

ISA-23 HIGHLIGHTS: TUESDAY, 15 AUGUST 2017

On Tuesday, 15 August, the Assembly addressed outstanding administrative matters and considered the Secretary-General's annual report.

ASSEMBLY

Canada for WEOG nominated Australia for the remaining position of Vice-President. The Assembly endorsed this nomination, together with China, Jamaica and the Russian Federation, nominated on Tuesday, 8 August. Assembly President Eugénio João Muianga (Mozambique) proposed, and delegates agreed upon, appointing to the Credential Committee: Ghana, Lebanon, Myanmar, Poland, the Russian Federation, Guyana, Panama, Belgium and Norway.

REPORT OF THE SECRETARY-GENERAL: Secretary-General Lodge introduced the annual report (ISBA/23/A/2), highlighting, *inter alia*: the increase in contributions paid by members, but also the need to regularize their arrears; the technical workshops for the draft exploitation regulations and the May 2017 Kampala sensitization seminar regarding a voluntary commitment to develop a cooperative program promoting sustainable development of Africa's deep-seabed resources, and related need for partnerships and budgetary savings to meet the increasing demand for sensitization seminars; ISA's increased efforts to collaborate with other institutions on scientific data; progress in implementing the data management strategy; the need to effectively circulate available training opportunities; and the urgent need for increased contributions to the Endowment Fund for marine scientific research (MSR) in the Area.

LEBANON emphasized: ocean conservation to "protect our past, present and future"; the need for all stakeholders to participate in implementation; the ISA's role in facilitating the implementation of UNCLOS obligations on technology transfer; and better workflow at the LTC to assess contractors' annual reports. Noting limited understanding of deep-sea ecosystems, Canada, also on behalf of Australia and New Zealand (CANZ), underscored best available science, flexibility to incorporate emerging scientific understanding, the precautionary approach, as well as swift and pre-emptive action to protect the marine environment in cases of non-compliance. Looking forward to a draft strategic plan to be submitted in 2018, CANZ welcomed the environmental management plan for the Clarion-Clipperton Zone and the intention for management plans for other regions, as well as the criteria on impact reference zones and preservation reference zones. SOUTH AFRICA welcomed the digitalization of contractor data, but cautioned against losing data in the old format.

Draft exploitation regulations: JAPAN considered the development of draft exploitation regulations as a new step towards fulfilling the ISA's aim, reporting on efforts to develop EIA technology for the ocean resource exploitation. Calling for sound exploitation regulations, adopted by consensus and progressing

gradually, CHINA underscored that commercial exploitation is a complex task, dependent on the global economy and the metal market, institutional arrangements, legal responsibilities and marine environmental protection considerations. He urged taking into account the interests of the international community, with standards based on sound science and a balance between the rights and obligations of parties, contractors and the ISA. The COOK ISLANDS supported the draft exploitation regulations, emphasizing accountability, transparency and clarity regarding environmental concerns. Underscoring the importance of environmental safeguards and environmental baselines to assess potential impacts, BANGLADESH highlighted improved communication with contractors, management of time-sensitive reports and the preparation of draft exploitation regulations.

SINGAPORE commended the Secretariat for keeping up the pace in developing the draft exploitation regulations for commercially feasible and environmentally sound mining. TONGA favored the ISA's work on supporting the supervision of contractors and developing the draft exploitation regulations, stressing, with the UK, the urgency of completing regulations and guidelines. Algeria, for the AFRICAN GROUP, emphasized benefit-sharing as a key component of the common heritage regime. SOUTH AFRICA emphasized that access and benefit-sharing must be based on equal and mutually agreed partnerships to address technological gaps.

FIJI recommended: with UGANDA, respect for the precautionary approach; and a transparent and consultative approach in developing the draft exploitation regulations, welcoming the opportunity at this session for Council members to comment on the current draft. CANZ urged proceeding with caution with the draft exploitation regulations, ensuring environmental protection, timely circulation of draft versions to allow for intersessional submissions and Council discussions, as well as, supported by GREENPEACE and the DSCC, the simultaneous adoption of the environmental regulations.

The PHILIPPINES stressed the importance of related EIA recommendations, in addition to exploitation regulations. Noting that the transition to the exploitation phase requires transparent actions, ECUADOR stated that the exploitation regulations must ensure economic and social development of all states, minimizing environmental impacts.

Noting that UNCLOS includes provisions for restoration regarding seafloor impacts, the FISH REEF PROJECT, opposed by WWF, the DSCC and GREENPEACE, presented on activities relating to artificial reef creation to compensate impacts on low-biodiversity deep-sea reefs with high-biodiversity shallow reefs. Referring to a recent academic publication, the DSCC stressed that biodiversity loss from deep-seabed mining will be unavoidable and likely permanent on human timescales, due to very low ecosystem recovery rates, questioning which benefit to humankind could justify biodiversity loss in the Area. GREENPEACE requested filling international law gaps through the exploitation regulations regarding dumping of seabed-mining waste, and liability and redress, including the latter on the 24th session's agenda.

ISA periodic review: TOGO noted that the recommendations delivered by the periodic review committee will assist the ISA in fulfilling its mandate. CHINA stressed that the periodic review must not deviate from UNCLOS, noting initiatives to improve the efficiency and strengthen the ISA's structure. TONGA, SOUTH AFRICA and GRULAC expressed satisfaction at the timely completion of the first periodic review.

Cooperation: Recommending continued dialogue with relevant international organizations to harmonize ISA's work towards common goals to benefit humankind as a whole, SINGAPORE welcomed: increased outreach activities by the Secretariat; the ISA's active participation in the UN Ocean Conference, supported by TONGA, the UK and NIGERIA; and its voluntary commitments. TONGA called attention to the UN Ocean Conference's Call for Action reference to enhancing interagency coordination and coherence throughout the UN system on ocean issues, taking into consideration the work of UN-Oceans, to support the implementation of SDG 14.

TONGA welcomed, with the UK, the ISA's active engagement in the BBNJ process, calling for its continuation in the next phase of the negotiations and noting the potential implications of a new international legally binding instrument (ILBI) on BBNJ for the Area management and the ISA's operational mandate. MOROCCO underscored intensified multilateral efforts on protecting the ocean for realizing the Sustainable Development Agenda, and the potential role of the ISA in a new ILBI on BBNJ with regard to common heritage and benefit-sharing. The AFRICAN GROUP referred to common heritage to promote access and ensure benefit-sharing in pursuit of equity, inviting delegates to reflect on the ISA's role in the BBNJ process. The PHILIPPINES called for strengthening cooperation regarding MSR to standardize data and ensure greater access.

Underscoring the importance of the ISA work for implementing UNCLOS as a whole, UNDOALOS noted that UNCLOS state parties at their 2017 meeting welcomed the periodic review report, called for greater stakeholder consultations on the draft exploitation regulations, and expressed concern about arrears in payments and low attendance at Assembly meetings; and that UN Informal Consultative Process on Oceans and the Law of the Sea considered climate change impacts on the ocean as a threat-multiplier that undermines states' ability to achieve sustainable development. The INTERNATIONAL CABLE PROTECTION COMMITTEE: reported on reciprocal notice of activities, respectful of confidentiality, with the ISA; underscored the risk of bringing down global communication due to negative impacts of deep-seabed mining on submarine cables; and urged the ISA to consider effective means to enforce or incentivize "due regard" obligations related to submarine cables.

Financial issues: JAPAN urged state parties in arrears in their financial contributions to fulfil their obligations, with NAURU stressing that the ISA work depends on predictable and stable financing, and TOGO noting limited progress in the number of states in arrears since 2000. The AFRICAN GROUP urged member states, observers, contractors, technical organizations and philanthropists to contribute to the Voluntary Trust Fund.

CANZ stressed work to be done by the Finance Committee on administrative and fixed fees, performance guarantees and payments arising from UNCLOS Article 82 (payments and contributions with respect to the exploitation of the outer continental shelf), noting that the latter will be necessary to enable operators to properly assess the commercial viability of their discoveries. Brazil, on behalf of GRULAC, commented on the avoidance of unnecessary expenditure, and suggested that if the proposed test of remote interpretation for the meetings of the LTC and the Finance Committee is positive, it could also be used for the Council and the Assembly.

Capacity building: NAURU encouraged states, especially developed ones, to support the Endowment Fund; and supported the ISA internship programme. The COOK ISLANDS encouraged

more capacity-building activities, including undertaking national awareness-raising events. Stressing that capacity building is necessary to allow developing countries to fully benefit from the oceans and comply with UNCLOS obligations, BANGLADESH called for holding more workshops and sensitization seminars.

TONGA recommended long-term and sustainable capacity-building and training programs. The AFRICAN GROUP considered capacity-building opportunities funded by contractors and by the ISA Endowment Fund as immediate benefit-sharing, necessary for sustainable development and the protection of the marine environment.

MOROCCO noted the role of capacity building in supporting developing countries' participation in sustainable development and environmental protection in areas beyond national jurisdiction. MEXICO highlighted potential agreements with research centers, universities, contractors and other entities for MSR-related opportunities. Noting that the common heritage regime involves education, training, cooperation and collaboration, ANTIGUA AND BARBUDA highlighted the online database of national laws and regulations for sharing best practices and building capacity. The AFRICAN MINERAL DEVELOPMENT CENTER noted that Africa is the only regional group not sponsoring an entity to engage in exploration activities.

Legal and administrative issues: TOGO welcomed the restructuring of the Secretariat, emphasizing, with CANZ, the draft five-year strategic plan to be submitted in 2018. MEXICO and the UK highlighted that the restructuring of the Secretariat did not have major budgetary repercussions. The PHILIPPINES noted that future discussions, including on the LTC size, should be balanced by economic, efficiency and effectiveness considerations. UGANDA commended innovative cost-saving measures, including remote interpretation services. The UK welcomed the ISA's improved communication and information technology services. BANGLADESH encouraged parties to deposit with the ISA charts or geographical coordinates showing the outer limit lines of the continental shelf, urging the Commission on the Limits of the Continental Shelf (CLCS) to expedite relevant considerations.

Transparency: Underscoring the need for greater transparency and inclusiveness, TONGA urged efforts to engage state parties in the ISA workshops, noting insufficient representation from sponsoring states and developing countries in previous workshops on the payment regime. SINGAPORE encouraged involving a wide range of stakeholders through consultations, surveys, workshops and intersessional activities. GRULAC, supported by the DSCC, considered transparency a major concern, including in the relationships with contractors.

MOROCCO linked the need for transparency with the common heritage principle, with the DSCC calling for LTC's open meetings and effective participation in, and review of the outcomes of, workshops for the draft exploitation regulations. The PHILIPPINES emphasized transparency in data sharing. WWF urged conducting independent scientific research in addition to contractors' data, and publishing environmental data and national reports, only subject to specific protection of proprietary data according to prescribed procedures, querying how stakeholder inputs will be considered in the ISA's decisionmaking and implementation.

IN THE BREEZEWAYS

As the Assembly started its substantive work matter-of-factly, many lauded the ISA's first annual report since the appointment of Secretary-General Michael Lodge and the progress made in capacity building and outreach. Reiterated calls for enhancing transparency, however, intersected with financial concerns. "How can we support more participation in key intersessional meetings in the ISA's current financial predicament?," wondered an anxious delegate. Another participant jested, "Let's see if we can square the circle, by rationalizing the ISA meetings and save some money along the way for supporting broader participation," with all eyes on Wednesday's awaited discussion of the final report of the Authority's first periodic review.