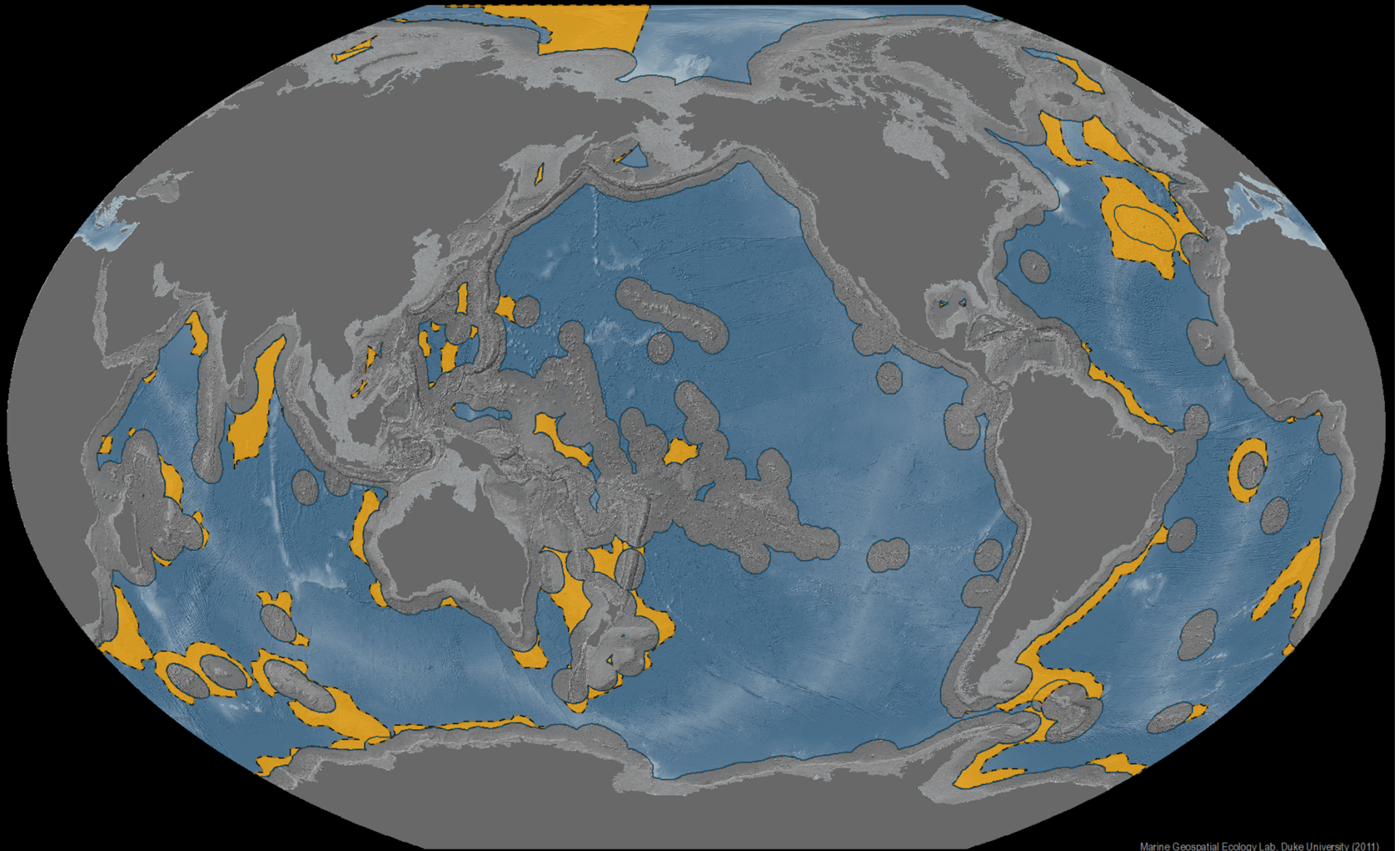


Observations on the structure and functions of the organs of the Authority

ISA Sensitization Seminar
United Nations, New York
16 February 2012

Michael W. Lodge
Deputy to the Secretary-General
and Legal Counsel

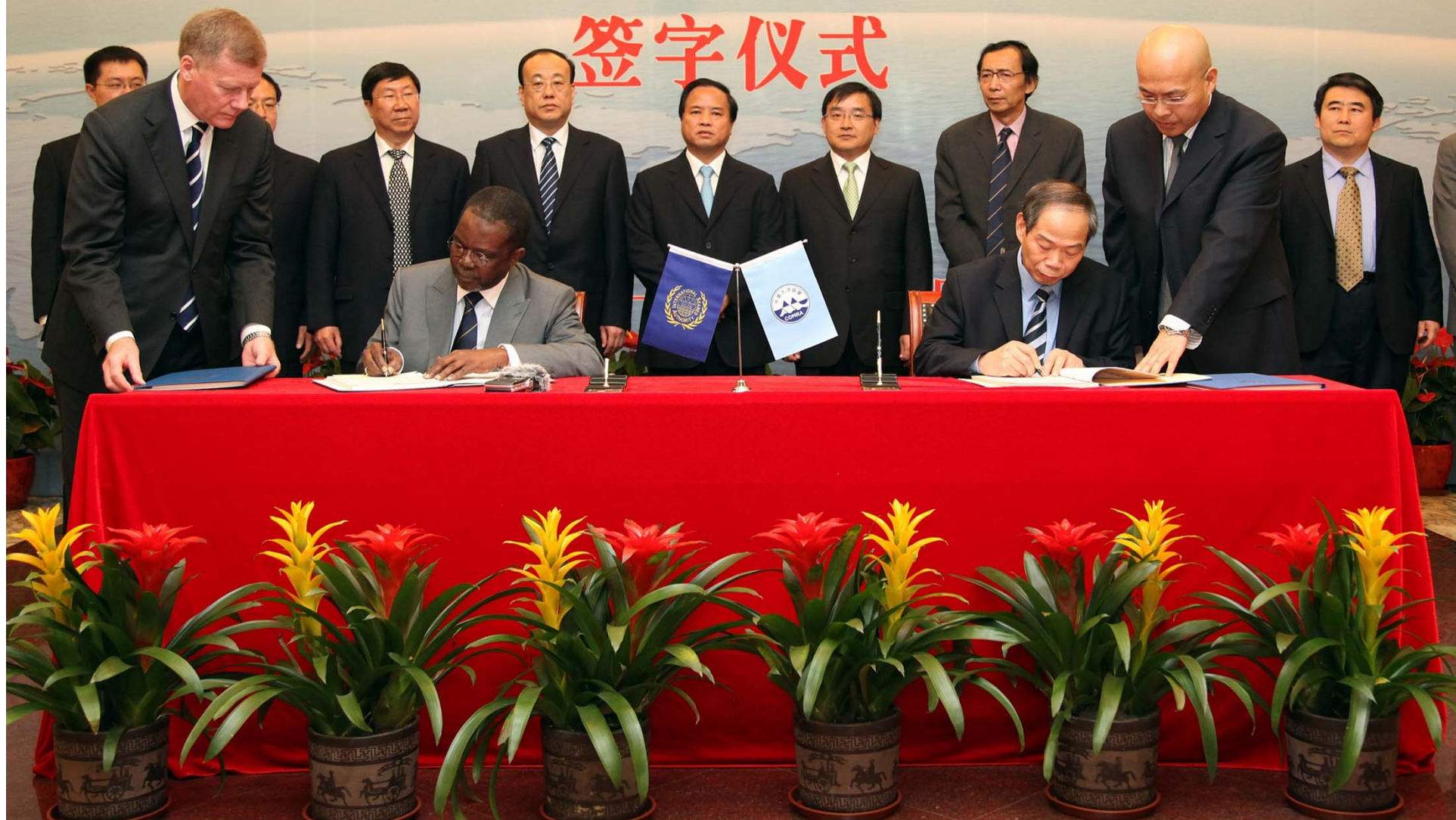




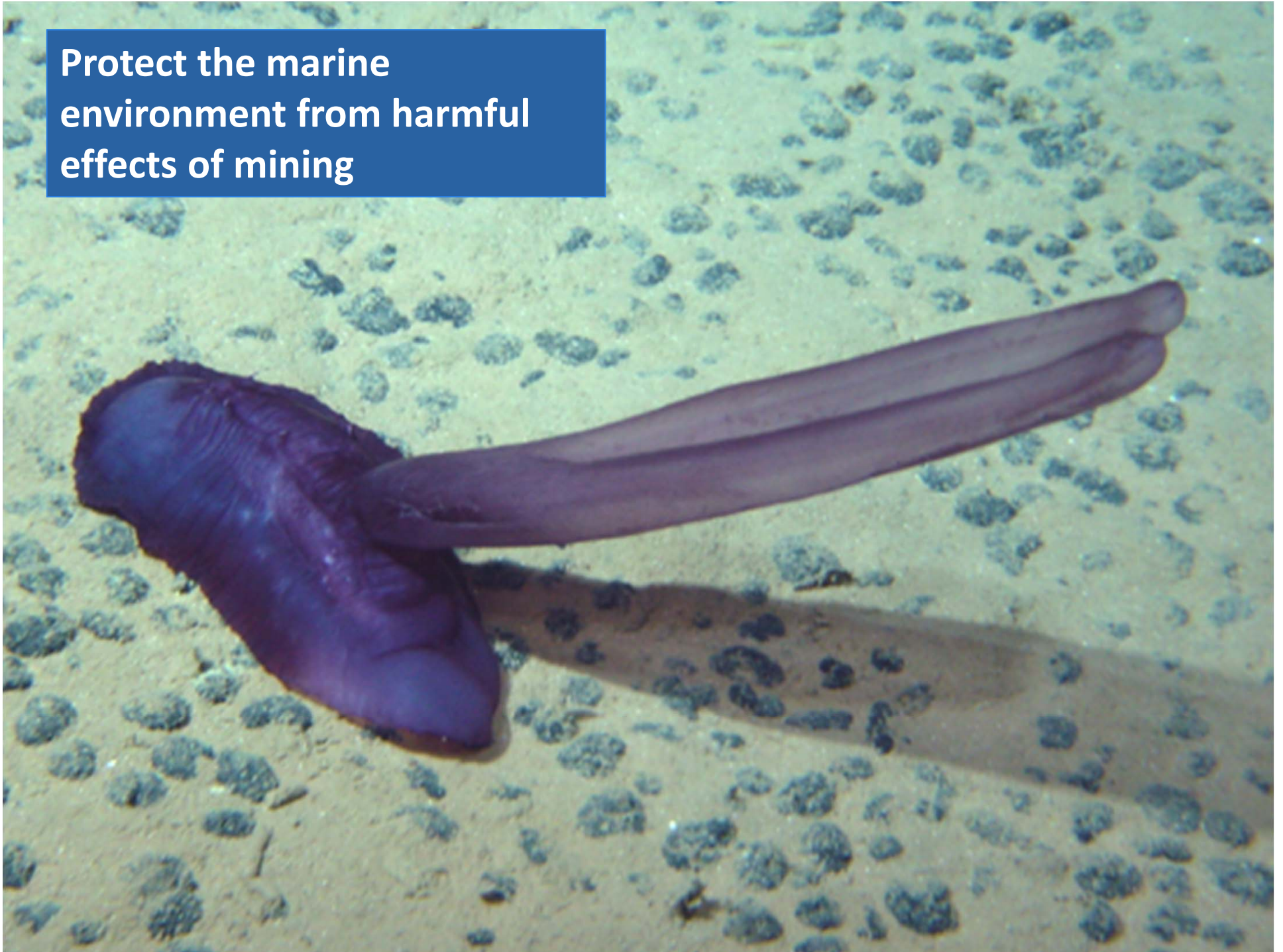


中国大洋协会 国际海底管理局 国际海底多金属硫化物矿区勘探合同

签字仪式



Protect the marine environment from harmful effects of mining



Promote and encourage
Marine Scientific Research
in the Area



Marine Benthic Nematode Molecular Protocol Handbook (Nematode Barcoding)

Technical Study: No. 7



Environmental Management of Deep-Sea Chemosynthetic Ecosystems: Justification of and Considerations for a Spatially-Based Approach

Technical Study: No. 9



Fauna of Cobalt-Rich Crust Seamounts

Technical Study: No. 8





Structure and functions of the International Seabed Authority

Established under the United Nations Convention on the Law of the Sea 1982 and the 1994 Agreement for the Implementation of Part XI of the Convention

Principal organs

Article 158(3) – “Each principal organ of the Authority and the Enterprise shall be responsible for exercising those powers and functions which are conferred on it.”

Assembly

162 States and the European Union
Article 160 – Supreme organ of the Authority with the power to establish general policies on any question or matter within the competence of the Authority

Finance Committee

1994 Agreement (Section 9) – Composed of 15 members, which must include 5 largest contributors for as long as Authority relies on assessed contributions.

Council

■ **Group A (4)**
Major consumers:
Currently China, Italy, Japan, Russian Federation

■ **Group B (4)**
Major investors:
Currently France, Germany, India, ROK

■ **Group E (18)**
Equitable geographic representation:
Currently Angola, Argentina, Cameroon, Chile, Cote d'Ivoire, Czech Republic, Guyana, Kenya, Mexico, Namibia, Netherlands, Nigeria, Poland, Qatar, Senegal, Spain, Trinidad & Tobago, United Kingdom, Viet Nam

Secretariat

■ **Group C (4)**
Major exporters:
Currently Australia, Canada, Indonesia, South Africa

■ **Group D (6)**
Developing States and special interests:
Currently Bangladesh, Brazil, Egypt, Fiji, Jamaica, Sudan

■ **Secretary-General**
38 Professional and technical staff

The Enterprise

Article 170 - The Enterprise shall be the organ of the Authority which shall carry out activities in the Area directly.
1994 Agreement (Section 2) - The Secretariat shall perform the functions of the Enterprise until it begins to operate independently of the Secretariat. Interim Director-General to be appointed from within the staff of the Authority

Legal and Technical Commission

Articles 163 and 165 – Composed of 15 members, currently enlarged to 25.

Economic Planning Commission

Articles 163 and 164, 1994 Agreement (Section 1)
Not currently operational. Functions carried out by Legal and Technical Commission

Structure and functions of the Authority

Outline

The Assembly

The Composition of the Council

Decision-making in the Council

The Finance Committee

The Enterprise



- 162 Members
- Annual session in Kingston, Jamaica
- Majority required for quorum

82



The Assembly

Powers and functions

- Establish general policies of the Authority
- Elect members of the Council
- Elect the Secretary-General
- Elect the Governing Board and Director-General of the Enterprise
- Approve the budget and scale of contributions
- Approve the rules, regulations and procedures adopted by the Council

But exercise of each function qualified by other provisions of the Convention and the 1994 Agreement



Structure and functions of the Authority

Outline

The Assembly

The Composition of the Council

Decision-making in the Council

The Finance Committee

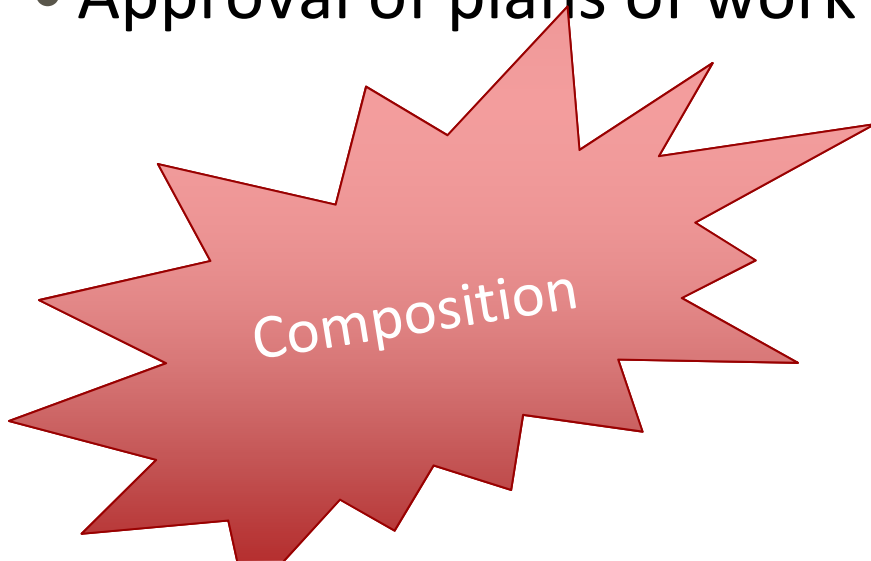
The Enterprise



The Council

Powers and functions

- 36 Members
- Executive Body of the Authority
- Exercise control over seabed mining activities
- Adoption of rules, regulations and procedures for exploration, exploitation and equitable sharing of benefits
- Approval of plans of work (licences)



The Council Composition

Group A
Major Consumers
4 members

Group B
Major Investors
4 members

Group C
Major Producers
4 members

Group D
Special Interest
6 members

Group E
Geographical
18 members

States Parties, which, during the last five years for which statistics are available, have either consumed more than two percent in value terms of total world consumption or have had net imports of more than two percent in value terms of total world imports of the commodities produced from the categories of minerals to be derived from the Area, including (a) one State from the Eastern European region having the largest economy in that region in terms of gross domestic product and (b) the State, on the date of entry into force of the Convention, having the largest economy in terms of gross domestic product.



The Council Composition

Group A
Major Consumers
4 members

Group B
Major Investors
4 members

Four members elected from among the eight States Parties that have made the largest investments in preparation for and in the conduct of activities in the Area, either directly or through their nationals.

Group C
Major Producers
4 members

Group D
Special Interest
6 members

Group E
Geographical
18 members



The Council Composition

Group A
Major Consumers
4 members

Group B
Major Investors
4 members

Group C
Major Producers
4 members

States Parties which, on the basis of production in areas under their jurisdiction, are major net exporters of the categories of minerals to be derived from the Area, including at least two developing States whose exports of such minerals have a substantial bearing upon their economies.

Group D
Special Interest
6 members

Group E
Geographical
18 members



The Council Composition

Group A
Major Consumers
4 members

Group B
Major Investors
4 members

Group C
Major Producers
4 members

Group D
Special Interest
6 members

Developing States Parties representing special interests, including States with large populations, States that are landlocked or geographically disadvantaged, small island States, States that are major importers of the categories of minerals to be derived from the Area, States that are potential producers of such minerals, and least developed States.

Group E
Geographical
18 members



The Council Composition

Group A
Major Consumers
4 members

Group B
Major Investors
4 members

Group C
Major Producers
4 members

Group D
Special Interest
6 members

Group E
Geographical
18 members

Equitable geographical distribution of seats in the Council as a whole, provided that each geographical region shall have at least one member elected in this Group. The geographical regions for this purpose shall be Africa, Asia, Eastern Europe, Latin America and the Caribbean, and Western Europe and Others.



The Council

2012 Elections

- 20 Vacancies to be filled
- China, Japan (Group A)
- India (Group B)
- Canada, South Africa (Group C)
- Bangladesh, Brazil and Sudan (Group D)
- Angola, Argentina, Czech Republic, Guyana, Kenya, Namibia, Netherlands, Poland, Senegal, Spain, Trinidad and Tobago and the United Kingdom (Group E)



Structure and functions of the Authority

Outline

The Assembly

The Composition of the Council

Decision-making in the Council

The Finance Committee

The Enterprise



The Council

Decision-making

Group A
Major Consumers
4 members

Group B
Major Investors
4 members

Group C
Major Producers
4 members

Group D
Special Interest
6 members

Group E
Geographical
18 members



The Council

Decision-making

Group A
Major Consumers
4 members

Chamber A
Major Consumers
4 members

Group B
Major Investors
4 members

Group C
Major Producers
4 members

Group D
Special Interest
6 members

Group E
Geographical
18 members



The Council

Decision-making

Group A
Major Consumers
4 members

Chamber A
Major Consumers
4 members

Group B
Major Investors
4 members

Chamber B
Major Investors
4 members

Group C
Major Producers
4 members

Group D
Special Interest
6 members

Group E
Geographical
18 members



The Council

Decision-making

Group A
Major Consumers
4 members

Group B
Major Investors
4 members

Group C
Major Producers
4 members

Group D
Special Interest
6 members

Group E
Geographical
18 members

Chamber A
Major Consumers
4 members

Chamber B
Major Investors
4 members

Chamber C
Major Producers
4 members



The Council

Decision-making

Group A
Major Consumers
4 members

Group B
Major Investors
4 members

Group C
Major Producers
4 members

Group D
Special Interest
6 members

Group E
Geographical
18 members

Chamber A
Major Consumers
4 members

Chamber B
Major Investors
4 members

Chamber C
Major Producers
4 members

Chamber D
Developing States
members of
Groups D and E



The Council

Decision-making

- Rules, regulations and procedures require consensus.
- Decisions of substance require a two-thirds majority of members present and voting, provided that such decisions are not opposed by a majority in any one of the four Chambers.
- Special procedure for approval of plans of work for exploration or exploitation.



The Council

Special procedure for plans of work

1994 Agreement, Annex, Section 3, paragraphs 11 and 12

Council *shall approve* unless decides to disapprove by a majority of members present and voting, *including* a simple majority in *each* of the five chambers of the Council

If *no decision* by Council within a prescribed period (normally 60 days) then the recommendation *deemed* to have been approved.

Even if Commission recommends disapproval, Council *may still approve* in accordance with rules for decision-making on matter of substance, i.e. consensus, or a two-thirds majority vote providing *not opposed* by a simple majority in any one chamber.

Any disputes to be submitted to the dispute settlement procedures in the Convention, i.e. Seabed Disputes Chamber of ITLOS

Structure and functions of the Authority

Outline

The Assembly

The Composition of the Council

Decision-making in the Council

The Finance Committee

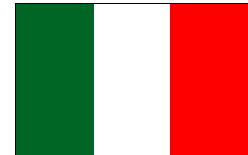
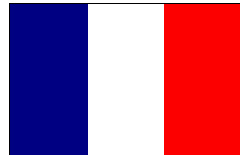
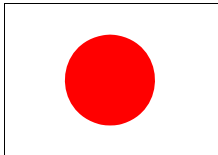
The Enterprise



The Finance Committee

Membership and functions

- Created by 1994 Agreement
- 15 members elected by the Assembly for five-year term of office
- Must include 5 largest contributors to budget
- One member from each of Group A, B, C and D of Council
- All decisions of Assembly and Council having financial implications must be based on recommendation of Finance Committee



Structure and functions of the Authority

Outline

The Assembly

The Composition of the Council

Decision-making in the Council

The Finance Committee

The Enterprise



Structure and functions of the Authority

The Enterprise

- Conceived as commercial arm of the Authority to carry out operations on behalf of developing States.
- Modified by 1994 Agreement.
- Operations deferred until:
 - **EITHER** approval of first plan of work for exploitation,
 - **OR** request for a Joint Venture with the Enterprise
- Funding and technology transfer obligations removed.





<http://www.isa.org.jm>