

## Twenty-fifth Annual Session of the International Seabed Authority (Second Part): Tuesday, 23 July 2019

On Tuesday, the Assembly of the International Seabed Authority (ISA) discussed the annual report of the Secretary-General, which outlines the Authority's activities from July 2018 to June 2019.

### Report of the Secretary General

Secretary-General Michael Lodge presented his annual report (ISBA/25/A/2). The Assembly was also invited to consider a submission by the African Group on the training programme for developing countries (ISBA/25/A/8).

Secretary-General Lodge, *inter alia*:

- encouraged members of the Authority that have not done so to deposit charts and lists for the delineations of the limits for national jurisdictions, and accede to the Protocol on the Privileges and Immunities of the ISA;
- urged member states to pay their arrears, providing an overview of the financial status of the Authority's funds;
- noted progress on the new ISA website;
- highlighted workshops organized to facilitate the development and review of regional environmental managements plans (REMPs);
- emphasized the completion of the data management system;
- highlighted the training and internship programmes of the Authority;
- stressed the implementation of the Authority's voluntary commitments registered at the UN Ocean Conference to support the implementation of SDG14 (life below water);
- underlined the organization of various workshops to advance the Authority's priorities;
- highlighted relationships with many relevant, international organizations; and
- drew attention to the Authority's participation in global and regional conferences, including in the biodiversity beyond national jurisdiction (BBNJ) process.

Many commended Secretary-General Lodge and the Secretariat on a comprehensive report, and lauded the Authority for achieving gender parity in its Secretariat structure. CANADA, AUSTRALIA, and NEW ZEALAND, *inter alia*: acknowledged the importance of the draft exploitation regulations balancing sound commercial principles with best environment practices, supported by the FEDERATED STATES OF MICRONESIA (FSM); and reiterated the need for detailed information for environmental impact statements.

On the draft exploitation regulations, FSM, the RUSSIAN FEDERATION, and others reiterated that quality should be prioritized over self-imposed arbitrary deadlines. NIGERIA stated that the draft exploitation regulations should safeguard the sustainability and health of the ocean. VIET NAM emphasized that

prospecting and exploration activities must ensure the successful implementation of SDG14.

JAMAICA and the AFRICAN GROUP highlighted the establishment of the host country committee. CANADA, AUSTRALIA, and NEW ZEALAND emphasized the need for a fair payment system and underscored the need for regulatory functions to ensure compliance. TONGA stressed the need to ensure that the regulatory framework is robust for present and future generations. CAMEROON noted the need to consider the effect of deep sea mining on terrestrial mines, with DEEP SEA CONSERVATION COALITION (DSCC), and emphasized the environmental and cultural values of the marine environment in addition to its economic valuation. The PACIFIC COMMUNITY stressed the need for the draft exploitation regulations to address the impacts of seabed activities to fisheries.

ROMANIA urged member states to accede to the Protocol on the Privileges and Immunities of the Authority. The PACIFIC ISLANDS FORUM highlighted the importance of the notion of "reasonable regard" and the need to ensure that regulations, standards, and guidelines are of high quality to safeguard other uses of the ocean. DSCC and GREENPEACE emphasized that deep-sea mining is not an ideal, low-carbon solution. GREENPEACE further called for tackling inefficient use of resources and overconsumption, and for a moratorium on deep seabed mining.

**Training programmes and capacity building:** JAMAICA and others stressed that capacity building lies at the core of developing countries' ability to take part in the Authority's activities and fulfill their obligations under the UN Convention on the Law of the Sea (UNCLOS). The AFRICAN GROUP, supported by the PHILIPPINES and others, pointed to its submission on training programmes, inviting the Assembly to take note of its recommendations. JAPAN, the RUSSIAN FEDERATION, and others outlined national efforts on training programmes. TOGO lauded the Authority for the launch of the Africa Deep-seabed Resources Project. SRI LANKA, INDIA, and TONGA supported the Authority's capacity development programmes on marine scientific research (MSR) as well as technical capacity-building programmes for professionals. MYANMAR called for the results of MSR to be published on the ISA website. The REPUBLIC OF KOREA proposed a systematic evaluation of the contractors training programmes. The DEEP OCEAN STEWARDSHIP INITIATIVE (DOSI) suggested improving the geographical diversity regarding internship opportunities.

**Funds:** Many thanked donors for their contributions, urging additional ones from those in a position to do so and the payment of arrears. JAMAICA, the AFRICAN GROUP, and others expressed concern regarding arrears and their impact on the balance of the Working Capital Fund. CHINA outlined national financial contributions to the Authority's work. MONACO noted his country's willingness to support the Secretary-General's Award for Excellence in Deep Sea Research.

THE GAMBIA requested the Secretariat to be more innovative in securing funding for the Voluntary Trust Fund to support participation of developing countries' members. MYANMAR and the CENTER FOR POLAR AND DEEP OCEAN DEVELOPMENT appreciated the Endowment Fund's support for trainees on MSR in the Area.

**Regional and international conferences:** JAMAICA, the AFRICAN GROUP, TONGA, the PHILIPPINES, DSCC, and others emphasized the Authority's participation in a series of regional and international conferences, highlighting the BBNJ process. JAPAN invited the Authority to participate in the seventh Tokyo International Conference on African Development in August 2019, in Japan.

**Partnerships and workshops:** JAMAICA commended the Authority on its work on all voluntary commitments made at the UN Ocean Conference. The AFRICAN GROUP highlighted the Authority's partnership with the African Minerals Development Centre, and, with many others, the Pretoria Workshop on Standards and Guidelines. SRI LANKA welcomed the partnership between the Authority and the Indian Ocean Rim Association. BRAZIL lauded the Authority's partnerships with the International Tribunal for the Law of the Sea (ITLOS), the International Maritime Organization (IMO), and the World Maritime University. CHILE called on the Secretariat to liaise with the Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) on work related to marine pollution.

**REMPs:** While supportive of the growing number of REMP workshops, CHINA opined that how these REMP are dealt with in relation to exploitation remains a question for the Authority. SINGAPORE, ITALY, the PHILIPPINES, and COSTA RICA welcomed the development of REMP, with COSTA RICA and others noting they must be in place before mining activities commence. NAURU and ITALY recommended more regional workshops on REMP. CHILE proposed including experts from the Intergovernmental Panel on Climate Change (IPCC) and the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) in REMP workshops. The RUSSIAN FEDERATION invited participants to a workshop on REMP, to be held in the Russian Federation in June 2020, and INDIA announced their intention to host a workshop on Indian Ocean REMP.

**Transparency:** JAMAICA and DSCC stressed that livestreaming ISA's deliberations makes them open and accessible. JAMAICA, NIGERIA, ITALY, the PHILIPPINES, and others highlighted the launch of the database management system, noting that it will promote transparency and visibility. The AFRICAN GROUP noted that member states should be involved in consultations on contracts, especially on the template on public disclosures, to increase transparency. FSM called for the participation of indigenous peoples and local communities with relevant traditional knowledge.

TOGO, JAMAICA, SINGAPORE, NIGERIA, and others welcomed progress on a new ISA website. CHILE urged the Secretariat to inform the Assembly of contractors' compliance in conducting exploration activities based on their annual reports. The PHILIPPINES emphasized transparency as a critical obligation for contractors, highlighting the role of sponsoring and coastal states, and calling for strengthening the Authority's relevant regulatory functions. HOLY SEE appreciated continued efforts to ensure transparency and accountability in decision-making.

**Common Heritage:** JAMAICA, with NIGERIA, emphasized the need for responsible exploitation in the Area, ensuring the effective protection of the marine environment, and realizing, despite the challenges, the common heritage regime. Highlighting the benefit-sharing component of common heritage, the AFRICAN GROUP stressed that the legal regime on the common heritage is a "revolutionary vision, with far-reaching implications, towards the sustainable development of mineral resources in the Area." CHINA identified the development of draft exploitation regulations as a priority task and essential for the implementation of the common heritage principle. CÔTE D'IVOIRE suggested closer collaboration

between the Authority and the African Union to incentivize African countries' participation and realize the common heritage regime. CAMEROON highlighted the need to benefit from the common heritage regime, cautioning that "the window of opportunity is extremely small."

Secretary-General Lodge responded to queries, *inter alia*: welcoming the invitation to collaborate with the African Union; taking note of the suggestion to include GESAMP, IPCC, and IPBES experts in REMP workshops; and announcing an informal interactive high-level panel on capacity-building needs to be held on Thursday, July 25.

The Assembly took note of the Secretary-General's annual report, and the African Group submission on training programmes for developing countries.

### **Inaugural Biennial Lecture**

On Tuesday morning, Stephen Vasciannie, President, University of Technology, Jamaica, gave an inaugural lecture on the role of the Montego Bay Convention (UNCLOS) and the ISA in contributing to the rule of law. He provided historical context to illustrate how the Montego Bay Convention aligns with the main elements of the international rule of law by the fact that it is, *inter alia*: promulgated in public; enforceable; independently adjudicated; legally certain; and transparent. Vasciannie highlighted the risk of fragmentation due to an increased number of arbitration tribunals dealing with the law of the sea, but pointed to the position of the International Court of Justice on equidistance relating to maritime concerns.

He underscored that one of the key objectives of the deep seabed regime is the creation of certainty. Highlighting that developed and developing countries have historically had different views on seabed resources, Vasciannie noted that the ISA was a compromise, to ensure that the benefits derived from those individual states able to exploit seabed resources could be shared as common heritage. He stressed that although 167 states are parties to UNCLOS, the absence of the US is problematic, noting that this is an ongoing conflict and a significant question in international law.

Responding to a question regarding how to equitably and practically apply the common heritage of humankind principle, Vasciannie opined that common heritage is part of customary international law, but actually sharing resources is a "political question." He expressed reservation that UNCLOS Article 82 (payments and contributions with respect to the exploitation of the continental shelf beyond 200 nautical miles) is customary international law in regards to its limited practice.

### **In the Breezeways**

On Tuesday morning, participants witnessed a peaceful Greenpeace demonstration against deep sea mining en route to an inaugural lecture focusing on the Montego Bay Convention, the Authority, and the rule of law, where a key theme articulated was the importance of the public promulgation of law. The demonstrations seemed to bear witness to this, giving stakeholders a chance to air their views on the work of the Authority as a legal entity.

In plenary, delegates delivered national statements highlighting their priorities largely based on the Secretary-General's annual report, with many offering support for the initiatives and programmes outlined. One delegate congratulated the Secretariat for their "outstanding skills and efforts in making all this happen," while another pointed to the large number of "refreshing and inspiring" statements heralding the importance of the environment.

However, there were some whose scrutiny of the 26-page report led them to question the underlying idea that "seabed mining is somehow preferable to terrestrial mining," with one observer noting that this notion is "incongruent with the global movement towards a circular economy." Leaving the plenary room for the day, one delegate welcomed the Secretary-General's report related to the Authority's relationship with other organizations: "It is good to be reminded that we are operating in a very interconnected world. We need to ensure the exploitation guidelines take account of this."