THIRTEENTH MEETING OF STATES PARTIES TO THE UN CONVENTION ON THE LAW OF THE SEA

STATEMENT
BY
SATYA N. NANDAN
THE SECRETARY-GENERAL OF THE INTERNATIONAL SEABED AUTHORITY

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Mr. President,

May I congratulate you on your election as President of the thirteenth meeting of States Parties. You are a well known personality in law of the sea circles and we are privileged to have you as our President. May I also express my sincere gratitude to Ambassador Don McKay of New Zealand who provided outstanding leadership as President and also in the arrangements for the celebration of the 20th anniversary of the Convention.

Mr. President,

I am grateful for this opportunity to report to the Meeting of States Parties on the work of the International Seabed Authority.

Mr. President,

I would like to begin by reminding States Parties that the ninth session of the Authority will take place in Kingston from 28 July to 8 August 2003. In addition, the Legal and Technical Commission, which has more work to do during this session, will meet from 21 July. An information note on matters for consideration by the Assembly, Council, Legal and Technical Commission and Finance Committee, together with an indicative schedule of meetings, has already been circulated to all members of the Authority. In addition, the annual report of the Secretary-General, which provides an account of the work of the Authority during the period July 2002 to June 2003 as well as a discussion of current issues relevant to the work of the Authority will, I hope, be published on the Authority's website before the end of this week.

The main priority for the Authority in the immediate future is the development of a regulatory regime for polymetallic sulphides and cobalt-rich crusts. It is expected that this will be the focus of discussions in the Legal and Technical Commission and the Council during the ninth session. Other important matters for discussion include the future work programme of the Authority and the outcomes of the Authority's recent workshop on the establishment of a geologic model for the Clarion-Clipperton Fracture Zone.

Mr. President,

The annual session of the Authority provides an important opportunity for all members of the Authority to engage in a substantive, well-informed and focused debate on the work programme, policy and future directions of the Authority. It has been a matter of great concern that, over the past few years, the level of attendance at meetings of the Authority held in Kingston has continued to decline to the point where it is difficult to secure a

quorum for the taking of necessary decisions. Under the Convention, the required quorum is one-half of the members of the Authority – in other words, 72.

During the eighth session, following a general debate in the Assembly on the urgent need to secure broad participation in meetings of the Assembly, I was requested to organize the meetings of the various organs of the Authority in the most efficient manner according to

the proposed work plan and taking into account the need for flexibility and the existing organic links between the various organs and bodies of the Authority.

These considerations were fully taken into account in planning the meetings for the ninth session. I hope that members of the Authority will find the schedule of meetings sufficiently flexible to enable them to be represented in Kingston and to participate in the general debate on the report of the Secretary-General. It is clearly unacceptable that the Authority should continue to operate without a quorum and I hope that the situation does not arise again in 2003.

Mr. President,

As I noted at the outset, the Legal and Technical Commission will begin its meetings a week in advance of the main session. During the first week of meetings, which will take place from 21 to 25 July 2003, the Commission will break into informal working groups to facilitate detailed consideration of specific issues relating to the draft regulations on polymetallic sulphides and cobalt-rich crusts. The topics allocated to the informal working groups include (a) environmental impact of exploration activities, (b) size of exploration areas and a system whereby contractors might relinquish some of those areas to the Authority, (c) form of the work plans that applicants would be required to submit, detailing their intentions and, (d) type of arrangements between contractors and the Authority, whether a parallel system in which areas would be split between the two, equity-sharing arrangements or some other formula. The Commission will also review and consider the annual reports of contractors, submitted pursuant to the regulations for prospecting and exploration for polymetallic nodules in the Area.

During the second week of meetings, the Commission will take up further consideration of the draft regulations on polymetallic sulphides and cobalt-rich crusts. I anticipate that, as was the case last year, most of these meetings will be open to observation by other members of the Authority.

Mr. President,

While discussions on the draft regulations in the Legal and Technical Commission are ongoing, it is apparent from the discussions to date that a cautious approach to regulation is warranted. The objective should be to progressively develop a regulatory regime as prospecting and exploration activities take place and better knowledge of the resources and the environment in which they occur is gained. Strong emphasis should be placed on the need to gather environmental data and information according to standardized methodologies and formats, and on the analysis of such data.

Mr. President,

In terms of the other work being undertaken by the Authority, I had already submitted a statement last week to the informal consultative process in which I outlined some of the work the Authority has been doing in relation to managing the threats to the benthic ecosystem from marine scientific research, prospecting and exploration, including through the adoption of rules, regulations and procedures relating to the protection of the marine environment as well as through international cooperative scientific projects. For the benefit of States Parties, I have re-circulated, as an annex to this statement, a summary of the practical work being done by the Authority in this regard.

The discussions that took place last week only served to highlight the tremendous importance of the work being undertaken by the Authority. It is apparent that existing knowledge about the deep ocean environment and especially the potential consequences of mining activity, is highly uncertain. In these circumstances, despite the fact that prospects for mineral development may not be attractive at this time, the most constructive and useful work the Authority can do is to develop its capacity as a depositary of available data and information about the mineral resources of the Area and to promote, encourage and disseminate new research on those resources and on the deep ocean environment in general.

Mr. President,

Since 1998, the Authority has established a pattern of workshops and seminars on specific issues related to deep seabed mining, with participation by internationally-recognized scientists, experts, researchers and members of the Legal and Technical Commission as well as representatives of contractors, the offshore mining industry and member States.

The most recent such workshop took place in Nadi, Fiji Islands in May this year, in collaboration with the South Pacific Applied Geoscience Commission. This workshop brought together more than 35 internationally-renowned experts from around the world to establish a strategy for the development, over a four-year period, of a geological model for the Clarion-Clipperton Fracture Zone in the Central Pacific Ocean. This is the area of the Pacific where the Authority has issued most of the present contracts for nodule exploration. The model will provide the Authority, contractors, and prospectors with a means for undertaking quantitative resource assessments of the valuable metals contained in polymetallic nodules in this area, as well as a predictive tool for identifying potential high grade and high abundance nodule deposits in poorly sampled areas. In addition, by establishing the spatial trends in nodule distribution and grades, the model should also facilitate a better understanding of the interrelationship between geological processes and the formation of nodule deposits.The full proceedings and recommendations of the workshop will be published in due course. A summary of the workshop outcomes is available on the Authority's website.

As a direct result of the discussions in an earlier workshop, the Authority is also collaborating in a major research project coordinated through the University of Hawai'i to study the biodiversity, species range and gene flow in the abyssal Pacific nodule province. It is expected that the results of the Authority's participation in this project would be particularly important in guiding the Authority in the establishment of future environmental regulations for mineral exploration and may well be of immense benefit to the international scientific community as a whole.

Mr. President,

Although it is obvious, even from this brief summary, that the substantive work of the Authority has become more technical and scientific in nature, I hope it is equally apparent that such work cannot be undertaken effectively without clear policy guidance from members. If the international community is to maximize the benefits from scientific research and exploration of the deep ocean, it is essential that such research and exploration is conducted within the parameters set by the Convention itself. This once again underlines the importance of broad participation in meetings of the Assembly in order to ensure that the views of **all** member States are taken into consideration and there is ongoing involvement of a political and legal nature in the work of the Authority.

Annex

THE WORK OF ISA IN RELATION TO THE PROTECTION OF THE MARINE ENVIRONMENT OF THE AREA

The basic function of ISA is to manage the mineral resources of the international seabed area, which are the common heritage of mankind, in such a way as to give effect to the principles contained in Part XI of the 1982 UN Convention on the Law of the Sea and the 1994 Agreement for the implementation of Part XI.

In managing the mineral resources, ISA is required to ensure effective protection of the marine environment from harmful effects which may arise both from exploration of the international area and, subsequently, from exploitation of the resources.[1] In addition, ISA has a general responsibility to promote and encourage the conduct of marine scientific research in the international area, and to coordinate and disseminate the results of such research and analysis.[2]

With these parallel objectives in mind, ISA has already developed regulations to govern prospecting and exploration for polymetallic nodules and is in the process of developing a regulatory regime for exploration for new types of resources, including polymetallic sulphides and cobalt-rich crusts. Given the highly speculative nature of seabed exploration, these regulations have a strong environmental focus, aimed primarily at ensuring that contractors develop progressively environmental baselines against which to assess the likely impact of future mining activities.

Clearly, any human activity in the Area, whether prospecting, exploration or exploitation, is likely to have some effect on the marine environment. Yet some such activities need to go ahead if there is to be any utilization of the resources of the Area in future. Deep seabed miners face particular challenges with respect to environmental issues because of the relatively undefined nature of the deposits to be mined and the systems to be used to mine them as well as the popular mystique with regard to the oceans and marine biodiversity. In these circumstances it is essential to begin the process of environmental regulation at an early stage with a view to ensuring that the critical decisions that will have to be made in the future are made on the basis of adequate scientific information, using consistent methods of analysis and environmental characterization, rather than on the basis of political considerations and public perceptions.

Polymetallic nodules

Regulations on prospecting and exploration for polymetallic nodules in the Area were adopted in 2000. [3] They contain strong provisions relating to the protection and preservation of the marine environment. Among the key principles embodied in the regulations are that (a) the Authority and sponsoring States are required to apply a precautionary approach, as reflected in Principle 15 of the Rio Declaration, to activities in the Area,[4] and (b) there is a duty on each exploration contractor to "take necessary measures to prevent, reduce and control pollution and other hazards to the marine environment arising from its activities in the Area as far as reasonably possible

[1] Article 145.

[2] Article 143(2).

[3] Regulations for prospecting and exploration for polymetallic nodules in the Area, 2000. ISBA/6/A/18.

[4] Principle 15 of the Rio Declaration states as follows: "In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation." U.N. Doc. A/CONF./151/26 (Vol.1), located at http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm

using the best technology available to it."[5] To give effect to these principles, ISA, through its Legal and Technical Commission, has developed "recommendations for guidance" of contractors in assessing the potential impact upon the environment of their exploration activities. The recommendations describe in great detail the procedures to be followed in the acquisition of baseline data, and the monitoring to be performed during and after any activities in the exploration area with potential to cause serious harm to the environment. Data collected by contractors is to be provided in a standardized format to facilitate monitoring and analysis by the ISA and to enable ISA to develop a central data repository.

Polymetallic sulphides and cobalt crusts

In 2002, ISA began work on the elaboration of regulations to govern prospecting and exploration for polymetallic sulphides and cobalt crusts. Polymetallic sulphides are found primarily in association with hydrothermal vent sites on mid-ocean ridges. Cobalt crusts are found on seamounts, many of which are poorly mapped and understood. These mineral deposits are now of considerable interest to seabed miners because of their relatively high concentrations of metals, including copper, cobalt and zinc, and in particular precious metals including gold and silver. Although comparatively little is known about the ecology of seamounts, it is now well known that the biodiversity of the deep seabed is far greater than had hitherto been thought.[6] This extreme environment supports unique biological communities which exist both in the sediments of the deep seabed and in association with active hydrothermal vents. The latter are of particular interest to scientific researchers exploring the potential for adapting the genetic properties of these organisms for use in a wide range of industrial and chemical applications.

It is apparent, therefore, that any regulatory framework for exploration for polymetallic sulphides and cobalt crusts will need to contain provisions relating to the collection of baseline data and information on the biological characteristics of areas under exploration, including information on species composition and community structure and acquisition of information on the basic biology of species found in such areas, as well as procedures for environmental impact assessment.

Marine scientific research

ISA has also begun to implement its responsibilities under the Convention with respect to marine scientific research under article 143. Under article 256, all States and competent international organizations have the right to conduct marine scientific research in the Area. However, unlike the situation in other jurisdictional zones (including the high seas), marine scientific research in the Area is to be carried out "for the benefit of mankind as a whole."[7]

In pursuance of this objective, ISA has, since 1998, established a pattern of workshops and seminars on specific issues related to deep seabed mining, with participation by internationally-recognized scientists, experts, researchers and members of the Legal and Technical Commission as well as representatives of contractors, the offshore mining industry and member States.[8]

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[5] Regulation 31(3). This duty is said to exist pursuant to article 145 of the Convention and paragraph 2 of regulation 31, i.e. the application of a precautionary approach.

[6] Craig H. Allen, *Protecting the Oceanic Gardens of Eden: International Law Issues in Deep-Sea Vent Resource Conservation and Management*, Georgetown International Environmental Law Review, Vol XIII, Issue 3 (2001); Lyle Glowka, *The Deepest of Ironies: Genetic Resources, Marine Scientific Research and the Area*, Ocean Yearbook 12 (1996); Cyrill de Klemm, *Fisheries and Marine Biological Diversity*, in Hey (ed.) *Developments in International Fisheries Law*, Kluwer (1999).

[7] Article 143(1) LOSC.

[8] Previous workshops dealt with the assessment of environmental impacts from activities in the Area, the development of technology for deep seabed mining, the status and prospects of deep sea mineral resources other than polymetallic nodules, standardization of techniques for data collection and analysis, and prospects for international collaboration in marine environmental research to enhance understanding of the deep sea environment, including its biodiversity.

As a direct result of the discussions in these workshops, ISA is presently collaborating in a major research project coordinated through the University of Hawai'i to study the biodiversity, species range and gene flow in the abyssal Pacific nodule province with a view to predicting and managing the impacts of deep seabed mining. It is expected that the results of ISA's participation in this project would be particularly important in guiding ISA in the establishment of future environmental regulations for mineral exploration and may well be of immense benefit to the international scientific community as a whole.

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