



ASEAN & BIMSTEC WORKSHOP ON DEEP SEABED RESOURCES AND THE BLUE ECONOMY



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THE INTERNATIONAL SEABED AUTHORITY: ROLE, FUNCTIONS AND STRUCTURE

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OUTLINE: INSTITUTIONAL CONSOLIDATION (1994-2019)

1. ISA: Regulator and administrator of the Common Heritage of Mankind
2. ISA and the Tribunal's Seabed Disputes Chamber
3. ISA Principal organs and technical organs, membership, functions, decision-making and relationship
4. Evolutionary approach for the setting-up and functioning of organs and cost-effective principle (frequency, duration, sequence and scheduling of meetings)



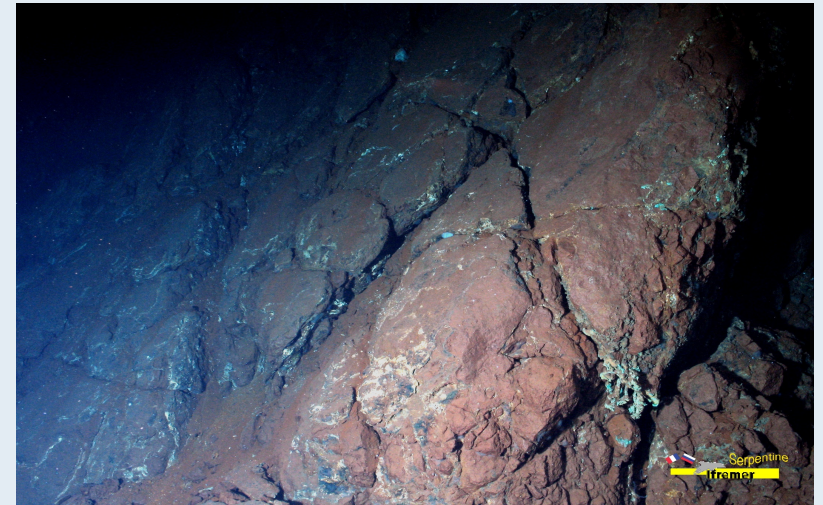
1. ISA, REGULATOR AND ADMINISTRATOR OF ACTIVITIES IN THE AREA

ISA ROLE

REGULATOR AND ADMINISTRATOR OF THE COMMON HERITAGE – ACTIVITIES IN THE AREA

ISA established by LOSC to control and regulate activities in the Area

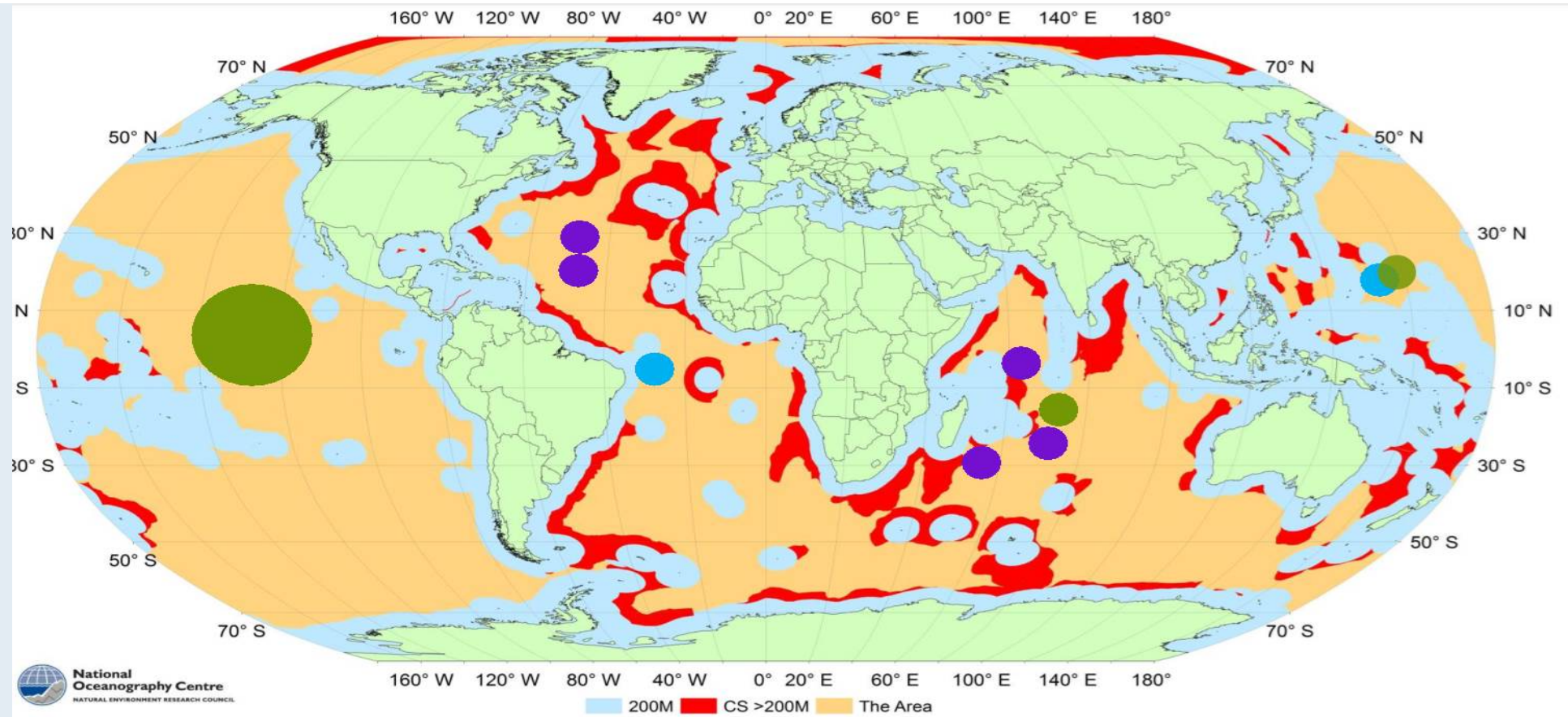
- Activities: exploration for and exploitation of mineral resources (polymetallic nodules, polymetallic sulphides, cobalt-rich ferromanganese crusts); inputs from the SDC's Advisory Opinion (not transportation/processing)
- The international seabed area: floor and seafloor beyond the limits of national jurisdiction; no role for the ISA in the establishment of the external limits of continental shelves. Art. 82. LOSC
- Mineral resources in the Area = common heritage of mankind



COMMON OF MANKIND REGIME

- Common heritage of mankind: one of the most profound ideas of the Convention; a revolutionary concept which is given effect by a unique conventional regime; jus cogens
- No claim/acquisition/exercise of rights by States; peaceful utilization; all rights vested in mankind; proceeds of deep-seabed mining to be shared on a basis of equity, in a transparent manner, and for the benefit of mankind as a whole
- No activity in the Area without a contract: 30 approved plans, for each of the three types of mineral resources, in the Atlantic/Indian/Pacific Oceans, covering more than 1.3 million square kilometers, or just over 1%, of the seabed, 22 Member States are Sponsoring States. Private and public sectors. Sponsoring States liable unless taken “all necessary and effective measures to ensure compliance”
- Qualified applicants must be sponsored by a Member State unless the applicant is a Member State; sovereign act; certificate; declaration of responsibility; termination of sponsorship; Contractor and ISA liable for damage arising from wrongful acts or omissions
- Enterprise or developing States or entities sponsored by them have a secured access to available reserved areas for the Authority (parallel system, Kissinger formula in 1976)





- Polymetallic nodules
- Polymetallic sulphides
- Cobalt-rich crusts



2. SPECIAL LINK BETWEEN THE INTERNATIONAL SEABED AUTHORITY AND THE SEABED DISPUTES CHAMBER

ISA AND THE SEABED DISPUTES CHAMBER: ‘SPECIAL LINK’

- 11 members; a tribunal within the Tribunal; President; part of the system in which the ISA’s organ operate but its task within the system is to act as an independent and impartial judicial body, role: assist the ISA in the discharge of its responsibilities and contribution to the Convention’s regime as well as its further development of the legal regime governing the Area and its resources;
- Advisory jurisdiction; request from the Assembly or the Council (art. 191); as a matter of urgency; 2011 Advisory Opinion and its major contribution to the ISA work (sponsorship; responsibilities of Sponsoring States; due diligence and direct obligations; legislation and administrative measures; precautionary approach; legal nature of ISA Regulations...)
- Contentious jurisdiction (art. 187 of LOSC) : no case yet but disputes may arise out of exploitation of the resources of the Area



3. STRUCTURE AND FUNCTIONS



Structure and functions

The Assembly

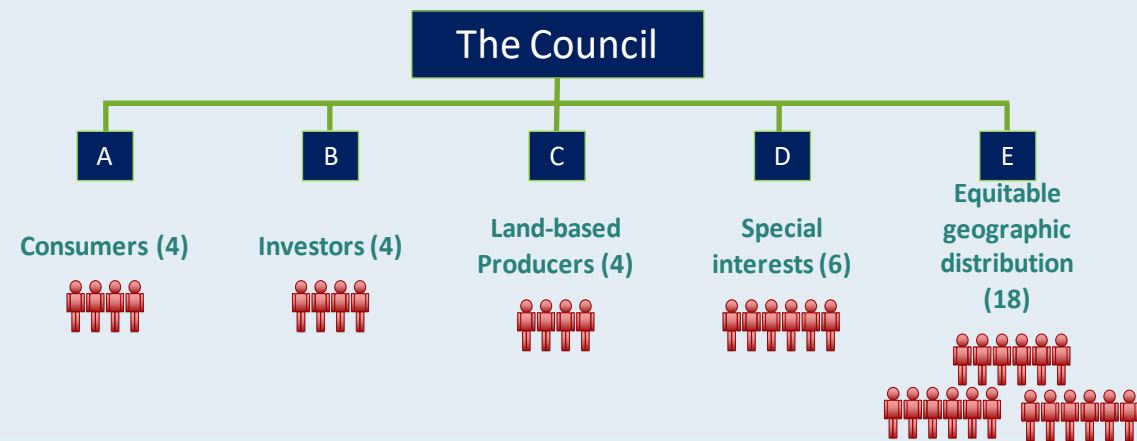
- Article 160 of LOSC
- All members of the Authority (167 States and the EU), including Myanmar since 1996
- Supreme policy-making organ (elections, budget, review art. 154, regulations, strategic plan etc.)
- Decisions by consensus
- Majority vote if no consensus (simple on procedure; 2/3 on substance)
- Decisions must be based on recommendation of Council



Structure and functions

The Council

- Article 162 of LOSC
- 36 members elected by the Assembly for 4 years, in 5 chambers
- Decisions by consensus failing which chambered voting system (negative vote in any chamber defeats)
- Adoption of RRP
- Specific policy powers, including on environmental matters



Structure and functions

The Legal and Technical Commission

- Article 165 of LOSC
- 15 elected members, possibly increased:
experts in geology, marine science, law, mining
- Five-year term of office
- Subsidiary and advisory body to Council
- Formulates rules and regulations, including environmental standards; recommendations for the guidance of Contractors; recommendations on approval of plans of work; selection of trainees; evaluation of activity reports of Contractors; recommendations on the first EMP for the CCZ; some not exercised yet (e.g. recommendations on supervision by inspectors)



Structure and functions The Finance Committee

- Subsidiary organ dealing with financial matters; created by 1994 Agreement, section 9, fulfilling requirements art. 162(2)(y) of LOSC
- 15 members elected by the Assembly for 5 yrs; In July 2019 election of Mr. Niyan Lin AUNG, Myanmar
- Must include 5 largest contributors to budget
- Consensus on substance; majority for procedure
- All decisions of Assembly and Council having financial implications must be based on recommendation of Finance Committee
- Recommendations on the administrative budget, assessment of contributions, TOR/status VTF/EF, RRP on equitable sharing of financial and other economic benefits



Structure and functions

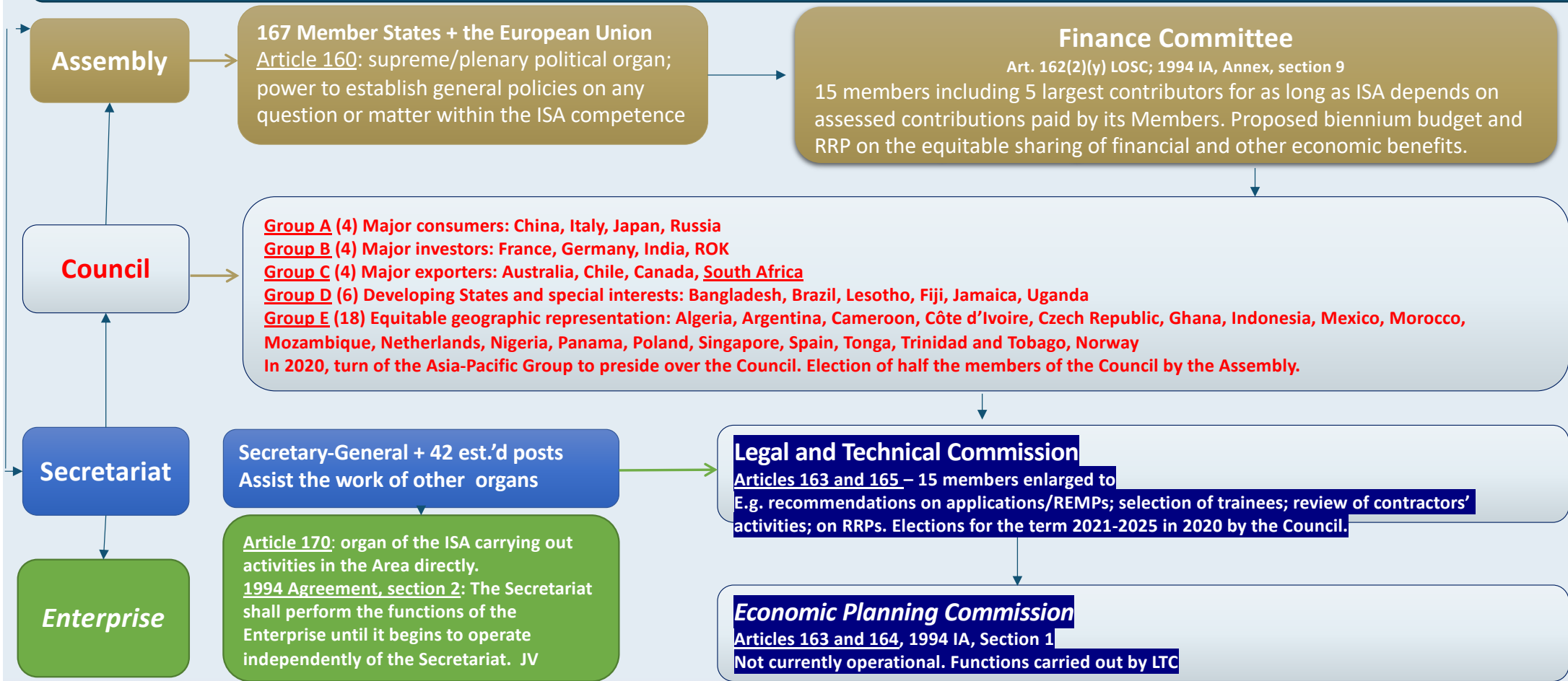
The Secretariat

- Art. 166-169 of LOSC
- Headquarters in Kingston, Jamaica
- Secretary-General elected for four years by the Assembly
- Administrative, legal, technical and scientific staff
- Assists other organs
- Special arrangements for consultation and cooperation with IOs/NGPs
- Performs functions of the Enterprise



4. EVOLUTIONARY APPROACH AND COST-EFFECTIVENESS

3. Relationship, evolutionary and cost-effectiveness approaches





Thank you!



Image courtesy of Global Sea Mineral Resources

