientific Research in the Area and the existing voluntary trust funds of the Authority;

8. *Decides* to increase the annual overhead charge referred to in section 10.5 of the standard clauses for exploration contracts from \$47,000 to \$60,000, effective 1 January 2019;

9. *Also decides*, as an interim solution and on a voluntary basis, to add an additional contribution of \$6,000 to the annual overhead charge invoice to the contractors on an opt-out basis. Contributions will be allocated as a contribution to the voluntary trust fund for the purpose of defraying the cost of participation of members of the Legal and Technical Commission and of the Finance Committee from developing countries in meetings of the Commission and of the Committee;

10. *Further decides* to revisit the possibility of using remote interpretation services for meetings of the Assembly and the Council if outstanding technical issues, including the quality of interpretation, can be resolved;

11. *Adopts* the terms of reference for the voluntary trust fund to support the participation of members of the Council from developing States in meetings of the Council, as contained in the annex to the present decision.

*244th meeting
20 July 2018*

Annex

Terms of reference for the voluntary trust fund to support the participation of members of the Council of the International Seabed Authority from developing States in meetings of the Council

1. Pursuant to the financial regulations of the International Seabed Authority, a voluntary trust fund has been established to support the participation of members of the Council of the Authority from developing States.

I. Object and purpose of the trust fund

2. In its decision [ISBA/23/A/13](#) dated 18 August 2017 relating to the final report on the first periodic review of the international regime of the Area pursuant to article 154 of the United Nations Convention on the Law of the Sea, the Assembly requested the Secretary-General to establish a voluntary trust fund to support the participation of members of the Council from developing States in the second annual meeting of the Council.

3. The objective of the fund is to defray the cost of participation of members of the Council from developing States in one of the two parts of the annual session of the Council scheduled for 2018 and 2019, respectively, during the time where there are two meetings of the Council per year.

II. Establishment

4. The fund is established pursuant to financial regulation 5.5 and shall be administered in accordance with the financial regulations of the Authority, as provided in financial regulation 5.6.

III. Contributions to the fund

5. Member States, observers and other stakeholders are encouraged to contribute financially to the voluntary trust fund. Other stakeholders may include, but are not limited to: other States; contractors with the Authority; relevant international organizations; academic, scientific and technical institutions; philanthropic organizations; corporations and private individuals; and non-governmental organizations.

IV. Implementing office

6. The Office for Administrative Service of the Secretariat is the implementing office for the fund and provides the services for its operation.

V. Report on the status of the fund

7. The Secretary-General shall report annually to the Finance Committee for its review of the use and status of the fund. The Secretary-General shall also report annually to the Assembly on the status of the fund.

VI. Terms of reference for the administration of the fund

8. The use of the fund is subject to the following conditions:

(a) A formal request by the Government of the State, containing the name of the delegate to be supported, must be communicated to the Secretariat preferably three months but no later than one month prior to the opening of the respective meeting of the Council. Late requests shall not be considered;

(b) Only members of the Council from developing States are eligible for support from the fund. However, in the event that the amount available in the fund is not sufficient to meet all requests for support, priority shall be given to members of the Council from least developed countries. A list of eligible States based on the composition of the Council for 2018 is attached in the enclosure to the present terms of reference, subject to revision following each election of the members of the Council;

(c) The fund shall be used to support the participation of one member of the delegation of an eligible developing State member of the Council in only one of the two meetings of the Council per year, as normally scheduled in February/March and July/August;

(d) For each member of the Council, only one delegate may benefit from support from the fund;

(e) Support shall be limited to economy class airfare by the most economical and direct route from either the capital or the official place of posting and to a daily subsistence allowance for up to a maximum of seven days;

(f) The Secretary-General should inform the Government concerned of the outcome of the request in a timely manner.

9. Unless the Assembly of the Authority decides otherwise, any funds remaining by the end of the year 2019 will be transferred to the voluntary trust fund for the purpose of defraying the cost of participation of members of the Legal and Technical Commission and of the Finance Committee from developing countries in meetings of the Commission and of the Committee, and the fund will be closed.

Enclosure**Developing States members of the Council in 2018**

Algeria	China	Jamaica	Singapore
Argentina	Côte d'Ivoire	Lesotho	South Africa
Bangladesh	Fiji	Mexico	Trinidad and Tobago
Brazil	Ghana	Morocco	Tonga
Cameroon	India	Nigeria	Uganda
Chile	Indonesia	Panama	

Least developed countries members of the Council in 2018

Bangladesh	Lesotho	Uganda
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Agenda item 12

Report of the Chair of the Legal and Technical Commission on the work of the Commission at its twenty-fourth session

Decision of the Council of the International Seabed Authority relating to the reports of the Chair of the Legal and Technical Commission

The Council of the International Seabed Authority,

Recalling its decision [ISBA/23/C/18](#),

1. *Takes note with appreciation* of the reports of the Chair of the Legal and Technical Commission on the work of the Commission at the first and second parts of its twenty-fourth session¹ and of the note by the Commission on draft regulations on exploitation of mineral resources in the Area;²
2. *Welcomes* the continued work of the secretariat and the Commission on the regulations on exploitation, and requests that work on the regulations continue as a matter of priority;
3. *Requests* that both the Commission's recommendations regarding the current draft regulations and their next iteration be circulated sufficiently in advance of the meeting of the Council at which they will be considered, to allow for substantive consideration and discussion, and emphasizes the ongoing need for openness and transparency;
4. *Requests* the Commission to consider, as appropriate, the submissions received since the twenty-third session in the context of its work, including on the draft regulations from: Algeria, on behalf of the African Group, entitled "Request for consideration by the Council on the African Group's proposal for the operationalization of the Enterprise" and "Request for consideration by the Council of the African Group's proposal on the economic model/payment regime and other financial matters in the draft exploitation regulations under review"; Belgium, entitled "Strengthening the environmental scientific capacity of the International Seabed Authority"; and Germany, entitled "Suggestions for facilitating the work of

¹ [ISBA/24/C/9](#) and [ISBA/24/C/9/Add.1](#).

² [ISBA/24/C/20](#).



the International Seabed Authority”;³ as well as the report of the Secretary-General on considerations relating to a proposal by the Government of Poland for a possible joint-venture operation with the Enterprise;⁴

5. *Requests* the Commission and the Secretariat to implement, as appropriate, the recommendations contained in the submission by the Netherlands entitled “Overview of existing measures, means and actions relating to the protection and conservation of the marine environment in areas beyond national jurisdiction”,⁵ within available resources;

6. *Notes with appreciation* the Commission’s consideration of 27 annual reports on activities carried out by contractors in 2017, welcomes in particular the presentation of well-structured reports complying with the template issued by the Commission by the overwhelming majority of contractors, but regrets the cases of contractors not following the reporting requirements, and also regrets that, at the current rate of progress, some contractors risk being unable to deliver on their commitments for the initial five-year period of the plans of work established in their contracts for exploration;

7. *Emphasizes* the importance for contractors to take into account and respond to the Commission’s advice on annual reports in a timely manner;

8. *Requests* the Secretary-General to communicate the various issues identified during the Commission’s review of the annual reports of contractors to the relevant contractors and sponsoring States;

9. *Takes note of* the report of the Secretary-General on information relating to compliance by contractors with plans of work for exploration,⁶ requests that the Secretary-General report to the Council on an annual basis, identifying instances of alleged non-compliance and the regulatory action recommended or to be taken in accordance with the United Nations Convention on the Law of the Sea, the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982⁷ and the regulations on prospecting and exploration, including any monetary penalties to be imposed by the Council, and invites the relevant sponsoring States to provide any information relating to such non-compliance and measures taken to ensure compliance under a contract for exploration, in accordance with article 139 of the Convention;

10. *Urges* all contractors to comply with their reporting requirements and to make their environmental data readily and publicly available, noting that the Authority needs all contractors to collect samples consistently and to fully report environmental and geological data in a digital format to support, inter alia, the development of regional environmental management plans;

11. *Acknowledges* that most of the contractors have fully implemented training programmes and offered further training opportunities;

12. *Notes* the environmental workshops held in Qingdao, China, in May 2018, and in Szczecin, Poland, in June 2018, and looks forward to receiving reports of those meetings;

13. *Notes also* that a technical workshop on the criteria for the selection of impact reference zones and preservation reference zones was held in Berlin from 27 to 29 September 2017, that a second workshop, dedicated to the review of the status of

³ ISBA/24/C/18.

⁴ ISBA/24/C/12.

⁵ ISBA/24/C/15.

⁶ ISBA/24/C/4.

⁷ United Nations, *Treaty Series*, vol. 1836, No. 31364.

implementation of the environmental management plan for the Clarion-Clipperton Zone, will be held during the second half of 2018, and that a third workshop, jointly hosted by the secretariat and the International Cable Protection Committee, will be held in Bangkok, from 29 to 30 October 2018; and encourages the secretariat to work closely with the Commission and members of the Authority to provide early notice of those and other workshops and ensure the broadest participation of all concerned States parties and other stakeholders;

14. *Encourages* the Secretariat and the Commission to make progress on the development of environmental management plans in other international seabed area zones, in particular where there are currently exploration contracts, recalling paragraph 60 of General Assembly resolution 70/235 of 23 December 2015;

15. *Welcomes* the secretariat's progress towards the implementation of the data management strategy of the Authority, including public access to non-confidential data, and notes that the database is expected to be launched by the end of October 2018;

16. *Notes* that, owing to the heavy workload of the Commission and time constraints, the Commission was unable to discuss other matters referred to it by the Council, and requests the Secretary-General to ensure that adequate time and resources continue to be made available to support the work of the Commission, especially on priority issues, including further progress on the draft regulations on exploitation;

17. *Notes with concern* the sharp deficit in the voluntary trust fund for the purpose of defraying the cost of participation of members of the Commission and of the Finance Committee from developing countries in meetings of the Commission and of the Committee, welcomes the contributions made, and urges additional contributions to the fund from members of the Authority, as well as other States, relevant international organizations, academic, scientific and technical institutions, philanthropic organizations, corporations and private individuals;

18. *Encourages* the Commission to hold open meetings more frequently to allow for greater transparency in its work;

19. *Welcomes* the report of the Secretary-General on the implementation of the decision of the Council in 2017 relating to the summary report of the Chair of the Commission,⁸ and notes that this was the second such report of the Secretary-General;

20. *Requests* the Secretary-General to report to the Council on the implementation of the present decision at its twenty-fifth session, in 2019, and that such annual reporting remain on the Council's agenda as a standing item.

*244th meeting
20 July 2018*

⁸ ISBA/24/C/6.

CONSOLIDATED INDEX TO THE SELECTED DECISIONS AND DOCUMENTS OF THE INTERNATIONAL SEABED AUTHORITY

Documents of the International Seabed Authority begin with the letters "ISBA". Documents of the first two sessions do not have a sessional number (e.g. ISBA/A/1), but from the third session on they do (e.g. ISBA/3/A/1).

Formal Assembly and Council documents each appear in four series, -/ 1; -/L.1; -/WP.1; and -/INF.1, corresponding to main documents, documents with limited distribution, working papers and information papers respectively. In addition to A and C documents there are also the ISBA/FC (Finance Committee) and ISBA/LTC (Legal and Technical Commission) series.

The Authority does not keep verbatim or summary records of meetings. Sound recordings are made and retained by the Secretariat. Official accounts of the work of the Authority can be found in the successive statements of the Presidents of the Assembly and the Council on the work of their organs, and the annual reports of the Secretary-General.

The Authority publishes annually a compendium of selected decisions and documents from each session. This compendium is available online only from the eighteenth session onwards. These may be cited as, e.g. *Selected Decisions 17*, 1-25; and from the eighteenth session *Selected Decisions 18*, ISBA/18/A/2.

Indexes to the documents of the Authority are available in two formats; a consolidated subject index to the documents and a cumulative index which contains a complete list of documents of the Assembly and the Council from the first session (1994) to the twenty-third session (2017). The documents and indexes are also available in electronic format on the Authority's website at www.isa.org.jm.

The consolidated index below indicates the reference in the appropriate volume of the Selected Decisions.

Title/Document number/Citation (*Selected Decisions*)

ADVISORY OPINION ON THE RESPONSIBILITIES AND OBLIGATIONS OF SPONSORING STATES

Decision of the Assembly: ISBA/17/A/9; **17**, 28

Decision of the Council requesting the advisory opinion: ISBA/16/C/13; **16**, 108-109

Proposal submitted by the delegation of Nauru: ISBA/16/C/6; **16**, 96-101

Report of the Secretary-General: ISBA/17/C/6-ISBA/17/LTC/5; **17**, 33-38

ARTICLE 82 OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

Outcomes of the Workshop

Report of the Secretary-General: ISBA/19/A/4

ARTICLE 154 OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

Final report:

Decision of the Assembly: ISBA/23/A/13

Report of the Secretary-General: ISBA/23/A/5/Rev.1

Review Committee presentation: ISBA/23/A/3

Interim Report

Decision of the Assembly: ISBA/22/A/11

Periodic Review

Decision of the Assembly: ISBA/21/A/9/Rev.1

BUDGET OF THE INTERNATIONAL SEABED AUTHORITY

Decision of the Assembly

Appeal to members for contributions to the budget: ISBA/4/A/12; **4**, 63

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