U.S. Intervention on Agenda Item 8
International Seabed Authority Assembly, 30th Session
July 2025

Thank you, President. The United States would like to congratulate you and the bureau on your elections and on your conduct of this meeting, and to thank the Secretariat for their outstanding service. The United States pledges its support for your leadership.

The United States thanks the Secretary General for her comprehensive report. We congratulate the Secretary General on the start of her term as the Secretary General and pledge support for her successful leadership.

Seabed Mining

The United States takes this opportunity to make the following statement responding to incorrect legal assertions concerning the legal character of the Law of the Sea Convention seabed mining provisions, as well as factually incorrect assertions concerning state practice of the United States.

While the United States has consistently viewed Law of the Sea Convention provisions relating to traditional uses of the ocean, including freedom of navigation and overflight, as reflecting customary international law binding on all States, the United States has never considered Part XI of the Convention or the 1994 Implementing Agreement to reflect customary international law. And as a non-party to the Law of the Sea Convention, the United States is not bound by the Convention rules dealing with seabed mining through the International Seabed Authority. The United States' practice and public statements on this subject have been clear and consistent on this matter for over 40 years.

This position was asserted by the United States in comments made at the conclusion of the third UN Conference on the Law of the Sea in 1982, when it stated that "[s]ome speakers asserted that existing principles of international law, or the Convention, prohibit any State, including a nonparty, from exploring for and exploiting the mineral resources of the deep sea-bed except in accordance with the Convention. The United States does not believe that such assertions have any merit. The deep sea-bed mining regime of the Convention adopted by the Conference is purely contractual in character."

The United States also stated in its comments at the conclusion of the third UN Conference on the Law of the Sea that, "Article 137 of the Convention may not as a matter of law prohibit sea-bed mining activities by nonparties to the Convention; nor may it relieve a party from the duty to respect the exercise of high seas freedoms, including the exploration for and exploitation of deep sea-bed minerals, by nonparties. Mining of the seabed is a lawful use of the high seas open to all States. United States participation in the Conference and its support for certain General Assembly resolutions concerning sea-bed mining do not constitute acquiescence by the United States in the elaboration of the concept of the common heritage of mankind contained

in Part XI, nor in the concept itself as having any effect on the lawfulness of deep sea-bed mining."

In 1983, in response to the adoption of the Law of the Sea Convention, then-President Ronald Reagan announced the United States' position that the Convention "contains provisions with respect to traditional uses of the oceans which generally confirm existing maritime law and practice." In the same statement, President Reagan noted that the United States would not sign the Convention due to "major problems in the Convention's deep seabed mining provisions" and that "Deep seabed mining remains a lawful exercise of the freedom of the high seas open to all nations."

Since that time, the United States has been clear that its position on the Convention's provisions relating to "traditional uses" being customary international law does not include Part XI provisions on seabed mining. This includes the 2007 Congressional testimony of Deputy Secretary of State John Negroponte noting that "traditional uses of the oceans" does not include deep seabed mining. It also extends to published literature, including a statement in the 2010 Digest of United States Practice in International Law stating that "The phrase 'traditional uses of the ocean'… is intended to exclude Part XI of the Convention concerning deep seabed mining."

The state practice of the United States is also unequivocal on this point. As a non-party to the Law of the Sea Convention, we have participated in ISA meetings in our observer status as an affected coastal State. We have done so to protect U.S. interests, including those with respect to our continental shelf and exclusive economic zone adjacent to the Clarion-Clipperton Zone and other parts of the Area of potential ISA interest, and to support the development of a responsible ISA regulatory framework. This participation in no way constitutes a recognition of customary international law status for the ISA itself or Part XI of the Convention.

In 1980, the United States enacted the Deep Seabed and Hard Mineral Resources Act, which states that "exploration for and commercial recovery of hard mineral resources of the deep seabed are freedoms of the high seas subject to a duty of reasonable regard to the interests of other states in their exercise of those and other freedoms recognized by general principles of international law." The United States has renewed exploration licenses under this domestic framework for decades. This law dictates that the U.S. private sector's deep-sea exploration and commercial recovery activities in areas beyond national jurisdiction must be undertaken with strong standards and environmental impact assessments, and those activities must not unreasonably interfere with the interests of other states in their exercise of high seas freedoms.

We would also note that participation of State Parties to the Convention in the work of the ISA is also incapable of constituting *opinio juris* needed for the formation of a customary international law rule, as such participation is done pursuant to treaty obligations and rights. If Part XI of the Convention genuinely constituted customary rules of law binding on all States, then all States, even non-Parties to the Convention, would have customary international law rights to participate in the work of the ISA as members. Such rights have never been recognized.

The United States is focused on the responsible development of seabed mineral resources, while ensuring environmental and transparency standards are maintained. We will be deliberate and thoughtful in this approach and plan to develop this sector in a manner that contributes to a better understanding of the deep sea, including mapping and characterization, environmental information, and the economic potential of its mineral resources.

We welcome further discussion on responsible seabed mineral development.

The United States thanks ISA Members for the opportunity to address these issues, and requests that this statement be posted on the Authority's website for statements made at this meeting.