

## ISA-23 HIGHLIGHTS: WEDNESDAY, 16 AUGUST 2017

On Wednesday, 16 August, the Assembly heard further statements on the Secretary-General's annual report, and discussed the final report of the first periodic review of the ISA.

### ASSEMBLY

**SECRETARY-GENERAL'S REPORT:** FRANCE welcomed the report. MYANMAR favored: cost-saving measures, including remote interpretation; strengthened cooperation with other bodies; and outreach activities, including technical workshops for data standardization.

**PERIODIC REVIEW:** Review Committee Chair Helmut Tuerk (Austria) presented the final report of the ISA's first periodic review (ISBA/23/A/3), recalling that the Committee: reached consensus on all recommendations in the final report; decided not to pursue all recommendations submitted by the consultant, as some were quite far removed from the ISA's practices, and others appeared premature at this stage of the ISA's evolution, but could be considered in the future; and adopted a cautious approach with regard to recommendations that were unlikely to be accepted by consensus. He recommended, for future reviews: conducting the review over a two-year period; ensuring regional group chairs' participation; and striving for a higher response rate, including when using questionnaires.

Emphasizing that the Review Committee thoroughly analyzed, streamlined and rationalized the consultant's recommendations within the parameters of UNCLOS and Part XI Agreement and that "the current system does not work well and we cannot continue to do business as usual," Secretary-General Lodge presented his comments on the recommendations (ISBA/23/5/Rev.1), highlighting: the need for a strategic plan; a more substantive workload for the Assembly and a revised schedule to tackle the problem of low participation in it; the discussion of some recommendations already in the Council; a revised meeting schedule, including two Council meetings per year, within existing budgetary provisions; consideration of the Netherlands' suggestion to schedule the Council meeting before the LTC; efforts to streamline the review of contractors' reports, due to LTC work overload; and priority to adding environmental policy expertise in the Secretariat, for consideration by the Council in the next budgetary cycle. He noted that he did not provide a response to those recommendations that were addressed directly to the LTC.

Sharing his hope for a more ambitious outcome, the NETHERLANDS expressed support for all the recommendations. Cautioning against considering recommendations from the interim report that were excluded from the final report, JAPAN stressed that most of the final recommendations are appropriate to tackle the challenges that the ISA is facing. NORWAY underscored that,

compared to the interim report, the final recommendations are more specific, operational and consolidated. JAMAICA argued that there are lessons to be learned from the review methodology and its consultation process.

Kamina Johnson Smith, Minister of Foreign Affairs and Foreign Trade, JAMAICA, underscored: limited funding threatening developing countries' representation in the LTC and Finance Committee, and capacity building for SIDS. Algeria, for the AFRICAN GROUP, accepted the Secretariat's implementation of recommendations aimed at improving its internal processes, but, supported by TONGA, cautioned against implementing recommendations of strategic nature without guidance from parties. CHILE recommended that contractors pay a fixed tax to finance the ISA's functioning.

Underscoring the importance of the BBNJ negotiations, NIGERIA highlighted recommendations on terms and conditions for new contracts, and enhanced environmental expertise in the Secretariat, keeping required skills under review. MYANMAR suggested adding expertise in economics in the Secretariat. NEW ZEALAND highlighted the need for: with TONGA, UGANDA and the DSCC, further environmental expertise in the Secretariat; greater openness in the work of the Secretariat, the LTC and the Authority as a whole; and, with TONGA, sharing of non-confidential information, including by making preliminary EIAs public. INDIA underscored a contradiction between cost-cutting measures, limited financial resources in the Voluntary Trust Fund, and the proposal for additional meetings, opposing two Council meetings per year. Cautioning against simply taking note of the review report, GREENPEACE stressed that the Assembly is mandated, under UNCLOS Article 154, to directly take a measure, or recommend that other organs take measures, on the basis of the report.

**Revised meeting schedule:** The AFRICAN GROUP expressed concern about limited financial support for developing countries to attend additional meetings, recalling his proposal to be considered under the Finance Committee's report. UGANDA pointed to contractors as a potential source of funds. Proposing, supported by FRANCE, JAMAICA, MOZAMBIQUE and the PEW CHARITABLE TRUSTS, a new specific voluntary trust fund to cover the costs for more frequent and transparent meetings, BELGIUM supported: with SINGAPORE, the revised meeting schedule; and more workshops on environmental, payment and legal issues. The NETHERLANDS, supported by GERMANY, the UK and BELGIUM, reiterated his proposal to convene the Council before the LTC meetings, to allow "a more dynamic, interactive exchange of views, especially between the LTC and the Council." SINGAPORE underscored the need for more time for the Assembly to examine the Finance Committee's reports. Brazil, for GRULAC, emphasized avoiding additional costs and low participation.

JAPAN suggested, together with the revised meeting schedule, a review of the LTC's working methods to cope with its increasing workload. NORWAY proposed either altering the sequence, as proposed by the Netherlands, or extending the LTC's winter session. AUSTRALIA noted concerns about: budgetary implications, participation in additional meetings, compounding quorum issues and sequencing of meetings. The REPUBLIC OF KOREA recommended careful consideration of the Council's workload and of the cost-effectiveness of proposed adjustments.

**LTC:** NEW ZEALAND highlighted the need for further environmental expertise in the LTC; and, with UGANDA, GREENPEACE and WWF, favored open LTC meetings, when confidential issues are not discussed. FRANCE and NORWAY suggested open workshops instead. GRULAC recommended taking into account also the confidentiality of the LTC's deliberations, supported by FRANCE, and its independence. The DSCC called for an open review process during LTC meetings of contractors' EIAs and environmental monitoring program. The PEW CHARITABLE TRUSTS underscored the importance of adequate representation of environmental experts, especially biologists and ecologists, in the LTC. MYANMAR suggested creating an economics working group. The CENTER FOR POLAR AND DEEP OCEAN DEVELOPMENT suggested a new working group to study demand, supply and pricing trends for minerals. NORWAY suggested *ad hoc*, rather than permanent, working groups possibly meeting prior to the LTC, without additional budgetary burdens.

**LTC working group on environmental issues:** The UK, SINGAPORE and the REPUBLIC OF KOREA supported an LTC working group on environmental issues. NORWAY questioned the recommendation, noting that environmental issues should be addressed in a holistic and integrated way. GREENPEACE urged, with WWF, establishing a standalone, advisory environmental committee, in line with the practices of the IMO, CBD and regional fisheries management organizations, with the DSCC indicating that this could be agreed upon at any time, irrespective of a review process.

**Data management:** GERMANY recommended continuously investing in high-quality data management and sharing, as well as reviewing the quality and consistency of data gathered, including for transparency purposes. SINGAPORE supported the recommendations on sharing environmental data, suggesting further efforts towards protecting data integrity and continued consultations with contractors and other stakeholders to strike an appropriate balance between transparency and commercial sensitivity. NIGERIA highlighted sharing and accessing environmental data collected by contractors. Supporting ongoing work, THAILAND looked forward to finalizing the data management strategy by October 2018.

The UK underscored access to data, particularly environmental data, for all stakeholders. The PEW CHARITABLE TRUSTS proposed reversing the burden of proof on confidentiality. GREENPEACE favored sharing also national reports. The DSCC recommended sharing information on contractors' performance in meeting environmental guidelines.

**Strategic plan:** SINGAPORE called for a plan to provide strategic direction, accountability and transparency, to facilitate prioritization, suggesting drawing on the IMO example. THAILAND supported a strategic plan to assist the formulation of a work program for the Secretariat and to benefit the ISA as a whole. The NETHERLANDS supported the formulation of a strategic plan together with the roadmap for the development of exploitation regulations. JAMAICA, supported by the DSCC, urged developing an environmental management strategy, rather than just a strategic plan for the ISA, with IUCN recommending that it lay out key steps for advancing marine scientific knowledge, understanding potential mining-related impacts, and identifying necessary conservation measures.

NEW ZEALAND recommended that the strategic plan include the environmental aspects of the ISA's work. CHINA suggested that the ISA conduct an urgent, in-depth study of the policies, technologies, economics, environmental protection measures and development trends linked to the commercial exploitation of deep-sea mineral resources. TONGA recommended a result-oriented strategic plan, complemented by a monitoring and evaluation mechanism for follow-up, budgetary planning and accountability purposes. The UK supported a strategic plan for ensuring timely progress towards developing the exploitation code. WWF called for the strategic plan to include milestones to measure progress, and be linked to a timetable and process for implementing listed ISA decisions.

**Transparency of financial provisions:** THAILAND underscored transparency in developing the benefit-sharing regime, stressing special considerations for developing countries' needs. GRULAC cautioned against pre-empting ongoing deliberations. JAPAN urged implementing all recommendations within the approved budget, noting that calls for additional funds require approval by the Assembly. TONGA supported greater transparency in the ISA's finances in light of expected benefit-sharing. INDIA stressed that monopolization and benefit-sharing are being postponed from one session to another.

**Environmental issues:** SINGAPORE underscored the focus of several recommendations on improving the ISA's ability to deliberate on environmental issues, and the need for LTC to focus specially on environmental issues in regulatory development. Minister Johnson Smith, JAMAICA, underscored: the ISA's role as steward of the Area resources for present and future generations and its responsibility to protect the marine environment, urging establishing a standard of "acceptable harm" to the environment informed by the views of all stakeholders, as an essential element of an environmental management strategy; the role of the Assembly as the "supreme organ" of the ISA in considering issues of a general nature, such as shortcomings in fulfilling the ISA's mandate to protect the environment and apply precaution; the Netherlands' submission on a tentative approval process of environmentally responsible mining technologies and the possibility to use market-based mechanisms to ensure contractors' environmentally responsible conduct; and the need to develop environmental management plans (EMPs). CHILE stressed the need for strict environmental requirements for contractors in the exploitation regulations, on the basis of advice from the Council, cautioning against selecting LTC members with interests or links with contractors. The NETHERLANDS stressed that the exploitation regulations should include a clear requirement on having a domestic legal framework in force before a country can become a sponsoring state.

### **IN THE BREEZEWAYS**

"The best room in the house is the room for improvement," became the unofficial motto of the Assembly's discussion of the final recommendations arising from the first periodic review of the ISA. Among various options discussed throughout the day, a participant wondered "Who knows if the request for more open LTC meetings will make it into an Assembly decision?" An observer questioned the proposed working group on environmental issues under the LTC: "A working group is not going to make up for the limited environmental expertise available in the Commission and in the Secretariat." On the latter, as stated in today's plenary, "the responsibility to protect half of the planet is currently in the hands of one single individual." Yet others, pondered over the charismatic intervention by the Jamaican Minister of Foreign Affairs and Foreign Trade about revitalizing the role of the Assembly as the supreme organ of the ISA. A delegate, on his way to the Secretariat's evening reception, speculated: "How could we transform a half-empty room into a vital space for discussing systemic issues of importance for present and future generations?"